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340:20-1-11	[AMENDED]	1450	340:75-7-52	[AMENDED](E)	657
340:20-1-12	[AMENDED]	1451	340:75-7-94	[AMENDED](E)	657
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340:20-1-15	[AMENDED]	1451	340:75-6-48.3	[AMENDED]	1531
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340:20-1-19	[AMENDED]	1451	340:75-7-14	[AMENDED]	1531
340:20-1-20	[AMENDED]	1451	340:75-7-15	[AMENDED]	1531
340:20-1-4	[AMENDED]	1450	340:75-7-18	[AMENDED]	1531

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340:75-7-2	[AMENDED] .....	1531	365:10-29-6	[AMENDED] .....	1635
340:75-7-24	[AMENDED] .....	1531	365:10-29-7	[AMENDED] .....	1635
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340:100-5-35	[AMENDED](E) .....	283	377:1-3-25	[NEW] .....	1649
340:100-11-2	[AMENDED](E) .....	283	377:1-3-26	[NEW] .....	1649
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340:100-5-22.1	[AMENDED] .....	1560	377:1-3-29	[NEW] .....	1649
340:100-5-26.1	[AMENDED] .....	1560	377:3-1-20	[AMENDED] .....	1653
340:100-5-29	[AMENDED] .....	1560	377:3-1-21	[AMENDED] .....	1653
340:100-5-32	[AMENDED] .....	1560	377:3-1-23	[AMENDED] .....	1653
340:100-5-35	[AMENDED] .....	1560	377:3-1-24	[AMENDED] .....	1653
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429:1-1-5	[AMENDED]	1702	442:10-4-4	[AMENDED]	1715
429:1-1-6	[AMENDED]	1702	442:10-4-5	[AMENDED]	1715
429:10-1-10	[AMENDED]	1704	442:10-4-6	[AMENDED]	1715
429:10-1-11	[AMENDED]	1704	442:10-5-1	[AMENDED]	1715
429:10-1-2	[AMENDED]	1704	442:10-5-1.1	[AMENDED]	1715
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429:10-1-6	[AMENDED]	1704	442:10-5-2	[AMENDED]	1715
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429:15-1-13.2	[AMENDED]	1709	442:10-5-4.1	[AMENDED]	1715
429:15-1-14	[AMENDED]	1709	442:10-5-5	[AMENDED]	1715
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429:15-1-5	[AMENDED]	1709	442:10-7-1	[AMENDED](E)	937
429:15-1-6	[AMENDED]	1709	442:10-7-1	[AMENDED]	1716
429:15-1-8	[AMENDED]	1709	442:10-7-2	[AMENDED](E)	937
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442:1-1-6	[AMENDED]	1714	442:10-7-3	[AMENDED]	1716
442:10-1-4	[AMENDED](E)	18	442:10-8-1	[AMENDED]	1716
442:10-1-4	[AMENDED](E)	458	442:10-8-2	[AMENDED]	1716
442:10-3-1	[AMENDED](E)	18	442:10-8-3	[AMENDED]	1716
442:10-4-2	[AMENDED](E)	18	442:10-8-4	[AMENDED]	1716
442:10-4-2	[AMENDED](E)	458	442:10-9-1	[AMENDED]	1716
442:10-4-3	[AMENDED](E)	18	442:10-9-2	[AMENDED]	1716
442:10-4-5	[AMENDED](E)	18	442:10-9-3	[AMENDED]	1716
442:10-5-1.1	[AMENDED](E)	18	442:10-9-4	[AMENDED]	1716
442:10-5-16	[AMENDED](E)	458	442:10-9-5	[AMENDED]	1716
442:10-5-2	[AMENDED](E)	18	442:10-9-6	[AMENDED]	1716
442:10-5-2	[AMENDED](E)	458	442:10-9-7	[AMENDED]	1716
442:10-5-3	[AMENDED](E)	18	442:10-9-9	[AMENDED]	1716
442:10-5-5	[AMENDED](E)	18	442:10-11-1	[AMENDED]	1716
442:10-5-6	[AMENDED](E)	18	445:10-1-11	[AMENDED]	1811
442:10-7-1	[AMENDED](E)	458	450:1-1-1.1	[AMENDED]	1813
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442:10-8-1	[AMENDED](E)	18	450:1-3-5	[AMENDED]	1813
442:10-8-2	[AMENDED](E)	18	450:1-9-5	[AMENDED]	1813
442:10-8-3	[AMENDED](E)	18	450:1-9-5.7	[AMENDED]	1813
442:10-8-3	[AMENDED](E)	458	450:1-9-5.8	[AMENDED]	1813
442:10-8-4	[AMENDED](E)	18	450:1-9-7.1	[AMENDED]	1813
442:10-9-2	[AMENDED](E)	18	450:1-9-7.2	[AMENDED]	1813
442:10-9-2	[AMENDED](E)	458	450:1-15-1	[NEW]	1813
442:10-9-3	[AMENDED](E)	18	450:1-15-11	[NEW]	1813
442:10-9-7	[AMENDED](E)	18	450:1-15-3	[NEW]	1813
442:10-11-1	[AMENDED](E)	18	450:1-15-5	[NEW]	1813
442:10-1-4	[AMENDED]	1715	450:1-15-7	[NEW]	1813
442:10-2-9	[AMENDED]	1715	450:1-15-9	[NEW]	1813
442:10-3-1	[AMENDED]	1715	450:16-21-4	[AMENDED]	1826
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442:10-3-3	[AMENDED]	1715	450:17-5-176	[AMENDED]	1827
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450:24-27-1	[REVOKED]	1849	475:1-5-2	[AMENDED](E)	92
450:24-27-2	[REVOKED]	1849	475:1-5-4	[AMENDED](E)	92
450:24-27-3	[REVOKED]	1849	475:1-5-6	[AMENDED](E)	92
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450:50-3-3	[AMENDED]	1854	475:10-1-22	[AMENDED](E)	98
450:50-3-4	[AMENDED]	1854	475:10-1-4	[AMENDED](E)	97
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450:70-3-5.4	[AMENDED](E)	482	510:1-3-1	[REVOKED]	1876
450:70-6-17.2	[AMENDED](E)	482	510:1-3-2	[REVOKED]	1876
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450:70-3-6	[AMENDED]	1859	510:1-5-1	[AMENDED]	1877
450:70-3-7	[AMENDED]	1859	510:1-5-1.1	[AMENDED]	1877
450:70-4-4.2	[AMENDED]	1859	510:1-5-10	[AMENDED]	1877
450:70-4-4.4	[AMENDED]	1859	510:1-5-10.1	[AMENDED]	1877
450:70-4-7.1	[AMENDED]	1859	510:1-5-11	[AMENDED]	1877
450:70-4-7.2	[AMENDED]	1859	510:1-5-12	[AMENDED]	1877
450:70-4-7.3	[AMENDED]	1860	510:1-5-3	[AMENDED]	1877
450:70-4-8.3	[AMENDED]	1860	510:1-5-4	[AMENDED]	1877
450:70-4-8.5	[AMENDED]	1860	510:1-5-6	[AMENDED]	1877
450:70-6-10	[AMENDED]	1860	510:1-5-6.1	[AMENDED]	1877
450:70-6-10.1	[AMENDED]	1860	510:1-5-7	[AMENDED]	1877
450:70-6-12	[AMENDED]	1860	510:1-5-8	[AMENDED]	1877
450:70-6-15	[AMENDED]	1860	510:1-5-9	[AMENDED]	1877
450:70-6-16	[AMENDED]	1860	510:1-7-1	[AMENDED]	1877
450:70-6-4	[AMENDED]	1860	510:1-7-3	[AMENDED]	1877
450:70-6-5.1	[AMENDED]	1860	510:1-13-1	[AMENDED]	1877
450:70-6-7	[AMENDED]	1860	510:5-1-1	[AMENDED]	1882
450:70-6-9	[AMENDED]	1860	510:5-9-3	[AMENDED]	1882
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465:20-3-2	[AMENDED](E)	136	510:5-11-3	[AMENDED]	1882
465:20-3-3	[AMENDED](E)	136	510:5-13-1	[AMENDED]	1882
465:20-5-1	[NEW](E)	136	510:5-13-2	[AMENDED]	1882
465:20-5-2	[NEW](E)	136	510:10-1-1	[AMENDED]	1884
465:20-5-3	[NEW](E)	136	510:10-3-1	[AMENDED]	1884
465:20-5-4	[NEW](E)	136	510:10-3-11	[AMENDED]	1885
465:20-5-5	[NEW](E)	136	510:10-3-13	[AMENDED]	1885
465:20-5-6	[NEW](E)	136	510:10-3-14	[NEW]	1885
465:20-5-7	[NEW](E)	136	510:10-3-4	[AMENDED]	1884
465:20-5-8	[NEW](E)	136	510:10-3-5	[AMENDED]	1884
465:20-5-9	[NEW](E)	136	510:10-3-8	[AMENDED]	1884
465:20-7-1	[NEW](E)	136	510:10-4-2	[AMENDED]	1885
465:20-7-2	[NEW](E)	136	510:10-4-3	[AMENDED]	1885
465:20-7-3	[NEW](E)	136	510:10-7-1	[AMENDED]	1885
465:20-9-1	[NEW](E)	136	540:50-1-1	[AMENDED]	1892
465:20-11-1	[NEW](E)	136	540:50-1-3	[AMENDED]	1892
465:20-11-2	[NEW](E)	136	540:50-1-4	[AMENDED]	1892
475:1-1-2	[AMENDED](E)	92	540:50-1-5	[AMENDED]	1892
475:1-1-3	[NEW](E)	92	540:50-1-6	[AMENDED]	1892
475:1-5-1	[AMENDED](E)	92	540:50-1-7	[AMENDED]	1892

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590:1-1-9	[AMENDED]	1894	595:25-5-14	[NEW]	1920
590:1-3-2	[AMENDED]	1894	595:25-5-15	[NEW]	1920
590:10-3-13	[AMENDED]	1896	595:25-5-16	[NEW]	1920
590:10-7-10	[AMENDED]	1896	595:25-5-17	[NEW]	1920
590:10-7-6	[AMENDED]	1896	595:25-5-18	[NEW]	1920
590:10-8-1	[AMENDED]	1896	595:25-5-19	[NEW]	1920
590:10-8-3	[AMENDED]	1896	595:25-5-2	[REVOKED]	1920
590:10-8-4	[AMENDED]	1896	595:25-5-20	[NEW]	1920
590:10-8-6	[AMENDED]	1896	595:25-5-21	[NEW]	1920
590:10-9-4	[AMENDED]	1896	595:25-5-22	[NEW]	1920
590:10-10-1	[AMENDED]	1896	595:25-5-23	[NEW]	1920
590:10-10-2	[AMENDED]	1896	595:25-5-3	[REVOKED]	1920
590:10-10-5	[AMENDED]	1896	595:25-5-4	[REVOKED]	1920
590:10-10-6	[AMENDED]	1896	595:25-5-5	[REVOKED]	1920
590:10-10-7	[AMENDED]	1896	595:25-5-7	[REVOKED]	1920
590:10-10-8	[AMENDED]	1896	595:25-5-8	[REVOKED]	1920
590:10-11-7	[AMENDED]	1896	595:25-5-9	[REVOKED]	1920
590:25-3-5	[AMENDED]	1902	595:25-7-2	[REVOKED]	1920
590:25-9-16	[AMENDED]	1902	595:25-9-1	[REVOKED]	1920
590:25-9-23	[AMENDED]	1902	595:25-9-2	[REVOKED]	1920
590:25-9-9	[AMENDED]	1902	595:25-9-3	[REVOKED]	1920
590:35-1-3	[AMENDED]	1905	595:25-9-4	[NEW]	1920
590:35-13-6	[AMENDED]	1905	595:25-9-5	[NEW]	1920
590:35-15-2	[AMENDED]	1905	595:25-9-6	[NEW]	1920
590:40-5-21	[AMENDED]	1910	595:25-9-7	[NEW]	1920
590:40-7-30	[AMENDED]	1910	595:25-9-8	[NEW]	1920
590:40-7-32	[AMENDED]	1910	595:25-9-9	[NEW]	1920
590:40-7-34	[AMENDED]	1910	595:25-11-1	[REVOKED]	1920
590:40-7-37	[AMENDED]	1911	595:25-11-2	[REVOKED]	1920
590:40-7-39	[AMENDED]	1911	595:25-11-3	[REVOKED]	1920
590:40-9-3	[AMENDED]	1911	595:25-13-1	[NEW]	1920
590:40-9-38	[AMENDED]	1911	595:25-13-2	[NEW]	1920
590:40-9-44	[AMENDED]	1911	595:25-15-1	[NEW]	1920
590:40-11-7	[AMENDED]	1911	595:25-15-2	[NEW]	1920
595:1-5-2	[AMENDED]	1918	595:25-17-1	[NEW]	1921
595:1-5-3	[AMENDED]	1918	595:25-17-2	[NEW]	1921
595:25-1-1	[AMENDED]	1919	595:25-17-3	[NEW]	1921
595:25-1-2	[AMENDED]	1919	595:25-17-4	[NEW]	1921
595:25-1-3	[REVOKED]	1919	595:25-17-5	[NEW]	1921
595:25-1-4	[NEW]	1919	595:35-1-5	[AMENDED](E)	230
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595:25-1-6	[NEW]	1919	595:75-1-1	[NEW]	1958
595:25-1-7	[NEW]	1919	595:75-1-10	[NEW]	1958
595:25-3-1	[REVOKED]	1919	595:75-1-11	[NEW]	1958
595:25-3-10	[NEW]	1920	595:75-1-12	[NEW]	1958
595:25-3-11	[NEW]	1920	595:75-1-13	[NEW]	1958
595:25-3-12	[NEW]	1920	595:75-1-14	[NEW]	1958
595:25-3-2	[REVOKED]	1919	595:75-1-15	[NEW]	1958
595:25-3-3	[REVOKED]	1919	595:75-1-16	[NEW]	1958
595:25-3-4	[REVOKED]	1920	595:75-1-17	[NEW]	1958
595:25-3-5	[NEW]	1920	595:75-1-18	[NEW]	1958
595:25-3-6	[NEW]	1920	595:75-1-19	[NEW]	1958
595:25-3-7	[NEW]	1920	595:75-1-2	[NEW]	1958
595:25-3-8	[NEW]	1920	595:75-1-20	[NEW]	1958
595:25-3-9	[NEW]	1920	595:75-1-21	[NEW]	1958
595:25-5-1	[REVOKED]	1920	595:75-1-22	[NEW]	1958
595:25-5-10	[NEW]	1920	595:75-1-23	[NEW]	1958
595:25-5-11	[NEW]	1920	595:75-1-24	[NEW]	1958
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595:75-1-5	[NEW] .....	1958	655:10-7-27	[AMENDED] .....	1994
595:75-1-6	[NEW] .....	1958	655:10-7-28	[AMENDED] .....	1994
595:75-1-7	[NEW] .....	1958	655:10-7-29	[AMENDED] .....	1994
595:75-1-8	[NEW] .....	1958	655:10-7-3	[AMENDED] .....	1993
595:75-1-9	[NEW] .....	1958	655:10-7-32	[AMENDED] .....	1994
600:10-1-12	[AMENDED] .....	1964	655:10-7-33	[AMENDED] .....	1994
600:10-1-6	[AMENDED] .....	1964	655:10-7-35	[AMENDED] .....	1994
600:15-1-2	[AMENDED] .....	1966	655:10-7-4	[AMENDED] .....	1993
605:10-3-6	[AMENDED] .....	1968	655:10-7-51	[AMENDED] .....	1994
605:10-3-7	[AMENDED] .....	1968	655:10-7-52	[AMENDED] .....	1994
605:10-9-8	[AMENDED] .....	1968	655:10-7-6	[AMENDED] .....	1993
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605:10-15-2	[AMENDED] .....	1968	655:10-9-3	[AMENDED] .....	1994
605:10-17-2	[AMENDED] .....	1968	655:10-9-5	[AMENDED] .....	1994
605:10-17-4	[AMENDED] .....	1968	655:10-11-1	[AMENDED] .....	1994
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610:15-1-2	[AMENDED] .....	1978	655:10-13-2	[AMENDED] .....	1994
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610:25-23-3	[AMENDED] .....	1980	655:10-15-9	[AMENDED] .....	1994
610:25-23-4	[AMENDED] .....	1980	655:10-17-6	[AMENDED] .....	1994
610:25-23-5	[AMENDED] .....	1980	655:10-19-1	[AMENDED] .....	1994
610:25-43-1	[NEW] .....	1989	660:2-9-1	[AMENDED] .....	2035
610:25-43-2	[NEW] .....	1989	660:2-9-2	[AMENDED] .....	2035
610:25-43-3	[NEW] .....	1989	660:2-9-3	[AMENDED] .....	2035
610:25-43-4	[NEW] .....	1989	660:2-11-1	[AMENDED] .....	2035
610:25-43-5	[NEW] .....	1989	660:2-11-2	[AMENDED] .....	2035
610:25-43-6	[NEW] .....	1989	660:2-11-3	[AMENDED] .....	2035
610:25-43-7	[NEW] .....	1989	660:2-11-5	[AMENDED] .....	2035
610:25-43-8	[NEW] .....	1989	660:2-11-6	[AMENDED] .....	2035
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655:10-1-8	[AMENDED] .....	1993	660:6-3-1	[AMENDED] .....	2043
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655:10-7-11	[AMENDED] .....	1993	660:11-5-20	[AMENDED] .....	2046
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# Legislative Disapprovals

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Upon disapproval by the Legislature of an agency's rules, the agency must publish a notice of such legislative disapproval in the *Register*  
*For additional information on legislative disapprovals, see 75 O.S., Sections 308 and 308.3.*

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## TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 15. SPECIAL CERTIFICATES AND MISCELLANEOUS PROVISIONS

*[OAR Docket #25-382]*

### **RULEMAKING ACTION:**

Legislative disapproval of PERMANENT rules

### **RULES:**

140:15-5-5. Injectable Formulary [NEW]

### **LEGISLATIVE DISAPPROVAL:**

This rule was disapproved by the Legislature in HJR 1035, effective May 28, 2025.

### **EMERGENCY RULES TERMINATED:**

#### **Rules:**

N/A

#### **Gubernatorial Approval:**

N/A

### **REGISTER PUBLICATION:**

#### **Docket Number:**

N/A

#### **Register Publication:**

N/A

*[OAR Docket #25-382; filed 5-28-25]*

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## TITLE 442. OKLAHOMA MEDICAL MARIJUANA AUTHORITY CHAPTER 10. MEDICAL MARIJUANA REGULATIONS

*[OAR Docket #25-458]*

### **RULEMAKING ACTION:**

Legislative disapproval of PERMANENT rules

### **RULES:**

442:10-7-1(a) after the word “ounces”, and before the period

442:10-7-2(c) after the word “ounces”, and before the period

442:10-8-1(i)(5)(A)(i) after the word “required”, and before the colon

442:10-8-1(i)(5)(A)(ii)

442:10-8-1(i)(5)(A)(iii)

### **LEGISLATIVE DISAPPROVAL:**

These rules were disapproved by the Legislature in SJR 21, effective May 28, 2025.

### **EMERGENCY RULES TERMINATED:**

#### **Rules:**

N/A

#### **Gubernatorial Approval:**

N/A

### **REGISTER PUBLICATION:**

#### **Docket Number:**

N/A

#### **Register Publication:**

N/A

*[OAR Docket #25-458; filed 6-2-25]*



**TITLE 660. DEPARTMENT OF SECURITIES**  
**CHAPTER 2. ORGANIZATION AND PROCEDURES OF DEPARTMENT OF SECURITIES**

*[OAR Docket #25-487]*

**RULEMAKING ACTION:**

Legislative disapproval of PERMANENT rules

**RULES:**

660:2-11-5(d). Procedures for inspection of records [AMENDED]

660:2-11-6(d). Procedures for copying records [AMENDED]

**LEGISLATIVE DISAPPROVAL:**

These rules were disapproved by the Legislature in SJR 21, effective May 28, 2025.

**EMERGENCY RULES TERMINATED:**

**Rules:**

N/A

**Gubernatorial Approval:**

N/A

**REGISTER PUBLICATION:**

**Docket Number:**

N/A

**Register Publication:**

N/A

*[OAR Docket #25-487; filed 6-5-25]*

# Emergency Adoptions

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"If an agency finds that a rule is necessary as an emergency measure, the rule may be promulgated" if the Governor approves the rules after determining "that the rule is necessary as an emergency measure to do any of the following:

- a. protect the public health, safety or welfare,
- b. comply with deadlines in amendments to an agency's governing law or federal programs,
- c. avoid violation of federal law or regulation or other state law,
- d. avoid imminent reduction to the agency's budget, or
- e. avoid serious prejudice to the public interest." [75 O.S., Section 253(A)]

An emergency rule is considered promulgated immediately upon approval by the Governor, and effective immediately upon the Governor's approval or a later date specified by the agency in the emergency rule document. An emergency rule expires on September 15 following the next regular legislative session after its promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which cites to the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action. *For additional information on the emergency rulemaking process, see 75 O.S., Section 253.*

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## TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #25-372]

### **RULEMAKING ACTION:**

EMERGENCY adoption

### **RULES:**

Subchapter 5. Individual Providers and Specialties

Part 85. ADVANTAGE PROGRAM WAIVER SERVICES

317:30-5-760. ADvantage program [AMENDED]

317:30-5-763. Description of services [AMENDED]

### **AUTHORITY:**

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; the Oklahoma Health Care Authority Board; and Section 1915(c) of the Social Security Act

### **COMMENT PERIOD:**

N/A

### **PUBLIC HEARING:**

N/A

### **ADOPTION:**

March 26, 2025

### **EFFECTIVE:**

Immediately upon Governor's approval

### **APPROVED BY GOVERNOR:**

May 19, 2025

### **EXPIRATION:**

Effective through September 14, 2026, unless superseded by another rule or disapproved by the Legislature

### **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

## FINDING OF EMERGENCY:

These emergency rules are necessary to avoid violation of federal law or regulation at 1915(c) of the Social Security Act by aligning the ADvantage program policy with the approved 1915(c) Home and Community Based waiver.

## GIST/ANALYSIS:

The OHCA is seeking to revise the ADvantage Waiver policy in order to align with the ADvantage Waiver amendments approved on October 16, 2024, with retroactive date of October 1, 2023. Key revisions will modify the eligibility criteria for the ADvantage Waiver program, lowering the minimum age from twenty-one (21) to nineteen (19) years of age. Additional revisions include modifying procedural requirements for obtaining member or representative signatures for home-delivered meals. This modification was made after a trial period during the PHE. Further revisions include reformatting policy for clarity and removing outdated language.

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):**

## SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

### PART 85. ADVANTAGE PROGRAM WAIVER SERVICES

#### 317:30-5-760. ADvantage program [AMENDED]

The ADvantage ~~Program~~program is a Medicaid Home and Community Based Services (HCBS) ~~Waiver~~waiver used to finance noninstitutional long-term care services through Oklahoma's Medicaid program for ~~elderly and disabled individuals; the elderly, sixty-five (65) years of age and older; and a targeted group of adults with physical disabilities, nineteen (19) to sixty-four (64) years of age who do not have an intellectual disability or a cognitive impairment related to a developmental disability per Oklahoma Administrative Code (OAC) 317:35-9.~~ To receive ADvantage Program services, individuals must ~~meet the nursing facility (NF) level of care (LOC) criteria, be age 65 years or older, or age 21 or older if physically disabled and not developmentally disabled, or if developmentally disabled and between the ages of 21 and 65, not have an intellectual disability or a cognitive impairment related to the developmental disability.~~ ADvantage Program ~~members must be Medicaid eligible and meet eligibility requirements per OAC 317:35-17.~~ The number of ~~members of individuals who may receive~~ ADvantage services is limited.

#### 317:30-5-763. Description of services [AMENDED]

Services included in the ADvantage program are:

##### (1) Case management.

(A) Case management services, regardless of payment source, assist a member to gain access to medical, social, educational, or other services that may benefit him or her to maintain health and safety.

Case managers:

- (i) Initiate and oversee necessary assessments and reassessments to establish or reestablish waiver program eligibility;
- (ii) Develop the member's comprehensive person-centered service plan, listing only the services necessary to prevent institutionalization of the member, as determined through the assessments;
- (iii) Initiate the addition of necessary services or deletion of unnecessary services, as dictated by the member's condition and available support; and
- (iv) Monitor the member's condition to ensure delivery and appropriateness of services and initiate person-centered service plan reviews. Case managers submit an individualized Services Backup Plan, on all initial service plans, annually at reassessment, and on updates as appropriate throughout the year, reflecting risk factors and measures in place to minimize risks. When a member requires hospital or nursing facility (NF) services, the case manager:
  - (I) Assists the member in accessing institutional care and, as appropriate, periodically monitors the member's progress during the institutional stay;

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(II) Helps the member transition from institution to home by updating the person-centered service plan;

(III) Prepares services to start on the date the member is discharged from the institution; and

(IV) Must meet ADvantage program minimum requirements for qualification and training prior to providing services to ADvantage members.

(B) Providers of ADvantage services for the member or for those who have an interest in or are employed by an ADvantage provider for the member must not provide case management or develop the person-centered service plan, except when the ADvantage Administration (AA) demonstrates the only willing and qualified entity to provide case management and/or develop person-centered service plans in a geographic area, also provides other ADvantage services. Prior to providing services to members receiving Consumer Directed Personal Assistance Services and Supports (~~CD-PASS~~)(CDPASS), case manager supervisors, and case managers are required to receive training and demonstrate knowledge regarding the ~~CD-PASS~~CDPASS service delivery model, "Independent Living Philosophy," and demonstrate competency in person-centered planning.

(C) Providers may only claim time for billable case management activities, described as:

(i) Any task or function, per Oklahoma Administrative Code (OAC) 317:30-5-763(1)(A) that only an ADvantage case manager, because of skill, training, or authority can perform on behalf of a member; and

(ii) Ancillary activities, such as clerical tasks, including, but not limited to, mailing, copying, filing, faxing, driving time, or supervisory and administrative activities are not billable case management activities. The administrative cost of these activities and other normal and customary business overhead costs are included in the reimbursement rate for billable activities.

(D) Case management services are prior authorized and billed per fifteen (15) minute unit of service using the rate associated with the location of residence of the member served.

(i) Case management services are billed using a standard rate for reimbursement for billable service activities provided to a member who resides in a county with a population density greater than twenty-five (25) persons per square mile.

(ii) Case management services are billed using a very rural/outside providers' service area rate for billable service activities provided to a member who resides in a county with a population density equal to, or less than twenty-five (25) persons per square mile. Exceptions are services to members who reside in Oklahoma Human Services (OKDHS) Community Living, Aging and Protective Services identified zip codes in Osage County adjacent to the metropolitan areas of Tulsa and Washington counties. Services to these members are prior authorized and billed using the standard rate.

(iii) The latest United States Census, Oklahoma counties population data is the source for determination of whether a member resides in a county with a population density equal to, or less than twenty-five (25) persons per square mile or resides in a county with a population density greater than twenty-five (25) persons per square mile.

## (2) Respite.

(A) Respite services are provided to members who are unable to care for themselves. Services are provided on a short-term basis due to the primary caregiver's absence or need for relief. Payment for respite care does not include room and board costs unless more than seven (7) hours are provided in a NF. Respite care is only utilized when other sources of care and support are exhausted. Respite care is only listed on the service plan when it is necessary to prevent institutionalization of the member. Units of services are limited to the number of units approved on the service plan.

(B) In-home respite services are billed per fifteen (15) minute unit of service. Within any one (1) day period, a minimum of eight (8) units [two (2) hours] must be provided with a maximum of twenty-eight (28) units [seven (7) hours] provided. The service is provided in the member's home.

(C) Facility-based extended respite is filed for a per diem rate when provided in a NF. Extended respite must be at least eight (8) hours in duration.

(D) In-home extended respite is filed for a per diem rate. A minimum of eight (8) hours must be provided in the member's home.

## (3) Adult day health (ADH) care.

(A) ADH is furnished on a regularly scheduled basis for one (1) or more days per week in an outpatient setting. It provides both health and social services necessary to ensure the member's optimal functioning. Most assistance with activities of daily living (ADLs), such as eating, mobility, toileting, and nail care are integral to the ADH care service and are covered by the ADH care basic reimbursement rate.

(B) ADH care is a fifteen (15) minute unit of service. No more than eight (8) hours, [thirty-two (32) units] are authorized per day. The number of units of service a member may receive is limited to the number of units approved on the member's approved service plan.

(C) Physical, occupational, and speech therapies are only provided as an enhancement to the basic ADH care service when authorized by the service plan and are billed as a separate procedure. ADH care therapy enhancement is a maximum of one (1) session unit per day of service.

(D) Meals provided as part of this service do not constitute a full nutritional regimen. One (1) meal, that contains at least one-third (1/3) of the current daily dietary recommended intake (DRI), as established by the Food and Nutrition Board of the National Academies of Sciences, Engineering, and Medicine, is provided to those participants who are in the center for four (4) or more hours per day and does not constitute a full nutritional regimen. Member's access to food at any time must also be available in addition to the required meal and is consistent with an individual not receiving Medicaid-funded services and supports.

(E) Personal care service enhancement in ADH is assistance in bathing, hair care, or laundry service, authorized by the person-centered service plan and billed as separate procedures. This service is authorized when an ADvantage waiver member who uses ADH requires assistance with bathing, hair care, or laundry to maintain health and safety. Assistance with bathing, hair care, or laundry is not a usual and customary ADH care service. ADH personal care enhancement is a maximum of one (1) unit per day of bathing, hair care, or laundry service.

(F) OKDHS Home and Community-Based Services (HCBS) waiver settings have qualities defined in Home and Community-Based Services: Waiver Requirements, 42 Code of Federal Regulations, Section (§) 441.301 (c)(4) based on the individual's needs, defined in the member's authorized service plan.

(i) The ADH center is integrated and supports full access of ADvantage members to the greater community, including opportunities to:

- (I) Seek employment and work in competitive integrated ADH Center, not a requirement for persons that are retirement age;
- (II) Engage in community life;
- (III) Control personal resources; and
- (IV) Receive services in the community, to the same degree as individuals not receiving ADvantage Program or other Medicaid HCBS waiver services.

(ii) The ADH is selected by the member from all available service options and given the opportunity to visit and understand the options.

(iii) The ADH ensures the member's rights of privacy, dignity, respect, and freedom from coercion and restraint.

(iv) The ADH optimizes the member's initiative, autonomy, and independence in making life choices including, but not limited to:

- (I) Daily activities;
- (II) The physical environment; and
- (III) Social interactions.

(v) The ADH facilitates the member's choice regarding services and supports including the provider.

(vi) Each member has the freedom and support to control his or her own schedules, activities, and access to food at any time.

(vii) Each member may have visitors whenever he or she chooses.

(viii) The ADH center is physically accessible to the member.

(G) ADH centers that are presumed not to be HCBS settings per 42 C.F.R. § 441.301(c)(5)(v) include, ADH centers:

- (i) In a publicly- or privately-owned facility providing inpatient treatment;
- (ii) On the grounds of or adjacent to a public institution; and
- (iii) With the effect of isolating individuals from the broader community of individuals not receiving ADvantage program or another Medicaid HCBS;

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(H) When the ADH is presumed not HCBS, according to 42 C.F.R. § 441.301(c)(5)(v), it may be subject to heightened scrutiny by AA, the Oklahoma Health Care Authority (OHCA), and the Centers for Medicare and Medicaid Services (CMS). The ADH must provide evidence that the ADH portion of the facility has clear administrative, financial, programmatic, and environmental distinctions from the institution and comply with additional monitoring by the AA.

**(4) Environmental modifications.**

(A) Environmental modifications are physical adaptations to the home, required by the member's person-centered service plan that are necessary to ensure the member's health, welfare, and safety or enable the member to function with greater independence in the home, and that without such, the member would require institutionalization. Adaptations or improvements to the home not of direct medical or remedial benefit to the waiver member are excluded.

(B) All services require prior authorization.

**(5) Specialized medical equipment and supplies.**

(A) Specialized medical equipment and supplies are devices, controls, or appliances specified in the person-centered service plan that enable members to increase their abilities to perform ADLs, or to perceive, control, or communicate with the environment in which they live. Necessary items for life support, ancillary supplies, and equipment necessary for the proper functioning of such items, and durable and non-durable medical equipment not available under the Oklahoma Medicaid State Plan are also included. This service excludes any equipment or supply items not of direct medical or remedial benefit to the waiver member and necessary to prevent institutionalization.

(B) Specialized medical equipment and supplies are billed using the appropriate HealthCare Common Procedure Code (HCPC). Reoccurring supplies shipped and delivered to the member are compensable only when the member remains eligible for waiver services, continues to reside in the home, and is not institutionalized in a hospital, skilled nursing facility, or nursing home. It is the provider's responsibility to verify the member's status prior to shipping and delivering these items. Payment for medical supplies is limited to the SoonerCare (Medicaid) rate when established, to the Medicare rate, or to actual acquisition cost, plus thirty percent (30%). All services must have prior authorization.

**(6) Advanced supportive/restorative assistance.**

(A) Advanced supportive/restorative assistance services are maintenance services used to assist a member who has a chronic, yet stable condition. These services assist with ADLs that require devices and procedures related to altered body functions. These services are for maintenance only and are not utilized as treatment services.

(B) Advanced supportive/restorative assistance service is billed per fifteen (15) minute unit of service. The number of units of service a member may receive is limited to the number of units approved on the person-centered service plan.

**(7) Nursing.**

(A) Nursing services are services listed in the person-centered service plan that are within the scope of the state's Nurse Practice Act. These services are provided by a registered nurse (RN), a licensed practical nurse (LPN), or a licensed vocational nurse (LVN) under the supervision of an RN licensed to practice and in good standing in the state in which services are provided. Nursing services may be provided on an intermittent or part-time basis or may be comprised of continuous care. The provision of the nursing service works to prevent or postpone the institutionalization of the member.

(B) Nursing services are services of a maintenance or preventative nature provided to members with stable, chronic conditions. These services are not intended to treat an acute health condition and may not include services reimbursable under either the Medicaid or Medicare home health program. This service primarily provides nurse supervision to the personal care assistant or to the advanced supportive/restorative assistance aide and assesses the member's health and prescribed medical services to ensure they meet the member's needs as specified in the person-centered service plan. A nursing assessment/evaluation, on-site visit is made to each member, with additional visits for members with advanced supportive/restorative assistance services authorized to evaluate the condition of the member and medical appropriateness of services. An assessment/evaluation report is forwarded to the ADvantage program case manager and the skilled nurse in accordance with review schedule determined between the case manager and the skilled nurse and outlined in the member's person-centered service plan, to report the member's condition or other significant information concerning each ADvantage member.

- (i) The ADvantage program case manager may recommend authorization of nursing services as part of the interdisciplinary team planning for the member's person-centered service plan and/or assessment/evaluation of the:
  - (I) Member's general health, functional ability, and needs; and/or
  - (II) Adequacy of personal care and/or advanced supportive/restorative assistance services to meet the member's needs, including providing on-the-job training and competency testing for personal care or advanced supportive/restorative care aides per rules and regulations for the delegation of nursing tasks established by the Board of Nursing in the state in which services are provided.
- (ii) In addition to assessment/evaluation, the ADvantage program case manager may recommend authorization of nursing services to:
  - (I) Prepare a one (1) week supply of insulin syringes for a person who is blind and has diabetes and can safely self-inject the medication but cannot fill his or her own syringe. This service includes monitoring the member's continued ability to self-administer the insulin;
  - (II) Prepare oral medications in divided daily compartments for a member who self-administers prescribed medications but needs assistance and monitoring due to a minimal level of disorientation or confusion;
  - (III) Monitor a member's skin condition when a member is at risk for skin breakdown due to immobility or incontinence or the member has a chronic stage II decubitus ulcer requiring maintenance care and monitoring;
  - (IV) Provide nail care for a member with diabetes or who has circulatory or neurological compromise; and
  - (V) Provide consultation and education to the member, member's family, or other informal caregivers identified in the person-centered service plan, regarding the nature of the member's chronic condition. Skills training, including return skills demonstration to establish competency, to the member, family, or other informal caregivers as specified in the person-centered service plan for preventive and rehabilitative care procedures are also provided.

(C) Nursing service includes interdisciplinary team planning and recommendations for the member's person-centered service plan development and/or assessment/evaluation or for other services within the scope of the nurse's license, including private duty nursing. Nursing services are billed per fifteen (15) minute unit of service. A specific procedure code is used to bill for interdisciplinary team planning and recommendations for the member's person-centered service plan, but other procedure codes may be used to bill for all other authorized nursing services. A maximum of eight (8) units [two (2) hours], per day of nursing for service plan development and assessment evaluation are allowed. An agreement by a provider to perform a nurse evaluation is also an agreement to provide the Medicaid in-home care services for which the provider is certified and contracted. Reimbursement for a nurse evaluation is denied when the provider that produced the nurse evaluation fails to provide the nurse assessment identified in the Medicaid in-home care services for which the provider is certified and contracted.

### **(8) Skilled nursing services.**

(A) Skilled nursing services are listed in the person-centered service plan, within the state's Nurse Practice Act scope, and are ordered by a licensed physician, osteopathic physician, physician assistant, or advanced practice nurse, and are provided by a RN, LPN, or LVN under the supervision of a RN, licensed to practice and in good standing in the state where services are provided. Skilled nursing services provided in the member's home or other community setting are services requiring the specialized skills of a licensed nurse. The scope and nature of these services are intended for treatment of a disease or a medical condition and are beyond the scope of ADvantage nursing services. These intermittent nursing services are targeted toward a prescribed treatment or procedure that must be performed at a specific time or other predictable rate of occurrence. The RN contacts the member's physician to obtain necessary information or orders pertaining to the member's care. When the member has an ongoing need for service activities requiring more or less units than authorized, the RN must recommend, in writing, that the service plan be revised.

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(B) Skilled nursing services are provided on an intermittent or part-time basis, and billed per fifteen (15) minute unit of service. Skilled nursing services are provided when nursing services are not available through Medicare or other sources or when SoonerCare plan nursing services limits are exhausted. Amount, frequency, and duration of services are prior-authorized in accordance with the member's person-centered service plan.

## (9) Home-delivered meals.

(A) Home-delivered meals provide ~~one (1)~~ up to two (2) mealmeals per day. A home-delivered meal is a meal prepared in advance and brought to the member's home. Each meal must have a nutritional content equal to at least one-third (1/3) of the dietary reference intakes as established by the Food and Nutrition Board of the National Academies of Sciences, Engineering and Medicine. Home-delivered meals are only provided to members who are unable to prepare meals and lack an informal provider to do meal preparation.

(B) Home-delivered meals are billed per meal, with one (1) meal equaling one (1) unit of service. The limit of the number of units a member is allowed to receive is in accordance with the member's person-centered service plan. ~~The provider must obtain a signature from the member or the member's representative at the time the meal is delivered. In the event the member is temporarily unavailable, such as at a doctor's appointment and the meal is left at the member's home, the provider must document the reason a signature was not obtained. The signature logs must be available for review. Providers will redeliver missing meals as reported by the member unless the provider has a reliable mechanism for showing meals were delivered including, but not limited to, a signature of the member or the member's representative; a delivery driver's attestation that delivery occurred; a tracking statement of a common carrier, or delivery invoice of a common carrier. Signatures are not required to verify delivery. Electronic systems for verifying delivery are permitted.~~

## (10) Occupational therapy services.

(A) Occupational therapy services are services that increase functional independence by enhancing the development of adaptive skills and performance capacities of members with physical disabilities and related psychological and cognitive impairments. Services are provided in the member's home and are intended to help the member achieve greater independence, enabling him or her to reside and participate in the community. Treatment involves the therapeutic use of self-care, work, and play activities, and may include modification of the tasks or environment to enable the member to achieve maximum independence, prevent further disability, and maintain health. Under a physician's order, a licensed occupational therapist evaluates the member's rehabilitation potential and develops an appropriate written, therapeutic regimen. The regimen utilizes paraprofessional, occupational therapy assistant services, within the limitations of his or her practice, working under the supervision of a licensed occupational therapist. The regimen includes education and training for informal caregivers to assist with or maintain services when appropriate. The occupational therapist ensures monitoring and documentation of the member's rehabilitative progress and reports to the member's case manager and physician to coordinate the necessary addition or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Occupational therapy services are billed per fifteen (15) minute unit of service. Payment is not allowed solely for written reports or record documentation.

## (11) Physical therapy services.

(A) Physical therapy services are those services that maintain or improve physical disability through the evaluation and rehabilitation of members disabled by pain, disease, or injury. Services are provided in the member's home and are intended to help the member achieve greater independence to reside and participate in the community. Treatment involves the use of physical therapeutic means, such as massage, manipulation, therapeutic exercise, cold and/or heat therapy, hydrotherapy, electrical stimulation, and light therapy. Under a physician's order, a licensed physical therapist evaluates the member's rehabilitation potential and develops an appropriate, written, therapeutic regimen. Under the Oklahoma Physical Therapy Practice Act, a physical therapist may evaluate a member's rehabilitation potential and develop and implement an appropriate, written, therapeutic regimen without a referral from a licensed health care practitioner for a period not to exceed thirty (30) calendar days. Any treatment required after the thirty (30) calendar day period requires a prescription from a physician or the physician's assistant of the licensee. The regimen utilizes paraprofessional physical therapy assistant services, within the limitations of his or her practice, working under the licensed physical therapist's supervision. The regimen includes education and training for informal caregivers to assist with and/or



maintain services when appropriate. The licensed physical therapist ensures monitoring and documentation of the member's rehabilitative progress and reports to the member's case manager and physician to coordinate the necessary addition or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Physical therapy services may be authorized as ADH care therapy enhancement and are a maximum of one (1) session unit per day of service. Payment is not allowed solely for written reports or record documentation.

**(12) Speech and language therapy services.**

(A) Speech and language therapy services are those that maintain or improve speech and language communication and swallowing disorders/disability through the evaluation and rehabilitation of members disabled by pain, disease, or injury. Services are provided in an ADH service setting and are intended to help the member achieve greater independence to reside and participate in the community. Services involve the use of therapeutic means, such as evaluation, specialized treatment, or development and oversight of a therapeutic maintenance program. Under a physician's order, a licensed speech and language pathologist evaluates the member's rehabilitation potential and develops an appropriate, written, therapeutic regimen. The regimen utilizes speech language pathology assistant services within the limitations of his or her practice, working under the supervision of the licensed speech and language pathologist. The regimen includes education and training for informal caregivers to assist with and/or maintain services when appropriate. The speech and language pathologist ensures monitoring and documentation of the member's rehabilitative progress and reports to the member's case manager and physician to coordinate the necessary addition and/or deletion of services, based on the member's condition and ongoing rehabilitation potential.

(B) Speech and language therapy services are authorized as ADH care-therapy enhancement and are a maximum of one (1) session unit per day of service. Payment is not allowed solely for written reports or record documentation.

**(13) Hospice services.**

(A) Hospice services are palliative and comfort care provided to the member and his or her family when a physician certifies the member has a terminal illness, with a life expectancy of six (6) months or less, and orders hospice care. ADvantage hospice care is authorized for a six (6) month period and requires physician certification of a terminal illness and orders of hospice care. When the member requires more than six (6) months of hospice care, a physician or nurse practitioner must have a face-to-face visit with the member thirty (30) calendar days prior to the initial hospice authorization end-date, and re-certify that the member has a terminal illness, has six (6) months or less to live, and orders additional hospice care. After the initial authorization period, additional periods of ADvantage hospice may be authorized for a maximum of sixty (60) calendar day increments with physician certification that the member has a terminal illness and six (6) months or less to live. A member's person-centered service plan that includes hospice care must comply with Waiver requirements to be within total person-centered service plan cost limits.

(B) A hospice program offers palliative and supportive care to meet the special needs arising out of the physical, emotional, and spiritual stresses experienced during the final stages of illness, through the end of life, and bereavement. The member signs a statement choosing hospice care instead of routine medical care with the objective to treat and cure the member's illness. Once the member has elected hospice care, the hospice medical team assumes responsibility for the member's medical care for the illness in the home environment. Hospice care services include nursing care, physician services, medical equipment and supplies, drugs for symptom and pain relief, home health aide and personal care services, physical, occupational and speech therapies, medical social services, dietary counseling, and grief and bereavement counseling to the member and/or the member's family.

(C) A hospice person-centered service plan must be developed by the hospice team in conjunction with the member's ADvantage case manager before hospice services are provided. The hospice services must be related to the palliation or management of the member's terminal illness, symptom control, or to enable the member to maintain ADL and basic functional skills. A member who is eligible for Medicare hospice provided as a Medicare Part A benefit, is not eligible to receive ADvantage hospice services.

(D) Hospice services are billed per diem of service for days covered by a hospice person-centered service plan and while the hospice provider is responsible for providing hospice services as needed by the member or member's family. The maximum total annual reimbursement for a member's hospice care within a twelve (12) month period is limited to an amount equivalent to eighty-five percent (85%) of

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the Medicare hospice cap payment, and must be authorized on the member's person-centered service plan.

**(14) ADvantage personal care.**

(A) ADvantage personal care is assistance to a member in carrying out ADLs, such as bathing, grooming, and toileting or in carrying out instrumental activities of daily living (IADLs), such as preparing meals and laundry service, to ensure the member's personal health and safety, or to prevent or minimize physical health regression or deterioration. Personal care services do not include service provision of a technical nature, such as tracheal suctioning, bladder catheterization, colostomy irrigation, or the operation and maintenance of equipment of a technical nature.

(B) ADvantage home care agency skilled nursing staff working in coordination with an ADvantage case manager is responsible for the development and monitoring of the member's personal care services.

(C) ADvantage personal care services are prior-authorized and billed per fifteen (15) minute unit of service, with units of service limited to the number of units on the ADvantage approved person-centered service plan.

**(15) Personal emergency response system (PERS).**

(A) PERS is an electronic device that enables members at high risk of institutionalization, to secure help in an emergency. Members may also wear a portable "help" button to allow for mobility. PERS is connected to the person's phone and programmed to signal, per member preference, a friend, relative, or a response center, once the "help" button is activated. For an ADvantage member to be eligible for PERS service, the member must meet all service criteria in (i) through (vi). The member:

- (i) Has a recent history of falls as a result of an existing medical condition that prevents the member from getting up unassisted from a fall;
- (ii) Lives alone and without a regular caregiver, paid or unpaid, and therefore is left alone for long periods of time;
- (iii) Demonstrates the capability to comprehend the purpose of and activate the PERS;
- (iv) Has a health and safety plan detailing the interventions beyond the PERS to ensure the member's health and safety in his or her home;
- (v) Has a disease management plan to implement medical and health interventions that reduce the possibility of falls by managing the member's underlying medical condition causing the falls; and
- (vi) Will likely avoid premature or unnecessary institutionalization as a result of PERS.

(B) PERS services are billed using the appropriate HCPC procedure code for installation, monthly service, or PERS purchase. All services are prior authorized per the ADvantage approved service plan.

**(16) ~~CD-PASS~~CDPASS.**

(A) ~~CD-PASS~~CDPASS are personal services assistance (PSA) and advanced personal services assistance (APSA) that enables a member in need of assistance to reside in his or her home and community of choice, rather than in an institution; and to carry out functions of daily living, self-care, and mobility. ~~CD-PASS~~CDPASS services are delivered as authorized on the person-centered service plan. The member becomes the employer of record and employs the PSA and the APSA. The member is responsible, with assistance from ADvantage program administrative Financial Management Services (FMS), for ensuring the employment complies with state and federal labor law requirements. The member/employer may designate an adult family member or friend, who is not a PSA or APSA to the member, as an "authorized representative" to assist in executing the employer functions. The member/employer:

- (i) Recruits, hires, and, as necessary, discharges the PSA or APSA;
- (ii) Ensures the PSA or APSA has received sufficient instruction and training. If needed, the member/employer will work with the consumer-directed agent/case manager (CDA) to obtain training assistance from ADvantage skilled nurses. Prior to performing an APSA task for the first time, the APSA must demonstrate competency in the tasks in an on-the-job training session conducted by the member, and the member must document the attendant's competency in performing each task in the APSA's personnel file;
- (iii) Determines where and how the PSA or APSA works, hours of work, what is to be accomplished and, within individual budget allocation limits, wages to be paid for the work;
- (iv) Supervises and documents employee work time; and
- (v) Provides tools and materials for work to be accomplished.

(B) The services the PSA may provide include:

- (i) Assistance with mobility and transferring in and out of bed, wheelchair, or motor vehicle, or all;
- (ii) Assistance with routine bodily functions, such as:
  - (I) Bathing and personal hygiene;
  - (II) Dressing and grooming; and
  - (III) Eating, including meal preparation and cleanup;
- (iii) Assistance with home services, such as shopping, laundry, cleaning, and seasonal chores;
- (iv) Companion assistance, such as letter writing, reading mail, and providing escort or transportation to participate in approved activities or events. "Approved activities or events," means community, civic participation guaranteed to all citizens including, but not limited to, exercise of religion, voting or participation in daily life activities in which exercise of choice and decision making is important to the member, and may include shopping for food, clothing, or other necessities, or for participation in other activities or events specifically approved on the person-centered service plan.

(C) An APSA ~~provides assistance with ADLs to~~ assists a member with a stable, chronic condition with ADLs, when such assistance requires devices and procedures related to altered body function if such activities, in the opinion of the attending physician or licensed nurse, may be performed if the member were physically capable, and the procedure may be safely performed in the home. Services provided by the APSA are maintenance services and are never used as therapeutic treatment. Members who develop medical complications requiring skilled nursing services while receiving APSA services are referred to his or her attending physician, who may order home health services, as appropriate. APSA includes assistance with health maintenance activities that may include:

- (i) Routine personal care for persons with ostomies, including tracheotomies, gastrostomies, and colostomies with well-healed stoma, external, indwelling, and suprapubic catheters that include changing bags and soap and water hygiene around the ostomy or catheter site;
- (ii) Removing external catheters, inspecting skin, and reapplication of same;
- (iii) Administering prescribed bowel program, including use of suppositories and sphincter stimulation, and enemas pre-packaged only without contraindicating rectal or intestinal conditions;
- (iv) Applying medicated prescription lotions or ointments and dry, non-sterile dressings to unbroken skin;
- (v) Using a lift for transfers;
- (vi) Manually assisting with oral medications;
- (vii) Providing passive range of motion (non-resistive flexion of joint) therapy, delivered in accordance with the person-centered service plan unless contraindicated by underlying joint pathology;
- (viii) Applying non-sterile dressings to superficial skin breaks or abrasions; and
- (ix) Using universal precautions as defined by the Centers for Disease Control and Prevention.

(D) FMS are program administrative services provided to participating ~~CD-PASS~~ CDPASS members/employers by AA. FMS are employer-related assistance that provides Internal Revenue Service (IRS) fiscal reporting agent and other financial management tasks and functions, including, but not limited to:

- (i) Processing employer payroll, after the member/employer has verified and approved the employee timesheet, at a minimum of semi-monthly, and associated withholding for taxes, or for other payroll withholdings performed on behalf of the member as employer of the PSA or APSA;
- (ii) Other employer-related payment disbursements as agreed to with the member/employer and in accordance with the member/employer's individual budget allocation;
- (iii) Responsibility for obtaining criminal and abuse registry background checks on prospective hires for PSA or APSA on the member/employer's behalf;
- (iv) Providing orientation and training regarding employer responsibilities, as well as employer information and management guidelines, materials, tools, and staff consultant expertise to support and assist the member to successfully perform employer-related functions; and
- (v) Making Hepatitis B vaccine and vaccination series available to PSA and APSA employees in compliance with Occupational Safety and Health Administration (OSHA) standards.

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(E) The PSA service is billed per fifteen (15) minute unit of service. The number of units of PSA a member may receive is limited to the number of units approved on the person-centered service plan.

(F) The APSA service is billed per fifteen (15) minute unit of service. The number of units of APSA a member may receive is limited to the number of units approved on the person-centered service plan.

**(17) Institution transition services.**

(A) Institution transition services are those services necessary to enable a member to leave the institution and receive necessary support through ADvantage waiver services in his or her home and community.

(B) Transitional case management services are services per OAC 317:30-5-763(1) required by the member and included on the member's person-centered service plan that are necessary to ensure the member's health, welfare, and safety, or to enable the member to function with greater independence in the home, and without which, the member would continue to require institutionalization. ADvantage transitional case management services assist institutionalized members who are eligible to receive ADvantage services in gaining access to needed waiver and other State Plan services, as well as needed medical, social, educational, and other services to assist in the transition, regardless of the funding source for the services to which access is gained. Transitional case management services may be authorized for periodic monitoring of an ADvantage member's progress during an institutional stay and for assisting the member to transition from institution to home by updating the person-centered service plan, including necessary institution transition services to prepare services and supports to be in place or to start on the date the member is discharged from the institution. Transitional case management services may be authorized to assist individuals that have not previously received ADvantage services, but were referred by CAP to the case management provider for assistance in transitioning from the institution to the community with ADvantage services support.

(i) Institution transition case management services are prior authorized and billed per fifteen (15) minute unit of service using the appropriate HCPC procedure code and modifier associated with the location of residence of the member served, per OAC 317:30-5-763(1)(D).

(ii) A unique modifier code is used to distinguish institution transitional case management services from regular case management services.

(C) Institution transition services may be authorized and reimbursed, per the conditions in (i) through (iv).

(i) The service is necessary to enable the member to move from the institution to his or her home.

(ii) The member is eligible to receive ADvantage services outside of the institutional setting.

(iii) Institution transition services are provided to the member within one-hundred and eighty (180) calendar-days of discharge from the institution.

(iv) Services provided while the member is in the institution are claimed as delivered on the day of discharge from the institution.

(D) When the member receives institution transition services but fails to enter the waiver, any institution transition services provided are not reimbursable.

**(18) Assisted living services (ALS).**

(A) ALS are personal care and supportive services furnished to waiver members who reside in a homelike, non-institutional setting that includes twenty-four (24) hour on-site response capability to meet scheduled or unpredictable member needs and to provide supervision, safety, and security. Services also include social and recreational programming and medication assistance, to the extent permitted under State law. The ALS provider is responsible for coordinating services provided by third parties to ADvantage members in the assisted living center (ALC). Nursing services are incidental rather than integral to the provision of ALS. ADvantage reimbursement for ALS includes services of personal care, housekeeping, laundry, meal preparation, periodic nursing evaluations, nursing supervision during nursing intervention, intermittent or unscheduled nursing care, medication administration, assistance with cognitive orientation, assistance with transfer and ambulation, planned programs for socialization, activities, and exercise, and for arranging or coordinating transportation to and from medical appointments. Services, except for planned programs for socialization, activities, and exercise, are to meet the member's specific needs as determined through the individualized assessment and documented on the member's person-centered service plan.

(B) The ADvantage ALS philosophy of service delivery promotes member choice, and to the greatest extent possible, member control. A member has control over his or her living space and his or her choice of personal amenities, furnishings, and activities in the residence. The ADvantage member must have the freedom to control his or her schedule and activities. The ALS provider's documented operating philosophy, including policies and procedures, must reflect and support the principles and values associated with the ADvantage assisted living philosophy and approach to service delivery emphasizing member dignity, privacy, individuality, and independence.

(C) ADvantage ALS required policies for admission and termination of services and definitions.

(i) ADvantage-certified assisted living centers (ALC) are required to accept all eligible ADvantage members who choose to receive services through the ALC, subject only to issues relating to, one (1) or more of the following:

(I) Rental unit availability;

(II) The member's compatibility with other residents;

(III) The center's ability to accommodate residents who have behavior problems, wander, or have needs that exceed the services the center provides; or

(IV) Restrictions initiated by statutory limitations.

(ii) The ALC may specify the number of units the provider is making available to service ADvantage members. At minimum, the ALC must designate ten (10) residential units for ADvantage members. Residential units designated for ADvantage may be used for other residents at the ALC when there are no pending ADvantage members for those units.

Exceptions may be requested in writing subject to the approval of AA.

(iii) Mild or moderate cognitive impairment of the applicant is not a justifiable reason to deny ALC admission. Centers are required to specify whether they are able to accommodate members who have behavior problems or wander. Denial of admission due to a determination of incompatibility must be approved by the case manager and the AA. Appropriateness of placement is not a unilateral determination by the ALC. The ADvantage case manager, the member, or member's designated representative, and the ALC in consultation determine the appropriateness of placement.

(iv) The ALC is responsible for meeting the member's needs for privacy, dignity, respect, and freedom from coercion and restraint. The ALC must optimize the member's initiative, autonomy, and independence in making life choices. The ALC must facilitate member choices regarding services and supports, and who provides them. Inability to meet those needs is not recognized as a reason for determining an ADvantage member's placement is inappropriate. The ALC agrees to provide or arrange and coordinate all services listed in the Oklahoma State Department of Health (OSDH) regulations, per OAC 310:663-3-3, except for specialized services.

(v) In addition, the ADvantage participating ALC agrees to provide or coordinate the services listed in (I) through (III).

(I) Provide an emergency call system for each participating ADvantage member.

(II) Provide up to three (3) meals per day plus snacks sufficient to meet nutritional requirements, including modified special diets, appropriate to the member's needs and choices; and provide members with twenty-four (24) hour access to food by giving members control in the selection of the foods they eat, by allowing the member to store personal food in his or her room, by allowing the member to prepare and eat food in his or her room, and allowing him or her to decide when to eat.

(III) Arrange or coordinate transportation to and from medical appointments. The ALC must assist the member with accessing transportation for integration into the community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, and control his or her personal resources and receive services in the community to the same degree of access as residents not receiving ADvantage services.

(vi) The provider may offer any specialized service or rental unit for members with Alzheimer's disease and related dementias, physical disabilities, or other special needs the facility intends to market. Heightened scrutiny, through additional monitoring of the ALC by AA, is utilized for those ALC's that also provide inpatient treatment; settings on the grounds of or adjacent to a public institution and/or other settings that tend to isolate individuals from the

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community. The ALC must include evidence that the ALC portion of the facility has clear administrative, financial, programmatic and environmental distinctions from the institution.

(vii) When the provider arranges and coordinates services for members, the provider is obligated to ensure the provision of those services.

(viii) Per OAC 310:663-1-2, "personal care" is defined as "assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person [Title 63 of the Oklahoma Statutes (O.S.), Section (§) 1-1902.17] and includes assistance with toileting." For ADvantage ALS, assistance with "other personal needs" in this definition includes assistance with grooming and transferring. The term "assistance" is clarified to mean hands-on help, in addition to supervision.

(ix) The specific ALS assistance provided along with amount and duration of each type of assistance is based upon the member's assessed need for service assistance and is specified in the ALC's service plan that is incorporated as supplemental detail into the ADvantage comprehensive person-centered service plan. The ADvantage case manager in cooperation with ALC professional staff, develops the person-centered service plan to meet member needs. As member needs change, the person-centered service plan is amended consistent with the assessed, documented need for change in services.

(x) Placement, or continued placement of an ADvantage member in an ALC, is inappropriate when any one (1) or more of the conditions in I through IV exist.

(I) The member's needs exceed the level of services the center provides.

Documentation must support ALC efforts to provide or arrange for the required services to accommodate participant needs.

(II) The member exhibits behaviors or actions that repeatedly and substantially interfere with the rights or well-being of other residents, and the ALC documented efforts to resolve behavior problems including medical, behavioral, and increased staffing interventions. Documentation must support the ALC's attempted interventions to resolve behavior problems.

(III) The member has a complex, unstable, or unpredictable medical condition and treatment cannot be developed and implemented appropriately in the assisted living environment. Documentation must support the ALC's attempts to obtain appropriate member care.

(IV) The member fails to pay room and board charges or OKDHS determined vendor payment obligation.

(xi) Termination of residence ensues when inappropriately placed. Once a determination is made that a member is inappropriately placed, the ALC must inform the member, the member's representative, if applicable, the AA, and the member's ADvantage case manager. The ALC must develop a discharge plan in consultation with the member, the member's representative, the ADvantage case manager, and the AA. The ALC and case manager must ensure the discharge plan includes strategies for providing increased services, when appropriate, to minimize risk and meet the higher care needs of members transitioning out of the ALC, when the reason for discharge is inability to meet member needs. When voluntary termination of residency is not arranged, the ALC must provide written notice to the member and to the member's representative, with a copy to the member's ADvantage case manager and the AA. The written notice provides intent to terminate the residency agreement and move the member to an appropriate care provider. The thirty (30) calendar-day requirement must not apply when emergency termination of the residency agreement is mandated by the member's immediate health needs or when the termination of the residency agreement is necessary for the physical safety of the member or other ALC residents. The written involuntary termination of residency notice for reasons of inappropriate placement must include:

(I) A full explanation of the reasons for the termination of residency;

(II) The notice date;

(III) The date notice was given to the member and the member's representative, the ADvantage case manager, and the AA;

(IV) The date the member must leave ALC; and

(V) Notification of appeal rights and the process for submitting appeal of termination of Medicaid ALS to OHCA.

(D) ADvantage ALS provider standards in addition to licensure standards.

**(i) Physical environment.**

(I) The ALC must provide lockable doors on the entry door of each rental unit and an attached, lockable compartment within each member unit for valuables. Members must have exclusive rights to his or her unit with lockable doors at the entrance of the individual or shared rental unit. Keys to rooms may be held by only appropriate ALC staff as designated by the member's choice. Rental units may be shared only when a request to do so is initiated by the member. Members must be given the right to choose his or her roommate.

(II) The member has a legally enforceable agreement, or lease, with the ALC. The member must have the same responsibilities and protections from eviction as all tenants under the landlord-tenant law of the state, county, city, or other designated entity.

(III) The ALC must provide each rental unit with a means for each member to control the temperature in the residential unit through the use of a damper, register, thermostat, or other reasonable means under the control of the member and that preserves privacy, independence, and safety, provided that the OSDH may approve an alternate means based on documentation that the design of the temperature control is appropriate to the special needs of each member who has an alternate temperature control.

(IV) For ALCs built prior to January 1, 2008, each ALC individual residential unit must have a minimum total living space, including closets and storage areas, of two-hundred and fifty (250) square feet; for ALCs built after December 31, 2007, each ALC individual residential unit must have a minimum total living space, including closets and storage areas, of three-hundred and sixty (360) square feet.

(V) The ALC must provide a private bathroom for each living unit that must be equipped with one (1) lavatory, one (1) toilet, and one (1) bathtub or shower stall.

(VI) The ALC must provide at a minimum; a kitchenette, defined as a space containing a refrigerator, adequate storage space for utensils, and a cooking appliance. A microwave is an acceptable cooking appliance.

(VII) The member is responsible for furnishing the rental unit. When a member is unable to supply basic furnishings defined as a bed, dresser, nightstand, chairs, table, trash can, and lamp, or if furnishings pose a health or safety risk, the member's ADvantage case manager in coordination with the ALC, must assist the member in obtaining basic furnishings for the rental unit. The member must have the freedom to furnish and decorate the rental unit within the scope of the lease or residency agreement.

(VIII) The ALC must meet the requirements of all applicable federal and state laws and regulations including, but not limited to, state and local sanitary codes, state building and fire safety codes, and laws and regulations governing use and access by persons with disabilities.

(IX) The ALC must ensure the design of common areas accommodates the special needs of the resident population and that the rental unit accommodates the special needs of the member in compliance with the Americans with Disabilities Act accessibility guidelines per Nondiscrimination on the Basis of Disability By Public Accommodations and in in Commercial Facilities, 28 Code of Federal Regulations, Appendix A, at no additional cost to the member.

(X) The ALC must provide adequate and appropriate social and recreational space for residents and the common space must be proportionate to the number of residents and appropriate for the resident population.

(XI) The ALC must provide appropriately monitored outdoor space for resident use.

(XII) The ALC must provide the member with the right to have visitors of his or her choosing at any time. Overnight visitation is allowed as permissible by the Landlord/Tenant Agreement.

(XIII) The ALC must be physically accessible to members.

**(ii) Sanitation.**

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- (I) The ALC must maintain the facility, including its individual rental units in a clean, safe, and sanitary manner, ensuring that they are insect and rodent free, odorless, and in good repair at all times.
- (II) The ALC must maintain buildings and grounds in a good state of repair, in a safe and sanitary condition, and in compliance with the requirements of applicable regulations, bylaws, and codes.
- (III) The ALC stores clean laundry in a manner that prevents contamination and changes linens at time intervals necessary to avoid health issues.
- (IV) The ALC must provide housekeeping in member rental units to maintain a safe, clean, and sanitary environment.
- (V) The ALC must have policies and procedures for members' pets.

**(iii) Health and safety.**

- (I) The ALC must provide building security that protects members from intruders with security measures appropriate to building design, environmental risk factors, and the resident population.
- (II) The ALC must respond immediately and appropriately to missing members, accidents, medical emergencies, or deaths.
- (III) The ALC must have a plan in place to prevent, contain, and report any diseases considered to be infectious or are listed as diseases that must be reported to the OSDH.
- (IV) The ALC must adopt policies for the prevention of abuse, neglect, and exploitation that include screening, training, prevention, investigation, protection during investigation, and reporting.
- (V) The ALC must provide services and facilities that accommodate the needs of members to safely evacuate in the event of fires or other emergencies.
- (VI) The ALC must ensure staff is trained to respond appropriately to emergencies.
- (VII) The ALC must ensure that fire safety requirements are met.
- (VIII) The ALC must offer meals that provide balanced and adequate nutrition for members.
- (IX) The ALC must adopt safe practices for meal preparation and delivery.
- (X) The ALC must provide a twenty-four (24) hour response to personal emergencies appropriate to the needs of the resident population.
- (XI) The ALC must provide safe transportation to and from ALC sponsored social or recreational outings.

**(iv) Staff to resident ratios.**

- (I) The ALC must ensure a sufficient number of trained staff are on duty, awake, and present at all times, twenty-four (24) hours a day, and seven (7) days a week, to meet resident's needs and to carry out all processes listed in the ALC's written emergency and disaster preparedness plan for fires and other disasters.
- (II) The ALC must ensure staffing is sufficient to meet ADvantage program members' needs in accordance with each member's ADvantage person-centered service plan.
- (III) The ALC must have plans in place to address situations where there is a disruption to the ALC's regular work force.

**(v) Staff training and qualifications.**

- (I) The ALC must ensure staff has qualifications consistent with their job responsibilities.
- (II) All staff assisting in, or responsible for, food service must have attended a food service training program offered or approved by OSDH.
- (III) The ALC must provide staff orientation and ongoing training to develop and maintain staff knowledge and skills. All direct care and activity staff receive at least eight (8) hours of orientation and initial training within the first month of employment and at least four (4) hours annually thereafter. Staff providing direct care on a dementia unit must receive four (4) additional hours of dementia specific training. Annual first aid and cardiopulmonary resuscitation (CPR) certification do not count toward the four (4) hours of annual training.



**(vi) Staff supervision.**

(I) The ALC must ensure delegation of tasks to non-licensed staff is consistent and in compliance with all applicable state regulations including, but not limited to, the state's Nurse Practice Act and OSDH Nurse Aide Certification rules.

(II) The ALC must ensure that, where the monitoring of food intake or therapeutic diets is provided at the prescribed services level, a registered dietitian monitors member health and nutritional status.

**(vii) Resident rights.**

(I) The ALC must provide to each member and each member's representative, at the time of admission, a copy of the resident statutory rights listed in 63 O.S. § 1-1918 amended to include additional rights and the clarification of rights as listed in the ADvantage member assurances. A copy of resident rights must be posted in an easily accessible, conspicuous place in the facility. The facility must ensure that staff is familiar with and observes, the resident rights.

(II) The ALC must conspicuously post for display in an area accessible to residents, employees, and visitors, the ALC's complaint procedures and the name, address, and phone number of a person authorized to receive complaints. A copy of the complaint procedure must also be given to each member, the member's representative, or the legal guardian. The ALC must ensure all employees comply with the ALC's complaint procedure.

(III) The ALC must provide to each member and member's representative, at the time of admission, information about Medicaid grievance and appeal rights, including a description of the process for submitting a grievance or appeal of any decision that decreases Medicaid services to the member.

**(viii) Incident reporting.**

(I) The ALC must maintain a record of incidents that occur and report incidents to the member's ADvantage case manager and to the AA, utilizing the AA Critical Incident Reporting form. Incident reports are also made to Adult Protective Services (APS) and to the OSDH, as appropriate, per ALC licensure rules, utilizing the specific reporting forms required.

(II) Incidents requiring report by licensed ALC's are those defined by OSDH, per OAC 310:663-19-1 and listed ~~on~~in the AA Provider Question Critical Incident Reporting form-Category.

(III) Reports of incidents must be made to the member's ADvantage case manager and to the AA via electronic submission within one (1) business day of the reportable incident's discovery utilizing the ~~AA Provider Question Critical Incident Reporting form-Category.~~ When required, a follow-up report of the incident must be submitted via electronic submission to the member's ADvantage case manager and to the AA. The follow-up report must be submitted within five (5) business days of the incident. The final report must be filed with the member's ADvantage case manager and the AA when the investigation is complete, not to exceed ten (10) business days after the incident.

(IV) Each ALC having reasonable cause to believe that a member is suffering from abuse, neglect, exploitation, or misappropriation of member property must make a report to APS as soon as the person is aware of the situation per 43A O.S. § 10-104.A. Reports are also made to OSDH, as appropriate, per ALC licensure rules.

(V) The preliminary incident report must at minimum, include who, what, when, where, and the measures taken to protect the member and resident(s) during the investigation. The follow-up report must, at minimum, include preliminary information, the extent of the injury or damage, if any, and preliminary investigation findings. The final report, at minimum, includes preliminary and follow-up information, a summary of investigative actions representing a thorough investigation, investigative findings and conclusions, and corrective measures to prevent future occurrences. When it is necessary to omit items, the final report must include why such items were omitted and when they will be provided.

(ix) Provision of, or arrangement for, necessary health services. The ALC must:

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- (I) Arrange or coordinate transportation for members to and from medical appointments; and
- (II) Provide or coordinate with the member and the member's ADvantage case manager for delivery of necessary health services. The ADvantage case manager is responsible for monitoring that all health-related services required by the member as identified through assessment and documented on the person-centered service plan, are provided in an appropriate and timely manner. The member has the freedom to choose any available provider qualified by licensure or certification to provide necessary health services in the ALC.

(E) ALCs are billed per diem of service for days covered by the ADvantage member's person-centered service plan and during which the ALS provider is responsible for providing ALS for the member. The per diem rate for ADvantage ALS for a member is one (1) of three (3) per diem rate levels based on a member's need for type of, intensity of, and frequency of service to address member ADLs, instrumental activities of daily living (IADLs), and health care needs. The rate level is based on the Uniform Comprehensive Assessment Tool (UCAT) assessment by the member's ADvantage case manager employed by a case management agency independent of the ALS provider. The determination of the appropriate per diem rate is made by the AA clinical review staff.

(F) The ALC must notify AA ninety (90) calendar days before terminating or not renewing the ALC's ADvantage contract.

(i) The ALC must give notice in writing to the member, the member's representative(s), the AA, and the member's ADvantage case manager ninety (90) calendar days before:

- (I) Voluntary cessation of the ALC's ADvantage contract; or
- (II) Closure of all or part of the ALC.

(ii) The notice of closure must include:

- (I) The proposed ADvantage contract termination date;
- (II) The termination reason;
- (III) An offer to assist the member secure an alternative placement; and
- (IV) Available housing alternatives.

(iii) The facility must comply with all applicable laws and regulations until the closing date, including those related to resident transfer or discharge.

(iv) Following the last move to the last ADvantage member, the ALC must provide in writing to the AA:

- (I) The effective date of closure based on the discharge date of the last resident;
- (II) A list of members transferred or discharged and where they relocated; and
- (III) The plan for storage of resident records per OAC 310:663-19-3(g), relating to preservation of resident records and the name, address, and phone numbers of the person responsible for the records.

## (19) Remote Support (RS) services.

(A) **Purpose and scope.** RS services are intended to promote a member's independence and self-direction. RS services are provided in the member's home to reduce reliance on in person support while ensuring the member's health and safety. RS services are included in the member's person-centered service plan and coordination of these services are made through the case manager.

(i) RS services are:

- (I) Based on the member's needs as documented and supported by the member's person-centered service plan and person-centered assessments;
- (II) Only authorized when submitted on the member's person-centered service plan with the consent of the member, involved household members, and guardian, as applicable;
- (III) The least restrictive option and the member's preferred method to meet an assessed need; and
- (IV) Provided when the member and the member's Interdisciplinary Team (IDT) agree to the provision of RS services.

(ii) RS services are not a system of surveillance or for provider convenience.

(B) **Service description.** RS services monitor a member by allowing for live, two-way communication between the member and monitoring staff using one (1) or more of the following systems:

- (i) Live video feed;

- (ii) Live audio feed;
- (iii) Motion-sensor monitoring;
- (iv) Radio frequency identification;
- (v) Web-based monitoring; or
- (vi) Global positioning system (GPS) monitoring devices.

(C) **General provider requirements.** RS service providers must have a valid OHCA SoonerCare (Medicaid) provider agreement to provide provider-based RS services to ADvantage HCBS waiver members and be certified by the AA. Requests for applications to provide RS services are made to AA.

(D) **Risk assessment.** Teams will complete a risk assessment to ensure remote supports can help meet the member's needs in a way that protects the right to privacy, dignity, respect, and freedom from coercion. The risk assessment is reviewed, and any issues are addressed prior to the implementation of remote supports general provider requirements.

- (i) Remote support providers ensure the member's health and safety by contacting a member's informal support or activating the member's back-up plan when a health or safety issue becomes evident during monitoring.
- (ii) The risk assessment and service plan require the team to develop a specific back-up plan to address health, safety and behavioral needs while remote supports are utilized so appropriate assistance can be provided. The RS back-up plan includes how assistance is provided to the member when equipment or technology fails.

(E) **RS guidelines.** Devices or monitors are placed at locations based on the member's individual needs as documented on the member's person-centered service plan and approved by the member and involved family members and guardian, as applicable.

- (i) The use of camera or video equipment in the member's bedroom, bathroom, or other private area is prohibited.
- (ii) When RS involves the use of audio or video equipment that permits RS staff to view activities or listen to conversations in the residence, the member who receives the service and each person who lives with the member is fully informed of what RS entails. The member's case manager documents consent in the member's person-centered service plan.
- (iii) Waiver members have the ability to turn off the remote monitoring device or equipment if they choose to do so. The RS provider educates the member regarding how to turn RS devices off and on at the start of services and as desired thereafter.

(F) **Emergency response staff.**

- (i) Emergency response staff are employed by a certified ADvantage Provider with a valid OHCA SoonerCare (Medicaid) contract to provide HCBS to OKDHS HCBS waiver members.
- (ii) Informal emergency response persons are unpaid family members or other interested parties who agree to become, and are approved as, an emergency response person by the member and the member's IDT.

(G) **Service limitations.** RS services are limited to twenty-four (24) hours per day. RS services are not provided simultaneously with any other in-home direct care services. However, services may be provided through a combination of remote and in-home services dependent on the member's needs.

(H) **RS service discontinuation.** The member and the member's IDT determine when it is appropriate to discontinue RS services. When RS services are terminated, the RS provider coordinates service termination with the member's case manager to ensure a safe transition.

(20) **Assistive Technology (AT) services.**

(A) AT services include devices, controls, and appliances, specified in the member's person-centered service plan, which enable members to increase their abilities to perform activities of daily living or to perceive, control, or communicate with the environment in which they live.

(B) Devices may include communication technology, such as smart phones and tablets, that allow members to communicate with their providers using video chat to ensure ongoing maintenance of health and welfare.

(C) Only devices that are not covered under the SoonerCare (Medicaid) or Specialized Medical Equipment services are included in this service definition.

(D) Service codes and rates vary based on the nature of the AT device;

(E) AT services may include:

- (i) Assessment for the need of AT or auxiliary aids;

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- (ii) Training the member or provider regarding use and maintenance of equipment or auxiliary aids; and
- (iii) Repair of adaptive devices; and
- (iv) Equipment provided may include:
  - (I) Video communication technology that allows members to communicate with providers through video communication. Video communication allows providers to assess and evaluate their members' health and welfare or other needs by enabling visualization of members and their environments. Examples include smart phones, tablets, audiovisual or virtual assistant technology, or sensors; and
  - (II) The cost of internet services may be augmented through the Emergency Broadband Benefit which is available to waiver members.

*[OAR Docket #25-372; filed 5-30-25]*

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## **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

*[OAR Docket #25-375]*

### **RULEMAKING ACTION:**

EMERGENCY adoption

### **RULES:**

Subchapter 5. Individual Providers and Specialties

Part 9. LONG-TERM CARE FACILITIES

317:30-5-133.2. Ancillary services [AMENDED]

### **AUTHORITY:**

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; the Oklahoma Health Care Authority Board; Section 1396(a)(13)(A) of Title 42 of the United States Code

### **COMMENT PERIOD:**

N/A

### **PUBLIC HEARING:**

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### **ADOPTION:**

March 26, 2025

### **EFFECTIVE:**

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### **SUPERSEDED RULES:**

N/A

### **GUBERNATORIAL APPROVAL:**

N/A

### **REGISTER PUBLICATION:**

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### **INCORPORATED STANDARDS:**

N/A

### **INCORPORATING RULES:**

N/A

### **AVAILABILITY:**

N/A

## FINDING OF EMERGENCY:

The proposed emergency changes are necessary to avoid violation of federal law or regulation at 42 U.S.C. Section 1396a(a)(13)(A) by aligning administrative rules with the approved Oklahoma Medicaid State Plan

## GIST/ANALYSIS:

The proposed changes will align agency rules with the Title XIX State Plan durable medical equipment (DME) reimbursement guidelines for nursing facilities, which stipulate that DME is included as part of the nursing facility rate methodology, and is not billed separately.

## CONTACT PERSON:

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):**

## SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

### PART 9. LONG-TERM CARE FACILITIES

#### 317:30-5-133.2. Ancillary services [AMENDED]

(a) ~~\_\_\_\_\_~~ Ancillary services are those items which are not considered routine services. Ancillary services may be billed separately to the SoonerCare program, unless reimbursement is available from Medicare or other insurance or benefit programs. ~~Coverage criteria, utilization controls and program limitations are specified in Part 17 of OAC 317:30-5.~~

~~Ancillary services are limited to the following services:~~

~~(1) Services requiring prior authorization:~~

- ~~(A) External breast prosthesis and support accessories.~~
- ~~(B) Ventilators and supplies.~~
- ~~(C) Total Parenteral Nutrition (TPN), and supplies.~~
- ~~(D) Custom seating for wheelchairs.~~

~~(2) Services not requiring prior authorization:~~

- ~~(A) Permanent indwelling or male external catheters and catheter accessories.~~
- ~~(B) Colostomy and urostomy supplies.~~
- ~~(C) Tracheostomy supplies.~~
- ~~(D) Catheters and catheter accessories.~~
- ~~(E) Oxygen and oxygen concentrators.~~

~~(i) PRN Oxygen. Members in nursing facilities requiring oxygen PRN will be serviced by oxygen kept on hand as part of the per diem rate.~~

~~(ii) Billing for Medicare eligible members. Oxygen supplied to Medicare eligible nursing home members may be billed directly to OHCA. It is not necessary to obtain a denial from Medicare prior to filing the claim with OHCA.~~

(b) ~~Items not considered ancillary, but considered routine and covered as part of the routine rate include but are not limited to:~~

- ~~(1) Diapers.~~
- ~~(2) Underpads.~~
- ~~(3) Medicine cups.~~
- ~~(4) Eating utensils.~~
- ~~(5) Personal comfort items.~~

*[OAR Docket #25-375; filed 5-30-25]*

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## TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY

### CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

*[OAR Docket #25-373]*

# Emergency Adoptions

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**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 9. ICF/IID, HCBW/IID, and Individuals Age 65 or Older in Mental Health Hospitals

Part 1. SERVICES

317:35-9-1. Overview of long-term medical care services; relationship to ~~OMB, SLMB~~Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLMB), and other Medicaid services eligibility, and spenddown calculation [AMENDED]

Subchapter 17. Advantage Waiver Services

317:35-17-4. Application for ADvantage services [AMENDED]

**AUTHORITY:**

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; the Oklahoma Health Care Authority Board; and Section 1915(c) of the Social Security Act

**COMMENT PERIOD:**

N/A

**PUBLIC HEARING:**

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**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**FINDING OF EMERGENCY:**

These emergency rules are necessary to avoid violation of federal law or regulation at 1915(c) of the Social Security Act by aligning the ADvantage program policy with the approved 1915(c) Home and Community Based waiver.

**GIST/ANALYSIS:**

The OHCA is seeking to revise the ADvantage Waiver policy in order to align with the ADvantage Waiver amendments approved on October 16, 2024, with retroactive date of October 1, 2023. Revisions include reformatting policy for clarity and removing outdated language and improve clarity of ADvantage capacity.

**CONTACT PERSON:**

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):**

## SUBCHAPTER 9. ICF/IID, HCBW/IID, AND INDIVIDUALS AGE 65 OR OLDER IN MENTAL HEALTH HOSPITALS

### PART 1. SERVICES

#### **317:35-9-1. Overview of long-term medical care services; relationship to ~~QMB, SLMB~~Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLMB), and other Medicaid services eligibility, and spenddown calculation [AMENDED]**

(a) **Long Term Medical Care Services.** Long-term medical care for the categorically needy includes care in a nursing facility (refer to OAC 317:35-19), public and private intermediate care facility for the mentally retarded (refer to this subchapter), persons age 65 years or older in mental health hospitals (refer to this subchapter), Home and Community Based Waiver Services for the Intellectually Disabled (refer to this subchapter), and Home and Community Based Waiver Services for frail elderly and a targeted group of adults with physical disabilities age 21 and over who have not been determined to have a developmental disability, an intellectual disability or a related condition (refer to OAC 317:35-17). Personal Care provides services in the own home for categorically needy individuals (refer to OAC 317:35-15). Any time an individual is certified as eligible for Medicaid coverage of long-term care, the individual is also eligible for other Medicaid services. Another application or additional spenddown computation is not required. Spenddown is applied to the first long-term care claim filed. Any time an aged, blind or disabled individual is determined eligible for long-term care, a separate determination must be made to see if eligibility conditions as a Qualified Medicare Beneficiary (QMB) or Specified Low-Income Medicare Beneficiary (SLMB) are met. Another application for QMB or SLMB benefits is not required. Any spenddown computed for long-term care is not applicable to QMB or SLMB coverage. Long-term medical care for the categorically needy includes:

- (1) Care in a nursing facility, per Oklahoma Administrative Code (OAC) 317:35-19;
- (2) Public and private intermediate care facility for individuals with intellectual disabilities, per OAC 317:35-9;
- (3) Persons age sixty-five (65) years or older in mental health hospitals, per OAC 317:35-9;
- (4) Home and Community Based Waiver Services for the Intellectually Disabled, per OAC 317:35-9;
- (5) Home and Community Based Waiver Services for the ADvantage program, per OAC 317:35-17; and
- (6) State Plan Personal Care provides services, per OAC 317:35-15.

(b) Any time an individual is certified as eligible for ~~Medicaid coverage of long-term care~~ SoonerCare coverage, the individual is also eligible for other ~~Medicaid~~ SoonerCare services. Another application or additional spenddown computation is not required. Spenddown is applied to the first long-term care claim filed. Any time an aged, blind or disabled individual is determined eligible for long-term care, a separate determination ~~must be~~ made to see if eligibility conditions as a ~~Qualified Medicare Beneficiary (QMB)~~ QMB or ~~Specified Low-Income Medicare Beneficiary (SLMB)~~ SLMB are met. Another application for QMB or SLMB benefits is not required. Any spenddown computed for long-term care is not applicable to QMB or SLMB coverage.

(b) ~~Medicaid recovery.~~ (c) The State of Oklahoma operates a Medicaid ~~Recovery~~ program to recover cost for services identified in OAC 317:35-9-15. ~~Recovery can be accomplished in two ways: liens against real property or claims made against estates.~~

## SUBCHAPTER 17. ADVANTAGE WAIVER SERVICES

#### **317:35-17-4. Application for ADvantage services [AMENDED]**

(a) **Application procedures for ADvantage services.** If waiver slots are available, the application process initiates when an online application is completed for ADvantage services. A written financial application is not required for an individual who has an active Medicaid case. A financial application for ADvantage services consists of the Medical Assistance Application form. The form is signed by the applicant, parent, spouse, guardian, or someone else acting on the applicant's behalf.

- (1) All conditions of financial eligibility must be verified and documented in the case record. When current information already available in the local office establishes financial eligibility, such information may be used by recording source and date of information. If the applicant also wishes to apply for a State Supplemental Payment, either the applicant or his/her guardian must sign the application form.
- (2) When Medicaid application is being made, an assessment of resources must be completed. For applicants of the ADvantage waiver, those resources owned by the couple the month the application was made determines the spousal share of resources.

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(3) When an application is received from an individual residing in a nursing facility, the applicant is referred to the ~~Oklahoma Health Care Authority (OHCA)~~ Living Choice program ~~as the appropriate entity~~ to assist individuals from nursing facility care.

(A) If ~~OHCA~~ Living Choice determines the applicant is ineligible for services due to the inability to assure health and welfare in a community setting, the individual is also ineligible for ADvantage waiver services.

(B) If ~~OHCA~~ Living Choice determines the applicant does not meet Living Choice eligibility criteria for reasons unrelated to health and welfare, the individual is eligible for the ADvantage waiver if medically and financially approved.

**(b) Date of application.**

(1) The date of application is:

(A) the date the applicant or someone acting in his/her behalf signs the application in the county office; or

(B) the date the application is stamped into the county office when the application is initiated outside the county office; or

(C) the date when the request for Medicaid is made orally and the financial application form is signed later. The date of the oral request is entered in "red" above the date the form is signed.

(2) An exception is when OKDHS has contracts with certain providers to take applications and obtain documentation. After the documentation is obtained, the contracted provider forwards the application and documentation to the OKDHS county office of the applicant's county of residence for Medicaid eligibility determination. The application date is the date the applicant signed the application form for the provider.

**(c) ADvantage ~~waiting list procedures~~ capacity.** ADvantage Program "available capacity" is the number of members that may be enrolled in the Program without exceeding, on an annualized basis, the maximum number authorized by the waiver to be served in the waiver year. ~~Upon notification from the AA that 90% of the available capacity has been exceeded, OKDHS Community Living, Aging and Protective Services notifies OKDHS county offices and contract agencies approved to complete the UCAF that, until further notice, requests for ADvantage services are not to be processed as applications but referred to AA to be placed on a waiting list of requests for ADvantage services. As available capacity permits, but remaining in compliance with waiver limits of maximum capacity, and until an increase in ADvantage available capacity occurs, the AA selects in chronological order (first on, first off) requests for ADvantage from the waiting list to forward to the appropriate OKDHS county office for processing the application. When the waiver capacity exceeds the number on the waiting list and after all persons on the waiting list have been processed, waiting list procedures are suspended. Waitlist procedures are implemented when the maximum number authorized by the waiver to be served in the waiver year is met.~~

*[OAR Docket #25-373; filed 5-30-25]*

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## TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 55. MANAGED CARE

*[OAR Docket #25-374]*

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 3. General Program Information

Part 1. ELIGIBILITY, ENROLLMENT AND CONTINUITY OF CARE

317:55-3-1. Mandatory, voluntary, and excluded populations [AMENDED]

317:55-3-2. Enrollment and disenrollment process [AMENDED]

**AUTHORITY:**

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; the Oklahoma Health Care Authority Board; Sections 1915(b) and 1932(a) of the Social Security Act

**COMMENT PERIOD:**

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**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**FINDING OF EMERGENCY:**

These emergency rules are necessary to avoid violation of federal law or regulation at Sections 1915(b) and 1932(a) of the Social Security Act by aligning SoonerSelect policy with the State's 1915(b) waiver amendment.

**GIST/ANALYSIS:**

These proposed changes clarify that members receiving only family planning services through SoonerPlan are excluded from enrollment in the SoonerSelect program. Additionally, the choice period for SoonerSelect enrollees will be changed from 60 days to 30 days. The choice period is the timeframe during which a SoonerSelect enrollee may select a plan. If a selection is not made during this timeframe, the enrollee will be automatically assigned to one of the contracted entities.

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):**

## SUBCHAPTER 3. GENERAL PROGRAM INFORMATION

### PART 1. ELIGIBILITY, ENROLLMENT AND CONTINUITY OF CARE

#### **317:55-3-1. Mandatory, voluntary, and excluded populations [AMENDED]**

(a) **Mandatory populations.** The following SoonerCare Eligibles will be mandatorily enrolled with a CE and DBM under the SoonerSelect Dental and Medical program:

- (1) Expansion adults;
- (2) Parents and caretaker relatives;
- (3) Pregnant women;
- (4) Deemed newborns;
- (5) Former foster children;
- (6) Juvenile justice involved children;
- (7) Foster care children;
- (8) Children receiving adoption assistance; and
- (9) Children.

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(b) **Voluntary populations.** SoonerCare Eligible individuals may voluntarily choose to enroll in the SoonerSelect Dental and Medical program through an opt-in process if they are American Indians and/or Alaskan Natives. AI/AN populations will have the option to:

- (1) Voluntarily enroll in the DBM and/or CE through an opt-in process;
- (2) Enroll in a DBM and/or CE at each open enrollment period, regardless of initial selection or past disenrollment from the DBM and/or CE;
- (3) When enrolled, AI/AN populations may:
  - (A) Receive services from an IHCP;
  - (B) Choose the IHCP as the Enrollee's provider, if the provider has the capacity to provide such services;
  - (C) Obtain services covered under the Contract from out-of-network IHCPs when the Enrollee is otherwise Eligible to receive the IHCP's services;
  - (D) Self-refer for services provided by IHCPs to AI/AN Enrollees;
  - (E) Obtain services covered under the Contract from out-of-network IHCPs when the AI/AN Enrollee is otherwise Eligible to receive the IHCP's services; and
  - (F) Disenroll from any DBM and/or CE at any time without cause.

(c) **Excluded populations.** The following individuals are excluded from enrollment in the SoonerSelect program:

- (1) Dual-eligible individuals;
- (2) Individuals enrolled in the Medicare Savings Program, including Qualified Medicare Beneficiaries (QMB), Specified Low Income Medicare Beneficiaries (SLMB), Qualified Disabled Workers (QDW) and Qualified Individuals (QI);
- (3) Persons with a nursing facility or ICF-IID level of care, except for Enrollees with a pending level of care determination;
- (4) Individuals during a period of presumptive eligibility;
- (5) Individuals infected with tuberculosis Eligible for tuberculosis-related services under 42 C.F.R. § 435.215;
- (6) Individuals determined Eligible for SoonerCare on the basis of needing treatment for breast or cervical cancer under 42 C.F.R. § 435.213;
- (7) Individuals enrolled in a § 1915(c) Waiver;
- (8) Undocumented persons Eligible for emergency services only in accordance with 42 C.F.R. § 435.139;
- (9) Insure Oklahoma Employee Sponsored Insurance (ESI) dependent children in accordance with the Oklahoma Medicaid State Plan;
- (10) Coverage of Pregnancy-Related Services under Title XXI for the benefit of unborn children ('Soon- to-be-Sooners'), as allowed by 42 C.F.R. § 457.10; and
- (11) Individuals determined Eligible for Medicaid on the basis of age, blindness, or disability.
- (12) Individuals enrolled in the SoonerPlan family planning program.

(d) **Additional eligibility criteria.** For additional eligibility criteria, refer to Chapter 35 Medical Assistance for Adults and Children Eligibility Manual, Subchapter 5 Eligibility and Countable Income.

## 317:55-3-2. Enrollment and disenrollment process [AMENDED]

(a) **Enrollment process.** The OHCA beneficiary support system will provide choice counseling to all potential Enrollees at the time of initial enrollment, during the annual open enrollment period and for Enrollees who disenroll from a CE or DBM for good cause as described in the Contract and in this Section. The OHCA, or its designee, will provide information about individual CE or DBM benefit structures, services, and network providers, as well as information about other Medicaid programs as requested by the Eligible to assist the Eligible in making an informed selection.

(1) **Selection/auto assignment.** During the application process, at OHCA's discretion, an Applicant may have up to ~~sixty (60)~~thirty (30) days to select a contracted CE and DBM of their choice. Applicants who are Eligible to choose a CE and DBM and fail to make an election on the SoonerCare application, within the allotted timeframe, will be assigned to the CE and DBM that is due next to receive an auto assignment.

(2) **Exemptions to auto-assignments**

- (A) The OHCA will not make auto-assignments to the CE if:
  - (i) The CE's maximum enrollment has been capped and actual enrollment has reached ninety-five percent (95%) of the cap;
  - (ii) The CE has been excluded from receiving new enrollment due to the application of non-compliance remedies; or
  - (iii) The CE has failed to meet readiness review requirements.
- (B) The OHCA will not make auto-assignments to the DMB if:

- (i) The DBM's maximum enrollment has been capped and actual enrollment has reached ninety-five percent (95%) of the cap;
- (ii) The DBM has been excluded from receiving new enrollment due to the imposition of administrative remedies; or
- (iii) The DBM has failed to meet readiness review requirements.

**(3) Enrollment effective date**

- (A) Eligibles, with the exception of deemed newborns, who select or are assigned to a CE and/or DBM from the first day of the month through the fifteenth day of the month shall be enrolled effective on the first day of the following month.
- (B) Eligibles who select or are assigned to a CE and/or DBM on the sixteenth (16<sup>th</sup>) day of the month through the last day of the month will be enrolled effective on the first day of the second following month.
- (C) Prior to these enrollment dates, most Eligibles will be covered by a fee-for-service payment structure administered by OHCA.
- (D) Deemed newborns eligible for the CE and/or DBM shall be enrolled effective as of the date of birth, if the newborn's mother also is enrolled in the SoonerSelect program.
- (E) Notwithstanding the foregoing, the effective date of enrollment with the CE or DBM shall be the date recorded on the outbound ANSI ASC X 12 834 electronic transaction sent by OHCA.

**(4) Enrollment lock-in period.** An Enrollee may, within the first ninety (90) days of initial enrollment, request to change enrollment without cause from the CE and/or DBM, or during the ninety (90) days following the date OHCA sends the Enrollee notice of initial enrollment, whichever is later. Enrollees will also be permitted to change CEs and/or DBMs, without cause, at least once every twelve (12) months during the open enrollment period. After the disenrollment period from the CE or DBM has lapsed, the Enrollee will remain enrolled with the CE or DBM until the next annual open enrollment period, unless:

**(A) The SoonerSelect Medical Enrollee:**

- (i) Is disenrolled due to loss of SoonerCare eligibility;
- (ii) Becomes a foster child under custody of the state;
- (iii) Becomes juvenile justice involved under the custody of the state;
- (iv) Is a former foster care or child receiving adoption assistance and opts to enroll in the SoonerSelect Children's Specialty program;
- (v) Demonstrates good cause under the following conditions:
  - (I) The Enrollee moves out of the service area;
  - (II) The Enrollee requires specialized care for a chronic condition and the Enrollee or Enrollee's representative, the CE, OHCA and receiving CE agree that assignment to the receiving CE is in the Enrollee's best interest;
  - (III) The plan does not cover the service the Enrollee seeks, because of moral or religious objections;
  - (IV) The Enrollee needs related services to be performed at the same time; not all related services are available within the CE's network; and the Enrollee's primary care provider or another provider determines that receiving the services separately would subject the Enrollee to unnecessary risk;
  - (V) For other reasons, including a filed and prevailed grievance related to poor quality of care, lack of access to services covered under the Contract, or lack of access to providers experienced in dealing with the Enrollee's oral health care needs or other matters deemed sufficient to warrant disenrollment; and
  - (VI) The Enrollee has been enrolled in error, as determined by the OHCA.
- (vi) Experiences a temporary loss of eligibility or enrollment which caused the Enrollee to miss the annual disenrollment period, then the Enrollee may disenroll without cause upon reenrollment; or
- (vii) The OHCA has imposed intermediate sanctions on the CE and allows Enrollees to disenroll without cause.

**(B) The SoonerSelect Dental Enrollee:**

- (i) Is disenrolled due to loss of SoonerCare eligibility;
- (ii) Demonstrates good cause under the following conditions:
  - (I) The Enrollee moves out of the service area;

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- (II) The plan does not cover the service the Enrollee seeks, because of moral or religious objections;
- (III) The Enrollee needs related services to be performed at the same time; not all related services are available within the DBM's network; and the Enrollee's primary care dental provider or another provider determines that receiving the services separately would subject the Enrollee to unnecessary risk;
- (IV) For other reasons, including a filed and prevailed grievance related to poor quality of care, lack of access to services covered under the Contract, or lack of access to providers experienced in dealing with the Enrollee's oral health care needs or other matters deemed sufficient to warrant disenrollment; and
- (V) The Enrollee has been enrolled in error, as determined by the OHCA.

- (iii) Experiences a temporary loss of eligibility or enrollment which caused the Enrollee to miss the annual disenrollment period, then the Enrollee may disenroll without cause upon reenrollment; or
- (iv) The DBM is terminated.

(5) **Annual and special enrollment periods.** Sixty (60) days prior to the start of the Enrollee's annual open enrollment period, the Enrollee shall be notified of the option to maintain enrollment with the current CE and/or DBM or to enroll with a different CE and/or DBM. OHCA, at its sole discretion, may schedule a special open enrollment period, under the following circumstances:

- (A) In the event of the early termination of a CE or DBM under the process described in the Contract; or
- (B) The loss of a major participating provider(s) places the CE or DBM at risk of failing to meet service accessibility standards and the CE or DBM does not have an acceptable plan for mitigating the loss or finding of non-compliance.

(6) **Enrollment caps.** OHCA, at its sole discretion, may impose a cap on the CE or DBM's enrollment, in response to a request by the CE or DBM or as part of a corrective action in accordance to the respective Contract.

(b) **Disenrollment.** The OHCA shall have sole authority to grant or deny a disenrollment request from the Enrollee, and/or CE or DBM.

(1) **CE or DBM-requested disenrollment.** Pursuant to 42 C.F.R. § 438.56(b)(2), the CE or DBM cannot request a disenrollment based on adverse change in the member's health status or utilization of medically necessary services, diminished mental capacity, or uncooperative or disruptive behavior resulting from their special needs, except when their continued Enrollment with the Contractor seriously impairs the Contractor's ability to furnish services to either this particular Enrollee or other Enrollees.

(A) The CE may only request disenrollment of the Enrollee only for good cause. The following actions, if found by OHCA, comprise good cause:

- (i) The Enrollee requires specialized care for a chronic condition and the Enrollee or Enrollee's representative, the CE, OHCA and receiving CE agree that assignment to the receiving CE is in the Enrollee's best interest;
- (ii) The Enrollee has been enrolled in error, as determined by OHCA;
- (iii) The Enrollee has exhibited disruptive behaviors to the extent the CE cannot effectively manage their care, and the CE has made all reasonable efforts to accommodate the Enrollee; or
- (iv) The Enrollee has committed fraud, including but not limited to, loaning an identification (ID) card for use by another person.

(B) The DBM may only request disenrollment of the Enrollee only for good cause. The following actions, if found by OHCA, comprise good cause:

- (i) The Enrollee has been enrolled in error, as determined by OHCA;
- (ii) The Enrollee has exhibited disruptive behaviors to the extent the DBM cannot effectively manage their care, and the DBM has made all reasonable efforts to accommodate the Enrollee; or
- (iii) The Enrollee has committed fraud, including but not limited to, loaning an ID card for use by another person.

(2) **Enrollee-requested disenrollment.** Enrollees shall seek redress through the CE's or DBM's grievance process before OHCA will make a determination on an Enrollee's request for disenrollment. The CE or DBM shall accept Enrollee requests for disenrollment orally or in writing. The CE or DBM shall complete a review of the request within ten (10) days of the Enrollee filing the grievance. If the Enrollee remains dissatisfied with the

result of the grievance process, the CE or DBM shall refer the disenrollment request to OHCA. The Contractor shall send records gathered during the grievance process to OHCA to facilitate OHCA's decision-making process. Disenrollment requests will be adjudicated by OHCA and, if approved, will become effective on a date established by OHCA.

(A) The Enrollee may request disenrollment from the CE or DBM as allowed by 42 C.F.R. § 438.56(c).

(B) An Enrollee may request disenrollment from the CE or DBM at any time based on any cause listed at 42 C.F.R. § 438.56(d)(2).

(C) An Enrollee may request disenrollment at any time in accordance with (a)(4)(A)(v)(I)-(VI) and (B)(ii)(I)-(V) of this Section and the applicable Contract.

(3) **Disenrollment by OHCA.** The CE or DBM shall report to OHCA, within five (5) business days of learning of any change in an Enrollee's status affecting the Enrollee's eligibility.

(A) The OHCA will initiate disenrollment of SoonerSelect Medical Enrollees under the following circumstances:

- (i) Loss of eligibility for Medicaid;
- (ii) Transition to a SoonerCare eligibility group excluded from the SoonerSelect Medical program;
- (iii) Enrollee becomes enrolled in Medicare;
- (iv) Death;
- (v) Enrollee becomes a foster child under the custody of the state;
- (vi) Enrollee becomes juvenile justice involved under the custody of the state;
- (vii) The Enrollee becomes an inmate of a public institution;
- (viii) The Enrollee commits fraud or provides fraudulent information; or
- (ix) Disenrollment is ordered by a hearing officer or court of law.

(B) The OHCA will initiate disenrollment of SoonerSelect Dental Enrollees under the following circumstances:

- (i) Loss of eligibility for Medicaid;
- (ii) Transition to a SoonerCare eligibility group excluded from the SoonerSelect Dental program;
- (iii) Enrollee becomes enrolled in Medicare;
- (iv) Death;
- (v) The Enrollee becomes an inmate of a public institution;
- (vi) The Enrollee commits fraud or provides fraudulent information; or
- (vii) Disenrollment is ordered by a hearing officer or court of law.

(4) **Disenrollment effective date.** Consistent with 42 C.F.R. § 438.56(e), except as provided for below, and unless OHCA determines that a delay would have an adverse effect on an Enrollee's health, it is OHCA's intent that a disenrollment shall be effective no later than the first day of the second following month.

(A) Grievance resolution for poor quality of care, lack of access to services covered under the Contract or lack of access to providers experienced in dealing with the Enrollee's health care needs or other matters deemed sufficient to warrant disenrollment under (b)(2) of this Section must be completed within this timeframe. If the CE fails to complete the grievance process in time to permit disenrollment by OHCA, the disenrollment shall be considered approved for the effective date that would have been established had the CE complied with this timeframe. Disenrollment for any of the following reasons shall be effective as of the date that the Enrollee's SoonerSelect Medical program eligibility status changes:

- (i) Loss of eligibility for Medicaid;
- (ii) Transition to a SoonerCare eligibility group excluded from the SoonerSelect program;
- (iii) Enrollee becomes a foster child under the custody of the state;
- (iv) Enrollee becomes JJ Involved under the custody of the state;
- (v) Enrollee becomes eligible for Medicare;
- (vi) Death;
- (vii) Enrollee becomes an inmate of a public institution;
- (viii) Enrollee commits fraud or provides fraudulent information;
- (ix) Disenrollment is ordered by a hearing officer or court of law; or
- (x) Enrollee requiring long-term care.

(I) Enrollees requiring long-term care in a nursing facility or ICF-IID shall be disenrolled from the CE when the level of care determination is finalized.

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(II) For additional information regarding nursing facility and ICF-IID stays, refer to the Contract.

(B) Grievance resolution for poor quality of care, lack of access to services covered under the Contract or lack of access to providers experienced in dealing with the SoonerSelect Dental Enrollee's oral health care needs, or other matters deemed sufficient to warrant disenrollment under (b)(2) of this Section must be completed within this timeframe. If the Contractor fails to complete the grievance process in time to permit disenrollment by OHCA, the disenrollment shall be considered approved for the effective date that would have been established had the Contractor complied with this timeframe. Disenrollment for any of the following reasons shall be effective as of the date that the SoonerSelect Dental Enrollee's SoonerSelect Dental program eligibility status changes:

- (i) Loss of eligibility for Medicaid;
- (ii) Transition to a SoonerCare eligibility group excluded from the SoonerSelect Dental program;
- (iii) SoonerSelect Dental Enrollee becomes eligible for Medicare;
- (iv) Death;
- (v) SoonerSelect Dental Enrollee becomes an inmate of a public institution;
- (vi) SoonerSelect Dental Enrollee commits Fraud or provides fraudulent information;
- (vii) Disenrollment is ordered by a hearing officer or court of law; or
- (viii) SoonerSelect Dental Enrollees requiring long-term care in a nursing facility or ICF-IID shall be disenrolled from the Contractor when the level of care determination being done by the SoonerSelect or SoonerSelect Children's Specialty CEs is complete.

(C) Notwithstanding the foregoing, the effective date of disenrollment from the Contractor shall be the date recorded on the outbound ANSI ASC X 12 834 electronic transaction sent by OHCA.

(c) **Retroactive dual eligibility.** Dual eligibles are excluded from the SoonerSelect program. SoonerSelect Enrollees who become dual eligible individuals will be disenrolled as of their Medicare eligibility effective date.

(1) In the event a SoonerSelect Enrollee becomes retroactively Medicare eligible, the CE or DBM shall recover claims payments made to providers during the months of retroactive Medicare eligibility.

(2) The CE or DBM shall also notify the provider of the requirement to submit the claim to Medicare for reimbursement.

(3) OHCA will recoup the capitation payments paid for months of retroactive Medicare eligibility.

(d) **Re-enrollment following loss of eligibility.** Enrollees who lose and regain eligibility for SoonerSelect Medical or Dental program within a period of sixty (60) days or less will be re-enrolled automatically with their prior CE and/or DBM unless the CE and/or DBM is otherwise suspended or excluded from receiving new Enrollees. Re-enrolled Enrollees will have the right to change CE/DBM in accordance with this Section and the Contract.

(e) **Eligibles voluntarily opting out of SoonerSelect Children's Specialty Program.** FFC and children receiving adoption assistance shall be enrolled in the SoonerSelect Children's Specialty Program. These Eligibles may opt-out of enrollment in the Children's Specialty Program; however, the legal guardian of the Eligible will be required to enroll the Eligible with a CE.

(f) **Non-discrimination.** The CE or DBM may not refuse an assignment or seek to disenroll an Enrollee or otherwise discriminate against Eligible to enroll on the basis of race, color, national origin, sex, sexual orientation, gender identity, health status, need for medical services, or disability and may not use any policy or practice that has the effect of discriminating on the basis of race, color or national origin, sex, sexual orientation, gender identity, or disability. The Contractor also may not discriminate against an Enrollee on the basis of expectations that the Enrollee will require frequent or high-cost care, or on the basis of health status or need for health care services or due to an adverse change in the Enrollee's health in enrollment, disenrollment, or re-enrollment. If the CE or DBM fails to comply with OAC 317:55-3-2, the OHCA may impose any or all the CE intermediate sanctions, found at OAC 317:55-5-10 and the CE Contract, or DBM administrative remedies, found at OAC 317:55-5-11 and the DBM Contract.

*[OAR Docket #25-374; filed 5-30-25]*

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## TITLE 442. OKLAHOMA MEDICAL MARIJUANA AUTHORITY CHAPTER 10. MEDICAL MARIJUANA REGULATIONS

*[OAR Docket #25-484]*

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 3. Transporter License

442:10-3-1. License for transportation of medical marijuana [AMENDED]

442:10-3-6. Inventory manifests [AMENDED]

Subchapter 5. Medical Marijuana Businesses

442:10-5-1.1. Responsibilities of the license holder [AMENDED]

Subchapter 7. Packaging, Labeling, and Advertising

442:10-7-1. Labeling and packaging [AMENDED]

442:10-7-2. Prohibited products [AMENDED]

**AUTHORITY:**

Executive Director of the Oklahoma Medical Marijuana Authority; 63 O.S. § 427.16, 63 O.S. § 427.27, 63 O.S. § 427.28, and 63 O.S. § 431.1

**COMMENT PERIOD:**

N/A

**PUBLIC HEARING:**

N/A

**ADOPTION:**

May 27, 2025

**EFFECTIVE:**

Immediately upon Governor's approval

**APPROVED BY GOVERNOR:**

June 2, 2025

**EXPIRATION:**

Effective through September 14, 2025, unless superseded by another rule or disapproved by the Legislature.

**SUPERSEDED EMERGENCY ACTIONS:****SUPERSEDED RULES:**

442:10-3-1. License for transportation of medical marijuana [AMENDED]

442:10-5-1.1. Responsibilities of the license holder [AMENDED]

442:10-7-1. Labeling and packaging [AMENDED]

442:10-7-2. Prohibited products [AMENDED]

**GUBERNATORIAL APPROVAL:**

August 16, 2024; October 29, 2024

**REGISTER PUBLICATION:**

42 Ok Reg 18; 42 Ok Reg 458

**DOCKET NUMBER:**

24-924; 24-1179

**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**FINDING OF EMERGENCY:**

The proposed emergency rules implement legislative changes mandated by HB 2807 (2025) and address changes in statute under 63 O.S. § 427.16, 63 O.S. § 427.27, 63 O.S. § 427.28, and 63 O.S. § 431.1. The emergency rules are intended to provide a structure for the implementation of the pre-packaging and transporter warehouse requirements, as permanent rules implementing the requirements set forth in the new legislation cannot be promulgated until 2026.

**GIST/ANALYSIS:**

The proposed emergency rules implement legislative changes mandated by HB 2807 (2025) and address changes in statute under 63 O.S. § 427.16, 63 O.S. § 427.27, 63 O.S. § 427.28, and 63 O.S. § 431.1. Prepackaging requirements were added to 63 O.S. § 431.1 of state statute by HB 3361 (2024) and amended by HB 2807 (2025). HB 2807 (2025) also allows commercial transporter licensees to use warehouse locations to temporarily store medical marijuana and amends language needed for Oklahoma to secure FBI approval of the national fingerprint-based background check. Rules

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regarding commercial transporter warehouse requirements are added to OAC 442:10-3-1 and OAC 442:10-3-6. Changes to the national fingerprint-based background check requirement are added to OAC 442:10-5-1.1. Rules requiring medical marijuana to be sold in pre-packaged quantities are added to OAC 442:10-7-1 and OAC 442:10-7-2. The emergency rules are intended to provide a structure for the implementation of the pre-packaging and transporter warehouse requirements, as permanent rules implementing the requirements set forth in the new legislation cannot be promulgated until 2026.

## CONTACT PERSON:

Ashley Crall, Director of Government Affairs, Oklahoma Medical Marijuana Authority, 2501 N. Lincoln Blvd., OK 73105, 405-568-5766. Ashley.Crall@omma.ok.gov.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):**

## SUBCHAPTER 3. TRANSPORTER LICENSE

### 442:10-3-1. License for transportation of medical marijuana [AMENDED]

(a) A medical marijuana transporter license shall be issued to qualifying applicants for grower, processor, dispensary, laboratory, research facility, or education facility licenses at the time of approval. This license shall enable licensed growers, processors, dispensaries, laboratories, research facilities, and education facilities to apply for and receive individual transporter agent licenses for agents, employees, officers or owners of the commercial licensed facility. Through their licensed transporter agents, licensed growers, processors, dispensaries, laboratories, research facilities, and education facilities may transport medical marijuana or medical marijuana products to other commercial licensees. This license shall not authorize licensed growers, processors, dispensaries, laboratories, research facilities, or education facilities to transport, store, or distribute medical marijuana or medical marijuana products on behalf of other medical marijuana licensees.

(b) A medical marijuana commercial transporter license shall be issued as an independent business license to applicants meeting the requirements set forth in OAC 442:10-5-3, OAC 442:10-5-3.1, and OAC 442:10-5-3.2. The Authority shall issue licenses upon proper application by a licensee and determination by the Authority that the proposed site and facility are physically and technically suitable. This license shall be subject to the same restrictions and obligations as any commercial licensee and shall enable the commercial transporter to:

- (1) transport, store, and distribute medical marijuana and medical marijuana products on behalf of other commercial licensees;
- (2) contract with multiple commercial licensees; and
- (3) maintain licensed premises or multiple warehouses at licensed premises/warehouse locations that are approved by the Authority for the purpose of temporarily storing and distributing medical marijuana and medical marijuana products; provided the licensed medical marijuana transporter possesses a valid, unexpired medical marijuana transporter license and has applied for and received a permit for each warehouse location.

(c) A commercial transporter applicant or licensee must obtain and submit to the Authority for each licensed premises or warehouse location a certificate of compliance, all building permits and/or certificate(s) of occupancy issued by the Oklahoma State Fire Marshal or by the political subdivision where the licensed premises is to be located with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal certifying compliance with the categories listed in 63 O.S. § 426.1(E) for the construction or alteration of any buildings or structures classified as occupancies under the building codes adopted by the Oklahoma Uniform Building Code Commission, and the licensed premises or warehouse location shall meet security requirements applicable to a medical marijuana business.

(d) Pursuant to 63 O.S. § 427.3(D)(11), 63 O.S. § 427.14(L), 63 O.S. § 427.14(G)(2), and 63 O.S. § 427.14(J), for each warehouse location, a commercial transporter applicant or licensee must submit all Certificate(s) of Occupancy, Final Inspection Report(s), and Site Plan(s), issued from or approved by the organization, political subdivision, office, or individual responsible for enforcing the requirements of all building and fire codes adopted by the Oklahoma Uniform Building Code Commission pursuant to OAC 748:20. Pursuant to 74 O.S. § 324.11, in all geographical areas where the applicable Certificate(s) of Occupancy, Final Inspection Report(s), Site Plan(s) and/or permit(s) are not issued from and/or approved by local authorities, such documentation must be obtained from the Oklahoma Office of the State Fire Marshal. Once a certificate of occupancy is issued by the Oklahoma State Fire Marshal or by the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal and such certificate of occupancy has been submitted to the Authority showing full compliance, a licensee shall only need to submit an affidavit for license renewal stating the premises continues to comply with zoning classifications, applicable municipal ordinances, and all applicable safety, electrical, fire, plumbing, waste, construction, and building specification codes. An additional certificate



of occupancy along with an affidavit shall be submitted if a change of use or occupancy occurs, or there is any change concerning the facility or location that would, by law, require additional inspection, licensure or permitting by the state or municipality. Licensees are responsible for compliance with applicable state fire, building, and electrical codes and may be liable for all damage that results from noncompliance with state fire, building, and electrical codes to the extent authorized by law.

(e) For all commercial license applications submitted on or after June 14, 2024 that require a building permit and/or certificate of occupancy for licensure, applicants who submitted a full and complete application for a building permit and/or certificate of occupancy issued by the Oklahoma State Fire Marshal or the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal prior to February 1, 2024 and while the same application remains under review by the State Fire Marshal or political subdivision, the applicant may submit an attestation on a form and in a manner prescribed by the Authority certifying that the applicant submitted a full and complete application for a building permit and/or certificate of occupancy prior to February 1, 2024, and that the same application remains under review by the Oklahoma State Fire Marshal or the political subdivision.

(f) A licensed medical marijuana transporter may maintain and operate one or more warehouses in the state to handle medical marijuana, medical marijuana concentrate, and medical marijuana products, provided the licensed medical marijuana transporter possesses a valid, unexpired medical marijuana transporter license and has applied for and received a permit for each warehouse location. The Authority shall issue an annual permit for each warehouse location operated by a licensee that is tied to the annual medical marijuana transporter license term, and there shall be no limit to the number of permits issued under a medical marijuana transporter license. A permit shall be issued only upon proper application by a licensee and determination by the Authority that the proposed site and facility are physically and technically suitable. Upon a finding that a proposed warehouse location is not physically or technically suitable, the Authority shall deny the permit. A commercial transporter applicant or licensee must have each warehouse location inspected and approved by the Authority prior to its use. Medical marijuana transporter warehouses that are licensed and approved by the Authority may temporarily store medical marijuana, medical marijuana concentrate, and medical marijuana products, provided that all temporary storage is documented, tracked, and traceable in the state-mandated seed-to-sale tracking system.

~~(f)~~(g). A commercial transporter shall be responsible for any and all medical marijuana and medical marijuana products within its custody, control, or possession.

~~(g)~~(h). No person or entity shall transport or otherwise transfer any medical marijuana or medical marijuana products without both a valid transporter license and a valid transporter agent license.

### **442:10-3-6. Inventory manifests [AMENDED]**

(a) Commercial transporters, growers, processors, dispensaries, laboratories, research facilities, and education facilities shall utilize the State inventory tracking system in accordance with OAC 442:10-5-6(d) to create and maintain shipping inventory manifests documenting all transport or temporary storage of medical marijuana and medical marijuana products throughout the State of Oklahoma.

(b) When transporting medical marijuana or medical marijuana products, commercial transporters, growers, processors, and dispensaries shall provide copies of the inventory manifests to each originating and receiving licensee at the time the product changes hands.

(1) The copy of the inventory manifest to be left with the originating licensee shall include, at a minimum:

- (A) The license number, business name, address, and contact information of the originating licensee;
- (B) The license number, business name, address, and contact information of the commercial transporter, grower, processor, dispensary, laboratory, research facility, or education facility transporting the medical marijuana if such licensee is not the originating licensee;
- (C) A complete inventory of the medical marijuana and medical marijuana products to be transported, including the quantities by weight or unit of each type of medical marijuana and medical marijuana products and the batch number(s);
- (D) The date of transportation and the approximate time of departure;
- (E) Printed names, signatures, and transporter agent license numbers of personnel accompanying the transport;
- (F) Notation of the commercial transporter, grower, processor, dispensary, laboratory, research facility, or education facility authorizing the transport; and
- (G) The license number(s), business name(s), address(es), and contact information for all end point recipients.

(2) For temporary storage at a medical marijuana transporter licensed premises or warehouse location that is licensed and approved by the Authority, the inventory manifest shall include, at a minimum:

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- (A) The license number for the commercial medical marijuana grower, medical marijuana processor, or medical marijuana dispensary;
  - (B) The address of origination of transport;
  - (C) The name and contact information for the originating licensee;
  - (D) The license number, physical address, and name and contact information of the medical marijuana transporter licensed premises or warehouse location and notation that the medical marijuana, medical marijuana concentrate, and medical marijuana products are being temporarily stored;
  - (E) A complete inventory of the medical marijuana and medical marijuana products that are being temporarily stored, including the quantities by weight or unit of each type of medical marijuana and medical marijuana products and the batch number(s);
  - (F) The date and estimated time of arrival;
  - (G) The printed names, signatures, and transporter agent license numbers of the personnel accompanying the transport; and
  - (H) The printed names, titles, and signatures of any personnel accepting delivery for temporary storage.
- (3) The copy of the inventory manifest to be left with the receiving licensee shall include, at a minimum:
- (A) The license number, business name, address, and contact information for the receiving licensee;
  - (B) The license number, business name, address, and contact information of the originating licensee;
  - (C) The license number, business name, address, and contact information of the commercial transporter, grower, processor, dispensary, laboratory, research facility, or education facility transporting the medical marijuana if such licensee is not the originating licensee;
  - (D) A complete inventory of the medical marijuana and medical marijuana products delivered to the receiving licensee, including the quantities by weight or unit of each type of medical marijuana and medical marijuana products and the batch number(s);
  - (E) The date and estimated time of arrival;
  - (F) The printed names, signatures, and transporter agent license numbers of the personnel accompanying the transport; and
  - (G) The printed names, titles, and signatures of any personnel accepting delivery on behalf of the receiving licensee.
- (c) A separate inventory manifest shall be prepared for each licensee receiving the medical marijuana or medical marijuana products.
- (d) Commercial transporters, processors, growers, dispensaries, laboratories, research facilities, or education facilities shall also maintain copies of all inventory manifests in accordance with OAC 442:10-5-6(b).
- (e) Inventory manifests should reflect all medical marijuana and medical marijuana products being transported, including all instances in which the medical marijuana and medical marijuana products are temporarily stored at a commercial transporter warehouse.
- (f) Originating and receiving licensees, including medical marijuana transporter warehouses temporarily storing medical marijuana, medical marijuana concentrate, and medical marijuana products, shall maintain copies of inventory manifests and inventory records logging the quantity of medical marijuana or medical marijuana products received for at least seven (7) years from the date of receipt.
- (g) An inventory manifest shall not be altered after departing from the originating licensee's premises, except to make the following changes:
- (1) The addition of the printed names, titles, and signatures of any personnel accepting delivery on behalf of the receiving licensee;
  - (2) Documenting any rejection and/or refusal to accept delivery of medical marijuana or medical marijuana products or if delivery of the medical marijuana or medical marijuana products is impossible, which shall include, at minimum:
    - (A) The license number, business name, address, and contact information of the licensee to which the medical marijuana or medical marijuana products were to be delivered;
    - (B) A complete inventory of the medical marijuana or medical marijuana products being ~~returned~~ rejected, refused, and/or sent back, including batch number;
    - (C) The date and time of attempted delivery and the refusal;
    - (D) Documentation establishing the medical marijuana or medical marijuana products were ~~returned~~ rejected, refused, and/or sent back in accordance with OAC 442:10-3-6(i).
- (h) A receiving licensee shall refuse to accept any medical marijuana or medical marijuana products that are not accompanied by an inventory manifest.

(i) If a receiving licensee refuses to accept delivery of any medical marijuana ~~and/or~~ medical marijuana product or if delivery of the medical marijuana or medical marijuana product is impossible, the medical marijuana ~~and/or~~ medical marijuana products product shall be immediately ~~returned~~ rejected, refused, and/or sent back to the originating licensee who retains legal ownership of the products and the refusal shall be fully documented in accordance with OAC 442:10-3-6(g)(2). For the purposes of this section, medical marijuana or medical marijuana product that is sent back to the originating licensee upon rejection and/or refusal to accept delivery solely because it is not packaged and labeled in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. 427, et seq., and these Rules shall not be considered medical marijuana waste, provided the medical marijuana or medical marijuana product were immediately sent back to the originating licensee upon rejection and/or refusal to accept delivery.

### SUBCHAPTER 5. MEDICAL MARIJUANA BUSINESSES

#### 442:10-5-1.1. Responsibilities of the license holder [AMENDED]

Upon acceptance of the license issued by the Authority, the license holder in order to retain the license shall:

- (1) Post the license or permit in a location in the licensed premises that is conspicuous;
- (2) Comply with the provisions in this Chapter;
- (3) Allow representatives of the Authority access to the medical marijuana business as specified under OAC 442:10-5-4 and OAC 442:10-5-6(i);
- (4) Comply with directives of the Authority including time frames for corrective actions specified in inspection reports, audit reports, notices, orders, warnings, and other directives issued by the Authority in regard to the license holder's medical marijuana business or in response to community emergencies;
- (5) Accept notices issued and served by the Authority according to law;
- (6) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Chapter or a directive of the Authority, including time frames for corrective actions specified in inspection reports, audit reports, notices, orders, warnings, and other directives;
- (7) Ensure that all information and records maintained in the licensee's online OMMA license account—including the hours of operation for all licensed premises, trade name, and a valid mailing address, if applicable—are complete, accurate, and updated in a timely manner in accordance with these Rules;
- (8) If applicable, submit the annual renewal application and pay all renewal license and late fees, if any;
- (9) Bear the financial responsibility for all compliance and inventory tracking obligations and responsibilities set forth in Oklahoma statutes and these Rules. The Authority will not contribute to, fund, or subsidize any commercial licensee's compliance or tracking expenses. Nothing herein shall be construed to require the Authority to contribute to, subsidize, or fund in any way a commercial licensee's compliance or tracking expenses; and
- (10) If multiple commercial licensees are located at the same location, each commercial license must ensure that all inventory is separately and properly tracked, accounted for, and physically and distinctly separated from the inventory of any other commercial licensee such that licensees and the Authority are readily able to distinguish as to which licensee each item of medical marijuana and medical marijuana products belongs.
- (11) All medical marijuana commercial grower licensees who operate an outdoor medical marijuana production facility shall be required to register with the Oklahoma Department of Agriculture, Food, and Forestry as an environmentally sensitive crop owner. Registration shall provide notice to commercial and private pesticide applicators of the locations of medical marijuana crops and help minimize the potential for damaging pesticide drift. Medical marijuana commercial grower licensees shall provide their business name, address, Global Positioning System (GPS) coordinates for all outdoor medical marijuana production facilities, and any other information required by the Department when registering with the Environmentally Sensitive Area Registry.
- (12) All medical marijuana commercial grower licensees shall file with the Authority a bond or attestation as required under OAC 442:10-5-3.3 and ensure that all information and records are complete, accurate, and updated in a timely manner in accordance with OAC 442:10-5-2(e)(3)
- (13) Beginning January 1, 2024, the Authority shall require employees of a medical marijuana business licensee to apply for and receive a credential authorizing the employee to work in a licensed medical marijuana business.
  - (A) For purposes of this Section, "employee" means any natural person who:
    - (i) Grows, harvests, dries, cures, purchases, sells, transfers, transports, processes, produces, manufactures, creates, or packages medical marijuana, medical marijuana products, and/or medical marijuana waste on behalf of or for a medical marijuana licensed commercial grower, processor, or dispensary;

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- (ii) Samples, trains, or educates on behalf of or for a medical marijuana licensed education or research facility;
  - (iii) Disposes of or transports medical marijuana, medical marijuana products, and/or medical marijuana waste on behalf of a medical marijuana waste disposal facility licensee;
  - (iv) Tests and/or conducts research on medical marijuana and/or medical marijuana products on behalf of a medical marijuana licensed testing laboratory;
  - (v) Transports, stores, distributes, but does not take ownership of, medical marijuana and/or medical marijuana products on behalf of a medical marijuana licensed commercial transporter;
  - (vi) Tracks, traces, reports, and/or inputs any information into the State inventory tracking system on behalf of a medical marijuana commercial licensee; or
  - (vii) ~~Conducts any other additional business for the benefit of a medical marijuana commercial licensee authorized under OAC 442:10, with the exception of professional services not involved in the handling of~~ Serves in a role or provides services which would be reasonably expected to involve regular physical contact with medical marijuana, medical marijuana concentrates, or medical marijuana products, or medical marijuana waste.
- (B) A credential will be issued to an individual employee and can be associated with multiple medical marijuana businesses or employers.
- (C) A medical marijuana business license holder shall require all individuals employed under their license to have an active, unexpired credential prior to employment and must associate all employee credentials with the corresponding commercial license in a manner prescribed by the Authority. Each approved applicant shall be issued a credential, which shall act as proof of his or her approved status, to be worn or displayed on their person during the employee's hours of work.
- (D) Employee credentials shall be valid from the date of issuance until January 31<sup>st</sup> of the following year.
- (E) An employee may voluntarily surrender a credential to the Authority at any time.
- (i) If an employee voluntarily surrenders a credential, the employee shall:
    - (I) Destroy or return the credential to the Authority;
    - (II) Submit a surrender employee credential form provided by the Authority; and
    - (III) Submit proof of the employee's identity through submission of documentation identified in OAC 442:10-1-7 (relating to Proof of Identity).
  - (ii) The surrender of a credential is effective upon written acceptance by the Authority.
  - (iii) Employee credential surrender forms and any other documentation or information submitted by an employee shall be confidential.

## SUBCHAPTER 7. PACKAGING, LABELING, AND ADVERTISING

### 442:10-7-1. Labeling and packaging [AMENDED]

(a) **Prohibition on sale or transfer.** Commercial licensees shall not sell, distribute, or otherwise transfer medical marijuana and medical marijuana products that are not packaged and labeled in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules. Beginning June 1, 2025, all medical marijuana flower, trim, shake, kief, noninfused pre-rolls, infused pre-rolls, or other flower-based product not defined as a concentrate, shall be sold by licensed medical marijuana processors and licensed medical marijuana commercial growers to licensed medical marijuana dispensaries only in pre-packaged form in package sizes weighing not less than one-half (1/2) of one (1) gram to not more than three (3) ounces. Licensed medical marijuana dispensaries shall have until November 1, 2025, to sell or waste all current inventory that is not in pre-packaged form pursuant to this section. Nonopaque materials may be used when packaging medical marijuana flower, provided all other packaging and labeling requirements for medical marijuana products sold in this state are met and it is placed in an opaque container before leaving a licensed medical marijuana dispensary. Dispensaries shall not open, package, or alter pre-packaged medical marijuana or medical marijuana products except for the following reasons:

- (1) Dispensaries are authorized to create and package noninfused pre-rolled marijuana provided all other packaging, labeling, and testing requirements are met prior to transfer to a licensed patient or licensed caregiver; and
- (2) Dispensaries are authorized to display samples of medical marijuana of no more than three (3) grams pursuant to OAC 442:10-5-14. Any remaining medical marijuana from a pre-packaged package size that exceeds three (3) grams must be wasted or disposed of in accordance with Oklahoma law and these Rules.

(b) **Nonacceptance or return.** A dispensary shall ~~reject, refuse to accept or shall return delivery, and send back to the licensee transferring medical marijuana or medical marijuana products to the dispensary, any medical marijuana or medical marijuana products that are not packaged and labeled in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules. If a dispensary rejects and/or refuses to accept delivery of any medical marijuana or medical marijuana product or if delivery of the medical marijuana or medical marijuana product is impossible, the medical marijuana or medical marijuana product shall be immediately sent back to the originating licensee who retains legal ownership of the products and the rejection and/or refusal shall be fully documented in accordance with OAC 442:10-7-1(c). For the purposes of this section, medical marijuana or medical marijuana product that is sent back to the originating licensee upon refusal to accept delivery solely because it is not packaged and labeled in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. 427,1 et seq., and these Rules shall not be considered medical marijuana waste provided the medical marijuana or medical marijuana product were immediately sent back to the originating licensee upon refusal to accept delivery. The business licensee who sold or otherwise transferred the nonconforming medical marijuana or medical marijuana products shall accept such return.~~ If circumstances are such that the dispensary cannot ~~return or refuse to accept delivery or immediately send the~~ nonconforming medical marijuana or medical marijuana products back to the originating licensee, the dispensary shall dispose of the nonconforming medical marijuana and medical marijuana products in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules. Products may be returned to the licensed medical marijuana dispensary when found defective or hazardous to the health of the patient. The return of all medical marijuana and medical marijuana products from a licensed medical marijuana dispensary to a licensed medical marijuana processor or licensed medical marijuana commercial grower, or from a licensed medical marijuana processor to a licensed medical marijuana commercial grower, or from any other licensed entity that transferred medical marijuana products to another licensed entity shall be permitted.

(c) **Documentation.** A dispensary shall document any such return, nonacceptance, or disposal, and such documentation shall include at a minimum:

- (1) The license number, name, contact information, and address of the licensee who sold or otherwise transferred the nonconforming medical marijuana or medical marijuana products to the dispensary;
- (2) A complete inventory of the medical marijuana and medical marijuana products to be returned or disposed, including the batch number;
- (3) The reason for the nonacceptance, return, or disposal; and
- (4) The date of the nonacceptance, return, or disposal.

(d) **General requirements.** The following general label and packaging requirements, prohibitions, and exceptions shall apply to all medical marijuana and medical marijuana products being transferred or sold to a dispensary or by a dispensary:

- (1) Labels, packages, and containers shall not be attractive to minors and shall not contain any content that reasonably appears to target children, including toys, cartoon characters, and similar images. Packages should be designed to minimize appeal to children and shall not depict images other than the business name logo of the medical marijuana producer and image of the product.
- (2) Packaging must contain a label that reads: "Keep out of reach of children." and "For use by licensed medical marijuana patients only. "
- (3) All medical marijuana and medical marijuana products must be packaged in child-resistant containers, although the containers may be clear in order to allow licensed medical marijuana patient and licensed medical marijuana caregivers the ability to view the product inside the container, and placed into an exit package at the point of sale or other transfer to a patient, a patient's parent or legal guardian if patient is a minor, or a caregiver.
- (4) Label must contain a warning that states "Women should not use marijuana or medical marijuana products during pregnancy because of the risk of birth defects."
- (5) Packages and labels shall not contain any deceptive, false or misleading statements. For purposes of this section, information that is deceptive, false, or misleading includes:

(A) Any indication that the medical marijuana or medical marijuana product is organic, unless the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Section 6501 et seq.)) authorizes organic certification and designation for marijuana and marijuana products. This includes variants of the word "organic" such as "organix" and "organique."

(B) Any indication that the medical marijuana or medical marijuana product is "Pesticide-free," unless the medical marijuana or a medical-marijuana product was grown, harvested, processed, and dispensed without any pesticide.

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(6) No medical marijuana or medical marijuana products shall be intentionally or knowingly packaged or labeled so as to cause a reasonable patient confusion as to whether the medical marijuana or medical marijuana product is a trademarked product.

(7) No medical marijuana or medical marijuana products shall be packaged or labeled in a manner that violates any federal trademark law or regulation.

(8) Packages and labels shall not make any claims or statements that the medical marijuana or medical marijuana products provide health or physical benefits to the patient.

(9) Packages and labels shall not contain the logo of the Oklahoma Medical Marijuana Authority.

(10) Packages and labels shall not contain any universal symbols from another state, any statements that the medical marijuana was grown in another state, or any depictions, symbols, or other information that could cause a reasonable patient to be confused as to the state of origin of the medical marijuana or medical marijuana product.

(11) Labels shall be designed and applied in a manner that does not cause patient confusion regarding the package's contents, potency, or other required information. In the event that any package or immediate container of medical marijuana or medical marijuana product is relabeled, all prior labels must be removed in entirety prior to the new label being applied. Covering an initial label with an updated label is prohibited.

(12) All packaging and labeling must contain current and accurate information on file with the Authority, including, but not limited to, the licensee's legal name, trade name, and license number.

(13) Packages and labels shall be considered inaccurate if the difference in percentage of the cannabinoid and/or total THC claimed to be present on a package or label is plus or minus fifteen percent (15%) of the percentage on the COA. For example, bulk order packaging that identifies a THC amount as 100mg would be inaccurate if the COA for that production batch indicated a THC content of less than 85mg or more than 115mg.

## **(e) Label requirements for sales to dispensaries or by dispensaries.**

(1) Labels on medical marijuana and medical marijuana products being transferred or sold to a dispensary or by a dispensary shall contain, at a minimum, the following information:

(A) The name and license number of the grower, dispensary, or processor who is selling or otherwise transferring the medical marijuana or medical marijuana products to the dispensary;

(B) Name of the medical marijuana or medical marijuana product;

(C) The batch number of the medical marijuana or medical marijuana product;

(D) Net quantity or weight of contents;

(E) Ingredients list;

(F) The Oklahoma Uniform Symbol in the manner and form prescribed by the Authority;

(G) THC potency on the COA for that batch;

(H) Total terpenoid content in the manner prescribed by the Authority; ~~and~~

(I) The date the medical marijuana or medical marijuana product was packaged, and

(J) The statement, "This product has been tested for contaminants."

(2) Labels for edible medical marijuana products shall also meet the requirements set forth in OAC 442:10-5-8.

(3) As applicable, inventory tracking system tags shall not obscure required label and packaging requirements.

## **(f) Label requirements for sales between growers and/or processors.** All medical marijuana and medical marijuana products sold or otherwise transferred between growers and/or processors shall be labeled and the label shall contain, at a minimum, the following information:

(1) Name and license number of the grower or processor who is selling or otherwise transferring the medical marijuana or medical marijuana product;

(2) The batch number of the medical marijuana or medical marijuana product; and

(3) Date of harvest or production; ~~and~~

~~(4) A statement that the medical marijuana or medical marijuana products have passed testing or statement that the medical marijuana failed testing and is being transferred to a processor for purposes of remediation.~~

## **(g) Storage requirements for growers, processors, and dispensaries.**

(1) Growers, processors, and dispensaries shall store medical marijuana and medical marijuana products under conditions and in a manner that protects the medical marijuana and medical marijuana products from physical and microbial contamination and deterioration.

(2) When not in use, medical marijuana and medical marijuana products shall be tagged and stored in receptacles that are capable of being fully closed and sealed and are kept fully closed and sealed.

(3) When any storage receptacle is in use and contains medical marijuana or medical marijuana products, commercial licensees shall identify the batch number and tag on the storage receptacle of all medical marijuana and medical marijuana products so that an inspector can easily identify to which batch the medical marijuana and medical marijuana products belong.

### **442:10-7-2. Prohibited products [AMENDED]**

(a) No commercial licensee shall manufacture, process, or offer for sale or consumption any medical marijuana product intended to be attractive to children or minors.

(b) No commercial licensee, other than a licensed dispensary, shall offer for retail sale any marijuana seedlings or mature plants. No mature plants are authorized in the possession of either a commercial licensee or patient license holder until 60 days after August 27, 2018. No seedlings are authorized in the possession of a commercial license holder until 7 days after August 27, 2018.

(c) Beginning June 1, 2025, licensed medical marijuana dispensaries shall not receive, purchase, or otherwise acquire any medical marijuana flower, trim, shake, kief, noninfused pre-rolls, infused pre-rolls, or other flower-based product not defined as a concentrate, unless such product is in pre-packaged form as required by OAC 442:10-7-1(a). Licensed medical marijuana dispensaries shall have until November 1, 2025, to sell, transfer, or waste any medical marijuana flower, trim, shake, kief, noninfused pre-rolls, infused pre-rolls, or other flower-based product not defined as a concentrate that is not in pre-packaged form but was physically received by the dispensary and accepted into the dispensary's inventory in the State inventory tracking system prior to June 1, 2025. By November 1, 2025, all remaining medical marijuana flower, trim, shake, kief, noninfused pre-rolls, infused pre-rolls, or other flower-based product not defined as a concentrate that is not in pre-packaged form as required by OAC 442:10-7-1(a) must be either sold or transferred to a medical marijuana waste disposal facility with all transfers and sales tracked and reported in the State inventory tracking system.

*[OAR Docket #25-484; filed 6-5-25]*

# Permanent Final Adoptions

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An agency may promulgate rules on a permanent basis upon "final adoption," as defined in 75 O.S., Section 250.3(5), of the proposed rules.

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.*

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## TITLE 5. OKLAHOMA ABSTRACTORS BOARD CHAPTER 11. ADMINISTRATION OF ABSTRACTORS ACT

*[OAR Docket #25-439]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 3. Abstract Licenses, Certificates of Authority, and Permits

5:11-3-9. Forms [AMENDED]

Subchapter 5. Regulation of Licensees, Certificate Holders, and Permit Holders

5:11-5-3. Preparation of abstracts [AMENDED]

### **AUTHORITY:**

Oklahoma Abstractors Board; 1 § 1-22 B. et. seq.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 21, 2024

### **COMMENT PERIOD:**

December 16, 2024 through January 17, 2025

### **PUBLIC HEARING:**

January 21, 2025

### **ADOPTION:**

January 21, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 22, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by SJR 21

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

July 11, 2025

### **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 adopted revisions to Chapter 11 Subchapter 3 and 5 to create uniformity with other statutes to allow the ability for abstractors to exclude older, non-federal or mortgages from the process and, in turn, create potential time savings for production.

**CONTACT PERSON:**

Katherine Smith, Oklahoma Abstractors Board, 421 NW 13th St., Suite 180, Oklahoma City, OK 73103, or Katherine.Smith@abstract.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 JULY 11, 2025:**

## **SUBCHAPTER 3. ABSTRACT LICENSES, CERTIFICATES OF AUTHORITY, AND PERMITS**

### **5:11-3-9. Forms [AMENDED]**

The forms prescribed by the Board shall include but not be limited for the following:

(1) **Certificate of authority.** The Board shall establish separate forms for the initial application for a certificate of authority, a temporary certificate of authority, annual renewal of a certificate of authority, and transfer of ownership of certificate of authority.

(2) **Permit.**

(A) The Board shall establish separate forms for the initial application for a permit and for the annual renewal of a permit.

(B) The form shall include an affidavit prepared by the appropriate District Court Clerk and County Clerk certifying the status and availability of the county records.

(C) Each form regarding an initial application for a permit shall include a general statement of the law and instructions directing how the forms should be completed.

(D) The applicant for a permit shall provide the Board a list of all employees and third party providers involved in the construction of the abstract plant.

(3) **License.** The Board shall establish separate forms for the initial application for an abstract license and for the annual renewal of a license.

(4) **Uniform Abstract Certificate.** The Board shall establish a form which will provide to the consumer information including but not limited to:

(A) the authority for providing an abstract of title;

(B) the items being certified;

(C) beginning page and ending page;

(D) if the abstract certification excepts oil, gas, and other minerals, in which case substantial compliance with the following language shall be used: Except instruments of any kind and character relating to all oil, gas, and other minerals, including but not limited to deeds, grants, leases, assignments and releases thereof, all of which instruments are omitted and excepted entirely from this abstract.

(E) if the abstract certification excepts non-federal and non-state mortgages past the statutory right of foreclosure, there shall be language containing the following elements:

(i) A statement that the abstract has been compiled with consideration to and under the guidance of 46 O.S. § 301 (B) and 16 O.S. §§ 61-63 et seq.,

(ii) state the time-period in number of years prior to the Certificate date used for the exception of applicable mortgages,

(iii) state that any mortgages to federal and state programs in which the United States, the State of Oklahoma, or one of their agencies is the mortgagee, within said time period have not been excepted.

~~(EF)~~ the period covered; and

~~(FG)~~ the signature and license number of the licensee.

~~(GH)~~ certificate of authority number; and

~~(HI)~~ date of issuance.

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(5) **Final Title Report.** The Board shall establish a form for a Final Title Report which will provide to the consumer information including but not limited to:

- (A) the authority for providing a Final Title Report;
- (B) the items being certified;
- (C) the period covered;
- (D) the signature and license number of the licensee;
- (E) certificate of authority number; and
- (F) date of issuance.

(6) **Abstract Rates filing.** The Board shall establish a form to be used to file annually the statutorily mandated list of abstracting fees.

(7) **Public Complaint.** The Board shall create a sample form for use by an individual filing a written complaint with the Board. Substantial compliance with the requirements set out in the form shall be sufficient for the Board to accept the complaint. The information required shall include but not be limited to:

- (A) the name, address, and phone number of the individual filing the complaint;
- (B) the name, address, and phone number of the person against whom the complaint is being filed;
- (C) the date of the preparation of the complaint; and
- (D) an outline of the complaint.

(8) **Effective date of changes.** Any change in a form shall become effective thirty (30) days after adoption by the Board. If the change is declared an emergency, the Board shall specify the shorter effective date.

## SUBCHAPTER 5. REGULATION OF LICENSEES, CERTIFICATE HOLDERS, AND PERMIT HOLDERS

### 5:11-5-3. Preparation of abstracts [AMENDED]

(a) **Type of abstract.** A certificate of authority holder shall cause the preparation of an abstract of title on real property which shall cover:

- (1) a fee simple estate, less and except oil, gas and other mineral interests; or
- (2) upon the request of a customer, a fee simple estate including oil, gas, and other mineral interests; or
- (3) oil, gas and other mineral interests.
- (4) an abstract may be compiled with consideration to and under the guidance of 46 O.S. § 301(B) and 16 O.S. §§ 61-63 et seq. and omit non-federal and non-state mortgages past the statutory right of foreclosure.

(b) **Abstract certificate.** The abstract certificate and caption sheet shall reflect an appropriate disclaimer regarding that which is excluded.

(c) **Contents of abstract.** For the time period covered by the certification, an abstract of title shall include but not be limited to the following:

- (1) all instruments that have been filed for record and have been recorded in the office of the county clerk for the county in which the property is located which:
  - (A) legally impart constructive notice of matters affecting title to the subject property, any interest therein or encumbrances thereon;
  - (B) disclose executions, court proceedings, pending suits, and liens of any kind affecting the title to said real estate; and
  - (C) judgments or transcripts of judgments filed against any of the parties appearing within the chain of title.
- (2) the records of the court clerk for the county in which the subject property is located which:
  - (A) disclose executions, court proceedings, pending suits, and liens of any kind affecting the title to said subject property; and
  - (B) judgments or transcripts of judgments against any of the parties appearing within the chain of title.
- (3) all ad valorem tax liens due and unpaid against said real estate, tax sales thereof unredeemed, tax deeds, unpaid special assessments certified to the office of the county treasurer for the county in which the subject property is located due and unpaid, tax sales thereof unredeemed, and tax deeds given thereon, and unpaid personal property taxes which are a lien on said real estate.

(d) **Federal court certificate.** Upon request of a consumer, a holder of a certificate of authority in Muskogee, Okmulgee, Oklahoma, and Tulsa counties may certify to the records of the Clerk of the United States District Court and the Clerk of the United States Bankruptcy Court for such federal judicial districts located in such counties for the time period covered by the certification, that disclose:

- (1) executions, court proceedings, pending suits and bankruptcy proceedings in said courts affecting title to the subject property; and

- (2) judgments or transcripts of judgments filed against any of the parties appearing within the chain of title.
- (e) **Final certification for title insurance.** For purposes of a title insurance policy, a certificate of authority holder in the county where the insured property is located shall prepare either of the following:
- (1) an extension of the abstract or supplemental abstract; or
  - (2) a final title report after a final title search has been conducted. The final title report shall include all information required for an abstract of title pursuant to the Act and these rules, and shall be certified up to and including the effective date of the title insurance policy.
- (f) **Other services.** Any service performed or product produced by the holder of a certificate of authority that does not qualify as an abstract of title or final title report shall not be designated as an abstract of title and shall not include an abstract certificate.
- (g) **Statement of abstracting charges.** All charges for abstracts, abstract extensions, supplemental abstracts, or final title reports shall be separately stated and shall not be combined with title insurance, closing fees, or examination charges on invoices, statements, settlement statements, and consumer estimates.
- (h) **Electronic Abstracts.**
- (1) Electronic Abstracts may be provided by the holder of a certificate of authority in the county in which the property is located.
  - (2) If a holder of a certificate of authority offers Electronic Abstracts, the person submitting the order has the right to choose a paper abstract or an electronic abstract.
  - (3) Any charge for an Electronic Abstract must be the same as a paper Abstract of Title pursuant to 1 Okla. Stat. §41.
  - (4) Any separate charge for the conversion of an Abstract of Title from paper format to electronic format or from electronic format to paper format must be disclosed on the "Abstract Fee Schedule" filed and approved by the Oklahoma Abstractors Board.
  - (5) The conversion of an Abstract of Title from paper format to electronic format or from electronic format to paper format must be conducted by a holder of a certificate of authority for the county in which the property is located, pursuant to 1 Okla. Stat. §21. Any change of format performed by a holder of a certificate of authority for a county other than the county in which the property is located shall be deemed a copy of that abstract, and the original abstract must be retained.

*[OAR Docket #25-439; filed 6-2-25]*

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## TITLE 25. OKLAHOMA DEPARTMENT OF AEROSPACE AND AERONAUTICS CHAPTER 15. AIRPORT CONSTRUCTION PROGRAM

*[OAR Docket #25-502]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

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 [AMENDED]

### **AUTHORITY:**

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

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 22, 2024

### **COMMENT PERIOD:**

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January 22, 2025

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## LEGISLATIVE APPROVAL:

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N/A

## APPROVED BY GOVERNORS DECLARATION:

N/A

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May 28, 2025

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## SUPERSEDED EMERGENCY ACTIONS:

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N/A

## GUBERNATORIAL APPROVAL:

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## REGISTER PUBLICATION:

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## INCORPORATIONS BY REFERENCE:

## INCORPORATED STANDARDS:

N/A

## INCORPORATING RULES:

N/A

## AVAILABILITY:

N/A

## GIST/ANALYSIS:

The proposed permanent rules are necessary to address funding and other program requirements implemented by items passed during the 2024 Legislative Session. Refurbishment, remodel, and expansion of a terminal building and refurbishment of a sponsor owned hangar have been added as acceptable rehabilitation projects under the airport construction program with new construction or complete reconstruction of an existing terminal building considered eligible for funding and state level and sponsor match requirements identified. Selection criteria for hangar construction projects has been modified to include that an airport sponsor must demonstrate an acceptable plan on how they will advertise for available hangar space once constructed. Maximum state level participation on fuel system projects was increased and the requirement that they be in new condition and in compliance with local procurement procedures was added. Airport compliance was modified to reference terms and conditions and definitions were clarified on non-primary entitlement funds and project sketch.

## 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 JULY 11, 2025:**

### **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, 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 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.

**"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~~ means FAA Airport Improvement Program (AIP) funds set aside for general aviation airports listed in the National Plan of Integrated Airport Systems.

**"Notification Letter"** means correspondence prepared by the Department 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 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"** means the 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 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 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 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

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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 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 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 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, refurbishment/remodel and expansion of a terminal building, refurbishment of a sponsor owned hangar would be considered a project under the rehabilitation category.

(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 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 Department standards, preserving and improving airport infrastructure that is for the use and benefit of the public, airport planning, and other similar projects.

(B) 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. 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 or an acceptable plan on how they will advertise for the available hangar space once 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 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 Department staff shall update the NPIAS needs database and the ADWS database (for Non-NPIAS airports). To update the Department's database, sponsors will use FAA's Overall Development Objective (ODO) data sheet or similar document for each requested project.
  - (3) The 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 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 Department for this purpose.
- (b) **Notification to Proceed.**

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(1) As funding becomes available, the 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 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 Department's staff; and

(vii) submit a grant application for the 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 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 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 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 Department that the airport sponsor's share of the project has been 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 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 Department's Airport Construction Program, the Department may provide half of the match that is required from the airport sponsor.

(3) For FAA grants for projects identified in the Department's Airport Construction Program, the Department may provide supplemental state grant funding for project items. The maximum level of participation for the 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 Department's Airport Construction Program, the 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 Department's Airport Construction Program, the Department may assist with half of any required match from the receiving airport sponsor so long as it will save the Department state funds.

(5) For terminal building projects, the 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 Department provides. Remaining share to complete the project could come from any available source. New construction or complete reconstruction of an existing terminal building are considered eligible projects under this item. At the Department's sole discretion a rehabilitation and expansion of a terminal building may also be considered as eligible under this item.



(6) For hangar construction projects, the Department may provide funding via grant or loan. Priority shall be given to construction of new hangars, but the Department may consider rehabilitation of existing sponsor owned hangars if it enhances the longevity of the hangars and provides for additional revenue for the airport.

(A) For state grants the 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 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 Department's maximum cost-share level shall be 50 percent and shall not exceed ~~\$300,000~~\$500,000 per system type (fixed or mobile) per fuel type (e.g Jet-A, AvGas). Fixed fuel systems must be new construction and mobile fuel systems must be in new condition and acquired in compliance with local procurement procedures and/or laws in place that govern the airport sponsor. The airport sponsor is required to provide a minimum of 5 percent for the airport sponsor matching share. Remaining share to complete the project could come from any available source.

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

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(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 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 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 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 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 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 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 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 Department in writing.
- (8) The 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 Department, and the airport sponsor shall provide access to these records upon request of the 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 Department staff.
- (9) The 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 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 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.

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(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 Department and the airport sponsor. Both the 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 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 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 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 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 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 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 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 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 Department shall be withdrawn. In addition, the airport sponsor shall notify the Department of any delays or problems with the project and request an extension or deviation from the 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 Department on a monthly basis upon initiation of the project. The Department shall reimburse the sponsor only for bid items at the bid unit price. The 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 Department shall process the monthly requests for reimbursement until 90% of the grant or loan awarded by the Department is expended or 90% of the 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 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 Department.
- (m) **Endorsement by the Commission:**
- (1) Upon receipt of the fully executed and complete grant or loan application, the 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 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 Department staff shall communicate that approval to the airport sponsor with authorization to proceed.
  - (4) If the Department staff finds that the grant or loan application is not in compliance with the terms of the notification letter, the Department staff shall notify the airport sponsor of the non-compliance and suggest possible remedies.
  - (5) Upon receipt of the 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 Department staff shall notify the airport sponsor of the Commission's action.

### 25:15-1-5. Airport compliance [AMENDED]

It is the Department's goal to use the most effective means to maintain airports in full compliance of grant assurance and terms and conditions 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 #25-502; filed 6-5-25]

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

*[OAR Docket #25-503]*

### **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]

25:25-1-5. Procedures for requesting reimbursement of an Aerospace and Aviation Education Grant [NEW]

25:25-1-6. Requirements for receiving funding for an Aerospace and Aviation Classroom Laboratory Development Grant [NEW]

25:25-1-7. Requirements for receiving funding for an internship or apprenticeship program [NEW]

### **AUTHORITY:**

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

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 22, 2024

### **COMMENT PERIOD:**

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January 22, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 22, 2025

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### **SUPERSEDED RULES:**

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### **INCORPORATED STANDARDS:**

N/A

### **INCORPORATING RULES:**

N/A

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N/A

### **GIST/ANALYSIS:**

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# Permanent Final Adoptions

The proposed permanent rules are necessary to address funding and other program requirements implemented by items passed during the 2024 Legislative Session. The deadline for an applicant to submit closeout paperwork for a grant award was adjusted and clarification on extension requests was given. Clarification on what grant funds can be used toward was identified, including the start date and length of a program, eligible items, details of payments, changes in scope of a program and unmanned aircraft system requirements. Procedures for requesting reimbursement have been identified. A new classroom laboratory development grant and internship or apprenticeship program have also been added with details of eligibility and requirements for applying for each based on available budget.

## 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 JULY 11, 2025:**

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

The purpose of this chapter is to set forth the requirements and criteria for various aerospace and aviation education programs to receive funding from the Oklahoma Department of Aerospace and Aeronautics, and to establish the procedures to be followed by the 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 shall identify and award grants to public schools, colleges, and universities, and shall 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 Department.
- (c) A private entity or organization must also complete the Aerospace and Aviation Education Grant application and if their application is selected, must enter into a contract with the Oklahoma Department of Aerospace and Aeronautics for the project. Additional contractual forms will also need to be completed.
- (d) Applications must be submitted electronically to the email address on the application 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 which documents the usage of funds and gives a detailed description of the program's implementation. This documentation is due within ~~sixty (60)~~thirty (30) days of the completion of the program.
- (f) If the Financial Report, corresponding receipts, final invoice and the Completion Report are not ~~turned in~~submitted within the ~~sixty (60)~~thirty (30) day period, the applicant forfeits ~~the remaining twenty percent (20%) or any outstanding balances~~remaining grant funds.
- (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)~~thirty (30) day period.
- (i) The thirty (30) day extension request must be received within ~~sixty (60)~~thirty (30) days of the completion of the program. Approval for the extension is within the discretion of the Executive Director of the Oklahoma Department of Aerospace and Aeronautics and will be considered on a case-by-case basis.
- (j) The maximum cost share of any grant or contract awarded by the 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, Department funding cannot be provided until all other funding sources necessary to complete the program have been identified and a clear and detailed program is outlined.
- (l) Teacher and or instructor salary may not to be covered with grant funds paid by the Department, however, may be shown as in-kind or sponsor funded to be included toward the applicant match.

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## 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 from the applicant's past history of administering any aerospace and aviation education grants the organization/applicant may have received from the 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 Department must be directly linked to aerospace and aviation).
- (4) Program relevance to current aviation/ and aerospace industry issues and workforce demands.
- (5) Curriculum/subject areas covered
- (6) Desired learning outcomes, (items to be funded by the Department must be directly linked to aerospace and 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 paths, level levels 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 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 and make a set of recommendations to the Commission. 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 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. 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 or to count towards the applicant's share/match.~~

(c) Programs must be completed within one (1) calendar year of Commission approval unless explicitly approved by the Commission.

(d) Staff may identify specific items contained within an applicant's budget section of their grant application that grant funds may be used towards. After an application is awarded, significant item changes must be approved by the Department prior to purchase.

(e) Items are expected to be purchased and utilized during the year awarded. Upon award, applicants are expected to make a conscious effort to begin making timely purchases so that students benefit throughout the length of the program dates.

(f) The Oklahoma Department of Aerospace and Aeronautics will make a partial payment of eighty percent (80%) upon expenditure of funds and receipt of an invoice and corresponding receipts. The remaining twenty percent (20%) will be paid upon completion of the program, receipt of the Financial Report, corresponding receipts, final invoice and detailed Completion Report.

(g) Changes or amendments to program reach, scope, or educational content without the Department's prior approval may result in a forfeiture of grant funds.



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(h) Any unmanned aircraft systems that are purchased with grant funds will need to comply with applicable State and Federal law during operations conducted by the applicant.

### **25:25-1-5. Procedures for requesting reimbursement of an Aerospace and Aviation Education Grant [NEW]**

- (a) Within thirty (30) days of completion of the program, the applicant will electronically submit the Financial Report, corresponding receipts, invoice and detailed Completion Report.
- (b) Financial Report should include the entire program budget.
- (c) Invoices should include only those items that will be reimbursed with grant funds.
- (d) Corresponding receipts are required for items that will be purchased with grant funds. A packing slip or vendor invoice with a balance due is not sufficient proof of purchase for an item.
- (e) Completion Report should provide a detailed description of the program's implementation and document usage of grant funds.

### **25:25-1-6. Requirements for receiving funding for an Aerospace and Aviation Classroom Laboratory Development Grant [NEW]**

- (a) The Oklahoma Department of Aerospace and Aeronautics shall identify and award classroom laboratory development and improvement grants to secondary schools and universities for the purpose of implementing aerospace and aviation education programs.
- (b) Each school, college or university must complete the Aerospace and Aviation Education Classroom Laboratory Development Grant application located on the website of the Department.
- (c) The Department may make this Classroom Laboratory Development Grant opportunity available at any time during a fiscal year in which funds are available for the program. Applications must be submitted electronically by the deadline identified on the application.
- (d) Applicants who receive approval must provide a Financial Report, corresponding receipts, invoice and a Completion Report to the Oklahoma Department of Aerospace and Aeronautics which documents the usage of funds and gives a detailed description and pictures of the laboratory improvement. This documentation is due within thirty (30) days of program completion.
- (e) If the Financial Report, corresponding receipts, final invoice and the Completion Report are not submitted within the thirty (30) day period, the applicant forfeits any remaining grant funds.
- (f) Secondary schools and universities offering aerospace and aviation coursework may request \$10,000 - \$100,000 for the purpose of upgrading or developing an aviation and aerospace laboratory.
- (g) Applicants must demonstrate a match of at least 20% of the total grant request.
  - (1) Matching funds may not:
    - (A) reflect purchases made before the onset of grant implementation
    - (B) reflect operational cost such as salaries or utilities
  - (2) Suggested budget requests include, but are not limited to:
    - (A) paint, flooring, electrical drops
    - (B) laboratory tables, chairs, appropriate furniture
    - (C) larger equipment such as flight simulators, wind tunnels, tool sets
  - (3) Budget requests should not reflect:
    - (A) consumable materials or supplies
    - (B) equipment such as drones
    - (C) field trips, travel, professional development
- (h) Should an entity decide to discontinue its aerospace and aviation programming, the entity will be required to repay expended grant funds to the Oklahoma Department of Aerospace and Aeronautics on a pro-rated basis.
- (i) A recipient that expends grant funds for the purchase of flight simulators will be required to sign an agreement that reflects the requirement for the entity to return the simulators to the Oklahoma Department of Aerospace and Aeronautics should the entity discontinue its aerospace and aviation programming.
- (j) The program receiving grant funds must be completed within one (1) calendar year from the date the funds are formally allocated for the approved application.

### **25:25-1-7. Requirements for receiving funding for an internship or apprenticeship program [NEW]**

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(a) The Department may, at the discretion of the Commission based upon available funds in a given year, offer a program to support students that are currently enrolled in or that are expected to enroll in aerospace and aviation education programs at the high school or post-secondary level with a goal of providing a more workforce ready student to enter the aerospace and aviation industry. The Department may financially assist internship and apprenticeship programs at qualified aerospace and aviation companies by providing 50% of the cost of the intern or apprentice position up to \$10,000 per student.

(b) The Department may make this internship/apprenticeship opportunity available at any time during a fiscal year in which funds are available for the program.

(c) If awarded, an aerospace or aviation entity must enter into a contract with the Department and have the financial capability to fund the internship/apprenticeship in its entirety. Upon completion of the program the Department will reimburse the cost of the intern/apprentice upon the receipt of the following information:

- (1) Financial Report which includes the internship/apprenticeship program budget.
- (2) Invoice for the Department's share of the agreed upon cost of the internship/apprenticeship.
- (3) Completion Report should provide a detailed description of the program's implementation and successes.

*[OAR Docket #25-503; filed 6-5-25]*

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

*[OAR Docket #25-412]*

### **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:**

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**GIST/ANALYSIS:**

The rule amendments update handbook and publication references.

**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 JULY 11, 2025:**

## 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" ( ~~2024~~2025 Edition).
- (2) Handbook 130 "Uniform Laws and Regulations" ( ~~2024~~2025 Edition), excluding Section G "Uniform Engine Fuels and Automotive Lubricants Regulation."
- (3) Handbook 133 "Checking the Net Contents of Packaged Goods" ( ~~2023~~2025 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 ( 2024 Edition).
- (8) Publication 12 (1991 Edition).
- (9) Federal Grain Inspection Service Moisture Handbook (2006 Edition).

*[OAR Docket #25-412; filed 5-30-25]*

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

*[OAR Docket #25-414]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 44. Farmed Cervidae

35:15-44-21. Registration of Exotic Cervidae Species [REVOKED]

35:15-44-22. Chronic Wasting Disease Genetic Improvement Program (CWDGIP) [NEW]

**AUTHORITY:**

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-501 et seq., 2 O.S. § 6-520.

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**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The rule amendment revokes the registration of exotic Cervidae species requirement and adds a new rule for the chronic wasting genetic improvement program.

**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 JULY 11, 2025:**

## SUBCHAPTER 44. FARMED CERVIDAE

**35:15-44-21. Registration of Exotic Cervidae Species [REVOKED]**

Any person owning, maintaining, or possessing any species in the cervidae family, other than whitetail deer, mule deer, elk, and red deer shall submit a registration form to the Department. This form shall contain the owner's contact information, species owned, and location of the animals. Facility licensing shall not be required of these species. Any person or facility already licensed by the Department, the Oklahoma Department of Wildlife Conservation, or Animal Care Division of the United States Department of Agriculture shall be exempt from registration.

**35:15-44-22. Chronic Wasting Disease Genetic Improvement Program (CWDGIP) [NEW]**

(a) The CWDGIP is only available to white-tailed deer producers who are Oklahoma Farmed Cervidae licensees.

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- (b) Producers choosing to participate in the CWDGIP shall register with the Animal Industry Services Division (AIS) of Oklahoma Department of Agriculture, Food, and Forestry (ODAFF or The Department) and remit a fee of \$100 per year, payable no later than January 1.
- (c) An inventory of all participating deer shall be submitted to AIS at the time of registration.
- (1) Participating deer shall be identified with an official USDA ear tag.
- (2) Genetic testing information for the individual deer shall be submitted at the time of registration.
- (3) Details of the alleles at Codon 96 and the Genetically Estimated Breeding Value (GEBV) of offspring of participating does shall be submitted to AIS upon receipt of the testing results.
- (d) Beginning February 1, 2026 and ending April 15, 2026, white-tailed deer does of any age and bucks that are less than 24 months of age, born and raised in Oklahoma by registered CWDGIP producers may be released onto private land pursuant to the landowner meeting the requirements of Oklahoma Department of Wildlife Conservation's regulations as outlined in Section 1. D. of 2024 Oklahoma House Bill 3462.
- (1) White-tailed deer shall be released only if:
- (A) Their genetic testing proves they have the SS alleles at Codon 96;
- (B) Their GEBV is at or below -0.0560;
- (C) They are identified with one (1) orange bangle ear tag in each ear that is at least 2" X 1 5/8" in size and the previously applied USDA official ear tag shall remain in place; and
- (2) The White-tailed deer that meet the genetic traits in (1) of this section may be released during the same time frame in subsequent years.
- (e) All White-tailed deer imported into Oklahoma Farmed Cervidae facilities or Oklahoma Department of Wildlife Conservation licensed Commercial Hunt Areas shall have the SS alleles at Codon 96 and have a Genomic Estimated Breeding Value meeting or exceeding -0.056.
- (1) Male White-tailed deer imported into Oklahoma Department of Wildlife Conservation licensed Commercial Hunt Areas are exempt from the above requirements.
- (2) A certificate verifying the SS alleles at Codone 96 and the GEBV meeting or exceeding -0.056 shall be attached to the import permit application.

*[OAR Docket #25-414; filed 5-30-25]*

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## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 17. WATER QUALITY

*[OAR Docket #25-415]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 3. Swine Feeding Operations

35:17-3-22. Violation points system [REVOKED]

Subchapter 4. Concentrated Animal Feeding Operations

35:17-4-18. Violation points system [REVOKED]

### **AUTHORITY:**

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. §20-1 et seq. and 2 O.S. § 20-40 et seq.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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# Permanent Final Adoptions

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**GIST/ANALYSIS:**

The rule amendments revoke the violations points systems for swine feeding operations and concentrated feeding operations.

**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 JULY 11, 2025:**

## SUBCHAPTER 3. SWINE FEEDING OPERATIONS

### 35:17-3-22. Violation points system [REVOKED]

——— The following violation points system shall be utilized by the Department to assess points prior to suspension, revocation, or nonrenewal of a swine feeding operation license. This system shall operate in addition to penalties provided for in the Oklahoma Swine Feeding Operations Act, and shall not alter the authority to the Board to revoke a license under other sections of the Act:

(1) When any swine feeding operation accrues a total of fifteen (15) or more points in any two (2) year time period, the license of the swine feeding operation shall be suspended, revoked, or not renewed by the Board.

(2) Points shall accrue based on violations of the Oklahoma Swine Feeding Operations Act and rules:

(A) Failure of any concentrated swine feeding operation to apply for a license when required by the provisions of the Oklahoma Swine Feeding Operations Act shall accrue three (3) to five (5) points:

(B) Failure to obtain a building permit prior to construction of an LMFO shall be a significant violation and accrue four (4) to five (5) points:

(C) Failure to obtain a license prior to operation of an LMFO shall accrue four (4) to five (5) points:

(D) Failure to obtain or renew education requirements for all employees of an LMFO whose duties include treatment, storage, or application of swine waste shall accrue two (2) to three (3) points:

(E) Knowingly making any false statement, representation, or certification in, omitting material data from, or tampering with any application for a license, or notice relating to the determination of affected property owners shall be a significant violation and accrue four (4) to five (5) points:

(F) Failure to follow the Pollution Prevention Plan and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue five (5) points.

(G) Failure to follow the Pollution Prevention Plan and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue three (3) to four (4) points.

(H) Failure to provide full closure of a facility pursuant to a closure plan shall accrue three (3) to five (5) points.

(I) Failure by a swine feeding operation to utilize or comply with Best Management Practices and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue five (5) points.

(J) Failure by a swine feeding operation to utilize or comply with Best Management Practices and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue three (3) to four (4) points.

(K) Failure by a swine feeding operation to report a discharge shall accrue two (2) to four (4) points.

(L) Failure by a swine feeding operation to utilize or comply with a Swine Waste Management Plan and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue five (5) points.

(M) Failure by a swine feeding operation to utilize or comply with a Swine Waste Management Plan and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue three (3) to four (4) points.

(N) Failure by a swine feeding operation to follow a carcass disposal plan shall accrue one (1) to three (3) points.

(O) Failure by a swine feeding operation to follow a erosion control plan shall accrue one (1) to two (2) points.

(P) Failure by an LMFO to utilize and comply with an Odor Abatement Plan shall accrue one (1) to four (4) points.

(Q) Failure by an LMFO to establishment or maintain groundwater monitoring wells or a leak detection system shall accrue four (4) to five (5) points.

(R) Failure of any LMFO to annually evaluate a site for liner integrity shall accrue two (2) to three (3) points.

(S) Failure of any LMFO to pay swine animal unit fees in a timely fashion shall accrue three (3) to five (5) points.

(T) Failure to take such actions as are reasonable and necessary to avoid pollution of any stream, lake, river or creek or violate any rule to prevent water pollution shall be a significant violation and accrue five (5) points.

(U) Knowingly making false statements, representation, or certification in any water pollution form; notice, or report shall be a significant violation and accrue five (5) points.

(V) Knowingly rendering inaccurate any monitoring device or method required to be maintained by any water pollution rules shall be a significant violation and accrue five (5) points.

(3) All violations which are assessed four (4) or five (5) points shall only accrue points upon approval by the State Board of Agriculture. All other violations shall accrue points upon approval by the Agricultural Environmental Management Services Division of the Department. Assessment of points by the Agricultural Environmental Management Services Division may be appealed in writing to the Division Director. If the accumulated number of points reaches a total of fifteen (15) points, the owner may appeal to the State Board of Agriculture.

(4) Even if the violation points do not add up to a total of fifteen (15) points, the State Board of Agriculture may deem a violation that results in serious harm to be so significant as to warrant immediate revocation, nonrenewal, or suspension of the license.

(5) Any owner whose license is suspended, revoked, or not renewed shall remain without the license for a minimum of one (1) year. At the Department's discretion, the license may be renewed so long as the owner complies with all conditions which the Department imposes on the swine feeding operation.

(6) Conditions for renewal shall at a minimum include compliance during the entire period of revocation with all aspects of the Oklahoma Swine Feeding Operations Act and its rules, and correction of all conditions which caused the license nonrenewal, suspension, or revocation.

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## SUBCHAPTER 4. CONCENTRATED ANIMAL FEEDING OPERATIONS

### 35:17-4-18. Violation points system [REVOKED]

The following violation points system shall be utilized by the Department to assess points prior to suspension, revocation, or nonrenewal of a CAFO license. This system shall operate in addition to penalties provided for in the Oklahoma Concentrated Animal Feeding Operations Act, and shall not alter the authority to the Board to revoke a license under other sections of the Act:

(1) When any animal feeding operation accrues a total of fifteen (15) or more points in any two (2) year time period, the license of the animal feeding operation shall be suspended, revoked, or not renewed by the Board.

(2) Points shall accrue based on violations of the Oklahoma Concentrated Animal Feeding Operations Act and rules:

(A) Failure of any CAFO to apply for a license when required by the provisions of the Oklahoma Concentrated Animal Feeding Operations Act shall accrue three (3) to five (5) points:

(B) Knowingly making any false statement, representation, or certification in, omitting material data from, or tampering with any application for a license, or notice relating to the determination of affected property owners shall be a significant violation and accrue four (4) to five (5) points:

(C) Failure to follow the Pollution Prevention Plan and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue five (5) points:

(D) Failure to follow the Pollution Prevention Plan and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue three (3) to four (4) points:

(E) Failure to provide full closure of a facility pursuant to a closure plan shall accrue three (3) to five (5) points:

(F) Failure by an animal feeding operation to utilize or comply with Best Management Practices and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue five (5) points:

(G) Failure by an animal feeding operation to utilize or comply with Best Management Practices and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue three (3) to four (4) points:

(H) Failure by an animal feeding operation to report a discharge shall accrue two (2) to four (4) points:

(I) Failure by an animal feeding operation to utilize or comply with an Animal Waste Management Plan and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue five (5) points:

(J) Failure by an animal feeding operation to utilize or comply with an Animal Waste Management Plan and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue three (3) to four (4) points:

(K) Failure by an animal feeding operation to follow a carcass disposal plan shall accrue one (1) to three (3) points:

(L) Failure by an animal feeding operation to follow a erosion control plan shall accrue one (1) to two (2) points:

(M) Failure to take such actions as are reasonable and necessary to avoid pollution of any stream, lake, river or creek or violate any rule to prevent water pollution shall be a significant violation and accrue five (5) points:

(N) Knowingly making false statements, representation, or certification in any water pollution form, notice, or report shall be a significant violation and accrue five (5) points:

(O) Knowingly rendering inaccurate any monitoring device or method required to be maintained by any water pollution rules shall be a significant violation and accrue five (5) points:

(3) All violations which are assessed four (4) or five (5) points shall only accrue points upon approval by the State Board of Agriculture. All other violations shall accrue points upon approval by the Agricultural Environmental Management Services Division of the Department. Assessment of points by the Agricultural Environmental Management Services Division may be appealed in writing to the Division Director. If the accumulated number of points reaches a total of fifteen (15) points, the owner may appeal to the State Board of Agriculture.



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(4) Even if the violation points do not add up to a total of fifteen (15) points, the State Board of Agriculture may deem a violation that results in serious harm to be so significant as to warrant immediate revocation, nonrenewal, or suspension of the license.

(5) Any owner whose license is suspended, revoked, or not renewed shall remain without the license for a minimum of one (1) year. At the Department's discretion, the license may be renewed so long as the owner complies with all conditions which the Department imposes on the animal feeding operation.

(6) Conditions for renewal shall at a minimum include compliance during the entire period of revocation with all aspects of the Oklahoma Concentrated Animal Feeding Operations Act and its rules, and correction of all conditions which caused the license nonrenewal, suspension, or revocation.

*[OAR Docket #25-415; filed 5-30-25]*

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

*[OAR Docket #25-416]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 10. Moss Ball (*Aegagropila Linnaei*) Quarantine [NEW]

35:30-10-1. Establishment of quarantine [NEW]

35:30-10-2. Regulated area [NEW]

35:30-10-3. Regulated articles [NEW]

35:30-10-4. Conditions governing movement [NEW]

Subchapter 13. Imported Fire Ant Quarantine

35:30-13-3. Regulated area [AMENDED]

Subchapter 17. Combined Pesticide

Part 15. MINIMUM STANDARDS FOR TERMITE WORK FOR EXISTING STRUCTURES

35:30-17-69.3. Borate or other wood applied termiticide treatment for post-construction [NEW]

Part 17. MINIMUM STANDARDS FOR TERMITE WORK FOR PRECONSTRUCTION (PRETREATS) AND NEW CONSTRUCTION

35:30-17-74. Borate or other wood applied termiticide treatment for new construction [NEW]

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]

Subchapter 24. Oklahoma Industrial Hemp Program

35:30-24-7. Fees [AMENDED]

35:30-24-11.1. Allowable testing thresholds [AMENDED]

Subchapter 27. Feed

Part 3. PET FOOD

35:30-27-51. Definitions and terms [AMENDED]

35:30-27-52. Label format and labeling [AMENDED]

35:30-27-53. Brand and product names [AMENDED]

35:30-27-54. ~~Expression of guarantees~~Intended use statement and nutritional adequacy claims [AMENDED]

35:30-27-55. ~~Ingredients~~Pet and Specialty Pet Nutrition Facts [AMENDED]

35:30-27-56. ~~Additives and drugs~~Ingredients [AMENDED]

35:30-27-57. ~~Nutritional adequacy~~Drugs and Pet Food Additives [AMENDED]

35:30-27-58. Feeding directions [AMENDED]

35:30-27-59. ~~Statements of calorie content~~Determination of calorie content for dog and cat foods [AMENDED]

35:30-27-60. Descriptive terms [AMENDED]

35:30-27-61. Manufacturer or distributor; name and address [AMENDED]

35:30-27-62. Handling and Storage Instructions [NEW]

Subchapter 30. Soil Amendment

35:30-30-1. Definitions [AMENDED]

35:30-30-3. Contents of the label [AMENDED]

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**AUTHORITY:**

Okla. Const., Art. 6, § 31; 2 O.S. § 2-4(A)(2) & (A)(8); 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.; 2 O.S. § 3-32.1 et seq.; and 2 O.S. § 8-41.1 et seq.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

October 4, 2024

**COMMENT PERIOD:**

November 1, 2024 through December 2, 2024

**PUBLIC HEARING:**

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**ADOPTION:**

December 16, 2024

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

December 18, 2024

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1033

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

July 11, 2025

**SUPERSEDED EMERGENCY ACTIONS:****SUPERSEDED RULES:**

N/A

**GUBERNATORIAL APPROVAL:**

N/A

**REGISTER PUBLICATION:**

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**DOCKET NUMBER:**

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**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The rule amendments establish a quarantine for moss balls (*Aegagropila Linnaei*); adds multiple counties to the regulated area for fire ants; updates reference to the current CFR revisions; establishes rules for borate or other wood applied termiticide treatments; adds a separate license to the Industrial Hemp Program for fiber growers; updates references for hemp allowable thresholds to reference OMMA; adds definitions for pet food; updates language for label format and labeling for pet food; updates language for brand and product names for pet food; replaces expression of guarantees for pet food with intended use statement and nutritional adequacy claims for pet food; updates the requirements for ingredients for pet food; updates language for additives and drugs for pet food; replaces language for nutritional adequacy with pet and specialty pet nutrition facts for pet food; updates requirements for feeding directions for pet food; updates requirements for calorie content for pet food; updates language for descriptive terms for pet food; updates language for manufacturer or distributor requirements for pet food; adds a rule for handling and storage instructions for pet food; adds a definition for beneficial substance and plant biostimulant to the soil amendment definitions; and adds language to require a statement identifying the purpose for soil amendment labels.

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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 JULY 11, 2025:

## SUBCHAPTER 10. MOSS BALL (AEGAGROPILA LINNAEI) QUARANTINE [NEW]

### 35:30-10-1. Establishment of quarantine [NEW]

The State Board of Agriculture does hereby establish an external quarantine for the Moss Ball (*aegagropila linnaei*) and any other aquatic species found to be infested with Zebra Mussell (*desissena polymorpha*).

### 35:30-10-2. Regulated area [NEW]

The regulated quarantined area includes all states, districts, and territories of the United States.

### 35:30-10-3. Regulated articles [NEW]

The following shall be regulated pursuant to this quarantine:

- (1) Moss Ball (*aegagropila linnaei*), and
- (2) any aquatic species found to be infested with Zebra Mussell (*desissena polymorpha*).

### 35:30-10-4. Conditions governing movement [NEW]

All regulated articles are prohibited entry into or transition through the State of Oklahoma unless the articles are:

- (1) Accompanied by a current certificate of inspection from the state of origin declaring the articles have been officially inspected and found free of Zebra Mussell (*desissena polymorpha*) and the articles have been stored in such a manner to remain free of the Zebra Mussell (*desissena polymorpha*) in storage and transit; or
- (2) Have a current certificate of inspection from the aquatics invasive species regulatory agency in the shipping state.

## **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);
- (6) Pittsburgh (2020); ~~and~~
- (7) Haskell (2024); ~~and~~
- (8) Hughes, Kiowa, Pottawatomie, and Seminole (2025).

## **SUBCHAPTER 17. COMBINED PESTICIDE**

### **PART 15. MINIMUM STANDARDS FOR TERMITE WORK FOR EXISTING STRUCTURES**

#### **35:30-17-69.3. Borate or other wood applied termiticide treatment for post-construction [NEW]**

- (a) Any borate or other wood applied termiticide may be used as a stand-alone or primary treatment for the prevention and control of subterranean termites in new construction and post construction if the product is labeled for such an application. The product must be registered by the Environmental Protection Agency and with the State of Oklahoma.
- (b) A sticker, tag, or stencil must be placed on a stud in the attic readily visible within 5 feet of the attic access which displays the name of the applicator company, application date, and the name of the termiticide used. If a sticker or tag is used the words "Do not Remove" must also be displayed on the sticker or tag.
- (c) A product information sheet must accompany the contract and the contract must be provided to the customer.
- (d) For post construction treatments follow all the product's labeled directions.

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(e) All contracts and records keeping requirements must be kept in accordance with 2 O.S. § 3-81(11) and O.A.C. 35:30-17-21.

## **PART 17. MINIMUM STANDARDS FOR TERMITE WORK FOR PRECONSTRUCTION (PRETREATS) AND NEW CONSTRUCTION**

### **35:30-17-74. Borate or other wood applied termiticide treatment for new construction [NEW]**

(a) Any borate or other wood applied termiticide may be used as a stand-alone or primary treatment for the prevention and control of subterranean termites in new construction and post construction if the product is labeled for such an application. The product must be registered by the Environmental Protection Agency and with the State of Oklahoma.

(b) For new construction treatments the following areas must be treated if the product label does not have specific application instructions or if these areas are not on a product label that has specific application instructions.

(1) To ensure a more complete treatment the treatment must be performed when the structures framing is complete ("dried-in") and prior to the installation of any other construction components that may hinder proper treatment including but not limited to insulation, electrical, heating and cooling systems, exterior wraps, etc.

(2) All exterior surfaces of wood or non-cellulose framing such as the exterior side of the sheathing shall be treated up to a height of not less than two (2) feet above a contact with a slab foundation or a (2) foot horizontal and vertical treatment of wood above contact with a concrete crawlspace or basement foundation.

(3) All interior surfaces of wood or non-cellulose framing such as studs and the interior side of the exterior sheathing shall be treated up to a height of not less than two (2) feet above a contact with a slab foundation or a (2) foot horizontal and vertical treatment of wood above contact with a concrete crawlspace or basement foundation.

(4) The slab floor around all service pipe penetrations and bath traps must be treated not less than (2) feet in all directions. The slab along the base plates of the structure must be treated no less than (1) foot out from the base plates. Garage floor slabs are not required to be treated.

(5) Any support piers in a crawl space must be treated up to a height of not less than two (2) feet above contact with the soil and the subfloor above the pier must be treated no less than (2) feet in all directions around the pier.

(6) Any exterior wooded supports resting on concrete such as porch or patio awning supports shall be treated at a height of not less than (2) feet above the slab.

(7) In areas where access to all sides of the wood surface is limited including but not limited to married studs, and exterior wall base plates allow the sprays on wood surfaces to dry for 20 minutes. A second treatment must be performed on these surfaces once the sprays have dried.

(8) Indicator dye is required on exterior wall sheathing, interior treatment areas, and in crawl spaces. Dye is not required in treatment areas where the concrete slab will not be covered such as garages, basements, or awning supports.

(9) Where known cracks in concrete slabs exist treat along the crack and at least (1) foot on both sides of the crack.

(c) The application site must be identified by a sticker, tag, or stencil in an area readily visible near the front entrance to the structure which displays the name of the applicator company, application date, and the name of the termiticide used.

(d) An additional sticker, tag, or stencil must be placed on a stud in the attic readily visible within 5 feet of the attic access which displays the name of the applicator company, application date, and the name of the termiticide used. If a sticker or tag is used the words "Do not Remove" must also be displayed on the sticker or tag.

(e) A product information sheet must accompany the contract and the contract must be provided to the customer.

(f) All contracts and records keeping requirements must be kept in accordance with 2 O.S. § 3-81(11) and O.A.C. 35:30-17-21.

## 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) (~~2023~~2025 Revision), Part 156.140 et seq. and Part 165 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety.

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

## SUBCHAPTER 24. OKLAHOMA INDUSTRIAL HEMP PROGRAM

### **35:30-24-7. Fees [AMENDED]**

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

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

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

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

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

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

(1) One Thousand Dollars (\$1,000.00) for annual sales less than and including Fifty Thousand Dollars (\$50,000.00);

(2) Two Thousand Five Hundred Dollars (\$2,500.00) for annual sales less than and including Two Hundred Fifty Thousand Dollars (\$250,000.00) but more than Fifty Thousand Dollars (\$50,000.00); and

(3) Five Thousand Dollars (\$5,000.00) for annual sales greater than Two Hundred Fifty Thousand Dollars (\$250,000.00).

### **35:30-24-11.1. Allowable testing thresholds [AMENDED]**

(a) Hemp and processed hemp shall meet the allowable laboratory testing thresholds for medical marijuana and medical marijuana products established by the ~~Oklahoma State Department of Health~~ Oklahoma Medical Marijuana Authority at ~~310:681-8-1 and Appendix A.~~

(b) Processors shall not process, sell, or otherwise transfer any hemp products from any hemp production batch unless samples of the production batch have passed all tests in accordance with this section.

(c) The provisions of this section shall not apply to hemp produced for seed or fiber production.

## SUBCHAPTER 27. FEED

## PART 3. PET FOOD

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## 35:30-27-51. Definitions and terms [AMENDED]

The definitions in the Association of American Feed Control Officials (AAFCO) Model Bill and Model Feed Regulations shall apply in addition to the following:

**"All life stages"** ~~means gestation/lactation, growth, and adult maintenance life stages~~ means gestation/lactation, growth, and adult maintenance life stages for dogs, cats, and other mammals or adult (including breeding animals) and juvenile life stages for non-mammalian species.

**"Daily Food"** ~~means a specialty pet food product, other than a treat, food mixer or food supplement, for specialty pet species with no recognized nutritional authority.~~

**"Familiar Household Unit"** ~~means a typical feeding unit in volume or count (e.g., can, measuring cup, treat, or piece).~~

**"Family"** ~~means a group of products, which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product, which has been successfully test-fed according to an AAFCO feeding protocol(s).~~

**"Food Mixer"** ~~means a pet or specialty pet food product that is intended to top, accompany, or contribute to a complete diet but is not generally intended to be a complete diet.~~

**"Food Supplement"** ~~means a pet or specialty pet food product that is intended to supply specific nutrient(s) or other food components but is not a complete diet.~~

**"Immediate container"** ~~means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.~~

**"Ingredient statement"** ~~means a collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed.~~

**"Pet Nutrition Facts"** ~~means a graphic box located on the label containing nutritional information for a pet food product.~~

**"Principal display panel"** ~~means the part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.~~

**"Specialty Pet Nutrition Facts"** ~~means a graphic box located on the label containing nutritional information for a specialty pet food product.~~

**"Veterinary Diet"** ~~means a pet or specialty pet food product that is intended to be used under veterinary supervision only.~~

## 35:30-27-52. Label format and labeling [AMENDED]

(a) Pet food and specialty pet food shall be labeled with the following information prescribed in this Regulation:

- (1) Product name and brand name, if any, on the principal display panel as stipulated in Regulation 35:30-27-53;
- (2) ~~The species of pet or specialty pet for which the food is intended conspicuously designated on the principal display panel.~~ A Statement specifying the intended use of the products as stipulated in Regulation 35:30-27-54(a);
- (3) Quantity statement, ~~as defined in 35:30-27-2(a)(8)~~ as defined in Section 3(s) of this Act and Regulation 3(a)(8) of the Model Regulations, by weight (pounds and ounces, and metric), liquid measure (quarts, pints, and fluid ounces, and metric) or by count, on the principal display panel;
- (4) ~~Guaranteed analysis as stipulated in 35:30-27-54~~ Pet Nutrition Facts or Specialty Pet Nutrition Facts as stipulated in Regulation 35:30-27-55;
- (5) Ingredient statement as stipulated in ~~35:30-27-55~~ 56(a);
- (6) ~~A statement of nutritional adequacy or purpose if required under 35:30-27-57;~~
- ~~(7)(6)~~ Feeding directions if required under 35:30-27-58; and
- ~~(8)(7)~~ Name and address of the manufacturer or distributor as stipulated in 35:30-27-61; and
- ~~(8)~~ Handling and Storage Instructions may be displayed as stipulated in 35:30-27-62.

(b) When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.

(c) A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.

(d) The use of the word "proven" in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.

(e) No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product.

(f) A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading.

(g) A statement on a pet food or specialty pet food label stating "Improved", "New", or similar designation shall be substantiated and limited to six (6) months production.

(h) A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one (1) year production, after which the claim shall be removed or re-substantiated.

(i) Raw milk distributed as pet food or specialty pet food shall bear the following statement “WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA.” This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the net quantity statement as shown in the following table:

- (1) A panel size of  $\leq 5$  in.<sup>2</sup> has a maximum “with” claim type size of 1/16 inch.
- (2) A panel size of  $> 5 - \leq 25$  in.<sup>2</sup> has a maximum “with” claim type size of 1/8 inch.
- (3) A panel size of  $> 25 - \leq 100$  in.<sup>2</sup> has a maximum “with” claim type size of 3/16 inch.
- (4) A panel size of  $> 100 - \leq 400$  in.<sup>2</sup> has a maximum “with” claim type size of 1/4 inch.
- (5) A panel size of  $> 400$  in.<sup>2</sup> has a maximum “with” claim type size of 1/2 inch.

(j) When pet food or specialty pet food consists of raw milk, the words, “Raw [blank] Milk” shall appear conspicuously on the principal display panel (blank is to be completed by using the species of animal from which the raw milk is collected).

### 35:30-27-53. Brand and product names [AMENDED]

(a) The names of the ingredient(s) used in the brand or product name or elsewhere on the product label shall appear in order of predominance by weight in the product. Names of flavors due to their varying intensity can be in any order.

~~(a)(b)~~ The words "100%", "All", or words of similar designation shall not be used in the brand or product name of a pet food or a specialty pet food if the product contains more than one ingredient, ~~not including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments.~~

~~(b)(c)~~ An ingredient or a combination of ingredients may form a part of the product name of a pet food or specialty pet food:

(1) When the ingredient(s) ~~derived from animals, poultry, or fish~~ constitutes at least 95% of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredient(s) shall constitute at least 70% of the total product weight.

(2) When any ingredient(s) constitutes at least 25% of the weight of the product, provided that:

(A) Water sufficient for processing may be excluded when calculating the percentage; however, the ingredient(s) shall constitute at least 10% of the total product weight; and

(B) A descriptor is used with the ingredient name(s). This descriptor shall imply other ingredients are included in the product formula. Examples of descriptors include "dinner", "platter", "entree", "formula", and "recipe"; and

(C) The descriptor shall be in the same size, style, and color print as the ingredient name(s).

(3) When a combination of ingredients are included in the brand or product name, ~~the product shall meet all of the following in accordance with Regulation 35:30-27-3(c) provided that:~~

(A) Each named ingredient constitutes a least 3% of the total weight of the product weight, excluding water sufficient for processing; and

~~(B) The names of the ingredients appear in the order of their respective predominance by weight in the product; and~~

~~(C)(B)~~ All the ingredient names appear on the label in the same size, style, and color print.

~~(c)(d)~~ When the name of any ingredient appears in the product name of a pet food or elsewhere on the product label and includes a descriptor like "with" or similar designation, the named ingredient(s) shall each constitute at least 3% of the product weight exclusive of water sufficient for processing. ~~If the names of more than one ingredient are shown, they shall appear in their respective order of predominance by weight in the product.~~ The 3% minimum level shall not apply to claims for nutrients, including, but not limited to, vitamins, minerals, and fatty acids, as well as condiments. The word "with", or similar designation, and named ingredients shall be in the same size, style, color, and case print and be of no greater size than:

Maximum "with claim"		
	Panel Size	Type Size
	$\leq 5$ sq. in.	1/8"

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5-25 sq. in.	1/4"
25-100 sq. in.	3/8"
100-400 sq. in.	1/2"
400 sq. in. +	1"

(1) A panel size of  $\leq 5$  in.<sup>2</sup> has a maximum "with" claim type size of 1/8 inch.

(2) A panel size of  $>5 - \leq 25$  in.<sup>2</sup> has a maximum "with" claim type size of 1/4 inch.

(3) A panel size of  $>25 - \leq 100$  in.<sup>2</sup> has a maximum "with" claim type size of 3/8 inch.

(4) A panel size of  $>100 - \leq 400$  in.<sup>2</sup> has a maximum "with" claim type size of 1/2 inch.

(5) A panel size of  $>400$  in.<sup>2</sup> has a maximum "with" claim type size of 1 inch.

~~(d)~~(e) A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following:

(1) The flavor designation:

(A) Conforms to the name of the ingredient as listed in the ingredient statement; or

(B) Is identified by the source of the flavor in the ingredient statement; and

(2) The word "flavor" is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and

(3) Substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request.

~~(e)~~ The product name of the pet food or specialty pet food shall not be derived from one or more ingredients unless all ingredients are included in the name, except as specified by 35:30-27-53(b) or (c); provided the name of an ingredient or combination of ingredients may be used as a part of the product name if:

(1) The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser; or

(2) It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients.

(f) Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food or specialty pet food unless it is in compliance with Regulation 35:30-27-53(b)(c), ~~(c)(d)~~, or ~~(d)(e)~~.

(g) Unless a pet food and specialty pet food is identified on the principal display panel as a stew, gravy, sauce, broth, aspic, juice, milk replacer, or other such name, the maximum moisture declared on a pet food or specialty pet food label shall not exceed 78.00% or the natural moisture content of the ingredients, whichever is higher.

## **35:30-27-54. Expression of guarantees**~~Intended use statement and nutritional adequacy claims~~ [AMENDED]

(a) The "Guaranteed Analysis" shall be listed in the following order and format:

(1) A pet food or specialty pet food label shall list the following required guarantees:

(A) Minimum percentage of crude protein;

(B) Minimum percentage of crude fat;

(C) Maximum percentage of crude fat, if required by 35:30-27-60;

(D) Maximum percentage of crude fiber;

(E) Maximum percentage of moisture; and

(F) Additional guarantees shall follow moisture.

(2) When ash is listed in the guaranteed analysis on a pet food or specialty pet food label, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.

(3) A dog or cat food label shall list other required or voluntary guarantees in the same order and units of the nutrients in the AAFCO Dog (or Cat) Food Nutrient Profiles. Guarantees for substances not listed in the AAFCO Dog (or Cat) Profiles, or not provided for in these rules, shall immediately follow the listing of the recognized nutrients and shall be accompanied by an asterisk (\*) referring to the disclaimer "not recognized as an essential nutrient by the AAFCO Dog (or Cat) Food Nutrient Profiles". The disclaimer shall appear immediately after the last guarantee in the same size type as the guarantees.



(4) A specialty pet food label shall list other required or voluntary guarantees as required by Regulation 3a(4)X of AAFCO Model Bill:

(b) The sliding scale method of expressing a guaranteed analysis on a pet food or specialty pet food label (for example, "Minimum crude protein 15-18%") is prohibited:

(c) The label of a pet food or a specialty pet food which is formulated as and represented to be a mineral supplement shall include:

(1) Minimum guarantees for all minerals from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed as the element in units specified in the nutrient profile; or  
(2) Minimum guarantees for all minerals from sources declared in the ingredient statement expressed as the element in units specified in Regulation 4(b) of the AAFCO Model Bill when no species-specific nutrient profile has been recognized by AAFCO; and

(3) Mineral guarantees required by 35:30-27-54(c)(1) and (2) may be expressed in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and

(4) A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products:

(d) The label of a pet food or a specialty pet food which is formulated as and represented to be a vitamin supplement shall include:

(1) Minimum guarantees for all vitamins from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed in units specified in the nutrient profile; or

(2) Minimum guarantees for all vitamins from sources declared in the ingredient statement expressed in units specified in AAFCO Model Regulation 4(c) when no species-specific nutrient profile has been recognized by AAFCO; and

(3) Vitamin guarantees required by 35:30-27-54(d)(1) and (2), may be expressed in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and

(4) A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products:

(a) A statement identifying the intended use of a pet food or specialty pet food is required on the principal display panel of the label in accordance with the following:

(1) The intended use of a pet food or specialty pet food shall be stated as:

(A) "Complete [Species] Food" – for food products intended to be the complete diet for all life stages and sizes of a pet or specialty pet in accordance with the unqualified claims in Regulation 35:30-27-4(b);

(B) For food products intended to be the complete diet for a limited life stage or size of a pet or specialty pet in accordance with the qualified claims in Regulation 35:30-27-54(c), one of the two following statements shall be used:

(i) "Complete Food for [blank]" where the blank shall be filled with one or more of the following:

(I) "Adult [Species]."

(II) "Puppies," "Kittens," or "Juvenile [Species other than dog or cat]."

(III) "Puppies (<70 lb. as an adult)," or

(IV) "Dogs (except puppies >70 lb. as an adult); or

(ii) "Complete [Blank] Food" where the blank shall be filled with one or more of the following:

(I) "Adult [Species]."

(II) "Puppy," "Kitten," or "Juvenile [Species other than dog or cat]."

(III) "Puppy (<70 lb. as an adult)," or

(IV) "Dog (except puppies >70 lb. as an adult);"

(C) "Veterinary Diet for [Species]" – for food products intended to be used under veterinary supervision only in accordance with Regulation 35:30-27-54(d);

(D) "[Species] Treat" – for food products for pets or specialty pets, provided occasionally for enjoyment, training, entertainment, or other purposes, and not generally intended or represented to be a complete food or nutritional supplement;

(E) "[Species] Food Supplement" – for food products for pets or specialty pets that are intended to supply specific nutrient(s) or other food components but are not a complete diet;

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(E) “[Species] Food Mixer” – for food products for pets or specialty pets that are intended to top, accompany, or contribute to a complete diet but are not generally intended or represented to be a complete diet; or

(G) “Daily [Specialty Pet Species] Food” – for food products that are intended to be the daily diet for specialty pets where no recognized nutritional authority exists. A limited life stage may be indicated, i.e., “Daily [Specialty Pet Species] Food for [Juveniles or Adults].”

(2) This intended use statement shall:

(A) Appear within the bottom 30% of the area of the label principal display panel in lines generally parallel to the base on which the package rests as it is designed to be displayed and shall be repeated on the alternate principal display panel, if present. However, on packages having a principal display panel of 5 square inches or less, the requirement for placement within the bottom 30% of the area of the label panel shall not apply;

(B) Be at least as large as the statement of net quantity, consistent with 16 CFR 500.21;

(C) Appear in the same color and style as the statement of net quantity and on the same background color as the statement of net quantity; and

(D) Be separated by at least a space equal to the height of the letter “N” used in the statement of net quantity from other printed label information appearing above or below it and by at least a space equal to twice the width of the letter “N” of the style of type used in the quantity of contents statement from other printed label information appearing to the left or right of it.

(b) The label of a pet food or specialty pet food which is intended for all life stages and sizes of the pet or specialty pet may make unqualified claims, directly or indirectly, such as “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” if at least one of the following apply:

(1) The product meets the nutrient requirements for all life stages and sizes established by an AAFCO-recognized nutrient profile; or

(2) The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s);

(A) Unqualified claims of nutritional adequacy that include large size dogs (greater than 70 lb. as an adult) can be substantiated by completing the appropriate protocols using large size dogs; or

(B) Can be substantiated by completing the appropriate protocols using dogs less than 70 lb. adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the AAFCO Dog Food Nutrient Profiles; or

(3) The product is a member of a product family which is nutritionally similar to a lead product which contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by AAFCO for all life stages, provided that:

(A) The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and

(B) The family product meets the criteria for all life stages; and

(C) Under circumstances of reasonable doubt, the [State Control Official] may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.

(c) The label of a pet food or specialty pet food which is intended for a limited purpose (such as size of dog) or a specific life stage, but not for all life stages and sizes, may make qualified claims, directly or indirectly, such as “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” when the product and claim meet both of the following:

(1) The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, “complete and balanced for puppies (or kittens).” The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style, and color print; and

(2) The product meets at least one of the following:

(A) The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile; or

(B) The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s);

(i) Qualified claims of nutritional adequacy that include large size dogs can be substantiated by completing the appropriate protocols using large size dogs; or

(ii) Can be substantiated by completing the appropriate protocols using dogs less than 70 lb. adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the AAFCO Dog Food Nutrient Profiles; or

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(C) The requirements of a product family which is nutritionally similar to a lead product which contains a combination of ingredients which, when fed for such limited purpose, will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing, and provided that:

- (i) The nutritional similarity of the family product can be substantiated according to the Procedures for Establishing Pet Food Product Families developed by AAFCO; and
- (ii) The family product meets the criteria for such limited purpose; and
- (iii) Under circumstances of reasonable doubt, the [State Control Official] may require the manufacturer to perform additional testing for the family product to substantiate the claim of nutritional adequacy.

(d) A product intended for use by, or under the supervision or direction of, a veterinarian shall clearly indicate the nutritional adequacy of the product in accordance with Regulation 35:30-27-55(a)(3)(F) or 35:30-27-55(b)(2)(F) as would be required for any other pet food or specialty pet food.

(e) A signed affidavit attesting that the product meets the requirements of Regulation 35:30-27-54(b) or 35:30-27-54(c)(2) shall be submitted to the upon request.

(f) If the nutrient content of a product does not meet those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been established by an AAFCO-recognized nutritional authority for the life stage(s) of the intended species, the claimed nutritional adequacy of the product shall be scientifically substantiated.

(g) The following AAFCO-recognized nutritional authority, nutrient profile, and/or animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy:

(1) As an AAFCO-recognized nutrient profile or nutritional authority:

- (A) For dogs, the AAFCO Dog Food Nutrient Profiles;
- (B) For cats, the AAFCO Cat Food Nutrient Profiles;
- (C) For specialty pets, the nutrient recommendations approved by the Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences, provided that, this nutrient recommendation is recognized only for the specific specialty pet for which the profile is intended.

(2) As an AAFCO-recognized animal feeding protocol(s), the AAFCO Dog and Cat Food Feeding Protocols.

(e)(h) When the label of a pet food or a specialty pet food includes a comparison of the nutrient content of the food with levels established by an AAFCO-recognized nutrient profile; such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels, the following apply:

(1) The nutrient shall be stated in the units of measurement used in the cited AAFCO-recognized nutrient profile; and

(2) The statement in a table of comparison of the vitamin, mineral, or nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis; and

(3) The comparison may appear on the label separate and apart from the guaranteed analysis:

(1) The product shall meet the AAFCO-recognized nutrient profile; and

(2) The statement of comparison shall be preceded by a statement that the product meets the AAFCO-recognized profile; however, the statement that the product meets the AAFCO-recognized nutrient profile is not required provided that the nutritional adequacy statement as per Regulation 35:30-27-54(b)(1) or 35:30-27-54(c)(2)(A) appears elsewhere on the product label; and

(3) The statement of comparison of the nutrient content shall constitute a guarantee and shall be in the nutrient guarantees within the pet or specialty pet nutrition facts; and

(4) The statement of comparison shall appear on the label separate and apart from the nutrient guarantees within the pet or specialty pet nutrition facts.

(f) Percentages or other designations referring to an individual nutrient or all of the nutrient levels established by the AAFCO-recognized nutrient profile may be used on a pet food or specialty pet food when:

(1) The product meets the AAFCO-recognized nutrient profile;

(2) The comparison is preceded by a statement that the product meets the AAFCO-recognized nutrient profile; and

(3) The comparison is expressed in the same quantitative units as those used by the cited AAFCO-recognized nutrient profile.

(g) The maximum moisture declared on a pet food or specialty pet food label shall not exceed 78.00% of the natural moisture content of the ingredients, whichever is higher. However, pet food and specialty pet food including, but not limited to, those consisting principally of stew, gravy, sauce, broth, aspic, juice, or a milk replacer, and which are so labeled, may contain moisture in excess of 78.00%.

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(h) Guarantees for crude protein, crude fat, and crude fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, like mineral or vitamin supplement.

## 35:30-27-55. Ingredients Pet and Specialty Pet Nutrition Facts [AMENDED]

(a) Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:

- (1) The names of all ingredients in the ingredient statement shall be shown in letters or type of the same size;
- (2) The ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms;
- (3) Ingredients shall be listed and identified by the name and definition established by AAFCO; and
- (4) Any ingredient for which no name and definition have been established shall be identified by the common or usual name of the ingredient.

(b) The ingredients "meat" or "meat by-products" shall be qualified to designate the animal from which the meat or meat by-products are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination. For example, ingredients derived from horses shall be listed as "horsemeat" or "horsemeat by-products".

(c) Brand or trade names shall not be used in the ingredient statement.

(d) A reference to the quality, nature, form, or other attribute of an ingredient shall be allowed when the reference meets all of the following:

- (1) The designation is not false or misleading;
- (2) The ingredient imparts a distinctive characteristic to the pet food or specialty pet food because it possesses that attribute; and
- (3) A reference to quality or grade of the ingredient does not appear in the ingredient statement.

(a) Pet Nutrition Facts shall be displayed in a prominent place on the label of all pet foods (including treats, food supplements, veterinary diets, and food mixers), but not necessarily on the principal display panel. The information shall be set off in a box by use of hairlines and shall be all black or one-color type, printed on a white or other neutral contrasting background so as to be clearly visible under the heading "Pet Nutrition Facts" that is centered in the top row of the box and twice the size of all other text in the box. A hairline rule that is centered between the lines of text shall separate "Pet Nutrition Facts" from the next line of text. The box contains the following required elements with all text the same size and style in the following order:

(1) The stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams shall be right justified. This is set off by a bold line centered between this and the next line of text.

(2) A statement of Calorie content, determined as specified in Regulation 35:30-27-59, shall include the following:

(A) The Calorie content of the product shall be stated after the left justified heading:

- (i) "Calories per [familiar household unit]\*: [#]" when the Calorie content is determined in accordance with Regulation 35:30-27-59(a)(1); or
- (ii) "Calories per [familiar household unit] (fed): [#]" when the Calorie content is determined in accordance with Regulation 35:30-27-59(a)(2).

(B) Below the Calorie content statement, the number of Calories contributed by Protein, Fat, and Carbohydrate shall be declared, in that order, after "From:". The "From:" line shall be indented to reflect that it is a component of the total Calories on the line above. If the total Calorie content of the product is determined by feeding trial in accordance with Regulation 35:30-27-59(a)(2), then "\*" shall be declared immediately after the number of Calories from Carbohydrates. The determination of Calories from protein, fat, and carbohydrate are as described in Regulation 35:30-27-59(c). This is set off by a bold line centered between this and the next line of text.

(3) The nutrient guarantees shall appear under the headers "Nutrients" that is left justified to the edge of the box, "Guaranteed" that is right justified to a vertical hairline that runs from this line of text to the last guaranteed nutrient value, and "per [familiar household unit]" that is right justified to the edge of the box. The amount "per [familiar household unit]" for each nutrient is determined by multiplying the guaranteed amount (concentration) by the number of grams in the familiar household unit and shall include the resultant unit of such amount (e.g., grams, milligrams, or international units). The guarantees shall be listed in the following order with a hairline centered between each line of text:

(A) A pet food label shall list the following required guaranteed amounts, stated as a maximum or minimum, as appropriate:

- (i) "Protein" is minimum percentage of crude protein;

- (ii) “Fat” is minimum percentage of crude fat;
  - (iii) “Total Carbohydrate\*” is maximum percentage equal to  $[100 - (\text{Crude Protein} + \text{Crude Fat} + \text{Moisture} + \text{Ash})]$ ;
  - (iv) “Dietary Fiber” is maximum percentage of total dietary fiber. The dietary fiber guarantee shall be indented to reflect that it is a component of the total carbohydrate guarantee on the line above;
  - (v) “Moisture” is maximum percentage of moisture; and
  - (vi) Maximum percentage of crude fat (“Fat”) shall be listed between the minimum percentage of crude fat and the maximum percentage “Total Carbohydrate” if required by Regulation 35:30-27-59;
  - (vii) Additional required or voluntary guarantees shall follow moisture or ash, if listed.
- (B) When “Ash” is listed, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.
- (C) When listed on the label of a dog or cat food product, guarantees for “Dietary Starch” and “Sugars” shall be stated as maximum guaranteed amounts. Neither guaranteed amount shall be listed without the other. The guaranteed amount for dietary starch shall follow dietary fiber with the same indentation. The guaranteed amount for sugars shall follow dietary starch with the same indentation.
- (D) The “\*calculated value” shall appear immediately after the last guarantee below a bold line.
- (E) Other additional required or voluntary guarantees shall appear in accordance with the following:
- (i) Guarantees for nutrients are in the same order and units of the nutrients in the AAFCO Dog (or Cat) Food Nutrient Profiles following ash, if also listed, or moisture, if ash is not listed.
  - (ii) Guarantees for substances not listed in the AAFCO Dog (or Cat) Food Nutrient Profiles, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk.
    - (I) For any such guarantees, a hairline shall be centered between the last and the next line of text;
    - (II) The disclaimer “\*not recognized as an essential nutrient by the AAFCO Dog [or Cat] Food Nutrient Profiles” shall appear immediately after “□ calculated value”.
- (F) The statement of nutritional adequacy shall appear immediately below the bold line separating it from the disclaimers which follow the guarantees:
- (i) A statement that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. It shall be stated verbatim as one of the following:
    - (I) “(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for \_\_\_\_.” (Blank is to be completed by using the stage or stages of the pet’s life, such as gestation/lactation, growth, maintenance, or the words “All Life Stages”.) For a dog food, when the blank includes the words “Growth” or “All Life Stages,” one of the following phrases must also be added verbatim to the end of the claim: “including growth of large size dogs (70 lb. or more as an adult)” if the product has been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs or “except for growth of large size dogs (70 lb. or more as an adult)” if the product has not been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs.
    - (II) “Animal feeding tests using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for \_\_\_\_.” (Blank is to be completed by using the stage or stages of the pet’s life tested, such as, gestation/lactation, growth, maintenance, or the words “All Life Stages”); or
    - (III) “(Name of Product) provides complete and balanced nutrition for (Blank is to be completed by using the stage or stages of the pet’s life, such as gestation, lactation, growth, maintenance, or the words “All Life Stages”) and is comparable in nutritional adequacy to a product which has been substantiated using AAFCO feeding tests.”
  - (ii) A nutritional or dietary statement for purposes other than those listed in Regulation 35:30-27-54(b) or (c) if the statement is scientifically substantiated; or

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(iii) The statement: “This product is intended for intermittent or supplemental feeding only,” if a product does not meet the requirements of Regulation 35:30-27-54(b) or (c) or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.

(b) Specialty Pet Nutrition Facts shall be displayed in a prominent place on the label of all specialty pet foods (including treats, food supplements, veterinary diets, and food mixers), but not necessarily on the principal display panel. The information shall be set off in a box by use of hairlines and shall be all black or one-color type, printed on a white or other neutral contrasting background so as to be clearly visible under the heading “Specialty Pet Nutrition Facts” that is centered in the top row of the box and twice the size of all other text in the box. A hairline rule that is centered between the lines of text shall separate “Specialty Pet Nutrition Facts” from the next line of text. The box contains the following required elements with all text the same size and style in the following order:

(1) The stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams shall be right justified. This is set off by a bold line centered between this and the next line of text.

(2) The nutrient guarantees shall appear under the headers “Nutrients” that is left justified to the edge of the box, “Guaranteed” that is right justified to a vertical hairline that runs from this line of text to the last guaranteed nutrient values, and “per [familiar household unit]” that is right justified to the edge of the box. The amount “per [familiar household unit]” for each nutrient is determined by multiplying the guaranteed amount (concentration) by the number of grams in the familiar household unit and shall include the resultant unit of such amount (e.g., grams, milligrams, or international units). The guarantees shall be listed in the following order with a hairline centered between each line of text:

(A) A specialty pet food label shall list the following required guaranteed amounts, stated as a maximum or minimum, as appropriate:

(i) “Protein” is minimum percentage of crude protein;

(ii) “Fat” is minimum percentage of crude fat;

(iii) “Total Carbohydrate\*” is maximum percentage equal to  $[100 - (\text{Crude Protein} + \text{Crude Fat} + \text{Moisture} + \text{Ash})]$ ;

(iv) “Dietary Fiber” is maximum percentage of total dietary fiber. The dietary fiber guarantee shall be indented to reflect that it is a component of the total carbohydrate guarantee on the line above; and

(v) “Moisture” is maximum percentage of moisture;

(vi) Additional required or voluntary guarantees shall follow moisture or ash, if listed.

(B) When “Ash” is listed, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.

(C) When listed on the label of a specialty pet food product, guarantees for “Dietary Starch” and “Sugars” shall be stated as maximum guaranteed amounts. Neither guaranteed amount shall be listed without the other. The guaranteed amount for dietary starch shall follow dietary fiber with the same indentation. The guaranteed amount for sugars shall follow dietary starch with the same indentation.

(D) The “\*calculated value” shall appear immediately after the last guarantee below a bold line.

(E) Other additional required or voluntary guarantees shall appear in accordance with the following:

(i) These guarantees shall follow ash, if also listed, or moisture, if ash is not listed;

(ii) Guarantees for nutrients are in the same order and units of the nutrients in an AAFCO-recognized nutrient profile for the intended animal species; however, if no species-specific AAFCO-recognized nutrient profile is available, the order and units shall follow the same order and units of nutrients in the AAFCO Cat Food Nutrient Profile;

(iii) For those specialty pet species with an AAFCO-recognized nutrient profile for the intended animal species, guarantees for substances not listed in that profile, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk.

(I) For any such guarantees, a hairline shall be centered between the last and the next line of text;

(II) The disclaimer “\*not recognized as an essential nutrient by the \_\_\_\_.” (Blank is to be completed by listing the specific AAFCO-recognized nutrient profile) shall appear immediately after the last such guaranteed amounts.

(III) No such disclaimer shall appear unless an AAFCO-recognized nutrient profile is available for the specific species of specialty pet.

(E) The statement of nutritional adequacy shall appear immediately below the bold line separating it from the guarantees as one of the following:

(i) For daily foods for those specialty pet species where no recognized nutritional authority exists, the statement: "This product is intended to be a daily food."

(ii) For all other specialty pet foods:

(I) A statement substantiating that the specialty pet food meets the requirements for nutritional adequacy in Regulation 35:30-27-54(b) or (c) by an AAFCO-recognized nutritional authority. It shall be stated verbatim as the following: "(Name of product) is formulated to meet the nutritional levels established by [the AAFCO-recognized authority] for \_\_\_\_." (Blank is to be completed by stating the species and the stage or stages of the specialty pet's life.);

(II) A nutritional or dietary claim for purposes other than those listed in Regulation 35:30-27-54(b) or (c) if the claim is scientifically substantiated; or

(III) The statement: "This product is intended for intermittent or supplemental feeding only," if a product is suitable only for limited or intermittent or supplementary feeding.

(c) Pet or specialty pet food supplements: The Pet Nutrition Facts or Specialty Pet Nutrition Facts box of a pet food or a specialty pet food which is formulated as and represented to be a food supplement shall include all of the information required in Regulation 35:30-27-55(a) or 35:30-27-55(b) except that guarantees shall only be displayed on a per feeding unit (e.g., tablets, capsules, granules, or liquids) basis:

(1) For a food supplement that is intended to be a source of nutrients, guarantees shall appear for all nutrients that the product is intended to provide under the headers "Nutrients" that is left justified to the edge of the box and "per [feeding unit]" that is right justified to the edge of the box:

(A) For nutrients with an established requirement by an AAFCO-recognized nutrient profile, minimum guarantees shall be declared in the same order and units (i.e., g, mg, or IU) specified in the AAFCO-recognized nutrient profile for the intended species; or

(B) When no species-specific nutrient profile has been recognized by AAFCO, minimum guarantees shall be declared in the same order and units (i.e., g, mg, or IU) specified in the AAFCO Cat Food Nutrient Profiles; and

(C) Guarantees for substances not listed in an AAFCO-recognized nutrient profile for the intended animal species, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk.

(i) For any such guarantees, a hairline shall be centered between the last and the next line of text;

(ii) The disclaimer "\*not recognized as an essential nutrient by the \_\_\_\_." (Blank is to be completed by listing the specific AAFCO-recognized nutrient profile) shall appear immediately after the last such guaranteed amounts. No such disclaimer shall appear unless an AAFCO-recognized nutrient profile is available for the specific species of specialty pet.

(2) For a food supplement that is intended to supply microorganisms and/or enzymes, guarantees shall be declared as stipulated in Model Regulations 4(g) and/or 4(h) on a per feeding unit (e.g., tablets, capsules, granules, or liquids) basis. The enzyme activity unit meaning should follow the disclaimer within the box.

(d) The sliding scale method of expressing a guaranteed amount on a pet food or specialty pet food label (for example, "Protein 15–18% Min") is prohibited.

(e) Protein, fat, calculated total carbohydrate, or dietary fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement.

(f) For small packages with a total printable area of more than 12 square inches and less than or equal to 40 square inches, all information required in Regulation 35:30-27-55(a), (b), or (c) shall appear, but may appear in a linear format. This information shall appear in one place without other intervening material. In the linear format, the required information shall:

(1) Appear in the same order as required by Regulation 35:30-27-55(a), (b), or (c) but without the formatting described;

(2) Text shall be all black or one-color type and all text shall be the same size and style, except that the heading "Pet Nutrition Facts" or "Specialty Pet Nutrition Facts" shall be bolded;

(3) The text shall be sufficiently large so as to be conspicuous and must not be smaller than 1/16 inch;

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- (4) The guaranteed amount shall appear immediately after the amount “per [familiar household unit]” for each nutrient with the guaranteed amount enclosed in parentheses and all units clearly identified;
- (5) The following abbreviations may be used: Total Carbohydrate as “Carb\*,” Dietary Fiber as “Fiber”.
- (g) For very small packages with a total printable area of less than or equal to 12 square inches, the information required elsewhere in Regulation 35:30-27-55 is not required to appear on the label. However, all information specified elsewhere in Regulation 35:30-27-55 for the particular product type shall be determined and shall be submitted to the [regulatory authority] upon request. The following limited information is required to appear on the label:
- (1) This information shall appear in one place without other intervening material;
  - (2) Text shall be all black or one-color type and all text shall be the same size and style, except that the heading “Nutrition Facts” shall be bolded;
  - (3) The text shall be sufficiently large so as to be conspicuous and must not be smaller than 1/16 inch;
  - (4) For pet foods, only total calories are required and shall be stated as:
    - (A) “Cal (calc): [#]” when the Calorie content is determined in accordance with Regulation 35:30-27-59(a)(1); or
    - (B) “Cal (fed): [#]” when the Calorie content is determined in accordance with Regulation 35:30-27-59(a)(2).
- (5) Guaranteed amounts shall be stated in weight per entire contents (e.g., grams per pouch). The following required guaranteed amounts stated as a maximum or minimum, as appropriate:
- (A) “Protein” is crude protein;
  - (B) “Fat” is crude fat;
  - (C) “Carb” is calculated from  $[100 - (\% \text{ Crude Protein} + \% \text{ Crude Fat} + \% \text{ Moisture} + \% \text{ Ash})]$ ;
  - (D) “Fiber” is total dietary fiber;
  - (E) “Moisture” is moisture; and
  - (F) Additional required or voluntary guarantees shall follow moisture or ash, if listed, and shall comply with the requirements for such guarantees in Regulation 35:30-27-55(a)(3) or 35:30-27-55(b)(2), as appropriate, except that they shall be stated in only in weight per entire contents.

## **35:30-27-56. Additives and drugsIngredients [AMENDED]**

- (a) An artificial color may be used in a pet food or a specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States Food and Drug Administration regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated in those regulations, shall be satisfactory evidence that the color is, when used pursuant to the regulations, harmless to pets or specialty pets.
- (b) Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established:
- (1) When the pet food or specialty pet food contains these additives, the use of which conforms to the requirements of the applicable regulation in the code of Federal Regulations, Title 21, or which are "prior sanctioned" or "generally recognized as safe" for the use; or
  - (2) When the pet food or specialty pet food itself is a drug or contains a drug as defined in the Oklahoma Commercial Feed Act and is "generally recognized safe and effective" for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360 (b);
- (c) When a drug is included in a pet food or specialty pet food, the format required by 35:30-27-3(2) for labeling medicated feeds shall be used.
- (a) Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:
- (1) The names of all ingredients in the ingredient statement shall be shown in letters or type of the same size, style, and color, except where the defined name of the ingredient includes genus and species (e.g., microorganisms) which may be shown in italics;
  - (2) The ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms, except if the ingredient is a vitamin and/or mineral premix, the premix may be declared in order of predominance by the name “vitamins” or “minerals,” as appropriate, followed by a parenthetical listing of all the vitamins and/or minerals in the premix, each in their order of predominance by weight as listed on the ingredient statement of the premix label;
  - (3) Ingredients shall be listed and identified by the name established in the AAFCO Official Common or Usual Names and Definitions of Feed Ingredients, except any ingredient for which no AAFCO ingredient name exists shall be identified by the common or usual name;



(4) Any ingredient suitable for use in pet food or specialty pet food for which there is a codified standard of identity in Title 9 or 21 of the Code of Federal Regulations shall be declared in accordance with the applicable regulation, which includes the name of the standardized food followed by a parenthetical listing of its ingredients, if necessary, as provided in the regulation;

(5) The ingredients "meat," "poultry," "poultry by-products," or "meat by-products" shall be qualified to designate the animal from which the ingredients are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof or the poultry or poultry meal are derived from chickens, turkeys, ducks, geese, guineas, ratites, or squabs, or any combination thereof. For example, ingredients derived from deer shall be listed as "venison" or "venison by-products;"

(6) For ingredients consisting of fish, "fish meal," or "fish by-products," the name of the ingredient may include "fish" without further specification of the type of the fish or if it bears a name descriptive of its kind (e.g., "ocean whitefish" or by using the acceptable market name(s) or common name (but not any vernacular or slang names) of the individual fish species in the ingredient as established by the FDA Seafood List), it must correspond thereto; and

(7) For purposes of ingredient labeling of pet food or specialty pet food, the ingredient "sugar" shall refer to sucrose, which is obtained from sugar cane or sugar beets in accordance with the provisions in Title 21 of the Code of Federal Regulations. For all other labeling purposes outside the ingredient list, the term "sugar" shall be synonymous with "sugars" as defined in the Official Feed Terms.

(b) Brand or trade names shall not be used in the ingredient statement.

(c) Reference to quality or grade of an ingredient shall not appear in the ingredient statement.

(d) If properly used as specified by the USDA National Organic Program (7 CFR Part 205), the term "organic" does not apply to Regulation 35:30-27-56(c).

(e) A reference to the nature, form, or other attribute of an ingredient shall be allowed in the ingredient statement when that attribute imparts a distinctive characteristic to the pet food or specialty pet food.

(f) Any reference to the percentage of an ingredient or combination of ingredients, by symbol or word, in the brand or product name or elsewhere on a pet food or specialty pet food label, shall be based in relation to the total weight of all ingredients in the product.

(1) The names of the ingredient(s) shall appear in order of predominance by weight in the product, provided that names of flavors due to their varying intensity can be in any order.

(2) Where water sufficient for processing is excluded from the declared percentage, the exclusion of water shall be indicated in words juxtaposed to, the same style and color print, and at least one-half the print size of the stated percentage (e.g., "95% beef exclusive of water" or "95 percent chicken and liver exclusive of water").

### **35:30-27-57. Nutritional adequacy Drugs and Pet Food Additives [AMENDED]**

(a) The label of a pet food or specialty pet food which is intended for all life stages of the pet or specialty pet may include an unqualified claim, directly or indirectly, like "complete and balanced", "perfect", "scientific", or "100% nutritious" if at least one of the following apply:

(1) The product meets the nutrient requirements for all life stages established by an AAFCO-recognized nutrient profile; or

(2) The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s).

(b) The label of a pet food or specialty pet which is intended for a limited purpose or a specific life stage, but not for all life stages, may include a qualified claim like "complete and balance", "perfect", "scientific", or "100% nutritious" when the product and claim meets all of the following:

(1) The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, "complete and balanced for puppies" or "kittens". The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style, and color print; and

(2) The product meets at least one of the following:

(A) The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile; or

(B) The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s).

(c) Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except when the dog or cat food is clearly and conspicuously identified on the principal display panel as a "snack" or "treat". The statement shall consist of one of the following:

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(1) A claim that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one of the following:

- (A) "(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for (Blank)" (Blank is to be completed by using the stage or stages of the pet's life, like, gestation/lactation, growth, maintenance, or the words "All Life Stages"); or
- (B) "Animal feeding test using AAFCO procedures substantiate that (Name of Product) provides complete and balanced nutrition for (Blank)" (Blank is to be completed by using the stage or stages of the pet's life tested, like, gestation/lactation, growth, maintenance, or the words "All Life Stages"); or
- (C) "(Name of Product) provides complete and balanced nutrition for (Blank)" (Blank is to be completed by using the stage or stages of the pet's life, like gestation/lactation, growth, maintenance, or the words "All Life Stages") and is comparable in nutritional adequacy to a product which has been substantiated using AAFCO feeding tests."

(2) A nutritional or dietary claim for purposes other than those listed in 35:30-27-57(a) or (b) if the claim is scientifically substantiated; or

(3) The statement "This product is intended for intermittent or supplemental feeding only", if a product does not meet the requirements of 35:30-27-57(a) or (b) or any other special nutritional or dietary need and is suitable only for limited, intermittent, or supplementary feeding.

(d) A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with 35:30-27-58(b).

(e) A signed affidavit attesting that the product meets the requirements of 35:30-27-58(a) or (b) shall be submitted to the Board upon request.

(f) If the nutrient content of a product does not meet those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been established by an AAFCO-recognized nutritional authority for the life stage(s) of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated:

(a) An artificial color may be used in a pet food or specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States Food and Drug regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets or specialty pets.

(b) Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established:

(1) When the pet food or specialty pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are "prior sanctioned" or "informal review sanctioned" or "Generally Recognized as Safe" for such use; or

(2) When the pet food or specialty pet food itself is a drug or contains a drug as defined in Section 3 (g) of this Act and is "generally recognized as safe and effective" for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b).

(c) When a drug is included in a pet food or specialty pet food, the format required by Model Regulation 3(a)(2) for labeling medicated feeds shall be used.

## **35:30-27-58. Feeding directions [AMENDED]**

(a) Dog or cat food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in 35:30-27-57(c)(1), except those pet foods labeled in accordance with 35:30-27-57(d), shall list feeding directions on the product label. These directions shall be consistent with the intended use(s) indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared (e.g. "adult formula"). These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, state "Feed (weight/unit of product) per (weight only) of dog (or cat)". The frequency of feeding shall also be specified.

(b) When a dog or cat food is intended for use by or under the supervision or direction of a veterinarian, the statement: "Use only as directed by your veterinarian" may be used in lieu of feeding directions.

(a) All pet foods and specialty pet foods shall bear feeding directions consistent with the intended use statement on the principal display panel.

(b) Dog or cat food, including treats and food mixers, labeled as complete and balanced for any or all life stages as provided in Regulation 35:30-27-54(b) or 35:30-27-54(c), except those pet foods labeled in accordance with Regulation 35:30-27-54(d), shall list feeding directions on the product label. These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, include the amount of familiar household unit of product per weight of dog (or cat). The frequency of feeding shall also be specified.

(c) Specialty pet food, including treats and food mixers, labeled as complete and balanced for any or all life stages as provided in Regulation 35:30-27-54(b) or 35:30-27-54(c) or as a daily food, shall list feeding directions on the product label. These feeding directions shall be adequate to meet the feeding requirements of the intended species of specialty pet. These directions shall be expressed in common terms and shall appear prominently on the label. The frequency of feeding shall also be specified.

(d) Food supplements shall list feeding directions on the product label that, at minimum, include the quantity of feeding unit (e.g., tablets, capsules, granules, or liquids) per weight of animal. The frequency of feeding shall also be specified.

(e) When a pet food or specialty pet food is intended for use by or under the supervision or direction of a veterinarian, the statement: "Use only as directed by your veterinarian" may be used in lieu of feeding directions.

## **35:30-27-59. Statements of calorie contentDetermination of calorie content for dog and cat foods [AMENDED]**

(a) Except as required in 35:30-27-60, the label of a dog or cat food may bear a statement of calorie content when the label meets all of the following:

(1) The statement shall be separate and distinct from the "Guaranteed Analysis" and shall appear under the heading "Calorie Content";

(2) The statement shall be measured in terms of metabolizable energy (ME) on an "as fed" basis and shall be expressed as "kilocalories per kilogram" ("kcal/kg") of product, and may also be expressed as kilocalories per familiar household measure (e.g., cans, cups, pounds); and

(3) The calorie content is determined by one of the following methods:

(A) By calculation using the following "Modified Atwater" formula:  $ME(kcal/kg) = 10[(3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE)]$  Where: ME = Metabolizable Energy CP = % crude protein "as fed" CF = % crude fat "as fed" NFE = % nitrogen-free extract kern Amount = "1pt"(carbohydrate) "as fed" and the percentages of CP and CF are the arithmetic averages from proximate analyses of at least four production batches of the product, and the NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash (determined in the same manner as CP and CF); or

(B) In accordance with a testing procedure established by AAFCO;

(4) An affidavit shall be provided upon request to the Board, substantiating that the calorie content was determined by:

(A) 35:30-27-59(a)(3)(A) in which case the results of all the analyses used in the calculation shall accompany the affidavit; or

(B) 35:30-27-59(a)(3)(B) in which case the summary data used in the determination of calorie content shall accompany the affidavit.

(5) The calorie content statement shall appear as one of the following:

(A) The claim on the label or other labeling shall be followed parenthetically by the word "calculated" when the calorie content is determined in accordance with 35:30-27-59(a)(3)(A); or

(B) The value of calorie content stated on the label which is determined in accordance with 35:30-27-59(a)(3)(B) shall not exceed or understate the value determined in accordance with 35:30-27-59(a)(3)

(A) by more than 15%.

(b) Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.

(a) The statement shall be determined in terms of metabolizable energy (ME) on an "as fed" moisture basis by one of the following methods then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

(1) By calculation (indicated with a "\*" in the Pet Nutrition Facts) using the following "Modified Atwater" formula:  $ME(kcal/kg) = 10[(3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE)]$ , where ME = metabolizable energy, CP = % crude protein "as fed," CF = % crude fat "as fed," NFE = % nitrogen-free extract (carbohydrate) "as fed," and the percentages of CP and CF are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product. The NFE is calculated as the difference between 100 and the

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sum of CP, CF, and the percentages of crude fiber, moisture, and ash (determined in the same manner as CP and CF); or

(2) In accordance with testing procedures determined by AAFCO (indicated as “(fed)” in the Pet Nutrition Facts).

(b) An affidavit shall be provided upon the request of [regulatory authority], substantiating that the Calorie content was determined by:

(1) Regulation 35:30-27-59(a)(1) in which case the summary data used in the calculation shall be included in the affidavit; or

(2) Regulation 35:30-27-59(a)(2) in which case the summary data used in the determination of Calorie content shall accompany the affidavit.

(c) The Calories from protein, fat, and carbohydrate as required in the Pet Nutrition Facts are determined using the following calculation, then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

(1) Protein:  $ME (kcal/kg) = 10(3.5 \times CP)$ , where ME = metabolizable energy, CP = % crude protein “as fed” and the percentage of CP is the average value in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

(2) Fat:  $ME (kcal/kg) = 10(8.5 \times CF)$ , where ME = metabolizable energy, CF = % crude fat “as fed” and the percentage of CF is the average value in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

(3) Carbohydrate:  $ME (kcal/kg) = 10(3.5 \times NFE)$ , where ME = metabolizable energy, NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash; CP = % crude protein “as fed,” CF = % crude fat “as fed” and the percentages are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

(d) Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.

## **35:30-27-60. Descriptive terms [AMENDED]**

### **(a) Calorie terms.**

#### **(1) "Light"**

(A) A dog food product which bears on its label the terms "light", "lite", "low calorie", or words of similar designation shall:

(i) Contain no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and

~~(ii) Include on the label a calorie content statement:~~

~~(i) In accordance with the format provided in 35:30-27-59; and~~

~~(ii) Which states no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and~~

~~(iii)~~(ii) Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use.

(B) A cat food product which bears on its label the terms "light", "lite", "low calorie", or words of similar designation shall:

(i) Contain no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and

~~(ii) Include on the label a calorie content statement:~~

~~(i) In accordance with the format provided in 35:30-27-59; and~~

~~(ii) Which states no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and~~

~~(HH) Include on the label feeding directions which reflect a reduction in caloric intake consistent with the intended use.~~

(ii) Include on the label feeding directions which reflect a reduction in Calorie intake consistent with the intended use.

(2) "Less" or "Reduced Calories"

(A) A dog or cat food product which bears on its label a claim of "less calories", "reduce calories", or words of similar designation, shall include on the label:

(i) The name of the product of comparison and the percentage of calorie reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label where the term appears; and

(ii) The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

~~(iii) A caloric content statement in accordance with the format provided in 35:30-27-59; and~~

~~(iv)~~ (iii) Feeding directions which reflect a reduction in calories compared to feeding directions for the product of comparison.

(B) A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

(b) **Fat terms.**

(1) "Lean"

(A) A dog food product which bears on its label the terms "lean", "low fat", or words of similar designation shall:

(i) Contain no more than 9% ~~crude~~ fat for products containing less than 20% moisture, no more than 7% ~~crude~~ fat for products containing 20% or more but less than 65% moisture, and no more than 4% ~~crude~~ fat for products containing 65% or more moisture; and

(ii) Include on the product label in the ~~Guaranteed Analysis~~ nutrient guarantees:

~~(I) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in 35:30-27-54~~ A maximum fat guarantee immediately following the minimum fat guarantee in addition to the mandatory information as specified in Regulation 35:30-27-55(a)(3); and

~~(II) A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture~~ A maximum fat guarantee which is no more than 9% fat for products containing less than 20% moisture, no more than 7% fat for products containing 20% or more but less than 65% moisture, and no more than 4% fat for products containing 65% or more moisture.

(B) A cat food product which bears on its label the terms "lean", "low fat", or words of similar designation shall:

(i) Contain a maximum percentage of ~~crude~~ fat which is no more than 10% ~~crude~~ fat for products containing less than 20% moisture, no more than 8% ~~crude~~ fat for products containing 20% or more but less than 65% moisture, and no more than 5% ~~crude~~ fat for products containing 65% or more moisture; and

(ii) Include on the product label in the ~~Guaranteed Analysis~~ nutrient guarantees:

~~(I) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in 35:30-27-54~~ A maximum fat guarantee immediately following the minimum fat guarantee in addition to the mandatory information as specified in Regulation 35:30-27-55(a)(3); and

~~(II) A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture~~ A maximum fat guarantee which is no more than 10% fat for products containing less than 20% moisture, no more than 8% fat for products containing 20% or more but less than 65% moisture, and no more than 5% fat for products containing 65% or more moisture.

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(2) "Less" or "Reduced Fat"

(A) A dog or cat food product which bears on its label a claim of "less fat", "reduced fat", or words of similar designation, shall include on the label:

- (i) The name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label where the term appears; and
- (ii) The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and
- (iii) A maximum ~~crude~~ fat guarantee in the ~~Guaranteed Analysis~~ immediately following the minimum ~~crude~~ fat guarantee in addition to the mandatory guaranteed analysis information as specified in ~~35:30-27-54~~ Regulation 35:30-27-55(a)(3).

(B) A comparison on the label between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

**(c) Carbohydrate Terms**

(1) "Low" Carbohydrate, Dietary Starch, and Sugars Claims. A claim of "low carbohydrates," "low dietary starch," "low sugars" (or a combination thereof) is not allowed.

(2) "Less" or "Reduced" Carbohydrates, Dietary Starch, and Sugars claims.

(A) A dog or cat food product that bears on its label a claim of "less " or "reduced " (blank is to be completed by using "carbohydrates," "dietary starch," or "sugars"), or words of similar designation, shall include on the label:

- (i) The name of the product of comparison and the percentage of reduction in total dietary starch plus sugars (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and
- (ii) The comparative statement printed in type of the same color and style and not less than one-half the size used in the claim; and
- (iii) Maximum guarantees for dietary starch and sugars as stated in Model Regulation 35:30-27-55(a)(3).

(B) A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

**35:30-27-61. Manufacturer or distributor; name and address [AMENDED]**

(a) The label of a pet food or specialty pet food shall specify the business or corporate name and address of the manufacturer or distributor. This information shall appear under the header "Manufactured for \_\_\_\_\_," "Distributed by \_\_\_\_\_," or any other wording that expresses the facts, if the business whose name appears on the label is not the manufacturer. The statement of the place of business shall include the street address, city, state and zip code; however, the street address may be omitted if the street address is shown in a current city directory or telephone directory for the city listed on the label readily accessible, widely published, and publicly available resource, including but not limited to a printed directory, electronic database, or website.

(b) When a person manufactures, packs, or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of the pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.

**35:30-27-62. Handling and Storage Instructions [NEW]**

(a) A product which bears handling and storage instructions shall display such instructions under the bolded header "Handling and Storage Instructions:" that is separate and distinct from any feeding directions. A header is not required for small packages with a total printable area less than 40 square inches. If any graphics are used to support handling and storage instructions, the graphics (and only the graphics) on the AAFCO website may be included, with the handling and storage instructions section, as applicable. The graphics with accompanying text shall be obtained from the AAFCO website.

(b) The handling and storage instructions, if present, shall be displayed in a conspicuous manner so to render them likely to be read under typical conditions of use. Any use of the handling and storage instructions graphics shall be no smaller than:

- (1) A panel size of  $\leq 40$  in.<sup>2</sup> has a maximum "with" claim type size of 1/2 inch.
- (2) A panel size of  $>40 - \leq 100$  in.<sup>2</sup> has a maximum "with" claim type size of 1 inch.

(3) A panel size of  $>100 - \leq 400$  in.<sup>2</sup> has a maximum "with" claim type size of 1 3/4 inch.

(4) A panel size of  $>400$  in.<sup>2</sup> has a maximum "with" claim type size of 2 inch.

## SUBCHAPTER 30. SOIL AMENDMENT

### 35:30-30-1. Definitions [AMENDED]

The following words or terms shall have the meaning set forth herein when used in these rules and regulations:

~~(1)~~ **"Aged"** means exposed to weathering or natural decay.

**"Beneficial substances"** means any substance or compound, other than primary, secondary, and micro plant nutrients, and excluding pesticides, that can be demonstrated by scientific research to be beneficial to one or more species of plants, soil or media, and shall be considered a soil amendment for the purposes of this chapter.

~~(2)~~ **"Biosolid"** means a primary organic solid material produced by wastewater treatment processes that can be beneficially recycled for its plant nutrient content and soil amending characteristics, as regulated pursuant to 40 CFR 503, as amended.

~~(3)~~ **"Brand"** or **"product name"** means a specific designation applied to an individual soil amendment.

~~(4)~~ **"Compost"** means ~~a~~ biologically stable material derived from the composting process.

~~(5)~~ **"Composting"** means the biological decomposition of organic matter accomplished by mixing and piling in such a way to promote aerobic or anaerobic decay and inhibits pathogens, viable weed seeds and odors.

~~(6)~~ **"Custom media"** means a horticultural growing medium that is prepared to exact specifications of the person utilizing the medium.

~~(7)~~ **"Forest products"** means untreated wood and its untreated byproducts generated from the harvest of timber and includes but is not limited to lumber, sawdust, bark, and similar materials, but in no case shall include reprocessed wood from fabricated consumer or industrial products.

~~(8)~~ **"Horticultural growing media"** means any substance or mixture of substances promoted as or is intended to function as a growing medium for the managed growth of horticultural crops in containers and shall be considered a soil amendment for the purposes of this chapter.

~~(9)~~ **"Inorganic based"** ~~refers~~means to all substances that do not fall under the definition of organic based or microbial based.

~~(10)~~ **"Landscape materials"** means green waste derived from landscape operations and includes but is not limited to grass clippings, plants, shrubs, and tree trimmings not more than six inches (6") in diameter.

~~(11)~~ **"Microbial based"** means a biological substance or mixture of substances distributed to be applied to the soil, plants, or seeds for corrective soil purposes; intended to improve germination, growth yield, product quality, reproduction, flavor, or other desirable characteristics of plants; or intended to produce any chemical, biochemical, biological, or physical change in the soil.

~~(12)~~ **"Mulch"** means any organic or inorganic soil surface cover used to help retain moisture longer in the soil by retarding evaporation, to discourage weed growth, to help maintain a constant temperature by insulating the soil, to discourage runoff and soil erosion by shielding the soil surface from water abrasion or to promote water absorption and retention.

~~(13)~~ **"Organic based"** means only naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives.

**"Plant Biostimulant"** means a substance(s), microorganism(s), or mixtures thereof, that, when applied to seeds, plants, the rhizosphere, soil or other growth media, act to support a plant's natural nutrition processes independently of the biostimulant's nutrient content. The plant biostimulant thereby improves nutrient availability, uptake, or use efficiency, tolerance to abiotic stress, and consequent growth, development, quality or yield, and shall be considered a soil amendment for the purposes of this chapter.

~~(14)~~ **"Processed"** means deliberately treated or manipulated to modify or transform physical, chemical, or biological characteristics of the natural state of the substance.

~~(15)~~ **"Raw"** means in the natural state, and not prepared, modified or manipulated for use.

~~(16)~~ **"Registration document"** means the information required by the Board for registering a soil amendment for distribution into or within Oklahoma. The Registration Document may be made available by the registrant to the purchaser upon request, but shall not be part of the product label or labeling.

~~(17)~~ **"Wood"** means a hard, fibrous material located beneath the bark, which constitutes the greatest part of the stems of trees and shrubs.

### 35:30-30-3. Contents of the label [AMENDED]

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(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)~~ A statement identifying the purpose of the product.

~~(3)~~(4) The guaranteed analysis for inorganic based soil amendments shall include the name and the percentage of each active ingredient.

~~(4)~~(5) 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)~~(6) 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)~~(7) 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)~~(8) An address where further product information may be obtained, and a telephone number available during normal business hours for further product information.

~~(8)~~(9) 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)~~(10) The Board may require a registrant to include a warning or caution statement to ensure safety.

*[OAR Docket #25-416; filed 5-30-25]*

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## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 37. FOOD SAFETY

*[OAR Docket #25-417]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 11. Exotic Livestock and Exotic Livestock Products

Part 3. APPLICATION OF INSPECTION LAWS AND OTHER REQUIREMENTS

35:37-11-7.1. Special License for "Hunters Against Hunger" Program [NEW]

### **AUTHORITY:**

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2), (28) and (34); and 76 O.S. § 5.6(B).



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## SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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N/A

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N/A

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## INCORPORATED STANDARDS:

N/A

## INCORPORATING RULES:

N/A

## AVAILABILITY:

N/A

## GIST/ANALYSIS:

The rule amendments create a license for the Hunters Against Hunger Program.

## CONTACT PERSON:

Kiersten Wormus, (405) 522-5803, e-mail address: at Kiersten.wormus@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 JULY 11, 2025:**

## SUBCHAPTER 11. EXOTIC LIVESTOCK AND EXOTIC LIVESTOCK PRODUCTS

### PART 3. APPLICATION OF INSPECTION LAWS AND OTHER REQUIREMENTS

#### **35:37-11-7.1. Special License for "Hunters Against Hunger" Program [NEW]**

This license shall be for meat processors already licensed and/or inspected by the Oklahoma Department of Agriculture, Food, and Forestry for processing meat besides wild game. Facilities that receive the special licenses can participate in Oklahoma Department of Wildlife Conservation's "Hunters Against Hunger" program and donate the processed wild game meat for payment by the Oklahoma Department of Wildlife Conservation according to its rules.

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*[OAR Docket #25-417; filed 5-30-25]*

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## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 37. FOOD SAFETY

*[OAR Docket #25-418]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 17. Produce Safety

35:37-17-2. Definitions [AMENDED]

### **AUTHORITY:**

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2), (28) and (34).

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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### **INCORPORATED STANDARDS:**

N/A

### **INCORPORATING RULES:**

N/A

### **AVAILABILITY:**

N/A

### **GIST/ANALYSIS:**

The rule removes the word food from the definition of adulterated.

### **CONTACT PERSON:**

Kiersten Wormus, (405) 522-5803, e-mail address: at Kiersten.wormus@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 JULY 11, 2025:

## 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.

(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.

(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.

*[OAR Docket #25-418; filed 5-30-25]*

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## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 40. MARKET DEVELOPMENT

*[OAR Docket #25-419]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 18. Local Food for Schools [NEW]

35:40-18-1. Purpose [NEW]

35:40-18-2. Definitions [NEW]

35:40-18-3. Eligibility [NEW]

35:40-18-4. Application Process [NEW]

35:40-18-5. Criteria for Allowed Purchases [NEW]

35:40-18-6. Use of Food Purchased Through the Program [NEW]

35:40-18-7. Supplemental Program Information [NEW]

35:40-18-8. Reimbursements [NEW]

### AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(11) & (A)(12).

### SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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January 29, 2025

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## INCORPORATIONS BY REFERENCE:

## INCORPORATED STANDARDS:

N/A

## INCORPORATING RULES:

N/A

## AVAILABILITY:

N/A

## GIST/ANALYSIS:

The rule amendments create a subchapter for the Local Food for Schools program. The new rules lay out the requirements, eligibility, and reimbursement procedures for the new program.

## CONTACT PERSON:

Kiersten Wormus, (405) 522-5803, e-mail address: at Kiersten.wormus@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 JULY 11, 2025:**

### **SUBCHAPTER 18. LOCAL FOOD FOR SCHOOLS [NEW]**

#### **35:40-18-1. Purpose [NEW]**

The purpose of the Oklahoma Local Food for Schools Program is to maintain and improve food and agricultural supply chain resiliency.

#### **35:40-18-2. Definitions [NEW]**

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

“Applicant” means a person who is requesting grants from the Oklahoma Local Food for Schools Program Fund.

“Application” means a form provided by the Department, that is used to request funds in the form of a grant.

“Contract” means a signed agreement between the Oklahoma Department of Agriculture, Food and Forestry and the grantee outlining the terms and conditions of the grant, including all other guidelines.

“Grant” means a sum of money given by the Oklahoma Department of Agriculture, Food and Forestry for a particular purpose.

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“Grantee” means the legal entity to which a grant is awarded and that is accountable to the Oklahoma Department of Agriculture, Food and Forestry for the use of the funds provided.

“Market value” means the price that a property would sell for in a competitive market under fair conditions.

“Minimally processed” means food that has been processed in a way that doesn't significantly change its fundamental properties.

## **35:40-18-3. Eligibility [NEW]**

In order to be eligible for funding through the Local Food for Schools Program, the applicant shall be a public-school district accredited by the Oklahoma State Department of Education.

## **35:40-18-4. Application Process [NEW]**

(a) Applications shall be electronically submitted to the Department on a form designated by the Department.

(b) Applicants may only apply for funding once a month and only if all previously allocated funding was used.

(c) Applicant may request a minimum of five thousand dollars (\$5,000.00) per month with a maximum request of twenty-five thousand dollars (\$25,000.00) per month. Requests shall be submitted in five-thousand-dollar (\$5,000.00) increments.

## **35:40-18-5. Criteria for Allowed Purchases [NEW]**

(a) Food shall be minimally processed items including but not limited to ground beef, bacon, fresh fruits and vegetables, dairy products, nuts, and honey.

(b) Food shall be grown/raised and harvested/processed within the State of Oklahoma.

(c) Live animals may be purchased for market value, on the day of purchase, for processing by a licensed processor. Funding through the Local Food for Schools Program may be used to cover processing fees if the processor is licensed by the Department or Federal government. To purchase a live animal an applicant shall submit three bids for processors, submit a written statement on why the applicant selected a specific processor, and obtain prior approval from the Department to purchase the live animal.

(d) Processed items including but not limited to chicken nuggets, jelly, bread, are not allowed.

(e) High end items including but not limited to ribeye are discouraged.

(f) Schools shall disclose any conflicts of interest to the Department, if the school or the person running the program for the school has a personal interest in the items purchased from a vendor. Conflicts of interest will be reviewed by the Department for approval.

## **35:40-18-6. Use of Food Purchased Through the Program [NEW]**

(a) Food purchased through this program shall be served to students.

(b) Food served through this program shall take place in the cafeteria when school is in session during the calendar year, including summer feeding programs.

(c) Food purchased through this program cannot be served in a concession stand, sporting events, teacher/board appreciation events, or other similar events.

## **35:40-18-7. Supplemental Program Information [NEW]**

(a) Following approval of the application, a contract shall be executed between the Department and the grantee. The Department shall not disburse grant funding to the grantee until the contract is executed and a purchase order is in place with the Department.

(b) The grantee shall not expend funds for items until after receiving preapproval for items.

(c) Approved applicants can only purchase items from the Department's approved vendor list. Vendors can be added to the list by submitting a request to the Department for approval. Upon approval by the Department a vendor will be added to the vendor list.

## **35:40-18-8. Reimbursements [NEW]**

Recipients that received funding through the Oklahoma Local Food for Schools Program, shall provide the following information in order to receive payment:

(1) Invoices and proof of payment by applicant shall be submitted to the Department by the end of the contract period.

(2) Reimbursement for items purchased will be sent to the school address listed in the contract.

(3) Purchase orders shall include three written bids with a justification for choice if lowest price isn't chosen. The written bids are to be submitted with the invoice and purchase order.

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(4) Invoices and payments are subject to the Department's approval. The Department holds the right of refusal if invoice does not match the preapproved items.

(5) The maximum amount of funding an Applicant can receive in a fiscal year is one hundred thousand dollars (\$100,000.00).

*[OAR Docket #25-419; filed 5-30-25]*

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## TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 50. IGNITION INTERLOCK

*[OAR Docket #25-463]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. Ignition Interlock Devices, Service Centers, Technicians

40:50-1-2. Device certification process [AMENDED]

Subchapter 3. Impaired Driving Accountability Program (BOT IDAP)

40:50-3-2. Application - eligibility - enrollment [AMENDED]

40:50-3-3. Program length - program participation criteria - calculation of active days [AMENDED]

40:50-3-4. Medical exemptions - employer exceptions - affordability accommodations [AMENDED]

40:50-3-5. Program completion, violations, and failure criteria for participants enrolled on or after November 1, 2022

[AMENDED]

### **AUTHORITY:**

47 O.S. 759; 47 O.S. 6-212.5; Board of Tests for Alcohol and Drug Influence

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

August 6, 2024

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### **ADOPTION:**

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November 14, 2024

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### **APPROVED BY GOVERNORS DECLARATION:**

N/A

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May 28, 2025

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### **SUPERSEDED RULES:**

Subchapter 1. Ignition Interlock Devices, Service Centers, Technicians

40:50-1-2. Device certification process [AMENDED]

Subchapter 3. Impaired Driving Accountability Program (BOT IDAP)

40:50-3-2. Application - eligibility - enrollment [AMENDED]

40:50-3-3. Program length - program participation criteria - calculation of active days [AMENDED]

40:50-3-4. Medical exemptions - employer exceptions - affordability accommodations [AMENDED]

40:50-3-5. Program completion, violations, and failure criteria for participants enrolled on or after November 1, 2022

[AMENDED]

**GUBERNATORIAL APPROVAL:**

October 4, 2024

**REGISTER PUBLICATION:**

42 Ok Reg 225

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24-1079

**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

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**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The permanent rule amendments clarify requirements for interlock device certification, IDAP application and enrollment, IDAP program lengths, reportable violations for interlock devices, medical exemptions, and IDAP program violations.

**CONTACT PERSON:**

Joshua Smith 405-425-2460 [joshua.smith@bot.ok.gov](mailto: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 JULY 11, 2025:**

## **SUBCHAPTER 1. IGNITION INTERLOCK DEVICES, SERVICE CENTERS, TECHNICIANS**

### **40:50-1-2. Device certification process [AMENDED]**

- (a) No device may be used in the state of Oklahoma unless it has been approved by the Board in accordance with the requirements stated herein.
- (b) A list of approved device models shall be maintained by the Board and available for public review at the administrative office of the Board during regular business hours or by accessing the Board website at [www.ok.gov/bot](http://www.ok.gov/bot).
- (c) A manufacturer representative seeking certification of a device shall:
  - (1) Complete an application for certification of an ignition interlock device and remit the appropriate fee in accordance with procedures established by the Board.
  - (2) Provide proof, as deemed appropriate by the Board, the device for which certification is being sought in Oklahoma meets or exceeds the current National Highway Traffic Safety Administration (NHTSA) specifications (78 FR 26849).
  - (3) Provide a current manufacturer's ISO 9001:2015 certification issued by an accredited registrar within the scope requirements provided by the Board.
  - (4) Provide a certificate of insurance, issued by an insurance company authorized to transact business in Oklahoma, specifying:
    - (A) A product liability policy with a current effective date;
    - (B) The name and model number of the device model covered by the policy;
    - (C) Policy coverage of at least one million dollars (\$1,000,000) per occurrence and three million (\$3,000,000) in the aggregate;
    - (D) The manufacturer as the insured and the state of Oklahoma as an additional insured;
    - (E) Product liability coverage for defects in manufacture, materials, design, calibration, installation, and operation of the device; and
    - (F) The manufacturer will notify the Board immediately upon notice of cancellation of the product liability policy.
  - (5) Provide a schedule of all fees that may be charged to a participant. A participant shall not be imposed or required to pay any unscheduled fee(s). Such submission of schedule of fees shall be on an approved form provided by the Board. Any modification to the schedule of fees shall be submitted to the Board at least thirty (30) days prior to implementation.
  - (6) Devices shall use fuel cell technology for breath alcohol testing and a camera in accordance with the requirements in this Chapter.

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- (7) Agree to ensure any service performed on a device installed pursuant to an Oklahoma Installation Authority shall be in compliance with all requirements in this title.
  - (8) Agree to ensure proper record keeping and provide testimony relating to any aspect of the installation, service, repair, use, removal, interpretation of any report or information recorded in the data storage system of a device or performance of any other duties required by this title at no cost on behalf of the State of Oklahoma or any political subdivision.
  - (9) Shall authorize the Board of Tests to release records viewable by the agency to law enforcement representatives for investigative purposes, such record releases shall be reported on Board letterhead.
  - (10) Advise the Board whether the device for which certification is being sought in Oklahoma is the subject of any action to disallow, or has ever been, in any way, disallowed for use in another state whether such action occurred before or after approval in Oklahoma and if or when such action is or has been appealed in the other state and the outcome of the appeal.
  - (11) Upon request of the Board, for each device submitted for certification or certified under this section, agree to install the device with all proposed anti circumvention features activated in a vehicle provided by the Board. Any service performed pursuant to this section, including but not limited to, installation, maintenance, calibration or removal shall be completed at no cost to the Board.
  - (12) Agree to only distribute Board approved solicitations related to the rules in this Chapter. Such requests for approval shall be submitted with a form provided and approved by the Board prior to distribution.
  - (13) Agree to strictly comply with the affordability provisions of these rules.
  - (14) Provide a current copy of the lease agreement or contract for Oklahoma required interlock participants. Amendments to the submitted lease agreement or contract after device certification or recertification shall be submitted to the Board for review prior to implementation.
- (d) The Board may conduct compliance testing on the device submitted for certification, at any time.
  - (e) Certification shall be for only one device model.
  - (f) Approved devices shall be recognizable, as such, upon visual inspection.

## SUBCHAPTER 3. IMPAIRED DRIVING ACCOUNTABILITY PROGRAM (BOT IDAP)

### 40:50-3-2. Application - eligibility - enrollment [AMENDED]

- (a) A person seeking enrollment into BOT IDAP shall apply on a form approved by the Director and at such time of application shall simultaneously also submit a copy of the Service Oklahoma Order of Revocation at the time of application or a copy of the Oklahoma Impaired Driving Affidavit pertaining to the person's arrest. Applicants whose driving privileges are otherwise ineligible shall not be enrolled in BOT IDAP and shall be directed to consult his/her driver licensing authority for assistance. Enrollment into BOT IDAP does not grant driving privileges and shall not be construed to authorize the person to drive unless the person is otherwise eligible to drive. Any person subject to driver license revocation for an impaired driving arrest occurring on or after November 1, 2022 may enroll pursuant to this section, if eligible. BOT IDAP is available ~~to for~~ Class D ~~licenses~~ driving privileges only.
- (b) Fully enrolling in BOT IDAP consists of:
  - (1) Payment of the program fee to the Board; and
  - (2) Presentation or reporting\* (using the online enrollment portal) of an Ignition Interlock Installation Verification Form reflecting an Oklahoma approved device with camera is currently installed on the vehicle the participant will operate; and
  - (3) Presentation of the signed "BOT IDAP Participant's Agreement"; or acknowledgment and agreement using the online enrollment portal. and
  - (4) ~~The Participant shall be responsible for reporting the required program length to the Board.~~
- (c) The commencement date of the participant's program shall be the day all of the following conditions are satisfied:
  - (1) The Board receives all documents and fees meeting BOT IDAP enrollment criteria; and
  - (2) No earlier than the ~~effective revocation date pursuant to the Notice and Order of Revocation/Disqualification issued by the state driver licensing authority~~ date of interlock installation and arrest date for the offense requiring completion of BOT IDAP. Prior interlock program days shall not be credited toward a subsequent program period.
- (d) Multiple program periods shall run consecutively.
- (e) Participants may enroll in more than one (1) BOT IDAP. A participant must complete the program in which they are currently enrolled before commencing any subsequent program period. In no instance will a participant's credit for time in one (1) BOT IDAP be credited toward any other BOT IDAP.



(f) The BOT IDAP participant agreement shall be signed or acknowledged using the online enrollment portal by the participant and shall include the following information:

- (1) The participant's first and last name; and
- (2) Participant's driver license number; and
- (3) Participant's program length requirement ~~as reflected on the Service Oklahoma Order of Revocation/Disqualification~~; and
- (4) The list of Ignition Interlock violations and criteria for program completion or failure as defined by the Board; and
- (5) An explanation of the consequences of violations of the Ignition Interlock program; and
- (6) The date upon which the BOT IDAP Participant Agreement was signed; and
- (7) Participant's signature or online enrollment portal acknowledgment.

(g) A confirmation of enrollment form approved by the Director shall be delivered to the participant via his/her preferred contact method upon fully enrolling. It is the participant's responsibility to provide his/her preferred contact method.

### **40:50-3-3. Program length - program participation criteria - calculation of active days [AMENDED]**

(a) **BOT IDAP program lengths.** Program lengths shall be no less than the revocation durations set forth in 47 O.S. §6-205.1 or the required revocation period as reflected on the Notice and Order of Revocation/Disqualification issued by the state driver licensing authority or Final Order of the court. The program length shall also be subject to the statutory completion requirements pursuant to 47 O.S. §6-212.5. The program length shall also be subject to OAC 40:50-3-5 completion requirements. BOT IDAP lengths pursuant to 47 O.S. §§6-205.1; 6-212.5 shall be:

- (1) No less than One Hundred Eighty (180) active interlock days for a first license revocation as shown by the records of the state driver licensing authority.
- (2) No less than Three Hundred Sixty Five (365) active interlock days for a second license revocation occurring within ten (10) years preceding the date of arrest as shown by the records the state driver licensing authority.
- (3) No less than Seven Hundred Thirty (730) active interlock days for a third or subsequent license revocation occurring within ten (10) years preceding the date of arrest as shown by the records of the state driver licensing authority.

(b) **Program participation criteria.** BOT IDAP participants shall not receive credit toward his/her program length for any thirty (30) calendar day cycle the participant fails to meet the program participation criteria as defined in this subchapter. A compliance download service as defined in 40:50-3-1.1 may be needed to fulfill these criteria.

(c) **Calculation of active ignition interlock days.** All BOT IDAP participants shall meet a cumulative number of active ignition interlock days exceeding or equal to the program length required. A compliance download service as defined in 40:50-3-1.1 may be needed to establish satisfaction of these criteria.

(d) The Director shall prescribe internal program review policies and procedures for all authorized Board personnel reviewing completion criteria.

### **40:50-3-4. Medical exemptions - employer exceptions - affordability accommodations [AMENDED]**

(a) **Medical exemptions.**

(1) ~~only persons qualifying pursuant to 47 O.S. § 6-205 may seek a medical exemption and does not grant the individual driving privileges.~~ Such individuals seeking medical exemption shall:

- (A) submit a pulmonologist's certification indicating the person has a documented medical condition preventing the person from providing a breath sample of at least one and two-tenths (1.2) liters; and
- (B) enroll in BOT IDAP with the exception of an Installation Verification Form; and Board staff shall respond to a request on a form approved by the Director granting or denying the medical exemption. The individual granted a medical exemption is responsible for delivering the document to the state driver licensing authority.
- ~~(C) not operate, drive, or be in actual physical control of a motor vehicle; and~~
- ~~(D) complete the required program length.~~

(2) Participants denied medical exemption may appeal the denial in accordance with 40:50-3-6.

(b) **Employer vehicle exceptions.**

(1) only persons subject to a first license revocation pursuant to 47 O.S. § 6-205 are eligible for employer exceptions.

(A) BOT IDAP participants must have a device installed upon any vehicle they may operate that is owned or leased, as reflected on the vehicle registration, by an employer of the person for use by the person, except when the employer requests the ignition interlock device not be installed. Rental vehicles do not qualify for employer exception.

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(B) Such request shall be in writing and notarized on the official letterhead of the employer with a copy of the vehicle registration and submitted by the employer to the Board; provided, a request shall not be accepted by the Board under the following circumstances:

- (i) When the person is self-employed or owns part or all of the company or corporation, or exercises control over some part of the business which owns or leases the vehicle; or
- (ii) When the person is employed by a relative who is within the first degree of consanguinity or who resides in the same household.

(2) Participants granted an employer exception are not relieved of the requirement to install an ignition interlock device on a vehicle as reflected on an Installation Verification Form. Such authorization for exception shall only apply to BOT IDAP participants operating employer vehicles under the course and scope of employment. IDAP participants shall keep the approved exception on his or her person while operating the employer vehicle. It is the Participant's responsibility to obtain an additional restriction from the state driver licensing authority.

(3) Participants denied an employer exception may appeal the denial in accordance with 40:50-3-6.

## (c) Affordability accommodations.

(1) Participants applying for affordability status for the purpose of the ignition interlock program shall be deemed to qualify for such status by showing valid proof that the person applying for accommodations is actively receiving benefits from one of the following state or federal public assistance programs listed below:

(A) Temporary Assistance for Needy Families (TANF)

(B) Supplemental Nutritional Assistance Program (SNAP)

(2) Participants meeting affordability requirements shall receive the following credit that shall be distributed into the participants account by the manufacturer not to exceed a frequency of \$25.00 per thirty (30) days.

(A) \$150.00 maximum credit for a first license revocation pursuant to 47 O.S. § 6-205.1(A)(1); or

(B) \$300.00 maximum credit for a second license revocation pursuant to 47 O.S. § 6-205.1(A)(2); or

(C) \$450.00 maximum credit for a third or subsequent license revocation pursuant to 47 O.S. § 6-205.1(A)(3).

(3) A participant that does not remain compliant with respect to the BOT IDAP program or device lease fees forgoes his/her affordability eligibility. The manufacturer may inquire with the Board whether the person still meets the affordability accommodations and qualifies for the credit.

(4) The participant shall provide the required documentation to the Board. Upon approval, the Board shall notify the manufacturer by providing notice to the designated manufacturer representative. No manufacturer is required to provide affordability accommodations to more than 10% of its active participants in the State of Oklahoma.

(5) The Board shall provide information on the agency website informing interlock customers about the affordability program and how a participant can qualify.

(6) Manufacturers shall not count coupons, rebates, refunds, discounts, or other financial inducements otherwise available to any customer as the credit required by these rules.

(7) Participants denied affordability accommodations may appeal the denial in accordance with 40:50-3-6.

## 40:50-3-5. Program completion, violations, and failure criteria for participants enrolled on or after November 1, 2022 [AMENDED]

(a) A BOT IDAP Certificate of Completion shall be issued to participants meeting the following criteria:

(1) The participant has met the active ignition interlock day requirements pursuant to O.A.C. 40:50-3-3; and

(2) The participant has met the participation requirements pursuant to O.A.C. 40:50-3.3; and

(3) The last ninety (90) active ignition interlock days must be free of program and reportable violations found in 40:50-1-3.2 pursuant to 47 O.S. §6-212.5 A(4) for license revocations pursuant to 47 O.S. § 6-205.1. For purposes of retest violations:-

(A) three (3) or more alcohol related retest violations occurring during the last ninety (90) active ignition interlock days shall constitute a reportable violation; or

(B) six (6) or more non-alcohol related retest violations occurring during the last ninety (90) active ignition interlock days shall constitute a reportable violation.

(b) Upon reaching the tentative completion date provided to the participant in the confirmation of enrollment form, a participant is eligible to submit a request for an IDAP Certificate of Completion. A denial of IDAP Certificate of Completion notice shall be issued to participants whose requests do not meet criteria as defined in 40:50-3-5. Such notice shall contain the finding that caused the denial and a notice of right to appeal and shall be delivered to the participant via his/her preferred contact method. It is the participant's responsibility to provide his/her preferred contact method.

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(c) Miscellaneous Program violations: An additional arrest for DUI/APC prior to completion of the Participant's BOT IDAP, at the date of discovery by the Board, shall be treated as a violation and shall have the same weight as reportable violations found in 40:50-1-3.2 when evaluating the requirements for an IDAP Certificate of Completion.

(d) Program failure: Participants that are deemed to have failed the program or voluntarily discontinue participation in the program shall receive no credit for time served beginning from enrollment. Interlock days served prior to the program failure date are invalid for credit towards re-enrollment. Participants that fail the program or choose to discontinue participating in the program are authorized to re-enroll in BOT IDAP. The following actions will result in program failure:

(1) removal of the device from the Program Vehicle and failure to reinstall a device in a substitute Program Vehicle within sixty (60) days; or

(2) ~~medical exemption participants reported or found to be operating a motor vehicle during his/her required program length~~ participants reported to be operating a vehicle not equipped with an ignition interlock device by law enforcement citation after the Board has issued documented warning to the participant that they are unauthorized to do so. Failure to have received the documented warning shall not be a valid argument of defense for administrative appeals pursuant to 40:50-3-6.

*[OAR Docket #25-463; filed 6-3-25]*

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## TITLE 75. ATTORNEY GENERAL CHAPTER 1. ADMINISTRATION

*[OAR Docket #25-383]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. General Information

75:1-1-1.1. Definitions [AMENDED]

75:1-1-4. Organization [AMENDED]

75:1-1-5. Objectives [AMENDED]

75:1-1-6. Public records [AMENDED]

75:1-1-7. Requests for agency public information [REVOKED]

75:1-1-9. Procedures to secure a declaratory ruling as to the applicability of any rule or order of the Office of the Attorney General [AMENDED]

75:1-1-10. Procedures to petition the Office of the Attorney General to promulgate, amend or repeal a rule [AMENDED]

Subchapter 3. Contracts for Domestic Violence and Sexual Assault Services

Part 1. ELIGIBILITY TO CONTRACT

75:1-3-1. Purpose [AMENDED]

75:1-3-2. Applicability [AMENDED]

Part 3. CONTRACTS AND CONTRACTING PROCESSES

75:1-3-14. Purpose [AMENDED]

75:1-3-15. Applicability [AMENDED]

75:1-3-19. Contract renewal [AMENDED]

75:1-3-20. Contractor reimbursement rates [AMENDED]

Subchapter 7. Certification and Designation of Domestic Violence Programs, Sexual Assault Programs, Including Programs Serving Adult Victims of Sex Trafficking, and Batterers Intervention Programs

75:1-7-5. Procedures for application for certification [AMENDED]

75:1-7-6. Procedures for completion of certification process [AMENDED]

75:1-7-8. Site reviews [AMENDED]

### **AUTHORITY:**

Attorney General; 74 O.S.2021, § 18p-6, 74 O.S.Supp.2022, § 18r, & 75 O.S.2021, § 302(A)

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 22, 2024

### **COMMENT PERIOD:**

December 16, 2024 through January 17, 2025

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N/A

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The Oklahoma Office of the Attorney General (“OAG”) proposes these amendments to clarify general information related to the duties set forth for the Victim Advocacy and Services Unit (“VASU”). Minor changes provide consistency of language and terms and identify appropriate contact personnel within the OAG. Additionally, the amendments set forth processes for submission of requests for and inspection of records, as well as outlining records that may be privileged, confidential, or otherwise not subject to public release or inspection in accordance with the Open Records Act. Proposed amendments also add specificity to procedures to secure a declaratory ruling as to the applicability of any rule or order of OAG, as well as that to petition for the promulgation, amendment, or repeal of a rule. The rule amendments also clarify reimbursement to contractors providing services related to domestic violence, sexual assault, or adult human sex trafficking services.

**CONTACT PERSON:**

Thomas Schneider, Deputy General Counsel, [thomas.schneider@oag.ok.gov](mailto:thomas.schneider@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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL INFORMATION

### 75:1-1-1.1. Definitions [AMENDED]

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

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**"Certification"** means a status which is granted to a program by the Oklahoma Attorney General, and indicates approval to provide a particular service. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

**"Certification report"** means a written notice of the deficiencies developed by the Office of the Attorney General.

**"Certified facility"** means any facility which has received a certification status by the Oklahoma Attorney General.

**"Conditional Certification"** means a status which is granted to a program by the Oklahoma Attorney General, and indicates approval to provide a particular service or services for a specified period of time, typically four (4) months in order to give a renewal applicant an opportunity to achieve 100% compliance with applicable rules.

**"Contractor"** or **"contractors"** means any program under contract with the Office of the Attorney General for the provision of goods, products or services.

**"Entities"** or **"entity"** means sole proprietorships, partnerships, corporations, limited partnerships, limited liability partnerships, and limited liability companies.

**"Facilities"** or **"facility"** means entities as described in 74 O.S. § 18p-6 and Chapters 15, 25 and 30 in Title 75 of the Oklahoma Administrative Code, domestic violence shelters and programs, sexual assault programs, including programs serving adult victims of sex trafficking, and batterers intervention programs.

**"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.

**"Levels of performance"** means a unit of service by types of service.

**"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.

**"Probationary certification"** means a certification status granted for a period less than three (3) years.

**"Program"** means a domestic violence shelter, domestic violence program, sexual assault program, adult human sex trafficking program or batterers intervention program pursuant 74 O.S. § 18p-6.

**"Reimbursement rates"** means the rates at which all contractors are reimbursed (paid) for services they provide under their contract with the Office of the Attorney General, and which are reported to the Office of the Attorney General as required.

**"Respondent"** means the person(s) or entity(ies) named in a petition for an individual proceeding against whom relief is sought.

**"Site Review Protocol"** means an Office of the Attorney General internal document used by the Office of the Attorney General Victims Advocacy and Services Unit staff 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, and in preparing recommendations regarding certification to the Attorney General for his or her consideration and action.

**"Temporary Certification"** means a status which is granted to a program by the Oklahoma Attorney General, and indicates approval to provide a particular service or services for one (1) year in order to give an initial applicant an opportunity to achieve 100% compliance with applicable rules.

**"Units"** or **"unit"** means an hour, or part of an hour, or group of hours, or a 24-hour day during which a specific service is rendered.

**"Victims Advocacy and Services Unit" or "VASU"** means the Unit created within the Office of the Attorney General to provide services for persons who require domestic violence or sexual assault services through a domestic violence program, sexual assault program, including programs serving adult victims of sex trafficking, or batterers intervention program.

## 75:1-1-4. Organization [AMENDED]

(a) The Oklahoma Attorney General is vested with the authority to make rules for the implementation of the Office of the Attorney General's statutorily mandated and permissible functions related to domestic violence programs, sexual assault programs, ~~including~~ programs serving adult victims of sex trafficking, and/or batterers intervention programs under 74 O.S. §§ 18p-6.

(b) The Oklahoma Attorney General shall maintain such staff as authorized by law and assign said staff to carry out the duties and responsibilities required to fulfill the statutory requirements of 74 O.S. §§ 18p-1 et seq., and the rules and directives of the Oklahoma Attorney General.

## 75:1-1-5. Objectives [AMENDED]

The objectives of the Oklahoma Attorney General are as follows:

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- (1) The provision of quality domestic violence, sexual assault, ~~including~~ adult human sex trafficking and batterers intervention services, within the resources available, to those persons, and their families, receiving services from the facilities, certified by and/or under contract with the Office of the Attorney General.
- (2) The services by domestic violence and sexual assault providers, ~~including~~ adult human sex trafficking shall be rendered in an environment of safety, dignity and with respect to the rights of those persons and their families.
- (3) Adherence to and compliance with applicable state and federal statutes, including but not limited to Title 74 §§ 18p-1 et seq. of the Oklahoma Statutes and the Public Health Services Act (42 U.S.C.) by all facilities operated by, under contract with, and certified by the Oklahoma Attorney General.

## 75:1-1-6. Public records [AMENDED]

- (a) **Official records.** Official records of the Office of the Attorney General include, but are not limited to, information, rules, forms, the record in individual proceedings, records submitted to the Office of the Attorney General, and other public records in accordance with the Oklahoma Open Records Act ("ORA"), 51 O.S. § 24A.1, *et seq.*
- (b) **Copies.** Copies of official records of the Office of the Attorney General, not privileged or protected from ~~publication~~production by law, shall be available to the public.
- (c) **Submitting a Open Records Act Request.** Requests for copying, inspection, or printing [mechanical reproduction] of records must be submitted in writing to the Office of the Attorney General. Requests may be submitted by email to [openrecordsrequest@oag.ok.gov](mailto:openrecordsrequest@oag.ok.gov) or mailed to the office at 313 NE 21st St., Oklahoma City, OK 73105.
- (d) **Inspection of records.** Due to the sensitive nature of files and records held by the Office of the Attorney General, the office strongly prefers to provide copies or printouts of records requested in lieu of inspection.
- (e) **Fees.** The Office of the Attorney General maintains a fee schedule filed with the County Clerk of Oklahoma County, Oklahoma as required by section 24A.5 of the ORA. The fee schedule is available on the office's website. Subject to any Open Records Act limitations, commercial requests or those that would cause excessive disruption of office function, such as documents that are archived, either internally or with the Oklahoma Archives and Records Commission, a search fee will be charged based upon the hourly rate of the individual(s) searching for, and locating, the requested records in accordance with the fee schedule. The office reserves its right to elect to not charge fees or waive any fees when it believes that the public interest outweighs an excessive disruption to the office's functions.
- (f) **Confidential records of domestic violence program, sexual assault program, and programs serving adult victims of sex trafficking.** Such records are confidential and not subject to release by federal and state law, federal regulations, and state administrative rules including, but not limited to, title 74, sections 18p-3 and 18p-8 of the Oklahoma Statutes, 42 U.S.C. § 10406, and 42 C.F.R. § 1370.4.
- (g) **Office of the Attorney General Personnel Records.** Subject to the sole discretion of the Office of the Attorney General, certain employee personnel records are confidential and not subject to the ORA, including employee evaluations, payroll deductions, applications submitted by persons not hired by the Office of the Attorney General. Internal personnel investigations including examination and selection material, employees' home addresses, telephone numbers, and social security numbers, medical and employee assistance records, and other personnel records where disclosure would constitute a clear invasion of privacy are also kept confidential. Personnel information that is subject to release includes the application of a person who becomes an employee of the Office of the Attorney General, gross receipt of public funds, dates of employment, title or position and any final disciplinary action resulting in loss of pay, suspension, demotion or termination.
- (h) **Privileged and confidential records.** Any other document protected, as privileged confidential, by any Oklahoma or federal law, or Oklahoma or federal administrative rule, or by order of a court of competent jurisdiction, may be exempt from production or kept confidential under the ORA.

## 75:1-1-7. Requests for agency public information [REVOKED]

Any person making a request pursuant to 75:1-1-6 shall comply with the following:

- (1) Although the law does not require requests under the Open Records Act to be in writing, it is preferred that requests be in writing and mailed to the Office of the Attorney General, Victims Services Unit or made in person during regular office hours between 8:00 a.m. and 5:00 p.m.
- (2) The request should describe the record(s) requested, indicate the name of the party making the request, and have the party's mailing address and telephone number.
- (3) The requesting party shall pay a fee for copies. Said fee shall be twenty-five cents (25¢) per page, twelve dollars (\$12.00) per 3½-inch diskette, and \$1.00 per page for certified documents. Copies provided via FAX machine cost \$1.00 per page, regardless of the destination of the Faxed copy. For commercial requests or those that would cause excessive disruption of office function, such as documents that are archived, either internally or

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with the Oklahoma Archives and Records Commission, a search fee will be charged based upon the hourly rate of the individual(s) searching for, and locating, the requested records.

(4) Client records of a domestic violence program or sexual assault program, including programs serving adult victims of sex trafficking, are confidential and not subject to release by statutes and federal regulations including, but not limited to, 74 O.S. §§ 18p-3 and 18p-8, and 42 CFR, Part 2.

(5) Certain Office of the Attorney General employee personnel records are confidential and not subject to the Oklahoma Open Records Act, including employee evaluations, payroll deductions, applications submitted by persons not hired by the Office of the Attorney General; internal personnel investigations including examination and selection material; employees' home addresses, telephone numbers, and social security numbers; medical and employee assistance records, and other personnel records where disclosure would constitute a clear invasion of privacy. Personnel records information that are subject to release are the application of a person who becomes an employee of the Office of the Attorney General; gross receipt of public funds; dates of employment; title or position and any final disciplinary action resulting in loss of pay, suspension, demotion or termination.

(6) Any other document protected, as confidential, by any Oklahoma or federal law, or Oklahoma or federal administrative rule, or by order of a court of competent jurisdiction, is not subject to the Oklahoma Open Records Act.

### 75:1-1-9. Procedures to secure a declaratory ruling as to the applicability of any rule or order of the Office of the Attorney General [AMENDED]

(a) Any person subject to the rules contained in ~~rules of the Office of the Attorney General (Oklahoma Administrative Code Title 75)~~ this title may petition for a declaratory ruling as to the applicability of a specific rule and its effect on petitioner. In petitioning the Office of the Attorney General for a declaratory ruling, the following procedures must be followed:

- (1) The petition must be in writing and submitted by email to rules@oag.ok.gov to the Chief, Victims Services Unit, Office of the Attorney General with attention to the Office of General Counsel;
- (2) The petition shall state with specificity the rule in question;
- (3) The petition shall state clearly and with specificity the basis for the action and the action or relief sought;
- (4) The petition shall pose the specific question(s) to be answered by the Office of the Attorney General; and
- (5) The petitioner or petitioner's authorized representative shall print his or her name, address and telephone number on the petition and sign it.

(b) The petition will be stamped upon receipt by the Office of the Attorney General to show the date of submission. The petition shall be referred to the ~~Chief of the Victims Services Unit~~ Office of General Counsel to make a recommendation to the Attorney General, who shall issue a ruling within 30 days from the date of submission.

(c) The petitioner shall be notified of the declaratory ruling in writing by the U.S. Mail, certified mail, return receipt requested.

(d) The ruling shall become final unless, within 15 days of receipt, the petitioner files with the ~~Chief of the Victims Services Unit~~ Office of General Counsel a written request for a hearing before the Attorney General. If the petitioner requests such a hearing, the matter shall be set to be heard by the Attorney General.

(e) At the hearing of the matter by the Attorney General, the petitioner and ~~Chief of the Victims Services Unit~~ the Office of General Counsel shall be permitted to present oral argument to the Attorney General, the length of which shall be limited by the Attorney General. At the conclusion of the presentation of the matter, the Attorney General shall render a decision on the petition and a written decision shall follow within 15 days.

(f) A declaratory ruling or refusal to issue such ruling, shall be subject to judicial review in the manner provided for review of decisions in individual proceedings in the Oklahoma Administrative Procedures Act (75 O.S. § 307).

### 75:1-1-10. Procedures to petition the Office of the Attorney General to promulgate, amend or repeal a rule [AMENDED]

Any person affected either by a rule adopted and promulgated by the Attorney General, or the lack of a rule and regulation may petition the Attorney General to promulgate, adopt, amend or repeal a rule pursuant to 75 O.S. § 305 and in accordance with this section.

(1) The petition must be in writing and submitted to the ~~Chief of the Victims Services Unit~~ Office of General Counsel, Office of the Attorney General:

- (A) The proposed amendment, promulgation, or repeal of a specific rule.
- (B) The reason for the petition to repeal, promulgate, or amend a rule.
- (C) The effect that the repeal, amendment or promulgation of the rule would have on the petitioner.

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- (2) The petitioner must print his or her name, address and telephone number on the petition and it must be signed by the petitioner.
- (3) The ~~Chief of the Victims Services Unit~~ Office of the General Counsel shall timely respond to such petition, either by recommending to the Attorney General that rulemaking proceedings be initiated or that the petition be denied.
- (4) The petitioner will be notified by regular mail if rulemaking proceedings are initiated.
- (5) A petition for rulemaking will be deemed denied if the Office of the Attorney General has not initiated rulemaking proceedings within thirty (30) calendar days after the petition is submitted.

## SUBCHAPTER 3. CONTRACTS FOR DOMESTIC VIOLENCE AND SEXUAL ASSAULT SERVICES

### PART 1. ELIGIBILITY TO CONTRACT

#### 75:1-3-1. Purpose [AMENDED]

The purpose of this Part is to delineate the criteria for eligibility for programs to contract with the Office of the Attorney General for the provision of domestic violence, sexual assault, ~~or~~ and adult human sex trafficking services to the public as permitted or required under Title 74 O.S. § 18p-1 *et seq.*

#### 75:1-3-2. Applicability [AMENDED]

This part is applicable to all entities presently under contract with the Office of the Attorney General to provide domestic violence, sexual assault, ~~or~~ and adult human sex trafficking services; and to all programs which may either be, or desire to be, considered for such contracts.

### PART 3. CONTRACTS AND CONTRACTING PROCESSES

#### 75:1-3-14. Purpose [AMENDED]

The purpose of this Part is to describe the contracts and contracting processes of the Office of the Attorney General for the provision of domestic violence, sexual assault, ~~or~~ and adult human sex trafficking services to the public.

#### 75:1-3-15. Applicability [AMENDED]

This Part is applicable to all entities presently under contract to provide domestic violence, ~~and~~ sexual assault, and adult human sex trafficking services, and to all entities which may either be, or desire to be, considered for such contracts.

#### 75:1-3-19. Contract renewal [AMENDED]

(a) Contracts for domestic violence, sexual assault, ~~or~~ and adult human sex trafficking services are considered during the third (3rd) and fourth (4th) quarter of the state fiscal year, for contracting in the following fiscal year.

(b) Consideration for renewal shall include a review of performance of the current contract including, but not limited to, measurable outcome indicators, target populations served, levels of performance of specific services, having deficiencies of no more than 30% of the standards reviewed, the existence of any client rights violations, and cost effectiveness of the delivery of services.

(c) If the Attorney General determines the contractual relationship shall be renewed, it shall be in a new contract for the upcoming fiscal year and may or may not contain the same terms, conditions, form and format as the previous contract.

#### 75:1-3-20. Contractor reimbursement rates [AMENDED]

Reimbursements to contractors for domestic violence, sexual assault, or adult human sex trafficking services shall be considered and set in the manner described as follows:

(1) Contractors shall annually, or as otherwise prescribed, submit to the Chief of the Victims Advocacy and Services Unit a uniform cost report in the form and format determined by the Office of the Attorney General, and within time-frames established by the Office of the Attorney General.

(2) Appropriated funds will be distributed according to a formula recommended by the VASU Advisory Council and approved by the Attorney General.

~~(2)~~ (3) The VASU ~~Chief of the Victims Services Unit~~ shall review and analyze these cost reports, requesting where deemed necessary the submission of supporting clarifying information within fifteen (15) days of said request.



- ~~(3)~~(4) The VASU Chief of the ~~Victims Services Unit~~ may recommend to the Attorney General fixed uniform rates for services, taking into consideration variables such as average costs, appropriate inflationary factors, capitation methods, performance outcome measures, staff credentials and available funding.
- ~~(4)~~(5) Prior to approval by the Attorney General of the proposed rates or changes to existing rates, ~~the Victims Services Unit~~VASU shall provide written notice of an open hearing on the proposed fixed rates to each applicable contractor of record.
- ~~(5)~~(6) Consideration of the proposed fixed rate by the Attorney General shall not occur until the Director of the Office of Management and Enterprise Services has been provided with, pursuant to 74 O.S. § 85.7:
- (A) Thirty (30) days written notice of the meeting in which the Attorney General will consider the uniform rates of reimbursement;
  - (B) A copy of the meeting agenda item(s) concerning the proposed rate(s); and
  - (C) All supporting documentation and materials regarding the reimbursement rates being proposed.
- ~~(6)~~(7) The Attorney General shall, at the meeting referenced in ~~(5)~~(6)(A) and (B) of this section, separately consider each proposed fixed and uniform rate of reimbursement. These rates, if adopted, shall then take effect on a date determined by the Attorney General when the rates are considered for adoption; and remain in effect until subsequent action by the Attorney General.
- ~~(7)~~(8) All revisions shall be examined, proposed, considered and adopted pursuant to this section.

### **SUBCHAPTER 7. CERTIFICATION AND DESIGNATION OF DOMESTIC VIOLENCE PROGRAMS, SEXUAL ASSAULT PROGRAMS, INCLUDING PROGRAMS SERVING ADULT VICTIMS OF SEX TRAFFICKING, AND BATTERERS INTERVENTION PROGRAMS**

#### **75:1-7-5. Procedures for application for certification [AMENDED]**

- (a) Applications for certification as a domestic violence shelter or program, sexual assault program, including programs serving adult victims of sex trafficking, or batterers intervention program must be made to the Office of the Attorney General in writing on a form and in a manner prescribed by the Attorney General and include the following:
- (1) A fully completed application for certification form signed by authorized officials;
  - (2) The necessary written documentation or supporting evidence required on the application for certification form; and
  - (3) The required certification fee(s) in the form of a check or money order, payable to the Office of the Attorney General.
- (b) The following fees are required of Applicants for domestic violence shelters, domestic violence programs, sexual assault programs, adult human sex trafficking programs, and batterers intervention programs. For every program seeking approval, the applicant shall submit \$150.00 for each initial application and \$150.00 for each renewal application. Fees paid by applicants are not refundable.
- (c) The application for certification form, required written documentation and fee(s) must be submitted to the Office of Attorney General, Victims Advocacy and Services Unit.
- (d) The application requires specification of all services provided by the applicant, as well as information about the applicant including but not limited to governing authority, administrative, fiscal, all locations or sites where applicant will provide services and types of services to be provided.
- (e) If, after being certified, a program desires to change the program name, program location, program delivery location or provide services at a new or different location maintained and operated by the certified program, or change its current office location, the facility must submit an application on a form and in a manner prescribed by ~~the Victims Services Unit~~ VASU, the required documentation and fee, if any. Approval may be granted by the Attorney General upon submission of the required application and documentation to the ~~Victims Services Unit~~ VASU. Before constructing a new facility, the program shall consult with the OAG for review and recommendations regarding victim safety and confidentiality. Approval from the Attorney General must be obtained prior to providing services at the new location. The ~~Victims Services Unit~~ VASU may conduct a visit of the facility in accordance with ~~75:1-7-8~~ section 8 of this subchapter.
- (f) If, after being certified, a program desires to provide services at a public facility maintained for or used by the people or community, the certified program must notify ~~the Victim Services Unit~~ VASU in writing of the name and location of the public facility and the type of service(s) offered. Additionally, the certified program must assure that the facility provides the necessary safety, confidentiality, and privacy of individuals being served. Approval may be granted by the Attorney General upon submission of the required documentation to ~~the Victims Services Unit~~ VASU. Approval from the Attorney General must be obtained prior to providing services at the new location.

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(g) If after being certified, a program desires to offer a new type of service, the facility must submit an application for certification, the required documentation and fee to ~~the Victims Services Unit of the Office of Attorney General~~ VASU prior to providing a new service. Failure to become certified prior to providing services shall be grounds for injunctive relief pursuant to 74 O.S. § 18p-7.

## **75:1-7-6. Procedures for completion of certification process [AMENDED]**

(a) **Certification process.** Completion of the certification process will be done in cooperation between the applicant and certification team established and assigned by ~~the Victims Services Unit of the Office of Attorney General~~ VASU, and consists of:

- (1) a review of all application materials;
- (2) a site review of the facility and completion of the applicable site visit protocol;
- (3) a review of all applicable records;
- (4) preparing certification reports for applicants;
- (5) reviewing and approving any needed plans of correction;
- (6) follow-up site reviews; and
- (7) presentation by ~~Victims Services Unit~~ VASU staff of the review results and associated recommendations to the Attorney General.

(b) **Initial applications.** All initial applications for certification shall be reviewed for completeness by ~~Victims Services Unit~~ VASU staff. If the application is deemed complete, site review of the facility or program will be scheduled. Based on the initial site review findings, the applicant shall achieve a minimum score of seventy percent (70%) of the applicable standards and rules. If the minimum score is not achieved, a plan of correction will not be requested and a notice of denial of the certification application shall be sent to the applicant by the Attorney General. In such case, re-application may not be submitted until a minimum of three (3) months have passed following the issuance of the notification of denial.

(c) **Length of certification process.** If an applicant for initial certification fails to achieve full certification within one (1) year of being granted temporary certification, the applicant shall not receive certification and a recommendation of revocation of the existing certification will be made to the Attorney General. In such case, re-application for certification shall be made in accordance with the requirements of ~~75:1-7-6 and 75:1-7-11~~ sections 6 and 11 of this subchapter. If the applicant requests withdrawal of the certification status because of the circumstances cited above, the applicant may reapply three (3) months after acknowledgement by the Office of Attorney General that the application has been withdrawn.

(d) **Renewal applications.**

- (1) The ~~Victims Services Unit~~ VASU will, prior to the renewal date, notify facilities the application for renewal of certification is due.
- (2) The program shall submit its application for renewal within sixty (60) days before the expiration of its certification.
- (3) Renewal applications for certification shall be reviewed for completeness by Victims Advocacy and Services Unit staff. If the facility does not achieve the minimum score of seventy percent (70%) compliance with the applicable standards and rules based on the site review findings, a plan of correction will not be requested and revocation of the certification status will be recommended to the Attorney General.
- (4) If, after being granted conditional certification, an applicant for renewal fails to achieve full certification within four (4) months, the applicant shall not receive full certification and a recommendation of revocation of the certification status will be made to the Attorney General.

(e) **Site reviews.**

- (1) Initial, renewal or follow-up site reviews, based on the current certification status of the applicant, will be scheduled by designated representatives of the ~~Victims Services Unit~~ VASU at each location or site of the applicant. The review will be conducted by the assigned certification team or a certification team member.
- (2) The follow-up site review(s) to Conditional Certification will be conducted to review implementation of the plan of correction to ensure cited deficiencies have been corrected or to demonstrate continued correction and compliance with the previously cited deficiencies. Failure to comply with applicable rules and implement the plan of corrections shall result in a recommendation that Certification be denied and Conditional Certification status be revoked.
- (3) The follow-up site visit(s) to Temporary Certification will be conducted on standards not applicable during the initial certification visit, implementation of the plan of correction to ensure cited deficiencies have been corrected or to demonstrate continued correction and compliance with the previously cited deficiencies, and a review of a minimum of five (5) records. Failure to comply with applicable rules and implement the plan of

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correction shall result in a recommendation that Certification be denied and Temporary Certification status be revoked.

(4) A Site Review Protocol shall be completed during each site visit. Protocols shall contain the current Standards and Criteria applicable to the facility.

(A) A facility must be prepared to provide evidence of compliance with each applicable standard.

(B) In the event the reviewer(s) identifies some aspect of facility operation that adversely affects client safety, confidentiality or health, the reviewer(s) shall notify the facility director and appropriate ~~Victims Services Unit~~ VASU staff. An immediate suspension of certification may be made by the Attorney General.

(f) **Deficiencies.** A deficiency shall be cited for a failure to comply with the weighted value of each rule.

(g) **Report to applicant and plan of correction.**

(1) During the course of the certification process, and prior to determination of certification status, ~~Victims Services Unit~~ VASU staff shall report the results of the site review to the facility. The facility shall receive written notice of the deficiencies in a Certification Report.

(2) The facility must submit a written plan of correction for each deficiency for approval within two (2) weeks of the receipt of the Certification Report. Approval of the plan of correction shall be required before the completed application for certification will be presented to the Attorney General. Failure to submit the required plan of correction within two (2) weeks of the receipt of the Certification Report may result in denial of the certification application. In such case, re-application will be accepted after three (3) months from the date of issuance of the notification of denial from the Attorney General. However, if the facility does not achieve the minimum score of seventy percent (70%) compliance with the applicable standards and rules based on the initial site review findings, a plan of correction will not be requested, and the application will be denied.

(h) **Notification of Victims Advocacy and Services Unit recommendation for certification.**

(1) After completion of the site review and report on the Application for Certification, ~~Victims Services Unit~~ VASU staff shall prepare a recommendation on the certification status or application for the Attorney General.

(2) Prior to the ~~Victims Services Unit~~ VASU staff's presentation of its recommendation of an applicant's certification to the Attorney General, the ~~Victims Services Unit~~ VASU staff shall notify the applicant of the recommendation.

(3) Achievement of certain scores is a prerequisite for consideration of a specific certification status but may not be the sole determinant. Individual deficiencies that meet the criteria in ~~75:1-7-9~~ section 9 of this subchapter may be grounds for suspending or revoking certification or denying applications for certification.

(4) Consideration of certification may be deferred while additional information regarding a facility's compliance status is reviewed.

(5) The minimum compliance scores for recommendation of a certification status to the Attorney General are:

(A) **Certification with Commendation.** Facility is in compliance with 100% of the applicable rules.

(B) **Certification.** Facility achieves compliance with 100% of the applicable rules after on-site correction(s).

(C) **Conditional Certification.** Facility is in compliance with at least 70% but less than 100% of the applicable rules and will be given an opportunity to correct deficiencies.

(D) **Temporary Certification.** Facility is in compliance with at least 70% but less than 100% of the applicable rules and will be given an opportunity to correct deficiencies.

(i) **Actions on Non-Certified Providers.** If at the initial site review it is found the facility is providing services:

(1) The initial review will be conducted, including review of applicable records.

(2) The facility must comply with the requirements of ~~75:1-7-6~~ this section to proceed with the certification process.

(3) If the applicant achieves less than 100% compliance, full certification must be achieved within four (4) months.

(4) Upon successful completion of the certification process, Probationary Certification status will be conferred for no more than one (1) year.

(5) Application for continued certification after the Probationary Certification period requires submission of a new application and fee(s) for each of the next two (2) years. The requirements in ~~75:1-7-6~~ this section shall apply. A recommendation for Certification for one (1) year will be made to the Attorney General.

(j) **Actions on certification applications.** ~~Victims Services Unit~~ VASU staff shall make one of the following recommendations to the Attorney General:

(1) Certification with Commendation;

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- (2) Certification;
- (3) Conditional Certification;
- (4) Temporary Certification
- (5) Probationary Certification; or
- (6) Revocation or Denial.

(k) If the Attorney General approves a recommendation to revoke certification, an individual proceeding shall be initiated pursuant to the Administrative Procedures Act.

## **75:1-7-8. Site reviews [AMENDED]**

The Victims Advocacy and Services Unit may conduct a site review or visit or an investigation, which may or may not be announced. Reasons for such review include but are not limited to:

- (1) determination of correction of cited deficiencies;
- (2) receipt of a complaint;
- (3) change in ownership, management or location;
- (4) establishment of a new service location;
- (5) substantial change in either the service provided or new service(s) initiated;
- (6) substantial turnover in staff at the executive or professional level;
- (7) change in statutorily required licensure status; and
- (8) change in external accreditation status.

*[OAR Docket #25-383; filed 5-28-25]*

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## **TITLE 75. ATTORNEY GENERAL CHAPTER 15. STANDARDS AND CRITERIA FOR DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS**

*[OAR Docket #25-384]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. General Provisions

75:15-1-1.1. Mission and underlying philosophy [AMENDED]

75:15-1-2. Definitions [AMENDED]

Subchapter 2. Domestic Violence and Sexual Assault Programs

75:15-2-4. Safe Home program [REVOKED]

75:15-2-5. Crisis intervention services [AMENDED]

Subchapter 5. Client Records and Confidentiality

75:15-5-3.1. Record content - service specific [AMENDED]

75:15-5-4. Client confidentiality [AMENDED]

75:15-5-4.1. Waiver of Confidential Information [AMENDED]

75:15-5-7. Shelter Policy on Medications [AMENDED]

Subchapter 7. Physical Environments

75:15-7-6. Program environment [AMENDED]

75:15-7-8. Program environment, Safe Home services program [REVOKED]

Subchapter 13. Personnel and Volunteers

Part 3. TRAINING

75:15-13-20.2. In-service and ongoing training for personnel and volunteers [AMENDED]

75:15-13-27. Provider training, Safe Home services [REVOKED]

Subchapter 17. Clients Rights

75:15-17-4. Client grievance policies and procedures [AMENDED]

Subchapter 18. Code of Professional Ethics [AMENDED]

75:15-18-1. Applicability [NEW]

75:15-18-2. Code of Professional Ethics [NEW]

### **AUTHORITY:**

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Attorney General; 74 O.S.2021, § 18p-6

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N/A

**GIST/ANALYSIS:**

The Oklahoma Office of the Attorney General (“OAG”) proposes these amendments to clarify general information related to the duties set forth for the Victim Advocacy and Services Unit (“VASU”), specifically establishing standards and criteria for accreditation of domestic violence and sexual assault programs. Minor changes provide consistency of language and terms and include new and expanded definitions in accordance with modern nomenclature used the advocacy and survivor communities. Replaced by shelters, transitional housing, and other accommodations due to safety issues, the Safe Home service has been discontinued and is no longer in operation. As a result, the amendments also remove all references to the Safe Home program from the rules. Subchapter 18 also adds a code of professional ethics applicable to all domestic violence and sexual assault 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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 75:15-1-1.1. Mission and underlying philosophy [AMENDED]

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- (a) The mission of the standards and criteria for domestic violence and sexual assault programs is to eliminate domestic violence, sexual assault, and stalking in the State of Oklahoma.
- (b) The philosophy underlying the standards and criteria for domestic violence and sexual assault programs is that:
- (1) All persons have the right to live without fear, abuse, coercion, oppression and violence;
  - (2) There should be equality in relationships and survivors of domestic violence, sexual assault and stalking should be helped to assume power over their own lives;
  - (3) No one deserves to be victimized by assaultive, coercive, or abusive behavior;
  - (4) Survivors should be treated with dignity and respect;
  - (5) All people involved in violent crimes are affected victims, children, families, partners, friends, the community, and perpetrators;
  - (6) Offending is a choice, and perpetrators of domestic violence, sexual assault and stalking are solely responsible for their behavior;
  - (7) ~~These perpetrators~~ Perpetrators must be held accountable for their behavior;
  - (8) A coordinated community response is the best approach to eliminating domestic violence, sexual assault, sex trafficking and stalking in Oklahoma;
  - (9) Safety for the victims/survivors and their dependents is the primary focus of intervention and services;
  - (10) Intervention and services shall be based upon the safety and well-being of individuals and communities. Services to victims are provided in a non-judgmental, non-coercive, trauma-informed environment; and
  - (11) Participation in services is voluntary and based on self-determined needs, preferences and values.

## 75:15-1-2. Definitions [AMENDED]

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

**"Admission"** means to accept a client for services ~~or treatment~~.

**"Adult shelter for primary victim"** means a certified residential living arrangement in a secure setting with support and advocacy services provided by qualified staff for adult abuse victim of domestic violence, sexual assault, or stalking. Such shelter may also provide a residential living arrangement and support and advocacy services to a minor mother as permitted by 74 O.S. § 18p-4.

**"Advocacy"** means the assistance provided that supports, supplements, intervenes and/or links clients and their dependents with the appropriate service components to encourage self-determination, autonomy, physical and emotional safety, and to offer information that will enable independence. This can be viewed as a combination of active listening and facilitating personal problem solving, along with researching options of action, safety planning, community outreach and education; it may include medical, dental, financial, employment, legal and housing assistance.

**"Advocate"** means a trained staff or volunteer who offers clients appropriate services.

**"Assessment"** means an appropriate course of assistance based on a ~~face-to-face~~ formal screening.

**"Behavioral Health Professional"** means either licensed or under supervision for licensure as a Licensed Professional Counselor, Licensed Marriage and Family Therapist, Licensed Behavioral Practitioner, Licensed Clinical Social Worker, psychiatrist, or psychologist with clients in individual, group or family settings to promote positive emotional or behavioral change. A practicum student or intern in an accredited graduate program in preparation for one of the above licenses may provide counseling to victims of domestic violence, sexual assault or stalking and their dependents.

**"Business day"** shall mean a calendar day other than a Saturday, Sunday, or state holiday. In computing any period of time where the last day would fall on a Saturday, Sunday, or state holiday, the period shall run until 5:00 p.m. of the next business day.

**"Case consultation"** means review of a client's case by the primary service provider and other program personnel, consultants or both.

**"Case management"** means the process of supporting and helping victims/survivors and their dependents as they cope with and overcome the effects of domestic violence, sexual assault and stalking. Actions may include activities such as: (1) developing, reviewing, and updating the service plan that is designed to solve specific problems in the current life situation; (2) supporting adult/child survivors' skills in making desired life changes through activities such as introducing new skills, modifying previous ways of coping with their situations and linking to resources to address immediate needs and secondary issues, and/or (3) exit planning as part of individual supportive services. The service provider must be a Certified Domestic and Sexual Violence Response Professional (CDSVRP) certified by the ~~Oklahoma Coalition Against Domestic Violence and Sexual Assault~~ the active certifying body or hold another case management certification that has been approved by the Victim Advocacy and Services ("VASU") Council.

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**"Certified Domestic and Sexual Violence Response Professional"** means a professional certified by the Oklahoma Coalition Against Domestic Violence and Sexual Assault.

**"Certified domestic violence and sexual assault program"** or **"Certified DVSA program"** means a status which is granted to an entity by the Oklahoma Attorney General, and indicates approval to offer domestic violence, sexual assault and stalking services pursuant to 74 O.S. § 18p-6. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

**"Child"** or **"Children"** means any unmarried individual from birth to eighteen years of age.

**"Children's Activities"** means direct child contact that is temporary in nature and is not intended to address the effects of domestic violence, sexual assault/abuse and trauma on children; ~~i.e. special events such as Christmas parties, Easter egg hunts;~~ that are supervised by program personnel or volunteers.

**"Children's Services"** means direct child contact that is intended to address the effects of domestic violence, sexual assault/abuse and trauma on children including but not limited to intake, needs assessment, groups, advocacy, and any other service related to domestic violence, sexual assault/abuse and trauma.

**"Client"** means an individual, adult or child, who has applied for, is receiving or has received assistance or services from a DVSA program.

**"Client group education"** means interactive group sessions for adult/child victims/survivors of domestic violence, sexual assault or stalking that may be topic oriented and educational and facilitated by qualified, trained staff members or volunteers. The focus is on safety, the dynamics of domestic violence, sexual assault, stalking, relationships, emotions, the impact of trauma and life skills.

**"Client record"** includes but is not limited to all communication, records and information about an individual client.

**"Community"** means people, groups, agencies or other facilities within the locality served by the program.

**"Community education"** means the presentation of domestic violence/sexual assault and stalking information to increase public knowledge of the destructive dynamics and societal costs and/or to increase awareness of available and needed resources and/or identify the role the community can play in eliminating domestic violence/sexual assault and stalking.

**"Contract"** means a formal document adopted by the governing authority of the program and any other organization, agency or individual that specifies services, personnel or space to be provided to the program and the monies to be expended in exchange.

**"Core Services"** means services outlined in 75:15-2-1 that are required to be offered by all certified programs.

**"Counseling"** means a face-to-face therapeutic session with one-on-one interaction between a behavioral health professional and an individual to promote emotional and/or behavioral change focused on victim safety and perpetrator accountability. Those individuals providing professional therapy to adult and child victims of domestic violence, sexual assault or stalking must be prepared to offer education and information about:

- (A) Physical and emotional safety;
- (B) How perpetrators maintain control and dominance over their victims;
- (C) The need to hold perpetrators accountable for their actions; ~~and~~
- (D) The recognition that individuals victimized are not responsible for a perpetrator's violent behavior; ~~and~~
- (E) The role of society in perpetuating violence against women and the social change necessary to eliminate violence against women, including the elimination of discrimination based on race, color, gender, sexual orientation, age, disabilities, economic or educational status, religion and national origin.

**"Counseling Evaluation and Assessment"** means a tool used by a licensed behavioral health professional to evaluate and assess the adult or child victim/survivor's current situation and provide trauma-informed therapy services that are appropriate to the needs of the adult or child victim/survivor. Such evaluation and assessment must assess dangerousness indicators; provide crisis intervention when needed; and assist with safety planning and informaiton on legal options available.

**"Counseling service planning"** or **"Licensed Behavioral Health Professional or Under Licensure Supervision"** means the process of developing a written plan based on formal or informal assessments that identify the abuse issues necessitating treatment developed by a licensed behavioral health professional or an individual under licensure supervision. Counseling service planning includes establishing goals and objectives; planning appropriate interventions; developing safety planning; and a review of the treatment plan with the individual 14 years of age or older and the modification of the plan as required. If the individual is under 18 years of age, the parent or guardian must also be involved.

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**"Counseling service plan review"** means the evaluation or updating of the treatment plan by a licensed behavioral health professional or under licensure supervision based on victim's or survivor's documented progress. A counseling service plan review must be in writing and signed by the victim or survivor. Such plan also includes a review of the treatment plan with the individual and the modification of the plan as required, if the individual is 14 years of age or older. If the individual is under 18 years of age, the parent or guardian must also be involved.

**"Court advocacy"** means assistance provided to victims and their dependents in legal matters relevant to their situation. Information, support, assistance, safety planning, accompaniment and intervention with any aspect of the civil or criminal legal system on behalf of a victim of domestic violence, sexual assault or stalking. Court advocacy services must be provided by qualified, trained staff members or volunteers.

**"Court advocate"** means a qualified, trained staff or volunteer whose duties are to offer assistance to victims and any dependents in legal matters relevant to their situation. A Court Advocate provides court advocacy through support, information, assistance, safety planning, accompaniment, and intervention with any aspect of the civil or criminal legal system on behalf of a victim of domestic violence, sexual assault or stalking. Court advocates shall not act as licensed attorneys and are not permitted to give legal advice, unless such person is a licensed attorney in the state of Oklahoma.

**"Crisis intervention"** means short-term, immediate assistance and advocacy given by phone or in person to victims of domestic violence, sexual assault or stalking. Crisis intervention services include but are not limited to assessing dangerousness, safety planning, information about available legal remedies, establishing rapport and communication, identifying major problems, exploring feelings and providing support, exploring possible alternatives, and/or formulating an action plan and follow-up measures.

**"Critical incident"** means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a client. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to clients, personnel, volunteers and visitors; incidents involving medication; neglect or abuse of a client; fire; unauthorized disclosure of information; damage to or theft of property belonging to a client or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

**"Cultural diversity"** means the spectrum of differences that exist among groups of people with definable and unique cultural backgrounds.

**"Direct services"** means services delivered by a qualified staff member or volunteer in direct contact with a client or client's child, including childcare and telephone contact.

**"DVSA"** means domestic violence and sexual assault.

**"Documentation"** means the provision of written, dated and authenticated evidence to substantiate compliance with standards, e.g., minutes of meetings, memoranda, schedules, notices, logs, records, policies, procedures, announcements, correspondence, and photographs.

**"Domestic violence"** means a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over a current or former partner or family member. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

**"Education"** means the dissemination of relevant information specifically focused on increasing the awareness of the community and the receptivity and sensitivity of the community concerning domestic violence, sexual assault, stalking or batterer's intervention and other related problems and services and may include a systematic presentation of selected information to impart knowledge or instructions to increase understanding of specific issues or programs, to examine attitude or behaviors and to stimulate social action or community support of the program and its clients.

**"Emergency services"** or **"crisis services"** mean a twenty-four (24) hour capability for danger assessment, intervention and resolution of a client crisis or emergency that is provided in response to unanticipated, unscheduled emergencies requiring prompt intervention.

**"Emergency transportation"** means transportation for a victim of DVSA to a secure identified location at which emergency services or crisis services can be offered.

**"Executive director"** means the person hired by the governing authority to direct all the activities of the organization. May also be referred to as "Chief Executive Officer."

**"External consultation"** means a formal and structured process of interaction between staff members and unrelated individuals, groups, or agencies for the purpose of problem solving and/or enhancing services for the safety of victims/survivors within the program's service area.

**"Facility"** means the physical location(s) of a certified program governed by this chapter of Title 75.

**"Family"** means the children, spouses, parents, brothers, sisters, other relatives, foster parents, guardians, and others who perform the roles and functions of family members in the lives of clients.



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**"Governing authority"** means a group of persons having the legal authority and final responsibility for the operations and functions of the entire DVSA program, or shelter, in and of all geographical locations and administrative divisions.

**"Group counseling"** means a face-to face therapeutic session conducted by a licensed behavioral health professional or individual under licensure supervision with a group of ~~adult/child victims/survivors~~ adult or child victim/survivors to promote emotional or behavioral change. Those individuals providing professional therapy to victims/survivors of domestic violence must be prepared to provide education and information about:

- (A) Physical and emotional safety;
- (B) How perpetrators maintain control and dominance over their victims;
- (C) The need to hold perpetrators accountable for their actions;~~and~~
- (D) The recognition that individuals victimized are not responsible for a perpetrator's violent behavior;~~and~~
- (E) The role of society in perpetuating violence against women and the social change necessary to eliminate violence against women, including the elimination of discrimination based on race, color, gender, sexual orientation, age, disabilities, economic or educational status, religion and national origin.

**"Guardian"** means an individual who has been given the legal authority to manage the affairs of another individual.

**"Human trafficking"** means modern-day slavery that includes, but is not limited to, extreme exploitation and the denial of freedom or liberty of an individual for purposes of deriving benefit from that individual's commercial sex act or labor.

**"Human sex trafficking"** means a specific type of human trafficking that includes, but is not limited to:

- (A) Recruiting, enticing, harboring, maintaining, transporting, providing or obtaining, by any means, another person through deception, force, fraud, threat or coercion for purposes of engaging the person in a commercial sex act;
- (B) Recruiting, enticing, harboring, maintaining, transporting, providing, purchasing or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act; or
- (C) Benefitting, financially or by receiving anything of value, from participating in a venture that has engaged in an act of trafficking for commercial sex.

**"Indirect services"** means services delivered by a staff member or volunteer, that do not involve direct services with a client or client's child.

**"Individual counseling"** means a therapeutic session with one-on-one interaction between a behavioral health professional or individual under licensure supervision and a person to promote emotional and/or behavioral change focused on victim safety and perpetrator accountability. Those individuals providing professional therapy to adult and child victims of domestic violence, sexual assault, or stalking must be prepared to offer education and information about:

- (A) Physical and emotional safety;
- (B) How perpetrators maintain control and dominance over their victims;
- (C) The need to hold perpetrators accountable for their actions
- (D) The recognition that individuals victimized are not responsible for a perpetrator's violent behavior; and
- (E) The role of society in perpetuating violence against women and the social change necessary to eliminate violence against women, including the elimination of discrimination based on race, color, gender, sexual orientation, age, disabilities, economic or education status, religion and national origin.

**"Initial contact"** means a person's first contact with the program or facility requesting information or service by telephone or in person.

**"Intake"** means an interaction intended to discover what has happened, determine what the crisis is, assess dangerousness indicators, do safety planning, and/or establish the immediate needs of domestic violence, sexual assault, and stalking victims and any dependents to determine appropriate services and referrals. This includes interaction with an individual determined to be appropriate for ongoing service in order to obtain basic demographic information, gather vital information on adults and/or children, and/or orient the victims to the program, program rules, and if applicable, the facilities. Cultural needs should also be identified at this time.

**"Internal consultation"** means a formal and structured process of interaction among staff from the same agency for the purpose of evaluating the individual's progress, when the individual is not present.

**"Language Interpretation"** means activities that involve a client who is deaf or hearing impaired or has limited English proficiency requiring an interpreter for a staff member or volunteers to offer services.

**"Licensure"** means the official or legal permission to persons or health facilities meeting qualifications to engage in a given occupation or use a particular title.

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**"Medical care"** means those diagnostic and treatment services that can only be provided or supervised by a licensed physician.

**"Medication"** means any drug that is legally in the possession of clients, their children, or persons seeking admittance to the shelter or their children; this definition includes prescription medications and medications available for legal purchase without a prescription.

**"Mental health services"** means a range of diagnostic, therapeutic and rehabilitative services used in treating mental illness or emotional disorders.

**"Neglect"** means failing to offer adequate personal care or maintenance, or access to medical care that results or may result in physical or mental injury or harm to a client.

**"OAG"** means the Office of the Attorney General.

**"Objectives"** means a specific statement of planned accomplishments or results that are quantitative, qualitative, time-limited, and realistic.

**"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.

**"Operation"** means that clients are receiving services offered by the program.

**"Outreach"** means the dissemination of materials and information at community events and public places, with the purpose of establishing trust and rapport, explaining services available.

**"Personnel record"** means a file containing the employment history and actions relevant to individual personnel and volunteer activities within an organization such as application, evaluation, salary data, job description, citations, credentials, etc.

**"Persons with special needs"** means persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including but not limited to the deaf and hard of hearing, blind, physically disabled, developmentally disabled, persons with disabling illness, and persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

**"Policies"** means statements of program intent, strategy, principle, or rules for providing effective and ethical services.

**"Primary Victim"** means a client who has experienced domestic violence, sexual assault, stalking, or the consequences of these crimes first hand.

**"Procedures"** means the standard methods by which policies are implemented.

**"Program"** means a set of activities designed and structured to achieve specific objectives relative to the needs of the clients.

**"Program evaluation"** means the documented assessment activities, performed internally or externally, of a program or a service and its staff, volunteers, activities, and planning process to determine whether program goals are met, staff, volunteers and activities are effective, and what effect, if any, a program or service has on the problem it was created to address or on the population it was created to serve.

**"Program goals"** means broad general statements of purpose or intent.

**"Qualified staff"** means someone who has met the criteria for provision of direct services as defined in 75:15-13-20.1.

**"Rape crisis response services"** means "sexual assault services" as defined in this section.

**"Release" or "Waiver"** means consent that is informed, written and reasonably time-limited. The terms may be used interchangeably to mean the same thing. "Release" implies that confidential information is released (despite confidentiality or privilege protection), and "Waiver" implies waiving a right (to maintain privilege). If release of information is compelled by statutory or court mandate, the program shall make reasonable attempts to provide notice to victims affected by the disclosure of information and take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

**"Referral"** means information disseminated and/or coordinated access to agency and community services to meet victims'/survivors' and their dependents' identified needs.

~~**"Safe Home"** means private dwellings available for the temporary housing of victims of domestic violence, sexual assault and stalking to ensure safety of victims and any dependents until other housing arrangements can be made.~~

~~**"Safe Home Provider"** means an individual or family providing Safe Home services through a formal agreement with a Certified DVSA Program.~~

**"Safety Planning"** means the process of working with adult and child victims to develop tools in advance of potential abuse or violence for the immediate and long term safety of victims. Plans should be based on dangerousness and lethality indicators and should include the safety needs of dependents.

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**"Screening"** means the process of determining preliminarily the nature and extent of a person's problem in order to establish service needs. At a minimum, a screening shall include a brief personal history related to abuse, a review of the individual's strengths and resources, risk factors and referral needs.

**"Secondary Victim"** means a person who has a relationship with the primary victim.

**"Self Determination"** means the right to make one's own choices.

**"Service Agreement"** means a written agreement between two or more service agencies or service agencies and individual service providers that defines the roles and responsibilities of each party. The purpose of service agreements is to promote coordination and integration of service programs for the purpose of curbing fragmentation and unnecessary service duplication in order to assure a continuation of services.

**"Service Note"** means documentation of the time, date, location, and description of services offered or provided, and signature, including electronic signature, of staff or volunteer offering or providing the services.

**"Service Plan"** means a plan of action developed and agreed upon by the client and service provider that contains service appropriate goals and objectives for the client.

**"Sexual Assault"** means a range of behaviors, including but not limited to rape, attempted rape, sexual battery, sex trafficking, sexual abuse of children, sodomy, and sexual harassment.

**"Sexual Assault Services"** means personal advocacy and support services provided to primary and secondary victims of rape and sexual assault.

**"Shelter for dependents"** means a certified residential living arrangement in a secure setting with support and advocacy services provided by qualified staff for any dependents of the primary abuse victim of domestic violence, sexual assault and stalking.

**"Shelter Services"** means a certified residential living arrangement in a secure setting with support and advocacy services provided by qualified staff for victims of domestic violence, sexual assault and stalking and their dependents.

**"Short term emergency shelter"** means temporary residential sites which are provided to immediately remove domestic violence, stalking or sexual assault victims and their dependents from danger. Sites might include hotel/motel or other sites as appropriate.

**"Staff"** means personnel who function with a defined role in the program whether full-time, part-time or contracted.

**"Staff and volunteer education"** means a structured, formal process by which information is delivered to or received by staff or volunteers for orientation purposes, enhancement of service procedures, ongoing in-service, or accreditation for professional/contractual requirements.

**"Stalking"** means a course of conduct directed at a specific person that would cause a reasonable person to feel fear.

**"Substance Abuse Services"** means the assessment and treatment of diagnosable substance abuse and dependence disorders, as defined by current DSM criteria, by qualified alcohol and drug treatment professionals.

**"Support" or "Supportive Services"** means the provision of direct services to primary and secondary victims and their dependents for the purposes of preventing further violence, helping such victims to gain access to civil and criminal courts and other community services, facilitating the efforts of such victims to make decisions concerning their lives in the interest of safety, and assisting such victims in healing from the effects of violence.

**"Transitional Living Services"** means temporary, independent living programs with support services provided by the staff or volunteers of the sponsoring domestic violence, sexual assault and stalking program. These services are extensions of domestic violence shelter services to victims of domestic violence, sexual assault or stalking and their dependents. These services permit victims to develop their financial capacity and other means to live independently.

**"Transitional living services for dependents"** means temporary, independent living programs with support services provided by the staff or volunteers for dependents of a primary abuse victim of domestic violence, sexual assault and stalking.

**"Trauma-informed services"** means a service approach that recognizes the impact of trauma and acknowledges its role in the lives of primary and secondary victims and their dependents.

**"Travel"** means transporting individuals to access needed services.

**"Universal precautions for transmission of infectious diseases"** means those guidelines promulgated by the U.S. Occupational Health and Safety Administration that are designed to prevent the transmission of Human Immunodeficiency Virus, hepatitis and other infectious diseases.

**"Update"** means a dated and signed review of a report, plan or program with or without revision.

**"Voluntary Services"** means a program shall not mandate participation in supportive services as a condition of shelter residency or emergency services (Family Violence Prevention and Services Act, 42 U.S.C. 10408)

**"Volunteer"** means any person who is not on the program's payroll, but provides either indirect or direct services and fulfills a defined role within the program, including interns and practicum students.

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## SUBCHAPTER 2. DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS

### 75:15-2-4. Safe Home program [REVOKED]

(a) All Safe Home programs shall comply with section 75:15-2-1 and the following:

(1) The program shall offer confidential housing 24 hours a day, 365 days a year.

(2) Certified DVSA providers that have a formal agreement for a Safe Home shall:

(A) assure that each Safe Home offers residents with access to minimum necessities including bedding, clothing, articles for grooming and personal hygiene, and food;

(B) develop and disseminate to Safe Home providers and residents written rules, policies and procedures that include admission and exit criteria, including security measures;

(C) have written procedures for monitoring Safe Homes to ensure that the homes meet standards for cleanliness and safety;

(D) offer orientation to all clients and require they sign a contract acknowledging they have read and understand the rules of their stay;

(E) assign an advocate or liaison for clients. This person, or a crisis line staff or volunteer, shall be available for emergencies and support at all times; and

(F) offer at least one 30 minute face-to-face service contact per week with each Safe Home resident.

(b) The program shall establish criteria to screen potential Safe Home providers. Screening will include an application with references, an interview and a site visit. Each Safe Home will be reassessed annually.

(c) All Safe Homes must be supervised by the certified program, who will conduct on-site observations at least monthly when clients are in residence.

(d) The certified program shall have a written agreement with each Safe Home provider that outlines specific responsibilities of both the program and the provider to include expectations and limitations (e.g., no babysitting or individual advocacy) and compliance with confidentiality. The agreement shall clearly state that the program will not be held liable for damage incurred by the Safe Home provider. Both parties will sign the agreement.

(e) Compliance with 75:15-2-4 shall be determined by a review of program policies and procedures, client records, on-site observations, written agreements, and/or other program documentation.

### 75:15-2-5. Crisis intervention services [AMENDED]

(a) All certified DVSA programs shall offer crisis intervention services which include:

(1) Twenty-four (24) hour crisis telephone services staffed by trained staff or volunteers, and 24-hour immediate, direct access to crisis advocates. ~~Pagers, answering machines or answering services that do not offer immediate access to a crisis advocate shall not be sufficient to meet this requirement.~~ Technology or services that do not offer immediate access to a crisis advocate shall not be sufficient to meet this requirement;

(2) Emergency housing such as hotel or motel available for victims and their dependent(s);

(3) Arrangement for safe shelter, food, clothing, and incidentals needed by victim/dependents;

(4) The program shall provide twenty-four (24) hour emergency transportation or access to shelter, to and from SANE exams or other emergency services. Additionally, transportation shall be offered for ~~necessary services~~ other services necessary for victim safety. This shall not require service providers to be placed in a situation that could result in injury;

(5) Cooperation with law enforcement to offer assistance to the victim and accompanying dependent(s).

Programs should ensure victims are educated about participating in the legal prosecution of their offenders and that an appropriate release or waiver may be necessary;

(6) Provision of advocacy and referral to assist victims in obtaining needed services or resources;

(7) ~~Foreign language~~ Language interpretation; and

(8) Follow-up services shall be offered to all victims if victim safety is not compromised.

(b) Group and/or individual counseling or support services shall be made available before or after normal business hours (8:00 a.m. to 5:00 p.m.), if needed by clients. These services shall minimally offer the following:

(1) A facility with offices and individual and group counseling space to offer services;

(2) Advocacy services, both in person and by ~~telephone~~ telecommunication, either in the locations of other community services and systems, or in the program's offices. Other locations include but are not limited to those necessary to provide court advocacy services to clients; and

(3) Service approaches shall focus on the empowerment of victims to access needed resources and to make healthy and safe decisions for themselves and dependents.

- (c) Programs shall maintain at a minimum the following client resources:
- (1) Service agreements with community service providers for client services, which shall be renewed every three (3) years. If unable to establish a service agreement, attempts shall be documented;
  - (2) A resource document of local, area, or state resources to facilitate referrals for clients; and
  - (3) For agencies that do not have a behavioral health professional on staff, the agency shall maintain an updated list of identified behavioral health professionals in their community who treat clients with related trauma and need mental health or substance abuse services.
- (d) Compliance with 75:15-2-5 shall be determined by a review of program policies and procedures, client records, on-site observations, written agreements, and/or other program documentation.

## SUBCHAPTER 5. CLIENT RECORDS AND CONFIDENTIALITY

### 75:15-5-3.1. Record content - service specific [AMENDED]

- (a) Client records for specific services shall conform to the following:
- (1) **Shelter Services:**
    - (A) On a client's entry to the shelter, staff or volunteer shall record the client's name, emergency contact person(s) and any referral for medical or emergency services. This information may be a part of the full intake interview if the full intake is done on entering the shelter. An evidence-based, dangerousness assessment and safety planning shall be offered to be done at this time;
    - (B) Shelter clients shall be offered the full intake interview and screening within forty-eight (48) hours of entry into the shelter. If a client declines to participate with intake process, staff or volunteer shall document offer of services;
    - (C) Service plans shall be offered and completed within five (5) business days of the shelter client's entry to the shelter. If a client declines to participate with the formation of a service plan, staff or volunteer shall document offer of services;
    - (D) The service plan shall be offered to be reviewed and updated at least every two (2) weeks. If the client declines to review the service plan, staff or volunteer shall document offer of services;
    - (E) The client's service plan shall be offered to include components which address the needs of each child accompanying the client. If the client declines to add components for their children, staff or volunteer shall document offer of services;
    - (F) The service plan shall be offered to include safety issues for client and children. If the client declines to include safety issues, staff or volunteer shall document offer of services, and
    - (G) A daily note.
  - (2) **Crisis Intervention Services:**
    - (A) All face-to-face contacts with clients are documented and contacts with persons not receiving additional services shall be offered and documented. Documentation shall minimally include the following:
      - (i) Staff/Volunteer Name and signature;
      - (ii) Date, time, length, and location of intervention;
      - (iii) Safety planning based on risk;
      - (iv) Client's name, age, race, county of residence, and contact number if given;
      - (v) Protective order information if applicable;
      - (vi) Personnel involved such as police, hospital, etc.;
      - (vii) Summary of contact including injuries observed and services requested;
      - (viii) Follow-up services shall be offered to all victims if victim safety is not compromised; and
      - (ix) Outcome.
    - (B) All telephone contacts shall be documented. Documentation shall minimally include the following:
      - (i) Staff/Volunteer name;
      - (ii) Date, time and length of call;
      - (iii) Safety planning based on risk;
      - (iv) Caller's name and contact number, if given however, no caller shall be required to give a name, phone number or any other identifying information as a condition to receive information or domestic violence, sexual assault or stalking services;
      - (v) Summary of the call including services needed and offered;
      - (vi) Outcome; and

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(C) Contact information is kept by the program.

(D) Clients to be transported to shelter facilities shall be screened before the shelter referral is made. If the client is in immediate danger, or no safe housing is available, this screening may be initially waived. If the screening is waived, documentation shall reflect the reason(s) and the notification of such to the shelter.

**(3) Counseling, Support and Advocacy Services:**

(A) An assessment of the client's needs shall be completed by the third (3rd) counseling or advocacy session. If a client declines to participate staff or volunteer shall document offer of services;

(B) A service plan shall be completed by the fifth (5th) advocacy or counseling session. If a client declines to participate staff or volunteer shall document offer of services; and

(C) A service plan review and update shall be completed at a minimum of once every six (6) months. If a client declines to participate staff or volunteer shall document offer of services;

**(4) Sexual Assault Services:**

(A) For victims who continue in support or counseling sessions, a service plan shall be developed by the fifth (5th) visit. If a client declines to participate staff or volunteer shall document offer of services; and

(B) Service plans shall be reviewed and updated at a minimum of once every six (6) months. If a client declines to participate staff or volunteer shall document offer of services.

**(5) Transitional Living Services:**

(A) A service plan including safety issues for the client and dependents shall be developed within five (5) business days of the client moving in; and

(B) The service plan shall be reviewed and updated at least every ninety (90) days.

**(6) Safe Home Services**

~~(A) A service plan that includes goals agreed upon by the client and sponsoring family shall be developed within five (5) business days of the client moving in. On a client's entry to the Safe Home, the safe home provider shall record the client's name, emergency contact information, and pertinent medical information;~~

~~(B) Safe Home clients shall receive a full intake interview and screening by program staff or volunteer within twenty-four (24) hours of admission or by the first business day following admission;~~

~~(C) A service plan shall be developed within five (5) business days of the client's entry to the Safe Home; and~~

~~(D) All records regarding the client shall be retained in the client's record at the sponsoring program.~~

(b) Where required information is not obtained, efforts to comply with the requirements of this subsection shall be documented in the client record.

(c) Compliance with 75:15-5-3.1 shall be determined by a review of client records, policy and procedures, call logs, and/or other supporting documentation.

## **75:15-5-4. Client confidentiality [AMENDED]**

(a) The DVSA program ~~must~~shall comply with both state and federal laws governing confidentiality and any exceptions to those laws.

(1) State Law: Case or client records, files or notes, of a DVSA program shall be confidential and shall only be released under certain prescribed conditions (74 O.S. § 18p-3):

(A) The case records, case files, case notes, client records, or similar records of a domestic violence or sexual assault program certified by the Attorney General or of any employee or trained volunteer of a program regarding an individual who is residing or has resided in such program or who has otherwise utilized or is utilizing the services of any domestic violence or sexual assault program or counselor shall be confidential and shall not be disclosed;

(B) For purposes of this subsection, the term "client records" shall include, but not be limited to, all communications, records, and information regarding clients of domestic violence and sexual assault programs; and

(C) The case records, case files, or case notes of programs specified in paragraph 1 of this subsection shall be confidential and shall not be disclosed except with the written consent of the individual, or in the case of the individual's death or disability, of the individual's personal representative or other person authorized to sue on the individual's behalf or by court order for good cause shown by the judge in camera.

**(2) Federal Law:**

(A) The Violence Against Women Act universal grant conditions regarding confidentiality, Section 3 of VAWA, 34 USC §12291(b)(2) provides, in part: In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantees and subgrantees shall protect the confidentiality and privacy of persons receiving services. Grantees and subgrantees shall not: disclose, reveal, or release any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantee and subgrantee programs, regardless of whether the information has been encoded, encrypted, hashed or otherwise protected; or disclose, reveal, or release individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of legal incapacity, a court-appointed guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given by the abuser of the minor, incapacitated person, or the abuser of the other parent of the minor. If a minor or a person with a legally appointed guardian is permitted by law to receive services without the parent's or guardian's consent, the minor or person with a guardian may release information without additional consent. If release of information is compelled by statutory or court mandate, grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information and take steps necessary to protect the privacy and safety of the persons affected by the release of the information. In no circumstances may an adult, youth, or child victim of domestic violence, dating violence, sexual assault, or stalking be required to provide a consent to release identifying information as a condition of eligibility for the services provided.

(B) The Family Violence Prevention and Services Act universal grant conditions on confidentiality, 42 USC 10401 et seq. provides, in part: Personally identifying information. The term personally identifying information has the meaning given the term in the Violence Against Women Act. In order to ensure the safety of adult, youth, and child victims of family violence, domestic violence, or dating violence, and their families, grantees and subgrantees under this title shall protect the confidentiality and privacy of such victims and their families. Subgrantees shall not disclose any personally identifying information collected in connection with services requested (including services utilized or denied), through grantee and subgrantee programs; or reveal personally identifying information without informed, written, reasonably time-limited consent by the person about whom information is sought, whether for this program or any other Federal or State grant program, which consent shall be given by the person, except in the case of an unemancipated minor, the minor and the minor's parent or guardian; or in the case of an individual with a guardian, the individual's guardian; and may not be given by the abuser or suspected abuser of the minor or individual with a guardian, or the abuser or suspected abuser of the other parent of the minor. If release of information is compelled by statutory or court mandate grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the release of the information; and grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

(C) Victims of Crime Act regulations on confidentiality applying to grantees, 28 CFR §94.115 provides in part: Sub-recipients of VOCA funds shall, to the extent permitted by law, reasonably protect the confidentiality and privacy of persons receiving services under this program and shall not disclose, reveal, or release any personally identifying information or individual information collected in connection with VOCA-funded services requested, utilized, or denied, regardless of whether such information has been encoded, encrypted, hashed, or otherwise protected; or individual client information, without the informed, written, reasonably time limited consent of the person about whom information is sought, except that consent for release may not be given by the abuser of a minor, incapacitated person, or the abuser of the other parent of the minor. If a minor or a person with a legally appointed guardian is permitted by law to receive services without a parent's (or the guardian's) consent, the minor or person with a guardian may consent to release of information without additional consent from the parent or guardian. If release of information is compelled by statutory or court mandate, SAAs or sub-recipients of VOCA funds shall make reasonable attempts to provide notice to victims affected by the disclosure of the information, and take reasonable steps necessary to protect the privacy and safety of the persons affected by the release of the information.

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(D) Housing Assistance Emergency Solutions Grants, at 42 U.S.C. § 11375 (c)(5), require recipients to develop and implement procedures to ensure confidentiality of records pertaining to any individual provided family violence prevention or treatment services under this part and that the address or location of the family violence shelter project assisted under this part will not be made public without written authorization of the person or persons responsible for the operation of such shelter; and (E) Stewart B. McKinney Homeless Assistance Act, at 42 U.S.C. § 1130163, mandates that any victim service provider that is a recipient or subgrantee shall not disclose for purposes of the Homeless Management Information System (HMIS) any personally identifying information about any client. Subgrantees may be required to disclose for purposes of HMIS non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. The Violence Against Women Act also contains a provision that specifies a domestic violence program provider shall not disclose any personally identifying information about any client to the Homeless Management Information System (HMIS).

(b) Compliance with 75:15-5-4 shall be determined by a review of the program's policies and procedures; and on-site observation of the handling and review of client records.

## 75:15-5-4.1. Waiver of Confidential Information [AMENDED]

(a) For a waiver of confidentiality to be valid, it ~~must~~shall:

- (1) Be voluntary;
- (2) Relate only to the participant or the participant's dependents;
- (3) Clearly describe the scope and any limitations of the information to be released;
- (4) Include an expiration date;
- (5) Inform the participant that consent can be withdrawn at any time, orally or in writing;
- (6) Programs ~~may~~shall only share the specific information the client allows in the release. The client gets to choose when, how and what personal information will be shared, or not shared, and with whom;
- (7) Even when a court mandate requires the program to disclose or release information about the client, the program ~~may~~shall only share the minimum information necessary to meet the statutory or court mandate; and
- (8) The program/agency shall notify the victim of any disclosure and to continue taking steps to protect the victim's safety and privacy.

(b) A valid written release form for disclosure of client information shall have, at a minimum, the following elements:

- (1) the specific name or general designation of the program or person permitted to make the disclosure;
- (2) the name and title of the individual, agency or organization to which disclosure is to be made;
- (3) the name of the client whose records are to be released;
- (4) the purpose of the disclosure;
- (5) a description of the information to be disclosed;
- (6) the dated signature of the client or authorized representative or both when required;
- (7) a statement of the right of the client to revoke the release in writing and a description of how the client may do so; and
- (8) an expiration date, specified event or condition which, if not revoked before, shall ensure the release will last no longer than reasonably necessary to serve the purpose for which it is given. The reasonableness of this time period will depend on the specific situation.

(c) ~~"In the event of my death"~~Legacy clause: Some programs have chosen to talk with clients about the lethality of domestic violence and ask if they would like the program to share information with ~~police, prosecutors, the Oklahoma Fatality Review Board, or others~~ the client may indicate in the event that the client dies (due or not due to DV). ~~Because clients may have to sign multiple releases, programs~~Programs shall have the ~~"in the event of my death"~~"legacy clause" exception on a different form.

(d) The program shall have written policies and procedures to ensure confidentiality of client information and identity and shelter location and govern the disclosure of information, including verbal disclosure, contained in client records. When a client record is established, the program shall discuss the confidentiality requirements with each client and maintain documentation in the client record that they have reviewed the circumstances under which confidential information may be revealed.

(e) Compliance with 75:15-5-4.1 shall be determined by a review of the program's policies and procedures; and on-site observation of the handling and review of client records.

## 75:15-5-7. Shelter Policy on Medications [AMENDED]



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- (a) The shelter shall seek to afford shelter residents with the greatest possible privacy and autonomy in regard to their medication, while also providing a safe shelter environment, as follows:
- (1) Staff and volunteers shall not dispense medication or require residents to request their medication;
  - (2) The shelter will provide every resident with an individual locking box, locker, or locking cabinet ("locked space") for storage of medications and valuables or lock the clients' medication in a safe but accessible location;
  - (3) The shelter will not limit or monitor the client's access to the client's medication;
  - (4) If a client indicates that ~~she~~ he or she needs access to refrigerated storage space, the shelter will provide refrigerated storage space in the manner that provides the greatest possible privacy and autonomy; and
  - (5) The shelter shall have a policy for the disposal of unused or abandoned medication or other substances.
- (b) Safety Agreement: During a resident's stay at shelter, the client shall be asked to make sure that any medications the client has are safely secured. The shelter will ask every resident to sign an agreement that the client will store any medications in the client's individual locking box, locker, or locking cabinet provided, or if it is one requiring refrigeration, as otherwise provided. The agreement will provide that residents who have medications that must be taken in the event of a medical emergency may carry them on their person (e.g., in a fanny pack).
- (c) Compliance with 75:15-5-7 shall be determined by a review of the program's policies and procedures, and on-site observation.

## SUBCHAPTER 7. PHYSICAL ENVIRONMENTS

### 75:15-7-6. Program environment [AMENDED]

- (a) The program environment shall meet the following conditions:
- (1) The facility shall be accessible by an all-weather road;
  - (2) The facility shall have adequate space in which to carry out the program's goals and objectives, including outdoor areas and equipment when appropriate;
  - (3) The facility shall have heating and air conditioning equipment adequate to maintain the temperature in areas utilized by clients at between 65°F and 85°F;
  - (4) The facility shall have adequate ventilation and air circulation provided in the facility to assure an environment that will be comfortable for the clients;
  - (5) The facility shall have water from an approved tested potable source;
  - (6) The facility shall have, at minimum, a commode and lavatory facility. The privacy of individuals shall be assured while using these facilities;
  - (7) All doors, including those for each closet, bedroom, bathroom, and office, shall be easily opened from both sides;
  - (8) Smoking shall not be allowed in any indoor portion of any facility;
  - (9) Facility sanitation shall be maintained to prevent offensive odors and insect infestation.
  - (10) All facilities shall have emergency backup lighting;
  - (11) Telephones shall be provided for the convenience of the staff or volunteers, and the necessary accommodation of the clients. ~~Pay telephones only are not acceptable;~~
  - (12) There shall be written policies and procedures addressing the use of any outdoor recreational space, including required supervision and the safety of children;
  - (13) Toxic materials and dangerous substances, such as toxic cleaners, insecticides, and matches shall be stored in a non-client area, locked space where they are not accessible to children;
  - (14) Combustible materials shall be stored in locked non-flammable containers; and
  - (15) The Poison Control Center's toll-free telephone number shall be posted and visible to staff, volunteers and clients at all times.
- (b) Compliance with 75:15-7-6 shall be determined by a review of program policies and procedures, staff, volunteer and client interviews, and on-site observation.

### 75:15-7-8. Program environment, Safe Home services program [REVOKED]

- (a) ~~All Safe Home services programs shall comply with section 75:15-7-6 (a) (1)-(11) and the following:~~
- ~~(1) The facility shall have, at minimum, a commode, lavatory, and bathing facility at a ratio of one (1) for every eight (8) persons, including infants and children. The privacy of individuals or families shall be assured while using these facilities;~~
  - ~~(2) Written policies and procedures shall address the secure handling and storage of client medications, including policy to document client access to medication;~~

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~~(3) The Safe Home shall be secured by double locks or locking devices such as chains, bolts, etc., on ground floor doors which meets state and local fire code inspection. When key-locked deadbolts are used, the location of the keys must be identified and readily accessible; and~~

~~(4) All outdoor openings such as windows shall be covered for privacy.~~

~~(b) Compliance with 75:15-7-8 shall be determined by a review of program policies and procedures, provider and client interviews where appropriate, and on-site observation.~~

## SUBCHAPTER 13. PERSONNEL AND VOLUNTEERS

### PART 3. TRAINING

#### **75:15-13-20.2. In-service and ongoing training for personnel and volunteers [AMENDED]**

(a) A certified program shall have policies and procedures mandating, at the minimum, sixteen (16) hours of annual training of all staff which shall include:

- (1) Confidentiality, to include verbal confidentiality, whether inside or outside the facility and client records;
- (2) Facility safety and disaster plans;
- (3) First aid kits and fire extinguishers, their location, contents, and use;
- (4) Universal precautions;
- (5) Client rights;
- (6) Legal and ethical issues; and
- (7) The remaining hours of annual training shall be related to domestic violence, sexual assault, stalking, batterers' intervention and administration as prescribed and approved by the Executive Director.

(b) A certified program shall have policies and procedures mandating a minimum of 16 hours annual training of all volunteers providing direct services related to domestic violence, sexual assault, and stalking as prescribed and approved by the Executive Director.

(c) Staff and volunteers who provide indirect services and do not meet the requirements for staff and volunteers providing direct services as defined in OAC 75:15-1-2 shall receive annual training as prescribed by the Executive Director, but do not have a minimum number of training hours required.

(d) Documentation of training must include the topic of the training, the name of the trainer(s), the date of the training, the length of the training session, the sponsor of the training, and approval of the training by the Executive Director of the agency.

~~(e) A Certified Domestic and Sexual Violence Response Professional in good standing with the Oklahoma Coalition Against Domestic Violence and Sexual Assault (OCADVSA) shall be deemed to be current with annual training requirements upon completion of required annual training set forth in subsection (a) above. A copy of the current certification card issued by the OCADVSA shall be evidence of good standing.~~

~~(f)(e)~~ Compliance with 75:15-13-20.2 shall be determined by a review of policies and procedures; review of training records and other provided documentation of personnel training; and a review of personnel or volunteer records.

#### **75:15-13-27. Provider training, Safe Home services [REVOKED]**

~~(a) Prior to providing any direct services, all Safe Home providers shall receive the prescribed orientation training in 75:15-13-20.1.~~

~~(b) The program shall have policies and procedures mandating a minimum of four (4) hours annual training for Safe Home providers.~~

~~(c) Compliance with 75:15-13-27 shall be determined by:~~

- ~~(1) Review of program's policies and procedures; and~~
- ~~(2) Review of program's training records.~~

## SUBCHAPTER 17. CLIENTS RIGHTS

#### **75:15-17-4. Client grievance policies and procedures [AMENDED]**

(a) Each program shall have a written client grievance policy providing for, but not limited to, the following:

- (1) Written notice of the grievance and appeal procedure provided to the client; and, if involved with the client, to family members or significant others;
- (2) Time frames for the grievance policy's procedures, which allow for an expedient resolution of client grievances as follows:

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- (A) Transitional living, ~~and shelter services, and Safe Home~~ timeframes for resolution of grievances by program staff or volunteers shall be seven (7) days unless appealed; and
  - (B) Non-transitional living and non-shelter services timeframes for resolution of grievances by program staff or volunteers shall be fourteen (14) days unless appealed;
  - (3) Name(s) of the individual(s) who are responsible for coordinating the grievance policy and the individual responsible for or with the authority to make decision(s) for resolution of the grievance. In the instance where the decision maker is the subject of a grievance, decision-making authority shall be delegated;
  - (4) Provide for notice to the client that he or she has a right to make a complaint to the ~~OAG Victims Services Unit~~ VASU;
  - (5) Clients shall be given a copy of the grievance policy, including the right to make a complaint to the OAG, and the provision of such shall be documented in the client record, including the phone number, mailing address, and email address of the ~~Victims Services Unit of the Office of the Attorney General~~ VASU;
  - (6) Mechanism to monitor the grievance process and improve performance based on outcomes; and
  - (7) Annual review of the grievance policies and procedures, with revisions as needed.
- (b) Compliance with 75:15-17-4 shall be determined by a review of program policies and procedures, client records, on-site observation, written agreements, and/or other program documentation.

## SUBCHAPTER 18. CODE OF PROFESSIONAL ETHICS [AMENDED]

### 75:15-18-1. Applicability [NEW]

This section is applicable to domestic violence, sexual assault and stalking programs and shelters certified by the OAG pursuant to 74 O.S. §§ 18p-1–18p.6.

### 75:15-18-2. Code of Professional Ethics [NEW]

- (a) Employees and volunteers of domestic violence, sexual assault, and stalking programs certified pursuant to 74 O.S. §§ 18p-1–18p-6 have an ethical obligation to their clients.
- (b) Each program shall adopt a written Code of Professional Ethics. The Code shall encompass behavioral expectations and underlying philosophy set forth in subchapter 1, section 1.1 of this Chapter.
- (c) At minimum, the Code of Professional Ethics shall include the following ethical standards:
  - (1) Confidentiality and Privacy, including legal and ethical obligations to clients with respect to internal and external entities;
  - (2) Guiding Values, including empowerment and autonomy, self-determination, integrity, compassion, empathy, non-judgment, respect for people’s rights and dignity, and client-centered practice;
  - (3) Professional Competence, including knowledge, skills, experience, evidence-based and trauma-informed practices, cultural responsiveness, ongoing education, scope of competence, and duty to report the unethical conduct of colleagues to supervisors;
  - (4) Professional-Client Relationships, including boundaries, and conflicts of interest; and
  - (5) Social Responsibility, including non-discrimination, and fostering anti-oppressive, equitable, inclusive, safe, trauma responsive, non-violent environments.
- (d) Compliance with this section shall be determined by a review of the written program policies and procedures, personnel files, training records, and/or other program documentation.

*[OAR Docket #25-384; filed 5-28-25]*

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## TITLE 75. ATTORNEY GENERAL

### CHAPTER 25. STANDARDS AND CRITERIA FOR BATTERERS INTERVENTION PROGRAMS

*[OAR Docket #25-385]*

#### **RULEMAKING ACTION:**

PERMANENT final adoption

#### **RULES:**

Subchapter 1. General Provisions

75:25-1-3. Definitions [AMENDED]

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Subchapter 3. Batterers Intervention

75:25-3-1. Batterers intervention program [AMENDED]

75:25-3-3. Client records [AMENDED]

75:25-3-4. Assessment [AMENDED]

75:25-3-4.1. Record Content [AMENDED]

75:25-3-4.2. Victim safety and confidentiality [AMENDED]

Subchapter 5. Personnel and Volunteers

Part 5. TRAINING

75:25-5-21. Personnel training, batterers intervention services [AMENDED]

Subchapter 9. Technology

75:25-9-1. Technology and system plan [AMENDED]

Subchapter 11. Code of Professional Ethics [NEW]

75:25-11-1. Applicability [NEW]

75:25-11-2. Code of Professional Ethics [NEW]

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# Permanent Final Adoptions

The Oklahoma Office of the Attorney General ("OAG") proposes these amendments to clarify general information related to the duties set forth for the Victims Advocacy and Services Unit ("VASU"), specifically to the standards and criteria for accreditation of batterers intervention programs. Minor changes provide consistency of language and terms and include new and expanded definitions in accordance with modern nomenclature. To promote participation and success by those ordered to participate in batterers intervention, specific provisions of the rules change "batterers" to be "clients," where appropriate, to update rule language and emphasize the change in behaviors and mindsets. Amendments also modernize references to approved uses of technology in program delivery and outline the aspects of the program that must be provided exclusively in person. The rule amendments also expand reasons for excused absences, including military service, attending the birth of the client's child, family funerals, court appearances, and certain types of inclement weather. Subchapter 11 adds a code of professional ethics applicable to all certified batterers intervention 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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 75:25-1-3. Definitions [AMENDED]

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

**"Admission"** means to accept a client for services.

**"Americans with Disabilities Act of 1990"** including, but not limited to the deaf and hard of hearing, blind, physically disabled, developmentally disabled, persons with disabling illness, and persons with mental illness. See "Americans with Disabilities Handbook", published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

**"Assessment"** means the process of evaluating an individual to determine needs for services and appropriateness of admission to the program.

**"Batterer"** means a person, male or female, who perpetrates domestic violence, stalking or other harassment against present or past intimate partners, another adult, emancipated minor or minor child, who are family or household members or who are or were in a dating relationship.

**"Batterers Intervention Program" (BIP)** means a status which is granted to an entity by the Oklahoma Office of the Attorney General. These services hold a batterer accountable for abusive behavior, provide consequences for engaging in ongoing violent or abusive behavior, provide monitoring of a batterer's behavior, and require the ~~batterer~~ client to change battering behavior and attitudes. BIP's shall keep victim's safety in the forefront. Anger control or management, substance abuse treatment or mental health treatment alone or in combination with each other shall not constitute batterers intervention; neither of these interventions, alone nor in combination with each other, should be utilized as the primary means of facilitating the required changes in behavior and attitudes.

**"Battering"** means a pattern of behavior used to establish power and control over another person through fear and intimidation, often including the threat or use of violence.

**"Business day"** shall mean a calendar day other than a Saturday, Sunday, or state holiday. In computing any period of time where the last day would fall on a Saturday, Sunday, or state holiday, the period shall run until 5:00 o'clock p.m. of the next business day.

**"Certified batterers intervention program"** Indicates approval to provide batterers intervention programs pursuant to 74 O.S. § 18p-6. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

**"Child" or "Children"** means any individual from birth to eighteen years of age.

**"Client"** means an individual who has applied for, is receiving or has received assistance or services of a batterer's intervention program.

**"Client record"** includes, but is not limited to, all communication, records and information on an individual client.

**"Community"** means the people, groups, agencies or other facilities within the locality served by the program.

**"Coordinated Community Response Team"** means a multi-disciplinary group of individuals from agencies and programs in the community whose purpose is to keep victims safe and hold batterers accountable.

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**"Counseling"** means a method of using various commonly acceptable treatment approaches provided face-to-face by a behavioral health professional either licensed or under supervision for licensure as a Licensed Professional Counselor, Licensed Marriage and Family Therapist, Licensed Behavioral Practitioner, Licensed Clinical Social Worker, psychiatrist or psychologist with clients in individual, group or family settings to promote positive emotional or behavioral change. Counseling is goal directed and utilizes techniques such as cognitive behavioral treatment, narrative therapy, solution-focused brief therapy, psycho-educational interventions or another widely accepted theoretical framework for treatment.

**"Critical incident"** means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a client. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to clients, personnel, volunteers and visitors; incidents involving medication; neglect or abuse of a client; fire; unauthorized disclosure of information; damage to or theft of property belonging to a client or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

**"DVSA"** means domestic violence and sexual assault.

**"Documentation"** means the provision of written, dated and authenticated evidence to substantiate compliance with standards, e.g., minutes of meetings, memoranda, schedules, notices, logs, records, policies, procedures, announcements, correspondence, and photographs.

**"Domestic violence"** means a pattern of abusive behavior in any relationship that is used by a batterer to gain or maintain power and control over a current or former partner or family member. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

**"Education"** means the dissemination of relevant information specifically focused on increasing the awareness of the community and the receptivity and sensitivity of the community concerning domestic violence, sexual assault or batterer's intervention and other related problems and services and may include a systematic presentation of selected information to impart knowledge or instructions, to increase understanding of specific issues or programs, to examine attitude or behaviors and stimulate social action or community support of the program and its clients.

**"Executive Director"** means the person hired by the governing authority to direct all the activities of the organization. May be referred to as "Chief Executive Officer".

**"Facility"** means the physical location(s) of a certified program governed by this chapter of Title 75.

**"Family"** means the children, spouse, parents, brothers, sisters, other relatives, foster parents, guardians and others who perform the roles and functions of family members in the lives of clients.

**"Intake"** means the process of obtaining written information about a client for entry into services, obtained by the program at time of admission.

**"Lethality risk indicators"** means evidence-based risk factors commonly associated with lethal intimate partner violence such as those listed in 21 O.S. § 142A-3:

- (A) Has the person ever used a weapon against the victim or threatened the victim with a weapon?
- (B) Has the person threatened to kill the victim or children of the victim?
- (C) Does the victim think the person will try to kill the victim?
- (D) Has the person ever tried to choke the victim?
- (E) Is the person violently or constantly jealous or does the person control most of the daily activities of the victim?
- (F) Has the victim left or separated from the person after living together or being married?
- (G) Is the person unemployed?
- (H) Has the person ever tried to kill himself or herself?
- (I) Does the victim have a child that the person knows is not his or her own child?
- (J) Does the person follow or spy on the victim or leave the victim threatening messages?
- (K) Is there anything else that worries the victim about his or her safety and if so, what worries the victim?

**"Licensure"** means the official or legal permission to persons or health facilities meeting qualifications to engage in a given occupation or use a particular title.

**"Mental health services"** means a range of diagnostic, therapeutic, and rehabilitative services used in treating mental illness or emotional disorders, including substance abuse.

**"Neglect"** means failing to provide adequate personal care or maintenance, or access to medical care which results or may result in physical or mental injury or harm to a client.

**"Non-abusive behavior"** means behavior that is absent of violence, coercion, control or abuse.

**"OAG"** means the Oklahoma Office of the Attorney General.

**"Objectives"** means a specific statement of planned accomplishments or results which are quantitative, qualitative, time-limited and realistic.

**"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.

**"Operation"** means that clients are receiving services provided by the program.

**"Personnel record"** means a file containing the employment history and actions relevant to individual personnel and volunteer activities within an organization such as application, evaluation, salary data, job description, citations, credentials, etc.

**"Persons with special needs"** means persons with a condition which is considered a disability or impairment under the

**"Policies"** means statements of program intent, strategy, principle, or rules for providing effective and ethical services.

**"Procedures"** means the standard methods by which policies are implemented.

**"Program"** means a set of activities designed and structured to achieve specific objectives relative to the needs of the clients.

**"Program evaluation"** means the documented assessment activities, performed internally or externally, of a program or a service and its staff, activities and planning process to determine whether program goals are met, staff and activities are effective, and what effect, if any, a program or service has on the problem which it was created to address or on the population which it was created to serve.

**"Program goals"** means broad general statements of purpose or intent.

**"Screening"** means the process of determining, preliminarily the nature and extent of a person's problem in order to establish the service needs of an individual. At a minimum, a screening shall include a brief personal history related to abuse, a review of the individual's strengths and resources, risk factors and referral needs.

**"Service Agreement"** means a written agreement between service agencies and/or individual service providers defining the roles and responsibilities of each party to promote coordination and integration of service.

**"Service note"** means the documentation of the time, date, location and description of services provided, and signature, including electronic signature, of staff or volunteer providing the services.

**"Staff"** means personnel that function with a defined role within the program whether full-time, part-time or contracted.

**"Victim"** is an individual against whom the batterer/client perpetrates domestic violence. Individuals may include partners, former partners, children and other family or household members.

**"Volunteer"** means any person who is not on the program's payroll, but provides either indirect or direct services and fulfills a defined role within the program and includes interns and practicum students.

## SUBCHAPTER 3. BATTERERS INTERVENTION

### 75:25-3-1. Batterers intervention program [AMENDED]

(a) Each certified batterer intervention program shall have the policy, procedures, staffing, training, operational methods and facilities to meet the following requirements:

- (1) Batterers intervention programs are educational programs based on a model of power and control designed to encourage batterers to end violent and coercive behaviors in their relationships by challenging their belief systems and holding them accountable for their behavior.
- (2) Program focus shall be victim safety and batterer accountability. The service shall be based on non-victim blaming strategies.
- (3) Batterers intervention shall not be confused with anger control or management, substance abuse treatment and/or mental health treatment.
- (4) Services shall be provided in a facility with offices available for private individual and group sessions.
- (5) Services shall be provided to self-referred, court-referred, or Department of Human Services referred batterers. Group services shall be the primary modality.
- (6) Groups shall not provide substance abuse treatment and batterers intervention in the same program; batterers who have substance abuse issues need to be referred for separate substance abuse services.
- (7) The majority of group session time should be focused on the subject abuse itself, and not on peripheral problems, past victimization experienced by the batterer/client, self-actualization, sensitivity training, or any other theme not directly related to abuse.

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(8) Facilitators shall challenge minimization, denial and blame. These are tactics used by the batterer/client to justify the use of violence.

(9) Batterers/Clients shall be held accountable for their behavior; BIP facilitators shall report new offenses to the court.

(b) The goal of the batterer's intervention program is to end the batterer's/client's abusive behavior. This shall be achieved by confronting and dispelling the individual batterer's justifications for the use of violence within the relationship. Particular attention shall be paid to the belief systems that promote the use of intimidation, violence and coercion against intimate partners and children. Theories or methods which attribute to the victim any responsibility for the batterer's/client's behavior or diminish the batterer's/client's responsibility for the violence are inappropriate. Education shall be provided to the batterer/client utilizing written curriculum specifically developed for batterers intervention that comprehensively addresses, at a minimum:

- (1) abuse and violence as a form of control, and an explanation of the need to give up all forms of controlling and coercive behavior;
- (2) a detailed explanation of the range of abusive power and control behaviors, including coercive behavior, chronic verbal abuse, economic abuse, sexual abuse/mistreatment, psychological/mental abuse, physical abuse, abuse of animals, and use of the children as weapons;
- (3) support for and perpetuation of abuse are based on traditional gender roles and privilege.
- (4) non-abusive communication techniques;
- (5) effective coping strategies;
- (6) the impact of battering on children and the incompatibility of violence and abuse with responsible parenting;
- (7) the batterer/client must be able to identify all abusive conduct, the pattern of that conduct, and the culture which legitimizes or excuses both individual acts and the larger pattern of battering. This may include but not be limited to accepting personal as well as financial responsibility for child support, court costs, restitution, and BIP related costs;
- (8) developing healthy relationships; including techniques for achieving non-abusive, non-controlling attitudes and behavior.
- (9) non-abusive behavior planning for the prevention of violent, controlling and abusive behavior;
- (10) effects of domestic violence on victims from a victim perspective, and
- (11) the potential consequences of domestic violence to the batterer/client.

(c) Inappropriate Methods of Intervention. The following methods have been determined to be inadequate and/or inappropriate, and shall not be the focus of intervention:

- (1) therapy, whether psycho-dynamic, individual or group;
- (2) communication enhancement, anger management or stress management techniques that blame anger as the root cause of domestic violence;
- (3) systems theory approaches that treat domestic violence as a result of mutual actions of the victim and batterer, thereby attributing some responsibility to the victim;
- (4) addiction counseling models that identify domestic violence as an addiction;
- (5) gradual containment and de-escalation of domestic violence;
- (6) theories that identify poor impulse control as the primary cause of domestic violence;
- (7) methods that identify psychopathology on either parties' part as a primary cause of domestic violence; and

(d) Services shall be provided during hours which make them available for clients whose work hours are between 8:00 A.M. and 5:00 P.M. Monday through Friday.

(e) The program shall maintain admission criteria for batterers intervention services.

(f) The program shall provide individual assessment sessions and group sessions.

(g) Service policy shall not permit the substitution of individual sessions/counseling appointments for group participation except in a situation where only one batterer of a gender has been accepted into the program.

(h) Group sizes shall be limited to not less than two (2) and not more than sixteen (16) clients.

(i) Exit criteria shall be contingent on the satisfactory meeting of specific criteria by the participant, and not merely upon the end of a specified period of time or a specified number of sessions.

(j) Joint participation shall not be allowed of the victim as part of batterers intervention.

(k) Male and female batterers shall not be served in the same group or session.

(l) The program shall maintain an annually renewed service agreement with appropriate referral sources such as, but not limited to:

- (1) substance abuse;
- (2) mental health services; and
- (3) local OAG-certified domestic violence victim services.



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(m) In the case of court referred clients, the program shall develop a written policy for coordinating with and reporting to the court, judge, probation officer, child welfare worker and/or district attorney.

(n) In the case of non-court referred clients, the program shall develop a written policy for reporting client information, including but not limited to, assessment results, participation in services, reason for exit and concerns related to the safety of the victims or children.

(o) If other services for the batterer client are necessary, appropriate referrals shall be made for such issues, including but not limited to mental health and/or substance abuse issues.

(p) Certified batterer intervention programs shall not be less than 52 weeks in duration. The 52 weekly group sessions shall be no less than ninety (90) minutes in length. Completion of a batterer's intervention program requires at a minimum 52 weekly attended sessions as well as a favorable evaluation from the program.

(q) The batterer's intervention program shall not allow three unexcused (3) absences in succession or a total of seven unexcused (7) absences in a period of fifty-two (52) weeks. The batterer client shall be terminated from the program as per 21 O.S. § 644 and the court or other referring party shall be notified of the termination. ~~Exceptions~~ Excused absences are:

(1) Hospitalization or medical restriction from attending program session(s) (verified by proper medical documentation);

(2) Military Duty (verified by proper military documentation);

(3) Attending the birth of his or her child, if legally permitted to do so (occurring the week of the birth and verified by proper documentation);

(4) Attending the funeral of an immediate family member such as a spouse/partner, child/dependent, parent, or grandparent (occurring the week of the funeral and verified by proper documentation);

(5) Attending a court hearing pertaining only to the existing criminal case or DHS welfare deprived case (verified by proper documentation); or

(6) Inclement weather as determined at the discretion of the certified program.

(r) Certified batterer intervention programs shall provide assessment, intake, and exit interview services exclusively in person. Certified batterer intervention programs shall provide in person weekly group sessions, in addition to any offering of virtual group sessions, as the exclusive use of virtual platforms to facilitate group is not acceptable. Programs with a Temporary Certification shall only be eligible to offer virtual group sessions following successful completion of the certification process and upon being granted Certification as defined in chapter 1 of this title. Certified programs that desire to offer virtual group sessions shall make an application to offer this provision of services to the Office of Attorney General on a form provided by the Victim Advocacy and Services Unit prior to offering any virtual group sessions under any of the following circumstances:

(1) If the client resides or works in a county that does not have a certified batterer intervention program, and the nearest certified program is over forty-five (45) miles from their residence or work site;

(2) If the client has an occupation that requires that they regularly, and physically work away from the nearest certified program more than two weeks in succession per month;

(3) If the client has accessibility or accommodation needs to address consistent lack of transportation and/or disability; or

(4) If the program has outlined in an inclement weather policy procedures for offering virtual group sessions.

(s) Programs utilizing platforms to allow clients to participate in group sessions virtually shall develop specific written policies and procedures regarding such programming. Policies and procedures shall include, at a minimum, virtual specific considerations of the following:

(1) Victim safety;

(2) Assignment of a trained facilitator to every virtual group;

(3) Facilitators shall provide at least twelve (12) in-person group sessions before being eligible to facilitate virtual group;

(4) Group size of no less than two (2) and no more than ten (10) participants; and

(5) Provision of services are certified solely pertaining to the State of Oklahoma, and group rules and expectations.

(t) Programs shall document reason(s) as to why an individual was placed in a virtual group instead of an in-person group offered by the program, including evaluation of individual participant needs, and victim;

(u) To the extent possible, group format should remain consistent for the duration of the participant's time in the program; and

(v) Participants must agree to abide by the program standards and rules, including any additional rules specific to virtual group sessions, such as:

(1) Cameras must remain on;

(2) Internet must be stable;

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- (3) Appropriate equipment to participate virtually including a camera, headphones, microphones, speakers, or other devices necessary to ensure that the participant can be seen and heard and can hear the facilitator and other participants;
- (4) No drinking alcohol, smoking, vaping, or chewing tobacco during the session;
- (5) No driving during the session;
- (6) No eating food during the session;
- (7) Participants must be fully clothed during the session and show a 360-degree view (full view) of the room they are in to ensure they are alone for the session's duration;
- (8) The group is a confidential and shall not be recorded;
- (9) Cell phones shall be turned off or silenced during the group session;
- (10) The device on which a participant attends session must be full charged and updated;
- (11) Participants shall not check email, other mobile phone applications, or do other tasks during group session.
- (12) Participants shall take precautions to ensure no interruptions of the session by animals or household members, including children, shall occur.

~~(r)~~(w) If the ~~batterer~~client is terminated for any reason as set forth herein, the batterer shall be required to obtain a new assessment and commence a new fifty-two (52) week program. No credit for prior program attendance shall be allowed. Termination from a program terminates any and all credits accumulated by said batterer.

~~(s)~~(x) Compliance with 75:25-3-1 shall be determined by a review of program policy and procedures; client records; service agreements, and other program documentation.

## 75:25-3-3. Client records [AMENDED]

- (a) A certified program that uses hand written records shall have written policy and procedures for correcting errors on hand written record material by lining through, initialing the error, and inserting the correct material either above the error or at the end of the entry. Further, the policy and procedures shall forbid the use of "white-out" or any action which obliterates the error.
- (b) Each client record entry shall be legible, dated, and signed by the staff member or volunteer making the entry.
- (c) Copies of all service documentation including assessments, exit interviews and reports shall be kept in the ~~batterer's~~client's file.
- (d) Compliance with 75:25-3-3 shall be determined by on-site observation, client records, policy and procedures and any other supporting program documentation.

## 75:25-3-4. Assessment [AMENDED]

An assessment shall be completed prior to service recommendations or acceptance into the program. Before the assessment begins, the individual shall sign acknowledgment that they are participating in a batterer's intervention program assessment which is an educational program, not a therapeutic program, and will not have the same level of confidentiality afforded by mental health services. The program will not assure confidentiality of the assessment results with respect to the Judge, District Attorney, referring agency, or victim(s). The assessment shall at a minimum contain:

- (1) client's name;
- (2) date of assessment;
- (3) address;
- (4) phone number;
- (5) current and past history of violence;
- (6) lethality risk indicators using an evidence-based instrument specifically for batterers intervention;
- (7) drug and alcohol use/abuse history and screening;
- (8) mental health history and screening;
- (9) criminal history, including a report of the incident that generated the referral;
- (10) current or past history with Child Protective Services or Adult Protective Services. If currently involved with Child Protective Services, the assessment shall include a review of the Individualized Service Plan;
- (11) family and social history;
- (12) access to weapons;
- (13) history of animal abuse or cruelty;
- (14) history of sexual abuse victimization;
- (15) history of petitions for protective orders filed and disposition;
- (16) pertinent medical information, including substance abuse and incidence of traumatic brain injuries;

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- (17) copies of the court documents, including but not limited to: relevant court documents in divorce cases, divorce decrees, petitions for protective orders, protective orders, any and all court orders ordering the ~~batterer~~client to complete a BIP;
- (18) copies of the Probable Cause Affidavit or police report and criminal information if applicable;
- (19) copies of the Department of Human Services Individual Service Plan, if applicable;
- (20) a report shall be written as outlined in 75:25-3-4.1 (4) through (6); and
- (21) initial victim and current partner (if different from the victim) notification shall be attempted as outlined in 75:25-3-4.2.

### 75:25-3-4.1. Record Content [AMENDED]

(a) Client records shall contain, at a minimum, the following information:

(1) Intake information:

- (A) assessment information;
- (B) date of intake if different than date of assessment;
- (C) emergency contact information (not the victim or abused partner); and
- (D) current employer, if applicable.

(2) Service notes for each ~~batterer~~client shall be completed by staff or volunteer after individual contact and every weekly session which shall minimally include:

- (A) The time, date, location and description of services provided;
- (B) The signature of staff or volunteer providing the services; and
- (C) A service note shall be completed by the staff or volunteer providing the service for each weekly group contact, and shall include:
  - (i) personal responsibility and accountability;
  - (ii) level of participation in services;
  - (iii) change(s) in family, social, personal, legal or work environment(s);
  - (iv) inference of use or increased use of drugs/alcohol;
  - (v) whether or not facilitator observed sufficient indications of risk requiring notification of victim or others, and
  - (vi) Referrals for supplemental services.
- (D) Staff or volunteer service notes shall document the ongoing provision of educational components addressing the risk of battering and other violence as set forth in 75:25-3-1(b).

(3) An individualized written contract shall be completed upon acceptance into the program prior to the first (1st) group session; signed by the ~~batterer~~client; and shall include, but not be limited to:

(A) Notice that the ~~batterer~~client is joining an educational program, not a therapeutic program, and will not have the same level of confidentiality afforded by mental health services. The program will not assure confidentiality with respect to:

- (i) Judge, District Attorney or referring agency;
- (ii) ~~current~~Current partner;
- (iii) ~~past~~Past or current victim(s) and/or a representative designated by the victim to receive information on behalf of the victim;
- (iv) ~~parent(s)~~Parent(s) or guardians of any of the ~~batterers~~client's children;
- (v) ~~probation~~Probation and parole;
- (vi) ~~law~~Law enforcement;
- (vii) ~~individuals~~Individuals toward whom there is a risk of imminent harm by the ~~batterer~~client;
- (viii) Coordinated Community Response Team;
- (ix) ~~the~~The domestic violence victim services program serving the area where the ~~batterer~~client lives or where the current or ex-partner lives, where guardians of the ~~batterers~~client's children live or with the domestic violence program where the ~~batterer~~client is currently residing;
- (x) Guardian Ad Litem; or
- (xi) ~~the~~The program will promise confidentiality with respect to: the general public, news media and anyone else not covered in the expectations set forth above

(B) Attendance policy, including the length of intervention, minimum number of sessions required and the maximum length of time for completion of the required sessions.

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- (C) The criteria for suspension and termination, including notice that involuntary termination from a program terminates any and all attendance credits accumulated.
- (D) The program's rules.
- (E) A written notice in bold type which specifies "Please be advised any reasonable knowledge or suspicion of illegal activities or bodily harm, or a threat of such, to the victim, her or his property, or to third persons, or any attempt, threat or gesture to commit suicide, or any belief that child abuse or neglect is present or has occurred, will be reported to the appropriate person(s) or authorities."
- (F) A list of provider program expectations, such as participation, and that the ~~batterer~~ client will be held accountable for all abusive and violent behavior or threats of harm or expressions of intent to do harm. This includes harm to current or past victims or partners. Such acts include but are not limited to child abduction, court actions for divorce or custody, underhanded economic maneuvers, substance use, and intentionally exposing the victim(s) or partner(s) to risk of sexually transmitted diseases.
- (4) Reports. The program shall develop a written policy for coordinating and complying with required reports to the court, judge, probation officer, child welfare worker and/or district attorney. In the case of court-ordered or otherwise referred batterers, a written report to the court or referring agency shall be submitted within seven (7) business days of the following events:
- (A) Acceptance into the program including, but not limited to, a summary of the results of the initial assessment. Rejection or denied admission to the program including, but not limited to, a summary of the results of the initial assessment, reason for rejection or denial, and any alternative service recommendations; and
- (B) Reasonable knowledge or suspicion of illegal activities or bodily harm, abuse or a threat of such, to the victim, children or to third persons; and
- (C) Exit from the program including, but not limited to, the service termination report which shall summarize the type of termination and reason for termination.
- (i) **Rejection.** Reasons for rejection shall be documented and include, but are not limited to: psychiatric history, including active or recent mental health related problems; criminal record of violent crimes; chemical dependency requiring completion of an inpatient or residential treatment program; inability to function in a group due to limited mental cognitive abilities; or needs that do not match services provided by this program;
- (ii) **Involuntary termination.** Reasons for involuntary termination shall be documented and include, but are not limited to: recurrence of violence; arrest; absences from program sessions and activities; failure to actively participate in group sessions attended; attending a group session when under the influence of alcohol or drugs; violation of any rules of the program or violation of the BIP contract. Termination from a program terminates any and all credits accumulated by said batterer.
- (iii) **Completion.** Upon completion of the program, an exit interview and service termination report shall be completed and documented in the client record. It shall be documented that the client participated in planning for the client's exit from the program. The client and staff shall sign and date acknowledgment of this service or an explanation shall be documented if staff is unable to obtain the client's signature. The service termination report shall include a disclosure stating that completion of the batterer's intervention program does not indicate that the client will not re-offend; it is a report that the person has completed the necessary requirements of the certified program without any other known or reported re-offending during the time of enrollment in the program.
- (5) All reports shall include specific lethality risk indicators that the court may want to seriously consider and any concerns for the safety of victims, children and/or others.
- (6) All reports shall include any perceived areas of concern which may include, but are not limited to, substance abuse or mental health issues.
- (7) Where required information is not obtained, efforts to comply with the requirements of this subsection shall be documented in the client record.
- (8) Compliance with this 75:25-3-4 shall be determined by a review of client records for content, review of program policy and procedures, or other supporting program documentation.

## 75:25-3-4.2. Victim safety and confidentiality [AMENDED]

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- (a) **Victim Safety.** Whereas confidentiality is a fundamental underpinning of services for victims of domestic violence, limited confidentiality is critical in batterer's intervention services. Victim safety shall supersede all consideration of ~~batterer~~client confidentiality for court referred and non-court referred clients.
- (b) There shall be a written, cooperative, accountable working relationship between the batterers intervention program and the local OAG certified DVSA victim service provider(s) so potential victims and others are warned of imminent danger.
- (c) Initial victim and current partner (if different from the victim) notification shall be attempted via telephone when the ~~batterer~~client has been accepted or denied admission to the program. Efforts to locate and notify the victim, current partner or the victim's advocate shall be attempted at least three (3) times within 7 business days of acceptance or rejection to the program. Upon making contact with the victim and current partner, the victim and current partner shall be informed of OAG certified victim services, notified of the assessment results, reason for rejection if applicable, perceived areas of concern which may include, but are not limited to substance abuse and/or mental health concerns, and specific lethality risk indicators. Efforts shall be documented in a separate file, which may include an electronic file. All victim and partner information shall be confidential and shall not be disclosed to the ~~batterer~~client or documented in the ~~batterer's~~client's file.
- (d) After the initial victim and current partner notification, the batterer's intervention program shall maintain contact with the victim or partner at the victim or partner's discretion. If the victim or partner elects not to receive and/or provide information, the program is still required to notify the individual in the case of imminent threat or danger to the victim or partner's safety, or that of any other persons.
- (e) If the victim and partner (if different than the victim) elects to receive information after initial notification by the program, at a minimum, notification is required when:
- (1) the ~~batterer~~client begins attending the intervention program;
  - (2) the ~~batterer~~client terminates the intervention program for completion or other reasons, such as noncompliance; and
  - (3) there is an imminent threat or danger to the safety of persons or animals.
- (f) The efforts to locate and notify the victim and current partner (if different than the victim) shall be documented.
- (g) Compliance with 75:25-3-4.2 shall be determined by a review of program policy and procedures; client records; service agreements; and /or other program documentation.

## SUBCHAPTER 5. PERSONNEL AND VOLUNTEERS

### PART 5. TRAINING

#### **75:25-5-21. Personnel training, batterers intervention services [AMENDED]**

- (a) Personnel facilitating batterers intervention groups shall minimally have a graduate degree in a behavioral health or criminal justice related field and one-year related work experience, have a Bachelor's degree in a behavioral health or criminal justice related field and two years related work experience, or have been employed as a facilitator in a certified batterers intervention program prior to July 1, 2008.
- (b) A certified batterers intervention program shall contract with or employ a qualified licensed professional as defined in 75:25-1-3 under "Counseling" for purposes of providing case consultation to personnel facilitating batterers intervention groups for client mental health and substance abuse issues. All BIP staff, BIP volunteers, BIP contractors, and BIP program supervisors shall complete batterers intervention facilitator orientation training sponsored by the Oklahoma Office of the Attorney General within six months of employment or volunteer service.
- (c) Prior to providing any direct services, personnel facilitating batterers intervention services shall observe a minimum of 12 batterers intervention group sessions from an OAG certified program, and must complete 20 hours of training that includes, but is not limited to:
- (1) causes and dynamics of domestic violence;
  - (2) identification of cultural and social influences that contribute to violence;
  - (3) identification of coercive behavior;
  - (4) coercive sexual behavior;
  - (5) impact of domestic violence on children and the dynamics of the batterer as a parent;
  - (6) basic defense mechanisms of batterers that promote deception, distortion and misrepresentation of the facts of the domestic abuse and the experience of the victim; and
  - (7) Lethality indicators and assessment procedures such as:
    - (A) perceived loss of control over the victim through separation, divorce, victim fleeing,
    - (B) extreme jealousy,

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- (C) escalation of abuse,
- (D) acts of abuse,
- (E) suicide/homicide threats, plan to carry out either of above,
- (F) use of, or threat to use weapon (especially a gun),
- (G) strangulation,
- (H) stalking,
- (I) history of mental health problems, substance abuse,
- (J) history of sexual abuse of victim or children,
- (K) kidnapping of partner,
- (L) unemployment; and
- (M) abuse or cruelty to animals
- (8) the effects of alcohol and drug use/abuse and domestic violence;
- (9) exploring myths and beliefs about domestic violence, including myths about provocation;
- (10) impact of domestic violence on victims;
- (11) batterers who re-offend;
- (12) group dynamics and group structure;
- (13) planning for non-violence and victim and dependent safety;
- (14) power and control;
- (15) facilitator boundaries and collusion with the ~~batterer~~ client;
- (16) providing safe victim and/or partner contact; and
- (d) Personnel who provide batterers intervention service may not provide services for the victim that may result in a conflict of interest.
- (e) Personnel who provide batterers intervention must declare in writing that they are:
  - (1) violence free in their own lives,
  - (2) not abusing drugs or alcohol, and
  - (3) seeking to rid themselves of sexist attitudes.
- (f) Compliance with 75:25-3-21 shall be determined by:
  - (1) Review of program's policy and procedures.
  - (2) Review of program's training records and other provided documentation of staff training.
  - (3) Review of personnel records.

## SUBCHAPTER 9. TECHNOLOGY

### 75:25-9-1. Technology and system plan [AMENDED]

- (a) The agency shall have a written plan regarding the use of technology to support and advance effective and efficient service and business practices. The plan shall include, but not be limited to:
- (1) Hardware and software.
  - (2) Security.
  - (3) Confidentiality.
  - (4) Backup policies.
  - (5) Assistive technology.
  - (6) Disaster recovery preparedness.
  - (7) Virus protection.
- (b) Compliance with ~~75:25-9-1~~ this section shall be determined by a review of the facility policies, performance improvement plans and technology system plan.

## SUBCHAPTER 11. CODE OF PROFESSIONAL ETHICS [NEW]

### 75:25-11-1. Applicability [NEW]

This section is applicable to batterers intervention programs certified by the OAG pursuant to 74 O.S.2021, §§ 18p-1–18p-10.

### 75:25-11-2. Code of Professional Ethics [NEW]

(a) Employees and volunteers of Attorney General certified batterers intervention programs pursuant to 74 O.S. § 18p-1 et seq. have an ethical obligation to victims, their clients, their community, and their profession.

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(b) Each program shall have a written Code of Professional Ethics that includes behavioral expectations and underlying philosophy set forth in subchapter 1, section 2.1 of this chapter, providing for ethical standards including, but not limited to, the following ethical standards:

- (1) Victim Safety, including collaborating and consulting with domestic violence victim advocates;
- (2) Confidentiality and Privacy, including legal and ethical obligations to clients with respect to internal and external entities, and safe and responsible victim contact;
- (3) Guiding Values, including engaging in a coordinated community response, integrity, non-judgment, respect for people's rights and dignity;
- (4) Professional Competence, including knowledge, skills, experience, evidence-based and trauma-informed practices, cultural responsiveness, ongoing education, scope of competence, and duty to report the unethical conduct of colleagues to supervisors;
- (5) Professional-Client Relationships, including boundaries, avoiding collusion with clients and system partners, dual relationships, and conflicts of interest; and
- (6) Social Responsibility, including non-discrimination, and fostering anti-oppressive, equitable, inclusive, safe, trauma responsive, non-violent environments.

(c) Compliance with 75:25-10-2 shall be determined by a review of the written program policies and procedures, personnel files, training records, and/or other program documentation.

*[OAR Docket #25-385; filed 5-28-25]*

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## TITLE 75. ATTORNEY GENERAL CHAPTER 50. OPIOID SETTLEMENT PAYMENTS AND ABATEMENT GRANTS

*[OAR Docket #25-386]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 3. Opioid Abatement Grants

75:50-3-1. Opioid grant application process [AMENDED]

75:50-3-3. Maximum grant awards [AMENDED]

75:50-3-4. Application review and disbursement process; allowable costs [AMENDED]

75:50-3-7. Grant award quarterly reporting, oversight, and compliance [AMENDED]

Appendix B. COUNTY TIERS [REVOKED]

Appendix C. MUNICIPALITY TIERS [REVOKED]

Appendix D. COMMON EDUCATION SCHOOL DISTRICT TIERS [REVOKED]

Appendix E. TECHNOLOGY SCHOOL DISTRICT TIERS [REVOKED]

Appendix F. COLLABORATIVE MULTI-APPLICANT TIERS [REVOKED]

Appendix G. SCORING RUBRIC [REVOKED]

### **AUTHORITY:**

Attorney General, as approved by the Opioid Abatement Board; 74 O.S.2021, § 30.7(G)

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 22, 2024

### **COMMENT PERIOD:**

December 16, 2024 through January 17, 2025

### **PUBLIC HEARING:**

January 17, 2025

### **ADOPTION:**

January 23, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 30, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1034

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

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May 28, 2025

**EFFECTIVE:**

July 11, 2025

**SUPERSEDED EMERGENCY ACTIONS:**

**SUPERSEDED RULES:**

N/A

**GOVERNMENTAL APPROVAL:**

N/A

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N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The Board proposes these rule changes to eliminate the tiered system of eligibility for applicant entities and stated scoring rubrics for evaluating applications, allowing the Board to exercise its judgment and authority with maximum flexibility. Such flexibility will permit the Board to structure funding rounds in a way that is most efficient and logical. Also, notifications from applicants will be directed to the Board rather than a director.

**CONTACT PERSON:**

Thomas R. Schneider, Deputy General Counsel, [thomas.schneider@oag.ok.gov](mailto:thomas.schneider@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 JULY 11, 2025:**

## SUBCHAPTER 3. OPIOID ABATEMENT GRANTS

### **75:50-3-1. Opioid grant application process [AMENDED]**

- (a) The Board shall provide the Application on the Office of the Attorney General's website. The Attorney General may, acting on behalf of the board, digitize the entire application process.
- (b) Applications will be reviewed by the Board, which will allocate funds consistent with the requirements under the Act ~~and subchapter 2, section 1, subsection c of this chapter.~~
- (c) The Board may delegate review of completed applications to the Office of the Attorney General and to whomever it finds qualified, capable, and possessing necessary capacity.
- (d) Applicants shall sign and return to their completed applications to the Office of the Attorney General via mail or by electronic means as determined by the Office of the Attorney General.
- (e) Public trusts shall submit the most recent copy of their declaration of trust or trust indenture with their application.
- (f) Applicants must submit data correlating to any criteria requested by the Board, ~~including the criteria set forth subchapter 2, section 1, subsection c.~~
- (g) Grant applicants must apply for a grant award using the procedures, forms, and certifications prescribed by the Board. Any incomplete applications or applications lacking in sufficient detail may be returned to the applicant for completion, corrections, or supplementation. In the event an application remains incomplete or lacking in sufficient detail, the Attorney General may deny the application on the Board's behalf. The applicant submitting the denied application may then appeal the decision to the Board pursuant to section 5 of this subchapter.
- (h) Each grant applicant must designate an authorized official and must submit to the Board or its designee, the following:
  - (1) a resolution from the grant applicant's governing body that, at a minimum, designates an authorized official to act on the grant applicant's behalf and authorizes the authorized official to submit a grant application;
  - (2) the authorized official's title, mailing address, telephone number, and email address; and
  - (3) the grant applicant's physical address.



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- (i) A grant applicant or grant recipient must notify the ~~director~~Board as soon as practicable of any change in the information provided under subsection (a) of this section. If there is a change of authorized official, a grant applicant or grant recipient must also submit to the ~~director~~Board a new resolution from the grant applicant's governing body that, at a minimum, designates an authorized official to act on the grant applicant's behalf.
- (j) Multiple (two or more) applicants may submit a joint application reflecting a collaborative and coordinated effort or project and will be eligible for a joint grant award in an amount as determined by the Board as described in section 3, subsection f of this subchapter and Appendix F.

## 75:50-3-3. Maximum grant awards [AMENDED]

- (a) The amount of a grant award is determined solely in the discretion of the Board. The Board is not required to fund a grant in the amount requested by the Applicant. Maximum grant awards are based on an applicant's population or enrollment as established by the Board for each round of grant funding and will fall into one of three respective tiers, with Tier 1 being for the smallest in population or enrollment and Tier 3 being the largest in population or enrollment.
- ~~(b) Applicant counties shall be eligible for grant award amounts as set forth in Appendix B.~~
- ~~(c) Applicant municipalities shall be eligible for grant award amounts as set forth in Appendix C.~~
- ~~(d) Applicant common education school districts shall be eligible for grant award amounts as set forth in Appendix D.~~
- ~~(e) Applicant technology school districts shall be eligible for grant award amounts as set forth in Appendix E.~~
- ~~(f) If two or more applicants submit a joint application as a collaborative effort or project, the joint effort or project(s) shall be eligible for grant award amounts as set forth in Appendix F.~~
- ~~(g)(b).~~ The total population or enrollment for applicants that are public trusts solely benefiting one or more eligible participants shall be eligible based on the subdivision(s) they benefit. If a public trust benefits more than one type of political subdivision, the public trust will be eligible for maximum available funding under the tier appendix for which the majority of its beneficiary-political subdivisions are.
- ~~(h)(c).~~ A public trust's population or enrollment will be limited to the population or enrollment of the subdivision(s) that the public trust benefits as set forth in the declaration of trust or trust indenture.
- ~~(i)(d).~~ An interlocal cooperative formed under title 70 of the Oklahoma Statutes that is determined to be a local educational agency will be considered a school district, as that term is defined in 51 O.S. § 152.
- ~~(j) The Board reserves its discretion to award an amount greater than the proposed maximum available funding amounts in Appendices B-F under the following circumstances:~~
- ~~(1) An applicant demonstrates extraordinary need for opioid abatement funding resources, warranting a reasonable increase; or~~
  - ~~(2) sufficient funds remain available for increasing award amounts as may be determined by the Board, subject to the Board's due diligence in evaluating applications.~~

## 75:50-3-4. Application review and disbursement process; allowable costs [AMENDED]

- (a) Grant applications may be reviewed according to the following process: (1) initial screening, (2) peer review, and (3) Board review and approval. Applications submitted to the Board shall be scored using the scoring system determined by the Board for each round of grant funding ~~rubric in Appendix G.~~
- (b) The Board shall conduct disbursement of opioid grant awards from the Revolving Fund.
- (c) In awarding opioid abatement grants, the Board shall determine grant awards based the criteria set forth in subchapter 2, section 1, subsection c of this chapter and any other criteria it deems necessary and appropriate for the proper and wise use of opioid funds. This criteria may be included in the scoring rubric system or in the Board-approved application.
- (d) Following approval of grant amounts, all recipients shall receive a copy of the Contract, which they must complete and return to the Office of the Attorney General prior to receiving a disbursement of funds. The Contract can be returned by mail or electronic means as determined by the Office.
- (e) Recipients shall receive their grant award in the form of equal quarterly distributions.
- (f) Applicants may request the first two payments be combined in their application submission to provide start-up funding for their project or abatement plan. The remaining balance of the grant award will disbursed in the same manner set forth in subsection e of this section.
- (g) The Board shall set the grant term in a public cast and recorded vote at a properly noticed meeting.
- (h) For good cause shown, Recipients in good fiscal and programmatic standing may request the Board to authorize a one-time carryover of up to forty percent (40%) of their grant award distributions following the expiration of the initial grant term. To be considered for a carryover authorization, the Recipient must submit a written request no later than 120 calendar days prior to expiration of the initial grant term, which must include:
- (1) a timeline of events beginning on the date of grant award;
  - (2) a detailed explanation why the grant project is not expected to be completed within the grant term; and

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(3) if applicable, supporting documentation demonstrating good cause.

(i) Grant funds may not be used for costs that will be reimbursed by another funding source. The Board may require a grant recipient to demonstrate through accounting records that funds received from another funding source are not used for costs that will be reimbursed by the Board.

## **75:50-3-7. Grant award quarterly reporting, oversight, and compliance [AMENDED]**

(a) The grant recipient is responsible for managing the day-to-day operations and activities supported by the grant agreement and is accountable to the Board for the performance of the grant agreement, including the appropriate expenditure of grant award funds and all other obligations of the grant recipient. The grant recipient must maintain a sound financial management system that provides appropriate fiscal controls and accounting procedures to ensure accurate preparation of reports required by the grant agreement and adequate identification of the source and application of grant funds awarded to the grant recipient. Grant recipients must comply with:

(1) the terms and conditions of the grant agreement;

(2) all applicable state or federal statutes, rules, regulations, or guidance applicable to the grant award. A grant recipient is the entity legally and financially responsible for compliance with the grant agreement, and state and federal laws, rules, regulations, and guidance applicable to the grant award.

(b) The Attorney General will, on behalf of the Board, maintain oversight and monitor compliance of expenditures by Recipients to ensure that any use complies with approved purposes as defined under the Act. As a part of the oversight and monitoring, the Attorney General and Board may conduct desktop or on-site reviews. During an on-site review, a grant recipient must provide the Board or Attorney General with access to all records, information, and assets that the Board or Attorney General determines are reasonably relevant to the scope of the on-site review.

(c) At a minimum, Recipients will be monitored through a quarterly reporting process.

(d) The Board shall utilize the Political Subdivision Opioid Abatement Grant Award Quarterly Reporting Form ("Form") to maintain oversight and confirm compliance with the Act. All Recipients must submit quarterly reports using the Form in order to continue receiving or using opioid grant award proceeds. ~~The Form shall be provided on the website of the Oklahoma Office of the Attorney General.~~ Completed quarterly reports shall be returned to the Office of the Attorney General via mail or by electronic means as determined by the Office of the Attorney General. Quarterly reports shall be due on the last day of the month immediately following the conclusion of a quarter. If an opioid grant award is received during a quarter, a recipient is not required to submit a report for the remainder of the initial quarter until the conclusion of the next quarter for which reports for the initial quarter and the first full quarter shall be due.

(e) For the purposes of this chapter, quarters shall run by calendar year. January, February, and March shall be Quarter 1; April, May, and June shall be Quarter 2; July, August, and September shall be Quarter 3; and October, November, and December shall be Quarter 4.

(f) At the Board's discretion and at any time, the Board, may request any additional data and reporting information that the Board deems necessary to substantiate that grant funds are being used for the intended purpose and that the grant recipient has complied with the terms, conditions, and requirements of the grant agreement. Further, at the Board's discretion and at any time, the Board may request any records from or audit the books and records of a grant recipient or conduct an on-site review at a grant recipient's location to verify that the grant recipient has complied with the terms, conditions, and requirements of the grant agreement, and any applicable laws, rules, regulations, or guidance relating to the grant award. If it is determined that a Recipient is using opioid grant award proceeds out of compliance with Board procedures or has utilized such proceeds for non-approved purposes, the Board authorizes the Attorney General to immediately suspend the Recipient's use of the grant award proceeds and notify the Recipient.

(g) The Board may resume disbursements to the non-compliant recipient once it has determined the recipient has adequately remedied the cause of such suspension.

(h) For the purposes of the Act, an adequate remedy may include, but not be limited to the following:

(1) refunding an amount equal to the amount spent on nonapproved purposes or a reduction to future disbursements in the amount equal to the amount spent on nonapproved purposes.

(2) reducing or terminating a grant when the Recipient is found to be noncompliant, the Recipient and Board agree to the reduction or termination of a grant award, when grant funds are no longer available to the Board, or if conditions exist that make it unlikely that objectives of the grant award will be accomplished; or

(3) other remedies available under applicable laws, rules or regulations.

(i) The Board authorizes the Attorney General to negotiate adequate remedies with non-compliant recipients for presentation and approval by the Board.

**APPENDIX B. COUNTY TIERS [REVOKED]**

<b>Tier Number</b>	<b>Population range</b>	<b>Proposed maximum available funding</b>
<del>1</del>	<del>Up to 25,000</del>	<del>\$75,000.00</del>
<del>2</del>	<del>25,001-75,000</del>	<del>\$150,000.00</del>
<del>3</del>	<del>75,001 or more</del>	<del>\$300,000.00</del>

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APPENDIX C. MUNICIPALITY TIERS [REVOKED]

Tier Number	Population range	Proposed maximum available funding
1	Up to 15,000	\$60,000.00
2	15,001-100,000	\$125,000.00
3	100,001 or more	\$300,000.00

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### APPENDIX D. COMMON EDUCATION SCHOOL DISTRICT TIERS [REVOKED]

<b>Tier Number</b>	<b>Population range</b>	<b>Proposed maximum available funding</b>
<del>1</del>	<del>Up to 5,000</del>	<del>\$35,000.00</del>
<del>2</del>	<del>5,001-15,000</del>	<del>\$75,000.00</del>
<del>3</del>	<del>15,001 or more</del>	<del>\$150,000.00</del>

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APPENDIX E. TECHNOLOGY SCHOOL DISTRICT TIERS [REVOKED]

Tier Number	Population range	Proposed maximum available funding
1	Up to 5,000	\$35,000.00
2	5,001-15,000	\$75,000.00
3	15,001 or more	\$150,000.00

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### APPENDIX F. COLLABORATIVE MULTI-APPLICANT TIERS [REVOKED]

<b>Tier Number</b>	<b>Population range</b>	<b>Proposed maximum available funding</b>
<del>1</del>	<del>Up to 100,000</del>	<del>\$175,000.00</del>
<del>2</del>	<del>100,001-500,000</del>	<del>\$350,000.00</del>
<del>3</del>	<del>500,001 or more</del>	<del>\$750,000.00</del>



APPENDIX G. SCORING RUBRIC [REVOKED]



Applications should be scored based on their demonstration of evidence provided in each of the criteria. Reviewers should look for evidence that the application will support abatement of the opioid epidemic within the political subdivision. Reviewers should ensure that the proposed use of funds aligns with both the statutorily approved purposes and the need as expressed in the application. Applications should demonstrate a clear need for opioid abatement, provide a compliment to any existing programs within the community and a plan for ensuring funds are managed, spent and reported transparently and efficiently in accordance with the grant terms and restrictions.

Criteria	Total Points Available	Point Values			
<b>Use of Funds</b> (Question 11)	20 points	0 Narrative shows no use of funds for abatement	10 Weak use of funds for abatement	15 Good use of funds for abatement	20 Strong use of funds for abatement
<b>Demonstrated Need for Funds</b> (Question 12)	25 points	0 No justification	10 Limited justification	18 Adequate justification	25 Strong justification
<b>Capacity for Implementation</b> (Question 13)	15 points	0 No capacity for project management	5 Weak capacity for project management	10 Good capacity for project management	15 Strong capacity for project management
<b>Evidence Base for Proposed Projects</b> (Question 14)	25 points	0 No evidence of future success	10 Weak evidence of future success	15 Good evidence of future success (evidence-informed)	25 Strong evidence of future success (evidence-based)
<b>Community Partnership and Support</b> (Question 15)	15 points	0 No alignment with existing community efforts	5 Weak alignment with community efforts	10 Moderate alignment with community efforts	15 Strong alignment with community efforts

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Subtotal points	100 points	-	-	-	-
<b>Bonus Points Criteria</b>		<b>Total Points Available</b>	<b>Point Values</b>		
Applicant has received \$0 in opioid settlements or opioid-related litigation (checked "No" on questions 7-10)		5 points	0		5
Applicant proposes a new project (checked first box on question 11b)		15 points	0		15
Applicant has secured 50% or more of maximum available funding in matching funds from other sources		10 points	0		10
<b>Total Points</b>		<b>130 points</b>			

[OAR Docket #25-386; filed 5-28-25]

## TITLE 75. ATTORNEY GENERAL CHAPTER 55. STATE LONG-TERM CARE OMBUDSMAN PROGRAM [AMENDED]

[OAR Docket #25-387]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

75:55-1-1. Purpose [AMENDED]

75:55-1-2. Definitions [AMENDED]

75:55-1-3. ~~Oklahoma Department of Human Services (DHS)~~ Office of the State Long-Term Care Ombudsman responsibilities [AMENDED]

75:55-1-4. Office of the State Long-Term Care Ombudsman policies and procedures [AMENDED]

75:55-1-5. Grievance process [AMENDED]

75:55-1-6. Records, confidentiality, and disclosure [AMENDED]

75:55-1-7. Liability and legal counsel [AMENDED]

75:55-1-8. Other policies [AMENDED]

Subchapter 2. Complaints

75:55-2-1. Complaint investigation [AMENDED]

75:55-2-2. Complaint processing [AMENDED]

Subchapter 3. Conflicts of Interest

75:55-3-1. Conflict of interest [AMENDED]

75:55-3-2. Organizational conflict of interest [AMENDED]

75:55-3-3. Conflict of interest remedies [AMENDED]

75:55-3-4. Conflict of interest statement and ethical guidelines [AMENDED]

75:55-3-5. Freedom from conflict of interest assurances [AMENDED]

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Subchapter 4. Operational Duties and Responsibilities of the Office of the Long-Term Care Ombudsman and Area Agencies on Aging

75:55-4-1. Access [AMENDED]

75:55-4-2. Facility visitation [AMENDED]

75:55-4-3. Reporting system [AMENDED]

75:55-4-4. Provision of information [AMENDED]

75:55-4-5. Systems Advocacy, monitoring laws, regulations, and policies [AMENDED]

75:55-4-6. Procedures related to the disclosure of witnessed abuse, neglect, or exploitation [AMENDED]

75:55-4-7. Designation of area programs and area representatives including staff and volunteers [AMENDED]

75:55-4-8. Responsibilities of agencies hosting local ombudsman representatives [AMENDED]

75:55-4-9. Duties of representatives of the Office of the State Long-Term Care Ombudsman (~~Office~~) [AMENDED]

Subchapter 5. Personnel and Volunteer Management

75:55-5-1. Area Agency on Aging ombudsman supervisor ~~I~~ [AMENDED]

75:55-5-2. Area Agency on Aging ombudsman supervisor II [AMENDED]

75:55-5-3. Screening criteria for ombudsman [AMENDED]

75:55-5-4. Training [AMENDED]

75:55-5-5. Office of the State Long-Term Care (~~Office~~) ombudsman staff and volunteer training [AMENDED]

75:55-5-6. Ombudsman volunteer rules and guidelines [AMENDED]

**AUTHORITY:**

Attorney General; 63 O.S.Supp.2024, §§ 1-2213.1(F) and 1-2216(A)

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N/A

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## GIST/ANALYSIS:

These amendments primarily reflect statutory changes resulting from the passage of Senate Bill 1709, 2024 Okla. Sess. Laws ch. 339, which transferred the State Office of the Long-Term Care Ombudsman from the Department of Human Services ("OKDHS") to the Office of the Attorney General ("OAG"). The changes align authority under the Oklahoma Statutes and the Oklahoma Administrative Code and provide current and proper citation to legal authorities. Among other notable changes is the elimination of references to specific federal provisions. Instead, the rule amendments generally cite all relevant state and federal laws. As a result, there will be no future need to revise these rules if federal or state law changes. These rules eliminate the education and experience requirements for Area Agencies on Aging ombudsman supervisors. The rules also identify the pay band for the supervisors as set by the State's job catalog and pay bands for job classifications. Language is clarified throughout the rules, particularly in areas related to assurances and ethical guidelines for staff and volunteers, conflicts of interest, provision of information, and rules of procedure for appeals of refused or withdrawn designations of area programs and representatives.

## CONTACT PERSON:

Thomas R. Schneider, Deputy General Counsel, [thomas.schneider@oag.ok.gov](mailto:thomas.schneider@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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 75:55-1-1. Purpose [AMENDED]

The purpose of this ~~Part~~Chapter is to describe the rules pertaining to the Office of the State Long-Term Care Ombudsman.

### 75:55-1-2. Definitions [AMENDED]

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

**"Assistant Secretary"** means the Assistant Secretary for Aging; the administrative head of the Administration on Aging of the United States Department of Health and Human Services.

**"Business day"** means a consecutive eight-hour period of time when the Office of the State Long-Term Care Ombudsman (Office) is open for business.

**"Confidential information"** means all information that relates to specific individuals who live in long-term care facilities, complainants, and other informants including, but not limited to, names, identifying information, and all problem and complaint documentation.

**"Deputy state long-term care ombudsman" or "deputy ombudsman"** an individual employed by the Office to assist with management and operations and supervised by the State Long-Term Care Ombudsman (Ombudsman).

**"Designated entity"** means an agency, not-for profit business, or organization that the Ombudsman has designated in writing to host Office representatives.

**"Designation"** means the appointment of an agency, individual, or both, as the official Office representative.

**"Immediate family"** means a member of the household or a relative with whom there is a close personal or significant financial relationship.

**"Leave of absence"** means an ombudsman volunteer's excused absence from official duties not to exceed three months.

**"Long-term care facility"** means any nursing facility, specialized facility, residential care home, or assisted living center ~~per Sections 1-820, 1-890.2, and 1-1902 of Title~~authorized under title 63, sections 1-820, 1-890.2, and 1-1902 of the Oklahoma Statutes (O.S. 63 §§ 1-820, 1-890.2, and 1-1902).

(A) **"Nursing facility"** means a home, establishment, or institution primarily engaged in providing:

- (i) skilled nursing care and related services for residents;
- (ii) rehabilitation services; or
- (iii) on a regular basis, health-related care and services to individuals who because of mental or physical conditions require care and services beyond the level of care provided by a residential care home ~~per~~under title 63, O.S. §section 1-1902(9).

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(B) **"Residential care home"** means any establishment or institution other than an adult companion home, group home, hotel, motel, fraternity or sorority house, or college or university dormitory that offers, provides, or supports residential accommodations, food service, and supportive assistance to any of its residents; or houses any resident requiring supportive assistance who is not related to the owner or administrator of the home by blood or marriage. The resident must be ambulatory and essentially capable of participating in his or her own activities of daily living, and not routinely requiring nursing services ~~peras described in title 63, O.S. §section 1-820.121-820(12)(a).~~

(C) **"Specialized facility"** means any home, establishment, or institution that offers or provides inpatient long-term care services on a 24-hour basis to a limited category of persons requiring such services including, but not limited to, a facility providing health or habilitation services for persons who are living with intellectual or developmental disabilities ~~peras described in title 63, O.S. §section 1-1902(11).~~

(D) **"Assisted living center"** means any home or establishment offering, coordinating, or providing services to two or more persons who:

- (i) are domiciled therein;
- (ii) are unrelated to the operator;
- (iii) by choice or because of functional impairments, need assistance with personal care or nursing supervision;
- (iv) may need intermittent or unscheduled nursing care;
- (v) may need medication assistance; and/or
- (vi) may need assistance with transfer, ambulation, or both ~~peras set forth under title 63, O.S. §section 1-890.2(1).~~

**"Long-term care ombudsman"** means a person who receives and resolves complaints made by or on behalf of residents of long-term care facilities and is trained and designated as an official representative by the Office.

**"OAG"** means the Oklahoma Office of the Attorney General.

**"Office of the State Long-Term Care Ombudsman (Office)"** or **"Office"** means the office created within the Oklahoma ~~Department of Human Services (DHS)~~ Office of the Attorney General that carries out the Long-Term Care Ombudsman Program per the Older Americans Act (~~OAA~~) of 1965, as ~~Amended~~ amended, and per federal regulations under the auspices and general direction of the state long-term care ombudsman.

**"OAA"** means the Older Americans Act of 1965, including the original enactment (Pub. L. No. 89-73 ) and any subsequent amendments.

**"Planning and Service Area (PSA)"** or **"PSA"** means a geographic area specified by ~~DHS~~ per Section 305(a)(1) (E) of the ~~Older Americans Act OAA~~ (OAA) of 1965, as ~~Amended~~ amended for purposes of planning for and serving the needs of individuals 60 years of age and above.

**"Representative"** means the employee or volunteer designated by the Ombudsman to fulfill duties ~~per Oklahoma Administrative Code (OAC) 340:105-11-234~~, whether personnel supervision is provided by the Ombudsman or designees or by an agency hosting a local ombudsman entity designated by the Ombudsman ~~per OAC 340:105-11-234~~.

**"Resident representative"** means:

(A) an individual chosen by the resident to act on his or her behalf in order to support the resident in decision-making; accessing the resident's:

- (i) medical, social, or other personal information;
- (ii) managing financial matters; or
- (iii) receiving notifications;

(B) a person authorized by state or federal law including, but not limited to, agents under power of attorney, representative payees, and other fiduciaries to act on the resident's behalf in order to support him or her in:

- (i) decision-making;
- (ii) accessing the resident's medical, social, or other personal information; and/or
- (iii) managing financial matters; or receiving notifications;

(C) a legal representative as used in Section 712 of the OAA; or

(D) the resident's court-appointed guardian or conservator. This definition is not intended to expand the authority of any resident representative beyond that specifically authorized by the resident, state or federal law, or a court of competent jurisdiction.

**"State long-term care ombudsman"** or **"Ombudsman"** means the individual who heads the Office and is personally responsible or responsible through Office representatives to fulfill the functions, responsibilities, and duties ~~per OAC 340:105-11-232 and 340:105-11-233.~~

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"State Long-Term Care Ombudsman Program" or "Program" means the program carried out and consisting of the Ombudsman, Office, and Office representatives.

"Willful interference" means actions or inactions taken by an individual ~~or entity in an attempt~~ attempting to intentionally prevent, interfere with, or attempt to impede the Ombudsman or an Office representative from performing any program functions or responsibilities ~~per O.S. 63 § 1-2215 or duties per OAC 340:105-11~~ federal or state law.

## **75:55-1-3. Oklahoma Department of Human Services (DHS) Office of the State Long-Term Care Ombudsman responsibilities [AMENDED]**

(a) The ~~DHS Office of the State Long-Term Care Ombudsman (Office)~~ establishes and operates a statewide Long-Term Care Ombudsman Program consistent with the Older Americans Act and Oklahoma Long-Term Care Ombudsman Act requirements. ~~DHSOAG~~ provides monitoring including, but not limited to, fiscal monitoring where the Office and/or local ombudsman entity is organizationally located within, under contract, or by other arrangement. ~~DHSOAG~~ monitors and ensures the State Long-Term Care Ombudsman (~~Ombudsman~~) is the head of a unified statewide ~~State Long-Term Care Ombudsman Program (Program)~~ ombudsman program. With ~~DHSOAG~~ assistance, the Office:

- (1) identifies, investigates, and resolves complaints made by, or on behalf of, residents of long-term care facilities that relate to action, inaction, or decisions of providers, or long-term care services provider representatives, public agencies, or health and social services agencies that may adversely affect the health, safety, welfare, or residents' rights including the welfare and rights of residents with respect to the appointment and activities of guardians and representative payees;
- (2) informs residents about obtaining services provided by the Program;
- (3) ensures residents have regular and timely access to the services provided through the Program;
- (4) ensures residents and complainants receive timely responses from Office representatives on information and complaint requests;
- (5) represents residents' interests before governmental agencies;
- (6) ensures individual residents have access to and can pursue, as the Ombudsman determines necessary and consistent with resident interests, administrative, legal, and other remedies to protect the resident's health, safety, and welfare;
- (7) provides administrative and technical assistance to Office representatives and agencies hosting local ombudsman entities;
- (8) analyzes, comments on, and monitors the development and implementation of federal, state, and local laws, regulations, and other governmental policies and actions that pertain to the health, safety, welfare, and resident's rights with respect to long-term care facilities and services in the state. The Office:
  - (A) recommends changes in such laws, regulations, policies, and actions as appropriate;
  - (B) facilitates public comment on the laws, regulations, policies, and actions; and
  - (C) provides leadership to statewide systems advocacy efforts on behalf of long-term care facility residents including coordination of systems advocacy efforts carried out by Office representatives;
- (9) provides information to public and private agencies, legislators, the media, and others, as deemed necessary by the Office, regarding the problems and concerns of individuals residing in long-term care facilities including recommendations related to such. Such determinations and positions are those of the Office and do not necessarily represent ~~DHSOAG~~ determinations or positions;
- (10) when carrying out systems advocacy efforts on behalf of long-term care facility residents and pursuant to the receipt of grant funds under the Older Americans Act, the provision of information, recommendations of changes in law to legislators, and recommendations of changes in regulations and policies to government agencies by the Ombudsman or Office representatives does not constitute lobbying activities per Part 93 of Title 45 of the Code of Federal Regulations;
- (11) coordinates with and promotes the development of citizen organizations consistent with the residents' interests;
- (12) promotes and provides technical support for the development of ongoing support requested by residents and family councils to protect the residents' well-being and rights;
- (13) provides training for staff and volunteers and promotes the development of citizen organizations to participate in the Program;
- (14) carries out other activities consistent with the requirements of this Part the Assistant Secretary for Aging determines appropriate;
- (15) establishes procedures for appropriate access by the Ombudsman and designated representatives to long-term care facilities, appropriate private access to residents, and appropriate access to residents' personal and medical records;

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(16) establishes procedures to protect the confidentiality of records and ensures that the identity of any resident or complainant is not disclosed without the resident's or complainant's consent, or upon court order;

(17) establishes a statewide uniform reporting system to collect and analyze information on complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems. The Ombudsman must submit this information to the state agency responsible for licensing or certifying long-term care facilities and to the Assistant Secretary for Aging in the manner prescribed;

(18) independently develops and provides final approval of an annual report describing the activities carried out by the Office in the year for which the report is prepared. The annual report:

- (A) contains data and findings regarding the types of problems experienced and complaints made by or on behalf of individuals residing in long-term care facilities;
- (B) provides policy, regulatory, and legislative recommendations to solve problems and complaints, to improve the quality of care and life in long-term care facilities;
- (C) includes analysis of the Program's success and success in providing services to residents of long-term care facilities;
- (D) describes barriers that prevent optimal Program operation;
- (E) is available to the public and is submitted to:
  - (i) the Assistant Secretary for Aging;
  - (ii) the state chief executive officer;
  - (iii) the state legislature;
  - (iv) the state agency responsible for licensing or certifying long-term care facilities; and
  - (v) other appropriate governmental entities;

(19) ensures that no officer, employee, or designated representative is subject to a conflict of interest; and

(20) plans and operates the Program, considering the stakeholders' views.

(b) ~~DHSOAG~~ ensures:

- (1) the Office is a distinct entity, separately identifiable, and located within or connected to ~~DHSOAG~~;
- (2) the Ombudsman serves on a full-time basis. ~~Oklahoma Administrative Code 340-105-11~~ Title 75, chapter 55 of the Oklahoma Administrative Code includes constitutes the entirety of the ombudsman's work that provides Office leadership and management, functions, responsibilities, and duties;
- (3) the Office and its representatives are not required or requested to be responsible for leading, managing, or performing the work of non-ombudsman services or programs except on a time-limited, intermittent basis;
- (4) individuals involved in the designation of the Ombudsman, by appointment or otherwise, or the designation of the head of any subdivision of the Office are not subject to conflicts of interest;
- (5) mechanisms are in place to identify and remedy any conflicts, such as conflicts of interest;
- (6) adequate legal counsel, free from conflict of interest is available to the Office for advice and consultation. legal representation is provided to Office representatives against whom suit or other legal action is brought in connection with the performance of such representative's official duties;
- (7) the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of long-term care facility residents;
- (8) the Ombudsman meets minimum qualifications that include, but are not limited to, demonstrated expertise in:
  - (A) long-term services and supports or other direct services for older persons or individuals with disabilities;
  - (B) consumer-oriented public policy advocacy;
  - (C) leadership and program management skills; and
  - (D) negotiation and problem resolution skills;
- (9) the Ombudsman has authority to recommend policies and procedures. ~~DHSOAG~~ policies and practices do not prohibit the Ombudsman from performing functions and responsibilities per federal law and rules;
- (10) entities hosting a local ombudsman must not have personnel policies or practices that prohibit Office representatives from performing Program duties or from adhering to federal or state laws and rules;
- (11) the Ombudsman monitors the performance of local entities designated to carry out Program duties;
- (12) processes are in place by which the agencies hosting local ombudsman entities coordinate with the Ombudsman in the employment or appointment of Office representatives;
- (13) standards are in place to prioritize abuse, neglect, exploitation, and time-sensitive complaints and consider the severity of the risk to the resident, the imminence of the threat of harm to the resident, and the opportunity for mitigating harm to the resident through Program services; and

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(14) procedures are in place clarifying appropriate fiscal responsibilities of the local ombudsman entity including, but not limited to, clarifications regarding access to programmatic fiscal information by appropriate Office representatives.

## 75:55-1-4. Office of the State Long-Term Care Ombudsman policies and procedures [AMENDED]

~~Per the Older Americans Act of 1965, as Amended~~ As required by the OAA, the Office of the State Long-Term Care Ombudsman (Office) is established within the ~~Oklahoma Department of Human Services (DHS)~~ OAG to carry out a statewide Long-Term Care Ombudsman Program (Program) under ~~DHS~~ OAG direct supervision and administration.

- (1) Office consists of the State Long-Term Care Ombudsman (Ombudsman) and program and support staff.
- (2) Specific staffing requirements for each area Program are in accordance with ~~DHS~~ OAG administrative and funding procedures.
- (3) The area entity designated to provide ombudsman services must provide an adequate allocation of funds to operate the local program. Costs incurred include, but are not limited to:
  - (A) reimbursement of ombudsman supervisors' and ombudsman volunteers' travel costs, including travel to and from assigned facilities and required meetings;
  - (B) identification badges; and
  - (C) incidental costs related to trainings and meetings including awards and certificates.
- (4) Designated area ombudsman staff representatives are organizationally-located within public or non-profit private entities.
- (5) Selection of area ombudsman staff representatives is made by the director of the designated area ombudsman entity, with input and recommendations from state Ombudsman staff during the interview process, and subject to Ombudsman approval.
  - (A) For the purpose of review of qualifications, criminal background checks, and conflict of interest issues, the Office has access to applications, resumes, and other personnel information related to applicants and incumbents in area ombudsman staff positions.
  - (B) State Ombudsman staff is involved at the Ombudsman's discretion in applicant interviews for area ombudsman staff positions as members of an interviewing team. Upon conclusion of the interview process, there is opportunity for discussion and recommendations.
  - ~~(C) Merit hiring standards are adhered to throughout the hiring process per Part 900 of Title 5 of the United States Code.~~
  - ~~(D)~~ (C). Employment of area ombudsman staff is probationary pending the individual's satisfactory training completion.
- (6) The Ombudsman investigates allegations of misconduct by Office representatives in the performance of Program duties and, as applicable, coordinates investigations with ~~DHS~~ OAG, the agency hosting the local ombudsman entity, and/or the local ombudsman entity.
- (7) The Ombudsman determines the use of the fiscal resources appropriated or otherwise available to operate the Office. The Ombudsman approves the allocations of federal and state funds provided to such entities, subject to applicable federal and state laws and policies. The Ombudsman determines Program budgets and expenditures and those local ombudsman entities are compliant with laws, policies, and procedures governing the Program.

## 75:55-1-5. Grievance process [AMENDED]

~~The Office of the State Long-Term Care Ombudsman (Office) per Part 1327.11 of Title 42, section 1324.11 of the Code of Federal Regulations establishes a grievance process for the receipt and review of grievances regarding the determinations or actions of the State Long-Term Care Ombudsman (Ombudsman) and Office representatives.~~

- (1) Long-term care residents or legal representatives of residents who lack capacity to provide informed consent may ask the Ombudsman to review and reconsider complaint findings of designated representatives by submitting a request in writing or verbally to the Ombudsman or deputy ombudsman within 30-calendar days of the completion of an investigation. The Ombudsman or deputy ombudsman:
  - (A) completes a record review within 30-calendar days of the formal request;
  - (B) determines if the representative followed complaint processes ~~per Oklahoma Administrative Code (OAC) 340:105-11-237 and 340:105-11-237.1;~~
  - (C) places notation in the case record of his or her findings, initiates any needed action for resolution, and completes any warranted changes to the case documentation; and
  - (D) provides a copy of the findings to the resident or the resident's legal representative.



(2) When any grievance is related to the refusal or withdraw of designation by the ombudsman entity or staff representative, the resident or the resident's legal representative has a right to request a hearing within 10-calendar days of the written notice ~~per OAC 340:105-11-234(c).~~

### **75:55-1-6. Records, confidentiality, and disclosure [AMENDED]**

The Office of the Long-Term Care Ombudsman (Office) manages the Office State Long-Term Care Ombudsman Program (Program) files, records, and information, in physical, electronic, or other formats including information maintained by Office representatives and local ombudsman entities pertaining to Program cases and activities. Such files, records, and information are the property of the Office. Office and area ombudsman staff, ombudsman volunteers, and designated agencies uphold policies listed in this Section.

(1) No complaint, other confidential information, or records maintained by the Program may be disclosed unless the State Long-Term Care Ombudsman (Ombudsman) authorizes the disclosure.

(2) The Ombudsman or ombudsman representative does not disclose the identity of any complainant or resident unless the complainant or resident, or his or her legal representative consents:

(A) in writing to the disclosure and specifies to whom the identity may be disclosed;

(B) verbally and the Ombudsman documents the consent at the time consent is given; or through the use of auxiliary aids and services communication of informed consent may be made:

(i) in writing; or

(ii) verbally or visually; and

(iii) such consent must be documented contemporaneously by the Ombudsman or Office representative; or

(C) a court orders the disclosure.

(3) In accordance with federal law and regulation, the Ombudsman and Office representatives do not report suspected abuse, neglect, or exploitation of a resident when a resident has not communicated informed consent to such report. Except the Ombudsman or Office representative may refer confidential information and disclose resident-identifying information to the appropriate agency or agencies for regulatory oversight; protective services; access to administrative, legal, or other remedies; and/or law enforcement action when the circumstances in (4) of this Section are met.

(4) When a resident is unable to communicate his or her informed consent to the Ombudsman or Office representative, the Office may rely on the resident's designated representative's consent, so long as the Ombudsman or Office representative does not have reasonable cause to believe the resident representative is not acting in the resident's best interests or is the alleged perpetrator of the abuse, neglect, or exploitation.

(5) Inspection dates provided to the Program at any level, including Oklahoma State Department of Health inspections, are confidential per Section 1395i-3(g)(5)(B) of Title 42 of the United States Code (U.S.C.).

(A) Inspection dates and dates of other unannounced visits to facilities, including visits for the purpose of complaint investigation, are not posted or otherwise revealed.

(B) Federal law provides for a \$2,000 penalty for release of inspection dates per 42 U. S. C. § 1395i-3(g)(2) (A) (1) and Section 488.307 of Title 42 of the Code of Federal Regulations.

(6) Privacy is provided for complaint receipts by mail, phone, or personal interview to maintain confidentiality.

(7) All mail addressed to an ombudsman by name or title is delivered to the ombudsman unopened.

(8) Locked files are used to maintain confidential records. Access to such files is limited to designated area ombudsman representatives and Office staff.

### **75:55-1-7. Liability and legal counsel [AMENDED]**

The ~~Older Americans Act of 1965, as amended, OAA and Section 1-2214 of Title~~ title 63, section 1-2214 of the Oklahoma Statutes provide protections for designated representatives of the Office of State Long-Term Care Ombudsman (Office).

(1) For purposes of the Governmental Tort Claims Act, any state, area, or local volunteer long-term care ombudsman is deemed to be an employee of this state and not personally liable for any act or omission made within the scope of employment, as such term is defined by the Governmental Tort Claims Act.

(2) ~~The Oklahoma Department of Human Services~~ OAG ensures that adequate legal counsel is available to the Office for advice and consultation.

(3) Legal representation is provided to any representative of the Office against whom suit or other legal action is brought in connection with any act or omission of a representative made within the scope of employment.

(4) Any representative of the Office who wishes to request legal advice, consultation, or representation contacts the Office.

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## 75:55-1-8. Other policies [AMENDED]

(a) The rules in this ~~Part~~Chapter reflect compliance with ~~Older Americans Act~~OAA requirements under authority of state statute. ~~Section 1-2215 of Title 63 of the Oklahoma Statutes provides that:~~

- ~~(1) no person shall willfully interfere with a representative of the Office of the State Long-Term Care Ombudsman (Office) in the performance of official duties;~~
- ~~(2) no person shall engage in retaliation or reprisal against any resident or employee of a long-term care facility or other entity for having filed a complaint with or provided information to the Office; and~~
- ~~(3) any person convicted of violating any of these prohibitions shall be guilty of a misdemeanor.~~

(b) Any complaint alleging willful interference or retaliation or reprisal received by the Office shall be referred to the appropriate law enforcement entity, after consultation with legal counsel.

## SUBCHAPTER 2. COMPLAINTS

### 75:55-2-1. Complaint investigation [AMENDED]

The ~~State Long-Term Care Ombudsman Program (Program)~~ complaint mechanism functions at all levels with procedures for receipt, investigation, and resolution of problems and complaints.

(1) The ~~Office of the State Long-Term Care Ombudsman (Office)~~ staff:

- (A) receive complaints from all sources, including referrals from enforcement agencies and complaints from area ombudsman programs;
- (B) refer complaints to area ombudsman supervisors when appropriate;
- (C) investigate complaints directly or with ombudsman supervisors;
- (D) refer unresolved formal complaints to a regulatory or law enforcement agency, when appropriate;
- (E) assist other agencies in complaint resolution;
- (F) follow-up on complaint resolution and closure; and
- (G) may decline to investigate any complaint when:
  - (i) the complaint is frivolous or not made in good faith;
  - (ii) the complaint was made so long after the incident that it is no longer reasonable to conduct an investigation;
  - (iii) an adequate investigation cannot be conducted because of insufficient funds, insufficient staff, lack of staff expertise, or any other reasonable factor that would result in an inadequate investigation despite a good faith effort; or
  - (iv) an investigation by the Office would create a real or apparent conflict of interest.

(2) Area ombudsman supervisors:

- (A) receive complaints from all sources;
- (B) investigate complaints through on-site, unannounced visits to the facility or refer the complaints to ombudsman volunteers;
- (C) resolve complaints or refer the complaint in writing to ~~State Long-Term Care Ombudsman (Ombudsman)~~ staff when correction cannot be achieved at the area level, or when a regulatory or law enforcement agency's assistance is needed; and
- (D) follow-up on conditions identified through the complaint process.

(3) Ombudsman volunteers:

- (A) receive complaints and learn of problems from all sources;
- (B) investigate complaints through on-site, unannounced, routine weekly visitation to the assigned facility or refer complaints to an ombudsman supervisor for investigation;
- (C) resolve problems or complaints within the facility or refer to an ombudsman supervisor for resolution; and
- (D) follow-up on conditions through routine, weekly visitation with residents in the assigned facility.

### 75:55-2-2. Complaint processing [AMENDED]

(a) Regardless of the source of the complaint the ~~Office of the State Long-Term Care Ombudsman (Office)~~, State Long-Term Care Ombudsman (~~Ombudsman~~), and Office representatives serve long-term care facility residents to identify, investigate, and resolve complaints. The Ombudsman or Office representative investigates complaints including, but not limited to, abuse, neglect, or exploitation for the purposes of resolving the complaint to the resident's satisfaction and to protect the resident's health, safety, welfare, and rights. The Ombudsman or Office representative may identify, investigate, and resolve a complaint impacting multiple or all facility residents.

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(b) Regardless of the source of the complaint, including when the source is the Ombudsman or Office representative, the Ombudsman or Office representative must support and maximize resident participation in the complaint resolution process.

(1) The Ombudsman or Office representative must offer the resident privacy for confidentially purposes, when providing information and hearing, investigating, and resolving complaints.

(2) The Ombudsman or Office representative must discuss the complaint with the resident and resident representative when the resident is unable to communicate informed consent, to:

(A) determine his or her perspective;

(B) request informed consent to investigate the complaint;

(C) determine the resident's or his or her representative's perspective on complaint resolution including if the allegations are reported and, when so, if the Ombudsman or Office representative releases resident identifying information or other relevant information to the facility and/or appropriate agencies. Such report and disclosure is consistent with (b)(3) of this Section;

(D) advise the resident and resident representative of the resident's rights, when applicable;

(E) work with the resident or resident representative to develop a plan of action to resolve the complaint, when applicable;

(F) investigate the complaint to determine if the complaint can be verified; and

(G) determine if the complaint is resolved to the resident's or resident representative's satisfaction.

(3) When the resident is unable to communicate and does not have a representative to provide informed consent the Ombudsman or Office representative:

(A) takes appropriate steps to investigate and works to resolve the complaint in order to protect the resident's health, safety, welfare, and rights; and

(B) determines if the complaint was resolved to the complainant's satisfaction.

(4) To determine whether to rely on a resident representative to communicate or make determinations on the resident's behalf for complaint processing, the Ombudsman or Office representative ascertains the extent of the authority granted to the resident's representative under court order, by power of attorney, or other document the resident used to grant authority to the representative.

(c) The Ombudsman or Office representative may provide information regarding the complaint to another agency in order to substantiate the facts for regulatory, protective services, law enforcement, or other purposes so long as the Ombudsman or Office representative adheres to the disclosure requirements ~~per Oklahoma Administrative Code 340:105-11-243~~ provided by law. When the resident or resident representative:

(1) seeks regulatory, protective services, or law enforcement action and the Ombudsman or Office representative determines the resident or resident representative communicated informed consent to the Office, the Office assists the resident or resident's representative contact the appropriate agency and/or discloses the resident or resident's representative consent for such purposes; and

(2) is served by disclosing information to a facility representative ~~and/or~~ referrals to an entity other than those referenced in (c)(1) of this Section and the Ombudsman or Office representative determines the resident or resident representative communicated informed consent to the ~~State Long-Term Care Ombudsman Program (Program)~~, the Ombudsman or Office representative may:

(A) assist the resident or resident representative contact the appropriate facility representative or the entity;

(B) provide information on how a resident or representative may obtain a facility or entity contact information; and/or

(C) disclose the information the resident or resident's representative provided consent for to an appropriate facility representative or entity, consistent with Ombudsman Program procedures.

### SUBCHAPTER 3. CONFLICTS OF INTEREST

#### 75:55-3-1. Conflict of interest [AMENDED]

(a) An officer, employee, volunteer, or other representative of the Office ~~of the State Long-Term Care Ombudsman (Office)~~ may not be subject to a conflict of interest that has the potential to impair his or her official duties in an impartial manner and may not stand to gain financially through an action or potential action brought on behalf of persons the ~~State Long-Term Care Ombudsman Program (Program)~~ serves.

(b) A conflict of interest exists when any organizational or supervisory relationship, policy, action, or individual ombudsman's personal relationship, immediate familial relationship, or action conflicts with or impairs his or her responsibilities to investigate, resolve, or refer complaints or otherwise advocate for long-term care facility residents.

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- (c) No persons involved in the designation of the State Long-Term Care Ombudsman (~~Ombudsman~~), by appointment or otherwise, or the designation of the head of any designated entity may be subject to a conflict of interest.
- (d) Freedom from conflict of interest is established through interview of prospective Ombudsman staff and volunteers and through a signed statement in a form prescribed by the Office and other appropriate means.
- (e) Persons listed in this paragraph must complete and sign ~~Form 02OM001E~~, a form developed by OAG and the Office that includes a Conflict of Interest Statement ~~conflict of interest statement~~ and ~~Ethical Guidelines~~ ethical guidelines, annually and when there is any change of facility or area assignment by:
- (1) prospective and current Office staff;
  - (2) prospective and current ombudsman volunteers; and
  - (3) any other person involved in the direct operation of the Program.
- (f) Agencies must annually review ~~Form 02OM002E~~, a form developed by OAG and the Office that contains Freedom from Conflict of Interest Assurances ~~freedom from conflict of interest assurances~~, which must be signed annually by:
- (1) directors of designated entities or those seeking designation as local ombudsman entities; and
  - (2) directors of sponsoring agencies.

## 75:55-3-2. Organizational conflict of interest [AMENDED]

- (a) ~~The Oklahoma Department of Human Services (DHS)~~ OAG and the Office of the State Long-Term Care Ombudsman (~~Office~~) ~~State Long-Term Care Ombudsman (Ombudsman)~~ consider the organizational conflicts that may impact the effectiveness and credibility of the work of the Office. Organizational conflicts of interest include, but are not limited to, placement of the Office or requiring that an Ombudsman or Office representative perform conflicting activities in an organization that:
- (1) is responsible for licensing, surveying, or certifying long-term care facilities;
  - (2) is an association or an affiliate of such an association, of long-term care facilities or of any other residential facilities for older individuals or individuals with disabilities;
  - (3) has ownership or investment interest, represented by equity, debt, or other financial relationship in, or receives grants or donations from, a long-term care facility;
  - (4) has governing board members with any ownership, investment, or employment interest in long-term care facilities;
  - (5) provides long-term care to residents of long-term care facilities including the provision of personnel for long-term care facilities or the operation of programs that control access to or services for long-term care facilities;
  - (6) provides long-term care coordination or case management for residents of long-term care facilities;
  - (7) sets reimbursement rates for long-term care facilities;
  - (8) provides adult protective services;
  - (9) is responsible for eligibility determinations for residents of long-term care facilities regarding Medicaid or other public benefits;
  - (10) conducts preadmission screening for long-term care facility placements;
  - (11) makes admission or discharge decisions for individuals to or from long-term care facilities; or
  - (12) provides guardianship, conservatorship, or other fiduciary or surrogate decision-making services for residents of long-term care facilities.
- (b) **Removing or remedying organizational conflicts.** ~~DHS~~ OAG and the Ombudsman identify and take steps to remove or remedy conflicts of interest between the Office and ~~DHS~~ OAG or another entity carrying out the ~~Ombudsman Program~~ (~~Program~~).
- (1) The Ombudsman identifies organizational conflicts of interest in the Program and describes steps taken to remove or remedy conflicts within the annual report submitted to the Assistant Secretary for Aging through the National Ombudsman Reporting System.
  - (2) When the Office is located within or otherwise organizationally-connected to ~~DHS~~ OAG, DHS OAG:
    - (A) takes reasonable steps to avoid internal conflicts of interest;
    - (B) reviews and identify internal conflicts;
    - (C) takes steps to remove or remedy conflicts;
    - (D) ensures that no individual, or member of the immediate family of an individual, involved in the designating, appointing, otherwise selecting or terminating the Ombudsman is subject to a conflict of interest; and
    - (E) ensures the Ombudsman disclosed such conflicts and described steps taken to remove or remedy conflicts within the annual report submitted to the Assistant Secretary for Aging through the National Ombudsman Reporting System.

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(3) When ~~DHS~~OAG is unable to adequately remove or remedy a conflict, the Program is carried out by contract or other arrangement with a public agency or nonprofit private organization, ~~per Section 712(4)(a) of as required by the Older Americans Act, as Amended~~OAA.

(4) DHS may not enter into a contract or other arrangement to carry out the Program or operate the Office when the other entity:

- (A) is responsible for licensing, surveying, or certifying long-term care facilities;
- (B) is an association or an affiliate of such an association of long-term care facilities, or of any other residential facilities for older individuals or individuals with disabilities; or
- (C) has any ownership, operational, or investment interest, represented by equity, debt, or other financial relationship in a long-term care facility.

### 75:55-3-3. Conflict of interest remedies [AMENDED]

(a) **Volunteers.** When a conflict of interest is identified before designation, the volunteer is not certified in any facility in which the conflict of interest could be expected to affect performance. When a conflict of interest or potential conflict of interest involving a certified volunteer is identified, the ombudsman supervisor promptly notifies the Office ~~of the State Long-Term Care Ombudsman (Office)~~ to recommend withdrawal of designation, reassignment of the volunteer, or other appropriate action.

(b) **Paid ombudsman representatives.** No applicant for a paid ombudsman position, at any level of the program, is selected to fill that position when a conflict of interest is identified during any stage of the application or hiring process. When a conflict of interest or potential conflict of interest is identified involving a designated representative, action must be taken to remedy the conflict within 30-calendar days. Remedies may range from elimination of the conflict to withdrawal of the individual's designation.

(c) **Directors of sponsoring agencies and designated entities.** When a conflict of interest or potential conflict of interest is identified action must be taken to remedy the conflict of interest within 30-calendar days. Remedies may include:

- (1) removal or resolution of the conflict of interest;
- (2) withdrawal of the agency's designation as an area ombudsman entity;
- (3) withdrawal of designation of the agency as an Area Agency on Aging; or
- (4) other reasonable action.

### 75:55-3-4. Conflict of interest statement and ethical guidelines [AMENDED]

(a) ~~The Older Americans Act of 1965, as Amended, OAA~~ requires assurances that there are no conflicts of interest within the ~~State Long-Term Care Ombudsman Program~~. Mechanisms to identify and remedy any conflicts are mandated. ~~State Long-Term Care (Office) Office~~ staff and volunteers must study the rules in this ~~Section~~section and sign ~~Form 02OM001E, a form developed by OAG and the Office about Conflict of Interest Statement and Ethical Guidelines~~ containing a conflict of interest statement and ethical guidelines ~~when able to~~ to certify that they can provide assurances and meet ethical guidelines. ~~The designated ombudsman:~~

(b) The assurances and ethical guidelines include, but are not limited to, the following:

- (1) the designated ombudsman and any member of the ombudsman's immediate family may not own, operate, control, or have interest, voting rights, or outstanding indebtedness to or be employed by any company or facility or person investigated by the ombudsman;
- (2) the designated ombudsman may not solicit or accept from any person or organization, directly or indirectly, money or anything of value if it could reasonably be expected to influence the ombudsman's official actions or judgment or could reasonably be considered a reward for any official action or omission on the part of the ombudsman;
- (3) the designated ombudsman who is assigned or acts as an official representative of a designated entity in the presentation of papers, talks, demonstrations, or making appearances does not solicit or accept fees, honoraria, or reimbursement of expenses for personal gain. Any fees or honoraria offered in connection with these activities are paid to the designated entity;
- (4) the designated ombudsman is alert to anything that impairs ability to objectively investigate complaints. The ombudsman avoids conflict of interest in the establishment of personal relationships that affect impartiality on the job;
- (5) the designated ombudsman may be involved in serving as an officer or board member of a social, fraternal, or religious organization for which the ombudsman receives no compensation or anything of value, provided the organization is not affected by exercise of the ombudsman's discretion;

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- (6) the designated ombudsman may not use or disclose information gained in the course of, or by reason of, the ombudsman's official position or activities in any way without the express consent of the resident or complainant;
  - (7) the designated ombudsman discloses all past and current appointments, involvement, membership, or interest that affect or could reasonably be expected to affect the ombudsman's ability to investigate and resolve complaints in an objective and independent manner;
  - (8) the designated ombudsman may not effectively recommend or decide to hire or promote another person who is a member of the ombudsman's immediate family;
  - (9) the designated ombudsman may not give preferential or favorable treatment in provision of service to a resident who is a member of the ombudsman's family;
  - (10) the designated ombudsman may not serve as guardian, conservator, or in another fiduciary or surrogate decision-making capacity for a resident of a long-term care facility where he or she is assigned or investigates complaints;
  - (11) the designated ombudsman may not be assigned, investigate complaints, or serve residents of a facility in where his or her immediate family member resides; and
  - (12) the designated ombudsman may not conduct business in restaurants or other public places where a public observer might reasonably conclude that confidences could be breached due to lack of privacy.
- (b) ~~In no circumstance will the Oklahoma Department of Human Services~~ OAG or a local ombudsman entity shall not appoint or employ an individual, nor will the ~~State Long-Term Care Ombudsman~~ designate an individual as an Office representative who:
- (1) has direct involvement in the licensing or certification of a long-term care facility;
  - (2) has an ownership or investment interest represented by equity, debt, or other financial relationship in a long-term care facility. Divestment within a reasonable period may be considered an adequate remedy to this conflict;
  - (3) receives, directly or indirectly, remuneration in cash or in kind under a compensation arrangement with an owner or operator of a long-term care facility; or
  - (4) is employed by or participating in the management of a long-term care facility.
- (c) Any entity that appoints or employs Office representatives make efforts to avoid appointing or employing an individual as an Office representative who was employed by or participating in the management of a long-term care facility within the previous ~~12~~ twelve months. Where such an individual is appointed or employed, steps are taken to remedy the conflict.
- (d) OAG and the Office shall develop and maintain a form containing a conflict of interest statement and ethical guidelines.

## 75:55-3-5. Freedom from conflict of interest assurances [AMENDED]

~~—The Older Americans Act as amended OAA requires assurances of freedom from conflict of interest for the officially designated area program as a subdivision of the Office of the State Long-Term Care Ombudsman (Office). Directors of designated area ombudsman entities and sponsoring agency directors are asked to read, review with staff and sponsors, and sign Form 02OM002E, Area Ombudsman Assurance Form, if assurances can be provided as described in this Section.~~

- (1) Assurance is provided that the agency:
  - (A) is not a part of an entity responsible for licensing or certifying long-term care facilities, or part of a provider organization;
  - (B) does not hold interest in, manage, own, or contract with a long-term care facility;
  - (C) does not stand to gain financially through an action or potential action brought on behalf of persons the ombudsman serves; and
  - (D) is not located within an organization that may impair or inhibit the ability of the ombudsman to objectively and independently investigate and resolve complaints.
- (2) Assurance is provided that the ombudsman will be free to:
  - (A) take action on behalf of residents;
  - (B) publicly represent the concerns of residents;
  - (C) bring together persons who have the authority to solve problems;
  - (D) make recommendations to boards, committees, and task forces in developing long-term care policy, or similar situations;
  - (E) forward unresolved formal complaints to the Office according to program policy; and
  - (F) publicize the State Long-Term Care Ombudsman Program and issues affecting older persons who are institutionalized.

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- (3) ~~There are inherent conflicts in the role of the ombudsman. The agency supports the role and goals of the State Long-Term Care Ombudsman Program and the ombudsman staff through any conflict associated with their official duties.~~
- (a) The OAA requires assurances of freedom from conflict of interest for the officially designated area program as a subdivision of the Office. Directors of designated area ombudsman entities and sponsoring agency directors are asked to read, review with staff and sponsors, and sign a form developed by OAG and the Office certifying the assurances described in subsections b and c.
- (b) Directors of designated area ombudsman entities and sponsoring agency directors shall assure that the agency is—
- (1) is not a part of an entity responsible for licensing or certifying long-term care facilities, or part of a provider organization;
  - (2) does not hold interest in, manage, own, or contract with a long-term care facility;
  - (3) does not stand to gain financially through an action or potential action brought on behalf of persons the ombudsman serves; and
  - (4) is not located within an organization that may impair or inhibit the ability of the ombudsman to objectively and independently investigate and resolve complaints.
- (c) Directors of designated area ombudsman entities and sponsoring agency directors shall assure that the ombudsman will be free to:
- (1) take action on behalf of residents;
  - (2) publicly represent the concerns of residents;
  - (3) bring together persons who have the authority to solve problems;
  - (4) make recommendations to boards, committees, and task forces in developing long-term care policy, or similar situations;
  - (5) forward unresolved formal complaints to the Office according to program policy; and
  - (6) publicize the State Long-Term Care Ombudsman Program and issues affecting older persons who are institutionalized.
- (d) There are inherent conflicts in the role of the ombudsman. The agency supports the role and goals of the Program and the ombudsman staff through any conflict associated with their official duties.
- (e) OAG and the Office shall develop and maintain a form for designated area ombudsman entities and sponsoring agency directors to make any assurances required by law.

## SUBCHAPTER 4. OPERATIONAL DUTIES AND RESPONSIBILITIES OF THE OFFICE OF THE LONG-TERM CARE OMBUDSMAN AND AREA AGENCIES ON AGING

### 75:55-4-1. Access [AMENDED]

- (a) **Access to facilities and residents.** ~~The Office of the State Long-Term Care Ombudsman (Office)~~ procedures for access to long-term care facilities and facility residents are in ~~Sections 1-829-F, 1-1902, 1-1919, and 1-2213-D of Title 63~~ title 63, sections 1-829(F), 1-1902(2), 1-1919, and 1-2213(D) of the Oklahoma Statutes. ~~An Office or local ombudsman; as that term is defined by Oklahoma Department of Human Services Aging Services;~~ is authorized to enter any facility licensed ~~perunder~~ the Oklahoma Nursing Home Care Act, the Oklahoma Residential Care Act, and the Continuum of Care and Assisted Living Act to communicate privately and without unreasonable restriction with any resident who consents to the communication, to seek consent to communicate, and to observe all areas of the facility that directly pertain to the care of the resident, without infringing upon the privacy of other residents without their consent.
- (1) Area ombudsman staff and trained, designated ombudsman volunteers have the same right of access to licensed long-term care facilities and residents as Office staff.
  - (2) Any ombudsman staff or volunteer asked to leave the premises of any licensed facility for any reason does so and immediately reports the incident to the Office.
- (b) **Access to ~~resident~~ resident records.** ~~The State Long-Term Care Ombudsman (Ombudsman)~~ and Office staff have access to:
- (1) review the resident's medical and social records when the:
    - (A) Office representative has the resident's or the resident's legal representative's permission; or
    - (B) resident is unable to consent to the review, has no legal representative, and the Office representative obtains Ombudsman approval;
  - (2) the records as necessary to investigate a complaint when:
    - (A) a resident's legal guardian refuses to give permission;
    - (B) an Office representative has reasonable cause to believe the guardian is not acting in the resident's best interests; and

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- (C) the representative obtains Ombudsman approval;
- (3) the administrative records, policies, and documents of long-term care facilities, to which the residents or the general public have access; and
- (4) copies of all licensing and certification records maintained by the Oklahoma State Department of Health or any state agency with respect to long-term care facilities. Ombudsman volunteers must obtain a resident's legal representative's, ombudsman supervisor's, Ombudsman's, or deputy ombudsman's consent before accessing medical or social records of a resident who does not have the capacity to grant informed consent.
- (5) The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, ~~Part 160 of Title 45 of the Code of Federal Regulations (C.F.R.) and 45 C.F.R. Part 164 Subparts A and E~~ does not preclude release by covered entities of resident private health information or other resident identifying information to the State Long-Term Care Ombudsman Program including, but not limited to, residents' medical, social, or other records, a list of resident names and room numbers, or information collected in the course of a federal or state survey or inspection process.

## 75:55-4-2. Facility visitation [AMENDED]

(a) Designated area entity ombudsman staff makes periodic visits to all long-term care facilities in the area covered by the designated area ombudsman entity to ensure ~~State Long-Term Care Ombudsman Program (Program)~~ services are available to the residents.

- (1) Residents of each facility are visited a minimum of four times each fiscal year.
  - (A) Visits made by appointment including in-service training for facility staff, are not counted toward the ombudsman staff's four visits per year.
  - (B) When the ombudsman visits residents as a citizen observer during ~~Oklahoma State Department of Health (OSDH)~~ inspections, the visit may be counted.
  - (C) Visits made to resolve complaints are counted when multiple residents are visited.
- (2) Visits are documented on ~~Office of the State Long-Term Care Ombudsman (Office)~~ Office-approved forms and are protected according to Program confidentiality requirements. Visits are:
  - (A) unannounced and dates are kept confidential; and
  - (B) not posted or revealed to any person other than the Area Agency on Aging director, designated as the area ombudsman entity who safeguards them.
- (3) ~~State Long-Term Care Ombudsman (Ombudsman)~~ staff:
  - (A) accompanies each newly-designated ombudsman volunteer to the volunteer's assigned facility, by appointment, for an introductory visit to:
    - (i) introduce the volunteer to the facility administrator, residents, and facility; and
    - (ii) explain or clarify the ombudsman volunteer role;
  - (B) conducts at least one supervisory visit with each designated ombudsman volunteer at his or her assigned facility annually to:
    - (i) assess skills, relationships, and understanding of appropriate role; and/or
    - (ii) assist the volunteer with a complaint or other problem; and
  - (C) offers and conducts in-service training for staff of long-term care facilities on residents' rights, elder abuse prevention, and other topics of importance to residents.

(b) The designated ombudsman volunteer visits residents in his or her assigned facility, at least two hours per week to assist residents resolve or prevent problems or complaints. Each visit is documented.

- (1) Volunteers may not officially begin visitation and other duties in a facility as a designated ombudsman volunteer until he or she:
  - (A) receives written notice of designation from the Office; and
  - (B) is accompanied by Office staff on an introductory visit to the assigned facility.
- (2) A volunteer who is temporarily unable to fulfill visitation or other program responsibilities may request or be placed on leave of absence. As defined in this Part, leave of absence may be granted due to:
  - (A) illness or family illness;
  - (B) vacation or extended travel; or
  - (C) a reason approved by the ombudsman supervisor.
- (3) Leave of absence must not exceed three months duration. When the volunteer is unable to resume official duties by the end of the three-month period, the area supervisor notifies the Office and the volunteer's designation is withdrawn.
- (4) The volunteer may request voluntary designation withdrawal from the Program at any time and be designated again when requirements are met.



(5) A volunteer that returns to service within one year of withdrawal of designation is not required to complete the initial two-day volunteer training but must be screened for potential conflicts of interests and complete the OSDH National Fingerprint Background Check.

(c) Ombudsman participation as a citizen observer in unannounced inspections by ~~OSDH~~ the State Department of Health is allowed by the Oklahoma Nursing Home Care Act, the Oklahoma Residential Care Act, and the Federal Nursing Home Reform Act.

(1) Office staff and designated ombudsman volunteers may participate.

(2) Inspection schedule information is kept in a locked file and access is restricted to Office staff.

(3) The location of the inspection is shared by Office staff only with the area ombudsman supervisor.

(4) The ombudsman facility volunteer may be notified, but notification is made no earlier than the inspection date.

(5) Early notification to a facility is strictly prohibited and potentially subject to civil penalty authorized under federal law. Penalties are set in federal statutes for early facility notifications per Section 1395i-3(g)(2)(A)(1) of the United States Code and Section 488.307 of Title 42 of the Code of Federal Regulations.

(d) When entering a facility for a visit, Office staff and volunteers notify the administrator or other charge person of their presence. If a charge person is not located, any staff person may be notified. This requirement is not intended to delay an ombudsman from proceeding promptly with a complaint investigation or resident visitation.

### 75:55-4-3. Reporting system [AMENDED]

(a) Reporting by Office staff. ~~Office of the State Long-Term Care Ombudsman staff shall:~~

(1) ~~identify~~ Identify significant problems by establishing a statewide reporting system including the collection and analysis of quarterly reports from area ombudsman staff;

(2) ~~receive~~ Receive and analyze reports from all state agencies receiving complaints on, or conducting surveys or inspections of long-term care facilities, in order to identify significant problems;

(3) ~~develop~~ Develop administrative and legislative proposals to resolve significant problems of residents, as reflected in complaint investigation and other data;

(4) ~~provide~~ Provide information and recommendations to involved agencies on significant issues, after monitoring conditions of long-term care facilities through the area program and collection and analysis of data; and

(5) ~~compile~~ Compile information and annually prepare and disseminate a ~~Long-Term Care Ombudsman~~ Program annual report. The report contains data and findings regarding the types of problems experienced and complaints received by or on behalf of individuals residing in long-term care facilities, and provides policy, regulatory and legislative recommendations to resolve such problems and complaints and improve the quality of care and life in long-term care facilities.

(b) Reporting by Area ombudsman staff. ~~Area ombudsman staff shall:~~

(1) ~~collect~~ Collect and compile data from volunteer monthly reports and from other required ~~Ombudsman~~ Program activities into quarterly reports, which are submitted to state ombudsman staff;

(2) ~~monitor~~ Monitor conditions in certain facilities for informal reporting on a follow up basis to state ombudsman staff; and

(3) ~~respond~~ Respond to requests from state ombudsman staff for reports or updates on local conditions relating to specific issues being addressed statewide.

### 75:55-4-4. Provision of information [AMENDED]

~~—The Office of the State Long-Term Care Ombudsman (Office), State Long-Term Care Ombudsman (Ombudsman), and designated staff provide information to public and private agencies, legislators, the media, and other persons regarding the problems and concerns of residents and recommendations related to the problems and concerns. The provision of information includes, but is not limited to:~~

~~(1) Office staff provides:~~

~~(A) developing administrative and legislative proposals as needed, relating to significant problems of residents in long-term care facilities, based on complaint investigation data and other sources;~~

~~(B) developing working relationships with state legislators and policy makers in order to inject concerns of long-term care facility residents directly into the policy making process;~~

~~(C) providing information on conditions affecting and the needs of long-term care facility residents; upon request, to individuals, agencies, organizations, and others; and~~

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(D) meeting at least quarterly with the State Council on Aging's Advisory Committee for the State Long-Term Care Ombudsman Program (Program) to discuss Program operation, issues affecting the population served by the Program, and strategies to address identified concerns:

(2) Area ombudsman staff provides:

(A) information to individuals, agencies, committees, and organizations concerning the general problems and issues affecting residents in long-term care facilities; and

(B) community education on needs and issues affecting long-term care facility residents through publicity including monthly press releases, public speaking, and other means.

(a) The Office, Ombudsman, designated Office staff, and Area ombudsman staff provide information to public and private agencies, legislators, the media, and other persons regarding the problems and concerns of residents and recommendations related to the problems and concerns. The provision of information includes, but is not limited to:

(1) Administrative and legislative proposals as needed, relating to significant problems of residents in long-term care facilities, based on complaint investigation data and other sources;

(2) Communicating concerns of long-term care facility residents directly into the policy making process;

(3) Providing information on conditions affecting and the needs of long-term care facility residents, upon request, to individuals, agencies, organizations, and others;

(4) Meeting with the State Council on Aging's Advisory Committee for the Program to discuss Program operation, issues affecting the population served by the Program, and strategies to address identified concerns at least quarterly;

(b) Area ombudsman staff may undertake the following endeavors aimed to support the Ombudsman and Office staff:

(1) Delivering information to individuals, agencies, committees, and organizations concerning the general problems and issues affecting residents in long-term care facilities; and

(2) Engaging in community education on needs and issues affecting long-term care facility residents through publicity including monthly press releases, public speaking, and other means.

## 75:55-4-5. Systems Advocacy, monitoring laws, regulations, and policies [AMENDED]

(a) ~~The Office of the State Long-Term Care Ombudsman (Office)~~ is required and authorized to:

(1) ~~analyze~~Analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services;

(2) ~~monitor~~Monitor the health, safety, welfare, and rights of residents; and

(3) ~~recommend~~Recommend changes in such laws, regulations, and policies as the Office determines appropriate.

(b) Office staff may:

(1) ~~acquire~~Require and share with area programs, citizen organizations, and individuals copies of proposed and enacted laws, regulations, and policies that may affect long-term care facility residents;

(2) ~~give~~Give testimony and written comments as appropriate and assist others learn of comment opportunities;

(3) ~~attend~~Attend or conduct public hearings;

(4) ~~request~~Request comments from area ombudsman staff; and

(5) ~~investigate~~Investigate complaints and take action as necessary to monitor the development and implementation of laws, rules, and policies.

(c) Area ombudsman staff may:

(1) ~~review~~Review proposed and enacted laws, regulations, and policies that may affect long-term care facility residents in the planning and service area (PSA), as provided by Office staff;

(2) ~~give~~Give testimony and written comments, and attend or conduct public hearings, as appropriate;

(3) ~~investigate~~Investigate complaints; and

(4) ~~communicate~~Communicate concerns identified through the above activities to Office staff.

(d) The Office makes determinations and establishes positions of the Office independently. Those determinations or positions may or may not represent the determinations or positions of ~~the Oklahoma Department of Human Services (DHS)~~OAG and are not subject to approval by ~~DHS~~OAG.

## 75:55-4-6. Procedures related to the disclosure of witnessed abuse, neglect, or exploitation [AMENDED]

(a) \_\_\_\_\_ When the Office, ~~of the State Long-Term Care Ombudsman (Office)~~ State Long-Term Care Ombudsman, (Ombudsman) or Office representative (~~representative~~) personally witnesses suspected abuse, gross neglect, or exploitation of a resident, the Ombudsman or representative shall seek~~seeks~~ communication of informed consent from such resident to disclose resident-identifying information to appropriate agencies.

- (1) When the resident is able to communicate informed consent or has a resident representative available to provide informed consent, the Ombudsman or representative follows the resident's or resident representative's direction.
- (2) When the resident is unable to communicate informed consent and has no resident representative available to provide informed consent, the Ombudsman or representative opens a case with the Ombudsman or representative as the complainant, follows the Office's program complaint resolution procedures, refers the matter, and discloses the resident's identifying information to facility management where the resident resides and/or to the appropriate agency or agencies for substantiation of abuse, gross neglect, or exploitation in the following circumstances the:
  - (A) Ombudsman or representative has no evidence indicating the resident would not want a referral to be made;
  - (B) Ombudsman or representative has reasonable cause to believe disclosure is in the resident's best interest; and
  - (C) representative obtains Ombudsman or deputy ombudsman approval.
- (3) In addition, the Ombudsman or representative, following Office policies and procedures ~~per Oklahoma Administrative Code 340:105-11-243 (3) (i) - (vi)~~, may report suspected abuse, gross neglect, or exploitation to other appropriate agencies for regulatory oversight; protective services; access to administrative, legal, or other remedies; and/or law enforcement action.
- (4) The decision to grant or deny Ombudsman or deputy ombudsman approval for confidential information disclosure related to abuse, neglect, or exploitation is made and conveyed to the requesting ombudsman in one business day.

### **75:55-4-7. Designation of area programs and area representatives including staff and volunteers [AMENDED]**

- (a) The Office of the State Long-Term Care Ombudsman (Office) officially designates agencies serving as area or local subdivisions of the Office through an annual designation process; ~~per Oklahoma Department of Human Services (DHS)~~ pursuant to OAG administrative funding procedures.
- (1) Area program staff and volunteer representatives are officially designated in writing by the State Long-Term Care Ombudsman (~~Ombudsman~~).
  - (2) Designation as an Office representative:
    - (A) ~~for~~ For area staff is based on criteria necessary for satisfactory performance including, but not limited to:
      - (i) being free from any conflict of interest as defined by this rule and in compliance with federal and state statutes; and does not stand to gain financially through an action or potential action brought on behalf of the residents he or she serves;
      - (ii) meeting minimum Office job qualifications and screening standards; and
      - (iii) satisfactorily completing training prescribed by the Ombudsman; and
    - (B) ~~as~~ As an ombudsman volunteer is accomplished through a designation process, and is based on the individual meeting criteria necessary to satisfactory performance in the position including, but not limited to, the person:
      - (i) being free from any conflict of interest as required by statute and defined by this ~~Part~~ Chapter and he or she does not stand to gain financially through an action or potential action brought on behalf of residents the ombudsman serves;
      - (ii) meets screening criteria set in this ~~Part~~ Chapter;
      - (iii) satisfactorily completes training prescribed by the Ombudsman; and
      - (iv) completes and signs:
        - (I) ~~Form 02OM003E~~, The Ombudsman Volunteer Application, agreeing to accept supervision and follow Program rules and guidelines; and
        - (II) the Registry and criminal history record check consent and release form for the Oklahoma National Fingerprint Background Check Program, authorizing the Office to conduct a national fingerprint background and registry checks.
- (b) The Ombudsman has authority to refuse to designate:
  - (1) ~~an~~ An individual, staff or volunteer, as an Office representative for any reasonable cause related to unsatisfactory performance in the position including, but not limited to:
    - (A) an unresolved or unresolvable conflict of interest;
    - (B) failure to satisfactorily complete training; and
    - (C) failure to meet screening standards for volunteers and staff including a national fingerprint background and registry check or minimum job qualifications; and

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- (2) ~~an~~An entity as a subdivision of the Office for any reasonable cause that prevents satisfactory operation of the ~~State Long-Term Care Ombudsman Program (Program)~~ including, but not limited to:
- (A) an unresolved or unresolvable conflict of interest;
  - (B) failure to provide adequate assurances that Program guidelines can be met; and
  - (C) failure to provide assurances that the Program can be adequately funded.
- (c) The Ombudsman has the authority to withdraw designation as:
- (1) ~~a~~A subdivision of the Office from a designated entity when there is:
    - (A) an unresolved or unresolvable conflict of interest;
    - (B) a breach of the confidentiality requirement caused by the action of any staff of the designated entity as a local subdivision of the Office or of that designated entity's sponsoring agency;
    - (C) failure to adhere to Office policies, ~~Federal~~the federal Administration on Aging regulations, federal or state law; or
    - (D) any other unreasonable or prejudicial conduct substantially affecting the Program; and
  - (2) ~~an~~An Office representative from a staff person or volunteer when there is:
    - (A) an unresolved or unresolvable conflict of interest;
    - (B) breach of the confidentiality requirement;
    - (C) failure to adhere to Office policies or federal or state law;
    - (D) failure to accept program supervision from the Office; or
    - (E) when the prospective representative is determined to be ineligible by the Oklahoma State Department of Health National Fingerprint Background Check Program.
- (d) The Ombudsman may also withdraw designation of an ombudsman volunteer when he or she:
- (1) fails to file monthly reports with the ombudsman supervisor for three consecutive months, unless on approved leave of absence;
  - (2) fails to attend three consecutive monthly meetings, unless on approved leave of absence;
  - (3) fails to initiate resident visitation in assigned facility within two months after designation;
  - (4) misuses the "ombudsman volunteer" title or badge; or
  - (5) without specific authorization by the Ombudsman, represents himself or herself either verbally or by wearing a badge as an ombudsman for a facility for which the volunteer is not designated.
- (e) An agency that is refused designation or from which designation is withdrawn as an designated entity or an individual refused designation or from whom designation is withdrawn as an area ombudsman staff representative may appeal the decision. Designation is not withdrawn until reasonable notice and opportunity for a hearing is provided.
- (1) ~~Designation is not withdrawn until reasonable notice and opportunity for a hearing is provided.~~
  - (2) ~~Notification of the right to appeal and appeal procedures are included in the letter notifying the agency or staff person of a decision to refuse or withdraw designation.~~
  - (3) ~~A request for hearing must be submitted within 10-ten calendar days of the receipt of the letter of notification of the decision to refuse or withdraw designation.~~
  - (4) ~~Hearings are conducted by the DHS Appeals Unit OAG or its designated hearing officer.~~
  - (5) ~~The Ombudsman has authority to suspend a designated ombudsman entity or staff representative from engaging in any and all Program duties pending the conclusion of a hearing.~~
  - (6) ~~In a case where findings of the hearing officer are contrary to federal law or rules, as determined by the Ombudsman, the Ombudsman retains the authority to refuse or withdraw designation regardless of the findings of the hearing officer.~~
- (f) The follow rules of procedure apply in appeals of refused or withdrawn designations:
- (1) The Ombudsman shall send a notification of such refusal or withdrawal advising the agency or individual (appealing party) of their the right to appeal.
  - (2) A request for hearing must be submitted within ten calendar days of the receipt of the letter of notification of the decision to refuse or withdraw designation.
  - (3) The agency or individual appealing the refusal or withdrawal may submit a response to accompany its request for hearing. If a response is submitted, the Ombudsman may submit a reply to the response no later than five days after the request for hearing and response are received.
  - (3) Hearings are conducted by OAG or its designated hearing officer. The hearings must be electronically recorded. All testimony shall be taken under oath. The hearing officer may admit relevant, material, substantial, competent and reliable evidence but may also exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.
  - (4) The hearing officer may set a time limit for each side to present its case. The appealing party may reserve a portion of its time for rebuttal.

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(5) The Ombudsman may suspend a designated ombudsman entity or staff representative from engaging in any and all Program duties pending the conclusion of a hearing.

(6) Notwithstanding the findings of hearing officer, the Ombudsman retains authority to refuse or withdraw the designation regardless of the hearing officer's findings if the Ombudsman determines that such findings contradict or violate federal law or regulations.

## **75:55-4-8. Responsibilities of agencies hosting local ombudsman representatives [AMENDED]**

(a) The designated entity in which a local Office of the State Long-Term Care Ombudsman (Office) Program (Program) is organizationally located is responsible for the personnel management, but not programmatic oversight of Office representatives, including employees and volunteer representatives.

(b) The designated entity in which a local program is organizationally located does not have personnel policies or practices that prohibit Office representatives from performing the duties or from adhering to the access, confidentiality, and disclosure requirements of federal and state laws and regulations.

(1) Host agencies may not have policies, procedures, or practices including personnel management practices that the State Long-Term Care Ombudsman (Ombudsman) determines conflictive with the laws or policies governing the Program.

(2) Any policy, procedure, or practice the Ombudsman determines to be in violation of federal or state laws and regulations is sufficient grounds for the refusal, suspension, or removal of the designation of local ombudsman entity by the Ombudsman.

(3) Nothing in this provision prohibits the host agency from requiring that Office representatives adhere to the personnel policies and procedures of the agency that are otherwise lawful.

## **75:55-4-9. Duties of representatives of the Office of the State Long-Term Care Ombudsman (Office) [AMENDED]**

The State Long-Term Care Ombudsman (Ombudsman) may designate an entity as a local ombudsman entity and may designate an employee or volunteer of the local ombudsman entity as an Office representative. Office representatives may also be designated employees or volunteers within the Office. An individual designated as an Office representative per Oklahoma Department of Human Services (DHS) and Office policies and procedures:

(1) identifies, investigates, and resolves complaints made by or on behalf of residents that relate to action, inaction, or decisions that may adversely affect the health, safety, welfare, or rights of the residents;

(2) provides assistance to protect the health, safety, welfare, and rights of residents;

(3) ensures residents in the local ombudsman entity service area have regular and timely access to the services provided through the State Long-Term Care Ombudsman Program and that residents and complainants receive timely responses to requests for information and complaints;

(4) represents the interests of residents before government agencies and ensures individual residents have access to and pursue, as the representative determines necessary and consistent with resident interest, administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(5) reviews, and when necessary, comments on any existing and proposed laws, regulations, and other government policies and actions pertaining to residents' rights and well-being;

(6) facilitates public comment on the laws, regulations, policies, and actions;

(7) promotes and provides technical support for development and ongoing support when requested by resident and family councils; and

(8) carries out other activities the Ombudsman determines to be appropriate.

## **SUBCHAPTER 5. PERSONNEL AND VOLUNTEER MANAGEMENT**

### **75:55-5-1. Area Agency on Aging ombudsman supervisor I [AMENDED]**

(a) **Definition.** Under the program supervision of the Office of the State Long-Term Care Ombudsman and the general direction of the director of an Area Agency on Aging, the ombudsman supervisor I provides leadership in development, coordination, and implementation of the Long-Term Care Ombudsman Program and receives, investigates, and resolves complaints made by or on behalf of residents of long-term care facilities.

(b) **Examples of duties.** Examples of duties include:

(1) recruiting, screening, training, and supervising ombudsman volunteers using guidelines provided by state ombudsman staff;

(2) publicizing the services of the State Long-Term Care Ombudsman Program and issues affecting older residents of long-term care facilities through media releases, public speaking, and other means;

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- (3) coordinating with state ombudsman staff in complaint investigation and resolution, identification of priority issues, and certification of new ombudsman volunteers;
- (4) maintaining confidentiality of files and other information pertaining to complaints and complainants;
- (5) keeping the director of the designated area ombudsman entity informed of the current situation and needs at the local level, recommending plans for meeting needs, and advising the director of resources required for their implementation;
- (6) being available to residents of long-term care facilities in the planning and service areas ~~(PSA)~~(PSAs), visiting each facility regularly, and working cooperatively with administrators and staff; and
- (7) serving as a consultant to community organizations and agencies on issues and needs affecting older long-term care facility residents, techniques of working with these older people, and the solution of special problems.

~~(c)~~**Education and experience.** The required education and experience is graduation from an accredited four-year college or university with major course work in social work, gerontology, sociology, general social sciences, or a related field including, but not limited to, health care. Any ombudsman employed as an ombudsman supervisor I prior to this effective date is deemed as eligible for the position.

~~(d)~~**(c) Salary range.** The comparable job family descriptor for this position is Adult Protective Services Specialist, #H26A under the Office of Management and Enterprise Service's Human Capital Management Job Catalog. A person in this position may not be hired at a salary more than the midpoint, nor paid more than the maximum of the approved salary range specified for Pay Band I under the Office of Management and Enterprise Service's Human Capital Management state employee pay structure. For the purpose of determining annual salary longevity pay is not considered.

## 75:55-5-2. Area Agency on Aging ombudsman supervisor II [AMENDED]

(a) **Definition.** Under the program supervision of the Office of the State Long-Term Care Ombudsman and the general direction of the director of an Area Agency on Aging, the ombudsman supervisor II provides leadership in development, coordination, and implementation of the Long-Term Care Ombudsman Program and receives, investigates, and resolves complaints made by, or on behalf of, residents of long-term care facilities.

(b) **Examples of duties.** Examples of duties include:

- (1) recruiting, screening, training, and supervising ombudsman volunteers using guidelines provided by state ombudsman staff;
- (2) publicizing the services of the State Long-Term Care Ombudsman Program and issues affecting older residents of long-term care facilities through media releases, public speaking, and other means;
- (3) coordinating with state ombudsman staff in complaint investigation and resolution, identification of priority issues, and certification of new ombudsman volunteers;
- (4) maintaining confidentiality of files and other information pertaining to complaints and complainants;
- (5) keeping the director of the designated area ombudsman entity informed of the current situation and needs at the local level, recommending plans for meeting needs, and advising the director of resources required for their implementation;
- (6) being available to residents of long-term care facilities in the planning and service areas ~~(PSA)~~(PSAs), visiting each facility regularly, and working cooperatively with administrators and staff; and
- (7) serving as a consultant to community organizations and agencies on issues and needs affecting older long-term care facility residents, techniques of working with these older people, and the solution of special problems.

~~(c)~~**Education and experience.** The required education and experience is:

- (1) graduation from an accredited four year college or university with major course work in social work, health, gerontology, general social sciences, or related field and one year of fulltime ombudsman or other applicable advocacy experience; or
- (2) after one year of employment, an ombudsman supervisor I may promote to a level II position.

~~(d)~~**(c) Salary range.** The comparable job family descriptor for this position is an Adult Protective Services Specialist, #H26B under the Office of Management and Enterprise Service's Human Capital Management Job Catalog. A person in this position may not be hired at a salary more than the midpoint nor paid more than the maximum of the approved salary range specified for Pay Band J under the Office of Management and Enterprise Service's Human Capital Management state employee pay structure. For the purpose of determining annual salary longevity pay is not considered.

## 75:55-5-3. Screening criteria for ombudsman [AMENDED]

(a) Criteria for subjective screening of potential ombudsman staff and volunteers is reviewed in addition to standard education and work experience questions.

(b) Persons who are not eligible for ombudsman volunteer designation include any individual who:

- (1) was terminated from employment in a facility where he or she wants to volunteer;

- (2) is a relative of a current employee of the facility where he or she wants to volunteer;
- (3) lacks the ability to be objective or hold confidences;
- (4) is a current employee or has any financial interest in a facility where he or she wants to volunteer. The person may volunteer in another facility located in a separate planning and services area;
- (5) is a paid sitter, private duty nurse or aide in the facility where the person wants to volunteer. If a competitive facility is chosen, the placement is accepted by the chosen facility;
- (6) is involved in a pending law suit against a facility, until the legal process is completed and acceptance of the person as a volunteer is made by the selected facility administrator;
- (7) stands to gain financially through an action or potential action brought on behalf of persons the ~~State Long-Term Care Ombudsman~~ Program serves; or
- (8) was determined to be ineligible by the Oklahoma State Department of Health National Fingerprint Background Check Program.

### 75:55-5-4. Training [AMENDED]

The Office of the ~~State Long-Term Care Ombudsman (Office)~~ prohibits investigation of any complaint by Office staff or an ombudsman volunteer, unless the person satisfactorily completed training required by the Office, and is approved by the State Long-Term Care Ombudsman (~~Ombudsman~~) as qualified to investigate complaints.

(1) Office staff shall:

- (A) ~~orients~~Orient and ~~train~~train ombudsman staff representatives and determines satisfactory completion of prescribed training;
- (B) ~~develops~~Develop and periodically ~~updates~~update training core curriculum;
- (C) ~~assists~~Assist area ombudsman staff train ombudsman volunteers;
- (D) ~~provides~~Provide on a quarterly basis, a minimum of ~~40~~forty hours of continuing education and training to ombudsman supervisors per year;
- (E) ~~provides~~Provide community education with area staff;
- (F) officially ~~certifies~~certify newly-trained, ombudsman volunteers who met screening criteria; and
- (G) ~~assists~~Assist in the development of citizen organizations to participate in the ~~State Long-Term Care Ombudsman~~ Program.

(2) Area ombudsman staff shall:

- (A) ~~holds~~Hold public workshops for community education and volunteer recruitment;
- (B) ~~trains~~Train ombudsman volunteer applicants using the Office-prescribed core training format;
- (C) ~~submits~~Submit the name, facility assignment, and original signed Form 02OM003E, Ombudsman Volunteer Application, of each volunteer recommended for designation;
- (D) ~~accompanies~~Accompany each newly-certified ombudsman volunteer on at least one introductory visit to the assigned facility to reinforce training and ensure the ombudsman volunteer's understanding of the ombudsman role; and
- (E) ~~holds~~Hold monthly meetings for continued training and supervision of designated ombudsman volunteers to annually achieve a minimum of ~~18~~eighteen hours per volunteer of continuing education relevant to the care of older persons and persons with disabilities.

### 75:55-5-5. Office of the ~~State Long-Term Care (Office)~~ ombudsman staff and volunteer training [AMENDED]

(a) **~~Paid ombudsman staff training curriculum.~~** New ombudsman staff training includes 90 hours of introductory education in:

- (1) the ~~Long-Term Care Ombudsman Program (Program)~~;
- (2) Program policies and procedures;
- (3) the complaint investigation and response system;
- (4) the long-term care regulatory system;
- (5) residents' rights;
- (6) characteristics of long-term care facilities and residents;
- (7) aging processes;
- (8) communication skills;
- (9) legal and ethical issues;
- (10) a visitation practicum;
- (11) mediation or negotiation skills;
- (12) community resources or services;
- (13) volunteer management;

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- (14) reporting and record keeping;
- (15) adult abuse, neglect, and exploitation investigations; and
- (16) testing to determine an understanding of the curriculum.

(b) **Volunteer ombudsman training curriculum.** Ombudsman volunteer training includes 12 hours of introductory education in:

- (1) the Program;
- (2) the ombudsman volunteer role, including activities and responsibilities;
- (3) problem-solving and complaint investigation;
- (4) aging processes;
- (5) characteristics of long-term care facilities and residents;
- (6) communication and interviewing skills;
- (7) Oklahoma's Nursing Home Care Act, Residential Care Act, or Assisted Living Act, as appropriate;
- (8) residents' rights in long-term care facilities;
- (9) long-term care regulation;
- (10) confidentiality;
- (11) reporting and record keeping; and
- (12) a visitation practicum.

## **75:55-5-6. Ombudsman volunteer rules and guidelines [AMENDED]**

The designated ombudsman volunteer observes the requirements of the ~~State Long-Term Care Ombudsman (Ombudsman) State Long-Term Care Ombudsman Program (Program)~~. The ombudsman volunteer:

- (1) completes and signs ~~Forms~~the following forms:
  - (A) ~~02OM003E~~, Ombudsman Volunteer Application;
  - (B) ~~02OM001E~~, Conflict of Interest Statement and Ethical Guidelines; and
  - (C) ~~04AD003E~~, Request for Background Check;
- (2) completes the two-day ombudsman volunteer training program to be designated by Program staff;
- (3) accepts supervision by the ombudsman supervisor;
- (4) respects privacy and confidentiality.
  - (A) The volunteer does not disclose information regarding any complainants or participant's name, condition, or situation, except to the ombudsman supervisor or ~~State Long-Term Care Ombudsman (Office) Office~~ staff, without the written permission of the complainant, participant, or legal representative.
  - (B) Supervisory approval is secured before any information is released;
- (5) visits weekly with residents in the assigned facility;
- (6) attends monthly ombudsman volunteer meetings for continuing education, program updates, and group supervision;
- (7) submits monthly reports to the ombudsman supervisor;
- (8) wears the badge issued by the designated entity ombudsman supervisor when visiting the facility or attending functions as an ombudsman volunteer;
- (9) is available to the facility residents, hears their concerns, and assists them with, and follows-up on problem-solving;
- (10) meets with the facility administrator to establish and maintain a cooperative working relationship;
- (11) is familiar with facility policies and procedures established for its operation;
- (12) is designated as an ombudsman volunteer, limited to the facility named in the designation letter, unless authorized in advance by the Ombudsman;
- (13) is clear in understanding the ombudsman volunteer role on behalf of the residents; and
- (14) does not perform direct care services, such as lifting, feeding, or transporting residents.

*[OAR Docket #25-387; filed 5-28-25]*

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## **TITLE 135. COMMISSION ON CHILDREN AND YOUTH CHAPTER 10. PROGRAMS, BOARDS, AND COUNCILS: OPERATION AND ADMINISTRATION**

*[OAR Docket #25-430]*



**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 25. Freestanding Multidisciplinary Child Abuse Teams

135:10-25-1. Origin and authority [AMENDED]

135:10-25-3. Approval of freestanding multidisciplinary child abuse team [AMENDED]

135:10-25-4. Services provided by a freestanding multidisciplinary child abuse team [AMENDED]

135:10-25-8. Process for removal of a non-functioning freestanding multidisciplinary child abuse team from the list of freestanding functioning multidisciplinary child abuse teams: [AMENDED]

**AUTHORITY:**

The Oklahoma Commission on Children and Youth; 10 O.S. Sec. 601.4(9)

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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N/A

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**SUPERSEDED EMERGENCY ACTIONS:****SUPERSEDED RULES:**

N/A

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N/A

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N/A

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**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The permanent rules clarify the authority of the Oklahoma Commission on Children and Youth to approve and monitor freestanding multidisciplinary child abuse teams. They add definitions and provide procedures for annual reviews and site visits that incorporate the use of peer reviews to help determine the functioning of the teams. The rules provide clarification regarding the collection of freestanding multidisciplinary team data including individual responsibilities and the use of a secure database.

**CONTACT PERSON:**

Marcia Johnson, Legislative Liaison, (405) 898-7915

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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 JULY 11, 2025:

## SUBCHAPTER 25. FREESTANDING MULTIDISCIPLINARY CHILD ABUSE TEAMS

### 135:10-25-1. Origin and authority [AMENDED]

The legislature gave the Oklahoma Commission on Children and Youth responsibilities for coordinating with each district attorney in the development of freestanding multidisciplinary child abuse teams in each county of the district attorney or in a contiguous group of counties pursuant to 10A O.S. Supp. 2013, Section 1-9-102 (A)(1). The Oklahoma Commission on Children and Youth shall have the authority:

- (1) ~~To approve freestanding multidisciplinary child abuse teams;~~
- (2) To evaluate the functioning of existing and new freestanding multidisciplinary child abuse teams by conducting annual on-site reviews to ensure compliance of freestanding multidisciplinary child abuse teams with minimal standards;
- (2) To approve freestanding multidisciplinary child abuse teams identified as functioning or provisionally functioning for funding eligibility;
- (3) To designate a freestanding multidisciplinary child abuse team as functioning, provisionally functioning, or non-functioning in accordance with freestanding multidisciplinary child abuse team minimal standards;
- (4) To remove freestanding multidisciplinary child abuse team from the list of functioning freestanding multidisciplinary child abuse teams when non-compliant with minimal standards.

### 135:10-25-3. Approval of freestanding multidisciplinary child abuse team [AMENDED]

(a) **Definitions.** The following words and terms, when used in the Subchapters, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"Annual survey"** means a written document submitted to the Commission summarizing the activities of the team as related to child protection investigations and services with the data elements and format proscribed by the Commission.
- (2) **"Annual Site Review"** means the ~~annual on-site review of multidisciplinary team records that assist the Commission in determining the functioning of the freestanding multidisciplinary team~~ end of fiscal year multidisciplinary team document review that assists the Commission in determining the functioning of the freestanding multidisciplinary team. The review process uses standardized scoring tools and is conducted by Commission staff and members of the Child Abuse Training and Coordination Council (CATCC).
- (3) **"Annual Site Visit"** means an on-site compliance visit conducted by either OCCY staff or a team coordinator of a functioning freestanding multidisciplinary team. When possible, a freestanding multidisciplinary team will have an annual site visit conducted by OCCY staff every other year and a team coordinator of a peer freestanding multidisciplinary team the alternating years.
- ~~(3)~~(4) **"Commission"** means the Oklahoma Commission on Children and Youth
- ~~(4)~~(5) **"Confidentiality statement"** means the written document signed by the multidisciplinary team members assuring that all proceedings conducted during team meetings and child protective investigations will be kept confidential according to clearly defined limits, state law, and respective agency policy and procedure.
- ~~(5)~~(6) **"Community Needs Assessment"** means conducting a process that results in a written document that identifies available services, service gaps, untapped resources and community based priorities for improvement or development of services to the victim and family according to the format and schedule of the Commission.
- ~~(6)~~(7) **"Child Abuse Multidisciplinary Account"** means a continuing fund established by the Oklahoma Legislature for the purpose of providing operating funds to provisionally functioning and functioning multidisciplinary teams.
- ~~(7)~~(8) **"Child Advocacy Center"** means a child friendly, safe and neutral location in which law enforcement and child protective services may conduct and observe forensic interviews with children who are alleged victims of crimes and where non-offending family members may receive support, crisis intervention, and referrals for mental health and medical treatment.
- ~~(8)~~(9) **"Multidisciplinary Child Abuse Team"** means a Multidisciplinary Child Abuse team utilized by a Child Advocacy Center to meet National Accreditation Standards.

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- ~~(9)~~(10). **"Data Collection"** means multidisciplinary teams shall maintain data on every case reviewed by the multidisciplinary team in ~~the~~ a secure database following the format proscribed by the Commission.
- ~~(10)~~(11). **"Expertise"** means individual team members' obtaining training and experience in a particular aspect of the multidisciplinary team approach, conducting legally sound and age appropriate interviews, effective investigation techniques, or knowledge about how to conduct joint investigations.
- ~~(11)~~(12). **"Freestanding multidisciplinary team"** means a team not used by a child advocacy center for its accreditation.
- ~~(12)~~ **"Functioning Freestanding Multidisciplinary Child Abuse Team"** means a freestanding multidisciplinary team that has met minimal standards promulgated by the Commission.
- ~~(13)~~ **"Provisionally Functioning Freestanding Multidisciplinary Child Abuse Team"** means a team that has met the minimal freestanding multidisciplinary team standards for a new team.
- ~~(14)~~ **"Non-Functional Freestanding Multidisciplinary Child Abuse Team"** means a team that has not met the minimal standards promulgated by the Commission.
- ~~(15)~~(13). **"Joint Investigations"** means law enforcement and child welfare staff collaborative investigation with written protocols to decrease duplicative efforts and to ensure a thorough process.
- ~~(16)~~(14). **"Interagency agreement(s)"** means the written document(s) signed by the multidisciplinary team member agencies that specify the cooperative effort of the member agencies to the team and delineates roles and responsibilities.
- ~~(17)~~(15). **"Initial Freestanding Multidisciplinary Child Abuse Team Training"** means training conducted during the early formation of the team where individual team members are oriented to the multidisciplinary child abuse team approach.
- ~~(18)~~ **"Multidisciplinary Child Abuse Team"** means a group of individuals of differing disciplines working together collaboratively on a common purpose.
- (16) **"Peer Review"** means the use of a team coordinator of a functioning freestanding multidisciplinary team to conduct an annual site visit of another freestanding multidisciplinary team after receiving the training and tools from OCCY to conduct such visits.
- ~~(19)~~(17). **"Protocol"** means specific methods and procedures used to conduct child protection investigations and interviews.
- ~~(20)~~(18). **"Standards"** means the criteria used to determine functionality of a multidisciplinary team.

**(b) Types of Freestanding Multidisciplinary Child Abuse Team.**

- (1) **Functioning Freestanding Multidisciplinary Child Abuse Team.** A Freestanding Multidisciplinary Child Abuse Team shall be included on the list of Freestanding Multidisciplinary Child Abuse Teams when documentation that supports compliance with minimal standards for a functioning freestanding multidisciplinary child abuse team.
- (2) **Provisionally Functioning Freestanding Multidisciplinary Child Abuse Team.** A Provisionally Functioning Freestanding Multidisciplinary Child Abuse Team shall be included on the list of Functioning Freestanding Multidisciplinary Child Abuse Team when documentation supports compliance with minimal standards for a provisionally functioning Freestanding Multidisciplinary Child Abuse Team.
- (3) **Non-Functioning Freestanding Multidisciplinary Child Abuse Team.** A Non-Functioning Freestanding Multidisciplinary Child Abuse Team shall be removed from the list of Functioning Freestanding Multidisciplinary Child Abuse Team when documentation does not support compliance with minimal standards for a functioning or provisionally functioning Freestanding Multidisciplinary Child Abuse Team.

**(c) Annual On-Site Review.**

- ~~(1) Annual On-Site Visit.~~ Commission staff annually shall conduct one on-site compliance visit to each Freestanding Multidisciplinary Child Abuse Team to document compliance with minimal Freestanding Multidisciplinary Child Abuse Team standards.
- (2) During each ~~on-site compliance visit~~ annual review Commission staff shall request a completed Annual Survey document and review ~~Freestanding Multidisciplinary Child Abuse Team~~ copies of the interagency agreement, confidentiality statements, member sign-in sheets, joint-investigation and interview protocol, case review documentation, training records, financial accountability policies, and other documents to ascertain compliance with minimal standards.

**(d) Annual Site Visit.** Freestanding multidisciplinary teams shall participate in either one on-site compliance visit conducted by Commission staff or one Peer Review visit annually to document compliance with minimal freestanding multidisciplinary child abuse team standards. Peer reviews shall be conducted by team coordinators that have completed peer review training provided by Commission staff and use the scoring tools included in that training.

~~(d)~~(e). **Forms.** Commission staff shall use standardized on-site review forms available for public inspection.

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~~(e)~~(f) **Reports.** Commission staff shall annually issue a Freestanding Multidisciplinary Child Abuse Team Summary Report.

**(g) Secure Database.**

- (1) Each freestanding multidisciplinary team shall use the secure database designated by the Commission to collect information during a case review. Information collected includes case specific, identifiable information such as demographics, process measures related to the freestanding multidisciplinary team work and outcome measures related to the safety and wellbeing of the involved children.
- (2) The database shall maintain strict security of all state and citizen data entrusted to it and is subject to applicable federal and state laws, rules, regulations and policies under the direction of the Chief Information Officer of the Office of Management and Enterprise Services.
- (3) Each freestanding multidisciplinary team coordinator, upon signing a confidentiality agreement, will be granted secured access to only their team's database for the purpose of preparing, monitoring and reporting case information.
- (4) OCCY staff and contractors supporting the development, maintenance and improvement of the database will have secured access to the freestanding multidisciplinary team database and its information as necessary to carry out the OCCY mission. OCCY may enter into contracts and intra-agency agreements for data sharing for the sole purposes of programmatic and systemic improvements or evaluation that benefit the state's child serving systems.

**135:10-25-4. Services provided by a freestanding multidisciplinary child abuse team [AMENDED]**

A freestanding multidisciplinary child abuse team ~~conducts joint investigations in an effort to effectively respond to a report of alleged child abuse~~ is designed to utilize the case review process to increase cooperation and communication between partner agencies, coordinate and encourage joint investigative efforts between law enforcement and child welfare staff, eliminate duplicative processes and minimize trauma to child victims.

**135:10-25-8. Process for removal of a non-functioning freestanding multidisciplinary child abuse team from the list of freestanding functioning multidisciplinary child abuse teams: [AMENDED]**

**(a) Process for removal.**

- (1) Commission staff shall submit a recommendation for removal of a Freestanding Multidisciplinary Child Abuse Team ~~as~~ to the Commission Director or the Commission Director designee within (30) days of the annual on-site review.
- (2) Freestanding Multidisciplinary Child Abuse Team Coordinator or District Attorney shall submit all responses to the recommendation for removal to the Commission Director or Commission Director designee within (10) days of receipt of the notice.
- (3) The Commission Director or designee shall be the final decision maker regarding the recommendation for removal of a Freestanding Multidisciplinary Child Abuse Team from the list of Freestanding Multidisciplinary Child Abuse Teams.
- (4) The Commission Director or Commission Director Designee will make the final decision within (30) days of the recommendation for removal of a Freestanding Multidisciplinary Child Abuse Team from the listing of Freestanding Multidisciplinary Child Abuse Teams.
- (5) Commission staff will send a finding letter within (45) days of the recommendation to remove a Freestanding Multidisciplinary Child Abuse Team from the list of Freestanding Multidisciplinary Child Abuse Teams.
- (6) Freestanding Multidisciplinary Child Abuse Team Coordinator or District Attorney may appeal the final decision of removal to the Commission.

**(b) Complaint Procedure.** Complaints received by the Commission concerning Freestanding Multidisciplinary Child Abuse Team case reviews shall be referred to the Oklahoma Commission on Children and Youth, Office of Juvenile System Oversight.

**(c) Public Inspection of Freestanding Multidisciplinary Child Abuse Team Records.**

- (1) **Legal Basis.** The Oklahoma Commission on Children and Youth is subject to the Oklahoma Open Records Act Section 24A.1 et.seq. of Title 51 of the review unless they are required by law to be kept confidential.
- (2) **Freestanding Multidisciplinary Child Abuse Team Records.** All Oklahoma Commission on Children and Youth Freestanding Multidisciplinary Child Abuse Team records required to establish the level of functioning of a Freestanding Multidisciplinary Child Abuse Team are considered public records shall be open and available for public inspection during reasonable hours.

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(3) **Location of Freestanding Multidisciplinary Child Abuse Team Records.** Freestanding Multidisciplinary Child Abuse Team records shall be located at the Oklahoma Commission on Children and Youth office and shall be inspected at that location. ~~The Oklahoma Commission on Children and Youth is located at 1111 North Lee Avenue, Suite 500, and Oklahoma City, Oklahoma, 73118.~~

(4) **Preparation of Freestanding Multidisciplinary Child Abuse Team Records for inspection.** Commission staff shall review the entire record and shall remove confidential information.

(5) **Release of confidential Freestanding Multidisciplinary Child Abuse Team information.** Confidential information shall only be released as provided by statute.

*[OAR Docket #25-430; filed 5-30-25]*

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## TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 15. SPECIAL CERTIFICATES AND MISCELLANEOUS PROVISIONS

*[OAR Docket #25-462]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 5. Authorization for Injectables

140:15-5-3. Education and training [AMENDED]

Subchapter 8. Animal Chiropractic Diagnosis and Treatment

140:15-8-3. Animal chiropractic certification card [AMENDED]

**AUTHORITY:**

Title 59 O.S. Supp 2008 SEC.; Board of Chiropractic Examiners

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 18, 2024

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N/A

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**DOCKET NUMBER:**

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**INCORPORATIONS BY REFERENCE:**

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## INCORPORATED STANDARDS:

N/A

## INCORPORATING RULES:

N/A

## AVAILABILITY:

N/A

## GIST/ANALYSIS:

OAC 140:15-5-3 Removes the requirement for the injectable course and recertification course for injectables to be submitted 90 days prior to the course being approved by the Board. OAC 140:15-8-3 Removes the requirement for the passport photo to be submitted for the animal chiropractic certification card.

## CONTACT PERSON:

Beth Kidd Executive Kidd (405) 522-3400 beth.kidd@chiro.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 JULY 11, 2025:**

### SUBCHAPTER 5. AUTHORIZATION FOR INJECTABLES

#### 140:15-5-3. Education and training [AMENDED]

Approval of education and training in administration of vitamins, minerals, nutritional supplements by means of injectable procedures offered to satisfy the provisions of 140:15-5-1 and 140:15-5-2 is vested solely in the Board. No educational program shall be offered, advertised or marketed for the purpose of certification prior to being approved by the Board. ~~At least ninety (90) calendar days prior to offering any education and training program, the~~ The individual or group offering said program shall submit to the Board for approval;

- (1) An application to provide education and training in administration of vitamins, minerals or nutritional supplements by means of injectable procedures;
- (2) The course outline and course description of such program;
- (3) The faculty name(s) and credentials
- (4) A complete set of course materials and examination; and
- (5) Fees and or costs to each participant

### SUBCHAPTER 8. ANIMAL CHIROPRACTIC DIAGNOSIS AND TREATMENT

#### 140:15-8-3. Animal chiropractic certification card [AMENDED]

(a) Effective November 1, 2011 all chiropractic physicians certified by the Board in the practice of animal chiropractic diagnosis and treatment shall be issued a certification card by the Board. Each certification card must contain:

- (1) the original license number of the chiropractic physicians certified in animal chiropractic diagnosis and treatment;
- (2) the chiropractic physicians animal chiropractic diagnosis and treatment certification number; and
- ~~(3) a passport style photo~~

(b) Each animal chiropractic physician shall carry the certification card with them at all times.

(c) The certification card is valid only as long as the chiropractic physician remains certified by the Board to engage in the practice of animal chiropractic diagnosis and treatment, If for any reason the chiropractic physicians certification is removed by the Board, the animal chiropractic certification card is to be returned to the Board within five (5) calendar days of receipt of notification that the chiropractic physician is no longer certified to practice animal chiropractic.

*[OAR Docket #25-462; filed 6-3-25]*

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## TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 1. GENERAL RULES OF PRACTICE AND PROCEDURE

*[OAR Docket #25-469]*

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# Permanent Final Adoptions

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. Organization

150:1-1-3. Deputy; Chief of Staff; Director of CORE; Director of EDGE [AMENDED]

**AUTHORITY:**

The Oklahoma Department of Commerce; 74 O.S. §§ 5003.1 et seq.; 68 O.S. § 2357.105, 69 O.S., § 4041(C).

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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N/A

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N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

This action amends the organizational structure of the Oklahoma Department of Commerce.

**CONTACT PERSON:**

Tim Bunson General Counsel and Chief of Staff Oklahoma Department of Commerce 900 N. Stiles Avenue, Oklahoma City, OK 73104 572-572-6777 Tim.Bunson@okcommerce.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 JULY 11, 2025:**

## SUBCHAPTER 1. ORGANIZATION

**150:1-1-3. Deputy; Chief of Staff; Director of CORE; Director of EDGE [AMENDED]**

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The Director shall appoint a ~~deputy or Deputy~~, Chief of Staff, the Director of CORE, or the Director of EDGE who shall perform duties of the Director as requested by the Director. If the office of the Director is vacant or if the Director is absent or unable to act, ~~the deputy or the Deputy~~, Chief of Staff, the Director of CORE, or the Director of EDGE shall be the acting Director for all purposes until the Director resumes duties or the successive Director is fully qualified. The ~~deputy or Deputy~~, Chief of Staff, the Director of CORE, or the Director of EDGE may sign all documents on behalf of the Director, except those specifically required to be signed by the Director by law.

*[OAR Docket #25-469; filed 6-6-25]*

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## TITLE 155. OKLAHOMA CONSERVATION COMMISSION CHAPTER 42. SOIL HEALTH [NEW]

*[OAR Docket #25-420]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

- Subchapter 1. GENERAL PROVISIONS [NEW]
  - 155:42-1-1. Purpose [NEW]
  - 155:42-1-2. Definitions [NEW]
- Subchapter 3. Soil Health Technical Assistance and Education Program [NEW]
  - 155:42-3-1. Purpose [NEW]
  - 155:42-3-2. Technical assistance program [NEW]
  - 155:42-3-3. Educational program [NEW]
- Subchapter 5. SOIL HEALTH ASSESSMENT PROGRAM [NEW]
  - 155:42-5-1. Purpose [NEW]
  - 155:42-5-2. Program objectives [NEW]
  - 155:42-5-3. Working on Regenerative Management Systems [NEW]
- Subchapter 7. HEALTHY SOIL GRANT PROGRAMS [NEW]
  - 155:42-7-1. Soil Health Implementation Program [NEW]
  - 155:42-7-2. Program objectives [NEW]
  - 155:42-7-3. Establishment of state guidelines [NEW]
  - 155:42-7-4. Eligibility requirements [NEW]
  - 155:42-7-5. Technical representatives [NEW]
  - 155:42-7-6. Eligible SHIP conservation practices and associated rates [NEW]
  - 155:42-7-7. Application, review, and approval process [NEW]
  - 155:42-7-8. Conservation plan [NEW]
  - 155:42-7-9. Completion and reimbursement payment [NEW]

### **AUTHORITY:**

Oklahoma Conservation Commission and the Conservation District Act; 27A O.S. §§3-1-101 et seq.; and more specifically 27A O.S. §3-7-101 et. seq.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 18, 2024

### **COMMENT PERIOD:**

December 16, 2024 through January 16, 2025

### **PUBLIC HEARING:**

January 16, 2025

### **ADOPTION:**

January 16, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 16, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1033

### **LEGISLATIVE DISAPPROVAL:**

N/A



**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

July 11, 2025

**SUPERSEDED EMERGENCY ACTIONS:****SUPERSEDED RULES:**

N/A

**GUBERNATORIAL APPROVAL:**

N/A

**REGISTER PUBLICATION:**

N/A

**DOCKET NUMBER:**

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**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

These rules are essential for establishing a clear, structured framework for the implementation of programs within the Commission's Soil Health Section. Here's why they are necessary: Clear Guidance and Consistency: The rules provide specific procedures for executing programs, assessments, and grants, ensuring consistency and fairness in implementation. Alignment with Broader Goals: The rules set objectives and protocols that align with the goals of the Water Quality Division, the statutory language and intent, and the broader interests of Oklahoma, while focusing on serving the community. Tailored Solutions for Diverse Needs: Stakeholders, including producers, counties, and landowners, have unique needs. These rules ensure that programs are effectively tailored to address those needs. Positive Community Impact: The programs are designed with the goal of benefiting all Oklahomans, and the rules are essential in driving these positive outcomes. Comprehensive Coverage: The rules encompass the Commission's soil health technical assistance, educational programs, soil health assessments, and the Soil Health Implementation Grant Program, ensuring that all relevant aspects are addressed in a cohesive manner. Encouraging Participation and Ensuring Accountability: Clear, established rules foster greater participation regarding soil health assistance, grant, and educational programs while ensuring accountability in their execution. This is vital for maintaining public trust and confidence. In summary, these rules provide structure, clarity, and fairness, enabling effective implementation of programs that meet the diverse needs of stakeholders and deliver meaningful benefits to Oklahomans.

**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 JULY 11, 2025:**

## **SUBCHAPTER 1. GENERAL PROVISIONS [NEW]**

### **155:42-1-1. Purpose [NEW]**

This Chapter sets forth provisions and requirements related to the different programs of the Healthy Soil Programs Act pursuant to authority in Title 27A, Sections 3-7-101 et. seq. and Sections 3-1-101 et. seq. of the Oklahoma Statutes.

### **155:42-1-2. Definitions [NEW]**

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

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“Assessment” means the use of scientific methods to assess various measurements, sample results, parameters, and other data necessary to make inferences about the state, trend, or other endpoints necessary to scientifically characterize soil, water, land, farm, or other resource management contexts.

“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.

“CPs” means Conservation Practices. This term is an alternative reference to “BMPs” as defined in this section.

“Commission” or “OCC” means the Oklahoma Conservation Commission.

“Conservation District” or “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 Soil Health Program of the Oklahoma Conservation Commission.

“Implementation” means those land or farm management actions taken to establish one or more BMPs or CPs as part of a conservation plan.

“Monitoring” means the use of scientific processes to acquire any data necessary to make desired assessment(s) of natural resources, related management actions, or other endpoints necessary to meet healthy soil and other assessment goals.

“Natural Resources Conservation Service” or “NRCS” means the U.S. Department of Agriculture’s primary private lands conservation agency.

“Program” means the Soil Health Program as administered by the Oklahoma Conservation Commission.

“Soil” means topsoil, suitable substrate, or other plant growth media that will sustain vegetation.

## **SUBCHAPTER 3. SOIL HEALTH TECHNICAL ASSISTANCE AND EDUCATION PROGRAM [NEW]**

### **155:42-3-1. Purpose [NEW]**

(a) The purpose of the Soil Health Program (Program) is to promote and support conservation implementation in both rural and urban settings that restore and maintain healthy soil as defined in the Healthy Soil Program Act (HSPA). This is accomplished through technical assistance and education programs. By restoring one or more of the Soil Health Principles, these practices improve the soil's capacity to function as a dynamic biological system, leading to greater resilience, reduced input costs, improved product quality, and overall ecosystem health.

(b) The Commission serves as the state’s program and technical leads for soil health-focused technical assistance, monitoring and assessment, education, and communication.

### **155:42-3-2. Technical assistance program [NEW]**

(a) The objective of the Technical Assistance Program (TAP) is to provide professional consultative support to Oklahoma’s farmers and ranchers through conservation planning and implementation focused on improving soil health. These results when realized are expected to improve and eventually restore the natural system function of agricultural land, decrease or reverse environmental impacts from agricultural activities, and increase operational resilience to unfavorable weather or environmental conditions.

(b) The TAP offers technical assistance on a first come, first served basis through scheduled consultations, phone calls, emails, or other contacts made with relevant staff.

### **155:42-3-3. Educational program [NEW]**

The objective of the Educational Program is to directly or indirectly educate Oklahoma’s farmers and ranchers regarding the importance of soil health and the possible outcomes that focused conservation planning and actions can have on restoring land function and operation resilience. This may be fulfilled through various activities including but not limited to workshops, field days, consultations, online trainings, and website and social media posts, among other actions. This work may be funded and accomplished through both agency and partner facilitation. The Commission works to conduct much of this activity through Districts, who assist in local facilitation and connection to producers and farms crucial for real-world demonstration of conservation in action.

## **SUBCHAPTER 5. SOIL HEALTH ASSESSMENT PROGRAM [NEW]**

### **155:42-5-1. Purpose [NEW]**

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The Commission shall serve as the State's technical lead for coordinating, developing, conducting, and maintaining a statewide Soil Health Assessment Program (Assessment Program). The purpose of the Assessment Program is to develop and manage a process and network of sites to acquire data necessary to evaluate status and trends of soil health throughout Oklahoma.

## **155:42-5-2. Program objectives [NEW]**

The Assessment Program objectives include but are not limited to:

- (1) Develop and implement a monitoring system to gather data necessary to assess status and trends of soil health across the state. Parameters will be selected that best reflect the current science defining soil health.
- (2) Develop capacity to involve voluntary soil health measurements taken by producers and land managers trained by Program Specialists.
- (3) Incorporate all data obtained through this program into a Commission database to facilitate archiving, query, analysis, and sharing of data with partners and the public.
- (4) Develop and conduct assessments of data necessary to determine soil health baselines and trends.
- (5) Develop data tools and references for characterizing soil health status and effectively communicating these results to the public.

## **155:42-5-3. Working on Regenerative Management Systems [NEW]**

The Commission's Working on Regenerative Management Systems (WORMS) shall serve as the base program to accomplish the Assessment Program objectives outlined in 155:42-5-2. Developed from a collaboration between the Commission and the United States Department of Agriculture, Natural Resource Conservation Service (NRCS), WORMS is a web-based application developed to collect soil health data statewide, tracking improvements in soil conditions resulting from changes in land-use practices. WORMS v. 2.0 is a form-based data collection and storage system that utilizes Survey 123 for ArcGIS®. This platform ensures consistent data collection methods for state soil health while offering a foundation for future development with new and existing partners. The Commission will be responsible for the ongoing development, storage, administration, service, and quality assurance of the WORMS application and its data.

## **SUBCHAPTER 7. HEALTHY SOIL GRANT PROGRAMS [NEW]**

### **155:42-7-1. Soil Health Implementation Program [NEW]**

The Soil Health Implementation Program (SHIP) provides a comprehensive, multi-practice approach to conservation through personalized planning and dedicated mentorship from the Commission's Soil Health Team. This program is designed to advance soil health and regenerative agriculture practices throughout Oklahoma. SHIP's primary goal is to empower crop, livestock, and urban agricultural producers to enhance their soil health management strategies and achieve long-term sustainability.

### **155:42-7-2. Program objectives [NEW]**

The Commission's program objectives are to:

- (1) Work with agricultural producers in cropping, livestock, and urban operations to provide technical assistance and planning to implement or complete a system of soil health-focused conservation designed to improve land and operational resilience.
- (2) Provide funds to qualifying producers and landowners to assist in implementing the conservation practices outlined in their conservation plan that are designed to improve soil health.
- (3) Collect soil health data necessary to monitor changes on participating farms and continue building the state's soil health database.
- (4) Build producer mentor networks and enable greater education and outreach in promotion of soil health-focused conservation.

### **155:42-7-3. Establishment of state guidelines [NEW]**

When funds are available, the Commission shall develop guidelines for SHIP. These guidelines will clarify and establish the following:

- (1) Program period;
- (2) Allocation period;
- (3) Eligibility requirements for:
  - (A) Applicants, and
  - (B) Conservation Commissioners, Conservation Commission staff, employees, directors, and board members of Conservation Districts, and the spouses of all the above individuals;
- (4) Eligible conservation practices;

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- (5) Cost rates for reimbursement for conservation practices;
- (6) Maximum program payment;
- (7) Application process;
- (8) Review and approval process;
- (9) Completion dates;
- (10) Payment process;
- (11) Guidelines for conservation district reporting; and
- (12) Commission reporting and accounting.

## **155:42-7-4. Eligibility requirements [NEW]**

To be eligible for consideration under this program, the applicants must:

- (1) Ensure interest in the adoption of best management practices identified through planning that work toward a system of conservation focused on soil health principles.
- (2) Commit to a three-year engagement for technical and financial assistance. All practices must be completed, and cost-share payments disbursed within three years of the signed SHIP conservation plan.
- (3) Have an approved cooperator agreement with their district.
- (4) Ensure land areas designated for implementation are not enrolled in other programs (e.g., EQIP) accomplishing the same practice implementation (aka, "Double dipping").
- (5) Agree to maintain the conservation practices for the expected life specified by the practice standard and/or the recommendation of the Commission's soil health staff.
- (6) Agree to soil health assessment conducted by the Program Specialist over the course of their program involvement.
- (7) Agree to contribute to the mentorship of other producers in soil health-focused conservation.

## **155:42-7-5. Technical representatives [NEW]**

The Commission Soil Health Team (aka Program Specialists) will serve as the SHIP technical representatives. Their responsibilities include:

- (1) Conducting the application review and selection process;
- (2) Conducting field visits as necessary to determine landowner and operator needs;
- (3) Developing conservation plans with design and schedule of practice installations;
- (4) Determining compliance with SHIP practice standards and specifications;
- (5) Certifying practice implementation in accordance with the SHIP conservation plan;
- (6) Preparing necessary payment documentation for conservation districts to process a claim for reimbursement; and
- (7) Confirming that the landowner or operator has received their payment(s).

## **155:42-7-6. Eligible SHIP conservation practices and associated rates [NEW]**

Conservation practices prescribed in SHIP conservation plans will reflect those referenced from NRCS national conservation practice standards where applicable and shall be implemented according to these standards and specifications unless otherwise authorized by a Commission technical representative. Conservation practice reimbursement rates shall be set by the SHIP program staff using a standard average cost (unit cost) for conservation practices based on NRCS EQIP or similar program payment rates. These average costs will be reviewed and updated by the SHIP program staff as necessary based on NRCS cost updates and/or best professional judgment to maintain or improve incentive for adoption. A list of SHIP relevant conservation practices and associated reimbursement rates shall be maintained throughout the program. The Commission shall set a maximum program payment per participant that cannot be exceeded for the active conservation plan.

## **155:42-7-7. Application, review, and approval process [NEW]**

The Commission and conservation districts will advertise and accept applications for SHIP throughout a predetermined allocation period. Each applicant is limited to one application and must be an approved district cooperator. The Commission Soil Health Team will review and rank applications using a preset ranking tool. Approved applicants and their respective districts will be notified within 45 days of the close of the allocation period.

## **155:42-7-8. Conservation plan [NEW]**

Successful SHIP applicants must complete a conservation plan to be eligible for program participation. The SHIP conservation plan involves a three-year engagement focused on implementing a conservation system designed to improve soil health. All SHIP conservation plans must be signed and dated by the participant and a Commission technical representative before any program-related work begins. The conservation plan becomes effective on the date of the last signature.

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## **155:42-7-9. Completion and reimbursement payment [NEW]**

Approved applicants must complete all conservation practice implementation by the dates specified in their SHIP conservation plan. Any deviations or variances from the plan must be approved by a Commission technical representative. Participants are eligible for reimbursement only for practices implemented in accordance with their SHIP conservation plan, as verified and signed off by a Commission technical representative. Participants who fail to complete the planned practices or cancel their conservation plan before the end of the three-year term will forfeit any remaining reimbursement eligibility under the SHIP program.

*[OAR Docket #25-420; filed 5-30-25]*

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## **TITLE 165. CORPORATION COMMISSION CHAPTER 5. RULES OF PRACTICE**

*[OAR Docket #25-422]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. General Provisions

Part 5. RESPONSE TO CITIZEN ENVIRONMENTAL COMPLAINTS

165:5-1-29. Pollution complaint resolution [AMENDED]

Subchapter 3. Fees

Part 1. GENERAL PROVISIONS

165:5-3-1. Fees, fines and bonds [AMENDED]

Subchapter 7. Commencement of a Case

Part 3. OIL AND GAS

165:5-7-29. Request for exception to certain underground injection well requirements [AMENDED]

165:5-7-30. Amending existing orders or permits authorizing injection for injection, disposal, or LPG storage wells

[AMENDED]

Subchapter 9. Subsequent Pleadings

165:5-9-2. Subsequent pleadings [AMENDED]

165:5-9-3. Emergency applications [AMENDED]

Subchapter 13. Initial and Subsequent Proceedings

165:5-13-3. Hearings [AMENDED]

165:5-13-5. Exceptions to Report of Administrative Law Judge [AMENDED]

Subchapter 17. Post Order Relief

165:5-17-5. Appeals [AMENDED]

### **AUTHORITY:**

Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution, 17 O.S. Section 52, and 52 O.S. Section 139

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

January 31, 2025

### **COMMENT PERIOD:**

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### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

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N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

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**SUPERSEDED EMERGENCY ACTIONS:**

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N/A

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N/A

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N/A

**DOCKET NUMBER:**

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The purpose of the proposed rules is as follows: to modify the pollution complaint resolution process, increase some fees related to injection and disposal wells, modify the exception process related to underground injection wells, clarify the amending of existing orders process for some well types, clarify when motions may be filed, modify the process for dismissal of cases, modify the process for protested matters, modify the process for the online submission of exhibits, clarify the time frame when oral exceptions must be made, and clarify the appeals process to require a statement regarding hearing transcripts.

**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 OCTOBER 1, 2025**

## SUBCHAPTER 1. GENERAL PROVISIONS

### PART 5. RESPONSE TO CITIZEN ENVIRONMENTAL COMPLAINTS

**165:5-1-29. Pollution complaint resolution [AMENDED]**

(a) All pollution complaints received by the Commission that are not closed pursuant to 165:5-1-28, and that involve issues over which the Commission has jurisdiction, shall be handled in such manner as to ensure that pollution complaint resolution shall be achieved within ~~180 days of a~~ reasonable time after receipt of the pollution complaint.

(b) Pollution complaint resolution is not achieved until a written determination is made by the Commission, or any duly authorized representative of the Commission, that:

- (1) the facts and circumstances of a pollution complaint do not constitute a violation of law or rule within the Commission's jurisdiction; or
- (2) the facts and circumstances of a pollution complaint constitute a violation of law or rule within the Commission's jurisdiction but for which an adequate remedy including abatement and mitigation of pollution or appropriate punishment has been implemented to the extent possible; or
- (3) the facts and circumstances of a pollution complaint constitute a violation of law or rule within the Commission's jurisdiction and for which an individual proceeding has been initiated before the Commission, an Administrative Law Judge of the Commission, or before a court of competent authority; or

(4) a long term site remediation has been initiated that is expected to take longer than 180 days from receipt of the pollution complaint to complete, and such remediation is being performed pursuant to an administrative or judicial order.

(c) A copy of the written determination shall be sent, by mail, facsimile, or electronic mail, within seven (7) days of its preparation, to the complainant, alleged violator, and other relevant parties, if known.

## SUBCHAPTER 3. FEES

### PART 1. GENERAL PROVISIONS

#### 165:5-3-1. Fees, fines and bonds [AMENDED]

##### (a) General.

(1) **Exceptions to filing fees.** For each initial application in each category listed in (b) of this Section, a filing fee shall be paid by the person seeking to file or submit the document, unless the document is filed under authorization of and in the name of an instrumentality of the State of Oklahoma.

(A) Filing fees shall not apply to any subsequent pleading or amended application except a Form 1000 required in OAC 165:10-3-1(b)(1)(A) through (E) and OAC 165:10-3-1(c).

(B) No filing fee shall be required for any application filed pursuant to OAC 165:10-3-31, Use of vacuum at the well head.

(C) No filing fee applicable to the conservation docket shall be required for any Notice of Intent to Mediate filed with the Commission pursuant to OAC 165:5- 23-1 et seq. A per participant fee provided in OAC 165:5-3-1(b)(1)(L) shall be charged for any informal dispute resolution procedure that commences.

(D) No filing fee shall be paid by a party filing a protest to an adverse action of the Commission pursuant to the International Fuel Tax Agreement ("IFTA") or the International Registration Plan ("IRP").

(E) No filing fee shall be paid by a customer filing a Consumer Services docket application against a public utility.

(F) No filing fee shall be required for any application filed on the Oklahoma Universal Service Fund ("OSF") docket.

(G) No filing fee shall be paid by a party filing a protest to a nonconsensual towing Violation Notification issued by the Transportation Division.

(H) No filing fee shall be paid by a small business requesting the Commission to review its rules to determine whether or not the rules in question should be amended, repealed, or redrafted, pursuant to 75 O.S. § 250.10.

(2) **Filing fees.** Any filing fee assessed by this Section shall be due and paid at the time of filing of the document. Neither the Court Clerk's Office nor any division of the Commission shall accept an application subject to a filing fee until the required fee is paid. No filing fee shall be refundable. For documents that are being filed in paper form, all associated filing fees must be paid and the documents submitted to the Court Clerk's Office for filing prior to 3:30 p.m. to allow for document processing within established hours of operation.

(3) **Other fees.** Any other fee assessed by this Section shall be due and payable at the time the service is requested. No service shall be rendered before payment of the prescribed fee. No such other fee shall be refundable.

(4) **Negotiable instruments.** Fees paid by negotiable instruments shall be made payable to the "Oklahoma Corporation Commission." Negotiable instruments include personal checks, cashier checks, certified checks, and money orders. Foreign checks must be payable through a United States bank in United States funds.

(5) **Returned payments.** In accordance with 62 O.S. § 34.57, a fee shall be assessed on each payment, either physical or electronic, returned to the Commission as a result of the refusal of the bank upon which the payment was drawn to honor the same. In the event that a payment transaction for any fee, fine or bond fails, the Commission reserves the right to require payment of that fee, fine or bond, and any future fee, fine or bond owed to the Commission by the same individual or entity, to be made by cash, cashier check, certified check, money order or another secured form of payment.

##### (b) Schedule of filing fees.

###### (1) Oil and gas fees.

(A) Commercial disposal well application - \$1,500.00

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- (i) Amendments to an open application injection zone or location of wellbore - \$200.00
  - (ii) Amendment to decrease maximum injection rate or pressure on an open application - No Fee
  - (iii) Amendment to increase maximum injection rate or pressure on an open application - \$100.00
- (B) Commercial earthen pit application - \$1,250.00
- (C) Commercial soil farming site application - \$1,250.00
- (D) Commercial recycling facility application - \$1,000.00
- (E) Noncommercial injection or disposal well application - ~~Form 1015 - \$250.00~~
  - (i) Noncommercial injection or disposal well application - Form 1015 - \$400
  - (ii) Simultaneous injection application - Form 1015SI - \$400.00
  - (iii) Amendments to an open application injection zone or location of wellbore - \$200.00
  - (iv) Amendment to decrease maximum injection rate or pressure on an open application - No Fee
  - (v) Amendment to increase maximum injection rate or pressure on an open application - \$100.00
- (F) Commercial facilities annual fee due on October 1 of each year:
  - (i) Commercial earthen pit facility - \$750.00
  - (ii) Commercial soil farming facility - \$750.00
  - (iii) Commercial recycling facility - \$750.00
- (G) Conservation docket, pollution docket, and gas gathering base applications - \$200.00
- (H) Emergency application on the conservation or pollution docket - \$250.00
- (I) Permit to drill - Form 1000:
  - (i) Directional well - \$350.00
  - (ii) Horizontal well - \$400.00
  - (iii) Multiunit well - \$600.00
  - (iv) Vertical well - \$350.00
- (J) Expedited permit to drill - Form 1000:
  - (i) Directional well - \$600.00
  - (ii) Horizontal well - \$600.00
  - (iii) Multiunit well - \$800.00
  - (iv) Vertical well - \$600.00
- (K) Temporary permit to drill - Form 1000:
  - (i) Directional well - \$350.00
  - (ii) Horizontal well - \$350.00
  - (iii) Multiunit well - \$350.00
  - (iv) Vertical well - \$350.00
- (L) Notice of Intent to Mediate pursuant to Chapter 23 of this Chapter - \$5.00 per participant
- (M) Permit for one-time land application of materials - Form 1014S - \$150.00
- (N) Expedited permit for one-time land application of materials - Form 1014S - \$250.00
- (O) Tax exemption application filed pursuant to OAC 165:10-21 - \$100.00
- (P) Transfers of well operatorship - Forms 1073 and 1073I - single well - \$25.00
- (Q) Transfers of well operatorship - Forms 1073IMW and 1073MW - multiple wells - \$250.00
- (R) Notification of intent to plug - Form 1001 - \$100.00
- (S) Operator agreement-annual fee-Form 1006B-based on the number of unplugged wells for which the operator is responsible according to Commission records:
  - (i) No wells being operated - \$100.00
  - (ii) From 1-25 wells - \$250.00
  - (iii) From 26-100 wells - \$500.00
  - (iv) From 101-500 wells - \$750.00
  - (v) Over 500 wells - \$1,000.00
- (T) Fluid disposal/injection reports:
  - (i) Commercial disposal well fluid disposal report-Form 1012C-semiannual per well-\$500.00
  - (ii) Noncommercial disposal and injection well and LPG storage well report-Form 1012-annual per well-\$25.00



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- (iii) Noncommercial disposal and injection well and LPG storage well report-Form 1012-more than 100 wells-annual fee-\$2,500.00
  - (U) Permit to use earthen pit, noncommercial disposal or enhanced recovery well pit for temporary storage of saltwater, and pit associated with commercial disposal well surface facility-Form 1014:
    - (i) Capacity of pit less than or equal to 10,000 barrels-\$250.00
    - (ii) Capacity of pit greater than 10,000 barrels-\$1,000.00
  - (V) Permit for seismic operations-Form 1000S-\$100.00
  - (W) Application for temporary exemption from well plugging-Form 1003A-\$100.00
  - (X) Permit to vent or flare gas from well-Form 1022-\$50.00
  - (Y) Application for multiple zone well completion, production of well through a multiple choke assembly, and commingling of well production-Form 1023-\$50.00
- (2) Transportation fees.**
- (A) Transportation docket application - \$500.00
  - (B) Other transportation fees:
    - (i) Intrastate license.
      - (I) Original application filing fee - \$100.00
      - (II) Sub application filing fee - \$100.00
      - (III) Renewal application filing fee - \$50.00
      - (IV) Reinstatement application filing fee - \$100.00
      - (V) Name change application filing fee - \$50.00
      - (VI) Identification device or per vehicle fee - \$7.00
    - (ii) Deleterious Substance License Permit application filing fee - \$350.00
    - (iii) International Fuel Tax Agreement (IFTA) fees.
      - (I) IFTA decal - \$2.00 per vehicle per decal set
      - (II) IFTA reinstatement fee - \$100.00
      - (III) IFTA manual application processing fee for fleet size over 25 vehicles - \$100.00 per application. No fee is applicable if filed electronically.
    - (iv) Trailer registration processing fee per trailer registered through the IRP System - \$2.00
    - (v) Temporary registration and fuel permit fees (a \$10.00 services fee is added to each permit in this unit):
      - (I) Temporary registration (72 hour trip permit) - \$12.00
      - (II) Temporary fuel permit (120 hours) - \$25.00
      - (III) Unladen or hunters permit (45 days) - \$25.00
    - (vi) Harvest permit fees (power units only).
      - (I) Thirty day permit - \$20.00 per axle
      - (II) Sixty day permit - \$35.00 per axle
      - (III) 15 day extension - \$8.75 per axle
    - (vii) Transportation Network Company annual permit fee - \$5,000.00
    - (viii) Household goods certificate fees:
      - (I) Original application filing fee - \$350.00
      - (II) Sub application filing fee - \$300.00
      - (III) Renewal application filing fee - \$300.00
      - (IV) Reinstatement application filing fee - \$250.00
      - (V) Name change application filing fee - \$50.00
      - (VI) Identification device or per vehicle fee - \$7.00
    - (ix) Apportioned commercial motor vehicle registration services fee - \$100.00 per vehicle (apportioned)
    - (x) Apportioned commercial motor vehicle registration application reprocessing fee -\$100.00 per application
    - (xi) Apportioned commercial motor vehicle registration manual processing fee for fleet sizes over 25 vehicles - \$25.00 per vehicle. No fee is applicable if filed electronically.
    - (xii) Application for lawful fence - \$500.00. If the Transportation Division determines a lawful fence is required to be constructed by the railroad, the railroad shall have sixty (60) days from the date of notice to refund the application filing fee to the landowner
- (3) Utility fee.** Public utility docket application - \$100.00
- (4) Enforcement fee.** Enforcement docket application - \$100.00

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## (5) Petroleum storage tank fees.

(A) **Application fee.** The fee to file an application on the Petroleum Storage Tank/Indemnity Fund docket is \$100.00, unless the document is filed under authorization of and in the name of an instrumentality of the State of Oklahoma. Filing fees shall not apply to any subsequent pleading or amended application.

(B) **Variance review fee.** The fee for administrative review of a Petroleum Storage Tank Division variance application is \$250.00.

(C) **Annual storage tank permit fee.** Owners of regulated petroleum storage tanks, whether in use or not, are required to pay an annual permit fee as follows:

- (i) For petroleum storage tanks - \$25.00 per tank or tank compartment.
- (ii) For noncommercial agricultural underground storage tanks containing petroleum products - \$10.00 per tank.
- (iii) For any tank installed or permanently closed during a calendar year, the full yearly fee shall be assessed.
- (iv) Invoices will be mailed out approximately 60 days in advance of the due date as noted on the invoice.
- (v) If invoices are unpaid after the due date, a second invoice is mailed out which includes a failure to pay penalty, as found in 17 O.S. § 308.1, and provides 30 days to pay the invoice balance.
- (vi) If the invoice balance is unpaid after the 30 days, a letter is mailed to the Owner with the outstanding fees and informing the Owner that the permit is expired.
- (vii) If the invoice balance remains unpaid, a Fuel Specialist may shut down the regulated petroleum storage tank.

(D) **UST Installer License.** The fees for an Underground Storage Tank Installer License are:

- (i) Application fee - \$50.00
- (ii) License fee - \$100.00
- (iii) Annual License renewal fee - \$100.00

(E) **Environmental Consultant License.** The fees for an Environmental Consultant License are:

- (i) Application fee - \$50.00
- (ii) License fee - \$100.00
- (iii) Annual License renewal fee - \$100.00

(F) **UST Remover License.** The fees for an Underground Storage Tank Remover License are:

- (i) Application fee - \$50.00
- (ii) License fee - \$100.00
- (iii) Annual License renewal fee - \$100.00

(G) **AST Installer License.** The fees for an Aboveground Storage Tank Installer License are:

- (i) Application fee - \$50.00
- (ii) License fee - \$100.00
- (iii) Annual License renewal fee - \$100.00

(H) **AST Remover License.** The fees for an Aboveground Storage Tank Remover License are:

- (i) Application fee - \$50.00
- (ii) License fee - \$100.00
- (iii) Annual license renewal fee - \$100.00

(I) **Vapor Monitor Well Technician License.** The fees for a Vapor Monitor Well Technician License are:

- (i) Application fee - \$50.00
- (ii) Examination fee- \$25.00
- (iii) License fee - \$100.00
- (iv) Annual License renewal fee - \$100.00

(J) **Groundwater Monitor Well Technician License.** The fees for a Groundwater Monitor Well Technician License are:

- (i) Application fee - \$50.00
- (ii) License fee - \$100.00
- (iii) Annual License renewal fee - \$100.00

(K) **OCC Licensed Tester.** The fees for an OCC Licensed Tester are:

- (i) Application fee - \$50.00

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(ii) License fee - \$100.00

(iii) Annual License renewal fee - \$100.00

(L) **Antifreeze Permit.** The manufacturer of any antifreeze displayed, distributed, manufactured, marketed, produced, sold, used and/or offered for sale or resale, held with intent to sell, or transported within the State of Oklahoma is required to pay the following fees:

(i) Application fee - \$100.00 per brand per type

(ii) Annual permit renewal fee - \$100.00 per brand per type

(c) **Certified copies.** A fee of \$1.00 per copied page is charged for each copy of an order or other document on file with the Commission certified by the Secretary, in addition to the fees specified in (d) of this Section.

(d) **Other fees.** The following fees shall be charged and collected at the time of request for same; none of which shall ever be refundable:

(1) Certificate of non-development (maximum of one quarter section) - \$10.00

(2) Copies of any file or order -

(A) Non-certified copies - \$0.25 per page; certified copies \$1.00 per page

(B) Postage - actual cost

(3) Batch reproduction on continuing basis (per page) - \$0.25

(4) Copy of any document prepared in OCC offices (per page) - \$0.25

(5) Current ownership/lienholder information - \$1.00 per vehicle record page

(6) Computer generated title history - \$5.00 per vehicle

(7) Manual title history - \$7.50 per vehicle

(8) Copy of lien release - \$7.50 per vehicle

(9) Certified copy of lien release - \$10.00 per vehicle

(10) Certified copy of title history - \$10.00 per vehicle

(11) Preparation of the record on appeal to the Oklahoma Supreme Court - \$200.00

(e) **Computer data processing documents.** Reproduction of documents or informational searches involving computer data processing services will be in accordance with 51 O.S. § 24A.5.

(f) **Document search fee.** Except where provided otherwise by law, where the request for document copying and/or mechanical reproduction is solely for commercial purpose or clearly would cause excessive disruption of the Commission's essential functions, then a fee of \$25.00 per hour (minimum of one hour) shall be charged to recover the direct cost of document search.

(g) **Copy fees waived.** Copy fees for non-certified documents listed above, that are less than ten (10) pages will be waived.

(h) **Electronic payments.**

(1) "Nationally recognized" credit card means any instrument or device, whether known as a credit card, credit plate, charge plate, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in lieu of a check, as defined by 12A Oklahoma Statute § 3-104(f), in obtaining goods, services or anything else of value or for the use of the cardholder in obtaining such goods, services, or anything else of value on credit and which, in either case, is accepted by over one thousand merchants in this state. The Commission shall determine which nationally recognized credit card will be accepted for any payments due and owing to the Commission.

(2) Implementation of payment by nationally recognized credit card and other means of electronic payments will be phased in over a period of time as determined by the Commission.

(3) The Commission will verify that sufficient credit is available before acceptance of credit card to ensure that no loss of state revenue will occur by the use of such card. If a person is at a designated receiving point and credit is not available, the person then has the opportunity to pay by other methods accepted by the Commission.

(4) The Commission may add an amount equal to the amount of the service charge incurred, not to exceed four percent (4%) of the amount of such payment as a service charge for the acceptance of such nationally recognized card.

(5) Persons wishing to pay by credit card must be willing to submit normally required credit card information to the Commission. This includes, but is not limited to: card type (VISA, etc.), card number, card expiration date, card holder name as shown, and three-digit security personal identification number (PIN). The Commission assumes no liability for unauthorized use of this information.

(6) "Electronic payment" refers to any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through electronic means, as to order, instruct, or authorize a financial institution to debit or credit an account.

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(7) "Electronic terminal" means an electronic device, other than a telephone operated by a person, through which a person may initiate an electronic payment.

(8) "Financial institution" means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an account belonging to another person.

(9) "State" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

## SUBCHAPTER 7. COMMENCEMENT OF A CASE

### PART 3. OIL AND GAS

#### **165:5-7-29. Request for exception to certain underground injection well requirements [AMENDED]**

(a) Each application for an exception to 165:10-5-1 through 165:10-5-10 shall comply with the requirements of OAC 165:5-7-1(a) through (g).

(b) Each application shall be filed at the UIC Department and shall be verified by a duly authorized representative of the operator. The application and one complete set of attachments, with additional copies as may be required by the Court Clerk, shall be furnished to the Court Clerk.

(c) The application shall be accompanied by the information required in OAC 165:10-5-5(b). ~~The Manager of UIC may waive any particular information depending on the nature of the exception.~~

(d) Notice of the application shall be published pursuant to 165:5-7-1(n)(2).

(e) If a written objection to the application is filed within fifteen (15) days after the application is published or if hearing is required by the Commission, the application shall be set for hearing and notice thereof shall be given in the same manner as required for the filing of the application. If no objection is filed and if the Commission does not require a hearing, the matter shall be presented administratively to the Manager of Underground Injection Control who shall file the Manager's report and make the Manager's recommendations.

#### **165:5-7-30. Amending existing orders or permits authorizing injection for injection, disposal, or LPG storage wells [AMENDED]**

(a) Each application for an amendment to an existing order or permit shall be filed on Form 1015 and comply with the requirements of ~~OAC 165:10-5-5(a) and (b)~~ OAC 165:10-5-5(a) through (e).

(b) The application shall also include a statement of facts explaining in detail the nature of and the reason for the amendment, and shall be signed by a duly authorized agent of the operator.

(c) Notice of the application relating to the nature of the amendment shall be published pursuant to ~~OAC 165:5-7-1(n)~~ (2) OAC 165:10-5-5(d) and (e). ~~The notice shall include:~~

~~(1) UIC tracking number:~~

~~(2) Name and address of applicant:~~

~~(3) Location of proposed well to nearest 10-acre tract:~~

~~(4) Well name:~~

~~(5) The geological name of the injection formation:~~

~~(6) The top and bottom of the injection interval:~~

~~(7) Maximum injection pressures:~~

~~(8) Maximum B/D or MCF/D injection rate:~~

~~(9) The type of well (injection, disposal, commercial, LPG storage):~~

~~(d) If a written objection to the application is filed with the Commission within fifteen (15) days after notice of the application is published or if hearing is required by the Commission, the application shall be set for hearing and notice thereof shall be given in the same manner as required in OAC 165:5-7-1. If no objection is filed and if the Commission does not require a hearing, the application may be approved administratively by the Manager of Underground Injection Control:~~

## SUBCHAPTER 9. SUBSEQUENT PLEADINGS

#### **165:5-9-2. Subsequent pleadings [AMENDED]**

(a) **Reply.** No documents shall be required other than the application and responses thereto. Reply to a response shall be permitted but shall not be required.

(b) **Motions.** No motion shall be filed until the complete Application is received in the Court Clerk's office or filed via ECF. Obtaining a case number is not considered the filing of the complete Application. All other objections to or requests for action or relief shall be by motion, with service to all persons entitled to notice. Service of the motion shall be made through the ECF System to those on the Official ECF service list, by regular mail, electronic mail, or in person as provided in this subsection, unless otherwise provided by statute. The motion shall state in concise language the action or relief sought and the facts and circumstances upon which the right thereto is based.

(1) All motions shall be set on a regularly scheduled motion docket by a separately filed Notice of Hearing to be heard by an Administrative Law Judge unless determined otherwise by a prehearing/scheduling agreement or a prehearing/scheduling order. All motions filed after a case has been set before the Commission or assigned to an Administrative Law Judge on the merits shall be set as directed by the Commission or the assigned Administrative Law Judge. The filing of a motion may not automatically delay the hearing on the merits.

(A) Prior to the record being opened on the merits or a prehearing/scheduling agreement filed or a prehearing/scheduling order issued, notice shall be given to all persons entitled to notice by the movant by serving at least five (5) business days prior to the date set for hearing. Service of the notice shall be made through the ECF System to those on the Official ECF service list, by regular mail, electronic mail, or in person, unless otherwise provided by statute. A copy of the motion and notice of hearing shall be provided to each respondent.

(B) After the record in the case has been opened on the merits or a prehearing/scheduling agreement has been filed or a prehearing/scheduling order has been issued, notice shall be given to all persons entitled to notice by the movant by serving, at least five (5) business days prior to the date set for hearing. Service of the notice shall be made through the ECF System to those on the Official ECF service list, by regular mail, electronic mail, or in person, unless otherwise provided by statute. A copy of the motion and notice of hearing shall be provided to all parties of record.

(2) Exceptions to such motions may be lodged in accordance with the provisions of OAC 165:5-13-5(a)(1) except as provided in (A) and (B) of this paragraph.

(A) In oil and gas related matters, all decisions on motions filed after the case has been assigned to an Administrative Law Judge shall be considered in the Report of the Administrative Law Judge unless the Administrative Law Judge directs otherwise.

(B) In all other matters, the decisions on motions filed after a scheduling agreement has been filed or a scheduling order has been issued in a case shall be considered in the Report of the Administrative Law Judge unless the Commission or Administrative Law Judge directs otherwise.

(c) **Response/objection to motions.** Any person may file and serve a response or objection to any motion at any time before the motion is heard. The title of the response or objection shall refer to the motion being considered. Responses or objections filed to motions which already have been set for hearing shall not require a Notice of Hearing.

(d) **Amendment.** Amendment of a document may be permitted at any time upon such terms as are just. An amendment may take the form of a substitute document, an amendment or supplement, deletion of language, or correction by interlineation. Response may be made to an amended document, but shall not be required. An amended application is acceptable where notice is given according to the statutes or rules under which the original application was filed. Provided, however, no amended application shall be filed which changes the applicant's name, the type of relief requested, the legal description of the lands involved or the caption in the original application; instead, any such changes from the original application shall require the filing of a new application in accordance with Subchapter 5 of this Chapter.

(e) **Dismissal.** The applicant may dismiss the application with or without prejudice at any time prior to the record being opened at the hearing on the merits in said case by submitting a proposed order dismissing the case to the Administrative Law Judge assigned to the case or, if no Administrative Law Judge has been assigned, to the chief Administrative Law Judge and all parties of record. Such dismissal shall not dismiss the case as to specifically stated affirmative relief sought by any respondent and, upon the appearance at the time of hearing of any respondent who has not received notice of the dismissal or who has requested specific affirmative relief, such respondent may enter any evidence into the record and may be granted any relief which the Commission or Administrative Law Judge deems appropriate.

(1) At any time prior to the record being opened at the hearing on the merits in a case, a respondent may file a motion to dismiss in the same manner as provided in (b) of this Section.

(2) After the record has been opened at the hearing on the merits in a case, the case may be dismissed by agreement of all parties of record or recommended for dismissal with or without prejudice by the Commission or Administrative Law Judge upon the Commission's or Administrative Law Judge's own motion or upon motion of any party of record. A motion to dismiss filed hereunder shall comply with the provisions of (b) of this Section; provided that, in a case where a motion to dismiss has been filed, notice shall be served on each respondent in the case.

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(3) Upon five (5) business days' notice to parties of record, the Commission may entertain motions to dismiss for any of the following reasons:

- (A) Failure to prosecute.
- (B) Unnecessary duplication of proceedings or res judicata.
- (C) Withdrawal.
- (D) Moot question or obsolete applications.
- (E) Lack of jurisdiction.
- (F) Failure to submit a proposed order in a timely manner.
- (G) For other good cause shown.

(4) Disposition Docket. Upon providing fifteen (15) ~~business~~ calendar days' notice (the "Notice Period") on a posted disposition docket, and upon emailing notice of the same to all parties of record to a case, the Commission may dismiss a case ~~case~~ without prejudice for any of the following reasons:

- (A) Failure to submit a proposed order to the Administrative Law Judge or the Commission within thirty (30) days after the recommendation date or as directed by the Administrative Law Judge or the Commission.
- (B) Failure to set a case on a day certain within one (1) year of its filing.
- (C) Failure to file any pleading or status update in a case for one (1) year to the extent action by a party of record has been pending for such period and there is no order from the Commission preventing or prohibiting such action.
- (D) Notwithstanding the foregoing, a case shall not be dismissed pursuant to this paragraph if a proposed or corrected order is submitted, the case is set on a day certain, or a pleading or status update is filed, in each case prior to the expiration of the Notice Period.

## 165:5-9-3. Emergency applications [AMENDED]

(a) **Filing.** After an application for emergency relief is filed with the Court Clerk, it may be placed on the Commission's Emergency Docket. The requisite number of file-stamped copies of the application shall be submitted to the Commission on or before 2:00 P.M. of the day preceding the hearing. No application, motion, or other filing for emergency relief shall be accepted for filing by the Court Clerk without a base application being previously filed. No base application shall be dismissed without hearing subsequent to the issuance of an emergency order in the same cause. A motion to dismiss shall be filed. Emergency applications for motor carrier causes shall be set for hearing in accordance with the provisions of the Commission rules and regulations governing motor carriers, OAC 165:20. The Commission will not accept an application for an emergency order approving a commercial facility that requires a permit under OAC 165:10-5-5, OAC 165:10-9-1, OAC 165:10-9-2 or OAC 165:10-9-4.

(b) **Notice.** Notice of hearing on an emergency application shall be served on all parties otherwise entitled to notice under the base application not less than five (5) business days prior to the date of the emergency hearing; provided that, if the applicant has received written approval from all parties of record and respondents, the provisions of this Section shall not apply. Notice of hearing on motor carrier emergency applications shall be set on the Commission docket as prescribed by law.

(c) **Exception.** In order to protect the public health and safety, the Commission may issue an emergency order without notice and hearing and without the filing of a base application.

## SUBCHAPTER 13. INITIAL AND SUBSEQUENT PROCEEDINGS

### 165:5-13-3. Hearings [AMENDED]

(a) **Conduct of hearing.** Every hearing shall be conducted by the Commission, by an Administrative Law Judge or as provided at OAC 165:5-13-2.1. The Commission or Administrative Law Judge shall call the case for hearing, after which proceedings shall be had as provided in this Section.

(b) **Scope of hearings.** The Commission, Administrative Law Judge or Public Utility Referee may state the purpose and scope of the hearing, or the issues upon which evidence will be heard.

(c) **Appearances.** Each person appearing shall enter an appearance by stating their name and if applicable, the name of the party being represented. Thereafter, such person shall be deemed a party of record, unless specified otherwise.

- (1) An individual may appear on his or her own behalf.

(2) A corporation may appear only by its attorney; provided, that a representative other than an attorney may appear on behalf of a corporation for the sole purpose of making a statement or indicating corporate policy. Such a representative may not assume an advocate's role or introduce evidence or examine witnesses in the proceeding.

(3) Should an attorney no longer represent the party of record, a withdrawal of appearance must be filed with the Court Clerk and provided to all parties of record and the party who was previously represented by the attorney. The withdrawal of appearance must include the name and last known address of the party.

**(d) Protests.**

(1) Except as otherwise permitted by this Chapter, any person desiring to protest the relief requested by the application shall file a notice of protest with the Court Clerk's office.

(2) Before the protest is filed or within a reasonable time thereafter, the protestant shall give notice to the applicant in a manner designed to advise the applicant of the protest prior to the scheduled hearing. Once filed, the written protest shall be provided to the applicant by regular mail, facsimile, electronic mail or in person.

(3) A protesting party initially may announce a protest to a case at the time of hearing, but shall subsequently file a written protest within a reasonable amount of time after the announcement of such protest.

(4) A protest form will be available on the Commission's website; however, such form is not required as long as the filed protest document contains the required information.

(5) A filed protest must contain the caption of the application and contact information of the protestant or the protestant's attorney.

(6) The provisions of this subsection shall not apply to cases filed on the PUD or OSF dockets.

(7) From and after the initial hearing date of an application and at the request of the applicant, a hearing on the protest shall be scheduled to occur within ninety (90) calendar days of the request of the applicant on a date mutually agreeable to all of the parties to the case, or, in the event that a mutually agreeable hearing date cannot be agreed upon, by the adjudication of a Motion to Set before an Administrative Law Judge. The Commission shall make all efforts to ensure that all resources are made available for the hearing and adjudication of the hearing on the date upon which the hearing has been set. To the extent resources of the Commission are available on the scheduled hearing date, then such hearing shall occur, or be continued at the request of the Applicant to a mutually agreeable date between the parties. The setting of the protested hearing shall be done in such a manner to accommodate, and not preclude, any pre-trial motions of either party and reasonable time to accommodate an exhibit exchange at least nine (9) calendar days prior to the protested hearing.

**(e) Preliminary matters.** The following shall be addressed prior to receiving evidence:

(1) Unless otherwise ordered by the Commission or Administrative Law Judge, or unless otherwise required by these rules, at least one (1) business day prior to the opening of an uncontested hearing all exhibits intended to be offered into evidence shall be sent to the Court using the Commission's Online Hearing Exhibit Submissions website portal, or in the event that the Commission's exhibit submission website is inaccessible, then exhibits should be submitted by electronic mail to the court reporter and Administrative Law Judge at least one (1) business day prior to the opening of an uncontested hearing.

(2) The applicant, or staff counsel, may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the case.

(3) Ruling may be made on any pending motions, including requests pertaining to discovery.

(4) Stipulations of fact and stipulated exhibits shall be received. No stipulation, settlement, or agreement between the parties of record, their attorneys, or representatives with regard to any matter involved in any case shall be enforced unless it shall have been reduced to writing and signed by the parties of record or the representatives authorized by the rules of this Chapter to appear for them and thereafter made a part of the record, or unless it shall have been dictated into the record by them during the course of a hearing or incorporated into an order bearing their written approval. This Section does not limit a party of record's ability to waive, modify, or stipulate any right or privilege afforded by the rules of this Chapter, unless precluded by law.

(5) Parties of record may, in the discretion of the Commission or Administrative Law Judge, make opening statements where appropriate.

(6) Any other preliminary matters appropriate for disposition prior to presentation of evidence.

**(f) Rules of evidence.** The Commission and Administrative Law Judges shall follow the rules of evidence applied in the district courts of Oklahoma, except that such rules may be relaxed where the Commission or the Administrative Law Judge deems it in the public interest to do so. The Commission or Administrative Law Judge may exclude evidence upon objection made thereto, or the evidence may be received subject to final ruling by the Commission. An exception will be deemed to be preserved by a party of record objecting to evidence upon an adverse ruling thereon. The Commission or

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Administrative Law Judge may exclude inadmissible evidence on his own motion and may direct cumulative evidence be discontinued.

(g) **Order of proof.** The applicant or complainant who institutes a case may open and close the proof. Staff counsel may open and close a case instituted by the Commission or a staff member. Intervenor may be heard immediately following parties of record with whom allied in interest. In all cases, the Commission or Administrative Law Judge shall designate the order of proof.

(h) **Examination of witnesses.** Every witness shall be examined and cross-examined orally and under oath by not more than one attorney for each party of record. The Commission or Administrative Law Judge shall designate the order of examination and may limit the scope of examination and cross-examination.

(i) **Adverse party.** A party of record may call an adverse person or an officer or employee of an adverse person, in which case the witness may be impeached and otherwise cross-examined.

(j) **Record.** All testimony shall be taken on the record.

(k) **Prepared testimony.** Written testimony of a witness in form of questions and answers, or a narrative statement may be received in lieu of direct examination upon authentication by the witness under oath. In order to be received and relied upon at the hearing, such testimony and exhibits shall be filed and served upon all parties of record not less than five (5) days prior to the hearing, unless otherwise ordered by the Commission for good cause shown. The witness shall be subject to cross-examination. A written or oral statement by or a communication from any person, or a statement or resolution of a political subdivision, trade association, civic organization, or other organization may be received without cross-examination, but will be considered only as argument and not as proof of any recitation of facts contained therein.

**(l) Documents.**

(1) A photographic copy of a document which is on file as part of the official records of the Commission will be received without further authentication.

(2) A photographic copy of a public record certified by the official custodian thereof will be received without further authentication. A written statement by such custodian of records that no record or entry of described character is found in his records shall be received as proof of absence of such record.

(3) A photographic copy of a document may be substituted for the original at the time the original is offered in evidence.

(4) A document may not be incorporated in the record by reference except by permission of the Commission or Administrative Law Judge. Any document so received must be precisely identified.

(5) The Commission or Administrative Law Judge may require that documents such as rate compilations, statistical or technical data, and tabulated material be filed at a designated time prior to the hearing.

(6) The Commission or Administrative Law Judge may require that additional copies of exhibits be furnished for use by the Commission, staff counsel, and other parties of record.

(7) When evidence is offered which is contained in a book or document containing material not offered, the person offering the same shall extract or clearly identify the portion offered.

(8) The Commission or Administrative Law Judge may permit a party of record to offer a document as part of the record within a designated time after conclusion of the hearing.

(m) **Exhibits.** All exhibits shall be identified by docket type and case number on the first page of each exhibit prior to submitting to the Commission. All pages of each exhibit shall have continuous pagination. Each exhibit shall conform to the following requirements:

(1) all exhibits must be legible;

(2) the font must be no smaller than a size 10 font;

(3) if multiple colors are used, the colors shall be sufficiently distinguishable; and

(4) data shall be included on each exhibit to support the relief requested.

(n) **Summary exhibits.** An exhibit consisting of a compilation or summary of evidence, records, data, statistics, or other similar information may be received in evidence in addition to or in lieu of the evidence summarized, provided:

(1) The evidence summarized has been admitted in evidence, or is admissible; and

(2) If the evidence summarized has not been admitted, the person offering the summary exhibit has made the evidence summarized available for inspection by all other parties of record, or the information is published in a generally recognized publication which is available to all parties of record. It shall be the responsibility of a person offering a summary exhibit to comply with this subsection in advance of the hearing, and failure to make the evidence summarized available for inspection shall be grounds for refusal to admit the exhibit.

(o) **Closing the record.** The record shall be closed when all parties of record have had an opportunity to be heard and to present evidence, and the Commission or Administrative Law Judge announces that the record of testimony and exhibits is closed. Unless a decision is then announced, the matter will be taken under advisement for later decision.



(p) **Briefs.** The Commission or Administrative Law Judge may require or allow the filing of briefs by the parties of record, and may designate the order and time for filing briefs and reply briefs.

(q) **Reopening the record.** Any person may file and serve, by regular mail, facsimile or electronic mail on all parties of record a motion to reopen the record for further hearing or to offer additional evidence. The Commission, at any time prior to final order in the case, may, upon such motion or upon the motion of the Commission, order the record to be reopened for the purpose of taking testimony and receiving evidence which was not or could not have been available at the time of the hearing on the merits or for the purpose of examining its jurisdiction. A motion to reopen shall be filed and served in the same manner as provided in OAC 165:5-9-2(b). The motion and notice shall include a statement that if the Administrative Law Judge grants the motion, the record may be reopened the same day or on some other day as the Commission may determine.

(r) **Corrections to transcript.** Except as provided in OAC 165:5-13-1(d), an official reporter shall make a stenographic and electronic record of the hearing. Errors claimed to be in a transcription of either a contested or uncontested hearing shall be noted in writing and suggested corrections may be offered to the Commission or Administrative Law Judge who presided at such hearing within ten (10) days after the transcript is filed, unless the Commission or Administrative Law Judge shall permit suggested corrections to be offered thereafter. Suggested corrections shall be served in writing upon each party of record and the Commission or Administrative Law Judge. If not objected to within twelve (12) days after being offered, the Commission or Administrative Law Judge shall direct that such suggested corrections be made and the manner of making them. In the event that parties disagree on suggested corrections, the Commission or Administrative Law Judge, with the aid of argument and testimony from the parties of record, shall then determine the manner in which the record shall be changed, if at all.

(s) **Preparation of report or order.** The Commission or Administrative Law Judge may permit or direct any party or parties of record to prepare a proposed report or order in any protested case. In unprotested cases, the applicant shall prepare and submit a proposed Commission order.

(1) Orders regarding non-emergency applications shall be submitted to the Administrative Law Judge within thirty (30) calendar days of the date the Administrative Law Judge announced the recommendation unless the Administrative Law Judge directs otherwise.

(2) Proposed orders regarding emergency applications shall be submitted to the Administrative Law Judge within ten (10) business days of the date the Administrative Law Judge announced the recommendation unless the Administrative Law Judge directs otherwise.

(3) Failure to submit a proposed order to the Administrative Law Judge within the time frame required by this subsection may result in the Administrative Law Judge reopening the record, with five (5) business days' notice to the party or parties of record, and the application being recommended for dismissal unless good cause is shown for the failure to supply the proposed order as required. Notice to the party or parties of record may be provided via electronic mail.

### 165:5-13-5. Exceptions to Report of Administrative Law Judge [AMENDED]

(a) **Reviewability.** Except as provided in OAC 165:5-9-6(c) for rulings on continuances, any report from Administrative Law Judges shall be subject to review in the manner prescribed in this Section. Oral argument before the Commission is not a matter of right. If a party requests the Commission to hear oral arguments on any exceptions, a separate motion for oral argument of exceptions before the Commission must be filed. The Commission may deny a motion to entertain oral argument without a response being filed or hearing oral presentation on said motion.

(1) **Oral exceptions regarding motions and emergency matters.** Any person adversely affected by a decision of an Administrative Law Judge on the motion/emergency docket shall have ~~no more than five (5)~~ calendar days in which to advise the Administrative Law Judge or Oil and Gas Appellate Referee, other parties of record, and Staff Counsel of his or her intent to lodge exceptions and any request for oral arguments on the exceptions before the Commission. Written exceptions shall not be required. Oral exceptions shall be set for hearing before an Oil and Gas Appellate Referee or an Administrative Law Judge, unless the Commission orders otherwise; regarding matters involving issues addressed in Chapters 10, 15, 16, 25, 26, 27, 28, and/or 29. Oral exceptions in all other matters shall be set for hearing before the Commission.

(2) **Exceptions to the report from the hearing on the merits.** Any person adversely affected by a report of an Administrative Law Judge from the hearing on the merits shall have ten (10) business days in which to file exceptions to the report before the Commission. To perfect exceptions, written exceptions and notice of hearing for the exceptions must be filed within ten (10) business days after filing of the Report of the Administrative Law Judge. The person filing exceptions shall serve copies of the exceptions and notice of hearing for the exceptions on all parties of record and the Administrative Law Judge or Oil and Gas Appellate Referee below. Such service shall be made not later than five (5) days after the expiration of the ten (10) business day period for filing the

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exceptions. In exceptions before the Commission arising from the Petroleum Storage Tank and/or Indemnity Fund, an additional ten (10) business days shall be allowed for the filing of cross exceptions. OAC 165:5-13-2 shall govern the setting of the exceptions.

(3) **Exceptions to Report from the Motor Carrier Citation Docket.** Any party of record adversely affected by a recommendation of an Administrative Law Judge on the Motor Carrier Citation Docket shall have five (5) business days from the date the oral recommendation is made to request a report of the Administrative Law Judge for the purpose of filing written exceptions. The request shall be sent jointly to the Administrative Law Judge who issued the recommendation and all other parties of record. Written exceptions shall be filed within ten (10) business days of issuance of the written report. The hearing on the written exceptions shall be heard by an Administrative Law Judge on the next available Motor Carrier Citation Docket or at the Commission's discretion.

(b) **Contents of the exceptions.** For purposes of (a)(2) of this Section, the written exceptions shall specifically state the findings or portions of the report to which the person takes exception, and in what respect the person alleges the findings and report to be in error. A person may be permitted to amend the exceptions, or to present at the initial hearing on exceptions thereon additional grounds for exceptions from the report. A person taking exception from any part of the summary of the evidence stated in the report of the Administrative Law Judge, shall attach to the exceptions a transcript or what the person deems a correct summary of the pertinent evidence, provided that if the transcript is unavailable at the time of filing of the exceptions, then any person filing exceptions desiring to use a transcript instead of a summary of evidence shall, at the discretion of the Commission, or the Oil and Gas Appellate Referee or Administrative Law Judge to whom the exceptions will be heard by, submit the transcript as soon as it is available. In the absence of such a transcript or summary of the evidence, the exceptions shall be considered based on the summary of evidence in the appealed report and, at the discretion of the Commission, or the Oil and Gas Appellate Referee to whom the exceptions will be heard by, the official recording of the proceedings.

(c) **Responses to written exceptions.** For purposes of exceptions under (a)(2) of this Section, any other person may file written response to the exceptions prior to the hearing on the exceptions, and may attach thereto a transcript or the party's own summary of the pertinent evidence, provided that if a transcript is unavailable at the time of the filing of the exceptions, the party desiring to use the transcript instead of a summary of evidence shall, at the discretion of the Commission, or the Oil and Gas Appellate Referee or Administrative Law Judge to whom the exceptions will be heard by, submit the transcript as soon as it is available. In the absence of a transcript or written summary of evidence submitted by a party of record, the exceptions shall be considered upon the summary of the evidence in the exceptions to the report and, at the discretion of the Commission or the Oil and Gas Appellate Referee to whom the exceptions will be heard by, the official recording of the proceedings.

(d) **Contents of the Oil and Gas Appellate Referee or Administrative Law Judge Reports.** In a case where exceptions are referred to an Oil and Gas Appellate Referee or Administrative Law Judge, such Referee or Administrative Law Judge shall file a written report, stating a recommendation to the Commission to affirm, reverse, or modify the findings of fact or conclusions of law of the Administrative Law Judge below or to remand the case for further hearing. The Commission, as the final arbiter, shall enter the order it deems appropriate.

(e) **Scope of review by the Commissioners.** With respect to any report, the Commission may affirm, reverse, or modify the findings of fact or conclusions of law of the Administrative Law Judge, or may remand the case for further hearing. The Commission shall enter the order in its discretion as it deems appropriate.

## SUBCHAPTER 17. POST ORDER RELIEF

### 165:5-17-5. Appeals [AMENDED]

(a) ~~Unless otherwise stated in this Chapter, all causes cases on appeal shall be as prescribed by the applicable rules of the Supreme Court of Oklahoma. All appellate petitions, motions, briefs and other filings shall be served on the Commission by mail addressed to the Commission's Agency Counsel.~~

(b) Attached as exhibits to the Designation of Record filed at the Commission shall be a signed statement by the court reporter for each hearing transcript to be included in the record transmitted by the Court Clerk to the Supreme Court. That statement shall be completed by the court reporter and be in substantially the following form: I, \_\_\_\_\_, court reporter for the hearing held on [date] at [time] in the styled case, do hereby acknowledge this request for transcript on this \_\_\_\_\_ day of \_\_\_\_\_ and have received a deposit in the sum of \$ \_\_\_\_\_.

(c) All petitions, motions, briefs and other filings shall be served on the Commission by mail addressed to the Commission's Office of General Counsel.

*[OAR Docket #25-422; filed 5-30-25]*

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## TITLE 165. CORPORATION COMMISSION CHAPTER 10. OIL & GAS CONSERVATION

[OAR Docket #25-421]

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. Administration

Part 1. GENERAL PROVISIONS

165:10-1-2. Definitions [AMENDED]

165:10-1-4. Citation effective date [AMENDED]

165:10-1-7. Prescribed forms [AMENDED]

Subchapter 3. Drilling, Developing, and Producing

Part 1. DRILLING

165:10-3-1. Required approval of notice of intent to drill, deepen, re-enter, or recomplete; Permit to Drill [AMENDED]

165:10-3-4. Casing, cementing, wellhead equipment, and cementing reports [AMENDED]

165:10-3-5. Underground storage [AMENDED]

Part 3. COMPLETIONS

165:10-3-17. Well site and surface facilities [AMENDED]

Part 5. OPERATIONS

165:10-3-25. Completion Reports [AMENDED]

165:10-3-28. Horizontal drilling [AMENDED]

Subchapter 5. Underground Injection Control

165:10-5-2. Approval of injection wells or disposal wells [AMENDED]

165:10-5-4. Application for approval of enhanced recovery projects [REVOKED]

165:10-5-5. Application for approval of injection and disposal operations [AMENDED]

165:10-5-6. Testing and monitoring requirements for enhanced recovery injection wells and disposal wells [AMENDED]

165:10-5-7. Monitoring and reporting requirements for wells covered by 165:10-5-1 [AMENDED]

165:10-5-9. Duration of underground injection well orders or permits [AMENDED]

165:10-5-10. Transfer of authority to inject [AMENDED]

165:10-5-15. Application for order or permit for simultaneous injection well [AMENDED]

Subchapter 7. Pollution Abatement

Part 1. GENERAL PROVISIONS

165:10-7-2. Administration and enforcement of rules [AMENDED]

165:10-7-4. Water quality standards [AMENDED]

165:10-7-5. Prohibition of pollution [AMENDED]

Subchapter 11. Plugging and Abandonment

165:10-11-3. Duty to plug [AMENDED]

165:10-11-4. Notification and witnessing of plugging [AMENDED]

165:10-11-9. Temporary exemption from plugging requirements [AMENDED]

Subchapter 29. Special Area Rules

165:10-29-2. Alternative location requirements for horizontal well units [AMENDED]

Appendix E. Fine Schedule [AMENDED]

Appendix K. Cherokee Special Rule Plat [NEW]

### **AUTHORITY:**

Corporation Commission; 17 O.S. Section 52, 27A O.S. Section 1-3-101, 52 O.S. Section 139, and 68 O.S. Section 1001

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

January 31, 2025

### **COMMENT PERIOD:**

September 27, 2024 through January 23, 2025

### **PUBLIC HEARING:**

January 23, 2025

### **ADOPTION:**

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January 23, 2025

## **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 31, 2025

## **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1033

## **LEGISLATIVE DISAPPROVAL:**

N/A

## **APPROVED BY GOVERNORS DECLARATION:**

N/A

## **FINAL ADOPTION:**

May 28, 2025

## **EFFECTIVE:**

October 1, 2025

## **SUPERSEDED EMERGENCY ACTIONS:**

## **SUPERSEDED RULES:**

N/A

## **GOVERNATORIAL 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 adopted rules streamline and clarify the Oil & Gas Conservation rules, add and modify definitions of words and terms used in the rules, update the list of OGCD prescribed forms and eliminate forms, establish consistency concerning time frame for cementing of wells and submission of cementing reports, clarify requirements regarding submission of well completion reports, update specifications concerning classification, approval, and surety requirements for underground enhanced recovery injection wells, modify testing and monitoring requirements pertaining to simultaneous enhanced recovery injection wells, and augment requirements regarding testing and other actions concerning wells that have not produced in over twelve months.

## **CONTACT PERSON:**

Darren Ferguson, Deputy General Counsel and Agency Rules Liaison, Office of General Counsel, Oklahoma Corporation Commission, Will Rogers Memorial Office Building, 2401 North Lincoln Boulevard, P.O. Box 52000, Oklahoma City, OK 73105, (405) 522-5491, [Darren.Ferguson@occ.ok.gov](mailto:Darren.Ferguson@occ.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 OCTOBER 1, 2025:**

## **SUBCHAPTER 1. ADMINISTRATION**

### **PART 1. GENERAL PROVISIONS**

#### **165:10-1-2. Definitions [AMENDED]**

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

"Agent" means any person authorized by another person to act for him.

**"Aquifer"** means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

**"Area of exposure"** means an area within a circle constructed with the point of escape of poisonous gas (hydrogen sulfide) as its center and the radius of exposure as its radius.

**"Associated gas"** means any gas produced from a Commission ordered combination oil and gas reservoir in which allowed rates of production are based upon volumetric withdrawals.

**"BS&W"** means basic sediment and water which is that portion of fluids and/or solids that settle in the bottom of storage tanks and/or treating vessels and is unsaleable to the first purchaser in its present form. BS&W usually consists of water, paraffin, sand, scale, rust, and other sediments.

**"Barrel"** means 42 (U.S.) gallons at 60 F at atmospheric pressure.

**"Basic sediment pit"** means a pit used in conjunction with a tank battery for storage of basic sediment removed from a production vessel or from the bottom of an oil storage tank.

**"Blowout"** means the uncontrolled escape of oil or gas, or both, from any formation.

**"Blowout preventer"** means a heavy casinghead control fitted with special gates and/or rams which can be closed around the drill pipe or which completely closes the top of the casing.

**"Blowout preventer stack"** means the assembly of well control equipment including preventers, spools, valves, and nipples connected to the top of the casinghead.

**"Business day"** means a day that is not a Saturday, Sunday, or legal holiday.

**"Carrier"**, or **"transporter"**, or **"taker"** means any person moving or transporting oil or gas away from a lease or from any common source of supply.

**"Casing pressure"** means the pressure within the casing or between the casing and tubing at the wellhead.

**"Choke manifold"** means an assembly of valves, chokes, gauges, and lines used to control the rate of flow from the well when the blowout preventers are closed.

**"Class II fluids"** means substances which are brought to the surface during oil and gas drilling, completion, production and plugging, enhanced recovery, or natural gas storage operations.

**"Closed pit system"** means steel tanks when designated on an OCC Form 1000, unless otherwise stated, for the handling and storage of drilling fluids and/or other deleterious substances produced, obtained, or used in connection with the drilling, re-entry, or deepening of a well.

**"Closure"** means the practice of dewatering, trenching, filling, leveling, terracing, and/or vegetating a pit site after its useful life is reached in order to restore or reclaim the site to near its original condition.

**"Commercial disposal well"** means a well where the operator receives and disposes of Class II fluids from multiple well owners/operators and receives compensation for these services and where the operator's primary business objective is to provide these services.

**"Commercial pit"** is a disposal facility which is authorized by Commission order and used for the disposal, storage, and handling substances or soils contaminated by deleterious substances produced, obtained, or used in connection with drilling and/or production operations. This does not include a disposal well pit.

**"Commercial recycling facility"** means a facility that is authorized by Commission order to recycle materials defined as deleterious substances in OAC 165:10-1-2. Such substances must undergo at least one treatment process and must be recycled into a marketable product for resale and/or have some beneficial use. This definition does not include the reuse of drilling mud that was previously utilized in drilling or plugging operations.

**"Commercial soil farming"** means the practice of soil farming or land applying drilling fluids and/or other deleterious substances produced, obtained, or used in connection with the drilling of a well or wells at an off-site location. Multiple applications to the same land are likely.

**"Commission"** means the Corporation Commission of the State of Oklahoma.

**"Common source of supply"** or **"pool"** means "that area which is underlaid or which, from geological or other scientific data, or from drilling operations, or other evidence, appears to be underlaid by a common accumulation of oil and/or gas; provided that, if any such area is underlaid, or appears from geological or other scientific data or from drilling operations, or other evidence, to be underlaid by more than one common accumulation of oil or gas or both, separated from each other by strata of earth and not connected with each other, then such area shall, as to each said common accumulation of oil or gas or both, shall be deemed a separate common source of supply." [52. O.S.A. §86.1(c)].

**"Completion/fracture/workover pit"** means a pit used for temporary storage of spent completion fluids, frac fluids, workover fluids, drilling fluids, silt, debris, water, brine, oil scum, paraffin, or other deleterious substances which have been cleaned out of the wellbore of a well being completed, fractured, recompleted, or worked over.

**"Condensate"** means a liquid hydrocarbon which:

- (A) Was produced as a liquid at the surface,
- (B) Existed as gas in the reservoir, and

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(C) Has an API gravity greater than or equal to fifty degrees, unless otherwise proven.

**"Conductor casing"** means a casing string which is often set and cemented at a shallow depth to support and protect the top of the borehole from erosion while circulating and drilling the surface casing hole.

**"Conservation Division"** means the Division of the Commission charged with the administration and enforcement of the rules of this Chapter.

**"Contingency plan"** is a written document which provides for an organized plan of action for alerting and protecting the public within an area of exposure following the accidental release of a potentially hazardous volume of poisonous gas such as hydrogen sulfide.

**"Contractor"** means any person who contracts with another person for the performance of prescribed work.

**"Cubic foot of gas"** means the volume of gas contained in one cubic foot of space at an absolute pressure of 14.65 pounds per square inch and at a temperature of 60°F. Conversion of volumes to conform to standard conditions shall be made in accordance with Ideal Gas Laws corrected for deviation from Boyle's Law when the pressure at point of measurement is in excess of 200 pounds per square inch gauge.

**"Date of completion"** means:

(A) For an oil well, the date that the well first produces oil into the lease tanks through permanent wellhead equipment.

(B) For a gas well, the date of completion of a gas well is the date that gas is capable of being delivered to a pipeline purchaser.

(C) For a well, which does not produce either oil or gas, is the date on which attempts to obtain production from the well cease.

**"Day"** means a period of 24 consecutive hours. For reporting purposes, it shall be from 7:00 a.m. to 7:00 a.m. the following day.

**"Deleterious substances"** means any chemical, salt water, oil field brine, waste oil, waste emulsified oil, basic sediment or mud produced or used in the drilling, development, production, transportation, refining, and processing of oil, gas and/or brine mining.

**"Design mud weight"** means the planned drilling mud weight to be used. This mud weight is used in the design of the casing strings.

**"Design wellhead pressure"** means the maximum anticipated wellhead pressure which is expected to be experienced on the inside of the casing string and on wellhead equipment. This pressure is used to design the casing string and to select wellhead equipment with sufficient working pressure rating.

**"Development"** means any work which actively looks toward bringing in production, such as erecting rigs, building tankage, drilling wells, etc.

**"Directional drilling"** means intentional changing of the direction of the well from the vertical.

**"Director of Conservation"** means the person in official charge of the Conservation Division.

**"Discharge"** means the release or setting free by any spilling, leaking, pumping, pouring, emitting, emptying, or dumping of substances.

**"Disposal well"** means a well which injects, for purposes other than enhanced recovery, those fluids brought to the surface in connection with oil or natural gas production.

**"Distressed well"** means a well authorized by Commission order to produce at an unrestricted rate in the interest of public safety due to technical difficulties which temporarily cannot be controlled.

**"Diverter"** means a device attached to the wellhead to close the vertical access and direct any flow into a line away from the rig. Diverters differ from blowout preventers in that flow is not stopped but rather the flow path is redirected away from the rig.

**"Duly authorized representative"** means, for the purpose of underground injection well applications, that person or position having a responsibility for the underground injection well.

**"Emergency pit"** means a pit used for the storage of excessive or unanticipated amounts of fluids during an immediate emergency situation in the drilling or operation of a well, such as a well blowout or a pipeline rupture. This does not include a spill prevention structure required by local, state, or federal regulations.

**"Enhanced recovery Injection well"** means a well where fluids are injected with the intent to increase the actual recovery or the ability to recover hydrocarbons from the formation.

**"Enhanced recovery operation"** means the introduction of fluid or energy into a common source of supply for the purpose of increasing the recovery of oil therefrom according to a plan which has been approved by the Commission after notice and hearing.

**"Enhanced recovery well"** means a well producing in an enhanced recovery operation in accordance with Commission order.

**"Exchangeable Sodium Percentage (ESP)"** is the relative amount of the sodium ion present on the soil surface, expressed as a percentage of the total Cation Exchange Capacity (CEC). Since the determination of CEC is time consuming and expensive, a practical and satisfactory correlation between the Sodium Adsorption Ratio (SAR) and ESP was established. The SAR is defined elsewhere in this Section. ESP can be estimated by the following empirical formula:  $ESP = 100 (-0.0126 + 0.01475 \times SAR) / 1 + (-0.0126 + 0.01475 \times SAR)$ .

**"Exempted aquifer"** means an aquifer or its portion that meets the criteria in the definition of "underground source of drinking water" or in the definition of "treatable water", but which has been exempted according to the procedures in 165:5-7-28 and 165:10-5-14.

**"Excess water"** means water that occurs when storm water, meltwater, water derived from incoming product or other surface water sources accumulates on a facility and combines, blends or mixes with a deleterious substance.

**"Facility"** means, for the purposes of 165:10-21-15, any building(s), parts of a building, equipment, property, or vehicles that are actively engaged in the reuse, recycling, or ultimate destruction of deleterious substances pursuant to 68 O.S. Supp. 1986, §2357.14-§2357.20.

**"Field"** means the general area underlaid by one or more common sources of supply.

**"Flare pit"** means a pit which contains flare equipment and which is used for temporary storage of liquid hydrocarbons which are sent to the flare but are not burned due to equipment malfunction. Flare pits may be used in conjunction with tank batteries or wells.

**"Flowing well"** means any well from which oil or gas is produced naturally and without artificial lifting equipment.

**"Fresh water strata"** means a strata from which fresh water may be produced in economical quantities.

**"Gas"** means any petroleum hydrocarbon existing in the gaseous phase.

(A) Casinghead gas means any gas or vapor, or both, indigenous to an oil stratum and produced from such stratum with oil.

(B) Dry gas or dry natural gas means any gas produced in which there are no appreciable hydrocarbon liquids recoverable by separation at the wellhead.

(C) Condensate gas means any gas which is produced with condensate as defined as "condensate".

**"Gas allowable" or "allowable gas"** means the amount of natural gas authorized to be produced from any well by order of the Commission or as provided by statute.

**"Gas lift"** means any method of lifting liquid to the surface by injecting gas into the well bore from which production is obtained.

**"Gas repressuring"** means the injection of gas into a common source of supply to restore or increase the gas energy of a reservoir.

**"GOR (Gas/Oil Ratio)"** means the ratio of the gas produced in standard cubic feet to one barrel of oil produced during any stated period. Condensate and load oil excepted under 165:10-13-6 shall not be considered as oil for purposes of determining GOR.

**"Hardship well"** means a well authorized by Commission order to produce at a specified rate because reasonable cause exists to expect that production below said rate would damage the well and cause waste.

**"Hydraulic fracturing operations"** means operations on a well wherein fluid is applied for the express purpose of initiating or propagating fractures in a target geologic formation.

**"Hydrogen sulfide gas (H<sub>2</sub>S)"** means a toxic poisonous gas with a chemical composition of H<sub>2</sub>S which is sometimes found mixed with and produced with fluids from oil and gas wells.

**"Hydrologically sensitive area"** means a principal bedrock aquifer, the recharge or potential recharge area of a principal bedrock aquifer, or an unconsolidated alluvium or terrace deposit, according to the Oklahoma Geological Survey "Maps Showing Principal Groundwater Resources and Recharge Areas in Oklahoma" or other maps approved by the Commission.

**"Hydrostatic head" or "hydrostatic pressure"** means the pressure which exists at any point in the wellbore due to the weight of the column of fluid or gas above that point.

**"Illegal gas"** means gas which has been produced within the State from any well or wells in violation of any rule, regulation, or order of the Commission, as distinguished from gas produced within the State not in violation of any such rule, regulation, or order which is "legal gas".

**"Illegal oil"** means oil which has been produced within the State from any well or wells in violation of any rule, regulation or order of the Commission, as distinguished from oil produced within the State not in violation of any such rule, regulation, or order which is "legal oil".

**"Intermediate casing"** means the casing string or strings run after setting the surface casing and prior to setting the production string or liner.

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**"Kick"** means the intrusion of formation liquids or gas that results in an increase in circulation pit volume. Without corrective measures, this condition can result in a blowout.

**"Land application"** is the application of deleterious substances and/or soils contaminated by deleterious substances to the land for the purpose of disposal or land treatment; also known as soil farming.

**"Lease allowable"** means the total of the allowables of the individual wells on the lease.

**"Liner"** means a length of casing used downhole as an extension to a previously installed casing string to case the hole for further drilling operations and/or for producing operations.

**"Meter"** means an instrument for measuring and indicating or recording the volumes of gases or liquids.

**"Mud"** means any mixture of water and clay or other material as the term is commonly used in the industry.

**"Multi-well system"** means two or more wells that have intersecting well-bores or laterals.

**"Multiple zone completion"** means the completion of any well so as to permit the production from more than one common source of supply, with such common sources of supply completely segregated.

**"Noncommercial pit"** means an earthen pit which is located either on-site or off-site and is used for the handling, storage, or disposal of deleterious substances or soils contaminated by deleterious substances produced, obtained, or used in connection with the drilling and/or operation of a well or wells, and is operated by the generator of the waste. This does not include a disposal well pit.

**"Normal pressure"** means a formation pore pressure, proportional to depth, which is roughly equal to the hydrostatic pressure gradient of a column of salt water (.465 psi/ft).

**"Off-site reserve pit"** means a pit located off-site which is used for the handling, storage, or disposal of drilling fluids and/or cuttings.

**"Oil"** or **"crude oil"**, means, for purposes of these regulations, any petroleum hydrocarbon, except condensate, produced from a well in liquid form by ordinary production methods.

**"Oil allowable"** or **"allowable oil"** means the amount of oil authorized to be produced from any well by order of the Commission.

**"Operator"** means the person who is duly authorized and in charge of the development of a lease or the operation of a producing property.

**"Overage"** means the oil or gas delivered to a carrier, transporter, or taker in excess of the allowable set by the Commission for any given period.

**"Owner"** means the person or persons who have the right to drill into and to produce from any common source of supply, and to appropriate the production either for himself, or for himself and others.

**"Person"** means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, and shall include the plural.

**"Plug"** means the closing off, in a manner prescribed by the Commission, of all oil, gas, and waterbearing formations in any producing or nonproducing wellbore before such well is abandoned.

**"Pollution"** means the contamination of fresh water or soil, either surface or subsurface, by salt water, mineral brines, waste oil, oil, gas, and/or other deleterious substances produced from or obtained or used in connection with the drilling, development, producing, refining, transporting, or processing of oil or gas within the State of Oklahoma.

**"Pool"** See "common source of supply".

**"Potential"** means the properly determined capacity of a well to produce oil or gas, or both, under conditions prescribed by the Commission.

**"Primary well"** means a wellbore that, as part of a multi-well system, serves as the conduit through which oil and gas is produced to the surface.

**"Producer"** See "Operator" or "Owner".

**"Production casing"** means the casing string set above or through the producing zone of a well which serves the purpose of confining and/or producing the well production fluids.

**"Productivity index"** means the daily production of oil in barrels per unit pressure differential between the static reservoir pressure and the stabilized flowing pressure during flow at a stated rate.

**"Proration period"** means:

(A) The proration period for any well, other than an unallocated gas well, shall be one calendar month which shall begin at 7 a.m. on the first day of such month and end at 7 a.m. on the first day of the next succeeding month unless otherwise specified by order of the Commission.

(B) The proration period for any unallocated gas well shall be one calendar year which shall begin at 7:00 a.m. the first day of such year and end at 7:00 a.m. on the first day of the next succeeding year unless otherwise specified by order of the Commission.



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**"Public area"** means a dwelling place, a business, church, school, hospital, school bus stop, government building, a public road, all or any portion of a park, city, town, village, or other similar area that can reasonably be expected to be populated by humans.

**"Public street" or "road"** means any federal, state, county, or municipal street or road owned or maintained for public access or use.

**"Public water supply well(s)" or "public water well(s)"** means wells in a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, and which wells are identified in a database maintained by the Oklahoma Department of Environmental Quality Water Resources Board.

**"Purchaser" or "transporter"** means any person who acting alone or jointly with any person or persons, via his own, affiliated or designated carrier, transporter, or taker, shall directly or indirectly purchase, take, or transport by any means whatsoever or otherwise remove from any lease, oil or gas, and/or other hydrocarbons produced from any common source of supply in this State, excepting royalty portions from leases owned by that person.

**"Radius of exposure"** means that radius constructed with the point of escape of poisonous (hydrogen sulfide) gas as its starting point and its length calculated by use of the Pasquill-Gifford equations.

**"Reclaimed water"** means wastewater from municipal wastewater treatment and/or public water supply treatment plants that has gone through various treatment processes to meet specific water quality criteria with the intent of being used in a beneficial manner.

**"Reclaimer" or "reclamation plant"** includes any person licensed by the Oklahoma Tax Commission pursuant to 68 O.S. §1015.1 who reclaims or salvages or in any way removes or extracts oil from waste products associated with the production, storage, or transportation of oil including, but not limited to BS&W, tank bottoms, pit and waste oil, and/or waste oil residue.

**"Recomplete" or "recompletion"** means any operation to:

(A) Convert an existing well from an injection well or disposal well, to a producing well, or

(B) Add or change common sources of supply in an existing well.

**"Recycling"** is the reuse, processing, reclaiming, treating, neutralizing, or refining of materials and by-products into a product of beneficial use which, if discarded, would be deleterious substances.

**"Recycling/reuse pit"** means a pit which is used for the storage and recycling or reuse of deleterious substances, is located off-site, and is operated by the generator of the waste.

**"Re-enter" or "re-entry"** is the act of entering a plugged well for the purpose of utilizing said well for the production of oil or gas, for the disposal of fluids therein, for a service well, or for the salvaging of tubing or casing therefrom.

**"Regular mail"** means first class United States Mail, postage prepaid, and includes hand delivery. Wherever in OAC 165:10 a person is directed to mail by regular mail, such directive shall not preclude mailing by restricted mail.

**"Remediation pit"** means a pit which is used for the handling, storage, or disposal of deleterious substances and/or soils contaminated by deleterious substances which are relocated to the pit for the purpose of remediating a site which is known to be or suspected to be causing pollution.

**"Reserve pit" or "circulation pit"** means a pit located either on-site or off-site which is used in conjunction with a drilling rig for the handling, storage, or disposal of drilling fluids and/or cuttings.

**"Reservoir"** See "common source of supply".

**"Reservoir pressure"** means the static or stabilized pressure in pounds per square inch existing at the face of the formation of an oil or gas well.

**"Reuse"** is the introduction (or reintroduction) into an industrial, manufacturing, or disposal process of a material which would otherwise be classified as a deleterious substance. A material will be considered "used or reused" if it is either:

(A) Employed as an ingredient (including use as an intermediate) in an industrial, manufacturing, or disposal process to make or recover a product.

(B) Employed in a particular function or application as an effective substitute for a commercial product or non-deleterious substance.

**"Rotating head"** means a rotating, pressure sealing device used in drilling operations utilizing air, gas, foam, or any other drilling fluid whose hydrostatic pressure is less than the formation pressure.

**"Secretary"** means the duly appointed and qualified Secretary, Assistant Secretary or Acting Secretary of the Commission, or any person appointed by the Commission to act as such Secretary during the absence, inability, or disqualification of the Secretary to act.

**"Separator"** means any apparatus for separating oil, gas, and water as they are produced from a well at the surface.

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**"Service well"** means a well that, as part of a multi-well system, is used for drilling laterals, stimulation, or maintenance, or functions in any capacity other than as a conduit to the surface for the production of oil and gas.

**"Slick spot"** means a small area of soil having a puddled, crusted, or smooth surface and an excess of exchangeable sodium. The soil is generally silty or clayey, is slippery when wet, and is low in productivity.

**"Slit trench"** means a pit or bermed area at the drilling site used for the temporary storage of drilling fluids and/or cuttings to provide access for equipment to remove the contents off site.

**"Sodium Adsorption Ratio (SAR)"** means the index which indicates the relative abundance of sodium ions in solution as compared to the combined concentration of calcium and magnesium ions. It is calculated as follows:  $SAR = (Na \text{ ppm}/23.0) / \text{sq. root of } [ \{ (Ca \text{ ppm}/20.02) + (Mg \text{ ppm}/12.16) \} / 2 ]$  where Na=Sodium, Ca=Calcium, and Mg=Magnesium.

**"Soil farming"** means the application of oilfield drilling or produced wastes to the soil for the purpose of disposing of the waste without being a detriment to water or land; also known as land application.

**"Spill containment pit"** mean a permanent pit which is used for the emergency storage of oil and/or saltwater spilled as a result of any equipment malfunction.

**"Subnormal pressure"** means the formation pore pressure, proportional to depth, which is less than a hydrostatic pressure gradient of .465 psi/ft.

**"Sulfide stress cracking"** means the cracking phenomenon which is the result of corrosive action of hydrogen sulfide on susceptible metals under stress.

**"Surface casing"** means the first casing string designed and run to protect the treatable water formations and/or control fluid or gas flow from the well.

**"Tank bottoms"** means the liquids and/or solids in that portion of a storage facility below the sales line or connection that are unsaleable to the crude oil first purchaser in its present form. Tank bottoms may consist of a combination of several elements including, but not limited to, oil, BS&W, and treating fluids.

**"Treatable water"** means, for purposes of setting surface casing and other casing strings, subsurface water in its natural state, useful or potentially useful for drinking water for human consumption, domestic livestock, irrigation, industrial, municipal, and recreational purposes, and which will support aquatic life, and contains less than 10,000 mg/liter total dissolved solids or less than 5,000 ppm chlorides. Treatable water includes, but is not limited to, fresh water.

**"Trenching"** means the practice of constructing trenches in or adjacent to a pit for the purpose of relocating all or a portion of the solids so as to facilitate closure.

**"Truck wash pit"** means a pit used for the temporary storage of fluids generated from the washing or cleaning of a motor vehicle, trailer or container used to transport or store deleterious substances.

**"Ultimate destruction"** means the treatment of a deleterious substance such that both its weight and volume remaining for disposal have been substantially reduced, and there is no demonstrated process or technology commercially available to further reduce its weight and volume and remove or reduce its harmful properties, if any. For the purposes of demonstrating a substantial reduction in weight and volume, any aqueous portion separated from the balance of a waste that meets drinking water standards or is evaporated into the ambient air shall count toward the weight and volume reduction.

**"Underage"** means the volume of allowable oil or gas not actually delivered to a carrier, transporter, or taker during any given proration period.

**"Underground Source of Drinking Water (USDW)"** means an aquifer or its portion which:

- (A) Supplies any public water system; or
- (B) Contains a sufficient quantity of ground water to supply a public water system; and
  - (i) Currently supplies drinking water for human consumption; or
  - (ii) Contains fewer than 10,000 mg/l total dissolved solids; and
- (C) Is not an exempted aquifer.

**"Unit operations"** means a unit consisting of a portion of a lease, a lease, or more than one lease or portions thereof which covers contiguous lands containing one or more common sources of supply which has been approved by Commission order as a unit for the purpose of unitized management, after notice and hearing.

**"Vacuum"** means pressure below the prevailing pressure of the atmosphere.

**"Waste"** means:

- (A) As applied to the production of oil, in addition to its ordinary meaning, "shall include economic waste, underground waste, including water encroachment in the oil or gas bearing strata; the use of reservoir energy for oil producing purposes by means or methods that unreasonably interfere with obtaining from the common source of supply the largest ultimate recovery of oil; surface waste and waste incident to the production of oil in excess of transportation or marketing facilities or reasonable market demands." [52 O.S.A., 86.2]

(B) As applied to gas, in addition to its ordinary meaning, shall include economic waste; "the inefficient or wasteful utilization of gas in the operation of oil wells drilled to and producing from a common source of supply; the inefficient or wasteful utilization of gas in the operation of gas wells drilled to and producing from a common source of supply; the production of gas in such quantities or in such manner as unreasonably to reduce reservoir pressure or unreasonably to diminish the quantity of oil or gas that might be recovered from a common source of supply; the escape, directly or indirectly, of gas from oil wells producing from a common source of supply into the open air in excess of the amount necessary in the efficient drilling, completion or operation thereof; waste incident to the production of natural gas in excess of transportation and marketing facilities or reasonable market demand; the escape, blowing, or releasing, directly or indirectly, into the open air, of gas from well productive of gas only, drilled into any common source of supply, save only such as is necessary in the efficient drilling and completion thereof; and the unnecessary depletion or inefficient utilization of gas energy contained in a common source of supply." [52 O.S.A. §86.3]

(C) The use of gas for the manufacture of carbon black or similar products predominately carbon, except as specifically authorized by the Commission, shall constitute waste.

(D) The flaring of tail gas at gasoline, pressure maintenance, or recycling plants where a market is available.

**"Waste oil"** shall include, but not be limited to, crude oil or other hydrocarbons used or produced in the process of drilling for, developing, producing, or processing oil or gas from wells, oil retained on cuttings as a result of the use of oil-based drilling muds, or any residue from any oil storage facility on a producing lease or on a commercial disposal operation or pit. The term "waste oil" shall not include any refined hydrocarbons to which lead has been added.

**"Waste oil residue"** means that portion of waste oil remaining after treatment and after the saleable liquids and water have been extracted. Waste oil residue is a type of waste oil.

**"Well log"** or **"well record"** means a systematic, detailed and correct record of formations encountered in the drilling of a well.

### **165:10-1-4. Citation effective date [AMENDED]**

(a) These rules shall be cited as OAC Title 165 Chapter 10 (OAC 165:10).

(b) The effective date of the rules of this Chapter is as set out below:

- (1) Order No. 937 - Effective 06/16/15
- (2) Order No. 1299 - Effective 08/20/17
- (3) Order No. 1986 - Effective 01/05/22
- (4) Order No. 6251 - Effective 04/12/33
- (5) Order No. 6252 - Effective 04/15/33
- (6) Order No. 6393 - Effective 07/19/33
- (7) Order No. 6394 - Effective 07/20/33
- (8) Order No. 7263 - Effective 04/10/34
- (9) Order No. 8229 - Effective 10/31/33
- (10) Order No. 17528 - Effective 01/24/45
- (11) Order No. 19334 - Effective 10/24/46
- (12) Order No. 29232 - Effective 10/06/54
- (13) Order No. 30712 - Effective 09/09/55
- (14) Order No. 44297 - Effective 04/01/61
- (15) Order No. 47397 - Effective 12/01/61
- (16) Order No. 53568 - Effective 12/08/63
- (17) Order No. 53749 - Effective 01/03/64
- (18) Order No. 62481 - Effective 05/11/66
- (19) Order No. 62631 - Effective 06/01/66
- (20) Order No. 63817 - Effective 10/04/66
- (21) Order No. 64203 - Effective 11/10/66
- (22) Order No. 64207 - Effective 12/01/66
- (23) Order No. 65747 - Effective 05/05/67
- (24) Order No. 66006 - Effective 06/08/67
- (25) Order No. 66778 - Effective 09/05/67
- (26) Order No. 67113 - Effective 10/09/67
- (27) Order No. 67379 - Effective 11/06/67

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- (28) Order No. 69103 - Effective 06/01/68
- (29) Order No. 69104 - Effective 06/01/68
- (30) Order No. 69340 - Effective 07/01/68
- (31) Order No. 70704 - Effective 01/03/69
- (32) Order No. 75248 - Effective 07/01/69
- (33) Order No. 77627 - Effective 01/01/70
- (34) Order No. 78830 - Effective 01/01/70
- (35) Order No. 78831 - Effective 01/01/70
- (36) Order No. 79460 - Effective 04/01/70
- (37) Order No. 79461 - Effective 04/01/70
- (38) Order No. 80401 - Effective 06/01/70
- (39) Order No. 80402 - Effective 06/01/70
- (40) Order No. 81221 - Effective 08/01/70
- (41) Order No. 81222 - Effective 08/01/70
- (42) Order No. 83168 - Effective 01-01-71
- (43) Order No. 84223 - Effective 04-01-71
- (44) Order No. 84224 - Effective 04-01-71
- (45) Order No. 84318 - Effective 03-29-71
- (46) Order No. 85138 - Effective 06-01-71
- (47) Order No. 85139 - Effective 06-01-71
- (48) Order No. 87730 - Effective 01-01-72
- (49) Order No. 87829 - Effective 01-01-72
- (50) Order No. 93381 - Effective 10-05-72
- (51) Order No. 93382 - Effective 10-05-72
- (52) Order No. 94418 - Effective 01-01-73
- (53) Order No. 96671 - Effective 04-01-73
- (54) Order No. 87829 - Effective 01-01-72
- (55) Order No. 94418 - Effective 01-01-73
- (56) Order No. 102096 - Effective 01-01-74
- (57) Order No. 109595 - Effective 01-01-75
- (58) Order No. 117899 - Effective 03-01-76
- (59) Order No. 128534 - Effective 03-01-77
- (60) Order No. 128781 - Effective 03-01-77
- (61) Order No. 138348 - Effective 03-01-78
- (62) Order No. 151077 - Effective 03-23-79
- (63) Order No. 161968 - Effective 01-03-80
- (64) Order No. 164345 - Effective 03-17-80
- (65) Order No. 164346 - Effective 02-14-80
- (66) Order No. 164347 - Effective 02-14-80
- (67) Order No. 165935 - Effective 04-01-80
- (68) Order No. 185407 - Effective 03-09-81
- (69) Order No. 185890 - Effective 03-16-81
- (70) Order No. 211505 - Effective 03-30-82
- (71) Order No. 228675 - Effective 01-01-83
- (72) Order No. 230515 - Effective 01-01-83
- (73) Order No. 230781 - Effective 01-01-83
- (74) Order No. 246797 - Effective 01-01-84
- (75) Order No. 250273 - Effective 01-01-84
- (76) Order No. 250466 - Effective 01-01-84
- (77) Order No. 260734 - Effective 07-01-84
- (78) Order No. 290210 - Effective 01-09-86
- (79) Order No. 292212 - Effective 02-10-86
- (80) Order No. 299185 - Effective 06-12-86
- (81) Order No. 302126 - Effective 10-08-86
- (82) Order No. 303650 - Effective 10-02-86
- (83) Order No. 304257 - Effective 10-16-86

- (84) Order No. 305211 - Effective 11-07-86
- (85) Order No. 311872 - Effective 05-06-87
- (86) Order No. 312391 - Effective 05-14-87
- (87) Order No. 310755 - Effective 06-01-87
- (88) Order No. 313445 - Effective 06-12-87
- (89) Order No. 313446 - Effective 07-09-87
- (90) Order No. 313660 - Effective 06-17-87
- (91) Order No. 313932 - Effective 06-25-87
- (92) Order No. 314001 - Effective 06-27-87
- (93) Order No. 313446 - Effective 07-09-87
- (94) Order No. 315275 - Effective 08-19-87
- (95) Order No. 320171 - Effective 12-21-87
- (96) Order No. 320741 - Effective 01-08-88
- (97) Order No. 320742 - Effective 01-08-88
- (98) Order No. 321123 - Effective 01-21-88
- (99) Order No. 323847 - Effective 05-01-88
- (100) Order No. 325144 - Effective 05-02-88
- (101) Order No. 326275 - Effective 06-27-88
- (102) Order No. 326343 - Effective 06-01-88
- (103) Order No. 326344 - Effective 06-01-88
- (104) Order No. 327514 - Effective 07-01-88
- (105) Order No. 327515 - Effective 07-01-88
- (106) Order No. 329661 - Effective 08-26-88
- (107) Order No. 329662 - Effective 08-26-88
- (108) Order No. 329663 - Effective 08-26-88
- (109) Order No. 334130 - Effective 01-04-89
- (110) Order No. 337475 - Effective 03-31-89
- (111) Order No. 337476 - Effective 03-31-89
- (112) Order No. 339860 - Effective 05-07-89
- (113) Order No. 341102 - Effective 08-25-89
- (114) Order No. 341103 - Effective 08-14-89
- (115) Order No. 346071 - Effective 03-29-90
- (116) Order No. 346107 - Effective 03-30-90
- (117) Order No. 355458 - Effective 03-20-91
- (118) Order No. 355461 - Effective 03-20-91
- (119) Order No. 355463 - Effective 03-20-91
- (120) Order No. 355471 - Effective 03-21-91
- (121) Order No. 364345 - Effective 06-25-92
- (122) Order No. 364382 - Effective 06-25-92
- (123) Order No. 368110 - Effective 08-28-92
- (124) Order No. 372796 - Effective 06-25-93
- (125) Order No. 381632 - Effective 07-11-94
- (126) Order No. 381755 - Effective 07-11-94
- (127) Order No. 387223 - Effective 10-20-94
- (128) RM No. 950000023 - Effective 07-01-96
- (129) RM No. 950000024 - Effective 07-01-96
- (130) RM No. 950000025 - Effective 07-11-96
- (131) RM No. 960000008 - Effective 07-01-96
- (132) RM No. 960000009 - Effective 07-01-96
- (133) RM No. 960000018 - Effective 10-15-96
- (134) RM No. 970000002 - Effective 07-01-97
- (135) RM No. 970000011 - Effective 07-01-98
- (136) RM No. 970000025 - Effective 07-11-98
- (137) RM No. 980000013 - Effective 07-15-98
- (138) RM No. 980000016 Emergency, - Effective 03-30-98
- (139) RM No. 980000017 Emergency, - Effective 03-30-98

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- (140) RM No. 980000020 Emergency, - Effective 01-05-99
- (141) RM No. 980000033 - Effective 07-01-99
- (142) RM No. 980000034 - Effective 07-01-99
- (143) RM No. 980000035 - Effective 07-01-99
- (144) RM No. 990000010 - Emergency, - Effective 12-28-99
- (145) RM No. 200000002 - Effective 07-01-00
- (146) RM No. 200000009 - Emergency, - Effective 11-02-00
- (147) RM No. 200000009 - Permanent, - Effective 05-11-01
- (148) RM No. 200100005 - Effective 07-01-01
- (149) RM No. 200100006 - Effective 07-01-01
- (150) RM No. 200100009 - Emergency, - Effective 01-14-02
- (151) RM No. 200200017 - Effective 07-01-02
- (152) RM No. 200300001 - Effective 07-01-03
- (153) RM No. 200400006 - Effective 07-01-04
- (154) RM No. 200600012 - Effective 07-01-06
- (155) RM No. 200600013 - Emergency, - Effective 10-04-06
- (156) RM No. 200700004 - Effective 07-01-07
- (157) RM No. 200800003 - Effective 07-11-08
- (158) RM No. 200900001 - Effective 07-11-09
- (159) RM No. 201000003 - Effective 07-11-10
- (160) RM No. 201100004 - Emergency, - Effective 05-19-11
- (161) RM No. 201000007 - Effective 07-11-11
- (162) RM No. 201200005 - Effective 07-01-12
- (163) RM No. 201300001 - Effective 07-01-13
- (164) RM No. 201400002 - Effective 09-12-14
- (165) RM No. 201500001 - Effective 08-27-15
- (166) RM No. 201600001 - Effective 08-25-16
- (167) RM No. 201600019 - Effective 09-11-17
- (168) RM No. 201800002 - Effective 09-14-18
- (169) RM No. 201900002 - Effective 08-01-19
- (170) RM No. 202000002 - Effective 10-01-20
- (171) RM No. 202100003 - Effective 10-01-21
- (172) RM No. 202200002 - Effective 10-01-22
- (173) RM No. 2023-000008 - Effective 10-01-24
- (174) RM No. 2024-000002 - Effective 10-01-25

## 165:10-1-7. Prescribed forms [AMENDED]

- (a) Required Conservation Division forms shall be submitted to the Commission on forms supplied by the Commission, which are available on the Commission's website, or on copies of Commission forms or by operator computer generated forms. Operator computer generated forms must contain the exact language and wording of Commission forms. Any alteration of Commission forms language and wording may subject the signature party and/or operator to perjury charges.
- (b) The following Conservation Division forms are prescribed for filing purposes, which forms shall be filed in a format provided by the Conservation Division:

(1) **Form 1000 - Notice of Intent/Permit to Drill application:** Operator shall file Form 1000 (Application) before any oil, gas, injection, disposal, service well or stratigraphic test hole is drilled, recompleted, re-entered or deepened. Such notice shall include the name(s) and address(es) of the surface owner(s) of the land upon which the well is to be located and the name and address of any operator designated in a Commission Pooling Order covering the subject drilling and spacing unit(s) identified by order number on the Form 1000 for the listed common source(s) of supply if different than the applicant listed in the Form 1000. The Conservation Division shall process the application, and the Conservation Division shall send an approved Permit to Drill by electronic mail to the operator applying for the Permit to Drill at the electronic mail address(es) listed in the Form 1006B Operator Agreement filed by the operator with the Conservation Division. If no electronic mail address is listed in the Form 1006B Operator Agreement filed by the operator with the Conservation Division, the Conservation Division shall mail the approved Permit to Drill to the operator's address listed in the Form 1006B. For each Permit to Drill other than a Permit to Drill for a recompletion, the operator shall send by facsimile, electronic mail or regular mail a copy of the Permit to Drill to each surface owner and operator listed on the Form 1000

within ten (10) business days of the Conservation Division's approval of the Permit to Drill. Upon approval, the operator will have eighteen months to commence the permitted operations. A six month extension may be granted without fee providing the Conservation Division staff determines that no material change of condition has occurred, if a request by facsimile, electronic mail, or regular mail for such extension is received from the operator prior to the expiration of the original permit. Only one extension may be granted. A copy of the approved permit shall be posted at the well site. [Reference 165:10-3-1 and 165:10-1-25 and OAC 165:10-7-31]

(2) **Form 1000B - Application to Drill Deep Anode Groundbeds:** Form 1000B is required to be filed for wells drilled for deep anode groundbeds as required by OAC 165:10-7-14. The purpose of Commission Form 1000B is to ensure groundwater is being protected in construction of the deep anode groundbed. [Reference 165:10-7-14]

(3) **Form 1000S - Application for seismic operations:** A permit for seismic operations must be obtained. The applicant must post a \$50,000 bond with the Surety Department in the Oil and Gas Conservation Division. The application must also be accompanied with a pre-plat of the project area. [Reference 165:10-7-31]

(4) **Form 1001 - Notification of Intention to Plug:** Operator shall file notice on Form 1001 five days prior to plugging operations and shall notify the appropriate Conservation Division District Office before work is started. If the well is an exhausted producer, list OTC assigned county and lease number. ~~If the Intent to Plug is cancelled, the operator shall notify the Commission by letter.~~ [Reference 165:10-11-4 and 165:10- 11-6]

(5) **Form 1001A - Notification of Spudding of New Well:** Operator shall file a Form 1001A with the Conservation Division within 14 days of spudding a new well or reentering a previously plugged well. [Reference 165:10-3-2]

(6) **Form 1002A - Well completion report:** Operator shall furnish a complete well record on Form 1002A within 60 days after completion of ~~operations to drill the new well~~, recomple, re-enter, or convert to injection or disposal well. Effective for both dry hole and/or producer. If well is an oil or gas producer, list OTC assigned county and lease number. Gas-oil ratio must be shown when Form 1002A is filed. List production on a 24-hour basis both oil and gas. If a well is drilled to total depth and not completed or tested, a 1002A is required to show a drilled but uncompleted status and anticipated completion date. [Reference 165:10-3-25]

(A) **Oil well:** GOR less than 15,000:1

(B) **Gas well:** GOR 15,000:1 or more

(7) **Form 1002B - Confidential Filing of Electric Logs:** Operator shall file Form 1002B within 60 days from the earlier of the date of completion of the well or the date of the running of the last formation evaluation type well log to hold logs confidential for one year period. Optional extension for six months may be requested by operator in writing to the Technical Services Department of the Conservation Division. [Reference 165:10-3-26]

(8) **Form 1002C - Cementing Report:** Operator shall file Form 1002C within 45 days of the release of the rig used to drill such well. The Form 1002C shall describe all cementing operations on surface, intermediate, and production casing strings, including multistage cementing jobs. The Form shall be completed and signed by employees of both the operator and the cementing company. [Reference 165:10-3- 4(j)]

(9) **Form 1003 - Plugging Record:** Operator will file Form 1003 within 30 days after plugging operations are completed. The Form 1003 is to be mailed or e-mailed to the appropriate Conservation Division District Office. Form 1003 shall be completed and signed by employees of both the operator and the cementer. If a depleted producer, list OTC assigned county and lease number. [Reference 165:10-11-6 and 165:10-11-7]

(10) **Form 1003A - Notice of Temporary Exemption from Well Plugging:** Form 1003A shall be filed with the appropriate Conservation Division District Office. [Reference 165:10-11-3 and 165:10-11-9]

(11) **Form 1004B - Notice of Gas Purchase Curtailments:** In any month wherein a first purchaser or first taker has a market demand/supply imbalance and must curtail purchases or takes in compliance with 165:10-17-12, Form 1004B shall be filed by said first purchaser or first taker with the Conservation Division. [Reference 165:10-17-12]

(12) **Form 1005 - Monthly Report of Purchasers** (Gas: subject to field rules): [Reference 165:10-1-47 and 165:10-15-1]

(A) **GAS:** Each operator of the required meter or meters under 165:10-17-5 shall complete computer-generated Form 1005, and return a copy to the Conservation Division indicating the gas amounts transferred through the meter for the preceding month on allocated and special allocated gas wells.

(B) **OIL:** Each first purchaser, or first taker of oil from wells and projects which are capable of producing in excess of their maximum assigned allowables, must complete computer-generated Form 1005 and return a copy to the Conservation Division indicating the amount of oil taken from each well or unit for the preceding month.

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(13) **Form 1006 - Surety bond for oil, gas, injection, or disposal wells:** Prior to drilling and/or operating a well, the operator shall furnish the Conservation Division a surety bond (\$25,000.00) or other present alternate surety, including, but not limited to, Form 1006A or 1006C. Operator must file the original copy only with a copy of the power of attorney from the bonding company. The name and address of the Oklahoma resident service agent shall be endorsed on the bond form. [Reference 165:10-1-10 and 165:10-1-12]

(14) **Form 1006A - Financial Statement for oil, gas, injection or disposal wells:** Prior to drilling and/or operating a well, the operator shall furnish the Conservation Division a verifiable financial statement (minimum net worth \$50,000.00 within the State of Oklahoma) or other present alternate surety, including, but not limited to, Form 1006 or 1006C. Operator must file an original copy on Form 1006A, which must be updated annually from the last filing date. [Reference 165:10-1-10 and 165:10-1-11]

(15) **Form 1006B - Operator Agreement to plug oil, gas, and service wells within the State of Oklahoma:** Operator shall agree to plug well(s) in compliance with the Commission rules. This agreement must accompany the operator's elective choice of surety (including, but not limited to, Form 1006, 1006A, or 1006C). The operator is required to file a Form 1006B with the Conservation Division once every twelve (12) months. [Reference 165:10-1-10, 165:10-1-11, 165:10-1-12, 165:10-1-13, and 165:10-1-14]

(16) **Form 1006BR-A - Operator agreement to close ~~hydrocarbon recycling/reclaiming facility~~ certain facilities:** Operators of hydrocarbon recycling/reclaiming facilities, commercial disposal wells, noncommercial pits with capacity in excess of 50,000 barrels, and commercial recycling facilities are required to file agreements with the Commission concerning closure of such facilities. [Reference 165:10-5-5, 165:10-7-16, 165:10-8-5, and 165:10-9-4]

(17) **Form 1006BR-B - Surety for closure of ~~hydrocarbon recycling/reclaiming facility~~ certain facilities:** Operators of hydrocarbon recycling/reclaiming facilities, commercial disposal wells, noncommercial pits with capacity in excess of 50,000 barrels, and commercial recycling facilities are required to file surety with the Commission for closure and reclamation of such facilities. [Reference 165:10-5-5, 165:10-7-16, 165:10-8-5, and 165:10-9-4]

(18) **Form 1006BT-A - Operator's agreement to close, reclaim and remediate truck wash pit:** Operators of truck wash pits are required to file agreements with the Commission regarding closure of such pits. [Reference 165:10-7-33]

(19) **Form 1006BT-B - Surety for closure of truck wash pits:** Operators of truck wash pits are required to file surety with the Commission for closure, reclamation and remediation of such pits. [Reference 165:10-7-33]

(20) **Form 1006C - Irrevocable commercial letter of credit:** Prior to drilling and/or operating a well, the operator shall furnish the Conservation Division an irrevocable commercial letter of credit (\$25,000.00) or other present alternate surety, including, but not limited to, Form 1006A or 1006. Operator must file the original copy of Form 1006C. A letter of credit must be valid for at least a one year period. [Reference 165:10-1-10 and 165:10-1-13]

(21) **Form 1006D - Affidavit of well plugging costs:** An operator may submit an affidavit on Form 1006D to the Conservation Division concerning the operator's statewide plugging liability. The Commission may approve Category B surety in an amount less than \$25,000.00 for an operator whose statewide plugging liability is less than \$25,000.00. The Form 1006D must be properly executed by a duly licensed pipe pulling and well plugging company and such Form must be acceptable to the Conservation Division. [Reference 165:10-1-10, 165:10-1-12, 165:10-1-13 and 165:10-1-14]

(22) **Form 1006S - Operator's agreement to plug seismic shot holes within the State of Oklahoma:** Prior to commencing seismic operations the operator shall file an agreement to plug shot holes in accordance with Commission rules. This agreement must accompany the financial surety guarantee. [Reference 165:10-7-31]

(23) **Form 1006SB - Surety bond for seismic shot hole plugging within the State of Oklahoma:** Before commencing any seismic operation that requires the drilling of shot holes, those companies actually doing the work in the field must secure a bond in the amount of \$50,000.00. Seismic companies must file the original Form 1006SB only with a copy of the power of attorney from the bonding company. The name and address of the Oklahoma resident service agent shall be endorsed on the bond form. Form 1000S shall be filed with the bond. [Reference 165:10-11-6 and 165:10-7-31]

(24) **Form 1010 - Application for Cancelled Underage:** Operator shall file, within 30 days for oil, and six months for special allocated and allocated gas from the date of cancellation, to reinstate cancelled underage; stating reason for this request and notifying all offset operators. List OTC assigned county and lease number. [Reference 165:10-13-10 and 165:10-17-9]



(25) **Form 1011 - Multi-Zone lease runs report:** If there are two or more common sources of supply that are produced through a well or wells on the same lease or drilling and spacing unit and that are not commingled, production from each common source of supply shall be separately produced, measured and/or accounted for to the Commission. If one or more of the zones produced are classified as oil for allowable purposes, the operator is required to submit to the Conservation Division a multi-zone report on Form 1011 showing the production from each oil-bearing common source of supply on or before the last day of the succeeding proration period.

[Reference 165:10- 13-7]

(26) **Form 1012 - Fluid Injection Report:** Operators shall file Form 1012 with the Conservation Division by January 31 of each year covering the previous calendar year (January 1 through December 31) on all enhanced recovery projects, pressure maintenance projects, noncommercial disposal wells, LPG storage wells, authorized waterfloods and gas repressuring projects for each UIC well. The completed form will list well identification including API number, the Commission order or permit number, injection volume and pressure, etc., as required on the form. No UIC well is to be operated for injection or disposal unless the Form 1012 is filed by the above date. [Reference 165:10-5-7].

(27) **Form 1012C - Commercial disposal well fluid disposal report:** Operators of commercial disposal wells shall file Form 1012C with the Conservation Division by January 31 and July 31 of each year for the previous six-month period. The completed form will list well identification including API number, the Commission order or permit number, disposal volume and pressure, etc. as required on the form. No commercial disposal well is to be operated unless the Form 1012C is filed by the above dates. [Reference 165:10-5-7].

(28) **Form 1012D - Daily volume and pressure report for disposal wells within areas of interest:** Operators of wells authorized for disposal within areas of interest designated by the Oil and Gas Conservation Division shall submit Form 1012D containing daily volumes and pressures to the Manager of the Induced Seismicity Department at a minimum on a weekly basis or as designated by such Manager. [Reference 165:10-5-7]

(29) **Form 1013 - Application for adjusting an allowable for an Excessive Water Exemption or Reservoir Dewatering Oil Spacing unit:** An operator in an unallocated oil pool may be permitted to produce at a full capacity allowable rate, provided that the water- oil ratio at the well is greater than or equal to 3:1 as an excessive water exemption. To qualify for the reservoir dewatering oil spacing unit allowable shown on Appendix J, the operator must provide data to show that the water - oil ratio is greater than 1:1. The operator shall submit a production test on Form 1013 to the Conservation Division. [Reference 165:10-15-1, 165:10-15-16, 165:10-15-17 and 165:10-15-18].

(30) **Form 1014 - Application for Permit to Use Earthen Pit, noncommercial disposal or enhanced recovery well pit used for temporary storage of saltwater, or pit associated with commercial disposal well surface facility:** The operator of a proposed off-site reserve pit, recycling/reuse pit, spill containment pit, remediation pit, noncommercial disposal or enhanced recovery well pit used for temporary storage of saltwater, or pit associated with a commercial disposal well surface facility must submit Form 1014 to the appropriate Conservation Division District Office for approval before constructing or using the pit. [Reference 165:10-7-16, 165:10-7-20 and 165:10- 9-3]

(31) **Form 1014A - Commercial facility report:** A report that operators of hydrocarbon recycling/reclaiming facilities, commercial pits, commercial soil farming sites and commercial recycling facilities are required to submit to the Manager of Pollution Abatement. [Reference 165:10-8-8, 165:10-9-1, 165:10-9-2 and 165:10-9-4]

(32) **Form 1014C - Chain of custody record/analysis request:** Form 1014C is available for use by Commission personnel when samples are collected for submission to and analysis by a laboratory certified by the Oklahoma Water Resources Board or operated by the State of Oklahoma.

(33) **Form 1014CA - Compliance agreement for land application:** Any person responsible for supervision of land application must submit a compliance agreement to the Commission. [Reference 165:10-7-19 and 165:10-7-26]

(34) **Form 1014CR - Application for commercial recycling facility construction:** After a Commission order is obtained, Form 1014CR must be submitted for approval to the Manager of Pollution Abatement prior to the construction of the commercial recycling facility authorized by the order. [Reference OAC 165:10-9-4]

(35) **Form 1014CS - Application for Commercial Soil Farming:** For a commercial soil farming site that has an order to operate, the operator shall submit a Form 1014CS to the Pollution Abatement Department for approval prior to commencing soil farming. [Reference 165:10-9-2]

(36) **Form 1014D - Application for Surface Discharge or for reclaiming and/or recycling of produced water:** Each application for surface discharge of produced water or for reclaiming and/or recycling of produced water must be submitted to the appropriate Conservation Division District Office on Form 1014D in quadruplicate. Applications will be processed within five business days. [Reference 165:10-7-17 or 165:10-7-32]

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**(37) Form 1014F - Application for permit to use noncommercial pit with capacity in excess of 50,000**

**barrels to contain deleterious substances:** The operator of a proposed noncommercial pit with a capacity in excess of 50,000 barrels must submit the Form 1014F to and obtain the approval of the Manager of the Pollution Abatement Department or obtain the issuance of a Commission order before constructing or using the pit.

[Reference 165:10-7-16]

**(38) Form 1014HD - Notice for Disposal of Hydrostatic Test Water:** Companies wishing to discharge water as required by OAC 165:10-7-17, used to test a pipeline, tank, etc. must submit a Form 1014HD to the appropriate Conservation Division District Office and the Pollution Abatement Department for prior approval. [Reference 165:10- 7-17]

**(39) Form 1014L - Surface Owner Permission for Land Application:** Each application for land application must include an original Form 1014L, whereby the applicable surface owner gives permission for the applicant to land apply certain deleterious substances to a specific property. [Reference 165:10-7-19 and 165:10-7- 26]

**(40) Form 1014LA - Designation of land application agent:** A notarized affidavit designating any agent of an operator for land application must be submitted to the Commission. [Reference 165:10-7-17, 165:10-7-19 and 165:10-7-26]

**(41) Form 1014LC - Letter of credit for land application:** Persons who contract to land apply materials are required to file surety with the Commission. [Reference 165:10-7-10]

**(42) Form 1014N - Application for Commercial Pit Construction:** After a Commission order is obtained, Form 1014N must be submitted for approval by the Manager of Pollution Abatement prior to the construction of each commercial pit authorized by the order. [Reference 165:10-9-1]

**(43) Form 1014P - Annual report for surface discharge:** An annual report is required to be submitted to the Commission by April 1 of each year on Form 1014P concerning surface discharges of produced water. Current (within three month) analyses of the produced water and soil from the discharge plot must be attached to the annual report. [Reference 165:10-7-17]

**(44) Form 1014R - Post land application report:** A post land application report shall be submitted by the operator or the operator's agent to the Manager of Pollution Abatement within ninety (90) days of the completion of land application. [Reference 165:10-7-19 and 165:10-7-26]

**(45) Form 1014RW - Application for permit to use reclaimed water in oil and gas operations:** Each application for a permit to use reclaimed water in oil and gas operations must be submitted to the Manager of Field Operations on Form 1014RW. [Reference OAC 165:10-7-34]

**(46) Form 1014S - Application for Land Application:** Each application for land application of materials must be submitted to the Pollution Abatement Department on Form 1014S. The applicant must be the operator of the well or other operator responsible for generating the waste to be land applied, except that a commercial pit operator may also apply in case of emergency or for the purpose of facilitating repair or closure, and the Oklahoma Energy Resources Board or its contractor may apply in cases where there is no responsible party. The Form 1014S shall be processed within five business days of submission of all required or requested information. [Reference 165:10-7-19 and 165:10-7-26]

**(47) Form 1014SB - Surety bond for land application:** Persons who contract to land apply materials are required to file surety with the Commission. [Reference 165:10-7-10]

**(48) Form 1014T - Application for permit to use truck wash pit:** The operator of a proposed truck wash pit must submit Form 1014T to the Manager of Pollution Abatement for the Conservation Division and obtain a permit before constructing or using the pit. [Reference 165:10-7-33]

**(49) Form 1014W - Application for waste oil or drill cuttings use by County Commissioners:** Application to apply waste oil, waste oil residue, crude oil contaminated soil or freshwater drill cuttings must be made by any Board of County Commissioners on Form 1014W. The Form 1014W is required to be submitted by electronic mail to the appropriate District Manager. [Reference 165:10-7-22 and 165:10-7-28]

**(50) Form 1014X - Application for waste oil or drill cuttings use by operators:** Application to apply waste oil, waste oil residue, crude oil contaminated soil or freshwater drill cuttings must be made by any operator on Form 1014X. The Form 1014X is required to be submitted by electronic mail or mailed to the appropriate District Manager. [Reference 165:10-7-27 and 165:10-7-29]

**(51) Form 1015 - Application for Administrative Approval to Dispose of or Inject Class II fluids into Well(s) or to amend existing orders authorizing injection for injection, disposal or LPG storage well(s):**

Applicant shall file an original of the application and one complete set of attachments with the Commission on Form 1015. When requesting approval to dispose of or inject Class II fluids into wells, applicant will also furnish copies of the application on Form 1015 as specified, and, where noted, required attachments to Form 1015.

Applicant will submit an affidavit of delivery or mailing to the Commission not later than five business days

after the application is filed. Applicant shall file with the Commission proof of publication regarding the notice of application in an Oklahoma County newspaper and a county newspaper in which the well is located.

[Reference 165:10-5-2, 165:10-5-5, and 165:5-7-30]

**(52) Form 1015SI - Application for Order or Permit for Simultaneous Injection Well:** Operator shall file original with the Underground Injection Control Department on Form 1015SI. A copy of the form will also be supplied to the operator of any producing lease within one-half (1/2) mile of the proposed injection well.

[Reference 165:10-5-15]

**(53) Form 1015T - Application for Injection of Reserve Pit Fluids:** Each application for the on-site injection of reserve pit fluids (i.e., drilling mud fluids or fracture fluids) used in drilling or well completion shall be filed with the Underground Injection Control Department by the well operator on Form 1015T. The original of the application and one complete set of attachments shall be furnished to the Underground Injection Control Department. A copy of the application will also be supplied to the landowner and the operator of any producing lease within one-half (1/2) mile of the proposed well. [Reference 165:10-5-13]

**(54) Form 1016 - Back Pressure Test for Natural Gas Wells:** Operators and/or purchasers, on the Form 1016, will report all single-point and four-point potential tests as required by pool rule orders or general rules. List OTC assigned county and lease numbers and special allocated pool numbers, first date of sales, and complete flow data. [Reference 165:10-17-6 and 165:10-17-7]

**(55) Form 1017 - Guymon-Hugoton Field Gas Well Deliverability Tests:** Operators and/or purchasers of gas in this field shall take deliverability tests between January 1 and August 31 of each year, and on the test sheet Form 1017 file the results with the Commission. List OTC assigned lease number for each well. [Reference Orders No. 17867 and 87291 and 165:10-17-9]

**(56) Form 1019 - Guymon-Hugoton Field Acreage Statement for Gas Wells:** A fact statement as to acreage attributable to each well shall be filed with the Commission on Form 1019 within 30 days of the well completion with a plat or map showing location of the well. List OTC assigned county and lease number. [Reference Order No. 17867 and 165:10-17-9]

**(57) Form 1020A - Application for Certification for the Recycling, Reuse of Deleterious Substances:**

Applicant shall file an original Form 1020A with necessary attachments with the Pollution Abatement Department. Form 1020A is filed prior to construction of facility or change of operator. [Reference 165:10-8-1 through 165:10-8-11]

**(58) Form 1021 - Application for Priority Hardship Classification:** The applicant shall file Form 1021 and the necessary attachments with the Technical Services Department for review prior to any hearing for priority one hardship classification. In addition, a formal application for hearing must be filed with the Court Clerk's Office of the Commission. [Reference 165:10-17-12]

**(59) Form 1021A - Application for limited deviation from the priority gas rules:** The applicant shall file Form 1021A and the necessary attachments with the Technical Services Department for review prior to any hearing for deviation from the priority gas rules. In addition, a formal application for hearing must be filed with the Court Clerk's Office of the Commission. [Reference 165:10-17-12]

**(60) Form 1022 - Application to flare or vent gas:** Operator shall file one copy of Form 1022 with the Technical Services Department of the Conservation Division listing OTC assigned county lease number. [Reference 165:10-3-15]

**(61) Form 1022A - Application to operate vacuum pump:** Operator shall file one copy of Form 1022A with the required attachments with the Technical Services Department of the Conservation Division. [Reference 165:10-3-31]

**(62) Form 1023 - Application for multiple completion, multichoke assembly or commingle completion:** Operator will file the original of Form 1023 with the required attachments. List OTC assigned county and lease number. [Reference 165:10-3-35; 165:10-3-39; 165:10-3-37]

**(63) Form 1024 - Packer setting affidavit:** Operator will submit Form 1024 as required. [Reference 165:10-3-35 and pertinent field rules]

**(64) Form 1025 - Packer leakage test:** Operator will submit Form 1025 as required. [Reference 165:10-3-35 and pertinent field rules]

**(65) Form 1027 - Bottom hole pressure test:** Operator, on the pink sheet of Form 1027, shall take BHP tests in the manner and during periods prescribed by special field rules. List OTC assigned county and lease numbers. [Reference Special Field Rules and 165:10-13-3]

**(66) Form 1028 - Application for discovery oil allowable:** Operator shall file Form 1028 with the required exhibits and tests within 30 days of completion of each new well in a discovery oil pool. [Reference 165:10-15-7]

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(67) **Form 1029A - Production or potential test - oil only:** Operator of each newly completed discovery oil well shall file a potential test Form 1029A not later than 30 days after completion of the well. All tests, if requested, shall be witnessed by another operator. [Reference 165:10-15-7].

(68) **Form 1030 - Application for allowable adjustment:** Each operator or other interested parties desiring to adjust the allowable for a well or wells shall file Form 1030 for administrative review and approval. The allowable may be increased, decreased, or transferred as the evidence may indicate for the most efficient rate of production from the well or wells. [Reference 165:10-13-5, 165:10-13-8, 165:10-15-18 and 165:5-7-12]

(69) **Form 1034 - Nominations and purchasers report:** [Reference 165:10-1-36, 165:10-1-37 and 165:10-1-46]  
**Oil:** Purchasers will furnish nomination data, actual runs from leases, stocks, and other information on Form 1034 to the Conservation Division not later than noon Friday of the week preceding each scheduled market demand hearing. On months in which no market demand hearing is held, Form 1034 shall be filed by the 20th of the month listing crude oil runs for the previous month on line 5 only. Any change in nominations from the previous hearing shall be so indicated on this monthly report.

(70) **Form 1034-G - Gas nominations:** Operators of natural gas wells in special allocated gas pools where well allowable calculations according to special allocated field rules are in effect shall file their pool nominations on Form 1034-G no later than one week prior to the market demand hearing. [Reference 165:10-1-36, 165:10-1-37, 165:10-1-49 and 165:10-17-9].

(71) **Form 1040 - Monthly allocation schedule (gas):** Monthly gas schedule Form 1040 will be forwarded to operators by the Conservation Division indicating the status of special allocated gas wells and their current allowables. Operators will inform the Conservation Division of errors, if any, found in Form 1040 as promptly as possible. Additionally, purchasers will receive the monthly schedule and shall return the production from each well as requested. [Reference 165:10-1-47]

(72) **Form 1055 - Application for Casing Pulling and Well Plugging License:** No person shall contract to pull casing or plug oil, gas, injection, disposal, or other service wells, or contract to salvage casing therefrom, or purchase wells for the purpose of salvaging casing therefrom until a license has been secured from the Commission. [Reference 165:10-11-1]

(73) **Form 1070 - Inventory of authorized existing enhanced recovery wells:** Operators shall file reporting Form 1070 before injecting into any enhanced recovery well. [Reference 165:10-5-3]

(74) **Form 1071 - Inventory of authorized existing disposal wells:** Operators shall file the reporting Form 1071 before disposing into any disposal well. [Reference 165:10-5-3]

(75) **Form 1072 - Notice of termination of injection:** Within 30 days of the termination of injection or disposal Form 1072 must be filed. [Reference 165:10-5-7]

(76) **Form 1073 - Notice of transfer of oil or gas well operatorship:** The new operator shall file Form 1073 to notify the Conservation Division of any change of operation of any oil or gas well within 30 days of transfer of the well. [Reference 165:10- 1-15]

(77) **Form 1073I - Notice of transfer of underground injection well operatorship:** The new operator shall file Form 1073I to notify the Underground Injection Control Department of any change of operation of any injection, disposal, or hydrocarbon storage well within 30 days of transfer of the well. [Reference 165:10-5-10]

(78) **Form 1073IMW - Notice of transfer of multiple underground injection well operatorship:** For transfers involving more than 10 underground injection wells, a transferor and transferee may file a single Form 1073IMW with the Conservation Division indicating the transfer of multiple wells. If the Form 1073IMW is used, such Form must be filed with the Conservation Division regarding any change of operations of such wells within 30 days of transfer of the wells. [Reference 165:10-5-10]

(79) **Form 1073MW - Notice of transfer of multiple oil or gas well operatorship:** For transfers involving more than 10 oil or gas wells, a transferor and transferee may file a single Form 1073MW with the Conservation Division indicating the transfer of multiple wells. If the Form 1073MW is used, such Form must be filed with the Conservation Division regarding any change of operations of such wells within 30 days of transfer of the wells. [Reference 165:10-1-15]

(80) **Form 1075 - Mechanical integrity pressure test:** A pressure or monitoring test must be performed on new and existing injection wells and disposal wells. Information must be submitted on Form 1075 and witnessed by a Field Inspector. Forms shall be submitted to the Conservation Division's Underground Injection Control Department. [Reference 165:10-5-6]

(81) **Form 1081 - Mineral owners escrow account:** Operator shall file Form 1081 annually on anniversary date of first pooling order issued after effective date of 52 O.S. §§ 551 et seq. and shall include all applicable orders issued during the twelve-month reporting period. [Reference 165:10-25-1 through 165:10-25-10]

(82) **Form 1085 - Complaint report:** Form 1085 is used by Commission personnel to report violations of General Rules of the Commission and to report progress on ongoing remedial actions. Copies are sent to all parties concerned with investigation. Form 1085 combines and replaces old Forms 1034 and 1062. [Reference 165:10-7-7]

(83) **Form 1535 - Application for classification of reservoir dewatering project for exemption of sales tax on electricity used for such operations and application for state sales tax exemption for electricity sold for operations involving enhanced recovery methods on a spacing unit or lease:** Operators shall file one original of Form 1535 with the required attachments with the Technical Services Department of the Conservation Division. To obtain the exemption of sales tax on the sale of electricity and associated delivery and transmission used for reservoir dewatering operations, or for a state sales tax exemption for electricity sold for operations involving enhanced recovery methods on a spacing unit or lease, the operator shall contact the Director's Office, Taxpayer Assistance Division, Oklahoma Tax Commission, 2501 N. Lincoln Blvd., Oklahoma City, Ok. 73194. [Reference 165:10-21-90 through 165:10-21-92 and 165:10-21-95 through 165:10-21-97]

(84) **Form 2001BF - Brownfield Applicant Eligibility:** The applicant shall file one (1) Form 2001BF with the Brownfield Program of the Conservation Division. This Form is filed to demonstrate applicant's eligibility to be in the Brownfield program. [Reference 165:10-10-1 through 165:10-10-14]

(85) **Form 2002BF - Consent to Entry:** The applicant shall file one (1) Form 2002BF with the Brownfield Program of the Conservation Division. This Form is the landowner's permission for applicant and their contractors to enter the property for assessment and cleanup work. Copies will be sent to all parties concerned with the assessment and/or cleanup. [Reference 165:10-10-1 through 165:10-10-14]

(86) **Form 2003BF - Application for Brownfield Program Enrollment:** The applicant shall file one (1) Form 2003BF with the Brownfield Program of the Conservation Division for all sites applicant is entering into the program. This Form provides necessary information on the site. This Form can be used by public, quasi- public, and non-profit entities to request a free Targeted Brownfield Assessment of a site that has been approved as eligible for the Brownfield program. [Reference 165:10- 10-1 through 165:10-10-14]

(87) **Form 2005BF - Brownfield Certificate of No Action Necessary:** The Form 2005BF will be issued by the Commission to the Brownfield Applicant, after the Brownfield staff has made a no action necessary decision. The applicant must file the Certificate of No Action Necessary in the office of the county clerk where the site is located, provide a copy to the landowner if the landowner is not the applicant, and submit a file-stamped copy to the Oklahoma Corporation Commission within 30 days. [Reference 165:10-10-1 through 165:10-10-14]

(88) **Form 2006BF - Brownfield Certificate of Completion:** The Form 2006BF will be issued by the Commission to the Brownfield Applicant, after the Brownfield staff has made a final inspection of the site and review of the project following a remedial action. The applicant must file the Certificate of Completion and any land use restrictions in the office of the county clerk where the site is located, provide a copy to the landowner if the landowner is not the applicant, and submit a file-stamped copy to the Oklahoma Corporation Commission within 30 days. [Reference 165:10-10-1 through 165:10-10-14]

(89) **Form 3000NGS - Application for Investigation and/or Abatement of Seeping Natural Gas:** An owner of property which has seeping natural gas shall file an application with the Commission regarding the Commission's investigation and/or abatement of the seeping natural gas. [Reference 165:10-12-9]

(90) **Form 4000WIP - Well impact report:** If an operator has evidence that its well(s) have been impacted by hydraulic fracturing operations, the operator may report the occurrence by electronic mail to the Conservation Division within 24 hours of discovery. The operator must use Form 4000WIP to report the occurrence. [Reference 165:10-3-10]

(91) **Form 5000NTL - Notice of temporary lines which may be used to transport produced water:** Operators are required to notify the Conservation Division, the appropriate County Commissioners and the surface owners of the land that is subject to the rights-of-way sought to be utilized by the operator, at least 48 hours prior to placing in public road rights-of-way temporary lines that may at any time be used to transport produced water for well drilling, completion, or remedial workover operations. Operators must use Form 5000NTL to provide the notice. [Reference 165:10-3-10.1]

(92) **Form 6000NHF - Notice to Conservation Division of hydraulic fracturing operations:** Operators are required to notify the Conservation Division using Form 6000NHF at least 48 hours prior to commencement of hydraulic fracturing operations on a well. [Reference 165:10-3-10]

(93) **Form 6000NOO - Notice to operators of producing wells of hydraulic fracturing operations:** Operators are required to notify operators of producing wells within one mile of the completion interval of the subject well at least 5 business days prior to commencement of hydraulic fracturing operations on such well. The notice to be provided such operators shall contain the information in Form 6000NOO. [Reference 165:10-3-10]

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## SUBCHAPTER 3. DRILLING, DEVELOPING, AND PRODUCING

### PART 1. DRILLING

#### **165:10-3-1. Required approval of notice of intent to drill, deepen, re-enter, or recomple; Permit to Drill [AMENDED]**

##### **(a) Permit to Drill.**

(1) Except as provided in (I) of this Section, on emergency authorization to commence, the operator shall obtain for the well a Permit to Drill approved by the Conservation Division before:

- (A) Spudding a well for the exploration for and production of oil or gas.
- (B) Spudding a well for use as an injection, disposal, or service well.
- (C) Re-entry into a plugged well.
- (D) Recompletion of a well.
- (E) Deepening an existing well. TEST

(2) A Permit to Drill shall be valid only for each common source of supply listed on the permit.

(3) Any operator who drills, deepens, reenters or recompletes a well without a permit to drill may be fined up to \$1,000.00.

(4) An operator requesting a Permit to Drill for a well shall submit a plat utilizing Commission records showing the well name, operator, section, township, range and county, ground elevation, and total depth of each abandoned, plugged, producing or drilling well, and dryhole within one quarter (1/4) mile of the completion interval of the proposed well. The operator is also required to submit a certified plat regarding the proposed well prepared by a licensed surveyor, and the following information shall be included in the plat concerning the completion interval of the proposed well: the surface hole location footages from the quarter section with latitude and longitude, proposed bottom hole location footages from the quarter section with latitude and longitude, landing point, corner coordinates at section corners and quarter section points, GPS Datum NAD 27 and NAD 83, and distance to wells that will be closer than authorized in Commission rules or by Commission order. In addition, regarding an application for a Permit to Drill to recomplete a well, the operator shall include on the plat the surface hole location latitudes and longitudes for wells for which Permits to Drill have been approved.

(5) The Conservation Division shall send an approved Permit to Drill by electronic mail to the operator applying for the Permit to Drill at the electronic mail address(es) listed in the Form 1006B Operator Agreement filed by the operator with the Conservation Division. If no electronic mail address is listed in the Form 1006B Operator Agreement filed by the operator with the Conservation Division, the Conservation Division shall mail the approved Permit to Drill to the operator's address listed in the Form 1006B.

(6) The Commission may issue a Permit to Drill for any well after a hearing for a special order or for an order on the merits prior to the issuance of any such order. Any such Permit to Drill is subject to and must conform with the final provisions of any such order.

##### **(b) Amended or additional Form 1000 requirements.**

(1) **When required.** If the Conservation Division has issued a Permit to Drill for a well, the operator of the well shall submit an amended Form 1000 for the well and obtain an amended Permit to Drill before:

- (A) Completing the well in a common source of supply which is not listed on the current unexpired Permit to Drill for the well.
- (B) Recompleting the well in a common source of supply which is not listed on the current unexpired Permit to Drill for the well.
- (C) Installing less surface casing than the amount approved on the unexpired Permit to Drill for the well.
- (D) Deviating from an alternative casing and cementing procedure which the Conservation Division approved on the unexpired Permit to Drill for the well.
- (E) Completing a well in a common source of supply at a subsurface location which does not correspond with the surface location on the most recently issued Permit to Drill for the well.

(2) **Effect of amended or additional Permit to Drill on prior Permit to Drill.** Each approved, amended, or additional Permit to Drill for a well cancels any previously issued Permit to Drill for the well.

(c) **Expired or revoked Permit to Drill.** If a Permit to Drill for a well expires or is revoked, the operator shall be subject to the requirements of (a) of this Section.

(d) **Casing and cementing requirements.** Each Permit to Drill shall list the minimum amount of surface casing to be used or an approved alternative casing and cementing program under 165:10-3-4.

(e) **Spud report and well spacing requirements.** In addition to complying with the requirement of obtaining a Permit to Drill, the operator shall comply with the following:

(1) The spud report requirement of 165:10-3-2.

(2) Any well spacing requirements applicable by order or rule of the Commission. Well spacing requirements do not apply to injection or disposal wells.

(f) **Disposal of drilling fluids.**

(1) The operator shall indicate on Form 1000 the proposed method(s) for disposal of drilling fluids. These methods shall include, but not be limited to:

(A) Evaporation/dewatering and leveling of the reserve pit.

(B) Soil farming.

(C) Recycling.

(D) Commercial off-site earthen pit disposal.

(E) Annular injection.

(F) Hauling to a facility or location other than a commercial earthen pit.

(2) If the method in (1)(F) in this subsection is used, the operator shall provide the location to which the drilling fluids are to be hauled.

(3) Issuance of the Permit to Drill shall not be construed as constituting approval of the disposal method(s) indicated. An operator who desires to dispose of drilling fluids through either evaporation/dewatering and leveling of the reserve pit, soil farming, commercial earthen pit disposal, or annular injection must comply with 165:10-7-16, 165:10-7-19 or 165:10-9-2, 165:10-9-1, or 165:10-5-13 respectively.

(4) If the proposed method for drilling fluid disposal is changed, the operator shall notify the appropriate Conservation Division District Office, either by telephone, facsimile or electronic mail, within twenty-four (24) hours after the change. An amended Form 1000 for the well shall not be required for a change in disposal method.

(5) Drilling fluids and/or other deleterious substances in a closed pit system may be disposed of utilizing the methods specified in subparagraphs (B), (C), and/or (F).

(g) **Notice to surface owners.**

(1) The operator shall include on each Form 1000 submitted to the Conservation Division, the name and address of each surface owner of record for the wellsite.

(2) For each Permit to Drill other than a Permit to Drill for a recompletion, the operator shall send by facsimile, electronic mail or regular mail a copy of the Permit to Drill to each surface owner listed on the Form 1000 within ten (10) business days of the Conservation Division's approval of the Permit to Drill.

(h) **Notice to operator under pooling order.** The entity seeking approval of a Form 1000 shall include on each Form 1000 submitted to the Conservation Division, the name and address of any operator designated in a Commission Pooling Order covering the drilling and spacing unit(s) identified by order number on the Form 1000 for the listed common source(s) of supply if different than the applicant listed on the Form 1000. For each Permit to Drill, the entity seeking approval of a Form 1000 shall mail by regular U.S. mail or send by electronic mail a copy of the Permit to Drill to operator(s) listed on the Form 1000 within ten (10) business days of the submission of the Permit to Drill.

(i) **Disapproval for noncompliance with Commission order.** If an operator is not in compliance with an enforceable order of the Commission, the Conservation Division shall not issue any Permit to Drill for the operator, until the operator complies with the order.

(j) **Erroneous approval.** Erroneous issuance of a Permit to Drill shall not excuse noncompliance with any order or rule of the Commission.

(k) **Expiration.**

(1) **Eighteen-month period.** Except as provided in (3) ~~of this subsection~~ and (4) ~~of this subsection~~ for expiration after submission of a completion report, a permit to drill shall expire eighteen months from the date of issuance, unless drilling operations are commenced and thereafter continued with due diligence to completion.

(2) **Six-month extension.** A six month extension may be granted without fee providing the Conservation Division staff determines that no material change of condition has occurred, if a request by facsimile, electronic mail, or regular mail for such extension is received from the operator prior to the expiration of the original permit. Only one extension may be granted.

(3) **If Form 1002A is filed.** If the operator of the well submits to the Conservation Division a Completion Report (Form 1002A) for the well, the Permit to Drill for the well shall expire on the date the Completion Report is approved by the Conservation Division.

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(4) **If Form 1002A is filed.** If Form 1002A is filed for a well drilled to total depth but uncompleted the Permit to drill will remain in effect for one year from the date the Conservation Division approves the Completion Report (Form 1002A).

(l) **Posting of Permit to Drill at the wellsite.** During any activity subject to this Section, the operator shall maintain at the wellsite an original or legible copy of the Permit to Drill for inspection by Commission personnel.

(m) **Emergency authorization without approval of a Permit to Drill.** In an emergency, the Manager of the Technical Services Department of the Conservation Division may temporarily authorize commencement of activities without a Permit to Drill for a period up to five business days.

(n) **Limits of authority.** A Permit to Drill does not grant the operator authority to produce, inject or dispose without the required permits or allowable assignment.

## 165:10-3-4. Casing, cementing, wellhead equipment, and cementing reports [AMENDED]

### (a) Scope.

(1) This Section governs the following:

- (A) Surface casing and cementing requirements.
- (B) Alternate casing and cementing procedure used instead of adequate surface casing and cement.
- (C) Minimum cementing and testing requirements for intermediate and production casing.
- (D) Minimum valve and blowout preventer requirements.
- (E) Cementing reports.

(2) This Section shall apply to the following:

- (A) Wells drilled or reentered for the production of oil, gas or brine.
- (B) Wells drilled, ~~or reentered for disposal of oilfield wastes or converted for underground disposal of fluids which are brought to the surface in connection with oil or natural gas production.~~
- (C) Wells drilled ~~for injection, reentered, or converted for underground injection for the secondary or tertiary recovery of oil or natural gas for injection.~~
- (D) Wells drilled in subsurface gas storage units created by order of the Commission.
- (E) Other oilfield related service wells.

### (b) Effect on area rules.

(1) If any area rules promulgated by order of the Commission require less casing and cement than required by this Section, then this Section shall supersede the area rules.

(2) If an applicable area rule promulgated by order of the Commission has more stringent casing and cementing requirements than what are required by this Section, the Conservation Division shall enforce the area rules.

### (c) Quality of cement.

(1) **Parameters.** Cement used in the procedures described in this Section shall meet or exceed the following specifications:

- (A) Minimum compressive strength: 500 psi;
- (B) Maximum Young's modulus:  $< 1.2 \times 10^6$  psi;
- (C) Permeability:  $< 0.1$  mD; and
- (D) Minimum concentration of Portland cement: approximately 20%.

(2) **Required information.**

(A) If requested by a representative of the Conservation Division, the cementer shall provide quality control data sheets regarding the cement to the Technical Services Department, which data shall include, but not be limited to, the most recent laboratory test results for the cement. Laboratory test results for the cement must be no more than 12 months old.

(B) If requested by a representative of the Conservation Division, a sample of the cement shall be split and an adequate portion (approximately one gallon) shall be properly labeled and delivered or otherwise provided to the Technical Services Department.

### (d) Surface casing and cementing requirements for wells listed in (a)(2) of this Section:

(1) **Minimum surface casing requirements.** Unless an alternate casing program is authorized by the Conservation Division or by an order of the Commission, suitable and sufficient surface casing shall be run and cemented from bottom to top with a minimum setting depth which is the greater of:

- (A) Ninety feet below the surface, or
- (B) Fifty feet below the base of treatable water.

(2) **Penalty for noncompliance.** An operator setting less than the required amount of surface casing or failing to remediate uncirculated cement before resuming operations may be fined up to \$5,000.00.



(3) **Exceptions to (d)(1).** Operators having wells producing hydrocarbons which were in compliance with the surface casing requirements at the time of completion shall not be required to comply with (1) of this subsection.

(4) **Well to be used for annular injection under 165:10-5-13.** If the operator intends to dispose of drilling or stimulation fluids by annular injection, then the operator shall comply with 165:10-5-13 which requires a surface casing string to be set not less than 200 feet below the base of treatable water, unless a Commission order provides otherwise.

(5) **Depth limitation on setting surface casing.** The well operator shall run and cement the surface casing string required by this subsection before drilling the well more than 250 feet below the base of treatable water, unless otherwise approved on the Permit to Drill.

(6) **Penalties.** Operators failing to obtain permission to drill a well more than 250 feet below the treatable water, or to obtain permission for an alternate casing and cementing procedure may be fined up to \$2,500.00.

(7) **Cementing procedures.**

(A) **Approved methods.** Except as provided in (B) of this paragraph for bradenhead cementing, cement shall be run by either the tubing and pump method, the pump and plug method, or the displacement method.

(B) **Bradenhead cementing prohibited.** Bradenhead cementing is prohibited without written permission from the appropriate Conservation Division District Office.

(C) **Restrictions on stage cementing.**

(i) **Above 200 feet.** Running cement through small tubulars is permitted above 200 feet in depth without special permission.

(ii) **Below 200 feet.** Below 200 feet in depth, the operator shall obtain permission from the appropriate Conservation Division District Office before using small tubulars to run cement.

(D) **Steel casing required.** For purposes of the surface casing requirements of this Section, surface casing shall be oil field grade steel casing.

(E) **Minimum cement setup time.** The cement behind the surface casing shall set at least eight hours before further drilling. The cement behind the surface casing in wells drilled in an underground storage facility pursuant to OAC 165:10-3-5 shall set at least twenty-four hours before further drilling.

(F) **Down-hole testing of surface casing and cement.** Before drilling the shoe of the surface casing, the operator shall test the surface casing using the procedure prescribed by (g) of this Section.

(G) **Failure to circulate cement or fall back of cement behind surface casing.**

(i) **Verifying the top of cement.** If no conductor string is set and the cement did not circulate to the surface or falls back more than five feet, the operator shall determine the top of the cement using a method approved by the District Manager or Field Inspector Supervisor.

(ii) **Top of cement less than 200 feet from the surface.** If the top of the cement is found less than 200 feet from the surface, the operator may circulate cement to surface using small tubulars.

(iii) **Top of cement greater than 200 feet from the surface.** If the top of the cement is greater than 200 feet from the surface, the operator shall perform a corrective cementing operation by circulating cement to the surface from the determined top of the cement. The District Manager or Field Inspector Supervisor may grant permission to circulate cement through small tubulars.

(H) **Insufficient surface casing or mechanical failure.** Within 24 hours after discovery of a problem with the surface casing or cement, the operator shall notify the appropriate Conservation Division District Office by telephone, facsimile or electronic mail of:

(i) Any mechanical failure of the surface casing or cement.

(ii) Discovery of a treatable water formation below the shoe of the surface casing.

(I) **Penalty.** An operator, failing to report a rupture, break, or opening in the surface casing, may be fined up to \$1,000.00 and the well shut down.

(J) **Notice.** The District Manager or Field Inspector shall be given at least 24 hours notice by telephone, facsimile or electronic mail prior to any cementing operation in order that they may have the opportunity to witness.

(e) **Alternate casing and cementing procedures.**

(1) **Requirement of approval on the Permit to Drill.** Use of an alternative casing and cementing procedure instead of surface casing and cement required by (d) of this Section is prohibited without authorization on the Permit to Drill for the well.

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(2) **Disapproval.** The Manager of Technical Department may not issue a permit for an alternate casing string and cementing procedure if one or more of the following conditions exist:

(A) The well will penetrate a known lost circulation zone.

(B) The treatable water bearing formation(s) will be endangered.

(C) The projected depth of the well is less than 100 feet from the top of any authorized secondary project or gas storage facility.

(3) **Applicability of other casing and cementing standards.** Alternate casing and cementing procedures under this subsection are subject to the provisions of (d)(7) of this Section.

(4) **Alternate casing and cementing procedure.**

(A) An operator having permission to run an alternate casing string may, for protection of the treatable water, drill the well to casing point and circulate cement to the surface, or circulate cement from a depth of 100 feet below the base of treatable water to the surface after following the procedures set out in (g) of this Section.

(B) Oil based drilling mud shall be prohibited.

(C) If a well is completed using an alternate casing and cementing procedure, a bond log covering the interval from 100 feet below the base of the treatable water to the surface shall be required. The District Manager may waive this requirement. A completion attempt, in cases where the protection of treatable water is questionable, is strictly prohibited.

(D) Unless extended by the District Manager, the operator shall have 72 hours after drilling and testing is completed to run production casing or plug the well. A minimum of 24 hours prior notice by telephone, facsimile or electronic mail must be given to the appropriate Conservation Division District Office prior to cementing operations so that a Field Inspector may have the opportunity to witness the cementing or plugging procedures. If the well is plugged and abandoned, procedures set out in (f) of this Section shall be followed.

(E) In the event that casing is run and cement does not circulate to the surface, or falls back, the operator shall determine the top of the cement using a method approved by the District Manager.

(5) **Remedial actions.**

(A) If the top of the cement is less than 200 feet from the surface, the operator may circulate cement from that point to the surface using small tubulars or by perforating the casing at that point and circulating cement to the surface.

(B) If the top of the cement is greater in depth than 200 feet, the operator shall perforate the casing at the top of the cement and circulate cement to the surface, or with the written permission of the District Manager or Field Inspector Supervisor, use small tubulars.

(C) In the event that a conductor string had been set and the top of the cement is at least ten feet above the base of the conductor casing no remedial action is needed.

(D) Unless waived by the appropriate Conservation Division District Office, all corrective cementing operations shall be approved and witnessed by the Field Inspector.

(E) In wells where corrective actions were needed for casing or cementing problems, a completion attempt shall not be made without approval by the District Manager.

(f) **Permanent well marker.** In the event that the well is a dry hole and no casing has been run, then during the plugging of the well the operator shall run and cement from bottom to top at least one joint of casing at the surface not less than 25 feet in length for use as a permanent well marker. The casing used as a well marker shall be oil field grade steel casing with an outside diameter of at least seven inches. The top of the marker shall be three feet below the surface and be capped with a steel plate inscribed or embedded with the well number and date of plugging on the steel plate. An operator failing to run and cement the well marker as required may be fined up to \$1,000.00 and shall, under the supervision of the Commission, replug the well.

(g) **Minimum cement for additional casing strings.** If additional casing other than surface casing is run, except for temporary purposes, it shall be run, set, and cemented with a calculated volume of cement sufficient to fill the annular space behind the casing string from the base of the casing string to a minimum height which is the greater of five percent of the depth to which the casing string is set, or a height of 200 feet. Any well approved for horizontal completion shall be cemented with a calculated volume of cement sufficient to fill the annular space behind the production casing string to isolate the producing formation. The Conservation Division may grant a variance to this requirement for a horizontal well upon request.

(h) **Pressure testing of casing strings.**

(1) Before drilling the cement plug in a casing string, the operator shall pressure test the installed casing for 30 minutes at a minimum pressure which is the lesser of the surface gauge pressure equal in pounds per square inch to 0.2 of the length of the casing in feet or 1500 psig.

(2) During the 30 minute test, if the surface pressure drops ten percent or more, the operator shall:

(A) Repair and retest the casing until the requirements of this subsection are met; or

(B) Plug the well according to the rules of this Chapter.

(i) **Minimum wellhead equipment for drilling wells.** All reasonable and prudent precautions shall be taken for keeping the well under control during drilling operations, including but not limited to the use of blowout preventers or other similar equipment with appropriate pressure fittings attached to properly cemented casing strings and the maintenance of mud-laden fluid of sufficient weight to provide proper well control. A blowout preventer or other equipment necessary to maintain control of the well shall be installed prior to drilling out of the surface casing. Blowout preventers and associated equipment shall be maintained in good working order. Blowout preventers shall be pressure tested at regular intervals, not to exceed twenty-one days, to ensure proper operation. A function test shall be conducted on a routine basis during drilling operations to ensure that annular preventers and rams will operate properly. Alternate testing procedures may be approved by the District Manager. The rig personnel shall be trained in the use of blowout prevention equipment and well control procedures on the rig.

(j) **Cementing reports.**

(1) The operator of the well shall submit a Form 1002C Cementing Report within 45 days of the release of the rig used to drill such well, describing all cementing operations on surface, intermediate, and production casing strings, including multistage cementing jobs.

(2) If additional cementing operations occur after submission of the Cementing Report, the operator shall submit an amended Form 1002C for the well.

(k) **Surface casing requirements for re-entry wells.** For a re-entry as defined by 165:10-1-2, casing and cementing requirements at the time of re-entry shall apply.

(l) **Surface casing requirement for recompletions.** For a recompletion as defined by 165:10-1-2, casing and cementing requirements applicable to wells commenced on the latter of the spud date or re-entry date for the well shall apply.

(m) **Casing and cementing requirements for wells converted for injection or disposal.** If a well is converted for use as an injection or disposal well, it shall be subject to the casing and cementing requirements of this Section effective at the time of conversion of the well.

(n) **Casing and cementing requirements for wells penetrating unitized common sources of supply.** Each newly drilled or re-entered well which penetrates a common source of supply in which enhanced recovery operations are being conducted shall be properly cased and cemented from not less than 100 feet below to not less than 100 feet above each unitized common source of supply to prevent migration of formation fluids and contain formation pressure. In the event the well is to be plugged without being cased, the well shall be properly cemented over the aforementioned interval(s) during plugging procedures.

(o) **Insufficient surface casing and cement.** When it has been determined that a treatable water-bearing formation has not been properly cased and cemented, the operator shall take such measures designated by the Director of Conservation or ordered by the Commission to protect any treatable water-bearing formation.

### 165:10-3-5. Underground storage [AMENDED]

(a) **Scope.** This Section shall apply to all operations pertaining to the drilling, completion, recompletion, or remedial operations on wells located within the boundaries of an underground storage facility as defined in (b)(4) of this Section or wells whose completion intervals will, at any point, be located within 600 feet of the underground storage facility.

(b) **Definitions.**

(1) "Underground storage" shall mean storage of natural gas in a subsurface stratum or formation of the earth.

(2) "Natural gas" shall mean gas either while in its natural state or after the same has been processed by removal therefrom of component parts not essential to its use for lights and fuel.

(3) "Storage operator" shall mean any person, firm, or corporation which operates an underground storage facility.

(4) "Underground storage facility" shall mean any subsurface stratum or formation of the earth used for underground storage. Provided that, in the case of a natural gas bearing subsurface stratum or formation, the commercially producible native gas shall have been substantially depleted and the gas therein shall not be used primarily for the secondary recovery of oil in paying quantities from the subsurface stratum or formation.

(5) "Well" means a vertical, directional or horizontal well drilled or bored or to be drilled or bored within the certified boundary of an underground storage facility, or whose completion interval will, at any point, be located within 600 feet of the underground storage facility.

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(6) "Well operator" shall be the person, firm, or corporation that is the operator of a well.

(7) "Major remedial operations" shall mean any workover operations requiring a workover rig, wire line or pump truck services.

(8) "Good quality cement" means cement that would obtain a compressive strength to prevent oil, gas, or water migration within a twenty-four (24) hour period.

(9) "Certified boundary" means the perimeter of the legal description of an underground storage facility established by certificate and order of the Commission.

(10) "Completion interval" means for open hole completion or recompletions, the interval from the point of entry to the terminus and, for cased and cemented completions or recompletions, the interval from the first perforations to the last perforations.

(c) **Notice to storage operator.** Upon receipt of Form 1000 from a well operator, the Conservation Division shall determine whether the proposed well falls within one (1) mile of the certified boundary of an underground storage facility. Following a positive determination, the Conservation Division shall instruct the well operator to provide notice of the application for a Permit to Drill the well to the storage operator and the Director of the Public Utility Division as part of the application for Permit to Drill process. The well operator is required to supply written confirmation to the Conservation Division that notice of the application for a Permit to Drill the well has been provided to the storage operator and the Director of the Public Utility Division.

(d) **Operational procedures.**

(1) All storage operators and well operators are required to maintain on file with the Commission's Surety Department current mailing addresses, email addresses, and 24 hour telephone numbers. In addition, storage operators are required to maintain on file with the Commission's Surety Department the Commission order number pertaining to the underground storage facility.

(2) Before spudding a well within the certified boundary of a gas underground storage facility, the well operator shall mail a copy of the Permit to Drill to the storage operator at the address listed at the Commission and also supply a copy of the Permit to Drill to the Director of the Public Utility Division. The storage operator will inform the well operator of the estimated depth, thickness, and pressure of the underground storage facility at that location. Failure of the storage operator to provide the data to the well operator shall not be a cause to delay drilling, but the well operator is required to notify the storage operator, by phone a minimum of 24 hours prior to commencing drilling operations at a 24 hour telephone number furnished to the Commission by the storage operator.

(3) A well operator shall comply with the provisions of 165:10-3-4(d). Alternate casing programs shall not be permitted.

(4) Drilling rigs shall be equipped with a blowout preventer. The preventer shall be installed and tested at least 500 psig above the anticipated underground storage facility pressure before drilling below the base of the surface casing.

(5) The storage operator shall receive drilling reports daily from the well operator and the storage operator shall be provided 48 hours notice by the well operator at a 24 hour telephone number furnished to the Commission by the storage operator to afford the storage operator an opportunity to witness any tests or logging operations from the surface to 600 feet below the base of the underground storage facility. Any abnormal conditions occurring during the drilling operation, such as abnormal pressures and/or lost circulation, shall be reported immediately by the well operator to the storage operator at the 24 hour telephone number supplied by the storage operator to the Commission.

(6) The well operator shall drill the well in such a manner as to prevent invasion of drilling fluids into, or the escape of natural gas from, the underground storage facility. The well operator shall be required to mud up at least 100 feet above the anticipated depth of the top of the underground storage facility.

(7) If run, a copy of either an open hole porosity or resistivity well log run from the base of surface casing to total depth shall be promptly forwarded to the storage operator. The logs submitted to the storage operator may be terminated 600 feet below the base of the underground storage facility. At least 48 hours prior to commencing logging operations the well operator shall notify the storage operator at the 24 hour telephone number furnished by the storage operator to the Commission, and the storage operator shall have the option of witnessing the open hole logging operation.

(8) In the event that the well is noncommercial and is to be plugged and abandoned, the well operator shall place a cement plug using a good quality cement, covering from not less than 300 feet below the base to not less than 300 feet above the top of the underground storage facility. At least 48 hours prior to commencing the plugging operation, the well operator shall notify the storage operator at the 24 hour telephone number furnished by the

storage operator to the Commission, and the storage operator shall have the option of witnessing the plugging operation. The field inspector may invoke the provisions of 165:10-11-6(m), (n) and (o).

(9) In the event that casing is run, the well operator will cause the underground storage facility interval to be covered with steel casing and be cemented from not less than 100 feet below the base to not less than 100 feet above the top of the underground storage facility using a good quality cement. At least 48 hours prior to commencing the casing operation, the well operator shall notify the appropriate Conservation Division District Office and the storage operator at the 24 hour telephone number furnished ~~by the storage operator~~ to the Commission. The Commission field inspector for the area and storage operator shall have the option of witnessing the operation.

(10) For the purpose of ensuring the integrity of the underground storage facility, the well operator shall be required to run a cement bond log through the underground storage facility formation before any completion attempts are made. At least 48 hours prior to commencing the logging operation, the well operator shall notify the storage operator at the 24 hour telephone number furnished ~~by the storage operator~~ to the Commission, and the storage operator shall have the option of witnessing the logging operation and be furnished with a copy of the bond log from the top of cement to total depth or, at the option of the well operator, to 600 feet below the base of the underground storage facility. If the integrity of either the bond log or cement across the underground storage facility interval is questioned by the storage operator, the storage operator may, at its sole risk and expense, run additional logs. No completion, recompletion or major remedial operations shall be permitted until the fact has been established by the well operator, storage operator and the Managers of the Technical Services and Field Operations Departments, that the integrity of the cement is sound and that the underground storage facility is isolated from the remainder of the bore hole. The remedial work, if needed to protect the storage reservoir, shall be at the risk and expense of the well operator.

(11) The storage operator, the Managers of the Technical Services and Field Operations Departments and the Director of the Public Utility Division shall be notified at least 48 hours prior to commencement of completion, recompletion, or major remedial operations so as to afford opportunities to witness such operations. The well site shall be made accessible at all times to the storage operator and all information pertaining to the completion shall be forwarded daily to the storage operator. If the completion, recompletion, or major remedial operations attempt is to be made in any formation within 600 feet of the underground storage facility, the proposed plan of completion shall be forwarded to the storage operator ten business days prior to commencement of operations. The storage operator shall have five business days after receipt of the proposed plan to forward any objection to the well operator. Completion operations, recompletion, or major remedial operations shall not be permitted until the matter is resolved.

(12) At any time that the storage operator shall reasonably believe that damage may be occurring to the underground storage facility or that natural gas may be escaping into any other formations or otherwise believe that a well may compromise the integrity of the underground storage facility, the storage operator may then request that the operator of the well conduct specific tests solely at the storage operator's risk and expense. If an agreement cannot be obtained between the parties concerned, the storage operator or well operator may bring the matter before the Corporation Commission for determination by application, notice, and hearing following the procedure set out in OAC 165:5-7.

(13) If tests establish that damage is occurring and/or that natural gas is escaping by the continued operation of the well, the well shall be shut down immediately and the remedial operation to rectify the condition shall be commenced within ten days, at the sole risk and expense of the well operator.

(14) All information furnished to the storage operator shall be kept confidential until released in writing by the well operator.

### PART 3. COMPLETIONS

#### 165:10-3-17. Well site and surface facilities [AMENDED]

##### (a) Scope.

(1) This Section shall be applicable to all operators and owners of oil and gas wells, leases, secondary recovery units, converted or newly drilled disposal or injection wells, and re-entries or reworkings of the above; however, this Section does not cover pits used in connection with oil and gas operations (see 165:10-7-16).

(2) For purposes of this Section, "surface trash and debris" means all discarded material directly connected with the drilling, production, exploration, or development of hydrocarbons including, but not limited to, garbage, rubbish, junk or scrap.

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(b) **Removal of fire hazards.** Any material that might constitute a fire hazard shall be removed a safe distance from the well location, tanks, and separator. All waste oil shall be disposed of in a manner to avoid creating a fire hazard. If the operator fails to comply with this paragraph after written notice from the Conservation Division, the Commission may fine the operator up to \$1,000.00.

(c) **Removal of surface trash, debris, and unnecessary equipment.**

(1) All operators of wells are required to remove all surface trash and debris occasioned by their operations, from the vicinity of their operations and keep such premises free and clear of such trash and debris. With written permission from the surface owner, the operator may, without applying for an exception, bury all nonhazardous material at a minimum depth of three feet; cement bases are included.

(2) The operator is required to remove all unnecessary operating equipment, structures, surface debris, abutments, or obstacles used in the operation of the well from the land upon which the well is located, unless the owner of the land and the operator have entered into a contract providing otherwise.

(3) If the operator fails to comply with paragraphs (c)(1) or (c)(2) after written notice from the Conservation Division, the Commission may fine the operator up to ~~\$1,000~~ \$1,000.00.

(d) **Required lease signs.** Within 30 days after the completion of any producing oil or gas well subsequent to the effective date of this Section, a sign shall be posted and maintained at the location indicating no trespassing, no unauthorized personnel or similar language, showing the operator of the well and the operator's twenty-four hour emergency telephone number, name of the well, number of the well, legal description of the well and API number; provided, however, where more than one well is producing on a lease, the operator may post and maintain a sign at the principal lease entrance indicating no trespassing, no unauthorized personnel or similar language, the lease name, operator, the operator's twenty-four hour emergency telephone number, legal description, and number of wells, and on each well designate the number of the well and API number. Within 30 days after completion or recompletion of an injection well or a disposal well subsequent to the effective date of this Section, a sign shall be posted and maintained at the well location indicating no trespassing, no unauthorized personnel or similar language, showing the operator of the well, the operator's twenty-four hour emergency telephone number, well name, well number, legal description of the well, API number and the Commission order number by which it was authorized. The legal description of each well completed on or after March 1, 1976, shall be posted at the well and shall describe the location of the well to the nearest quarter quarter quarter section and shall show the section, township, and range. On a 160-acre or larger drilling and spacing unit, a sign shall also be posted at the entrance to the well site. Upon the Commission's approval, after the effective date of this Section, of transfer to a new operator of a well completed or recompleted prior to the effective date of this Section, the operator must comply with all requirements in this Section. If an operator fails to post a sign as directed, the Commission may fine the operator \$50.00 per violation; provided that total fines per incident shall not exceed \$500.00 per lease.

(e) **Notice of fire or blowout.** In case of a fire or blowout, the well operator shall notify by telephone or electronic mail, as soon as possible, either the Conservation Division or the appropriate Conservation Division District Office.

(f) **OTC numbers on stock tanks for oil and condensate.**

(1) On all oil and gas producing leases, the first purchaser of crude oil or condensate shall print its name or affix the company logo and print or affix the OTC Gross Production Division Purchaser Reporting Number on the lease sign or at least one of the storage tanks from which marketable liquids are being delivered.

(2) On all oil and gas producing leases, the well operator shall print or affix the OTC Gross Production Division assigned Production Unit Number and the OTC Gross Production Division Operator Reporting Number on the lease sign or at least one of the tanks from which marketable liquids are being stored. In the case of an enhanced recovery or unitization operation where several OTC Gross Production Division assigned Production Unit Numbers exist for the wells in the unit, the word "unitized" shall be printed or affixed to the lease sign or one of the storage tanks from which marketable liquids are being delivered to the purchaser.

(3) The identification numbers required in this subsection shall always be clearly legible. All letters and numbers shall be a minimum of two inches in height. Any operator failing to post required information may be fined up to \$50.00 per violation; provided that total fines per incident shall not exceed \$500.00 per well.

(g) **OTC numbers on gas meter or meter house.**

(1) On all gas producing leases, the operator of the well site gas meter required under 165:10-17-5 shall print or affix its name and OTC reporting number on the outside of the meter house or on the outside of the meter itself if no meter house exists.

(2) The operator of the lease shall print its OTC lease number and operator reporting number on the meter house or on outside of the meter if no meter house exists.

(3) The identification required in this subsection shall always be clearly legible.

- (h) **Valve and seals on stock tanks.** The operator shall install tank valves such that metal identification seals can be properly utilized. These seals shall be used on all delivery tank valves to lessen unauthorized movement of marketable products.
- (i) **Man-ways on frac tanks.** Each frac tank used at the wellsite shall have protective man- ways to prevent persons from accidentally falling into the frac tank.
- (j) **Guy line anchors.** All guy line anchors left buried for use in future operations of the well shall be properly marked by a marker of bright color not less than four feet in height and not greater than one foot east of the guy line anchor.
- (k) **Well site cleared.** Within 90 days after a well is plugged and abandoned, the well site shall be cleared of all equipment, trash, and debris. Any foreign surface material is to be removed and the location site restored to as near to its natural state as reasonably possible, except by written agreement with the surface owner to leave the surface in some other condition. If the location site is restored but the vegetative cover is destroyed or significantly damaged, a bona fide effort shall be made to restore or re-establish the vegetative cover within 180 days after abandonment of the well.
- (l) **Restored surface.** Within 90 days after a lease has been abandoned, surface equipment such as stock tanks, heater, separators, and other related items shall be removed from the premises. The surface shall be restored to as near to its natural state as reasonably possible, except by written agreement with the surface owner to leave the surface in some other condition. If the surface is restored but the vegetative cover is destroyed or significantly damaged, a bona fide effort shall be made to restore or re- establish the vegetative cover within 180 days after abandonment of the lease.
- (m) **Leasehold roads.** All leasehold roads shall be kept in a passable condition and shall be made accessible at all times for representatives and field inspectors of the Commission. At the time of abandonment of the property, the area of the road shall be restored to as near to its natural state as reasonably possible, except by written agreement with the surface owner to leave the surface in some other condition. If the road area is restored but the vegetative cover is destroyed or significantly damaged, a bona fide effort shall be made to restore or re-establish the vegetative cover within 180 days after abandonment of the property.
- (n) **Extension of time.**
- (1) An operator may request an extension of time required in (k), (l), and (m) of this Section for not more than six months by applying to the appropriate Conservation Division District Office and showing that there is no imminent danger to the environment and that one of the following conditions exists:
    - (A) That an agreement with the surface owners is not possible.
    - (B) That adverse weather conditions exist or existed.
    - (C) That the equipment needed to conform to (k), (l), and (m) of this Section was not or is not available.
  - (2) If approved by the District Manager, the extension shall be granted and the surface owner shall be notified by the operator. Any extension beyond six months shall require application, notice and hearing pursuant to OAC 165:5-7-41.

### PART 5. OPERATIONS

#### 165:10-3-25. Completion Reports [AMENDED]

- (a) **Initial Completion Report.** A Completion Report shall be filed with the Commission on Form 1002A within 60 days after completion of operations of the well regardless of whether or not the well was completed as a dry hole, producer, injection, disposal, or service well. An operator who fails to file a complete and correct Form 1002A Completion Report within the allotted time limit may be fined up to \$250.00.
- (b) **Amended Completion Report.** An amended Completion Report shall be filed with the Commission on Form 1002A within 60 days after completion of operations to reenter, re-complete and/or convert to injection or disposal well, or the completion of a well drilled to total depth and uncompleted regardless of whether or not the well was completed as a dry hole, producer, injection, disposal, or service well.
- (c) **No allowable without Completion Report.** The Conservation Division shall not assign an allowable to a well without an up-to-date Completion Report on file with the Conservation Division.
- (d) A completion report for any well in a multi-well system shall reference the primary well. An amended completion report for the primary well in a multi-well system shall reference all other wells in the system.

#### 165:10-3-28. Horizontal drilling [AMENDED]

- (a) **Scope.** This Section affects a horizontal well with one or more laterals.
- (b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

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- (1) **"Adjacent common source of supply"** shall mean a common source of supply which is immediately adjacent to and adjoining the targeted reservoir(s) in a multiunit horizontal well being drilled or a well being drilled in a horizontal well unitization pursuant to 52 O.S. § 87.6 et seq. and which is inadvertently encountered in the drilling of the lateral of a multiunit horizontal well or a well pursuant to a horizontal well unitization when such well is drilled out of or exits, whether on one or multiple occasions, the targeted reservoir(s), and which is not the primary target of the subject well and shall not be included in the relinquished rights pursuant to 52 O.S. § 87.1(h). In the event that an adjacent common source of supply may be inadvertently encountered in the drilling of the lateral of a multiunit horizontal well or a well pursuant to a horizontal well unitization when such well is drilled out of or exits, whether on one or multiple occasions, the targeted reservoir(s), then said inadvertently entered adjacent common source of supply shall be included as part of the targeted reservoir only for the purpose of the inadvertent penetrations, and any subsequent completion, commingling and production of said adjacent common source of supply with the targeted reservoir(s), but not for future development of said adjacent common source of supply [52 O.S. § 87.6(B)(1)].
- (2) **"Completion interval"** shall mean, for open hole completions, the interval from the point of entry to the terminus and, for cased and cemented completions, the interval from the first perforations to the last perforations [52 O.S. § 87.6(B)(5)].
- (3) **"Conventional reservoir"** shall mean a common source of supply that is not an unconventional reservoir.
- (4) **"Date of first production"** shall mean the date hydrocarbons are first produced from the horizontal well, whether or not production occurs during drilling, completion, or through permanent surface equipment.
- (5) **"Directional survey"** shall mean that survey or report showing the location of any point of the wellbore as it relates to the surveyed surface location from the surface to the terminus of each lateral.
- (6) **"Horizontal component"** shall mean the calculated horizontal distance from the point of entry to the terminus [52 O.S. § 87.6(B)(8)].
- (7) **"Horizontal well"** shall mean a well drilled, completed, or recompleted with one or more laterals which, for at least one lateral, the horizontal component of the completion interval exceeds the vertical component of the completion interval and the horizontal component extends a minimum of 150 feet in the formation [52 O.S. § 87.6(B)(6)].
- (8) **"Horizontal well unit"** shall mean a drilling and spacing unit established by the Commission, after application, notice, and hearing, for a common source of supply into which a horizontal well has been or will be drilled.
- (9) **"Horizontal well unitization"** shall mean a unitization for a targeted reservoir created pursuant to 52 O.S. § 87.6 et seq. [52 O.S. § 87.6(B)(7)].
- (10) **"Lateral"** shall mean the portion of the wellbore of a horizontal well from the point of entry to the terminus [52 O.S. § 87.6(B)(9)].
- (11) **"Multiunit horizontal well"** shall mean a horizontal well in a targeted reservoir or targeted reservoirs wherein the completion interval of the well is located in more than one unit formed for the same targeted reservoir, with the well being completed in and producing from such targeted reservoir in two or more of such units [52 O.S. § 87.6(B)(10)].
- (12) **"Non-standard horizontal well unit"** shall mean a horizontal well unit that is not a standard horizontal well unit.
- (13) **"Point of entry"** shall mean the point at which the borehole of a horizontal well first intersects the top of the common source of supply [52 O.S. § 87.6(B)(12)].
- (14) **"Standard horizontal well unit"** shall mean a horizontal well unit that is a square 10-, 40-, 160-, or 640-acre tract or a rectangular 20-, 80-, 320- or 1,280-acre tract in accordance with OAC 165:10-1-22.
- (15) **"Targeted reservoir"** shall mean one or more common sources of supply which will be encountered by the horizontal lateral portion of a horizontal well, and which has been designated by the Commission as part of an order, rule or emergency rule as potentially suited for development for the applied for multiunit horizontal well or horizontal well unitization pursuant to 52 O.S. § 87.6 et seq. Provided, however, that more than one common source of supply may only be granted by the Commission and included in the targeted reservoir upon a showing of reasonable cause by the applicant requesting the multiunit well in the application requesting authority for the multiunit well prior to the drilling of said multiunit well that the inclusion of the additional common source(s) of supply shall prevent waste and protect the correlative rights of all of the owners of the oil and gas rights [52 O.S. § 87.6(B)(14)].
- (16) **"Terminus"** shall mean the end point of the borehole of a horizontal well in the targeted reservoir [52 O.S. § 87.6(B)(15)].



(17) **"True vertical depth"** shall mean that depth at the point of entry perpendicular to the surface as measured from the elevation of the kelly bushing on the drilling rig.

(18) **"Unconventional reservoir"** shall mean a common source of supply that is a shale or a coal bed. "Unconventional reservoir" shall also mean any other common source of supply designated as such by Commission order or rule.

(19) **"Vertical component"** shall mean the calculated vertical distance from the point of entry to the terminus of the lateral [52 O.S. § 87.6(B)(20)].

**(c) General horizontal well requirements.**

(1) Within 60 days after completion of a horizontal well, the operator shall show that the location of the completion interval complies with the applicable general rule, location exception order, or other order of the Commission by submitting the following to the Technical Services Department:

(A) A directional survey run in the horizontal well shall be submitted within 45 days of the release of the rig used to drill such well. The survey shall be submitted electronically using a program provided by the Commission. In addition to the survey data the operator, well API number, well name, location, and completion date of the survey shall be included in the survey report.

(B) An "as drilled" plat constructed from the results of the directional survey showing the completion interval, including the depths of the first and last perforations and footages with latitude and longitude from the quarter section. The depths of the first and last perforations reflected in the "as drilled" plat must correspond to the information included in the OCC Form 1002A Completion Report for the well. The "as drilled" plat must be submitted to the Conservation Division with the OCC Form 1002A Completion Report for the well.

(2) The completion interval of an oil and or gas horizontal well shall be located not closer than the minimum distance as set out below from any other oil or gas well completed in the same common source of supply except as authorized by a special order of the Commission:

(A) Three hundred feet from any other oil or gas well completed in the same common source of supply, the top of which is less than 2,500 feet in true vertical depth.

(B) Six hundred feet from any other oil or gas well completed in the same common source of supply, the top of which is 2,500 feet or more in true vertical depth.

(C) This paragraph does not apply to horizontal wells drilled in a unit created for secondary or enhanced recovery operations pursuant to 52 O.S. § 287.1 et seq. or to horizontal wells drilled in a horizontal well unitization created pursuant to 52 O.S. § 87.6 et seq. Furthermore, the above-described requirements for the distance between any such oil and/or gas horizontal well and any such other oil or gas well shall not apply if such wells are operated by the same operator, and notification to working interest owners in such oil and/or gas horizontal well shall be indicated on Form 1000 for such horizontal well.

(3) The perforated interval of an oil or gas non-horizontal well shall be located not closer than the minimum distance as set out below from the completion interval of any oil or gas horizontal well completed in the same common source of supply, except as authorized by a special order of the Commission:

(A) Three hundred feet from any completion interval of any oil or gas horizontal well completed in the same common source of supply, the top of which is less than 2,500 feet in true vertical depth.

(B) Six hundred feet from any completion interval of any oil or gas horizontal well completed in the same common source of supply, the top of which is 2,500 feet or more in true vertical depth.

(C) This paragraph does not apply to non-horizontal wells drilled in a unit created for secondary or enhanced recovery operations pursuant to 52 O.S. § 287.1 et seq.

**(d) Horizontal well requirements in an unspaced common source of supply.** In a horizontal well drilled in a common source of supply in which the Commission has not established any drilling and spacing units or horizontal well units, the completion interval of a horizontal well may not be located closer to the boundaries of the applicable mineral estate, oil and gas leasehold estate, or voluntary unit than the minimum distance set out below except as authorized by a special order of the Commission:

(1) Not less than 165 feet when the top of the common source of supply is less than 2,500 feet in true vertical depth.

(2) Not less than 330 feet when the top of the common source of supply is 2,500 feet or more in true vertical depth.

**(e) Drilling and spacing units.**

(1) A horizontal well may be drilled on any drilling and spacing unit.

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(2) A horizontal well unit may be created in accordance with 165:10-1-22 and 165:5-7-6. Such units shall be created as new units after notice and hearing as provided for by the Rules of Practice, OAC 165:5.

(3) The Commission may create a non-standard horizontal well unit covering contiguous lands in any configuration or shape deemed by the Commission to be necessary for the development of a conventional reservoir or an unconventional reservoir by the drilling of one or more horizontal wells. A non-standard horizontal well unit may not exceed 1,280 acres plus the tolerances and variances allowed pursuant to 52 O.S. § 87.1.

(4) A horizontal well unit may be established for a common source of supply for which there are already established non-horizontal drilling and spacing units, and said horizontal well unit may include within the boundaries thereof more than one existing non-horizontal drilling and spacing unit for the common source of supply. Upon the formation of a horizontal well unit that includes within the boundaries thereof one or more non-horizontal drilling and spacing units, the Commission shall provide that such horizontal well unit exists concurrently with one or more of such non-horizontal drilling and spacing units, and each such unit may be concurrently developed.

**(f) Horizontal well location requirements for horizontal well units and horizontal well unitizations.**

(1) **Conventional reservoirs.** In a conventional reservoir, the completion interval of a horizontal well in a horizontal well unit shall be located not less than the minimum distance from the unit boundary as follows:

(A) Not less than 165 feet from the boundary of any 10-, 20-, or 40-acre horizontal well unit.

(B) Not less than 330 feet from the boundary of any 80- or 160-acre horizontal well unit.

(C) Not less than 660 feet from the boundary of any 320-, 640- or 1,280-acre horizontal well unit.

(2) **Unconventional reservoirs.** In an unconventional reservoir, the completion interval of a horizontal well in a horizontal well unit shall be located not less than the minimum distance from the unit boundary as follows:

(A) Not less than 165 feet from the boundary of any 10-, 20-, or 40-acre horizontal well unit.

(B) Not less than 330 feet from the boundary of any 80-, 160-, 320-, 640- or 1,280- acre horizontal well unit.

(3) **Horizontal well unitizations.** The completion interval of a horizontal well in a horizontal well unitization shall not be located less than 330 feet from the unit boundary.

**(g) Alternative well location requirements.** The Commission may establish well location requirements different from those provided in subsection (f) of this Section when necessary to prevent waste and protect correlative rights. These requirements may be established in the order creating a standard or non-standard horizontal well unit or through a special rule of the Commission covering a conventional or unconventional reservoir in a designated geographic area. (see OAC 165:10, Subchapter 29, Special Area Rules).

**(h) Allowable.**

(1) Horizontal oil well allowables may be established administratively using the standard allowables provided in Appendix A (Allocated Well Allowable Table) supplemented by the additional allowables provided in Appendix C (Table HD) to this Chapter.

(2) The allowable for a horizontal gas well shall be computed in the manner prescribed for a non-horizontal gas well in the same common source of supply. The allowable for a horizontal well in a horizontal well unit 640-acres in size or less shall be the minimum well allowable as established in the current proration order determining the allowable formula issued pursuant to OAC 165:10-17-11, unless a higher allowable is established by conducting a flow potential test. The allowable for a horizontal well in a horizontal well unit in excess of 640-acres in size shall be calculated by multiplying the minimum well allowable by the quotient of the number of acres in the unit divided by 640. If an allowable higher than the minimum well allowable is established by way of a flow potential test, then the higher allowable will be utilized in calculating the appropriate allowable for a horizontal well in a horizontal well unit in excess of 640-acres in size.

(3) The allowable for a horizontal well unit or horizontal well unitization with multiple horizontal gas wells shall be the sum of the allowables for the separate horizontal gas wells. For this summation, the allowable for each horizontal gas well will be calculated as if it were the only well in the unit.

(4) The allowable for a multiunit horizontal well shall be allocated to each affected unit using the allocation factors determined in accordance with 52 O.S. § 87.8(B)(1).

(5) A non-horizontal well in a non-horizontal drilling and spacing unit which exists concurrently with a horizontal well unit shall be assigned the same allowable as a horizontal well in the horizontal well unit producing from the same common source of supply, except as otherwise specified by Order of the Commission.

**(i) Pooling.** Horizontal well units, horizontal well unitizations and multiunit horizontal wells may be pooled as provided in 52 O.S. § 87.1, 52 O.S. § 87.6 et seq. and Commission Rules of Practice, OAC 165:5.

## SUBCHAPTER 5. UNDERGROUND INJECTION CONTROL

### 165:10-5-2. Approval of injection wells or disposal wells [AMENDED]

- (a) The subsurface injection or disposal of any substance for any purpose is prohibited except upon approval of the Commission pursuant to 165:10-5-5 or 165:10-5-12 and 165:10-5-13. This authorization may be conditioned upon the applicant taking corrective action to protect treatable water as specified by the Conservation Division. The Commission may fine an operator up to \$5,000.00 for any violation of this subsection.
- (b) Except as provided in (c) and (d) in this Section, every well used for injection or disposal shall be cased and tested in accordance with 165:10-3-4 and 165:10-5-6.
- (c) The testing requirements of 165:10-5-6 shall not apply to wells permitted by Commission order for subsurface injection of onsite reserve pit fluids.
- (d) The Conservation Division may approve a Form 1015 application to convert an existing well for injection or disposal if the well does not otherwise comply with 165:10-3-4 if:
- (1) The operator attaches to the Form 1015 application a description of an alternate method of protecting treatable water.
  - (2) The Conservation Division approves the proposed alternate method.
  - (3) The application is filed in accordance with OAC 165:5-7 if a hearing is required.
  - (4) The application is not protested.
- (e) Any proposed injection or disposal well which is within one-half (1/2) mile of any public water supply well shall not be approved without notice and hearing, and the Commission shall not issue an order authorizing injection or disposal into said well until the applicant proves at the hearing that said well shall not pollute said water supply well. A commercial disposal well shall not be approved within a designated wellhead protection area (WPA) as identified by the Wellhead Protection Program (42 USC Section 300h-7, Safe Water Drinking Act), or within one (1) mile of a public water supply well for which a WPA has not been delineated.
- (f) If an operator is not in compliance with an enforceable order or permit of the Commission, the Conservation Division shall not approve any disposal or injection application to said operator until the operator complies with the order or permit.

### 165:10-5-4. Application for approval of enhanced recovery projects [REVOKED]

- (a) An enhanced recovery project shall be permitted only by order of the Commission after notice and hearing.
- (b) The application for an order authorizing an enhanced recovery project shall contain the following:
- (1) The names and addresses of the operator or operators of the project.
  - (2) A plat showing the lease, group of leases, or unit included within the proposed project; the location of the proposed injection well or wells, and the location of all oil and gas wells including abandoned and drilling wells and dry holes; and the names of all operators offsetting the area encompassed within the project.
  - (3) The common source of supply in which all wells are currently completed.
  - (4) The name, description, and depth of each common source of supply to be affected.
  - (5) A log of a representative well completed in the common source of supply.
  - (6) A description of the existing or proposed casing program for injection wells and the proposed method of testing casing.
  - (7) A description of the injection medium to be used, its source, and the estimated amounts to be injected daily.
  - (8) For a project with an allocated pool, a tabulation showing recent gas-oil ratio and oil and water production tests for each of the producing oil and gas wells.
  - (9) The proposed plan of development of the area included within the Project.
- (c) A copy of the application and notice of hearing shall be mailed to the owner or owners of the surface of the land upon which the project is located and to each operator offsetting the project as shown on the application within five days after the application is filed. An affidavit of compliance with this Section shall be filed on or before the hearing.

### 165:10-5-5. Application for approval of injection and disposal operations [AMENDED]

- (a) Application. Each application for the approval of a proposed enhanced recovery injection well, non-commercial disposal well, or commercial disposal well shall be filed with the UIC Department on Form 1015 and shall be verified by a duly authorized representative of the operator.
- (b) Application. The application for the approval of an enhanced recovery injection or disposal well(s) shall be accompanied by:
- (1) **Plat.**

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(A) **Noncommercial disposal well or enhanced recovery injection well**. A plat showing the location and total depth of the well(s) and each abandoned, producing or drilling well, and dry hole within one-quarter (1/4) mile of the proposed injection well or disposal well for volumes less than 20,000 barrels per day and within one-half (1/2) mile of the proposed injection well or disposal well for volumes equal to or greater than 20,000 barrels per day, and identifying the surface owner of the land on which the injection or disposal well is to be located, and each operator of a producing spacing unit or well within one-half (1/2) mile of each injection or disposal well with a requested injection rate of less than five thousand barrels per day, and each operator of a producing spacing unit or well within ~~one (1) mile~~ two (2) miles of each injection or disposal well with a requested injection rate of five thousand barrels per day or more.

(B) **Commercial disposal well**. A plat showing the location and total depth of the well(s) and each abandoned, producing or drilling well and dry hole within one-half (1/2) mile of the disposal well, and identifying the surface owner of the land on which the disposal well is to be located, and each operator of a producing spacing unit or well within ~~one (1) mile~~ two (2) miles of each disposal well.

(C) **Additional required information**. The following information must be submitted in a separate document regarding wells listed on such plats:

- (i) Well name and number and API number;
- (ii) Current operator of well;
- (iii) Well status;
- (iv) Total depth of well;
- (v) Geologic name of any producing interval in the well and/or any interval used for injection or disposal purposes;
- (vi) The diameter of and setting depth for the surface casing, intermediate casing (if set), production casing (if set) and liner (if used) in the well;
- (vii) Top of cement obtained from Forms 1002A or 1002C, if specified, or a cement bond log, temperature log or cased hole log, if available, in the outermost string of casing in the well perforating the injection interval to be used by the proposed noncommercial or commercial disposal well or injection well. If such logs are not available, a calculated top of cement will be acceptable;
- (viii) The size and amount of casing pulled, if any, and the depths of any plugs set, if any, in any plugged well;
- (ix) Identify any well or borehole that penetrates the top of the proposed injection/disposal zone which is mud plugged and/or is configured in a manner that will not prevent the potential movement of fluids from the injection/disposal zone into treatable water strata. The applicant is required to submit the corresponding Form 1003 Plugging Records for such wells identified in this unit. If such Form 1003 Plugging Records are not available, the applicant must provide a corrective action plan to prevent injected/disposed fluids from impacting treatable water strata, which corrective action plan may include, but not be limited to, a written request by the applicant for a technical conference with the Conservation Division; and
- (x) Identify any well where the top of cement is behind the long string less than 100 ft above or below any portion of the proposed injection/disposal zone. The applicant is required to submit the corresponding Form 1002A Completion Reports for such wells identified in this unit. If such Form 1002A Completion Reports do not contain enough information to make the foregoing determination, or if Form 1002A Completion Reports are not available, the applicant must provide a corrective action plan to prevent injected/disposed fluids from impacting treatable water strata, which corrective action plan may include, but not be limited to, a written request by the applicant for a technical conference with the Conservation Division.

(2) **Completion Report**. If the well has been drilled, a copy of the Completion Report (Form 1002A) and any available electric or radioactivity log of the well showing the proposed injection interval, or a statement providing the reason why logs are not submitted.

(3) **Schematic diagram**. A schematic diagram of the current and proposed well showing:

- (A) The total depth or plugback depth of the well.
- (B) The depth of the injection or disposal interval indicating both the top and bottom.
- (C) The geological name (geological group) of the injection or disposal zone.
- (D) The depths of the tops and bottoms of the casing and cement to be used in the well.

(E) The size of the casing and tubing, and the depth of the packer.

(4) **Proposed zone information.** Information showing that injection into the proposed zone will not initiate fractures through the overlying strata which could enable the injection fluid or formation fluid to enter fresh water strata.

(A) When the fluid injection rate is 1,000 barrels per day or less, or equivalent rate for any fraction of twenty-four (24) hours, an overlying strata of at least 200 feet in thickness between the lowest base of fresh water and the top of the proposed interval of injection is considered sufficient evidence of fresh water protection.

(B) When the fluid injection rate is greater than 1,000 barrels per day or equivalent rate for any fraction of twenty-four (24) hours, an overlying strata of at least 500 feet in thickness between the lowest base of fresh water and the top of the proposed interval of injection is considered sufficient evidence of fresh water protection.

(C) When the fluid injection rate is greater than 10,000 barrels per day or equivalent rate for any fraction of twenty-four (24) hours, an overlying strata of at least 3,000 feet in thickness between the lowest base of fresh water and the top of the proposed interval of injection is considered sufficient evidence of fresh water protection.

(D) If the overlying strata is less than required in (A), (B), or (C) of this paragraph, the Commission may administratively approve injection provided a finding is made that such injection will not initiate fractures through the overlying strata into the fresh water strata. Applicant is required to furnish to the Commission, sworn evidence and data in support of such findings. The Commission, when issuing an order approving fluid injection, shall consider the following:

- (i) Maximum injection rate.
- (ii) Maximum surface injection pressure.
- (iii) Injection fluid.
- (iv) The lithology and rock characteristics of the injection zones and overlying strata.

(5) **Proposed operating data:**

(A) Daily injection rates and pressures.

(i) For Disposal wells, The maximum permitted surface injection pressure may be calculated using the provided equation for injection pressure (Pm) to the depth of the top of the disposal interval or the pressure requested in the application or 1/2 psi per foot of depth to the top of the injection/disposal interval, whichever is less, unless the results of a fracture pressure step-rate test support a higher pressure.

(I)  $P_m = (fpg - 0.433Sg)d$ , where:  $P_m$  = injection pressure at the wellhead in pounds per square inch  $Sg$  = specific gravity of injected fluid (unitless)  $d$  = true vertical depth to top perforation of the permitted injection zone in feet  $fpg$  = fracture pressure gradient of injection interval (if unknown, assume 0.75).

(II) To derive a fracture pressure gradient above 0.75 psi/ft, the operator shall submit justification data such as charts, graphs and jobs tickets from a step-rate test or fracturing operation of the proposed formation, field data from a well in the same field, injecting in the same formation. An operator may request that additional factors be considered in calculating the  $P_m$  value. Supplementary information must be provided to the UIC department and may include components such as relevant wellbore details and calculated friction pressure.

(ii) The Conservation Division may designate areas of interest in which pressures and volumes may be more restrictive. The UIC Department may request that the applicant perform a fracture pressure step-rate test in accordance with UIC guidance documents.

(iii) For an enhanced recovery injection well, the maximum permitted surface injection pressure may be calculated using the provided equation for injection pressure (Pm) to the depth of the top of the enhanced recovery interval or the pressure requested in the application, whichever is less.

(I)  $P_m = (fpg - 0.433Sg)d$ , where:  $P_m$  = injection pressure at the wellhead in pounds per square inch  $Sg$  = specific gravity of injected fluid (unitless)  $d$  = true vertical depth to top perforation of the permitted injection zone in feet  $fpg$  = fracture pressure gradient of injection interval (if unknown, assume 0.75).

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(II) To derive a fracture pressure gradient above 0.75 psi/ft, the operator shall submit justification data such as charts, graphs and jobs tickets from a step-rate test or fracturing operation of the proposed formation, field data from a well in the same field, injecting in the same formation. An operator may request that additional factors be considered in calculating the Pm value. Supplementary information must be provided to the UIC department and may include components such as relevant wellbore details and calculated friction pressure.

(iv) The Conservation Division may designate areas of interest in which pressures and volumes may be more restrictive. The UIC Department may request that the applicant perform a fracture pressure step-rate test in accordance with UIC guidance documents.

(B) Geologic name, depth, and location of injection fluid source.

(C) Qualitative and quantitative analysis of fresh water from two (2) or more fresh water wells within one (1) mile of the proposed injection or disposal well showing location of wells and dates samples were taken, or statement why samples were not submitted. The analysis shall include at a minimum specific gravity, chloride, sodium, and total dissolved solids. Sample collection date(s) must be no more than 12 months prior to the date the application is filed.

(D) Qualitative and quantitative analysis of representative sample of Class II fluids to be injected. The analysis shall include at a minimum specific gravity, chloride, sodium, and total dissolved solids. The legal location of where the sample was obtained and the date the sample was taken must be provided.

The sample collection date must be no more than 12 months prior to the date the application is filed.

(c) Application for approval. A copy of the Form 1015 application for approval of injection or disposal of Class II fluids in a well and, where noted, required attachments to Form 1015, except for proofs of publication, fresh water analyses, analyses of representative samples of Class II fluids to be injected, and electric or radioactivity logs, shall be served by the applicant within five (5) business days of the date the application is filed by regular mail or delivered to the following, and applicant must submit an affidavit of mailing or delivery to the UIC Department not later than five (5) business days after the date the application is filed:

(1) The owner of the surface of the land on which the proposed injection or disposal well is to be located;

(2) For a proposed commercial disposal well, to each surface owner and surface lessee of record on each tract of land adjacent and contiguous to the site of the proposed well;

(3) For ~~any~~ proposed injection or noncommercial disposal well with a requested injection rate of less than five thousand (5,000) barrels per day, to each operator of a producing spacing unit or well within one-half (1/2) mile of the entire wellbore such proposed well along with required Form 1015 attachments;

(4) For ~~any~~ proposed injection or noncommercial disposal well with a requested injection rate of five thousand (5,000) barrels per day or more, or a commercial disposal well, to each operator of a producing spacing unit or well within two (2) miles of the entire wellbore such proposed well along with required Form 1015 attachments;

~~(5) For a proposed horizontal injection or noncommercial disposal well with a requested injection rate of less than five thousand (5,000) barrels per day, to each operator of a producing spacing unit or well within one-half (1/2) mile of the lateral of such proposed well along with required Form 1015 attachments;~~

~~(6) For a proposed noncommercial horizontal disposal well with a requested injection rate of five thousand (5,000) barrels per day or more, or a horizontal commercial disposal well, to each operator of a producing spacing unit or well within two (2) miles of the lateral of such proposed well along with required Form 1015 attachments;~~

~~(7) For a proposed injection well with a requested injection rate of five thousand (5,000) barrels per day or more, to each operator of a producing spacing unit or well within one (1) mile of such proposed well along with required Form 1015 attachments; and~~

~~(8) For a proposed horizontal injection well with a requested injection rate of five thousand (5,000) barrels per day or more, to each operator of a producing spacing unit or well within one (1) mile of the lateral of such proposed well along with required Form 1015 attachments.~~

(d) Notice of application. Notice of an application relating to injection, disposal or commercial wells shall be published one time for injection and noncommercial disposal wells and two times, at least 7 days apart, for a commercial disposal well in a newspaper of general circulation published in Oklahoma County, Oklahoma, and in a newspaper of general circulation published in each county in which land embraced in the application are located. Applicant shall file with the UIC Department proof of publication regarding the notice of application. The notice shall include:

(1) UIC tracking number.

(2) Name and address of applicant.

- (3) Location of proposed well to nearest 10 acre tract. For a directional or horizontal well, include surface hole location and bottom hole location(s).
- (4) Well name.
- (5) The geological name of the injection formation.
- (6) The top and bottom of the injection interval.
- (7) Maximum injection pressures.
- (8) Maximum BID or MCFID injection rate.
- (9) The type of well (injection, disposal, commercial).
- (10) For a proposed directional or horizontal injection or disposal well, the bottomhole location to the nearest 10 acre tract and the measured depth and true vertical depth.
- (e) Written objection. If a written objection to the application is filed within fifteen (15) days after the application notice is published for enhanced recovery injection and noncommercial disposal wells ~~or~~ and mailing affidavit is received by the UIC department, or thirty (30) days after the last publication date for commercial disposal wells and mailing affidavit is received by the UIC department, or if hearing is required by the Commission, the application shall be set for hearing and notice thereof shall be given in the same manner as required for the filing of the application on the pollution docket. If no objection is filed and the Commission does not require a hearing, the matter shall be presented administratively to the Manager of Underground Injection Control who may sign the permit.
- (f) Surety requirements for commercial disposal well facilities.
  - (1) Any operator of a commercial disposal well facility shall file with the Surety Department for the Conservation Division an agreement to properly plug the well and reclaim the site upon termination of operations. The agreement shall be on forms available from the Conservation Division and shall be accompanied by surety. The agreement shall provide that if the Commission finds that the operator has failed or refused to comply with Commission rules or take remedial action as required by law and Commission rules, the surety shall pay to the Commission the full amount of the operator's obligation up to the limit of the surety.
  - (2) The Commission shall establish the amount of surety in the order or permit for the authority to operate a commercial disposal well facility. The amount of surety shall be \$25,000 in U.S. dollars per each commercial disposal well facility or based on factors such as the depth of the well, dimensions of the facility, and costs of plugging the well, reclamation, monitoring, plugging of monitor wells, any pit closure, trucking of any deleterious substances, remediation and earth work on an affidavit of well plugging costs, Form 1006D, for each individual well facility. The amount of surety an operator will be required to provide will be capped at \$250,000 in U.S. dollars. The amount may be subject to change for good cause. The surety shall be maintained for as long as monitoring is required. The type of surety shall be a corporate surety bond, certificate of deposit, irrevocable commercial letter of credit, or other type of surety approved by order or permit of the Commission. Any type of surety that expires shall be renewed prior to 30 days before the expiration date.
  - (3) Operators of commercial disposal well facilities authorized prior to the effective date of this subsection must either comply with this subsection or close such facilities within one (1) year of the effective date of this subsection.
- (g) In addition to the requirements listed above, the Manager of Underground Injection Control may request the applicant to submit the following information as a prerequisite to approval of the application:
  - (1) For those wells included in OAC 165:10-5-5(b)(1) which penetrate the top of the injection interval, a tabulation of the wells indicating the following information, if available, from public records:
    - (A) Dates the wells were drilled.
    - (B) The present status of the wells.
    - (C) The identity of any abandoned well which was improperly plugged or remains unplugged.
  - (2) A list of the following information, if available, to the applicant:
    - (A) The shut-in bottom hole formation pressure in psi; or the stabilized shut-in surface pressure and fluid level in the proposed enhanced recovery injection well.
    - (B) The permeability of the proposed injection zone expressed in millidarcies.
    - (C) The porosity of the proposed injection zone expressed as a percentage of pore volume.
    - (D) Documentation of the methods used to arrive at the data requested above.
- (h) Authorization of an enhanced recovery injection well or a disposal well or a commercial disposal well will expire and become null and void if no initial mechanical integrity test is performed within 18 months of the effective date of the order or permit authorizing injection into the well pursuant to OAC 165:10-5-6 or no well completion report (Form 1002A) is filed or if no mechanical integrity test is performed pursuant to OAC 165:10-5-6 within sixty (60) days from the date of completion or conversion of the well.

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(i) In addition to the well construction requirements as set out in 165:10-3-1, commercial disposal wells shall comply with the following requirements:

- (1) At a minimum, the well shall be constructed with a wellhead, surface casing, production casing, tubing, and packer.
- (2) The surface casing shall be set and cemented at least fifty (50) feet below the base of the treatable water bearing zone. The production casing will not be allowed to also serve as the surface casing.
- (3) The production casing must be set and cemented through the injection zone with the cement circulated behind the casing to a height at least two hundred fifty (250) feet above the disposal zone. A cement bond log showing quality and placement of the cement must be furnished to and acceptable to the Conservation Division before any perforating of the production casing takes places. The Conservation Division shall notify the operator by electronic mail as to whether the cement bond log is acceptable. Information regarding the proposed perforations shall be supplied to the Conservation Division with the cement bond log. The Manager of Underground Injection Control may approve the Arbuckle Formation for open hole completion.
- (4) The annulus between the tubing and the casing must be open from the surface to the packer to allow for pressure testing and monitoring of the injection tubing and packer and the annulus filled with a packer fluid that protects against corrosion.
- (5) The packer must be set at least within seventy-five (75) feet of the top of the perforations.
- (6) Adequate gauges shall be installed on each annulus to allow proper monitoring of the disposal operation.
- (7) Tubing must be internally coated or lined to prevent corrosion from injected fluids. PVC, Plastic Coated, Stainless Steel or Fiberglass will qualify.
- (8) The packer must be either internally coated or stainless steel.
- (9) Commercial disposal wells authorized with a positive injection pressure must be equipped with a down hole shut-off device with a seal divider installed between the packer and the tubing. A Stainless Steel Profile Nipple and an "ON-OFF" Tool will qualify under this Section.

(j) No ~~Commercial~~ enhanced recovery injection or disposal well will be permitted whose injection pressure approaches or exceeds the demonstrated frac gradient of the injection zones(s).

(k) The geologic injection intervals authorized by the order or permit which are not perforated during the initial or subsequent completion of the disposal well will not expire until the disposal well is plugged, or the authority to inject is terminated or vacated.

(l) In the event the Commission has evidence that an applicant for a commercial disposal well may not possess a satisfactory compliance history with Commission rules, the Director of the Conservation Division may seek an order of the Commission, issued after application, notice, and hearing, determining whether the applicant should be authorized to operate such commercial disposal well.

## 165:10-5-6. Testing and monitoring requirements for enhanced recovery injection wells and disposal wells [AMENDED]

(a) **Mechanical integrity during injection.** The operator of an injection, disposal or commercial disposal well must maintain mechanical integrity in order to continue operation of the well.

(b) **Initial pressure test requirements for wells permitted on or after December 2, 1981.**

(1) **Mandatory initial mechanical integrity test.** Before commencement of operation, each well authorized for enhanced recovery injection or disposal by a Commission order issued on or after December 2, 1981, must pass an initial pressure test of the casing tubing annulus according to the minimum testing standards of (2) of this subsection, unless a Commission order or permit authorizes other test procedures of the mechanical integrity of the well. Any operator failing to comply with initial mechanical integrity testing and reporting requirements may be fined up to \$500.00.

(2) **Minimum testing standards for initial tests.** For each initial test required by (1) of this subsection, the minimum testing standards are:

(A) **Witnessing of the test.** The test shall be witnessed by an authorized representative of the Conservation Division. It shall be the responsibility of the well operator to secure the presence of the Conservation Division representative.

(B) **Down-hole equipment.** Injection and disposal shall be through adequate tubing and packer.

(C) **Aboveground extensions and fittings.** Adequate aboveground extensions shall be installed in each annulus in the well. In addition, the operator shall install an adequate working pressure gauge with a cutoff valve to the tubing, so that the amount of injection pressure may be measured by the Conservation Division representative. An operator is required to keep adequate working gauges on the tubing and annulus of the well.



(D) **Packer setting depth under the order.** The mechanical packer shall be set within 40 feet of the packer setting depth prescribed by the order permitting the well for injection or within 75 feet of the perforations of the injection zone(s) opened in a vertical well or within 75 feet of the kick off point of a horizontal well.

(E) **Verification of packer setting depth.** The Conservation Division District Manager may require the operator of the well to verify the packer setting depth by running a wireline or other method approved by the Manager of the Underground Injection Control Department.

(F) **Minimum testing pressure for noncommercial disposal and enhanced recovery injection wells.** Noncommercial disposal and injection wells shall be tested as follows:

(i) If the maximum authorized injection pressure for the well is less than 300 psig under the order or permit authorizing the well for injection, the minimum testing pressure shall be 300 psig.

(ii) If the maximum authorized injection pressure is greater than 300 psig under the order or permit authorizing the well for injection, the minimum testing pressure shall be the lesser of 1000 psig or the maximum authorized injection pressure under the order permitting the well.

(G) **Minimum testing pressure for commercial disposal wells.** Commercial disposal wells shall be tested at the maximum injection pressure authorized in the order or permit authorizing the well for injection, but not less than 300 psig.

(H) **Thirty minute minimum testing period.** The minimum testing period shall be 30 minutes at the testing pressure.

(I) **Ten percent maximum permitted bleed-off.** The maximum permitted change in pressure during the testing period shall be ten percent of the maximum testing pressure used.

(J) **Test report on Form 1075.** The Field Inspector shall submit the results of the mechanical integrity test on Form 1075 within 30 days from the date the test is performed.

(K) **Cement circulated above injection zone.** The production casing must be set and cemented through the injection or disposal zone with the cement circulated behind the casing to a height at least two hundred fifty (250) feet above the injection or disposal zone. If a cement squeeze is necessary to raise annular cement to the minimum height of two hundred fifty(250) feet, a cement bond log showing quality and placement of the cement must be furnished to and acceptable to the Conservation Division before the well may be used for injection or disposal.

(L) **Packer setting depth.** The packer must be set at a depth which is at least 50 feet below the depth of the top of cement behind the production casing.

(3) **Alternative testing procedures.** Operators can test at a maximum of 500 psi if there is in place an automatic and continuous pressure monitor on the tubing-casing annulus that will shut-in the well if there is a pressure increase of 250 psi on the annulus. Application for this alternative test procedure shall be made in writing to the Manager of the UIC Department. The Manager of the UIC Department may allow the alternative test procedure to be used as the initial mechanical integrity test, which permission shall be reflected in the order or permit regarding the well.

(4) **Use of fluid seal without a mechanical packer.** Use of a fluid seal without a mechanical packer is prohibited.

**(c) Initial pressure test requirements for wells permitted prior to December 2, 1981.**

**(1) Mandatory initial pressure test or monitoring test.**

(A) Each well authorized for injection or disposal by Commission order issued prior to December 2, 1981, must pass an initial mechanical integrity test according to the minimum testing standards of (2) of this subsection.

(B) In lieu of casing test required in (A) of this paragraph, the operator shall monitor and record during actual injection the pressure in the casing-tubing annulus monthly and report the pressure annually on Form 1075. A measurable positive pressure must be maintained at the casing valve and be continuously measured to qualify.

**(2) Minimum testing standards for initial mechanical integrity tests.**

(A) **Wells with casing-tubing annulus.** The minimum testing standards of (b)(2) of this Section for an initial test of a well with a casing tubing annulus shall apply with the following modifications:

(i) The Conservation Division District Manager shall have the option to waive witnessing of the test.

(ii) If the test is not witnessed, the well operator shall submit documentation of the test to the Conservation Division within 30 days after the test on Form 1075.

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(iii) The minimum testing pressure shall be 200 psig.

(B) **Wells without a casing-tubing annulus or wells with perforations above the packer.** The minimum testing standards for an initial test of a well without a casing-tubing annulus or wells with perforations above the packer are:

(i) **Witnessing of the test.** The test shall be witnessed by an authorized representative of the Conservation Division unless the District Manager for the Conservation Division waives the requirement of witnessing the initial test. It shall be the responsibility of the well operator to secure the presence of the commission representative for witnessing the test.

(ii) **Documentation for unwitnessed tests.** If the test is not witnessed, then the operator shall submit on Form 1075 documentation of the test to the Conservation Division within 30 days after the test.

(iii) **Aboveground extensions and fittings.** The operator shall install a one-fourth (1/4) inch female fitting, with cutoff valve to the tubing, so that the amount of injection pressure may be measured by the Commission representative using a gauge having a one-fourth (1/4) inch male fitting.

(iv) **Setting depth for plug.** For purposes of the test, a mechanical packer, retrievable bridge plug, or seating nipple plug shall be placed in the injection string not more than 75 feet above the top of the injection interval on the vertical section of a well or within 75 feet of the kick off point of a horizontal well.

(v) **Pressure testing of tubing string.** The well operator shall pressure test the tubing string for at least 30 minutes. The minimum testing pressure shall be the greater of 300 psig, or the maximum authorized injection pressure provided that the actual working injection pressure for the well may be used instead of the maximum authorized injection pressure when necessary to prevent damage to the casing or packer.

(vi) **Ten percent maximum permitted bleedoff.** The maximum permitted bleedoff during the testing period shall be ten percent of the maximum testing pressure used.

(vii) **Radioactive tracer survey.** A radioactive tracer survey shall be run demonstrating that the injected fluid is going into the authorized zone when there is no cement bond log or cementing reports to demonstrate sufficient cement behind pipe to isolate the injection zone or to insure the packer is properly set.

(viii) **Pressure test using a gas media.** In lieu of a pressure test using a liquid testing media, the UIC Department may approve a mechanical integrity test using a gas media if it conforms to a method previously approved by the EPA.

(ix) **Test report on Form 1075.** The Field Inspector shall submit the results of the mechanical integrity test on Form 1075 to the Conservation Division within 30 days after the test.

(d) **Subsequent mechanical integrity test requirements for noncommercial disposal wells and enhanced recovery injection wells.**

(1) **Pressure tests.**

(A) **Noncommercial disposal wells permitted for injection at volumes equal to or greater than 20,000 barrels per day.** Unless a well has been approved by an order or permit of the Commission for other testing procedures or monitoring, each noncommercial disposal well permitted for injection at volumes equal to or greater than 20,000 barrels per day shall demonstrate mechanical integrity by using one of the following methods:

(i) Conduct a pressure test of the casing tubing annulus at least once every year according to the minimum testing standards of (3) of this subsection, or

(ii) If a continuous pressure monitor is installed on the casing tubing annulus that will automatically notify the operator of a mechanical failure, then the well shall demonstrate mechanical integrity at least once every five years according to the minimum testing standards of (3) of this subsection.

(B) **Noncommercial disposal wells permitted for injection at volumes less than 20,000 barrels per day and enhanced recovery injection wells.** Unless a well has been approved by an order or permit of the Commission for other testing procedures or monitoring, each noncommercial disposal well permitted for injection at volumes less than 20,000 barrels per day, and each injection well permitted for injection shall demonstrate mechanical integrity at least once every five years according to the minimum testing standards of (3) of this subsection.

(C) **Penalty for noncompliance.** Any operator failing to comply with periodic mechanical integrity testing and reporting requirements may be fined up to \$500.00.

(2) **Required retest if down-hole equipment is moved or replaced.** After a well passes a pressure test required by this Section, if the operator moves the packer or replaces either the packer or the tubing, then the operator shall notify the Commission and retest the well according to the minimum testing standards of (3) of this subsection.

(3) **Minimum testing standards.**

(A) **Wells with casing-tubing annulus.** For a five year test or retest required by this subsection, the minimum testing standards of (b)(2) of this Section shall apply to wells with casing-tubing annulus with the following modifications:

- (i) The Conservation Division District Manager shall have the option to waive witnessing of the test.
- (ii) If the test is not witnessed due to waiver, the well operator shall submit documentation of the test to the Conservation Division within 30 days after the test.
- (iii) The minimum testing pressure shall be 200 psig for a noncommercial disposal or enhanced recovery injection well.

(B) **Wells without a casing-tubing annulus or wells with perforations above the packer.** For a five year test or retest required by this subsection, the minimum testing reporting standards of (c)(2)(B) of this Section, shall apply to wells without a casing-tubing annulus or wells with perforations above the packer.

(e) **Subsequent mechanical integrity test requirements for commercial disposal wells.**

(1) **Pressure tests.**

(A) The well shall be tested a minimum of every twelve (12) months according to the minimum testing standards of (b)(2) of this Section.

(B) After a well passes a pressure test required by this Section, if the operator moves the packer or replaces the packer or tubing, then the operator shall notify the Commission and retest the well according to the minimum testing standards of (b)(2) of this Section.

(C) Any operator failing to comply with periodic mechanical integrity testing and reporting requirements may be fined up to \$500.00.

(2) **Alternative testing procedures.** Operators can test at a maximum of 500 psi if there is in place an automatic and continuous pressure monitor on the tubing-casing annulus that will shut-in the well if there is a pressure increase of 250 psig on the annulus. Application for this alternative test procedure shall be made in writing to the Manager of the UIC Department. The Manager of the UIC Department may allow the alternative test procedure to be used as the initial mechanical integrity test, which permission shall be reflected in the order or permit regarding the well.

(f) **Fluid level monitoring required by UIC orders or permits to address wells ascertained during the permitting process that may require remediation.**

(1) **Fluid level monitoring.** The operator must perform on an annual basis fluid level monitoring tests if required by a UIC order or permit.

(2) **Fluid level test procedures.**

(A) Unless otherwise stated in UIC orders or permits for fluid level monitoring, the well must be shut in for a minimum of 48 hours before a fluid level test is performed. A variance to the 48-hour shut-in period may be granted by the Manager of the UIC Department if it can be demonstrated that reservoir pressure will stabilize prior to the expiration of the 48-hour time period.

(B) Fluid level test procedures shall be designed to determine reservoir pressure and such tests must be approved by the Conservation Division.

(C) The appropriate Field Inspector shall be notified at least 48 hours in advance of a fluid level test to allow a Commission representative an opportunity to witness the test.

(D) The operator is required to perform the fluid level monitoring test annually during the two month time period in May and June and submit the annual monitoring test results by June 30 of each year to the Manager of the Underground Injection Control Department.

(3) **Fluid level monitoring test failure.** If the fluid level in a well is determined to be within 150 feet or less below the base of treatable water, the test shall be deemed a failure, and the following actions must be performed:

(A) The operator shall immediately cease injection or disposal operations.

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(B) The operator shall notify the Manager of the Underground Injection Control Department of the results within 24 hours of the performance of the fluid level test, and shall submit the results of the test and a corrective action plan in writing to such Manager within 7 days of the test.

(4) **Failure to perform fluid level test.** Any operator who fails to perform annual fluid level tests as required by a UIC order or permit pursuant to this subsection is subject to the following:

(A) Injection or disposal into the UIC well is prohibited until the operator performs the test and submits the results to the Manager of the Underground Injection Control Department.

(B) The operator may be fined up to \$1,000.00, and

(C) The UIC order or permit is subject to termination after notice and hearing.

## **165:10-5-7. Monitoring and reporting requirements for wells covered by 165:10-5-1 [AMENDED]**

(a) **Scope.** This Section applies to:

(1) Notice of Initial Commencement of Disposal Operations.

(2) Report of Injection Projects, disposal wells and LPG storage wells on Form 1012 or Form 1012C.

(3) Notice of Voluntary Termination of Operations on Form 1072.

(4) Notice of mechanical failure or down-hole problems on Form 1075.

(b) **Notice of initial commencement of disposal operations.** The operator of a well permitted as a disposal well in the Arbuckle formation shall give at least 48 hours notice by electronic mail or facsimile to the Manager of the Underground Injection Control Department regarding the time when initial disposal operations will begin.

(c) **Report of enhanced recovery injection projects, wells, disposal wells and LPG storage wells.**

(1) **Submit Form 1012.** Each operator of a disposal well, LPG storage well or an authorized waterflood, pressure maintenance project, gas repressuring project, or other enhanced recovery project shall submit a Form 1012 online for every well to the Conservation Division by January 31 for the previous calendar year for all noncommercial wells.

(2) **Submit Form 1012C.** Each operator of a commercial disposal well shall submit a Form 1012C online for every well to the Conservation Division by January 31 and July 31 for the previous six-month period.

(3) **Failure to submit Form 1012 or Form 1012C.** Any operator who fails to submit the report on Form 1012 or Form 1012C as required by (c)(1) and (c)(2) of this Section may be fined up to \$500.00 and:

(A) Injection into the project is prohibited until the operator submits Form 1012 or Form 1012C for each injection or disposal well.

(B) The order or permit is subject to termination.

(4) **Required monitoring.**

(A) On a monthly basis, the operator of each enhanced recovery injection well and disposal well and LPG storage well shall monitor and record the injection rate and surface injection pressure for the well.

(B) On a daily basis, the operator of each well authorized for disposal into the Arbuckle formation shall monitor and record the volumes, the casing tubing annulus pressure and the surface injection pressure for the well. The operator must maintain the information required by this subparagraph for a minimum of three years. This information shall be produced upon request by an authorized representative of the Commission.

(5) Requested monitoring and reporting within areas of interest regarding seismicity or potentially critical environmental or public safety impacts. Upon request by the Manager of the Induced Seismicity Department, the following actions must be performed and the information provided to the Manager of the Induced Seismicity Department:

(A) Operators shall monitor on a daily basis volumes and pressures for wells authorized for disposal within areas of interest designated by the Oil and Gas Conservation Division regarding seismicity or potentially critical environmental or public safety impacts. The information shall be submitted on Form 1012D at a minimum on a weekly basis or as designated by the Manager of the Induced Seismicity Department.

(B) Operators of wells authorized for disposal within areas of interest designated by the Oil and Gas Conservation Division regarding seismicity or potentially critical environmental or public safety impacts shall supply bottom hole pressure data using a method approved by the Manager of the Induced Seismicity Department.

(6) **All UIC wells.** Information regarding disposal wells, enhanced recovery injection wells and storage wells shall be reported on Form 1012 or Form 1012C individually according to the order or permit authorizing disposal.

(d) **Monitoring requirements for commercial disposal well.**

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- (1) The operator of a commercial disposal well shall monitor and record the casing tubing annulus pressure and the injection pressure on a daily basis.
- (2) The operator of a commercial disposal well shall make available upon request of the Commission a log of all loads of Class II fluids disposed at the well. The log shall be kept on file for a period of at least five (5) years. The log of record shall include at a minimum, the date and time the load was received, the volume, the legal description of the well and/or source, and the operator and/or owner of the source of the Class II fluids.

**(e) Notice of voluntary termination.**

- (1) If an operator permanently terminates injection into a well, the operator shall submit to the Conservation Division Form 1072 within 30 days after termination of injection. Form 1072 shall include:
  - (A) The legal description of the well.
  - (B) The reason for termination.
  - (C) Monthly data for daily average pressure rate and total monthly volumes injected for that portion of the calendar year the operator has operated the well prior to submitting the Form 1072 or Form 1003 to the Conservation Division.
- (2) If a well has been plugged, the operator is required to file a Form 1072 and a Form 1003 Plugging Record with the Conservation Division.
- (3) Submission of Form 1072 to permanently terminate injection or a Form 1003 Plugging Record shall terminate the authority under the order or permit.

**(f) Notice of mechanical integrity problem.**

- (1) Notice of mechanical failure or down-hole problem. When a mechanical problem occurs, then:
  - (A) The well operator shall notify the Field Inspector for the Conservation Division within 24 hours after discovery of the problem.
  - (B) ~~Within five days after discovery of the problem, the well operator shall submit to the Manager of the Underground Injection Control Department written notice of the failure and a plan to repair and/or retest the well.~~ At least two working days before commencement of repair work, operator must submit a well bore diagram reflecting repair plan to UIC Manager for approval.
  - (C) The well must be brought into compliance within ninety days after discovery of the problem.
  - (D) Repair shall be reported on the Form 1012 or Form 1012C for the well.
  - (E) Any operator failing to timely notify the Commission or bring the well into compliance may be fined up to \$1,500.00.
- (2) **Notice of unreported repairs.** Any prior unreported repair of the well shall be reported on the next Form 1012 or Form 1012C to be submitted to the Manager of the UIC Department.

**(g) Shutdown or other action.**

- (1) **Administrative shutdown or other action regarding a well.** The Conservation Division may shut down or take other action, including the issuance or execution of administrative agreements, regarding a well pursuant to 17 O.S. § 52, 52 O.S. §139(D)(1) and other applicable authority, to address matters including, but not limited to, seismic activity, or if a mechanical failure or down-hole problem indicates that injected substances are not or may not be entering the injection interval authorized by order or permit of the Commission.
- (2) **Request for technical conference.** If an operator objects to the shutdown or other action regarding its well by the Conservation Division, the operator shall submit a written request for a technical conference to the Director of the Conservation Division or designee within five business days of the date of the shut down notice or other Conservation Division action regarding the well. If a resolution of the shutdown or other action regarding the well is not reached by the operator and the Conservation Division after a technical conference occurs, then the provisions of paragraph (5) below are applicable.
- (3) **Failure to request a technical conference.** Except for good cause shown, if an operator fails to timely submit a written request for a technical conference pursuant to paragraph (2) above, such failure shall be deemed to constitute an agreement by the operator to the shutdown or other Conservation Division action regarding the well.
- (4) **Administrative authority to recommence injection.** After receiving a written request for a technical conference from an operator pursuant to paragraph (2) above, the Conservation Division may consider, but not be limited to, the following in determining whether the operator will be authorized to recommence injection into the well:
  - (A) the mechanical integrity of the well for injection; and
  - (B) if construction and operation of the well demonstrates the injected substances are going into and are confined to the permitted injection interval.

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(5) **Resolution of disputes by order of the Commission.** In the event of a dispute between the Conservation Division and the operator as to the suitability of a well for injection, the operator or the Conservation Division may seek relief by order of the Commission. Upon application, notice, and hearing pursuant to OAC 165:5-7-1 and other applicable Commission rules, the Commission may issue an order determining whether or not the well should be used for further injection.

## **165:10-5-9. Duration of underground injection well orders or permits [AMENDED]**

(a) Subject to 165:10-5-10, 17 O.S. § 52, 52 O.S. § 139(D)(1) and other applicable authority, authorization of injection into injection wells and disposal wells shall remain valid for the life of the well, unless revoked by the Commission for just cause or lapses and becomes null and void under the provisions of 165:10-5-5(h).

(b) An order or permit granting underground injection may be suspended, modified, vacated, amended, or terminated during its term for cause. This may be at the Commission's initiative or at the request of any interested person through the prescribed complaint procedure of the Conservation Division. All requests shall be in writing and shall contain facts or reasons supporting the request.

(c) An order or permit may be suspended or temporarily modified by the Commission pursuant to 17 O.S. § 52, 52 O.S. § 139(D)(1), 165:10-5-7(g) and other applicable authority.

(d) An order or permit may be permanently modified, vacated, amended, or terminated after notice and hearing if:

(1) There is a substantial change of conditions in the enhanced recovery injection well or the disposal well operation, or there are substantial changes in the information originally furnished.

(2) Information as to the permitted operation indicates that the cumulative effects on the environment are unacceptable.

(e) If an operator fails to perform the initial mechanical integrity test on a well within eighteen (18) months after the effective date of the order or permit authorizing injection into the well, then the order or permit authorizing injection into the well shall expire.

## **165:10-5-10. Transfer of authority to inject [AMENDED]**

(a) An order or permit authorizing an enhanced recovery injection well(s), disposal well, commercial disposal well, or hydrocarbon storage well(s) shall not be transferred from one operator to another without the following:

(1) The new operator, or transferee, must comply with 165:10-1-10 before a change in operator is approved.

(2) Change of operator Form 1073I or Form 1073IMW must be signed by both the transferor and transferee, with both stipulating that the facts presented are true and correct as to the area covered and the wells being transferred. The new operator shall file Form 1073I or Form 1073IMW to notify the Conservation Division of any change of operation of any underground injection well within thirty (30) days of transfer of the well.

(3) The Form 1073IMW is intended to be used for multiple well transfers of ten (10) or more wells and must contain a list with the following information for each well:

(A) API number of the well;

(B) Well name and number;

(C) Legal location of the well, described by section, township, range, and quarter, quarter, quarter section calls;

(D) The Commission Order or permit number(s) authorizing the injection, disposal, or hydrocarbon storage activity; and

(E) Date the most recent mechanical integrity test was performed on the well and the result of the test.

(4) A current Form 1002A Completion Report must be on file with the Conservation Division in accordance with OAC 165:10-3-25. Upon review by the Conservation Division, it may require additional information from the transferor and/or the transferee to assist in identifying the specific well(s) being transferred. The additional information may include, but not be limited to, footages from the south and west quarter section lines, and the drilling and completion dates, and initial injection, disposal or storage dates.

(5) Notice in writing to the Commission on Form 1075 demonstrating that a mechanical integrity test and/or any required tracer survey was performed within one year prior to the date of transfer. For ~~commercial~~-disposal wells, the mechanical integrity test and/or any required tracer survey shall be conducted within 30 days prior to the date of transfer.

(6) The performance of the mechanical integrity test required in (a)(5) of this subsection shall not apply to any operator transfer when the following conditions are present:

(A) The interest of the currently designated operator is transferred to its subsidiary or parent company, or a subsidiary of a parent company;

(B) The interest of the currently designated operator is transferred to a surviving or resulting corporation or business entity due to, respectively, a merger, consolidation or reorganization involving the transferor and transferee. As used in this subparagraph, "business entity" means a domestic or foreign partnership, whether general or limited; limited liability company; business trust; common law trust, or other unincorporated business; or

(C) The currently designated operator undergoes a name change. The relief afforded by this subparagraph is not applicable to situations where the name change involves the following conditions:

- (i) The assignment of a new Federal Employer Identification number by the Internal Revenue Service to the new company;
- (ii) The name change is accompanied by a change in the majority of partners in a partnership;
- (iii) The name change is associated with a divorce between a husband and wife when the husband and wife comprise a partnership;
- (iv) The name change is associated with the death of one spouse in a partnership comprised of a husband and wife;
- (v) The name change involves a sole proprietorship; or
- (vi) The name change is associated with such other circumstances where the Commission determines upon application, notice and hearing that the relief provided in this subparagraph is not applicable, or that an exception to any exclusion should be granted.
- (vii) As used in this subparagraph, the term "partnership" means a domestic or foreign partnership, whether general or limited.

(7) A Form 1012, Form 1012C or Form 1012D for that portion of the calendar year the transferor has operated the well prior to submitting the Form 1073I to the Commission.

(b) The Conservation Division shall notify both the transferor and transferee by electronic mail or regular mail within thirty (30) days of the Conservation Division's approval or disapproval of the transfer of authority to inject for the subject well(s). If the Form 1073I or Form 1073IMW is disapproved, the operator shall have ninety (90) days from the date of the disapproval notification to correct the deficiencies. If the operator fails to correct the deficiencies and to resubmit the Form 1073I or Form 1073IMW within the ninety (90) day period, the Form 1073I or Form 1073IMW shall be considered withdrawn unless the time is extended by written request for good cause shown. The disapproval notification will explain the deficiencies that need correcting and will specify the expiration of the ninety (90) day period during which the deficiencies must be corrected.

(c) If an operator is not in compliance with an enforceable order or permit of the Commission, the Conservation Division shall not approve any Form 1073I or Form 1073IMW transferring well(s) to said operator until the operator complies with the order or permit. The transferor of the well(s) listed on the Form 1073I or Form 1073IMW remains responsible for the well(s) until any transfer is approved by the Commission.

(d) Before the operatorship of a well can be transferred to a new operator when the current or former operator is unavailable for signature, one of the following may be submitted as proof of operatorship:

- (1) A certified copy of a recorded lease or assignment transferring all rights, title, and interest to the wells described on Form 1073I or Form 1073IMW to the new operator.
- (2) A certified copy of a journal entry of judgment rendered by a district court of Oklahoma having jurisdiction over the wells described on Form 1073I or Form 1073IMW vesting legal title to the new operator.
- (3) A certified copy of a bankruptcy proceeding by the bankruptcy court having jurisdiction over the wells described on Form 1073I or Form 1073IMW.

### **165:10-5-15. Application for order or permit for simultaneous injection well [AMENDED]**

#### **(a) General.**

(1) Simultaneous injection of salt water without a valid permit from the Underground Injection Control Department (UIC Department) or Commission order may result in the assessment of a fine up to \$5,000 per day of operation.

(2) A simultaneous injection well shall be inspected by a representative of the Commission prior to operation.

#### **(b) Criteria for approval.**

(1) Simultaneous injection may be permitted if the following conditions are met and injection will not adversely affect offsetting production nor endanger treatable water:

- (A) Injection zone is located below the producing zone in the borehole.
- (B) Injection pressure is limited to less than the local fracture gradient.

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(C) A 1/4 mile plat will be required for all simultaneous injection well applications containing the information specified in OAC 165:10-5-5(b)(1)(A) and OAC 165:10-5-5(b)(1)(C). If unplugged ~~or, mud-plugged boreholes~~ and/or a wellbore that is configured in a manner that will not prevent the potential movement of fluids from the injection/disposal zone into treatable water strata are located within the 1/4 mile radius, the operator of the proposed simultaneous injection well will be required to submit a corrective action plan in writing to the UIC Department to address such boreholes so as to protect treatable water prior to an order or permit being issued.

(D) Simultaneous injectors must meet the requirements of OAC 165:10-3-4 as they apply to producing wells.

(E) Class II fluids from other wells operated by the operator of a simultaneous injection well may be disposed of in such simultaneous injection well if the operator applies on Form 1015 and obtains the issuance of a new permit or order pursuant to the requirements in OAC 165:10-5-5 pertaining to authorization of noncommercial disposal wells. The filing fee specified in OAC 165:5-3-1(b)(1)(E) must accompany the Form 1015 application.

(2) Required form and attachments. Each application for simultaneous injection shall be submitted to the UIC Department on Form 1015SI. The forms must be properly completed and signed. Attached to the application form shall be the following:

(A) Affidavit of mailing a copy of the completed Form 1015SI to each operator of a producing lease within 1/2 mile of the subject well and owner of the surface of the land on which the proposed simultaneous injection well is to be located.

(B) Schematic ~~diagram~~ diagram(s) of the current and proposed well wellbore showing all casing and tubing strings, top of cement for each string of casing, packers, perforations and pumps.

(C) Representative open hole wire-line log for the well.

(D) Qualitative and quantitative analysis of fresh water from two (2) or more freshwater wells within one (1) mile of the proposed injection or disposal well showing location of wells and dates samples were taken, or statement why samples were not submitted. The analysis shall include at a minimum contact information for the lab where the samples were analyzed, chloride, sodium, specific gravity, and total dissolved solids. Sample collection date(s) must be no more than 12 months prior to the date the application is filed.

(3) Monitoring, testing and reporting requirements for simultaneous injection wells.

(A) Upon receiving an order or permit, the operator shall file a Form 1002A Completion Report or an amended Form 1002A Completion Report within 60 days of completion or recompletion of the well.

(B) Mechanical integrity will be demonstrated by the operator performing a radioactive tracer survey on the well before the well is operated as a simultaneous injection well, and thereafter on an annual basis, reflecting that the injection fluids are going into the authorized zone(s). The radioactive tracer surveys must be submitted to the UIC Department within 7 days of the performance of the surveys, and the results of the surveys must be acceptable to the UIC Department before the well can be used as a simultaneous injection well.

(C) Annual Report Form 1012 shall be submitted to the UIC Department by January 31 of each year for the previous calendar year.

(4) If no protest is received within 15 days of the mailing of Form 1015SI, the application shall be submitted to the UIC Department for administrative review. If a protest is received within the protest period, the operator shall, within 30 days, set the application for hearing and give proper notice of a date for the hearing on the Pollution Docket before an Administrative Law Judge.

(c) **Expiration of the order or permit.** The simultaneous injection well order or permit shall expire on its own terms if the operator fails to perform the initial radioactive tracer survey on the well and submit the results of the survey to the UIC Department within 18 months after the effective date of the order or permit.

## SUBCHAPTER 7. POLLUTION ABATEMENT

### PART 1. GENERAL PROVISIONS

#### 165:10-7-2. Administration and enforcement of rules [AMENDED]



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- (a) The Manager of Pollution Abatement ~~and/or the Manager of the Underground Injection Control Department~~ shall supervise and coordinate the administration and enforcement of the rules of this Subchapter under the direction of the Director of Conservation and the Commission.
- (b) Site assessments and remediation projects for petroleum and produced water pollution should adhere to the general practices appearing in the Oil and Gas Conservation Division's Guardian Guidance document including the Guidelines and Numerical Criteria for New or Historic Produced Water/Brine Spills Appendix. Any alternative plan shall be approved by the Manager of Pollution Abatement prior to implementation.
- (c) **Specific areas of Conservation Division jurisdiction to which Pollution Abatement ~~and/or Underground Injection Control~~ rules apply:**
- (1) Field operations for geologic and geophysical exploration for oil, gas and/or brine, including seismic shot holes, stratigraphic test holes or other test wells.
  - (2) Exploration, drilling, development, production or processing of oil, gas and/or mineral brine at the lease site.
  - ~~(3) The exploration, drilling development and operation of wells used in connection with the recovery, injection, or disposal of mineral brines including construction, operation, maintenance, closure and abandonment of the facilities and activities.~~
  - ~~(4)(3).~~ Reclaiming and/or recycling facilities associated with the exploration, drilling, development, production or transportation of oil and/or gas (including the processing of saltwater, crude oil, natural gas condensate, tank bottoms or basic sediment from crude oil tanks, pipelines, pits and equipment).
  - ~~(5) Underground injection control pursuant to the federal Safe Drinking Water Act and 40 CFR parts 144 through 148 for Class II injection wells, Class V wells used for the recovery, injection or disposal of mineral brines as defined in the Oklahoma Brine Development Act.~~
  - ~~(6)(4).~~ Tank farms for storage of crude oil and petroleum products located outside the boundaries of refineries, petrochemical manufacturing plants, natural gas liquid extraction plants, or other facilities that are not subject to the jurisdiction of the Oklahoma Department of Environmental Quality.
  - ~~(7)(5).~~ Construction and operation of pipelines and associated rights-of-way, equipment, facilities or buildings used in the transportation of oil, gas, petroleum, petroleum projects, anhydrous ammonia or mineral brine, or in the treatment of oil, gas or mineral brine during the course of transportation [not including pipelines in natural gas liquids extraction plants, refineries, or reclaiming facilities other than those specified in OAC 165:10-7-2(c)(6)].
  - ~~(8)(6).~~ The handling, transportation, storage and disposition of saltwater, drilling fluids, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, production, and operation of oil and gas wells at any facility or activity specifically subject to Commission jurisdiction or other oil and gas extraction facilities and activities.
  - ~~(9)(7).~~ Spills of deleterious substances associated with facilities and activities specified in OAC 165:10-7-2(c)(8) or otherwise associated with oil and gas extraction and transportation activities.
  - ~~(10)(8).~~ Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission.
- (d) **Monitoring of sites.** Before consideration for closure by the Conservation Division or the Commission, the responsible party shall monitor a remediation project subject to implementation of the water quality standards for a period of one (1) year, unless:
- (1) Otherwise provided by Commission order, or
  - (2) As directed by the Manager of Pollution Abatement or designated Conservation Division staff.
- (e) **Public participation; Resolution of complaint or disagreement with Conservation Division staff.**
- (1) In any case where the Conservation Division determines the need for public participation in the resolution of a pollution complaint involving the implementation of the water quality standards or other issues relating to pollution, the Conservation Division may file an application and notice of hearing to request resolution of the complaint by adjudicative hearing and Commission order.
  - (2) In any case where a pollution complaint involving the implementation of the water quality standards or other issues relating to pollution cannot be resolved administratively between the responsible party and the complainant or because of a disagreement with the Conservation Division's Manager of Pollution Abatement, Manager of Field Operations, or other Conservation Division staff, regarding the complaint, the responsible party or the complainant may file an application and notice of hearing to request resolution of the complaint by adjudicative hearing and Commission order.

### 165:10-7-4. Water quality standards [AMENDED]

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(a) **Scope.** The Commission hereby adopts the State water quality standards established and promulgated by the ~~Oklahoma Water Resources Board (OWRB)~~ Oklahoma Department of Environmental Quality (ODEQ) or its successors effective October 7, 1987, and additions and revisions as lawfully published in the Oklahoma Register effective as provided by statute. The Commission's Oil and Gas Conservation Division (Conservation Division) shall implement the water quality standards with regard to its particular jurisdictional areas as referred to in 165:10-7-2(c).

(b) **General considerations.**

- (1) The primary goal of the implementation of the water quality standards in the context of a remediation project subject to Commission jurisdiction shall be the protection and/or restoration of the beneficial use of the land, the soil and any surface or subsurface waters of the State adversely impacted or impaired by pollution from a Commission regulated site or facility.
- (2) A remediation project utilizing the water quality standards shall adhere to the general practices appearing in the Conservation Division's *Oklahoma Water Quality Standards Implementation Plan (WQSIP)*.
- (3) Where appropriate, a remediation project utilizing the water quality standards shall follow the use support assessment protocols ~~(OWRB-OAC 785:46-7)~~ as specified in *Oklahoma Water Quality Standards Implementation Plan*.

## 165:10-7-5. Prohibition of pollution [AMENDED]

(a) **General.** Pollution is prohibited. All operators, contractors, drillers, service companies, pit operators, transporters, pipeline companies, or other persons shall at all times conduct their operations in a manner that will not cause pollution.

(b) **Workable coal seams.** Sections 305, 306, 307, and 308 of Title 52, Oklahoma Statutes Annotated, governing the drilling, operations, and plugging of oil and gas wells in workable coal beds are hereby adopted as rules of the Commission as fully as if set out verbatim herein.

(c) **Reporting nonpermitted discharges (spills, etc.).**

(1) All operators, contractors, drillers, service companies, pit operators, transporters, pipeline companies, or other persons conducting operations regulated by the Commission shall:

(A) Report by telephone, or by electronic mail, with respect to their operations, to the Commission District Office or Field Inspector within 24 hours of discovery:

- (i) Any non-permitted discharge of deleterious substances of ten bbls. or more (single event) within a non-lined earthen containment or to the surface soil outside of sufficiently impervious lined containment or non-lined earthen containment.
- (ii) Any discharge of a deleterious substance, regardless of quantity, to the waters of the State.
- (iii) Name of party reporting, firm name, telephone number, and electronic mail address.
- (iv) Legal location.
- (v) Lease or facility name.
- (vi) Operator.
- (vii) Circumstances surrounding discharge of deleterious substance(s) and whether discharge was to water or soil.
- (viii) Date of occurrence.
- (ix) Volumes of deleterious substance(s) discharged.
- (x) Type of materials discharged.
- (xi) Method of cleanup (if any) undertaken and completed.
- (xii) Volumes of deleterious substance(s) recovered.
- (xiii) Estimated time period for reclamation.
- (xiv) Plan for continued remedial undertaking (upon request by the Pollution Abatement Department).

(B) Maintain adequate records of each non-permitted discharge reflecting the information, time, and manner of reporting pursuant to this Section for a minimum of three (3) years. Such documents shall be produced upon demand by an authorized representative of the Commission.

(C) Report hazardous substances that meet reportable quantities under Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (40 C.F.R. Part 302) in the format as required under this subsection.

(2) Any operator, contractor, driller, service company, pit operator, transporter, or pipeline company who fails to comply with provisions of this rule may be fined \$500.00 per incident.

## SUBCHAPTER 11. PLUGGING AND ABANDONMENT

## 165:10-11-3. Duty to plug [AMENDED]

(a) **Scope.** This Section applies to:

- (1) Liability of the well owners and operator or other responsible person(s) to plug a well.
- (2) Time periods for plugging wells:
  - (A) Without casing.
  - (B) With only surface casing and cement.
  - (C) With production casing.
- (3) Wells exempted from plugging.
- (4) Notice of Temporary Exemption from Plugging granting permission to postpone plugging of a well.

(b) **Liability of owners and operators or other responsible persons(s).** Any working interest owner and operator of any oil, gas, disposal, injection, or other service well or any seismic, core, or other exploratory hole, whether cased or uncased, shall be jointly and severally liable and responsible for the plugging thereof in accordance with this Subchapter unless other responsible person(s) become liable for such plugging. "Other responsible person(s)" means person(s) exercising dominion and control over any oil, gas, disposal, injection, or other service well or any seismic, core, or other exploratory hole, whether cased or uncased, without the authority or permission of the working interest owners or operator thereof. In such instances the other responsible person(s) shall be jointly and severally liable with the owners and operator for the plugging of the well. The owner of the surface estate shall not be considered an "other responsible person" solely as a result of:

- (1) the reversion of the ownership of an abandoned wellbore and associated equipment to the surface owner, as a matter of law, unless the surface owner engages in activities that potentially compromise the integrity of the wellbore; or
- (2) the removal of abandoned surface equipment, trash and debris from the surface estate, or remediation activities regarding the surface estate.

(c) **Time period for plugging well without casing.** Each well in which neither production casing nor surface casing has been run shall be properly plugged within 72 hours after drilling or testing is completed. However, should the lack of production and surface casing create a fire hazard or a risk of contaminating the environment or formations containing oil, gas, or known treatable water, said well shall be properly plugged within 24 hours after drilling and testing is completed. The well marker requirement described in 165:10-3-4(f) shall be followed.

(d) **Time period for plugging well with only surface casing and cement.** Each well in which only surface casing has been run and cemented in conformance with 165:10-3-4 shall be properly plugged within 90 days after drilling or testing is completed unless the lack of production or intermediate casing creates a fire hazard or risk of contaminating the environment or formations containing oil, gas, or known treatable water, in which case or cases the well shall be plugged within 24 hours.

(e) **Time period for plugging well with production casing.** Unless exempted under provisions contained elsewhere in this Section, any well which has production casing in place shall be plugged within one year after the latter of:

- (1) Cessation of drilling if the well was not completed or tested; or
- (2) Cessation of the latter of completion or testing if the well has not produced; or
- (3) Cessation of production-;
- (4) A form 1002A completion report shall be filed for (1) indicating a well was drilled and not completed.

(f) **Operators failing to commence timely plugging operations.** An operator who fails to commence plugging operations as required in (c), (d), and (e) of this Section after due notice from the District Office or the appropriate field inspector may be fined up to \$1,000.00.

(g) **Wells exempted from plugging.** The following wells which have production casing in place shall be exempt from (e) of this Section:

- (1) Shut-in gas wells, for the purpose of this Section, shall be considered producing wells in operation.
- (2) Any well for which a written order of the Commission granting a specific exception to plugging is in full force and effect.
- (3) Supply wells or wells authorized by order of the Commission for injection or disposal purposes and are in compliance with the rules of the Commission.
- (4) Any well for which a temporary exemption from the plugging rules has been approved.
- (5) Any oil or gas well which is exempt from plugging pursuant to 17 O.S. § 53.

## 165:10-11-4. Notification and witnessing of plugging [AMENDED]

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(a) **Wells without production casing.** The appropriate Conservation Division District Office shall be notified at least 12 hours prior to commencement of plugging operations and a plugging procedure agreed upon for any well without production casing. Each plugging operation may be witnessed by an authorized representative of the Conservation Division.

(b) **Wells with production casing.** A separate Notification of Intention to Plug (Form 1001) for each well with production casing shall be filed with the appropriate Conservation Division District Office at least five days prior to the commencement of plugging operations and notify the appropriate Conservation Division District Office 24 hours before work is started. The five day notice requirement may be reduced or waived:

(1) If a qualified representative of the Conservation Division is available to witness the plugging operation.

(2) At the discretion of the District Manager of the District in which the well is located or his supervisor.

(c) **Expiration.**

(1) **Ninety-day period.** The Notification of Intention to Plug (Form 1001) shall expire ninety days after it is filed with the appropriate Conservation Division District Office, unless plugging operations are commenced and thereafter continued with due diligence to completion.

(2) **Thirty-day extension.** A thirty day extension of the Notification of Intention to Plug may be granted providing the Conservation Division staff determines that no material change of condition has occurred, if written request for the extension is received prior to the expiration date of the original Notification of Intention to Plug. Only one extension may be granted.

(d) **Penalty.** An operator or licensed plugger plugging a well without notifying and agreeing on a plugging procedure with the District Office may be fined up to \$1,000.00 and may be required by the appropriate District Manager to reenter and replug the well.

## 165:10-11-9. Temporary exemption from plugging requirements [AMENDED]

(a) **Scope.** The Commission may permit any well which is required to be properly abandoned pursuant to OAC 165:10-11-3, at the request of an operator, to be temporarily abandoned.

(b) **Application.** An application for a permit to temporarily exempt a well from the plugging requirement shall be made on Form 1003A completed in its entirety, and submitted to the address indicated on the Form 1003A.

(c) **Permit.**

(1) Any operator seeking approval for temporary abandonment shall submit a notice of intent to temporarily abandon the well, Form 1003A, to the address indicated on the Form 1003A describing the temporary abandonment procedure used.

(2) The permit will be valid for a period of five (5) years if the well passes a pressure test. The permit will be valid for a period of one (1) year if the well passes a fluid level test. At least 30 days prior to the expiration of any approved temporary abandonment permit, the operator shall return the well to beneficial use in accordance with Commission rules, or permanently plug and abandon said well, or apply for a new permit to temporarily abandon the well.

(3) No temporary abandonment will be approved that does not prevent the contamination of treatable water and/or other natural resources and the leakage of any substance at the surface.

(4) If the well fails the tests required herein the problem shall be found, corrected and a new test successfully conducted within 30 days or the well shall be plugged and abandoned in accordance with Commission rules.

(5) Upon successful completion of the work on the well, the operator will submit a new request for temporary abandonment to the address indicated on the Form 1003A.

(d) **Protection of treatable water.** The treatable water shall be protected by one or more of the following:

(1) A drillable, retrievable or temporary bridging plug set above the producing interval and below the top of the cement. The surface shall be capped with a valve in operational condition. A pressure test will be required by the appropriate District Office.

(2) A packer run on tubing and set above the producing interval and below the top of the cement. The well shall be equipped with suitable wellhead packoff equipment and be closed to the atmosphere. A pressure test will be required by the appropriate Conservation Division District Office.

(3) A fluid level test determined by use of equipment approved by the Conservation Division's Field Operations Department. The fluid level must be no higher than 150 feet below the base of the treatable water. The Field Inspector shall be notified at least 48 hours beforehand to be afforded the opportunity of witnessing the procedure. Additional tests may be required at any time at the request of the Conservation Division's Field Operations Department. The wellhead shall be closed to the atmosphere.

(4) A casing inspection log confirming the mechanical integrity of the production casing submitted to the appropriate Conservation Division's District Office.

(5) Alternate methods of testing may be approved by the Conservation Division's Field Operations Department by written application and upon showing that such a test will provide information sufficient to determine that the well does not pose a threat to natural resources.

(e) **Surface facilities.** The well site of a well with temporary exemption from the plugging requirements shall be kept in a neat and orderly manner, including lease roads, with a legible sign showing the name of the operator, operator telephone number, well name, number, and the legal location.

(f) **Termination of permit.** The permit for a temporary exemption from plugging shall terminate and plugging operations shall commence within 30 days after:

- (1) The time interval set has lapsed and a renewal has not been granted.
- (2) The lease or unit on which the exempted well was located has become nonproductive.
- (3) The fluid level has risen to a point less than 150 feet below the base of the treatable water.
- (4) The Conservation Division's Field Operations Department has determined that the surface area or wellhead equipment requirement does not meet the standards required by the Commission.

(g) **Exception to termination of permit.** An exception to the termination of an exemption from the plugging requirements shall be allowed if:

- (1) An application to convert the well to a disposal, injection, or supply well has been filed with the Commission, and proper notice, according to OAC 165:5, has been met.
- (2) An application requesting an exception to the plugging rules has been filed with the Commission and an exception has been granted by an order of the Commission.

### SUBCHAPTER 29. SPECIAL AREA RULES

#### 165:10-29-2. Alternative location requirements for horizontal well units [AMENDED]

(a) **Scope and effect.** The well location requirements of this Section apply to horizontal wells completed in horizontal well units in designated common sources of supply as specified in this Section. Horizontal wells covered by this Section are subject to OAC 165:10-3-28 and other applicable Commission rules except as provided in this Section.

(b) **Woodford shale-north and south laterals.**

- (1) This subsection applies to horizontal wells completed in the Woodford shale common source of supply where the lateral runs north and south.
- (2) The completion interval of a horizontal well subject to this subsection shall be located not less than the minimum distance from the boundary of a standard or non-standard horizontal well unit as follows:
  - (A) Not less than 330 feet from an east or west unit boundary.
  - (B) Not less than 165 feet from a north or south unit boundary.

(c) **Woodford shale-east and west laterals.**

- (1) This subsection applies to horizontal wells completed in the Woodford shale common source of supply where the lateral runs east and west.
- (2) The completion interval of a horizontal well subject to this subsection shall be located not less than the minimum distance from the boundary of a standard or non-standard horizontal well unit as follows:
  - (A) Not less than 165 feet from an east or west unit boundary.
  - (B) Not less than 330 feet from a north or south unit boundary.

(d) **Cherokee north and south laterals.**

- (1) This subsection applies to horizontal wells completed in the Cherokee common source of supply where the lateral runs north and south in the areas listed below. The areas controlled by this section include:

(A) **IN ELLIS COUNTY**

- (i) All sections of Township 20 North, Range 26 West;
- (ii) All sections of Township 20 North, Range 25 West;
- (iii) All sections of Township 19 North, Range 26 West;
- (iv) All sections of Township 19 North, Range 25 West;
- (v) All sections of Township 19 North, Range 24 West;
- (vi) Secs. 5, 6, 7, 8, 17, 18, 19, 20, 28, 29, 30, 31, 32, 33 of Township 19 North, Range 23 West;
- (vii) All sections of Township 18 North, Range 25 West;
- (viii) All sections of Township 18 North, Range 24 West;
- (ix) Secs. 5, 6, 7, 8, 17, 18, 19, 20 of Township 18 North, Range 23 West;
- (x) All sections of Township 17 North, Range 24 West;

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(xi) Secs. 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36 of Township 17 North, Range 23 West;

(xii) Secs. 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15 of Township 16 North, Range 24 West;

**(B) IN ROGER MILLS COUNTY**

(i) All sections of Township 18 North, Range 25 West;

(ii) All sections of Township 17 North, Range 24 West;

(iii) All sections of Township 18 North, Range 24 West; and

(iv) Secs. 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18 of Township 16 North, Range 24 West.

(2) The completion interval of a horizontal well subject to this subsection shall be located not less than the minimum distance from the boundary of a standard or non-standard horizontal well unit as follows:

(A) Not less than 660 feet from an east or west unit boundary.

(B) Not less than 165 feet from a north or south unit boundary.

(e) **Additional review.** Laterals outside the parameters in subsections (b) and (c) may require additional review by the Technical Services Department.

(f) **Appendix K.** See Appendix K for the area outline of Cherokee laterals.

## APPENDIX E. FINE SCHEDULE [AMENDED]

RULE	VIOLATION	FINE
165:10-1-10	Failure to maintain current surety.	\$500
165:10-3-1	Failure to obtain permit (Form 1000) to drill, re-enter, deepen or recomplete.	\$1,000
165:10-3-3	Failure to report casing string failure.	\$5,000
165:10-3-4	Failure to set sufficient surface casing or circulate cement.	\$5,000
165:10-3-4	Failure to run and cement surface well marker.	\$1,000
165:10-3-4	Failure to obtain permission to drill well more than 250 feet below treatable water or for alternate casing procedure.	\$2,500
165:10-3-4	Failure to report rupture, break or opening in surface casing.	\$1,000
165:10-3-17	Failure to remove fire hazards or comply after written notice.	\$1,000
165:10-3-17	Failure to remove trash, debris and junk from well site.	Up to \$1,000
165:10-3-17	Failure to post lease sign or OTC number.	\$50 per violation/\$500 per lease
165:10-3-25	Failure to file completion report, Form 1002A.	\$250
165:10-3-26	Failure to submit formation evaluation type well logs.	\$250
165:10-3-35	Failure to obtain authorization for multiple completion.	\$500
165:10-3-39	Failure to obtain permit for commingling.	\$500
165:10-5-2	Failure to obtain authorization for injection or disposal well.	\$5,000

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165:10-5-6	Failure to conduct/perform mandatory initial mechanical integrity test within rule timeframe.	\$500
165:10-5-6	Failure to perform subsequent mechanical integrity test.	\$500
165:10-5-6	Failure to perform fluid level test as required by order or permit.	\$1,000
165:10-5-7	Failure to file fluid injection report, Form 1012 or Form 1012C.	\$500
165:10-5-7	Failure to report mechanical integrity or down-hole problem regarding well.	\$1,500
165:10-5-13	Failure to obtain permit for annular injection of reserve pit fluids.	\$2,500
165:10-5-15	Failure to obtain permit for simultaneous injection well. Up to \$5,000 per day of operation	
165:10-7-5	Failure to report nonpermitted discharge.	\$500
165:10-7-7	Removing or ignoring a red tag (directive to shut down) regarding lease or facility.	\$5,000
165:10-7-10	Failure to comply with registration requirements for land application of deleterious substances.	\$2,500
165:10-7-14	Failure to obtain approval to drill deep anode groundbed.	\$1,000
165:10-7-16	Failure to obtain permit for construction of off-site pit.	\$1,000
165:10-7-16	Illegal discharge from noncommercial pit.	\$2,000
165:10-7-16	Failure to comply with any closure requirement for noncommercial pit.	\$1,000



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165:10-7-16	Failure to obtain an order or permit for noncommercial pit with capacity in excess of 50,000 barrels.	\$5,000
165:10-7-16	Illegal discharge from noncommercial pit with capacity in excess of 50,000 barrels.	\$5,000
165:10-7-16	Failure to comply with any closure requirement for noncommercial pit with capacity in excess of 50,000 barrels.	\$1,000
165:10-7-17	Failure to obtain permit to discharge produced water from tank or other containment vessel.	\$1,000
165:10-7-17	Failure to obtain permit to discharge fluids from reserve pit.	\$5,000
165:10-7-19	Failure to obtain permit for land application of water-based fluids from tanks/earthen pits/pipeline construction.	\$2,000
165:10-7-19	Failure to comply with requirements for land application of water-based fluids from tanks/earthen pits/pipeline construction.	\$2,000
165:10-7-19	Failure to submit Form 1014R post application report for land application of water-based fluids from tanks/earthen pits/pipeline construction.	\$500
165:10-7-26	Failure to obtain permit for land application of contaminated soils or petroleum hydrocarbon-based drill cuttings.	\$2,000
165:10-7-26	Failure to comply with requirements for land application of contaminated soils or petroleum hydrocarbon-based drill cuttings.	\$2,000
165:10-7-26	Failure to submit Form 1014R post application report for land application of contaminated soils or petroleum hydrocarbon-based drill cuttings.	\$500

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165:10-7-27	Failure to obtain permit to apply waste oil, waste oil residue, or crude oil contaminated soil to lease roads, pipeline service roads, tank farm roads, well locations and production sites.	\$2,000
165:10-7-29	Failure to obtain permit for application of freshwater drill cuttings to private access areas, well locations and production sites.	\$2,000
165:10-7-33	Failure to obtain permit for truck wash pit.	\$2,000
165:10-7-33	Failure to comply with closure requirements for truck wash pit.	\$2,000
165:10-7-34	Failure to obtain a permit for use of reclaimed water.	\$2,000
165:10-8-7	Failure to conduct cleanup of hydrocarbon recycling/reclaiming facility.	Up to \$1,000
165:10-8-7	Illegal discharge from hydrocarbon recycling/reclaiming facility.	\$5,000
165:10-9-1	Failure to obtain permit for construction and use of commercial pit.	\$5,000
165:10-9-1	Illegal discharge from a commercial pit.	\$5,000
165:10-9-1	Failure to close commercial pit as required by rule.	\$1,000
165:10-9-2	Failure to comply with commercial soil farming requirements.	\$2,000
165:10-11-1	Failure to acquire license to pull casing and plug wells.	\$2,500
165:10-11-3	Failure to plug well in rule timeframe.	\$1,000

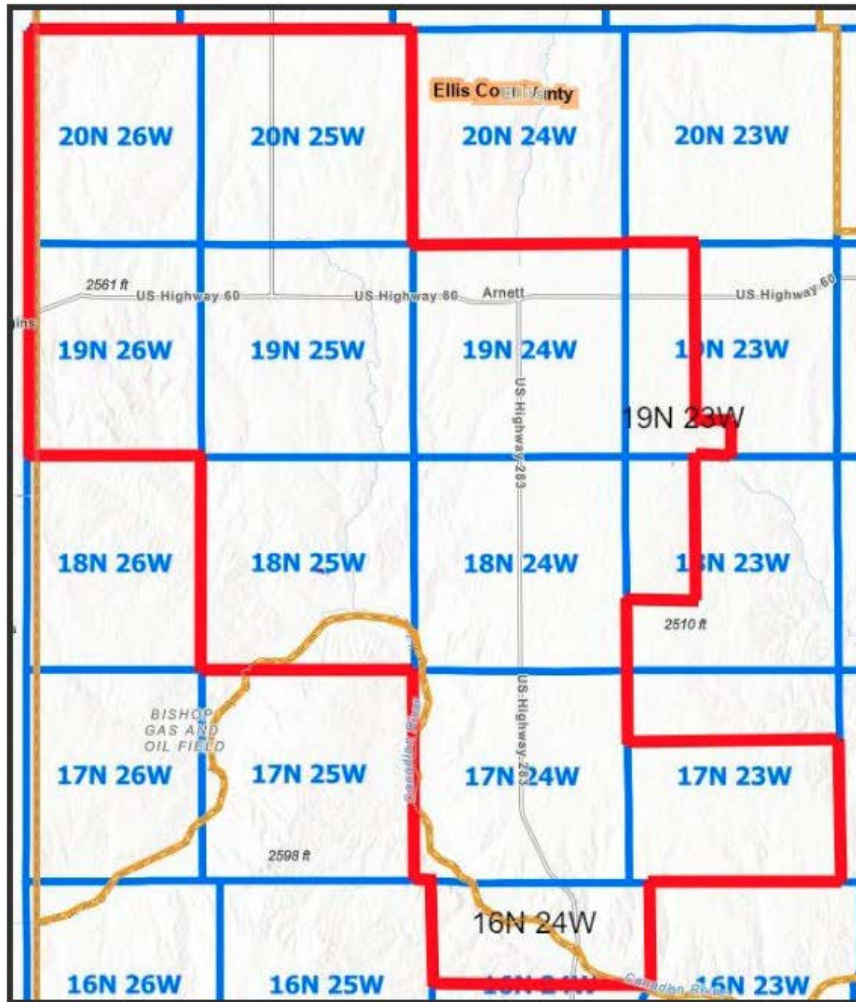
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165:10-11-4	Failure to obtain plugging instructions and notify District Office of time well is to be plugged.	\$1,000
165:10-11-7	Failure to file plugging report as required by rule.	\$500

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## APPENDIX K. CHEROKEE SPECIAL RULE PLAT [NEW]



[OAR Docket #25-421; filed 5-30-25]

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**TITLE 165. CORPORATION COMMISSION**

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# Permanent Final Adoptions

## CHAPTER 30. MOTOR CARRIERS, PRIVATE CARRIERS AND TRANSPORTATION NETWORK COMPANIES

*[OAR Docket #25-423]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 3. Intrastate Motor Carriers

Part 1. APPLYING FOR A LICENSE

165:30-3-1. Obtaining a license [AMENDED]

Part 3. LICENSE REQUIREMENTS

165:30-3-11. Insurance [AMENDED]

165:30-3-12. Identification device [AMENDED]

Part 13. SUSPENSION OR CANCELLATION OF LICENSE

165:30-3-102. Involuntary suspension or revocation of license [AMENDED]

165:30-3-103. Reinstatement of certificate or permit or license [REVOKED]

Subchapter 6. Transportation Network Companies

Part 1. APPLYING FOR A PERMIT

165:30-6-5. Insurance [AMENDED]

Part 7. SUSPENSION OR CANCELLATION OF PERMIT

165:30-6-49. Involuntary suspension or revocation of permit [AMENDED]

165:30-6-51. Reinstatement of TNC Permit [REVOKED]

Subchapter 7. Procedural Rules

165:30-7-5. Forms [AMENDED]

165:30-7-11. USDOT number [AMENDED]

Subchapter 10. Interstate Motor Carriers

Part 1. Compliance

165:30-10-7. Hazardous waste transportation [REVOKED]

Subchapter 13. Intrastate Household Goods Certificates

Part 1. OBTAINING AUTHORITY

165:30-13-2. Obtaining a household goods certificate [AMENDED]

Subchapter 15. Intrastate Private Carriers

Part 3. OBTAINING A PRIVATE CARRIER LICENSE AND LICENSE REQUIREMENTS

165:30-15-4. Obtaining a license [AMENDED]

165:30-15-5. License renewals [AMENDED]

165:30-15-6. Insurance [AMENDED]

165:30-15-9. Identification device [AMENDED]

Subchapter 17. Hazardous Waste Transporters

Part 1. GENERAL PROVISIONS [REVOKED]

165:30-17-1. Purpose and applicability [REVOKED]

165:30-17-2. Cooperation with other base states [REVOKED]

Part 3. Applying for Hazardous Waste Registration and Permit [REVOKED]

165:30-17-11. Selection of base state [REVOKED]

165:30-17-12. Obtaining a hazardous waste registration and permit [REVOKED]

165:30-17-13. Filing of proof of proper liability insurance [REVOKED]

165:30-17-14. Letter of filing [REVOKED]

165:30-17-15. Filing fee calculation [REVOKED]

165:30-17-16. Ownership of registration and permit [REVOKED]

Part 5. CONDUCTING OPERATIONS [REVOKED]

165:30-17-31. Shipping documentation [REVOKED]

165:30-17-32. Markings [REVOKED]

165:30-17-33. Leasing of equipment [REVOKED]

165:30-17-34. Name changes [REVOKED]

165:30-17-35. Address changes [REVOKED]

Part 7. VIOLATION, SUSPENSION OR REVOCATION OF A PERMIT

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165:30-17-54. Reinstatement of a hazardous waste permit [REVOKED]

**AUTHORITY:**

Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution, and 47 O.S. Sections 162, 230.24, and 1013

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

December 19, 2024

**COMMENT PERIOD:**

October 28, 2024 through December 10, 2024

**PUBLIC HEARING:**

December 10, 2024

**ADOPTION:**

December 10, 2024

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

December 19, 2024

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1033

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

July 11, 2025

**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 purpose of the proposed rule changes is to revoke outdated and unnecessary portions of the rules. Specifically, the changes mostly eliminate portions of the rules which involve provisional licenses and hazardous waste permits.

**CONTACT PERSON:**

Darren Ferguson, Deputy General Counsel and Agency Rules Liaison, Office of General Counsel, Oklahoma Corporation Commission, Will Rogers Memorial Office Building, 2401 North Lincoln Boulevard, P.O. Box 52000, Oklahoma City, OK 73105, (405) 522-5491, [Darren.Ferguson@occ.ok.gov](mailto:Darren.Ferguson@occ.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 JULY 11, 2025**

## SUBCHAPTER 3. INTRASTATE MOTOR CARRIERS

### PART 1. APPLYING FOR A LICENSE

## **165:30-3-1. Obtaining a license [AMENDED]**

(a) No intrastate motor carrier shall operate upon any street, road, public highway or dedicated public thoroughfare of this State for the transportation of passengers or property for hire without first obtaining from the Commission a license as provided in this Section. A license issued under this Subchapter shall not include transportation as a motor carrier of household goods. Motor carriers of household goods must comply with Subchapter 13 of this Chapter.

(1) An applicant for a license shall file with the Commission a written application on the appropriate form prescribed by the Commission (TDF 1), and shall tender with the application a filing fee as prescribed by law or by Commission rule.

(2) The application shall be assigned a personal identification number (PIN), which shall be the permanent identification number for all matters relating to authority granted therein. Any application thereafter filed to amend the license by the same applicant shall be filed in the same cause under the original PIN, and otherwise shall be governed by the provisions of this Chapter relating to an application for license. Each subsequent application shall also bear a sub-number in sequence.

(3) A license shall be personal to the holder thereof, and shall be issued only to an individual, a corporation, a limited liability corporation, a partnership or some other legally recognized entity.

(4) The filing of an application for a license does not of itself authorize any motor carrier operations by the applicant. Such operations are prohibited until after all requirements have been met, and a license has been issued. All requirements for compliance with this Chapter shall be met within thirty (30) days from date of receipt of a motor carrier license application by the Commission. Failure to comply will result in dismissal of the application for a license. Licenses issued shall be valid for a maximum of one year and may be renewed after application has been filed as provided by this Chapter.

(5) No license for intrastate operations shall be issued until after the applicant has provided a satisfactory USDOT safety rating or the applicant has demonstrated its ability to conduct operations in a safe and reasonable manner and applicant is in compliance with all applicable rules and laws of the State of Oklahoma; has furnished proper proof of all insurance required by this Chapter and all applicable state statutes; and has purchased an appropriate number of identification devices.

(6) The application shall require the following:

(A) Name, single trade name (if any), mailing address, physical address, email address, telephone number and domicile county of the applicant.

(B) The type of applicant (indicating if sole proprietorship, partnership, corporation or other legal entity), specifying the names of all partners, officers and/or directors listing the mailing, physical and email addresses of each.

(C) The type of operations for which the applicant is applying.

(D) The name and address of the motor carrier's process agent in Oklahoma (if the motor carrier does not maintain its principal place of business or a terminal in Oklahoma).

(E) Declaration of its USDOT number. Motor carriers without a USDOT number must obtain a USDOT number from FMCSA or the Commission prior to a license being issued.

(F) Declaration of its USDOT safety rating and safety compliance.

(G) Declaration of size and weight compliance.

(H) A listing of all power vehicles and trailers to be used, detailing the model, make and capacity of each vehicle and denoting whether each vehicle is owned or leased.

(I) A description of all terminal and dock facilities.

(J) Declaration the applicant is in full compliance with all other state laws, rules and regulations.

(K) Any other information the Commission deems pertinent.

(7) Every person operating under the Motor Carrier Act of 1995 and the rules of this Commission shall possess a copy of this Chapter governing the operations of motor carriers.

(8) A motor carrier desiring to modify its license operations shall file a sub application (TDF 1). Sub applications to include hazardous materials must comply with the provisions in this Section. Sub applications to modify other types of operations shall be exempt from (5) and (6) (D) -(I) of this subsection.

(9) A copy of the current license under which a motor carrier operates shall be carried at all times in each power unit by the motor carrier.

(b) A motor carrier engaged in intercorporate hauling shall be subject to this Subchapter.

(c) Motor carrier operations, other than motor carriers of passengers, are exempt from this Subchapter when:

(1) Conducted strictly within a municipality, or

(2) Conducted by a federal, state or local government.

(d) Motor carriers of passengers shall be exempt from this Subchapter when:

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- (1) Operating a taxicab, as defined by 47 O.S. § 1-174, wholly within a municipality, provided the operator of the taxicab is licensed by the municipality in which business is conducted;
- (2) Operating a bus, as defined by 47 O.S. § 1-105, not between two or more cities or towns, provided the operator of the bus is licensed by a municipality in which business is conducted.

~~(c)~~ Applicant may be issued a provisional intrastate license not to exceed ninety (90) days from the date application is filed, provided all other requirements for the intrastate license have been met. Applicant must provide a written request for the provisional intrastate license to the Director of the Transportation Division. If the provisional intrastate license is issued, a copy of the provisional intrastate license must be carried in each vehicle operated by the Applicant.

~~(f)~~(e) The Commission may grant or deny the motor carrier license application or may impose conditions, stipulations and limitations on the license. If the Commission deems a hearing on the application to be necessary, the hearing shall be set within thirty(30) days of receipt of a complete application.

~~(g)~~(f) No intrastate motor carrier license shall be issued to an applicant until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

~~(h)~~(g) All proceedings subsequent to the application, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.

## PART 3. LICENSE REQUIREMENTS

### 165:30-3-11. Insurance [AMENDED]

(a) No motor carrier whose principal place of business is in Oklahoma shall conduct any operations in this State unless such operations are covered by a valid primary bond or insurance policy issued by an insurer authorized or approved by the Oklahoma Insurance Department. No motor carrier whose principal place of business is not in Oklahoma shall conduct any operations in this State unless such operations are covered by a valid bond or insurance policy issued by an insurer licensed or approved by the insurance regulatory authority of the state of their principal place of business or the Oklahoma Insurance Department. No holder of an authority shall conduct any operations before a proper certificate of insurance(s) has been filed with, and approved by the Commission. A surety bond containing all obligations provided by this Section may be substituted for an insurance policy.

(b) Every motor carrier shall file with, and must be approved by, the Commission a certificate on Form E or G certifying that there is in effect a valid bond or insurance policy covering operations in Oklahoma to protect the public against loss of life, injury, property damage, and including environmental restoration in minimum amounts, of combined single limits, for bodily injuries to, or death of all persons injured or killed in any accident, and loss or damage in any one accident to property or others (excluding cargo). Minimum liability insurance limits as set forth in 49 CFR Part 387 shall also be applicable to intrastate operations unless otherwise specified in subsections (b)(1)-(4).

(1) Motor carriers of property using vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or more:

(A) Transporting property, non-hazardous commodities or transporting hazardous waste, materials or substances not listed in 49 CFR Part 387.9 - \$750,000.

(B) Transporting deleterious substances - \$750,000.

(C) Transporting hazardous waste, materials, or substances- as required by 49 CFR, Part 387.9.

(2) Motor carriers of property using only vehicles with a GVWR under 10,000 pounds:

(A) Transporting commodities not listed in (B) of this paragraph- \$300,000.

(B) Transporting hazardous waste, materials or substances - as required by 49 CFR Part 387.9.

(3) Motor carriers of the following types of property, materials, and products (also known or identified as restricted property) - \$350,000:

(A) Sand, rock, gravel, rip-rap, aggregate or dirt.

(B) Asphaltic mixtures and similar mixtures and compositions (excluding concrete and concrete mixtures) used in road, highway and other ground surface paving.

(C) Unprocessed forestry products and by products thereof not in a finished state.

(D) Unprocessed agricultural commodities.

(E) Ordinary livestock.

(4) Motor carriers of passengers (manufacturer's designed seating capacity includes the driver):

(A) Utilizing vehicles having a seating capacity of six (6) or less passengers - \$100,000.

(B) Utilizing vehicles having a seating capacity of seven (7) - nine (9) passengers - \$750,000.

(C) Utilizing vehicles having a seating capacity of ten (10) to fifteen (15) passengers - \$1,000,000.

(D) Utilizing vehicles having a seating capacity of sixteen (16) or more passengers \$5,000,000.

(5) Motor carriers of household goods - \$750,000.



- (c) Every motor carrier of freight, except a motor carrier of household goods, shall be exempted from filing proof of cargo liability insurance. Every motor carrier of household goods shall file with, and be approved by, the Commission an additional certificate on Form H or J that there is in effect a valid bond or insurance policy issued by a State Insurance Department authorized provider as security required to compensate shippers or consignees for loss of or damage to property coming into the motor carrier's possession. Security in the amount of at least Five Thousand Dollars (\$5,000) is required to cover loss of or damage to property carried on any one motor vehicle in connection with its transportation service and in the amount of Ten Thousand Dollars (\$10,000) for the loss of or damage to or aggregate of losses of or damages to property occurring at any one time and place.
- (d) Motor carriers of hazardous materials or hazardous waste shall maintain a properly executed Form MCS-82 or MCS-90 in effect as required by 49 CFR 387.
- (e) The Commission may by order grant authority to operate or to continue operating as a motor carrier conditional upon carrying insurance coverage in amounts larger than prescribed by (b) of this Section
- (f) No certificate of insurance or surety bond filed with the Commission pursuant to this Section shall be canceled, unless the authorization to conduct operations has been canceled, except after thirty (30) days written notice made to the Commission, on Form K or L, which notice shall be effective only upon actual receipt thereof by the Commission.
- (g) Insurance certificates or surety bonds may be canceled without the thirty (30) days written notice on Form K or L only when the authorization to operate has previously expired or canceled, the motor carrier provides an affidavit stating no operations have been conducted and the effective date of the cancellation notice is not before the date the cancellation notice is received in the Commission.
- (h) Insurance certificates or surety bonds not properly canceled or expired shall be considered expired one (1) year after the motor carrier's authorization to operate has been canceled or expired.
- (i) Insurance certificates or surety bonds approved by this Commission shall be replaced by more recent insurance certificates or surety bonds. The liability of the retiring insurer or surety shall be terminated as of the effective date of the replacement insurance certificate or surety bond provided the replacement is approved by this Commission.
- (j) No certificate of insurance shall be filed with the Commission, which contains a provision to the effect that liability thereunder may be limited or avoided because of the culpability, the recklessness, or the condition of the driver of the vehicle involved or any other restriction relating to the driving or operation of the vehicle.
- (k) Every certificate of insurance filed with the Commission shall provide that the public is protected from damage sustained through operations of any and all vehicles operated by the motor carrier insured, whether or not listed or identified in the policy; and that liability is not limited by the description of any particular vehicle or route which may be traveled by the motor vehicle in transporting passengers or property under the certificate or permit or license.
- (l) Every certificate of insurance filed with the Commission shall be executed by an officer or authorized agent of the insurance company; and if executed by an agent, a copy of his written authority or power of attorney to execute the same shall be attached to the certificate.
- (m) When insurance is provided by more than one insurer in order to aggregate security limits for motor carriers, a separate insurance certificate and endorsement is required of each insurer. For each motor carrier, no more than one primary insurance filing and no more than two excess insurance filings shall be approved.
- (n) Every motor carrier shall maintain in force at all times all insurance required by state laws and by this Section. Failure for any cause to maintain any required insurance in force shall automatically and without notice suspend the license or authority of a motor carrier until proper insurance is filed.
- (o) Whenever the license or authority of a motor carrier is suspended for failure to maintain in force insurance required by this Section, the carrier must file, within sixty (60) days after commencement of the suspension, proper certificate(s) of insurance as provided in this Section and a sufficient showing, by affidavit or otherwise, that no operations were conducted during the period that insurance was not in force (TDF 18).
- (p) Whenever a motor carrier fails to provide proper certificates of insurance within sixty (60) days after suspension thereof as provided in this Section, the motor carrier's certificate or permit, license, or other authority shall be canceled by operation of law, and without notice. A certificate or permit, license, or other authority so canceled shall not be reinstated or otherwise made operative except upon proper showing, at a hearing, that the motor carrier was actually covered by proper insurance during the suspension or cancellation period, and that failure to file with the Commission was not due to the motor carrier's own negligence.
- ~~(q) Any motor carrier conducting operations under a suspended or canceled authority shall not be eligible to apply for a new authority for a period of not less than one hundred eighty (180) days. The one hundred eighty (180) day period shall be determined by either the date insurance on file expires or the date a violation is discovered, whichever occurrence is later.~~
- ~~(r)~~(g). A person may not require indemnification from a motor carrier as a condition to the following:
- (1) The transportation of property by the motor carrier.

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(2) Entrance onto property by the motor carrier for the purpose of loading, unloading or transporting property.

(3) Subsection (r)(2) of this Section does not apply to a claim arising from damages or losses from the wrongful or negligent act or omission of the motor carrier.

~~(s)(r)~~ Insurance filings and cancellation notices required by this Chapter may be accepted electronically as set forth by the Transportation Division. Electronic insurance filings and cancellations shall be held to the same standard and carry the same force and effect as if accepted through traditional paper filings.

~~(t)(s)~~ Insurance companies or their underwriters desiring a hard copy of an approved or disapproved insurance filing or insurance cancellation must submit the insurance filing or insurance cancellation in duplicate and additionally provide a self-addressed stamped envelope.

## **165:30-3-12. Identification device [AMENDED]**

(a) Every motor carrier operating upon the public highways of the State of Oklahoma shall purchase and place within each power unit operated by said motor carrier an identification device issued by this Commission, and make available for inspection upon request.

(1) Only one (1) identification device is required for each power unit.

(2) The annual fee for each identification device will be as prescribed by law or Commission rule.

(3) Identification devices shall expire simultaneously with the expiration date of the annual license issued to the motor carrier.

(b) No identification device may be sold or otherwise transferred; except if such motor carrier provides a newly acquired vehicle in substitution therefor, each identification device on the discontinued vehicle, if such device is still in the possession of the motor carrier, may be transferred to the substitute vehicle or any subsequently substituted vehicle.

(c) Identification devices found to be in the possession of a carrier not authorized will be confiscated and returned to the Commission by a motor carrier enforcement officer.

(d) No identification devices will be issued to any motor carrier who does not meet all statutory, regulatory and Commission requirements.

~~(e) Identification device(s) must be purchased prior to the expiration of each annual expiration of a multiple year renewal license to extend the motor carrier license. Failure to timely purchase the identification device(s) will cause the motor carrier license to expire. Failure to purchase the identification device(s) within 30 days of the expiration of the license will cause the motor carrier license to automatically expire and subject to reinstatement rules as prescribed in OAC 165:30-3-103.~~

## **PART 13. SUSPENSION OR CANCELLATION OF LICENSE**

### **165:30-3-102. Involuntary suspension or revocation of license [AMENDED]**

(a) Any intrastate motor carrier license may be suspended or revoked by the Commission, or the holder thereof assessed a fine or other lawful punishment for violation of, or failure to comply with, any requirement or provision of law or of this Chapter.

(b) An application to revoke or suspend an intrastate motor carrier license may be filed by a member of the staff of the Commission or by a person adversely affected by the acts alleged. It shall be in the form of an application, and proceedings thereon, including notice and hearing if required, shall be as prescribed in the Oklahoma Corporation Commission's Rules of Practice, OAC 165:5.

(c) After hearing, the Commission may grant or deny the application, and may suspend or revoke the license, or any part thereof or rights thereunder, or the Commission may assess a fine or impose limitations or conditions upon the continuation of operations under the license as stated in the order.

~~(d) Any motor carrier conducting operations under a suspended or cancelled license, shall not be eligible to apply for a new license for a period of not less than one hundred eighty (180) days. Except for insurance violations as noted in 165:30-3-11, the one hundred eighty (180) day period shall begin the date a Commission order is signed suspending or cancelling a motor carrier license.~~

~~(e)(d)~~ The employment of incorporation, stock transfer, merger, change of name or similar action directly or indirectly as a device to evade subsection (d) of this Section is prohibited.

~~(f)(e)~~ Any violation of other state statutes or regulations shall be cause to initiate an application for suspension or revocation by staff or other adversely affected persons.

### **165:30-3-103. Reinstatement of certificate or permit or license [REVOKED]**

- (a) A motor carrier whose certificate, permit, license, or a portion thereof, has been cancelled by law or by order of the Commission, may file with the Commission a written application for reinstatement on the appropriate form prescribed by the Commission (TDF 8), and shall tender with the application a filing fee as prescribed by law or by Commission rule.
- (b) The application for reinstatement must be filed within three (3) months from the date the certificate, permit or license was cancelled by law or by Commission order and may be approved by the Director for Administrative reinstatement. Applications not approved for administrative reinstatement may be set for hearing.
- (c) The application shall be filed under the PIN as assigned to the certificate, permit, or license, with appropriate sub-number designation.
- (d) If the authority was revoked due to lack of insurance on file and the carrier cannot furnish proper proof of continuous insurance, the Commission may reinstate the certificate, permit or license only after a hearing has been held and notice thereof has been given as prescribed by the Oklahoma Corporation Commission's Rules of Practice, OAC 165:5.
- (e) No reinstatement shall be issued until all requirements of the certificate, permit or license have been fulfilled and a reinstatement fee as prescribed by law or Commission rule has been tendered.

### SUBCHAPTER 6. TRANSPORTATION NETWORK COMPANIES

#### PART 1. APPLYING FOR A PERMIT

##### **165:30-6-5. Insurance [AMENDED]**

- (a) No TNC shall conduct any operations in this State unless such operations are covered by a valid insurance policy issued by an insurer authorized or approved by the Oklahoma Insurance Department. No holder of a TNC permit shall conduct any operations before a proper certificate of insurance(s) has been filed with, and approved, by the Commission.
- (b) Every TNC shall file with the Commission a certificate on form TDF 30 certifying that there is in effect insurance coverage as set forth in the Oklahoma Transportation Network Company Services Act.
- (c) No certificate of insurance filed with the Commission pursuant to this Section shall be canceled, unless the authorization to conduct operations has been canceled, except after thirty (30) days written notice made to the Commission, on form TDF 31, which notice shall be effective only upon actual receipt thereof by the Commission.
- (d) Insurance certificates may be canceled without the thirty (30) days written notice on form TDF 31 only when the authorization to operate has previously expired or canceled.
- (e) Insurance certificates not properly cancelled or expired shall be considered expired one (1) year after the TNC's authorization to operate has been cancelled or expired.
- (f) Insurance certificates approved by this Commission shall be replaced by more recent insurance certificates. The liability of the retiring insurer shall be terminated as of the effective date of the replacement insurance certificate provided the replacement is approved by this Commission.
- (g) Every certificate of insurance filed with the Commission shall provide that the public is protected from damage sustained through operations of any and all vehicles operated by the TNC insured, subject to the terms and conditions provided for by the Oklahoma Transportation Network Company Services Act.
- (h) Every certificate of insurance filed with the Commission shall be executed by an officer or authorized agent of the insurance company; and if executed by an agent, a copy of his written authority or power of attorney to execute the same shall be attached to the certificate.
- (i) When insurance is provided by more than one insurer in order to aggregate security limits for TNCs, a separate insurance certificate is required of each insurer. For each motor carrier, no more than one (1) primary insurance filing and no more than two (2) excess insurance filings shall be approved.
- (j) Every TNC shall maintain in force at all times all insurance required by state laws and by this Section. Failure for any cause to maintain any required insurance in force shall automatically and without notice suspend the permit of a TNC until proper insurance is filed. No TNC operations shall be conducted unless proper insurance is on file with the Commission.
- (k) Whenever the permit of a TNC is suspended for failure to maintain in force insurance required by this Section, the TNC must file proper certificate(s) of insurance, as provided in this Section, within sixty (60) days after commencement of the suspension.
- (l) Whenever a TNC fails to provide proper certificates of insurance within sixty (60) days after suspension thereof as provided in this Section, the TNC's permit shall be cancelled. A permit so cancelled shall not be reinstated or otherwise made operative except upon proper showing that the TNC was actually covered by proper insurance during the suspension or cancellation period, and that failure to file with the Commission was not due to the TNC's own negligence.

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~~(m) Any TNC conducting operations under a suspended or cancelled permit shall not be eligible to apply for a new permit for a period of not less than one hundred eighty (180) days. The one hundred eighty (180) day period shall be determined by either the date insurance on file expires or the date a violation is discovered, whichever occurrence is later.~~

~~(n)(m)~~ Insurance filings and cancellation notices required by this Chapter may be accepted electronically as set forth by the Transportation Division. Electronic insurance filings and cancellations shall be held to the same standard and carry the same force and effect as if accepted through traditional paper filings.

## PART 7. SUSPENSION OR CANCELLATION OF PERMIT

### 165:30-6-49. Involuntary suspension or revocation of permit [AMENDED]

(a) Any TNC permit may be suspended or revoked by the Commission, or the holder thereof assessed a fine or other lawful punishment for violation of, or failure to comply with, any requirement or provision of law or of this Chapter.

(b) An application to revoke or suspend a TNC permit may be filed by a member of the staff of the Commission. It shall be in the form of an application, and proceedings thereon, including notice and hearing if required, shall be as prescribed in the Oklahoma Corporation Commission's Rules of Practice, OAC 165:5.

(c) After hearing, the Commission may grant or deny the application, and may suspend or revoke the permit, or the Commission may assess a fine or impose limitations or conditions upon the continuation of operations under the permit as stated in the order.

~~(d) Any TNC conducting operations under a suspended or cancelled permit shall not be eligible to apply for a new permit for a period of not less than one hundred eighty (180) days. Except for insurance violations as noted in 165:30-6-5, the one hundred eighty (180) day period shall begin the date a Commission order is signed suspending or canceling a TNC permit.~~

~~(e)(d)~~ The employment of incorporation, stock transfer, merger, change of name or similar action directly or indirectly as a device to evade subsection (d) of this Section is prohibited.

~~(f)(e)~~ Any violation of state statutes or regulations shall be cause to initiate an application for suspension or revocation by Commission staff or other state or federal governmental agency.

### 165:30-6-51. Reinstatement of TNC Permit [REVOKED]

~~(a) A TNC whose permit has been cancelled for lack of insurance, may file with the Commission a written application for reinstatement on the appropriate form prescribed by the Commission (TDF 8), and shall tender with the application a filing fee as prescribed by law or by Commission rule.~~

~~(b) The application for reinstatement must be filed within three (3) months from the date the permit was cancelled and may be approved by the Director of Transportation for administrative reinstatement. Applications not approved for administrative reinstatement may be set for hearing.~~

~~(c) If the authority was revoked due to lack of insurance on file and the TNC cannot furnish proper proof of continuous insurance, the Commission may reinstate the permit only after a hearing has been held and notice thereof has been given as prescribed by the Oklahoma Corporation Commission's Rules of Practice, OAC 165:5.~~

~~(d) No reinstatement shall be issued until all requirements of the permit have been fulfilled.~~

## SUBCHAPTER 7. PROCEDURAL RULES

### 165:30-7-5. Forms [AMENDED]

The following forms of the Commission relate to this Chapter:

(1) Intrastate license forms.

(A) TDF 1 - Application for Intrastate Motor Carrier For-Hire or Private Carrier License

(B) TDF 2 - Application for renewal of Intrastate Motor Carrier License

(2) Intrastate certificate forms.

(A) MCF 1 - Application for Household Goods Certificate

(B) MCF 2 - Application for Renewal of Household Goods Certificate

(C) MCF 8 - Application for Reinstatement of Household Goods Certificate

(D) Form H - Uniform Motor Carrier Cargo Certificate of Insurance

(E) Form J - Uniform Motor Carrier Cargo Surety Bond

(3) Interstate Form - Unified Carrier Registration

(4) Harvest Permit forms

(A) TOSS 1 - Application for Harvest Permit

(B) TOSS 2 - Application for Fifteen (15)-Day Harvest Permit Extension

- (5) Hazardous Waste forms.
  - (A) UPW - Part I - Registration
  - (B) UPW - Part II - Permit
  - (C) UPW - Part III - Other Information
  - (D) UPW - Part IV - Certification
  - (E) UPW - Uniform Program Fee Worksheet (Schedules A-D and Summary)
- (6) IFTA/IRP forms.
  - (A) IRP Schedule A - International Registration Plan Original Application-Schedule A
  - (B) IRP Schedule B - International Registration Plan- Schedule B
  - (C) IRP Schedule C - International Registration Plan Supplemental Application-Schedule
  - (D) IRP Schedule G - International Registration Plan Declaration of Estimated Miles- Schedule G
  - (E) IRP Misc 1 - International Registration Plan Affidavit for Lost/Stolen Tag and Additional Cab Cards
  - (F) IFTA Application - International Fuel Tax Agreement Registration Application
  - (G) IFTA QTR - International Fuel Tax Agreement Quarterly Report
- (7) Miscellaneous forms.
  - (A) TDF 3 - Application for Change of Name
  - (B) TDF 8 - Application for Reinstatement
  - (C) TDF 14 - Application for a Deleterious Substance Transport Permit
  - (D) TDF 16 - Application for Identification Devices
  - (E) TDF17 - Application for Address Change
  - (F) TDF 18 - Affidavit of No Operations
  - (G) Form E - Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance
  - (H) Form K - Uniform Notice of Cancellation of Motor Carrier Insurance Policies
  - (I) Form G - Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond
  - (J) Form L - Uniform Notice of Cancellation of Motor Carrier Surety Bonds
  - ~~(K) TDF 25 - Application for Motor Carrier Rules and Regulations~~
  - ~~(L) TDF 26 - Motor Carrier Rules and Regulations Update Notification~~
  - ~~(M)~~ ~~(K)~~ TDF 28 - Vehicle Information Request Form
- (8) Transportation Network Company forms
  - (A) TDF 29 - Application for Oklahoma Transportation Network Company Permit
  - (B) TDF 30 - Oklahoma Transportation Network Company Certificate of Insurance
  - (C) TDF 31 - Oklahoma Transportation Network Company Notice of Insurance Cancellation

## **165:30-7-11. USDOT number [AMENDED]**

- (a) Every person operating or intending to operate as a motor carrier in intrastate or interstate commerce shall obtain a USDOT number.
- (b) Every person registering a commercial motor vehicle for apportionment shall obtain a USDOT number.
- (c) Every person applying for an IFTA license shall obtain a USDOT number.
- (d) USDOT numbers for interstate operations can be obtained utilizing a MCS-150 form available from FMCSA or online at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).
- (e) USDOT numbers for intrastate only operations can be obtained online at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).
- (f) Motor carriers, registrants and licensees obtaining a USDOT number for interstate operations shall comply with all provisions of 49 C.F.R. 390.19, with the exception that applicants for apportioned registration must update their MCS-150 a minimum of once every twelve (12) months.
- (g) Motor carriers operating intrastate only shall update their MCS-150 ~~or TDF-19~~ a minimum of once every two (2) years.
- (h) All holders of a USDOT number shall notify the Commission, utilizing a ~~TDF-19 if intrastate only, or file~~ a new MCS-150 form with USDOT ~~or this Commission~~ when they cease operations in order to inactivate their USDOT number.
- (i) A USDOT number issued to an intrastate carrier will be inactivated when the intrastate carrier does not hold an active authority and two (2) or more Commission letters or notifications mailed to the last known email or mailing address on file are returned undeliverable.

## **SUBCHAPTER 10. INTERSTATE MOTOR CARRIERS**

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## PART 1. COMPLIANCE

### 165:30-10-7. Hazardous waste transportation [REVOKED]

~~An interstate carrier transporting hazardous waste shall comply with all provisions of OAC 165:30-17.~~

## SUBCHAPTER 13. INTRASTATE HOUSEHOLD GOODS CERTIFICATES

### PART 1. OBTAINING AUTHORITY

#### 165:30-13-2. Obtaining a household goods certificate [AMENDED]

(a) No motor carrier shall operate upon any street, road, public highway or dedicated public thoroughfare of this State for the intrastate, including intracity, transportation of household goods for hire without first obtaining from the Commission a certificate as provided in this Section.

- (1) An applicant for a certificate shall file with the Commission a written application on the appropriate form prescribed by the Commission (MCF 1), and shall tender with the application a filing fee as prescribed by law or by Commission rule.
- (2) The application shall be assigned a PIN, which shall be the permanent identification number for all matters relating to authority granted therein. Any application thereafter filed to amend the authority or for additional authority by the same applicant shall be filed under the original PIN, and otherwise shall be governed by the provisions of this Subchapter relating to an application for authority. Each subsequent application shall also bear a sub-number in sequence.
- (3) A certificate shall be personal to the holder thereof, and shall be issued only to an individual, a corporation, a limited liability corporation, a partnership or some other legally recognized entity.
- (4) The filing of an application for a certificate does not of itself authorize any motor carrier operations by the applicant. Such operations are prohibited except pursuant to a certificate issued by the Commission, and only after all requirements have been met, and identification devices have been obtained.
- (5) The application for a household goods certificate shall contain the following information:
  - (A) Name of applicant, trade name, email address, mailing address, principal place of business address which shall be the registered address for purposes of this Subchapter, telephone number and domicile county of the applicant. The applicant's name must be a legal entity. A trade name or "doing business as" (DBA) may be designated, but cannot be a corporate name or LLC or LLP or another organized entity. If the applicant is an organized entity, a copy of the certificate of incorporation or other instrument as issued by the Oklahoma Secretary of State's Office shall be attached to the application.
  - (B) The type of applicant (indicating if sole proprietorship, partnership, corporation or other legal entity), specifying the names of all partners, officers and/or directors and listing the email, mailing and physical addresses of each.
  - (C) Declaration of its USDOT number. Carriers without a USDOT number must apply for a USDOT number. A USDOT number must be issued to the applicant prior to a certificate being issued.
  - (D) Declaration of its safety rating and provide a safety summary report.
  - (E) A size and weight summary report.
  - (F) A listing of all power vehicles and trailers to be used, detailing the model, make and capacity of each vehicle and denoting whether each vehicle is owned or leased.
  - (G) A description of all terminal and dock facilities to be utilized for household goods transportation operations. If no facilities exist within the state, the address where vehicles will be parked must be provided.
  - (H) The name and address of a process agent for Oklahoma must be filed and maintained for any applicant that does not maintain a physical address in Oklahoma.
  - (I) A declaration that the applicant is in full compliance with all other state laws, rules and regulations.
  - (J) Any other information the Commission deems necessary.

(b) Every person operating as a motor carrier of household goods pursuant to this Subchapter shall obtain a copy of this Chapter and be familiar with its content as it pertains to motor carriers of household goods.

(c) The Commission may consider any written protests or written complaints filed prior to granting or renewing a household goods certificate. If the Commission elects not to grant or renew a household goods certificate, the application shall be set for public hearing in accordance with Commission rules. At the hearing, the applicant shall have the burden of establishing it has the ability to conduct operations in a safe and reasonable manner and applicant is in compliance with all applicable rules and laws of the State of Oklahoma.

(d) After the hearing, the Commission may grant or deny the application in whole or in part; or may impose conditions, stipulations and limitations on the authority as stated in the order.

~~(e) Applicant may be issued a provisional household goods certificate not to exceed ninety (90) days from the date the application is filed, provided all requirements, with the exception of the educational compliance requirements, for the certificate have been met. Applicant must provide a written request for the provisional certificate. If the provisional certificate is issued, a copy of the provisional certificate must be carried in each vehicle operated by the Applicant.~~

~~(f)(e)~~ A certificate shall be valid for one year from date of issuance. Applicants for renewal of a certificate shall comply with OAC 165:30-3-3.

~~(g)(f)~~ A copy of the current certificate under which a carrier operates shall be carried at all times in each power unit by the motor carrier.

~~(h)(g)~~ A motor carrier of household goods engaged in intercorporate hauling shall be subject to this Subchapter.

~~(i)(h)~~ No household goods certificate shall be issued to an applicant until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

~~(j)(i)~~ An intrastate motor carrier of household goods may additionally engage in intrastate for-hire transportation of property without an intrastate motor carrier license, but may not engage in the intrastate transportation of passengers, deleterious substances or hazardous materials without complying with Subchapter 3 of this Chapter.

~~(k)(j)~~ All proceedings subsequent to the application, and the conduct of the hearing, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.

## SUBCHAPTER 15. INTRASTATE PRIVATE CARRIERS

### PART 3. OBTAINING A PRIVATE CARRIER LICENSE AND LICENSE REQUIREMENTS

#### 165:30-15-4. Obtaining a license [AMENDED]

(a) No intrastate private carrier, utilizing equipment with an actual weight, registered weight or combination weight or GVWR/GCWR in excess of twenty-six thousand (26,000) pounds and/or GCWR in excess of twenty-six thousand (26,000) pounds when the trailer's GVWR is greater than ten thousand (10,000) pounds, shall operate upon any street, road, public highway or dedicated public thoroughfare of this State for the transportation of property without first obtaining from the Commission a license as provided in this Section. A private carrier license is not required for a bona fide farmer transporting commodities from farm to market or market to farm; registered and valid non-profit organizations or any private carrier operating equipment leased or rented from a company that leases or rents vehicles on a commercial scale, provided the lease or rental contract is for thirty-one (31) days or less and a copy of the contract is carried in the vehicle. A license issued under this Subchapter shall not include transportation as a for-hire motor carrier. For-hire motor carriers must comply with Subchapter 3 and/or Subchapter 13 of this Chapter.

(1) An applicant for a private carrier license shall file with the Commission a written application on the appropriate form prescribed by the Commission (TDF 1), and shall tender with the application a filing fee as prescribed by law or by Commission rule.

(2) The application shall be assigned a personal identification number ("PIN"), which shall be the permanent identification number for all matters relating to the license granted therein. Any application thereafter filed to amend the license by the same applicant shall be filed in the same cause under the original PIN, and otherwise shall be governed by the provisions of this Subchapter relating to an application for license. Each subsequent application shall also bear a sub-number in sequence.

(3) A license shall be personal to the holder thereof, and shall be issued only to an individual, a corporation, a limited liability corporation, a partnership or some other legally recognized entity.

(4) The filing of an application for a license does not of itself authorize any private carrier operations by the applicant. Such operations are prohibited until after all requirements have been met, and a license has been issued. All requirements for compliance with this Subchapter shall be met within sixty (60) days from date of application recommending the license be issued. Failure to comply may result in dismissal of the application for a license. Licenses issued shall be valid for a maximum of one (1) year and may be renewed after application has been filed as provided by this Chapter.

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(5) No license for private carrier intrastate operations shall be issued until applicant has a satisfactory USDOT safety rating or the applicant has demonstrated its ability to conduct operations in a safe and reasonable manner and applicant is in compliance with all applicable rules and laws of the State of Oklahoma; has furnished proper proof of all insurance required by this Subchapter and all applicable state statutes.

(6) The application shall require the following:

(A) Name, a single trade name (if any), email address, mailing address, physical address, telephone number and domicile county of the applicant.

(B) The type of applicant (indicating if sole proprietorship, partnership, corporation or other legal entity), specifying the names of all officers, if any, and listing the email, mailing and physical addresses of each.

(C) The type of operations for which the applicant is applying.

(D) The name and address of the motor carrier's process agent in Oklahoma (if the motor carrier does not maintain its principal place of business in Oklahoma).

(E) Declaration of its USDOT number, safety rating and a safety summary report which details its safety program and lists all safety violations identified within the prior twelve (12) months. Carriers without a USDOT number must attach a copy of its previously submitted application for a USDOT number. The applicant shall notify the Commission in writing of its USDOT number once issued, unless the USDOT number is issued by the Commission.

(F) A size and weight summary report which details its size and weight compliance program and lists all size and weight violations identified within the prior twelve (12) months.

(G) A listing of all power vehicles and trailers to be used, detailing the model, make and capacity of each vehicle and denoting whether each vehicle is owned or leased.

(H) A description of all terminal, dock or motor pool facilities.

(I) A declaration that the Applicant is in full compliance with all other state laws, rules and regulations.

(J) Any other information the Commission deems necessary.

(7) Every person operating under the Motor Carrier Act of 1995 and the rules of this Commission shall possess a copy of this Chapter governing the operations of motor carriers and private carriers.

(8) A private carrier desiring to modify its license shall file a sub application (TDF 1). Sub applications to include hazardous materials must comply with the provisions in this Section. Sub applications to modify other types of operations shall be exempt from (6)(D)-(G) of this subsection.

(9) A copy of the current license under which a carrier operates shall be carried at all times in each power unit by the private carrier.

~~(b) Applicant may be issued a provisional intrastate license not to exceed ninety (90) days from the date application is filed, provided all requirements, with the exception of the educational compliance requirements, for the intrastate license have been met. Applicant must provide a written request for the provisional intrastate license. If the provisional intrastate license is issued, a copy of the provisional intrastate license must be carried in each vehicle operated by the Applicant.~~

~~(c)(b).~~ No intrastate private carrier license shall be issued to an applicant until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

~~(d)(c).~~ An intrastate private carrier additionally conducting intrastate motor carrier operations under a valid motor carrier license, certificate or permit need not obtain a private carrier license.

~~(e)(d).~~ If a hearing is held, the applicant shall have the burden of establishing its ability to conduct operations in a safe and reasonable manner and in compliance with all applicable rules and laws of the State of Oklahoma and that it has furnished or will furnish proper proof of all insurance required by this Chapter and all applicable state statutes. The Commission may grant or deny the application or may impose conditions, stipulations and limitations on the license.

~~(f)(e).~~ All proceedings subsequent to the application, and the conduct of the hearing, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.

## 165:30-15-5. License renewals [AMENDED]

(a) Any private carrier desiring to continue intrastate private carrier operations as granted in its license, shall, prior to the date of license expiration, apply for renewal by submitting the appropriate application form (TDF 2) and all supporting documentation. Each renewal application shall be properly signed and attested to as follows:

(1) Application of sole proprietorship must be signed by owner.

(2) Application of partnership must be signed by one of the partners.

(3) Application of corporation must be signed by officer.



(b) All intrastate private carrier licenses issued by the Commission shall expire the same calendar month as issued, and shall be valid for a period of one year, ~~but may be renewed for up to three years. Carriers renewing licenses for more than one year must maintain all requirements of that license as prescribed in Part 3 of this Subchapter in order for the license to be valid.~~

(c) Renewal applications shall be accompanied by a filing fee as prescribed by the Commission, unless filed simultaneously with a sub application to modify operations.

(d) A renewal application may be set for hearing in the discretion of the Commission for good cause. All proceedings subsequent to the application, and the conduct of the hearing, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.

(e) An intrastate private carrier desiring to renew its license should apply for renewal of its license a minimum of thirty (30) days prior to its expiration.

(f) A renewal application will not be accepted if the license has previously expired, unless the Director of the Transportation Division reviews and approves the acceptance of the application for renewal.

(g) No intrastate private carrier license shall be renewed until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

(h) No intrastate private carrier operations shall be performed under an expired private carrier license.

### **165:30-15-6. Insurance [AMENDED]**

(a) No intrastate private carrier required to obtain a private carrier license whose principal place of business is in Oklahoma shall conduct any operations in this State unless such operations are covered by a valid primary bond or insurance policy issued by an Oklahoma State Insurance Commission authorized provider. No private carrier required to obtain a private carrier license shall conduct any operations in this State unless such operations are covered by a valid bond or insurance policy issued by a NAIC certified state insurance commission licensed provider. No holder of a license shall conduct any operations before a proper certificate of insurance(s) has been filed with, and approved by the Commission. A surety bond containing all obligations provided by this Section may be substituted for an insurance policy.

(b) Every intrastate private carrier of property is required to obtain a private carrier license, and shall file with, and must be approved by, the Commission a certificate on Form E or G certifying that there is in effect a valid bond or insurance policy covering operations in Oklahoma to protect the public against loss of life, injury and property damage in minimum amounts, of combined single limits, for bodily injuries to or death of all persons injured or killed in any accident, and loss or damage in any one accident to property or other (excluding cargo), as follows:

(1) Transporting non-hazardous commodities or commodities not mentioned in (B)-(C) of this subsection - \$350,000.

(2) Transporting deleterious substances - \$750,000.

(3) Transporting hazardous waste, materials, substances, explosives, poison gas or highway controlled radioactive materials as defined in and as required by 49 CFR, Parts 100 through 399.

(c) The Commission may by order grant authority to operate or to continue operating as a private carrier conditional upon carrying insurance coverage in amounts larger than prescribed by (b) of this Section.

(d) No certificate of insurance or surety bond filed with the Commission pursuant to this Section shall be canceled, unless the authorization to conduct operations has been canceled, except after thirty (30) days written notice made to the Commission, on Form K or L, which notice shall be effective only upon actual receipt thereof by the Commission.

(e) Insurance certificates or surety bonds may be canceled without the thirty (30) days written notice on Form K or L only when the authorization to operate has previously expired or cancelled, the carrier provides an affidavit stating no operations have been conducted and the effective date of the cancellation notice is not before the date the cancellation notice is received in the Commission.

(f) Insurance certificates or surety bonds not properly cancelled or expired shall be considered expired one (1) year after the carrier's authorization to operate has been cancelled or expired.

(g) Insurance certificates or surety bonds approved by this Commission shall be replaced by more recent insurance certificates or surety bonds. The liability of the retiring insurer or surety shall be terminated as of the effective date of the replacement insurance certificate or surety bond provided the replacement is approved by this Commission.

(h) No certificate of insurance shall be filed with the Commission which contains a provision to the effect that liability thereunder may be limited or avoided because of the culpability, the recklessness, or the condition of the driver of the vehicle involved or any other restriction relating to the driving or operation of the vehicle.

(i) Every certificate of insurance filed with the Commission shall automatically provide that the public is protected from damage sustained through operations of any and all vehicles operated by the private carrier insured, whether or not listed or identified in the policy; and that liability is not limited by the description of any particular vehicle or route which may be traveled by the motor vehicle in transporting passengers or property under the license.

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- (j) Every certificate of insurance filed with the Commission shall be executed by an officer or authorized agent of the insurance company; and if executed by an agent, a copy of his written authority or power of attorney to execute the same shall be attached to the certificate.
- (k) When insurance is provided by more than one insurer in order to aggregate security limits for private carriers, a separate insurance certificate and endorsement is required of each insurer. For each motor carrier, no more than one (1) primary insurance filing and no more than two (2) excess insurance filings shall be approved.
- (l) Every private carrier shall maintain in force at all times all insurance required by state laws and by this Section. Failure for any cause to maintain any required insurance in force on file with the Commission shall automatically and without notice suspend the license of a private carrier until proper insurance is filed.
- (m) Whenever the license of a private carrier is suspended for failure to maintain in force insurance required by this Section on file with the Commission, the carrier must file, within sixty (60) days after commencement of the suspension, proper certificate(s) of insurance as provided in this Section and a sufficient showing, by affidavit or otherwise, that no operations were conducted during the period that insurance was not in force (TDF 18).
- (n) Whenever a private carrier fails to provide proper certificates of insurance within sixty (60) days after suspension thereof as provided in this Section, the private carrier's license shall be cancelled by operation of law, and without notice. A license so cancelled shall not be reinstated or otherwise made operative except upon proper showing, at a hearing, that the private carrier was actually covered by proper insurance or proper certificate during the suspension or cancellation period, and that failure to file with the Commission was not due to the private carrier's own negligence.
- ~~(o) Any private carrier conducting operations under a suspended or cancelled license shall not be eligible to apply for a new license for a period of not less than one hundred eighty (180) days. The one hundred eighty (180) day period shall be determined by either the date insurance on file expires or the date a violation is discovered, whichever occurrence is later.~~

## **165:30-15-9. Identification device [AMENDED]**

- (a) Every private motor carrier operating upon the public highways of the State of Oklahoma shall obtain and display a current identification device issued by this Commission, for each power unit operated by said private motor carrier and make it available for inspection upon request.
- (1) Only one (1) identification device is required for each power unit.
  - (2) The annual fee for each identification device will be as prescribed by law or Commission rule.
  - (3) Identification devices shall expire simultaneously with the expiration date of the annual license issued to the motor carrier.
- (b) No identification device may be sold or otherwise transferred.
- (c) Identification devices found to be in the possession of a carrier not authorized will be confiscated and returned to the Commission by the motor carrier enforcement officer.
- (d) No identification devices will be issued to any private motor carrier who does not meet all statutory, regulatory and Commission requirements.
- ~~(e) Identification device(s) must be acquired prior to the expiration of each annual expiration of a multiple year renewal license to extend the motor carrier license. Failure to timely acquire the identification device(s) will cause the motor carrier license to expire. Failure to acquire the identification device(s) within 30 days of the expiration of the license will cause the motor carrier license to automatically expire and become subject to reinstatement rules as prescribed in OAC 165:30-3-103.~~

## **SUBCHAPTER 17. HAZARDOUS WASTE TRANSPORTERS**

### **PART 1. GENERAL PROVISIONS [REVOKED]**

#### **165:30-17-1. Purpose and applicability [REVOKED]**

- ~~(a) The rules in this Subchapter are intended to implement a uniform registration and permitting program for motor carriers who transport hazardous waste in interstate or intrastate commerce of a type and amount that requires the shipment to be accompanied by a Uniform Hazardous Waste Manifest contained in 40 CFR, Part 262; and to conform to the procedures and requirement contained in the report submitted to the secretary of transportation pursuant to Section 22 of the HMTUSA by the Alliance for Uniform Hazardous Materials Transportation Procedures (49 USC app 1801-1813 amended by Sec. 20).~~
- ~~(b) The rules in this Subchapter are intended to reflect or complement the procedures as set forth by the Alliance. In the event of conflict, the procedures as set forth by the Alliance will prevail.~~

(c) Motor vehicles owned and operated by a local, state, or federal government, or any other political subdivision, are not subject to the provisions of this Subchapter.

(d) The Transportation Division may enter into agreements with federal agencies, a national repository or other participating states as necessary to allow the reciprocal registration and permitting of motor carriers transporting hazardous waste. The agreements may include procedures for determining a base state, the collection and distribution of registration fees, dispute resolution, the exchange of information for reporting and enforcement purposes, and other provisions necessary to fully implement, administer and enforce the uniform program.

(e) This Subchapter preempts and supersedes any hazardous waste transportation registration or permitting program administered or enforced by any state agency, city, county, or other political subdivision of the state.

### **165:30-17-2. Cooperation with other base states [REVOKED]**

—The Commission will cooperate with other base states in exchanging information and transmitting funds relating to motor carriers registered and permitted under the Alliance.

## **PART 3. APPLYING FOR HAZARDOUS WASTE REGISTRATION AND PERMIT [REVOKED]**

### **165:30-17-11. Selection of base state [REVOKED]**

(a) A motor carrier transporting or intending to transport hazardous waste in and/or through a participating state must register and/or permit in a participating state.

(b) If the motor carrier's principal place of business is in a participating state, the motor carrier must use its principal place of business state as its base state.

(c) If the motor carrier's principal place of business is not in a participating state, the motor carrier shall select the participating state in which it operates the most miles (based upon IRP percentages).

(d) A motor carrier's base state may change due to the motor carrier changing its principal place of business or due to the entry of new states into the uniform program. Procedures set forth by the Alliance will be followed as it pertains to the changing of a motor carrier's base state.

### **165:30-17-12. Obtaining a hazardous waste registration and permit [REVOKED]**

(a) A motor carrier with its principal place of business in Oklahoma, or that designates Oklahoma as its base state, shall register as a hazardous waste transporter with and obtain a permit from the Commission before transporting a hazardous waste in or through Oklahoma. A motor carrier that designates another participating state as its base state shall register as a hazardous waste transporter and obtain a permit from that state before transporting a hazardous waste in or through the state of Oklahoma.

(b) A motor carrier who engages in interstate or intrastate transportation of a hazardous waste and who is required to register its hazardous waste transportation in Oklahoma shall file parts I, II and IV of the uniform application (UPW) with the Commission and pay the prescribed fees for registration and permits for its Oklahoma waste transportation as well as fees for reciprocal states.

(c) Upon a motor carrier's compliance with this Subchapter, the Commission shall issue a Hazardous Waste Registration and/or Permit to the motor carrier within ninety (90) days. Motor carriers must maintain valid liability insurance on file with this Commission in accordance with OAC 165:30-3-11. Failure to do so shall subject the registration or permit to revocation.

(d) The Commission shall not issue a registration or permit to a motor carrier if the Commission determines that a motor carrier's conduct would constitute grounds for suspension or revocation under this Subchapter. The Transportation Division may elect to request additional information from the motor carrier to support the motor carrier's application for registration and/or permit. Additional information requested shall be based upon the motor carrier's compliance with the federal motor carrier safety regulations.

(e) A registration is valid for one (1) year and a permit is valid for three (3) years unless the motor carrier fails to renew its registration, the permit is suspended or revoked or there is a substantial change in the motor carrier's operations during the permitting period.

(f) Each motor carrier shall file a Part I - Registration of the uniform application (UPW - Part I) on an annual basis. However, for the first year after the effective date of this Subchapter, the Transportation Division may stagger the registration date for motor carriers. Registration fees shall be apportioned for any quarterly time frame exceeding one (1) year.

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(g) Each motor carrier shall additionally file a Part II - Permitting of the uniform application (UPW - Part II) every (3) three years. However, for the first year after the effective date of this Subchapter, the Transportation Division may divide the total pool of applicants to be granted a uniform permit into three (3) classes. The first class may be granted uniform permits with a term of one (1) year; the second class may be granted uniform permits with a term of two (2) years; and the third class may be granted uniform permits for three (3) years. Permit fees shall be apportioned for any permit time not equaling a three (3) year time frame.

(h) Each uniform registration and permit application shall contain certification by a responsible official of the applicant who is authorized to certify applications for registrations and permits on behalf of the applicant. Such certification shall contain the following statement, "I certify that, to the best of my knowledge and after due investigation, the information contained in this application is true, accurate, and complete" and shall contain the name, title, and telephone number of the official certifying the application. Such certification must be signed and dated by the official certifying the application.

(i) No registration or permit shall be issued to a motor carrier with outstanding fines owed to another state agency.

(j) A registered and permitted motor carrier shall maintain a copy of its valid registration and permit for Hazardous Waste in each vehicle when transporting a hazardous waste.

(k) The hazardous waste registration and permit are nontransferable.

## 165:30-17-13. Filing of proof of proper liability insurance [REVOKED]

—— All motor carriers shall comply with the provisions of 165:30-3-11.

## 165:30-17-14. Letter of filing [REVOKED]

(a) A motor carrier may provide a written request for a letter of filing that, if issued, will allow a motor carrier to operate in the base state and reciprocal states for a period of up to 90 days while the motor carrier's application for registration and permit is being processed.

(b) The Commission shall not issue a letter of filing to a motor carrier until the motor carrier has complied with initial requirements of this Subchapter pending staff's review of the motor carrier's safety compliance. The letter of filing may be rescinded if the motor carrier fails to fully comply with all requirements of this Subchapter.

(c) A letter of filing cannot be issued by the Commission to a motor carrier whose principal place of business is located in a reciprocal state or to a motor carrier who is currently registered with a reciprocal state.

(d) A copy of the letter of filing shall be carried in each vehicle transporting hazardous waste operated by the applicant.

## 165:30-17-15. Filing fee calculation [REVOKED]

(a) Part I of the uniform application, (UPW - Part I) requires a processing fee of \$50.00 and must be submitted annually for renewal of registration. An amount, as set forth by the Alliance, shall be added to the annual registration processing fee to be collected by the Commission and remitted to the Alliance.

(b) Each motor carrier shall submit with its registration application a double apportioned vehicle waste transporter registration fee which shall be equal to the percentage of Oklahoma transportation (IRP %) multiplied by the total number of vehicles the motor carrier operates, rounded up to the next whole number, multiplied by the percentage of the motor carrier's total hazardous waste activity multiplied by a per-vehicle fee of \$100.00.

(c) A motor carrier may use data from its most recently complete fiscal year or the most recent complete calendar year in calculating the percentages required in this Subchapter for transportation conducted during the previous year.

(d) Part II of the uniform application, Permitting, requires a permit review fee of \$500.00.

(e) Fee calculation for reciprocal states is found in the Uniform Program Fee Worksheet (Schedules A - D and Summary) of the uniform application.

## 165:30-17-16. Ownership of registration and permit [REVOKED]

—— Hazardous waste permits shall be considered personal to the holder thereof and shall be issued only to some definite legal entity. The motor carrier may list a single trade name provided the trade name is not a definite legal entity. Permits are not subject to lease, nor shall the holder thereof sublet or permit the exercise, by another.

## PART 5. CONDUCTING OPERATIONS [REVOKED]

## 165:30-17-31. Shipping documentation [REVOKED]

—— Each shipment shall be accompanied by a uniform hazardous waste manifest as specified in 40 CFR, Part 262 or other manifest as required by the state.

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## 165:30-17-32. Markings [REVOKED]

~~— All motor carriers shall comply with the provisions of 165:30-3-17.~~

## 165:30-17-33. Leasing of equipment [REVOKED]

~~— All motor carriers engaged in interstate commerce will be required to carry a copy of the lease contract in each and every power unit.~~

## 165:30-17-34. Name changes [REVOKED]

(a) Any change in legal identity of the holder of a hazardous waste, except as provided in subsections (b), (c) or (d) below, including but not limited to incorporation or dissolution of a corporation, formation or dissolution of a partnership or creation or dissolution of a trust, shall require an original application for a registration and permit.

(b) Incorporation by a sole proprietor in which the sole proprietor is the majority shareholder of the corporation, limited liability corporation or limited liability partnership shall be deemed a name change. Incorporation by a partnership in which the partners are the majority shareholders of the corporation shall be deemed a name change.

(c) A change in legal entity from a corporation, limited liability corporation or a limited liability partnership to a sole proprietorship, a partnership, a limited liability corporation or a limited liability partnership in which the sole proprietor, partners or shareholders hold the majority of all issued and outstanding shares of the corporation shall be deemed a name change.

(d) The merger of two or more corporations in which the survivor is the holder of a current license shall be deemed a name change.

(e) The transfer of stock in a corporation that shall result in any entity controlling fifty-one percent (51%) or more of the aggregate number of voting shares of the corporation shall not be deemed a name change.

(f) A request for a name change shall be in writing and shall be accompanied by copy of the Certificate of Incorporation, Amended Certificate of Incorporation or similar documentation (if applicable) and a \$50.00 name change filing fee. The request for name change must be signed by the owner (if an individual). If a partnership is adding or removing a partner(s) all partners (whether existing, added or removed) must sign the request and current demographics information must be provided. If a corporation has amended its name, a corporate office must sign the request. If the officers of the corporation have changed, a listing of all officers including the email, mailing and physical addresses of each must additionally be attached to the request.

(g) Proper insurance filings or bonds must be placed on file with this Commission reflecting the new name.

(h) The employment of incorporation, change of name or similar action directly or indirectly as a device to circumvent the rules of this Subchapter is prohibited.

## 165:30-17-35. Address changes [REVOKED]

~~— A motor carrier shall notify the Commission in writing of any change in the motor carrier's email, mailing or physical address or telephone number.~~

## PART 7. VIOLATION, SUSPENSION OR REVOCATION OF A PERMIT

## 165:30-17-54. Reinstatement of a hazardous waste permit [REVOKED]

~~— If the permit holder believes the Commission has revoked its permit without good cause, the registrant may petition the Commission for relief, as prescribed in the Commission's Rules of Practice, OAC 165:5.~~

*[OAR Docket #25-423; filed 5-30-25]*

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## TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 1. STATE BOARD OF EDUCATION

*[OAR Docket #25-475]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

# Permanent Final Adoptions

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210:1-1-2. Definitions [AMENDED]

210:1-1-3. Powers, duties, and officers [REVOKED]

210:1-1-5. Administrative office [AMENDED]

210:1-1-6. Meetings [AMENDED]

210:1-1-7. Purpose [AMENDED]

Subchapter 3. Departmental Precepts

210:1-3-1. Nature [AMENDED]

210:1-3-5. Civil Rights [REVOKED]

210:1-3-11. Open Records Act [AMENDED]

Subchapter 5. Due Process

210:1-5-3. ~~Declaratory ruling~~ Petition requesting promulgation, amendment or repeal of a rule [AMENDED]

210:1-5-6. Suspension and/or revocation of certificates [AMENDED]

## **AUTHORITY:**

Department of Education; Ok. Const. art. XIII § 5, 70 O.S. § 1-105, 70 O.S. § 3-104, 70 O.S. § 6-184, 51 O.S. §§ 24A.1 et seq, 25 O.S. §§ 301 et seq, 75 O.S. §§ 250 et seq

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

Purpose of changes are to ensure clarity and uniformity. Updates are necessary to bring rules in conformity with statute and state law.

## **CONTACT PERSON:**

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# Permanent Final Adoptions

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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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 210:1-1-2. Definitions [AMENDED]

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

**"Administrator"** means a duly certified person who devotes a majority of time to service as a superintendent, principal, vice principal, or in any other administrative or supervisory capacity in a school district.

**"Nonreemployment"** means the nonrenewal of a teacher's contract upon expiration of the contract (end of school term).

**"Policies"** means principles adopted by the State Board of Education (Board) to help it identify and select actions to guide and determine its present and future decisions.

**"Policy of evaluation"** means a school district's policy, developed pursuant to 70 O.S. § 6-101.10, describing the total teacher and administrator evaluation system including the purposes of evaluating, the criteria to be used as standards, and the procedure to be followed in implementing the evaluation process.

**"Procedures"** means actions specified by rules and regulations to be followed in carrying out a policy or law. It may also mean processes used in the implementation of a program.

**"Professional development program"** means the program mandated by 70 O.S. § 6-194 for the continuous improvement and enrichment of the certified teachers and administrators of this state.

**"Revocation"** or **"revoked"** means the invalidation of a teacher or administrator certification by the State Board of Education pursuant to due process procedures provided for by applicable laws and regulations.

**"Student teacher"** means any student who is enrolled in an institution of higher learning approved by the State Board of Education for teacher training and who is jointly assigned by such institution of higher learning and a school district's board of education to perform practice teaching under the direction of a regularly employed and certified teacher. A student teacher, while serving an internship under the supervision of a certified teacher, shall be accorded the same protection of the laws that accorded the certified teacher.

**"Suspension"** or **"suspended"** means temporary discontinuance of a teacher or administrator certification pursuant to 75 O.S. § 314, upon a finding by the State Board of Education that public health, safety, or welfare imperatively requires emergency action.

**"Teacher"** means ~~any individual who has been issued a certificate by the Board in accordance with the rules and regulations of the Board, and who falls under the definition of "Teacher" at 70 O.S. § 1-116;~~ any person who holds a valid certificate issued by and in accordance with the rules of the State Board of Education and who is employed to serve as district superintendent, principal, supervisor, counselor, librarian, school nurse, coach, athletic trainer, or classroom teacher or in any other instructional, supervisory or administrative capacity; or all persons holding proper certificates and connected in any capacity with the instruction or supervision of students.

### 210:1-1-3. Powers, duties, and officers [REVOKED]

(a) **Agencies of the department.** In Oklahoma, the State Department of Education is that department of the State Government in which the agencies created or authorized by the Constitution or Legislature are placed and charged with the responsibility of determining the policies and directing the administration and supervision of the public school system of the state. These agencies are the State Board of Education, the State Superintendent of Public Instruction, and such divisions and positions as may be established by law and by the State Board of Education [70-1-105].

(b) **Composition of Board.** The State Board of Education is that agency in the State Department of Education which is the governing Board of the State Department of Education and the public school system of the state [70-1-105]. This Board consists of seven members. The State Superintendent of Public Instruction who is elected for a four-year term by the people, serves as a voting member and the President of the Board. The remaining six members are appointed by the Governor and confirmed by the Senate and serve staggered, overlapping six-year terms. A term expires each year on April 1 [70-3-101].

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~~(c) State Board members also members of State Vo-Tech Board.~~ The State Board of Education members and the Superintendent of Public Instruction are also ex-officio voting members of the State Board of Vocational and Technical Education. The State Superintendent of Public Instruction is chair of the State Board of Vocational and Technical Education [70-14-101].

~~(d) Policies, rules, and regulations of State Vo-Tech Board.~~ Policies, rules, and regulations adopted by the State Board of Vocational and Technical Education are published in a separate manual. This manual entitled, POLICIES AND PROCEDURES FOR VOCATIONAL AND TECHNICAL EDUCATION is published by and may be obtained from the State Department of Vocational and Technical Education, Stillwater.

## 210:1-1-5. Administrative office [AMENDED]

~~—(a) The State Board of Education Administrative Office consists of the may appoint a Chief Executive Secretary to the Board who also serves the State Board of Vocational and Technical Education and who is appointed by the State Board of Education, but is not an official voting member of either the Board [70-3-104 & 34], the Administrative Assistant, and the Secretary.~~

~~(b)(1)~~ Duties of the Chief Executive Secretary. Under the direction of the Board's Executive Officer, the Chief Executive Secretary performs duties for the Board in carrying out its legal functions as follows:

- ~~(A)1~~ collects copies of materials to be discussed at ensuing meetings and distributes same to Board members in advance;
- ~~(B)2~~ prepares agendas, reports, resolutions, and other backup information for Board meetings and hearings, and makes all other necessary meeting arrangements;
- ~~(C)3~~ is responsible for all correspondence; mailouts to board members, such as electronic mail, legislative update, and board agenda materials; transcriptions and certification of minutes; monitoring teacher hearing procedures and maintaining hearing records; and for keeping an accurate record of the proceedings of Board meetings and hearings [25-312 & 436];
- ~~(D)4~~ files a schedule of Board meetings in advance with the office of the Secretary of State; gives written notice, displays a public notice and agenda of all Board meetings showing date, time, and place [25-311.1 & 435.1];
- ~~(E)5~~ publishes all rules and regulations with any proposed amendments or additions which are filed with the Governor, State Librarian and Archivist, President Pro Tempore of the Senate, and the Speaker of the House;
- ~~(F)6~~ supervises the maintenance of all files of the State Board including Tax-sheltered Annuity Contracts, Minutes, Certified Copies of Policies, Rules, and Regulations, Teacher Hearing Records, Tapes, etc.;
- ~~(G)7~~ gives new-member orientation to all new Board members;
- ~~(H)8~~ supervises office personnel in the Board Administrative Office, establishing office procedures;
- ~~(I)9~~ is responsible for the Seal of the State Board to attest and affix the Seal on all contracts, resolutions, and other important legal documents.
- ~~(J)10~~ prepares the minutes and other board records for transfer to the State Archives and State Records Center.
- ~~(K)11~~ maintains biographical sketches of Board members and keeps Board member pictures current in boardroom display;
- ~~(L)12~~ makes travel arrangements for Board members and prepares and notarizes travel claims;
- ~~(M)13~~ provides technical assistance and training for local boards and their staff and other organizations on Board procedures;
- ~~(N)14~~ serves as liaison with National Association of State Boards of Education (NASBE);
- ~~(O)15~~ monitors the teacher due process hearing procedures, as required by law;
- ~~(P)16~~ prepares an annual report on teacher hearing cases, including dispositions, and costs;
- ~~(Q)17~~ notifies the Governor in the event the Board grants approval for a local school district to change its status from dependent to independent; and
- ~~(R)18~~ performs all other duties pertaining to ~~this~~the office as the Board or the Executive Officer, or his designee, directs.

~~(2) Duties of the Administrative Assistant. Assists the Chief Executive Secretary in:~~

- ~~(A) preparing agendas, agenda books, agenda materials prior to the meetings, then files agenda materials following the meetings;~~
- ~~(B) preparing legal rules and regulations, listing and filing in proper places and with proper authorities;~~
- ~~(C) writing draft of Board minutes and reporting Board business;~~
- ~~(D) composing correspondence and assisting in the development of publications and reports;~~
- ~~(E) monitoring and up-dating office procedures manual and legal datelines;~~
- ~~(F) coordinating due process hearing arrangements;~~
- ~~(G) making technical adjustments for Board meetings;~~



- (H) opening and directing mail;
  - (I) obtaining reservations for Board members and staff;
  - (J) assisting the Secretary in duties of that position as time schedules and workload demands.
- (3) Duties of the Secretary. Provides for the Board's Administrative Office:
- (A) compilation of agenda books and materials, and mailing agenda packets;
  - (B) technical preparation of rules and regulations;
  - (C) drafting and typing of minutes, and typing manuscripts, notices, and correspondence;
  - (D) distribution of minutes of meetings and maintaining updated minute lists and labels;
  - (E) posting of agenda and meeting notices and issuing reservation notices for parking;
  - (F) creating and compiling due process hearing files;
  - (G) pick-up and delivery of mail;
  - (H) processing of requisitions, supplies, travel claims, and tax-sheltered annuities;
  - (I) professional receptionist and clerical assistance;
  - (J) assisting the Administrative Assistant in duties of that position as time schedules and workload demands.

## 210:1-1-6. Meetings [AMENDED]

- (a) **Parliamentary procedures.** Parliamentary procedures will follow Roberts' Rules of Order, Revised, and the President of the Board may serve as parliamentarian, if so desired.
- (b) **President pro tempore.** In the President's absence, he or she may designate, in his or her sole discretion, another member of the Board to serve as President pro tempore of the meeting. If the President fails to designate a chairperson due to extenuating circumstances, the Deputy State Superintendent shall designate the President pro tempore of the meeting.
- (c) **Voting by proxy.** No voting by proxy is permitted [A.G. Opin. 82-7, January 20, 1982.]
- (d) **Transaction of business.** Only at meetings are official decisions made and business transacted. Decisions shall be decided by motion and seconded, followed by roll call vote and such vote shall be publicly cast and recorded on all minutes of the Board [25-305].
- (e) **Committees.** The Board shall generally act as a committee of the whole. However, subcommittees may be appointed by the President of the Board on a specific task. Such committees are subject to the same requirements of the Open Meeting Law, as applicable, regarding the filing of date, time, place, and agenda of the meeting as well as the advance public satisfaction and voting requirements as for regular, rescheduled, continued or reconvened, or special meetings.

## 210:1-1-7. Purpose [AMENDED]

- (a) This chapter outlines the context of the agency responsible for public education by describing the State Board of Education, their powers and duties, rules of practice, due process policies and procedures, the general principles by which the State Department of Education operates and the structural organization of the Department.
- (b) The contents of this Chapter shall in no way be construed as the basis of, or as instituting any contractual rights between the State Board of Education and any person or employee. Of necessity, it cannot be complete in all detail and cannot, through error or omission, restrict the lawful powers of the State Board of Education. If it in any way conflicts with ~~State Statutes~~ any federal law or law of the State of Oklahoma, the law ~~will~~ shall take precedence and prevail.

## SUBCHAPTER 3. DEPARTMENTAL PRECEPTS

### 210:1-3-1. Nature [AMENDED]

- (a) The rules found in this Subchapter are State Board of Education rules of a general nature that are pertinent to the operation of the Board and the State Department of Education and in respect to the establishment and operation of a school district. ~~Rules of school district operational concerns or on specific subject matters such as finance, transportation, exceptional students, and curriculum will be found listed under each appropriate Chapter. Copies of such rules may be obtained by contacting the appropriate administrative section.~~
- (b) Except where specified differently by law, members on advisory councils shall be recommended by the Superintendent or Executive Officer of the Board. ~~Names are usually solicited from subordinate administrators and other knowledgeable leaders. Where special parent advisory councils or other committees are required, this Board expects the law, whether federal or state, to be enforced and the council established.~~
- (c) Advisory council members who are performing substantial and necessary service may be reimbursed for such expenses, according to the State Travel and Reimbursement Act (74-500.1-500.35), State Purchasing Laws (74-85), State Board rules and regulations, and local policies at the district level.

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## 210:1-3-5. Civil Rights [REVOKED]

(a) The State Board believes it is essential for the education process to include cultural awareness and sensitivity for a school age population which reflects diverse backgrounds, races, cultures and attitudes. [70-1210.201]

(b) In relation to women's equity, the State Board of Education policy is one expressing support and commitment to increasing the number of women in educational administration in the public schools of Oklahoma, prohibiting discrimination on the basis of sex in education programs and activities under its supervision, and providing technical assistance and staff improvement activities for state and local education agency staffs to comply with desegregation and affirmative action requirements. Furthermore, as stated in the Affirmative Action Plan, the State Board of Education does not discriminate on the basis of race, color, national origin, sex, age, religion, handicap, or status as a veteran in the employment of personnel, provision of services, use of facilities, organization of group activities, and other similar benefits in any of its programs, policies or practices. It further assures that no new commitments for federal financial assistance under such programs will be made to school districts unless an assurance of compliance, a court order, or a plan of desegregation has been filed.

(c) The compliance documents enumerate methods of administration to assure compliance and list procedures for evaluating and handling complaints filed with the Board.

## 210:1-3-11. Open Records Act [AMENDED]

(a) **Official records.** All files, records, minutes, proceedings, rules, documents, decisions, opinions, written statements of policy, and written materials of any other nature required by law to be maintained by the State Board of Education or the State Department of Education and not otherwise exempt from public disclosure pursuant to the provisions of state and/or federal law shall be made available promptly for public inspection, copying, or mechanical reproduction upon reasonable notice during regular business hours in accordance with the provisions of the Open Records Act at 51 O.S. § 24A.1 et seq. and the procedures set forth below. Official records shall mean record as defined in Title 51 O.S. § 24A.3(1) or any successor statute.

(b) **Records subject to disclosure.** Any document that comes within the statutory definition of a "record" and is not required to be kept confidential by State or federal law, or otherwise exempt from disclosure pursuant to the Open Records Act will be available for inspection and copying between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except state holidays, at the location where the records are housed, which is generally the Oliver Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City. Records subject to disclosure shall mean records subject to disclosure under the Open Records Act.

(c) **Procedure for records requests.** Any individual or group seeking access to public records maintained by the State Board of Education or the State Department of Education ~~shall~~ should submit a written request to the State Department of Education Office of Legal Services, by fax, email, regular mail or in person. In order to provide prompt, reasonable access to records, to ensure that records requests are accurately communicated to the records custodian, and to enable the records custodian to accurately process the request, it is recommended that records requests ~~be submitted in writing.~~ In addition, all records requests must comply with the following provisions:

(1) All records requests ~~must~~ should include:

- (A) Identification of the individual and/or entity making the request;
- (B) If the Requester is an entity rather than an individual, a name of a contact authorized to communicate with the records custodian on behalf of the Requester;
- (C) Sufficient contact information at which the Requester may be contacted by the records custodian to comply with the records request procedures set forth in this Section;
- (D) A description of the records requested with sufficient detail necessary to enable the records custodian to reasonably identify whether records responsive to the request exist;
- (E) Whether the Requester seeks copies of any or all of the records requested and if so, whether the Requester seeks certified copies of any or all of the records requested; and
- (F) If the Requester claims the public interest exemption from search fees in accordance with the provisions of (d) of this Section, all information necessary for the records custodian to determine the applicability of the exemption.

(2) An Open Records Act request form is provided on the OSDE website. The form may be submitted by email, fax, or regular mail via the addresses stated on the form. ~~The form may also be obtained by writing to the Oklahoma State Department of Education Office of Legal Services, Oliver Hodge Education Building, 2500 N. Lincoln Blvd., Room 117, Oklahoma City, OK 73105.~~

(3) Requests submitted will not be deemed to have been received unless and until the request has been identified as a request properly filed in accordance with the provisions of the Oklahoma Open Records Act at 51 O.S. § 24A.1 et seq. ~~and the procedures set forth in this Section.~~

- (4) Within a prompt and reasonable time of the date of receipt of the request, the records custodian shall review the request, seek any additional information from the Requester necessary to clarify the request, and shall ascertain whether any records responsive to the request exist.
- (5) In addition, the records custodian shall promptly notify the Requester of the following:
- (A) Whether the request complies with ~~the provisions of this Section and~~ the provisions of the Open Records Act;
  - (B) ~~Whether records responsive to the request exist, and if so, the records custodian shall instruct the Requester to confirm the record custodian's interpretation of the request.~~ If the records custodian believes the request does not comply with the Open Records Act, the records custodian shall notify the requestor within a reasonable amount of time;
  - (C) ~~If records responsive to the request exist and require an additional search of data necessary to identify and/or locate individual records of persons, whether the search will incur any fees and costs pursuant to (d) of this Section and if so, an estimate of search fees;~~
  - (D) ~~If the Requester asks to be provided copies of the requested records in lieu of inspection, an estimate of the costs of copying the records requested as necessary to deliver the responsive records to the Requester;~~
  - (E) That processing of the request will not begin until any applicable records search fees and costs of copying have been received by the agency; and
  - (F) In the event the actual costs of copying and/or certification of records exceed the estimate provided and the amount of payment actually received from the Requester, that payment of any balance due from the Requester may be required prior to delivery of the requested records.
- (6) All records requests will be deemed to have been received and processing of the request will begin when one of the following conditions is met:
- (A) If payment of search fees or copying costs is required, upon receipt of:
    - (i) The fees and costs due; and
    - (ii) Receipt of any additional information necessary from the Requester to clarify and/or process the request; or
  - (B) If payment of search fees or copying costs is not required, upon receipt by the records custodian of:
    - (i) The Requester's confirmation of the request required by (7) of this subsection; and
    - (ii) Receipt of any additional information necessary from the Requester to clarify and/or process the request.
- (7) Any request not confirmed by receipt of the requisite search fee within thirty (30) calendar days of the written notification set forth in (5) of this subsection ~~shall~~ may be deemed to be abandoned, unless, within the time stated, the Requester can show cause why the confirmation should be delayed or postponed.
- (8) If the Requester fails to furnish additional information reasonably necessary to identify the records sought or otherwise enable agency personnel to accurately process the request, any further processing of the request may be suspended by the records custodian. A request that remains suspended for a period of forty-five (45) calendar days or more ~~shall~~ may be deemed abandoned.
- (d) Fees for record searches and copies of records.** ~~Fees and costs associated with record searches and providing copies of records shall be determined in accordance with the following procedures: The requesting party shall pay a fee for copies. Said fee shall be twenty-five cents (25¢) per page, twelve dollars (\$12.00) per 3½-inch diskette, and \$1.00 per page for certified documents. Copies provided via FAX machine cost \$1.00 per page, regardless of the destination of the Faxed copy. For commercial requests or those that would cause excessive disruption of office function, such as documents that are archived, either internally or with the Oklahoma Archives and Records Commission, a search fee will be charged based upon the hourly rate of the individual(s) searching for, and locating, the requested records.~~
- (1) Fees to recover reasonable and direct costs of record searches.** Requests that are either solely for commercial purposes or requests that cause an excessive disruption of the essential functions of the agency are subject to fees for recovery of the reasonable, direct costs of record searches in accordance with the provisions of 51 O.S. § 24A.5(3), provided that no search fee will be charged when the release of records is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.
  - (2) Fees to recover reasonable and direct costs of record copies.** Requests that are either solely for commercial purposes or requests that cause an excessive disruption of the essential functions of the agency are subject to fees for recovery of the reasonable, direct costs of copying records in accordance with the provisions of 51 O.S. § 24A.5(3).

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(A) For purposes of this paragraph, "copying" of a record may include costs of:

- (i) Mechanical reproduction of a paper record ("hard copy"); or
- (ii) Conversion of a record into an electronic format (e.g., .pdf) as necessary for delivery to the requester.

(B) In no instance shall the fee per page fee for copies of documents exceed the amount set forth in 51 O.S. § 25A.5(3).

(C) The State Superintendent of Public Instruction is authorized to periodically review and adjust the rates that will be charged for providing copies of records in accordance with state law. Those rates will include costs for record copies, document searches and transcript rates. The rates will be posted at the Oliver Hodge building and filed with the country clerk as required by law.

(D) All fees and/or costs shall be paid by the Requester prior to delivery of the response to the request. All fees must be paid by check or money order payable to the Oklahoma State Department of Education. No cash will be accepted.

(e) **Processing and response times.** The agency will provide prompt, reasonable access to records in accordance with the requirements of 51 O.S. § 25A.5(5). The period of time considered prompt and reasonable is dependent upon a number of variable factors including, as noted in the Open Records Act and case law annotations, but not limited to:

(1) The scope and complexity of the request;

(2) Whether the workload of the agency or agencies necessary to respond to the request permits a response to the request without excessive disruption of essential services of the agency/agencies;

(3) Whether the records request includes:

(A) A sufficiently detailed description of the request by the requestor necessary for the agency to ascertain the existence of records responsive to the request;

(B) Records or portions of records deemed confidential by state and/or federal law which must be removed or redacted in order to permit inspection of the records;

(4) Whether the Requester requested copies of the records and if so, whether the Requester has paid applicable fees and/or costs set forth in (d) of this Section;

(5) Whether additional steps by the agency must be taken in order to ensure that inspection, copying, and/or response to the records can be provided without jeopardizing the integrity and organization of the records; and

(6) Whether student data is included within the scope of its request, and if so:

(A) Time necessary to de-identify and aggregate student data in accordance with the requirements of the Federal Educational Rights and Privacy Act (FERPA) at 20 U.S.C. § 1232g et seq. and accompanying regulations; the Student Data Accessibility, Transparency and Accountability Act of 2013 at 70 O.S. § 3-168 and accompanying regulations; or any other applicable provisions of state or federal law pertaining to confidentiality of records; or

(B) Time necessary to obtain approval of the State Board of Education in accordance with the requirements of the Student Data Accessibility, Transparency and Accountability Act of 2013 at 70 O.S. § 3-168 and accompanying regulations.

(f) **Requests for agency public information.** Certain employee personnel records are confidential and not subject to the Oklahoma Open Records Act, including employee evaluations, payroll deductions, applications submitted by persons not hired by the State Board of Education ("Board") or the State Department of Education ("Department"); internal personnel investigations including examination and selection material, employees' home addresses, telephone numbers, and social security numbers, medical and employee assistance records, and other personnel records where disclosure would constitute a clear invasion of privacy. Personnel records information that are subject to release are the application of a person who becomes an employee of either the Board or the Department, gross receipt of public funds, dates of employment, title or position and any final disciplinary action resulting in loss of pay, suspension, demotion or termination.

## SUBCHAPTER 5. DUE PROCESS

### 210:1-5-3. Declaratory ruling Petition requesting promulgation, amendment or repeal of a rule [AMENDED]

(a) Any person affected either by a rule adopted and promulgated by the State Board of Education, or the lack of a rule and regulation may petition the State Board of Education to promulgate, adopt, amend or repeal a rule pursuant to 75 O.S. § 305 and in accordance with this section.

(1) The petition must be in writing and submitted to the Secretary of the State Board of Education and shall include:

(A) the proposed amendment, promulgation, or repeal of a specific rule;

(B) the reason for the petition to repeal, promulgate, or amend a rule; and

(C) the effect that the repeal, amendment, or promulgation of the rule would have on the petitioner.

(2) The petitioner must print his or her name, address, and telephone number on the petition, and it must be signed by the petitioner.

(3) The petitioner will be notified by regular mail if rulemaking proceedings are initiated.

(4) A petition for rulemaking will be deemed denied if the State Board of Education has not initiated rulemaking proceedings within thirty (30) calendar days after the petition is submitted.

**-Request for ruling.** Any person affected by any rule or order promulgated or issued by the Board or one of its authorized agents may request in writing to petition the Board for an interpretation or ruling regarding the application of such a rule or order to the facts furnished with the request:

**(b) Filing and contents of petition.** The petition shall be styled similarly to an ex parte petition filed in a court of law in this state, and shall be filed with the Secretary of the Board in triplicate. It shall state fully, clearly and concisely the rule or order involved or affected, and state the facts giving rise to the need for such ruling, giving all pertinent data necessary for consideration:

**(c) Consideration of the petition by board; refusal to issue ruling:**

(1) The petition will be considered preliminarily at the next regular meeting of the Board or at a subsequent meeting:

(2) In either event, the petitioner shall be notified promptly of the date by the Secretary, and shall be entitled to be present in person or represented by counsel. At this meeting the Board shall determine whether or not to issue a ruling or to continue the matter for hearing upon the petition. The Board may refuse to entertain a petition for a declaratory ruling if it determines that the facts stated in the petition do not afford an adequate basis therefore, or that the experience under the rule or order is not adequate to enable it to make an effective or proper ruling, or that the request is premature, or that the request is one that should be handled through rule-making procedure, or that there exist other conditions rendering a declaratory ruling inopportune, similar to, though not necessarily identical to, the conditions justifying a court in refusing to enter a declaratory judgment. If the Board determines to entertain the petition for the declaratory ruling, it may issue the ruling at its meeting or it may continue the matter to a day certain for further consideration and for hearing of evidence and argument if necessary. If the applicant is not represented at the preliminary consideration, he/she shall be notified of the ruling if one is issued, in accordance with the rules respecting notice of orders; or, if the matter is continued, applicant shall be notified of the continuance in accordance with the rules respecting notice of hearings in individual proceedings. If the applicant is present or is represented at the preliminary consideration, no further notice of the subsequent hearing than announcement in open meeting is necessary; but the applicant shall receive a written copy of any ruling that is issued, as in the case of orders.

**(d) Request for formal hearing.** A petitioner for a declaratory ruling, in his/her petition prior to or at the preliminary consideration, may request a formal hearing at which to present evidence in support of the petition, setting forth the substance of the facts to be proved, if they do not appear in the petition. The Board thereupon will set the matters for formal hearing and notice shall be given as prescribed in 210:1-5-2.

**(e) Joining of other parties affected by rule.** If, at any time, it appears from the papers filed or from evidence adduced that the interests of persons other than the petitioner are so affected by the requested ruling that it is improper to entertain the proceedings without hearing them, the Board may refuse to issue a declaratory ruling, or in its discretion, it may require them to be made parties, and if the matter can be so handled consistently with the public interest and the efficiency of the Board's procedures, then in this event, notice shall be served upon them, as in individual proceedings, and the matter will be governed thereafter by the procedure applicable to individual proceedings, as described in 210:1-5-4.

**(f) Issuance of the ruling.** If the Board conducts a hearing upon a petition for a declaratory ruling, at the conclusion of the hearing it may issue the ruling or it may decline to do so upon any of the grounds specified heretofore or upon any other legal grounds:

### **210:1-5-6. Suspension and/or revocation of certificates [AMENDED]**

**(a) Application.** The rules and regulations of the State Board of Education governing the suspension and revocation of certificates apply to the following: superintendents of schools, principals, supervisors, librarians, school nurses, school bus drivers, visiting teachers, classroom teachers and other personnel performing instructional, administrative and supervisory services in the public schools. Except as otherwise specifically provided by law, the issuance or denial of a new certificate shall not be considered an individual proceeding subject to the process and procedures set forth in this Section.

**(b) Grounds for revocation.** A certificate shall be revoked only for:

(1) A willful violation of a rule or regulation of the State Board of Education, or the United States Department of Education; or

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- (2) A willful violation of any federal or state law, or
- (3) A conviction for any of the offenses or bases for revocation set forth in 70 O.S. §§ 3-104 or 3-104.1; or
- (4) For other proper cause, including but not limited to violation of the Standards of Performance and Conduct for Teachers at Chapter 20, Subchapter 29 of this Title.

(c) **Duty to report and refrain from illegal activity.** It shall be a violation of State Board of Education rules and regulations for any person holding a valid teaching certificate to be aware of and fail to report, or knowingly participate in any activity deemed illegal while participating in job-related activities of student organizations, athletic and scholastic competitions, fairs, stock shows, field trips, or any other activity related to the instructional program. Willful violation of (b)(1)-(b)(4) of this regulation or the failure to report or knowing participation in any activity deemed illegal may result in recommendation of revocation or suspension of the certificate, or such other penalty, as may be determined after due process by the State Board of Education.

(d) **Right to hearing on revocation of an existing certificate.** No certificate shall be revoked until the holder of the certificate has been provided with a copy of the application to revoke the certificate and opportunity for a hearing provided by the State Board of Education in accordance with the following procedures:

(1) **Filing of application to revoke a certificate.** An individual proceeding to revoke a certificate shall be initiated by filing an application to revoke a certificate. An application to revoke a certificate shall be filed with the Secretary of the State Board of Education by the State Department of Education. The application shall name the holder of the certificate to be revoked as the respondent in the action, and shall contain:

- (A) A statement of the legal authority and jurisdiction under which the applicant seeks to initiate the proceeding and the hearing is to be held;
- (B) A reference to each particular statute and/or rule involved;
- (C) A short and plain statement of the allegations asserted; and
- (D) A statement of the facts alleged to give rise to the revocation. The application shall also state a proposed effective date for the relief requested (e.g., revocation), which shall be set no earlier than forty-five (45) calendar days from the date the complaint is filed.

(2) **Informal disposition.** Informal disposition of the application to revoke a certificate may be made by stipulation, agreed settlement, consent order, or default, unless otherwise precluded by law. Written notice signed by each party or counsel representatives shall be delivered to the Secretary of the State Board of Education prior to the time of the scheduled hearing.

(3) **Notice to parties.** Service of notice or process may be accomplished as follows:

(A) Personal delivery. Personal delivery may be accomplished by service by a sheriff or deputy sheriff, a person licensed to make service of process in civil cases, or a person specially appointed for that purpose. Personal service shall be made as follows: (1) upon the individual by delivering a copy of the notice and the petition, (2) or by leaving copies thereof at the certificate holder's dwelling listed mailing address.

(B) Service by Mail. Service by mail may be accomplished by mailing a copy of the notice and the petition by certified mail, return receipt requested and delivery restricted to the addressee. Service by mail shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by the certificate holder or a returned envelope showing refusal of the process by the certificate holder. Acceptance or refusal of service by mail by a person who is fifteen (15) years of age or older who resides at the certificate holder's mailing address shall constitute acceptance or refusal by the certificate holder.

(C) Service by Publication. Service by publication may be made when an attorney or investigator for OSDE verifies in the petition, or by separate affidavit, that with due diligence service cannot be made upon the certificate holder by any other method. Service pursuant to this paragraph shall be made by publication of a notice, signed by the Secretary of the Board of Education, one (1) day a week for three (3) consecutive weeks in a newspaper authorized by law to publish legal notices which is published in the county where the petition is filed. Within three (3) business days of the date the application to revoke a certificate is filed with the Secretary of the State Board of Education, the Secretary shall send a copy of the application along with a notice of intent to revoke the certificate by certified or registered mail, restricted delivery with return receipt requested, to the holder of the certificate. It is the responsibility of every certificate holder to notify the State Department of Education upon a change of address, and the mailing address on file for each certificate holder shall be presumed to be a proper address for service of notice. Service of notice of intent to revoke a certificate shall be deemed complete upon certified or registered mailing of the notice to the certificate holder's last known address. In

~~addition to the requirements of notice set forth at 75 O.S. § 309, the notice of intent to revoke the certificate shall include:~~

~~(A) A statement setting forth the proposed effective date of revocation of the certificate; and~~

~~(B) A statement advising the holder that if the holder fails to appear for a hearing and contest the revocation, the allegations in the application for revocation will be deemed confessed and the Board may issue a final order to effect revocation of the certificate as of the effective date proposed in the notice.~~

**(4) Response to application.** Any respondent intending to contest an application must notify the Secretary of the State Board of Education of their intent to contest the application within twenty-one days of service of the application. The respondent must file a responsive pleading that states whether the respondent agrees, disagrees, or is without sufficient information to agree or disagree with each numbered paragraph containing a factual allegation. Failure to timely respond will be deemed confession of the allegations in the application unless the State Board of Education excuses the delay.

**(e) Emergency Action.** Pursuant to 75 O.S. § 314, in the event the State Board of Education finds that public health, safety, or welfare imperatively requires emergency action, the State Board of Education may issue an emergency order summarily suspending a certificate pending an individual proceeding for revocation or other action. Such proceedings shall be promptly instituted and determined. Such an order shall include specific findings of fact specifying the grounds for the emergency action. Within three (3) business days of the issuance of the order by the Board, a copy of the order shall be sent to the holder of the certificate via certified or registered mail, delivery restricted to the certificate holder, with return receipt requested.

**(f) Hearing procedures.**

**(1) Hearing and appointment of a hearing officer.** Upon filing the application with the Secretary of the Board, the Secretary shall set the matter for a hearing. The Board, at its discretion, may utilize a hearing officer to conduct the hearing. If utilized, the hearing officer shall be appointed by the Chairperson of the Board.

**(2) Attendance of witnesses.** If the complainant, or the holder of the certificate wants any person to attend the hearing and testify as a witness, he/she shall notify the Chairperson of the State Board of Education at least fifteen (15) calendar days prior to the hearing, in writing, giving the name and address of the desired witness, and the Chairperson may cause the Secretary to thereupon issue a subpoena, by mail, to the desired witness to attend in accordance with the provisions of this subsection. Every person testifying at a revocation hearing shall be sworn to tell the truth. The parties to the hearing shall exchange witness and exhibit lists and any exhibits no later than fifteen (15) calendar days prior to the hearing.

**(3) Subpoenas.** Subpoenas and/or subpoenas duces tecum may be issued in accordance with the following procedures:

**(A) Form and Issuance.** Every subpoena shall:

(i) state the name of the court from which it is issued and the title of the action, and

(ii) command each person to whom it is directed to attend and give testimony or to produce and permit inspection, copying, testing or sampling of designated books, documents, electronically stored information or tangible things in the possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(iii) issue from the administrative law court or tribunal where the action is pending, and may be served at any place within the state.

**(B) Service.** Service of a subpoena upon a person named therein shall be made by delivering or mailing a copy thereof to such person. If the person's attendance is demanded, by tendering to the witness a ten-dollar (\$10.00) witness fee, per day, and the mileage allowed by law. Witness fees and mileage may be paid at the conclusion of the hearing.

(i) Service of a subpoena may be accomplished by any person who is eighteen (18) years of age or older.

(ii) Service of a subpoena may be accomplished by mail by mailing a copy thereof by certified mail with return receipt requested and delivery restricted to the person named in the subpoena. The person serving the subpoena shall make proof of service thereof to the administrative hearing officer promptly and, in any event, before the witness is required to testify at the hearing or trial. If service is made by a person other than a sheriff or deputy sheriff, such person shall make affidavit thereof. If service is by mail, the person serving the subpoena shall show in the proof of service the date and place of mailing and attach a copy of the return

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receipt showing that the mailing was accepted. Failure to make proof of service does not affect the validity of the service, but service of a subpoena by mail shall not be effective if the mailing was not accepted by the person named in the subpoena.

(iii) A copy of any subpoena that commands production of documents and things or inspection of premises before the hearing shall be served on each party in the manner as follows:

(iv) If the party is represented by an attorney, the service shall be made upon the attorney unless service directly upon the party is ordered by the hearing officer or final judgment has been rendered and the time for appeal has expired.

(v) Service upon the attorney or upon a party shall be made by delivering a copy to the attorney or the party or by mailing it or sending it by third-party commercial carrier for delivery within three (3) calendar days to the attorney or the party at the last-known address of the attorney or the party or by electronic means if the attorney or party consents to receiving service in a particular case by electronic means and the attorney or party provides instructions for making the electronic service consented to by the attorney or party. For purposes of this subsection, "electronic means" includes communications by facsimile or electronic mail. If no mailing address, physical address or electronic means address for the attorney or party is known, service is affected by delivery to the last known address. Delivery of a copy within this section means: (a) handing it to the attorney or to the party, or (b) leaving it at the office of the attorney or the party with the attorney's or party's clerk or other person in charge thereof, or (c) if there is no one in charge, leaving it in a conspicuous place therein, (d) if the office is closed or the person to be served has no office, leaving it at his or her dwelling house or usual place of abode with some person residing therein who is fifteen (15) years of age or older.

(C) **Service by Mail.** Service of a subpoena, or a subpoena that commands production of documents and things or inspection of premises by mail is complete upon mailing, service by commercial carrier is complete upon delivery to the commercial carrier, and service by electronic means is complete upon transmission, unless the party making service is notified in sufficient time prior to the hearing or the date for production or inspection that the copy or paper served was not received by the party served.

(D) **Objection(s).** If the subpoena commands the production of documents and things or inspection of premises from a nonparty before trial but does not require attendance of a witness, the subpoena shall specify a date for the production or inspection that is at least seven (7) days after the date that the subpoena and copies of the subpoena are served on the witness and all parties, and the subpoena shall include the following language: "In order to allow objections to the production of documents and things to be filed, you should not produce them until the date specified in this subpoena, and if an objection is filed, until the court rules on the objection."

(E) **Duties in Issuance and Service.** A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena.

(i) A person commanded to produce and permit inspection, copying, testing or sampling of designated books, papers, documents, electronically stored information or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(ii) A person commanded to produce and permit inspection, copying, testing or sampling or any party may, within fourteen (14) days after service of the subpoena or before the time specified for compliance if such time is less than fourteen (14) days after service, serve written objection to inspection, copying, testing or sampling of any or all of the designated materials or of the premises, or to producing electronically stored information in the form or forms requested. An objection that all or a portion of the requested material will or should be withheld on a claim that it is privileged or subject to protection as trial preparation materials shall be made within this time period. If the objection is made by the witness, the witness shall serve the objection on all parties; if objection is made by a party, the party shall serve the objection on the witness and all other parties. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test or sample the materials or inspect the premises except pursuant to an order of the hearing officer. For failure to object in a timely fashion, the hearing officer may assess reasonable costs and attorney fees or take any other action she, or he, deems proper. A privilege or the protection for trial preparation materials shall not be waived solely for a failure to timely object under this section. If objection has



been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(iii) On timely objection and motion, the hearing officer shall quash or modify the subpoena if it:

(I) fails to allow reasonable time for compliance, or

(II) requires a person to travel to a place beyond the territorial boundaries of the State of Oklahoma, or

(III) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(IV) subjects a person to undue burden, or

(V) requires production of books, papers, documents, or tangible things that fall outside the scope of permissible disclosures for the hearing or matter being investigated, or

(VI) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(VII) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party.

(iv) However, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the hearing officer may order appearance or production upon specified conditions.

### **(E) Duties in Responding to Subpoena.**

(i) Persons whose attendance is secured via subpoena shall appear as the subpoena directs. Attendance only shall not waive a person's constitutional rights (e.g., the right against self-incrimination).

(ii) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(iii) If a subpoena to produce documents does not specify the form or forms for producing electronically stored information, a person responding to a subpoena shall produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(iv) A person responding to a subpoena to produce documents is not required to produce the same electronically stored information in more than one form.

(v) A person responding to a subpoena to produce documents is not required to provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. If such a showing is made, the hearing officer may order discovery from such sources if the requesting party shows good cause. The hearing officer may specify conditions for the disclosure.

(vi) When information subject to a subpoena to produce documents is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(vii) If information is produced in response to a subpoena to produce documents that is subject to a claim or privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for such claim. After being notified, a party shall promptly return, sequester, or destroy the specified information and any copies the party has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the hearing officer under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party shall take reasonable steps to retrieve the information. The person who produced the information shall preserve the information until

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the claim is resolved. This mechanism is procedural only and does not alter the standards governing whether the information is privileged or subject to protection as trial preparation material or whether such privilege or protection has been waived.

**Issuance of subpoenas.** Subpoenas for the attendance of witnesses, or for the production of books, records, papers, objects, or other evidence of any kind as may be necessary and proper for the purposes of a proceeding shall be issued by the Secretary of the Board at the direction of the Chairperson, upon order of the Board, or at the request of any party to a proceeding before the Board. The signature of the Secretary shall be sufficient authentication for any subpoena.

(B) **Service of subpoenas.** Subpoenas shall be served in any manner prescribed for service of a subpoena in a civil action in the district courts of the State of Oklahoma.

(C) **Objections to and compliance with subpoenas.** Any party to the proceeding may move to quash a subpoena or subpoenas duces tecum issued in accordance with the provisions of this Section, provided that, prior to quashing a subpoena or subpoenas duces tecum the agency shall give notice to all parties. A motion to quash shall be filed within seven days of the issuance of the subpoena.

(D) **Enforcement of subpoenas.** Upon the failure of any person to obey a subpoena, or upon the refusal of any witness to be sworn or make an affirmation or to answer a question put to her or him in the course of any individual proceeding or other authorized action of the Board, the party seeking enforcement may file an appropriate motion for enforcement with the State Board or hearing officer, as applicable, or may seek enforcement in a court of competent jurisdiction. Meanwhile, the hearing or other matters shall proceed, so far as is possible, but the Board at its discretion at any time may order a stay or continuance of the proceedings for such time as may be necessary to secure a final ruling in the compliance proceedings.

(E) **Costs of issuance and service of subpoenas.** The costs covering the issuance and service of subpoenas and all witness fees incurred on behalf of a party to the proceedings, other than the Board, shall be borne by the party on whose behalf they are incurred.

(4) **Right to representation.** Any party to the individual proceeding shall at all times have the right to representation by counsel, provided that such counsel must be duly licensed to practice law by the Supreme Court of Oklahoma, and provided further that counsel shall have the right to appear and act for and on behalf of the party represented.

(5) **Legal counsel to State Board of Education.** The attorney for the State Department of Education shall present evidence to the Board, in furtherance of the application. Should the Board not have legal counsel, and if deemed necessary by the Chairperson of the Board, a request may be made of the Attorney General to provide counsel to the Board regarding questions of admissibility of evidence, competency of witnesses, and any other questions of law. In the event that counsel is not requested from the Attorney General the Chairperson of the Board will rule on the evidence, competency of the witness and other questions of law.

(6) **Disqualification of a Board member or hearing officer.** A Board member or hearing officer shall withdraw from any individual proceeding in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification on the ground of his or her inability to give a fair and impartial hearing by filing an affidavit promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the Board, or if it affects a member of the Board, by the remaining members thereof, if a quorum. Upon the entry of an order of disqualification affecting a hearing officer, the Board shall either assign a replacement hearing officer, or conduct the hearing itself. Upon the entry of an order of disqualification affecting a Board member, the Governor immediately shall appoint a member pro tempore to sit in place of the disqualified member in that proceeding.

(7) **Notice of facts.** The Board shall give notice to all parties, prior to, or at the hearing, of any facts of which it proposes to take official notice. Any party or her/his attorney may request that official notice be taken of any fact qualified for such notice by the statutes of this state. If such official notice is taken, it shall be stated in the record, and all parties shall have opportunity to contest and give evidence in rebuttal or derogation of the official notice.

(8) **Presentation and consideration of evidence.** The State Board of Education shall consider only evidence upon the specific cause contained in the notice, and evidence will be heard for such cause. Questions of the admissibility of evidence shall be governed by the provisions of 75 O.S. § 310.

(9) **Order of procedure.** The order of procedure at the hearing shall be as follows:

(A) Opening statements by legal counsel of both parties;

(B) Presentation of evidence by both parties followed by cross-examination of witnesses, and questions by State Board members or the hearing officer;

(C) Closing arguments by legal counsel of both parties; and

(D) Submission of case to the Board or the hearing officer for decision.

(10) **Continuance of a hearing.** The Board or hearing officer may continue or adjourn the hearing at any time for a specified time by notice or motion. The Board or hearing officer may grant a continuance upon motion of a party for good cause shown if written request is filed and served on all parties of record and filed with the Secretary of the Board at least five (5) days prior to the date set for hearing. A respondent may be granted only one (1) continuance.

(g) **Deliberations and decisions.** Deliberations by the Board or the hearing officer in an individual proceeding may be held in executive session pursuant to the provisions of the Open Meeting Act set forth at 25 O.S. § 307.

(1) **Decision.** Decisions shall be issued in accordance with the following procedures:

(A) After hearing all evidence, and all witnesses, the State Board of Education or, if applicable, the hearing officer, shall render its decision on whether the certificate shall be revoked.

(B) The decision of the State Board of Education or a hearing officer presiding at the hearing shall be announced at the conclusion of the hearing and notification of that decision shall be by certified or registered mail, restricted delivery with return receipt requested to the holder of the certificate.

(C) If the holder of the certificate fails to appear at the scheduled hearing without prior notification within the time frame to request a stay or continuance set forth in (f)(10) of this Section, demonstration of good cause, the Board or hearing officer shall hold the party in default and issue an order sustaining the allegations set forth in the application.

(D) If the applicant fails to appear at the scheduled hearing without prior notification within the time frame to request a stay or continuance set forth in subsection (f)(10) of this Section, demonstration of good cause, or fails to prove the allegations by clear and convincing evidence, the application shall be dismissed.

(2) **Findings of fact and conclusions of law.** After the decision is announced, but before issuance of the final order, if the Board has not heard the case or read the record of the individual proceeding, the hearing officer shall provide the parties with an opportunity to prepare and submit proposed findings of fact and conclusions of law in accordance with the provisions of 75 O.S. § 311. After the parties have been given notice and an opportunity to file exceptions, present briefs and oral arguments to the proposed findings of fact and conclusions of law, the Board may take action to accept, reject, or modify the proposed Findings and Conclusions of the hearing officer. The Board shall render findings of fact and conclusions of law. All findings of fact made by the Board shall be based exclusively on the evidence presented during the course of the hearing or previously filed briefs, (made a part of the record), of the testimony of witnesses taken under oath.

(3) **Final order.** As the final determination of the matter, the final order shall constitute the final agency order and shall comply with the requirements set forth at 75 O.S. § 312. If no motion for rehearing, reopening or reconsideration of the order is filed in accordance with (h) of this Section, the final agency order shall represent exhaustion of all administrative remedies by the State Board of Education. All final orders in an individual proceeding shall be in writing and made a part of the record. Final orders are to be issued by the Chairperson of the Board or the presiding officer for transmission to the parties by the Secretary of the Board. Within five (5) business days of the date of issuance of the final order, parties shall be notified of a final order either personally or by certified mail, return receipt requested. Upon request, a copy of the order shall be delivered or mailed to each party and the party's attorney of record, if any.

(4) **Communication with parties.** Unless required for the disposition of ex parte matters authorized by law, the Chairperson and the members of the Board, the hearing officer, or the employees or the agents of the Board shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his or her representative except upon notice and opportunity for all parties to participate. The Chairperson and members of the Board or their employees may communicate with one another and have the aid and advice of one or more personal assistants. Advice may also be secured from the Attorney General's office.

(h) **Record of hearing.**

(1) The record of a hearing shall be set forth in such form and detail as the Chairperson or the Board may direct. The hearing may also be fully transcribed, and shall be placed on file in the Secretary's office. Parties to the proceeding may have the proceedings transcribed by a court reporter at their own expense. In accordance with the requirements of 75 O.S. § 309, the record shall include:

(A) All pleadings, motions, and intermediate rulings;

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- (B) Evidence received or considered during the individual proceeding;
- (C) A statement of matters officially noticed;
- (D) Questions and offers of proof, objections, and rulings thereon;
- (E) Proposed findings and exceptions;
- (F) Any decision, opinion, or report by the Board or a hearing officer presiding at the hearing; and
- (G) All other evidence or data submitted to the Board or hearing officer in connection with their consideration of the case.

(2) The State Board Secretary shall electronically record the proceedings, with the exception of the executive sessions. The recording shall be made and maintained in accordance with the requirements of 75 O.S. § 309, and a copy shall be provided to any party to the proceeding upon request. If the requesting party should desire the tape(s) to be transcribed by a court reporter, the requesting party shall bear the expense.

**(i) Rights to a rehearing, reopening or reconsideration.**

(1) A petition for rehearing, reopening or reconsideration of a final order must be filed with the Secretary of the State Board within ten (10) days from the entry of the order. It must be signed by the party or his or her attorney, and must set forth with particularity the statutory grounds upon which it is based. However, a petition based upon fraud practiced by the prevailing party or upon procurement of the orders by perjured testimony or fictitious evidence may be filed at any time. All petitions for rehearing, reopening, or reconsideration will be considered and ruled upon as soon as the convenient conduct of the Board's business will permit.

(2) A petition for a rehearing, reopening, or reconsideration shall set forth the grounds for the request. The grounds for such a petition shall be either:

- (A) Newly discovered or newly available evidence, relevant to the issues;
- (B) Need for additional evidence adequately to develop the facts essential to proper decision;
- (C) Probable error committed by the Agency in the proceeding or in its decision such as would be grounds for reversal on judicial review of the order;
- (D) Need for further consideration of the issues and the evidence in the public interest; or
- (E) A showing that issues not previously considered ought to be examined in order to properly dispose of the matter. The grounds which justify the rehearing shall be set forth by the State Board of Education which grants the order, or in the petition of the individual making the request for the hearing.

(3) It is the burden of the party requesting a rehearing to notify the opposing party of the appeal.

(4) Rehearing, reopening, or reconsideration of the matter may be heard by the State Board of Education or may be referred to a hearing officer. The hearing must be confined to those grounds on which the recourse was granted.

**(j) Judicial review.** Any person or party aggrieved or adversely affected by a final order in an individual proceeding is entitled to certain judicial review in accordance with the provisions of the Oklahoma Administrative Procedures Act, and the procedures set forth therein shall govern appeals.

**(k) Applications for reinstatement of a certificate.** After five (5) years of the effective date of revocation of a certificate, or after expungement of the offense(s) that formed the basis for the revocation by a court of competent jurisdiction, an individual may apply for reinstatement of the certificate in accordance with the application procedures set forth by the State Department of Education.

**(l) Notifications of suspension or revocation.** Upon the suspension or revocation of an individual's certificate, the State Department of Education shall notify the superintendent (or board of education, if the superintendent is the holder of the suspended or revoked certificate) of the district that most recently employed the certified individual based upon the individual's certification number and the personnel reports currently on file with the State Department of Education. In addition, the State Board shall to the extent possible notify the superintendents of all Oklahoma school districts. Notification shall also be provided to the extent possible to certification officers in each state or territory of the United States.

*[OAR Docket #25-475; filed 6-5-25]*

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## TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

*[OAR Docket #25-476]*

### RULEMAKING ACTION:

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PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions

210:10-1-18. Transfers [AMENDED]

Subchapter 13. Student Assessment and School Accountability

210:10-13-1.1. Assessment system [AMENDED]

210:10-13-1.2. Make-up ~~Assessments~~assessments [NEW]

210:10-13-25. Determination of the chronic absenteeism indicator [AMENDED]

**AUTHORITY:**

Department of Education; OK Const. Art. XIII § 5, 70 O.S. § 3-104, 70 O.S. § 1210.545, 70 O.S. § 1210.507, 70 O.S. § 8-114, 70 O.S. § 13-103

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 25, 2024

**COMMENT PERIOD:**

December 16, 2024 through January 17, 2025

**PUBLIC HEARING:**

January 17, 2025

**ADOPTION:**

January 28, 2025

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 31, 2025

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by SJR 22

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

July 11, 2025

**SUPERSEDED EMERGENCY ACTIONS:**

**SUPERSEDED RULES:**

N/A

**GUBERNATORIAL APPROVAL:**

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**DOCKET NUMBER:**

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Purpose of changes are to ensure clarity and uniformity. Updates are necessary to bring rules in conformity with statute and state law. Makes emergency action from previous year permanent.

**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 JULY 11, 2025:

## SUBCHAPTER 1. GENERAL PROVISIONS

### 210:10-1-18. Transfers [AMENDED]

(a) **Definitions.** The following words and terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"Student of a Deployed Parent"** means a student ~~who~~whose Parent or Guardian is the dependent child of a member of the active uniformed military services of the United States on full-time active duty status and for whom Oklahoma is the home of record or a student ~~who~~whose Parent or Guardian is the dependent children of a member of the military reserve on active duty orders and for whom Oklahoma is the home of record.
- (2) **"Open Transfer(s)"** means the transfer of a student from the district in which the student resides to another school district furnishing the grade the student is entitled to pursue.
- (3) **"Parent"** and/or **"Guardian"** means the parent, legal guardian, foster parent, or person having custody of the student seeking a transfer, whose residence is used to determine the residence of the student in accordance with the provisions of 70 O.S. § 1-113(A)(1). For purposes of the Individuals with Disabilities Education Act at 20 U.S.C. § 1400 et seq. (IDEA), the definition of "Parent" set forth in 34 C.F.R. § 300.30 shall supersede the definition of "Parent" set forth in this subsection.
- (4) **"Receiving School District"** means the school district to which the student is seeking to be transferred.
- (5) **"Resident School District"** means the school district in which the Parent, ~~guardian or Guardian, or person~~ having custody of the student resides, as defined in 70 O.S. § 1-113(A)(1).

(b) **Governing statutes.** Open Transfers shall be governed by the Oklahoma Education Open Transfer Act, 70 O.S. § 8-101.1, et seq. In addition, the following types of transfers are governed by the following provisions of law:

- (1) **Students with disabilities.** Transfers made for the purpose of providing a free appropriate public education (FAPE) to special education students shall be governed by 70 O.S. § 18-110 and 70 O.S. § 13-101, et seq. Such transfers shall not be considered Open Transfers subject to the provisions of (d) of this Section.
- (2) **Gifted and talented students.** Transfers made for the purpose of providing gifted child educational programs shall be governed by 70 O.S. § 1210.307. Such transfers shall not be subject to the provisions of (d) of this Section.
- (3) **Parents who are teachers.** Transfers for the purpose of allowing a student to attend school in a district in which the student's Parent or Guardian is employed as a teacher shall be governed by 70 O.S. § 8-113. Such transfers shall not be subject to the provisions of (d) of this Section.
- (4) **Deployed Parents.** Transfers for the purpose of allowing a student of a deployed Parent or Guardian to transfer districts shall be governed by 70 O.S. § 8-103.1. Such transfers shall not be subject to the provisions of (d) of this Section.
- (5) **Sibling transfers.** Transfers of siblings pursuant to the provisions of 70 O.S. § 8-101.2 shall be processed as Open Transfers in accordance with the requirements of 70 O.S. § 8-103 and (d) of this Section. Transfers of multiple-birth siblings shall be processed as Open Transfers, provided that if multiple birth siblings are transferred to the same receiving district, ~~a~~the Parent or Guardian may request placement at the same school and/or in the same classroom under the provisions of 70 O.S. § 24-154(A).

(c) **District policies and procedures pertaining to student transfers.**

- (1) Each school district board of education shall adopt a policy to determine the number of transfer students the school district has the capacity to accept in each grade level for each school site within a school district pursuant to 70 O.S. § 8-101.2. The policy may include the acts and reasons outlined in 70 O.S. § 24-101.3 and a history of absences as bases for denial of a transfer. "History of absences" means ten or more absences in one semester that are not excused for the reasons provided for in 70 O.S. § 10-105(B) or due to illness. The school district's policy shall not include any other basis for denying a transfer request.
- (2) The transfer of a student from the district in which the student resides to another school district furnishing instruction in the grade the student is entitled to pursue shall be granted at any time in the year unless:
  - (A) The number of transfers exceeds the capacity of a grade level for each school site within a school district; or
  - (B) The transfer would violate the school's adopted transfer policy with respect to acts and reasons outlined in 70 O.S. § 24-101.3 or a student's history of absences.

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(3) A school may not accept or deny a request based on the statutorily prohibited factors set forth in 70 O.S. § 8-103.1.

(4) If the grade a student is entitled to pursue is not offered in the district where the student resides, a transfer request shall be automatically approved by the Receiving School District. 70 O.S. § 8-101.

(d) **Open Transfers.** All Open Transfers ~~must~~ shall be initiated and processed in accordance with the following procedures:

(1) The Parent or Guardian of the student must complete an application form specified by the State Board of Education.

(2) The application shall be filed with the superintendent of the Receiving School District for transfers to school districts in this state and with the State Board of Education for transfers to school districts in another state.

(3) The Receiving School District shall approve or deny the application and notify the Parent of the student of the decision in writing within 30 days of receiving an application. Applications shall be processed in the order in which they are received. If the number of student transfer applications exceeds the capacity of a Receiving School District, the district shall select transfer students in the order in which the district received the student transfer applications.

(4) If the transfer application is accepted, the Parents of the student shall provide the receiving school district written notification that the student will be enrolling in the Receiving School District within ten days of receiving notice that the transfer application was approved. Failure of the ~~Parents~~ Parent or Guardian to notify may result in the loss of the student's right to enroll in the school district for that year only. If a Parent or Guardian fails to notify the Receiving School District that a student will be enrolling, and the Receiving School District chooses to cancel the transfer, the Receiving School District shall provide a written notice of the cancellation to the Parent or Guardian of the student immediately upon cancellation.

(5) If a transfer application is denied, the ~~Parents~~ Parent or Guardian of the student may appeal the Receiving School Districts decisions as set forth in 70 O.S. § 8-101.2(E) and Okla. Admin. Code § 210:10-1-18.1.

(6) If the Receiving School District receives notice that the transferring student will be enrolling in the Receiving School District, the Receiving School District shall notify the Resident School District within ten (10) days.

(7) Approval of the resident district is not required for an Open Transfer.

(3)

(e) **Deployed Parent or Guardian.**

(1) If a transfer request is submitted on behalf of a student of a ~~deployed parent~~ Deployed Parent or Guardian in accordance with 70 O.S. § 1-103.1 and this administrative rule, the application shall be approved regardless of the capacity of the receiving school district.

(2) Local school district boards of education shall adopt a policy for transfer requests by students of a ~~deployed parent~~ Deployed Parent or Guardian.

(3) Transfer requests on behalf of Students of a Deployed Parent or Guardian shall be processed in accordance with 70 O.S. § 8-103.1.

(f) **Termination of Transfers.** A transfer may not be terminated in the middle of a school year. At the end of each school year, a school district may deny continued transfer of the student for the reasons outlined in 70 O.S. § 8-101.2(B)(1)-(2). Written notice of a receiving school district's intention to deny continued transfer of a student shall be given to the ~~parent~~ Parent or Guardian of a student by no later than July 15 and shall comply with Okla. Admin. Code § 210:10-1-18.1(b)(3). A receiving school district's denial of a continued transfer may be appealed in compliance with § 210:10-1-18.1.

(g) **Reporting transfers.**

(1) On or before January 1, April 1, July 1, and October 1, the Superintendent of each Receiving School District shall file a statement with the State Board of Education and each Resident School District showing the name and grade level of each student granted a transfer to the Receiving School District and the Resident School District for each student.

(2) On or before January 1, April 1, July 1, and October 1, each school district board of education shall submit to the State Department of Education the number of student transfers approved and denied and whether each denial was based on capacity, acts and reasons outlined in ~~Section 70 O.S. § 24-101.3 of this title~~ or a history of absences as provided for in paragraph 2 of subsection B of this section. The State Department of Education shall publish the data on its website and make the data available to the Office of Educational Quality and Accountability.

(3) The State Department of Education, when publishing the aforementioned data on its website, shall include:

(A) the total number of transfers and denials within the public education system of Oklahoma within a given year - both aggregated and disaggregated by district;.

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- (B) all prior year reports for year-on-year comparison both the quarter-by-quarter data and the compiled, yearly data;
- (C) the number of new transfers versus continuing transfers aggregated and disaggregated by district;
- (D) the reasons for transfer as declared by the Parent or Guardian under the application to transfer;
- (E) the amount of funding that follows the student when a transfer is granted.

## SUBCHAPTER 13. STUDENT ASSESSMENT AND SCHOOL ACCOUNTABILITY

### 210:10-13-1.1. Assessment system [AMENDED]

(a) **Definitions.** The following terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"College and career readiness (CCR)"** means that students graduate from high school prepared to enter and succeed in postsecondary opportunities, whether college or career.
- (2) **"Criterion-referenced"** means an assessment that compares a student's performance to a predetermined standard.
- (3) **"Cut score"** means, for each assessment, the score which the Commission for Educational Quality and Accountability has established as the minimum score required to meet the state's performance target for students taking the assessment.
- (4) **"Lexile"** means a score used within the Lexile framework for reading, which represents either the difficulty of a text or a student's reading ability level.
- (5) **"Norm-referenced"** means an assessment that compares a student's performance to the performance of others who take the assessment.
- (6) **"Quantile"** means a score used within the Quantile framework for mathematics that represents a forecast of, or a measure of, a student's ability to successfully work with certain math skills and concepts.
- (7) **"Scale score"** means a raw score that has been adapted through a customized set of mathematical procedures (e.g., scaling and equating) to account for differences in difficulty across multiple forms, and to enable the score to represent the same level of difficulty from one year to the next.
- (8) **"Summative assessment"** means an assessment conducted at the end of a defined period, such as an academic term or school year, which evaluates student performance against a set of learning targets for the instructional period.

(b) **Requirements for a system of assessments.** House Bill 3218 (2016) directed the State Board of Education to study and develop recommendations for a statewide system of student assessments, which were then submitted to the Oklahoma Legislature for review. The full report of recommendations is available on the State Department of Education website. The assessment system recommended by the State Board of Education and subsequently approved by the Legislature was developed subject to the following requirements under 70 O.S. § 1210.508:

- (1) Alignment with the Oklahoma Academic Standards;
- (2) Comparability of Oklahoma student performance with the performance of students in other states;
- (3) Capability of yielding both norm-referenced and criterion-referenced scores;
- (4) A track record of statistical reliability and accuracy; and
- (5) For assessments administered in high school, a measure of future academic performance.

(c) **Goals.** Pursuant to the requirements to study and develop recommendations for a system of assessments, the State Department of Education convened an Assessment and Accountability Task Force that included educators, parents, tribal leaders, lawmakers, and business and community leaders from across the state. In consultation with experts in the fields of educational assessment and accountability, the Task Force identified the following as primary goals for Oklahoma's student assessment system:

- (1) Provide instructionally useful information to teachers and students, with appropriate detail and timely reporting;
- (2) Provide clear and accurate information to parents and students regarding achievement and progress toward college and career readiness (CCR);
- (3) Provide meaningful information to support evaluation and enhancement of curriculum and programs; and
- (4) Provide information to appropriately support federal and state accountability decisions.

(d) **Summative assessments for grades three (3) through eight (8).** The assessment system adopted by the State Board of Education and approved by the Legislature includes the following components for student assessment in grades three (3) through eight (8):

- (1) **Content alignment and timing.**



(A) The Oklahoma Academic Standards ~~will~~ shall be maintained as the focus of state assessments, and assessments ~~will~~ shall continue to be administered at the ends of grades three (3) through grade eight (8).

(B) An adequate assessment of writing ~~will~~ shall be included to support coverage of the Oklahoma English Language Arts (ELA) standards.

**(2) Intended purpose and use.**

(A) Assessments ~~will~~ shall support the calculation of growth for students in at least grades four (4) through eight (8).

(B) Assessments ~~will~~ shall demonstrate sufficient technical quality to support the intended purposes and current uses of student accountability, for example grade three (3) promotion based on reading assessment and driver license eligibility based on grade eight (8) English Language Arts (ELA) assessment.

**(3) Score interpretation.**

(A) Assessments ~~will~~ shall provide a measure of performance indicative of whether students appear to be on track to college and career readiness (CCR).

(B) Assessments ~~will~~ shall support criterion-referenced interpretations which measure student performance against the Oklahoma Academic Standards, and report individual claims including but not limited to scale score, Lexile, Quantile, content cluster, and growth performance.

(C) Assessments ~~will~~ shall support norm-referenced information to help contextualize the performance of students statewide using a feature such as intra-state percentiles.

**(4) Reporting and state comparability.**

(A) Assessments ~~will~~ shall support aggregate (group) reporting on claims including but not limited to scale score, Lexile, Quantile, content cluster, and growth performance.

(B) The assessment system ~~will~~ shall utilize the existing National Assessment of Educational Progress (NAEP) data to establish statewide comparisons at grades four (4) and eight (8). NAEP data ~~will~~ shall also be used during standard-setting activities to ensure the College and Career Readiness (CCR) cut score is set using national and other state data.

**(e) Summative assessments for high school.** The assessment system adopted by the State Board of Education and approved by the Legislature includes the following components for student assessment in high school:

**(1) Content alignment and timing.** A commercial college-readiness assessment (e.g., SAT, ACT, CLT) ~~will~~ shall be used in lieu of state-developed high school assessments in grades nine (9) or ten (10), with alignment to standards and other peer review requirements being a consideration.

**(2) Intended purpose and use.**

(A) The assessment ~~will~~ shall demonstrate sufficient technical quality to support the need for multiple and differing uses of assessment results.

(B) The possibility of linking college-readiness scores to information of value for students and educators ~~will~~ shall be explored (e.g., readiness for postsecondary opportunities, remediation risk).

(C) A focus on rigorous expectations of college and career readiness ~~will~~ shall be maintained.

(D) The assessment ~~will~~ shall ensure that all students in Oklahoma can be provided with a reliable, valid, and fair score regardless of the accommodations provided or the amount of time needed for a student to take the test, and ~~will~~ shall further ensure that scores reflecting college and career readiness can be provided to the accepting institution or employer of each student.

**(3) Score interpretation.**

(A) The assessment ~~will~~ shall support criterion-referenced interpretations of student performance against the Oklahoma Academic Standards, and report individual claims appropriate for high school students.

(B) The assessment ~~will~~ shall provide evidence to support claims of college and career readiness (CCR). These claims should be supported using theoretically related data in standard-setting activities (e.g., measures of college readiness and other nationally available data), and validated empirically using available postsecondary data linking to performance on the college-readiness assessment.

(C) The assessment ~~will~~ shall provide norm-referenced information to help contextualize the performance of students statewide using a feature such as intra-state percentiles.

**(4) Reporting and state comparability.**

(A) The assessment system ~~will~~ shall support aggregate (group) reporting on claims at appropriate levels of categorization for high school assessments (e.g., grade, subgroup, teacher, building/district administrator, state).

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(B) The assessment system ~~will~~ shall support the ability to provide norm-referenced information based on other states that administer the same college-ready assessments, as long as unreasonable administration constraints do not inhibit those comparisons.

## **210:10-13-1.2. Make-up Assessments** ~~assessments~~ [NEW]

(a) **Purpose.** Any public school district or public charter school may determine if a senior student is eligible for make-up assessments due to an incomplete graduation requirement, provided, the senior student has met all other state and local graduation requirements and would have otherwise been eligible to graduate except for one or more missing College and Career Ready Assessments: US History, Science, Math, ELA (ACT/SAT include both math and ELA) as required under 70 O.S. § 1210.508.F.1.

(b) **Application.** Any of the four (4) make up-assessments outlined in paragraph (a) of this section shall be part of the of the statewide student assessment system and shall be aligned to the Oklahoma Academic Standards as adopted by the State Board of Education. These assessments shall not be included in the state accountability system, nor are they intended to yield reportable data.

(c) **Procedure.** Upon administering any make-up assessment(s) to an impacted student, a public school district or public charter school may issue a standard diploma to the impacted student. The transcripts of an impacted student shall denote the student as having participated in the assessment in lieu of reporting an assessment score. The make-up assessment(s) shall be retained at the local school district as a record of student participation in fulfillment of the graduation requirement.

(d) **Federal and state reporting.** Any impacted student who takes one or more of make-up assessments outlined in paragraph (a) of this section shall not be added to the public school district's or public charter school's participation rate in assessments mandated by state and federal law.

## **210:10-13-25. Determination of the chronic absenteeism indicator** [AMENDED]

(a) **Purpose of the chronic absenteeism indicator.** Because chronic absenteeism has been linked to lower academic performance, higher dropout rates, and diminished success after high school, Oklahoma has included chronic absenteeism as an indicator in the school accountability system adopted under the requirements of the *Every Student Succeeds Act* (ESSA). By highlighting the importance of regular school attendance to student success in school and beyond, the State of Oklahoma encourages schools to actively engage with students and their families in eliminating barriers to regular attendance, and to ensure students receive the supports needed to attend school every day.

(b) **Authorization of policy establishing a medical exemption from chronic absenteeism.** A public school district or charter school may establish a policy providing that student absences which are due to a significant medical condition (a severe, chronic, or life-threatening physical or mental illness, injury, or trauma) may be exempted from inclusion in the calculation of the chronic absenteeism indicator of the applicable student's school site upon determination of eligibility by a medical exemption review committee formed by the district or charter school. A chronic absenteeism medical exemption policy adopted by a public school district or charter school shall be developed in accordance with the guidelines in this Section.

(c) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Chronic absenteeism"** means absence from school at least ten percent (10%) of the time that school is in session and the student is included in membership, eighteen (18) or more days on a 180 day school calendar or ten percent (10%) or more of school days on a 1,080 hours school calendar.

(2) **"Significant medical condition"** means, for the purposes of this Section, a severe, chronic, or life-threatening physical or mental illness, infection, injury, disease, or emotional trauma.

(d) **Not all excused absences qualify for medical exemption.** Certain student absences are classified as "excused" under state law and/or school policies, meaning that a student is considered absent for a valid reason under law or policy and the absence may not be associated with any penalties to the student. Examples include medically documented absences, which are considered excused under 70 O.S. § 10-105(B), and absences related to the military deployment activities of a student's parent or guardian, which are excused under 70 O.S. § 510.1(V)(E). If a student is absent in relation to their own or their household's homeless status, such related absences should be excused pursuant to the federal McKinney-Vento Act so the related absences do not serve as a barrier to enrollment or retention. These and other types of absences considered under law or policy as a valid basis to be absent from school should be indicated as "excused" in a school's student information system. However, the classification of an absence as "excused" such that no penalties accrue to a student in relation to the absence does not automatically qualify the absence for a medical exemption for purposes of the chronic absenteeism indicator. In order to be eligible for consideration under a chronic absenteeism medical exemption policy, an absence must fall under the definition of "significant medical condition" given in this Section.

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(e) **Absences from school that do not accrue toward chronic absentee status.** A student with disabilities who is on an Individualized Education Program (IEP), or a student with a physical or mental impairment who is on a Section 504 Plan, is considered in attendance and does not accrue absences while receiving offsite services outlined in the IEP or Section 504 plan. A student on an IEP or Section 504 Plan whose condition worsens or who requires more frequent treatments should have their IEP or Section 504 Plan updated accordingly. A student who is receiving homebound education services from their school district is considered in attendance and does not accrue absences while in homebound status. A student receiving disciplinary action, such as out-of-school suspension ("OSS"), in-house suspension ("ISS"), or expulsion, shall not accrue absences; provided the child attends ISS.

(f) **Effect of exempt absence.** If a student has been determined to have a significant medical condition under the district or charter school's medical exemption policy, only absences that are related to the student's identified condition(s) or qualifying circumstances may be exempted from inclusion in the calculation of the chronic absenteeism indicator. Absences that are not related to the student's qualifying condition(s) or circumstances, such as routine illnesses or medical appointments, are not eligible for exemption under a school district's medical exemption policy. The exempt absence(s) of a student who has been granted an exemption of one or more absences from school in accordance with the provisions of this Section shall not be included in the calculation of the chronic absenteeism indicator on the school site report card.

(g) **Reporting absences determined medically exempt to the State Department of Education.** A school district or charter school that has adopted a chronic absenteeism medical exemption policy in accordance with this Section, and has determined under the policy that one or more student absences are medically exempt from inclusion in the chronic absenteeism indicator, shall report such absences determined medically exempt to the Oklahoma State Department of Education (OSDE) Office of Accountability. To ensure that an absence which has been determined eligible for a medical exemption by a school district's medical exemption review committee is identified as exempt in sufficient time for the absence to be excluded from the chronic absenteeism calculation, the Office of Accountability may set an annual deadline for the reporting of such medically exempt absences. The reporting of absences identified under a district's policy as medically exempt may require the submission of the district's chronic absenteeism medical exemption policy and documentation of the medical exemption review committee's approval of the exempted absences. All documentation considered during the medical exemption review committee's consideration of potentially eligible absences shall be maintained by the school district or charter school and shall be available to regional accreditation officers for auditing purposes.

(h) **Effect of public health emergencies or other declared emergencies.** In the event of an emergency declared by a federal or state government entity that impacts the operation of public schools in Oklahoma, or upon an action taken by the State Board of Education declaring such an emergency, the Oklahoma school accountability system shall make any appropriate accommodations authorized under federal law to mitigate the effects of the emergency on school accountability determinations for the affected school year(s). Student absences related to a state of emergency shall not be included in the calculation of the chronic absenteeism indicator. If there is any period of time during a state of emergency when public school operations are suspended, interrupted, or otherwise affected by the emergency conditions, the affected dates shall be excluded from the calculation of the chronic absenteeism indicator.

(i) **Authority.** Title 70 O.S. Section 1210.545.

*[OAR Docket #25-476; filed 6-5-25]*

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## TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

*[OAR Docket #25-477]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 9. ~~Professional~~ Professional Standards: Teacher Education and Certification [AMENDED]

Part 9. TEACHER CERTIFICATION

210:20-9-102. Paraprofessional credentials and career development program for paraprofessionals [AMENDED]

Part 17. FULL (SUBJECT MATTER) COMPETENCIES FOR LICENSURE AND CERTIFICATION

210:20-9-172. Full (subject matter) competencies for licensure and certification [AMENDED]

Subchapter 13. Teacher Testing

210:20-13-1. Teacher testing regulations [AMENDED]

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Subchapter 23. School Board Members

210:20-23-5. Records management [AMENDED]

**AUTHORITY:**

Department of Education; OK Const. Art. XIII § 5, Executive Order 2023-31, 70 O.S. § 3-104, 70 O.S. § 6-187, 70 O.S. § 6-127A, 70 O.S. § 5-110

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Purpose of changes are to ensure clarity and uniformity. Updates are necessary to bring rules in conformity with statute and state law.

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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 JULY 11, 2025:**

**SUBCHAPTER 9. ~~PROFFESIONAL~~ PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION [AMENDED]**

**PART 9. TEACHER CERTIFICATION**

### **210:20-9-102. Paraprofessional credentials and career development program for paraprofessionals [AMENDED]**

(a) **Purpose.** Under Oklahoma law at 70 O.S. § 6-127A, a public school paraprofessional is an employee of a school district whose position is instructional in nature, or who delivers other direct services to students and/or their parents, and for which a certified teacher or other professional has the ultimate responsibility for the design, implementation, and evaluation of the individual educational programs or related services and student performance. Individuals must meet requirements established by federal and state law to be authorized to serve as public school paraprofessionals in Title I schools and in special education settings. The State Board of Education is also authorized to issue provisional teaching certification to a qualifying individual with a paraprofessional credential and relevant experience serving as a paraprofessional.

(b) **Paraprofessional credential.** An individual ~~who wishes to apply~~ applying for a paraprofessional credential shall submit an application and all required supporting documentation to the State Department of Education Office of Certification.

(1) **Tier 1.** In order to qualify for a Tier 1 Oklahoma paraprofessional credential issued by the Oklahoma State Department of Education (OSDE), which is required for general education paraprofessionals in Title I schools and available to general education paraprofessionals in other settings, an applicant shall meet the following eligibility criteria, established through the Elementary and Secondary Education Act (ESEA):

(A) Has a high school diploma, or a General Educational Development (GED) Diploma or other certificate of high school equivalency recognized by the State of Oklahoma.

(B) Has on file with the State Board of Education a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation (OSBI) as well as a national fingerprint-based criminal history record provided by the Federal Bureau of Investigation (FBI). Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary credential which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a credential shall be responsible for the cost of obtaining the criminal history records.

(C) Meets at least one of the following criteria:

(i) Has completed at least two (2) years of study at an institution of higher education, defined as completion of at least forty-eight (48) credit hours of college coursework; or

(ii) Has obtained an associate's degree or higher; or

(iii) Has either passed the Oklahoma General Education Test (OGET), obtained a National Career Readiness Certificate through successful completion of the ACT WorkKeys assessment, or passed the ParaPro Assessment offered through the Educational Testing Service.

(2) **Tier 2.** In order to qualify for a Tier 2 Oklahoma paraprofessional credential issued by the State Department of Education, which is valid for special education paraprofessionals, an applicant shall meet the criteria for a Tier 1 paraprofessional credential and all of the following qualifications:

(A) Has completed the Oklahoma Special Education Paraprofessional Training available at Career Technology centers, equivalent training provided by the State Department of Education through an in-person or online program, or other state-approved training provided by a school district.

(B) Has completed training in cardiovascular pulmonary resuscitation (CPR) and First Aid.

(C) Has completed training in Universal Precautions/Bloodborne Pathogens.

(3) **Provisional employment of paraprofessionals in special education settings.** In the event a school district requires a special education paraprofessional in order to provide necessary services to one or more students with disabilities, but is unable to secure the services of an individual who holds a Tier 2 paraprofessional credential at the time the services must be delivered, the district may employ an individual on a provisional basis if the district determines the individual is able to provide the appropriate paraprofessional services. An individual who is employed as a paraprofessional to provide special education services on a provisional basis must meet the criteria for a Tier 1 credential, and obtain all training required to qualify for a Tier 2 credential as listed in (b)(2) of this section, within one hundred twenty (120) calendar days of employment providing special education paraprofessional services in order to continue providing special education paraprofessional services, provided a criminal history record check is obtained within sixty (60) calendar days of initial employment pursuant to 70 O.S. § 5-142. If it is necessary for a school district to provisionally employ a paraprofessional to provide special education services, the district shall report the provisional placement of the paraprofessional and the paraprofessional's starting date of employment to the State Department of Education Office of Special Education.

(c) **Provisional teaching certificates - paraprofessional.** The State Department of Education shall issue a provisional teaching certificate, valid for up to three (3) years, in early childhood, elementary education, or special education to a paraprofessional who meets all of the following requirements:

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- (1) Has been employed for one full school year (i.e., two consecutive semesters, three consecutive trimesters, or four consecutive quarters) in an accredited public or private school as a paraprofessional in the area for which a certificate is being pursued. The full school year (or the equivalent in consecutive school terms) of required paraprofessional experience must be completed in one school district or accredited private school;
- (2) Has earned at least a bachelor's degree from a college or university whose accreditation is recognized by the Oklahoma State Regents for Higher Education and has attained a cumulative grade point average of not less than 2.5 on a 4.0 scale;
- (3) Has passed all of the following teacher competency examinations adopted by the Oklahoma Commission for Teacher Preparation prior to July 1, 2014, or adopted by the Commission for Educational Quality and Accountability on and after July 1, 2014:

- (A) The Oklahoma General Education Test (OGET);
- (B) The Oklahoma Subject Area Test (OSAT) in Early Childhood, Elementary Education, or Special Education; and
- (C) The Oklahoma Professional Teaching Exam (OPTE) (PK-8);

- (4) Has on file with the State Board of Education a current Oklahoma criminal history record from the Oklahoma State Bureau of Investigation as well as a national fingerprint-based criminal history record provided by the Federal Bureau of Investigation. Upon receipt of the Oklahoma criminal history record, the Board may issue a temporary credential which shall be effective until receipt of the national fingerprint-based criminal history record. The person applying for a credential shall be responsible for the cost of the criminal history records;
- (5) Has made application for teacher certification to the Oklahoma State Department of Education.

(d) **Standard teaching certificate - paraprofessional.** The State Department of Education shall issue a standard teaching certificate to individuals who have met all of the requirements of (b) of this section and met all of the following requirements:

- (1) The applicant has successfully completed at least one (1) full school year (i.e., two consecutive semesters, three consecutive trimesters, or four consecutive quarters) of teaching service in a public or private school accredited by the State Board of Education or a private school accrediting organization approved by the Board. The full school year (or the equivalent in consecutive school terms) of required teaching experience must be completed in one school district or accredited private school;
- (2) The applicant provides at least two (2) favorable recommendations for granting a standard teaching certificate to the applicant from:

- (A) The superintendent of a school district where the applicant has served as a teacher, or the principal of a school site where the applicant has served as a teacher; and
- (B) The chair or director of the accredited teacher preparation program in which the applicant completed the coursework requirements set forth in (3) of this subsection.

- (3) Within three (3) years of initial issuance of the provisional teaching certificate in accordance with the provisions of (c) of this Section, the applicant has successfully completed twelve (12) semester hours of professional education coursework from an institution of higher education whose accreditation is recognized by the Oklahoma State Regents for Higher Education. The twelve (12) hours of coursework required by this paragraph shall consist of coursework that:

- (A) Is offered in a teacher preparation program that has been accredited by the Oklahoma Commission for Teacher Preparation prior to July 1, 2014 or accredited by the Commission for Educational Quality and Accountability on and after July 1, 2014;
- (B) Is related to the area of teacher certification sought;
- (C) Includes a minimum of three (3) semester hours in reading instruction.

(e) **Reporting.** Any individual who has been issued a provisional certificate in accordance with the provisions of (c) of this Section shall be reported on the certified personnel report and be considered as any other certified employee.

## PART 17. FULL (SUBJECT MATTER) COMPETENCIES FOR LICENSURE AND CERTIFICATION

### 210:20-9-172. Full (subject matter) competencies for licensure and certification [AMENDED]

Full (subject matter) competencies are listed in (1) through (43) by subject/content area.

- (1) **Art education.** The candidate for licensure and certification:

- (A) Has a sound philosophical understanding of visual art education and is able to support, justify, and implement the visual art curriculum.
- (B) Has an understanding of past, current, and future trends and issues in art education as well as art education research.

- (C) Has a knowledge of developmentally appropriate visual art content including aesthetics, art criticism, and art history, around a core of art production.
- (D) Has a working knowledge of and has had experience in integration of the arts with other fine arts areas as well as other academic disciplines.
- (E) Understands and has experience in the application of the elements and principles of art and design.
- (F) Understands art history including various styles, periods, ethnic groups, and cultures from around the world.
- (G) Has a knowledge of aesthetics (the field of study that relates to beauty in the arts) and art criticism (art review and commentary), along with teaching strategies appropriate for both areas that involve a variety of media and awareness of developmental levels.
- (H) Understands and has experience in various methods of art production and creative development including drawing, figure drawing, color and design, painting, printmaking, sculpture, clay, applied design, and technology. Additional experience should involve metal, stone, fiber, papermaking, wood, and mixed media.
- (I) Has proficiency in teaching strategies that are developmentally appropriate and inclusive of various student learning styles and is sensitive to the needs of diverse ethnic and cultural groups and those with disabilities.
- (J) Develops a portfolio of his/her own artwork.
- (K) Understands that contests and competitions have a valuable place in art education; however, they should not drive the development of the local curriculum.
- (L) Has a knowledge of a wide variety of arts resources including community resources, materials, equipment, and information about exhibitions and/or major collections.
- (M) Recognizes the important role of technology in education and that it may serve as a supportive tool in art education.
- (N) Understands the art-related competencies in the Oklahoma core curriculum and knows how to incorporate them into various art classes.

(2) **Business education.** Competencies for business education are fulfilled by meeting competencies for vocational business.

(3) **Driver/safety education.** The candidate for licensure and certification:

- (A) Applies, models, and teaches appropriate learning strategies for the safe operation of motor vehicles.
- (B) Understands the social and emotional forces that influence the psychological makeup of young drivers and how these forces affect their driving behavior.
- (C) Understands basic driving maneuvers including the universal concepts of defensive driving.
- (D) Understands the physical laws of nature and the statutory laws that govern the safe operation of motor vehicles.
- (E) Has an understanding of the basic mechanical systems that make up a motor vehicle and their influence on its operational limits.

(4) **Early childhood education (pre-kindergarten-third grade).** The competencies related to Early Childhood Education relate more specifically to the processes of learning and/or information processing than presentation of specific subject matter. The candidate for licensure and certification knows, understands, and uses:

- (A) Factors that influence the development of young children, the sequence and interdependency of all areas, (i.e., physical, social, emotional, cognitive, and language) and uses that knowledge to meet the needs and characteristics of the group and individual children (birth to eight years of age) while respecting their unique rates of development.
- (B) Positive child guidance strategies which help children learn to make responsible decisions regarding their own behavior and contributes to the development of self-control, self-motivation, and self-respect.
- (C) The knowledge of how young children think, process information, and develop concepts in content areas including language, literacy, mathematics, science, health, safety, nutrition, social studies, art, music, drama, and movement.
- (D) Integrative approaches (e.g., themes, topics, projects) to enable children to see and experience content areas and make meaningful connections to the child's life experience.
- (E) Curriculum in regards to the children's needs and interests, as well as, developmentally appropriate skills and concepts.

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- (F) Developmentally appropriate strategies when planning, implementing, articulating, and evaluating (e.g., play, independent work, small group projects, group discussions, cooperative learning, open-ended questions, inquiry, and problem solving experiences.)
- (G) A bias-free learning environment (indoors and outdoors) which is physically and psychologically safe for young children through the use of a balanced schedule, learning centers, and appropriate transitions and routine.
- (H) Curriculum strategies, schedules, and the environment to meet the specific needs, interests, and experiences of all children with complex characteristics (i.e., adapting for those with disabilities, developmental delays, diverse cultures, or special abilities).
- (I) Collaboration strategies regularly with families and other agencies in the community to enhance and support children's learning and development.
- (J) Behaviors that recognize and respect diversity, how it influences learning, and builds connections among children's families, communities, and schools.
- (K) Performance assessment (i.e., observation and documentation) and formal assessment to evaluate young children's development and learning for the purpose of planning appropriate and challenging programs, environments, and interactions and adapting for individual differences.
- (L) Formative and summative evaluation measures to ensure comprehensive quality of the total program for children in reciprocal partnerships, with families, and the community.
- (M) The historical, social, and ethical foundations of early childhood education which enables the teacher to articulate a philosophy and rationale for appropriate principles and practices.
- (N) Self evaluation of teaching techniques and outcomes and modifies curriculum, strategies, schedules and environment to maximize the learning environment and enhance psychological safety for children.
- (O) Knowledge to advocate for children by articulating to family, community and others the goals and methods used in the early childhood classroom.
- (P) Instructional strategies/plans based on the Oklahoma core curriculum.
- (Q) Understands and applies the following competencies in reading instruction as appropriate to the abilities of the student.
  - (i) Knows the stages of language development and the structure of the English language and alphabetic writing system including phonology, morphology, and orthography and their relationships to spelling and meaning.
  - (ii) Understands that primary language (oral) directly impacts the secondary languages (reading, writing, spelling). Knows and applies knowledge of implicit and explicit instruction in developing oral language. Knows the relationship of oral language to literacy.
  - (iii) Knows the developmental process of reading in order to assess, interpret, describe, develop appropriate instruction, monitor, reteach and reassess student's reading performance for concepts about print, phonological and phonemic awareness, phonics, spelling, word recognition, vocabulary, comprehension, fluency, and writing.
  - (iv) Identifies and applies all developmental levels of phonemic awareness to provide appropriate instruction in understanding words are made up of phonemes and that phonemes can be rearranged and manipulated to make different words that compose oral speech.
  - (v) Knows and provides appropriate systematic explicit and implicit phonological instruction for the application of spelling-sound correspondences for word analysis and for structural analysis for word recognition and word meaning development.
  - (vi) Knows and applies the relationships between spelling patterns and sounds of speech; knows how to support the student at each stage of spelling development; knows how to focus direct and indirect instruction to guide the student toward spelling proficiency.
  - (vii) Knows and applies knowledge of appropriate explicit and implicit instruction for vocabulary development (e.g., singular and plural).
  - (viii) Knows and applies strategies that promote comprehension and strategies to support children's understanding for the various elements of the different genres of text.
  - (ix) Knows and applies strategies and instructional approaches to support response to text and promote comprehension for literal, inferential, and critical/evaluative level (e.g., guided reading, literature and research circles).
  - (x) Knows and applies knowledge of instructional techniques to assist students with self-monitoring and self-corrections (i.e., semantics, syntax, and graphophonics).



- (xi) Knows and applies the instructional strategies which contribute to the development of fluent reading.
- (xii) Knows how to promote children's interest and engagement in reading and writing.
- (R) Understands and applies the following competencies in mathematics instruction as appropriate to the abilities of the student.
  - (i) Builds on children's natural interest in mathematics and uses it to make sense of their physical and social worlds.
  - (ii) Establishes mathematics curriculum based on current knowledge of young children's cognitive, linguistic, physical and social-emotional development that builds on children's varying experiences.
  - (iii) Uses teaching practices that enhance children's problem-solving and reasoning processes which includes representing, communicating, and connecting mathematical ideas.
  - (iv) Understands that the curriculum should be coherent and compatible with known relationships and sequences of important mathematical ideas and that provides for children's deep and lasting interaction with key mathematical ideas.
  - (v) Introduces mathematical concepts, methods, and language through a variety of appropriate experiences and teaching strategies, including integrating mathematics with other activities and allowing ample time, materials and teacher support for children to explore and manipulate mathematical ideas.
  - (vi) Enhances children's mathematical knowledge, skills and strategies by providing an ongoing process of collecting information from multiple sources to determine a student's strengths and weaknesses in order to plan appropriate educational services.
- (S) Understands and applies the following competencies in science instruction as appropriate to the abilities of the student.
  - (i) Plans an inquiry-based science program that develops a curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students in a framework of yearlong and short-term goals for students.
  - (ii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
  - (iii) Guides and facilitates learning through focused interaction with students, recognizes and responds to student diversity, and encourages and models the skills of inquiry in order for all students to participate in science learning.
  - (iv) Uses ongoing multiple methods and systematically gathers data about students understanding and abilities.
  - (v) Designs and manages learning environments that provide students with the time, space and resources needed for developing science skills.
  - (vi) Uses a variety of instructional strategies to implement an integrated/interdisciplinary curriculum and understands the interaction between the sciences and the process skills.
- (T) Understands and applies the following competencies in social studies instruction as appropriate to the abilities of the student.
  - (i) Designs and manages learning environments that provide opportunities for students to exhibit traits of good citizenship in a variety of settings and situations.
  - (ii) Selects teaching and assessment strategies that support the development of student understanding of their community and culture.
- (U) Understands and applies the following competencies in the use of technology as appropriate to the abilities of the student.
  - (i) Bases the use of technology on the knowledge of how young children think, process information and develop concepts in content areas.
  - (ii) Enhances children's cognitive and social abilities through the appropriate use of technology.
  - (iii) Integrates technology into the learning environment and uses it as one of many options to support children's learning.
  - (iv) Promotes equitable access to technology for all children and their families.
  - (v) Advocates in collaboration with parents for more appropriate technology applications for all children.

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(5) **Elementary education.** The competencies developed in specific subject areas such as mathematics, art, science, etc., have been developed on a prekindergarten through 12th grade continuum. Because of this, it is unnecessary for the elementary education competencies to address anything more than the processes through which the subject matter competencies will be presented in the classroom. The candidate for licensure and certification:

- (A) Understands his/her role and the variety of approaches to the organization of elementary schools.
- (B) Understands the essential nature and importance of interaction and communication with students, parents, community members and colleagues.
- (C) Models the role of the lifelong learner.
- (D) Understands the role of the teaching profession in curriculum change and school improvement.
- (E) Understands the link between child development, curriculum, and instruction.
- (F) Understands and uses a variety of strategies to:
  - (i) select methods of assessment appropriate to each of the subject matter areas and to the age, development, and characteristics of students,
  - (ii) interpret and communicate assessment results accurately and ethically, and
  - (iii) integrate information gained from assessments into instructional plans.
- (G) Has a knowledge of current research findings about teaching and learning.
- (H) Analyzes his/her teaching practices through a variety of techniques.
- (I) Understands appropriate classroom management systems and discipline practices.
- (J) Understands the selection and use of materials, resources, and technology appropriate to individual differences.
- (K) Creates an environment that facilitates learning experiences which make subject matter meaningful to students.
- (L) Understands the subject matter areas common to the elementary curriculum and the integration of those subject matter areas.
- (M) Facilitates learning groups as appropriate to the needs and/or interests of students and the goals of the lesson.
- (N) Understands and applies the following competencies in reading instruction.
  - (i) Knows the stages of language development and the structure of the English language and alphabetic writing system including phonology, morphology, and orthography and their relationships to spelling and meaning.
  - (ii) Understands that primary language (oral) directly impacts the secondary languages (reading, writing, spelling). Knows and applies knowledge of implicit and explicit instruction in developing oral language. Knows the relationship of oral language to literacy.
  - (iii) Knows the developmental process of reading in order to assess, interpret, describe, develop appropriate instruction, monitor, reteach and reassess student's reading performance for concepts about print, phonological and phonemic awareness, phonics, spelling, word recognition, vocabulary, comprehension, fluency, and writing.
  - (iv) Identifies and applies all developmental levels of phonemic awareness to provide appropriate instruction in understanding words are made up of phonemes and that phonemes can be rearranged and manipulated to make different words that compose oral speech.
  - (v) Knows and provides appropriate systematic explicit and implicit phonological instruction for the application of spelling-sound correspondences for word analysis and for structural analysis for word recognition and word meaning development.
  - (vi) Knows and applies the relationships between spelling patterns and sounds of speech; knows how to support the student at each stage of spelling development; knows how to focus direct and indirect instruction to guide the student toward spelling proficiency.
  - (vii) Knows and applies knowledge of appropriate explicit and implicit instruction for vocabulary development, e.g., prefixes, suffixes and roots.
  - (viii) Knows and applies strategies that promote comprehension and strategies to support children's understanding for the various elements of the different genres of text.
  - (ix) Knows and applies strategies and instructional approaches to support response to text and promote comprehension for literal, inferential, and critical/evaluative level, e.g., guided reading, literature and research circles.
  - (x) Knows and applies knowledge of instructional techniques to assist students with self-monitoring and self-corrections, i.e., semantics, syntax, and graphophonics.

- (xi) Knows and applies the instructional strategies which contribute to the development of fluent reading.
- (xii) Knows how to promote children's interest and engagement in reading and writing.
- (O) Understands interdisciplinary teaching and collaboration.
- (P) Understands that all students can develop proficiencies in the Oklahoma core curriculum.
- (6) **English.** The candidate for licensure and certification:
  - (A) Maintains current knowledge of content-area concepts of written and oral communication, literature, and language systems (phonetic, semantic, syntactic, pragmatic). For purposes herein, language systems and what they mean or include are:
    - (i) "Phonetic" means the letter/sound system of a particular language.
    - (ii) "Pragmatic" means the use of particular language and its conventions that convey meaning in a cultural context.
    - (iii) "Semantic" means the meaning system of a given language.
    - (iv) "Syntactic" means the structure, order, and organization of a given language.
  - (B) Applies comprehension, analysis, interpretation, synthesis and evaluation of auditory, written, and visual messages. For purposes herein, these terms have the following meaning and include:
    - (i) "Auditory messages" means spoken language, intonation.
    - (ii) "Visual messages" means visual graphics such as illustrations, pictures, photographs, symbols, and signs, body language, facial expressions.
    - (iii) "Written messages" means connected discourse, text.
  - (C) Applies appropriate learning strategies for reading, writing, studying, and researching.
  - (D) Communicates effectively in speaking and writing, using appropriate language conventions. For purposes herein, "language conventions" means grammar, figurative language, mechanics, specialized vocabulary, technical terms.
  - (E) Understands the influences of social and historical contexts and culture on language and literature and adapts instruction accordingly.
  - (F) Uses the understanding of language acquisition and language learning processes to develop student proficiencies and to modify instruction for second-language learners.
  - (G) Establishes a reflective and creative learning environment.
  - (H) Uses a variety of assessment strategies to evaluate student proficiencies in the language arts and to modify instruction appropriately.
  - (I) Uses technology to accomplish professional goals and to develop student's literacy proficiencies.
  - (J) Understands and teaches strategies appropriate to a variety of forms (genres), text organizations, and structures, including functional print and informational print. For purposes herein:
    - (i) "Functional print" means environmental print messages (i.e., signs, logos, labels, directions);
    - (ii) "Genre" means a particular type of literature (i.e., short story, novel, poem, essay, drama)
    - (iii) "Informational print" includes reference materials, telephone books, almanacs, dictionaries.
  - (K) Understands the literacy process (i.e., reading process and writing process), and provides effective instruction in literacy skills and strategies.
  - (L) Understands, teaches, and implements Oklahoma's core curriculum.
- (7) **Family and consumer sciences.** Competencies for family and consumer sciences are fulfilled by meeting competencies for vocational family and consumer sciences.
- (8) **Foreign languages.** The candidate for licensure and certification will possess competencies as specified in (A) through (G).
  - (A) Listening (K-12). The candidate for licensure and certification:
    - (i) Understands main ideas and supporting details of oral presentations and conversations (e.g., prepared speeches, news broadcasts, interviews, short lectures).
    - (ii) Understands spontaneous speech on a variety of basic topics.
    - (iii) Comprehends sustained conversation or narrative of general topics (secondary only).
  - (B) Speaking (K-12). The candidate for licensure and certification:
    - (i) Narrates and describes events, objects, and activities with supporting details.
    - (ii) Participates in spontaneous, face-to-face conversation involving more complicated skills and social situations, such as elaborating, apologizing, debating.
    - (iii) Initiates, sustains, and closes a general conversation.

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- (iv) Displays some ability to support opinions, explain in detail, and make assumptions (secondary only).
- (v) Uses varied strategies, such as paraphrasing or restating, to facilitate communication in the language being studied (secondary only).
- (C) Reading (K-12). The candidate for licensure and certification:
  - (i) Reads authentic (from the culture of the language studied) materials, such as selected short stories, poetry, and other literary works, articles, personal correspondence, and simple technical material written for the general reader.
  - (ii) Comprehends facts in authentic (from the culture of the language studied) texts and materials and makes appropriate inferences.
  - (iii) Comprehends authentic (from the culture of the language studied) communications via various media and technology.
- (D) Writing (K-12). The candidate for licensure and certification:
  - (i) Communicates by writing simple facts and ideas.
  - (ii) Expresses narratives and descriptions of a factual nature.
  - (iii) Writes professional and social correspondence (secondary only).
- (E) Culture (K-12). The candidate for licensure and certification:
  - (i) Is knowledgeable about the products of the culture of the language being taught.
  - (ii) Is knowledgeable about practices of the culture of the language being taught.
  - (iii) Is able to compare and contrast local culture and cultures of the language being taught.
- (F) Second language acquisition (K-12). The candidate for licensure and certification:
  - (i) Is knowledgeable about first language development and its relation to second language learning.
  - (ii) Is knowledgeable about varied teaching approaches, methods, and strategies.
  - (iii) Is knowledgeable about varied second language assessment strategies and techniques that are developmentally appropriate.
- (G) The Oklahoma core curriculum (K-12). The candidate for licensure and certification:
  - (i) Understands Oklahoma's core curriculum for languages, and
  - (ii) Implements the skills and knowledge appropriate to the level(s) taught.
- (9) **Journalism.** The candidate for licensure and certification:
  - (A) Maintains current knowledge of concepts, theories, and practical application of such in the field of journalism, including those associated with print media, news gathering, writing, research, graphic design, photography, technology, law, and ethics.
  - (B) Applies comprehension, analysis, interpretation, and evaluation of auditory, written, and visual communication. Projects can be created based on this knowledge, i.e., newspapers, yearbooks, magazines, or broadcasts.
  - (C) Applies appropriate learning strategies for research, writing, organization, editing, and presentation of written and visual messages to different audiences.
  - (D) Communicates effectively in oral presentation, written communication, and visual design.
  - (E) Understands the influence of social and historical context of culture on journalism and adapts instruction accordingly.
  - (F) Understands the impact and importance of cultural diversity on the communication process.
  - (G) Establishes a reflective and creative learning environment.
  - (H) Uses a variety of assessment strategies and teaching methods to encourage creativity, to inspire critical thinking to develop problem-solving techniques, and to establish and maintain excellence in all journalism pursuits.
  - (I) Uses technology to accomplish professional goals and to develop students' journalistic proficiencies in all aspects of the subject, including, but not limited to, desktop publishing, photojournalism, written communication, graphic design, and research.
  - (J) Understands and can teach strategies appropriate to a variety of journalistic areas, including print media, graphic arts, printing technology, broadcast media, electronic media, advertising, business management practices, public relations, and professional writing.
  - (K) Is prepared to teach students in the following areas:
    - (i) desktop publishing;
    - (ii) writing for print and electronic media;
    - (iii) editing;

- (iv) photography and videography;
- (v) graphic design and typography;
- (vi) headline, preview, promotion, and caption writing.
- (L) Is prepared to teach
  - (i) research skills;
  - (ii) interviewing;
  - (iii) ethics, law, and responsibilities of the press;
  - (iv) journalism history;
  - (v) television, video, radio and multimedia production;
  - (vi) staff management, organization and leadership techniques;
  - (vii) business management and accounting procedures.
- (M) Is knowledgeable of professional resources, including state, regional, and national scholastic press associations, workshops, conferences, contests, and publications.
- (N) Understands the importance of effective verbal and visual communication skills.
- (O) Understands the role of co-curricular and extracurricular activities in the development of student interests as an extension of classroom instruction.
- (P) Understands, teaches, and implements Oklahoma's core curriculum.
- (10) **Library-media specialist.** The candidate for licensure and certification:
  - (A) Defines a program of information literacy and integrates it into the curriculum
  - (B) Defines a school library media program emphasizing information problem-solving skills and integrates it into the curriculum.
  - (C) Motivates and guides students and faculty in recognizing literature as an essential base of cultural and practical knowledge and in reading for pleasure as well as for information.
  - (D) Communicates effectively with students, faculty, staff, administrators, parents, other colleagues, and the general public by the ability to:
    - (i) exhibit communication skills necessary for collaborative planning with teachers.
    - (ii) develop and implement an effective public relations program to communicate library media program goals, needs, and accomplishments.
  - (E) Applies basic principles of evaluating and selecting resources and equipment to support the educational goals of the school by the ability to:
    - (i) develop selection policies which reflect curricular and instructional objectives, and informational and recreational needs of students and teachers.
    - (ii) develop criteria for evaluating and selecting specific print and non-print materials and equipment.
    - (iii) develop a collection of bibliographic aids, tools, and other sources to obtain current reviews and information about materials and equipment.
    - (iv) develop and implement procedures for preview, evaluation, selection, and acquisition of materials and equipment consistent with the district policy.
    - (v) reevaluate and maintain materials and equipment.
  - (F) Uses resources to support the personal, developmental, and curricular needs of students, and the instructional development needs of the faculty by the ability to:
    - (i) use a variety of ways to access information, including the use of new technologies.
    - (ii) provide specific information and resources in response to reference requests and recommend resources which support the curriculum.
    - (iii) conduct programs that include guidance in reading, listening, and viewing experiences.
    - (iv) assist students and staff in identifying, obtaining, using and/or producing media in appropriate formats for specific learning objectives.
    - (v) supervise students and staff in media production and equipment operation.
    - (vi) advocate resource-based learning through work with other faculty to identify appropriate instructional strategies and creative uses of resources.
  - (G) Recognizes the value of new technologies for information and instruction and assists faculty and students in their use by the ability to:
    - (i) recognize the importance of technological advancement to the education process.
    - (ii) demonstrate an understanding of the basic concepts, terminology, and applications of emerging technology.

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- (iii) recognize curricular implications that result from emerging technology and educational trends.
- (iv) provide leadership in incorporating innovations into education.
- (v) identify sources of information related to technological advancements.
- (vi) provide technical advice and services for educational access to technology.
- (H) Implements policies and procedures for effective and efficient acquisition, cataloging, processing, circulating, and maintaining equipment and resources to ensure access by the ability to:
  - (i) classify and catalog all print and nonprint media according to professionally accepted systems.
  - (ii) organize and maintain a current catalog and shelf list of all media.
  - (iii) implement procedures for initial processing, circulation, maintenance, service, and inventory of equipment and materials.
- (I) Develops, implements, and evaluates school library media programs, including management of personnel, resources, and facilities by the ability to:
  - (i) assess the informational and instructional needs of students and faculty.
  - (ii) establish short- and long-range goals based on identified needs, the goals and objectives of the school district, state and national guidelines, and research findings.
  - (iii) prepare, justify, and administer a library media program budget.
  - (iv) prepare plans for new or renovated library media facilities.
  - (v) develop policies that assure optimum use of materials, equipment, facilities, and staff to support the curriculum.
  - (vi) train, supervise, and evaluate support staff, volunteers, and student helpers.
  - (vii) apply federal and state laws pertaining to media including those regarding copyright, privacy, and access to materials.
  - (viii) prepare statistical records and written reports.
  - (ix) assess and implement the use of new technologies for library media center management, educational applications, and information retrieval.
  - (x) evaluate the library media program based on established goals and standards.
  - (xi) apply effective management principles.
  - (xii) advocate, initiate, and implement agreements for resource sharing.
- (J) Serves as a learning facilitator within schools and as a leader of faculty, administration, and students in the development of effective strategies for teaching and learning with the ability to:
  - (i) teach traditional and electronic skills in the retrieval, evaluation, and utilization of information to enable students to become independent learners.
  - (ii) plan and implement professional development programs.
- (K) Demonstrates a commitment to professionalism by the ability to:
  - (i) exhibit comprehension of the roles, interrelationships, and interdependency of all types of libraries and information agencies.
  - (ii) exhibit an understanding of the role of the school library media program as a central element in the intellectual life of the school.
  - (iii) demonstrate a commitment to promoting intellectual freedom.
  - (iv) demonstrate professional integrity through ethical behavior.
  - (v) apply appropriate research findings and conduct action research to improve the library media program.
  - (vi) develop selection criteria that reflect relevant theories of learning and instruction.
  - (vii) apply basic principles of instructional design in producing resources for specified learning goals or objectives.

## (11) Elementary mathematics.

(A) **Overview.** The goal of teacher preparation programs in mathematics, in partnership with common education, is to prepare future teachers for the twenty-first century. Teacher preparation programs must recognize the changes in society to prepare adaptive teachers who are capable of providing equitable schooling for all students of the twenty-first century. Teacher preparation programs must recognize that learning to teach effectively does not consist solely of acquiring content skills. Theory alone cannot create an effective teacher. Effective teaching also must include the processes or pedagogy of teaching that incorporate actual experiences with students and other teacher candidates within a body or bodies

of knowledge. Teacher preparation programs are challenged with providing a rigorous body of content which is not isolated from the strategies of teaching and the application of that content.

(B) **Commitment.** The candidate for licensure and certification recognizes the individuality and worth of each student, believes that all students can learn and apply mathematics, and demonstrates these beliefs in practice.

(C) **Knowledge of students, mathematics and teaching.** The candidate for licensure and certification:

- (i) Uses knowledge of child development and knowledge about the effects of this development on the learning of mathematics to guide curricular and instructional decisions. This will include primary, intermediate, and middle level philosophy, structure, organization, and child development.
- (ii) Understands students' environment and cultural background, individual learning differences, student attitudes and aspirations, and community expectations and values on the learning of their students.
- (iii) Has a broad and deep knowledge of the concepts, principles, techniques, and reasoning methods of mathematics that is used to set curricular goals and shape teaching.
- (iv) Understands significant connections among mathematical ideas and the applications of these ideas to problem-solving in mathematics, in other disciplines, and in the world outside of school.
- (v) Has experiences with practical applications of mathematical ideas and is able to incorporate these in their curricular and instructional decisions.
- (vi) Is proficient in, at least, the mathematics content needed to teach the mathematics skills described in Oklahoma's core curriculum from multiple perspectives. This includes, but is not limited to, a concrete and abstract understanding of number systems and number sense, geometry, measurement, statistics and probability, functions, and algebra necessary to effectively teach the mathematics content skills addressed in the first through eighth grade as well as the mathematics process skills of problem-solving, reasoning, communication, and connections.
- (vii) Is proficient in the use of a variety of instructional strategies to include, but not limited to, cooperative learning, use of concrete materials, use of technology (i.e., calculators and computers), and writing strategies to stimulate and facilitate student learning.
- (viii) Is proficient in the design of instructional units which incorporate the mathematical processes of problem-solving, reasoning, communication, and connections into the instruction of content skills.
- (ix) Has knowledge of how to teach and use this knowledge to make curriculum decisions, design instructional strategies and assessment plans, and choose materials and resources for mathematics instruction.
- (x) Stimulates and facilitates student learning by using a wide range of formats, strategies, technologies, and procedures, and assuming a variety of roles to guide students' learning of mathematics.
- (xi) Helps students learn mathematics by creating a safe and positive environment in which they take responsibility for learning.
- (xii) Develops students' abilities to reason and think mathematically, to investigate and explore patterns, to discover structures and relationships, to formulate and solve problems, and to justify and communicate conclusions.
- (xiii) Employs a range of formal and informal assessment methods to evaluate student learning in light of well-defined goals. Results should be used to guide the teaching process and provide opportunities for students to reflect on the strengths and weaknesses of individual performance.

(D) **Reflection and growth.** The candidate for licensure and certification:

- (i) Regularly reflects on what one teaches and how one teaches.
- (ii) Keeps informed of changes in mathematics and in the teaching of mathematics, continually seeking to improve his/her knowledge and practice.
- (iii) Supports the involvement of families in their children's education, helps the community understand the role of mathematics and mathematics instruction in today's world, and, to the extent possible, involves the community in support of instruction.

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- (iv) Collaborates with peers and other education professionals to strengthen their school's programs, advance knowledge, and contribute to improving practice within the field.

**(12) Intermediate mathematics.**

(A) Overview. The goal of teacher preparation programs in mathematics, in partnership with common education, is to prepare future teachers for the twenty-first century. Teacher preparation programs must recognize the changes in society to prepare adaptive teachers who are capable of providing equitable schooling for all students of the twenty-first century. Teacher preparation programs must recognize that learning to teach effectively does not consist solely of acquiring content skills. Theory alone cannot create an effective teacher. Effective teaching also must include the processes or pedagogy of teaching that incorporate actual experiences with students and other teacher candidates within a body or bodies of knowledge. Teacher preparation programs are challenged with providing a rigorous body of content which is not isolated from the strategies of teaching and the application of that content.

(B) Commitment. The candidate for licensure and certification recognizes the individuality and worth of each student, believes that all students can learn and apply mathematics, and incorporates these beliefs into practice.

(C) Knowledge of students, mathematics and teaching. The candidate for licensure and certification:

- (i) Has an understanding of middle level philosophy, structure, organization, and child development as well as an understanding of secondary level structure and child development.
- (ii) Uses knowledge of child development and knowledge about the effects of this development on the learning of mathematics to guide curricular and instructional decisions.
- (iii) Understands students' environment and cultural background, individual learning styles, student attitudes and aspirations, and community expectations and values on the learning of students.
- (iv) Has a broad and deep knowledge of the concepts, principles, techniques, and reasoning methods of mathematics that is used to set curricular goals and shape teaching.
- (v) Understands significant connections among mathematical ideas and the applications of these ideas to problem-solving in mathematics, in other disciplines, and in the world outside of school.
- (vi) Has experiences with practical applications of mathematical ideas and is able to incorporate these in curricular and instructional decisions.
- (vii) Is proficient in, at least, the mathematics content needed to teach the mathematics skills described in Oklahoma's core curriculum from multiple perspectives. This includes, but is not limited to, a concrete and abstract understanding of number systems and number theory, geometry and measurement, statistics and probability, functions, algebra, discrete mathematics, and calculus necessary to effectively teach the mathematics skills addressed in the sixth through eighth grade as well as the core and extended core skills in the algebra, geometry, functions, statistics, and probability sections of grades 9-12 in Oklahoma's core curriculum. This would also include the process skills and core skills addressed in the trigonometry and calculus sections of grades 9-12 in the Oklahoma core curriculum.
- (viii) Is proficient in the use of a variety of instructional strategies to include, but is not limited to, cooperative learning, use of concrete materials, use of technology (i.e., calculators and computers), and writing strategies to stimulate and facilitate student learning.
- (ix) Is proficient in the design of instructional units which incorporate the mathematical processes of problem-solving, reasoning, communication, and connections into the instruction of content skills.
- (x) Has knowledge of how to teach and uses this knowledge in making curriculum decisions, designing instructional strategies and assessment plans, and choosing materials and resources for mathematics instruction.
- (xi) Helps students learn mathematics by creating a safe and positive environment in which they take responsibility for learning.
- (xii) Uses content knowledge and pedagogy to develop students' abilities to reason and think mathematically, to investigate and explore patterns, to discover structures and relationships, to formulate and solve problems, and to justify and communicate conclusions.



(xiii) Employs a range of formal and informal assessment methods to evaluate student learning in light of well-defined goals. Results should be used to guide the teaching process and provide opportunities for students to reflect on the strengths and weaknesses of individual performance.

(D) Reflection and growth. The candidate for licensure and certification:

- (i) Keeps informed of changes in mathematics and in the teaching of mathematics, continually seeking to improve knowledge and practice. He/she regularly reflects on what is taught and how it is taught.
- (ii) Supports the involvement of families in their children's education, helps the community understand the role of mathematics and mathematics instruction in today's world, and, to the extent possible, involves the community in support of instruction.
- (iii) Collaborates with peers and other education professionals to advance knowledge and contribute to improving practice within the field.

**(13) Advanced/secondary mathematics.**

(A) Overview. The goal of teacher preparation programs in mathematics, in partnership with common education, is to prepare future teachers for the twenty-first century. Teacher preparation programs must recognize the changes in society to prepare adaptive teachers who are capable of providing equitable schooling for all students of the twenty-first century. Teacher preparation programs must recognize that learning to teach effectively does not consist solely of acquiring content skills. Theory alone cannot create an effective teacher. Effective teaching also must include the processes or pedagogy of teaching that incorporate actual experiences with students and other teacher candidates within a body or bodies of knowledge. Teacher preparation programs are challenged with providing a rigorous body of content which is not isolated from the strategies of teaching and the application of that content.

(B) Commitment. The candidate for licensure and certification recognizes the individuality and worth of each student, believes that all students can learn and apply mathematics, and incorporates these beliefs into practice.

(C) Knowledge of students, mathematics and teaching. The candidate for licensure and certification:

- (i) Has an understanding of the middle level philosophy, structure, organization, and child development as well as an understanding of the secondary level structure and child development.
- (ii) Uses knowledge of child development and knowledge about the effects of this development on the learning of mathematics to guide curricular and instructional decisions.
- (iii) Understands students' environment and cultural background, individual learning styles, student attitudes and aspirations, and community expectations and values on the learning of students.
- (iv) Has a broad and deep knowledge of the concepts, principles, techniques, and reasoning methods of mathematics that is used to set curricular goals and shape teaching.
- (v) Understands significant connections among mathematical ideas and the applications of these ideas to problem solving in mathematics, in other disciplines, and in the world outside of school.
- (vi) Has experiences with practical applications of mathematical ideas and is able to incorporate these in curricular and instructional decisions.
- (vii) Is proficient in, at least, the mathematics content needed to teach the mathematics skills described in Oklahoma's core curriculum from multiple perspectives. This includes, but is not limited to, a concrete and abstract understanding of number systems and number theory, geometry and measurement, statistics and probability, functions, algebra, discrete mathematics, and calculus necessary to effectively teach the mathematics skills addressed in the sixth through twelfth grade in the Oklahoma core curriculum. (The depth and breadth of knowledge should be much greater than for the Intermediate Mathematics certification.)
- (viii) Is proficient in the use of a variety of instructional strategies to include, but is not limited to, cooperative learning, use of concrete materials, use of technology (i.e., calculators and computers), and writing strategies to stimulate and facilitate student learning.
- (ix) Is proficient in the design of instructional units which incorporate the mathematical processes of problem-solving, reasoning, communication, and connections into the instruction of content skills.

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- (x) Has knowledge of how to teach and uses this knowledge in making curriculum decisions, designing instructional strategies and assessment plans, and choosing materials and resources for mathematics instruction.
  - (xi) Helps students learn mathematics by creating a safe and positive environment in which they take responsibility for learning.
  - (xii) Uses content knowledge and pedagogy to develop students' abilities to reason and think mathematically, to investigate and explore patterns, to discover structures and relationships, to formulate and solve problems, and to justify and communicate conclusions.
  - (xiii) Employs a range of formal and informal assessment methods to evaluate student learning in light of well-defined goals. Results should be used to guide the teaching process and provide opportunities for students to reflect on the strengths and weaknesses of individual performance.
- (D) Reflection and growth. The candidate for licensure and certification:
- (i) Keeps informed of changes in mathematics and in the teaching of mathematics, continually seeking to improve knowledge and practice. He/she regularly reflects on what is taught and how it is taught.
  - (ii) Supports the involvement of families in their children's education, helps the community understand the role of mathematics and mathematics instruction in today's world, and, to the extent possible, involves the community in support of instruction.
  - (iii) Collaborates with peers and other education professionals to advance knowledge and contribute to improving practice within the field.
- (14) **Middle level personnel.** The competencies developed here focus on middle level philosophy, structure, organization, and student development. Subject matter competencies can be pulled from the K-12 competencies developed by the subject matter committees. The candidate for licensure and certification:
- (A) Understands the history, philosophy, principles, structure, and organization of middle level education as it relates to early adolescence.
  - (B) Uses methods and materials for interdisciplinary instruction at the middle school level.
  - (C) Demonstrates an understanding of child-centered versus content-centered methodologies to meet the individual needs of middle level students.
  - (D) Has knowledge and skills pertaining to classroom management, organization, and student discipline at the middle school level.
  - (E) Understands the unique developmental characteristics and needs of the early adolescent, focusing on cognitive, physical, and social development.
  - (F) Establishes an environment using active participation to teach problem-solving and communication skills (reading, listening, writing, and speaking) as an integral part of all instruction.
  - (G) Understands curriculum-based teacher advisory programs, which foster character, responsibility, respect for others, and active community involvement.
  - (H) Understands the need to work collaboratively with other teachers, staff members, parents, resource persons, and community groups to enhance and support the education of young adolescents.
  - (I) Uses a variety of instructional strategies that address different learning styles to meet the needs of early adolescents.
  - (J) Models the role of the lifelong learner.
  - (K) Insures that all students develop proficiencies in the Oklahoma core curriculum.
- (15) **Instrumental/general music.** The candidate for licensure and certification:
- (A) Understands the basic philosophy of music education and is able to justify music within the school curriculum.
  - (B) Understands how music and fine arts experiences enhance student life experience and can promote music and the other arts in the community as well as within the school (including group motivational strategies and group management methods).
  - (C) Participates in ongoing professional development which includes involvement with professional associations and current experiences in performing endeavors.
  - (D) Has knowledge of effective methodologies and practices for encouraging self-analysis and musical independence.
  - (E) Has mastery of a major instrument, including appropriate techniques of breathing, embouchure (mouth position), posture, and hand position.

- (F) Has a broad understanding of music history, including various styles and musical contributions of different cultural and ethnic groups.
  - (G) Has the ability to play an instrument(s) and teach a beginning instrumental music class, using current methods and quality music literature (collection of written music) for band, small ensemble, and solo.
  - (H) Is able to recognize and evaluate the sequential development of students, including those with disabilities.
  - (I) Has knowledge of where to locate printed musical resources and professional consultants.
  - (J) Has a working knowledge of how music integrates with all other academic disciplines, including other fine arts areas.
  - (K) Has the skill to collaborate and coordinate experiences with teachers of other academic disciplines, including other fine arts areas.
  - (L) Has competency in conducting techniques.
  - (M) Is able to teach basic fundamentals of embouchure (mouth position), hand position, technique and other related skills, of all the standard band and orchestra instruments at a basic Grade 6-8 level, including making a characteristic sound.
  - (N) Is able to sing a diatonic melody at sight, using a consistent sight-singing method, and the skill to teach that method appropriately at each grade level. "Diatonic" means relating to a musical scale having eight tones to the octave and using a fixed pattern of intervals without chromatic deviation.
  - (O) Is able to count rhythms using a consistent rhythm reading system and demonstrates the skill to teach that method appropriately at each grade level.
  - (P) Has knowledge of music education approaches such as Carl Orff, Zoltar Kodaly and Jaques-Dalcroze and is able to prepare and teach a lesson according to each of these approaches.
  - (Q) Has basic proficiency in piano, including a knowledge of keyboard harmony and is able to play functional progressions and simple accompaniments.
  - (R) Has the ability to use technology in the music classroom, such as basic knowledge of MIDI (musical instrument digital interface), sequencing and notational software programs, sound system set-up, and to make successful recordings of music ensembles.
  - (S) Understands basic laws of copyright pertaining to the correct use of copyrighted printed music and related responsibilities.
  - (T) Understands the competencies in General Music in Oklahoma's core curriculum and exhibits the skill to incorporate them into various instrumental music classes.
- (16) **Vocal/general music.** The candidate for licensure and certification:
- (A) Understands the basic philosophy of music education and is able to justify music within the school curriculum.
  - (B) Understands how music and fine arts experiences enhance student life experience and can promote music and the other arts in the community as well as within the school (including group motivational strategies and group management methods).
  - (C) Has knowledge of effective methodologies and practices for encouraging self-analysis and musical independence.
  - (D) Understands proper breathing techniques and tone production techniques.
  - (E) Has a knowledge of quality literature (collection of written music), both choral and solo, as well as folk songs appropriate for children.
  - (F) Understands the changing voice, both male and female.
  - (G) Has knowledge of where to locate professional consultants and printed music resources, such as music stores, music publisher catalogues, and textbook companies.
  - (H) Has a working knowledge of how to coordinate vocal music with all academic disciplines including other fine arts areas.
  - (I) Has proficiency in piano, including knowledge of scales, chords and the ability to warm up a choir and play simple accompaniments.
  - (J) Participates in ongoing professional development which includes involvement with professional associations.
  - (K) Has the ability to recognize and evaluate sequential musical development for all students, including those with disabilities.
  - (L) Has competency in conducting, including the ability to show musical nuance (subtle distinction or variation).

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- (M) Is able to prepare a series of lesson plans appropriate to each teaching level K-12.
  - (N) Has the ability to sing a diatonic melody at sight, using a consistent sight singing method and the skill to teach that method appropriately at each grade level. "Diatonic" means relating to a musical scale having eight tones to the octave and using a fixed pattern of intervals without chromatic deviation.
  - (O) Has the ability to count rhythms using a consistent rhythmic reading system and the skills to teach that method appropriately at each grade level.
  - (P) Has knowledge of the music education approaches such as Carl Orff, Zoltar Kodaly and Jaques-Dalcroze and is able to prepare and teach a lesson according to each of these approaches.
  - (Q) Has broad knowledge and understanding of music history including various styles, periods and cultures.
  - (R) Has broad knowledge and understanding of a variety of music and musical practices representative of different cultural and ethnic groups.
  - (S) Has the ability to use technology in the music classroom, such as basic knowledge of MIDI (musical instrument digital interface), sequencing and notational software programs, sound system set-up, and to make successful recordings of music ensembles.
  - (T) Understands basic laws of copyright pertaining to the correct use of copyrighted printed music and related responsibilities.
  - (U) Understands the competencies in General Music in Oklahoma's core curriculum and exhibits the skill to incorporate them into various vocal music classes.
- (17) **Physical education/health/safety.** Competencies specified in both (A) Physical Education/Safety and (B) Health/Safety are required for licensure and certification:
- (A) Physical education/safety. The candidate for licensure and certification:
    - (i) Understands the Oklahoma core curriculum and is able to develop instructional strategies/plans based on the Physical Education Section of the Oklahoma core curriculum.
    - (ii) Knows the developmental levels of growth and coordination of children (Grades K-12) and provides appropriate learning opportunities that support the physical and intellectual development of all students.
    - (iii) Understands and uses a variety of both psychomotor and cognitive assessment strategies to evaluate and modify the teaching/learning process.
    - (iv) Understands and utilizes physical education activities for curriculum integration.
    - (v) Applies movement concepts and principles to the learning and development of rhythm and motor skills for the following:
      - (I) locomotor movement
      - (II) nonlocomotor movement
      - (III) manipulative skills
    - (vi) Promotes participation and involvement in age-appropriate physical activities/sports suitable for lifelong participation in the following areas:
      - (I) lifetime activities/sports (i.e., skiing, camping, hiking, clogging)
      - (II) individual activities/sports (i.e., golf, tennis, self-defense, spelunking)
      - (III) nontraditional team activities/sports (i.e., korfbal, lacrosse, square dancing)
      - (IV) traditional team activities/sports (i.e., basketball, volleyball, softball)
    - (vii) Understands adaptive learning activities for students with special needs.
    - (viii) Knows and can demonstrate appropriate fitness, wellness, and personal management components including:
      - (I) Fitness. Fitness includes: flexibility; muscular strength; cardiovascular fitness endurance; contraindicated exercises (traditional exercises which have been proven, through research, to be damaging to the body); nutrition.
      - (II) Wellness. Wellness encompasses: body composition; stress management; safety and accident prevention; designing and assessing personal fitness program; weight control; consumer education.
      - (III) Personal management skills: cooperation; sportsmanship; self-discipline; goal setting; following rules.
    - (ix) Uses information technology to enhance learning and to enhance personal productivity:
      - (I) Demonstrates knowledge of current technologies and their application in Physical Education.

- (II) Designs, develops, and implements student learning activities that integrate information technology.
- (III) Uses technologies to communicate, network, locate resources, and enhance continuing professional development.
- (B) Health/safety. The candidate for licensure and certification:
  - (i) Communicates the concepts, purposes, and importance of health education; as evidenced by the following indicators:
    - (I) Describes the discipline of health education within the school setting.
    - (II) Describes the interdependence of health education and the other components of a coordinated school health program.
    - (III) Delivers accurate and up-to-date information about the most common comprehensive school health education components; including but not limited to: community and environmental health; consumer health; disease prevention and control; healthy communication; human growth and development; mental and emotional health; nutrition; personal health; safety and injury prevention; substance abuse.
    - (IV) Provides a rationale for health education, grades 1-12.
    - (V) Understands the variables that shape decisions about health behaviors.
    - (VI) Defines the role of the health education teacher within a coordinated school health program.
    - (VII) Explains the importance of health education.
    - (VIII) Identifies the kinds of school and community support necessary to implement a coordinated school health education program.
    - (IX) Understands the importance of ongoing professional development for health education teachers.
    - (X) Describes the importance of modeling positive, healthful behaviors.
  - (ii) Assesses the health education needs and interests of students.
    - (I) Uses information about health needs and interests of students.
    - (II) Recognizes behaviors that promote or compromise health.
  - (iii) Plans school health instruction.
    - (I) Selects realistic program goals and objectives.
    - (II) Identifies a scope and sequence plan for school health instruction.
    - (III) Plans health education lessons which reflect the abilities, needs, interests, developmental levels, and cultural backgrounds of students.
    - (IV) Describes effective ways to promote cooperation with and feedback from administrators, parents, and other community members.
    - (V) Determines procedures which are compatible with school policy for implementing curricula.
    - (VI) Develops activities to meet program goals and objectives based on the Health/Safety, and for grades 7-12, HIV/AIDS Prevention Education Sections of Oklahoma's core curriculum and on the National Health Education Standards.
  - (iv) Implements school health instruction.
    - (I) Employs a variety of strategies to facilitate implementation of a school health education curriculum; strategies include: provides a core health education curriculum; integrates health and other content areas; uses technology as a strategy to deliver health education; involves parents, guardians, or custodians of students in the teaching/learning process.
    - (II) Incorporates appropriate resources and materials including: selects valid and appropriate sources of information about health; uses school and community resources within a comprehensive program; refers students to valid and appropriate sources of health information.
    - (III) Employs appropriate strategies for dealing with health issues.
    - (IV) Adapts existing health education curricular models to community and student needs and interests.
  - (v) Evaluates the effectiveness of school health instruction.

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- (I) Uses appropriate criteria and methods unique to health education for evaluating student achievement.
  - (II) Interprets and applies student evaluation results to improve health instruction.
- (18) **Psychometrist.** The candidate for licensure and certification:
- (A) Understands and integrates into practice the philosophical, historical, and legal foundations of special education as applicable to the role of the psychometrist/educational diagnostician, in the following areas, including laws, regulations, and policies/procedures related to special education assessment, placement, and due process.
  - (B) Demonstrates knowledge, understanding, and application of ethical issues and standards of professional practice within the educational setting, in the following areas:
    - (i) ethical conduct and legal issues of the profession
    - (ii) role and function of the psychometrist/educational diagnostician
    - (iii) confidentiality
    - (iv) professional issues/standards
    - (v) training standards for particular instruments and procedures
    - (vi) continuing professional growth/development
  - (C) Demonstrates knowledge and skills in assessment, diagnosis, evaluation, and eligibility determination within the multidisciplinary team process for children with disabilities who may require special education services or early childhood intervention services, as follows:
    - (i) collection of assessment data for infants through school-age children, including the selection, administration, accurate scoring, and reporting of instruments and procedures appropriate to the areas of concern such as basic academic skills, cognitive/intellectual, developmental, perception, language, adaptive behavior, and classroom behavior
    - (ii) the adequacy, appropriate use, and limitations of assessment and evaluation instruments and procedures to be used by the psychometrist/educational diagnostician for educational purposes and recommendations
    - (iii) nondiscriminatory assessment strategies for culturally and linguistically diverse children
  - (D) Has knowledge and skills in effective communication and collaboration within the multidisciplinary team process, in the following areas:
    - (i) consultation for instructional interventions and problem-solving
    - (ii) educational recommendations and decision-making
  - (E) Understands and integrates into practice basic psychological foundations, including:
    - (i) cultural diversity
    - (ii) child and adolescent development
    - (iii) human exceptionalities
    - (iv) learning/educational psychology
  - (F) Understands and integrates into practice educational foundations, including:
    - (i) education of the exceptional learner
    - (ii) instructional and remedial techniques
    - (iii) the educational service delivery system
- (19) **Reading specialist.** The candidate for licensure and certification shall possess the competencies specified in (A) through (D) of this paragraph:
- (A) Reading philosophy and professional roles. Competencies are:
    - (i) Provides reading instructions so as to facilitate the process of reading development in which teacher and learner work together as members of a community of readers.
    - (ii) Has knowledge of the linguistic, dialectal, and developmental differences in readers that may affect instructional strategies.
    - (iii) Knows the principles and issues of major theories of language development as they relate to reading instruction.
    - (iv) Applies flexible approaches to reading instruction that recognize the uniqueness of individual students.
    - (v) Develops strategies for working with school staff, other reading specialists, and professionals within and beyond the school to foster reading development for individuals and groups.
    - (vi) Understands reading as a constructive process in which the experience of the reader, the text, and the requirements of the reading event interact in the creation of meaning.

- (vii) Identifies appropriate interaction with staff members (e.g., content, special, classroom teachers) to facilitate reading development for all students.
  - (viii) Recognizes factors and procedures related to the involvement of parents and/or school and community groups at all stages of reader development.
  - (ix) Identifies and understands procedures involved in determining curriculum needs for reading programs.
  - (x) Identifies criteria and/or procedures involved in planning reading curriculum.
  - (xi) Identifies appropriate methods and resources related to the reading process for promoting professional growth for self and school staff.
- (B) Instructional practices. Competencies are:
- (i) Understands emergent literacy development and the types of experiences and concepts that support learning to read.
  - (ii) Applies knowledge of and provides appropriate instruction of graphophonemic relationships.
  - (iii) Understands the relationship among word knowledge (i.e., word attack and word recognition), reading fluency, and comprehension.
  - (iv) Identifies various word attack strategies (i.e., semantic clues, syntactic clues, graphophonemic clues), and various word recognition strategies (i.e., those that promote meaningful vocabulary growth).
  - (v) Provides appropriate instruction of strategies that promote comprehension at the literal, inferential, and critical/evaluative levels for both narrative and expository texts.
  - (vi) Understands the importance of adjusting reading strategies for different reading purposes.
  - (vii) Provides appropriate instruction of various techniques and study strategies (i.e., locating, organizing, and interpreting information).
  - (viii) Identifies content area reading strategies that activate and/or develop background knowledge.
  - (ix) Assists students in applying reading-related strategies to new learning situations.
  - (x) Understands the issues and procedures involved in teacher modeling, teacher-guided application, and independent practice.
  - (xi) Develops proficiencies in providing instruction associated with a variety of reading instructional approaches, including phonics, language experience, basal (basic) readers, and literature-based.
  - (xii) Implements cooperative learning strategies during reading instruction.
  - (xiii) Analyzes the strengths and weaknesses of the use of readability formulas in assessing instructional materials.
  - (xiv) Identifies appropriate criteria for selecting instructional materials (e.g., textbooks, reference books, computer software).
  - (xv) Analyzes issues and procedures involved in modifying curriculum to meet the needs of individual students.
  - (xvi) Recognizes the factors involved in organizing reading instruction to encourage individual student success.
  - (xvii) Promotes meaningful parent/guardian-child interaction related to reading.
  - (xviii) Creates a reading environment to increase student's motivation to read widely and independently and to promote reading as a lifelong habit.
- (C) Reading diagnosis. Competencies are:
- (i) Identifies factors that contribute to reading difficulties.
  - (ii) Understands the nature of reading difficulties (e.g., students' knowledge and strategies, factors embedded in the reading materials, instructional factors).
  - (iii) Implements, interprets, and uses informal and formal assessment and evaluation procedures for identifying and diagnosing reading difficulties (e.g., observation, criterion-referenced tests, norm-referenced tests, miscue analysis, informal reading inventories, anecdotal records).
  - (iv) Understands, analyzes, and creates case studies for diagnostic purposes.
  - (v) Identifies issues, procedures, and limitations involved in using oral diagnostic tests, silent diagnostic tests, visual and auditory screening, and observational diagnostic techniques.

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- (vi) Identifies activities and/or strategies appropriate for individual or group instruction for students with reading difficulty.
- (D) Evaluation and assessment. Competencies are:
  - (i) Identifies characteristics, strengths, and weaknesses of formal and informal tests and instruments (i.e., criterion-referenced, norm-referenced, achievement tests, diagnostic tests, checklists, observations, and anecdotal records.)
  - (ii) Analyzes issues involved in the use of tests and other evaluation instruments for classification or placement, diagnosis, or other evaluative purposes.
  - (iii) Selects tests or other instruments appropriate for a given evaluation purpose.
  - (iv) Understands the principles and/or procedures involved in the interpretation of test results.
  - (v) Identifies procedures for cooperating with various professionals in assessment, evaluation, and instructional planning for students with special needs.
  - (vi) Identifies criteria for evaluating reading programs.
- (20) **Reserve Officers' Training Corps (ROTC).** Competency for ROTC certification will be verified by a recommendation from the appropriate ROTC Regional Headquarters.
- (21) **School counselor.** The candidate for licensure and certification shall:
  - ~~(A) The candidate for licensure and certification:~~
  - ~~(iA) Uses~~ Use an understanding of human development to help provide a comprehensive, developmental guidance and counseling program Comprehensive School Counseling Program to schools.
  - ~~(iiB) Understands~~ Understand the impact of environmental influences on students' development and achievement, and ~~helps~~ help students develop strategies to resolve or cope with situations that may hinder learning and success.
  - ~~(iiiC) Demonstrates~~ Demonstrate an appreciation of ~~human~~ humanity ~~diversity~~ by providing equitable guidance and counseling services for all students and by promoting a climate of mutual respect that helps students value themselves and others.
  - ~~(ivD) Uses~~ Use effective leadership skills to plan, implement, and evaluate a comprehensive, developmental guidance and counseling program to address the needs of all students.
  - ~~(vE) Provides~~ Provide guidance and counseling services to address the needs and concerns of students and to help students develop skills to use in future situations.
  - ~~(viF) Facilitates~~ Facilitate the educational and career development of individual students to help all students achieve success.
  - ~~(viiG) Uses~~ Use formal and informal assessment to provide information about and to students, to monitor student progress, and to recommend changes to the student's educational environment.
  - ~~(viiiH) Consults~~ Consult with parents and school personnel, provides professional expertise, and establishes collaborative relationships that foster a support system for students, parents, and the school community.
  - ~~(ixI) Establishes~~ Establish strong and positive ties with the home and the community to promote and support students' growth in school and beyond the school setting.
  - ~~(xJ) Has knowledge of professional ethical codes, the importance of professional development, and the need to work with colleagues to advance the profession~~ Read and understand, and acknowledge in writing having read and having an understanding of, Title 25 O.S. §§ 2001, 2002, 2003, 2004, 2005, 70 O.S. §§ 3-168, 11-103.6, 24-100.3, 24-100.4, 24-100.5, 24-157, OAC 210 §§ 1-1-1, 35-3-106, or any successor statutes.
- ~~(B) Competency for School Counselor certification may also be verified by the Nationally Certified School Counselor (NCSC) credential.~~
- (22) **School nurse.** Competency for School Nurse certification ~~will~~ shall be verified by a current registered nurse's license issued by the ~~Oklahoma State Board of Nurse Registration and Nursing Education~~ Oklahoma Board of Nursing.
- (23) **School psychologist.** The candidate for licensure and certification shall:
  - ~~(A) The candidate for licensure and certification:~~
  - ~~(iA) Understands~~ Understand and ~~integrates~~ integrate into practice the principles of professional school psychology, including all of the criteria in ¶(A)(i) through (A)(vii) below:
    - ~~(fi)~~ (i) ethical conduct and legal issues;
    - ~~(Hii)~~ (ii) confidentiality;
    - ~~(Hiii)~~ (iii) role and function of the school psychologist;



- (~~IV~~iv) service delivery models;
  - (~~V~~v) professional issues/standards;
  - (~~VI~~vi) history and foundations;
  - (~~VII~~vii) continuing professional growth/development.
  - (~~iiB~~) ~~Demonstrates~~ Demonstrate knowledge and skills in a comprehensive range of assessment, diagnosis, evaluation, and eligibility or intervention determination within the multidisciplinary team process, including:
    - (~~fi~~) for children with disabilities who may require special education, early childhood intervention services, or other exceptional needs; and
    - (~~Hii~~) assessment for interventions; and
    - (~~HHiii~~) collection of assessment data for infants through school-age children, including the selection, administration, accurate scoring, reporting, and interpretation of instruments and procedures appropriate to the areas of concern; and
    - (~~IV~~iv) the adequacy, appropriate uses, and limitations of assessment and evaluation instruments and procedures to be used by the school psychologist; and
    - (~~V~~v) nondiscriminatory assessment strategies for culturally and linguistically diverse children.
  - (~~iiiC~~) ~~Demonstrates~~ Demonstrate knowledge and skills in prevention, intervention, consultation, and counseling, including:
    - (~~fi~~) behavioral and social skills; and
    - (~~Hii~~) cognitive/intellectual; and
    - (~~HHiii~~) child developmental; and
    - (~~IV~~iv) academic learning/instructional; and
    - (~~V~~v) mental health needs; and
    - (~~VI~~vi) crisis prevention/intervention.
  - (~~ivD~~) ~~Demonstrates~~ Demonstrate knowledge and skills in effective communication and collaboration, including:
    - (~~fi~~) consultation for interventions and problem-solving; and
    - (~~Hii~~) recommendations and decision-making concerning educational and mental health needs of children; and
    - (~~HHiii~~) working with families, children, professionals, and other service systems.
  - (~~vE~~) ~~Demonstrates~~ Demonstrate knowledge and application of statistics, research methodologies/designs, measurement, and program evaluation.
  - (~~viF~~) ~~Understands~~ Understand and ~~integrates~~ integrate into practice psychological foundations including:
    - (~~fi~~) biological bases of behavior (developmental, neuropsychological, physiological, and other biological influences on behavior); and
    - (~~Hii~~) social bases of behavior (social psychology and development); and
    - (~~HHiii~~) ~~cultural diversity and~~ cultural bases of behavior; and
    - (~~IV~~iv) child and adolescent development; and
    - (~~V~~v) human exceptionalities and individual differences; and
    - (~~VI~~vi) human learning.
  - (~~viiG~~) ~~Understands~~ Understand and ~~integrates~~ integrate into practice educational foundations, including:
    - (~~fi~~) education of the exceptional learner; and
    - (~~Hii~~) instructional and remediation techniques/intervention methods; and
    - (~~HHiii~~) organization and operation of the schools; and
    - (~~IV~~iv) the educational and alternative service delivery systems.
  - (~~B~~) ~~Competency for School Psychologist certification may also be verified by the Nationally Certified School Psychologist (NCSP) credential.~~
- (24) **Elementary science.** The candidate for licensure and certification:
- (A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one
    - (i) Develops a framework of yearlong and short-term goals for students.
    - (ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.

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- (iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
- (iv) Works with colleagues within and across disciplines and grade levels.
- (B) Is able to guide and facilitate learning. In doing this, one
  - (i) Focuses and supports inquiries while interacting with students.
  - (ii) Facilitates discussion among students about scientific ideas.
  - (iii) Challenges students to accept and share responsibility for their own learning.
  - (iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
  - (v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.
- (C) Is able to engage in ongoing assessment of one's own teaching and of student learning. In doing this, one
  - (i) Uses multiple methods and systematically gathers data about student understanding and ability.
  - (ii) Analyzes assessment data to guide teaching.
  - (iii) Guides students in the evaluation of their work.
  - (iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.
  - (v) Uses student assessment information and classroom observation to report student achievement to students and parents.
- (D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one
  - (i) Structures the time so that students are able to engage in extended investigations.
  - (ii) Creates a setting for student work that is flexible and supportive of science inquiry.
  - (iii) Ensures a safe working environment.
  - (iv) Makes the available science tools, materials, media, and technological resources accessible to students.
  - (v) Identifies and uses resources outside the school.
  - (vi) Engages students in designing the learning environment.
- (E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one
  - (i) Respects the diverse needs, skills, and experiences of all students.
  - (ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.
  - (iii) Encourages collaboration among students.
  - (iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
  - (v) Models and emphasizes the skills and value of scientific inquiry.
- (F) Is able to use a variety of instructional strategies to implement an integrated/ interdisciplinary curriculum.
- (G) Is able to teach with a broad understanding of all content areas and to understand the interaction between the sciences and the process skills. Content areas and concepts within each are listed in subparagraphs (A) through (C) herein:
  - (i) Physical science content
    - (I) Properties of objects and materials
    - (II) Properties and changes of properties in matter
    - (III) Position and motion of objects
    - (IV) Motion and force
    - (V) Light, heat, electricity, and magnetism
    - (VI) Transfer of energy
  - (ii) Earth/space content
    - (I) Properties of earth materials
    - (II) Objects in the sky
    - (III) Changes in earth and sky
    - (IV) Structure of the earth system

- (V) Earth's history
  - (VI) Earth in the solar system
  - (iii) Life science content
    - (I) The characteristics of organisms
    - (II) The life cycle of organisms
    - (III) Organisms and environment
    - (IV) Structure and function in living systems
    - (V) Reproduction and heredity
    - (VI) Regulation and behavior
    - (VII) Population and ecosystem
    - (VIII) Diversity and adaption of organisms
  - (H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades K through 8. Identified science concepts and/or science content areas are:
    - (i) System, order and organization
    - (ii) Constancy, change, equilibrium and measurement
    - (iii) Form and function
    - (iv) Abilities of technological design
    - (v) Abilities to distinguish between natural objects and objects made by humans
    - (vi) Understanding about science and technology
    - (vii) Science as a human endeavor
    - (viii) Nature of science
    - (ix) History of science
    - (x) Personal health
    - (xi) Characteristics and changes in populations
    - (xii) Population, resources, and environment
    - (xiii) Types of resources
    - (xiv) Natural hazards
    - (xv) Changes in environments
    - (xvi) Science and technology in local challenges
    - (xvii) Risk and benefits
    - (xviii) Science and technology in society
- (25) **Earth science 6-12.** The candidate for licensure and certification:
- (A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one
    - (i) Develops a framework of yearlong and short-term goals for students.
    - (ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities and experiences of students.
    - (iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
    - (iv) Works with colleagues within and across disciplines and grade levels.
  - (B) Is able to guide and facilitate learning. In doing this, one:
    - (i) Focuses and supports inquiries while interacting with students.
    - (ii) Facilitates discussion among students about scientific ideas.
    - (iii) Challenges students to accept and share responsibility for their own learning.
    - (iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
    - (v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.
  - (C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one
    - (i) Uses multiple methods and systematically gathers data about student understanding and ability.
    - (ii) Analyzes assessment data to guide teaching.
    - (iii) Guides students in the evaluation of their work.
    - (iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.

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- (v) Uses student assessment information and classroom observation to report student achievement to students and parents.
- (D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one
  - (i) Structures the time so that students are able to engage in extended investigations.
  - (ii) Creates a setting for student work that is flexible and supportive of science inquiry.
  - (iii) Ensures a safe working environment.
  - (iv) Makes the available science tools, materials, media, and technological resources accessible to students.
  - (v) Identifies and uses resources outside the school.
  - (vi) Engages students in designing the learning environment.
- (E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one
  - (i) Respects the diverse needs, skills, and experiences of all students.
  - (ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.
  - (iii) Encourages collaboration among students.
  - (iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
  - (v) Models and emphasizes the skills, attitudes, and value of scientific inquiry.
- (F) Is able to use a variety of instructional strategies to implement an integrated interdisciplinary curriculum.
- (G) Is able to teach with a broad understanding of all content areas and understand the interaction between the sciences and the process skills. Identified Earth/Space Science content areas are:
  - (i) Structure of the earth system
  - (ii) Earth's history
  - (iii) Earth in the solar system
  - (iv) Energy in the Earth system
  - (v) Geochemical cycles
  - (vi) The universe and Earth's system
- (H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified science concepts and/or science content areas are:
  - (i) System, order and organization
  - (ii) Evidence, models and explanation
  - (iii) Constancy, change, equilibrium and measurement
  - (iv) Form and function
  - (v) Abilities of technological design
  - (vi) Understanding about science and technology
  - (vii) Science as a human endeavor
  - (viii) Nature of science
  - (ix) Nature of scientific knowledge
  - (x) History of science
  - (xi) Historical perspectives
  - (xii) Personal health
  - (xiii) Personal and community health
  - (xiv) Population, resources, and environments
  - (xv) Population growth
  - (xvi) Natural hazards
  - (xvii) Natural resources
  - (xviii) Risks and benefits
  - (xix) Environmental quality
  - (xx) Natural and human induced hazards
  - (xxi) Science and technology in society
  - (xxii) Science and technology in local, national, and global challenges

(26) **Biological sciences 6-12.** The candidate for licensure and certification:

- (A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one:
- (i) Develops a framework of yearlong and short-term goals for students.
  - (ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.
  - (iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
  - (iv) Works with colleagues within and across disciplines and grade levels.
- (B) Is able to guide and facilitate learning. In doing this, one:
- (i) Focuses and supports inquiries while interacting with students.
  - (ii) Facilitates discussion among students about scientific ideas.
  - (iii) Challenges students to accept and share responsibility for their own learning.
  - (iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
  - (v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.
- (C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one:
- (i) Uses multiple methods and systematically gathers data about student understanding and ability.
  - (ii) Analyzes assessment data to guide teaching.
  - (iii) Guides students in the evaluation of their work.
  - (iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.
  - (v) Uses student assessment information and classroom observation to report student achievement to students and parents.
- (D) Is able to design and manage learning environments that provide students with the time, space and resources needed for developing science skills. In doing this, one:
- (i) Structures the time so that students are able to engage in extended investigations.
  - (ii) Creates a setting for student work that is flexible and supportive of science inquiry.
  - (iii) Makes the available science tools, materials, media, and technological resources accessible to students.
  - (iv) Engages students in designing the learning environment.
- (E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one:
- (i) Respects diverse needs, skills, and experiences of all students.
  - (ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.
  - (iii) Encourages collaboration among students.
  - (iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
  - (v) Models and emphasizes the skills and value of scientific inquiry.
- (F) Is able to use a variety of instructional strategies to implement an integrated interdisciplinary curriculum.
- (G) Is able to teach with a broad understanding of all content areas and understands the interaction between the sciences and the process skills. Identified Biological Sciences content areas are:
- (i) Structure and function in living systems
  - (ii) Reproduction and heredity
  - (iii) Regulation and behavior
  - (iv) Population and ecosystem
  - (v) Diversity and adaption of organisms
  - (vi) The cell
  - (vii) The molecular basis of heredity
  - (viii) Biological adaptation
  - (ix) The interdependence of organisms
  - (x) Matter, energy, organization in living systems
  - (xi) Behavior of organisms

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(H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified Science concepts and content areas are:

- (i) System, order, and organization
- (ii) Evidence, models, and explanation
- (iii) Constancy, change, equilibrium, and measurement
- (iv) Form and function
- (v) Abilities of technological design
- (vi) Understanding about science and technology
- (vii) Science as a human endeavor
- (viii) Nature of science
- (ix) Nature of scientific knowledge
- (x) History of science
- (xi) Historical perspectives
- (xii) Personal health
- (xiii) Personal and community health
- (xiv) Population, resources, and environments
- (xv) Population growth
- (xvi) Natural hazards
- (xvii) Natural resources
- (xviii) Risks and benefits
- (xix) Environmental quality
- (xx) Natural and human induced hazards
- (xxi) Science and technology in society
- (xxii) Science and technology in local, national, and global challenges

(27) **Physical sciences 6-12.** The candidate for licensure and certification:

(A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one:

- (i) Develops a framework of yearlong and short-term goals for students.
- (ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.
- (iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
- (iv) Works with colleagues within and across disciplines and grade levels.

(B) Is able to guide and facilitate learning. In doing this, one:

- (i) Focuses and supports inquiries while interacting with students.
- (ii) Facilitates discussion among students about scientific ideas.
- (iii) Challenges students to accept and share responsibility for their own learning.
- (iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
- (v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.

(C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one:

- (i) Uses multiple methods and systematically gathers data about student understanding and ability.
- (ii) Analyzes assessment data to guide teaching.
- (iii) Guides students in the evaluation of their work.
- (iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.
- (v) Uses student assessment information and classroom observation to report student achievement to students and parents.

(D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one:

- (i) Structures the time so that students are able to engage in extended investigations.
- (ii) Creates a setting for student work that is flexible and supportive of science inquiry.
- (iii) Ensures a safe working environment.

- (iv) Makes the available science tools, materials, media, and technological resources accessible to students.
  - (v) Identifies and uses resources outside the school.
  - (vi) Engages students in designing the learning environment.
  - (E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one:
    - (i) Respects the diverse needs, skills, and experiences of all students.
    - (ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.
    - (iii) Encourages collaboration among students.
    - (iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
    - (v) Models and emphasizes the skills and value of scientific inquiry.
  - (F) Is able to use a variety of instructional strategies and use integrated and interdisciplinary curriculum.
  - (G) Is able to teach with a broad understanding of all content areas and understands the interaction between the sciences and the process skills. Identified Physical Science concepts and content areas are:
    - (i) Properties and changes of properties in matter
    - (ii) Motions and force
    - (iii) The structure of atoms
    - (iv) Structure and properties of matter
    - (v) Chemical reactions
    - (vi) Conservation of energy
    - (vii) Interactions of energy and matter
    - (viii) The earth system
    - (ix) The Universe
  - (H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified Science concepts and content areas are:
    - (i) System, order, and organization
    - (ii) Evidence, models, and explanation
    - (iii) Constancy, change, equilibrium, and measurement
    - (iv) Form and function
    - (v) Abilities of technological design
    - (vi) Understanding about science and technology
    - (vii) Science as a human endeavor
    - (viii) Nature of science
    - (ix) Nature of scientific knowledge
    - (x) History of science
    - (xi) Historical perspectives
    - (xii) Personal health
    - (xiii) Personal and community health
    - (xiv) Population, resources, and environments
    - (xv) Population growth
    - (xvi) Natural hazards
    - (xvii) Natural resources
    - (xviii) Risks and benefits
    - (xix) Environmental quality
    - (xx) Natural and human induced hazards
    - (xxi) Science and technology in society
    - (xxii) Science and technology in local, national, and global challenges
- (28) **Chemistry 6-12.** The candidate for licensure and certification:
- (A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one:
    - (i) Develops a framework of yearlong and short-term goals for students.
    - (ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.

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- (iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
- (iv) Works with colleagues within and across disciplines and grade levels.
- (B) Is able to guide and facilitate learning. In doing this, one:
  - (i) Focuses and supports inquiries while interacting with students.
  - (ii) Facilitates discussion among students about scientific ideas.
  - (iii) Challenges students to accept and share responsibility for their own learning.
  - (iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
  - (v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.
- (C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one:
  - (i) Uses multiple methods and systematically gathers data about student understanding and ability.
  - (ii) Analyzes assessment data to guide teaching.
  - (iii) Guides students in the evaluation of their work.
  - (iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.
  - (v) Uses student assessment information and classroom observation to report student achievement to students and parents.
- (D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one:
  - (i) Structures the time so that students are able to engage in extended investigations.
  - (ii) Creates a setting for student work that is flexible and supportive of science inquiry.
  - (iii) Ensures a safe working environment.
  - (iv) Makes the available science tools, materials, media, and technological resources accessible to students.
  - (v) Identifies and uses resources outside the school.
  - (vi) Engages students in designing the learning environment.
- (E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one:
  - (i) Respects the diverse needs, skills, and experiences of all students.
  - (ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.
  - (iii) Encourages collaboration among students.
  - (iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
  - (v) Models and emphasizes the skills and value of scientific inquiry.
- (F) Is able to use a variety of instructional strategies and use integrated and interdisciplinary curriculum.
- (G) Is able to teach with a broad understanding of all content areas and understands the interaction between the sciences and the process skills. Identified Chemistry concepts and content areas are:
  - (i) Structures and properties of matter
  - (ii) Chemical reactions
  - (iii) Transfer of energy
  - (iv) The structure of atoms
  - (v) Properties and changes of properties in matter
- (H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified Science concepts and content areas are:
  - (i) System, order, and organization
  - (ii) Evidence, models, and explanation
  - (iii) Constancy, change, equilibrium, and measurement
  - (iv) Form and function
  - (v) Abilities of technological design
  - (vi) Understanding about science and technology
  - (vii) Science as a human endeavor
  - (viii) Nature of science



- (ix) Nature of scientific knowledge
- (x) History of science
- (xi) Historical perspectives
- (xii) Personal health
- (xiii) Personal and community health
- (xiv) Population, resources, and environments
- (xv) Population growth
- (xvi) Natural hazards
- (xvii) Natural resources
- (xviii) Risks and benefits
- (xix) Environmental quality
- (xx) Natural and human induced hazards
- (xxi) Science and technology in society
- (xxii) Science and technology in local, national, and global challenges

**(29) Physics 6-12.** The candidate for licensure and certification:

- (A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one:
  - (i) Develops a framework of yearlong and short-term goals for students.
  - (ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.
  - (iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
  - (iv) Works with colleagues within and across disciplines and grade levels.
- (B) Is able to guide and facilitate learning. In doing this, one:
  - (i) Focuses and supports inquiries while interacting with students.
  - (ii) Facilitates discussion among students about scientific ideas.
  - (iii) Challenges students to accept and share responsibility for their own learning.
  - (iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
  - (v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.
- (C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one:
  - (i) Uses multiple methods and systematically gathers data about student understanding and ability.
  - (ii) Analyzes assessment data to guide teaching.
  - (iii) Guides students in the evaluation of their work.
  - (iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.
  - (v) Uses student assessment information and classroom observation to report student achievement to students and parents.
- (D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one:
  - (i) Structures the time so that students are able to engage in extended investigations.
  - (ii) Creates a setting for student work that is flexible and supportive of science inquiry.
  - (iii) Ensures a safe working environment.
  - (iv) Makes the available science tools, materials, media, and technological resources accessible to students.
  - (v) Identifies and uses resources outside the school.
  - (vi) Engages students in designing the learning environment.
- (E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one:
  - (i) Respects the diverse needs, skills, and experiences of all students.
  - (ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.
  - (iii) Encourages collaboration among students.

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- (iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
- (v) Models and emphasizes the skills and value of scientific inquiry.
- (F) Is able to use a variety of instructional strategies and use integrated and interdisciplinary curriculum.
- (G) Is able to teach with a broad understanding of all content areas and understands the interaction between the sciences and the process skills. Identified Physics concepts and content areas are:
  - (i) Motions and forces
  - (ii) Conservation of energy
  - (iii) Transfer of energy
  - (iv) Interactions of energy and matter
- (H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified Science concepts and content areas are:
  - (i) System, order, and organization
  - (ii) Evidence, models, and explanation
  - (iii) Constancy, change, equilibrium, and measurement
  - (iv) Form and function
  - (v) Abilities of technological design
  - (vi) Understanding about science and technology
  - (vii) Science as a human endeavor
  - (viii) Nature of science
  - (ix) Nature of scientific knowledge
  - (x) History of science
  - (xi) Historical perspectives
  - (xii) Personal health
  - (xiii) Personal and community health
  - (xiv) Population, resources, and environments
  - (xv) Population growth
  - (xvi) Natural hazards
  - (xvii) Natural resources
  - (xviii) Risks and benefits
  - (xix) Environmental quality
  - (xx) Natural and human induced hazards
  - (xxi) Science and technology in society
  - (xxii) Science and technology in local, national, and global challenges

## (30) Social Studies.

(A) **United States History/Oklahoma History/government/economics.** The candidate for licensure and certification:

- (i) Knows the major themes of United States history and their interrelatedness.
- (ii) Understands how the political growth, major events, and individuals affected the development of the United States.
- (iii) Examines and analyzes historical documents which contributed to the establishment and growth of the government of the United States.
- (iv) Identifies and describes events, trends, individuals, and movements which shaped the social, economic, and cultural development of the United States.
- (v) Analyzes events and identifies individuals who defined and continue to impact the role of the United States in world affairs.
- (vi) Knows the roles and function of government and the foundations, structure, and function of American government.
- (vii) Identifies and explains the rights and responsibilities of citizens of the United States.
- (viii) Describes the characteristics of local and state governments and the national government, and the relationships among the different levels of government.
- (ix) Analyzes how the American political process works and the relationship of the process to the individual as a citizen of the state and the nation.
- (x) Identifies and analyzes the events which led to Oklahoma's historical, political, economic, and cultural development.

- (xi) Identifies important individuals and groups which have had an influence on Oklahoma's heritage.
- (xii) Identifies the diverse geographic features and resources found in Oklahoma and describes their influence on Oklahoma's historical development and economy.
- (xiii) Understands basic application of economic theories.
- (xiv) Interprets economic trends in historical, political, and geographic contexts.
- (xv) Analyzes the influence of the past on the present and uses a knowledge of history and government to anticipate and plan for the future, evaluating alternative courses of action.
- (xvi) Applies the skills of analysis, interpretation, research, and decision-making to develop an understanding of history, government, and economic concepts.
- (xvii) Knows the content of the Oklahoma core curriculum for United States History, Oklahoma History, government, and economics.

**(B) World History/geography.** The candidate for licensure and certification:

- (i) Compares and contrasts differing sets of ideas, personalities, and institutions of world cultures and major historical periods.
- (ii) Analyzes the cause and effect of relationships, multiple causation and perspectives, including the importance of the individual on historical events.
- (iii) Analyzes the influence of the past on the present and uses a knowledge of history and geography to anticipate and plan for the future, evaluating alternative courses of action.
- (iv) Interprets given historical data in order to evaluate information in its context.
- (v) Knows the six elements of geographic organization: the world in spatial terms, places and regions, physical systems, human systems, environment and society, and application of geographic data, and applies them to developing an understanding of geography concepts.
- (vi) Applies the skills of analysis, interpretation, research, and decision-making to develop an understanding of history and geographic concepts.
- (vii) Knows the content of the Oklahoma core curriculum for World History and Geography.

**(C) Psychology/sociology.** The candidate for licensure and certification:

- (i) Exhibits a basic intellectual grasp of psychological and sociological theories, vocabulary, history, and recent trends in the fields of psychology and sociology.
- (ii) Understands basic concepts relative to social, developmental, abnormal and clinical psychology, learning theory (classical, operant, and cognitive), and other significant areas in the discipline of psychology, such as the scientific method.
- (iii) Knows basic brain-based research and theory, and how biology and behavior interact.
- (iv) Recognizes the differences among experimental, classical, and conditioning approaches to the study of psychology.
- (v) Analyzes and interprets how today's psychologists view behavior in the following areas: the biological, the cognitive, the person-centered, and the psycho-dynamic perspectives.
- (vi) Knows the theories and measurement of intelligence testing.
- (vii) Knows basic concepts relative to group behavior, ethnicity, social mores, crime, demographics and current social issues.
- (viii) Knows and analyzes culture, social structure, social stratification, social institutions, socialization, social movements, and social problems, as sociological concepts.
- (ix) Knows and applies the basic sociological research processes, e.g., hypothesis formulations, sampling

**(31) Special Education (birth through twelfth grade).** For purposes of providing special education services and identifying competencies deemed necessary for licensure and certification, four areas of disabilities have been identified within the overall field of special education; these are Blind/Visual Impairment, Deaf/Hard of Hearing, Mild-Moderate Disabilities, and Severe-Profound/Multiple Disabilities. Competencies identified at the early childhood level and deemed common to all areas of disabilities are addressed in (A) and apply to all candidates for licensure and certification in any area of special education. Additional competencies in each of the four areas listed above in this paragraph are addressed in (B) through (E).

**(A) Competencies common to all areas of disabilities.** The candidate for licensure and certification:

- (i) Understands the historical, social, and ethical foundations; legal and regulatory; and current trends and issues of early childhood, early childhood special education, and special education.
- (ii) Identifies specific/common disabilities in children and the implications for development and learning.

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- (iii) Plans and implements programming and curricula using current best practices and principles of early childhood education.
- (iv) Understands typical and atypical development and the interdependency of all developmental areas, and respects each child's unique characteristics and their implications for learning.
- (v) Demonstrates knowledge and skills in selection and administration of developmental screening, assessment, and evaluation instruments and methods which are comprehensive, nondiscriminatory for linguistic and cultural differences, formal and informal, and appropriate for children with early childhood disabilities.
- (vi) Participates and collaborates with all team members in conducting the evaluation/assessment within the multidisciplinary team process.
- (vii) Understands and demonstrates knowledge of the individualized family service plan (IFSP)/individualized education program (IEP) process by:
  - (I) using assessment results, in partnership with the family and other team members, to develop the IFSP/IEP
  - (II) monitoring IFSP/IEP progress
- (viii) Understands and implements early childhood curricula by adapting educational strategies, schedules and environments (individual, group, home settings) to meet the specific needs, interests, and experiences of all children.
- (ix) Understands and participates in the transition process across programs and service systems by:
  - (I) planning for and linking current developmental learning experiences and teaching strategies with those of the next educational setting
  - (II) communicating options for programs and services at the next level, while assisting the family in planning for transition.
- (x) Develops and uses formative and summative program evaluation to ensure comprehensive quality of programs and services for children and their families.
- (xi) Collaborates and consults regularly with families, other team members, and agencies to enhance and support children's learning and development by:
  - (I) assisting families in identifying resources, priorities, and concerns, and in accessing appropriate services
  - (II) respecting parents' choices and goals for their children
  - (III) implementing services for children and their families, consistent with laws, regulations, and procedural safeguards
- (xii) Uses positive and supportive early childhood guidance, teaching, and behavioral strategies which help all children learn to make responsible decisions regarding their own behavior and contribute to the development of self-control, self-motivation, and self-worth.
- (xiii) Demonstrates professionalism and ethical practice, including:
  - (I) advocacy on behalf of young children and their families to improve quality of programs and services for young children and for early childhood special education
  - (II) implementation of a professional development plan which incorporates best practices and principles.
- (xiv) Understands and applies the following competencies in reading instruction.
  - (I) Knows the stages of language development and the structure of the English language and alphabetic writing system including phonology, morphology, and orthography and their relationships to spelling and meaning.
  - (II) Understands that primary language (oral) directly impacts the secondary languages (reading, writing, spelling). Knows and applies knowledge of implicit and explicit instruction in developing oral language. Knows the relationship of oral language to literacy.
  - (III) Knows the developmental process of reading in order to assess, interpret, describe, develop appropriate instruction, monitor, reteach and reassess student's reading performance for concepts about print, phonological and phonemic awareness, phonics, spelling, word recognition, vocabulary, comprehension, fluency, and writing.

- (IV) Identifies and applies all developmental levels of phonemic awareness to provide appropriate instruction in understanding words are made up of phonemes and that phonemes can be rearranged and manipulated to make different words that compose oral speech.
- (V) Knows and provides appropriate systematic explicit and implicit phonological instruction for the application of spelling-sound correspondences for word analysis and for structural analysis for word recognition and word meaning development.
- (VI) Knows and applies the relationships between spelling patterns and sounds of speech; knows how to support the student at each stage of spelling development; knows how to focus direct and indirect instruction to guide the student toward spelling proficiency.
- (VII) Knows and applies knowledge of appropriate explicit and implicit instruction for vocabulary development, e.g., prefixes, suffixes and roots.
- (VIII) Knows and applies strategies that promote comprehension and strategies to support children's understanding for the various elements of the different genres of text.
- (IX) Knows and applies strategies and instructional approaches to support response to text and promote comprehension for literal, inferential, and critical/evaluative level, e.g., guided reading, literature and research circles.
- (X) Knows and applies knowledge of instructional techniques to assist students with self-monitoring and self-corrections, i.e., semantics, syntax, and graphophonics.
- (XI) Knows and applies the instructional strategies which contribute to the development of fluent reading.
- (XII) Knows how to promote children's interest and engagement in reading and writing.

**(B) Blind/visual impairment.** The candidate for licensure and certification:

- (i) Understands the philosophical, historical, and legal foundations of special education for students with visual impairment including:
  - (I) trends and issues in special education
  - (II) special education policies and procedures
  - (III) laws and regulations regarding special education
- (ii) Demonstrates knowledge of characteristics of students with visual impairments.
- (iii) Demonstrates knowledge and skills in assessment, diagnosis, evaluation, and eligibility determination within the multidisciplinary team process for students with visual impairments including:
  - (I) procedures relevant to the impact of specific visual disorders on learning and experience, as well as procedures used for screening, prereferral, referral, and identification of students with visual impairments:
  - (II) vision screening methods
  - (III) functional vision assessment
  - (IV) learning media assessment
  - (V) orientation and mobility
  - (VI) independent living skills
  - (VII) vocational skills
  - (VIII) assistive technology
  - (IX) recreation and leisure skills
  - (X) classroom observation
- (iv) Understands and demonstrates knowledge of the individualized education programs (IEP) process by:
  - (I) using assessment results, in partnership with team members, to develop the IEP
  - (II) monitoring IEP progress
- (v) Demonstrates knowledge and skills to plan and implement appropriate and effective individualized education programs for students with visual impairments, based upon knowledge of subject matter and adaptation of curriculum and materials to meet individual abilities and sensory, conceptual and communication needs, including:
  - (I) social interaction skills

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- (II) recreation and leisure skills
  - (III) use of assistive technology
  - (IV) prerequisite skills and concepts for orientation and mobility instruction
  - (V) independent living skills
  - (VI) career education
  - (VII) visual efficiency skills
  - (VIII) literacy skills
  - (IX) organizational skills
  - (vi) Plans and manages supportive educational environments relative to the student's specific visual condition, including:
    - (I) acquisition and use of unique assistive technology (e.g., computers, printers, scanners, screen access, note-taking devices, software, speech output devices, CCTV, etc.)
    - (II) acquisition and use of specialized equipment and materials (Braille writer, abacus, slate and stylus, paper, Braille/large print/cassette textbooks, tactile maps, charts, graphs, optical, and nonoptical aids, etc.)
    - (III) modification of the physical environment
    - (IV) implementation of appropriate instructional strategies
    - (V) incorporation of basic orientation and mobility skills
  - (vii) Demonstrates knowledge and applies skills relative to the management of student behavior and social interaction skills unique to students with visual impairments, including:
    - (I) influences of the disability (ies) and other factors impacting the child's behavior and social skills
    - (II) instruction in social interaction skills, adaptive behavior, and appropriate behaviors
    - (III) appropriate behavior management and ethical considerations using a variety of interventions and techniques
  - (viii) Demonstrates knowledge and skills in communication and collaborative partnerships, including:
    - (I) communication with families, professionals, ancillary personnel, student peers, and community members to improve the quality of education for students with visual impairments
    - (II) interrelationships of resource and related service providers
    - (III) educational activities regarding specific visual conditions through inservice, consultation, etc.
    - (IV) transition planning
  - (ix) Demonstrates knowledge and skills to promote successful transitions at all levels of the education process and in various environments, including:
    - (I) completion of secondary level program/postsecondary planning
    - (II) transitions across programs and service delivery systems
  - (x) Demonstrates knowledge and skills in providing an appropriate education for students in the least restrictive environment, including the full continuum of placement alternatives
  - (xi) Demonstrates management skills pertaining to the various service delivery models representing the full continuum of placement options for students with visual impairments, including:
    - (I) time management and scheduling
    - (II) record keeping
    - (III) prioritizing caseload
    - (IV) roles and responsibilities
    - (V) travel issues relevant to service delivery
    - (VI) site specific climate and culture
  - (xii) Demonstrates professional and ethical conduct and advocacy for the unique needs of all students with visual impairments regardless of the availability of services.
- (C) Deaf/hard of hearing.** The candidate for licensure and certification:
- (i) Understands the philosophical, historical, and legal foundations of special education for students who are deaf or hard of hearing, including:

- (I) trends and issues in special education
- (II) special education policies and procedures
- (III) laws and regulations regarding special education
- (ii) Demonstrates knowledge of characteristics and development of students who are deaf or hard of hearing, including:
  - (I) communication features (visual, spatial, tactile, auditory) necessary to enhance cognitive, emotional, and social development
  - (II) etiologies (causes) of hearing loss
  - (III) effects of onset, age of identification, and provision of services
- (iii) Demonstrates knowledge and skills in assessment, diagnosis, evaluation, and eligibility determination within the multidisciplinary team process for students who are deaf or hard of hearing, including
  - (I) use of the natural/native/preferred language or mode of communication of the student
  - (II) interpretation of results for use in educational programming
- (iv) Understands and demonstrates knowledge of the individualized education program (IEP) process by:
  - (I) using assessment results, in partnership with team members, to develop the IEP
  - (II) monitoring IEP progress
- (v) Demonstrates knowledge and skills to plan and implement appropriate and effective instruction for students who are deaf or hard of hearing based upon knowledge of subject matter, curriculum goals, and students' individual abilities and needs by use of:
  - (I) multimedia skills
  - (II) techniques for modifying and adapting curriculum and materials to meet physical, sensory, cognitive, cultural, and communication needs in various learning environments
- (vi) Plans and manages supportive teaching and learning environments that maximize opportunities for visually oriented and/or auditory learning and facilitate participation of students who are deaf or hard of hearing using:
  - (I) knowledge of current devices and assistive technology, including their application and resources (e.g., captioning, computers, augmentative communication devices, etc.)
  - (II) classroom management techniques
- (vii) Demonstrates knowledge and skills in managing student behavior and social interaction skills, including:
  - (I) appropriate behavioral management and ethical considerations using a variety of interventions and techniques
  - (II) influences of the disability(ies) and other factors impacting the child's behavior and social interaction skills
- (viii) Understands how language develops naturally and that early comprehensible communication influences the development of the whole child.
- (ix) Demonstrates proficiency in the languages and modes of communication that are used in the instruction of students who are deaf or hard of hearing.
- (x) Understands the social and cultural aspects of the deaf perspective and deaf experience.
- (xi) Demonstrates knowledge and skills in communication and forming collaborative partnerships with families, professionals, and community members to improve the quality of education for students who are deaf or hard of hearing.
- (xii) Demonstrates knowledge and skills to promote successful transitions at all levels of the education process and in various environments, including:
  - (I) completion of secondary level program/postsecondary planning
  - (II) transitions across programs and service delivery systems
- (xiii) Demonstrates knowledge and skills in providing an appropriate education for students in the least restrictive environment, including the full continuum of placement alternatives.
- (xiv) Demonstrates professional and ethical conduct in matters related to the education of students who are deaf or hard of hearing.

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(D) **Mild-moderate disabilities.** The candidate for licensure and certification will demonstrate his/her mastery of these standards through the mastery of the Council for Exceptional Children's (CEC) Core Knowledge and Skills and through the mastery of the CEC Knowledge and Skill Base for Teachers of Students in Individualized General Curriculums. The candidate:

(i) Understands the philosophical, evidence-based principals and theories, historical and legal foundations of special education, and how these influence professional practices. These would include:

- (I) trends and issues in special education;
- (II) special education policies and procedures;
- (III) laws and regulations regarding special education;
- (IV) issues of human diversity and its relevance to special education;
- (V) human issues that influence the field of special education; and
- (VI) relationships of special education to the organization and functions of schools, school systems, and agencies.

(ii) Understands the similarities and differences in human development, the characteristics of all learners, and how exceptional conditions interact with the domains of human development to respond to varying abilities and behaviors of individuals with disabilities while demonstrating respect for their students.

(iii) Understands the effects that a disability (including aspects of cognition, communication, physical, medical, and social/emotional) can have on learning and how primary language, culture and familial background can interact with the student's disabilities to impact academic, and social abilities, attitudes, values, interests and career options. The understanding of these learning differences and their possible interactions provide the foundation upon which a special educator individualizes instruction to provide meaningful and challenging learning for students with disabilities.

(iv) Possesses a repertoire of evidenced-based instructional strategies to individualize instruction for students with disabilities and emphasizes the development, maintenance, and generalization of knowledge and skills across environments, settings, and the life span. These evidenced-based instructional strategies should:

- (I) promote positive learning results in the general curriculum in age-appropriate settings;
- (II) promote multiple methods for teaching reading;
- (III) modify learning environments;
- (IV) enhance critical thinking, problem solving and performance skills;
- (V) promote self-determination;
- (VI) enhance integration and coordination of related services for educational benefit; and
- (VII) promote transition.

(v) Demonstrates knowledge and skills in creating positive and safe learning environments for students with disabilities, and that also foster active engagement of students with disabilities.

In addition, special educators foster environments that:

- (I) value diversity;
- (II) promote independence and productivity;
- (III) assist general education colleagues in integrating students with disabilities;
- (IV) use direct motivational and instructional interventions;
- (V) utilize positive behavior supports and crisis management techniques;
- (VI) guide and direct paraprofessionals and others; and
- (VII) provide specialized school health practices and techniques for health and safety.

(vi) Understands typical and atypical language development and uses strategies to enhance language development and teach communication skills to students with disabilities. This is accomplished by using:

- (I) effective language models;
- (II) augmentative, alternative and assistive technologies;



- (III) communication strategies and resources to facilitate understanding of subject matter for students with disabilities and those students with disabilities whose primary language is not English; and
- (IV) matching communication methods to the student's language proficiency and cultural and linguistic differences.

(vii) Develops long- and short-range instructional plans anchored in both general and special education curricula emphasizing:

- (I) effective modeling;
- (II) efficient guided practice;
- (III) modifications based on ongoing analysis of the individuals learning progress;
- (IV) collaboration;
- (V) individualized transition plans;
- (VI) use of appropriate technologies; and
- (VII) positive behavior supports.

(viii) Understands legal policies and ethical principals of multiple types of assessment information related to referral, eligibility, program planning, instruction and placement of students with disabilities including those from culturally and linguistically diverse backgrounds. Special educators use assessment information to identify supports and adaptations required for students with disabilities to access general and special curricula and participate in school, system and statewide assessment programs. Special educators regularly monitor students' progress and use appropriate technologies to support assessments. Special educators must understand:

- (I) measurement theory and practices for addressing validity, reliability, norms, bias, and interpretation of assessment results and
- (II) appropriate use and limitations of various assessment.

(ix) Demonstrates knowledge and skills regarding legal, professional, and ethical practices including:

- (I) sensitivity to the many aspects of diversity;
- (II) engaging in professional growth as lifelong learners;
- (III) keeping current with evidence-based effective practices; and
- (IV) participating in professional activities that benefit individuals with disabilities and their families.

(x) Routinely and effectively collaborates with families, colleagues, related service providers, community agencies and other resources in positive and culturally responsive ways to assure that the needs of students with disabilities are addressed including facilitation of successful transitions of students with disabilities across settings and services.

**(E) Severe-profound/multiple disabilities.** The candidate for licensure and certification will demonstrate his/her mastery of these standards through the mastery of the Council for Exceptional Children's (CEC) Core Knowledge and Skills and through the mastery of the CEC Knowledge and Skill Base for Teachers of Students in Independence Curriculums. The candidate:

(i) Understands the philosophical, evidence-based principals and theories, historical and legal foundations of special education, and how these influence professional practices. These would include:

- (I) trends and issues in special education;
- (II) special education policies and procedures;
- (III) laws and regulations regarding special education;
- (IV) issues of human diversity and its relevance to special education;
- (V) human issues that influence the field of special education; and
- (VI) relationships of special education to the organization and functions of schools, school systems, and agencies.

(ii) Understands the similarities and differences in human development, the characteristics of all learners, and how exceptional conditions interact with the domains of human development to respond to varying abilities and behaviors of individuals with disabilities while demonstrating respect for their students.

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(iii) Understands the effects that a disability (including aspects of cognition, communication, physical, medical, and social/emotional) can have on learning and how primary language, culture and familial background can interact with the student's disabilities to impact academic, and social abilities, attitudes, values, interests and career options. The understanding of these learning differences and their possible interactions provide the foundation upon which a special educator individualizes instruction to provide meaningful and challenging learning for students with disabilities.

(iv) Possesses a repertoire of evidenced-based instructional strategies to individualize instruction for students with disabilities and emphasizes the development, maintenance, and generalization of knowledge and skills across environments, settings, and the life span. These evidenced-based instructional strategies should:

- (I) promote positive learning results in general and special curricula in age-appropriate settings, especially functional curricula;
- (II) modify learning environments;
- (III) utilize community-based instruction and vocational instruction;
- (IV) enhance communication skills;
- (V) enhance critical thinking, problem solving and performance skills;
- (VI) promote self-determination;
- (VII) enhance integration and coordination of related services for educational benefit; and
- (VIII) promote transition.

(v) Demonstrates knowledge and skills in creating positive and safe learning environments for students with disabilities, and that also foster active engagement of students with disabilities.

In addition, special educators foster environments that:

- (I) value diversity;
- (II) promote independence and productivity;
- (III) assist general education colleagues in integrating students with disabilities;
- (IV) use direct motivational and instructional interventions;
- (V) utilize positive behavior supports and crisis management techniques;
- (VI) guide and direct paraprofessionals and others; and
- (VII) provide specialized school health practices and techniques for health and safety.

(vi) Understands typical and atypical language development and uses strategies to enhance language development and teach communication skills to students with disabilities. This is accomplished by using:

- (I) effective language models;
- (II) augmentative, alternative and assistive technologies;
- (III) communication strategies and resources to facilitate understanding of subject matter for students with disabilities and those students with disabilities whose primary language is not English; and
- (IV) matching communication methods to the student's language proficiency and cultural and linguistic differences.

(vii) Develops long- and short-range instructional plans anchored in both general and special education curricula emphasizing:

- (I) effective modeling;
- (II) efficient guided practice;
- (III) modifications based on ongoing analysis of the individuals learning progress;
- (IV) collaboration;
- (V) individualized transition plans;
- (VI) use of appropriate technologies; and
- (VII) positive behavior supports.

(viii) Understands legal policies and ethical principals of multiple types of assessment information related to referral, eligibility, program planning, instruction and placement of students with disabilities including those from culturally and linguistically diverse backgrounds. Special educators use assessment information to identify supports and adaptations required for students with disabilities to access general and special curricula and

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participate in school, system and statewide assessment programs. Special educators regularly monitor students' progress and use appropriate technologies to support assessments. Special educators must understand:

- (I) measurement theory and practices for addressing validity, reliability, norms, bias, and interpretation of assessment results and
- (II) appropriate use and limitations of various assessments.
- (ix) Demonstrates knowledge and skills regarding legal, professional, and ethical practices including:
  - (I) sensitivity to the many aspects of diversity;
  - (II) engaging in professional growth as lifelong learners;
  - (III) keeping current with evidence-based effective practices; and
  - (IV) participating in professional activities that benefit individuals with disabilities and their families.
- (x) Routinely and effectively collaborates with families, colleagues, related service providers, community agencies and other resources in positive and culturally responsive ways to assure that the needs of students with disabilities are addressed including facilitation of successful transitions of students with disabilities across settings and services.

**(32) Speech/drama/debate (Secondary).** The candidate for licensure and certification shall:

- (A) ~~Maintains~~ Maintain a current knowledge of concepts of the field of speech communication including: oral interpretation of literature, theater, the electronic media, public speaking, argumentation, and critical thinking skills.
- (B) ~~Applies~~ Apply comprehension, analysis, interpretation, synthesis, and evaluation of vocal, verbal and nonverbal messages.
- (C) ~~Applies~~ Apply appropriate learning strategies for critical thinking, research, organization, and presentation of messages appropriate to participation in a democratic society.
- (D) ~~Communicates~~ Communicate effectively in interpersonal, small group, and public communication situations using appropriate language and nonverbal signals.
- (E) ~~Understands~~ Understand the influence of social and historical contexts; and culture on public address and literature of the theater.
- (F) ~~Understands the impact of cultural diversity upon the communication process.~~
- (G) ~~Establishes~~ Establish a communication climate which encourages reflection, creativity, and critical thinking.
- (H) ~~Uses~~ Use differing assessment strategies to evaluate student competencies in a variety of speaking/listening situations.
- (I) ~~Uses~~ Use technology (i.e., videotaping of presentations, computers to generate visual aids and as a research tool) to enhance instruction.
- (J) ~~Understands~~ Understand and ~~uses~~ use teaching strategies appropriate for the analysis and presentation of a variety of forms (genres) of public address and literature of the theater, available in electronic media and from printed sources.
- (K) ~~Understands~~ Understand the importance of effective communication skills in the personal and professional arenas.
- (L) ~~Understands~~ Understand the role of co-curricular and extracurricular activities in the development of student interest as an extension of the classroom instruction.
- (M) ~~Understands~~ Understand, ~~teaches~~ teach, and ~~implements~~ implement the Oklahoma's Core Curriculum Oklahoma Academic Standards.

**(33) Speech-language pathologist (SLP).**

- (A) The candidate for licensure and certification:
  - (i) Understands the models, theories and philosophies that provide the basis for the practice of speech-language pathology, in the following knowledge areas:
    - (I) content areas in speech-language pathology (language, articulation, voice, fluency, augmentative communication)
    - (II) etiologies which may contribute to communication impairments
    - (III) a working understanding of other assessments (medical, psychological, audiological, etc.)
    - (IV) modality (spoken, written, sign)

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- (ii) Accommodates the individual learning styles and communication/educational needs of the student.
  - (iii) Demonstrates the ability to screen, evaluate, and diagnose students with suspected communication impairments using a variety of formal and informal procedures.
  - (iv) Plans and implements evidence based intervention strategies and the appropriate service delivery models for students with communication impairments, including:
    - (I) determines least restrictive environment
    - (II) provides ongoing assessment and monitors individualized education program (IEP) progress
    - (III) develops individualized education program (IEP)
  - (v) Facilitates the development of the student's functional and literate communication skills (i.e., how communication occurs including written language) across environments, including:
    - (I) developing modifications/adaptations
    - (II) determining transition service needs
  - (vi) Recognizes and understands the relationship among behavior, social interaction and communication impairments, and is able to determine realistic expectations for the student's personal and social behavior in various settings.
  - (vii) Uses collaborative strategies in working with parents, school, and community to address the needs of students with communication impairments.
  - (viii) Promotes and maintains competence and integrity in the practice of speech-language pathology by participating in continuing education as required to maintain professional licensure, national certification, and/or Oklahoma State Department of Education (OSDE) certification, as well as by identifying community agencies and resources for students.
  - (ix) Implements practices that recognize the multicultural issues and the effect of cultural and linguistic diversity on students' communication skills and learning styles.
  - (x) Demonstrates knowledge of laws and regulations pertaining to students with communication impairments.
  - (xi) Defines, describes, and implements tenets of professional services that include interprofessional practices (IPP).
  - (xii) Knows the requirements for supervision of student interns, speech-language pathology assistants, and the mentorship of clinical fellows.
- (B) Competency for Speech-language Pathologist certification may also be verified by the Certificate of Clinical Competence (CCC) from the American Speech-Language-Hearing Association (ASHA) or Oklahoma Board of Examiners for Speech-Language Pathology and Audiology (OBESPA) licensure.
- (34) Speech-language pathology assistant (SLPA).**
- (A) The candidate for licensure and certification:
- (i) Understands the models, theories and philosophies that provide the basis for the practice of speech/language pathology, in the following knowledge areas:
    - (I) content areas in speech-language pathology (language, articulation, voice, fluency, augmentative communication, swallowing)
    - (II) etiologies which may contribute to communication impairments
    - (III) a working understanding of other assessments (medical, psychological, audiological, etc.)
    - (IV) modality (spoken, written, sign)
  - (ii) Accommodates the individual learning styles and communication/educational needs of the student.
  - (iii) Demonstrates the ability to assist the speech-language pathologist in screening and assessing students with suspected communication impairments using a variety of formal and informal procedures.
  - (iv) Implements evidence based intervention strategies developed by the supervising speech-language pathologist, and appropriate service delivery models for students with communication impairments, including:
    - (I) provides ongoing data collection and monitors individualized education program (IEP) progress
    - (II) develops IEP with prior approval of the licensed speech-language pathologist

- (v) Facilitates the development of the student's functional and literate communication skills (i.e., how communication occurs, including written language) across environments and provides modifications/adaptations.
- (vi) Recognizes and understands the relationship among behavior, social interaction and communication impairments, and is able to provide realistic expectations for the student's personal and social behavior in various settings.
- (vii) Uses collaborative strategies in working with parents, school, and community to address the needs of students with communication impairments.
- (viii) Promotes and maintains competence and integrity in the practice of speech-language pathology by participating in continuing education as required to maintain professional license and Oklahoma State Department of Education (OSDE) certification or credential.
- (ix) Implements practices that recognize multicultural issues and the effect of cultural and linguistic diversity on students' communication skills and learning styles.
- (x) Defines, describes, and implements tenets of professional services that include interprofessional practices (IPP).
- (xi) Demonstrates knowledge of laws and regulations pertaining to students with communication impairments.
- (xii) Knows and adheres to SLPA roles and responsibilities as defined in licensure and certification rules and regulations.

(B) Competency for Speech-Language Pathology Assistant certification or credential shall be verified by the Oklahoma Board of Examiners for Speech-Language Pathology and Audiology (OBESPA) and the successful passing of the Oklahoma exam for SLPAs or a national exam for SLPAs when available. An SLPA must work under the direct and indirect supervision of a licensed/certified speech-language pathologist (SLP) to be eligible for certification. The SLPA will not independently give assessments and will not determine eligibility for services. Responsibilities will be assigned by the supervising speech-language pathologist based on the SLPA's level of competence in each area.

(35) **Agricultural education.** The candidate for licensure and certification shall possess the competencies specified in (A) through (F).

(A) **Agricultural business/marketing.** The candidate for licensure and certification understands the fundamental principles of agricultural business/marketing and management including principles of basic recordkeeping and methods for acquiring and managing agricultural finances.

(B) **Animal science.** The candidate for licensure and certification:

- (i) Selects and handles livestock, recognizes factors related to the safe handling of animals and animal products which become food for human consumption, and understands the importance of alternative agricultural enterprises.
- (ii) Understands concepts and principles of animal reproduction and the importance of livestock health and nutrition.

(C) **Plant and soil science.** The candidate for licensure and certification:

- (i) Understands concepts, principles, and laboratory skills related to plant and soil science including the importance of traditional crops and alternative enterprises.
- (ii) Knows factors related to the safe handling of plants and plant products which become food for human consumption and identifies causes and characteristics of common plant pests and diseases.

(D) **Agricultural mechanics.** The candidate for licensure and certification practices:

- (i) shop safety, including the operation and knowledge of hand/power tools,
- (ii) basic principles/concepts of power and machinery, metals and metal processes, and
- (iii) basic principles of building construction.

(E) **Natural resources.** The candidate for licensure and certification:

- (i) Evaluates the relationship between agriculture and the management of water, land, and air quality, and
- (ii) Understands concepts and principles of plant and animal environmental factors including the handling of chemicals.

(F) **Communications/leadership.** The candidate for licensure and certification:

- (i) Acknowledges the foundations of agricultural education including its purpose, functions, and the background of Future Farmers of America (FFA).

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- (ii) Demonstrates an understanding of basic parliamentary procedure, effective oral and written communication skills, and promotes teamwork, motivation, and leadership principles.
- (36) **Marketing education.** The candidate for licensure and certification shall possess the competencies specified in (A) through (N).
  - (A) **Orientation.** The candidate for licensure and certification applies principles of job search and preparation skills relating to resume and portfolio development, proper completion of application forms, interview preparation, career ladder analysis, and computer technology skills relating to word-processing and computerized presentations.
  - (B) **Marketing.** The candidate for licensure and certification:
    - (i) Applies principles and concepts related to marketing.
    - (ii) Interprets the importance of the marketing concept and functions, how marketing affects society, factors to consider in selecting a channel of distribution, and the concept of target marketing.
  - (C) **Mathematical skills.** The candidate for licensure and certification:
    - (i) Applies basic mathematical operations used in the marketing profession as it pertains to balancing a cash drawer and the automatic and manual methods of making change.
    - (ii) Identifies the uses of basic algebra in marketing.
  - (D) **Human relations.** The candidate for licensure and certification:
    - (i) Applies principles of communications, decision-making, and crisis management.
    - (ii) Identifies characteristics of professionalism on the job and the importance of social skills.
  - (E) **Sales.** The candidate for licensure and certification:
    - (i) Applies principles relating to sales, product information, customer buying decisions, motives for buying, and sales approaches.
    - (ii) Demonstrates methods of handling customer/client complaints and objections.
    - (iii) Explains the concept and use of sales quotas.
  - (F) **Security precautions.** The candidate for licensure and certification:
    - (i) Identifies and explains prevention measures for the security problems of shoplifting, internal theft, burglary, robbery, and fraud.
    - (ii) Identifies common types of fraud.
    - (iii) Recognizes steps necessary to ensure security in shipping and receiving areas.
    - (iv) Identifies precautions for safety on the job.
  - (G) **Economics.** The candidate for licensure and certification:
    - (i) Applies principles related to the classification of goods and services and the types of economic resources.
    - (ii) Compares the types of economic systems and their relationship to the economy.
    - (iii) Identifies the factors which affect economics including economic utility (form, place, time, possession), competition, supply and demand, and the role of government in business.
    - (iv) Understands the characteristics and importance of a private enterprise system and international trade.
    - (v) Identifies the measure and importance of the gross domestic product (GDP) to marketing.
  - (H) **Promotion.** The candidate for licensure and certification:
    - (i) Applies principles related to the use of promotional activities, including the use of media, design and display arrangements, and the print ad.
    - (ii) Explains the role of the promotional plan.
  - (I) **Merchandising.** The candidate for licensure and certification applies principles related to shipping and receiving, inventory control systems, calculation of inventory shrinkage, and industrial purchasing.
  - (J) **Business ownership/entrepreneurship.** The candidate for licensure and certification:
    - (i) Identifies the common types of business ownership in a free enterprise system and the advantages/disadvantages of each.
    - (ii) Discusses the importance of marketing strategies to businesses as they apply the principles of the product mix, product/service planning, marketing decisions for a proposed business, structuring a business, and using four "Ps" of marketing - product, pricing, place, and promotional strategies.
  - (K) **Applied management.** The candidate for licensure and certification:
    - (i) Applies principles of selecting store personnel, recruiting applicants for job openings, interviewing job candidates, and reducing labor turnover.

- (ii) Recognizes the importance of new-employee orientation.
  - (iii) Understands knowledge of employee motivational theories.
- (L) **Credit.** The candidate for licensure and certification:
  - (i) Applies principles of extending credit to business and customers and the three Cs of credit: character, capacity to pay, and capital.
  - (ii) Identifies the reasons for extending credit.
- (M) **Business and industry.** The candidate for licensure and certification:
  - (i) Develops relationships with business and industry through advisory committees, surveys, work-site learning opportunities, curriculum, and program visits.
  - (ii) Communicates with business and industry regarding student competencies/credentials and job performance.
- (N) **Student organizations and activities.** The candidate for licensure and certification:
  - (i) Understands the role of student organizations in developing student professionalism and assists student organizations by coaching, chaperoning, and supervising activities.
  - (ii) Encourages student participation through instruction and recognition of student achievements.
- (37) **Technology engineering.** The candidate for licensure and certification shall possess the competencies specified in (A) through (J):
  - (A) **Fundamentals of technology.** The candidate for licensure and certification:
    - (i) Understands the historical and social content including important events, developments, components, and current and future trends of technology.
    - (ii) Defines the terms, systems, characteristics, interrelationships, and economics of the connection between other disciplines such as math, science, and engineering.
    - (iii) Identifies general laboratory and personal safety practices.
    - (iv) Understands process and procedures related to the design process.
  - (B) **Problem-solving techniques.** The candidate for licensure and certification:
    - (i) Understands and applies problem-solving techniques.
    - (ii) Applies knowledge of engineering to solve technology related problems.
  - (C) **Career opportunities.** The candidate for licensure and certification:
    - (i) Explores career opportunities based on career clusters and identifies related terms and definitions.
    - (ii) Identifies activities that develop employability skills.
    - (iii) Recognizes educational requirements and pathways for occupational or postsecondary attainment.
  - (D) **Arts/AV communication and information technology systems.** The candidate for licensure and certification:
    - (i) Understands the principles, processes, tools, equipment, materials, functions, and characteristics of Arts/AV and Communication Technologies.
    - (ii) Understands Information Technology processes and procedures related to graphic communications.
  - (E) **Architecture and Construction systems.** The candidate for licensure and certification:
    - (i) Understands and applies the principles and characteristics of architecture and construction.
    - (ii) Identifies architecture and construction processes, procedures, basic principles of project planning, legal and regulatory issues, equipment and materials, and steps in the construction process.
  - (F) **Manufacturing systems.** The candidate for licensure and certification:
    - (i) Understands manufacturing principles and characteristics and their application.
    - (ii) Identifies materials, equipment, processes, and strategies utilized in manufacturing technologies.
    - (iii) Analyzes the role, function, and responsibilities of manufacturing in a contemporary society.
  - (G) **Transportation, distribution, and logistics (TDL).** The candidate for licensure and certification:
    - (i) Understands the principles, procedures, and applications of transportation, distribution, and logistics.
    - (ii) Identifies the selection of tools, equipment, and materials in the transportation, distribution, and logistics industry.

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- (iii) Analyzes environmental and economic effects on society.
- (H) **Technology engineering delivery systems.** The candidate for licensure and certification:
  - (i) Understands basic technology engineering principles, terminology, system design, and issues related to technology engineering.
  - (ii) Identifies terms, features, relationships, and procedures related to the selection, operation, and maintenance of computer systems and technology engineering software.
  - (iii) Analyzes factors effecting the selection of computer hardware and software.
- (I) **Business and industry.** The candidate for licensure and certification develops relationships with business and industry through advisory committees, curriculum, and work-site learning opportunities.
- (J) **Student organizations and activities.** The candidate for licensure and certification:
  - (i) Understands the role of student organizations in encouraging student participation and implementing activities that develop leadership traits.
  - (ii) Integrates student activities in instruction and recognizes student achievements.
- (38) **Vocational business.** The candidate for licensure and certification shall possess competencies specified in (A) through (D).
  - (A) **Business foundations.** The candidate for licensure and certification:
    - (i) Understands important events, developments and trends in the history of business.
    - (ii) Understands business organizational structures, organizational design and their implications.
    - (iii) Understands the basic principles of business law and the types and characteristics of legal instruments.
    - (iv) Analyzes legal issues related to business.
    - (v) Understands business communication.
  - (B) **Business management.** The candidate for licensure and certification:
    - (i) Understands principles of business management and their applications in the decision-making process
    - (ii) Applies procedures for managing human resources.
    - (iii) Analyzes issues related to economic and social responsibilities in business.
    - (iv) Analyzes factors affecting business marketing decisions.
  - (C) **Technology systems.** The candidate for licensure and certification:
    - (i) Understands basic principles and terminology related to computer technology.
    - (ii) Understands principles of computer system design.
    - (iii) Applies principles of computer technology to solve problems involving information gathering and analysis.
    - (iv) Applies principles of computer technology to solve problems related to project and business management.
    - (v) Understands information processing systems.
    - (vi) Analyzes data storage, retrieval and transmission systems.
    - (vii) Understands principles of telecommunications and applications of telecommunications in business.
    - (viii) Analyzes ethical and security issues involving technology systems.
  - (D) **Business finance and economics.** The candidate for licensure and certification:
    - (i) Understands basic principles and applications of accounting.
    - (ii) Applies procedures for processing accounting data.
    - (iii) Understands advanced accounting concepts and procedures.
    - (iv) Understands basic principles and applications of macroeconomics.
    - (v) Analyzes business situations in terms of microeconomic theory.
    - (vi) Applies basic principles of consumer economics and finance.
- (39) **Vocational family and consumer sciences.** The candidate for licensure and certification shall possess the competencies specified in (A) through (I).
  - (A) **Child development.** The candidate for licensure and certification:
    - (i) Applies child development concepts and guidance techniques in the care of infants, toddlers, preschool and school-age children, as well as children in crisis or with special needs.
    - (ii) Analyzes issues related to children's well-being, parenting, pregnancy, prenatal care, child birth, child care services, and community resources.
  - (B) **Foods and nutrition.** The candidate for licensure and certification:



- (i) Analyzes the relationship between food, nutrients, and the body through the application of food science principles, and healthy food choices.
  - (ii) Understands proper food storage/handling techniques, recipe use, food product information, serving/dining etiquette, and consumer skills.
- (C) **Consumer economics and management.** The candidate for licensure and certification:
  - (i) Applies principles related to money management, personal financial management, time management, and economics.
  - (ii) Analyzes advertising influences, factors related to housing selection and maintenance, factors related to motor vehicle selection and maintenance, wills, funerals, and consumer credit.
  - (iii) Applies consumer protection practices and skills.
- (D) **Housing and interior design.** The candidate for licensure and certification:
  - (i) Plans living space for human needs through the evaluation of housing and financial alternatives.
  - (ii) Applies elements and principles of interior design including exterior styles, interior spaces, interior treatments, furniture, accessories, and appliances.
- (E) **Interpersonal relationships.** The candidate for licensure and certification:
  - (i) Applies principles of communications, decision making, and crisis management.
  - (ii) Discusses factors and issues related to parenting, family life, and aging.
  - (iii) Identifies the importance of self-respect and of practicing socially accepted behavior.
- (F) **Clothing and textiles.** The candidate for licensure and certification:
  - (i) Applies wardrobe planning and grooming skills.
  - (ii) Applies clothing selection skills, methods of stretching the clothing dollar, care and maintenance practices, construction techniques, and knowledge of types of textiles.
- (G) **Careers.** The candidate for licensure and certification:
  - (i) Investigates careers as they relate to personal and career goals.
  - (ii) Understands the job application process, factors related to work etiquette, the use of technology in the workplace, and economic principles.
- (H) **Business and industry.** The candidate for licensure and certification:
  - (i) Develops partnerships with business and industry through advisory committees, surveys, work-site learning opportunities, curriculum, and program visits.
  - (ii) Communicates with business and industry regarding student competencies/credentials and job performance.
- (I) **Student organizations and activities.** The candidate for licensure and certification:
  - (i) Understands the role of student organizations in the recognition of student achievements through curricular activities.
  - (ii) Encourages student participation and the development of leadership traits.
- (40) **Occupational agriculture, occupational family and consumer sciences, trade and industrial education, and vocational health occupations.** Competency for occupational agriculture, occupational family and consumer sciences, trade and industrial education, and vocational health occupations will be verified by passing a state or national licensure examination developed specifically to the occupation and/or occupational testing approved by the Oklahoma Department of Vocational and Technical Education. Non-degreed vocational teachers certified under rules promulgated by the State Board of Education are exempt from the provisions of House Bill 1549, except for those provisions concerning professional development programs.
- (41) **Dance education.** The candidate for licensure and certification:
  - (A) Has a sound philosophical understanding and knowledge of dance education and creative movement and can support, justify and implement the dance education.
  - (B) Has a thorough knowledge of a sequential dance/creative movement curriculum that is developmentally appropriate for each grade level and inclusive of various student learning styles and those with special needs.
  - (C) Understands the history of dance and its role in culture and the arts worldwide.
  - (D) Has a working knowledge of dance integration and values the art-related competencies in Oklahoma's core curriculum.
  - (E) Recognizes and respects diversity and establishes environments where individuals dance content and learning are held in high regard.

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- (F) Understands the process of critical thinking and implements problem solving activities, analysis, reflection, decision making and creative exploration in dance.
- (G) Understands the elements of dance and technical skills in performing dance including:
  - (i) time (i.e., fast slow, even, uneven, accent, meters)
  - (ii) space (i.e., levels , direction, pathways)
  - (iii) force (i.e., energy, weight, flow)
  - (iv) locomotor movements (i.e., walk, run, skip, hop, jump, slide, gallop, leap)
  - (v) nonlocomotor movements ( i.e., bend, stretch, twist, swing)
  - (vi) rhythmic activities and musicality
  - (vii) proper skeletal alignment
  - (viii) efficiency and mastery of technical skills in a variety of dance forms.
- (H) Understands the principals of choreography (i.e., dance improvisation, composition, and choreography).
- (I) Understands the components of healthy living and fitness and the benefits of daily participation in dance activities.
  - (i) fitness components
    - (I) flexibility
    - (II) muscular strength
    - (III) agility
    - (IV) motor skills development and coordination
    - (V) body awareness, control, and balance
    - (VI) development and mastery of dance skills
    - (VII) weight control
  - (ii) wellness components
    - (I) release of stress and tension through positive dance activity
    - (II) positive self esteem and self-expression
    - (III) lifelong well being
    - (IV) weight control
- (J) Has a working knowledge of dance choreography and teaching strategies to help students create, study, interpret and evaluate works of art.
- (K) Has knowledge of dance resources including community resources, materials, equipment, and proper facilities, and can adapt a variety of resources and materials that supports students as they learn through and about dance.
- (L) Promotes the understanding of dance as an artistic, kinesthetic, educational, social, cultural and theatrical experience.
- (M) Provides a safe environment and creates a setting for productive learning.
- (N) Collaborates with colleagues, artists and agencies in the community to promote arts education opportunities.
- (O) Recognizes the important role of technology in dance education.
- (P) Uses a variety of assessment and evaluation methods and can evaluate student learning.
- (42) **English as a second language (ESL) PK-12.** The candidate for licensure and certification:
  - (A) **Language.** The candidate for licensure and certification:
    - (i) Demonstrates knowledge, understanding, and application of the fundamentals of linguistics as related to the development of listening, speaking, reading, and writing for social and academic purposes.
    - (ii) Understands and applies knowledge of current theories and practices that facilitate second language acquisition and literacy development in the classroom.
    - (iii) Understands the role of the primary language in acquiring English as a new language.
    - (iv) Understands and applies knowledge of how sociocultural variables effect individual learners in facilitating the process of learning English.
  - (B) **Culture.** The candidate for licensure and certification:
    - (i) Knows, understands, and uses the major concepts, principles, theories, and research related to the nature and role of culture in language development and academic achievement that support individual student's learning.
    - (ii) Understands and applies knowledge about home/school communication to enhance ESL teaching and build partnerships with students' families.

- (iii) Knows, understands, and uses knowledge of how cultural groups and ESL students' cultural identities affect language learning and school achievement.
- (iv) Understands and applies knowledge about world events that have an impact on ESL students' learning.
- (v) Knows and uses teaching strategies that are developmentally appropriate and inclusive of various learning styles and is sensitive to the needs of diverse cultural groups.

**(C) Planning, implementation, and managing instruction.** The candidate for licensure and certification:

- (i) Knows, understands, and applies concepts, research, and best practices to plan standards-based instruction based on language development and the Oklahoma core curriculum that provides for students of varying educational backgrounds in a supportive and accepting environment.
- (ii) Knows, manages, and implements instruction around standards-based subject matter and language learning objectives that incorporates a variety of activities and learning opportunities that integrate listening, speaking, reading, writing, and comprehension for a variety of academic and social purposes.
- (iii) Knows and is able to use a variety of resources and instructional strategies to teach ESL students the English language and content areas.
- (iv) Understands and applies the following competencies in reading instruction as appropriate to the abilities of the student.
  - (I) Knows the stages of language development and the structure of the English language and alphabetic writing system including phonology, morphology, and orthography and their relationships to spelling and meaning.
  - (II) Understands that primary language (oral) directly impacts the secondary languages (reading, writing, spelling). Knows and applies knowledge of implicit and explicit instruction in developing oral language. Knows the relationship of oral language to literacy.
  - (III) Knows the developmental process of reading in order to assess, interpret, describe, develop appropriate instruction, monitor, reteach and reassess student's reading performance for concepts about print, phonological and phonemic awareness, phonics, spelling, word recognition, vocabulary, comprehension, fluency, and writing.
  - (IV) Identifies and applies all developmental levels of phonemic awareness to provide appropriate instruction in understanding words are made up of phonemes and that phonemes can be rearranged and manipulated to make different words that compose oral speech.
  - (V) Knows and provides appropriate systematic explicit and implicit phonological instruction for the application of spelling-sound correspondences for word analysis and for structural analysis for word recognition and word meaning development.
  - (VI) Knows and applies the relationships between spelling patterns and sounds of speech; knows how to support the student at each stage of spelling development; knows how to focus direct and indirect instruction to guide the student toward spelling proficiency.
  - (VII) Knows and applies knowledge of appropriate explicit and implicit instruction for vocabulary development (e.g., prefixes, suffixes, roots, singular, and plural).
  - (VIII) Knows and applies strategies that promote comprehension and strategies to support children's understanding for the various elements of the different genres of text.
  - (IX) Knows and applies strategies and instructional approaches to support response to text and promote comprehension for literal, inferential, and critical/evaluative level (e.g., guided reading, literature and research circles).
  - (X) Knows and applies knowledge of instructional techniques to assist students with self-monitoring and self-corrections (i.e., semantics, syntax, and graphophonics).
  - (XI) Knows and applies the instructional strategies which contribute to the development of fluent reading.

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(XII) Knows how to promote children's interest and engagement in reading and writing.

(D) **Assessment.** The candidate for licensure and certification:

- (i) Understands various issues of standardized assessments as they affect ESL students' learning and academic performance.
- (ii) Understands different types of assessments and their purposes.
- (iii) Understands and is able to use a variety of language proficiency assessment instruments.
- (iv) Interprets and integrates assessment information into instructional plans.
- (v) Understands the importance of different assessment strategies and uses them in the evaluation and modification of teaching and learning.

(E) **Professionalism.** The candidate for licensure and certification:

- (i) Demonstrates knowledge of history, research, and current practices in the field of ESL and applies this knowledge to improve teaching and student achievement.
- (ii) Pursues personal professional growth opportunities and serves as a professional resource to colleagues.
- (iii) Serves as a resource liaison and advocate for ESL students and builds partnerships with students' families.
- (iv) Demonstrate English fluency in listening, speaking, reading, and writing the English language.

(43) **Computer Science.** The candidate for licensure and certification shall possess the competencies specified in (A) through (E).

(A) **Programming and algorithm design.** The candidate for licensure and certification ~~will~~shall demonstrate programming proficiency in a modern high-level programming language. The candidate ~~will~~shall:

- (i) Demonstrate knowledge of and skill regarding the syntax and semantics of a high-level programming language, its control structures, and its basic data representations.
- (ii) Demonstrate knowledge of and skill regarding common data abstraction mechanisms (e.g., data types or classes such as stacks, trees, lists, etc.).
- (iii) Demonstrate knowledge of and skill regarding program correctness issues and practices (e.g., testing program results, test data design).

(B) **Multiple paradigms.** The candidate for licensure and certification ~~will~~shall demonstrate an understanding of and flexibility with differing approaches/paradigms in programming (e.g., imperative, functional, object-oriented). The candidate ~~will~~shall design, implement, and test programs in languages from two different programming paradigms in a manner appropriate to each paradigm.

(C) **Computer systems - components, organization, and operation.** The candidate for licensure and certification ~~will~~shall demonstrate in-depth knowledge of how computer systems work individually and collectively. The candidate ~~will~~shall:

- (i) Use a variety of computing environments (e.g., various operating systems)
- (ii) Describe the operation of a computer system-CPU and instruction cycle, peripherals, operating system, network components, and applications indicating their purposes and interactions among them.

(D) **Data representation and information organization.** The candidate for licensure and certification ~~will~~shall demonstrate an understanding of data and information representation and organization at a variety of levels--machine level representation (for program correctness), data structures (for program implementation), problem representation (for solution design), files and databases (for general applications), and interactions among systems and people (for overall system design and effectiveness). The candidate ~~will~~shall:

- (i) Describe how data is represented at the machine level (e.g., character, boolean, integer, floating point).
- (ii) Identify and provide usage examples of the various data structures and files provided by a programming language (e.g., objects, various collections, files).
- (iii) Describe the elements (people, hardware, software, etc.) and their interactions within information systems (database systems, the Web, etc.).

(E) **Social aspects of computing.** The candidate for licensure and certification ~~will~~shall conduct independent learning on specific, unfamiliar topics in general areas central to computer science and provide their candidates with opportunities to do the same. The candidate ~~will~~shall:

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- (i) Demonstrate awareness of social issues related to the use of computers in society and principles for making informed decisions regarding them (e.g., security, privacy, intellectual property, ~~equitable access to technology resources, gender issues, cultural diversity,~~ differences in learner needs, limits of computing, rapid change).
- (ii) Analyze various social issues involving computing, producing defensible conclusions.
- (iii) Demonstrate an understanding of significant historical events relative to computing.

## SUBCHAPTER 13. TEACHER TESTING

### 210:20-13-1. Teacher testing regulations [AMENDED]

#### (a) Examinees.

- (1) Any person who applies for a teacher certification credential must take and receive a passing score on the Oklahoma Teacher Certification Test(s) in the field(s) which corresponds or most closely corresponds to the desired credential(s).
- (2) ~~In order to register to test, To register for the Oklahoma Teacher Certification Test(s), candidates who have met state minimum coursework requirements for certification may apply directly to the Teacher Certification Testing Section, State Department of Education (SDE) whose personnel will ensure that the candidate meets regulations contained in the TEACHER EDUCATION AND CERTIFICATION HANDBOOK, published by the SDE. In order to be eligible for registration, a candidate shall meet the state minimum coursework requirements for certification.~~ The signature of approval of the college or university Director of Teacher Education (DTE) is not required for eligibility to test. ~~The candidate may apply directly to the State Department of Education, whose personnel will ensure that the candidate meets regulations contained in the TEACHER EDUCATION AND CERTIFICATION HANDBOOK, published by the SDE.~~
- (3) Upon passing the ~~test~~ Teacher Certification Test(s) and the written test based solely upon the U.S. Naturalization Test, and upon application for certification to the State Department of Education, a license or certificate will be issued without college or university approval.

(b) ~~Grandfather clause.~~ Such The testing requirement requirement(s) set forth in this section shall does not apply to persons who were certified before February 1, 1982, including, without limitation, any certification credential(s) such "grandfathered" persons may have acquired up to October 1, 1986.

(c) **Certification renewal.** Such testing requirement also does not apply to the renewal of Oklahoma teacher certification credentials;

(d) **Other regulations.** For ~~more explicit~~ additional information on the Oklahoma Teacher Certification Testing Program, consult Appendix B of the TEACHER EDUCATION AND CERTIFICATION HANDBOOK or the current edition of the OKLAHOMA TEACHER CERTIFICATION TESTING PROGRAM REGISTRATION BULLETIN.

## SUBCHAPTER 23. SCHOOL BOARD MEMBERS

### 210:20-23-5. Records management [AMENDED]

~~Three times a year, the State Department of Education shall notify the school superintendent of the credit hours completed by each member of the board. Prior to the final opportunity for each school board member who has not completed the continuing education requirements to complete the same, the Oklahoma State Department of Education shall notify the school board member and the school district superintendent of any final opportunity to complete these requirements and the consequences of not completing the requirements. See 70 O.S. 5-110.2.~~

*[OAR Docket #25-477; filed 6-5-25]*

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## TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 25. FINANCE

*[OAR Docket #25-478]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

# Permanent Final Adoptions

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Subchapter 3. Funding Criteria

210:25-3-4. Personnel [AMENDED]

Subchapter 5. Budgeting and Business Management

Part 1. IMPLEMENTATION

210:25-5-4. Accounting [AMENDED]

**AUTHORITY:**

Department of Education; OK Const. Art. XIII § 5, 70 O.S. § 3-104, 70 O.S. § 22-113

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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N/A

**GIST/ANALYSIS:**

Purpose of changes are to ensure clarity and uniformity. Updates are necessary to bring rules in conformity with 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 JULY 11, 2025:**

## SUBCHAPTER 3. FUNDING CRITERIA

### 210:25-3-4. Personnel [AMENDED]

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- (a) Teachers who have not yet received their degrees shall be considered ~~as having to possess a degree if all, provided,~~ all requirements have been completed except participation in graduation exercises.
- (b) A teacher who has taught more than one-half ( $\frac{1}{2}$ ) of a day for 120 days or more shall be considered as having had one year of experience. A teacher who has taught the equivalent of 120 days within not more than two contractual years shall be considered as having had one year of experience. Experience shall be counted if the individual was legally employed and paid from funds under the supervision of a school board of education or any school accredited by the State Board of Education. Practice teaching or a practicum in a teacher-training institution shall not be considered as experience. Veterans Agricultural training instructors or any teacher employed full-time by an accredited college or university shall be considered as having one (1) year of teaching experience for each year of service after July 1, 1945, if such teaching experience is approved by the State Board of Education, provided such teacher held a bachelor's degree at the time these services were performed and was eligible to have been issued a teaching certificate. A teacher who has received Workers' Compensation benefits while employed by a public school district or charter school shall be eligible to have the time spent on Workers' Compensation included in the calculation of their cumulative teaching experience, provided all of the following conditions apply:
- (1) The individual held a valid Oklahoma teaching certificate during the time period they received Workers' Compensation benefits;
  - (2) The individual received temporary total disability benefits;
  - (3) The individual was employed by a public school immediately prior to and during the period of absence due to work-related injury or illness;
  - (4) The individual's public school employer certifies in writing the dates during which temporary total disability benefits were paid to the individual; and
  - (5) Service credit for time during which a certified teacher received temporary total disability benefits through the Workers' Compensation system shall be capped at a cumulative maximum of five (5) years.
- (c) Any district identified as contracting with a teacher, or administrator without a valid certificate shall be penalized in state aid. The state aid penalty amount shall be the salary amount paid by the district for the number of days the teacher or administrator taught without a valid certificate in excess of allowable substitute days.
- (d) All teachers must have an official transcript on file with the Professional Standards Section showing the degree completed.
- (e) The timeframe for submitting Initial Personnel Reports shall be open from September 1 through October 1 of each year. No later than October 1, all public school districts must file an accurate Initial Personnel Report with the State Department of Education. The report shall list all personnel in the district and shall list for each person the position code, compensation, degree, certification information, years of qualified experience, number of days employed and other information as deemed necessary. Beginning with the 2004-2005 school year the school district will report to the State Department of Education the salary and benefit information disaggregated as required by law. For each employee not returning from the previous year, a reason for no return code shall be recorded. The Initial Personnel Report must be certified no later than October 15.
- (f) From November 1 through December 15 of each year, a school district superintendent shall have access to the district's Initial Personnel Report. During this period, the superintendent will be permitted to make necessary corrections and updates to the report. Any changes made by a superintendent to the school district's Initial Personnel Report must be submitted no later than December 15. Reports are to be recertified after updates are complete.
- (g) The timeframe for submitting Mid-Year Personnel Reports shall be open from January 1 through February 1 of each year. No later than February 1, all public school districts must file an accurate revised Mid-Year Personnel Report with the State Department of Education. The report shall contain any corrections, departures, and additions that have occurred since the October 1 Initial Personnel Report was filed so that more accurate information is available for state aid calculations, legislative projections and other statistical requirements. State Aid funds shall be withheld from any school district that does not submit the Mid-Year Personnel Report by February 1. Only after the accurate report has been received by the State Department of Education shall the withheld State Aid funds be released to the school district.
- (h) From February 15 through May 15 of each year, a school district superintendent shall have access to the district's Mid-Year Personnel Report. During this period, the superintendent will be permitted to make necessary corrections and updates to the report. Any changes made by a superintendent to the school district's Mid-Year Personnel Report must be submitted no later than May 15. Reports are to be recertified after updates are complete.
- (i) All public school districts must file an accurate End-of-Year Supplemental Personnel Report showing the changes for personnel previously listed as well as all information required on any new employees not previously listed. This report shall contain any corrections or changes to be made to the February 1 Mid-Year Personnel Report. All employees that departed the school district prior to completion of the school year shall be given a "Reason-For-Leaving" code and have salary and days employed adjusted. School districts shall also file the Certified Substitute Teachers Report listing the

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number of days taught in the school year by all certified substitute teachers. The timeframe for submitting End-of-Year Supplemental Personnel Reports and Certified Substitute Teachers Reports shall be open from June 1 to July 15 of each year. These two reports shall be filed with the State Department of Education no later than July 15.

(1) A school district shall immediately report to the Oklahoma State Department of Education any employee that resigns or is not re-employed due, in whole or in part, to suspicion of abuse or neglect of a student under the age of eighteen (18) years.

(2) Reports shall be made to the Oklahoma State Department of Education through the Awarety Reporting System located on the Oklahoma State Department of Education website as well as the End-of-Year Supplemental Personnel Report described above.

(j) If the district pays a teacher less than the minimum salary required by law, the difference shall be deducted from the next payment of state aid, or a claim shall be filed by the Director of Finance to recover any such overpayment to the school district.

(1) The School Personnel Records Section will notify the school superintendent of all potentially underpaid teachers after the Mid-Year Personnel Reports are filed with the State Department of Education in February. The school superintendent shall notify the School Personnel Records Section of the district's intent to pay the teacher the underpaid amount or to dispute the amount. If disputed, the school superintendent is responsible for providing documentation to the School Personnel Records Section to show the teacher was not underpaid based on the state minimum salary schedule. The State Aid Section shall withhold from state aid the amount underpaid by October 1 in the school year following the year in which the underpayment occurred.

(2) The method for calculating teacher salaries to ensure state minimums are met shall be determined by the School Personnel Records Section.

(k) If a teacher asserts that the school district he or she is employed by and was employed by the previous year, (or if underpayment occurred prior to July 1, 2002, and the teacher filed an action to recover an underpayment in a court of competent jurisdiction before July 1, 2002), has reduced the salary and/or fringe benefit level without a proportionate reduction in hours or duties, the teacher may file a complaint with the State Department of Education's School Personnel Records Section. The complaint must be accompanied by documentation sufficient to justify the allegations in the complaint. The teacher shall also send a copy of the complaint and supporting documentation to the superintendent of the school district. The documentation shall include, but not be limited to, the teacher's salary and benefit amount for each year in question. The superintendent shall be given an opportunity to submit documentation to refute the teacher's claim within 20 calendar days of receipt of the complaint. The School Personnel Records Section shall review all the documentation presented and present the complaint to the State Board of Education for determination of whether the school district willfully reduced the teacher's salary and benefits in violation of the law. If the school district does not provide a response and supporting documentation to the complaint, the complaint shall be upheld. In the event the review of the documents reveals that the complaint is valid, the State Board of Education shall withhold the amount underpaid from the district's state aid as a penalty. Additionally, the same amount shall be withheld and that amount shall be sent to the teacher.

(l) Any superintendent, principal, or teacher shall not be considered as having received their minimum salary unless such salary is paid by school district warrants issued by the board of education or the school district.

(m) Personnel on the staff of the Oklahoma Department of Career and Technology Education shall be approved by the State Board of Education for increment purposes.

(n) Certified personnel teaching in Manpower Skill Centers and other Manpower Development Training Programs approved by the Oklahoma Department of Career and Technology Education shall be considered as teaching in a school approved by the State Board of Education for increment purposes as provided by Oklahoma School Law.

(o) Under the federal *Uniformed Services Employment and Reemployment Rights Act* (USERRA), a teacher who is called to active duty in the uniformed services is entitled to certain continuing benefits of civilian employment, including the accrual of Oklahoma teaching experience for minimum salary schedule purposes during their active duty service. For purposes of this subsection, the term "uniformed services" incorporates the definition at 38 U.S.C. § 4303 and includes the Air Force, Army, Coast Guard, Marine Corps, Navy, and the reserve components of these services, as well as the Air National Guard and Army National Guard. There is a cumulative limit of five (5) years on Oklahoma teaching experience accrued during active duty service while contracted as a public school teacher. Because teachers who are called to active duty while under contract with a school district are entitled to this benefit of employment under federal law, this category of up to five (5) years of service is separate from the up to five (5) years of active duty military service accrued *prior to* service as a teacher that an applicant for Oklahoma teaching certification may be eligible to have applied toward their initial step on the minimum salary schedule under 70 O.S. § 18-114(D). An individual who has been awarded up to five (5) years of credit for active duty service accrued prior to teaching, under 70 O.S. § 18-114(D), may also be eligible for up to five (5) years of credit awarded under this subsection if they are called to active duty while serving as a teacher.



(p) Certified personnel who are employed in the SoonerStart Early Intervention Program, a joint operation of the State Department of Education and the State Department of Health that delivers educational services to children from birth through age two (2) under Part C of the *Individuals with Disabilities Education Act* (IDEA), shall be eligible to accrue Oklahoma teaching experience for services provided through SoonerStart that are substantially equivalent to educational services that the certified individual would provide if employed by a public school. Credit will be awarded based on the guidelines in subsection (b) of this rule, with at least one-half day of SoonerStart service provision for at least one hundred twenty (120) days per year, or at least three hundred sixty (360) hours per calendar year, resulting in one (1) year of Oklahoma teaching experience for salary schedule and retirement system purposes.

## SUBCHAPTER 5. BUDGETING AND BUSINESS MANAGEMENT

### PART 1. IMPLEMENTATION

#### 210:25-5-4. Accounting [AMENDED]

(a) “External Source of Revenue” means, for purposes of this section, revenue received by any entity that is not part of the federal government of the United States nor part of any state or local governments within the United States.

(ab) The financial structure of an Oklahoma public school district consists of various classifications as referenced in Oklahoma Administrative Code (OAC) 210:25-7-1, Oklahoma Cost Accounting System (OCAS). School District accounting systems shall be organized and operated on a basis that assures legal compliance by the recording and summarizing of financial transactions within funds, each of which is completely independent of any other. Each fund shall account for and continually maintain the identity of its revenues and expenditures. Financial transactions for purposes of this regulation and, as referenced in 70 O.S. § 5-135.2, shall be defined as a detailed reporting of revenue within the Source of Revenue dimension. Revenue shall be reported to the bold codes within each of the following broad categories: District Source of Revenue, Intermediate Source of Revenue, State Source of Revenue, ~~and~~ Federal Source of Revenue, or External Source of Revenue. Expenditures shall be reported by the bold codes within the Function dimension as follows: Instruction, Support Services-Students, Support Services-Instructional Staff, Support Services-General Administration, Support Services-School Administration, Support Services-Central, Operation and Maintenance of Plant Services, Student Transportation Services, Child Nutrition Programs Operations, Community Services Operations and Facilities Acquisition and Construction Services. Additional dimensions for Revenue and Expenditures are coded to provide classification by Fiscal Year, Fund, Project Reporting, Object, Program, Subject, Job Classification, and Operational Unit, where applicable.

(bc) Beginning July 1 but no later than September 1 of each year, every school district and charter school board of education shall prepare and submit to the State Department of Education, through the Oklahoma Cost Accounting System (OCAS), a statement of actual income and expenditures of the district or charter school for the fiscal year that ended the preceding June 30. The year-end financial report recording and summarizing all revenue and expenditure financial transactions ~~will~~ shall be completed and locked on or before September 1 of the applicable year. For purposes of the OCAS system, “locked” means that the data submitted has passed the system’s initial edit checks and the district has **finalized** the submission. To assure the validity and accuracy of financial reporting and accounting, between September 1 and November 1 of each year, school districts and charter schools shall have the opportunity to review and make corrections to the data submitted. By November 1, the data submission shall be certified by the district superintendent or head of charter school. If the school district or charter school does not report any inaccuracies by November 1, the State Department of Education ~~will~~ may rely on the data submitted and certified by the school district or charter school to be complete and closed. Nothing in this Section shall preclude the State Department of Education or the State Board of Education from conducting regular or periodic reviews of school district or charter school financial records as authorized by law and ensuring a public school operates pursuant to the OCAS system.

(ed) As referenced in 70 O.S. § 5-135.2, the State Department of Education shall reduce the monthly payment of a district’s State Aid funds if the district is not operating pursuant to the OCAS system. Upon final determination, including but not limited to the process set forth in Subsection (bc), the reduction of monthly payments shall begin with the first day that the school district or charter school was determined to not be operating in compliance with the OCAS system. The reduction may be waived by the State Board of Education if the school district or charter school can demonstrate that failure to operate pursuant to the OCAS system was due to circumstances beyond the control of the district or charter school, and that every effort is being made to operate in compliance with the OCAS system. Not operating pursuant to said system shall be defined as a district not:

- (1) accurately recording and reporting all revenue and expenditures by applicable OCAS bold code dimensions;

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- (2) submitting OCAS financial records on time and as required, including as provided in Subsection (bc), via the Web-based system of all recorded and reported revenue and expenditures by applicable OCAS bold code dimensions to the State Department of Education;
- (3) ascertaining that current and accurate applicable OCAS codes are being utilized as updated and maintained by the State Department of Education;
- (4) complying with regulations as outlined in OAC 210:25-3-7 (Financial information processing), OAC 210:25-5-10 (The encumbrance clerk), OAC 210:25-5-11 (The school district treasurer), or OAC 210:25-5-13 (School activity fund); and
- (5) reconciling all recorded and reported revenue and expenditures by applicable OCAS bold code dimensions by balancing data with bank receipts and statements, purchase orders, warrant registers, investment ledgers, and all balance sheet accounts; ~~and~~

(~~de~~) For appropriated funds, all indebtedness should be encumbered (have a purchase order issued and be recorded) on the day the obligation is incurred, rather than when it becomes due, and supporting documentation should be provided for all indebtedness.

(~~ef~~) Upon the approval of the State Board of Education, school districts may make capital expenditures up to a maximum amount of \$50,000 (fifty thousand dollars) during the current fiscal year within the General Fund pursuant to 70 O.S. § 1-117, if the school district meets the established criteria as outlined in the Statutes. School districts shall be voting the maximum five (5) building fund mills. General Fund monies authorized by the State Board of Education for expenditures must be expended within the current fiscal year. Any such funds encumbered as of June 30th of the current fiscal year, but not expended by November 15th of the subsequent fiscal year, shall lapse and return to the original purpose of such funds.

(~~fg~~) A school district shall be authorized to utilize general fund monies for capital expenditures, in addition to the amount specified in subsection (~~ef~~), pursuant to the provisions of 70 O.S. § 1-117.

(~~gh~~) Inventory cards or data processing records shall be kept on all equipment and removable fixtures, showing purchase order number when known, date of purchase (when known, if not known an estimated date shall be used), amount of purchase (if known, if not known present value must be estimated) a description of the item, the serial number (when applicable) and the location of the item. New purchases shall be included in the records on the same day in which they are physically received by the district. Disposed equipment must be removed from the records on the disposal date and a detailed description of the circumstances which results in the disposal recorded. Disposed equipment should not be included in the records of future years.

(i) Beginning with the 2025-26 school year, school districts shall include any financial donations and/or gifts received from an External Source of Revenue on their yearly financial transaction report submitted to the State Department of Education which are valued at the lesser of either a) seventeen thousand dollars (\$17,000), or b) the current annual gift tax exemption amount as determined to be by the IRS.

[OAR Docket #25-478; filed 6-5-25]

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## TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 30. SCHOOL FACILITIES AND TRANSPORTATION

[OAR Docket #25-479]

### RULEMAKING ACTION:

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### RULES:

Subchapter 5. Transportation

210:30-5-8. School bus driver certification [AMENDED]

### AUTHORITY:

Department of Education; OK Const. Art. XIII § 5, 70 O.S. § 3-104, 70 O.S. § 6-184, 70 O.S. § 1-105, 47 O.S. § 15-109

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**SUPERSEDED RULES:**

N/A

**GUBERNATORIAL APPROVAL:**

N/A

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N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Purpose of changes are to ensure clarity and uniformity. Updates are necessary to bring rules in conformity with statute and state law. Adds enforcement mechanism regarding bus driver certification.

**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 JULY 11, 2025:**

## SUBCHAPTER 5. TRANSPORTATION

### **210:30-5-8. School bus driver certification [AMENDED]**

**(a) General criteria.**

(1) Pursuant to the authority granted to the State Board of Education in 70 O.S. § 3-104(6) to regulate school bus drivers and 47 O.S. § 15-109, no board of education shall have authority to enter into any written contract with a school bus driver who does not hold a valid Oklahoma School Bus Driver's Certificate issued by the State Board of Education authorizing said bus driver to operate a school bus within the State of Oklahoma.

(2) In order to obtain and maintain a standard Oklahoma School Bus Driver's Certificate, the State Board of Education requires all public school bus drivers to:

(A) Successfully complete a school bus driver training course approved by the State Department of Education;

(B) Possess and maintain a valid Commercial Driver's License (CDL), which includes the following endorsements required by 47 O.S. § 6-110.1 in accordance with the qualifications determined by Service Oklahoma:

(i) A school bus "S" endorsement; and

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- (ii) For drivers of vehicles designed to transport sixteen (16) or more passengers (including the driver), a passenger "P" endorsement; and
- (C) Comply with all other health and safety qualifications set forth in this Section.
- (3) No school district board of education shall assign or allow to be assigned any school bus driving duty involving the transportation of students to any employee or volunteer, regardless of contract status (e.g. coach, teacher, mechanic), unless that person has all of the requisite required supporting documentation required for school bus drivers on file with the school district and a valid Oklahoma State Department of Education School Bus Driving Certificate as provided for in this section.
- (4) The State Board of Education recognizes the substantial public interest in safe school bus transportation of children. Therefore, in addition to meeting the vision standards required to obtain a CDL from Service Oklahoma, in order to obtain a standard or emergency Oklahoma School Bus Driver's Certificate, all school bus drivers must have:
- (A) A visual acuity of not less than twenty-four (20/40) (Snellen) in each eye with or without corrective lenses; and
  - (B) Not less than twenty-four (20/40) (Snellen) with both eyes with or without corrective lenses; and
  - (C) A minimum field of vision of 70 degrees horizontal median vision in each eye.
- (D) The measurements in ¶¶ (a)(4)(A)-(C) above must be based on the Snellen eye chart exam.
- (5) The use of tobacco by a school bus driver is not permitted during the operation of the bus while hauling pupils. The use of any intoxicating or non-intoxicating alcoholic beverage by the driver eight (8) hours prior to or during the operation of a school bus is strictly prohibited. The use of any controlled dangerous substance seventy-two (72) hours prior to or during the operation of a school bus is strictly prohibited. The possession of any controlled dangerous substance on a school bus is strictly prohibited.
- (6) All school bus drivers shall have an annual health certificate signed by a physician licensed by any state within the United States of America (U.S.), or a nurse practitioner, or a physician assistant who is licensed to practice in any state within the U.S., ~~and~~ who is working under the supervision of a medical doctor (MD), and who is appropriately qualified, or doctor of osteopathy (DO) licensed by any state within the U.S. A school bus driver who is a veteran of the United States Armed Forces may submit a health certificate signed by a licensed physician of the U.S. Department of Veterans Affairs Veterans Health Administration. The certificate shall be filed in the office of the chief administrative officer of the local school district or designee of the chief administrative officer attesting that such physician, or other authorized health care professional working under the supervision of a physician, has examined the applicant and that the applicant has no sign or symptoms of ill health, and is otherwise, from the observation of such physician or other authorized health care professional, physically and mentally capable of safely operating a school bus. As an alternative to the annual physical examination requirements for school bus drivers, school districts may adopt a policy that utilizes a biannual physical examination, provided the examination is in compliance with the physical qualifications and examination requirements at Subpart E of the Federal Motor Carrier Safety Regulations, 49 CFR §§ 391.41 to 391.50.
- (7) Substitute and activity school bus drivers shall meet all the requirements prescribed for regular bus drivers.
- (8) At a minimum, the chief administrative officer of the local school district or designee of the chief administrative officer shall conduct an annual driving record check of all school bus drivers, including substitute and activity drivers. The Oklahoma State Department of Education shall be immediately notified of any violation(s) that make a school bus driver ineligible to hold an Oklahoma School Bus Driver's Certificate.
- (9) The State Board of Education shall revoke the certificate of any bus driver ~~driver's certificate of any holder who fails to comply with the provisions of this Section for:~~
- (A) Any violation of the provisions of this Section; or
  - (B) A willful violation of a rule or regulation of the State Board of Education, or the United States Department of Education; or
  - (C) A willful violation of any federal or state law; or
  - (D) A conviction for any of the offenses or bases for revocation set forth in 70 O.S. §§ 3-104 or 3-104.1; or
  - (E) For other proper cause, including but not limited to violation of the Standards of Performance and Conduct for Teachers contained in OAC 210:20-29-1, OAC 210:20-29-2, OAC 210:20-29-3, OAC 210:20-29-4, and OAC 210:20-29-5, or for violation of any rule contained in Chapter 20, Subchapter 29 of this Title.
- (10) School districts who fail to comply with the provisions of this section shall be subject to penalty pursuant to 210:30-5-2.

**(b) School bus driver certificate requirements.**

(1) The chief administrative officer of the local school district or designee of the chief administrative officer shall certify to the State Department of Education that each applicant submitted for Standard Five-Year Certification:

- (A) Is at least 18 years of age;
- (B) Has successfully completed a special school bus drivers' course approved by the State Department of Education;
- (C) Holds a valid Commercial Drivers license (CDL) appropriate for the type of vehicle driven with the proper endorsements required by Service Oklahoma;
- (D) Has not been convicted of a felony, or pled guilty or nolo contendere to a felony during the last ten years; and
- (E) Has passed a driving record check, and no certificate shall be issued to any person who, within the preceding three (3) years:
  - (i) Has had a license suspended or revoked, canceled or withdrawn pursuant to the Implied Consent Laws at 47 O.S. § 751 et seq.;
  - (ii) Has a conviction for a violation of 47 O.S. § 11-902 which includes driving, operating or being in actual physical control of a vehicle while under the influence of alcohol or any intoxicating drug;
  - (iii) Has been convicted or pled guilty to a violation of 47 O.S. § 761, operating a motor vehicle while impaired by consumption of alcohol;
  - (iv) Has been convicted of any municipal violation of driving under the influence of alcohol or drugs or operating a motor vehicle while impaired or being in actual physical control of a motor vehicle while impaired; or
  - (v) Has had four (4) or more traffic violations (excluding parking violations).

(2) The chief administrative officer of the local school district or designee of the chief administrative officer shall certify to the State Department of Education that the applicant for an Emergency One-Year School Bus Driver Certificate (Not Renewable):

- (A) Is at least 18 years of age;
- (B) Holds a valid Commercial Driver's License with the proper endorsements required by Service Oklahoma; and
- (C) Has passed a driving record check and meets the requirements set forth in (1)(D)-(E) of this subsection.

(3) Requirements for Renewal of the Standard Five-Year Certificate include:

- (A) Every five (5) years, each driver shall have successfully completed four (4) hours per year of inservice training approved by the State Department of Education;
- (B) The chief administrative officer of the local school district or designee of the chief administrative officer shall certify to the State Department of Education that the applicant meets all requirements for standard certification; [47 O.S. § 15-109]
- (C) Each applicant has a health certificate on file signed by a licensed physician, or a nurse or physician assistant who is licensed to practice in any state within the U.S. and who is working under the supervision of a medical doctor (MD) or doctor of osteopathy (DO), and meets all vision requirements;
- (D) Each applicant has not been convicted or pled guilty to a felony in the last ten (10) years;
- (E) The applicant's driving record has been checked and meets all other State Board of Education requirements for certification; and
- (F) Notwithstanding the provisions of this paragraph, in order to renew any school bus driver certificate which has been expired for more than one year, a driver must successfully complete a renewal course approved by the State Department of Education. Such a course must, at a minimum, include topics on:
  - (i) Railroad crossings;
  - (ii) Emergency evacuation procedures;
  - (iii) Mirror placement;
  - (iv) Pick-up and drop-off procedures;
  - (v) Sound driving practices; and
  - (vi) Accident procedures.

(4) During the period that the application for issuance of a new or renewed school bus driver certificate is pending, applicants must immediately notify the State Department of Education Transportation Section of any arrest, citation, or conviction of any disqualifying offense set forth in (1)(E) of this subsection; any moving violation; or any involvement in a traffic accident.

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## (c) Certification of drivers with a monocular vision condition.

(1) Individuals who wish to obtain an Oklahoma School Bus Driver's Certificate and meet all other requirements of this Section, but cannot meet the vision requirements in (a)(3) of this Section in both eyes due to the presence of a monocular vision condition, may obtain an exemption from the vision requirements of (a)(3) of this Section by providing evidence showing that Applicant is exempt from the requirements of 49 C.F.R. § 391.41, has fully adapted to the monocular vision condition, and is capable of safely operating a school bus for the purpose of transporting school children. Such evidence must consist of documentation for each one of the following:

(A) Documentation establishing that Applicant's vision condition has been present and unchanged for three years or more prior to the application for an exemption from the vision requirements of (a)(3) of this Section;

(B) Documentation establishing that Applicant has experience in safely operating a Commercial Motor Vehicle with the monocular vision condition within the three (3) year period immediately preceding the date of the application for an exemption from the vision requirements of (a)(3) of this Section; and

(C) One of the following:

(i) An authority letter issued by the Applicant's CDL licensing jurisdiction qualifying the individual as exempt from the vision requirements of 49 C.F.R. § 391.41; or

(ii) A letter or waiver issued by the Federal Motor Carrier Safety Administration (FMCSA) documenting that the applicant has received a waiver from the vision requirements of 49 C.F.R. § 391.41.

(2) Documentation of the evidence required by (1)(A) of this subsection shall consist of documentation for each one of the following:

(A) Applicant must have been examined by a licensed ophthalmologist or optometrist within sixty (60) days prior to obtaining the Commercial Driver License and within one year of applying for the State Department of Education monocular vision exemption. Applicant must provide the State Department of Education a copy of official documentation of the vision examination from the Applicant's CDL licensing jurisdiction.

(B) In addition, if not included on the official documentation of the vision exam, Applicant must submit additional documentation, in which a licensed ophthalmologist or optometrist identifies and describes:

(i) The nature of the vision deficiency, including how long the individual has had the deficiency;

(ii) The date of the examination;

(iii) Whether the applicant's vision is stable;

(iv) The visual acuity of each eye, corrected and uncorrected;

(v) The field of vision of each eye, including central and peripheral fields, testing to at least 120 in the horizontal. (Formal perimetry is required. The doctor must submit the formal perimetry test for each eye and interpret the results in degrees of field of vision.);

(vi) Whether the applicant has the ability to recognize the colors of traffic control signals and devices showing red, green, and amber; and

(vii) The ophthalmologist/optometrist's medical opinion as to whether the individual has sufficient vision to perform the driving tasks required to operate a school bus.

(3) Documentation of the evidence required by (1)(B) of this subsection shall consist of each of the following:

(A) Applicant must provide documentation of experience in operating a commercial motor vehicle (as defined by 47 O.S. §§ 1-107.1, 1-107.2, or 1-107.3) while the Applicant has a monocular vision condition for the three (3) year period immediately preceding the date of this application which includes the following information:

(i) For any applicant employed as a driver of a commercial motor vehicle, the DOT # or ICC# of Applicant's employer(s); for any applicant with driving experience as an independent motor carrier, a list of names, addresses, and phone numbers of customers for whom Applicant performed transportation services through the operation of a commercial motor vehicle on public highways;

(ii) A list of all dates (month/date/year) during the three (3) year period for which Applicant performed services driving and/or operating a commercial motor vehicle, and the number of hours driven per week; and

(iii) A list of all types of commercial motor vehicles operated by Applicant and gross vehicle weight rating ("GVWR") of each vehicle operated by Applicant;

(B) Acceptable forms of required documentation of the Applicant's driving experience described in (3) of this paragraph may include either:

- (i) A signed, notarized statement from the individual's present or past employer(s) on company letterhead; or
- (ii) An affidavit by the Applicant.

(C) Applicant shall provide the State Department of Education with a Motor Vehicle Report demonstrating that applicant's driving record during the three (3) year period prior to the date the application is filed:

- (i) Contains no suspensions or revocations of Applicant's driver's license for the operation of any motor vehicle (including Applicant's personal vehicle);
- (ii) Contains no record of involvement in an accident involving negligence attributable to the monocular vision condition;
- (iii) Contains no record of a serious traffic offense attributable to the monocular vision condition (e.g., erratic unsafe lane changes, following too closely, etc.)

(4) Individuals who receive the vision exemption to drive a bus for an accredited school in Oklahoma must submit to their employer a copy of the documentation required by (1)(C) of this subsection.

**(d) Certification of drivers with insulin-dependent diabetes mellitus.**

(1) Any person with diabetes mellitus requiring insulin by injection shall not be eligible for a school bus certificate unless the individual meets all other requirements of (a) and (b) of this Section, and the individual possesses and maintains either:

- (A) An authority letter issued by Applicant's CDL licensing jurisdiction qualifying the individual as exempt from the physical requirements of 49 C.F.R. § 391.41; or
- (B) A letter or waiver issued by the Federal Motor Carrier Safety Administration (FMCSA) documenting that the applicant has received a waiver from the physical requirements of 49 C.F.R. § 391.41.

(2) Upon hire, exempted individuals will be required to agree to and comply with the following conditions:

- (A) Blood glucose levels shall be self-monitored one (1) hour prior to driving and at least once every four (4) hours while driving a school bus or on duty by using a portable glucose monitoring device with a computerized memory, and take corrective action if necessary;
- (B) The individual shall maintain blood glucose logs, three months from the current date (or the date that insulin use began, whichever is shorter).

- (i) If the employing district has cause to require a medical evaluation as authorized by (5) of this subsection, logs maintained pursuant to this subsection must be provided to the board certified medical doctor (MD) or doctor of osteopathy (DO) treating the individual.
- (ii) Blood glucose logs must be created by an electronic blood glucose meter that stores every reading, records date and time of reading, and from which data can be downloaded and printed.

(C) The individual shall carry a source of rapidly absorbable glucose at all times while operating a school bus; and

(D) The individual shall meet the annual physical examination requirements for drivers with metabolic diseases set forth by Service Oklahoma in OAC 260:135-5-50.

(E) The individual shall notify the Department of Public Safety and the State Department of Education of any changes in physical or mental ailments or conditions which may cause loss of control or partial control or may otherwise render the individual incapable of properly controlling a school bus.

(3) Superintendents or their designees who hire individuals who hold a diabetes exemption certification must keep on file in a separate medical record:

- (A) A current copy of the diabetes exemption certificate of the individual;
- (B) The contact information of the board certified medical doctor (MD) or doctor of osteopathy (DO) who is treating the individual;
- (C) Record of the annual medical certification issued by the board certified medical doctor (MD) or doctor of osteopathy (DO) pursuant to (1)(B) of this subsection; and
- (D) Copies of any medical certifications obtained pursuant to (5) of this subsection.

(4) An individual holding a diabetes exemption certificate shall immediately notify the superintendent (or the superintendent's designee) of the school district in which the individual is employed if the individual's blood glucose level is outside of a range of 100 mg/dl to 400 mg/dl one (1) hour prior to driving. Upon receipt of such notice, the superintendent or the superintendent's designee shall not allow the individual holding the diabetes

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exemption certificate to drive. If the individual's blood glucose level is below 100 mg/dl or above 400 mg/dl, then the driver cannot operate a school bus or transport school children as an employee of any school district until the blood glucose measure is within the target range.

(5) In the event an individual holding a diabetes exemption is involved in an incident directly caused by the individual's diabetic condition, the individual cannot operate a school bus or transport school children as an employee of any school district until the individual has been certified in writing as medically able to safely resume work related duties by the certified medical doctor (MD) or doctor of osteopathy (DO) by whom they are being treated.

*[OAR Docket #25-479; filed 6-5-25]*

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## TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

*[OAR Docket #25-480]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools

Part 1. STANDARD I: PHILOSOPHY (AND/OR MISSION) AND GOALS

210:35-3-5. Policy regarding the flag of the United States of America [NEW]

Part 11. STANDARD VI: STUDENT SERVICES

210:35-3-106. Guidance and counseling services [AMENDED]

Subchapter 5. Additional Standards for Elementary Schools

Part 13. STANDARD VII: THE MEDIA PROGRAM

210:35-5-74. Expenditures [AMENDED]

Subchapter 7. Additional Standards for Middle Level Schools

Part 13. STANDARD VII: THE MEDIA PROGRAM

210:35-7-64. Expenditures [AMENDED]

Subchapter 9. Additional Standards for Secondary Schools

Part 13. STANDARD VII: THE MEDIA PROGRAM

210:35-9-74. Expenditures [AMENDED]

### **AUTHORITY:**

Department of Education; OK Const. Art. XIII § 5, 70 O.S. § 3-104, 70 O.S. § 3-104.4

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 25, 2024

### **COMMENT PERIOD:**

December 16, 2024 through January 17, 2025

### **PUBLIC HEARING:**

January 17, 2025

### **ADOPTION:**

January 28, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 31, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by SJR 22

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**



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July 11, 2025

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**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Purpose of changes are to ensure clarity and uniformity. Updates are necessary to bring rules in conformity with statute and state law.

**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 JULY 11, 2025:**

## **SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

### **PART 1. STANDARD I: PHILOSOPHY (AND/OR MISSION) AND GOALS**

#### **210:35-3-5. Policy regarding the flag of the United States of America [NEW]**

(a) Recognizing the significance of the American flag and the Pledge of Allegiance in the educational environment, each school district must establish a clear policy that ensures the U.S. flag, as defined in 4 U.S.C. §§ 1 and 2, can be flown and displayed on all school campuses without infringement. This policy should promote the respectful presentation of the flag, ensuring it is treated with the honor it deserves. Further, every student shall be allowed to display the flag of the United States of America as the U.S. flag is defined under 4 U.S.C. §§ 1 and 2.

(b) In accordance with Title 70 O.S. § 24-106, every school must lead its students in reciting the Pledge of Allegiance at least once a week. This practice is crucial in fostering a sense of national pride and respect for the country's ideals among students.

(c) All districts are required to submit a report detailing their policies regarding the display of the U.S. flag and the weekly recitation of the Pledge of Allegiance. This report should include specific measures the district has implemented to ensure compliance and how these practices are being integrated into the school culture.

(d) Consistent with the requirements of Title 70 O.S. § 3-104.4, the Oklahoma State Department of Education ("Department") shall begin an investigation of any complaint for any failure to comply with accreditation standards, including without limitation, compliance with Title 70 O.S. § 24-106, or any requirement in this rule, within thirty (30) days. If the Department determines that a Public School has failed to comply with the accreditation standards, including without limitation this rule, the Department shall report the information to the Oklahoma State Board of Education for possible further action within ninety (90) days.

(e) Complaints of alleged violations of Title 70 O.S. § 24-106 or any requirement in this rule shall be filed with the Accreditation Division of the State Department of Education. In order for a complaint to be accepted for investigation, it must:

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- (1) Be submitted in writing, signed, and dated by the complainant, including complaints submitted through electronic mail that include electronic signatures;
- (2) Identify dates that alleged discriminatory act occurred;
- (3) Explain the alleged violation and/or discriminatory conduct and how Title 70 O.S. § 24-106 or the provisions of this rule have been violated;
- (4) Include relevant information that would enable a Public School to investigate the alleged violation; and
- (5) Identify witnesses the Public School may interview, if applicable, provided the Public School will not dismiss a complaint for failure to identify witnesses.

## PART 11. STANDARD VI: STUDENT SERVICES

### 210:35-3-106. Guidance and counseling services [AMENDED]

(a) The counseling staff, parents, administrators, and others shall provide guidance and counseling program direction through involvement in assessment and identification of student needs. Oklahoma School Counselors shall be certified by one of the following methods:

(1) Traditional Certification. For Traditional Certification, an Oklahoma School Counselor shall, prior to certification:

- (A) possess a master's degree in School Counseling Program;
- (B) successfully pass the Oklahoma Subject Area Test ("OSAT") in School Counseling;
- (C) successfully pass a background check; and
- (D) submit a recommendation for certification from the university from which their degree was awarded

(2) Alternative Certification. For Alternative Certification, an Oklahoma School Counselor shall, prior to certification:

- (A) possess a master's degree in a school counseling-related field or a master's degree and two (2) years of counseling-related work experience;
- (B) have successfully completed thirty (30) or more counseling-related graduate credit hours; or fifteen (15) or more counseling-related graduate credit hours and one year of counseling-related work experience; or three (3) or more years of counseling-related work experience
- (C) successfully pass the Oklahoma Subject Area Test ("OSAT") in School Counseling;
- (D) successfully pass a background check; and
- (E) successfully complete two (2) college credit courses, totaling at least six credit hours, within three (3) years, addressing the components of a Comprehensive School Counseling program, including but not limited to, data-informed decision-making, closing achievement, and opportunity gaps, school counseling ethical standards, and improving student achievement, attendance, and discipline or approved equivalents.

(3) Emergency Certification. Decisions regarding emergency certification are initially handled at the local school level and then must be subsequently approved by the Oklahoma State Board of Education.

(b) All Oklahoma School Counselors shall be trained in the pathways unit system as provided for in 70 O.S. Supp. 2023, Section 11- 103.6.

(c) The school/Schools shall develop a written description of an outcomes-based (competency) guidance and counseling program with special provisions for at-risk students. The program shall address assessed needs of all students, including those who are identified as at-risk, and shall establish program goals, objectives, and an evaluation. Comprehensive School Counseling Program. "Comprehensive School Counseling Program," for the purposes of this section, shall mean a program that has an impact on student growth in the areas of academic advisement, college and career, and life skills and wellness.

(ed) Oklahoma School Counselors shall spend a minimum of eighty percent (80%) of total work time providing direct and indirect services that are components of the school's Comprehensive School Counseling Program and shall spend the remaining percentage of total work time on program planning and providing school support. Each school shall provide an organized program of guidance and counseling services:

- (1) Counseling services shall be provided to students, in group or individual settings, that facilitate understanding of self and environment;
- (2) The counseling services shall provide a planned sequential program of group guidance activities that enhance student self-esteem and promote the development of student competence in the academic, personal/social, and career/vocational areas;

~~(3) The provider of counseling services shall consult with staff members, parents, and community resources and make appropriate referrals to other specialized persons, clinics, or agencies in the community.~~

~~(4) Counseling and guidance services shall be coordinated and shall work cooperatively with other school staff, parents, community resources, and other educational entities.~~

~~(de) The Local Educational Agency ("LEA") shall develop and implement a comprehensive school counseling program that is delivered by a certified Oklahoma School Counselor and ensures student services are coordinated in a manner that provides comprehensive support to all students. Each counselor shall follow a planned calendar of activities based on established program goals and provide direct and indirect services to students, teachers, and/or parents.~~

~~(f) Oklahoma School Counselors shall adhere to the ethics and standards set forth within their School Counselor Certification Programs, the Oklahoma Standards of Performance and Conduct for Teachers, as well as all other applicable laws and regulations.~~

~~(eg) Beginning with the 2023-2024~~2023-24 school year, prior to annual enrollment of a new or returning student, the ~~parent~~Parent or ~~legal guardian~~Guardian of a student may disclose to the student's resident district, as determined by Section 1-113 of Title 70 of the Oklahoma Statutes, if the student has received inpatient or emergency outpatient mental health services from a mental health facility in the previous twenty-four (24) months. For the purposes of this section, "mental health facility" shall have the same meaning as Section 5-502 of Title 43A of the Oklahoma Statutes.

(1) If a disclosure provided occurs, designated school personnel, which may include members of the individualized education program (IEP) team, shall meet with the parent or legal guardian of the student and representatives of the mental health facility prior to enrollment to determine whether the student is in need of any accommodations including but not limited to an IEP in accordance with the Individuals with Disabilities Education Act (IDEA) or a Section 504 Plan as defined by the Rehabilitation Act of 1973. The meeting required by this section may take place in person, via teleconference, or via videoconference.

(2) The disclosure and subsequent handling of personal health information and related student education records pursuant to this section shall comply with the Family Educational Rights and Privacy Act of 1974 (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

## SUBCHAPTER 5. ADDITIONAL STANDARDS FOR ELEMENTARY SCHOOLS

### PART 13. STANDARD VII: THE MEDIA PROGRAM

#### 210:35-5-74. Expenditures [AMENDED]

(a) **Minimum annual expenditures.** In establishing a balanced print and nonprint collection, the minimum annual media program expenditure per school site shall be as follows:

(1) **Fewer than five hundred (500) enrolled students:** Nine dollars (\$9.00) per enrolled student.

(2) **Five hundred (500) to nine hundred ninety-nine (999) enrolled students:** Four thousand five hundred dollars (\$4500.00) for the first five hundred (500) enrolled students plus five dollars (\$5.00) per student for each additional enrolled student above five hundred (500) students up to nine hundred ninety-nine (999) students.

(3) **One thousand (1000) to one thousand nine hundred ninety-nine (1999) enrolled students:** Seven thousand dollars (\$7000.00) for the first one thousand (1000) enrolled students plus four dollars (\$4.00) per student for each additional enrolled student above one thousand (1000) students up to one thousand nine hundred ninety-nine (1999) students.

(4) **Two thousand (2000) or more enrolled students:** Eleven thousand dollars (\$11,000.00) for the first two thousand (2000) enrolled students plus three dollars (\$3.00) per student for each additional enrolled student above two thousand (2000) students.

(b) **Permissible media expenditures.** All materials in the school (decentralized materials) that have been processed and are cataloged by the media center may be included. Examples of materials that constitute permissible media expenditures include, but are not limited to:

(1) Hardback, paperback, and/or electronic books;

(2) Periodicals in print and/or digital formats;

(3) Pamphlets, manuscripts, and reports, in print and/or digital formats;

(4) Prints, posters, photographic slides, filmstrips, or photographs, in print and/or digital formats;

(5) Microforms (e.g., microfilm and/or microfiche);

(6) Multimedia packages or kits;

(7) Scientific specimens, microscopic slides;

(8) Realia;

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(9) Models;

(10) Audio recordings (e.g., vinyl records, reel-to-reel tape recordings, cassettes, CDs, MP3);

(11) Video recordings (e.g., film, video tape, DVD and Blu-ray discs,) and;;

(H12) Computer software and applications.

(c) **Impermissible expenditures.** Textbooks, equipment, and salaries may not be included. For purposes of this Section, "equipment" shall have the meaning set forth at 210:25-7-1.

(d) **Federal funds not included.** The contributions of federally funded programs shall not be included in meeting this standard.

## SUBCHAPTER 7. ADDITIONAL STANDARDS FOR MIDDLE LEVEL SCHOOLS

### PART 13. STANDARD VII: THE MEDIA PROGRAM

#### 210:35-7-64. Expenditures [AMENDED]

(a) **Minimum annual expenditures.** In establishing a balanced print and nonprint collection, the minimum annual media program expenditure per school site shall be as follows:

(1) **Fewer than five hundred (500) enrolled students:** Nine dollars (\$9.00) per enrolled student.

(2) **Five hundred (500) to nine hundred ninety-nine (999) enrolled students:** Four thousand five hundred dollars (\$4500.00) for the first five hundred (500) enrolled students plus five dollars (\$5.00) per student for each additional enrolled student above five hundred (500) students up to nine hundred ninety-nine (999) students.

(3) **One thousand (1000) to one thousand nine hundred ninety-nine (1999) enrolled students:** Seven thousand dollars (\$7000.00) for the first one thousand (1000) enrolled students plus four dollars (\$4.00) per student for each additional enrolled student above one thousand (1000) students up to one thousand nine hundred ninety-nine (1999) students.

(4) **Two thousand (2000) or more enrolled students:** Eleven thousand dollars (\$11,000.00) for the first two thousand (2000) enrolled students plus three dollars (\$3.00) per student for each additional enrolled student above two thousand (2000) students.

(b) **Permissible media expenditures.** All materials in the school (decentralized materials) that have been processed and are cataloged by the media center may be included. Examples of materials that constitute permissible media expenditures include, but are not limited to:

(1) Hardback, paperback, and/or electronic books;

(2) Periodicals in print and/or digital formats;

(3) Pamphlets, manuscripts, and reports, in print and/or digital formats;

(4) Prints, posters, photographic slides, filmstrips, or photographs, in print and/or digital formats;

(5) Microforms (e.g., microfilm and/or microfiche);

(6) Multimedia packages or kits;

(7) Scientific specimens, microscopic slides;

(8) Realia;

(9) Models;

(10) Audio recordings(e.g., vinyl records, reel-to-reel tape recordings, cassettes, CDs, MP3);

(11) Video recordings (e.g., film, video tape, DVD and Blu-ray discs,) and;;

(12) Computer software and applications.

(c) **Impermissible expenditures.** Textbooks, equipment, and salaries may not be included. For purposes of this Section, "equipment" shall have the meaning set forth at 210:25-7-1.

(d) **Federal funds not included.** The contributions of federally funded programs shall not be included in meeting this standard.

## SUBCHAPTER 9. ADDITIONAL STANDARDS FOR SECONDARY SCHOOLS

### PART 13. STANDARD VII: THE MEDIA PROGRAM

#### 210:35-9-74. Expenditures [AMENDED]

(a) **Minimum annual expenditures.** In establishing a balanced print and nonprint collection, the minimum annual media program expenditure per school site shall be as follows:

(1) **Fewer than five hundred (500) enrolled students:** Nine dollars (\$9.00) per enrolled student.

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(2) **Five hundred (500) to nine hundred ninety-nine (999) enrolled students:** Four thousand five hundred dollars (\$4500.00) for the first five hundred (500) enrolled students plus five dollars (\$5.00) per student for each additional enrolled student above five hundred (500) students up to nine hundred ninety-nine (999) students.

(3) **One thousand (1000) to one thousand nine hundred ninety-nine (1999) enrolled students:** Seven thousand dollars (\$7000.00) for the first one thousand (1000) enrolled students plus four dollars (\$4.00) per student for each additional enrolled student above one thousand (1000) students up to one thousand nine hundred ninety-nine (1999) students.

(4) **Two thousand (2000) or more enrolled students:** Eleven thousand dollars (\$11,000.00) for the first two thousand (2000) enrolled students plus three dollars (\$3.00) per student for each additional enrolled student above two thousand (2000) students.

(b) **Permissible media expenditures.** All materials in the school (decentralized materials) that have been processed and are cataloged by the media center may be included. Examples of materials that constitute permissible media expenditures include, but are not limited to:

- (1) Hardback, paperback, and/or electronic books;
- (2) Periodicals in print and/or digital formats;
- (3) Pamphlets, manuscripts, and reports, in print and/or digital formats;
- (4) Prints, posters, photographic slides, filmstrips, or photographs, in print and/or digital formats;
- (5) Microforms (e.g., microfilm and/or microfiche);
- (6) Multimedia packages or kits;
- (7) Scientific specimens, microscopic slides;
- (8) Realia;
- (9) Models;
- (10) Audio recordings (e.g., vinyl records, reel-to-reel tape recordings, cassettes, CDs, MP3);
- (11) Video recordings (e.g., film, video tape, DVD and Blu-ray discs,) and;;
- (12) Computer software and applications.

(c) **Impermissible expenditures.** Textbooks, equipment, and salaries may not be included. For purposes of this Section, "equipment" shall have the meaning set forth at 210:25-7-1.

(d) **Federal funds not included.** The contributions of federally funded programs shall not be included in meeting this standard.

*[OAR Docket #25-480; filed 6-5-25]*

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### TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 40. GRANTS AND PROGRAMS-IN-AID

*[OAR Docket #25-481]*

#### **RULEMAKING ACTION:**

PERMANENT final adoption

#### **RULES:**

Subchapter 21. Multicultural Equity Programs [REVOKED]

210:40-21-1. Multicultural equity advisory committee operational procedures [REVOKED]

#### **AUTHORITY:**

Department of Education; OK Const. Art. XIII § 5, 70 O.S. § 3-104, Executive Order 2023-31

#### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 25, 2024

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January 31, 2025

#### **LEGISLATIVE APPROVAL:**

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Approved May 28, 2025, by SJR 22

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

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N/A

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N/A

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**INCORPORATED STANDARDS:**

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N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Purpose of changes are to ensure clarity and uniformity. Updates are necessary to bring rules in conformity with statute and state law.

**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 JULY 11, 2025:**

## SUBCHAPTER 21. MULTICULTURAL EQUITY PROGRAMS [REVOKED]

### 210:40-21-1. Multicultural equity advisory committee operational procedures [REVOKED]

(a) **Purpose.** The purpose of the Committee is to advise the Multicultural Equity Title IV-CRA Programs of the Oklahoma State Department of Education in planning activities relating to educational equity in the State of Oklahoma. The Title IV-CRA Programs include Educational Equity (Sex Desegregation), Human Relations (Race Equity), and National Origin (Language Issues). The Multicultural Equity Section also encompasses the Bilingual Education Program and the Emergency Immigrant Education Program. Committee recommendations, suggestions for improvement or change, and new ideas for continued progress in all phases of programs related to educational equity will be submitted to the State Department of Education for consideration and possible presentation to the State Board of Education.

(b) **Name.** The name of the organization shall be the Multicultural Equity Advisory Committee, hereinafter referred to in this Section as the Committee.

(c) **Membership:**

(1) **Selection of Advisory Committee members:**

(A) Committee members are recommended by the State Department of Education and approved by the State Board of Education. Committee members represent various cultural, educational, civic and professional organizations and institutions of higher education. Each member has a working knowledge of the governance structure of education, legal trends, programs, practices, and is familiar with current State and Federal Legislation.

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(B) The membership of Advisory Committee will not exceed 15 members. The right to vote is restricted to only those individuals officially appointed to serve on the Committee.

(C) Resignations shall be made by written statement and submitted to the Committee. In the case of resignation, an interim appointment to serve the balance of the unexpired term may be made by the State Board of Education upon the recommendation of the State Department of Education.

(2) **Term of appointment.** The term of appointment to the Committee shall be three (3) years on a rotating schedule which will be congruent with the timelines of the Title IV Grant. At the end of the third year term, the Administrative Supervisor of the Multicultural Equity Section will call for nominations for the rotation and establishment of a new committee.

(3) **Officers of Committee.**

(A) The officers of the committee shall be chosen from among the membership and consist of a Chairperson and a Chairperson-elect. The terms of office for the officers shall be one (1) year. The Chairperson-elect will be elected at the first meeting of each fiscal year. Nominations will be made from the floor of said meeting. The Chairperson-elect of the previous year will assume the office of Chairperson.

(B) **Chairperson.** The Chairperson shall preside over all meetings of the Committee.

(C) **Chairperson-elect.** The Chairperson-elect shall assume the duties of the Chairperson if the position is vacated and shall preside over the meetings in the absence of the Chairperson.

(D) The Multicultural Equity Section staff will assume secretarial responsibilities, including taking minutes of all meetings and making them available to all Committee members and appropriate State Department of Education staff, preserving all documents and records of the Committee and issuing notices of meetings. Copies of all records shall be filed with the Multicultural Equity Section of the State Department of Education.

(4) **Ex-officio members.** The State Department of Education Multicultural Equity Section professional staff shall serve as ex-officio members of the Committee.

(d) **Meetings:**

(1) **Schedule of meetings:**

(A) The Committee shall meet a minimum of two (2) times each year. All meetings shall be conducted in accordance with Oklahoma Open Meeting Law. The Committee will not meet without the representation of the Multicultural Equity Section professional staff of the State Department of Education.

(B) Meeting dates and official meeting announcements shall be cooperatively agreed upon by the Committee Chairperson and the Administrative Supervisor of the Multicultural Equity Section of the State Department of Education. Advance notice (reasonable time) of dates and locations of meetings shall be sent to each member in order to facilitate their attendance.

(2) **Quorum.** A majority (51%) of Committee members shall constitute a quorum.

(3) **Recommendations.** Recommendations of the Committee shall represent consensus of a majority of committee members.

(e) **General provisions:**

(1) **Mail ballots.** Action taken by the Committee requiring formal voting by the official membership may be taken by a fourteen (14) day mail ballot.

(2) **Amendments.** Possible procedural changes must be sent to all official members for their consideration and review 15 days prior to the next scheduled meeting. Proposed amendments and/or revisions to the Procedures must be adopted by a quorum (51%) of the official membership and recommended to the State Department of Education.

*[OAR Docket #25-481; filed 6-5-25]*

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## TITLE 218. OFFICE OF EDUCATIONAL QUALITY AND ACCOUNTABILITY CHAPTER 10. EDUCATIONAL QUALITY

*[OAR Docket #25-432]*

**RULEMAKING ACTION:**

PERMANENT final adoption

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## **RULES:**

Subchapter 5. Educator Preparation Program Accreditation

218:10-5-1. Educator preparation program accreditation and review process [AMENDED]

218:10-5-3. Specific state requirements for program accreditation [AMENDED]

Subchapter 7. Educator Assessment Regulations

218:10-7-1. Educator assessment regulations [AMENDED]

218:10-7-3. Alternative testing arrangements [AMENDED]

Subchapter 9. Education Leadership Oklahoma

218:10-9-1. Education Leadership Oklahoma regulations [AMENDED]

## **AUTHORITY:**

Commission of Educational Quality and Accountability; 70 O.S. § 3-116 through § 3-117, Oklahoma Teacher Preparation Act, 70 O.S. § 6-180, et seq., Education Leadership Oklahoma Act, 70 O.S. § 3-204 et seq.

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 22, 2024

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N/A

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N/A

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May 28, 2025

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July 11, 2025

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## **SUPERSEDED RULES:**

N/A

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N/A

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N/A

## **DOCKET NUMBER:**

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## **INCORPORATIONS BY REFERENCE:**

## **INCORPORATED STANDARDS:**

N/A

## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

The proposed amendments to OAC 218:10-5-1 revise the current language of the rule: to clarify some of the data that must be submitted, and certain records that must be kept, by Educator Preparation Programs seeking accreditation; to more accurately indicate that CAEP accreditation guidelines should only be followed when applicable; to clarify that training required for CEQA/OEQA accreditation review teams; and include the requirement to conduct site visits of Educator Preparation Programs virtually when possible. The proposed amendments to OAC 218:10-5-3 revise the current language of the rule: to provide teacher candidates, within an Educator Preparation Program, an additional option to achieve clinical experience apart from just the current student teaching pathway option. The proposed amendments to OAC 218:10-7-1



and OAC 218:10-7-3 revise the current language of the rules: to refer to testing vendors generally rather than specifically by name; and to clarify competency examination components. The proposed amendments to OAC 218:10-9-1 revise the current language of the rule: by removing old language that inadvertently broadens the Education Leadership Oklahoma Act, 70 O.S. § 3-204 et, seq. to provide state funding of up to two retakes of components of the National Board Certification process to teachers seeking National Board Certification, and to include teachers who are maintaining, rather than seeking, National Board Certification as being eligible to participate in the ELO Program; and revise and better clarify the ELO Program application and selection process.

## CONTACT PERSON:

Rusty Faircloth, Deputy Director, Office of Educational Quality and Accountability, 5400 N Grand Blvd, Ste. 200, Oklahoma City, OK 73112, (405) 522-2187, [Rusty.Faircloth@oeqa.ok.gov](mailto:Rusty.Faircloth@oeqa.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(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 11, 2025:**

## SUBCHAPTER 5. EDUCATOR PREPARATION PROGRAM ACCREDITATION

### 218:10-5-1. Educator preparation program accreditation and review process [AMENDED]

- (a) Oklahoma educator preparation institutions function under an 'accreditation program' system which requires the evaluation of teacher education units and programs on a periodic basis.
- (b) Effective July 1, 2014 the Commission of Educational Quality and Accountability, hereafter referred to as the CEQA, shall assume responsibility for accrediting educator preparation programs in Oklahoma's public and private institutions of higher education.
- (c) The program accreditation system shall be a multifaceted system based on:
- (1) A competency-based educator preparation program built around the standards for Oklahoma educator preparation programs (See 218:10-5-3 and 218:10-5-4);
  - (2) Self-studies as outlined in the standards for state accreditation;
  - (3) On-site accreditation review team visits to the campuses of the institutions of higher education;
  - (4) Analysis of data related to student success rates on the general education, professional education, and subject matter assessments;
  - (5) Analysis of student satisfaction data;
- (d) Prior to being accredited each institution must meet the eligibility requirements for accreditation and all requirements of the CEQA, and receive the approval of the Oklahoma State Regents for Higher Education, Hereafter referred to as the OSRHE, when applicable. An institution seeking first-time or initial accreditation must complete a two (2) part application process beginning with Part 1 to establish the status of the applicant and ending with Part 2 to establish accreditation eligibility. After acceptance of the Part 1 application by CAEP and/or CEQA, the educator preparation program, hereafter referred to as EPP, must submit the Part 2 application and schedule a site visit within a three (3) year period. The site visit must occur within five (5) years of the date of acceptance of the Part 1 application.
- (1) **Part 1: Applicant Status.** The Part 1 application is completed by the EPP administrator, signed by the administrator and the president, and submitted to CAEP and/or CEQA.
- (2) **Part 2: Accreditation Eligibility.** Upon acceptance of the Part 1 application, the EPP is granted applicant status. The EPP submits the following:
- (A) Description of evidence demonstrating the capacity to prepare educators and/or other school professionals, as requested annually by OEQA, this may include data such as, but not limited to, 24 months of educator candidate data consisting of GPAs and competency examinations scores as defined by the OEQA.
  - (B) Evidence that graduates/completers are eligible for an educator license issued by the state.
  - (C) A list of all programs offered for the preparation of P-12 educators and/or other school professionals.
  - (D) An accreditation plan for programs by site of operation including number of completers.
  - (E) A list of all of the EPP clinical educators (faculty).
  - (F) Information on applicable EPP characteristics, such as governance, regional accreditation, and Carnegie classification.
  - (G) Evidence of parity in resources, facilities, and finances in comparison to another professional field based preparation program of the EPP's choice.

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(H) Copies of EPP-created assessments and scoring guides for unit-wide evaluation of candidate performance, not including proprietary assessments such as licensure examinations.

(e) The OEQA is a performance-based partner with the OSRHE and CAEP. All educator preparation programs shall be expected to meet all ~~CAEP~~State unit and program accreditation standards, and CAEP standards when applicable, State Department of Education competencies, OSRHE teacher education policies as well as all additional standards established by the CEQA.

(1) **Self-study.** The self-study shall be utilized by the CEQA for state accreditation, OSRHE program review, and CAEP accreditation as stipulated in OS 70 sections 6-180.

(2) **Records to be kept on file at the institution.** The following items and records shall be kept on file at the institution with the director/dean of teacher education.

(A) Copy of the self-study;

(B) Copy of annual report to the CEQA;

(C) Syllabi for courses in the areas of specialization, general education, and professional education will be kept on file with the institution; and

(D) ~~Full faculty resumes will be on file for review. All levels of teaching personnel will be indicated.~~ The qualifications of all faculty members and all instructing personnel.

(E) Copies of program review reports.

(F) ~~Candidate CEQA scores~~ competency examinations scores as defined by the OEQA.

(3) **OEQA personnel will establish an accreditation visit schedule that will adhere to ~~CAEP/State~~ accreditation timelines, and CAEP timelines when applicable.**

(4) **Selection of accreditation review team.** Selection of the accreditation review team will be coordinated by the OEQA staff after the visitation dates are set. Selection of the accreditation review team shall be based on the following:

(A) ~~At~~ For CAEP reviews, team members must have been trained by CAEP staff and/or their designee in the application of CAEP standards and on the process for evaluating programs for the CEQA.

(B) Accreditation team for first accreditation. The membership of a first accreditation review team shall be as follows:

(i) Three to six CAEP site visitors (for institutions seeking national accreditation)

(ii) State site visitors appointed by the OEQA including: One P-12 site visitor (when available); one site visitor from higher education who is a member of an educator preparation unit. For accreditation of private institutions the site visitor shall be from a private institution; for public institutions this site visitor shall be from a public institution; One site visitor from the OEQA serving as State Consultant; One additional at-large site visitor;

(iii) For any institution requesting accreditation of a career technology program(s) an additional site visitor may be recommended by the State Director of Career and Technology Education.

(iv) The OEQA may invite observers representing the Oklahoma State Regents for Higher Education, Oklahoma State Department of Education, Oklahoma Department for Career and Technology Education, professional organizations, and the community-at-large.

(v) Observers shall be actively involved in the data collection process, participate in the accreditation review team meetings, and assist the accreditation review team to understand state nuances. They may assist with writing the stateteam report. They shall not be a voting member of the team.

(vi) Observers are expected to participate in the entire visit and all assigned meetings and activities.

(vii) The chair of the accreditation review team has the authority to dismiss any observer from the accreditation visit who does not participate in the entire site review and assigned activities.

(viii) The OEQA shall collaborate with the director of educator preparation at the institution requesting state accreditation regarding the team representation.

(ix) State site visitors will number no less than two.

(C) Accreditation team for continuing accreditation. The membership of a continuing accreditation review team shall be as follows:

(i) CAEP site visitors as determined by CAEP, when applicable (for CAEP accredited institutions);

(ii) State site visitors which will number no less than two.

- (iii) The OEQA shall collaborate with the director of educator preparation at the institution being reviewed regarding the state team representation;
  - (iv) The OEQA may invite observers representing Oklahoma State Regents for Higher Education, State Department of Education, and the community-at-large. If a Career and Technology program is offered at the institution the State Director of Career and Technology Education may nominate a site visitor for any institution requesting accreditation of career and technology program(s);
  - (v) Observers shall be actively involved in the data collection process, participate in the accreditation review team meetings, and assist the accreditation review team with understanding state nuances. They may assist but shall not be required to write any sections of the team report. They shall not be a voting member of the team.
  - (vi) Observers are expected to participate in the entire visit and all assigned meetings and activities.
  - (vii) The chair of the accreditation review team has the authority to dismiss any observer from the accreditation visit who does not participate in the entire site review and assigned activities.
- (D) Accreditation teams for non-CAEP accredited institutions shall be composed of state site visitors.
- (E) CEQA members and OEQA appointees who are involved in ~~any~~ unit or program evaluation and/or accreditation, must complete ~~performance-based training~~ training, as determined by CEQA, prior to voting and/or participating in any accreditation decisions.
- (5) Logistics for CAEP/State accreditation visits shall adhere to the CAEP and State guidelines.**
- (A) The accreditation process will include
    - (i) Successful completion of application (for first and initial accreditation)
    - (ii) Submission of Self-Study Report containing evidence of meeting accreditation standards and state requirements
    - (iii) Response to the Formative Feedback Report
    - (iv) ~~On-site~~ Site visit
  - (B) The completed accreditation review team report will be presented to the CEQA and CAEP (as applicable).
  - (C) Visiting team members shall conduct site visits virtually when possible. Visiting team members will not be reimbursed for expenses incurred for conducting an on-site visit when a virtual visit is possible.  
~~Visiting team members will not be reimbursed for expenses incurred according to state guidelines. Reimbursement forms must be completed by team members on the last day of the visit.~~
- (6) Preparation of the team report.** The accreditation review team work will culminate in preparation of a report outlining the findings of the team following ~~CAEP guidelines~~ State accreditation guidelines, and CAEP guidelines when applicable. The report will reflect the team consensus on the review.
- (A) At the exit report, representatives of the accreditation review team will present a summary of its evaluation of the program. The summary will include an evaluation of the completeness, quality, and strength of evidence for each standard and state requirement.
  - (B) The completed CAEP and OEQA reports will follow the CAEP timelines for submission; and
  - (C) The summary evaluation will be presented to the CEQA for determination of final state accreditation decision. For CAEP accredited institutions, final accreditation decisions will be made after CAEP has forwarded its accreditation decision to the CEQA.
- (7) Final action.** Final action on the reports and institutional accreditation will proceed according to CAEP/state guidelines and policies.
- (A) Final action by the CEQA may include the following:
    - (i) Accreditation is granted for seven (7) years if the EPP meets all of the accreditation standards and required components, even if areas for improvement (AFIs) are identified.
    - (ii) Accreditation with Stipulations is granted if an EPP receives one (1) or more stipulations on non-required components(s) and all standards are met. A targeted response to the stipulations(s) must be submitted to the Accreditation Council and/or CEQA for review by the end of the second year following the application of the stipulation. Failure to submit a response to the stipulation within a two-year (2) time frames results in automatic revocation. Failure to correct the condition leading to the stipulation within the specified two-year (2) period results in revocation.

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(iii) Probationary Accreditation is granted for two (2) years when an EPP does not meet one (1) of the CAEP Standards or fails to meet not more than one required component under any one (1) standard. If the probationary status is for failing to meet one of the CAEP standards, a targeted response to the stipulations(s) must be submitted to the Accreditation Council and/or CEQA for review by the end of the second year following the application of the stipulation, and the EPP must undergo a targeted site visit and submit an interim self-study report. If the probationary status is for failing to meet not more than one required component, a targeted response to the stipulations(s) must be submitted to the Accreditation Council and/or CEQA for review by the end of the second year following the application of the stipulation, and the EPP must undergo a document review. Failure to submit a response to the stipulation within a two-year (2) time frame results in revocation. Failure to correct the condition leading to the stipulation within the specified two-year (2) period results in revocation.

(iv) Revocation (for Continuing) or Denial (for Initial) of accreditation occurs if an EPP does not meet two (2) or more of the accreditation standards. In a case where accreditation is revoked, the EPP can begin the application process after one (1) calendar year from the date of the final decision. All students who have been admitted to the program must be notified by mail, within 30 days of receipt of the CAEP or CEQA decision, as to the revocation of accreditation of the unit and programs. Within 30 days of receipt of the CEQA decision, the institution provides to the OEQA the names, admission dates, and majors of all students admitted to their program at the time of the decision. Institutions that lose their state accreditation may recommend candidates for certification for one year from the end of the semester in which accreditation is revoked.

(B) All final actions shall be reported annually in the OEQA annual report.

## **(8) Appeals Board.**

(A) The appeals process for National Accreditation will follow the guidelines and criteria contained in the CAEP Appeals Policy;

(B) For appeals related to program(s) and state accreditation the CEQA shall consider the recommendation of the CEQA Appeals Board whose membership shall include:

(C) Membership of CEQA Appeals Board shall be:

- (i) CEQA chair. The CEQA Chair shall be the Chair of the Appeals Board;
- (ii) Representative from OEQA with State Consultant experience;
- (iii) Program subject matter and/or standards expert(s). If the appeal is related to a specific program, the program expert shall be in the area(s) being appealed;
- (iv) One P-12 school classroom teacher;
- (v) One member trained as a site visitor (when applicable);
- (vi) One educator preparation faculty representative; and
- (vii) One representative from the arts and sciences faculty or from school administration.

## **(9) Appeal of an accreditation adverse action.**

(A) An educator preparation program may formally appeal an adverse action (denial or revocation of accreditation) CEQA by indicating its intent in writing within 15 days of receipt of its accreditation letter and action report. The program shall submit its petition within 30 days after its letter of intent.

(B) CEQA may affirm, amend, or reverse the accreditation decision. The decisions of the CEQA are final. While the appeal is pending, the educator preparation program's prior status remains in effect.

(C) The basis for appeal of an accreditation adverse action is:

- (i) OEQA procedures not followed by visitor teams, Commissioners, or OEQA staff;
- (ii) A conflict of interest or prejudice by members of visitor teams, Commissioners, or OEQA staff that influenced the accreditation decision;
- (iii) The accreditation decision is not supported adequately or is contrary to facts presented and known at the time of the decision;

## **(10) Reconsideration of a stipulation or a probationary accreditation decision.**

(A) An educator preparation program may ask for reconsideration of a CEQA stipulation or conditional term decision. An educator preparation program may, by a formally documented petition, request reconsideration of any decision that cites a stipulation or grants a conditional term for accreditation. OEQA staff will undertake a preliminary review of petitions with the educator preparation program and take the request to the CEQA chair to determine whether to submit the request to the CEQA.

(B) The basis for reconsideration of a stipulation or a conditional term decision is:

- (i) CEQA procedures not followed by visitor teams, Commissioners, or OEQA staff;
- (ii) A conflict of interest or prejudice by members of visitor teams, Commissioners, or OEQA staff that influenced the accreditation decision;
- (iii) The accreditation decision is not supported adequately or is contrary to facts presented and known at the time of the decision.

**(11) Cost of review.**

- (A) If the appeal leads to an affirmation of the CEQA original decision, the appellant will be liable for the expenses of the CEQA Appeals Board, the second accreditation review team visit, and all expenses related to the review. All expenses will be reimbursed according to state travel reimbursement guidelines.
- (B) If the CEQA Appeals Board finds in favor of the institution, the CEQA will be liable for expenses of the AB and second accreditation review team. All expenses will be reimbursed according to state travel reimbursement guidelines.

**218:10-5-3. Specific state requirements for program accreditation [AMENDED]**

(a) The following requirements apply to both undergraduate and graduate programs. The governance and administration of the total educator preparation program standard is based on the premise that there must be a recognizable and functioning governance entity within the institution's administrative structure which has responsibility for designing, approving and continuously evaluating and developing educator preparation programs. This governing unit may be a council, committee, department, school, college, or any other recognizable entity, which includes the administration of educator preparation as one of its functions. The governing unit membership and responsibilities include the following:

- (1) Membership on the educator preparation governing unit shall be defined by written policy to include:
  - (A) A majority of the members who have a minimum of three years teaching experience in public schools;
  - (B) A majority of the members in the governance unit who are currently teacher education faculty members;
  - (C) Some faculty members who shall represent the arts and sciences;
  - (D) A designated director of educator preparation defined as the institution's official representative for educator preparation. The authority and responsibilities of this individual shall be clearly defined in written policies; and
  - (E) A clearly defined process whereby faculty members and administrators become members and the terms of office.
- (2) The responsibilities of the educator preparation governing unit shall be defined by written policy to include:
  - (A) Responsibilities of the officers of the unit;
  - (B) Responsibilities of the unit's standing committees; and
  - (C) Responsibilities in the following areas as they are related to educator preparation:
    - (i) Admission/retention in educator preparation;
    - (ii) Field experience and student teaching (admission and placement);
    - (iii) Development of courses and program curricula; and program review, evaluation and planning.
- (3) Program review, evaluation and revision responsibilities include:
  - (A) The governance unit shall conduct at least one systematic review, evaluation, and when appropriate, revision of all educator preparation programs within each accreditation period;
  - (B) Periodic program reviews and revisions shall be based on, but not limited to, stated goals and objectives; and
  - (C) The process for conducting program review, evaluation, and revision shall include, but not be limited to, participation by the following:
    - (i) Educator preparation faculty and arts and science faculty;
    - (ii) Graduates of the programs;
    - (iii) Students currently in the program;
    - (iv) Teachers and administrators from the public schools;
    - (v) Parents of P-12 students and business and community leaders who are actively involved in assisting P-12 schools.
- (4) Documentation related to the budget-making process and level of financial support shall include the following:
  - (A) A clearly defined budget-making process for all teacher education programs; and

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- (B) An analysis showing that the institution's financial support for programs in educator preparation are maintained at a level appropriate for a professional preparation program.
- (b) Educator preparation faculty workload policies, including class-size and online course delivery, should allow faculty members to be effectively engaged in teaching, scholarship, assessment, advisement, collaborative work in P-12 schools, and service. Faculty loads for teaching on campus and online generally do not exceed 12 hours for undergraduate teaching and nine hours for graduate teaching per semester or the equivalent. Supervision of clinical practice does not generally exceed 18 candidates for each full-time equivalent faculty member per semester or the equivalent.
- (c) Candidate-related standards are to be consistent with accreditation standards.
- (d) Program decisions of the professional education unit are to be guided by a conceptual framework, which establishes the shared vision for the preparation of teacher candidates.
  - (1) The conceptual framework application for state initial accreditation.
  - (2) The conceptual framework shall consist of:
    - (A) The program's philosophy, purposes, professional commitments and dispositions;
    - (B) A knowledge base that provides the foundation for the framework;
    - (C) Performance expectations for candidates that align with professional, state and institutional standards; and
    - (D) A system by which candidate performance is regularly assessed.
- (e) The following guidelines are to be used to collect and maintain data on each institution's educator preparation program:
  - (1) The institution shall establish a process which seeks information and program input from educator preparation faculty; faculty from arts and sciences and other programs and disciplines which are appropriate; candidates within the educator preparation program; teachers, administrators, parents, guardians or custodians of students; and business and community leaders.
  - (2) The institution shall establish procedures to inform the public regarding the educator preparation program and to solicit and receive public input.
  - (3) The self-study shall be accessible to any interested party under the Oklahoma Open Records Act.
  - (4) The submitted institutional plan must be approved by the institution's governing board.
  - (5) Annual reviews and reports indicating program changes.
- (f) The following policies, procedures and guidelines are used to direct the content and candidates' experiences of each institution's teacher preparation program.
  - (1) Programs require teacher candidates to have speaking and listening skills at a novice high level in a language other than English or the knowledge and skills necessary to address the needs of Emergent Bilingual (English Learner) students in the P-12 classroom and are proficient in the strategies required for successful delivery of P-12 instruction in that area. The assessment for such competency may occur at any point in the teacher candidate's program through specified course work, approved by the Office of Educational Quality and Accountability (OEQA), and as may be required by the institution.
  - (2) General studies requirements for candidates include the arts, communication, history, literature, mathematics, philosophy, sciences, English, government, and the social sciences.
  - (3) Programs establish cohort or colleague groups within the institution to assist teacher candidates in achieving competencies, better adapting to the school environment and furthering professional growth.
  - (4) Candidates complete a well-planned sequence of courses and/or experiences in pedagogical studies that ensures student competency in the Oklahoma State Department of Education Full Subject Matter Competencies for Teacher Licensure and Certification.
  - (5) The guidelines and standards for program reviews representing specialty organizations and national learned society standards are used in developing programs in each content area.
  - (6) Secondary and elementary/secondary teacher candidates have undergraduate majors or their equivalents, in a subject area.
  - (7) Teacher candidates in early childhood, elementary, and special education have subject area concentrations, which allow qualification as a generalist. To qualify as a generalist, candidates must document competency in mathematics, science, language arts, and social studies as identified in the CAEP professional learned societies' standards and State Department of Education Full Subject Matter Competencies for early childhood, elementary and special education.
  - (8) Teacher candidate coursework includes the study of substance abuse symptoms identification and prevention; mental illness symptoms identification and mental health issues; classroom management skills; trauma-informed responsive instruction; classroom safety and discipline issues and multi-tiered systems of support.
  - (9) Teacher candidate coursework or training includes the use of digital and other instructional technologies to effectively maximize student learning.

- (10) Early childhood, elementary education and special education candidates; training includes research-based instructional strategies for instruction, assessment and intervention for literacy development for all students, including advanced readers, typically developing readers and struggling readers who are coping with a range of challenges, including, but not limited to, English learners and learners with handicapping conditions and learning disabilities (including dyslexia).
- (11) Teacher candidates must complete and have a minimum of 60 hours of diverse field experiences prior to their student teaching internship, unless in a qualified job embedded competency based Teacher Registered Apprentice Program (See US DOL Standards). Teacher candidates must complete the equivalent of twelve (12) weeks of student teaching under the direct supervision of a mentor teacher serving as the teacher of record and has a minimum of three years of teaching experience in the area for which they are certified, or complete a qualified job embedded competency based Teacher Registered Apprentice Program. The Teacher Registered Apprentice Program must also include a teacher mentor with no less than three years of experience.
- (12) Teacher candidates are provided with advisement services to assist them in taking course work designed to maximize their opportunities for certification and employment. At a minimum, teacher candidates are provided information on the latest supply and demand information concerning teacher employment, state salary structure, and teaching shortage areas.
- (13) Substantive collaboration and classroom interaction with students accompany theoretical curriculum, thus allowing teacher candidates the opportunity to apply theory to actual classroom situations.
- (14) Instruction integrates pedagogical competencies or skills with experiences in the school setting.
- (15) Teacher candidates are provided with opportunities to have parental, family and community involvement within their pre-service programs.
- (16) The unit establishes and publishes a set of criteria/competencies for exit from each professional education program. These criteria/competencies reflect the Oklahoma Department of Education General Teacher Competencies and/or subject matter competencies outlined in the CAEP national (professional) learned societies' standards.
- (17) The unit establishes and publishes the criteria/competencies for exit and satisfactory completion adhering to all rules and regulations established by the Oklahoma State Department of Education.
- (18) A candidate's mastery of a program's stated exit criteria or competencies is assessed through the use of multiple sources of data such as culminating experience, portfolios, interviews, videotaped and observed performance in schools, standardized tests and course grades.
- (19) Effective September 1, 2015 mentor teachers are required to have minimum of three years of teaching experience in the area in which they are certified.
- (g) The following guidelines are to be used to facilitate the professional learning of faculty: Teacher education faculty continue their professional learning during their tenure at an institution of higher education to ensure that the future teachers of Oklahoma are taught by professional educators fully trained in their areas of expertise. Professional development for teacher educators and arts and sciences faculty should be focused on the faculty members' ability to model such effective teaching strategies as inquiry, group discussions and collaborative learning.
- (h) The following policies are to be used to evaluate individual program areas at each institution: The institution shall submit program reviews for each required program area based upon the CAEP and/or State policies, guidelines and accreditation schedule. An educator preparation provider that has secured specialty area accreditation from a specialized accrediting agency that is recognized by the U.S. Department of Education or CHEA can choose to have any such accredited program(s) exempted from review.
- (i) Gifted Education and Elementary Math Specialist programs, requiring no more than eighteen hours of graduate level coursework, designed as endorsement programs for certified educators are submitted to OEQA for process approval.

### SUBCHAPTER 7. EDUCATOR ASSESSMENT REGULATIONS

#### **218:10-7-1. Educator assessment regulations [AMENDED]**

##### **(a) Examinees - initial licensure and certification.**

- (1) Any individual who applies for a teaching license/certification must successfully complete the competency examination as defined by the OEQA. The competency examination is made up of two components: ~~the Oklahoma Subject Area Test (OSAT)~~ a subject area test and an approved ~~performance~~ assessment measuring professional knowledge and skills.
- (2) See Appendix A for competency exam requirements by certification area and test codes.

##### **(b) Examinees - additional certification.**

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(1) Individuals wishing to add a certification area to an existing teaching credential must successfully complete ~~the Oklahoma Subject Area Test~~ subject area test for the field of the desired certification.

(2) Individuals wishing to add a teaching certification area to an existing license or standard certificate in Speech Language Pathologist, School Nurse, School Psychometrist and/or School Psychologist must successfully complete ~~the Oklahoma Subject Area Test~~ subject area test and an approved ~~performance~~ assessment measuring professional knowledge and skills ~~for the field of the desired certification~~.

(3) See Appendix A for competency exam requirements by certification area and test codes

**(c) Examinees - alternative placement program.**

(1) Individuals seeking a teaching license via the Alternative Placement Program must successfully complete ~~the Oklahoma General Education Test and the Oklahoma Subject Area Test~~ subject area test and approved assessment measuring professional knowledge and skills. A licensed teacher via the Alternative Placement Program, excluding School Counselors, seeking a standard certificate must successfully complete an approved ~~performance~~ assessment measuring professional knowledge and skills.

(2) See Appendix A for competency exam requirements by certification area and test codes.

**(d) Examinees-out of state certification.** Individuals seeking an Oklahoma license/certification who are certified educators in another state(s) and have successfully completed a competency examination used in the majority of other states or comparable customized exam, will be exempt from meeting the Oklahoma educator assessment requirements for the subject/grade levels most closely aligned with their out-of-state certification.

**(e) Examinees - testing conditions and requirements compliance.**

(1) If an examinee fails to comply with the conditions and requirements specified or referenced on the Certification Examinations for Oklahoma Educators Test website, including the Conditions of Test Participation, or take any prohibited actions, the test results may be voided, no refund will be issued, no portion of the testing fee can be applied toward the cost of any future test administrations and/or the examinee's registration may be cancelled.

(2) If an examinee's test score is found to be unverifiable by either the testing company or the OEQA, the examinee will be allowed one (1) retake under controlled conditions at no cost to the examinee.

## 218:10-7-3. Alternative testing arrangements [AMENDED]

**(a) Alternative testing arrangements - religious practices.**

(1) Alternative test dates may be arranged for individuals whose religious practices do not allow them to take tests on Saturday.

(2) Alternative test dates will be available at a minimum of two test sites per test administration.

(3) Individuals wishing to request an alternative test date due to religious convictions must submit the following to ~~National Evaluation Systems~~ the applicable testing vendor no later than the regular registration deadline for the test administration desired:

(A) A completed registration with proper payment

(B) A completed form requesting an alternative test date

(C) A letter from a member of the clergy, on that individual's professional letterhead, attesting to the religious convictions of the examinee requesting accommodation.

**(b) Alternative testing arrangements - accommodation of the basis of disability.**

(1) Alternative testing arrangements may be made for individuals with either temporary or permanent physical disability, illness, or injury.

(2) Standard accommodations may be requested by individuals with a disability and can be accommodated at all test sites. Standard accommodations include the following:

(A) Special seating

(B) Allowance of a medical device in the testing room

(C) Frequent breaks

(D) Use of a magnifying glass, colored overlays, or a straight edge

(E) Use of a pen for written assignment

(F) Use of a trackball mouse

(G) Adjustable table

(3) Standard accommodations may be requested by submitting the following to ~~Evaluation Systems Group of Pearson~~ the applicable testing vendor no later than the regular registration deadline for the test administration desired:

(A) A completed registration with proper payment.

(B) A completed form requesting alternative testing arrangements indicating the nature of the request.



**(c) Alternative testing arrangements - non-standard accommodation on the basis of a physical disability.**

(1) Non-standard alternative testing arrangements may be made for individuals with a temporary or permanent disability, illness, or injury.

(2) Individuals requesting alternative testing arrangements on the basis of a physical disability must submit the following to ~~National Evaluation Systems~~ the applicable testing vendor no later than the regular registration deadline for the test administration desired no later than the regular registration deadline for the test administration desired:

(A) A completed registration form with proper payment

(B) A completed form requesting alternative testing arrangements identifying the disability and the specific arrangements requested.

(C) A statement by a licensed professional, on that person's professional letterhead, whose credentials are appropriate to diagnose the disability. Statements must include the disability for which accommodation is being sought as well as recommended administration modifications.

**(d) Alternative testing arrangements - non-standard accommodation on the basis of cognitive or emotional disability.**

(1) Non-standard alternative testing arrangements may be made for individuals with temporary or permanent cognitive or emotional disability, illness, or injury.

(2) Individuals requesting non-standard alternative testing arrangements on the basis of cognitive or emotional disability must submit the following to ~~Evaluation Systems Group of Pearson~~ the applicable testing vendor no later than the regular registration deadline for the test administration desired:

(A) A completed registration form with proper payment

(B) A completed form requesting alternative testing arrangements identifying the disability and the alternative arrangements requested.

(C) A statement by a licensed professional, on that person's professional letterhead, whose license or credentials are appropriate to diagnose the disability. The statement must include the disability for which accommodations are being requested, along with supporting documentation, and recommended test administration modifications.

## SUBCHAPTER 9. EDUCATION LEADERSHIP OKLAHOMA

### 218:10-9-1. Education Leadership Oklahoma regulations [AMENDED]

**(a) Selection of scholarship recipients.**

(1) Applicant can be funded for one Education Leadership Oklahoma (ELO) ~~and one Maintenance of Certification~~ scholarship to attain National Board Certification.

(2) Applicant must currently be a full-time, Oklahoma public school classroom teacher with special consideration given to teachers who work in ~~inner-city~~ designated Title 1 schools as defined by law, work in school districts with a low percentage of National Board-Certified Teachers, and who have completed all the certification requirements set by the Oklahoma State Department of Education and hold a standard certification.

(3) OEQA shall develop the ELO application and any associated deadlines. The application ~~will~~ may seek information in the form of multiple choice, short answer questions and/or essays ~~essay~~.

(4) ~~If there are 100 applicants or fewer than 100 applicants, all eligible applicants will be accepted into the program. OEQA shall designate the place and time for ELO applications to be read and scored by the Application Review Committee, if necessary.~~

(5) ~~If there are more than 100 applicants, OEQA shall assemble an~~ The Application Review Committee that shall review and score applications to award scholarships

(A) The Application Review Committee will consist of OEQA employees and need not but may also include other persons as may be determined by OEQA such as current or former National Board-Certified Teachers.

(B) OEQA will provide a scoring rubric outlining guidelines for application scoring and provide training for each ~~Each~~ Application Review Committee member will be trained to read and score applications prior to the applications being read and scored.

(C) The Application Review Committee may consider one or more of the following:

(i) Knowledge of NBPTS process

(ii) Inclusion of the five core propositions within the essay question

(iii) Degree to which the applicant's essay conveys his/her application of the five core propositions

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- (iv) Conveyance of commitment to rigorous process
- (v) Provision of quality writing which is clear and sufficiently elaborated
- (vi) Demonstration of knowledge, ability, and leadership
- (vii) Verification of percentage of free/reduced lunch
- (D) ELO candidates shall be selected based on scores determined within the application process.  
Applicants will be ranked from highest to lowest based on the application scores.
  - (i) ~~Applicants will be ranked from highest to lowest based on the application scores.~~
  - (ii) ~~Special consideration will be given to teachers who work in inner city schools (as defined by law).~~
  - (iii) ~~Candidates must attend required Professional Development~~
- (E) ~~Priority of scholarship awards will go to initial National Board Certification applicants.~~

**(b) Payment and reimbursement of assessment fees.**

- (1) OEQA shall make assessment fee payments to NBPTS for each scholarship candidate, upon signing a Letter of Intent.
- (2) Alternatively, scholarship candidates may choose to pay their own National Board assessment fees to be reimbursed by OEQA, up to \$1,300.00, upon achieving National Board certification. In that case, OEQA shall reimburse candidates for any National Board assessment fees paid by candidate, up to \$1,300.00, if they are a Teacher, as defined in ELO Act, Title 70 Section 6-204.1(7), in the year they certify. ~~Should a candidate be unable to complete the process by the National Board deadline, the following shall apply:~~
  - (A) ~~The candidate may pay the amount not recovered and will then be considered in the next applicant pool.~~
  - (B) ~~If the candidate does not withdraw or submit by the National Board deadlines, he/she will be responsible to OEQA for the reimbursement of the assessment fee~~
- (3) ~~OEQA shall reimburse candidates who pay the National Board assessment fee if they are a full-time public school classroom teacher in the year they certify~~ make payment to candidates for the \$500 scholarship as outlined in the Letter of Intent.
- (4) ~~OEQA will fund a maximum of two retakes to candidates that bank scores with the NBPTS provided funding is available.~~

*[OAR Docket #25-432; filed 5-30-25]*

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## TITLE 230. STATE ELECTION BOARD CHAPTER 10. THE COUNTY ELECTION BOARD

*[OAR Docket #25-389]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 3. Election Personnel

Part 1. COUNTY ELECTION BOARD MEMBERS AND EMPLOYEES

230:10-3-18. Candidates related to county election board members [NEW]

Subchapter 5. Election Training

Part 3. PRECINCT ELECTION OFFICIALS

230:10-5-14. Precinct official oath [NEW]

Subchapter 7. General Administration of the County Election Board Office

Part 5. MAINTAINING THE OFFICE

230:10-7-43. Retention of forms and materials documenting voter registration transactions [AMENDED]

**AUTHORITY:**

Secretary of the State Election Board; Title 26 O.S., Section 2-107

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 25, 2024

**COMMENT PERIOD:**

December 16, 2024 through January 15, 2025

**PUBLIC HEARING:**

N/A

**ADOPTION:**

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**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 22, 2025

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by SJR 21.

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

July 11, 2025

**SUPERSEDED EMERGENCY ACTIONS:**

**SUPERSEDED RULES:**

N/A

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N/A

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**INCORPORATIONS BY REFERENCE:**

**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The new proposed rule in 230:10-3-18 is intended to set out a procedure for the events described in subparagraph C of 26 O.S. § 2-132. There is not currently a uniform procedure for situations where someone related to a county election board member files for office with the State or County Election Board for an election to be conducted within that county. The new proposed rule related to precinct official oaths is intended to codify current practice that precinct officials must sign an oath before they work at an election in which they affirm that they are qualified to serve and will follow all applicable laws and procedures. The amendments to other rules in this Chapter relate to updating language throughout Title 230 that mention the Department of Public Safety (DPS), which should now be a reference to Service Oklahoma, and/or motor license agencies, which are now referred to as licensed operators.

**CONTACT PERSON:**

Rachel Rogers Mailing address: State Election Board, P.O. Box 53156, Oklahoma City, OK 73152. Email: Rachel.rogers@elections.ok.gov. Physical address: Room G38, Oklahoma State Capitol Building, 2300 N. Lincoln Blvd., Oklahoma City, OK.

**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 JULY 11, 2025:**

## SUBCHAPTER 3. ELECTION PERSONNEL

### PART 1. COUNTY ELECTION BOARD MEMBERS AND EMPLOYEES

**230:10-3-18. Candidates related to county election board members [NEW]**

This rule is intended set out a procedure for the events described in subparagraph C of 26 O.S. § 2-132.

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- (1) In a situation where a prospective candidate who is related within the second degree by either consanguinity or affinity to the secretary of the county election board desires to file a declaration of candidacy for an office in which the secretary of the county election board accepts such declarations, the assistant secretary (or other designated staff member) must review and determine whether to accept the declaration if it meets the requirements under the law.
- (2) From the moment that a declaration of candidacy is accepted for filing pursuant to subparagraph C of 26 O.S. § 2-132 by the State or county election board office, the secretary is temporarily disqualified to serve and suspended from their duties until the related candidate is either elected to office or no longer considered a candidate under the law.
- (3) In the event that a secretary of a county election board is so disqualified, the Secretary of the State Election Board may designate a suitable temporary replacement for the duration of that election or delegate the responsibilities during that time to the assistant secretary.
- (4) The county may elect to continue to use their own funds to pay the salary and benefits of the disqualified secretary, however, the State Election Board will not reimburse the county for the secretary's salary during the time of disqualification. The acting secretary's salary is eligible for reimbursement by the State when a temporary replacement is designated.
- (5) In the event a member or alternate member of the county election board is so disqualified pursuant to subparagraph C of 26 O.S. § 2-132, the State Election Board may designate a suitable temporary replacement for the affected elections or may remove the member or alternate.

## SUBCHAPTER 5. ELECTION TRAINING

### PART 3. PRECINCT ELECTION OFFICIALS

#### **230:10-5-14. Precinct official oath [NEW]**

Once an individual has completed their training to become a precinct official, the individual must complete an oath as prescribed by the Secretary of the State Election Board. The oath will contain an affirmation that the precinct official is qualified by law, will follow all Oklahoma laws and procedures, and any other affirmations deemed necessary by the Secretary. No person may serve as a precinct official at any election unless said oath has been completed and is on file with the county election board office.

## SUBCHAPTER 7. GENERAL ADMINISTRATION OF THE COUNTY ELECTION BOARD OFFICE

### PART 5. MAINTAINING THE OFFICE

#### **230:10-7-43. Retention of forms and materials documenting voter registration transactions [AMENDED]**

(a) **Original registration records removed from Central File.** Original voter registration records that have been removed from the Central File due to cancellation of registration or due to change in registration shall be retained for 24 months following removal. These original registration records shall be filed together by month in alphabetical order. See also 230:10-7-40.

(b) **Materials documenting cancellation of registration.** Materials used to document the cancellation of a voter's registration shall be retained for 24 months following the cancellation. These materials include Request to Cancel Registration of Deceased Voter; Potential Deletion Reports; Potential Duplicate Reports; Judgment of Incapacitation Reports, cancellation requests from voters; certified copies of death certificates; notices of felony conviction; Deleted Voters by Reason reports, address confirmation return cards indicating addresses outside the county; True Duplicates Deleted Reports, and any document used by the Oklahoma National Guard to notify the County Election Board of the death in the line of duty of a member of the Oklahoma National Guard.

(c) **Rejected voter registration applications.** Rejected voter registration applications shall be retained for 24 months following rejection. Rejected applications shall be filed by month in alphabetical order.

(d) **Rejection notices returned by post office.** Rejection notices that have been returned by the United States Postal Service marked "undeliverable as addressed" shall be retained for 24 months following return. Returned undelivered rejection notices shall be filed by month in alphabetical order.

(e) **Voter identification cards returned by post office.** Voter identification cards that have been returned by the United States Postal Service marked "undeliverable as addressed" shall be retained for 24 months following return. Returned undelivered voter identification cards shall be filed by month in alphabetical order.

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(f) **Insufficient Information Rejection Notices returned by applicant.** An Insufficient Information Rejection Notice returned to the County Election Board by the applicant with the information required to complete the application shall be filed in the Additional Information Correspondence file or in the Central File inside a file sleeve containing the voter's original voter registration application. Material in this file shall be retained as long as the voter remains registered. An Insufficient Information Rejection Notice that is returned by a voter but still does not contain enough information to complete the application shall be filed by month in alphabetical order and retained for 24 months.

(g) **Address confirmation return cards and undelivered address confirmation notices.** All address confirmation return cards received by the County Election Board shall be retained for 24 months, except return cards used to change a voter's address in the county. Address confirmation return cards used to change the voter's address in the county shall be filed in the Additional Information Correspondence file and shall be retained as long as the voter remains registered. Undelivered address confirmation notices shall be retained for 24 months.

(h) **Registration update documents printed from MESA.** When certain voter registration transactions - such as address changes submitted electronically by the ~~Department of Public Safety~~ Service Oklahoma, address changes and political affiliation changes submitted online, and address changes that result from returned address confirmation notices - are processed in MESA, a form is created automatically to document the registration change. These registration update documents, also called "Central File form" shall be retained in the Central File. It is the recommendation of the State Election Board that such Central File forms be placed inside a file sleeve with the voter's original voter registration application.

*[OAR Docket #25-389; filed 5-28-25]*

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## TITLE 230. STATE ELECTION BOARD CHAPTER 15. VOTER REGISTRATION

*[OAR Docket #25-390]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

230:15-1-1. Purpose [AMENDED]

230:15-1-2. Definitions [AMENDED]

Subchapter 3. Voter Outreach

Part 3. DISTRIBUTION OF VOTER REGISTRATION APPLICATION FORMS

230:15-3-23. Voter registration application forms available to individuals [AMENDED]

Subchapter 5. Application for Voter Registration

Part 1. QUALIFICATIONS FOR REGISTRATION

230:15-5-1. Persons eligible to register to vote [AMENDED]

230:15-5-3. Felons ineligible to register to vote [AMENDED]

230:15-5-4. Exceptions for felony convictions [AMENDED]

Part 9. ACCESSIBILITY OF VOTER REGISTRATION APPLICATION SERVICES

230:15-5-36. Accessibility of voter registration application services for elderly and handicapped voters [AMENDED]

Part 21. VOTER REGISTRATION APPLICATION BY MAIL

230:15-5-83. Applying for voter registration by mail [AMENDED]

Part 23. VOTER REGISTRATION APPLICATION SERVICES AT ~~DEPARTMENT OF PUBLIC SAFETY~~  
~~FACILITIES AND IN MOTOR LICENSE AGENCIES~~ DESIGNATED SERVICE OKLAHOMA LOCATIONS AND IN  
LICENSED OPERATORS [AMENDED]

230:15-5-100. Voter registration application services provided with driver license services at ~~Department of Public~~  
~~Safety facilities and at motor license agencies~~ Service Oklahoma locations and at licensed operators [AMENDED]

230:15-5-101. Training for ~~motor license agency~~ licensed operator personnel [AMENDED]

230:15-5-101.1. Training for driver license examiners and other ~~Department of Public Safety~~ Service Oklahoma  
personnel [AMENDED]

230:15-5-102. ~~Motor license agency procedure~~ Procedure for simultaneous voter registration application with a driver  
license renewal [AMENDED]

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230:15-5-102.1. ~~Motor license agency procedure~~ Procedure for simultaneous voter registration application with in-person driver license change of address or name [AMENDED]

230:15-5-102.3. Confidential information regarding voter registration services [AMENDED]

230:15-5-103. Passive voter registration application services in ~~motor license agency~~ licensed operator locations [AMENDED]

230:15-5-104. ~~Department of Public Safety and motor license agency~~ Service Oklahoma and licensed operator personnel responding to questions and/or requests for information about voter registration or election conduct [AMENDED]

230:15-5-105. Voter registration application services impartial and nonpartisan [AMENDED]

230:15-5-106. Responsibility for Voter Registration Statements received in ~~motor license agency~~ licensed operator locations [AMENDED]

230:15-5-107. Source coding and dating completed applications received by ~~motor license agency~~ licensed operator [AMENDED]

230:15-5-108. Transmitting completed Oklahoma Voter Registration Application forms to the State Election Board [AMENDED]

230:15-5-109. Materials for voter registration application services in ~~motor license agency~~ licensed operator locations [AMENDED]

230:15-5-110. Payment of ~~motor license agents~~ licensed operators [AMENDED]

Part 27. ONLINE VOTER REGISTRATION APPLICATION SERVICES

230:15-5-140. Online submission of applications for voter registration authorized [AMENDED]

Subchapter 9. Receiving and Processing Voter Registration Applications

Part 1. RESPONSIBILITIES OF THE STATE ELECTION BOARD FOR VOTER REGISTRATION

230:15-9-1. Secretary of State Election Board is chief state election official [AMENDED]

230:15-9-2. Voter registration applications transmitted to the State Election Board [AMENDED]

230:15-9-3. Processing paper voter registration applications received at the State Election Board [AMENDED]

Part 3. COUNTY ELECTION BOARD RESPONSIBILITY FOR PROCESSING VOTER REGISTRATION APPLICATIONS

230:15-9-11. Receiving voter registration applications at the County Election Board [AMENDED]

Part 5. PROCESSING VOTER REGISTRATION APPLICATIONS

230:15-9-18. Entering paper applications for voter registration in MESA [AMENDED]

230:15-9-20. Processing applications for name change [AMENDED]

230:15-9-21. Processing applications for change of residence address or mailing address [AMENDED]

230:15-9-26. Receiving, processing, and acknowledging electronic address changes from ~~DPSS~~ Service Oklahoma [AMENDED]

Subchapter 11. Voter Registration List Maintenance

Part 3. VOTER REGISTRATION ADDRESS CONFIRMATION

230:15-11-29. Identification and notification of voters who may have changed addresses of residence [AMENDED]

## AUTHORITY:

Secretary of the State Election Board; Title 26 O.S., Section 2-107

## SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 25, 2024

## COMMENT PERIOD:

December 16, 2024 through January 15, 2025

## PUBLIC HEARING:

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## ADOPTION:

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N/A

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**GIST/ANALYSIS:**

The proposed amendments in Part 1 of Subchapter 5 are necessary clarifications due to the amendment of 26 O.S. Section 4-101 as a result of House Bill 1629 from the 2024 Legislative Session. This bill altered the eligibility requirements for when convicted felons may be eligible to register to vote. All other proposed amendments in this Chapter relate to updating language throughout Title 230 referencing the Department of Public Safety (DPS), which should now be a reference to Service Oklahoma, and/or motor license agencies, which are now referred to as licensed operators. Because Service Oklahoma has taken over those driver license services from DPS and has launched additional online services, there are necessary updates to the rules related to voter registration application services that Service Oklahoma and licensed operators must provide under state and Federal law.

**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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

**230:15-1-1. Purpose [AMENDED]**

The rules in this Chapter concern voter registration. The rules in Subchapter 3 establish State and County Election Board responsibilities for voter outreach and education. The rules in Subchapter 5 describe the qualifications for voter registration in Oklahoma and establish procedures for applying for voter registration by mail. Subchapter 5 also contains rules concerning voter registration application services offered in motor license agencies designated Service Oklahoma locations and by the various voter registration agencies. The rules contained in Subchapter 9 establish procedures for State and County Election Board personnel ~~responsible~~ responsible for processing applications for new voter registration or for change of voter registration. The rules contained in Subchapter 11 establish procedures for cancelling voter registration and for conducting a voter registration address confirmation.

**230:15-1-2. Definitions [AMENDED]**

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

**"Activation date"** means the date that a valid application becomes a voter registration.

**"Active voter registration application services"** means that personnel of a ~~motor license agency~~ licensed operator or of a voter registration agency identified in 230:15-5-122 or 230:15-5-123 take an active, participatory role in offering the opportunity to apply for voter registration as required in 230:15-5-100 or in 230:15-5-125.

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**"Approved application"** means a voter registration application that contains all required information [see 230:15-5-84 and 230:15-9-19] and that does not apparently duplicate an existing voter registration.

**"Federal voter registration application"** means the form prescribed by the United States Election Assistance Commission to be used to apply for voter registration or to apply for change of voter registration and to be accepted for these purposes in all states.

**"MESA"** means the Modern Election Support Application software used by County Election Board personnel for voter registration, absentee voting, and election administration and maintenance. Any reference in this Title to MESA or OEMS is a reference to the current version of election management software utilized by State and County Election Board personnel, as applicable.

**"Oklahoma Voter Registration Application"** means the form prescribed by the Secretary of the State Election Board for use in Oklahoma to apply for voter registration or to apply for change of voter registration by mail, at ~~motor license agencies~~ Service Oklahoma locations, licensed operators, and at all voter registration agencies identified in 230:15-5-122 and 230:15-5-123.

**"Passive voter registration application services"** means that personnel of a ~~motor license agency~~ licensed operator or of a voter registration agency identified in 230:15-5-122 or 230:15-5-123 are required to make the Oklahoma Voter Registration Application form available to persons conducting business with the agency and to the general public but are not directly involved in the voter registration application process, and are not required to accept completed applications for transmittal to the State Election Board. [See 230:15-5-108 and 230:15-5-131.]

**"Proof of identity"** means a form of personal identification that meets the requirements listed in 26 O.S., Section 7-114, as amended by State Question 746.

**"Valid application"** means a voter registration application that results in a new voter registration or in a change to an existing voter registration.

**"Voter registration agency"** means an office of a governmental agency specified in either 230:15-5-122 or in 230:15-5-123, or a location designated by such agencies, at which either active or passive voter registration application services are available.

## SUBCHAPTER 3. VOTER OUTREACH

### PART 3. DISTRIBUTION OF VOTER REGISTRATION APPLICATION FORMS

#### 230:15-3-23. Voter registration application forms available to individuals [AMENDED]

(a) The printed Oklahoma Voter Registration Application form generally shall be available to any individual applicant for voter registration or for change of voter registration in the following locations.

(1) ~~Motor license agencies~~ Designated Service Oklahoma locations. Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application form at any ~~motor license agency~~ licensed operator or designated Service Oklahoma location in Oklahoma. See 230:15-5-100 and 230:15-5-103.

(2) **Voter registration agencies**. Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application form at any voter registration agency identified in 230:15-5-122 and 230:15-5-123. See 230:15-5-124.

(3) **Public libraries**. Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application in any public library in Oklahoma. Public library personnel shall have no responsibility either to offer applications to library patrons or to collect completed applications.

(4) **United States Post Offices**. Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application form at any United States Post Office in Oklahoma. United States Postal Service employees shall have no responsibility either to offer applications to post office patrons or to collect completed applications. Applications obtained in a United States Post Office shall be mailed to the State Election Board by the applicant.

(b) The ~~federal voter registration application form~~ National Mail Voter Registration Form is widely available online. State Election Board and County Election Board personnel shall refer persons who want a copy of the ~~federal voter registration application form~~ National Mail Voter Registration Form to the United States Election Assistance Commission's website; ~~although they may print a copy upon request. The federal voter registration application form is available online at www.eac.gov. It may be filled out online, but it must be downloaded, printed, signed personally by the applicant as described in 230:15-5-84(c), and mailed or delivered.~~ The National Mail Voter Registration Form may be completed and



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submitted by mail or in person to the State Election Board, to the applicant's County Election Board, or to a motor license agency licensed operator or designated voter registration agency to be processed. A federal voter registration application form National Mail Voter Registration Form cannot be submitted online, by electronic mail, by fax, or by any other electronic means in Oklahoma.

(c) The Oklahoma Voter Registration Application form is available online at on the State Election Board website. Applicants may also apply for voter registration or make changes to their voter registration using the Online Voter Registration System. Currently registered voters may make changes to their voter registration using the OK Voter Portal.

## SUBCHAPTER 5. APPLICATION FOR VOTER REGISTRATION

### PART 1. QUALIFICATIONS FOR REGISTRATION

#### **230:15-5-1. Persons eligible to register to vote [AMENDED]**

(a) Persons who are citizens of the United States and residents of the State of Oklahoma who are eighteen years of age or older may register to vote at their address of residence. [Okla. Const. Art. 3, Sect. 1; 26:4-101] Persons living on federal property, such as a military base, who are residents of Oklahoma and otherwise qualified, are eligible to register at an address located on such property.

(b) Persons eligible to register to vote may apply for voter registration by mail, online, in person at any voter registration agency identified in 230:15-5-122 and 230:15-5-123, at a motor license agency designated Service Oklahoma locations, or any other method authorized by law. See 230:15-5-83, 230:15-5-100, and 230:15-5-125.

#### **230:15-5-3. Felons ineligible to register to vote [AMENDED]**

(a) Persons who have been convicted of a felony shall be eligible to register to vote when they have fully served their sentence of court-mandated calendar days, including any term of incarceration, parole or supervision, or completed a period of probation ordered by any court. [26:4-101] met the requirements as set forth in paragraph 1 of 26 O.S. § 4-101.

(b) To aid in determining eligibility, the following example is offered. A person convicted of a felony and sentenced to five years, with the sentence suspended, may not register for five years. A person convicted of a felony and sentenced to ten years and who is paroled after serving only three years may not become a registered voter for ten years.

#### **230:15-5-4. Exceptions for felony convictions [AMENDED]**

(a) A deferred sentence is not considered a conviction under Oklahoma law.

(b) Persons who have been convicted of a felony, but who have received a full pardon and thus have been restored to full citizenship as set forth in paragraph 1 of 26 O.S. § 4-101, may become registered voters provided they are otherwise qualified.

(c) A convicted felon ~~Persons who have been convicted of a felony whose sentence is has been commuted as set forth in paragraph 1 of 26 O.S. § 4-101 is eligible to register to vote so long as the commutation results in the sentence being "fully served."~~

## PART 9. ACCESSIBILITY OF VOTER REGISTRATION APPLICATION SERVICES

#### **230:15-5-36. Accessibility of voter registration application services for elderly and handicapped voters [AMENDED]**

(a) Voter registration application services in motor license agencies designated Service Oklahoma locations and in voter registration agencies listed in 230:15-5-122 and 230:15-5-123 shall be made accessible to elderly and handicapped voters.

(b) If an applicant for voter registration in a motor license agency designated Service Oklahoma location or in a voter registration agency identified in 230:15-5-122 or 230:15-5-123 requests assistance to complete the Oklahoma Voter Registration Application form, personnel of the motor license agency licensed operator or of the voter registration agency shall be required to provide the same degree of assistance to complete the voter registration application as they provide to complete the motor license agency's licensed operator's own forms. [26:4-109.2(B)(2)]

(c) In the event that an applicant for voter registration is incapable of personally signing or making his or her mark on the voter registration application form, the applicant shall select an assistant to help him or her complete the voter registration application form. [26:4-112] The assistant may be any person the applicant chooses. Personnel of motor license agencies licensed operators and of voter registration agencies identified in 230:15-5-122 and 230:15-5-123 shall be required to assist such applicants if requested by the applicants to do so. [26:4-112] The assistant shall be required to

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complete the voter registration application form exactly as instructed by the applicant. The following procedure shall be observed.

- (1) The assistant shall read the Oath to the applicant so that the applicant may determine whether he or she is eligible to register to vote in Oklahoma.
  - (2) The assistant shall read the Important Information printed on the back of the Oklahoma Voter Registration Application form to the applicant.
  - (3) The assistant shall print the applicant's name on the application form in the spaces provided.
  - (4) The assistant shall check the appropriate box to indicate the applicant's political affiliation. The assistant shall read the instructions for Section 2 - Political Affiliation to the applicant if necessary.
  - (5) The assistant shall print the applicant's date of birth, Oklahoma driver's license number, the last four digits of the Social Security number, if necessary, the applicant's address of residence, mailing address, and county of residence in the appropriate spaces on the application form. The assistant shall read the instructions for Section 6 - Street Address or Directions to Your Home to the applicant if necessary.
  - (6) The assistant shall ask the applicant if he or she has ever been registered to vote before and shall indicate the applicant's answer by checking the appropriate box in Section 9. The assistant shall read the instructions for Section 9 - Have You Been Registered Before? to the applicant if necessary. If the applicant has been registered to vote before, the assistant shall record as much information about the former registration as possible in the spaces provided.
  - (7) If the applicant is incapable of signing the application or of making his or her mark on the application, the assistant shall print the applicant's name in the space provided for Signature or Mark of Applicant. The assistant shall write his or her own initials beside the applicant's printed name. The assistant shall enter the date in the space provided.
  - (8) The assistant shall print his or her own name and address in the space provided at the bottom of the form.
- (d) If an applicant for voter registration in a ~~motor license agency~~ designated Service Oklahoma location or in a voter registration agency identified in 230:15-5-122 or 230:15-5-123 requests assistance to complete the Oklahoma Voter Registration Application form from agency personnel, the procedure outlined in (c)(1) through (7) of this Section shall be observed. ~~The assistant then shall print his or her own name and the agency's address in the shaded area marked "Office Use Only" on the instructions portion of the application form.~~

## PART 21. VOTER REGISTRATION APPLICATION BY MAIL

### 230:15-5-83. Applying for voter registration by mail [AMENDED]

- (a) A person eligible to become a registered voter in Oklahoma may apply by mail for voter registration. Application for voter registration may be made by completing one of the official voter registration application forms described in (c) of this Section and by mailing it to the State Election Board.
- (b) A registered voter may apply by mail to change his or her name, political affiliation or residence address for voting purposes. Application for a change of address, political affiliation or name may be made by completing one of the official voter registration application forms described in (c) of this Section.
- (c) Persons eligible to become registered voters may apply for new voter registration and registered voters may apply to change their voter registrations in Oklahoma by using either of the following official voter registration application forms.
  - (1) **Oklahoma Voter Registration Application.** The Oklahoma Voter Registration Application form may be used to apply for voter registration or for change of voter registration. The Oklahoma Voter Registration Application form shall be made available at the offices of the State Election Board and of each County Election Board, in all ~~motor license agencies~~ designated Service Oklahoma locations, and in the offices of all voter registration agencies identified in 230:15-5-122 and 230:15-5-123. The Oklahoma Voter Registration Application form also shall be made available in public libraries and in United States Post Offices throughout Oklahoma. The Oklahoma Voter Registration Application also may be downloaded and printed from the State Election Board's website: [www.elections.ok.gov](http://www.elections.ok.gov).
  - (2) **Federal Voter Registration Application National Mail Voter Registration Form.** The ~~federal Voter Registration Application form~~ National Mail Voter Registration Form may be used to apply for voter registration or for change of voter registration in Oklahoma. The ~~federal Voter Registration Application~~ National Mail Voter Registration Form shall be available from the State Election Board, from all County Election Boards, and in other locations designated by the Secretary of the State Election Board. The ~~federal Voter Registration Application~~ National Mail Voter Registration Form also may be downloaded and printed from the United States Election Assistance Commission website: [www.eac.gov](http://www.eac.gov).

(d) Only applications submitted on the voter registration application forms named in (c) of this Section shall be accepted in Oklahoma. A letter or other written application for voter registration shall not be accepted. Voter registration application forms prescribed for use in other states shall not be accepted in Oklahoma. Voter registration applications shall not be accepted by electronic facsimile transmission ("fax") or by electronic mail transmission ("e-mail").

**PART 23. VOTER REGISTRATION APPLICATION SERVICES AT ~~DEPARTMENT OF PUBLIC SAFETY FACILITIES AND IN MOTOR LICENSE AGENCIES~~ SERVICE OKLAHOMA LOCATIONS AND IN LICENSED OPERATORS [AMENDED]**

**230:15-5-100. Voter registration application services provided with driver license services at ~~Department of Public Safety facilities and at motor license agencies~~ Service Oklahoma locations and at licensed operators [AMENDED]**

(a) **Voter registration application services required.** Both federal and state law require that an application for a new driver license in Oklahoma shall be a simultaneous application for voter registration unless the driver license applicant specifically opts out of voter registration. The choice to opt out of voter registration shall be indicated in writing.

(b) **New driver license.** Each person who applies for a new Oklahoma driver license or a new state identification card at a ~~Department of Public Safety facility~~ designated Service Oklahoma location shall be provided with simultaneous voter registration services as mandated by the National Voter Registration Act [52 USC '20504] and by state law. [26:4-109.3] ~~An application submitted for a new driver license or new state identification card shall serve as an application for voter registration unless the applicant fails to sign the voter registration application. A Department of Public Safety driver license examiner enters information provided by each driver license applicant into the Department of Public Safety system. Information that is common to both the driver license and voter registration applications then prints on a voter registration application form unless the applicant has opted not to apply for voter registration. The examiner gives the applicant the voter registration application form and instructs the applicant to verify that all information is correct and to select a political affiliation, to enter information about previous voter registration in the spaces provided, to read the oath, and to sign and date the form. The examiner takes the signed voter registration application from the applicant and sends it by mail to the State Election Board as described in 230:15-5-108. When a new driver license recipient subsequently appears at a motor license agency to have his or her driver license made, motor license agency personnel are not required to repeat the offer of voter registration services.~~

(c) **Driver license renewal.** Each person who renews an Oklahoma driver license or a state identification card at a ~~motor license agency~~ designated Service Oklahoma location shall be offered the opportunity by ~~motor license agency~~ licensed operator personnel to register to vote by ~~filling out and signing a paper copy of the Oklahoma Voter Registration Application form~~ utilizing the information supplied for such services for voter registration purposes. ~~Motor license agency~~ Service Oklahoma and licensed operator personnel shall accept such completed and signed applications and shall send them electronically or by mail to the State Election Board as outlined in 230:15-5-108.

(d) **Driver license change of address or name.** A change of address or name for a driver license or state identification card submitted in person at a ~~motor license agency~~ designated Service Oklahoma location or a change of address submitted online through the ~~Department of Public Safety~~ Service Oklahoma website also shall serve as a simultaneous change of address for voter registration purposes ~~if the new address is located within the same county where the voter is currently registered to vote unless the applicant opts out of voter registration. However, the County Election Board shall not be authorized to change the name of a registered voter based only upon an electronic submission of data from the Department of Public Safety. Sec 230:15-5-102.1(c).~~

**230:15-5-101. Training for ~~motor license agency~~ licensed operator personnel [AMENDED]**

All ~~motor license agency~~ licensed operator personnel shall receive training prior to offering active voter registration application services. The training shall be prescribed by the Secretary of the State Election Board and provided to Service Oklahoma to distribute to its driver license examiners and licensed operators and utilized at the annual training provided by Service Oklahoma. It shall be the responsibility of each ~~motor license agency~~ licensed operator to ensure that all employees are trained to provide voter registration application services as required by law.

**230:15-5-101.1. Training for driver license examiners and other ~~Department of Public Safety~~ Service Oklahoma personnel [AMENDED]**

All ~~Department of Public Safety~~ Service Oklahoma personnel shall receive training prior to providing voter registration services to persons applying for a new Oklahoma driver license or state identification card. The training shall be prescribed by the Secretary of the State Election Board and may be conducted by designated State Election Board agency personnel or by designated ~~Department of Public Safety Driver License Services~~ Service Oklahoma personnel. It

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shall be the responsibility of the ~~Department of Public Safety Driver License Service~~Service Oklahoma personnel to ensure that all applicable employees are trained to provide voter registration services as required by federal and state law.

## **230:15-5-102. ~~Motor license agency procedure~~Procedure for simultaneous voter registration application with a driver license renewal [AMENDED]**

~~\_\_\_\_\_~~(a) ~~Motor license agency~~Licensed operator personnel shall offer voter registration services to each person who is a citizen of the United States, a resident of the State of Oklahoma, and is a qualified elector who appears in person to renew an Oklahoma driver license or state identification card, change the address on an Oklahoma driver license or state identification card, or change name on an Oklahoma driver license or state identification card.

(1) Ask the applicant to read, fill out, and sign the Voter Registration Statement.

(2) If the applicant indicates on the Voter Registration Statement that the applicant wants to register to vote, provide a copy of the Oklahoma Voter Registration Application form. Retain the Voter Registration Statement.

(3) If the applicant indicates on the Voter Registration Statement that the applicant does not want to register to vote, retain the Voter Registration Statement and proceed with the motor license agency's business.

(4) Follow agency procedure to ensure that a completed voter registration application form is date-stamped on the day it is received in your office and that the motor license agency identification number is entered in the "MLA Use Only" box on the form. Place the completed form in the correct location to be mailed to the State Election Board and proceed with the motor license agency's business.

(b) If the applicant either leaves the Voter Registration Statement blank or refuses to fill it out, give the applicant an Oklahoma Voter Registration Application to take home. If the applicant refuses the application form, note the refusal on the Voter Registration Statement. Print the applicant's name and the date on the Voter Registration Statement form and file it as directed. Proceed with the motor license agency's business.

## **230:15-5-102.1. ~~Motor license agency procedure~~Procedure for simultaneous voter registration application with in-person driver license change of address or name [AMENDED]**

(a) A change of address for an Oklahoma driver license or state identification card submitted by a registered voter also shall serve as a change of address for voter registration purposes ~~if the new address is located within the same county where the voter is registered.~~ [26:4-109.3] However, a change of address for an Oklahoma driver license or state identification card shall not be used to update a voter registration address if the registrant states in writing that the change of address is not for voter registration purposes. [26:4-109.3]

(b) ~~Motor license agency~~Licensed operator personnel, through the use of Service Oklahoma's electronic service system, shall ~~follow this procedure to provide~~ voter registration services to customers who appear in person to change their address on a driver license. The electronic service system must:

(1) Ask the applicant to read, fill out, and sign the Voter Registration Statement.

(2) If the customer indicates on the Voter Registration Statement that the applicant wants to register to vote, Service Oklahoma must retain an electronic copy of~~keep~~ the Voter Registration Statement and the electronic service system must proceed to step (4) of this subsection.

(3) If the applicant indicates that the applicant does not want to register to vote, Service Oklahoma must retain an electronic copy of~~keep~~ the Voter Registration Statement.

(4) Give each applicant for change of address or name a copy of the Notice of Change of Address or Name form provided by ~~the Driver License Services Division of the Oklahoma Department of Public Safety~~Service Oklahoma.

(5) Instruct each applicant to provide both a residence address and a mailing address ~~on the Department of Public Safety form~~.

(6) ~~Motor license agency~~ personnel shall receive the completed and signed Notice of Change of Address or Name form and shall follow instructions provided by the Department of Public Safety to enter all information provided on the form, including both residence address and mailing address, into the Department of Public Safety system. If the applicant indicated on the Voter Registration Statement that the applicant does not want to register to vote, check to see that the applicant checked the box on the Department of Public Safety form to indicate that the change of address or name is not for voter registration.

(c) When a registered voter submits a driver license name change in person ~~at a motor license agency~~, ~~motor license agency~~licensed operator personnel, through the use of Service Oklahoma's electronic service system, must follow the procedure described in (b) of this Section to obtain and record the new name in the ~~Department of Public Safety~~Service Oklahoma system. The information is provided electronically to the State Election Board by ~~the Department of Public Safety~~Service Oklahoma, and if a match is found with an existing registered voter, the information is then delivered electronically to the appropriate County Election Board for processing. ~~However, the County Election Board shall not~~

update a voter registration record with the new name based only on the electronic data submission from the Department of Public Safety. If County Election Board personnel determine that the match is valid, a letter to the voter is created instructing the voter to complete and submit a paper voter registration application form, a copy of which should be enclosed with the letter, to change the voter's name. An original signature of the voter's new name shall be required to complete a name change for voter registration purposes.

### **230:15-5-102.3. Confidential information regarding voter registration services [AMENDED]**

Information related to an individual's decision not to register to vote or to the identity of the agency at which any person applied to register to vote shall not be made public and shall not be used for any purpose other than voter registration. The identity and location of a ~~motor license agency licensed operator~~ or ~~Department of Public Safety facility designated Service Oklahoma location~~ at which a person registers or declines to register to vote shall not be disclosed to the public. ~~Department of Public Safety and motor license agency~~ Licensed operator or Service Oklahoma personnel shall not write or stamp any information that could identify the agency outside the shaded box labeled for such purpose and located at the top of the voter registration application form. Completed and signed voter registration applications shall be maintained in a secure and confidential manner until they are mailed to the State Election Board as provided in 230:15-5-108.

### **230:15-5-103. Passive voter registration application services in ~~motor license agency licensed operator locations~~ [AMENDED]**

- (a) ~~Motor license agency Licensed operator~~ personnel shall provide a paper copy of the Oklahoma Voter Registration Application form to any person who requests one while conducting any business transaction in the agency other than those described in 230:15-5-100. ~~Motor license agency Licensed operator~~ personnel also shall provide a paper Oklahoma Voter Registration Application form to any person who requests one even if the person does not conduct a business transaction with the ~~motor license agency licensed operator~~.
- (b) ~~Motor license agency Licensed operator~~ personnel shall accept paper voter registration application forms completed in the agency as a result of passive voter registration application services for transmittal to the State Election Board. The Voter Registration Statement form shall not be required in connection with passive voter registration application services.
- (c) ~~Motor license agency Licensed operator~~ personnel shall not be authorized to provide any group or individual with paper voter registration application forms for voter registration drives or other similar activities. ~~Motor license agency Licensed operator~~ personnel shall refer all persons who request forms for voter registration drives or other similar activities to the local County Election Board office or to the State Election Board. ~~Motor license agency Licensed operator~~ personnel shall be authorized, but shall not be required to accept completed voter registration application forms that originated outside the ~~motor license agency licensed operator~~ for transmittal to the State Election Board. If such forms are accepted, however, agency personnel shall ensure that the forms are stamped with a received date and sent to the State Election Board as outlined in 230:15-5-107 and 230:15-5-108. However, the agency ID number shall not be entered on such forms and the ~~motor license agent~~ shall not be eligible to receive compensation as outlined in 230:15-5-110. ~~Motor license agency Licensed operator~~ personnel may direct persons with quantities of completed voter registration application forms to the local County Election Board office or to the State Election Board for appropriate instructions.
- (d) ~~Motor license agencies Licensed operators~~ have no authority to accept absentee ballots from voters or to transmit absentee ballots to the State Election Board in a pre-addressed, postage-paid business reply envelope provided to the agency for voter registration applications.
- (e) Pre-addressed, postage-paid business reply envelopes provided to licensed operators shall be used to transmit completed Voter Registration Applications only. Such envelopes shall only be used by licensed operator personnel for the transmission of completed Voter Registration Applications and shall not be supplied to any individual voter.

### **230:15-5-104. ~~Department of Public Safety and motor license agency~~ Service Oklahoma and licensed operator personnel responding to questions and/or requests for information about voter registration or election conduct [AMENDED]**

~~Department of Public Safety~~ Service Oklahoma and ~~motor license agency licensed operator~~ personnel shall not answer questions or provide information concerning voter registration or election conduct unless the answer or information is contained in the written materials supplied by the State Election Board. Applicants who have questions that cannot be answered by ~~Department of Public Safety~~ Service Oklahoma or ~~motor license agency licensed operator~~ personnel

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shall be referred to the office of the local County Election Board, to the State Election Board office, or to the State Election Board's website: [www.elections.ok.gov](http://www.elections.ok.gov). ~~Department of Public Safety~~Service Oklahoma and ~~motor license agency licensed operator~~ personnel shall not attempt to explain or to amplify the information contained in the written materials supplied by the State Election Board.

## **230:15-5-105. Voter registration application services impartial and nonpartisan [AMENDED]**

Voter registration application services shall be provided in an impartial and nonpartisan manner. ~~Department of Public Safety~~Service Oklahoma and ~~motor license agency licensed operator~~ personnel providing voter registration application services are advised not to do any of the following things.

- (1) Do not seek to influence an applicant's political affiliation or party registration.
- (2) Do not display any political preference or party allegiance.
- (3) Do not make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote.

## **230:15-5-106. Responsibility for Voter Registration Statements received in ~~motor license agency licensed operator~~ locations [AMENDED]**

~~(a) Retention of Voter Registration Statements. Completed electronic Voter Registration Statements shall be retained by the motor license agency Service Oklahoma for 24 months from the date of application. [26:4-109.3] Procedures for retention and disposal of Voter Registration Statements shall be established by each motor license agent. However, each motor license agent shall ensure that Voter Registration Statements are filed and retained Service Oklahoma shall retain electronic documentation of the Voter Registration Statement so that an individual applicant's statement can be located and provided to state or county election officials in a timely manner, if the statement is needed to determine an individual's eligibility to vote in an election.~~

~~(b) Custody of Voter Registration Statements when motor license agent changes or agency ceases to exist. In the event of a change in motor license agent or in the event that a motor license agency ceases to exist, completed Voter Registration Statements shall be transferred to the designated representative of the Oklahoma Department of Public Safety who shall be responsible for retaining the statements in accordance with state and federal law and for making such statements available to state or county election officials in a timely manner if they are needed to determine an individual's eligibility to vote in an election.~~

## **230:15-5-107. Source coding and dating completed applications received by ~~motor license agency licensed operator~~ [AMENDED]**

The ~~motor license agent licensed operator~~ shall ensure that the date a voter registration application is received through either active voter registration application services described in 230:15-5-102 or through passive voter registration application services described in 230:15-5-103 is written or stamped in the shaded area labeled "VRA/MLAVRA/LO Office Use Only" at the top of the form. The identification number assigned to the ~~motor license agency licensed operator~~ by the ~~Oklahoma Tax Commission~~Service Oklahoma also shall be written or stamped on each form in the space provided. ~~Agency Licensed operator~~ personnel shall ensure that no information that could identify the ~~agency office~~ is written or stamped outside the shaded area provided at the top of the form.

## **230:15-5-108. Transmitting completed Oklahoma Voter Registration Application forms to the State Election Board [AMENDED]**

(a) Transmittal deadline. All completed Oklahoma Voter Registration Application forms received by ~~Department of Public Safety~~Service Oklahoma personnel and at a ~~motor license agency licensed operator~~ as a result of voter registration services provided simultaneously with driver license services shall be transmitted to the State Election Board at the close of business each week. In addition, all voter registration application forms received by ~~motor license agency licensed operator~~ personnel from customers transacting other business with the agency also shall be transmitted to the State Election Board at the close of business each week.

(b) Procedure for transmitting completed Oklahoma Voter Registration Applications. The following procedure shall be observed by ~~Department of Public Safety~~Service Oklahoma and ~~motor license agency licensed operator~~ personnel to transmit all completed Oklahoma Voter Registration Application forms to the State Election Board.

- (1) Place all completed Oklahoma Voter Registration Application forms received during the week in a postage-paid, pre-addressed business reply envelope provided by the State Election Board.
- (2) Seal the envelope containing completed Oklahoma Voter Registration Application forms and mail it to the State Election Board at the close of business each week.

(c) Transmitting applications received through passive voter registration application services. All voter registration applications completed in a ~~motor license agency~~designated Service Oklahoma location from persons transacting business other than renewing or updating a driver license also shall be date-stamped and coded as outlined in 230:15-5-107 and shall be mailed to the State Election Board as outlined in (a) and (b) of this Section.

(d) The postage-paid, pre-addressed business reply envelope provided by the State Election Board to ~~motor license agencies~~licensed operators and to ~~Department of Public Safety~~Service Oklahoma driver license examiners shall not be used for any purpose other than mailing completed voter registration application forms to the State Election Board on a weekly basis and shall not be provided to applicants to mail their own applications.

(e) Nothing in this Section shall prohibit an agreement between a ~~motor license agent~~licensed operator or ~~Department of Public Safety~~Service Oklahoma driver license examiner and the Secretary of the County Election Board to allow County Election Board personnel to pick up completed voter registration applications from the ~~motor license agency~~licensed operator or driver license examiner on a regular basis.

### **230:15-5-109. Materials for voter registration application services in ~~motor license agency~~licensed operator locations [AMENDED]**

(a) All forms and materials required to provide simultaneous voter registration services in a ~~Department of Public Safety facility or a motor license agency~~designated Service Oklahoma locations shall be prescribed by the Secretary of the State Election Board.

(b) The Secretary of the State Election Board shall prepare and provide to the ~~Department of Public Safety Driver License Services and to each motor license agent~~Service Oklahoma the instructions, forms and supplies necessary to provide simultaneous voter registration services. ~~Department of Public Safety Driver License Services~~Service Oklahoma and individual ~~motor license agents~~licensed operators shall be responsible for ordering additional materials from the State Election Board as needed. ~~Motor license agency~~Licensed operator personnel shall not be authorized to obtain voter registration application forms and materials from the local County Election Board office.

(c) The following materials shall be required to provide active voter registration application services in a ~~motor license agency~~designated Service Oklahoma locations.

(1) Oklahoma Voter Registration Application forms, pre-coded to indicate the form originated with a ~~motor license agency~~licensed operator.

(2) ~~Voter Registration Statement forms.~~

(3) ~~Pre-addressed, postage-paid business reply envelopes for transmitting completed voter registration applications to the State Election Board.~~

(4) ~~Procedure for Voter Registration cards.~~

(5) ~~Voter Registration Application Checklist cards.~~

(6) ~~Register While You Are To Vote Here Today signs.~~

(d) On any occasion that persons conducting business with a ~~motor license agency~~licensed operator that does not include the renewal or update of a driver license requests voter registration, the use of the Voter Registration Statement form shall not be required. However, ~~motor license agency~~licensed operator personnel are advised and encouraged to follow the ~~Renew A Driver License~~ steps described on the most recent Procedure for Voter Registration card provided by the State Election Board to review the content of any submitted voter registration application for completeness.

### **230:15-5-110. Payment of ~~motor license agents~~licensed operators [AMENDED]**

(a) **Payment for valid paper applications only.** ~~Motor license agents~~Licensed operators shall be paid fifty cents by the State Election Board for each valid paper voter registration application form completed in ~~the motor license agency~~their office. [26:4-109.3] A valid voter registration application shall be one that results either in a new voter registration or in a change to an existing voter registration. However, payment can be made only if the identification code assigned to the ~~motor license agency~~licensed operator by the ~~Oklahoma Tax Commission~~Service Oklahoma is stamped or written in the shaded area provided for that purpose at the top of the form.

(b) **Schedule for payment.** ~~Motor license agents~~ shall be paid on a schedule to be determined by the Secretary of the State Election Board. ~~However, motor license agents~~Licensed operators shall be paid at least four times each year. ~~Motor license agent~~Licensed operator payroll records shall be cleared on March 31, June 30, September 30 and December 31 of each year.

## **PART 27. ONLINE VOTER REGISTRATION APPLICATION SERVICES**

### **230:15-5-140. Online submission of applications for voter registration authorized [AMENDED]**

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- (a) Online voter registration services are provided through the State Election Board's Voter Portal as authorized by state law. [26:4-109.4]
- (b) No other method, source, or system for online voter registration is authorized. Voter registration application forms shall not be accepted through e-mail, fax, or any other means of electronic delivery.
- (c) All voter registration applications submitted through the secure portal on the State Election Board website will be delivered to the appropriate County Election Board through the State Election Board's election management system. The County Election Board Secretary in each county shall cause all such electronically submitted applications to be reviewed, processed, and to be either approved or rejected according to procedures outlined in 230:15-9-18 through 230:15-9-36.
- (d) Applications for voter registration submitted through the secure portal on the State Election Board's website shall be subject to the same deadlines preceding elections and the same restrictions concerning party affiliation change in even-numbered years as are all applications for voter registration submitted in person at a County Election Board office, by mail, through a public assistance agency, Service Service Oklahoma, or a motor license agency licensed operator. See 230:15-5-86(b) and 230:15-5-87.

## SUBCHAPTER 9. RECEIVING AND PROCESSING VOTER REGISTRATION APPLICATIONS

### PART 1. RESPONSIBILITIES OF THE STATE ELECTION BOARD FOR VOTER REGISTRATION

#### **230:15-9-1. Secretary of State Election Board is chief state election official [AMENDED]**

- (a) The Secretary of the State Election Board shall be the chief state election official responsible for coordination of Oklahoma's responsibilities under the National Voter Registration Act of 1993. [26:2-107] The Secretary shall have the authority to implement programs for the confirmation of voter registration and for removal of ineligible voters in compliance with the general election laws of Oklahoma and with the requirements of the National Voter Registration Act of 1993. [26:2-107]
- (b) The Secretary of the State Election Board shall devise and distribute a voter registration application to be used to register voters by mail, at ~~Department of Public Safety facilities~~ designated Service Oklahoma locations, in ~~motor license agencies~~ licensed operators that provide driver license services, and in voter registration agencies identified in 230:15-5-122 and 230:15-5-123. [26:4-112] The Secretary also shall devise a voter identification card which shall be issued to every person who becomes a registered voter. [26:4-113] The Secretary shall designate locations where voter registration applications will be available for distribution. [26:4-109]
- (c) The Secretary of the State Election Board shall promote and encourage voter registration and voter participation in elections. [26:2-107]

#### **230:15-9-2. Voter registration applications transmitted to the State Election Board [AMENDED]**

- (a) All paper voter registration applications received by driver license examiners at ~~Department of Public Safety~~ designated Service Oklahoma locations, ~~at motor license agencies that provide driver license services~~, and at voter registration agencies as a result of voter registration services shall be transmitted by agency personnel to the State Election Board. The State Election Board shall provide pre-addressed, postage-paid business reply envelopes to ~~Department of Public Safety driver license examiner facilities~~, to all motor license agencies designated Service Oklahoma locations that provide driver license services, and to voter registration agencies identified in 230: 15-5-122 and 230:15-5-123 to use to transmit completed paper voter registration application forms to the State Election Board.
- (b) All paper voter registration application forms submitted by mail shall be received at the State Election Board.
- (c) Instructions that accompany the national voter registration application form direct applicants using that form to mail the form to the State Election Board.
- (d) Paper voter registration application forms may be submitted in person at the State Election Board by applicants and by third parties on behalf of applicants. Applications submitted in person at the State Election Board shall be processed in the same manner described in 230:15-9-3.

#### **230:15-9-3. Processing paper voter registration applications received at the State Election Board [AMENDED]**

- (a) State Election Board personnel shall apply a date stamp to each paper voter registration application form received at the State Election Board. The date stamp shall be applied on the side of the form bearing postage, the State Election Board's mailing address and the applicant's return address.



- (b) When several paper voter registration application forms are received by mail at the State Election Board in a single envelope and the applications did not originate with a driver license examiner, in a ~~motor license agency~~licensed operator office that provides driver license services, or in a voter registration agency identified in 230:15-5-122 and 230:15-5-123, State Election Board personnel shall indicate the postmark date from the envelope on each form. If the postmark on such an envelope is illegible, State Election Board personnel shall so indicate on each form received in that envelope.
- (c) State Election Board personnel shall sort received paper voter registration applications by county and then shall transmit the voter registration applications to the appropriate County Election Board. Accumulated voter registration applications shall be transmitted to the appropriate County Election Boards on a regular basis and not less than once each week.

### PART 3. COUNTY ELECTION BOARD RESPONSIBILITY FOR PROCESSING VOTER REGISTRATION APPLICATIONS

#### 230:15-9-11. Receiving voter registration applications at the County Election Board [AMENDED]

- (a) The County Election Board shall receive from the State Election Board on a regular basis a package containing paper voter registration applications that have been received previously by driver license examiners, ~~motor license agency~~licensed operator personnel, and voter registration agency personnel as a result of voter registration services, voter registration applications received by mail, and voter registration applications received in person at the State Election Board.
- (b) The County Election Board shall receive paper voter registration applications in person from applicants and in person from third parties on behalf of applicants. The Secretary of the County Election Board shall cause the date that such registration applications are received to be stamped on the application form immediately upon receipt. If a voter registration application received in person from either an applicant or a third party is for another county, the Secretary of the County Election Board that received the application shall indicate the date it was received and immediately shall transmit it either to the State Election Board or, if it can be determined, to the correct County Election Board. See 230:15-5-131(d).
- (c) Applications shall be placed in the Applications Received file until they are processed by County Election Board personnel as outlined in 230:15-9-12 and 230:15-9-18 through 230:15-9-23.

### PART 5. PROCESSING VOTER REGISTRATION APPLICATIONS

#### 230:15-9-18. Entering paper applications for voter registration in MESA [AMENDED]

- (a) **Entering voter registration application information in MESA.** All information provided by the applicant on a paper voter registration application form shall be entered into MESA. Follow the appropriate software instructions to enter the voter registration data. Refer to the following rules to resolve questions about individual applications.
- (1) **Received date.** The received date is the date stamped or written on a voter registration application form by the agency that first receives it from the applicant.
- (A) The received date for an application submitted by mail is the date the State Election Board received and stamped it. The State Election Board's ~~blue~~ received date stamp is applied to the back of the form.
- (B) The received date for an application submitted at a ~~motor license agency~~licensed operator or at any voter registration agency identified in 230:15-5-122 and 230:15-5-123 is the date stamped or written by agency personnel in the space provided for this purpose on the face of the form.
- (C) The received date for a paper voter registration application submitted at the County Election Board in person by an applicant or by a third party on the behalf of an applicant shall be the date stamped on the back of the form by the County Election Board.
- (D) The received date for a voter registration application bearing no date stamped or written by a receiving agency is the date by the applicant beside his or her signature on the form.
- (2) **Postmark.** The postmark date from a voter registration application submitted by mail shall be entered in the voter registration software. If there is no postmark or if the date is missing or illegible, leave the postmark field blank. If multiple paper voter registration applications are received by mail at the State Election Board in a single envelope with a postmark, the postmark date from that envelope is applied to each application with a red stamp.
- (3) **Name.** Enter the voter's name exactly as provided on the application form.

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(4) **Political affiliation.** Enter the voter's choice of political party as it appears on the application form. If the voter marked the "No Party" box, select "Independent" from the drop-down menu. (There is not an Independent Party in Oklahoma. Independent means "no party.") If the applicant neither chose nor wrote in a party in the Political Affiliation section on the application form, if the applicant marked more than one party, or wrote in a party that is not recognized in Oklahoma, the political affiliation field on the screen shall be left blank with the result that the software will automatically designate the applicant's affiliation as Independent. See also 230:15-5-84 and 230:15-9-22.

(5) **Date of birth.** An applicant for new voter registration must provide his or her date of birth (month, day, and year) on the application form. See 230:15-5-84. An application for new registration that does not include the date of birth shall be rejected. See 230:15-9-31. In the event that a registered voter submits an application for change of registration and does not provide his or her date of birth, the application shall be rejected unless both of the following circumstances exist.

(A) The application is valid in all other respects and County Election Board personnel are able to make positive identification of the voter from other information on the application form and from information already recorded in the voter registration database.

(B) The voter's date of birth already is recorded in the voter registration database.

(6) **Identification number.** Enter the Oklahoma driver license number and/or last four digits of the Social Security number. If the applicant does not provide either of these identification numbers, but checks the appropriate box on the application form to indicate that the applicant does not possess either of these numbers, check the corresponding box on the screen. If the applicant used an older version of the Oklahoma Voter Registration Application form that does not provide a check box for the applicant to indicate that he or she does not possess either of these identification numbers, the application shall be rejected.

(7) **Duplicates.** When voter registration application information is entered in MESA, the software automatically searches for and identifies duplicate or potential duplicate records in the state. The search criteria are first name, last name, and date of birth and/or an identification number such as the last four digits of the Social Security number or driver license number. If an application appears to duplicate an existing voter registration either in your county or in another county, follow the appropriate software instructions and the procedure described in 230:15-9-23 to investigate and resolve the potential duplication.

(8) **Residence address.** An applicant for voter registration is required to provide his or her residence address on the application form. Enter the applicant's residence address in the appropriate fields on the screen. If the address cannot be assigned in the Street Guide based on the information entered, see 230:15-9-18.1.

(9) **Mailing address.** If the applicant provided a mailing address different from his or her residence address, enter the mailing address. If the applicant's mailing address is the same as the residence address or if the space for mailing address is blank, leave the mailing address field on the screen blank.

(10) **County of Residence.** An applicant for voter registration is required to indicate the county of his or her residence. An application on which the county of residence is either not indicated or is indicated incorrectly shall be entered in the voter registration software with one of the following results.

(A) If the address is located within the county, the application shall be approved.

(B) If the address is not located within the county, but County Election Board personnel are able to determine the county in which the voter's residence is located, the application form shall be mailed directly to the correct county.

(C) If another county is indicated on the form, the application shall be mailed directly to the correct County Election Board.

(D) If the address is not located within the county and the correct county cannot be determined, the application shall be rejected with the "OT" ("Other") rejection code. When the blank rejection notice is printed, write or type Enter the following sentences in the space free-form text field provided on screen: "You did not indicate the county in which you reside on your application for voter registration. Your application cannot be processed without this information. You must submit a new application form that indicates your county of residence." This information will be added to the voter registration rejection notice addressed to this voter. It is recommended that a new Oklahoma Voter Registration Application form be enclosed with the rejection notice.

(11) **Rejection codes.** An application for new voter registration that does not contain all the required information listed in 230:15-5-84 shall be rejected. The software automatically applies a rejection code for insufficient name, insufficient address, insufficient identification number, insufficient date of birth, if the application duplicates an existing registration, and if the applicant is under 18 years of age. If the application is unsigned or if the application must be rejected for any other reason, County Election Board personnel flag the appropriate rejection

code on the screen. See 230:15-9-31. Some automatic rejection codes may be overridden in the following circumstances.

(A) The Under Age (UN) will become eligible on or before election day, as described in 230:15-5-2, follow the software instructions to override the automatic rejection code.

(B) The Duplicate (DU) rejection code may be overridden if the approval of the new application would prevent the removal of an inactive voter.

(12) **Form codes.** Oklahoma Voter Registration Application forms include a form code that must be recorded in MESA for statistical purposes. Form codes identify the agency from which the registration application originated. Form codes consist of ten alphanumeric characters. Once recorded in MESA, the part of the application form containing the form code shall be removed and shall not be retained.

(13) **Source codes.** A code to identify the source of an application for statistical purposes shall be entered in the voter registration software. If the source of an application is a ~~motor license agency~~ licensed operator, a specific four-digit agency code also shall be entered. After the source code is entered, the instruction section of the application form bearing the source identification shall be removed and destroyed. It shall not be retained in the Central File.

(14) **Previous registration information.** If the applicant provided information about previous voter registration in another state or in another county in Oklahoma, enter the previous registration information in the appropriate fields on the screen. If the applicant was previously registered in another county in Oklahoma, some previous information may be filled in automatically by the software. Do not enter information about former registration in your own county in these fields.

(15) **Eligibility questions and oath.** The applicant shall answer the two eligibility questions and shall sign and date the oath. If an applicant fails to answer the two questions but signs and dates the oath, the application shall be rejected. If the applicant answers either question "No," the application shall be rejected. ~~(On older versions of the Oklahoma Voter Registration Application form, these eligibility questions are located in the instructions area of the form.)~~ If the applicant answers the eligibility questions "Yes," but fails to sign and date the oath, the application shall be rejected.

(b) **Filing voter registration applications.** If a voter registration application is determined to be valid and is approved, place the application form in the appropriate valid application file until voter identification cards are printed. After the voter identification card is mailed to the voter, file the application form in the Central File. If a voter registration application must be rejected, file the application in the appropriate rejected application file.

### 230:15-9-20. Processing applications for name change [AMENDED]

(a) A registered voter may apply to change his or her name by completing and submitting a paper voter registration application form. An applicant for name change is instructed to provide his or her former name in the appropriate space in the Oklahoma Voter Registration Application form or the ~~federal voter registration application~~ National Mail Voter Resignation Form. Process applications for name change according to the following procedure.

(1) Enter the applicant's former last name, date of birth, and either the Oklahoma driver license number or the last four digits of the Social Security number to locate the current voter registration information.

(2) Change the applicant's name on the screen. Carefully compare the information displayed on screen with the information provided on the application for any other information that may need to be changed. Enter all other changes indicated on the application form.

(3) Follow the appropriate software instructions to complete the application.

(4) After the voter identification card has been printed, remove the voter's old registration form from the Central File and retain as outlined in 230:10-7-43.

(5) File the voter's new voter registration application form in alphabetical order in the Central File.

(b) A voter may submit a name change for a driver license at a ~~motor license agency~~ designated Service Oklahoma location or on the Service Oklahoma website and, unless the voter opts not to provide the name change for voter registration purposes, the change will be submitted to the State Election Board electronically by Service Oklahoma.

### 230:15-9-21. Processing applications for change of residence address or mailing address [AMENDED]

(a) A registered voter in the county may apply to change his or her residence address within the county by completing and submitting a voter registration application form. An applicant for change of residence address is instructed to provide his or her former residence address in the appropriate space of the Oklahoma Voter Registration Application form or the federal voter registration application form. Applications for change of residence address shall be processed according to the following procedure.

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- (1) Enter the applicant's name, date of birth, and driver license number or the last four digits of the Social Security number to locate the current voter registration information.
  - (2) Change the applicant's residence address as indicated on the application form. Carefully compare the information displayed on screen with the information provided on the application form for any other information that may have changed. Enter all other changes indicated on the application form.
  - (3) Follow the appropriate software instructions to complete the application.
  - (4) After the voter identification card has been printed, remove the voter's old registration form from the Central File and retain as outlined in 230:10-7-43.
  - (5) File the voter's new voter registration application form in alphabetical order in the Central File.
- (b) A registered voter in the county may apply to change his or her mailing address by completing and submitting a paper or electronic voter registration application form. An applicant for change of mailing address is instructed to provide his or her former address in the appropriate space of the Oklahoma Voter Registration Application form or the federal voter registration application form. Applications for change of mailing address shall be processed according to the same procedure outlined in (a) of this Section.
- (c) A registered voter who submits a change of residence address or mailing address for a driver license in person at a ~~motor license agency~~ licensed operator or through the ~~DPS~~ Service Oklahoma website is simultaneously making a change for voter registration purposes unless the voter opts out of using the new address for voter registration. Such address changes received by ~~DPS~~ Service Oklahoma are subsequently submitted electronically to the State Election Board. Electronic address changes from Service Oklahoma that can be matched to an existing registered voter in MESA are processed as outlined in 230:15-9-26. Electronic address changes from ~~DPS~~ Service Oklahoma that cannot be matched to an existing voter registration are not retained and are not processed in MESA.
- (d) A registered voter who submits an online change of residence address within the same county or a change of mailing address through the secure portal on the State Election Board website is required by the system to match their address to an existing Street Guide address in order to submit said application. If no match is available, the online submission cannot be made. In such a circumstance, the voter will be directed to a fillable PDF version of the Oklahoma Voter Registration Application form on the State Election Board website.

## **230:15-9-26. Receiving, processing, and acknowledging electronic address changes from ~~DPS~~ Service Oklahoma [AMENDED]**

- (a) Following close of business each Friday, ~~the Oklahoma Department of Public Safety (DPS)~~ Service Oklahoma transmits a data file to the State Election Board containing information on all driver license address changes submitted in person at ~~motor license agencies~~ licensed operators and online through the ~~DPS~~ Service Oklahoma website. The data file contains information only for those persons who did not opt out of simultaneously updating their addresses for voter registration purposes. Upon receipt, the data file shall be processed and, if the file contains matches to currently registered voters, the data shall be imported into MESA.
- (b) County Election Board personnel shall process ~~DPS~~ Service Oklahoma address changes received electronically in MESA each week by following the appropriate MESA instructions to access the data, examine the potential matches with registered voters in the county, and to accept those that are valid matches. ~~(1) Changes that may be accepted include changes of a voter's residence address, and mailing address, in the county and name.~~  
~~(2) Changes to a voter's name shall be flagged, but shall not be accepted in MESA based only on an electronic submission from DPS.~~
- (c) The County Election Board shall acknowledge each electronic address update received from ~~DPS~~ Service Oklahoma by printing and mailing the appropriate notice. The available notices include the following:
- (1) A voter identification card is mailed to each voter whose residence address or mailing address is updated by a valid electronic submission from ~~DPS~~ Service Oklahoma.
  - (2) An insufficient address rejection notice is mailed to each voter whose residence address or mailing address information included in an electronic submission from ~~DPS~~ Service Oklahoma is insufficient for voter registration purposes. Insufficient addresses may be incomplete or invalid for voter registration. For example, a post office box address submitted as a residence address is invalid as a residence address for voter registration purposes. See 230:15-5-84 (f).
  - ~~(3) A letter is mailed to each voter whose residence address change indicates that the voter has moved to another county in Oklahoma. The letter includes instructions to register again in the voter's new county of residence.~~
  - ~~(4) A letter is mailed to each voter who appears to have submitted a name change to DPS. The letter provides instructions to the voter to submit a new Oklahoma Voter Registration Application to make the name change for voter registration purposes. See 230:15-5-140 and 230:15-9-20.~~

## SUBCHAPTER 11. VOTER REGISTRATION LIST MAINTENANCE

### PART 3. VOTER REGISTRATION ADDRESS CONFIRMATION

#### **230:15-11-29. Identification and notification of voters who may have changed addresses of residence [AMENDED]**

(a) The Secretary of the State Election Board shall have the authority to compare the Oklahoma voter registration database with change of address records provided by the United States Postal Service through the National Change of Address system, ~~the Service Oklahoma Department of Public Safety~~, the Oklahoma Department of Human Services, or other state or federal agencies to identify voters who may have changed their residence addresses.

(b) If the Secretary of the State Election Board determines that a voter's residence address may have changed, the Secretary shall have the authority to cause the voter to be notified in writing that voter registration information must be updated in the event of a change of residence. Such notification may include any forms prescribed by the Secretary of the State Election Board that are necessary for the voter to update his or her voter registration information.

(c) During in-person absentee voting or at the voter's precinct or when applying for an absentee ballot, any voter identified by the Secretary of the State Election Board as possibly having changed his or her residence based on National Change of Address data shall be required to complete an address confirmation form before being issued a ballot. [26-7-115.1].

(d) A voter with an invalid address as defined in subsection B of 26 O.S. Section 4-113 or who has had a voter identification card returned to the county election board by the United States Postal Service as undeliverable must complete an address confirmation form before being issued a ballot as described in 26 O.S. Section 7-115.1.

*[OAR Docket #25-390; filed 5-28-25]*

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## TITLE 230. STATE ELECTION BOARD CHAPTER 20. CANDIDATE FILING

*[OAR Docket #25-391]*

#### **RULEMAKING ACTION:**

PERMANENT final adoption

#### **RULES:**

Subchapter 3. Filing Candidacy for Federal, state, county, and Other Elective Office

Part 7. STATE AND COUNTY ELECTION BOARD PROCEDURES FOR RECEIVING, REVIEWING, AND  
ACCEPTING DECLARATIONS OF CANDIDACY

230:20-3-44. Candidates in restricted records status [REVOKED]

Part 9. WITHDRAWALS OF CANDIDATES

230:20-3-52. Removal of deceased candidate from ballot [NEW]

#### **AUTHORITY:**

Secretary of the State Election Board; Title 26 O.S., Section 2-107

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#### **ADOPTION:**

January 16, 2025

#### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 22, 2025

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Approved May 28, 2025, by SJR 21

#### **LEGISLATIVE DISAPPROVAL:**

N/A

#### **APPROVED BY GOVERNORS DECLARATION:**

# Permanent Final Adoptions

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N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

July 11, 2025

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**SUPERSEDED RULES:**

N/A

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The rule in 230:20-3-44 became obsolete upon the passage of Senate Bill 677 from the 2023 Legislative Session, which provided for the confidentiality of address information contained in a Declaration of Candidacy Form. The proposed addition of 230:20-3-52 is to provide the authority for removing a deceased candidate's name from the ballot if they pass away after the withdrawal period has ended but before ballot printing has begun.

**CONTACT PERSON:**

Rachel Rogers Mailing address: State Election Board, P.O. Box 53156, Oklahoma City, OK 73152. Email: Rachel.rogers@elections.ok.gov. Physical address: Room G38, Oklahoma State Capitol Building, 2300 N. Lincoln Blvd., Oklahoma City, OK.

**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 JULY 11, 2025:**

## **SUBCHAPTER 3. FILING CANDIDACY FOR FEDERAL, STATE, COUNTY, AND OTHER ELECTIVE OFFICE**

### **PART 7. STATE AND COUNTY ELECTION BOARD PROCEDURES FOR RECEIVING, REVIEWING, AND ACCEPTING DECLARATIONS OF CANDIDACY**

#### **230:20-3-44. Candidates in restricted records status [REVOKED]**

(a) A voter who has applied for restricted records status, as described in 230:15-9-25, and who files a Declaration of Candidacy with the Secretary of the State Election Board or the Secretary of the County Election Board may choose to keep his or her residence and mailing address information on the forms included in the Declaration of Candidacy form confidential. However, as provided by law, the information contained on the forms included in the Declaration of Candidacy, including address information, may be made available to another candidate in anticipation of or as part of a contest of candidacy or a contest of election. In order for residence and mailing address information included in a Declaration of Candidacy to be kept confidential, the candidate must have applied for restricted records status with the County Election Board Secretary in the candidate's county of residence. The candidate also must take the following steps when filing the Declaration of Candidacy:

(1) Complete and sign a Confidential Declaration of Candidacy Request form.

(2) Submit the Confidential Declaration of Candidacy Request form to the Secretary of the appropriate election board with the Declaration of Candidacy forms.

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(b) Upon receipt of a Confidential Declaration of Candidacy Request form with a Declaration of Candidacy, the Secretary of the County Election Board shall take the following action:

- (1) Check the forms included in the Declaration of Candidacy as outlined in 230:20-3-37.
- (2) Make at least three copies of the Confidential Declaration of Candidacy Request form.
- (3) File the Candidate Information and Oath form in the candidate's existing restricted records file.
- (4) File the original Confidential Declaration of Candidacy Request form with the original copies of other Declarations of Candidacy.
- (5) File a copy of the Confidential Declaration of Candidacy Request form with the photocopies of other Declarations of Candidacy that are made available for public inspection.
- (6) Give one copy of the Confidential Declaration of Candidacy Request form to the candidate.

(c) Upon receipt of a Confidential Declaration of Candidacy Request form from a candidate, the Secretary of the State Election Board shall take appropriate steps to ensure that the candidate's Candidate Information and Oath form is withheld from public inspection and that the address information is withheld from publication. At least one copy of the Confidential Declaration of Candidacy Request form shall be made available for public inspection in place of the Candidate Information and Oath page.

## PART 9. WITHDRAWALS OF CANDIDATES

### 230:20-3-52. Removal of deceased candidate from ballot [NEW]

Unless otherwise provided for in law, in the event that a candidate's death occurs after the withdrawal period has ended, but before ballot printing has begun for the election, the name of the deceased candidate shall not be printed on the ballot.

*[OAR Docket #25-391; filed 5-28-25]*

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## TITLE 230. STATE ELECTION BOARD CHAPTER 30. ABSENTEE VOTING

*[OAR Docket #25-392]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 7. Absentee Voting Boards

230:30-7-14. Verifying voter registration information and status of in-person absentee voters [AMENDED]

Subchapter 19. Counting the Ballots

Part 1. COUNTING ABSENTEE BALLOTS ON ELECTION DAY

230:30-19-5. Procedure for counting mutilated ballots [AMENDED]

230:30-19-6. Marking substitute ballot to count write-in ballots, faxed ballots, and ballots transmitted to voters by electronic mail [AMENDED]

### **AUTHORITY:**

Secretary of the State Election Board; Title 26 O.S., Section 2-107

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 25, 2024

### **COMMENT PERIOD:**

December 16, 2024 through January 15, 2025

### **PUBLIC HEARING:**

N/A

### **ADOPTION:**

January 16, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 22, 2025

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# Permanent Final Adoptions

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N/A

## APPROVED BY GOVERNORS DECLARATION:

N/A

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## INCORPORATED STANDARDS:

N/A

## INCORPORATING RULES:

N/A

## AVAILABILITY:

N/A

## GIST/ANALYSIS:

The amendment to 230:30-7-14 is to remove the word “internet” when it should more appropriately state “secure network” in reference to early voting procedures. The proposed amendments to Subchapter 19 relate to clarifying how and when the County Election Board can mark a substitute ballot in certain limited circumstances.

## CONTACT PERSON:

Rachel Rogers Mailing address: State Election Board, P.O. Box 53156, Oklahoma City, OK 73152. Email: Rachel.rogers@elections.ok.gov. Physical address: Room G38, Oklahoma State Capitol Building, 2300 N. Lincoln Blvd., Oklahoma City, OK.

**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 JULY 11, 2025:**

## SUBCHAPTER 7. ABSENTEE VOTING BOARDS

### **230:30-7-14. Verifying voter registration information and status of in-person absentee voters [AMENDED]**

(a) The Absentee Voting Board members are required to verify the registration information of each voter who applies for an in-person absentee ballot. The County Election Board Secretary shall instruct the Absentee Voting Board members to use a computer with access to the MESA software to verify voter registration information and status.

(b) County Election Board personnel shall place a computer with access to the ~~Internet~~secure network and MESA the software at the in-person absentee polling place location and shall prepare the terminal for use. County Election Board personnel shall teach the Absentee Voting Board members to use MESA to find voter registration information about each applicant for in-person absentee ballots. In the event that a voter's registration information cannot be found in MESA, the Absentee Voting Board members may refer to the Central File to verify voter registration. The Absentee Voting Board member shall locate the voter's original registration form in the Central File. If an applicant's eligibility is confirmed in the Central File, ask a County Election Board staff member for assistance to determine the correct ballot style to issue. If the applicant's voter registration cannot be verified either in MESA or the Central File, issue a provisional ballot as outlined in 230:30-7-15 and 230:35-5-177.

## SUBCHAPTER 19. COUNTING THE BALLOTS



## PART 1. COUNTING ABSENTEE BALLOTS ON ELECTION DAY

### 230:30-19-5. Procedure for counting mutilated ballots [AMENDED]

(a) In the event that a ballot is mutilated, defaced, or damaged in one of the following ways so that it cannot be read by the voting device, the procedure outlined in (b) of this Section shall be observed.

- (1) The ballot is mutilated by the voting device during the counting process.
- (2) The ballot is damaged by County Election Board personnel when the ballot envelope is opened.
- (3) The ballot is damaged because the voter altered the ballot's original size and/or shape, marked through a bar code, used an ink pen that may have bled through, or attempted to correct an error by using correction fluid.

(b) If the ballot was damaged in one of the ways outlined in (a) of this Section, County Election Board members are authorized to mark a substitute ballot to replace the damaged ballot. The substitute ballot shall be marked by two members of the County Election Board of different political affiliations. The substitute ballot shall be marked exactly as the damaged ballot was marked insofar as it is possible. If the ballot is damaged so extensively that the two County Election Board members cannot agree on how the ballot was marked, no substitute ballot shall be marked, and the damaged ballot shall be invalidated. The substitute ballot shall then be inserted into the voting device to be counted. The County Election Board members shall make a written record of their actions and the damaged ballot shall be retained with such record.

(c) The procedure outlined in (b) of this Section shall not be applied to ballots that are marked by the voter with something other than a pencil or with blue or black ink that the voting device cannot read or to ballots that are marked outside the voting targets. Such ballots shall be accepted as marked.

### 230:30-19-6. Marking substitute ballot to count write-in ballots, faxed ballots, and ballots transmitted to voters by electronic mail [AMENDED]

In the event that the County Election Board must count a federal write-in absentee ballot, a regular ballot received by fax, or an absentee ballot transmitted to the voter by electronic mail, the following procedure shall be observed.

- (1) The Secretary shall verify that regular mail absentee ballots from the voter or voters were not received by 7 p.m. on election day.
- (2) A federal write-in ballot may be counted for federal and statewide offices only.
  - (A) The Secretary shall provide a blank absentee ballot for the appropriate precinct.
  - (B) ~~The Chairman of the County Election Board shall read the voter's write-in ballot and the Vice Chairman shall mark the blank ballot for the voter's choice for federal and statewide offices only.~~ County Election Board members are authorized to mark a substitute ballot to replace the ballot for the voter's choice for federal and statewide offices only. The substitute ballot shall be marked by two members of the County Election Board of different political affiliations.
  - (C) ~~The Chairman, Vice Chairman, and Secretary shall review the substitute ballot and shall agree that it is marked exactly as the voter's write-in ballot was marked.~~ The substitute ballot shall be marked exactly as the original ballot was marked insofar as it is possible. If the two County Election Board members cannot agree on how the ballot was marked, no substitute ballot shall be marked, and the original ballot shall be invalidated.
  - (D) The Secretary shall write identical numbers on the back of each original write-in ballot and on the back of the substitute ballot, being careful to avoid the area of the voting tracks. For example, the first such ballot and its substitute shall be marked "1," the second, "2," etc.
  - (E) The Secretary shall direct a County Election Board staff member to insert the substitute ballot in the appropriate absentee voting device.
- (3) A regular ballot returned by fax shall be counted for all offices and questions for which the voter's markings can be discerned.
  - (A) The Secretary shall provide a blank absentee ballot for the voter's precinct.
  - (B) ~~The Chairman of the County Election Board shall read the voter's choice for each office and question on the ballot and the Vice Chairman shall mark the ballot.~~ County Election Board members are authorized to mark a substitute ballot to replace the ballot for the voter's choice for each office and question on the ballot. The substitute ballot shall be marked by two members of the County Election Board of different political affiliations.

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(C) ~~The Chairman, Vice Chairman, and Secretary shall review the substitute ballot and shall agree that it is marked exactly as the faxed copy of the voter's ballot is marked. The substitute ballot shall be marked exactly as the original ballot was marked insofar as it is possible. If the two County Election Board members cannot agree on how the ballot was marked, no substitute ballot shall be marked, and the original ballot shall be invalidated.~~

(D) The Secretary shall write identical numbers on the back of each faxed ballot and on the back of the substitute ballot, being careful to avoid the area of the voting tracks. For example, the first such ballot and its substitute shall be marked "1," the second, "2," etc.

(E) The Secretary shall direct a County Election Board staff member to insert the substitute ballot in the appropriate voting device.

(4) A regular ballot transmitted to a voter by electronic mail and returned either by mail or by fax shall be counted for all offices and questions for which the voter's markings can be discerned. Follow the steps outlined in (3) (A) through (E) of this Section to count the ballot.

(5) In the event that a federal write-in ballot is marked for a candidate or a political party not on the ballot in Oklahoma, no substitute ballot shall be marked. The minutes of the County Election Board meeting shall indicate both that the ballot could not be counted and the reason.

(6) In the event that a ballot received by fax is illegible and the voter's markings cannot be discerned, no attempt shall be made to mark a substitute ballot. The minutes of the County Election Board meeting shall indicate both that the ballot could not be counted and the reason.

(7) The Secretary shall document in the minutes of the County Election Board meeting the number of substitute ballots marked and inserted in the absentee voting device. The original federal write-in absentee ballot, or faxed ballot shall be retained with all other absentee ballots for the election. The voter's affidavit and any other accompanying materials shall be retained with other similar absentee voting materials.

*[OAR Docket #25-392; filed 5-28-25]*

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## TITLE 230. STATE ELECTION BOARD CHAPTER 40. TYPES OF ELECTIONS

*[OAR Docket #25-393]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. General Provisions

230:40-1-3. Resolutions [NEW]

### **AUTHORITY:**

Secretary of the State Election Board; Title 26 O.S., Section 2-107

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 25, 2024

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# Permanent Final Adoptions

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N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed new rule in Chapter 40 is intended to clarify how and when entities may submit resolutions to the County Election Board in order to meet the prescribed statutory deadline.

**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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### **230:40-1-3. Resolutions [NEW]**

(a) Unless otherwise provided for in law, any governing boards of school districts, municipalities and certain special purpose districts, such as fire protection districts, or other entities are authorized to call elections to be conducted by the County Election Board must submit the resolution in person to the County Election Board office. Such resolution must be received no later than the close of regular business for the County Election Board on the day of the prescribed statutory deadline.

(b) In extreme circumstances when it becomes impossible for such an entity to submit the resolution in person before the close of regular business at the County Election Board, the entity may send an electronic copy of the resolution to the County Election Board before the deadline has passed and place the original in the mail within one business day. (Examples of such extreme circumstances would be severe weather or an emergency closure of the county office building where the County Election Board is located.)

*[OAR Docket #25-393; filed 5-28-25]*

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## **TITLE 235. OKLAHOMA FUNERAL BOARD CHAPTER 10. FUNERAL SERVICES LICENSING**

*[OAR Docket #25-468]*

**RULEMAKING ACTION:**

PERMANENT final adoption

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## **RULES:**

Subchapter 3. Qualification and Requirements for Licensure  
235:10-3-2. Requirements for licensing funeral service establishments [AMENDED]  
Subchapter 7. Licensure Renewal, Revocation and Suspension  
235:10-7-3. Enforcement [NEW]  
Subchapter 9. Procedures for the Disposition of Cases  
235:10-9-2. Investigations [AMENDED]  
Subchapter 14. Crematories  
235:10-14-1. Requirements [AMENDED]

## **AUTHORITY:**

Oklahoma Funeral Board; Title 59 O.S. Section 396.2a, Title 59 O.S. Section 396.17, Title 59 O.S. Section 396.31, Title 75 O.S. Section 302 (A)(1), Title 75 O.S. Section 307

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

The proposed rule amendments and new rules provide for addition of rules regarding requirement for crematories having an inspection on an annual basis by a third party, rule clarification of Funeral Director in Charge and name change procedures, and the addition of a penalty fee schedule and emergency complaint procedures for the protection of the public health and safety.

## **CONTACT PERSON:**

Tyler Stiles, Executive Director, Oklahoma Funeral Board, 3700 N. Classen Blvd., Suite 175, Oklahoma City, OK 73118, 405.522.1790, [tyler.stiles@funeral.ok.gov](mailto:tyler.stiles@funeral.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 JULY 11, 2025:

## SUBCHAPTER 3. QUALIFICATION AND REQUIREMENTS FOR LICENSURE

### 235:10-3-2. Requirements for licensing funeral service establishments [AMENDED]

To be licensed by the Board a funeral service establishment or a commercial embalming establishment must meet the following minimum requirements:

- (1) **Ownership.** The establishment shall be operated by a sole owner, a partnership, a limited liability partnership, a limited partnership, a limited liability company, or a subsidiary of a corporation, a partnership, a limited liability partnership, a limited partnership, or a limited liability company, or by a corporation chartered in the State of Oklahoma.
- (2) **Fixed place.** The establishment shall have a fixed place of business with a specific street address or physical location and shall conform to local zoning ordinances as evidenced by an occupancy permit issued by the proper local governmental entity authorizing the occupancy of a funeral service establishment at that location. Only one establishment license shall be issued to a specific address. If the establishment will contain a preparation room which does not discharge into a municipal sanitary sewer it must also secure permission from the appropriate county and/or state agency for any such discharge from the embalming room prior to being eligible to receive a funeral establishment or commercial embalming establishment license from this Board. Any establishment which has been issued an establishment license under a rule of the Board having different requirements than this subsection for a fixed place will be permitted to continue to be licensed under the rules pursuant to which the establishment was initially licensed, except as provided under sub-section (15).
- (3) **Inspected.** The establishment shall be inspected by a representative of the Board prior to being initially licensed and periodically as determined by the Board.
- (4) **Statutes and Rules.** Each establishment shall have available a current copy of the Oklahoma Statutes and Rules related to the practice of funeral directing and embalming available for public inspection.
- (5) **Preparation room.**

(A) **The establishment shall have a preparation room.** Such preparation room shall meet the following minimum requirements:

- (i) **Construction.** The walls, floor, and ceiling must be constructed, and of such materials and finished in a way that they may be cleaned and disinfected. The room must be of sufficient size and dimension to accommodate an embalming table, a sink that drains freely with hot and cold running water connections, an instrument table, cabinet, and shelves. The embalming table must have a rust proof metal, porcelain, or fiberglass top, with edges raised at least 3/4 inches around the entire table and drain opening at the lower end.
- (ii) **Ventilation.** The preparation room shall be heated and air-conditioned. The preparation room must be properly ventilated with an exhaust fan that provides at least five room air exchanges per hour. All fumes must be ventilated to the outside atmosphere. The construction must be such that odors from the preparation room cannot enter the rest of the establishment.
- (iii) **No public use.** The room shall not have a passageway available for public use.
- (iv) **Equipment.** The room shall contain sufficient supplies and equipment for normal operation. Nothing in this subsection shall require embalming chemicals to be stored in the preparation room. The room shall have no excess equipment stored, other than equipment necessary for preparing dead human remains, and performing necessary restorative art work. There shall be storage shelves, drawers, or cabinets for all supplies, instruments, and equipment. The room and equipment shall be maintained in a clean and sanitary condition.
- (v) **Openings covered.** All outside openings shall be covered with screens.
- (vi) **Interior view.** Measures must be taken to prevent a view of the interior of the room through any open door or window.
- (vii) **Body Intake Log.** Each funeral establishment or commercial embalming service shall maintain in the preparation room of that establishment, or within a reasonable proximity of the preparation room, a log book. The log book shall list the name of each human remains received at this location including the date and time the remains were received, the care or preparation of the remains (i.e., bathe, disinfect, refrigerate, or embalm), the date and time that

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the embalming occurred, the disposition of the remains, and the name, signature, and license number of the embalmer(s) and apprentice(s). If the remains were prepared at another location, that location shall be listed in lieu of the name and signature of the embalmer(s) and apprentice(s). The log book must be available at all times for inspection by the Board.

(B) **Exceptions.** A funeral establishment operated in conjunction with another licensed funeral establishment, with same ownership, shall be exempt from maintaining a preparation room provided it is located within 60 miles of the main establishment and can be practically served by the main establishment.

(6) **Selection room.** The establishment shall have a selection room. Such room shall be devoted solely to the purpose of providing a means for the public to make a reasonable selection of funeral service merchandise. Such room shall be of adequate size and furnishings. Such selection room shall meet the following minimum requirements:

(A) **Casket and outer burial container price lists.** The funeral provider must offer a printed or typewritten price list to people who inquire in person about the offering or prices of funeral merchandise including caskets, alternative containers and outer burial containers. The price list must be offered upon the beginning of discussion of, but in any event before showing the funeral merchandise. In lieu of a written list, other formats, such as notebooks, brochures, or charts may be used if they contain the same information as would the printed or typewritten list, and display it in a clear and conspicuous manner.

(B) **Caskets.** Each funeral establishment shall maintain an inventory of not less than five adult caskets at the location, or five quarter panel or end cut display units provided by a commercial casket manufacturer. Any establishment which has been issued an establishment license under a rule of the Board having different requirements than this sub-section for the number of caskets in inventory will be permitted to continue to be licensed under the rules pursuant to which the establishment was initially licensed, except as provided under sub-section (15).

(C) **Equipment.** The selection room shall have no excess equipment stored, other than equipment necessary for the proper display of funeral service merchandise.

(D) **Condition.** The room shall be maintained in a clean, neat, and orderly fashion at all times.

(7) **Other rooms.** The establishment shall have adequate areas for public viewing of dead human remains and necessary offices for conducting the business affairs of the establishment. The establishment may have other rooms, offices, and other facilities, including restrooms for the staff and public lounge areas. All other rooms and facilities shall be maintained in a clean, neat, and orderly fashion at all times.

(8) **Vehicles.** The establishment shall have the necessary automotive vehicles to provide adequate service to the public. This shall not prohibit the establishment from arranging to lease, borrow, or otherwise arrange for extra vehicles when needed.

(9) **Licensed funeral director and embalmer.**

(A) Each funeral service establishment shall have at least one full-time dual licensed funeral director and embalmer employed to be designated as the Funeral Director-in Charge of the operation of the establishment and who has been approved by the Board as the Funeral Director in Charge. The establishment must also have a sufficient number of other licensed individuals to adequately serve the public.

(B) If an individual owner, partners, or corporation officers are not licensed funeral directors, then the owner, partners, or the corporation must employ a full-time dual licensed funeral director and embalmer to serve as Funeral Director-in- Charge of the establishment.

(C) No licensed funeral director may serve as the Funeral Director-in-Charge of more than one (1) funeral service establishment without the express written authorization of the Board. With the written order of the Board a licensed funeral director, upon good cause shown that such is in the public interest, may serve as a Funeral Director-in-Charge of more than one (1) funeral service establishment but in no event may any such licensed funeral director be the Funeral Director-in-Charge of more than three (3) such funeral service establishments. All of the establishments must be under the same ownership, and no establishment included in the application can be more than a 90 miles radius from the most centrally located establishment contained in the application.

(D) The funeral director-in-charge shall reside and maintain a permanent residence within 90 miles of the funeral establishment, commercial embalming establishment, or crematory.

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(E) The Funeral Director-in-charge of an establishment(s) serves that position and retains the responsibility of Funeral Director-in-charge until he or she notifies the Board in writing of such termination or resignation from that position. The letter notifying the Board must be within (10) ten days of separation of employment.

(10) **Funeral Director In Charge.** The Funeral Director in charge shall be listed on the original establishment application and any subsequent establishment renewal applications, and on the body intake log.

(11) **Transferability.** No establishment license is transferable from one person to another, or from one location to another. In case of the sale, lease, or relocation to a new location, or a change of name of the establishment, the establishment license may remain in force by mutual consent of the buyer and seller for a period of (30) thirty days or until the next regularly scheduled Board meeting, and at such time the license shall expire. The Funeral Director-in Charge must notify the Board office in writing and within ten days of change of ownership, change of Funeral Director-in-Charge, change of address, or change of name. The purchaser, lessee, or owner must notify the Board office to request an inspection, and issuance of a new license. Upon purchase, lease or change of address, ~~change of name, change of Funeral Director-in-Charge~~ a new establishment license application must be submitted with fee. Upon change of name or change of Funeral Director-in-Charge, a form determined by the Board shall be submitted with the appropriate fee, per OAC 235:10-5-1. If exigent circumstances warrant additional time to facilitate a Funeral-Director-In-Charge change, upon good cause shown and with written agreement by a licensed funeral director and Embalmer to assume responsibility in the interim, the Board may grant no more than 2 requests of 90 days for an establishment to employ the new Funeral-Director-in-Charge. The licensed funeral director assuming responsibility in the interim shall be exempt from the requirements in 235:10-3-2 (9).

(12) **Requirement to practice.** The issuance of a funeral service establishment license to an individual not licensed as a funeral director does not entitle the individual to practice funeral directing.

(13) **License lapse.** All establishment licenses lapse on the thirty-first of December for the year issued.

(14) **Inspection.** Every funeral service establishment, commercial embalming establishment, or crematory, shall be at all times subject to inspection by the Board. Inspections are to be reasonable in regard to time and manner.

(15) **Grandfather.** Any establishment which has been issued an establishment license under a rule of the Board having different requirements, then such Establishment is permitted to continue to be licensed under the rules pursuant to which the establishment was initially licensed. The Establishment license of such grandfathered establishment is not transferable. At such time as a change of ownership, purchase, lease, or change of address of such grandfathered funeral establishment is made then such establishment must meet the current requirements of this subchapter.

(16) **Application.** Any person or entity who desires to operate a funeral service establishment, commercial embalming establishment, or crematory must submit an application for an original license, renewal of a license, or change in funeral director on forms provided by the Board.

(A) Each application for an original license shall include, at a minimum, the following:

- (i) The current and previous name, if any, for a funeral service establishment, commercial embalming establishment, or crematory;
- (ii) The address of the physical location and telephone number of the funeral service establishment, commercial embalming establishment, or crematory;
- (iii) The name and license number of the proposed Funeral Director in Charge and affidavit of proposed Funeral Director in Charge;
- (iv) The name of the current owner and, if applicable, all previous owners for the past sixty (60) months of the funeral establishment, commercial embalming establishment, or crematory;
- (v) Whether the funeral service establishment, commercial embalming establishment, or crematory is a sole proprietorship, corporation, partnership, a limited liability partnership, limited partnership, a limited liability company, or a subsidiary of a corporation, a partnership, limited liability partnership, limited partnership, a limited liability company, or other business entity;
- (vi) The name and address of each person owning five (5) percent or more of the funeral service establishment, commercial embalming establishment, or crematory, or corporation common stock, or of the equity capital or membership interest of a limited liability company, a partnership, a limited liability partnership, a limited partnership, or sole proprietorship;
- (vii) If a corporation, partnership, limited liability partnership, limited partnership, or limited liability company;
  - (I) The state and date of incorporation or formation;

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- (II) The name and address of the registered agent or agent appointed to receive service of process;
  - (III) The name, address, and title of each officer, director, general partner, or member and
  - (IV) A copy of the certificate of incorporation, articles of organization, or certificate or agreement of formation, and any other document filed with the Oklahoma Secretary of State, which allows the entity to do business in Oklahoma.
  - (viii) Whether the applicant, or any individual required to be disclosed under this section, has ever been convicted of, or entered a plea of guilty or no contest, to a felony, or to a misdemeanor related to funeral services, including the:
    - (I) Felony or misdemeanor charged;
    - (II) Date of conviction or plea;
    - (III) Court having jurisdiction over the felony or misdemeanor;
    - (IV) Probation officer's name, address, and telephone number, if applicable.
  - (ix) Whether the applicant, or any individual required to be disclosed under this section, has 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 reasonably related to funeral services, including the case number and the court or administrative body in which it was filed.
  - (x) Whether the applicant, or any individual required to be disclosed under this section, has ever had an application for a license, registration, certificate, or endorsement denied or rejected by any state licensing authority, including the:
    - (I) Reason for the suspension or revocation;
    - (II) Date of the denial or rejection; and
    - (III) Name and address of the state licensing authority that denied or rejected the application.
  - (xi) Whether the applicant, or any individual required to be disclosed under this section, has ever had a license, registration, certificate, or endorsement suspended or revoked by any state funeral licensing authority, including the:
    - (I) Reason for the suspension or revocation;
    - (II) Date of the suspension or revocation; and
    - (III) Name and address of the state licensing authority that suspended or revoked the license.
  - (xii) Whether the applicant, or any individual required to be disclosed under this section, has ever surrendered a license, registration, certificate, or endorsement to the Board or any state funeral licensing authority.
- (B) Renewal applications shall include any changes in the above information from the original application or the previous renewal application.
- (17) **Renewal license.** Once issued, all original funeral service establishments, commercial embalming establishments, and crematories shall lapse on December 31 of the year of issue. Thereafter, except as provided in 235:10-3-2(11) said establishment may make application for renewal of the existing original license. The renewal application shall contain information as deemed appropriate by the Board.
- (18) **Grounds for refusal.** The board may refuse to issue an original license or renew a license:
- (A) For any felony conviction, or a misdemeanor conviction related to funeral service, by any individual required to be disclosed under this sub-section, may be grounds to deny the application.
  - (B) For any answer in the affirmative to 235: 10-3-2 (16)(A)(viii, ix, x, xi, xii), by any individual required to be disclosed in this sub-section.
  - (C) If the Board finds the application contains false or misleading information.
  - (D) If the Application is incomplete or improperly completed.
  - (E) Failure to pay the license application fee.
  - (F) Failure to comply with all other rules as prescribed in Section 235.
  - (G) For any individual required to be disclosed under this section who is implicated in a complaint that has been found to have probable cause. The application may be tabled pending the resolution of the complaint.

## SUBCHAPTER 7. LICENSURE RENEWAL, REVOCATION AND SUSPENSION



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## **235:10-7-3. Enforcement [NEW]**

- (a) If a person violates any provision of the Funeral Services Licensing Act or any rule promulgated pursuant thereto, proceedings may be instituted to impose administrative penalties, administrative sanctions, or both administrative penalties and sanctions in accordance with 59 O.S. §396.2a(11).
- (b) the Administrative Penalties and Sanctions Schedule published following this section sets penalty limits and ranges by class of offense and number of offenses.
- (c) The Board may negotiate a different penalty than outlined in the Administrative Penalties and Sanctions Schedule, in extenuating circumstances, based on the following factors:
- (1) Attempts by the licensee to correct or stop the violation;
  - (2) Number of complaints previously found justified against licensee;
  - (3) Whether the act was unintentional; and
  - (4) Other mitigating factors that could warrant a lower penalty.
- (d) Multiple violations of the Funeral Services Licensing Act or any rule promulgated pursuant thereto, may result in higher penalties. Multiple violations may consist of violation of more than one section of the law, numerous violations of the same section of the law, or a combination of both.
- (e) The Board may require a licensee to issue a refund to a consumer in lieu of or in addition to assessing an administrative penalty.

### **(1) Class A.**

- (A) 1<sup>st</sup> violation: \$250**
- (B) 2<sup>nd</sup> violation: \$500**
- (C) 3<sup>rd</sup> violation: \$1,000**
- (D) 4+ violations: up to \$2,500 and/or sanction**
  - (i) OAC 235:10-7-2(9) Failure to discharge a financial obligation
  - (ii) OAC 235:10-7-2(15)
  - (iii) OAC 235:10-7-2(15) Failure to submit application for establishment license
  - (iv) OAC 235:10-7-2(18) Failure to comply with Licensing Act
  - (v) OAC 235:10-7-2(19) Failure to comply with the Child Support Statute
  - (vi) OAC 235:10-7-2(25) Licensing exam invalidation

### **(2) Class B.**

- (A) 1<sup>st</sup> violation: \$1,000**
- (B) 2<sup>nd</sup> violation: \$1,500**
- (C) 3<sup>rd</sup> violation: \$2,500**
- (D) 4+ violations: up to \$5,000 and/or sanction**
  - (i) OAC 235:10-7-2(3) Failure to offer or provide a printed General Price List
  - (ii) OAC 235:10-7-2(4) Failure to give itemized, written statement of Goods and Services
  - (iii) OAC 235:10-7-2(11) Solicitation of business
  - (iv) OAC 235:10-7-2(12) Reusing of caskets
  - (v) OAC 235:10-7-2(13) Charging for merchandise not contracted for
  - (vi) OAC 235:10-7-2(14) Failure to file any necessary permit in a timely manner
  - (vii) OAC 235:10-7-2(17) False or misleading advertising
  - (viii) OAC 235:10-7-2(21) Failure to comply with a Board subpoena
  - (ix) OAC 235:10-7-2(22) Obstruction of a Board investigation

### **(3) Class C.**

- (A) 1<sup>st</sup> violation: \$2,500**
- (B) 2<sup>nd</sup> violation: \$3,500**
- (C) 3<sup>rd</sup> violation: \$5,000**
- (D) 4+ violations: up to \$10,000 and/or sanction**
  - (i) OAC 235:10-7-2(1) Material misrepresentation
  - (ii) OAC 235:10-7-2(2) Criminal Actions
  - (iii) OAC 235:10-7-2(6) Non-licensed Funeral Director
  - (iv) OAC 235:10-7-2(7) Non-licensed embalming
  - (v) OAC 235:10-7-2(8) Non-registered apprentice
  - (vi) OAC 235:10-7-2(10) Desecration
  - (vii) OAC 235:10-7-2(16) Suspension or Revocation of license in another state

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- (viii) OAC 235:10-7-2(20) Selling of bodies or body parts
- (ix) OAC 235:10-7-2(23) Forgery
- (x) OAC 235:10-7-2(24) Compromising licensing exam
- (xi) OAC 235:10-7-2(26) Violation of any of the ethics rules
- (xii) OAC 235:10-7-2(27) Aiding or abetting unlicensed practice

## SUBCHAPTER 9. PROCEDURES FOR THE DISPOSITION OF CASES

### 235:10-9-2. Investigations [AMENDED]

- (a) **Probable Cause Committee.** After a complaint has been filed, the Probable Cause Committee (consisting of the Executive Director and one Board member designated by the Executive Director) shall determine whether the complaint falls within the Board's jurisdiction, whether an investigation is warranted, and if warranted, shall direct the investigation to be made and a summary of the complaint sent to Board members.
- (b) **Acknowledgement.** Each complaint received shall be acknowledged in writing. This acknowledgment shall state that the complaint is being reviewed and the respondent is being given an opportunity to respond to the allegations made by the complainant.
- (c) **After response.** Upon receipt of a response by the respondent and, if after further investigation, it is necessary, the probable cause committee shall submit the information to the Board who will determine if there are reasonable grounds for belief that violation has occurred and make a determination if a hearing is warranted and, if warranted, shall schedule a hearing before the Board. The Probable Cause Committee may recommend to the Board informal disposition be made. The Executive Director shall properly notify the complainant and the respondent of such hearing. The Board member serving on the probable cause committee shall be recused from such hearing. If the Board determines that a hearing is not necessary, then both the respondent and the complainant shall be notified in writing that the complaint will be dismissed.
- (d) **Jurisdiction.** No investigation shall be made on any complaint concerning matters outside the jurisdiction of the Board.
- (e) **Emergency.** If the Board, upon review of the report of the Probable Cause Committee, finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of an original license or renewal, or both, may be ordered by the Board pending initiation of an individual proceeding. In such an event, the individual proceeding against the affected licensee shall be initiated within thirty (30) days after the date of the issuance of the summary suspension order.

## SUBCHAPTER 14. CREMATORIES

### 235:10-14-1. Requirements [AMENDED]

- (a) Unembalmed human remains awaiting cremation must be placed in refrigerated storage at 40 degrees Fahrenheit or less. All crematories shall have refrigerated storage facilities with a capacity equal to or greater than their average daily case load. If storage facilities are full, additional remains should not be accepted. Human remains shall never be stacked or placed upon other human remains. For purposes of this rule stacked shall mean in direct contact with one body on top of the other body. Storage facilities should not be in public view.
- (b) From receiving through storage, cremation, processing, packaging and release, proper identification must accompany the remains at all times.
- (c) Crematories licensed by the Funeral Board shall be used exclusively for the cremation of human remains.
- (d) Upon completion of the cremation, and insofar as practicable, all of the recoverable residue of the cremation process shall be removed from the cremation chamber. If possible, the noncombustible materials or items shall be separated from the cremated remains and disposed of, in a lawful manner, by the crematory. The cremated remains shall be reduced by motorized mechanical device to granulated appearance appropriate for final disposition.
- (e) The cremated remains with proper identification shall be placed in a temporary container or urn, unless specific written authorization has been received from the authorizing agent which directs otherwise.
- (f) If the cremated remains will not fit within the dimensions of a temporary container or urn, the remainder of the cremated remains shall be returned to the authorizing agent or its representative in a separate container attached to the first container or urn identifying such containers as belonging together.
- (g) The walls and floor of the cremator work area must be constructed, and of such materials, and finished in a way that they may be cleaned and disinfected.
- (h) The Crematory area shall not have a passageway for public use.
- (i) Cremation log will be maintained by the crematory that contains the following:

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- (1) Name of deceased
  - (2) Name and address of Authorized Representative
  - (3) Cremation permit number from the Oklahoma Medical Examiner's Office
  - (4) Cremation date
  - (5) Funeral home or commercial embalming establishment handling cremation
- (j) No human remains may be cremated without first obtaining a cremation permit from the proper agency of the state where death occurred.
- (k) Identification of Dead Human Bodies. In addition to the cremation log provided in Section 235:10-14-1 (i):
- (1) A non-detachable bracelet attached at all times to the human remains shall identify each human body in the possession or custody of the funeral establishment, commercial embalming establishment, or crematory in this state.
  - (2) The non-detachable bracelet must at a minimum contain the following information:
    - (A) First and last name of deceased
    - (B) Date of Death
- (l) Each crematory machine shall successfully complete preventative maintenance & safety inspection by a board-approved vendor and provide proof of inspection and maintenance annually with renewal.

*[OAR Docket #25-468; filed 6-4-25]*

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## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

*[OAR Docket #25-523]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-1.1. Definitions [AMENDED]

252:100-5-2.1. Emission inventory [AMENDED]

Subchapter 7. Permits for Minor Facilities

Part 1. GENERAL PROVISIONS

252:100-7-1.1. Definitions [AMENDED]

252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities [AMENDED]

Part 3. CONSTRUCTION PERMITS

252:100-7-15. Construction permit [AMENDED]

Part 9. PERMITS BY RULE

252:100-7-60.5. Oil and natural gas sector [AMENDED]

252:100-7-60.6. Emergency engine facilities [AMENDED]

252:100-7-60.7. Gasoline dispensing facilities and gasoline dispensing facilities with emergency engines [AMENDED]

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources

Part 5. PERMITS FOR PART 70 SOURCES

252:100-8-2. Definitions [AMENDED]

252:100-8-4. Requirements for construction and operating permits [AMENDED]

252:100-8-5. Permit applications [AMENDED]

Part 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS

252:100-8-31. Definitions [AMENDED]

252:100-8-33. Exemptions [AMENDED]

### **AUTHORITY:**

Environmental Quality Board; 27A O.S. Sections 2-2-101, 2-2-201, 2-3-402, and 2-5-106. Air Quality Advisory Council; 27A O.S. Sections 2-2-201 and 2-5-107. Oklahoma Clean Air Act; 27A O.S. Sections 2-5-101 through 2-5-117. Oklahoma Uniform Permitting Act; 27A O.S. Sections 2-14-101 through 2-14-304.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

May 24, 2024

### **COMMENT PERIOD:**

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June 17, 2024 through July 17, 2024

**PUBLIC HEARING:**

July 24, 2024

**ADOPTION:**

November 21, 2024

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

November 25, 2024

**LEGISLATIVE APPROVAL:**

Approved on May 28, 2025, by HJR 1033

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

September 15, 2025

**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 Department of Environmental Quality (Department or DEQ) is proposing to amend the Permit By Rule (PBR) in OAC 252:100-7-60.5, Oil and natural gas sector, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated requirements in 40 C.F.R. Part 60, Subpart OOOOb Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After December 6, 2022 (NSPS Subpart OOOOb). Additionally, the proposed amendment would allow the use of legally and practicably enforceable (LPE) limits when determining a facility's eligibility for the PBR. The proposed permanent rule amendments would replace the emergency rule which is currently in effect. Absent changes in other sections of Chapter 100, the proposed changes to the permanent rule language in OAC 252:100-7-60.5 would trigger additional requirements regarding the reporting of emissions of Greenhouse Gases (GHGs), submission of fees for GHGs, and other state permitting requirements for which GHGs have historically been exempt. To ensure that the proposed permanent amendments to the PBR for the oil and natural gas sector do not create additional, unintended requirements for owners and operators of various facilities, the DEQ is proposing amendments to other sections of Chapter 100. These amendments would ensure that GHG emissions remain exempt from annual emission inventory reporting and fees. Further, GHG emissions would not be factored into certain permitting determinations, such as eligibility for a "de minimis facility," a "permit exempt facility," or a PBR or general permit; or used as the basis for a major source/NSR determination, except for the federal requirement for a Best Available Control Technology (BACT) analysis under the (major source Prevention of Significant Deterioration) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO<sub>2</sub>e. Further, GHG limits will only be included in minor facility permits if the facility is subject to a GHG limit under a federal NSPS or National Emission Standard for Hazardous Air Pollutants (NESHAP), a requirement adopted as mandated by a federal Emissions Guideline in accordance with 40 C.F.R. Part 60, or when the facility owner or operator requests a limit. Additional amendments to OAC 252:100-8-4 will incorporate changes to authorize electronic submission of an application for a major source construction or operating permit and to clarify that

a facility that is required by federal rule to obtain a Title V operating permit absent a change in facility equipment or emissions increases will continue to be subject to any emission limits established in a previously obtained minor source permit unless the facility obtains a major source construction permit.

**CONTACT PERSON:**

Melanie Foster, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

**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, 2025:**

## **SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES**

### **252:100-5-1.1. Definitions [AMENDED]**

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

**"Actual emissions"** means the total amount of any regulated air pollutant actually emitted from a given facility during a particular calendar year, determined using methods contained in 252:100-5-2.1(d).

**"Allowable emissions"** means:

- (A) The total amount of any regulated air pollutant emitted based on limits contained in an enforceable permit or potential to emit, or
- (B) For grandfathered sources, emission limits based on maximum design capacity and considering all applicable rules.

**"Consumer Price Index"** means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

**"Date of billing"** means the date the fee was billed. In the case no fee was billed because the owner or operator failed to submit the required annual emission inventory, the date of billing shall mean the date on which the fee would have been billed had the emission inventory been submitted when due.

**"Emission inventory"** means a compilation of all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

**"Error"** means, with regard to fees, a fee overpayment made as a result of a mistake on the part of the DEQ in invoicing or the part of the owner or operator in calculating emissions. It does not mean a mistake made in the decision to use or not to use a particular emission factor or method of calculation.

**"Grandfathered source"** means a stationary source that was in operation in Oklahoma when an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated.

**"Minor facility"** means a facility which is not a Part 70 source.

**"Process Fugitive Emissions"** means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

**"Regulated pollutant (for fee calculation)"**, which is used only for purposes of this Subchapter, means any "regulated air pollutant" except the following:

- (A) Carbon monoxide.
- (B) Gross particulate matter (GPM).
- (C) Greenhouse gases (GHGs) either as individual pollutants or as an aggregate.

### **252:100-5-2.1. Emission inventory [AMENDED]**

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of regulated air pollutants shall submit a complete annual emission inventory through DEQ's electronic reporting system or in another manner acceptable by the Division.

(1) **General requirements.** The inventory shall cover operations during a calendar year and shall be submitted on or before April 1 of the following year. Upon receiving a written demonstration of good cause the Director may grant an extension for submittal beyond the April 1 deadline.

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(2) **Permit by rule.** The owner or operator of a facility registered under a permit by rule in Subchapter 7, Part 9, shall submit, at a minimum, an annual emission inventory for the 2014 reporting year or the calendar year in which the facility is registered, if the facility is registered after December 31, 2014, and thereafter according to the following schedule:

(A) For a registered facility with actual emissions greater than 5 tons per year of any regulated air pollutant (excluding GHGs as individual pollutants and as an aggregate), an annual emission inventory for that facility shall be submitted for every National Emissions Inventory (NEI) Three-Year Cycle Inventory year, as defined in 40 CFR Section 51.30(b).

(B) For a registered facility with actual emissions of 5 tons per year or less of any regulated air pollutant (excluding GHGs as individual pollutants and as an aggregate), an annual emission inventory for that facility shall be submitted every second National Emissions Inventory (NEI) Three-Year Cycle Inventory year, as defined in 40 CFR Section 51.30(b), beginning with the 2020 NEI reporting year.

(3) **Permit exempt facilities and de minimis facilities.** The owners or operators of permit exempt facilities or de minimis facilities, as these terms are defined in OAC 252:100-7-1.1, are not required to submit an annual emission inventory unless annual emissions from the facility exceed any of the emission thresholds listed in Table 1 in Appendix A to Subpart A of 40 CFR Part 51. In that event, the emission inventory shall be submitted according to the schedule contained in that table, which is incorporated by reference in Appendix Q to OAC 252:100.

(4) **Special inventories.** Upon request by the Director, the owner or operator of a facility that emits or has the potential to emit any regulated air pollutant shall file an emission inventory with the Division. The Director is authorized to request this inventory when emission related data is necessary for program planning or compliance with State or Federal rules, regulations, standards, or requirements.

(b) **Content.** All inventories submitted to the Division shall include, but shall not be limited to, the following:

(1) ~~For those emissions subject to a permit, the permitted allowable emissions as set forth therein.~~

(2) ~~The amount of the actual emissions of any regulated air pollutant as defined in OAC 252:100-1-3 (excluding GHGs as individual pollutants and as an aggregate), including quantifiable excess emissions, and the basis for such determination. If the total actual emissions of any regulated air pollutant from a facility vary from the allowable or from the previous year's actual by more than 30%, the Department may require the owner or operator to provide an explanation for the difference in order to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto.~~

(2) For those emissions subject to a permit, the permitted allowable emissions as set forth therein. Greenhouse gases (GHGs), as individual pollutants and as an aggregate, are exempt from this requirement.

(3) For those emissions not the subject of a permit and when requested by the AQD, a list of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

(c) **Documentation.** All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with OAC 252:100-5-2.1(d) must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the Division or made available for inspection upon request.

(d) **Method of calculation.** The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data, based on an acceptable method of calculation. The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division for the purpose of calculating fees under OAC 252:100-5-2.2 unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received. Acceptable methods of calculation for determining actual emissions are:

(1) Emission factors utilized in the issuance of a currently applicable Oklahoma Air Quality permit(s) for the facility.

(2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Division.

(3) Stack tests using appropriate EPA test methods may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:

(A) Tests are performed by persons qualified by training and experience to perform said tests.

(B) Copies of the test results and methods are available for review by the Division.

(4) Continuous emissions monitoring data, when supported by required certification and calibration data.

(5) Current AP-42 factors or other factors acceptable to the Division.

(6) Manufacturer's test data, when approved by the Division as reliable.

(7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the Division.

(8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the Division.

(9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the Division.

(e) **Methods of verification.** Emission inventories determined by the Division to be substantially incomplete or substantially incorrect shall, upon the request of the Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the Division.

(f) **Certification.** The emission inventory shall contain certification by a responsible official of the truth, accuracy, and completeness of the document. This certification shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

## SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

### PART 1. GENERAL PROVISIONS

#### 252:100-7-1.1. Definitions [AMENDED]

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

**"Actual emissions"** means the total amount of any regulated air pollutant actually emitted from a given facility during a particular calendar year, determined using methods contained in OAC 252:100-5-2.1(d).

**"Administratively complete"** means an application that provides:

- (A) All information required under OAC 252:100-7-15(c) and 252:100-7-18(e);
- (B) A landowner affidavit as required by OAC 252:4-7-13(b);
- (C) The appropriate application fees as required by OAC 252:100-7-3; and
- (D) Valid certification by the applicant.

**"Best Available Control Technology" or "BACT"** means the best control technology that is currently available as determined by the Director on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs.

**"Commence"** means, as applied to the construction or modification of a minor facility to which neither a NSPS or NESHAP applies, that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.

**"De minimis facility"** means a facility that meets the requirements contained in paragraphs (A) and (B) of this definition.

(A) All the air pollutant emitting activities at the facility are on the de minimis list contained in Appendix H or the facility meets all of the following de minimis criteria:

- (i) The facility has actual emissions of 5 TPY or less of each regulated air pollutant, except:
  - (I) that fraction of particulate matter that exhibits an aerodynamic particulate diameter of more than 10 micrometers ( $\mu\text{m}$ ) and,
  - (II) GHGs as individual pollutants and as an aggregate.

(ii) The facility is not a "major source" as defined in OAC 252:100-8-2.

(iii) The facility is not a "major stationary source" as defined in OAC 252:100-8-31 for facilities in attainment areas.

(iv) The facility is not a "major stationary source" as defined in OAC 252:100-8-51 for facilities in nonattainment areas.

(v) The facility is not operated in conjunction with another facility or source that is subject to air quality permitting.

(vi) The facility has not opted to obtain or retain an Air Quality Division permit.

(B) The facility is not subject to the Federal NSPS (40 CFR Part 60) or the Federal NESHAP (40 CFR Parts 61 and 63).

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**"Emergency engine"** means a stationary engine used to resume essential operations or ensure safety during sudden and unexpected occurrences including but not limited to loss of electrical power, fire, and/or flood.

**"Facility"** means all of the pollutant-emitting activities that meet all the following conditions:

(A) Are under common control.

(B) Are located on one or more contiguous or adjacent properties.

(C) Have the same two-digit primary SIC Code (as described in the Standard Industrial Classification Manual, 1987).

**"Federally Enforceable State Operating Permit" or "FESOP"** means an operating permit issued under Subchapter 7 of this Chapter, including operating permits issued under the provisions of 252:4-7-33(a)(2). As such, for the purposes of this subchapter, "FESOP" and "operating permit" are synonymous.

**"FESOP Enhanced NSR process"** means a process under which the evaluation of requirements applicable under NSR is integrated with a determination of procedural and compliance requirements under the DEQ's FESOP program. This process is only available for facilities already operating under a FESOP permit. Under a FESOP enhanced NSR process, the 30-day public and EPA review period of a draft NSR permit is integrated with the review of the draft FESOP modification, and results in the issuance of a minor source construction permit whose applicable FESOP implications have also been reviewed. Later the requirements of the construction permit may be incorporated into a modified FESOP using the minor source operating permit modification process, without further public or EPA review, as authorized in OAC 252:4-7-13(g)(9) and OAC 252:100-7-18(f).

**"Gasoline dispensing facility"** means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline-fueled engines and equipment, as these terms are used in 40 CFR Part 63 Subpart CCCCCC.

**"Hazardous Air Pollutant" or "HAP"** means any hazardous air pollutant regulated under Section 112 of the Federal Clean Air Act, 42 U.S.C. Section 7412, and subject to NESHAP.

**"Minor facility"** means a facility which is not a Part 70 source.

**"National Emission Standards for Hazardous Air Pollutants" or "NESHAP"** means those standards as published by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to Section 112 of the Federal Clean Air Act, 42 U.S.C. Section 7412.

**"New portable source"** means a portable source that has never operated within the State of Oklahoma. This includes sources that are initially constructed and existing facilities that are relocating into Oklahoma from another state.

**"New Source Performance Standards" or "NSPS"** means those standards found in 40 CFR Part 60.

**"Permit exempt facility"** means a facility that:

(A) has actual emissions in every calendar year that are 40 TPY or less of each regulated air pollutant (excluding GHGs as individual pollutants and as an aggregate);

(B) is not a de minimis facility as defined in OAC 252:100-7-1.1;

(C) is not a "major source" as defined in OAC 252:100-8-2 for Part 70 sources;

(D) is not a "major stationary source" as defined in OAC 252:100-8-31 for PSD facilities in attainment areas;

(E) is not a "major stationary source" as defined in OAC 252:100-8-51 for facilities in nonattainment areas;

(F) is not operated in conjunction with another facility or source that is subject to air quality permitting;

(G) is not subject to an emission standard, equipment standard, or work practice standard in the Federal NSPS (40 CFR Part 60) or the Federal NESHAP (40 CFR Parts 61 and 63); and

(H) is not subject to the requirements of OAC 252:100-39-47.

**"Portable source"** means a source with design and intended use to allow disassembly or relocation.

**"Relocate"** means to move a source from one geographical location to another. The term does not include minimal moves within the facility boundaries.

**"Regulated air pollutant"** means any substance or group of substances listed in Appendix P of this Chapter, or any substance regulated as an air pollutant under any federal regulation for which the Department has been given authority, or any other substance for which an air emission limitation or equipment standard is set by an enforceable permit.

**"Replacement unit"** means an emissions unit for which all the criteria listed in paragraphs (A) through (D) of this definition are met.



(A) The emissions unit is a reconstructed unit within the meaning of 40 C.F.R. Section 60.15(b)(1), the emissions unit is a reconstructed unit within the meaning of paragraph (1) in the definition of "Reconstruction" in 40 C.F.R. Section 63.2, or the emissions unit completely takes the place of an existing emissions unit.

(B) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(C) The replacement unit does not alter the basic design parameter(s) of the process unit.

(D) The replaced emissions unit is permanently removed from the source, otherwise permanently disabled, or permanently barred from operating by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

**"Traditional NSR process"** means a process under which the evaluation of requirements applicable under NSR is performed independently of the determination of procedural and compliance requirements under the FESOP program. This process is required for facilities that have not yet received a FESOP, but it may also be used (as an alternative to the FESOP Enhanced NSR process) for facilities that have already received a FESOP. The traditional NSR process provides a 30-day public and EPA review period on the draft construction (NSR) permit, as described in OAC 252:100-7-17 and OAC 252:4-7. This process is independent of the subsequent application, review, and issuance process for the source's initial or modified FESOP that also includes a 30-day public and EPA review period, as described in OAC 252:100-7-18 and OAC 252:4-7.

### **252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities [AMENDED]**

—Greenhouse gas (GHG) emissions shall not be included in a minor facility permit nor cause a facility to be subject to minor facility permitting requirements contained in OAC 252:100-7, unless the owner or operator of that facility requests that GHG emission limits and/or physical or operational limitations be included in a minor permit for the facility to set enforceable limits to keep potential GHG emission levels below the applicability threshold levels for the PSD construction permit program and/or the Part 70 operating permit program. Physical or operational limitations may include, but are not limited to, air pollution control equipment, restrictions on hours of operation, and/or restrictions on the type or amount of material combusted, stored, or processed. (a) Greenhouse gas (GHG) emissions, as an aggregate, or as individual pollutants (e.g., methane), are not required to be included in a minor facility permit unless one or more of the following apply:

- (1) The facility is subject to a GHG emission limit under a New Source Performance Standard (40 CFR Part 60) or National Emissions Standard for Hazardous Air Pollutants (40 CFR Parts 61 and 63); or
  - (2) The facility is subject to a GHG emission limit that is based on a federal Emission Guideline (EG) promulgated by EPA (in 40 CFR Part 60) pursuant to Section 111(d) of the Federal CAA; or
  - (3) The owner or operator requests that a minor facility's permit include GHG emission limits and/or physical or operational limitations obtained for the purposes of reducing potential GHG emissions.
- (b) GHG emissions, as an aggregate, and as individual pollutants (e.g., methane), are not required to be included in a facility's annual emissions inventory (OAC 252:100-5-2.1).
- (c) GHG emissions, as an aggregate, and as individual pollutants (e.g., methane), are excluded from the definition of "regulated air pollutants (for fee calculation)" in OAC 252:100-5-1.1, and are, therefore, not subject to the annual operating fees under OAC 252:100-5-2.2.
- (d) Regardless of any limits on methane included in a minor source permit or inclusion of any reporting requirements or other provisions in the permit that may affect methane or GHG emissions, neither methane nor GHG (as an aggregate) will be considered to be regulated air pollutants for the purposes of the following:
- (1) The determination whether the owner or operator of a facility registered under a permit by rule in Subchapter 7, Part 9, is required to submit an emissions inventory on a three-year or six-year cycle in accordance OAC 252:100-5-2.1(a)(2).
  - (2) The determination whether a construction permit is required for a modification of an existing facility to add or physically modify a piece of equipment or a process that results in a permitted emissions increase of any one regulated air pollutant by more than 5 TPY (OAC 252:100-7-15(a)(2)(B)(ii)).
  - (3) The determination whether a facility has actual emissions of 5 TPY or less of each regulated air pollutant to determine whether a facility is a "de minimis facility" as defined in OAC 252:100-7-1.1.
  - (4) The determination whether a facility has actual emissions in every calendar year of 40 TPY or less of each regulated air pollutant to determine whether a facility is a "permit exempt facility" as defined in OAC 252:100-7-1.1.
  - (5) The determination whether a facility is eligible for a permit by rule, in accordance with OAC 252:100-7-15(b)(1)(A), because it has actual emissions of 40 TPY or less of any regulated air pollutant (except for HAPs).

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(6) The determination whether a facility is eligible for a general permit, in accordance with OAC 252:100-7-15(b)(2)(A), because it has actual emissions of less than 100 TPY of any regulated air pollutant (except for HAPs).

(7) The determination whether a facility is eligible for a permit by rule for oil and natural gas sector facilities, in accordance with OAC 252:100-7-60.5, because it has actual emissions of 40 TPY or less of any regulated air pollutant (except for HAPs).

(8) The determination whether a facility is eligible for a permit by rule for emergency engine facilities, in accordance with OAC 252:100-7-60.6, because it has actual emissions of 40 TPY or less of any regulated air pollutant (except for HAPs).

(9) The determination whether a facility is eligible for a permit by rule for gasoline dispensing facilities and gasoline dispensing facilities with emergency engines, in accordance with OAC 252:100-7-60.7, because it has actual emissions of 40 TPY or less of any regulated air pollutant (except for HAPs).

(10) The determination whether a facility is a "major source" as defined in OAC 252:100-8-2.

(11) The determination whether a facility is a "major stationary source" as defined in OAC 252:100-8-31 for facilities in attainment areas or in OAC 252:100-8-51 for facilities in nonattainment areas.

(12) The determination whether a facility's project is a "major modification" as defined in OAC 252:100-8-31 for facilities in attainment areas or in OAC 252:100-8-51 for facilities in nonattainment areas.

(e) Any of these exceptions or requirements may be set aside at the discretion of the Director.

## PART 3. CONSTRUCTION PERMITS

### 252:100-7-15. Construction permit [AMENDED]

(a) **Construction permit required.** Except as provided in OAC 252:100-7-2(b)(5), a construction permit is required to commence construction or installation of a new facility or the modification of an existing facility as specified in OAC 252:100-7-15(a)(1) and (2).

(1) **New Facility.** No person shall cause or allow the construction or installation of any new minor facility other than a de minimis facility or a permit exempt facility as defined in OAC 252:100-7-1.1 without first obtaining a DEQ-issued air quality construction permit.

(2) **Modification of an existing facility.**

(A) A construction permit is required for any modification that would cause an existing facility to no longer qualify for de minimis status, permit exempt facility status, or its current permit category.

(B) A construction permit is required for an existing facility covered by an individual permit:

(i) to add an "affected facility," "affected source," or "new source" as those terms are defined in 40 CFR Section 60.2, 40 CFR Section 63.2, and 40 CFR Section 61.02, respectively, that is subject to an emission standard, equipment standard, or work practice standard in a federal NSPS (40 CFR Part 60) or a federal NESHAP (40 CFR Parts 61 and 63) or

(ii) to add or physically modify a piece of equipment or a process that results in a permitted emissions increase of any one regulated air pollutant (excluding GHGs as individual pollutants and as an aggregate) by more than 5 TPY.

(C) The requirement to obtain a construction permit under OAC 252:100-7-15(a)(2)(B)(i) does not apply to replacement of a piece of equipment, provided the replacement unit does not require a change in any emission limit in the existing permit, and the owner or operator notifies the DEQ in writing within fifteen (15) days of the startup of the replacement unit, and/or as otherwise specified by the permit.

(b) **Permit categories.** Three types of construction permits are available: permit by rule, general permit, and individual permit. A permit by rule may be adopted or a general permit may be issued for an industry if there are a sufficient number of facilities that have the same or substantially similar operations, emissions, and activities that are subject to the same standards, limitations, and operating and monitoring requirements.

(1) **Permit by rule.** An owner or operator of a minor facility may apply for registration under a permit by rule if the following criteria are met:

(A) The facility has actual emissions of 40 TPY or less of each regulated air pollutant, except HAPs and GHGs (as individual pollutants and as an aggregate).

(B) The facility does not emit or have the potential to emit 10 TPY or more of any single HAP or 25 TPY or more of any combination of HAPs.

(C) The DEQ has established a permit by rule for the industry in Part 9 of this Subchapter.

(D) The owner or operator of the facility certifies that it will comply with the applicable permit by rule.

(E) The facility is not operated in conjunction with another facility or source that is subject to air quality permitting.

(2) **General permit.** Minor facilities may qualify for authorization under a general permit if the following criteria are met:

(A) The facility has actual emissions less than 100 TPY of each regulated air pollutant, except for HAPs and GHGs (as individual pollutants and as an aggregate).

(B) The facility does not emit or have the potential to emit 10 TPY or more of any single HAP or 25 TPY or more of any combination of HAPs.

(C) The DEQ has issued a general permit for the industry.

(3) **Individual permit.** The owners or operators of minor facilities requiring permits under this Subchapter which do not qualify for permit by rule or a general permit shall obtain individual permits. An owner or operator may apply for an individual permit even if the facility qualifies for a permit by rule or a general permit.

(c) **Content of construction permit application.** Construction permit applications shall contain at least the data and information listed in OAC 252:100-7-15(c)(1) and (2).

(1) **Individual permit.** An applicant for an individual construction permit shall provide data and information required by this Chapter on an application form available from the DEQ. Such data and information should include but not be limited to:

(A) site information,

(B) process description,

(C) emission data,

(D) BACT when required,

(E) sampling point data and

(F) modeling data when required.

(2) **General permit.** An applicant for authorization under a general permit shall provide data and information required by that permit on a form available from the DEQ. For general permits that provide for application through the filing of a notice of intent (NOI), authorization under the general permit is effective upon receipt of the NOI.

(d) **Permit contents.** The construction permit:

(1) Shall require the permittee to comply with all applicable air pollution rules.

(2) Shall prohibit the exceedance of ambient air quality standards contained in OAC 252:100-3.

(3) May establish permit conditions and limitations as necessary to assure compliance with all rules.

(e) **Duty to comply with the construction permit.** The permittee shall comply with all limitations and conditions of the construction permit. A violation of the limitations or conditions contained in the construction permit shall subject the owner or operator of a facility to any or all enforcement penalties, including permit revocation, available under the Oklahoma Clean Air Act and Air Pollution Control Rules. No operating permit will be issued until the violation has been resolved to the satisfaction of the DEQ.

(f) **Cancellation of authority to construct or modify.** The authority to construct or modify granted by a duly issued construction permit will terminate (unless extended as provided below) if the construction is not commenced within 18 months of the permit issuance date, or if work is suspended for more than 18 months after it has commenced.

(g) **Extension of authorization to construct or modify.**

(1) Prior to the permit expiration date, a permittee may apply for extension of the permit by written request of the DEQ stating the reasons for the delay/suspension and providing justification for the extension. The DEQ may grant:

(A) one extension of 18 months or less or

(B) one extension of up to 36 months where the applicant is proposing to expand an already existing facility to accommodate the proposed new construction or the applicant has expended a significant amount of money (1% of total project cost as identified in the original application, not including land cost) in preparation for meeting the definition of "commence construction" at the proposed site.

(2) If construction has not commenced within three (3) years of the effective date of the original permit, the permittee must undertake and complete an appropriate available control technology review and an air quality analysis. This review must be approved by the DEQ before construction may commence.

(h) **Expiration of authorization to construct or modify.** The authorization to construct or modify under the construction permit shall expire upon completion of the construction or modification, or as otherwise provided in (e), (f), or (g). However, the requirements established under (d) shall continue in effect until and unless the facility or affected unit ceases operations, was never constructed in the first place, or the requirement is superseded under a subsequently-issued construction permit or a FESOP that has undergone public review.

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## PART 9. PERMITS BY RULE

### 252:100-7-60.5. Oil and natural gas sector [AMENDED]

(a) **Applicability.** This PBR is issued for minor facilities and area sources in the oil and natural gas (O&NG) sector. This includes but is not limited to facilities subject to federal standards, primarily Subparts IIII, JJJJ, OOOO, ~~and~~ OOOOa, and OOOOb of the federal NSPS, 40 CFR Part 60, and Subparts HH and ZZZZ of the federal NESHAP, 40 CFR Part 63, as cited in this PBR and incorporated by reference in OAC 252:100-2 and Appendix Q to Chapter 100. Specifically, this PBR applies to the following:

(1) **Eligible minor facilities and area sources.** New and existing minor facilities and area sources in the O&NG sector are eligible for this PBR, provided they comply with the conditions in (A) through (G) of this paragraph.

(A) The facility has actual emissions of 40 TPY or less of each regulated air pollutant, except HAPs and GHGs (as individual pollutants and as an aggregate).

(B) The facility has potential emissions of each regulated air pollutant, except HAPs, that are less than the emission levels that require prevention of significant deterioration (PSD), nonattainment new source review (NNSR), and Part 70 permits.

(C) The facility does not emit or have potential emissions of 10 TPY or more of any single HAP or 25 TPY or more of any combination of HAPs.

(D) For the purpose of determining if a facility is eligible for registration under this PBR, the calculation of actual emissions may include emission reductions that will be made enforceable by registration under this PBR.

(E) Only for the purpose of determining if a facility is eligible for registration under this PBR, the calculation of potential emissions shall not include emission reductions resulting from any physical or operational limitation (including capacity limitations, use of air pollution control equipment, and/or restrictions on hours of operation or on the type or amount of material combusted, stored, or processed). ~~Affected~~ However, affected sources or potentially affected sources subject to a federal standard (NSPS or NESHAP) may include enforceable limitations imposed by the federal standards in the calculation of potential emissions.

(F) The facility must meet the criteria in 252:100-7-15(b)(1)(C) through (E).

(G) The facility is not otherwise a Part 70 source.

(2) **Equipment and processes.** This PBR covers equipment and processes located at minor facilities and area sources in the O&NG sector that meet the criteria contained in 252:100-7-60.5(a)(1). Covered equipment and processes under this PBR include, but are not limited to:

(A) The affected facilities listed in 40 CFR Section 60.5365 of NSPS Subpart OOOO and 40 CFR Section 60.5365a of NSPS Subpart OOOOa, and 40 CFR Section 60.5365b of NSPS Subpart OOOOb.

(B) Stationary compression ignition internal combustion engines, as specified in 40 CFR Section 60.4200 of NSPS Subpart IIII, which are located at minor facilities in the O&NG sector.

(C) Stationary spark ignition internal combustion engines, as specified in 40 CFR Section 60.4230 of NSPS Subpart JJJJ, which are located at minor facilities in the O&NG sector.

(D) The affected sources listed in 40 CFR Section 63.760(a) and (b)(2) of NESHAP Subpart HH, which are located at area sources.

(E) Stationary reciprocating internal combustion engines (RICE), as specified in 40 CFR Section 63.6585 of NESHAP Subpart ZZZZ, which are located at area sources in the O&NG sector.

### (b) Standards and requirements.

(1) **NSPS and NESHAP requirements.** The owner or operator shall meet the applicable requirements of the following NSPS and NESHAP subparts for equipment and processes located at minor facilities or area sources in the O&NG sector.

(A) **General provisions.** The owner or operator of minor affected facilities covered by the O&NG PBR shall comply with applicable requirements of 40 CFR 60, Subpart A.

(B) **Crude oil and natural gas production, transmission, and distribution.** The owner or operator of each minor affected facility shall comply with the applicable standards and requirements of 40 CFR Part 60, Subparts OOOO, ~~and/or~~ OOOOa, and/or OOOOb.

(C) **Stationary compression ignition internal combustion engines.** The owner or operator of a stationary compression ignition internal combustion engine shall comply with the applicable emission, equipment, and work practice standards and testing, reporting monitoring, and recordkeeping requirements of 40 CFR Part 60, Subpart IIII.

(D) **Stationary spark ignition internal combustion engine.** The owner or operator of a stationary spark ignition internal combustion engine shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 60, Subpart JJJJ.

(E) **General provisions.** The owner or operator of an area source covered by the O&NG PBR shall comply with applicable requirements of 40 CFR Part 63, Subpart A.

(F) **Oil and natural gas production facilities.** The owner or operator of an affected source listed in 40 CFR Section 63.760(a) and (b) and located at an area source shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 63, Subpart HH.

(G) **Stationary reciprocating internal combustion engines.** The owner or operator of a stationary RICE located at an area source shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 63, Subpart ZZZZ.

(H) **Equipment subject to any other NSPS or NESHAP.** The owner or operator of the facility shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of any other applicable NSPS or NESHAP, including any modification to requirements of an existing applicable NSPS or NESHAP.

(2) **DEQ Air Pollution Control Rules, standards, and requirements.** The owner or operator of an O&NG facility covered by this PBR shall comply with applicable portions of the:

(A) emission inventory requirements and annual fee requirements contained in 252:100-5;

(B) excess emission reporting requirements contained in 252:100-9;

(C) particulate matter emission rates contained in 252:100-19 for fuel-burning equipment;

(D) visible emissions (opacity) limits contained in 252:100-25 for subject emission units;

(E) fugitive dust standards contained in 252:100-29;

(F) standards and requirements for the control of the emission of sulfur compounds contained in 252:100-31 for subject emission units;

(G) standards and requirements for the control of the emission of nitrogen oxides contained in 252:100-33 for subject fuel-burning equipment;

(H) standards and requirements for the control of the emission of VOCs contained in 252:100-37 and 252:100-39 for subject emission units; and

(I) testing, monitoring, and recordkeeping requirements contained in 252:100-43.

(c) **Requested process-specific limitations - storage vessel affected facilities.** An owner or operator shall designate on the PBR registration form(s) that either of the following federally enforceable limits are applicable to a specified storage vessel affected facility. The permittee shall submit a notice of enforceability on forms provided by the DEQ to add or remove the applicability of federally enforceable limits to or from any specific emission unit.

(1) The storage vessel affected facility shall be limited to less than 6 TPY of VOC emissions, 12-month rolling total, unless another time measurement is specified under 40 CFR Part 60, Subpart OOOO or OOOOa.

Demonstration of compliance with the VOC emission limit shall be based on records of VOC stored and monthly throughputs. Emissions shall be calculated using current EPA AP-42 methodology for working and breathing emissions or other methodology acceptable to the DEQ, and using available AQD guidance for flash emissions.

(A) In the demonstration of compliance with the VOC emission limit, a properly installed and operated vapor recovery unit (VRU) is considered to recover 100% of the VOC during the time the VRU is in use.

(B) The permittee shall maintain, for a period of five (5) years, records of VOC stored, monthly throughputs, and emissions calculations used to demonstrate compliance, including records of all periods of uncontrolled venting.

(2) The VOC storage vessel shall be limited to less than 6 TPY of VOC emissions, 12-month rolling total, unless another time measurement is specified under 40 CFR Part 60, Subpart OOOO or OOOOa. For any VOCs not routed through a VRU, the storage vessel affected facility shall be controlled utilizing a flare or enclosed combustion device.

(A) For each flare or enclosed combustion device, the presence of a pilot flame shall be monitored using a thermocouple or any other equivalent device, and records of pilot flame(s) outages and/or flare downtime shall be maintained.

(B) The flare or enclosed combustion device shall be operated according to the manufacturer's specifications.

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(C) Demonstration of compliance with the VOC emission limit shall be based on emissions calculated from records of VOC stored and monthly throughputs using current EPA AP-42 methodology for working and breathing emissions or other methodology acceptable to the DEQ, AQD guidance for flash emissions, and a VOC control efficiency as specified.

- (i) During periods when records document that the flare or enclosed combustion device was operational, the VOC emissions estimates may be calculated using a VOC destruction efficiency of 95%.
- (ii) If the manufacturer of the flare or enclosed combustion device guarantees a VOC destruction efficiency greater than 95%, the VOC emissions estimates may be calculated using the VOC destruction efficiency guaranteed by the manufacturer, up to but not to exceed 99.5% during periods when records document that the control device was operational.
- (iii) A properly installed and operated VRU is considered to recover 100% of the VOC during the time the VRU is in use.
- (iv) The permittee shall maintain, for a period of five (5) years, records of VOC stored, monthly throughputs, and emissions calculations used to demonstrate compliance, including records of all periods of uncontrolled venting.

**(d) Requested process-specific legally and practicably enforceable limitations - storage vessel affected facilities (tank batteries).** An owner or operator shall designate on the PBR registration form(s) that the following legally and practicably enforceable (LPE) limits are applicable to a specified storage vessel affected facility under 40 CFR Part 60, Subpart OOOOb. The permittee shall submit a notice of enforceability on forms provided by the DEQ to add or remove the applicability of LPE limits to or from any tank battery, whether the tank battery consists of a single storage vessel or multiple storage vessels that are manifolded together for liquid transfer.

(1) The storage vessel affected facility shall be limited to less than 6 TPY of VOC emissions and less than 20 TPY of methane emissions, calculated as cumulative emissions from all storage vessels within the tank battery, with both limits based on a 12-month rolling total.

(A) Demonstration of compliance with the VOC and methane emission limits shall include the following:

- (i) A monthly quantitative throughput volume.
- (ii) The composition of tank contents and any process stream (actual or representative consistent with DEQ policy as established by the Director) necessary to perform the calculations below.
- (iii) Emission calculation methods for working, breathing, and flashing emissions approved by the Director.
- (iv) Process operating parameters, including temperatures and pressures relied on in the compliance calculations.
- (v) The method, if any, used to capture emissions, and divert emissions to a process and/or route emissions to a control device.
- (vi) Calculations showing that, given the tank contents, throughput, and process operating parameters (including downtime), the emissions from the tank battery will not exceed the LPE limits for VOC or methane.

(B) Applicants that elect to comply with the LPE limits through one or more of the following options shall meet these operational and parametric limits:

- (i) If using a nonassisted flare:
  - (I) a closed vent system that routes emissions from the storage vessel affected facility to the flare.
  - (II) a combustion destruction efficiency of at least 95%.
  - (III) the flare shall meet the following applicable requirements of 40 CFR § 60.18: visible emissions requirements in § 60.18(c)(1); the pilot flame requirements in § 60.18(c)(2); the heating value requirements in § 60.18(c)(3)(ii); exit velocity requirements in § 60.18(c)(4); and the operational requirements in § 60.18(e).
- (ii) If using a nonassisted enclosed combustion device:
  - (I) a closed vent system that routes emissions from the storage vessel affected facility to the combustor.
  - (II) a combustion destruction efficiency of at least 95%.

- (III) the combustor shall meet the following applicable requirements for flares in 40 CFR § 60.18: visible emissions requirements in § 60.18(c)(1); the pilot flame requirements in § 60.18(c)(2); the heating value requirements in § 60.18(c)(3)(ii); and the operational requirements in § 60.18(e).
- (IV) the maximum design capacity (MMBTU/hr) of the gases combusted as established by the manufacturer or operator during a performance test.
- (iii) If using a VRU:
- (I) a closed vent system that captures all emissions from the storage vessel affected facility and routes all emissions to a process.
- (II) the openings of the storage vessels shall be closed and sealed (e.g., covered by a gasketed lid, cap, or other appropriate methods) during normal operation.
- (C) The emission reductions associated with the option(s) selected under (B) shall only be included in emissions calculations to show compliance with limits in (1) above when the following initial and periodic and/or continuous monitoring requirements are met:
- (i) If using a nonassisted flare or enclosed combustion device:
- (I) perform an initial visible emission observation of the flare or enclosed combustion device using Method 22 in Appendix A of 40 CFR Part 60, with a minimum observation time of six (6) minutes, within 60 days of initial operation.
- (II) continuously monitor at least once every five minutes for the presence of a pilot flame or combustion flame using a device (including, but not limited to, a thermocouple, ultraviolet beam sensor, or infrared sensor) capable of detecting that the pilot or combustion flame is present at all times. An alert must be sent whenever the pilot or combustion flame is unlit.
- (III) perform an initial, and semi-annually thereafter, determination of the net heating value of the gasses combusted using the equation in 40 CFR § 60.18(f)(3), GPA Method 2261, or other approved method. If this requirement is removed, waived, or otherwise explicitly rendered unnecessary in 40 CFR Part 60, Subpart OOOOb, the requirement in this subunit shall also be waived or otherwise rendered unnecessary.
- (IV) for a flare, perform an initial, and semi-annually thereafter, determination of the exit velocity of the gasses combusted, calculated by dividing the volumetric flowrate by the unobstructed (free) cross sectional area of the flare tip. Volumetric flowrate shall be determined by Method 2 in Appendix A of 40 CFR Part 60, or a generally accepted model or calculation methodology.
- (V) for an enclosed combustion device, perform an initial, and semi-annually thereafter, demonstration that the actual heat content (MMBTU/hr) of the gases combusted are within the design values that were established by the manufacturer or minimum net heating value determined during an initial performance test. The heat content of the combusted gases shall be determined by a generally accepted model or calculation methodology.
- (VI) whenever the closed vent system, flare, or enclosed combustion device experiences outages and/or downtime, maintain calculations of associated emissions for the purpose of determining compliance with the limits in paragraph (1).
- (ii) If using a VRU, whenever the closed vent system and/or VRU experiences outages and/or downtime, maintain calculations of associated emissions for the purpose of determining compliance with the limits in paragraph (1).
- (D) Reporting of any exceedances of these limits in accordance with DEQ guidance.
- (E) Recordkeeping updated monthly and maintained for a period of five (5) years, including:
- (i) Records of contents stored,
- (ii) Monthly and 12-month rolling total throughputs,
- (iii) Records of parameters monitored as required in subparagraphs (A) and (B) above,
- (iv) Monthly and 12-month rolling total emissions calculations used to demonstrate compliance,
- (v) Times and emissions when the system used to comply with the LPE limits is not operating in accordance with the requirements established in this subsection,
- (vi) Records of all periods of uncontrolled venting, and
- (vii) Equipment specifications, manuals, and/or maintenance records, as appropriate.

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(2).[RESERVED]

## 252:100-7-60.6. Emergency engine facilities [AMENDED]

(a) **Applicability.** This PBR is issued for minor facilities and area sources whose only obligation to obtain a permit is due to the construction (installation) and/or operation of an emergency engine that is subject to an emission standard, equipment standard, or work practice standard in the federal NSPS (40 CFR Part 60) or the federal NESHAP (40 CFR Parts 61 and 63). This includes but is not limited to facilities subject to 40 CFR Part 60, primarily Subparts IIII and JJJJ, and/or 40 CFR Part 63, primarily Subpart ZZZZ, as cited in this PBR and incorporated by reference in OAC 252:100-2 and Appendix Q to Chapter 100. Specifically, this PBR applies to the following:

(1) **Eligible minor facilities and area sources.** New and existing minor facilities and area sources are eligible for this PBR, provided they comply with the conditions in (A) through (F) of this paragraph.

(A) The obligation to obtain a permit from the DEQ is solely because of the presence of one or more emergency engines.

(B) The facility has actual emissions of 40 TPY or less of each regulated air pollutant, except HAPs and GHGs (as individual pollutants and as an aggregate).

(C) The facility has potential emissions of each regulated air pollutant, except HAPs, that are less than the emission levels that require prevention of significant deterioration (PSD), nonattainment new source review (NNSR), and Part 70 permits.

(D) The facility does not emit or have potential emissions of 10 TPY or more of any single HAP and 25 TPY or more of any combination of HAPs.

(E) The facility must meet the criteria in 252:100-7-15(b)(1)(D) and (E).

(F) The facility is not otherwise a Part 70 source.

(2) **Equipment and processes.** This PBR covers equipment and processes located at minor facilities and area sources which meet the criteria contained in 252:100-7-60.6(a)(1). Covered equipment and processes under this PBR include, but are not limited to:

(A) Stationary compression ignition internal combustion engines, as specified in 40 CFR Section 60.4200 of NSPS Subpart IIII.

(B) Stationary spark ignition internal combustion engines, as specified in 40 CFR Section 60.4230 of NSPS Subpart JJJJ.

(C) Stationary reciprocating internal combustion engines (RICE), as specified in 40 CFR Section 63.6585 of NESHAP Subpart ZZZZ.

### (b) Standards and requirements.

(1) **NSPS and NESHAP requirements.** The owner or operator shall meet the applicable requirements of the following NSPS and NESHAP subparts for equipment and processes of emergency engine facilities.

(A) **NSPS general provisions.** The owner or operator of a minor affected facility covered by the emergency engine PBR shall comply with applicable requirements of 40 CFR Part 60, Subpart A.

(B) **Stationary compression ignition internal combustion engines.** The owner or operator of a stationary compression ignition internal combustion engine shall comply with the applicable emission, equipment, and work practice standards, and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 60, Subpart IIII.

(C) **Stationary spark ignition internal combustion engines.** The owner or operator of a stationary spark ignition internal combustion engine shall comply with the applicable emission, equipment, and work practice standards, and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 60, Subpart JJJJ.

(D) **NESHAP general provisions.** The owner or operator of an area source covered by the emergency engine PBR shall comply with the applicable requirements of 40 CFR Part 63, Subpart A.

(E) **Stationary reciprocating internal combustion engines.** The owner or operator of a stationary RICE located at an area source shall comply with the applicable emission, equipment, and work practice standards, and testing, monitoring, and recordkeeping requirements of 40 CFR Part 63, Subpart ZZZZ.

(F) **Emergency engine subject to any other NSPS or NESHAP.** The owner or operator of the facility shall comply with the applicable general provisions, emission, equipment, and work practice standards, and testing, reporting, monitoring, and recordkeeping requirements of any other applicable NSPS or NESHAP, including any modification to applicable requirements of an existing NSPS or NESHAP.

(2) **DEQ Air Pollution Control Rules, standards, and requirements.** The owner or operator of an emergency engine facility covered by this PBR shall comply with applicable portions of the:



- (A) emission inventory requirements and annual fee requirements contained in 252:100-5;
- (B) excess emission reporting requirements contained in 252:100-9;
- (C) particulate matter emission rates contained in 252:100-19 for fuel-burning equipment;
- (D) visible emissions (opacity) limits contained in 252:100-25 for subject emission units;
- (E) fugitive dust standards contained in 252:100-29;
- (F) standards and requirements for the control of the emission of sulfur compounds contained in 252:100-31 for subject emission units;
- (G) standards and requirements for the control of the emission of nitrogen oxides contained in 252:100-33 for subject fuel-burning equipment;
- (H) standards and requirements for the control of the emission of VOCs contained in 252:100-37 and 252:100-39 for subject emission units; and
- (I) testing, monitoring, and recordkeeping requirements contained in 252:100-43.

### **252:100-7-60.7. Gasoline dispensing facilities and gasoline dispensing facilities with emergency engines [AMENDED]**

(a) **Applicability.** This PBR is issued for minor facilities and area sources whose primary or only obligation to obtain a permit is due to the construction (installation) and/or operation of a gasoline dispensing facility that is subject to an emission standard, equipment standard, or work practice standard in the federal NSPS (40 CFR Part 60) or the federal NESHAP (40 CFR Parts 61 and 63). This includes facilities subject to 40 CFR Part 60, Subparts IIII and JJJJ, and/or 40 CFR Part 63, primarily Subparts ZZZZ, and CCCCCC, as cited in this PBR and incorporated by reference in OAC 252:100-2 and Appendix Q to Chapter 100. Specifically, this PBR applies to the following:

(1) **Eligible minor facilities and area sources.** New minor facilities and area sources are eligible for this PBR, provided they comply with the conditions in (A) through (F) of this paragraph.

- (A) The obligation to obtain a permit from the DEQ is solely due to the presence of a gasoline dispensing facility, or the presence of a gasoline dispensing facility and an emergency engine.
- (B) The facility has actual emissions of 40 TPY or less of each regulated air pollutant, except HAPs and GHGs (as individual pollutants and as aggregate).
- (C) The facility has potential emissions of each regulated air pollutant, except HAPs, that are less than the emission levels that require prevention of significant deterioration (PSD), nonattainment new source review (NSR), and Part 70 permits.
- (D) The facility does not emit or have potential emissions of 10 TPY or more of any single HAP, and does not emit or have potential emissions of 25 TPY or more of any combination of HAPs.
- (E) The facility must meet the criteria in 252:100-7-15(b)(1)(D) and (E).
- (F) The facility is not otherwise a Part 70 source.

(2) **Equipment and processes.** This PBR covers equipment and processes located at minor facilities and area sources that meet the criteria contained in 252:100-7-60.7(a)(1). Covered equipment and processes under this PBR include, but are not limited to:

- (A) Gasoline dispensing facilities, as specified in 40 CFR Section 63.11110 of NESHAP Subpart CCCCCC.
- (B) Gasoline dispensing facilities, as specified in 40 CFR Section 63.11110 of NESHAP Subpart CCCCCC, with one or more emergency engines, as specified in NSPS Subparts IIII/JJJJ and/or NESHAP Subpart ZZZZ.

#### **(b) Standards and requirements.**

(1) **NSPS and NESHAP requirements.** The owner or operator shall meet the applicable requirements of the following NSPS and NESHAP subparts for equipment and processes at gasoline dispensing facilities or gasoline dispensing facilities with emergency engines.

- (A) **NSPS general provisions.** The owner or operator of a gasoline dispensing facility with an emergency engine(s) shall comply with applicable requirements of 40 CFR Part 60, Subpart A.
- (B) **Stationary compression ignition internal combustion engines.** The owner or operator of an emergency stationary compression ignition internal combustion engine shall comply with the applicable emission, equipment, and work practice standards, and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 60, Subpart IIII.
- (C) **Stationary spark ignition internal combustion engines.** The owner or operator of an emergency stationary spark ignition internal combustion engine shall comply with the applicable emission, equipment, and work practice standards, and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 60, Subpart JJJJ.

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(D) **NESHAP general provisions.** The owner or operator of an area source covered by the gasoline dispensing facility PBR shall comply with the applicable requirements of 40 CFR Part 63, Subpart A.

(E) **Gasoline dispensing facility.** The owner or operator of a gasoline dispensing facility shall comply with the applicable emission, equipment, and work practice standards, and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 63, Subpart CCCCC.

(F) **Stationary reciprocating internal combustion engines (RICE).** The owner or operator of an emergency stationary RICE located at an area source shall comply with the applicable emission, equipment, and work practice standards, and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 63, Subpart ZZZZ.

(G) **Gasoline dispensing facilities subject to any other NSPS or NESHAP.** The owner or operator of the facility shall comply with the applicable general provisions, emission, equipment, and work practice standards, and testing, reporting, monitoring, and recordkeeping requirements of any other applicable NSPS or NESHAP, including any modification to applicable requirements of an existing NSPS or NESHAP.

(2) **DEQ Air Pollution Control Rules, standards, and requirements.** The owner or operator of a gasoline dispensing facility covered by this PBR shall comply with applicable portions of the:

(A) emission inventory requirements and annual fee requirements contained in 252:100-5;

(B) excess emission reporting requirements contained in 252:100-9;

(C) particulate matter emission rates contained in 252:100-19 for fuel-burning equipment;

(D) visible emissions (opacity) limits contained in 252:100-25 for subject emission units;

(E) fugitive dust standards contained in 252:100-29;

(F) standards and requirements for the control of the emission of sulfur compounds contained in 252:100-31 for subject emission units;

(G) standards and requirements for the control of the emission of nitrogen oxides contained in 252:100-33 for subject fuel-burning equipment;

(H) standards and requirements for the control of the emission of VOCs contained in 252:100-37 and 252:100-39 for subject emission units; and

(I) testing, monitoring, and recordkeeping requirements contained in 252:100-43.

## SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES AND MAJOR NEW SOURCE REVIEW (NSR) SOURCES

### PART 5. PERMITS FOR PART 70 SOURCES

#### 252:100-8-2. Definitions [AMENDED]

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this Section, terms used in this Part retain the meaning accorded them under the applicable requirements of the Act.

**"Administratively complete"** means an application that provides:

(A) All information required under OAC 252:100-8-5(c), (d), or (e);

(B) A landowner affidavit as required by OAC 252:4-7-13(b);

(C) The appropriate application fees as required by OAC 252:100-8-1.7; and

(D) Certification by the responsible official as required by OAC 252:100-8-5(f).

**"Affected source"** means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

**"Affected states"** means:

(A) all states:

(i) That are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and

(ii) That in the judgment of the DEQ may be directly affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed; or

(B) all states that are within 50 miles of the permitted source.

**"Affected unit"** means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

**"Applicable requirement"** means all of the following as they apply to emissions units in a Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

- (A) Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;
- (B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;
- (C) Any standard or other requirement under section 111 of the Act, including section 111(d);
- (D) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;
- (E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;
- (F) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;
- (G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;
- (H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;
- (I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;
- (J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and
- (K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

**"Begin actual construction"** means for purposes of this Part, that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.

**"Designated representative"** means with respect to affected units, a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

**"Draft permit"** means the version of a permit for which the DEQ offers public participation under 27A O.S. §§ 2-14-101 through 2-14-401 and OAC 252:4-7 or affected State review under OAC 252:100-8-8.

**"Emergency"** means, when used in OAC 252:100-8-6(a)(3)(C)(iii)(I) and (e), any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

**"Emissions allowable under the permit"** means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

**"Emissions unit"** means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

**"Enhanced NSR process"** means a process under which the evaluation of requirements applicable under NSR is integrated with a full determination of procedural and compliance requirements under the Part 70 source (Title V) operating permit program. This process is an alternative to traditional NSR process, and is only available for facilities already operating under a Title V permit. Under the enhanced NSR process, the 30-day public review period for a draft NSR permit is integrated with the 45-day EPA review of the Title V permit and would allow for the issuance of a major source construction permit whose applicable Title V implications have also been reviewed. Therefore, the applicable requirements of the construction permit may later be incorporated as a modification to the Title V operating permit using the administrative amendment process of OAC 252:100-8-7.2(a) - without further public or EPA review, as authorized in OAC 252:4-7-13(g)(4).

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**"Final permit"** means the version of a part 70 permit issued by the DEQ that has completed all review procedures required by OAC 252:100-8-7 through 252:100-8-7.5 and OAC 252:100-8-8.

**"Fugitive emissions"** means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

**"General permit"** means a part 70 permit that meets the requirements of OAC 252:100-8-6.1.

**"Insignificant activities"** means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed any of the limits in (A) and (B) of this definition. Any activity to which a State or federal applicable requirement applies is not insignificant even if it meets the criteria below or is included on the insignificant activities list.

(A) 5 tons per year (TPY) of any one criteria pollutant.

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAPs, or 20 percent of any threshold less than 10 tons per year for single HAP that the EPA may establish by rule.

**"MACT"** means maximum achievable control technology.

**"Major source"** means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in subparagraph (A), (B), or (C) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987. For onshore activities belonging to Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, pollutant emitting activities shall be considered adjacent if they are located on the same surface site; or if they are located on surface sites that are located within 1/4 mile of one another (measured from the center of the equipment on the surface site) and they share equipment. Shared equipment includes, but is not limited to, produced fluids storage tanks, phase separators, natural gas dehydrators, or emissions control devices. Surface site, as used in this definition, has the same meaning as in 40 CFR 63.761.

(A) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 TPY or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 TPY or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule.

Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 TPY or more of any air pollutant (except gross particulate matter and GHGs, as individual pollutants and as an aggregate) subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants (not including ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140);
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) All other stationary source categories which, as of August 7, 1980, are being regulated by a standard promulgated under section 111 or 112 of the Act.

(C) A major stationary source as defined in part D of Title I of the Act, including:

- (i) For ozone nonattainment areas, sources with the potential to emit 100 TPY or more of volatile organic compounds or oxides of nitrogen in areas classified or treated as classified as "Marginal" or "Moderate," 50 TPY or more in areas classified or treated as classified as "Serious," 25 TPY or more in areas classified or treated as classified as "Severe," and 10 TPY or more in areas classified or treated as classified as "Extreme"; except that the references in this paragraph to 100, 50, 25, and 10 TPY of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
- (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 TPY or more of volatile organic compounds;
- (iii) For carbon monoxide nonattainment areas:
  - (I) that are classified or treated as classified as "Serious"; and
  - (II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 TPY or more of carbon monoxide; and
- (iv) For particulate matter (PM<sub>10</sub>) nonattainment areas classified or treated as classified as "Serious," sources with the potential to emit 70 TPY or more of PM<sub>10</sub>.

**"Maximum capacity"** means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

**"Permit"** means (unless the context suggests otherwise) any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

**"Permit modification"** means a revision to a Part 70 source construction or operating permit that meets the requirements of OAC 252:100-8-7.2(b).

**"Permit program costs"** means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in OAC 252:100-5-2.2 (whether such costs are incurred by the DEQ or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

**"Permit revision"** means any permit modification or administrative permit amendment.

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**"Potential to emit"** means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

**"Proposed permit"** means the version of a permit that the DEQ proposes to issue and forwards to the Administrator for review in compliance with OAC 252:100-8-8.

**"Regulated air pollutant"** means the following:

- (A) Nitrogen oxides or any volatile organic compound (VOC), including those substances defined in OAC 252:100-1-3, 252:100-37-2, and 252:100-39-2, except those specifically excluded in the EPA definition of VOC in 40 CFR 51.100(s);
- (B) Any pollutant for which a national ambient air quality standard has been promulgated;
- (C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;
- (D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;
- (E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:
  - (i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and,
  - (ii) any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement; or
- (F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

**"Renewal"** means the process by which a permit is reissued at the end of its term.

**"Section 502(b)(10) changes"** means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

**"Small unit"** means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

**"State-only requirement"** means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S. §§ 2-5-101 through 2-5-118, as amended) that is not contained in the State Implementation Plan (SIP).

**"State program"** means a program approved by the Administrator under 40 CFR Part 70.

**"Stationary source"** means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act as it existed on January 2, 2006.

**"Subject to regulation"** means, for any air pollutant, that the pollutant is subject to either a provision in the federal Clean Air Act, or a nationally-applicable regulation codified by the EPA Administrator in subchapter C of Chapter I of 40 CFR, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit, or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

- (A) Greenhouse gases (GHG) shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 TPY CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e) and are otherwise subject to regulation as previously described in this definition.
- (B) The term TPY CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e) shall represent an amount of GHG emitted, and shall be computed by multiplying the mass amount of emissions (TPY), for each of the six greenhouse gases in the pollutant GHG, by the gas' associated global warming potential (GWP) published in Table A-1 to subpart A of 40 CFR Part 98 - Global Warming Potentials, and summing the resultant value for each to compute a TPY CO<sub>2</sub>e.

(C) If federal legislation or a federal court stays, invalidates, delays the effective date, or otherwise renders unenforceable by the EPA, in whole or in part, the EPA's tailoring rule (75 FR 31514, June 3, 2010), endangerment finding (74 FR 66496, December 15, 2009), or light-duty vehicle greenhouse gas emission standard (75 FR 25686, May 7, 2010), this definition shall be enforceable only to the extent that it is enforceable by the EPA.

**"Traditional NSR process"** means a process under which the evaluation of requirements applicable under NSR is performed independently of the determination of procedural and compliance requirements under the Part 70 source (Title V) operating permit program. This process is required for facilities that have not yet received a Part 70 source operating permit, but it may also be used (as an alternative to the enhanced NSR process) for facilities that have already received a Part 70 source operating permit. Under the traditional NSR process, the EPA has an opportunity to review a draft construction permit during the 30-day public review period. This process is independent of the subsequent application, review, and issuance process for the source's initial or modified Part 70 source operating permit that includes a 30-day public review period and a separate 45-day EPA review period, as described in OAC 252:100-8-8 and OAC 252:4-7.

**"Trivial activities"** means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J.

**"Unit"** means, for purposes of Title IV, a fossil fuel-fired combustion device.

### **252:100-8-4. Requirements for construction and operating permits [AMENDED]**

#### **(a) Construction permits.**

##### **(1) Construction permit required.**

**(A) Facilities without Part 70 operating permits.** Except as provided in OAC 252:100-8-4(a)(1)(D), no person shall:

- (i) begin actual construction or installation of any new source that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit under Part 5 of OAC 252:100-8, or
- (ii) make a modification to an existing minor facility such that it will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit under Part 5 of OAC 252:100-8.

**(B) Facilities with Part 70 operating permits.** Except as provided in OAC 252:100-8-4(a)(1)(D), a construction permit is also required prior to

- (i) reconstruction of a major affected source under 40 CFR Part 63,
- (ii) reconstruction of a major source if it would then become a major affected source under 40 CFR Part 63,
- (iii) commencement of any physical change or change in method of operation that would be a significant modification under OAC 252:100-8-7.2(b)(2), or
- (iv) commencement of any physical change or change in method of operation that, for any one regulated air pollutant (except for GHGs, as individual pollutants and as an aggregate), would increase potential to emit by more than 10 TPY, calculated using the approach in 40 C.F.R. Section 49.153(b).

**(C) Additional Requirements.** In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

**(D) Construction Activities Prior to Issuance of a Minor NSR (Construction) Permit.** After the submission of an administratively complete minor NSR construction permit application, but prior to the issuance of the corresponding construction permit, an applicant may begin construction up to, but not including, making any new, modified, or reconstructed unit operational such that it has the ability to emit any regulated air pollutant. The applicant assumes the risk of losing any investment it makes toward implementing such construction prior to the issuance of a construction permit authorizing the construction. If a minor NSR project necessitates determination of BACT, and the BACT recommended in the permit application is not approved in whole or in part by DEQ, the subsequent resolution of the appropriate selection of BACT shall be based upon the facility's pre-application physical configuration. DEQ retains the authority to deny the permit application without consideration of and regardless of any investment the applicant has made prior to permit issuance. This subparagraph does not serve as authorization by DEQ of the requested construction. In addition, this exception does not exempt the owner or operator from any applicable requirements under federal rules (e.g., NSPS or NESHAP) or state-only regulations.

##### **(2) Requirement for case-by-case MACT determinations.**

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(A) **Applicability.** The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) **Exclusions.** The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) **MACT determinations.** If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, 2000.

## (b) Operating permits.

(1) **Operating permits required.** Except as provided in subparagraphs (A) and (B) of this paragraph, no Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

(A) If the owner or operator of a source subject to the requirement to obtain a Part 70 permit submits a timely application for Part 70 permit issuance or renewal, that source's failure to have a Part 70 permit shall not be a violation of the requirement to have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or OAC 252:100-8-4, any additional information identified as being reasonably required to process the application.

(B) If the owner or operator of a source subject to this Subchapter files a timely application that the DEQ determines to be administratively incomplete due to the applicant's failure to timely provide additional information requested by the DEQ, the applicant loses the protection granted under paragraph (A) of this Section. The source's failure to have a Part 70 permit shall be deemed a violation of this Subchapter.

(C) Filing an operating permit application shall not affect the requirement, if any, that a source have a construction permit.

(2) **Duty to apply.** For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the DEQ in accordance with this section.

(3) **Timely application.** A timely application is a complete application (including appropriate fees) that is received with a legible, dated U.S. Postal Service postmark (private metered postmarks are not acceptable), delivered by a commercial carrier with a dated delivery receipt, date-stamped by DEQ when delivered in person, or submitted electronically via email or other electronic submittal system as designated by the Division, on or before the relevant date listed below.

(A) A new source shall file an administratively complete operating permit application within 180 days of commencement of operation.

(B) An existing source that becomes subject to the Part 70 operating permit program due to modification shall file an administratively complete operating permit application within 180 days of commencement of operation of the modification.

(C) An existing source that becomes subject to the Part 70 operating permit program, without undergoing physical or operational changes ~~resulting that result~~ in an increase in the emission of any air pollutant subject to regulation, shall file an administratively complete operating permit application ~~by March 6, 1999 or~~ within 12 months after the effective date on which the source first becomes subject to the Part 70 operating permit program, ~~whichever is later.~~ Compliance with the requirement to submit an administratively complete operating permit application does not authorize a facility to operate with new emission limits. To obtain new emission limits, the owner/operator must obtain a DEQ-issued air quality construction permit under Part 5 of OAC 252:100-8.

(4) [Reserved]

(5) [Reserved]



(6) **Application acceptability.** Notwithstanding the deadlines established in paragraph (4) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing.

(7) **112(g) applications.** A source that is required to meet the requirements under section 112(g) of the Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation.

Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a construction permit before commencing construction.

(8) **Application for renewal.** Sources subject to this Chapter shall file an application for renewal of an operating permit at least 180 days before the date of permit expiration, unless a longer period (not to exceed 540 days) is specified in the permit. Renewal periods greater than 180 days are subject to negotiation on a case-by-case basis.

(9) **Phase II acid rain permits.** Sources required to submit applications under the Acid Rain Program shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) **Application completeness.** See Environmental Permit Process, OAC 252:4-7-7 and the definition of "administratively complete" in OAC 252:100-8-2.

(c) **Enhanced NSR process.** An existing Part 70 source covered by an operating permit issued under this subchapter may be eligible to utilize the enhanced NSR process, including the public notice procedures of OAC 252:4-7-13(g)(4) for a construction permit for modification of the source.

### 252:100-8-5. Permit applications [AMENDED]

(a) **Confidential information.** If a source submits information to the DEQ under a claim of confidentiality, the source shall also submit a copy of such information directly to the Administrator, if the DEQ requests that the source do so.

(b) **Duty to supplement or correct application.** Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, submit such supplementary facts or corrected information within 30 days unless the applicant's request for more time has been approved by the DEQ. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(c) **Standard application form and required information.** Sources that are subject to the Part 70 permit program established by this Chapter shall file applications on the standard application form that the DEQ makes available for that purpose. The application must include information needed to determine the applicability of any applicable requirement, or state-only requirement, or to evaluate the fee amount required under the schedule approved pursuant to OAC 252:100-5-2.2(b)(2). The applicant shall submit the information called for by the application form for each emissions unit at the source to be permitted. The source must provide a list of any insignificant activities that are exempted because of size or production rate. Trivial activities need not be listed. The standard application form and any attachments shall require that the information required by OAC 252:100-8-5(d) and/or (e) be provided.

(d) **Construction permit applications.**

(1) An application for a construction permit shall provide data and information required by this Chapter and/or requested on the application form available from the DEQ pursuant to the requirements of this Chapter. Such data and information shall include but not be limited to site information, process description, emission data and when required, BACT, modeling and sampling point data as follows:

(A) **BACT determination.** To be approved for a construction permit, a major source must demonstrate that the control technology to be applied is the best that is available for each pollutant that would cause the source to be defined as a major source. This determination will be made on a case-by-case basis taking into account energy, environmental, and economic impacts and other costs of alternative control systems. Unless required under Part 7 of this Subchapter, a BACT determination is not required for a modification that will result in an increase of emissions of less than 100 tons per year of any regulated air pollutant. GHGs only trigger a requirement for a BACT determination under the circumstances described in Part 7 of this Subchapter (Prevention of Significant Deterioration or PSD).

(B) **Modeling.** Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the DEQ and accomplished by the applicant. GHGs, either as individual pollutants or as an aggregate, are exempt from the requirements for air quality modeling and ambient impact evaluation.

(C) **Sampling points.** If required by the DEQ an application shall show how the new source will be equipped with sampling ports, instrumentation to monitor and record emission data and other sampling and/or testing equipment.

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(2) Construction permit applications for new sources must also include the requirements for operating permits contained in OAC 252:100-8-5(e) to the extent they are applicable.

(3) Construction permit applications for existing source modifications that are eligible for the enhanced NSR process under 252:100-8-4(c) must indicate in the application whether they intend to utilize:

- (A) the enhanced NSR process, including the public notice procedures of OAC 252:4-7-13(g)(4) and the administrative amendment process for the ensuing operating permit modification, or
- (B) the traditional NSR process.

## **(e) Operating permit applications.**

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(2) A description of the source's processes and products (by two-digit Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

(3) The following emissions-related information:

(A) All emissions of pollutants for which the source is major, and all emissions (including fugitive emissions) of regulated air pollutants. Fugitive emissions shall be included in the permit application and the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under OAC 252:100-8-5(c) or OAC 252:100-8-3(b).

(B) Identification and description of all points of emissions described in OAC 252:100-8-5(e)(3)(A) in sufficient detail to establish the basis for fees and applicability of the Act's requirements.

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard.

(D) The following information to the extent it is needed to determine or regulate emissions:

- (i) fuels,
- (ii) fuel use,
- (iii) raw materials,
- (iv) production rates, and
- (v) operating schedules.

(E) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(F) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the covered source.

(G) Other information required by any applicable requirement, or state-only requirement (including information related to stack height limitations developed pursuant to section 123 of the Act).

(H) Calculations on which the information in items (A) through (G) of this paragraph is based.

(4) The following air pollution control requirements:

(A) Citation and description of all applicable requirements and all state-only requirements.

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement and state-only requirement.

(5) Other specific information required under the DEQ's rules and statutes to implement and enforce other applicable requirements of the Act or of this Chapter or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements and state-only requirements.

(7) Additional information as determined to be necessary by the DEQ to define alternative operating scenarios identified by the source pursuant to OAC 252:100-8-6(a)(9) or to define permit terms and conditions implementing OAC 252:100-8-6(f) or 252:100-8-6(a)(10).

(8) A compliance plan for all covered sources that contains all the following:

(A) A description of the compliance status of the source with respect to all applicable requirements and state-only requirements as follows:

- (i) For applicable requirements and state-only requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
- (ii) For applicable requirements and state-only requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

- (iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
- (B) For sources not in complete compliance, a compliance schedule as follows:
  - (i) A schedule of compliance for sources that are not in compliance with all applicable requirements and state-only requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements and state-only requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.
  - (ii) A schedule for submission of certified progress reports no less frequently than every 6 months.
- (C) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.
- (9) Requirements for compliance certification, including the following:
  - (A) A certification of compliance with all applicable requirements and state-only requirements by a responsible official consistent with OAC 252:100-8-5(f) and section 114(a)(3) of the Act;
  - (B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;
  - (C) A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement state-only requirements or by the permitting authority; and
  - (D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.
- (10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.
- (f) **Certification.** Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Chapter shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

### PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS

#### 252:100-8-31. Definitions [AMENDED]

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise. All terms used in this Part that are not defined in this Section shall have the meaning given to them in OAC 252:100-1-3, 252:100-8-1.1, or in the Oklahoma Clean Air Act.

**"Actual emissions"** means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (A) through (C) of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under OAC 252:100-8-38. Instead, the definitions of "projected actual emissions" and "baseline actual emissions" shall apply for those purposes.

(A) In general, actual emissions as of a particular date shall equal the average rate in TPY at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(B) The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

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(C) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

**"Allowable emissions"** means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- (A) the applicable standards as set forth in 40 CFR Parts 60 and 61;
- (B) the applicable State rule allowable emissions; or,
- (C) the emissions rate specified as an enforceable permit condition.

**"Baseline actual emissions"** means the rate of emissions, in TPY, of a regulated NSR pollutant, as determined in accordance with paragraphs (A) through (E) of this definition.

(A) The baseline actual emissions shall be based on current emissions data and the unit's utilization during the period chosen. Current emission data means the most current and accurate emission factors available and could include emissions used in the source's latest permit or permit application, the most recent CEM data, stack test data, manufacturer's data, mass balance, engineering calculations, and other emission factors.

(B) For any existing electric utility steam generating unit (EUSGU), baseline actual emissions means the average rate, in TPY, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding the date that a complete permit application is received by the Director for a permit required under OAC 252:100-8. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

(i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with start-ups, shutdowns, and malfunctions.

(ii) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units affected by the project. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(iv) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in TPY, and for adjusting this amount if required by (B)(ii) of this definition.

(C) For an existing emissions unit (other than an EUSGU), baseline actual emissions means the average rate in TPY, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Director for a permit required either under this Part or under a plan approved by the Administrator, whichever is earlier, except that the 10 year period shall not include any period earlier than November 15, 1990.

(i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(ii) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a MACT standard that the Administrator proposed or promulgated under 40 CFR 63, the baseline actual emissions need only be adjusted if DEQ has taken credit for such emissions reduction in an attainment demonstration or maintenance plan consistent with requirements of 40 CFR 51.165(a)(3)(ii)(G).

(iv) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(v) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in TPY, and for adjusting this amount if required by (C)(ii) and (iii) of this definition.

(D) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(E) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing EUSGU in accordance with the procedures contained in paragraph (B) of this definition, for other existing emissions units in accordance with the procedures contained in Paragraph (C) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (D) of this definition.

**"Baseline area"** means any intrastate areas (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: Equal to or greater than  $1 \mu\text{g}/\text{m}^3$  (annual average) for  $\text{SO}_2$ ,  $\text{NO}_2$ , or  $\text{PM}_{10}$ ; or equal or greater than  $0.3 \mu\text{g}/\text{m}^3$  (annual average) for  $\text{PM}_{2.5}$ .

(A) Area redesignations under section 107(d)(1)(A)(ii) or (iii) of the Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(i) establishes a minor source baseline date; or

(ii) is subject to 40 CFR 52.21 or OAC 252:100-8, Part 7, and would be constructed in the same State as the State proposing the redesignation.

(B) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available  $\text{PM}_{10}$  increments, except that such baseline area shall not remain in effect if the Director rescinds the corresponding minor source baseline date in accordance with paragraph (D) of the definition of "baseline date".

**"Baseline concentration"** means that ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major stationary source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

**"Baseline date"** means:

(A) Major source baseline date means:

(i) in the case of  $\text{PM}_{10}$  and sulfur dioxide, January 6, 1975;

(ii) in the case of nitrogen dioxide, February 8, 1988; and

(iii) in the case of  $\text{PM}_{2.5}$ , October 20, 2010.

(B) Minor source baseline date means the earliest date after the trigger date on which a major stationary source or major modification (subject to 40 CFR 52.21 or OAC 252:100-8, Part 7) submits a complete application. The trigger date is:

(i) in the case of  $\text{PM}_{10}$  and sulfur dioxide, August 7, 1977;

(ii) in the case of nitrogen dioxide, February 8, 1988; and

(iii) in the case of  $\text{PM}_{2.5}$ , October 20, 2011.

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(C) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

- (i) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or under OAC 252:100-8, Part 7; and
- (ii) in the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(D) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM<sub>10</sub> increments, except that the Director may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Director, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM<sub>10</sub> emissions.

**"Begin actual construction"** means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature.

(A) Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures.

(B) With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

**"Best available control technology"** or **"BACT"** means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR parts 60 and 61. If the Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

**"Clean coal technology"** means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

**"Clean coal technology demonstration project"** means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology", up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the EPA. The Federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

**"Commence"** means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

**"Construction"** means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

**"Continuous emissions monitoring system"** or **"CEMS"** means all of the equipment that may be required to meet the data acquisition and availability requirements to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

**"Continuous emissions rate monitoring system"** or **"CERMS"** means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

**"Continuous parameter monitoring system" or "CPMS"** means all of the equipment necessary to meet the data acquisition and availability requirements to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O<sub>2</sub>, or CO<sub>2</sub> concentrations), and to record average operational parameter value(s) on a continuous basis.

**"Electric utility steam generating unit" or "EUSGU"** means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

**"Emissions unit"** means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an EUSGU. There are two types of emissions units as described in paragraphs (A) and (B) of this definition.

(A) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

(B) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (A) of this definition. A replacement unit is an existing emissions unit.

**"Federal Land Manager"** means with respect to any lands in the United States, the Secretary of the department with authority over such lands.

**"High terrain"** means any area having an elevation 900 feet or more above the base of the stack of a source.

**"Innovative control technology"** means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

**"Low terrain"** means any area other than high terrain.

**"Major modification"** means:

(A) Any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source is a major modification.

(i) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for VOC or NO<sub>x</sub> shall be considered significant for ozone.

(ii) A physical change or change in the method of operation shall not include:

(I) routine maintenance, repair and replacement;

(II) use of an alternative fuel or raw material by reason of any order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(III) use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(IV) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(V) use of an alternative fuel or raw material by a stationary source which the source was capable of accommodating before January 6, 1975, (unless such change would be prohibited under any enforceable permit condition which was established after January 6, 1975) or the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 252:100-8;

(VI) an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975;

(VII) any change in source ownership;

(VIII) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided the project complies with OAC 252:100 and other requirements necessary to attain and maintain the NAAQS during the project and after it is terminated;

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(IX) the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant (on a pollutant-by-pollutant basis) emitted by the unit; or

(X) the reactivation of a very clean coal-fired EUSGU.

(B) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under OAC 252:100-8-38 for a PAL for that pollutant. Instead, the definition of "PAL major modification" at 40 CFR 51.166(w)(2)(viii) shall apply.

**"Major stationary source" means**

(A) A major stationary source is:

(i) any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 TPY or more of a regulated NSR pollutant (except for GHGs, either as individual pollutants or as an aggregate):

(I) carbon black plants (furnace process),

(II) charcoal production plants,

(III) chemical process plants, (not including ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140),

(IV) coal cleaning plants (with thermal dryers),

(V) coke oven batteries,

(VI) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input,

(VII) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

(VIII) fuel conversion plants,

(IX) glass fiber processing plants,

(X) hydrofluoric, sulfuric or nitric acid plants,

(XI) iron and steel mill plants,

(XII) kraft pulp mills,

(XIII) lime plants,

(XIV) municipal incinerators capable of charging more than 250 tons of refuse per day,

(XV) petroleum refineries,

(XVI) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,

(XVII) phosphate rock processing plants,

(XVIII) portland cement plants,

(XIX) primary aluminum ore reduction plants,

(XX) primary copper smelters,

(XXI) primary lead smelters,

(XXII) primary zinc smelters,

(XXIII) secondary metal production plants,

(XXIV) sintering plants,

(XXV) sulfur recovery plants, or

(XXVI) taconite ore processing plants;

(ii) any other stationary source not on the list in (A)(i) of this definition which emits, or has the potential to emit, 250 TPY or more of a regulated NSR pollutant (except for GHGs, either as individual pollutants or as an aggregate);

(iii) any physical change that would occur at a stationary source not otherwise qualifying as a major stationary source under this definition if the change would constitute a major stationary source by itself.

(B) A major source that is major for VOC or NO<sub>x</sub> shall be considered major for ozone.

(C) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Part whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(i) the stationary sources listed in (A)(i) of this definition;



(ii) any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

**"Necessary preconstruction approvals or permits"** means those permits or approvals required under all applicable air quality control laws and rules.

**"Net emissions increase"** means:

(A) with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

- (i) the increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to OAC 252:100-8-30(b); and,
- (ii) any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under (A)(ii) of this definition shall be determined as provided in the definition of "baseline actual emissions", except that (B)(iii) and (C)(iv) of that definition shall not apply.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if:

- (i) it is contemporaneous; and
- (ii) The Director has not relied on it in issuing a permit for the source under OAC 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that it meets all the conditions in (F)(i) through (iii) of this definition.

- (i) It is creditable if the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.
- (ii) It is creditable if it is enforceable as a practical matter at and after the time that actual construction on the particular change begins.
- (iii) It is creditable if it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(H) Paragraph (A) of the definition of "actual emissions" shall not apply for determining creditable increases and decreases.

**"Potential to emit"** means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

**"Predictive emissions monitoring system"** or **"PEMS"** means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O<sub>2</sub>, or CO<sub>2</sub> concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

**"Prevention of Significant Deterioration (PSD) program"** means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of 40 CFR 51.166, or the program in 40 CFR 52.21. Any permit issued under such a program is a major NSR permit.

**"Project"** means a physical change in, or change in method of operation of, an existing major stationary source.

**"Projected actual emissions"** means

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(A) Projected actual emissions means the maximum annual rate, in TPY, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant, and full utilization of the unit would result in a significant emissions increase, or a significant net emissions increase at the major stationary source.

(B) In determining the projected actual emissions under paragraph (A) of this definition (before beginning actual construction), the owner or operator of the major stationary source:

- (i) shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans under the approved plan; and
- (ii) shall include fugitive emissions to the extent quantifiable and emissions associated with start-ups, shutdowns, and malfunctions; and
- (iii) shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,
- (iv) in lieu of using the method set out in (B)(i) through (iii) of this definition, may elect to use the emissions unit's potential to emit, in TPY.

**"Reactivation of a very clean coal-fired electric utility steam generating unit"** means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

- (A) has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the Department's emissions inventory at the time of enactment;
- (B) was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;
- (C) is equipped with low-NO<sub>x</sub> burners prior to the time of commencement of operations following reactivation; and
- (D) is otherwise in compliance with the requirements of the Act.

**"Regulated NSR pollutant"** means the following:

(A) any pollutant for which a NAAQS has been promulgated. This includes but is not limited to the following:

- (i) PM<sub>2.5</sub> emissions and PM<sub>10</sub> emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. Such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM<sub>2.5</sub> and PM<sub>10</sub> in PSD permits.
- (ii) any pollutant identified as a constituent or precursor to any pollutant identified under subparagraph (A) of this definition. Precursors identified by the EPA Administrator for purposes of NSR are the following:
  - (I) volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.
  - (II) sulfur dioxide is a precursor to PM<sub>2.5</sub> in all attainment and unclassifiable areas.
  - (III) nitrogen oxides are presumed to be precursors to PM<sub>2.5</sub> in all attainment and unclassifiable areas, unless the State demonstrates to the EPA Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM<sub>2.5</sub> concentrations.
  - (IV) volatile organic compounds are presumed not to be precursors to PM<sub>2.5</sub> in any attainment or unclassifiable area, unless the State demonstrates to the EPA Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's

ambient PM<sub>2.5</sub> concentrations.

- (B) any pollutant that is subject to any standard promulgated under section 111 of the Act;
- (C) any Class I or II substance subject to a standard promulgated under or established by title VI of the Act; or
- (D) any pollutant that otherwise is "subject to regulation" under the Act as defined in the definition of "subject to regulation" in OAC 252:100-8-31;
- (E) Notwithstanding subparagraphs (B) through (D) of this definition, regulated NSR pollutant does not include:

- (i) any or all HAP either listed in section 112 of the Act or added to the list pursuant to section 112(b)(2) of the Act, which have not been delisted pursuant to section 112(b)(3) of the Act, unless the listed HAP is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act; or
- (ii) any pollutant that is regulated under section 112(r) of the Act, provided that such pollutant is not otherwise regulated under the Act.

**"Replacement unit"** means an emissions unit for which all the criteria listed in paragraphs (A) through (D) of this definition are met. No creditable emission reduction shall be generated from shutting down the existing emissions unit that is replaced.

- (A) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.
- (B) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.
- (C) The replacement unit does not alter the basic design parameter(s) of the process unit.
- (D) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operating by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

**"Repowering"** means

- (A) Repowering shall mean the replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.
- (B) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.
- (C) The Director shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under section 409 of the Act.

**"Significant"** means:

- (A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following significant emission rates:
  - (i) carbon monoxide: 100TPY,
  - (ii) nitrogen oxides: 40 TPY,
  - (iii) sulfur dioxide: 40 TPY,
  - (iv) particulate matter: 25 TPY of particulate matter emissions or 15 TPY of PM<sub>10</sub> emissions,
  - (v) PM<sub>2.5</sub>: 10 TPY of direct PM<sub>2.5</sub> emissions; 40 TPY of sulfur dioxide emissions; or 40 TPY of nitrogen oxide emissions unless demonstrated not to be a PM<sub>2.5</sub> precursor under the definition of "regulated NSR pollutant",
  - (vi) ozone: 40 TPY of VOC or NO<sub>x</sub>,
  - (vii) lead: 0.6 TPY,
  - (viii) fluorides: 3 TPY,
  - (ix) sulfuric acid mist: 7 TPY,
  - (x) hydrogen sulfide (H<sub>2</sub>S): 10 TPY,
  - (xi) total reduced sulfur (including H<sub>2</sub>S): 10 TPY,

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- (xii) reduced sulfur compounds (including H<sub>2</sub>S): 10 TPY,
- (xiii) municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans):  $3.5 \times 10^{-6}$  TPY,
- (xiv) municipal waste combustor metals (measured as particulate matter): 15 TPY,
- (xv) municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 40 TPY,
- (xvi) municipal solid waste landfill emissions (measured as nonmethane organic compounds): 50 TPY.

(B) In reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that subparagraph (A) of this definition does not list, any emission rate.

(C) Any emissions rate or any net emissions increase associated with a major stationary source or major modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than  $1 \mu\text{g}/\text{m}^3$  (24-hour average).

**"Significant emissions increase"** means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

**"Significant net emissions increase"** means a significant emissions increase and a net increase.

**"Stationary source"** means any building, structure, facility or installation which emits or may emit a regulated NSR pollutant.

**"Subject to regulation"** means, for any air pollutant, that the pollutant is subject to either a provision in the federal Clean Air Act, or a nationally-applicable regulation codified by the EPA Administrator in subchapter C of Chapter I of 40 CFR, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit, or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(A) Greenhouse gases (GHG), either as individual pollutants or as an aggregate, shall not be subject to regulation except as provided in subparagraph (D) of this definition.

(B) For purposes of subparagraphs (C) and (D) of this definition, the term TPY CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e) shall represent an amount of GHG emitted, and shall be computed as follows:

(i) Multiplying the mass amount of emissions (in TPY), for each of the six greenhouse gases in the pollutant GHG, by the gas' associated global warming potential (GWP) published in Table A-1 to subpart A of 40 CFR Part 98 - Global Warming Potentials.

(ii) Summing the resultant value from (B)(i) of this definition for each gas to compute a TPY CO<sub>2</sub>e.

(C) The term emissions increase as used in subparagraph (D) of this definition shall mean that both a significant emissions increase (as calculated using the procedures in OAC 252:100-8-30(b)(1) through (5)) and a significant net emissions increase (as defined in the definitions of "net emissions increase" and "significant" in 252:100-8-31) occur. For the pollutant GHG, an emissions increase shall be based on TPY CO<sub>2</sub>e, and shall be calculated assuming the pollutant GHG is a regulated NSR pollutant, and "significant" is defined as 75,000 TPY CO<sub>2</sub>e and the emissions are otherwise subject to regulation as previously described in this definition.

(D) Beginning January 2, 2011, the pollutant GHG is subject to regulation if it meets the other requirements of this definition and if:

(i) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHG, and also will emit or will have the potential to emit 75,000 TPY CO<sub>2</sub>e or more; or

(ii) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHG, and also will have ~~an~~ both a significant emissions increase and a significant net emission increase of a regulated NSR pollutant (that is not GHG), and an emissions increase of 75,000 TPY CO<sub>2</sub>e or more.

(E) If federal legislation or a federal court stays, invalidates, delays the effective date, or otherwise renders unenforceable by the EPA, in whole or in part, the EPA's tailoring rule (75 FR 31514, June 3, 2010), endangerment finding (74 FR 66496, December 15, 2009), or light-duty vehicle greenhouse gas emission standard (75 FR 25686, May 7, 2010), this definition shall be enforceable only to the extent that it is enforceable by the EPA.

**"Temporary clean coal technology demonstration project"** means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Oklahoma Air Pollution Control Rules in OAC 252:100 and other requirements necessary to attain and/or maintain the NAAQS during and after the project is terminated.

## **252:100-8-33. Exemptions [AMENDED]**

### **(a) Exemptions from the requirements of OAC 252:100-8-34 through 252:100-8-36.2.**

(1) The requirements of OAC 252:100-8-34 through 252:100-8-36.2 do not apply to a particular major stationary source or major modification if the source or modification is:

- (A) a nonprofit health or nonprofit educational institution; or
- (B) major only if fugitive emissions, to the extent quantifiable, are included in calculating the potential to emit and such source is not one of the categories listed in paragraph (C) of the definition of "Major stationary source"; or
- (C) a portable stationary source which has previously received a permit under the requirements contained in OAC 252:100-8-34 through 252:100-8-36.2 and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(2) The requirements in OAC 252:100-8-34 through 252:100-8-36.2 do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that the source or modification is located in an area designated as nonattainment for that pollutant under section 107 of the Act. Nonattainment designations for revoked NAAQS, as contained in 40 CFR part 81, shall not be viewed as current designations under section 107 of the Act for purposes of determining the applicability of requirements equivalent to those contained in Sections 252:100-8-34 through 252:100-8-36.2 to a major stationary source or major modification after the revocation of that NAAQS is effective.

### **(b) Exemption from air quality impact analyses in OAC 252:100-8-35(a) and (c) and 252:100-8-35.2.**

(1) The requirements of OAC 252:100-8-35(a) and (c) and 252:100-8-35.2 are not applicable with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(2) The requirements of OAC 252:100-8-35(a) and (c) and 252:100-8-35.2 as they relate to any PSD increment for a Class II area do not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of BACT, would be less than 50 TPY.

(3) The requirements of OAC 252:100-8-35(a) and (c) and 252:100-8-35.2 are not applicable with respect to GHGs, as individual pollutants or as an aggregate.

### **(c) Exemption from air quality analysis requirements in OAC 252:100-8-35(c).**

(1) The monitoring requirements of OAC 252:100-8-35(c) regarding air quality analysis are not applicable for a particular pollutant if the emission increase of the pollutant from a proposed major stationary source or the net emissions increase of the pollutant from a major modification would cause, in any area, air quality impacts less than the following amounts:

- (A) Carbon monoxide - 575  $\mu\text{g}/\text{m}^3$ , 8-hour average,
- (B) Nitrogen dioxide - 14  $\mu\text{g}/\text{m}^3$ , annual average,
- (C)  $\text{PM}_{2.5}$  - 0  $\mu\text{g}/\text{m}^3$ , no exemption available,
- (D)  $\text{PM}_{10}$  - 10  $\mu\text{g}/\text{m}^3$ , 24-hour average,
- (E) Sulfur dioxide - 13  $\mu\text{g}/\text{m}^3$ , 24-hour average,
- (F) Ozone - no de minimis air quality level is provided for ozone, however any net increase of 100 TPY or more of VOC or  $\text{NO}_x$  subject to PSD would require an ambient impact analysis, including the gathering of ambient air quality data,
- (G) Lead - 0.1  $\mu\text{g}/\text{m}^3$ , 24-hour 3-month average,
- (H) Fluorides - 0.25  $\mu\text{g}/\text{m}^3$ , 24-hour average,
- (I) Total reduced sulfur - 10  $\mu\text{g}/\text{m}^3$ , 1-hour average,
- (J) Hydrogen sulfide - 0.2  $\mu\text{g}/\text{m}^3$ , 1-hour average, or
- (K) Reduced sulfur compounds - 10  $\mu\text{g}/\text{m}^3$ , 1-hour average.

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(2) The monitoring requirements of OAC 252:100-8-35(c) are not applicable for a particular pollutant if the pollutant is not listed in preceding OAC 252:100-8-33(c)(1).

**(d) Exemption from monitoring requirements in OAC 252:100-8-35(c)(1)(B) and (D).**

(1) The requirements for air quality monitoring in OAC 252:100-8-35(c)(1)(B) and (D) shall not apply to a particular source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted on or before June 8, 1981, and the Director subsequently determined that the application was complete except for the requirements in OAC 252:100-8-35(c)(1)(B) and (D). Instead, the requirements in 40 CFR 52.21(m)(2) as in effect on June 19, 1978, shall apply to any such source or modification.

(2) The requirements for air quality monitoring in OAC 252:100-8-35(c)(1)(B) and (D) shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted on or before June 8, 1981, and the Director subsequently determined that the application as submitted was complete, except for the requirements in OAC 252:100-8-35(c)(1)(B) and (D).

**(e) Exemption from the preapplication analysis required by OAC 252:100-8-35(c)(1)(A), (B), and (D).**

(1) The Director shall determine if the requirements for air quality monitoring of PM<sub>10</sub> in OAC 252:100-8-35(c)(1)(A), (B), and (D) may be waived for a particular source or modification when an application for a PSD permit was submitted on or before June 1, 1988, and the Director subsequently determined that the application, except for the requirements for monitoring particulate matter under OAC 252:100-8-35(c)(1)(A), (B), and (D), was complete before that date.

(2) The requirements for air quality monitoring of PM<sub>10</sub> in OAC 252:100-8-35(c)(1)(B)(i), 252:100-8-35(c)(1)(D), and 252:100-8-35(c)(3) shall apply to a particular source or modification if an application for a permit was submitted after June 1, 1988, and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988, to the date the application became otherwise complete in accordance with the provisions of OAC 252:100-8-35(c)(1)(C), except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100-8-35(c)(1)(B)(ii) shall have been gathered over that shorter period.

**(f) Exemption from BACT requirements and air quality analyses requirements.** If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for BACT in OAC 252:100-8-34 and the requirements for air quality analyses in OAC 252:100-8-35(c)(1) are not applicable to a particular stationary source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978, are applicable to any such source or modification.

**(g) Exemption from OAC 252:100-8-35(a)(1)(B).** The permitting requirements of OAC 252:100-8-35(a)(1)(B) do not apply to a stationary source or modification with respect to any PSD increment for nitrogen oxides if the owner or operator of the source or modification submitted a complete application for a permit before February 8, 1988.

*[OAR Docket #25-523; filed 6-6-25]*

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## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

*[OAR Docket #25-528]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program

252:100-49-1. Purpose and applicability [AMENDED]

252:100-49-3. Definitions [AMENDED]

252:100-49-5. Program criteria and qualification determination [AMENDED]

### AUTHORITY:

Environmental Quality Board; 27A O.S. Sections 2-2-101, 2-2-201, 2-3-402, and 2-5-106. Air Quality Advisory Council; 27A O.S. Sections 2-2-201 and 2-5-107. Oklahoma Clean Air Act; 27A O.S. Sections 2-5-101 through 2-5-130. Oklahoma Uniform Permitting Act; 27A O.S. Sections 2-14-101 through 2-14-304. Oklahoma Emission Reduction Technology Incentive Act; 68 O.S. Section 55011.

### SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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# Permanent Final Adoptions

August 8, 2024

**COMMENT PERIOD:**

September 3, 2024 through October 3, 2024

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**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

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N/A

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N/A

**REGISTER PUBLICATION:**

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The Department of Environmental Quality (Department or DEQ) is proposing to amend Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program in OAC 252:100, to implement recent changes to applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et seq. DEQ and the Oklahoma Tax Commission jointly administer the "Oklahoma Emission Reduction Technology Rebate Program" to provide an incentive for "Emission Reduction Projects" – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities. The gist of this rule proposal and the underlying reason for the rulemaking is to implement the Department's responsibilities under the recently revised Oklahoma Emission Reduction Technology Incentive Act.

**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 15, 2025:**

**SUBCHAPTER 49. OKLAHOMA EMISSION REDUCTION TECHNOLOGY REBATE PROGRAM**

**252:100-49-1. Purpose and applicability [AMENDED]**

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(a) The purpose of this Subchapter is to implement applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, *et seq.* The act created the "Oklahoma Emission Reduction Technology Rebate Program," administered by the Department of Environmental Quality and the Oklahoma Tax Commission, to provide a rebate of up to 25% of expenditures for implementation of a qualified "Emission Reduction Project." The program is intended to encourage implementation of new and innovative technologies for reduction of on-site emissions from oil and gas activities, specifically those listed in subsection (b).

(b) This program applies only to emissions from upstream, ~~and midstream, and downstream~~ oil and gas production, exploration, completions, gatherings, storage, processing, refining, distribution, and transmission activities. Activities in the following SIC codes are generally considered to qualify within the scope of eligibility for this program: 1311, 1321, 1381, 2911, 4612, 4613, 4922, 4923, 4924, ~~and 4925~~, 5171, and 5172. DEQ may determine whether an activity identified by a particular NAICS code would qualify under an equivalent SIC code.

## 252:100-49-3. Definitions [AMENDED]

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

"Act" means the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, *et seq.*

"Commission" or "OTC" means the Oklahoma Tax Commission or its successor entity.

"Department" or "DEQ" means the Oklahoma Department of Environmental Quality.

"Emission Reduction Project" or "ERP" means an "Emission Reduction Project" as defined in 68 O.S. § 55008, but does not include projects that are required to address an enforcement action or undertaken as a supplemental environmental project to offset an enforcement penalty.

"Rebate claim" means the package submitted to DEQ documenting all criteria for a rebate has been met. Upon approval by DEQ, the package is forwarded to OTC as the formal request for OTC to issue a rebate under the Rebate Program.

"Rebate Program" or "OERTRP" means the Oklahoma Emission Reduction Technology Rebate Program, 68 O.S. § 55009, *et seq.*

## 252:100-49-5. Program criteria and qualification determination [AMENDED]

(a) **Applying for rebate eligibility.** An applicant responsible for the implementation of a qualified Emission Reduction Project may submit a rebate claim to DEQ for review and determination whether the project qualifies under the program.

(1) The rebate claim shall be submitted on forms provided for this purpose, or as otherwise specified by DEQ.

(2) The rebate claim shall be submitted to DEQ no later than six (6) months after the end of the fiscal year in which the expenditures were made. The fiscal year ends on June 30 each year.

(3) Project documentation shall include:

(A) a project description that provides information in sufficient detail to determine that it qualifies as an Emission Reduction Project as defined in 68 O.S. § 55008;

(B) an estimation of actual resulting emission reductions;

(C) a statement that the project has been designed, installed, and operated as described in the claim and in accordance with good engineering practices and the requirements of this Chapter, and that implementation of the project is complete; and

(D) an itemization of expenses, with invoices, for all equipment installed to implement the project.

(E) a statement that specifically identifies whether the ERP pertains to refining activities, or does not pertain to refining activities.

(4) Project documentation shall state the amount of expenditures made in this state directly related to the implementation of the qualified Emission Reduction Project.

(5) The applicant shall certify that the project is not required to address an enforcement action or undertaken as a supplemental environmental project to offset an enforcement penalty.

(6) The applicant shall provide a certification from OTC that it has filed all Oklahoma tax returns and tax documents which are required by the laws of this state.

(7) The applicant shall provide evidence of a certificate of general liability insurance with a minimum coverage of One Million Dollars (\$1,000,000.00) and a workers' compensation policy pursuant to the laws of this state which shall include coverage of employer's liability.

(8) The rebate claim shall include certification, signed by a responsible official, attesting to the truth, accuracy, and completeness of the claim. This certification shall contain the following language: "I certify that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."



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(9) The applicant will be assessed a one-time fee of \$1,000 that must accompany the rebate claim. A rebate claim without the appropriate fee is incomplete.

(b) **DEQ review of rebate claim.** DEQ will review the rebate claim information to determine if the described project is a qualified Emission Reduction Project, and will notify the applicant and OTC of its final approval or disapproval of the claim for a rebate payment from available funds in either the Oklahoma Emission Reduction Technology Upstream and Midstream Incentive Revolving Fund or the Oklahoma Emission Reduction Technology Downstream Incentive Revolving Fund, as appropriate.

(c) **Early submittal of rebate claim documentation for preliminary review.** An applicant may submit documentation for a planned ERP and corresponding rebate claim, for preliminary review by DEQ prior to the expenditure of project funds. Such submittal shall include a payment for the fee required under paragraph (9). Any resulting preliminary approval of the technical merits of the project shall be subject to final review and approval, once the project is complete and invoices are received per (a)(3)(C) and (D) above, prior to notifying OTC of a final determination under subsection (b).

(d) **Effect on OTC authority.** Nothing in this section shall limit or otherwise affect OTC's authority or responsibilities under the Act, including the authority to request submittal of additional information by the claimant.

*[OAR Docket #25-528; filed 6-6-25]*

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## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

*[OAR Docket #25-529]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources

Part 5. PERMITS FOR PART 70 SOURCES

252:100-8-6. Permit content [AMENDED]

### **AUTHORITY:**

Environmental Quality Board; 27A O.S. Sections 2-2-101, 2-2-201, 2-3-402, and 2-5-106. Air Quality Advisory Council; 27A O.S. Sections 2-2-201 and 2-5-107. Oklahoma Clean Air Act; 27A O.S. Sections 2-5-101 through 2-5-130. Oklahoma Uniform Permitting Act; 27A O.S. Sections 2-14-101 through 2-14-304.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

August 8, 2024

### **COMMENT PERIOD:**

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N/A

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**INCORPORATED STANDARDS:**

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N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The Department of Environmental Quality (Department or DEQ) is proposing to amend existing rule language in OAC 252:100-8-6. Permit Content, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated changes to program requirements pursuant to the Federal Register notice entitled "Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program," 88 Fed. Reg. 47029 (July 21, 2023). The gist of this rule proposal and the underlying reason for the rulemaking is to comply with federal requirements by removing "affirmative defense" provisions in Oklahoma's Part 70 air quality permit program.

**CONTACT PERSON:**

Melanie Foster, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

**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, 2025:**

## **SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES AND MAJOR NEW SOURCE REVIEW (NSR) SOURCES**

### **PART 5. PERMITS FOR PART 70 SOURCES**

#### **252:100-8-6. Permit content [AMENDED]**

(a) **Standard permit requirements.** Part 70 permits issued under this Chapter shall include all applicable requirements and state-only requirements (as defined in OAC 252:100-8-2) that apply to the permitted source at the time of issuance. Each permit shall include the elements in paragraphs (1) through (4) of subsection (a) of this Section.

(1) **Emission limitations and standards.** The permit shall specify emissions limitations and standards that constitute applicable requirements and state-only requirements and shall include those operational conditions and limitations necessary to assure compliance with all such requirements.

(A) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement or state-only requirement upon which the term or condition is based.

(B) The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by EPA.

(C) If the State implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicable procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.

(2) **Permit duration.**

(A) **Operating permits.** The permit shall specify a fixed term. The DEQ shall issue permits for any fixed period requested in the permit application, not to exceed five years, except as follows:

- (i) Permits issued to affected sources shall in all cases have a fixed term of five years.
- (ii) Permits issued to solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act shall have a term not to exceed 12 years. Such permits shall be reviewed every five years.

(B) **Construction permits.** See OAC 252:100-8-1.4.

(3) **Monitoring and related recordkeeping and reporting requirements.**

(A) **Monitoring requirements.**

- (i) The permit shall specify all emissions monitoring and analysis procedures or test methods required under applicable requirements and state-only requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act.
- (ii) The permit shall specify periodic monitoring during the relevant time period sufficient to yield reliable data that are representative of the source's compliance with the permit, as reported pursuant to (a)(3)(C) of this section when an applicable requirement or state-only requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring). Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement or state-only requirement. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph.
- (iii) The permit shall specify as necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.
- (iv) The permit shall contain provisions for the permittee to request the use of alternative test methods or analysis procedures, and provisions for the DEQ to approve or disapprove the request within 60 days.

(B) **Recordkeeping requirements.** The permit shall incorporate all applicable recordkeeping requirements.

- (i) When applicable the permit shall require records of required monitoring information that include:

- (I) the date, place as defined in the permit, and time of sampling or measurements;
- (II) the date(s) analyses were performed;
- (III) the company or entity that performed the analyses;
- (IV) the analytical techniques or methods used;
- (V) the results of such analyses; and
- (VI) the operating conditions existing at the time of sampling or measurement.

- (ii) When applicable, the permit shall require retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original stripchart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify that records may be maintained in computerized form.

(C) **Reporting requirements.** The permit shall incorporate all applicable reporting requirements and contain the following requirements.

- (i) A permit issued under this Part shall require the permittee to submit a report of any required monitoring at least every six months. To the extent possible, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification. However, the reports may be submitted at any time within the reporting period, as stipulated in the permit.
- (ii) Each report submitted under ~~(C)(1)(C)~~(i) of this paragraph shall identify any exceedances from permit ~~requirements~~limits since the previous report that have been monitored by the monitoring systems required under the permit, and any ~~exceedances~~deviation from the testing, monitoring, operating, recordkeeping and reporting requirements under the permit.
- (iii) In addition to semiannual monitoring reports, each permittee shall be required to submit the following supplemental reports.

- (I) Any exceedance resulting from an emergency as defined in OAC 252:100-8-2 or upset conditions as defined in the permit shall be reported promptly but no later than 4:30 p.m. on the next working day after the permittee first becomes aware of the exceedance. The initial report must contain a description of the emergency or upset

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conditions, any steps taken to mitigate emissions, and corrective actions taken. Quantification of exceedances attributable to emergencies or upset conditions shall be made by the best available method.

- a. In accordance with OAC 252:100-9-7, the permittee shall submit a follow-up written excess emission report. This is a state-only requirement.
- b. If the permittee wishes to assert the affirmative defense authorized under subsection (c) of this Section for emergencies, the permittee shall submit a followup written report within 10 working days of first becoming aware of the exceedance request consideration of mitigating factors for excess emissions, the report must include all information necessary to establish the emergency under OAC 252:100-9-8. This is a state-only provision.

(II) Any exceedance that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable; but under no circumstance shall notification be more than 24 hours after exceedance.

(III) Any other exceedances that are identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit.

(IV) All reports of exceedances shall identify the probable cause of the exceedances and any corrective actions or preventive measures taken.

(iv) Every report submitted under this subsection shall be certified by a responsible official or designee, ~~except that if a report of an exceedance required under (C)(iii) of this paragraph must be submitted within ten days of the exceedance, the report may be submitted in the first instance without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the exceedance. Reports submitted shall be consistent with the requirements of OAC 252:100-9.~~

(4) **Risk management plans.** If the source is required to develop and register a risk management plan pursuant to section 112(r) of the Act, the permit need only specify that the permittee will comply with the requirement to register such a plan. Although the requirement to have a risk management plan may be a term of the permit, the risk management plan contents are not part of the permit.

(5) **Title IV allowances.**

(A) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(B) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(C) The permit shall prohibit emissions exceeding any allowance that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder. Compliance with this paragraph will be determined on January 31st of any given year and be based on actual emissions and the number of allowances held for the previous calendar year.

(6) **Severability clause.** The permit shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(7) **General requirements.** The permit shall include the following provisions.

(A) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Oklahoma Clean Air Act and is grounds for:

- (i) enforcement action;
- (ii) permit termination, revocation and reissuance, or modification; or
- (iii) denial of a permit renewal application.

(B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. However, nothing in this subsection shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in assessing penalties for noncompliance if the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continuing operations.

(C) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. Except as provided under OAC 252:100-8-7.2(b)(1) for minor permit modifications, the filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(D) The permit does not convey any property rights of any sort or any exclusive privilege.

(E) The permittee shall furnish to the DEQ, upon receipt of a written request and within a reasonable time, any information that the DEQ may request to determine whether cause exists for modifying, reopening, or revoking and reissuing or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the DEQ copies of records required to be kept by the permit. The permittee may make a claim of confidentiality pursuant to 27A O.S. § 2-5-105.18 for any information or records submitted under this paragraph.

(8) **Fees.** The permit shall provide that the permittee will pay fees to the DEQ consistent with the fee schedule established under OAC 252:100-5-2.2.

(9) **Emissions trading.** The permit shall provide that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(10) **Operating scenarios.** The permit shall include terms and conditions applicable to all operating scenarios described in the permit application and eligible for approval under applicable requirements and state-only requirements. The permit shall authorize the permittee to make changes among operating scenarios authorized in the permit without notice, but shall require the permittee contemporaneously with making a change from one operating scenario to another to record in a log at the permitted facility the scenario under which it is operating.

(11) **Emissions averaging.** The permit shall include terms and conditions, if the permit applicant requests them, for the trading or averaging of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading or averaging such increases and decreases. Such terms and conditions shall include terms under subsections (a) and (c) of this Section to determine compliance and shall satisfy all requirements of the applicable requirements authorizing such trading or averaging.

**(b) Federally enforceable requirements.**

(1) Except as provided in paragraph (b)(2) of this Section, all terms and conditions in a permit issued under this Section, including any provisions designed to limit a source's potential to emit, are enforceable by the DEQ, by EPA, and by citizens under section 304 of the Act.

(2) Notwithstanding paragraph (b)(1) of this Section, the DEQ shall designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or any of its applicable requirements, and such terms and conditions shall not be enforceable by EPA and citizens under section 304 of the Act.

**(c) Compliance requirements.** All permits issued under this Part shall contain the following elements with respect to compliance.

(1) Consistent with paragraph (a)(3) of this Section, the permit shall contain compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit under this Part shall contain a certification by a responsible official as to the results of the required monitoring.

(2) The permit shall contain inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized officials of the DEQ to:

(A) enter upon the permittee's premises during reasonable/normal working hours where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(B) have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(C) inspect at reasonable times and using reasonable safety practices any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(D) as authorized by the Oklahoma Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit.

(3) The permit shall contain a schedule of compliance if required under OAC 252:100-8-5(e)(8)(B).

(4) To the extent required under an applicable schedule of compliance and OAC 252:100-8-5(e)(8), the permit shall contain the requirement for progress reports to be submitted semiannually or more frequently if specified in the applicable requirement or by the DEQ. Such progress reports shall contain:

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- (A) dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and
- (B) an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) The permit shall contain requirements for compliance certification with terms and conditions contained in the permit that are federally enforceable, including emission limitations, standards, or work practices. Each permit shall contain all of the following specifications and requirements.

(A) Each permit shall specify the frequency (which shall be annually unless the applicable requirement or state-only requirement specifies submission more frequently) of submissions of compliance certifications.

(B) Each permit shall specify in accordance with paragraph (a)(3) of this Section, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices.

(C) Each permit shall include a requirement that the compliance certification include:

- (i) the identification of each term or condition of the permit that is the basis of the certification;
- (ii) the permittee's current compliance status, as shown by monitoring data and other information available to the permittee;
- (iii) whether compliance was continuous or intermittent;
- (iv) the method(s) used for determining the compliance status of the source, currently and over the reporting period as required by paragraph (a)(3) of this Section; and
- (v) such other facts as the DEQ may require to determine the compliance status of the source.

(D) Each permit shall contain a requirement that all compliance certifications be submitted to EPA as well as to the DEQ.

(E) Each permit shall contain such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act.

(6) Each permit shall contain such other provisions as the DEQ may require.

## (d) Permit shield.

(1) Each operating permit issued under this Part shall include a "permit shield" provision, which shall state that compliance with the terms and conditions of the permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this Subchapter) shall be deemed compliance with the applicable requirements identified and included in the permit.

(2) Upon request, the DEQ shall include in the permit or in a separate written finding issued with the permit a determination identifying specific requirements that do not apply to the source. The source shall specify in its application for such a determination the requirements for which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to extend the shield to requirements deemed inapplicable to the source may be made either in the original permit application or in a subsequent application for a permit modification.

(3) A Part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(4) Nothing in this Section or in the permit shall alter or affect:

- (A) the provisions of section 303 of the Act, including the authority of the Administrator under that section;
- (B) the liability of an owner or operator of a source for any violation of applicable requirements or state-only requirements prior to or at the time of permit issuance;
- (C) the applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or
- (D) the ability of EPA to obtain information from a source pursuant to section 114 of the Act.

## (e) Emergencies.

(1) An emergency ~~constitutes an affirmative defense to~~ may qualify for consideration of mitigating factors for excess emissions during malfunctions, as authorized in OAC 252:100-9-8, in an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph (e)(3) of this Section and the reporting requirements of OAC 252:100-8-6(a)(3)(C)(iii)(I) are met.

(2) ~~The affirmative defense of emergency~~ Qualification for consideration of mitigating factors shall be demonstrated through properly signed, contemporaneous operating logs or other relevant evidence that:

- (A) an emergency occurred and that the permittee can identify the cause(s) of the emergency;

(B) the permitted facility was at the time being properly operated;

(C) during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or other requirements in the permit.

(3) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(4) The provision in this subsection is in addition to any emergency or upset provision contained in any applicable requirement or OAC 252:100-9.

**(f) Operational flexibility.**

(1) **Applicant's duty to apply for alternative scenarios.** A facility may implement any operating scenario allowed for in its Part 70 permit without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.

(2) **Changes resulting in no emissions increases.** A permitted Part 70 source may make the following changes within the facility.

(A) Such a source may make changes that are not modifications under any provision of Title I of the Act.

(B) Such a source may make changes that do not cause any hourly or annual permitted emission rate of any existing emissions unit to be exceeded.

(C) Such a source may make changes that result in a net change in emissions of zero, provided that the facility notifies the DEQ and EPA in writing at least 7 days in advance of the proposed changes. The source, DEQ, and EPA shall attach each such notice to their copy of the relevant permit. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield described in OAC 252:100-8-6(d) does not apply to any change made pursuant to this subsection.

*[OAR Docket #25-529; filed 6-6-25]*

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## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

*[OAR Docket #25-490]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions

252:100-1-3. Definitions [AMENDED]

Subchapter 7. Permits for Minor Facilities

Part 9. PERMITS BY RULE

252:100-7-60. Permit by rule [AMENDED]

**AUTHORITY:**

Environmental Quality Board; 27A O.S. Sections 2-2-101, 2-2-201, 2-3-402, and 2-5-106. Air Quality Advisory Council; 27A O.S. Sections 2-2-201 and 2-5-107. Oklahoma Clean Air Act; 27A O.S. Sections 2-5-101 through 2-5-117.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

May 24, 2024

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September 12, 2024

**LEGISLATIVE APPROVAL:**

# Permanent Final Adoptions

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Approved on May 28, 2025, by HJR 1033

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

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**SUPERSEDED RULES:**

N/A

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The Department of Environmental Quality is proposing to amend section 252:100-1-3, Definitions, to clarify construction and operating permit requirements associated with modification of an existing minor facility (i.e., subject to Subchapter 7) or Part 70 source (i.e., subject to Subchapter 8). The Department is also proposing to amend existing rule language in section 252:100-7-60, Permit by rule, to clarify requirements for electronic submission of applications for air quality permits. The gist of the proposed rule is to clarify air quality permit requirements related to modification of minor facilities and Part 70 sources, and to allow electronic submission of applications.

**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 15, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### **252:100-1-3. Definitions [AMENDED]**

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise or unless defined specifically for a Subchapter, section, or subsection in the Subchapter, section, or subsection.

"Act" means the Federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

"Administrator" means, unless specifically defined otherwise, the Administrator of the United States Environmental Protection Agency (EPA) or the Administrator's designee.

"Air contaminant source" means any and all sources of emission of air contaminants (pollutants), whether privately or publicly owned or operated, or person contributing to emission of air contaminants. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops and stores, heating and power plants or stations, buildings and other structures of all types.

"Air pollution abatement operation" means any operation which has as its essential purpose a significant reduction in:

(A) the emission of air contaminants, or



(B) the effect of such emission.

**"Air pollution episode"** means high levels of air pollution existing for an extended period (24 hours or more) of time which may cause acute harmful health effects during periods of atmospheric stagnation, without vertical or horizontal ventilation. This occurs when there is a high pressure air mass over an area, a low wind speed and there is a temperature inversion. Other factors such as humidity may also affect the episode conditions.

**"Ambient air standards"** or **"Ambient air quality standards"** means levels of air quality as codified in OAC 252:100-3.

**"Atmosphere"** means the air that envelops or surrounds the earth.

**"Best available control technology"** or **"BACT"** means the best control technology that is currently available as determined by the Director on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs of alternative control systems.

**"Building, structure, facility, or installation"** means:

(A) all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement. (B) notwithstanding the provisions of subparagraph (A), for onshore activities under Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, all of the pollutant-emitting activities included in Major Group 13 that are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities shall be considered adjacent if they are located on the same surface site; or if they are located on surface sites that are located within 1/4 mile of one another (measured from the center of the equipment on the surface site) and they share equipment. Shared equipment includes, but is not limited to, produced fluids storage tanks, phase separators, natural gas dehydrators, or emissions control devices. Surface site, as used in this definition, has the same meaning as in 40 CFR 63.761.

**"Carbon dioxide equivalent emissions"** or **"CO<sub>2</sub>e"** means an amount of GHG emitted, and shall be computed by multiplying the mass amount of emissions, for each of the six greenhouse gases in the pollutant GHG, by the gas' associated global warming potential (GWP) published in Table A-1 to subpart A of 40 CFR Part 98 - Global Warming Potentials, and summing the resultant value for each to compute a CO<sub>2</sub>e.

**"Catalytic cracking unit"** means a unit composed of a reactor, regenerator and fractionating towers which is used to convert certain petroleum fractions into more valuable products by passing the material through or commingled with a bed of catalyst in the reactor. Coke deposits produced on the catalyst during cracking are removed by burning off in the regenerator.

**"Combustible materials"** means any substance which will readily burn and shall include those substances which, although generally considered incombustible, are or may be included in the mass of the material burned or to be burned.

**"Commence"** means, unless specifically defined otherwise, that the owner or operator of a facility to which neither a NSPS or NESHAP applies has begun the construction or installation of the emitting units on a pad or in the final location at the facility.

**"Commencement of operation"** or **"commencing operation"** means the owner or operator of the stationary source has begun, or caused to begin, emitting a regulated air pollutant from any activity for which the stationary source is designed and/or permitted.

**"Complete"** means in reference to an application for a permit, the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Director from requesting or accepting any additional information.

**"Construction"** means, unless specifically defined otherwise, fabrication, erection, or installation of a source.

**"Crude oil"** means a naturally occurring hydrocarbon mixture which is a liquid at standard conditions. It may contain sulfur, nitrogen and/or oxygen derivatives of hydrocarbon.

**"Direct fired"** means that the hot gasses produced by the flame or heat source come into direct contact with the material being processed or heated.

**"Division"** means Air Quality Division, Oklahoma State Department of Environmental Quality.

**"Dust"** means solid particulate matter released into or carried in the air by natural forces, by any fuel-burning, combustion, process equipment or device, construction work, mechanical or industrial processes.

**"EPA"** means the United States Environmental Protection Agency.

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**"Excess emissions"** means the emission of regulated air pollutants in excess of an applicable limitation or requirement as specified in the applicable limiting Subchapter, permit, or order of the DEQ. This term does not include fugitive VOC emissions covered by an existing leak detection and repair program that is required by a federal or state regulation.

**"Existing source"** means, unless specifically defined otherwise, an air contaminant source which is in being on the effective date of the appropriate Subchapter, section, or paragraph of these rules.

**"Facility"** means all of the pollutant-emitting activities that meet all the following conditions:

(A) Are under common control.

(B) Are located on one or more contiguous or adjacent properties.

(C) Have the same two-digit primary SIC Code (as described in the Standard Industrial Classification Manual, 1987).

**"Federally enforceable"** means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State implementation plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, subpart I, including operating permits issued under an EPA-approved program that is incorporated into the State implementation plan and expressly requires adherence to any permit issued under such program.

**"Fossil fuel"** means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

**"Fuel-burning equipment"** means any one or more of boilers, furnaces, gas turbines or other combustion devices and all appurtenances thereto used to convert fuel or waste to usable heat or power.

**"Fugitive dust"** means solid airborne particulate matter emitted from any source other than a stack or chimney.

**"Fugitive emissions"** means, unless specifically defined otherwise, those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

**"Fume"** means minute solid particles generated by the condensation of vapors to solid matter after volatilization from the molten state, or generated by sublimation, distillation, calcination, or chemical reaction when these processes create airborne particles.

**"Garbage"** means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

**"Greenhouse gas"** or **"GHG"** means the air pollutant defined in 40 CFR § 86.1818-12(a) as the aggregate group of six greenhouse gases: carbon dioxide (CO<sub>2</sub>), nitrous oxide (N<sub>2</sub>O), methane (CH<sub>4</sub>), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF<sub>6</sub>).

**"Gross particulate matter"** or **"GPM"** means particulate matter with an aerodynamic diameter greater than 10 micrometers.

**"In being"** means as used in the definitions of New Installation and Existing Source that an owner or operator has undertaken a continuous program of construction or modification or the owner or operator has entered into a binding agreement or contractual obligation to undertake and complete within a reasonable time a continuous program of construction or modification prior to the compliance date for installation as specified by the applicable regulation.

**"Incinerator"** means a combustion device specifically designed for the destruction, by high temperature burning, of solid, semi-solid, liquid, or gaseous combustible wastes and from which the solid residues contain little or no combustible material.

**"Indirect fired"** means that the hot gasses produced by the flame or heat source do not come into direct contact with the material, excluding air, being processed or heated.

**"Installation"** means an identifiable piece of process equipment.

**"Lowest achievable emissions rate"** or **"LAER"** means, for any source, the more stringent rate of emissions based on paragraphs (A) and (B) of this definition. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. In no event shall the application of LAER allow a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable standard of performance for the new source.

(A) LAER means the most stringent emissions limitation which is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable, or

(B) LAER means the most stringent emissions limitation which is achieved in practice by such class or category of stationary sources.

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**"Major source"** means any new or modified stationary source which directly emits or has the capability at maximum design capacity and, if appropriately permitted, authority to emit 100 tons per year or more of a given pollutant. (OAC 252:100-8, Part 3)

**"Malfunction"** means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

**"Minor NSR"** means any NSR permit action under Subchapter 7 or 8 that is not Prevention of Significant Deterioration or Nonattainment NSR.

**"Mist"** means a suspension of any finely divided liquid in any gas or atmosphere excepting uncombined water.

**"Modification"** means any physical change in, or change in the method of operation of, a source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted, except that:

(A) routine maintenance, repair and replacement shall not be considered physical changes; and,

(B) the following shall not be considered a change in the method of operation, unless such change is prohibited under an existing permit condition or exceeds such limitation:

(i) any increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(ii) an increase in hours of operation;

(iii) use of alternative fuel or raw material if, prior to the date any standard under this part becomes applicable to such source the affected facility is designed to accommodate such alternative use.

**"National Emission Standards for Hazardous Air Pollutants" or "NESHAP"** means those standards found in 40 CFR Parts 61 and 63.

**"New installation", "New source", or "New equipment"** means an air contaminant source which is not in being on the effective date of these regulations and any existing source which is modified, replaced, or reconstructed after the effective date of the regulations such that the amount of air contaminant emissions is increased.

**"New Source Performance Standards" or "NSPS"** means those standards found in 40 CFR Part 60.

**"New source review" or "NSR"** means a process of evaluation performed by the DEQ to determine the applicable requirements that must be incorporated into a construction permit issued by the DEQ as necessary to authorize construction, modification, or change in the method of operation of a new or existing stationary source. DEQ's NSR program, at a minimum, must meet the requirements of 40 CFR Part 51, Subpart I.

**"Nonmethane organic compounds" or "NMOC"** means nonmethane organic compounds, as defined in 40 CFR 60.754.

**"NSR permit"** means a construction permit issued by the DEQ as necessary to authorize construction, modification, or change in the method of operation of a new or existing stationary source.

**"Opacity"** means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

**"Open burning"** means the burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

**"Organic compound"** means any chemical compound containing the element carbon.

**"Owner or operator"** means any person who owns, leases, operates, controls or supervises a source.

**"Part 70 permit"** means (unless the context suggests otherwise) any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

**"Part 70 program"** means a program approved by the Administrator under 40 CFR Part 70.

**"Part 70 source"** means any source subject to the permitting requirements of Part 5 of Subchapter 8, as provided in OAC 252:100-8-3(a) and (b).

**"PM<sub>10</sub> emissions"** means particulate matter emitted to the ambient air with an aerodynamic diameter of 10 micrometers or less as measured by applicable reference methods, or an equivalent or alternative method.

**"PM<sub>10</sub>"** means particulate matter with an aerodynamic diameter of 10 micrometers or less.

**"PM<sub>2.5</sub>"** means particulate matter with an aerodynamic diameter of 2.5 micrometers or less.

**"Particulate matter" or "PM"** means any material that exists in a finely divided form as a liquid or a solid.

**"Particulate matter emissions"** means particulate matter emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method.

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**"Potential to emit"** means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

**"Prevention of significant deterioration" or "PSD"** means increments for the protection of attainment areas as codified in OAC 252:100-3.

**"Process equipment"** means any equipment, device or contrivance for changing any materials or for storage or handling of any materials, the use or existence of which may cause any discharge of air contaminants into the open air, but not including that equipment specifically defined as fuel-burning equipment, or refuse-burning equipment.

**"Process weight"** means the weight of all materials introduced in a source operation, including solid fuels, but excluding liquids and gases used solely as fuels, and excluding air introduced for the purposes of combustion. Process weight rate means a rate established as follows:

(A) for continuous or long-run, steady-state, operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

(B) for cyclical or batch source operations, the total process weight for a period which covers a complete or an integral number of cycles, divided by the hours of actual process operation during such period.

(C) where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, that interpretation which results in the minimum value for allowable emission shall apply.

**"Reasonably available control technology" or "RACT"** means devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:

(A) The necessity of imposing such controls in order to attain and maintain a national ambient air quality standard;

(B) The social, environmental, and economic impact of such controls; and

(C) Alternative means of providing for attainment and maintenance of such standard.

**"Reconstruction"** means

(A) the replacement of components of an existing source to the extent that will be determined by the Executive Director based on:

(i) the fixed capital cost (the capital needed to provide all the depreciable components of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new source);

(ii) the estimated life of the source after the replacements is comparable to the life of an entirely new source; and,

(iii) the extent to which the components being replaced cause or contribute to the emissions from the source.

(B) a reconstructed source will be treated as a new source for purposes of OAC 252:100-8, Part 9.

**"Refinery"** means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking, or reforming of unfinished petroleum derivatives.

**"Refuse"** means, unless specifically defined otherwise, the inclusive term for solid, liquid or gaseous waste products which are composed wholly or partly of such materials as garbage, sweepings, cleanings, trash, rubbish, litter, industrial, commercial and domestic solid, liquid or gaseous waste; trees or shrubs; tree or shrub trimmings; grass clippings; brick, plaster, lumber or other waste resulting from the demolition, alteration or construction of buildings or structures; accumulated waste material, cans, containers, tires, junk or other such substances.

**"Refuse-burning equipment"** means any equipment, device, or contrivance, and all appurtenances thereto, used for the destruction of combustible refuse or other combustible wastes by burning.

**"Regulated air pollutant"** means any substance or group of substances listed in Appendix P of this Chapter, or any substance regulated as an air pollutant under any federal regulation for which the Department has been given authority, or any other substance for which an air emission limitation or equipment standard is set by an enforceable permit.

**"Responsible official"** means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the DEQ;

(B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;

(C) For a municipality, state, federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Chapter, a principal executive officer or installation commander of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(D) For affected sources:

(i) The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(ii) The designated representative for any other purposes under this Chapter.

**"Shutdown"** means the cessation of operation of any process, process equipment, or air pollution control equipment.

**"Smoke"** means small gas-borne or air-borne particles resulting from combustion operations and consisting of carbon, ash, and other matter any or all of which is present in sufficient quantity to be observable.

**"Source operation"** means the last operation preceding the emission of an air contaminant, which operation:

(A) results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel; and,

(B) is not an air pollution abatement operation.

**"Stack"** means, unless specifically defined otherwise, any chimney, flue, duct, conduit, exhaust, pipe, vent or opening, excluding flares, designed or specifically intended to conduct emissions to the atmosphere.

**"Standard conditions"** means a gas temperature of 68 degrees Fahrenheit (20° Centigrade) and a gas pressure of 14.7 pounds per square inch absolute.

**"Startup"** means the setting into operation of any process, process equipment, or air pollution control equipment.

**"Stationary source"** means, unless specifically defined otherwise, any building, structure, facility, or installation either fixed or portable, whose design and intended use is at a fixed location and emits or may emit an air pollutant subject to OAC 252:100.

**"Temperature inversion"** means a phenomenon in which the temperature in a layer of air increases with height and the cool heavy air below is trapped by the warmer air above and cannot rise.

**"Title V permit"** means (unless the context suggests otherwise) an operating permit for a Part 70 source.

**"Total Suspended Particulates"** or **"TSP"** means particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50.

**"Visible emission"** means any air contaminant, vapor or gas stream which contains or may contain an air contaminant which is passed into the atmosphere and which is perceptible to the human eye.

**"Volatile organic compound"** or **"VOC"** means any organic compound that participates in atmospheric photochemical reactions resulting in the formation of tropospheric ozone. Carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, ammonium carbonates, tert-butyl acetate and compounds listed in 40 CFR 51.100(s)(1) are presumed to have negligible photochemical reactivity and are not considered to be VOC.

## SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

### PART 9. PERMITS BY RULE

#### 252:100-7-60. Permit by rule [AMENDED]

(a) **Applicability.** A permit by rule (PBR) may be adopted for an industry(s) to streamline the air quality permitting procedures required by OAC 252:100-7-15 and -18, if there are a sufficient number of facilities that meet the requirements of 252:100-7-15(b)(1) and that have the same or substantially similar operations, emissions, and activities that are subject to the same standards, limitations, and operating and monitoring requirements.

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(1) A facility may be constructed or operated under this rule and will be exempt from any other permitting requirements in this Chapter if it meets the requirements of 252:100-7-15(b)(1), 252:100-7-60, and the appropriate PBR.

(2) A facility cannot be registered under more than one PBR at the same time or under a PBR and a general or individual permit at the same time. However, the owner or operator may apply for a change in a facility's registration from one PBR to another PBR if the facility meets the criteria of the "new" PBR. The owner or operator may apply for a change in a facility's air quality permit from a general or an individual permit to registration under a PBR for which the facility qualifies.

(b) **General requirements.** No construction under a PBR may commence until the request and application fee are received by the DEQ. Operation under the PBR is not authorized beyond the time limit contained in 252:100-7-18(a) unless a request for operation under the PBR and the application fee are received by the DEQ.

(1) **Application for registration under a PBR.**

(A) **Construction or operation.** The owner or operator wishing to construct or operate a facility under a PBR, must submit a request for registration under the PBR using the form(s) provided by the DEQ for that PBR. The request must contain written certification by the owner or operator that the facility will be constructed and/or operated in compliance with such PBR. A construction and/or operating permit application fee, as specified in 252:100-7-3, must accompany the form(s).

(B) **Modification.** A physical change or change in the method of operation to a facility covered by a PBR that would cause the facility to no longer qualify for the PBR is a modification, and will result in a change in permit status as provided by 252:100-7-60(b)(4). Other physical or operational changes are not modifications, and do not require submittal of an amended registration.

(2) **Reporting requirements.** The owner or operator of a facility covered by a PBR must comply with the reporting requirements in 252:100-7-60(b)(2)(A), (B), and (C). No other reporting requirements shall apply.

(A) The owner or operator must submit emission inventories as required by 252:100-5-2.1;

(B) The owner or operator must comply with the excess emission reporting requirements in 252:100-9; and

(C) The owner or operator must comply with reporting requirements contained in any applicable NSPS or NESHAP.

(3) **Compliance inspections.** Compliance inspections will be conducted by the DEQ in response to complaints and as necessary to determine compliance.

(4) **Change in permit status.** The owner or operator shall apply for an individual permit or, if applicable, coverage under a general permit in the event that a change causes a facility to no longer qualify for a PBR.

(c) **Registration.** Registration under a PBR shall constitute compliance with the requirements of 252:100-7-15(a) (for construction permits) or 252:100-7-18(a) (for operating permits).

(1) Registration under the PBR will be effective upon receipt of the requisite form(s) (including the appropriate application fee) by the DEQ.

(2) Acceptable documentation of receipt of the PBR registration is the earliest of:

(A) a legible, dated U.S. Postal Service postmark (private metered postmarks are not acceptable);

(B) a dated receipt from a commercial carrier or the U.S. Postal Service; or

(C) a DEQ date-stamped registration;

(D) an electronic submission via email or other electronic submittal system as designated by the Division; or

(E) a combination of A through D resulting in a complete registration package (including all forms and the appropriate fees).

(3) After receiving the appropriate PBR registration request and application fee and confirming that the facility is eligible for coverage under the PBR, the DEQ will acknowledge in writing that the facility is registered to construct or operate under the PBR.

*[OAR Docket #25-490; filed 6-6-25]*

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## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

*[OAR Docket #25-492]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 2. Incorporation by Reference

252:100-2-3. Incorporation by reference [AMENDED]

Appendix Q. Incorporation by Reference [AMENDED]

**AUTHORITY:**

Environmental Quality Board; 27A O.S. Sections 2-2-101, 2-3-402, and 2-5-106. Air Quality Advisory Council; 27A O.S. Sections 2-2-201 and 2-5-107. Oklahoma Clean Air Act; 27A O.S. Sections 2-5-101 through -117.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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September 3, 2024 through October 3, 2024

**PUBLIC HEARING:**

October 17, 2024

**ADOPTION:**

November 21, 2024

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

November 25, 2024

**LEGISLATIVE APPROVAL:**

Approved on May 28, 2025, by HJR 1033

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

September 15, 2025

**SUPERSEDED EMERGENCY ACTIONS:****SUPERSEDED RULES:**

N/A

**GUBERNATORIAL APPROVAL:**

N/A

**REGISTER PUBLICATION:**

N/A

**DOCKET NUMBER:**

N/A

**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

Date of 40 C.F.R. provisions incorporated by reference in OAC 252:100-2-3 and in Appendix Q is changed to "as they existed on June 30, 2024."

**INCORPORATING RULES:**

252:100-2-3 Incorporation by Reference

Appendix Q. Incorporation By Reference

**AVAILABILITY:**

The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m., excluding state holidays.

**GIST/ANALYSIS:**

The Department of Environmental Quality (Department or DEQ) is proposing to update language in Subchapter 2, Incorporation by Reference, to reflect the latest date of incorporation of EPA regulations. The Department is also proposing to update the content in OAC 252:100, Appendix Q, Incorporation By Reference, to incorporate the latest changes to EPA regulations. The gist of these rule proposals and the underlying reason for the rulemaking is to incorporate the latest changes or additions to 40 C.F.R. Part 60, New Source Performance Standards (NSPS), 40 C.F.R. Parts 61 and

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63, National Emission Standards for Hazardous Air Pollutants (NESHAP), and other EPA regulations referenced in Chapter 100.

## CONTACT PERSON:

Melanie Foster, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

**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, 2025:**

## SUBCHAPTER 2. INCORPORATION BY REFERENCE

### **252:100-2-3. Incorporation by reference [AMENDED]**

Except as provided under this section, the provisions of 40 CFR listed in Appendix Q are hereby incorporated by reference as they existed on ~~June 30, 2023~~ June 30, 2024.

(1) **Inclusion of 40 CFR citations and definitions.** When a provision of 40 CFR is incorporated by reference, all citations contained therein are also incorporated by reference.

(2) **Inconsistencies or duplications of requirements or incorporation dates.**

(A) In the event that there are inconsistencies or duplications between the requirements of this Chapter and the requirements of those provisions incorporated by reference in Appendix Q or elsewhere in this Chapter, the more stringent requirements shall apply.

(B) In the event that a specific date of incorporation is indicated in Appendix Q or a subchapter of this Chapter, the specified date of incorporation shall apply.

(3) **Terminology related to 40 CFR.** For purposes of interfacing with 40 CFR and unless the context clearly indicates otherwise, the following terms apply.

(A) "Administrator" is synonymous with "Executive Director."

(B) "U. S. Environmental Protection Agency" or "EPA" is synonymous with "Department of Environmental Quality" or "DEQ."



## APPENDIX Q. INCORPORATION BY REFERENCE [AMENDED]

Except as provided under OAC 252:100-2-3, the following provisions of Title 40 of the Code of Federal Regulations are hereby incorporated by reference as they existed on June 30, 2024, unless otherwise noted.

PART	SUBPART	DESCRIPTION
50	n/a	Appendix B to Part 50 - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method)
50	n/a	Appendix J to Part 50 - Reference Method for the Determination of Particulate Matter as PM <sub>10</sub> in the Atmosphere
51	A	Table 1 to Appendix A only of Subpart A—Emission Thresholds by Pollutant for Treatment as Point Source Under 40 CFR 51.30
51	F	Paragraph 51.100(s)(1) only of Subpart F, Procedural Requirements
51	n/a	Appendix P to Part 51 - Minimum Emission Monitoring Requirements
51	n/a	Appendix W to Part 51 – Guideline on Air Quality Models
58	n/a	Appendix A to Part 58 - Quality Assurance Requirements for Monitors used in Evaluations of National Ambient Air Quality Standards
58	n/a	Appendix B to Part 58 – Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring
60	A	General Provisions [Except 60.4, 60.9, 60.10 and 60.16]
60	Ba	Adoption and Submittal of State Plans for Designated Facilities
60	Cf	Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills
60	D	Standards of Performance for Fossil-Fuel-Fired Steam Generators
60	Da	Standards of Performance for Electric Utility Steam Generating Units
60	Db	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

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PART	SUBPART	DESCRIPTION
60	Dc	Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units
60	E	Standards of Performance for Incinerators
60	Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994
60	Eb	Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996
60	Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996
60	F	Standards of Performance for Portland Cement Plants
60	G	Standards of Performance for Nitric Acid Plants
60	Ga	Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011
60	H	Standards of Performance for Sulfuric Acid Plants
60	I	Standards of Performance for Hot Mix Asphalt Facilities
60	J	Standards of Performance for Petroleum Refineries
60	Ja	Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007
60	K	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978
60	Ka	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984
60	Kb	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for

PART	SUBPART	DESCRIPTION
		Which Construction, Reconstruction, or Modification Commenced After July 23, 1984
60	L	Standards of Performance for Secondary Lead Smelters for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and On or Before December 1, 2022
60	La	Standards of Performance for Secondary Lead Smelters for Which Construction, Reconstruction, or Modification Commenced After December 1, 2022
60	M	Standards of Performance for Secondary Brass and Bronze Production Plants
60	N	Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973
60	Na	Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983
60	O	Standards of Performance for Sewage Treatment Plants
60	P	Standards of Performance for Primary Copper Smelters
60	Q	Standards of Performance for Primary Zinc Smelters
60	R	Standards of Performance for Primary Lead Smelters
60	S	Standards of Performance for Primary Aluminum Reduction Plants
60	T	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants
60	U	Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants
60	V	Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants
60	W	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants
60	X	Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities

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PART	SUBPART	DESCRIPTION
60	Y	Standards of Performance for Coal Preparation and Processing Plants
60	Z	Standards of Performance for Ferroalloy Production Facilities
60	AA	Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983
60	AAa	Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983, and On or Before May 16, 2022
60	AAb	Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarbonization Vessels Constructed After May 16, 2022
60	BB	Standards of Performance for Kraft Pulp Mills
60	BBa	Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013
60	CC	Standards of Performance for Glass Manufacturing Plants
60	DD	Standards of Performance for Grain Elevators
60	EE	Standards of Performance for Surface Coating of Metal Furniture
60	GG	Standards of Performance for Stationary Gas Turbines
60	HH	Standards of Performance for Lime Manufacturing Plants
60	KK	Standards of Performance for Lead-Acid Battery Manufacturing Plants for Which Construction, Reconstruction, or Modification Commenced After January 14, 1980, and On or Before February 23, 2022
60	KKa	Standards of Performance for Lead Acid Battery Manufacturing Plants for Which Construction, Modification or Reconstruction Commenced After February 23, 2022
60	LL	Standards of Performance for Metallic Mineral Processing Plants
60	MM	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations for which Construction,

PART	SUBPART	DESCRIPTION
		Modification or Reconstruction Commenced After October 5, 1979, and On or Before May 18, 2022
60	MMa	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations for which Construction, Modification or Reconstruction Commenced After May 18, 2022
60	NN	Standards of Performance for Phosphate Rock Plants
60	PP	Standards of Performance for Ammonium Sulfate Manufacture
60	QQ	Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing
60	RR	Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations
60	SS	Standards of Performance for Industrial Surface Coating: Large Appliances
60	TT	Standards of Performance for Metal Coil Surface Coating
60	UU	Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture
60	VV	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006
60	VVa	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006, and on or Before April 25, 2023
60	VVb	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After April 25, 2023
60	WW	Standards of Performance for the Beverage Can Surface Coating Industry

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PART	SUBPART	DESCRIPTION
60	XX	Standards of Performance for Bulk Gasoline Terminals That Commenced Construction, Modification, or Reconstruction After December 17, 1980, and On or Before June 10, 2022
60	XXa	Standards of Performance for Bulk Gasoline Terminals that Commenced Construction, Modification, or Reconstruction After June 10, 2022
60	BBB	Standards of Performance for the Rubber Tire Manufacturing Industry
60	DDD	Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry
60	FFF	Standards of Performance for Flexible Vinyl and Urethane Coating and Printing
60	GGG	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006
60	GGGa	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
60	HHH	Standards of Performance for Synthetic Fiber Production Facilities
60	III	Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes After October 21, 1983, and on or Before April 25, 2023
60	IIIa	Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes for Which Construction, Reconstruction, or Modification Commenced After April 25, 2023
60	JJJ	Standards of Performance for Petroleum Dry Cleaners
60	KKK	Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants

PART	SUBPART	DESCRIPTION
60	LLL	Standards of Performance for SO <sub>2</sub> Emissions From Onshore Natural Gas Processing: SO <sub>2</sub> Emissions
60	NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations After December 30, 1983, and on or Before April 25, 2023
60	NNNa	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations for Which Construction, Reconstruction, or Modification Commenced After April 25, 2023
60	OOO	Standards of Performance for Nonmetallic Mineral Processing Plants
60	PPP	Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants
60	QQQ	Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems
60	RRR	Subpart RRR—Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes After June 29, 1990, and on or Before April 25, 2023
60	RRRa	Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes for Which Construction, Reconstruction, or Modification Commenced After April 25, 2023
60	SSS	Standards of Performance for Magnetic Tape Coating Facilities
60	TTT	Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines
60	TTTa	Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines for Which Construction, Reconstruction, or Modification Commenced After June 21, 2022
60	UUU	Standards of Performance for Calciners and Dryers in Mineral Industries

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PART	SUBPART	DESCRIPTION
60	VVV	Standards of Performance for Polymeric Coating of Supporting Substrates Facilities
60	WWW	Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification on or After May 30, 1991, but Before July 18, 2014
60	XXX	Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014
60	AAAA	Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001
60	CCCC	New Source Performance Standards for Commercial/Industrial Solid Waste Incinerators constructed after November 30, 1999
60	DDDD	Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units, Model Rule only, Sections 60.2575 through 60.2875, including Tables 1 through 9
60	EEEE	Standards of Performance for Other Solid Waste Incineration Units for Which Construction Is Commenced After December 9, 2004, or for Which Modification or Reconstruction Is Commenced on or After June 16, 2006
60	III	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines
60	JJJ	Standards of Performance for Stationary Spark Ignition Internal Combustion Engines
60	KKKK	Standards of Performance for Stationary Combustion Turbines
60	LLLL	Standards of Performance for New Sewage Sludge Incineration Units
60	OOOO	Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution for which Construction, Modification or Reconstruction Commenced after August 23, 2011, and on or before September 18, 2015
60	OOOOa	Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After September 18, 2015 and On or Before December 6, 2022



PART	SUBPART	DESCRIPTION
60	OOOOb	Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After December 6, 2022
60	TTTT	Standards of Performance for Greenhouse Gas Emissions for Electric Generating Unit
60	TTTTa	Standards of Performance for Greenhouse Gas Emissions for Modified Coal-Fired Steam Electric Generating Units and New Construction and Reconstruction Stationary Combustion Turbine Electric Generating Units
60	n/a	Appendix A to Part 60 - Test Methods
60	n/a	Appendix B to Part 60 - Performance Specifications
60	n/a	Appendix K to Part 60 - Determination of Volatile Organic Compound and Greenhouse Gas Leaks Using Optical Gas Imaging
61	A	General Provisions
61	C	National Emission Standard for Beryllium
61	D	National Emission Standard for Beryllium Rocket Motor Firing
61	E	National Emission Standard for Mercury
61	F	National Emission Standard for Vinyl Chloride
61	J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
61	L	National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants
61	M	National Emission Standard for Asbestos
61	N	National Emission Standard for Inorganic Arsenic Emissions From Glass Manufacturing Plants
61	O	National Emission Standard for Inorganic Arsenic Emissions From Primary Copper Smelters
61	P	National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities

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PART	SUBPART	DESCRIPTION
61	V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
61	Y	National Emission Standard for Benzene Emissions From Benzene Storage Vessels
61	BB	National Emission Standard for Benzene Emissions From Benzene Transfer Operations
61	FF	National Emission Standard for Benzene Waste Operations
63	A	General Provisions
63	B	Sections 63.41, 63.43 and 63.44 only of Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)
63	F	National Emission Standards for Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry
63	G	National Emission Standards for Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
63	H	National Emission Standards for Hazardous Air Pollutants for Equipment Leaks and Fenceline Monitoring for All Emission Sources
63	I	National Emission Standards for Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks
63	J	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production
63	L	National Emission Standards for Coke Oven Batteries
63	M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
63	N	National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks
63	O	Ethylene Oxide Emissions Standards for Sterilization Facilities

PART	SUBPART	DESCRIPTION
63	Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers
63	R	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
63	S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry
63	T	National Emission Standards for Halogenated Solvent Cleaning
63	U	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins
63	W	National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production
63	X	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting
63	Y	National Emission Standards for Marine Tank Vessel Loading Operations
63	AA	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants
63	BB	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants
63	CC	National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries
63	DD	National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations
63	EE	National Emission Standards for Magnetic Tape Manufacturing Operations
63	GG	National Emission Standards for Aerospace Manufacturing and Rework Facilities
63	HH	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities
63	II	National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)

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PART	SUBPART	DESCRIPTION
63	JJ	National Emission Standards for Wood Furniture Manufacturing Operations
63	KK	National Emission Standards for the Printing and Publishing Industry
63	LL	National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants
63	MM	National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills
63	NN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing at Area Sources
63	OO	National Emission Standards for Tanks - Level 1
63	PP	National Emission Standards for Containers
63	QQ	National Emission Standards for Surface Impoundments
63	RR	National Emission Standards for Individual Drain Systems
63	SS	National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process
63	TT	National Emission Standards for Equipment Leaks – Control Level 1
63	UU	National Emission Standards for Equipment Leaks - Control Level 2 Standards
63	VV	National Emission Standards for Oil-Water Separators and Organic-Water Separators
63	WW	National Emission Standards for Storage Vessels (Tanks) - Control Level 2
63	XX	National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations
63	YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

PART	SUBPART	DESCRIPTION
63	CCC	National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants
63	DDD	National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production
63	EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors
63	GGG	National Emission Standards for Pharmaceuticals Production
63	HHH	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities
63	III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production
63	JJJ	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins
63	LLL	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry
63	MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production
63	NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing
63	OOO	National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins
63	PPP	National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production
63	QQQ	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting
63	RRR	National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production
63	TTT	National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting
63	UUU	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units

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PART	SUBPART	DESCRIPTION
63	VVV	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works
63	XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese
63	AAAA	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills
63	CCCC	National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast
63	DDDD	National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products
63	EEEE	National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)
63	FFFF	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing
63	GGGG	National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production
63	HHHH	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production
63	IIII	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks
63	JJJJ	National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating
63	KKKK	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans
63	MMMM	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products
63	NNNN	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances
63	OOOO	National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles
63	PPPP	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products

PART	SUBPART	DESCRIPTION
63	QQQQ	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products
63	RRRR	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture
63	SSSS	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil
63	TTTT	National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations
63	UUUU	National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing
63	VVVV	National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing
63	WWWW	National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production
63	XXXX	National Emissions Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing
63	YYYY	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines
63	ZZZZ	National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines
63	AAAAA	National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants
63	BBBBB	National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing
63	CCCCC	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks
63	DDDDD	National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters
63	EEEEE	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries
63	FFFFF	National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities

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PART	SUBPART	DESCRIPTION
63	GGGGG	National Emission Standards for Hazardous Air Pollutants: Site Remediation
63	HHHHH	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing
63	IIIII	National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants
63	JJJJJ	National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing
63	KKKKK	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing
63	LLLLL	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing
63	MMMMM	National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations
63	NNNNN	National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production
63	PPPPP	National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Standards
63	QQQQQ	National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities
63	RRRRR	National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing
63	SSSSS	National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing
63	TTTTT	National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining
63	UUUUU	National Emission Standards for Hazardous Air Pollutants: Coal and Oil-fired Electric Utility Steam Generating Units
63	WWWWW	National Emission Standards for Hospital Ethylene Oxide Sterilizers
63	YYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities



PART	SUBPART	DESCRIPTION
63	ZZZZZ	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources
63	BBBBBB	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities
63	CCCCCC	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities
63	DDDDDD	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources
63	EEEEEE	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources
63	FFFFFF	National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources
63	GGGGGG	National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources - Zinc, Cadmium, and Beryllium
63	HHHHHH	National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources
63	JJJJJ	National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources
63	LLLLLL	National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources
63	MMMMMM	National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources
63	NNNNNN	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds
63	OOOOOO	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources
63	PPPPPP	National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources
63	QQQQQQ	National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources

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PART	SUBPART	DESCRIPTION
63	RRRRRR	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources
63	SSSSSS	National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources
63	TTTTTT	National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources
63	VVVVVV	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources
63	WWWWWW	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations
63	XXXXXX	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Nine Metal Fabrication and Finishing Source Categories
63	YYYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities
63	ZZZZZZ	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries
63	AAAAAA	National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing
63	BBBBBB	National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry
63	CCCCCC	National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing
63	DDDDDD	National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing
63	EEEEEE	National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category
63	HHHHHH	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production
64	n/a (All Sections)	Compliance Assurance Monitoring (CAM)
72	All Subparts	Permits Regulation (for Acid Rain Sources)

PART	SUBPART	DESCRIPTION
98	A	Table A-1 only to Subpart A of Part 98 – Global Warming Potentials
241	n/a	Solid Wastes Used as Fuels or Ingredients in Combustion Units

*[OAR Docket #25-492; filed 6-6-25]*

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**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 100. AIR POLLUTION CONTROL**

# Permanent Final Adoptions

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[OAR Docket #25-486]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Appendix E. Primary Ambient Air Quality Standards [AMENDED]

**AUTHORITY:**

Environmental Quality Board; 27A O.S. Sections 2-2-101, 2-3-402, and 2-5-106. Air Quality Advisory Council; 27A O.S. Sections 2-2-201 and 2-5-107. Oklahoma Clean Air Act; 27A O.S. Sections 2-5-101 through 2-5-117.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

May 24, 2024

**COMMENT PERIOD:**

June 17, 2024 through July 17, 2024

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September 12, 2024

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**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

September 15, 2025

**SUPERSEDED EMERGENCY ACTIONS:**

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**GUBERNATORIAL APPROVAL:**

N/A

**REGISTER PUBLICATION:**

N/A

**DOCKET NUMBER:**

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The Department is proposing to amend Appendix E to maintain consistency with the National Ambient Air Quality Standards (NAAQS). Specifically, the PM<sub>2.5</sub> Primary Standard is being amended to reflect recent changes made by EPA in lowering the annual standard from 12.0 µg/m<sup>3</sup> to 9.0 µg/m<sup>3</sup>. The gist of the proposed rule is to ensure Appendix E is consistent with the federal NAAQS.

**CONTACT PERSON:**

Melanie Foster, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

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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, 2025:**

# Permanent Final Adoptions

## APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [AMENDED]

	Sulfur Dioxide	PM <sub>10</sub>	PM <sub>2.5</sub>	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
<b>1-hr. max</b>	75 ppb <sup>(1)</sup>			40 mg/m <sup>3</sup> 35 ppm <sup>(2)</sup>		100 ppb <sup>(3)</sup>	
<b>8-hr. max</b>				10 mg/m <sup>3</sup> 9 ppm <sup>(2)</sup>	0.070 ppm <sup>(4)</sup>		
<b>24-hr. max</b>		150 µg/m <sup>3</sup> <sup>(5)</sup>	35 µg/m <sup>3</sup> <sup>(6)</sup>				
<b>3-month average</b>							0.15 µg/m <sup>3</sup> <sup>(7)</sup>
<b>Annual</b>			9.0 µg/m <sup>3</sup> <sup>(8)</sup>			53 ppb <sup>(9)</sup>	

<sup>(1)</sup> The standard is attained when the 3-year average of the 99th percentile of the daily maximum 1-hour average at each monitor within an area does not exceed 75 ppb, as determined in accordance with 40 CFR Part 50, Appendix T.

<sup>(2)</sup> The standard is attained when the 1-hour average concentration does not exceed 35 ppm and the 8-hour average concentration does not exceed 9 ppm as provided in 40 CFR 50.8.

<sup>(3)</sup> The standard is attained when the 3-year average of the 98th percentile of the daily maximum 1-hour average concentration at each monitor within an area does not exceed 100 ppb as determined in accordance with 40 CFR Part 50, Appendix S.

<sup>(4)</sup> The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.070 ppm, as provided in 40 CFR 50.19.

<sup>(5)</sup> The standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m<sup>3</sup>, as determined in accordance with 40 CFR Part 50, Appendix K is equal to or less than one.

<sup>(6)</sup> The standard is attained when the 98th percentile concentration is equal to or less than the numerical standard as determined by 40 CFR Part 50, Appendix N.

<sup>(7)</sup> The standard is attained when the rolling 3-month maximum average does not exceed 0.15 µg/m<sup>3</sup> more than once during a 3-year period as provided in 40 CFR 50.16.

<sup>(8)</sup> The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR Part 50, Appendix N.

<sup>(9)</sup> The standard is attained when the annual arithmetic mean does not exceed 53 ppb as provided in 40 CFR 50.11.

[OAR Docket #25-486; filed 6-6-25]

### TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 120. OKLAHOMA EMPLOYEES INSURANCE AND BENEFITS BOARD [NEW]

[OAR Docket #25-496]

#### RULEMAKING ACTION:

PERMANENT final adoption

#### RULES:

317:120-1-1. Purpose [NEW]

317:120-1-2. Definitions [NEW]

317:120-1-3. Regular meetings [NEW]  
317:120-1-4. Special meetings [NEW]  
317:120-1-5. Open Meeting Act [NEW]  
317:120-1-6. Committees [NEW]  
317:120-1-7. Cancellation of meetings [NEW]  
317:120-1-8. Board records; release of information [NEW]  
317:120-1-9. Minutes of the Board [NEW]

**AUTHORITY:**

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 CPR Part 1063 O.S. 5007 Oklahoma Health Care Authority Board; 74 O.S. Section 1304.1 Oklahoma Health Care Authority Employees Group Insurance Division.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

September 25, 2024

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January 16, 2025

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N/A

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**SUPERSEDED RULES:**

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**INCORPORATED STANDARDS:**

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**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Clarify language, eliminate obsolete language, correct omissions and streamline to promote and enhance operations, through removal of inaccurate or redundant verbiage, and to simplify language. This rulemaking action creates new rules for the Oklahoma Health Care Authority related to the administrative operations of the Employees Group Insurance Division; the proposed rules are taken directly from the rules currently in place with the Office of Management and Enterprise Services under Title 260. Senate bill 1310 of the 2024 legislative session moved the Employees Group Insurance Division from the Office of Management and Enterprise Services to the Oklahoma Health Care Authority. These proposed rule changes correct references to the Office of Management and Enterprise Services to accurately reflect the

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Oklahoma Health Care Authority. Similarly, certain references to a physical address have been updated to a PO Box to allow for continuity in the event that EGID moves its physical address.

## CONTACT PERSON:

Byron Knox, Deputy General Counsel, email: [bknox@ohca.ok.gov](mailto:bknox@ohca.ok.gov); phone: 405-717-8744

**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 JULY 11, 2025:**

### **317:120-1-1. Purpose [NEW]**

The purpose of this chapter is to outline the structure of the Oklahoma Health Care Authority (OHCA) Oklahoma Employees Insurance and Benefits Board (OEIBB).

### **317:120-1-2. Definitions [NEW]**

The following words and terms as defined by OEIBB shall have the following meaning unless the content clearly indicates otherwise:

"The Board" means the seven [7] members of the Oklahoma Employees Insurance and Benefits Board designated by statute [74 O.S. §1303(1)].

"OEIBB" means Oklahoma Employees Insurance and Benefits Board.

### **317:120-1-3. Regular meetings [NEW]**

The Board shall meet at least once each quarter in Oklahoma City, with the date, time and place determined by the Board. Four [4] members must be present to constitute a quorum in the transaction of the Board's business and a majority vote of those present shall be necessary to approve any motion before the Board. The Board shall hold an annual meeting each year at which officers shall be elected.

### **317:120-1-4. Special meetings [NEW]**

Special meetings may be called upon written notice of the Chair or by agreement of any four [4] members of the Board. Notice of a special meeting is to be delivered to all members in person or by electronic mail not less than forty-eight [48] hours prior to the fixed date of the meeting, unless waived.

### **317:120-1-5. Open Meeting Act [NEW]**

All meetings and notices thereof shall be held in strict accordance with the Open Meeting Act [25 O.S. §§301 et seq., as amended].

### **317:120-1-6. Committees [NEW]**

The Chair may appoint subcommittees and committees as is deemed appropriate. Such appointments shall be in writing and may be changed as needed, upon written notice to all Board members.

### **317:120-1-7. Cancellation of meetings [NEW]**

The Chair of the Board, or the Vice-Chair in the Chair's absence, shall have the power to cancel or reschedule any regular or special meeting of the Board due to anticipated lack of quorum, inclement weather or other emergency. Notice of cancellation of said meeting shall be posted as soon as reasonably possible and in the same manner as the agenda.

### **317:120-1-8. Board records; release of information [NEW]**

All official records of the Board shall be public records open to public inspection under reasonable circumstances at any reasonable time during business hours by any person, but such records shall not be taken from the OHCA office. Copies of public records may be obtained pursuant to the current fee schedule as adopted by OHCA.

### **317:120-1-9. Minutes of the Board [NEW]**

A summary shall be made of all proceedings before the Board which shall show those members present and absent, all matters considered, all actions taken, and the vote of each member on any motion, and shall be open to public inspection, as prescribed in 317:120-1-8.

*[OAR Docket #25-496; filed 6-5-25]*



**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY**  
**CHAPTER 145. EMPLOYEES GROUP INSURANCE DIVISION - ADMINISTRATIVE AND GENERAL**  
**PROVISIONS [NEW]**

*[OAR Docket #25-498]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. Purpose, Definitions, Rules and References [NEW]

317:145-1-1. Purpose [NEW]

317:145-1-2. Definitions [NEW]

317:145-1-3. Rules, cumulative [NEW]

317:145-1-4. Rules in this title and benefit administration procedures or guidelines as adopted by EGID are controlling in all situations [NEW]

317:145-1-5. Disclaimer of conflicting information [NEW]

317:145-1-6. Amending of rules [NEW]

317:145-1-7. Gender reference [NEW]

Subchapter 3. Records and Information [NEW]

317:145-3-1. EGID records; release of information [NEW]

317:145-3-2. Confidentiality of medical records [NEW]

317:145-3-3. Participating entities/business associate protection of confidential health Information [NEW]

317:145-3-4. HealthChoice authorization for release of medical records [NEW]

317:145-3-5. Right to receive and release necessary information [NEW]

317:145-3-6. Call monitoring for quality control [NEW]

317:145-3-7. Electronic records and facsimile, electronic or copies of signatures [NEW]

Subchapter 5. Grievance panel procedures [NEW]

317:145-5-1. Request for hearing [NEW]

317:145-5-2. Notice of hearing [NEW]

317:145-5-3. Prehearing conference [NEW]

317:145-5-4. Grievance hearings conducted by the three [3] member Grievance Panel [NEW]

317:145-5-5. Continuance; disposition; Attorney representation [NEW]

317:145-5-6. Certificate of mailing [NEW]

317:145-5-7. Final order; appeals [NEW]

317:145-5-8. Scheduling of hearings [NEW]

**AUTHORITY:**

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 CFR Part 1063 O.S. 5007 Oklahoma Health Care Authority Board; 74 O.S. Section 1304.1 Oklahoma Health Care Authority Employees Group Insurance Division.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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N/A

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N/A

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**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Clarify language, eliminate obsolete language, correct omissions and streamline to promote and enhance operations, through removal of inaccurate or redundant verbiage, and to simplify language. This rulemaking action creates new rules for the Oklahoma Health Care Authority related to the administrative operations of the Employees Group Insurance Division; the proposed rules are taken directly from the rules currently in place with the Office of Management and Enterprise Services under Title 260. Senate bill 1310 of the 2024 legislative session moved the Employees Group Insurance Division from the Office of Management and Enterprise Services to the Oklahoma Health Care Authority. These proposed rule changes correct references to the Office of Management and Enterprise Services to accurately reflect the Oklahoma Health Care Authority. Similarly, certain references to a physical address have been updated to a PO Box to allow for continuity in the event that EGID moves its physical address.

**CONTACT PERSON:**

Byron Knox, Deputy General Counsel, email: bknox@ohca.ok.gov; phone: 405-717-8744

**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 JULY 11, 2025:**

## **SUBCHAPTER 1. PURPOSE, DEFINITIONS, RULES AND REFERENCES [NEW]**

### **317:145-1-1. Purpose [NEW]**

The purpose of this chapter is to outline the structure of the Oklahoma Health Care Authority (OHCA) Employees Group Insurance Division (EGID), to outline the use and confidentiality of members' personal health information and to identify the availability and procedures to be used to access a grievance hearing.

### **317:145-1-2. Definitions [NEW]**

The following words and terms as defined by EGID shall have the following meaning unless the content clearly indicates otherwise:

"Adverse determination" means a determination by or on behalf of EGID or its designee utilization review organization that an admission, availability of care, continued stay or other healthcare service is a covered benefit but, after review, based upon the information provided, does not meet EGID's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the requested service is therefore denied, reduced, or terminated.

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"EGID" means the Employees Group Insurance Division of the Oklahoma Health Care Authority.

"Grievance Panel" means EGID's independent constitutionally created administrative court. [Const. Art. 7, § 1.]

"Independent review organization" means properly accredited entity that conducts independent external reviews of adverse determinations on behalf of EGID.

"OEIBB" means the Oklahoma Employees Insurance and Benefits Board.

## **317:145-1-3. Rules, cumulative [NEW]**

The Employees Group Insurance Division of the Oklahoma Health Care Authority hereinafter "EGID" will, from time to time, adopt handbooks, policies and procedures for the implementation of the rules set forth herein. Nothing in this chapter shall be read, interpreted, understood or applied so as to affect the validity and enforceability of any additional requirements, statutes, rules or regulations of any other governmental entity, public agency or instrumentality which may be otherwise applicable to those transactions, conduct and facilities regulated herein. The rules in this title shall not be deemed cumulative and supplemental but shall replace all previously promulgated rules of this agency.

## **317:145-1-4. Rules in this title and benefit administration procedures or guidelines as adopted by EGID are controlling in all situations [NEW]**

The rules in this title and the benefit administration procedures or guidelines as adopted by EGID shall be controlling in all situations, without exception, and any and all written information contained in any handbook, summary or other document prepared by or for EGID shall be superseded and limited by the rules in this title and the benefit administration procedures or guidelines as adopted by EGID.

## **317:145-1-5. Disclaimer of conflicting information [NEW]**

In the event there appears to be a conflict between information contained in the rules in this title and the benefit administration procedures or guidelines as adopted by EGID, and any information contained within any handbook or any other written materials, including any letters, bulletins, notices, or any other written document, or oral communication, regardless of the source, such conflict shall always be resolved by a strict application of the rules in this title or the benefit administration procedures or guidelines as adopted by EGID, and no conflict will be resolved by application of the erroneous information contained within the handbook or other written document when the result would be contrary to the limitations set forth in the rules in this title, and the benefit administration procedures or guidelines as adopted by EGID. All erroneous, incorrect, misleading or obsolete language contained within any handbook or any other written document or oral communication, regardless of the source, shall be void from the inception, and of no effect under any circumstances.

## **317:145-1-6. Amending of rules [NEW]**

This chapter may be amended or repealed from time to time and new rules adopted by EGID pursuant to the Administrative Procedures Act.

## **317:145-1-7. Gender reference [NEW]**

All references to "he" or "his" are not intended to be gender related, but shall apply equally to both sexes.

## **SUBCHAPTER 3. RECORDS AND INFORMATION [NEW]**

### **317:145-3-1. EGID records; release of information [NEW]**

All official records of EGID shall be public records open to public inspection under reasonable circumstances at any reasonable time during business hours by any person, but such records shall not be taken from the EGID office. Copies of public records may be obtained pursuant to the current fee schedule as adopted by EGID.

### **317:145-3-2. Confidentiality of medical records [NEW]**

(a) All information, documents, medical reports and copies thereof contained in a member's insurance file held by EGID shall be confidential and shall not be reviewed by unauthorized parties, without permission of the individual or provider, or by court order. The confidentiality of a member's information is maintained when the member's information held by EGID is utilized for health management and communicated among;

- (1) employees of EGID;
- (2) EGID's contracted third party administrators and consultants;
- (3) providers to the member and

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- (4) the member, according to statutory provisions for privilege and confidentiality or written agreements to protect the confidentiality and non-disclosure of the information.
- (b) Authorizations to use or share protected health information will remain valid until termination of the member's or dependent's enrollment in HealthChoice, unless a shorter period of time has been specified, or unless rescinded.
- (c) A member's health information is protected by this rule and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy regulations as codified in 45 Code of Federal Regulations Parts 160 and 164.
  - (1) EGID requires a signed HIPAA compliant authorization from a member or dependent before any confidential information is released to a person, company, or law firm.
  - (2) When individual circumstances arise in specific cases, EGID has authority to ask the member or dependent to independently confirm that EGID has permission to disclose confidential information before responding to any pending request.
  - (3) EGID's obligation to respond to record requests is discharged when EGID has responded to the original request, or if permission of the member or dependent is withdrawn. EGID requires a new authorization or subpoena if more records are requested after EGID has responded.

## **317:145-3-3. Participating entities/business associate protection of confidential health Information [NEW]**

- (a) The participating entity/business associate may only use and disclose the member's health information for the purposes of a member's treatment, to facilitate payment for Plan benefits or for participating entity/business associate business operations on behalf of the member. The participating entity/business associate may not use or further disclose a member's health information other than permitted by EGID rules or described in a written contract between EGID and the participating entity/business associate.
- (b) Participating entities/business associates shall protect a member's confidential health information according to the following guidelines. Participating entity/business associate shall:
  - (1) not use or disclose a member's health information other than permitted in these rules; described in a written contract with EGID or required by law,
  - (2) ensure that subcontractors or agents of the participating entity/business associate maintain confidentiality of any health information provided to its subcontractors or agents,
  - (3) not use or disclose confidential health information for employment related actions concerning the member, unless required by law,
  - (4) notify EGID within five [5] working days when the participating entity/business associate becomes aware of any use or disclosure of a member's health information that is inconsistent with this rule and make an accounting of these disclosures available for EGID and each member,
  - (5) allow a member to access and review health information on file with the participating entity/business associate and submit amending statements for inclusion in their health information file,
  - (6) establish procedures to protect a member's health information and account for disclosures not authorized by these rules,
  - (7) identify the participating entity/business associate employees who may access a member's health information and restrict access to those persons,
  - (8) return to EGID or destroy a member's health information when no longer required by the participating entity/business associate, and if not feasible, limit the use or disclosure to the required purposes,
  - (9) ensure that proper security is in place to protect electronically stored health information and
  - (10) make internal practices, books and records concerning uses and disclosures of protected health information available for inspection by the appropriate authority. A written contract between EGID and participating entity/business associate shall not limit the participating entity/business associate protection of a member's health information to an extent less than described in this rule.

## **317:145-3-4. HealthChoice authorization for release of medical records [NEW]**

Through the submission of claims, each member for whom coverage is applied authorizes, without further notice or consent, EGID to obtain from any provider of medical services, all records and information pertaining to that service which will aid in the proper payment of said claims. EGID is further authorized to use and release to third party payers any information and records so obtained. In all instances, the Rules of Confidentiality shall be applied without regard to the requirements of 317:145-3-2.

## **317:145-3-5. Right to receive and release necessary information [NEW]**

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For the purpose of determining applicability of and implementing the terms in this Plan or any provision of similar purpose of any other Plan, the Administrator may, without the consent of or notice of any person, release to or obtain from any other insurance company or other organization or person any information, with respect to any person, which the Administrator deems to be necessary for such purposes. Any person claiming benefits under this Plan shall furnish to the Administrator such information as may be necessary to implement this section.

### **317:145-3-6. Call monitoring for quality control [NEW]**

The Administrator may institute procedures for monitoring of telephone calls for purposes of providing quality control.

### **317:145-3-7. Electronic records and facsimile, electronic or copies of signatures [NEW]**

Use of electronic records, electronic signatures, facsimile signatures and handwritten signatures executed to electronic records.

- (1) Electronic records, electronic signatures, handwritten signatures executed to sign electronic records, handwritten signatures used to effectuate an electronic record for network contracting purposes, and facsimile or copies of signatures on EGID forms received from participating entities or members, may be used as an alternative or duplicate of paper records and handwritten signatures executed on paper to comply with any of the record and signature requirements of 12A O.S. §15-101 et seq. these rules or applicable Oklahoma law.
- (2) Combinations of paper records and electronic records, electronic records and handwritten signatures executed on paper, or paper records and electronic signatures or handwritten signatures executed to sign electronic records, may be used to comply with any of the record and signature requirements of 12A O.S. §15-101 et seq., these rules or applicable Oklahoma law.
- (3) The EGID Administrator or a Deputy Administrator may utilize a facsimile signature stamp to execute EGID contracts of any kind.

## **SUBCHAPTER 5. GRIEVANCE PANEL PROCEDURES [NEW]**

### **317:145-5-1. Request for hearing [NEW]**

**(a) Grievances.** EGID has established procedures by which:

- (1) Independent Review Organizations shall act as an appeals body for complaints by insured members regarding adverse benefit determinations based on medical necessity, appropriateness, health care setting, level of care, or effectiveness of a covered benefit,
- (2) A three [3] member Grievance Panel shall act as an appeals body for complaints by insured members regarding all other issues.

**(b) Court Administrator Appointees.** The Court Administrator shall designate Grievance Panel members as shall be necessary. The members of the Grievance Panel shall consist of two [2] Attorneys licensed to practice law in this state and one [1] state licensed health care professional or health care administrator who has at least three [3] years practical experience, has had or has admitting privileges to a State of Oklahoma hospital, has a working knowledge of prescription medication, or has worked in an administrative capacity at some point in their career.

**(c) Governor Appointees.** The state health care professional shall be appointed by the Governor. At the Governor's discretion, one or more qualified individuals may also be appointed as an alternate to serve on the Grievance Panel in the event the Governor's primary appointee becomes unable to serve.

**(d) Right to a Hearing.** Any covered member who has exhausted EGID's internal review procedures and has timely requested in writing a hearing before the Grievance Panel pursuant to 317:145-5-1(a)(2) shall receive a hearing in person or through licensed counsel before the panel.

**(e) Remedy.** Grievance procedures conducted by the three [3] member Grievance Panel shall be subject to the Oklahoma Administrative Procedures Act, including provisions thereof for review of agency decisions by the district court.

**(f) Failure to timely submit hearing request.** All Grievance Panel requests must be filed within sixty [60] days from the date the member is notified that the member's claim, benefit, coverage, or other matter has been denied and that EGID's internal review procedures have been exhausted. After more than sixty [60] days from the date the member was first notified that the member's claim, benefit, coverage, or other matter has been denied and that EGID's internal review procedures have been exhausted, the matter shall be deemed finally resolved.

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(g) **Aggrieved member covered by an HMO.** Any member covered by an HMO is entitled to a hearing before the Panel in the same manner as all other covered members for those matters not covered by an Independent Review Organization. The member must exhaust the HMO's internal grievance procedure, except for an emergency or if the HMO fails to timely respond, before requesting a Grievance Panel hearing. The member must file, along with his request for hearing, a written certification from the HMO that the member has exhausted said procedure, or a detailed explanation of the emergency or of the HMO's failure to respond.

(h) **Submission of Grievance request.** Any Grievance request shall be in writing on a form provided by EGID for such purpose or in writing by the employee if in substantial compliance with the form and shall contain the following information:

- (1) Name of employee, Social Security Number and address;
- (2) Name of dependent for whom claim was submitted, if not the covered employee;
- (3) Name of employee's employing entity, location, and identifying number;
- (4) Nature of claim: Health, Dental, Life, Eligibility, Disability, HIPAA or HMO;
- (5) Date claim submitted for payment, claim number;
- (6) The reason given, if any, by the claims administration contractor for denying the claim in whole or in part; and
- (7) A short statement as to the nature of the illness or injury giving rise to the claim.

(i) **Mailing address for submission of Request for Hearing.** The Request for Hearing shall be mailed or delivered to EGID to the attention of Attorney - Grievance Department at PO Box 11137, Oklahoma City, OK 73136-9998.

## **317:145-5-2. Notice of hearing [NEW]**

Upon receipt of a Grievance request, after a member has exhausted EGID's applicable internal review procedures, a hearing number shall be assigned in grievances involving the three [3] member Grievance Panel and notice shall be forwarded to the claims administration contractor by email, secure workflow, or by regular mail at its closest office. The employee shall be notified of the hearing date by mail with delivery confirmation. A copy of all rules pertinent to the hearing shall be forwarded with the Notice, along with a statement of claimant's rights.

## **317:145-5-3. Prehearing conference [NEW]**

For grievance hearings conducted by the three [3] member Grievance Panel the Attorney representing EGID, the claimant, or the claimant's attorney may request a pre-hearing conference to determine legal or factual issues. The Attorney representing EGID may conduct such a conference.

## **317:145-5-4. Grievance hearings conducted by the three [NEW]**

(a) **Witness list.** Each party must submit, in writing, at least forty-eight [48] hours prior to the date of a grievance hearing a complete list of witnesses he or she intends to call, along with a brief comment as to the nature of the testimony. Witnesses shall not be called to testify at the hearing unless notice has been given to the opposing parties.

(b) **Assignment of Panel and Chairman.** All hearings shall be held before a three-member Grievance Panel, as assigned by the Office of the Administrative Director of the Courts. All hearings shall be conducted in accordance with and be governed by the provisions of the Oklahoma Administrative Procedures Act, 75 O.S. §301-326. At each convening of the Panel, one member shall be designated to act as the Chairman.

(c) **Admissibility of evidence.** Rulings on admissibility of evidence shall be made by the Panel Chairman; provided, however, that the remaining members of the Panel may, by affirmative vote, overrule the Chairman's decision, on their own motion or upon motion of any party to the hearing.

(d) **Oaths and subpoena.** The Chairman of the Panel shall have the authority to administer oaths for obtaining testimony for the hearing; and any member of the Panel or the Attorney representing EGID shall have the authority to issue subpoenas for witnesses or subpoenas duces tecum to compel the production of books, records, papers and other objects for the hearing. Said subpoenas may be served by any duly qualified officer of the law, or any employee of EGID in any manner prescribed for the service of a subpoena in a civil action.

(e) **Court reporter.** The Attorney representing EGID shall cause a recording of the proceedings to be made by a certified court reporter at EGID's expense. If transcribed, such written transcript shall become a part of the official record of the hearing, and a copy shall be furnished to any other party having a direct interest therein at the request and expense of such party. The cost of preparing the written transcript of the hearing and providing a copy of the transcript to the other party shall be paid by the party on whose behalf the written transcript is requested.

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(f) **Procedure.** In all hearings, opportunity shall be afforded the party or parties requesting same to respond and present evidence and argument on all issues involved. The hearing shall be conducted in an orderly manner. The party or parties requesting the hearing shall appear in person or through licensed counsel and be heard first; those, if any, who oppose the relief sought by the requesting party shall next be heard. Each party shall have the opportunity to present closing arguments.

(g) **Standard of review.** When considering complaints by insured members, the three [3] member Grievance Panel shall determine by a preponderance of the evidence whether EGID has followed its statutes, rules, plan documents, policies and internal procedures. The Grievance Panel shall not expand upon or override any EGID statutes, rules, plan documents, policies and internal procedures.

## **317:145-5-5. Continuance; disposition; Attorney representation [NEW]**

Any request for continuance of a hearing conducted by the three [3] member Grievance Panel may be granted by the Attorney representing EGID or the Panel if requested for any of the following reasons: illness or unavailability of the party requesting the hearing, unavailability or illness of a material witness, unavoidable conflict of schedule, unavailability of relevant documents, or other good cause. All parties to the hearing shall be notified of the continuance as soon as possible.

(1) Unless precluded by law, informal disposition may be made of any individual proceedings by stipulation, agreed settlement, consent order, or default.

(2) Any party shall at all times have the right to be represented by counsel at their own expense, provided such counsel is licensed to practice law by the Supreme Court of Oklahoma.

## **317:145-5-6. Certificate of mailing [NEW]**

All filings, including Orders, Notices and Briefs, considered or issued by a three [3] member Grievance Panel shall include a Certificate of Mailing showing the names and mailing addresses of adverse parties or their attorneys of record.

## **317:145-5-7. Final order; appeals [NEW]**

(a) **Final Order.** The Grievance Panel shall enter a Final Order within no more than forty-five [45] days after the date of the hearing in all cases in which evidence and testimony has been offered and admitted. The Final Order shall separately state all Findings of Fact, Conclusions of Law and an Order approving or denying the claim.

(b) **District Court appeals.** The Grievance Panel's Final Order shall be considered a final decision of EGID for purposes of appeal. Any party to the hearing has the right to appeal to District Court from Final Orders entered by the Panel. This appeal shall be governed by the Administrative Procedures Act, 75 O.S. §301, et seq., and by other pertinent statutes such as 74 O.S. §1301, et seq.

## **317:145-5-8. Scheduling of hearings [NEW]**

All requests for hearings assigned to the three [3] member Grievance Panel shall be placed on the Grievance Panel docket to be heard in open court following the receipt of a properly submitted Request For Grievance Panel Hearing form.

*[OAR Docket #25-498; filed 6-5-25]*

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## **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 150. EMPLOYEES GROUP INSURANCE DIVISION - HEALTH, DENTAL, VISION AND LIFE PLANS [NEW]**

*[OAR Docket #25-499]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. Purpose and Definitions [NEW]

317:150-1-1. Purpose [NEW]

317:150-1-2. Definitions [NEW]

Subchapter 3. Administration of Plans [NEW]

317:150-3-1. Open enrollment period [NEW]

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- 317:150-3-2. Approval of exceptional claims and eligibility matters [NEW]
- 317:150-3-3. Insurance/Benefits Coordinator for Education, Local Government, and State Employees [NEW]
- 317:150-3-4. Right of recovery [NEW]
- 317:150-3-5. Responsibility for premium payment [NEW]
- 317:150-3-6. Cancellation of coverage [NEW]
- 317:150-3-7. Underpaid premiums [NEW]
- 317:150-3-8. Refunds [NEW]
- 317:150-3-13. Rights of eligible former employees to continue in the Group Health, Dental, and Vision Insurance Plan [NEW]
- 317:150-3-14. Coverage for eligible non-vested employee [NEW]
- 317:150-3-15. Effective dates of coverage for current employees [NEW]
- 317:150-3-16. Participating entities [NEW]
- 317:150-3-17. Dependents [NEW]
- 317:150-3-18. Eligibility criteria for disabled dependent over the age of twenty- six [26] [NEW]
- 317:150-3-19. Termination of dependent coverage [NEW]
- 317:150-3-20. Withdrawal from plan; termination or loss of coverage [NEW]
- 317:150-3-21. Continuation of coverage for survivors [NEW]
- 317:150-3-22. Mid-year benefit election changes [NEW]
- 317:150-3-23. Corrections to benefit elections [NEW]
- 317:150-3-24. Double coverage prohibited [NEW]
- 317:150-3-25. Basic disclosure plan for HealthChoice Medicare beneficiaries [NEW]
- 317:150-3-26. Termination of benefits [NEW]
- 317:150-3-27. Procedures and implementation [NEW]
- 317:150-3-28. COBRA administration [NEW]
- Subchapter 5. Coverage and Limitations [NEW]
- Part 1. POLICY PROVISIONS [NEW]
- 317:150-5-1. Selection of health plans [NEW]
- Part 3. HEALTHCHOICE PLANS [NEW]
- 317:150-5-2. Schedule of benefits and benefit administration procedures or guidelines as adopted by EGID [NEW]
- 317:150-5-10. Plan limits [NEW]
- 317:150-5-11. Covered charges [NEW]
- 317:150-5-12. HealthChoice plan limitations and exclusions [NEW]
- 317:150-5-13. Payment of HealthChoice health, dental and life benefits [NEW]
- 317:150-5-14. Timely filing of HealthChoice health and dental claims [NEW]
- 317:150-5-15. HealthChoice examination [NEW]
- 317:150-5-16. Action to recover [NEW]
- 317:150-5-17. Program integrity [NEW]
- Part 5. HEALTHCHOICE LIFE BENEFITS [NEW]
- 317:150-5-20. Term life coverage [NEW]
- 317:150-5-21. Optional dependent life coverage [NEW]
- 317:150-5-22. Optional supplemental life coverage for eligible employees [NEW]
- 317:150-5-23. Rights of retired and vested employees to continue life insurance coverage [NEW]
- Part 7. LIMITATIONS AND EXCLUSIONS FOR HEALTHCHOICE LIFE PLANS [NEW]
- 317:150-5-24. Limitations and exclusions for life plans [NEW]
- Part 9. HEALTHCHOICE DENTAL BENEFITS, LIMITATIONS, AND EXCLUSIONS [NEW]
- 317:150-5-30. Scope of coverage [NEW]
- 317:150-5-31. Plan limits [NEW]
- 317:150-5-32. HealthChoice Dental limitations and exclusions [NEW]
- Part 11. HEALTHCHOICE MEDICARE SUPPLEMENT [NEW]
- 317:150-5-40. Medicare Supplement and Medicare Part D Prescription Drug Plan (PDP) [NEW]
- 317:150-5-41. Primary insurer of current employees [NEW]
- 317:150-5-42. Limitations of Medicare Supplement [NEW]
- Part 15. HEALTHCHOICE SUBROGATION [NEW]
- 317:150-5-49. Right of subrogation [NEW]

## **AUTHORITY:**



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The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 CFR Part 1063 O.S. 5007 Oklahoma Health Care Authority Board; 74 O.S. Section 1304.1 Oklahoma Health Care Authority Employees Group Insurance Division.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

September 25, 2024

**COMMENT PERIOD:**

October 15, 2024 through November 19, 2024

**PUBLIC HEARING:**

November 19, 2024

**ADOPTION:**

January 15, 2025

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 16, 2025

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

July 11, 2025

**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:**

Clarify language, eliminate obsolete language, correct omissions and streamline to promote and enhance operations, through removal of inaccurate or redundant verbiage, and to simplify language. This rulemaking action creates new rules for the Oklahoma Health Care Authority related to the administrative operations of the Employees Group Insurance Division; the proposed rules are taken directly from the rules currently in place with the Office of Management and Enterprise Services under Title 260. Senate bill 1310 of the 2024 legislative session moved the Employees Group Insurance Division from the Office of Management and Enterprise Services to the Oklahoma Health Care Authority. These proposed rule changes correct references to the Office of Management and Enterprise Services to accurately reflect the Oklahoma Health Care Authority. Similarly, certain references to a physical address have been updated to a PO Box to allow for continuity in the event that EGID moves its physical address. Finally, amended language is included in the proposed rules to provide more context related to a refund of life insurance premiums, capping a refund at the greater of the life insurance policy amount or premiums to be refunded.

**CONTACT PERSON:**

Byron Knox, Deputy General Counsel, email: [bknox@ohca.ok.gov](mailto:bknox@ohca.ok.gov); phone: 405-717-8744

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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 JULY 11, 2025:

## SUBCHAPTER 1. PURPOSE AND DEFINITIONS [NEW]

### **317:150-1-1. Purpose [NEW]**

The purpose of this chapter is to outline definitions, plan administration, coverage, and exclusions pertaining to health, dental, vision and life benefits.

### **317:150-1-2. Definitions [NEW]**

The following words and terms as defined by EGID, when used in this chapter, shall have the following meaning, unless the content clearly indicates otherwise:

"Administrative error" occurs when the coverage elections the member makes are not the same as those entered into payroll for deduction from the member's paycheck. This does not include untimely member coverage elections or member misrepresentation. When such an administrative error results in underpaid premiums, full payment to EGID shall be required before coverage elected by the member can be made effective. If overpayment occurs, EGID shall refund overpaid funds to the appropriate party.

"Administrator" means the Administrator of the Employees Group Insurance Division or a designee.

"Allowable fee" means the maximum allowed amount based on the HealthChoice Network Provider Contracts payable to a provider by EGID and the member for covered services.

"Attorney representing EGID" means any attorney designated by the Administrator to appear on behalf of EGID.

"The Board" means the seven [7] Oklahoma Employees Insurance and Benefits Board members designated by statute [74 O.S. §1303(1)].

"Business Associate" shall have the meaning given to "Business Associate" under the Health Insurance Portability and Accountability Act of 1996, Privacy Rule, including, but not limited to, 45 CFR §160.103.

"Carrier" means the State of Oklahoma.

"Comprehensive benefits" means benefits which reimburse the expense of facility room and board, other hospital services, certain out-patient expenses, maternity benefits, surgical expense, including obstetrical care, in-hospital medical care expense, diagnostic radiological and laboratory benefits, providers' services provided by house and office calls, treatments administered in providers' office, prescription drugs, psychiatric services, Christian Science practitioners' services, Christian Science nurses' services, optometric medical services for injury or illness of the eye, home health care, home nursing service, hospice care and such other benefits as may be determined by EGID. Such benefits shall be provided on a copayment or coinsurance basis, the insured to pay a proportion of the cost of such benefits, and may be subject to a deductible that applies to all or part of the benefits as determined by EGID. [74 O.S. §1303 (14)]

"Cosmetic procedure" means a procedure that primarily serves to improve appearance.

"Current employee" means an employee in the service of a participating entity who receives compensation for services actually rendered and is listed on the payrolls and personnel records of said employer, as a current and present employee, including employees who are otherwise eligible who are on approved leave without pay, not to exceed twenty-four [24] months. A person elected by popular vote will be considered an eligible employee during his tenure of office. Eligible employees are defined by statute. [74 O.S. §1303 and §1315]

"Custodial care" means treatment or services regardless of who recommends them or where they are provided, that could be given safely and reasonably by a person not medically skilled. These services are designed mainly to help the patient with daily living activities. These activities include but are not limited to: personal care as in walking, getting in and out of bed, bathing, eating by spoon, tube or gastrostomy, exercising, dressing, using toilet, preparing meals or special diets, moving the patient, acting as companion or sitter, and supervising medication which can usually be self-administered.

"Dependent" means the primary member's spouse (if not legally separated by court order), including common-law. Dependents also include a member's daughter, son, stepdaughter, stepson, eligible foster child, adopted child, child for whom the member has been granted legal guardianship or child legally placed with the primary member for adoption up to the child's twenty-sixth [26<sup>th</sup>] birthday. In addition other unmarried children up to age twenty-six [26] may be considered dependents if the child lives with the member and the member is primarily responsible for the child's support. A child that meets the definition of a disabled dependent in this section and also all requirements in 317:150-3-18, may

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also be covered regardless of age if the child is incapable of self-support because of mental or physical incapacity that existed prior to reaching age twenty-six [26]. Coverage is not automatic and must be approved with a review of medical information. A disabled dependent deemed disabled by Social Security does not automatically mean that this disabled dependent will meet the Plan requirements. [74 O.S. §1303(14)]. See additional eligibility criteria for disabled dependents over the age of twenty-six [26] at 317:150-3-18. Participating employer groups may have a more restrictive definition of Dependent.

**"Durable medical equipment"** means medically necessary equipment, prescribed by a provider, which serves a therapeutic purpose in the treatment of an illness or an injury. Durable medical equipment is for the exclusive use of the afflicted member and is designed for prolonged use. Specific criteria and limitations apply.

**"Eligible Provider"** means a practitioner who or a facility that is recognized by EGID as eligible for reimbursement. EGID reserves the right to determine provider eligibility for network and non-Network reimbursement.

**"Emergency"** means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) so that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act (42 U.S.C. 1395dd (e)(1)(A)). (In that provision of the Social Security Act, clause (i) refers to placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy; clause (ii) refers to serious impairment to bodily functions; and clause (iii) refers to serious dysfunction of any bodily organ or part.)

**"Enrollment period"** means the time period in which an individual may make an election of coverage or changes to coverage in effect.

**"Excepted Benefits"** means the four categories of benefits as established in section 2791 of the PHS Act, section 733 of ERISA and section 9832 of the Internal Revenue Code, as summarized in IRS Bulletin 2015-14 and subsequent regulatory guidance. These Excepted Benefits include but are not limited to vision coverage, dental coverage, long-term care insurance, Medicare supplement coverage, automobile liability insurance, workers compensation, accidental death and dismemberment insurance and specific disease coverage (such as cancer).

**"Facility"** means any organization as defined by EGID which is duly licensed under the laws of the state of operation and meets credentialing criteria established by EGID.

**"Fee schedule"** means a listing of one or more allowable fees.

**"Former participating employees and dependents"** means eligible former employees who have elected benefits within thirty [30] days of termination of service and includes those who have retired, or vested through an eligible State of Oklahoma retirement system, or who have completed the statutory required years of service, or who have other coverage rights through Consolidated Omnibus Budget Reconciliation Act (COBRA) or the Oklahoma Personnel Act. An eligible dependent is covered through the participating former employee or the dependent is eligible as a survivor or has coverage rights through COBRA.

**"Health information"** means any information, whether oral or recorded in any form or medium: (1) that relates to the past, present or future physical or mental condition of a member; the provision of health care to a member; or the past, present or future payment for the provision of health care to a member; and (2) that identifies the member or with respect to which there is a reasonable basis to believe the information can be used to identify the member.

**"Home health care"** means a plan of continued care of an insured person who is under the care of a provider who certifies that without the Home health care, confinement in a hospital or skilled nursing facility would be required. Specific criteria and limitations apply.

**"Hospice care"** means a concept of supportive care for terminally ill patients. Treatment focuses on the relief of pain and suffering associated with a terminal illness. Specific criteria and limitations apply.

**"Inaccurate or erroneous information"** means materially erroneous, false, inaccurate, or misleading information that was intentionally submitted in order to obtain a specific coverage.

**"Initial enrollment period"** means the first thirty [30] days following the employee's entry-on-duty date. A group initial enrollment period is defined as the thirty [30] days following the enrollment date of the participating entity.

**"Insurance Coordinator"** means Insurance/Benefits Coordinator for Education, Local Government, and State Employees.

**"Insured(s)"** means both the Primary insured and covered Dependents.

**"Maintenance care"** means there is no measurable progress of goals achieved, no skilled care required, no measurable improvement in daily function or self-care, or no change in basic treatment or outcome.

**"Medically necessary"** means services or supplies which are provided for the diagnosis and treatment of the medical and/or mental health/substance abuse condition and complies with criteria adopted by EGID. Direct care and treatment are within standards of good medical practice within the community, and are appropriate and necessary for the symptoms, diagnosis or treatment of the condition. The services or supplies must be the most appropriate supply or level

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of service, which can safely be provided. For hospital stays, this means that inpatient acute care is necessary due to the intensity of services the member is receiving or the severity of the member's condition, and that safe and adequate care cannot be received as an outpatient or in a less intensified medical setting. The services or supplies cannot be primarily for the convenience of the member, caregiver, or provider. The fact that services or supplies are medically necessary does not, in itself, assure that the services or supplies are covered by the Plan.

"Members" means all persons covered by one or more of the group insurance plans offered by EGID including eligible current and qualified former employees of participating entities and their eligible covered dependents.

"Mental health and substance abuse" means conditions including a mental or emotional disorder of any kind, organic or inorganic, and/or alcoholism and drug dependency.

"Network provider" means a practitioner who or facility that is duly licensed or operates under the laws of the state, satisfies credentialing criteria as established by EGID, and has entered into a contract with EGID to accept scheduled reimbursement for covered health care services and supplies provided to members.

"Non-Network out-of-pocket" means the member's expenses include the total of the member's deductibles and co-insurance costs plus all amounts that continue to be charged by the non-Network provider after the HealthChoice allowable fees have been paid.

"OEIBB" means Oklahoma Employees Insurance and Benefits Board.

"Open enrollment period" means a limited period of time as approved by either EGID or the Legislature in which a specified group of individuals are permitted to enroll.

"Option period" means the time set aside at least annually by EGID in which enrolled plan members may make changes to their enrollments. Eligible but not enrolled employees may also make application for enrollment during this time. Enrollment is subject to approval by EGID.

"Orthodontic limitation" means an individual who enrolls in the Dental Plan will not be eligible for any orthodontic benefits for services occurring within the first twelve [12] months after the effective date of coverage. Continuing orthodontic services for newly hired employees who had previous group dental coverage will be paid by prorating or according to plan benefits.

"Other hospital services and supplies" means services and supplies rendered by the hospital that are required for treatment, but not including room and board nor the professional services of any provider, nor any private duty, special or intensive nursing services, by whatever name called, regardless of whatever such services are rendered under the direction of the hospital or otherwise.

"Participating entity" means any employer or organization whose employees or members are eligible to be participants in any plan authorized by or through the Oklahoma Employees Insurance and Benefits' Act.

"The Plan or Plans" means the self-insured Plans by the State of Oklahoma for the purpose of providing health benefits to eligible members and may include such other benefits as may be determined by EGID. Such benefits shall be provided on a coinsurance basis and the insured pays a proportion of the cost of such benefits.

"Primary insured" means the member who first became eligible for the insurance coverage creating eligibility rights for dependents.

"Prosthetic appliance" means an artificial appliance that replaces body parts that may be missing or defective as a result of surgical intervention, trauma, disease, or developmental anomaly. Said appliance must be medically necessary.

"Provider" means a practitioner who or facility that is duly licensed or operates under the laws of the state in which the Provider practices and is recognized by this Plan, to render health and dental care services and/or supplies.

"Qualifying Event" means an event that changes a member's family or health insurance situation and qualifies the member and/or dependent for a special enrollment period. The most common qualifying life events are the loss of health care coverage, a change in household (such as marriage or birth of a child), or a change of residence or other federally required mandates. A complete summary of qualifying events are set out in Title 26, Treasury Regulations, Section 125.

"Schedule of benefits" means the EGID plan description of one or more covered services.

"Skilled care" means treatment or services provided by licensed medical personnel as prescribed by a provider. Treatment or services that could not be given safely or reasonably by a person who is not medically skilled and would need continuous supervision of the effectiveness of the treatment and progress of the condition. Specific criteria and limitations are applied.

## **SUBCHAPTER 3. ADMINISTRATION OF PLANS [NEW]**

### **317:150-3-1. Open enrollment period [NEW]**

The Board or the Legislature may, at its discretion, declare an open enrollment period during which time eligible individuals may enroll in optional coverage on behalf of themselves or eligible dependents.

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## **317:150-3-2. Approval of exceptional claims and eligibility matters [NEW]**

The Administrator shall have the authority to approve individual exceptional claims or eligibility matters when circumstances require.

## **317:150-3-3. Insurance/Benefits Coordinator for Education, Local Government, and State Employees [NEW]**

The appointing authority or governing body of each participating entity shall designate an Insurance/Benefits Coordinator and at least one [1] Alternate to properly enroll members of the entity. Any information given by an Insurance/Benefits Coordinator shall not supersede or modify the statutes, rules in this title or any Insurance/Benefits Coordinator Guide governing the Group Insurance Plan. Insurance/Benefits Coordinator representing retirees may be provided by the retirement system from which the retiree is receiving benefits. It is the employee's duty to notify his Insurance/Benefits Coordinator of a change in eligibility for himself, his spouse or his dependents. It is the Coordinator's duty to notify EGID within ten [10] working days of the employee's notice of change. EGID is not obligated to accept untimely notifications of change and may elect to refuse to permit said changes.

## **317:150-3-4. Right of recovery [NEW]**

(a) **Error in payment.** Any benefits paid erroneously by EGID are fully recoverable from the recipient. No such erroneous payment shall constitute waiver or estoppel or result in any equitable obligation by EGID to pay any benefits which are not specifically payable according to the rules in this title and the benefit administration procedures or guidelines as adopted by the Board. [74 O.S. §1321]

(b) **Excessive amounts.** Whenever payments have been made by EGID with respect to allowable expenses in a total amount, at any time, in excess of the maximum amount of payment necessary at the time to satisfy the intent of this part, the Administrator shall have the right to recover such excess, from any person, organization or company with respect to whom such payments were made.

(c) **Right to Audit.** EGID reserves the right to audit any enrollment or insurance change form and to require that supporting documentation showing the participant's eligibility, including (but not limited to) proof of a qualifying event, be provided. EGID may retroactively terminate coverage on any individual who was not eligible to be enrolled in the Plan and recover any claims paid on the individual's behalf.

## **317:150-3-5. Responsibility for premium payment [NEW]**

(a) **Participating entity premiums.** Employer and employee premiums for participating entities are due to EGID no later than the tenth [10<sup>th</sup>] day of each month following the month of coverage. The first payroll deductions for insurance premiums of individuals paid bi-weekly will be withheld from the first pay period that extends into the month during which insurance coverage begins. It is ultimately the employing agency's responsibility to check and verify that premiums paid to EGID are a true and accurate accounting of the member's approved coverage selections. If premium for coverage selected by the employee differs from the amount deducted from the member's check, then the participating entity is responsible for payment to EGID for any deficiencies in premium for the member's coverage. Any shortage of premiums due and payable will result in suspension of benefits for Plan participants.

(1) An employee may continue coverage while on approved leave without pay status for up to twenty-four [24] months as long as the entity continues to remit premiums with the entity's monthly payment. The twenty-four [24] month limitation shall be extended to eight [8] years for education employees who are absent from employment because of election or appointment as a local, state, or national education association officer. Except as protected by federal statute, employees on leave whose premiums are not remitted in a timely manner shall have their coverage terminated at the end of the month for which last payment was received. If coverage is terminated for non-payment all coverage is terminated. Upon return to work, the employee may re-enroll. All Plan limitations apply and evidence of insurability is required to re-enroll in any life coverage.

(2) Provided that if a State employee is on leave without pay due to an injury or illness arising out of the course of his employment, the employee may continue the insurance during the maximum period of the time allowed by law, and the employing agency shall pay the benefit allowance allowed by law.

(3) An employee may continue coverage while on suspension without pay for up to ninety [90] days following the date of suspension or the duration of the administrative appeals process, whichever is greater, as long as premiums are remitted by the entity for the coverage.

(4) Collecting any employee share from an employee on leave without pay or suspension without pay is the responsibility of the entity.

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(b) **Premiums remitted by retirement systems.** Any State of Oklahoma retirement system establishing a withholding system for its retired employees shall forward the retirement contribution and employees' withholding to EGID by the tenth [10<sup>th</sup>] of the month following the month for which payment is due. This same time frame also applies to members receiving disability benefits.

(c) **Premiums remitted by former employees, COBRA participants or survivors.** Premiums are due by the twentieth [20<sup>th</sup>] day of the month of coverage. All premiums due, in excess of the retirement system contributions, shall be paid by the member. The member may elect to have the premiums withheld from their retirement benefit if the retirement benefit is sufficient to cover the entire premium. If the total monthly premium is the same as or greater than the retirement benefit, the member shall remit the entire amount due directly to EGID.

## **317:150-3-6. Cancellation of coverage [NEW]**

After notice and opportunity for a hearing according to the Oklahoma Administrative Procedures Act and these rules, coverage may be cancelled.

(1) **Cancellation of coverage due to non-payment of premium.** If payment is not received by the end of the month in which the payment is due, coverage shall be canceled effective the end of the month for which the last premium was received. EGID may reinstate coverage within sixty [60] days after the date EGID canceled coverage, if it is shown that the failure to pay premiums was not due to the member's negligence, subject to payment of any required premiums. The employee shall be notified in writing by EGID of cancellation of coverage and provided an opportunity for a hearing.

(2) **Cancellation of coverage due to insufficient funds.** In the event the member's payment is returned or refused due to insufficient funds or closed account, coverage may be cancelled unless the check is returned due to no fault of the member.

(3) **All coverage canceled.** If coverage is canceled for either of the reasons listed above all coverage will be terminated. When the employee is eligible to re-enroll, all Plan limitations apply and evidence of insurability is required to enroll in any life coverage.

(4) **Cancellation of coverage for Medicare members.** If payment is not received by the twentieth [20<sup>th</sup>] of the month, Medicare members will be notified of the delinquency and given thirty [30] days to make the payment. If payment is not made within the thirty [30] day grace period, coverage will be terminated effective the first [1<sup>st</sup>] day of the following month.

## **317:150-3-7. Underpaid premiums [NEW]**

When premiums are underpaid for coverage which has been selected and provided, future payments will first be applied to the shortage and the shortage will be rolled forward. Employees may not choose to retroactively cancel coverage that was selected. The full amount of the underpaid premium shall be submitted within sixty [60] days after the date EGID notifies the insured or the insured's employer of the error. When the underpayment occurs because an employee has entered into a salary reduction agreement pursuant to the Internal Revenue Code, and the insured's employer has erroneously failed to withhold and submit the proper premiums to EGID, the insured's employer shall be solely responsible for the payment of outstanding underpaid premiums to EGID. Failure to submit premiums could result in loss of coverage in accordance with 317:150-3-5(a)(3).

## **317:150-3-8. Refunds [NEW]**

(a) **Refunds of premium overpayments.** Any refund of payment for any premium overpayment shall be made only when EGID is notified in writing of the overpayment.

(b) **Administrative Error.** Refunds for overpayment due to administrative error, as limited and defined in the rules in this title, of the Insurance/Benefits Coordinator or the payroll clerk for EGID, shall be made at one hundred percent [100%].

(c) **Refunds on behalf of employees.** Refunds on behalf of employees shall be paid to the appropriate party. For an entity to receive a refund, the entity must have a credit balance.

(d) **Inaccurate or erroneous information.** If EGID finds that materially erroneous, false, inaccurate, or misleading information was intentionally submitted in order to obtain a specific coverage, then:

(1) For optional or supplemental life insurance coverage in excess of any guaranteed amounts of coverage, EGID shall extinguish its liability by tendering a refund of premiums paid to the insured or the beneficiary;

(2) Health or dental coverage would be canceled retroactive to the effective date of the coverage obtained by the misrepresentation. Refunded premiums would be reduced by any claims paid by HealthChoice.

(e) **Medicare eligibility.** There shall be no refund of premiums for prior months during which the member was eligible for Medicare, and written notice was not provided to EGID. An exception shall be made for individuals who are retroactively awarded Medicare coverage by the Social Security Administration, when written notice of the retroactive award is provided to EGID within thirty [30] days after the member's notification of the Social Security Administration award. A member's sixty-fifth [65<sup>th</sup>] birthday is considered automatic notification of Medicare eligibility.

(f) **Deceased member.** All refunds for overpayment resulting from the death of an employee or former employee will be capped at the overpayment amount received by EGID within twenty four [24] months of notification.

(g) **Dependent life insurance premium reimbursement.** If, after a receipt of a life insurance application, EGID finds that the deceased dependent does not meet eligibility requirements for dependent life coverage, EGID may reimburse the member for qualifying premiums paid to EGID. Any premium reimbursement shall not exceed the amount of the dependent life policy.

### **317:150-3-13. Rights of eligible former employees to continue in the Group Health, Dental, and Vision Insurance Plan [NEW]**

(a) Health, dental and vision coverage may be elected as determined by State Statute or retained at the time of termination of employment from an employer who participates in that health, dental or vision coverage, if such election to continue in force or begin is made within thirty [30] days from the date of termination of service, and if the following conditions are met:

(1) The former employee either retires or has a vesting right with a State funded retirement plan, or has the requisite years of service with an employer participating in the Plan.

(2) The election must be received by EGID no later than thirty [30] days after the date of termination of service.

(b) If an eligible former employee does not elect coverage at the time of termination of employment, or subsequently drops the coverage that was elected, the coverage may not be reinstated at a later date, except as permitted for former State employees exercising insurance retention rights available through a reduction in force (RIF) severance agreement.

(c) A participating eligible former employee cannot add dependents to coverage after termination of employment, except as follows:

(1) During an open enrollment period; or

(2) Eligible dependent(s) not covered at the time of the former employee's termination from active employment, as long as the dependent election is made within thirty [30] days of the termination date.

(3) If the dependent is newly acquired. New dependent[s] or additional dependent coverage must be added within thirty [30] days after acquiring the new dependent[s].

(4) If the dependent has lost other health or group dental insurance coverage and notice has been given to EGID within thirty [30] days after the loss of the other coverage. Excepted Benefits do not qualify as other health coverage for purposes of this rule, and replacement is limited to the corresponding type of coverage lost.

(d) During an option period, covered former employees may make changes to their existing benefits but not add additional benefits with the exception of vision coverage. Vision coverage cannot be dropped mid-year except as allowed at 317:150-3-22(c).

(e) If an eligible former employee has a spouse who is participating in the Plan as an employee of a participating entity, the former employee may defer or transfer his or her health, dental and vision coverage to be dependent coverage under the spouse at any time, so long as the following conditions are met:

(1) Coverage must remain continuous; and

(2) All eligible dependents must be insured unless they have other verifiable coverage.

(3) The eligible former employee, at a later date, may cancel deferment and defer or transfer his or her insurance coverage from dependent status back to former employee status if coverage with the Plan has remained continuous, and the former employer of the eligible former employee continues to participate in the Plan.

(f) An individual who has retained health, dental or vision coverage who is returning to current employment for a participating entity and meets the eligibility criteria for a current employee is entitled to transfer his present coverage to that employer as long as the employer is a participant in the benefit transferred. The employee may retain his present life coverage and may add life coverage so long as the total amount of life coverage does not exceed the guaranteed issue amount. Evidence of insurability must be submitted and approved for any amount exceeding guaranteed issue or the amount previously held in retirement, whichever is greater.

(g) An eligible former employee who has retained any coverage and is returning to work for a participating entity but does not meet the eligibility criteria for a current employee is not entitled to coverage through that employer.

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(h) In the event an otherwise eligible former employee returns to current employment who did not retain health coverage upon termination of employment, the eligibility requirements of a new employee must be met in order to obtain that coverage through the employer. Such individuals must work for three [3] years in order to qualify for retaining any benefits not previously elected upon ceasing current employment when they re-retire. This includes members who terminated from employers not participating in the Group Plans authorized by the Oklahoma State Employees Benefits Act [74 O. S. §1301] when they originally ended employment.

(i) Enrollment in a Medicare Plan:

(1) Medicare Supplement coverage enrollment required regardless of age. All covered individuals who are eligible for Medicare, except current employees and their dependents as addressed in 317:150-5-41, must be enrolled in a Medicare Plan, offered through EGID, regardless of age.

(2) Effective date of Medicare Supplement coverage. Medicare Supplement coverage shall become effective on the first [1<sup>st</sup>] day of the month following the date EGID receives actual notice of the member's eligibility for Medicare. There shall be no refund of premiums for prior months during which the member was eligible for Medicare, and written notice was not provided to EGID. An exception shall be made for individuals who are retroactively awarded Medicare coverage by the Social Security Administration, when written notice of the retroactive award is provided to EGID within thirty [30] days after the member's notification of the Social Security Administration award. A member's sixty-fifth [65<sup>th</sup>] birthday is considered automatic notification of Medicare eligibility.

(3) Non-Medicare eligible individuals. Nothing in the rules in this chapter prohibits individuals who are not eligible for Medicare from being enrolled in EGID's regular health plan; however, individuals eligible to purchase Medicare coverage are excluded and are presumed to be enrolled in both Parts A and B of Medicare.

## **317:150-3-14. Coverage for eligible non-vested employee [NEW]**

A non-vested employee must apply for continuation of coverage thirty [30] days after the date of termination of employment. Coverage must be continuous and eligibility to continue must be based upon the length of service required by statute. [74 O.S. §1316.2; 74 O.S. §1316.3]

## **317:150-3-15. Effective dates of coverage for current employees [NEW]**

An employee other than an education employee is eligible to participate if not classified as seasonal or temporary and whose actual performance of duties normally requires one thousand [1,000] hours per year or more. An education employee who is a member of or eligible to participate in the Oklahoma Teacher's Retirement System and working a minimum of four [4] hours per day or twenty [20] hours per week may participate in the Plan. Part-time education employees are those who meet the requirements of a half-time employee as defined by the Oklahoma Teachers Retirement System. Eligible employees shall be covered on the first [1<sup>st</sup>] day of the month following the month in which the employee is in an eligible status.

(1) If an employee is absent due to accident or illness on the date the employee coverage would normally become effective, benefits shall not be payable until the employee returns to the job. If the employee is absent from work because of a holiday, vacation or nonscheduled working day and the employee was on the job on a scheduled working day immediately preceding the effective date, this effective date will not be changed. An employee coming to work during the latter part of a payroll period who is not able to complete an insurance change form should be placed on the appropriate plans on the first [1<sup>st</sup>] day of the following month with employee only coverage, so that the employee life, dental and health will be in effect. Members may add optional coverages within the member's initial thirty [30] day enrollment period to be effective the first [1<sup>st</sup>] day of the month following the date the member enrolled for optional coverages.

(2) Participating entities shall forward members' enrollment information and any changes to enrollment information during the initial enrollment period to the Administrator within ten [10] days after the last day a member may enroll.

(3) If an employee leaves a participating entity and is hired by another participating entity within the following thirty [30] day period, premiums must be forwarded to EGID to avoid a break in coverage.

(4) An enrolled member who terminates employment or is in leave without pay status and whose spouse is also an enrolled employee may transfer coverage to their spouse to be insured as a dependent. The health, dental, vision and basic life may be transferred. The employee's basic life amount will transfer to a dependent spouse amount. If there are dependent children, they must also be insured unless they have other group or qualified individual health insurance.



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(5) An employee that terminates from a participating employer and is hired by another participating employer shall be entitled to be treated as a new employee with new health, dental, vision and life benefit options available. A rehired employee returning to a former employer has new health, dental and vision benefit options only after a thirty [30] day break in coverage and may be subject to orthodontic limitations.

(6) Except as provided by statute, an individual employee may choose not to be enrolled in the health or dental plans or may disenroll from these plans because of other health or group dental coverage or by reason of eligibility for military or Indian health services within thirty [30] days after the date the employee becomes eligible for the other health or group dental coverage. Such employees who subsequently lose the other coverage or eligibility for military or Indian health services may enroll in the corresponding health or dental plans offered through EGID if the election is made no later than thirty [30] days after the date of loss of the other coverage. At the insured's option, in order to avoid a break in coverage and the application of the dental limitation, coverage under this Plan shall become effective on the first [1<sup>st</sup>] day of the month during which the insured actually lost the previous coverage, provided the insured pays the full premium for that month. Otherwise, coverage shall become effective under this Plan on the first [1<sup>st</sup>] day of the month following the election of health and/or dental coverage, and any break in coverage shall result in the application of the HealthChoice dental limitations. Excepted Benefits do not qualify as other health coverage for purposes of this rule.

### **317:150-3-16. Participating entities [NEW]**

(a) **Participation in plans offered by EGID.** Entities electing to participate in the dental, life, vision, or disability plans offered by EGID must participate in one of the authorized health plans, unless the Administrator grants a waiver. Coverage offered by EGID to eligible education employees will also be offered to all elected members of the school board for that entity.

(b) **Enrollment in group term life benefits.** An entity may elect to participate in the group term life coverage offered by EGID. This includes basic and optional supplemental life coverage for the employee and dependent life coverage. Entities electing to participate in the life plan offered by EGID must participate in the health plan, unless the Administrator grants a waiver.

(c) **Non-participating entities in other group plans.** The group plans offered by EGID shall not be offered to any entity which is participating in any other group insurance program, regardless of the percentage or number of employees eligible to enroll, unless the Administrator grants a waiver.

(d) **Right of Board to approve or deny applications for coverage.** EGID shall retain the right to approve or deny any employer group applications for coverage. Upon approval, coverage will become effective at 12:01 a.m. on the first [1<sup>st</sup>] day of the month following the month in which approval is granted unless a subsequent month is requested and approved in advance.

(e) **Coverage without preexisting conditions.** When an entity enrolls all employees of the new entity are covered without penalty for preexisting conditions.

(f) **Enrollment of all individuals presently insured.** Upon the group initial enrollment of an institution of higher education, all individuals presently insured by the institution's previous group health plan may become enrolled. If any such individual does not meet the eligibility requirements of this plan, they are eligible for coverage only for the remaining period of the institution's contractual liability. The institution must provide written proof of its contractual liability at the time of said individual's enrollment.

(g) **Attestation of continuous coverage for retirees.** Upon beginning or reinstating participation in health coverage offered by EGID, the entity must provide EGID with an attestation that retirees over age sixty-five [65] that will gain coverage through EGID have had continuous creditable coverage for prescription drugs (coverage that is at least as good as Medicare's) since the retirees became eligible for Medicare. The entity must provide an accurate list of any retiree over age sixty-five [65] that does not meet this requirement in order for EGID to properly report uncovered months to Medicare.

### **317:150-3-17. Dependents [NEW]**

Eligible dependents may be enrolled by new employees with their coverage effective concurrently with the employee's coverage if the member has signed the insurance change form requesting such coverage within the member's initial thirty [30] day enrollment period. Dependent coverage not elected at that time shall not become available until the next enrollment period. Dependents are not eligible for any coverage in which the member is not enrolled. Exceptions may apply for dependents electing COBRA or Survivor coverage. When one eligible dependent is covered, all eligible dependents must be covered for all elected coverage. The spouse or dependent may elect not to be covered when the spouse or dependent is covered by other corresponding and verifiable health, group dental or vision coverage. The

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member can elect not to cover dependents who do not reside with the member, are married, are not financially dependent on the member for support, have other coverage or are eligible for Indian or military health benefits. The spouse may elect not to be covered provided a statement signed by the employee and the spouse is submitted to the Insurance/Benefits Coordinator. Dependent's benefits shall only be covered under one primary insured except in the case of dependent life. Excepted Benefits do not qualify as other coverage for purposes of this rule.

- (1) Newborns may be added to coverage with the completion of an insurance change form and remittance of any appropriate premium for the month of birth to the Insurance/Benefit Coordinator within thirty [30] days after the date of birth of the newborn.
- (2) When one or more eligible dependents are currently covered, the newborn must be added to the same coverage.
- (3) Where a newborn is added to coverage, all other eligible dependents must be enrolled in coverage if they are not currently enrolled. A member can waive health, dental, or vision coverage for their spouse.
- (4) Eligible dependents who lose other health, group dental or vision insurance coverage may be added to the equivalent health, dental or vision coverage offered through EGID within thirty [30] days after the loss of the other insurance coverage if those dependents have been continuously covered by the other health, dental or vision insurance, or have been eligible for treatment at military or Indian health facilities. Notice and proof of the loss of other coverage and termination date of other coverage must be submitted within thirty [30] days after the loss of the other coverage. At the insured's option, in order to avoid a break in coverage this Plan shall become effective on the first [1st] day of the month during which the insured actually lost previous coverage, provided the insured pays the full premium for that month. Otherwise, coverage shall become effective under this Plan on the first [1st] day of the month following notice of the loss of other coverage. Excepted Benefits do not qualify as other health coverage for purposes of this rule.
- (5) Newly acquired dependents may be added if the election is made within thirty [30] days after the qualifying event, or other federally required mandate, or during the annual enrollment period as established by EGID. Documentation proving the qualifying event may be required. The effective date of coverage will be the first [1st] day of the month following notification to EGID of the qualified event except for newborn or adopted dependent children.
- (6) Provided all other eligibility requirements are satisfied, adopted eligible dependent children, eligible children for which guardianship has been newly granted to the insured or the insured's spouse, or eligible children of which the insured has been newly granted physical custody pending adoption, guardianship, or other legal custody, may be covered from the first [1st] day they are placed in the insured's physical custody, only upon payment of the full monthly premium for that individual, not prorated, and only after written notice has been given to EGID within thirty [30] days after obtaining physical custody. Copies of all documents relating to the matter are also required.
- (7) At the insured's option, coverage for eligible dependent children newly placed in the insured's physical custody may become effective on the first [1st] day of the second month following placement, if written notice is provided within thirty [30] days after the date of placement, or at the next option period as established by EGID.
- (8) In the absence of a court order indicating adoption, guardianship, legal separation or divorce, an insured may apply for coverage on other unmarried children living with the insured provided: (1) the insured submits a copy of his most recent federal income tax return showing the child was listed as the insured's dependent for income tax deduction purposes; and (2) if the last federal income tax form requested above does not list the child, the insured shall be required to provide an Application for Coverage for Other Dependent Children form prescribed by the Plan; and (3) coverage, if approved, shall begin on the first [1st] day of the month following approval, and will never apply retroactively except in the case of a newborn which shall be added the first [1st] of the month of birth; and (4) all other applicable eligibility requirements must be satisfied; and (5) all necessary premiums have been paid. EGID shall have the right to verify the dependent's status, to request copies of the insured's federal income tax returns from time to time, and to discontinue coverage for such dependents if they are found to be ineligible for any reason.

## **317:150-3-18. Eligibility criteria for disabled dependent over the age of twenty- six [NEW]**

Eligibility criteria for covering a disabled dependent beyond the age of twenty-six [26] pursuant to 74 O. S. §1303(14) are as follows, provided all other eligibility requirements are also satisfied:

- (1) It is intended that the following dependents beyond the age of twenty-six [26] are eligible for coverage under this provision:

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(A) An individual who has been medically determined to be incapable of self-support because of mental or physical incapacity that currently exists and has continuously existed since before reaching the age of twenty-six [26] years; and

(B) The individual resides in the primary member's home at least six [6] months of the year, and is the primary member's natural child, foster child, adopted child, or a child of the primary member's spouse when the spouse has been ordered by a Court to provide health insurance for the child; and

(C) If the requirements of subsection (A) and (B) are met, eligibility through court appointed guardianship will be accepted for disabled children, foster children and grandchildren, but only when guardianship existed prior to the dependent reaching age nineteen [19]. The assessment/application for coverage must be submitted within thirty [30] days of obtaining legal guardianship. Power of attorney, including durable power of attorney, does not qualify as guardianship. Coverage ceases at the end of the month in which the primary member's appointment as guardian is terminated.

(D) An approved disabled dependent who has been medically determined to be incapable of self-support because of mental or physical incapacity that currently exists and has continuously existed since before reaching the age of twenty-six [26] years can only be added to coverage within thirty [30] days of a qualifying event. While changes to coverage (benefits or plan options) may be made during the annual Option Period, enrollment of a disabled dependent will not be considered without a qualifying event.

(2) Other criteria required for disabled dependent status are:

(A) For a primary member who is a new hire or a re-hire, assessment/application for disabled dependent status must be completed and submitted to EGID within thirty [30] days of primary member's initial enrollment. As stated above, the disabled dependent must have been medically determined to be incapable of self-support because of mental or physical incapacity that currently exists and has continuously existed since before reaching the age of twenty-six [26] years.

(B) Primary members must submit a copy of their federal and/or state income tax returns for the prior year reflecting their support of the dependent.

(C) Dependents are eligible only for the coverage in which the primary insured is enrolled. Only dependent life insurance can be carried by both parents if each is a primary member under the plan; and

(D) Primary members must apply for disabled dependent status for an eligible individual who has been medically determined to be incapable of self-support because of mental or physical incapacity that currently exists and has continuously existed since before reaching the age of twenty-six [26] years at least thirty [30] days prior to the dependent's twenty-six [26<sup>th</sup>] birthday.

### **317:150-3-19. Termination of dependent coverage [NEW]**

Dependent reaches age twenty-six [26]. Coverage will be terminated for dependents reaching age twenty-six [26] on the first [1st] day of the month following their twenty-sixth [26th] birthday, except disabled dependents who are incapable of self-support and who have been deemed eligible for coverage by EGID.

### **317:150-3-20. Withdrawal from plan; termination or loss of coverage [NEW]**

(a) **Withdrawal from plan.** Those eligible entities participating on a voluntary basis that elect to withdraw cannot re-enter the Plan for one [1] year following the date of withdrawal except for extraordinary circumstances. Notice of the election to withdraw must be provided to EGID thirty [30] days prior to the actual withdrawal date.

(b) **Termination of coverage due to insolvency of carrier.** Any eligible entities who have withdrawn and purchased other coverage, then have been notified by their other health and/or group dental insurance carrier that coverage is being terminated due to insolvency of the carrier may re-enroll in the corresponding coverages within thirty [30] days after the loss of coverage by submitting a completed application form which must be approved by EGID prior to enrollment. Excepted Benefits do not qualify as other health coverage for purposes of this rule.

(c) **Individual member withdrawal and re-enrollment.** An individual employee who discontinues coverage on himself cannot re-enroll in any coverage for himself or his dependents for a period of twelve [12] months. Subsequent to the end of this twelve [12] month period, he may reapply for coverage offered by EGID provided that he is eligible through a participating entity. The orthodontic limitations will apply.

(d) **Loss of other health, group dental or group life insurance coverage.** The twelve [12] month requirement does not apply when the individual member has lost other health, group dental and/or group life insurance coverage and is seeking reinstatement pursuant to Rule 317:150-3-20(c). Excepted Benefits do not qualify as other health coverage for purposes of this rule.

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## **317:150-3-21. Continuation of coverage for survivors [NEW]**

(a) The surviving dependents of a deceased employee who was on current work status or authorized leave at time of death, or of a participating retiree, or any person who has elected to receive a vested benefit under the Oklahoma Public Employees Retirement System, the Oklahoma Teachers Retirement System, the Uniform Retirement System for Justices and Judges, or the Oklahoma Law Enforcement Retirement system or is eligible to continue in force the life insurance coverage following retirement or termination of employment with the required minimum years of service with a participating employer, or who meets each and every requirement of the HealthChoice Disability Plan, may continue the health or dental benefits in force provided said dependents pay the full cost of such coverage and they were covered as eligible dependents at the time of such death. Such election must be made within sixty [60] days after death and coverage must be continuous. The eligibility for said benefits shall terminate for the surviving children when such children cease to qualify as dependents under the provisions of this plan.

(b) The surviving spouse of a deceased employee who was on active work status or authorized leave at time of death, or a surviving spouse of a participating retiree, or surviving spouse of any person who has elected to receive a vested benefit under the Oklahoma Public Employees Retirement System, the Oklahoma Teachers Retirement System, the Uniform Retirement System for Justices and Judges, or the Oklahoma Law Enforcement Retirement system or is eligible to continue in force the life insurance coverage following retirement or termination of employment with the required minimum years of service with a participating employer, or who meets each and every requirement of the State Employees Disability Plan, and who had elected the optional dependent life benefit prior to his or her death, may continue the dependent life coverage for the surviving spouse and children that were covered as dependents on the date of deceased employee's death, provided the surviving spouse pays the full cost of such coverage and the surviving spouse and children were eligible dependents on the date of the deceased employee's death. Such election must be made within sixty [60] days after the date of the deceased employee's death and coverage must be continuous. The eligibility for life benefits shall terminate for the surviving spouse's children when the children cease to qualify as dependents under the provisions of this plan.

(1) Upon the death of the surviving spouse, life benefits granted under this paragraph are payable to the beneficiary designated by the surviving spouse.

(2) Upon the death of any covered dependent children under this paragraph, life benefits are payable to the surviving spouse.

(3) The amount of life insurance coverage elected by the surviving spouse or, if no spouse, the surviving eligible dependent children shall not exceed the amount elected by the deceased employee prior to the date of the employee's death.

(4) Coverage for all dependent children of the surviving spouse, if any, terminates simultaneously with the death of the surviving spouse or termination of the surviving spouse's life insurance coverage.

## **317:150-3-22. Mid-year benefit election changes [NEW]**

(a) Mid-year elections will be allowed in accordance with and under those circumstances stated within Title 26 Treasury Regulations, Section 125 of the Internal Revenue Code. The determination of Title 26 Treasury Regulations, Section 125 of the Internal Revenue Code compliance for the current employee will be through certification from the employer.

(b) EGID will accept any change for any current employee certified as being compliant by the employer of that current employee so long as the notification of change is received by EGID within thirty [30] days of the employee's mid-year plan election. The employer must further certify that the documentation supporting compliances is available to EGID and will be provided upon written request. An employer's cafeteria plan may permit an employee to revoke an election during a period of coverage and to make a new election only as provided in Title 26 Treasury Regulations 1.125-4. This is discretionary with the employer. Employees should be aware that Title 26 Treasury Regulations, Section 125 of the Internal Revenue Code does not require a cafeteria plan to permit any of these changes.

(c) For all other members not on current employee status or whose employer does not operate his employee benefit plan under a Section 125 plan, the rules for mid-year changes will be subject to the Section 125 guidelines as detailed in Title 26 Treasury Regulations 1.125-4.

(d) In all cases, mid-year election changes will only be considered in the event of a qualifying status change as described within Title 26 Treasury Regulations, Section 125 of the Internal Revenue Code and other federally required mandates. All other changes not in conjunction with a qualifying event can only be made during the annual Option Period.

## **317:150-3-23. Corrections to benefit elections [NEW]**

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Members shall review their confirmation of coverage statement to ensure that the coverage elected is correct. Any corrections shall be submitted to the member's Insurance/Benefits Coordinator and EGID within sixty [60] days of the election. Errors reported after the sixty [60] days shall be effective the first [1<sup>st</sup>] day of the month following the notification of the error.

### **317:150-3-24. Double coverage prohibited [NEW]**

An eligible person shall not be insured as a primary insured and also as a dependent for any benefit options except dependent life, nor can any dependent be covered simultaneously by more than one primary insured, except for dependent life. Double enrollment, whether it occurs intentionally or by error, shall be deemed void from the inception, and EGID reserves the right to decide which form of single enrollment coverage to allow, whether primary or dependent.

### **317:150-3-25. Basic disclosure plan for HealthChoice Medicare beneficiaries [NEW]**

(a) The following words and terms as defined by EGID, when used in this section, shall have the following meaning: "Medicare beneficiary" means individuals eligible for HealthChoice Medicare plan coverage who are also entitled to Medicare benefits as designated by the United States Social Security Administration.

(b) In order to assure Medicare beneficiaries with an understanding of the medical and pharmacy benefits provided by, and the operation of, the HealthChoice Medicare plans; EGID shall maintain, adopt, and implement a basic disclosure plan for Medicare beneficiaries. This basic disclosure plan includes but is not limited to informational materials such as:

- (1) A Medicare beneficiary benefits handbook providing a summary of medical and pharmacy benefits available under EGID's Medicare HealthChoice plan. Such handbooks shall be updated when material benefits or covered services change, or when reductions occur. A separate notification of material changes will be sent to all Medicare beneficiaries in a timely fashion prior to the updating of the Medicare beneficiary benefits handbook.
- (2) A pre-enrollment package which shall be provided to all plan eligible Medicare beneficiaries. The pre-enrollment package shall, within a reasonable person's determination, be written in clear and understandable language providing the Medicare beneficiary detailed and necessary information upon which to make a selection of coverage for an upcoming plan year.
- (3) A confirmation of benefit coverage form which will be distributed in a timely fashion after enrollment of a Medicare beneficiary, and by which HealthChoice shall notify the Medicare beneficiary of the plan coverage for the upcoming year.
- (4) An explanation of benefit determination letter explaining the outcome of each medical or pharmacy claim processed for payment or denial. In the case of denial the explanation of benefit determination letter shall provide information of the appeals process available to the Medicare beneficiary.
- (5) Material which provides all Medicare beneficiaries with basic disclosure information on special enrollment rights, medical child support orders, and any Medicare service or benefit that EGID by law has been directed to provide.

### **317:150-3-26. Termination of benefits [NEW]**

(a) Termination of coverage. The coverage under this plan will terminate at the earliest time stated below:

- (1) On the last day of the calendar month in which employment terminates.
- (2) When the plan is discontinued.
- (3) When any required premiums cease to be paid.
- (4) The individual does not begin or continue coverage as an eligible participating former employee and/or dependent.
- (5) For a dependent when said dependent becomes ineligible for coverage.
- (6) A participating entity ceases to participate in this plan.

(b) Representation of eligibility. Individuals who enroll a family member in the plan are representing that the individual is eligible under the terms of the plan and must provide evidence of eligibility upon request. The plan relies upon the member's representation of eligibility in accepting the enrollment of the family member, and the intentional provision of false evidence or the failure to provide required evidence of eligibility is evidence of fraud and material misrepresentation. The intentional provision of false evidence or the failure to provide evidence of eligibility will result in disenrollment of the individual, which may be retroactive to the date as of which the individual became ineligible for plan coverage, as determined by the plan.

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(c) **Rescission of coverage obtained through false information.** If material facts are submitted as a result of fraud, substantive error, inaccuracy, omission, misrepresentation, or any illegal or unauthorized activity, on any form or application for insurance coverage by or on behalf of a member or dependent, the coverage will be rescinded retroactively to the effective date. Written notice shall be sent by first class mail by EGID to the member's last known address of record no less than thirty [30] days prior to retroactive rescission of coverage. EGID reserves the right to recover the costs of any and all claims paid through such falsely obtained coverage from the ineligible member and/or dependent through all available means, at the discretion of EGID.

(d) **Dependent termination of coverage.** In addition to (a), (b), (c) and (e) of this section, the coverage terminates with respect to an individual dependent on the last day of the calendar month in which such person ceases to be an eligible dependent.

(e) **Unlimited contestability period.** There shall be no time limitation imposed upon EGID during which coverage based on materially false information submitted to EGID can be rescinded, if it is found that information as listed above in paragraph (c) was provided in order to obtain coverage, and that such information was material to EGID providing such coverage.

## **317:150-3-27. Procedures and implementation [NEW]**

Notice of right to continue coverage. EGID shall advise each covered employee of his right to continue coverage under Federal COBRA provisions. COBRA coverage applies only to health, dental, and vision benefits. Life and disability coverage are not available through COBRA.

## **317:150-3-28. COBRA administration [NEW]**

(a) **COBRA coverage is identical to coverage provided at date of the qualifying event.** The coverage elected shall be identical to the coverage provided at the date of the qualifying event. Should a beneficiary move out of the service area of their current plan, the beneficiary will be allowed to change to a plan whose service area covers the beneficiary's new location.

(b) **Payment of back premiums.** All back premiums from the termination of coverage to the election and approval of continuation must be paid before coverage is effective. Coverage will then be retroactive to provide continuous coverage. All time limits are mandatory and cannot be waived under any circumstances.

(c) **Responsibility of qualified beneficiary to inform EGID of ineligibility.** It is the responsibility of the qualified beneficiary to provide timely notice if he is not eligible for any reason. Failure to do so will result in cancellation of COBRA insurance coverage, retroactive to the time of ineligibility.

(d) **Primary member premium.** For any benefit continued under COBRA, one person must pay the primary member premium. In cases where a spouse, child, or children are insured for a particular benefit where the primary member did not retain coverage, one person will be billed at the primary member rate.

(e) **Federal regulations.** Federal regulations regarding COBRA extension of coverage shall be controlling in all situations where applicable.

## **SUBCHAPTER 5. COVERAGE AND LIMITATIONS [NEW]**

### **PART 1. POLICY PROVISIONS [NEW]**

#### **317:150-5-1. Selection of health plans [NEW]**

(a) **Requirements for selection of HMO.** Eligible employees may select either the state's comprehensive health plan (HealthChoice) or an HMO option. In order to select an HMO option, the employee must reside or be employed within the selected HMO's service area. The HMO election will apply not only to the employee, but also to all covered dependents. Eligible retirees, vested, non-vested, COBRA or survivor members and eligible dependents must reside within the selected HMO's service area to participate in the HMO.

(b) **Selection of HMO during enrollment period.** A choice of comprehensive benefits or the HMO may be made on an annual basis by the member during the enrollment period as set by EGID. The eligibility requirements set by EGID as applied to the comprehensive health plan will apply to the HMO. Eligible members in all cases will retain eligibility for dental, basic life and AD&D. Selection of the comprehensive health plan or the HMO option will not affect eligibility for life and AD&D, dependent dental, or dependent Life.

### **PART 3. HEALTHCHOICE PLANS [NEW]**

## **317:150-5-2. Schedule of benefits and benefit administration procedures or guidelines as adopted by EGID [NEW]**

All benefits for HealthChoice plans offered through EGID as described in the rules in this title shall be paid according to the handbooks, schedule of benefits and benefit administration procedures or guidelines as adopted by EGID. The schedule of benefits and benefit administration procedures or guidelines as adopted by EGID shall be available for inspection by the public. To make an appointment to review, please submit a written request to OHCA EGID, PO Box 11137, Oklahoma City, OK 73136-9998.

## **317:150-5-10. Plan limits [NEW]**

EGID will adopt handbooks, policies and procedures for the implementation of the HealthChoice benefit plans. These documents shall clearly describe any limits associated with:

- (1) Individual and family deductibles;
- (2) Network and Non-Network out-of-pocket maximums; and
- (3) Charges associated with Non-Network providers.

## **317:150-5-11. Covered charges [NEW]**

Items which will be considered for payment under HealthChoice will be referred to as covered charges that are medically necessary. Specific criteria and limitations apply. Covered charges may include:

- (1) Hospital services;
- (2) Provider's services;
- (3) Skilled Nurse facility expense;
- (4) Skilled nurse care;
- (5) Dentist's or oral surgeon's services;
- (6) Oral surgery;
- (7) Rehabilitative care;
- (8) Outpatient expense; and
- (9) Hospice care.
- (10) Approval of exceptional claims

(A) EGID's Health Care Management Unit may recommend exceptions to the benefits provided by HealthChoice for situations which would otherwise be denied or subject to limited coverage.

(B) Each request for exception must first be reviewed by the Health Care Management Unit on an individual basis. All responsibility for providing the documentation necessary to complete the review falls to the member. Recommendations will then be given to the Medical Director and Administrator both of whom must review all requested exceptions. Exceptions that have been reviewed but not approved in writing by the Medical Director and Administrator are deemed not approved. Approval of exceptions shall not establish precedent for other requests. All requests shall confirm that the requested exception is:

- (i) medically necessary, and
- (ii) within medically-accepted standards of care, and
- (iii) cost effective, and/or
- (iv) in compliance with all criteria as established by the Medical Director or designee.

(C) Requests conforming with all listed criteria shall remain subject to approval or denial at the discretion of the Medical Director or designee.

(11) Facility of benefit payment. Whenever payments which should have been made under this plan in accordance with this section have been made under any other plans, EGID shall have the right, exercisable alone and in its sole discretion, to pay over to any organizations making such other payments any amounts it shall determine to be warranted in order to satisfy the intent of this section, and amounts so paid shall be deemed to be benefits paid under this plan and, to the extent of such payments, EGID shall be fully discharged from liability under this plan.

(12) Right of recovery. Whenever payment has been made by EGID with respect to allowable expenses in a total amount, at any time, in excess of the maximum amount of payment necessary at that time to satisfy the intent of this section, EGID shall have the right to recover such payments, to the extent of such excess, from among one or more of the following, as EGID shall determine:

- (A) any persons to or for or with respect to whom such payments were made;
- (B) any other insurers; or

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(C) service plans or any other organizations.

## **317:150-5-12. HealthChoice plan limitations and exclusions [NEW]**

For the health plans provided by EGID, there is no coverage for expenses incurred for or in connection with conditions, services, procedures, treatments, expenses, items, and supplies excluded by EGID's benefit guidelines. There is no coverage or reimbursement for services or supplies provided by ineligible providers. [317:150-1-2]

## **317:150-5-13. Payment of HealthChoice health, dental and life benefits [NEW]**

(a) Life insurance benefits are payable to the beneficiary designated by the employee. Premiums and overpaid disability benefits due and payable to EGID at the time of the insured's death may be withheld from life insurance benefits before payment of the remainder to the beneficiary or estate. Life proceeds are not assignable, except a beneficiary may assign proceeds in an amount equal to the decedent's burial expenses. If no beneficiary form is on file with EGID, benefits will be paid to the decedent's estate.

(b) Health and dental benefits are payable to the employee or the provider. If any health or dental benefits remain unpaid at the employee's death, EGID, may at its option, pay the benefits to the employee's estate or to any one or more relatives such as follows: spouse, father, mother, children, brothers or sisters. Any such payment will constitute complete discharge of EGID's obligation to the extent of the amount paid.

(c) If a minor or person otherwise legally incapable of giving a valid receipt of discharge of any payment is selected as a beneficiary, a guardian must be appointed by a court of competent jurisdiction before benefits shall be paid.

## **317:150-5-14. Timely filing of HealthChoice health and dental claims [NEW]**

Proof of health and dental claims for services received (bill/receipt) must be furnished per the Plan policy. If such proof is not furnished within the time allowed, at EGID's discretion the claim will still be considered if the Insured or Provider shows that it was not reasonably possible to furnish the notice of proof within the specified time and that the notice of proof was furnished as soon as reasonably possible.

## **317:150-5-15. HealthChoice examination [NEW]**

EGID reserves the right and opportunity to order the examination of the person whose injury or sickness is the basis of a claim as often as may be reasonable during the pending of the claim.

## **317:150-5-16. Action to recover [NEW]**

No action at law or in equity shall be brought to recover on this Plan unless brought pursuant to the Administrative Procedures Act, nor shall such action be brought at all unless brought within three [3] years from the expiration of the time within which proof of loss is required by the policy.

## **317:150-5-17. Program integrity [NEW]**

EGID may have a Program Integrity Initiative. The purpose is to identify, recover, and prevent inappropriate provider billings and payments through provider audits. The provider shall furnish any and all claims information and medical documentation, upon request and at no cost, to EGID. The requested documentation will be verified to substantiate the provision of medical, dental, or durable medical equipment/supplies, and the charges for such services, if the member and the provider are seeking reimbursement through EGID. EGID will ensure appropriate payment to providers and recovery of misspent funds, while providers shall ensure they only provide appropriate services and exercise appropriate billing practices. EGID may implement additional procedures and processes to effectuate this section.

## **PART 5. HEALTHCHOICE LIFE BENEFITS [NEW]**

## **317:150-5-20. Term life coverage [NEW]**

(a) **Group Term Life Benefits.** A former employee who is reemployed by a participating employer within twenty-four [24] months after the date of termination of previous employment shall not be enrolled for a greater amount of life insurance than the individual had at the time of termination of previous employment with the employer, unless the individual provides satisfactory evidence of insurability or the guaranteed issue based on the employee's current salary exceeds his or her prior coverage. Any life insurance amount requested exceeding both prior coverage and the guaranteed issue based on the employee's current salary would require the individual to provide satisfactory evidence of insurability. The amount of coverage provided by the employer is specified in the administration procedures or guidelines as adopted



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by EGID. However, to elect this benefit, the member must be either a) enrolled in one of the group health plans offered through EGID or b) be enrolled in other qualified health coverage. In the event of death, the proceeds of this coverage are payable to the beneficiary listed on the most recently signed beneficiary designation subject to the limitations in Title 15, [15 O.S. §178]. If no beneficiary form is on file at EGID, benefits will be paid to the decedent's estate.

**(b) Unlimited contestability period.** There shall be no time limitation imposed upon EGID, during which coverage based on evidence of insurability submitted to EGID can be contested, if it is found that materially erroneous, false, inaccurate, or misleading information was provided in order to obtain optional or supplemental coverage in excess of any guaranteed amounts of coverage. In the event EGID determines coverage was granted based upon erroneous, false, inaccurate or misleading information, and that such information was material to EGID providing any optional or supplemental coverage, EGID shall extinguish its liability by tendering a refund of premiums paid to the insured or the beneficiary.

### **317:150-5-21. Optional dependent life coverage [NEW]**

**(a) Current employees.** Current employees may select life insurance coverage for eligible dependents if the employee is enrolled in basic life. This coverage does not include accidental death or dismemberment benefits. This benefit is available even if the dependent is a participating employee.

**(b) Former employees.** Former employees may continue this coverage if the member is enrolled in basic life.

### **317:150-5-22. Optional supplemental life coverage for eligible employees [NEW]**

**(a) Supplemental life coverage.** Supplemental life coverage is available for eligible employees who are covered by the basic term life coverage.

**(b) Enrollment.** At the time of initial enrollment, supplemental life may be requested up to the pre-established level set forth in the benefit administration procedures or guidelines as adopted by EGID, without submitting evidence of insurability. All supplemental life insurance requested which exceeds the pre-established level will require evidence of insurability. Coverage selected in the supplemental life insurance program begins on the first [1<sup>st</sup>] day of the month following the date of employment. Optional coverages not selected within the member's initial enrollment period may be added only during the next enrollment period. Members who waive or do not select supplemental life insurance coverage shall be required to obtain approval of current evidence of insurability to obtain coverage at a later date. Coverage obtained under this provision will be subject to certain additional restrictions as adopted by EGID. Individuals who waived this coverage because they were covered by other group life insurance coverage will be allowed to enroll without being subject to these additional restrictions if they request the coverage in writing and supply proof of the loss of other group coverage within thirty [30] days following the loss of the other group life coverage.

**(c) Changes in levels of coverage.** Increases or reductions in coverage limits (except termination of coverage) are only accepted during the option period. Beneficiary changes may be made at any time, but must be communicated to EGID in writing. All changes in coverage levels will be subject to the benefit administration procedures or guidelines as adopted by EGID.

**(d) Waiver of life insurance premiums.** In the event the employee becomes disabled, life insurance premiums may be waived for employee and dependent life insurance coverage. Provider certification shall be required, as specified by EGID, and premium waiver shall start on the first [1<sup>st</sup>] day of the month after the employee has been disabled for thirty [30] consecutive days, and shall continue for as long as the employee remains disabled. The waiver shall terminate on the earliest of the following events: the employee has been found to be able to return to current duty in any capacity by any provider; the employee returns to any active duty for any period of time; the employee changes in status to former or retired; the employee notifies EGID in writing that life insurance coverage is to be terminated; the employee is terminated for any reason, including, but not limited to resignation or discharge from his or her position; any termination of life insurance coverage occurs as set forth in 317:150-3-26.

**(e) Accidental Death and Dismemberment and loss of sight benefit.** The basic term life and the first twenty thousand dollars [\$20,000] of the supplemental life coverage includes the accidental death and dismemberment and loss of sight benefit and will pay a scheduled benefit in the event of accidental death and dismemberment or loss of sight injury within ninety [90] days after the date of accident or accidental injury. Death must be a direct result of the accidental bodily injury independent of all other causes.

### **317:150-5-23. Rights of retired and vested employees to continue life insurance coverage [NEW]**

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(a) **Continuation of coverage.** Any person who retires or who has elected to receive a vested benefit under the provisions of the Oklahoma Public Employees Retirement System, the Oklahoma Teachers Retirement System, the Uniform Retirement System for Justices and Judges, or the Oklahoma Law Enforcement Retirement system or is eligible to continue in force the life insurance coverage following retirement or termination of employment with the required minimum years of service with a participating employer, or who meets each and every requirement of the State Employees Disability Plan, or the spouse or dependent of any such employee, may continue in force life benefits purchased prior to severance in a face amount of no less than one-fourth [1/4] of the basic life coverage amount in five thousand dollar [\$5,000.00] increments, and the full amount of any additional life insurance that was in effect prior to the date of retirement. Said individual shall pay actuarially determined cost of such coverage and shall make such election within thirty [30] days following the date of severance. Said election to continue coverage becomes effective on the first [1<sup>st</sup>] day of the month following termination of current employment. Eligible employees may continue in force the dependent life coverage in effect at time of termination of employment in five hundred dollar [\$500] increments per dependent if the member is enrolled in basic life coverage.

(b) **Decrease or termination of coverage.** Coverage may be decreased or terminated after severance from current employment, but shall not be increased or reinstated after severance, except as permitted by rule or statute.

(c) **Unavailability to retirees, vested or eligible non-vested members or dependents.** Accidental death and dismemberment and loss of sight benefits are not available to retired, vested, or eligible non-vested members or dependents.

(d) **Retirees returning to active employment.** When an individual has retired and then returns to active employment, that individual may not retain any more life insurance upon termination of active employment than the amount that was retained when the individual initially retired, unless the period of active employment is for at least three [3] years.

## **PART 7. LIMITATIONS AND EXCLUSIONS FOR HEALTHCHOICE LIFE PLANS [NEW]**

### **317:150-5-24. Limitations and exclusions for life plans [NEW]**

For the life plans provided by EGID, there is no coverage for expenses incurred for or in connection with any of the items listed below:

(1) There is no coverage for employee life or dependent life benefits during the first twenty-four [24] months of coverage when death is the result of suicide. The twenty-four [24] month exclusion for death by suicide will begin on the effective dates of all elective increases in coverage, and will apply to all increased amounts of coverage which have been in effect for less than twenty-four [24] months on the date of the act causing the insured's death.

(2) There is no coverage for accidental death and dismemberment benefits or loss of sight benefits when such occurs as a result of the following:

(A) Suicide, attempted suicide or intentional self destruction, or intentionally self-inflicted injury while sane or insane,

(B) Committing an assault or felony, including participation as an aggressor in a riot or insurrection,

(C) Wholly or partly, directly or indirectly, by disease, physical or mental, or by medical or surgical treatment or the diagnosis of any of the foregoing,

(D) Wholly or partly, directly or indirectly by bacterial infection, other than septic infection of and through a visible wound sustained solely through external and accidental means,

(E) Any narcotic, drug, poison, gas or fumes, voluntarily taken, administered, absorbed or inhaled, unless prescribed for the exclusive use of the deceased, or administered by a licensed provider for a legal purpose,

(F) Hang gliding, sky diving and flying experimental aircraft.

## **PART 9. HEALTHCHOICE DENTAL BENEFITS, LIMITATIONS, AND EXCLUSIONS [NEW]**

### **317:150-5-30. Scope of coverage [NEW]**

The dental expense benefit applies to eligible covered employees and dependents. This benefit provides payment for dental expenses incurred in excess of any applicable deductible. However, to elect this benefit, the member must either be a) enrolled in one of the group health plans offered through EGID or b) be enrolled in other qualified health coverage. It is not necessary for dependents to be covered by health benefits to receive the benefits of this Plan.

### **317:150-5-31. Plan limits [NEW]**

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- (a) **Deductible.** The deductible amounts are the out-of-pocket expenses for a class of benefits incurred by the employee for himself or on behalf of a covered dependent during each calendar year.
- (b) **Family deductible.** During any benefit period, EGID will pay a percentage of the covered charges incurred which exceed the family deductible amount, if applicable.
- (c) **Maximum benefits.** The dental plan has a maximum benefit on a calendar year basis as established by EGID.

### **317:150-5-32. HealthChoice Dental limitations and exclusions [NEW]**

For the dental plans provided by EGID, there is no coverage for expenses incurred for or in connection with conditions, services, procedures, treatments, expenses, items, and supplies excluded by EGID's benefits guidelines.

## **PART 11. HEALTHCHOICE MEDICARE SUPPLEMENT [NEW]**

### **317:150-5-40. Medicare Supplement and Medicare Part D Prescription Drug Plan (PDP) [NEW]**

Members who are eligible for Medicare will be assumed to be enrolled in both Parts A and B of Medicare. Benefits payable under the Medicare Supplement will be determined in accordance with this assumption. The Medicare Supplement is either connected with a Medicare Part D Prescription Drug Plan or contains pharmacy benefits that are considered creditable coverage by Medicare.

### **317:150-5-41. Primary insurer of current employees [NEW]**

The health plan(s) offered through EGID may be primary for current employees eligible for Medicare and their eligible covered dependents as set forth in the Federal statutes governing Medicare.

### **317:150-5-42. Limitations of Medicare Supplement [NEW]**

The Medicare Supplement health coverage is a supplement to the coverage provided by Medicare.

- (1) This Supplement applies only after Medicare benefits are determined.
- (2) Coverage is limited to Medicare's scheduled amount.

## **PART 15. HEALTHCHOICE SUBROGATION [NEW]**

### **317:150-5-49. Right of subrogation [NEW]**

- (a) EGID reserves the right to recover funds from members, dependents, tortfeasors, liability policies, underinsured/uninsured motorist policies, medical payments policies and/or other identifiable sources of funds, in amounts equal to any and all claim payments made on behalf of a member or dependent for injury caused by a third party's wrongful act or negligence.
- (b) EGID has the right to recover any sums collected by or on behalf of a member or dependent even if the member or dependent has not been made whole. EGID is entitled to reimbursement from any recovery even if the recovery does not fully compensate the member or dependent for their injury. The make-whole doctrine shall not apply. The sole exception to this paragraph exists only to the limited extent that EGID voluntarily elects to invoke its exclusive statutory authority to waive or reduce EGID's subrogation interest in an individual case.
- (c) The act of submitting claims by or on behalf of a member or dependent constitutes notice and acceptance of EGID's right of recovery against the third party and creates a lien upon any identifiable funds referenced in (a) above.
- (d) A member or dependent will not take any action to prejudice EGID's right of subrogation, such as settlement of the claim without first giving notice of EGID's subrogation rights to the responsible party and any and all known liability or other insurers.
- (e) The member or dependent will cooperate in doing what is reasonably necessary to assist EGID in any recovery, including but not limited to promptly providing all information requested by EGID.
- (f) Subrogation will exist only to the extent of plan benefits paid.
- (g) Claims submitted after a member or dependent has released the responsible party may be denied at the option of EGID, by the issuance of routine written notice to the member, dependent, or their attorney.
- (h) If claims relating to a specified injury are paid by EGID after the member or dependent has released the responsible party, when the member or dependent has failed to inform EGID in a timely manner prior to executing a release, EGID at its option, may require reimbursement from the member, dependent or provider.

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(i) Claims submitted will initially be pended as incomplete and subsequently denied if information regarding possible third party responsibility is not voluntarily provided to EGID within a reasonable time period [not less than ninety (90) days] after the date the information was first requested in writing by or on behalf of EGID.

*[OAR Docket #25-499; filed 6-5-25]*

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**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY**  
**CHAPTER 155. EMPLOYEES GROUP INSURANCE DIVISION - HEALTHCHOICE DISABILITY PLAN**  
**[NEW]**

*[OAR Docket #25-501]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

317:155-1-1. Purpose [NEW]

**AUTHORITY:**

The Oklahoma Health Care Authority Act, Section 5007 (C)(2) of Title 63 of Oklahoma Statutes; The Oklahoma Health Care Authority Board; 42 CFR Part 1063 O.S. 5007 Oklahoma Health Care Authority Board; 74 O.S. Section 1304.1 Oklahoma Health Care Authority Employees Group Insurance Division.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

September 25, 2024

**COMMENT PERIOD:**

October 15, 2024 through November 19, 2024

**PUBLIC HEARING:**

November 19, 2024

**ADOPTION:**

January 15, 2025

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 16, 2025

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

July 11, 2025

**SUPERSEDED EMERGENCY ACTIONS:**

**SUPERSEDED RULES:**

N/A

**GUBERNATORIAL APPROVAL:**

N/A

**REGISTER PUBLICATION:**

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

## GIST/ANALYSIS:

Clarify language, eliminate obsolete language, correct omissions and streamline to promote and enhance operations, through removal of inaccurate or redundant verbiage, and to simplify language. This rulemaking action creates new rules for the Oklahoma Health Care Authority related to the administrative operations of the Employees Group Insurance Division; the proposed rules are taken directly from the rules currently in place with the Office of Management and Enterprise Services under Title 260. Senate bill 1310 of the 2024 legislative session moved the Employees Group Insurance Division from the Office of Management and Enterprise Services to the Oklahoma Health Care Authority. These proposed rule changes correct references to the Office of Management and Enterprise Services to accurately reflect the Oklahoma Health Care Authority. Similarly, certain references to a physical address have been updated to a PO Box to allow for continuity in the event that EGID moves its physical address.

## CONTACT PERSON:

Byron Knox, Deputy General Counsel, email: bknox@ohca.ok.gov; phone: 405-717-8744

**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 JULY 11, 2025:**

### **317:155-1-1. Purpose [NEW]**

All terms of the HealthChoice Disability plan shall be set forth in handbooks and administrative procedures. These shall describe program and coverage eligibility, what constitutes disability, maximum length of coverage, maximum and minimum benefits for short-term disability and long-term disability, the calculation of disability income benefits, and the suspension or termination of benefits.

*[OAR Docket #25-501; filed 6-5-25]*

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## **TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 2. ADMINISTRATIVE COMPONENTS**

*[OAR Docket #25-341]*

## **RULEMAKING ACTION:**

PERMANENT final adoption

## **RULES:**

Subchapter 1. Human Resources Management Division

Part 5. ADMINISTRATIVE PROCEDURES

340:2-1-55. Individual personnel records [REVOKED]

Part 7. RECRUITMENT, SELECTION, AND PLACEMENT POLICY AND PROCEDURES

340:2-1-75. Equal opportunity employment [AMENDED]

Subchapter 35. Volunteer Services

340:2-35-1. Volunteer services [AMENDED]

340:2-35-2. Volunteer ~~job design~~ roles [AMENDED]

340:2-35-3. Specialized volunteer placement [AMENDED]

340:2-35-4. Requirements for volunteers [AMENDED]

340:2-35-5. ~~Administrative~~ Statewide Volunteer Program staff roles and responsibilities [AMENDED]

340:2-35-6. Reimbursement for mileage and necessary expenses [AMENDED]

340:2-35-7. Documentation of volunteer services [AMENDED]

340:2-35-8. Recognition of volunteers [REVOKED]

Subchapter 39. Innovation Services

Part 3. OKLAHOMA DEPARTMENT OF HUMAN SERVICES INSTITUTIONAL REVIEW BOARD (DHSIRB)

340:2-39-8. Membership [AMENDED]

340:2-39-12. Review and approval process [AMENDED]

## **AUTHORITY:**

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Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Section 1-9-112 & 1-9-112a of Title 10A (10A O.S. §§1-9-112, 1-9-112a); and Section 6103 of Title 26 of the United State Code (26 U.S.C. § 6103).

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

## **COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

## **PUBLIC HEARING:**

January 3, 2025

## **ADOPTION:**

January 24, 2025

## **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 29, 2025

## **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

## **LEGISLATIVE DISAPPROVAL:**

N/A

## **APPROVED BY GOVERNORS DECLARATION:**

N/A

## **FINAL ADOPTION:**

May 28, 2025

## **EFFECTIVE:**

September 15, 2025

## **SUPERSEDED EMERGENCY ACTIONS:**

## **SUPERSEDED RULES:**

Chapter 2 Administrative Components

Subchapter 39. Innovation Services

340:2-39-8 [AMENDED]

340:2-39-12 [AMENDED]

(Reference WF 24-07)

## **GUBERNATORIAL APPROVAL:**

October 8, 2024

## **REGISTER PUBLICATION:**

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## **INCORPORATIONS BY REFERENCE:**

## **INCORPORATED STANDARDS:**

N/A

## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

The proposed amendment to Oklahoma Administrative Code (OAC) 340:2-39-8 (p1) and 340:2-39-12 (p1), is to comply with approval of State Bill 1709. The proposed amendment achieves Oklahoma Human Services (OKDHS) goals by: (1) removing references to the Office of Client Advocacy (OCA) which will be transferred to and become a part of the Oklahoma State Department of Health (OSDH); and (2) removing references to OCA from the Oklahoma Human Services Institutional Review Board (DHSIRB).

## **CONTACT PERSON:**

Jennifer Locke, Innovation Services Officer, 405-208-0589

**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, 2025:**

## SUBCHAPTER 1. HUMAN RESOURCES MANAGEMENT DIVISION

### PART 5. ADMINISTRATIVE PROCEDURES

#### 340:2-1-55. Individual personnel records [REVOKED]

~~\_\_\_\_\_ A local personnel file is set up in each office. Documentation in the file includes, but is not limited to, official communications, training records, performance evaluations, supervisory memoranda, and similar material relating to the employee. The divisions and units housed at Oklahoma Department of Human Services (DHS) State Office building may instead use the records maintained by Human Resource Management. The employee and any individual in the line of authority above the employee may review the employee's personnel file either in the local office or in the state office. Local administrators or selecting officials may review personnel files for employees who are seeking assignment within their offices. Other DHS officials may review an employee personnel file when there is an administrative need. Any other requests to review employee personnel files are handled per and are subject to the limitations of the Oklahoma Open Records Act and the Oklahoma Discovery Code. Section 840-2.11 of Title 74 of the Oklahoma Statutes prohibits public inspection or disclosure of state employees' home addresses, phone numbers, and Social Security numbers.~~

### PART 7. RECRUITMENT, SELECTION, AND PLACEMENT POLICY AND PROCEDURES

#### 340:2-1-75. Equal opportunity employment [AMENDED]

~~\_\_\_\_\_ (a) The Oklahoma Department of Human Services (DHS) (OKDHS) is an equal opportunity employer. OKDHS employment policies and practices do not discriminate against employees or applicants for employment because of race, creed, color, religion, sex, age, national origin, disability, or political affiliation or opinion and has as its employment goal the recruitment, selection, and placement of persons most likely to become productive, motivated employees. To accomplish this goal, procedures designed to meet the hiring process objectives include: The OKDHS hiring process objectives are to recruit, select, and place persons most likely to become productive, motivated employees. Procedures designed to meet the hiring process objectives include:~~

- ~~(1) recruiting qualified applicants with the general knowledge, skills, and abilities to perform the variety of work available at DHS~~OKDHS;
- ~~(2) selecting persons who can perform the essential functions and who are or will become successful employees of DHS~~OKDHS;
- ~~(3) placing employees in positions suited to their qualifications where they are successful in providing a variety of services to the citizens of Oklahoma~~OKDHS clients and customers;
- ~~(4) ensuring all employment decisions are based on job-related qualifications and consistent with applicable laws, rules, policies, procedures, and regulations governing such actions; and~~
- ~~(5) providing DHS~~OKDHS employees opportunities for career development and advancement.

~~(b) DHS employment policies and practices do not discriminate against employees or applicants for employment because of race, creed, color, religion, sex, age, national origin, disability, or political affiliation or opinion. DHS takes affirmative action to ensure applicants and employees are treated in a non-discriminatory way. Such employment actions include, but are not limited to, hiring, promotion, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay, or other forms of compensation, and selection for training.~~

~~(c) The rules in this Part apply throughout DHS, except where a separate rule is issued, or a pilot is being tested, per Oklahoma Administrative Code 340:2-1-76(9).~~

### SUBCHAPTER 35. VOLUNTEER SERVICES

#### 340:2-35-1. Volunteer services [AMENDED]

~~(a) The Oklahoma Department of Human Services (DHS) (OKDHS) Volunteer Program utilizes~~uses volunteers to augment and enrich ~~DHS~~OKDHS programs in several divisions of the Agency throughout OKDHS. The material in this Subchapter provides basic guidelines for ~~work with~~the use of volunteers throughout ~~DHS~~OKDHS. ~~Volunteers are a very useful resource for meeting a variety of client needs.~~

~~(b) For purposes of this section, a volunteer is a person, or group that performs a service with, for, or on behalf of OKDHS and under the direction of OKDHS personnel, but without financial compensation or other remuneration. Reimbursement of travel and out of pocket expenses are not considered payment for services.~~

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## 340:2-35-2. Volunteer ~~job design~~roles [AMENDED]

(a) ~~A number of specific areas in which individual volunteers may provide services are described in (1)-(9) of this subsection.~~ Oklahoma Human Services (OKDHS) Volunteer Program provides a variety of opportunities for volunteers to assist OKDHS and serve clients across several different divisions within the agency. Each OKDHS division is responsible for identifying the types of volunteer opportunities based on needs, appropriateness of utilization, and availability of support staff in local counties.

(b) ~~Within the volunteer roles there are two levels of engagement as described below. Each level has specific minimum requirements, though the participating division may have additional requirements.~~

(1) **Visitor or companion.** ~~Visitor or companion activities include:~~ Group Engagement; a group of volunteers engaged in an OKDHS service project that is overseen by an approved volunteer supervisor.

- (A) ~~visiting on a regular basis an elderly or homebound person, such as a person with multi-handicapping conditions;~~
- (B) ~~providing companionship and social stimulation;~~
- (C) ~~writing letters;~~
- (D) ~~helping with errands;~~
- (E) ~~accompanying clients to medical appointments;~~
- (F) ~~sharing interests and being a friend; and~~
- (G) ~~spending time at holidays, birthdays, and other important times, such as during illness, surgery or personal crisis.~~

(2) **Mom-to-mom.** ~~Mom-to-mom activities include helping, motivating, and befriending a mother in various ways such as:~~ Direct Engagement; volunteer engages with an individual client to provide a service and enrichment for that client.

- (A) ~~modeling parenting skills and encouraging young mothers in home management tasks;~~
- (B) ~~budgeting and shopping; or~~
- (C) ~~offering friendship, support, and acceptance.~~

(3) **Mentor or special friend.** ~~Volunteer mentor or special friend activities include establishing a one-to-one ongoing friendship with a child, teenager, or an adult with special needs by:~~

- (A) ~~sharing recreational outings, leisure activities, meals out;~~
- (B) ~~serving as a role model;~~
- (C) ~~helping a client prepare for independent living, or~~
- (D) ~~being a dependable friend.~~

(4) **Tutoring.** ~~Tutoring activities include:~~

- (A) ~~helping a child to attain his or her education potential;~~
- (B) ~~teaching an adult to read; or~~
- (C) ~~helping an adult or child build confidence.~~

(5) **Transportation.** ~~Volunteer transportation activities may include driving clients to:~~

- (A) ~~medical or therapy appointments;~~
- (B) ~~court appearances;~~
- (C) ~~the grocery store; and~~
- (D) ~~the pharmacy.~~

(6) **Share-a-trip.** ~~Volunteers may provide opportunities for personal or educational enlightenment for children or persons with developmental disabilities or disabling conditions. Volunteers may plan activities such as outings to:~~

- (A) ~~the zoo;~~
- (B) ~~sporting events; or~~
- (C) ~~concerts.~~

(7) **Share-a-skill.** ~~A volunteer may share skills, such as:~~

- (A) ~~sewing;~~
- (B) ~~budgeting;~~
- (C) ~~playing a musical instrument;~~
- (D) ~~gardening; or~~
- (E) ~~basic house-cleaning.~~

(8) **Resource development.** ~~An individual or group of volunteers may sponsor a project to raise funds, develop resources, or solicit donations of needed goods. Volunteers may participate in a speakers' bureau to expand public awareness, influence legislation, or recruit other volunteers.~~



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~~(9) Administrative.~~ Trained volunteers may perform many tasks of DHS employees. Administrative volunteer activities may include:

- ~~(A) gathering information to help determine eligibility for Agency programs;~~
- ~~(B) typing;~~
- ~~(C) processing claims; and~~
- ~~(D) filing.~~

## 340:2-35-3. Specialized volunteer placement [AMENDED]

Certain volunteer placements require specialized training or certification. The amount and type of any specialized training or certification needed is left to the discretion of the responsible OKDHS division.

~~(1) Respite care.~~ Respite care volunteers assist parents or primary care givers with the care or supervision of a child or a person with developmental disabilities by providing brief periods of respite so that care givers can attend to personal or family business.

~~(2) Legal assistant.~~ Legal assistant volunteers:

- ~~(A) research legal data;~~
- ~~(B) assist in the preparation of legal briefs and arguments and in the filing of court or administrative functions; and~~
- ~~(C) check court records to obtain information for legal or administrative action.~~

## 340:2-35-4. Requirements for volunteers [AMENDED]

(a) **General.** To protect the rights of clients and volunteers and to properly integrate volunteers into the Oklahoma Department of Human Services (OKDHS) service systems, volunteers are required at a minimum to:

- ~~(1) be at least 18 years of age and demonstrate an interest in and a concern for the needs of others;~~
- ~~(2) attend an orientation and training session in person or online, outlining the various OKDHS programs and services;~~
- ~~(3) agree to follow all applicable OKDHS rules as well as the confidentiality requirement on all cases and agree to follow OKDHS rules included on the VOL-3 volunteer agreement form;~~
- ~~(4) carry Form VOL-1, Volunteer Identification Card, while on duty; and~~
- ~~(5) possess and be prepared to show state issued ID when engaging in volunteer activities; and~~
- ~~(5)(6) have adequate automobile liability insurance and valid driver's license if transporting clients.~~
- ~~(7) Volunteers may not be a relative of the client.~~

(b) **Individual volunteers.** ~~An extensive~~ A screening process is required for before prospective volunteers recruited for direct care services are permitted to serve OKDHS clients.

- ~~(1) This process includes entrance and placement interviews and the completion of Forms:~~
  - ~~(A) VOL-2, Volunteer Group Agreement, when applicable;~~
  - ~~(A)(B) VOL-3, Volunteer Agreement;~~
  - ~~(B)(C) VOL-5, Application for Volunteer Service;~~
  - ~~(C)(D) VOL-7, Volunteer Reference Letter, as required; and~~
  - ~~(D)(E) VOL-9, Volunteer Interview Report.~~
- ~~(2) Before placement, volunteers in direct care service~~ Volunteers must, at a minimum, have a background check through the Child Abuse and Neglect Information System (CANIS), the Oklahoma State Bureau of Investigation (OSBI), and the Department of Public Safety, and other. Other applicable background checks are at the discretion of the OKDHS division using the volunteer services.
- ~~(3) Screening requirements are less restrictive for volunteers who will not be placed in one-on-one relationships with OKDHS clients.~~
- ~~(4) Form VOL-1, Volunteer Identification card~~ is issued to the volunteer at the time of certification by the local office approval.

(c) **Volunteer groups.** In approved situations where a group of individuals volunteer their services for a group project such as Boy Scouts, a high school class, or military group, the minimum age requirement may be waived.

- ~~(1) The person responsible for supervising the volunteer group, however, must meet the minimum and specific division requirements, including the age qualification, to be an approved volunteer.~~
- ~~(2) The number of volunteers eligible to be supervised by a supervising volunteer must be approved in advance by the Division.~~ ~~(2) It is not necessary for each individual member of a volunteer group to complete Form VOL-5. The person responsible for the group signs Form VOL-2, Volunteer Group Agreement, and attests for all the group members who participate.~~
- ~~(3) The group must be approved as an OKDHS volunteer group by the volunteer coordinator.~~ division.

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(4) The person responsible for the volunteer group completes and signs Form VOL-2, Volunteer Group Agreement, and attests for all the group members who participate.

## 340:2-35-5. ~~Administrative~~Statewide Volunteer Program staff roles and responsibilities [AMENDED]

(a) **Overview.** ~~The volunteer program~~OKDHS Volunteer Program requires cooperation and commitment from paid staff at all levels. Volunteers are a vital part of the service network and are to be provided adequate training and supervision. ~~Their work is evaluated with constructive feedback given on their performance. Volunteers who provide ongoing, direct care service to clients have access to the social worker with time scheduled for planning and goal setting.~~

(b) **Volunteer director.** ~~The volunteer director~~engagement administrator in the Executive Office, State Office of Strategic Engagement, is responsible for assisting the county offices to develop and implement volunteer programs to fit the needs and requirements of each county. ~~The volunteer director is responsible for establishment of statewide policy and overall vision of the OKDHS Volunteer Program. The volunteer engagement staff will provide tools and resources for internal and external use to support each division.~~

- ~~(1) coordinating Agency-wide volunteer concerns;~~
- ~~(2) overseeing the DHS Volunteer Budget;~~
- ~~(3) providing technical and administrative support for DHS volunteer recognition activities; and~~
- ~~(4) chairing the state DHS Volunteer Council (Council).~~

(c) **Council.** ~~The Council is the governing board for volunteer rules and planning. Each participating program is represented on the Council. The Council includes volunteer program administrators and other volunteer management personnel. The Council:~~

- ~~(1) plans and carries out promotional activities and fund raising projects to support recognition activities;~~
- ~~(2) oversees the nomination process for area and state volunteer awards events; and~~
- ~~(3) plans and hosts the annual state DHS Volunteer Award Ceremony.~~

(d) **Volunteer program administrators.** ~~Volunteer program activities are directed and supervised on a statewide basis by administrators in Child Welfare, Developmental Disabilities Services Division, Child Support Enforcement Division, Office of Field Operations, and Family Support Services Division. Each OKDHS division with a volunteer program is responsible for designating a staff member to serve as a volunteer liaison. The volunteer program administrators liaison:~~

- ~~(1) provide~~provides technical and administrative assistance to local volunteer managers;
- ~~(2) monitor~~monitors division-wide program activities;
- ~~(3) make recommendations for service improvements;~~
- ~~(4) offer~~ensures division specific training and educational opportunities in volunteer management for local staff and volunteers; and
- ~~(4) coordinates with the Office of Strategic Engagement volunteer program~~
- ~~(5) develop training packets, posters, and handouts for use in promoting the volunteer program and recruiting volunteers.~~

~~(e)~~(d) **Volunteer coordinator.** ~~The volunteer coordinator is a staff member appointed by the district supervisor or county director~~division to coordinate the local volunteer program. Activities of the volunteer coordinator include:

- ~~(1) recruiting and screening of new volunteers;~~
- ~~(2) screening volunteers; ensuring the completion of necessary background checks and that CANIS checks are reviewed by child welfare;~~
- ~~(3) assigning volunteers' specific tasks;~~
- ~~(4) ensuring that volunteer mileage claims are processed; and~~
- ~~(5) updating the active volunteer files; maintaining volunteer files and documentation in the division's online volunteer database;~~
- ~~(6) training volunteers;~~
- ~~(7) providing ongoing support to volunteers including contact at least quarterly; an~~
- ~~(8) completing annual assessment of the individual volunteer's performance and activities.~~

## 340:2-35-6. Reimbursement for mileage and necessary expenses [AMENDED]

~~Reimbursement for mileage and necessary expenses may be made to volunteers who provide transportation to clients. Volunteers may not be a relative of the client. The SoonerRide transportation services through the Oklahoma Health Care Authority provides the majority of transportation needs for DHSOKDHS clients. Clients not eligible for SoonerRide services, may be eligible for transportation by DHSOKDHS volunteers. Volunteers providing transportation to clients can be eligible for reimbursement of mileage and necessary expenses.~~

## 340:2-35-7. Documentation of volunteer services [AMENDED]

The division's volunteer services coordinator assists volunteers ~~and social workers~~ in recording and documenting volunteer services, service hours, and other voluntary contributions. Volunteer services are documented by completing Form VOL-4, Volunteer Report of Contact.

## 340:2-35-8. Recognition of volunteers [REVOKED]

~~(a) **Certificates of appreciation.** Certificates of appreciation used for special recognition and local award ceremonies are available upon request to the State Office, Executive Office, volunteer director.~~

~~(b) **DHS volunteer awards ceremonies.** Each year DHS hosts area volunteer awards ceremonies to formally thank individuals and organizations whose voluntary efforts have had a positive impact on DHS clients. A statewide ceremony concludes the annual DHS volunteer recognition events.~~

## SUBCHAPTER 39. INNOVATION SERVICES

### PART 3. OKLAHOMA DEPARTMENT OF HUMAN SERVICES INSTITUTIONAL REVIEW BOARD (DHSIRB)

## 340:2-39-8. Membership [AMENDED]

(a) ~~Oklahoma Department of Human Services Institutional Review Board (DHSIRB)~~ **membership requirements**

- (1) The DHSIRB is comprised of at least seven members. Membership criteria includes, but is not limited to, consideration of earned degrees, representative capacity, and indications of experience, such as board certifications or licenses sufficient to describe each member's chief anticipated contributions to DHSIRB deliberations.
- (2) Prior to serving on the DHSIRB, all members submit certificates of completed Human Subject Assurance Training offered by the federal Office for Human Research Protections (OHRP).
- (3) Prior to serving on the DHSIRB, all members must sign an Acknowledgment of Receipt stating they have received and reviewed the DHSIRB rules.
- (4) To the greatest extent reasonably possible, the DHSIRB members have varying academic, professional, and personal backgrounds to promote complete and adequate review of research activities commonly conducted by ~~the Oklahoma Department of Human Services (DHS)~~ (OKDHS) or at state-operated facilities. In addition to possessing the experience and expertise necessary to review specific research activities, the members are expected to ascertain the acceptability of proposed research in terms of ~~DHS~~ OKDHS commitments and rules and regulations, applicable law, and standards of professional conduct and practice.
- (5) The DHSIRB similarly strives, through member experience, expertise, and diversity, including race, gender, cultural backgrounds, and sensitivity to issues, such as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects.

(A) **Scientific background.** The DHSIRB includes at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas.

(B) **A member not affiliated with ~~DHS~~ OKDHS.** The DHSIRB includes at least one member who is not otherwise affiliated with ~~DHS~~ OKDHS and who is not an immediate family of a person who is affiliated with ~~DHS~~ OKDHS.

(C) **Ad hoc members with special competence.** The DHSIRB may, in its discretion, invite individuals with competence in special areas to assist in the review of issues that require expertise beyond, or in addition to, that normally available to DHSIRB members. These individuals may not vote on any DHSIRB matter.

(6) DHSIRB membership consists of at least a member of ~~DHS~~ OKDHS:

(A) ~~Office of Client Advocacy (OCA);~~

~~(B) Legal Services;~~

~~(C) Child Welfare Services;~~

~~(D) Children's Services;~~

~~(E) Adult and Family Services;~~

~~(F) Adult Services;~~

~~(G) Information Security; and~~

~~(H) Innovation Services.~~ The Innovation Services member serves on the DHSIRB representing scientific areas.

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(7) The ~~DHS~~OKDHS Director approves the selection of DHSIRB members, including the Chair, Vice-Chair, and alternates, and is notified by the Chair of any studies that are disapproved by the DHSIRB.

**(b) Alternate members.**

(1) Primary DHSIRB members may designate an alternate member from his or her respective programs or divisions, who subject to Director approval, serves as a voting member in the event the primary member is not available to attend any regularly scheduled meeting. Alternate members complete any primary DHSIRB member required training, and may then vote on any new submission, when needed. Alternate members receive meeting documents, such as agendas, minutes, and protocols for review and are encouraged to attend all meetings.

(2) An alternate member-at-large is designated and approved by the Director to serve when both a voting member and his or her alternate are not available to attend a regularly scheduled meeting. The alternate member-at-large is approved based on the same criteria per (a)(5), of this Section.

**(c) Ad hoc members.**

(1) When the DHSIRB reviews research applications involving prospective research subjects who have impaired decision-making capacity or who otherwise are considered vulnerable to coercion or undue influence, consideration is given to including one or more individuals who are knowledgeable about, and experienced in, working with these prospective subjects.

(2) DHSIRB may, at its discretion, invite individuals with competence in specific areas to assist in the review of issues that require expertise beyond or in addition to that available on the DHSIRB.

(3) Ad hoc members are non-voting members.

(4) No person outside of the DHSIRB may override a not-approved vote.

**(d) Roles and responsibilities.**

**(1) DHSIRB Chair:**

(A) is appointed by the ~~DHS~~OKDHS Director;

(B) serves for a minimum of one year, with the possibility of reappointment;

(C) does not resign when the majority of the DHSIRB membership consists of new members who have served for less than one year;

(D) serves as a member of the DHSIRB in addition to his or her authority as Chair;

(E) prepares for, and convenes meetings with, the assistance of the human protections administrator (HPA);

(F) ensures meeting coverage by the Vice-Chair when not able to serve as chair;

(G) ensures a quorum is present for all meetings;

(H) carries out an initial assessment of submissions with the Vice-Chair and ~~the OCA~~a third member appointed by the Chair;

(I) carries out an expedited review of submissions that qualify under such conditions by convening a DHSIRB subcommittee to complete the expedited review, per Oklahoma Administrative Code 340:2-39-12(d);

(J) distributes copies of the submissions to the appropriate DHSIRB members with HPA assistance;

(K) ensures adequate expertise for review and determinations;

(L) consults with investigators as necessary;

(M) assists the reviewers and other members with any concerns in preparing for the meeting;

(N) ensures assigned reviewers present a clear and concise review of research materials;

(O) votes on each DHSIRB action;

(P) is temporarily removed in the event of a conflict of interest;

(Q) is permanently removed in the event of termination of employment or at the Director's discretion; and

(R) notifies the Director of any disapproval.

**(2) DHSIRB Vice-Chair:**

(A) is appointed by the Director;

(B) serves for a minimum of one year, with the possibility of reappointment;

(C) serves as a member of the DHSIRB in addition to his or her DHSIRB authority as Vice-Chair;

(D) assists or acts on behalf of the Chair in particular DHSIRB matters and at DHSIRB meetings;

(E) carries out an initial assessment of submissions with the Chair and ~~the OCA~~a third member appointed by the Chair;

(F) carries out an expedited review of submissions that qualify under such conditions by participating on a DHSIRB subcommittee to complete the expedited review, per OAC 340:2-39-12(d);

(G) is temporarily removed in the event of a conflict of interest;

- (H) is permanently removed in the event of termination of employment or at the Director's discretion.
- (3) DHSIRB members:
- (A) are approved by the Director;
  - (B) serve at least one year with the option of rotating with designated alternate;
  - (C) do not resign from the DHSIRB, without good cause, when the majority of the members are in their first year of serving;
  - (D) are responsible for reviewing research protocols submitted for full DHSIRB review;
  - (E) are responsible for attending all scheduled meetings;
  - (F) are removed from the DHSIRB when more than two consecutive meetings are missed without having the designated alternate attend;
  - (G) are temporarily removed in the event of a conflict of interest; and
  - (H) are permanently removed in the event of termination of employment or at the Director's discretion.
- (4) DHSIRB Chair, Vice-Chair, and members:
- (A) ensure any required IRB training is completed and sufficient IRB training certification is submitted as necessary;
  - (B) annually ensure DHSIRB primary members and designates submit signed acknowledgments affirming the DHSIRB procedures and that supporting documents were reviewed and submitted as necessary;
  - (C) have access to the reference materials available through the DHSIRB HPA-maintained library;
  - (D) receive no compensation for serving as members of the DHSIRB;
  - (E) conduct reviews of submitted research proposals as delegated, mandated, or requested;
  - (F) provide written responses to the research investigator and organization containing DHSIRB findings;
  - (G) determine which research requires review more often than annually;
  - (H) determine which research needs verification that material changes have not occurred since previous DHSIRB review, from sources other than the investigators;
  - (I) advise research investigators to report changes to the approved research activities;
  - (J) advise research investigators that changes in approved research are not initiated without DHSIRB review and approval, except when necessary to eliminate apparent immediate hazards; and
  - (K) advise research investigators to promptly, within five-business days, report to DHSIRB and appropriate ~~DHS~~OKDHS officials of:
    - (i) unanticipated problems involving risks to research participants, interviewers, or others;
    - (ii) serious or continuing noncompliance with DHSIRB requirements;
    - (iii) suspension or termination of DHSIRB approval; or
    - (iv) disapproval of other DHSIRB submissions.
- (5) Consultants may be invited to review submissions and attend meetings when a proposal contains information outside of the scope of DHSIRB members' collective knowledge. No individual with an interest or involvement in the research study application under DHSIRB consideration is utilized in any consultative capacity.
- (e) **Conflict of Interest.** No DHSIRB member votes on a submission when there is an actual or potential conflict of interest with regard to member's professional or personal interests, including financial interests. Every DHSIRB member recuses himself or herself from consideration of any research study application in which that member or the member's immediate family has any involvement or interest in the study or its outcome.
- (1) Based on a DHSIRB majority vote, any DHSIRB member may be excluded from participating in an initial or continuing review of any project in which the member has an actual, apparent, or potential conflicting interest.
  - (2) A conflict of interest exists when any DHSIRB member, including alternate members and ad hoc members, has an interest sufficient to influence, or appear to influence, the objective exercise of his or her official duties. A conflicting interest may:
    - (A) be personal in nature or may result from divergent professional responsibilities;
    - (B) arise when a DHSIRB member is involved with a research project as an investigator, a researcher, a director, an assistant, an advisor, or as another type of stakeholder;
    - (C) arise when any DHSIRB member or the member's immediate family has a financial interest in the outcome of the research. Immediate family includes spouses/domestic partners, siblings, parents, and dependent minors and adult children; and
    - (D) be recognized for any other reason that is considered to be an unacceptable conflict of interest by the member or by DHSIRB.
  - (3) When a DHSIRB member has a conflict of interest, the member:

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- (A) discloses his or her conflict of interest; and
  - (B) recuses himself or herself from participation in the meeting while the submission is reviewed or discussed, and
  - (C) abstains from voting on the submission.
- (4) Recusal means the member with a conflict of interest:
- (A) refrains from discussing any research project in which he or she has a conflict of interest;
  - (B) does not seek to influence other DHSIRB members prior to a vote; and
  - (C) removes himself/herself from the meeting room while the discussion and DHSIRB vote takes place, except to provide DHSIRB-requested information.
- (5) It is each DHSIRB member's duty to ensure participant protection, DHSIRB review integrity, and that research projects conducted are not jeopardized by an undisclosed, unidentified, or unmanaged conflict of interest.

## **340:2-39-12. Review and approval process [AMENDED]**

### **(a) Preliminary review and assessment.**

- (1) Upon receipt of a completed application for a proposed research project, a preliminary assessment of the application is performed by ~~the Oklahoma Department of Human Services (OKDHS)~~ Institution Review Board (DHSIRB).
- (2) The preliminary assessment is completed by the chair or the Chair's designee. The assessment determines if the applicant is seeking a full review, an expedited review, or an exemption from review and ensures the provided documentation complies with the pertinent application, per Oklahoma Administrative Code (OAC) 340:2-39-11.
- (3) When the application is incomplete in any way, the Chair or the Chair's designee notifies the applicant and explains any deficiencies. The applicant is invited to re-submit the application with deficiencies corrected.
- (4) When the application is determined to be complete, the Chair or the Chair's designee assigns a unique identifier number to the proposed research project. This number is used in all future correspondence with the applicant and/or investigator.
- (5) When the chair determines the application satisfactorily seeks an expedited review or exemption review, the application and its materials are presented to the Vice-Chair and ~~the a third DHSIRB Office of Client Advocacy member appointed by the Chair~~ for review.
- (6) When the chair determines the application requires a full review, the application and its materials are presented to all DHSIRB members for review and consideration at the next DHSIRB meeting.
- (7) When it is determined that additional information and/or clarification is needed for an application's review, the Chair or the Chair's designee notifies the applicant. The applicant has 90-calendar days to respond.
  - (A) When the applicant does not respond in a satisfactory manner to the request for additional information and/or clarification within 90-calendar days, the DHSIRB notifies the applicant that the application was administratively closed.
  - (B) An application that is administratively closed may not be re-opened; however, a new application may be submitted.

### **(b) Determination that a proposed research project is not human subjects research.**

- (1) When an investigator or researcher submits an application with a request for a determination of not human subjects research, the DHSIRB chair follows the procedures described in (A) and (B) of this paragraph.
  - (A) The Chair convenes a subcommittee consisting of the Chair, the Vice-Chair, and ~~a the Office of Client Advocacy~~ third member appointed by the Chair.
  - (B) The subcommittee reviews completed Form 0AD085E and the principal investigator's justification why the proposed research does not qualify as human subjects research.
    - (i) Based on this review, if the subcommittee determines the proposed research project does not constitute human subjects research, the Chair or the Chair's designee informs the applicant, in writing, of the DHSIRB decision.
    - (ii) When the subcommittee determines that the proposed research project does constitute human subjects research, the Chair or the Chair's designee informs the applicant, in writing, of the DHSIRB subcommittee decision. The applicant is directed to re-submit the application with a request for an exempt, expedited, or full board review.
- (2) DHSIRB members are notified each time a research proposal is determined to not constitute human subjects research. The information is presented electronically or in hard copy format at the earliest possible DHSIRB regular meeting.

(3) If the investigator or researcher disagrees with the DHSIRB decision, a request for reconsideration may be submitted, per OAC 340:2-39-13(c).

**(c) Applications with an exemption request.**

(1) When an investigator or researcher submits an application with a request for recognition that his or her project is exempt from review, the DHSIRB chair follows the procedures in (A) and (B) in this paragraph.

(A) The chair convenes a subcommittee consisting of the Chair, the Vice-Chair, and ~~the Office of Client Advocacy~~ a third member appointed by the Chair.

(B) The subcommittee reviews the completed application and materials supporting the justification why the research project is exempt from review.

(i) Based on this review, if the subcommittee determines that the proposed research project is properly exempt from any review, the Chair or the Chair's designee informs the applicant, in writing, of the DHSIRB decision.

(ii) If the subcommittee determines that the proposed research project is conditionally exempt from DHSIRB review, the subcommittee must also conduct a limited review, per (g) of this Section.

(I) The subcommittee conducts a limited review when the proposed research is of a type described in the federal regulations at Title 45 C.F.R. § 46.104(d)(2)(iii), (d)(3)

(i)(C), (d)(7) or (8).

(II) The subcommittee may conduct a limited review when the subcommittee believes a limited review is necessary in order to protect the privacy of subjects or to maintain the confidentiality of data or to ensure broad consent was properly obtained and documented.

(iii) If the subcommittee determines that the proposed research project is not exempt from a review, the subcommittee proceeds with an expedited review of the project using the procedures in (e) of this Section.

(2) Within 14-calendar days after the DHSIRB action on the exemption request, the Chair or Chair's designee sends a written notification informing the applicant of the determination. The written notification includes:

(A) the unique identifier DHSIRB number;

(B) research name; and

(C) reason(s) the exemption request was approved or denied.

(3) If the investigator or researcher disagrees with the DHSIRB decision, a request for reconsideration may be submitted, per OAC 340:2-39-13(c).

(4) The DHSIRB members are notified each time a research proposal is approved through exemption. The information is presented electronically or in hard copy format at the earliest possible DHSIRB regular meeting.

**(d) Applications with a request for an expedited review.**

(1) When an investigator or researcher submits an application with a request for an expedited review, the DHSIRB Chair follows the procedures described in this paragraph.

(A) The chair convenes a subcommittee consisting of the Chair, Vice-Chair, and ~~the Office of Client Advocacy~~ a third member appointed by the Chair. The subcommittee reviews the completed application and assesses the proposed research project based upon the criteria for an expedited review, per OAC 340:2-39-11(e).

(i) Based on this review, if the subcommittee determines that the proposed research project satisfies the criteria for an expedited review, the subcommittee carries out the proposed project initial review.

(I) The subcommittee may exercise all DHSIRB authorities except disapproving research.

(II) When the subcommittee fails to accept the research project for an expedited review, then the proposed research project is reviewed in accordance with the non-expedited procedures described in (e) of this Section.

(III) A research project may be disapproved only after review in accordance with the non-expedited procedure.

(ii) If the subcommittee determines that the proposed research project does not meet the criteria for an expedited review, the Chair presents the application to the DHSIRB for a non-expedited review at the next scheduled meeting.

(B) The Director may restrict, suspend, terminate, or choose not to authorize the DHSIRB's use of this expedited review procedure.

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(2) The DHSIRB members are notified each time a research proposal is approved through the use of this expedited process. Information about each expedited approval is given to the DHSIRB members in a written report of expedited actions. The report is presented in written or electronic form and disseminated to all board members or at the earliest possible DHSIRB regular meeting. DHSIRB members are given an opportunity to review the report of expedited actions. The review must include an opportunity for members to ask questions or raise concerns about any expedited action. A motion to accept or approve the report may be entertained.

**(e) Full review of new research projects, non-exempt, non-expedited.**

(1) **Review at a convened meeting.** Except when an expedited review procedure is used, per (d), the DHSIRB performs an initial review of proposed new research projects at a convened meeting when a quorum is present. In order for the research to be approved, it must receive the approval of a majority of those members present at the meeting.

(2) **Reliance on the written application.** To complete its review, the DHSIRB may choose to rely solely on the written application, including attachments submitted by the applicant.

(3) **Optional review of other information.** In addition to its review of the written application, including attachments, the DHSIRB may also choose to invite:

(A) the primary investigator to provide additional information;

(B) subject matter experts to assist in the review; or

(C) experts and guests to attend the meeting when the review takes place.

(4) **Review criteria.** In order to approve new research covered by this subsection, the DHSIRB determines, per 45 C.F.R. § 46.111 that the requirements in (A) through (G) are satisfied.

(A) Risks to subjects are minimized by using procedures:

(i) consistent with sound research design and that do not unnecessarily expose subjects to risk; and

(ii) already performed on the subjects for diagnostic or treatment purposes, whenever appropriate.

(B) Risks are reasonable in relation to anticipated benefits to subjects, if any, and the importance of the knowledge that may be expected to be gained. In evaluating risks and benefits, DHSIRB considers only those risks and benefits that may result from the research as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research. Per 45 C.F.R. § 46.111(a) (2), DHSIRB does not consider possible long-range effects of applying the knowledge gained in the research.

(C) Selection of subjects is equitable. In making this assessment the DHSIRB takes into account the research purposes and the setting in which the research is conducted. Additionally, the DHSIRB is particularly cognizant of the special problems of research involving subjects who are likely to be vulnerable to coercion or undue influence, such as children, prisoners, economically or educationally disadvantaged persons, or individuals with impaired decision-making capacities.

(D) The proposed research includes a plan to seek informed consent from each prospective participant or the subject's legally authorized representative, per OAC 340:2-39-11.1.

(E) Informed consent is appropriately documented or appropriately waived, per OAC 340:2-39-11.1.

(F) When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the subjects' safety.

(G) When appropriate, there are adequate provisions to protect the subjects' privacy and maintain the confidentiality of data.

(5) **Additional requirements.** In order to approve new research projects covered by this subsection the DHSIRB reviews the investigator's qualifications to conduct and supervise the proposed research. This process may include:

(A) reviewing the investigators', sub-investigators', and other necessary research staffs' resumes, verifying professional associations and licenses and may include a review of the investigators' previous specific experience as demonstrated by recent presentations or publications;

(B) using previous DHSIRB experience with the investigators; and

(C) requesting additional information confirming the investigators' qualifications from an administrator of the investigators' institutions.

**(f) Review and approval of cooperative research projects.**

(1) Cooperative research projects are those projects that involve the Oklahoma Department of Human Services (DHS) OKDHS as well as one or more additional institutions.



(A) In the conduct of cooperative research projects, DHSIRB and the other institution(s) are responsible for safeguarding the rights and welfare of human subjects.

(B) DHSIRB makes arrangements with the other institution(s) to avoid duplication of efforts.

(C) When a cooperative research project is sponsored by a federal department or agency that is supporting or conducting the research, DHSIRB relies on the federal department or agency to identify the reviewing Institution Review Board (IRB).

(D) Consistent with the federal regulations, per Title 45 C.F.R. § 46.114(b), DHSIRB recognizes that any institution located in the United States (U.S.) engaged in cooperative research must generally rely upon approval by a single IRB for the portion of the research conducted in the U.S., unless:

(i) more than a single IRB review is required by law, including tribal law passed by the official governing body of an American Indian or Alaska Native tribe;

(ii) a federal department or agency supporting or conducting the research determines and documents that the use of a single IRB is not appropriate for the particular context; or

(iii) the cooperative research project does not have a federal sponsor.

(2) When DHSIRB participates with another institution in a cooperative research project that does not have a federal sponsor, DHSIRB seeks to avoid duplication of effort by:

(A) entering into a joint review agreement with the other institution;

(B) relying on the review of the other institution's IRB; or

(C) making similar arrangements for avoiding duplication of effort.

**(g) Limited reviews.**

(1) If the DHSIRB affirms that a research proposal meets the criteria for a conditional exemption from review, per OAC 340:2-39-12(c), the DHSIRB performs a limited review of the proposal.

(2) The scope of the limited review depends on the type of research proposal. The four types of research are in (A) through (D).

(A) Mildly obtrusive interactions research, per 45 C.F.R. § 46.104(d)(2)(iii), is defined as research with features in (i) and (ii) of this subparagraph.

(i) Mildly obtrusive interactions research only includes interactions involving:

(I) educational tests, such as cognitive, diagnostic, aptitude, and achievement tests;

(II) survey procedures;

(III) interview procedures; or

(IV) observation of public behavior, including visual or auditory recording; and

(ii) the information obtained is recorded by the investigator so the human subjects' identity can readily be ascertained, directly or through identifiers linked to the subjects.

(B) Benign behavioral interventions, per 45 C.F.R. § 46.104(d)(3)(i)(C), is defined as research with features in (i) and (ii) of this subparagraph.

(i) Benign behavioral interventions involves interventions in conjunction with the collection of information from an adult subject through verbal or written responses, including data entry, or audiovisual recording if the subject prospectively agrees to the intervention and information collection.

(ii) The information obtained is recorded by the investigator so the identity of the human subjects can readily be ascertained, directly or through identifiers linked to the subjects.

(C) Storage or maintenance for secondary research for which broad consent is required, per 45 C.F.R. § 46.104(d)(7), is defined as research involving the storage or maintenance of identifiable private information or identifiable biospecimens for potential secondary research use.

(D) Secondary research for which broad consent is required, per 45 C.F.R. § 46.104(d)(8), is defined as research involving the use of identifiable private information or identifiable biospecimens for secondary research use, when the conditions in (i) through (iii) are present.

(i) Broad consent for the storage, maintenance, and secondary research use of the identifiable private information or identifiable biospecimens was obtained.

(ii) Documentation of informed consent or waiver of documentation of consent was obtained, per OAC 340:2-39-11.1.

(iii) The investigator does not include returning individual research results to subjects as part of the study plan.

(3) For mildly obtrusive interactions research and for benign behavioral interventions, the DHSIRB review is limited to determining that there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

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(4) For storage or maintenance for secondary research for which broad consent is required, and for secondary research for which broad consent is required, the DHSIRB review is limited to determining that:

(A) broad consent for storage, maintenance, and secondary research use of identifiable private information or identifiable biospecimens is obtained, per OAC 340:2-39-11.1(b);

(B) broad consent is appropriately documented or waiver of documentation is appropriate, per OAC 340:2-39-11.1(d); and

(C) if there is a change made for research purposes in the way the identifiable private information or identifiable biospecimens are stored or maintained, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

## (h) Review and approval notification.

(1) **Approval categories.** As a result of the DHSIRB review, each research proposal is assigned to one of the categories in (A) through (E) of this paragraph.

(A) **Not human subjects research.** Proposal determined to not constitute human subjects research. Investigators whose proposals receive this determination may begin work immediately.

(B) **Approved.** Research is approved as submitted. Investigators whose proposals are approved may begin work immediately.

(C) **Conditionally approved.** Research is conditionally approved, but research may not begin until investigators comply with items identified by the DHSIRB for final approval.

(D) **Deferred.** DHSIRB does not have enough information to make a determination. Investigators whose proposals receive a deferral must resubmit the entire application to address the required changes.

(E) **Not approved.** The magnitude and/or number of concerns are such that conditional approval is not appropriate. Investigators whose work is disapproved may not conduct the research or resubmit their proposals.

(2) **Notification required.** The DHSIRB notifies investigators and appropriate managers, supervisors, and directors within DHS in writing of its decision regarding the proposed research activity, including any modifications or conditions required to secure DHSIRB approval of the research activity.

### (A) Approved applications.

(i) At a minimum, the approval letter contains:

(I) the unique identifier DHSIRB number;

(II) the research name;

(III) the date of approval;

(IV) all reviewed and approved DHSIRB documents;

(V) the duration of the approval; and

(VI) circumstances, such as adverse events or closure of the research, for which DHSIRB must be contacted.

(ii) The approval date is the date when the application is approved.

(iii) Continuing review is not required except when there is a good reason for doing so, per OAC 340:2-39-12.2(c).

### (B) Conditionally approved applications.

(i) A letter describing the concerns of the DHSIRB is sent to the investigator. The letter makes it clear the research may not begin until DHSIRB issues a letter of approval.

(ii) Investigators have 90-calendar days from the day they are notified about the conditionally approved research to respond. If a response is not received during this period, investigators must resubmit the entire application.

(iii) To review the investigator's response, the chair convenes a subcommittee consisting of the Chair, the Vice-Chair, and a third ~~the Office of Client Advocacy~~ member appointed by the Chair. The subcommittee reviews the investigator's response for appropriateness.

(iv) The subcommittee makes a determination as to whether the response adequately addresses the DHSIRB concerns.

(v) A DHSIRB final approval letter is sent to the investigator when the response is approved. At that time, the research may begin. The approval date is the date the investigator's response is approved. Continuing review is not required except when there is a good reason for doing so, per OAC 340:2-39-12.2(c).

(C) **Deferred.** A letter describing the determination is sent to the investigator.

(D) **Not approved.** A designation of not approved indicates the magnitude and/or number of concerns is such that conditional approval is not appropriate, as determined by the DHSIRB.

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- (i) A letter describing the DHSIRB decision and concerns is sent to the investigator. The investigator is notified of the opportunity to respond to the DHSIRB, in writing or in person, regarding the determination, per OAC 340:2-39-13.
  - (ii) The DHSIRB accomplishes any reconsideration in the same manner as the preliminary review and assessment described in (a) of this Section.
  - (iii) The investigator is not advised to resubmit disapproved research without consulting the DHSIRB.
  - (iv) In the event of a resubmission, the DHSIRB submission is given a new number and addressed as a completely new submission.
- (3) In general, action on all proposals is taken within two months after submission. Investigators are notified, in writing, of the DHSIRB decisions within two weeks of board action.
- (i) **Further reviews by DHS.** Research covered by this Part approved by the DHSIRB may be subject to further appropriate review and approval or disapproval by ~~DHS~~OKDHS officials. However, ~~DHS~~OKDHS officials may not approve the research if it was not approved by the DHSIRB.

*[OAR Docket #25-341; filed 5-29-25]*

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## TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 5. ADULT PROTECTIVE SERVICES

*[OAR Docket #25-342]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

- Subchapter 3. Maltreatment Allegations
- 340:5-3-4. Referrals under the jurisdiction of entities other than Adult Protective Services (APS) [AMENDED]
- Subchapter 5. Investigation of Adult Protective Services Reports
- 340:5-5-3. Elements of an investigation [AMENDED]
- Subchapter 7. Long-Term care Investigations
- 340:5-7-5. Initiating Long-Term Care Investigations [AMENDED]

### **AUTHORITY:**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Section 1-2211 et seq. of Title 63 (63 O.S. § 1-2211 et seq.); and Section 6103 of Title 26 of the United State Code (26 U.S.C. § 6103).

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

### **COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

### **PUBLIC HEARING:**

January 3, 2025

### **ADOPTION:**

January 24, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 29, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

September 15, 2025

### **SUPERSEDED EMERGENCY ACTIONS:**

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## **SUPERSEDED RULES:**

CHAPTER 5. ADULT PROTECTIVE SERVICES

Subchapter 3. Maltreatment Allegations

340:5-3-4 [AMENDED]

Subchapter 7. Long-Term Care Investigations

340:5-7-5 [AMENDED]

(Reference WF 24-12)

## **GUBERNATORIAL APPROVAL:**

October 8, 2024

## **REGISTER PUBLICATION:**

42 Ok Reg 276

## **DOCKET NUMBER:**

24-1086

## **INCORPORATIONS BY REFERENCE:**

## **INCORPORATED STANDARDS:**

N/A

## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

The proposed amendment to Chapter 5, Subchapters 3 and 7, are to comply with approval of State Bill 1709. The proposed amendment achieves Oklahoma Human Services (OKDHS) goals by: (1) removing references to the Office of Client Advocacy (OCA) which will be transferred to and become a part of the Oklahoma State Department of Health (OSDH); (2) removing references to the State Long-Term Care Ombudsman while will be transferred to and become a part of the Office of the Attorney General (OAG) pursuant to the governor approval of State Bill 1709; and (3) ensuring accurate program administration.

## **CONTACT PERSON:**

Cathy Wood, Programs Supervisor, 580-421-5807

**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, 2025:**

### **SUBCHAPTER 3. MALTREATMENT ALLEGATIONS**

#### **340:5-3-4. Referrals under the jurisdiction of entities other than Adult Protective Services (APS) [AMENDED]**

Some referrals of alleged maltreatment of vulnerable adults are not investigated by APS staff.

(1) **Robert M. Greer Center (Greer) resident or former Hissom Memorial Center resident referrals.** When the alleged victim is a current Greer resident, or a former Hissom Memorial Center resident, who suffered maltreatment by a facility employee or by a current caretaker, the referral is sent to Office of Client Advocacy (OCA).

(2) **Reports of maltreatment by persons providing services to alleged victims receiving services from a community services worker, community services provider, SoonerCare (Medicaid) personal care services provider, or Medicaid personal care assistant (MPCA).** When the alleged victim receives services from a community services worker, community services provider, SoonerCare (Medicaid) personal care services provider, or MPCA, as those terms are defined in Section 1025.1 of Title 56 of the Oklahoma Statutes, the referral is sent to ~~Office of Client Advocacy (OCA).~~

(3) **Alleged maltreatment in hospital settings.** APS staff refers allegations of maltreatment of vulnerable adults who are receiving services in medical hospitals, rehabilitation facilities, or private psychiatric hospitals, by facility staff to the Oklahoma State Department of Health (OSDH), Protective Health Services, Medical Facilities Service.

(4) **Alleged maltreatment by Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) staff and contracted providers.** APS staff refers allegations of maltreatment of vulnerable adults by public or private community mental health agency staff to the ODMHSAS Advocacy Division. Certain residential care facilities may also be under the jurisdiction of ODMHSAS and receiving a stipend.

(5) **Alleged maltreatment of residents by nursing facility staff.** APS staff refers allegations of maltreatment of nursing facility residents by facility staff to APS Long-Term Care Investigations and to OSDH, Protective Health Services, Medical Facilities Service.

(6) **Alleged maltreatment of incarcerated individuals in federal or state custody.** APS staff refers allegations of maltreatment of incarcerated individuals by federal or state public hospitals, jails, prisons, or similar facilities staff to the facility's regulatory department for investigation and to the local district attorney.

(7) **Alleged maltreatment of individuals who are deceased at the time of referral.** Maltreatment allegations of persons who are deceased are not accepted by APS. Reporters are referred to the state Office of the Medical Examiner, law enforcement, or when the death occurred in a nursing facility, to the Office of the Attorney General, Medicaid Fraud Control Unit.

(8) **Alleged impaired driving.** Reporters with concerns about impaired driving are referred to the Oklahoma Department of Public Safety. APS does not investigate impaired driving, but may address related issues.

### SUBCHAPTER 5. INVESTIGATION OF ADULT PROTECTIVE SERVICES REPORTS

#### 340:5-5-3. Elements of an investigation [AMENDED]

(a) Although the investigation process may vary depending on the initial allegations and other factors, all Adult Protective Services (APS) investigations include (1) through ~~(10)~~(11) of this subsection.

(1) **Law enforcement notification.** Law enforcement is notified of all APS investigations.

(2) **Efforts to locate and notify others.** APS specialists must make every reasonable effort to locate and notify the alleged victim's (AV) caretaker, guardian, and next of kin.

(3) **Visits and interviews with the vulnerable adult.** Per Section 10-105(C)(1)(a) of Title 43A of the Oklahoma Statutes (43A O.S. § 10-105(C)(1)(a)), each APS investigation includes at least one visit and private interview with the vulnerable adult.

(4) **Consultation with others.** The APS specialist interviews other people who have, or can reasonably be expected to have, pertinent knowledge about the AV's circumstances during the investigation, including any alleged perpetrator ~~(AP)~~ of maltreatment. The AV's permission is not required for these contacts.

(5) **Photographs.** The APS specialist may take photographs or video recordings to document injuries to the vulnerable adult or conditions in the adult's residential environment that resulted in, or may result in, an injury or serious harm.

(6) **Other relevant data.** The APS specialist collects data relevant to the situation being investigated including records to arrive at a finding. When the APS specialist is denied access to pertinent records, documentation, or other information relevant to the investigation, Oklahoma Human Services (OKDHS) may petition the court for an order allowing access.

(7) **Determining decision-making capacity.** OKDHS is mandated by 43A O.S. § 10-106(C) to determine a vulnerable adult's risk and needs and the vulnerable adult's capacity to consent to receive services, especially with regard to the need for involuntary services. Each investigation includes an evaluation of the vulnerable adult's decision-making capabilities in personal, medical, and financial management.

(A) The APS specialist's assessment of a vulnerable adult's mental capacity to consent to protective services takes into account the vulnerable adult's awareness of the:

- (i) limitations and deficiencies in the physical environment;
- (ii) vulnerable adult's own physical or mental limitations;
- (iii) resources available to assist in meeting the vulnerable adult's needs; and
- (iv) consequences to the vulnerable adult if nothing is done to improve the situation.

(B) When a vulnerable adult lacks capacity and an imminent risk to health or estate exists, legal intervention may be appropriate.

(8) **Evaluation to determine the need for protective services.** The evaluation consists of the APS specialist's analysis and consultation with the APS specialist IV, or designee, of all evidence gathered during the initial phases of the investigation. The evaluation includes consideration of whether the:

- (A) vulnerable adult needs protective services. When so, the need for protective services is documented to include the least restrictive services to meet the person's needs;
- (B) services that are identified as needed are available through OKDHS or in the community, and the sources and manner in which they can be provided. Options are explored with the vulnerable adult;
- (C) vulnerable adult is capable and willing to obtain services for himself or herself;
- (D) vulnerable adult can pay for needed services or is eligible for public assistance programs;
- (E) caretaker or guardian is willing to provide or agree to the provision of needed services; and

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(F) vulnerable adult wants the services.

(9) **Completion of investigative report.** From the date an APS referral is received, the APS specialist completes ~~the prompt and thorough~~ investigative report ~~within 60-calendar days~~. To complete the investigation, the APS specialist:

- (A) completes necessary interviews and assessments including identification of any immediate service needs;
- (B) completes all final documentation;
- (C) submits a report to the local district attorney;
- (D) submits a report to the court of jurisdiction, when the ~~alleged victim~~ AV is currently under guardianship or conservatorship; and
- (E) makes a determination of substantiated, unsubstantiated, or inconclusive based on the definitions of terms in Oklahoma Administrative Code (OAC) 340:5-1-6.

(10) **Findings.** The APS specialist, in conjunction with the APS specialist IV or designee, makes a final determination of the investigative process on each allegation contained in the APS report. Each allegation is determined to be substantiated, unsubstantiated, or inconclusive and the investigation is documented, per OAC 340:5-5-5.

(11) **Follow-up.** The APS specialist, in consultation with the APS specialist IV or designee, determines needed follow-up in each case.

- (A) On cases not requiring court-ordered involuntary services, follow-up needs are determined on a case-by-case basis.
- (B) For reports that result in a vulnerable adult receiving involuntary services, OKDHS ensures basic needs for safety and security are met as required by the court. The APS specialist monitors the delivery of court-ordered protective services and continues to assess the need for additional services determined by the vulnerable adult's changing needs.

## SUBCHAPTER 7. LONG-TERM CARE INVESTIGATIONS

### 340:5-7-5. Initiating Long-Term Care Investigations [AMENDED]

A Long Term Care Investigation is initiated by visiting the vulnerable adult in the nursing facility.

(1) **Long-Term Care Investigation timeframes.** Maltreatment reports are initiated within 20-business days or sooner when circumstances indicate immediate action is needed.

(2) **Long-Term Care investigative report completion.**

- (A) The long-term care investigator determines within 60-business days of the receipt of the report, if the evidence indicates the report is substantiated, unsubstantiated, or inconclusive, per Oklahoma Administrative Code (OAC) 340:5-1-6. The program manager may extend the case closure date when necessary.
- (B) The findings are sent to state entities with concurrent jurisdiction over the persons or issues identified in the investigation, such as the Oklahoma State Department of Health, local district attorney, Long-Term Care Ombudsman ~~in Aging Services~~, and appropriate state licensure or certification boards, agencies, or registries. The special considerations in OAC 340:5-5-4(d) and(e) apply to Long-Term Care Investigations.

*[OAR Docket #25-342; filed 5-29-25]*

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## TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

*[OAR Docket #25-343]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program  
340:10-2-1. Work requirements [AMENDED]

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340:10-2-5. Job search activities [AMENDED]

340:10-2-8. Temporary Assistance for Needy Families (TANF) Work support services [AMENDED]

Subchapter 3. Conditions of Eligibility - Need

Part 3. INCOME

340:10-3-26. General provisions regarding income [AMENDED]

340:10-3-31. Earned income [AMENDED]

340:10-3-32. Earned income determination [AMENDED]

Part 5. ASSISTANCE PAYMENTS

340:10-3-57. Special considerations [AMENDED]

Subchapter 15. Conditions of Eligibility - Citizenship and Alienage

340:10-15-1. Citizenship and alien status [AMENDED]

**AUTHORITY:**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes; Section 301 of the Ukraine Security Supplemental Appropriations Act, 2024, P.L. 188-50; Section 401 of Additional Ukraine Supplemental Appropriations Act, 2022, P.L. 177-128; Section 209 of the Compact of Free Association Amendments Act, in the Consolidated Appropriations Act, 2024, P.L. 118-42; and Sections 1612, 1613, and 1641 of Title 8 of the United States Code; and Sections 602 and 603 of Title 42 of the United State Code; 45 C.F.R. § 206.10(b)(5); and 45 C.F.R. § 261.2(n).

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

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N/A

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September 15, 2025

**SUPERSEDED EMERGENCY ACTIONS:**

**SUPERSEDED RULES:**

Chapter 10. Temporary Assistance for Needy Families (TANF)

340:10-15-1 [AMENDED]

(Reference WF 24-09)

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N/A

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The proposed amendments to Chapter 10 amend the rules to: (1) allow a Ukrainian humanitarian parolee until September 30, 2024, to receive parole and be a qualified and eligible alien, per Section 301 of the Ukraine Security Supplemental Appropriations Act, 2024, Public Law (P.L.) 188-50; and (2) reclassify citizens of the Federated States of Micronesia, the Republic of Marshall Islands, and the Republic of Palau as qualified and eligible aliens, per Section 209 of the Compact of Free Association Amendments Act of 2024.

## CONTACT PERSON:

Caleb Turner, Programs Manager III, 405-982-3685

**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, 2025:**

## SUBCHAPTER 2. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) WORK PROGRAM

### 340:10-2-1. Work requirements [AMENDED]

All parents or needy caretakers who apply for or receive Temporary Assistance for Needy Families (TANF) cash assistance from Oklahoma ~~are required to be engaged~~ must participate in a work activity. ~~The parent(s) or needy caretaker must participate in work activities for at least~~ hours required are the minimum number of hours necessary to move that person into employment and self-sufficiency, per (2) of this Section.

(1) **Work-eligible person.** A work-eligible person is ~~defined as an adult or minor head-of-household~~ head of household included in the TANF assistance unit. ~~Excluded from this definition is~~ The following persons are not work-eligible:

- (A) a minor parent who is not the head of household;
- (B) a non-citizen who is ineligible due to his or her immigration status;
- (C) a parent providing care for a disabled family member living in the home, ~~who does not attend school on a full-time basis;~~ provided the need for such care is supported by medical documentation;
- (D) a Supplemental Security Income recipient; or
- (E) a parent who receives Social Security Disability Insurance benefits.

(2) **Minimum hours of TANF Work activities.**

~~(A) All parents or needy caretakers who meet the definition of a work-eligible person are required to~~ persons must participate in the minimum hours of work activities.

- ~~(i) A work-eligible person must participate in work activities an average of 30 hours per week; unless When the person is a single custodial parent with a child under 6 years of age, ~~who~~ he or she must participate in work activities an average of 20 hours per week.~~
  - ~~(ii) In a two-parent family, when deprivation is based on incapacity, the non-incapacitated adult must participate in work activities an average of 30 hours per week unless he or she is:~~
    - ~~(I) required in the home to provide care for the incapacitated work-eligible parent; or~~
    - ~~(II) a custodial parent with a child under 6 years of age. In this instance the non-incapacitated adult must participate in work activities an average of 20 hours per week.~~
  - ~~(iii) In a two-parent family, when deprivation is based on unemployment, one adult must participate in work activities an average of 35 hours per week and the other adult must participate an average of 30 hours per week. When one parent is an ineligible alien, the other parent must participate in work activities an average of 35 hours per week. When both parents are ineligible aliens, the family does not qualify as a two-parent family as the work requirement cannot be met.~~
  - ~~(iv) To determine the average weekly countable work hours for a work-eligible person who is self-employed, the Adult and Family Services (AFS) worker eligibility staff:~~
    - ~~(I) determines the person's monthly countable earned self-employment income per Oklahoma Administrative Code (OAC) 340:10-3-32;~~
    - ~~(II) divides the income by the federal minimum wage; and~~
    - ~~(III) divides that figure by 4.3 that equals weekly countable work hours.~~
- ~~(B) Hours missed due to holidays and excused absences count as hours of participation for any unpaid scheduled work activity per criteria in (i) through (iii) of this subparagraph.~~



(i) Federal law establishes public holidays and the Governor orders state holidays. When the facility the participant attends is open on a designated holiday, the day is not ~~considered~~ a holiday for participation purposes.

(ii) Excused absences are reasonable, short-term hours missed from a scheduled work activity. The participant may be granted a maximum of 80 hours of excused absences in any 12-month period with no more than 16 hours of excused absences per month counted as TANF Work participation hours. All excused absences must be approved by the AFS ~~worker~~eligibility staff. An excused absence is defined as:

(I) unavailability of appropriate child care;

(II) illness or injury of the participant or a family member who lives in the household. The family member must meet the definition of a relative per OAC 340:10-9-1;

(III) scheduled doctor appointments for the participant or a family member who lives in the household;

(IV) the participant's court-required appearance;

(V) the participant's ~~required~~ attendance at parent and teacher conferences;

(VI) the temporary unavailability of planned transportation when needed or inability to arrange for transportation;

(VII) an inclement weather occurrence that prevented the participant, and other persons similarly situated, from traveling to, or participating in, the prescribed activity;

(VIII) crisis intervention needed due to domestic violence issues;

(IX) a family crisis; or

(X) the participant's required attendance for a specific appointment by another governmental entity.

(iii) To count an excused absence or holiday as participation hours, the participant must have been scheduled to participate in an allowable work activity for the period of the absence. Participation allowances are paid for approved holidays and excused absences for a maximum of 16 hours per month.

**(3) TANF Work activities.** TANF Work activities are defined as core and non-core and must be scheduled, structured, and supervised. TANF Work participants are placed in core work activities when appropriate.

(A) Core work activities are:

(i) full- or part-time unsubsidized employment in the public or private sector that is not subsidized by TANF or any other public program;

(ii) subsidized private sector employment in the private sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient;

(iii) subsidized public sector employment for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient;

(iv) Work Experience Program (~~WEP~~) placement that provides a participant with an opportunity to acquire general skills, training, knowledge, and work habits necessary to obtain employment;

(v) paid on-the-job training in the public or private sector a participant receives while engaged in productive work that provides knowledge and skills essential to the full and adequate performance of the job;

(vi) job search and job readiness activities. Job readiness activities prepare the participant to seek and obtain employment and includes life skills training, substance abuse treatment, mental health treatment, or rehabilitation activities for those who are otherwise employable;

(vii) vocational training, not to exceed 12 months, that is organized educational programs directly related to preparing participants for employment in current or emerging occupations requiring training. Countable vocational training may include up to 12 months toward a ~~two~~ year ~~two-year~~ vocational training certificate, an associate's degree, a bachelor's degree, or an advanced degree program that qualifies a participant to obtain immediate employment in a specific field.

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(I) When the institution of higher education has a TANF-funded contract, the participant must attend through the contracted provider.

(II) The participant ~~is required to~~ must participate in a TANF Work activity the minimum number of hours per (2) of this Section or as mandated by the TANF-contracted provider.

(III) The participant must maintain satisfactory academic progress with a minimum grade point average of 2.0 and verify progress at ~~mid-term~~ midterm, when possible, and at the end of the semester. Progress may be verified by a grade report, transcript, or a statement from the contracted provider or other school official.—

~~(IV) When satisfactory progress is not met, the AFS worker submits Form 08TW008E, Higher Education Probationary Approval Request, to AFS TANF program field representative staff to request a probationary approval period. When the probationary approval period is not approved, the participant is placed in another TANF Work activity; and~~

(viii) Community Partnership ~~(CP)~~ is a structured work activity in which TANF participants perform work for the direct benefit of the community that improves the recipient's employability ~~of recipients~~ not otherwise able to obtain employment.

(B) Non-core work activities are:

(i) job skills training directly related to employment that is training or education for job skills required by an employer that provides a participant with the ability to obtain employment or to advance or adapt to the changing demands of the workplace. Time spent in vocational training in excess of 12 months may be counted as job skills training; when the participant also participates in a different approved core activity for a minimum of 20 hours per week;

(ii) education directly related to employment when a participant has not received a high school equivalency, ~~that is related to~~ the education is necessary for a specific occupation, job, or job offer; and

(iii) satisfactory school attendance at a secondary school or in a course of study leading to a high school equivalency certificate when a participant has not completed secondary school or received such a certificate.

## (4) Limitations and special rules.

(A) A single custodial parent younger than 20 years of age, who has not completed high school is ~~determined to be~~ in a work activity when the participant maintains satisfactory attendance at a secondary school or equivalent during the month.

(B) A single custodial parent or the non-incapacitated adult in a family where deprivation is based on incapacity who has a child under the age of 4 months is not required to participate in a work activity. The participant may use this rule for a lifetime limit ~~not to exceed~~ of 12 months.

## 340:10-2-5. Job search activities [AMENDED]

The primary objective of all job search activities is for applicants and recipients of Temporary Assistance for Needy Families (TANF) to obtain employment through personal contacts with employers. ~~The worker~~ Adult and Family Services eligibility staff and the participant jointly determine the number of employer contacts based on availability of child care, financial resources, jobs in the community, skills and abilities, and any other factors which affect or influence the participant's ability to obtain employment.

(1) The participant records employer contacts on Form 08TW010E, Employer Contact List.

(2) An employer contact ~~is defined as a face-to-face~~ includes:

(A) an employer interview ~~with an employer, the completion and return of any;~~

(B) a completed and returned employer application ~~to an employer, including an on-line application;~~ or

(C) the completion of any required tests or assessments ~~required for employment with the state, local, or federal government. The participant records employer contacts on Form 08TW010E, Employer Contact List.~~

~~(2)(3)~~ (3) Job search is ~~defined as~~ the participant's job seeking efforts. Persons in job search activities are eligible for participant allowances and may be eligible for child care for the time they are actively looking for a job or in a group activity.

(A) The Eligibility staff provides the participant ~~is given~~ Form 08TW013E, TANF Time and Progress Report, to complete and return ~~to the worker~~ by the time frame shown on the form.

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- (i) ~~Additional job search may be required as a part of another work activity when it would improve the participant's employment prospects.~~
  - (ii) ~~The number of employer contacts to be made each week is included in the~~The employability plan lists the number of required weekly employer contacts.
- (B) When the participant has not obtained a job after a reasonable amount of time, ~~the worker~~eligibility staff and the participant review the employability plan to determine if another activity is more appropriate.
- (C) The maximum amount of time spent in job search activities ~~cannot~~may not exceed 240 hours at 20 hours per week or 360 hours at 30 hours per week for the preceding 12-month period for any person.

### 340:10-2-8. Temporary Assistance for Needy Families (TANF) Work support services [AMENDED]

(a) **Scope.** ~~The worker~~Adult and Family Services (AFS) eligibility staff provides or arranges payments and services for the participant to ensure successful completion of the participant's employability plan to become self-supporting.

- (1) Payments are authorized for items or services directly related to employment as an outcome.
- (2) When support services are available and part of the employability plan, the participant's failure to cooperate in obtaining the support services constitutes a failure to participate in the TANF Work program.
- (3) Items and services covered by the participant's medical card are not paid for by the support service fund.
- (4) The only support services available to an applicant are the participant allowance and work activity payment.
- (5) Payments are not authorized for reimbursement of expenses already paid by client or others.

(b) **Flexible funds.** The intent of flexible funds is to provide a participant with the necessary support services ~~needed~~to accomplish his or her employment goals. Refer to Oklahoma Human Services (OKDHS) Appendix H-4, Flexible Accounts, for the list of flexible fund services.

- (1) Flexible funds are not available to the applicant.
- (2) To be eligible for flexible funds, the participant must:
  - (A) otherwise be ready to participate in a required work activity for the minimum number of hours;
  - (B) have a guaranteed offer of employment; or
  - (C) be employed.
- (3) Payments for the services through flexible funds are not an automatic entitlement to the participant.
- (4) ~~Flexible funds are not used for fines, including traffic fines or any cost related to a criminal offense, such as legal fees or court costs.~~
- ~~(5) Designated county staff or the career development specialist has final authority to determine authorizations.~~
- ~~(6)(5). One-time~~Staff does not approve onetime payments ~~offor~~for specific services ~~are not approved for reimbursement of expenses already paid by the participant or others.~~
- ~~(7)(6).~~ Ongoing maintenance payments are not allowed.
- ~~(8)(7).~~ The client's relatives are not eligible for payment. Refer to Oklahoma Administrative Code (OAC) 340:10-9-1 for degree of relationship.

(c) **Other support services.**

- (1) **Work activity payments.** Work activity payments are ~~issued~~to purchase specific items, such as a tank of gas, clothing, or personal items, when needed to participate in assigned work activities. Refer to OKDHS Appendix H-4-C, Support Service Payments, for the maximum amount that may be approved.
- (2) **Participant allowances.** Daily cash allowances are ~~made to for~~made to for participants in assigned scheduled, structured, and supervised work activities based on the number of activity hours. Refer to OKDHS Appendix H-4-C for the maximum payment amounts.
  - (A) ~~Lunch~~Staff does not include lunch hours and travel time ~~are not included~~as actual attendance hours.
  - (B) For persons in Job Search, staff does include travel time between job interviews and job applications ~~is included~~as actual attendance hours.
  - (C) The participant makes appropriate daily entries on Form 08TW013E, Time and Progress Report, to document actual attendance hours and submits it ~~to the worker~~by the time frame shown on the form.
  - (D) OKDHS does not pay TANF Work participant allowances ~~are not paid~~for part-time or full-time employment or on-the-job training.
- (3) **Oklahoma State Bureau of Investigations (OSBI) background checks.** OSBI background checks may be requested for a participant who is placed in job skills training that requires an OSBI background check as a prerequisite for employment. The job skills training may include vocational training, hands-on work experience, or public or private sector work experience.

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(4) **Child care.** ~~Child~~ Staff makes child care arrangements ~~are made~~ for each child in the home younger than 13 years of age or younger than 19 years of age when the child is mentally or physically incapable of self-care or under court supervision, per ~~Oklahoma Administrative Code (OAC)~~ 340:40-7-3. ~~The worker~~ Eligibility staff includes the child care plan on Form 08TW002E, TANF Work/Personal Responsibility Agreement. When the person begins active participation in TANF Work activities, ~~the worker~~ eligibility staff and client complete a child care application based on the TANF Work plan, per OAC 340:40-3-1 and 340:40-7-8.

(5) **Transportation contracts.** Transportation contracts are ~~initiated~~ to provide transportation for TANF recipients who have no means of transportation to access required TANF Work training activities. To initiate a transportation contract, designated ~~county office~~ staff ~~contact Adult and Family Services~~ contacts (AFS) TANF ~~Unit~~ program staff.

(6) **Disability Advocacy Program (DAP).** DAP is available to assist a TANF Work participant or a child(ren) receiving a TANF benefit, who has an application for disability pending with the Social Security Administration (SSA) or who OKDHS determines has a potentially meritorious claim for such benefits.

(A) ~~The worker~~ Eligibility staff makes a referral to the OKDHS-contracted law firm to assist the recipient(s) with the:

- (i) application;
- (ii) reconsideration;
- (iii) Administrative Law Judge hearing; and
- (iv) review by the SSA Appeals Council.

(B) The evaluation of merit determines if the appropriate SSA test for disability would be met if evidence was available to prove all conditions claimed by the TANF recipient. When the evaluation of merit determines there is:

- (i) sufficient evidence, the law firm represents the TANF recipient.
  - (I) Statewide representation consists of assisting the recipient with the application through an unfavorable SSA Appeals Council decision.
  - (II) In counties in which representation by a lawyer or experienced non-lawyer advocate is not available without advance payment, the contracted law firm assists with the pending application for disability through an unfavorable decision by the SSA Appeals Council; or
- (ii) insufficient evidence to prove conditions claimed by the TANF recipient, no further services are provided by DAP. Representation by the law firm ceases at any time the law firm determines there is insufficient evidence to support the TANF recipient's claim for disability benefits.

(7) **Achievement bonuses.** TANF recipients participating in TANF Work are eligible for bonuses related to achievement of certain goals when funding is available. TANF recipients may receive one bonus payment per achievement.

(A) Achievements are completion of a:

- (i) high school diploma; or
- (ii) high school equivalency certificate.

(B) Refer to OKDHS Appendix H-4-C for bonus payment amounts.

## SUBCHAPTER 3. CONDITIONS OF ELIGIBILITY - NEED

### PART 3. INCOME

#### 340:10-3-26. General provisions regarding income [AMENDED]

~~Income is defined~~ Oklahoma Human Services (OKDHS) defines income as any gain, payment, or proceeds from labor, business, property, retirement, and other benefits. ~~At~~ OKDHS includes all available income, except that required to be income disregarded by law or the Oklahoma Department of Human Services (DHS) OKDHS policy, is taken into consideration in determining to determine eligibility for Temporary Assistance for Needy Families (TANF) cash assistance. Income is ~~considered~~ available when actually received. When an overpayment or recoupment reduces an individual's income ~~is reduced due to recoupment of an overpayment or a garnishment~~, OKDHS uses the gross amount before the recoupment or garnishment ~~is counted as~~ the countable income.

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- (1) The individual is responsible for reporting all assistance unit must report income changes per Oklahoma Administrative Code (OAC) 340:65-5-1, within 10-calendar days. This requirement includes changes in the source, amount, and regularity of receipt payment frequency.
- (2) Income received on behalf of a member of the assistance unit by another individual, such as, but not limited to, a guardian or conservator, is considered available to the assistance unit.
- (3) Money received and used for the care and maintenance of a third party not included in the assistance unit is does not counted count as income when it is identified and verified as intended for third party use. The income of a stepparent or a person acting in the role of a spouse is considered per Oklahoma Administrative Code (OAC) OAC 340:10-3-57(e).
- (4) If it appears any member of the TANF assistance unit or an individual whose income and resources are considered per OAC 340:10-3-57(e) is eligible for any type of income or benefits, the worker Adult and Family Services eligibility staff uses Form 08AD092E, Client Contact and Information Request, to notify the assistance unit in writing. Form 08AD092E contains the information that failure to apply for and take all appropriate steps to obtain such benefits within 30-calendar days from the date of the notice results in a determination of ineligibility. Supplemental Security Income (SSI) does not fall under these types of benefits.
- (5) When spouses live together or live apart, but there has not been a clear break in the family relationship, income received by either spouse and income received jointly is considered as family income.
- (6) Income received by a member of the TANF cash assistance unit cannot be diverted to members receiving State Supplemental Payments or to meet the needs of a stepparent.
- (7) Any family member receiving SSI is not included in a TANF benefit and the SSI income is not considered in computing the TANF benefit.
- (8) When an applicant's net income, after applying applicable earned income exemptions per OAC 340:10-3-33, meets or exceeds the payment standard for that month, the application is denied.
- (9) Refer to OAC 340:10-3-31.1 to determine whether the recipient is eligible for an earned income disregard prior to closing the TANF cash assistance payment because of earnings.

## 340:10-3-31. Earned income [AMENDED]

(a) The term earned income refers to monies earned by an individual through the receipt of wages, salary, commission, or profit from activities in which the individual is engaged as self-employed or as an employee. A person is considered self-employed when:

- (1) he or she declares himself or herself to be self-employed status;
- (2) he or she works as a sole proprietor or an independent contractor;
- (3) he or she is in business for oneself, including a part-time business or gig work;
- (4) he or she earns self-employment income from a partnership according to United States Internal Revenue Services tax forms;
- (5) there is an employer/employee employer and employee relationship and the employer does not withhold income taxes or Federal Insurance Contributions Act (FICA), even if required by law to do so; or
- (6) the employer withholds taxes and the person provides proof he or she files taxes as self-employed.

(b) Payments made for accumulated annual leave, vacation leave, sick leave, or as severance pay are considered as earned income whether paid during employment or at termination of employment. Temporary disability insurance payment(s) and temporary worker's compensation payments are considered as earned income if payments are employer funded and the individual remains employed.

(c) Earned income received as a one-time nonrecurring payment is considered as a lump sum payment per Oklahoma Administrative Code OAC 340:10-3-28.

(d) Earned income includes in-kind benefits received by an employee from an employer in lieu of wages or in conjunction with wages. An exchange of labor or services, for example, barter, is considered as an in-kind in-kind benefit. Such benefits received in-kind are considered as earned income only when the employee and employer relationship has been established.

- (1) The cash value of the in-kind benefits must be verified by the employer.
- (2) Income from self-employment also includes in-kind benefits for a work activity or service for which the self-employed person ordinarily receives payment in the business enterprise.
- (3) Medical insurance secured through the employer, whether purchased or as a benefit, is not considered in-kind income.

(e) Gross earned income is used to determine eligibility for assistance. Gross earned income is defined as the "true wage" prior to payroll deductions and withholdings. Income that is based on the number of hours worked as opposed to income based on regular monthly wages must be computed as irregular income.

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(f) Countable earned income excludes income from:

- (1) capital investments with respect to which the individual is not actively engaged. Dividends and interest on rental properties in the hands of a rental agent with the check forwarded to the recipient is excluded from "earned income;" and
- (2) benefits not in the nature of wages, salary, or profit accruing as compensation or reward for services, or as compensation for lack of employment.

(g) ~~The worker~~ Eligibility staff verifies income by the best available information such as pay stubs presented by the individual or an interview with the employer. ~~The worker~~ Eligibility staff verifies medical insurance which may be available to the employed Temporary Assistance for Needy Families (TANF) recipient and any dependents at the same time that income is verified.

- (1) Pay stubs may only be used for verification if they have the individual's name or social security number indicating that the pay stubs are in fact the individual's wages. The stubs must include the date(s) of the pay period and the amount of income before deductions. If this information is not included, employer verification is required.
- (2) With new employment, it is necessary to verify the beginning date.
- (3) When a member of the assistance unit accepts employment and has not received any wages, verification of the amount of income to be considered and the anticipated date of receipt must be obtained from the employer.
- (4) Verified income expected to be received during a future month ~~is considered~~ available to the assistance unit and is counted in determining eligibility for that month.

## 340:10-3-32. Earned income determination [AMENDED]

(a) **Self-employment income determination.** Self-employment income received by an assistance unit member from a self-employment business enterprise he or she owns solely or in part; or from an employer when the assistance unit member is ~~considered~~ self-employed, per Oklahoma Administrative Code (OAC) 340:10-3-31(a), is considered per the procedures listed in (b) of this Section. Other types of self-employment income are listed in (1) through (4) of this subsection.

(1) **Room or board.** When a person:

- (A) rents a room in the client's home, ~~the worker subtracts 25 percent of the gross earned income amount received as a business expense;~~ or
- (B) pays for room and board in the client's home, ~~the worker~~ Adult and Family Services eligibility staff subtracts 50 percent of the gross earned income as a business expense whether the member claims the expense or not.

(2) **Rental property.** Income from rental property is ~~considered~~ earned self-employment income when an outside person or agency does not conduct any of the activities associated with renting the property. When the client does not manage the rental property, it is ~~considered~~ unearned self-employment income. ~~When the client incurs business expenses, such as a mortgage payment, the worker subtracts 50 percent of the client's rental property income as a business expense.~~

(3) **Profit sharing.** Households who operate S corporations, general or limited partnerships, or limited liability companies (LLC), may receive profit sharing that is reported on the household's personal income tax return.

(A) S corporation profit sharing is ~~considered~~ unearned profit-sharing income. Refer to (c)(3) of this Section and OAC 340:10-3-39(c) 340:10-3-39 for information regarding S corporations.

(B) Partnerships are unincorporated businesses with two or more partners. ~~When an assistance unit member is a partner in a business, he or she is considered self-employed and not an employee of the business.~~ Each partner ~~receives~~ may receive a profit share from the business. ~~When a business is considered a:~~ the partner's Schedule K-1 (Form 1065), Partner's Share of Income, includes self-employment income, eligibility staff considers the partner's profit share as self-employment income.

- (i) general partnership or LLC with a member-manager, each partner's share of the business income is shown as self-employment income on his or her federal income tax form; or
- (ii) limited partnership or other LLC member, each partner's share of the business income is shown as self-employment income or unearned profit-sharing income on his or her federal income tax form.

(4) **Home produce.** Any home produce from garden, livestock, and poultry ~~utilized by~~ the client and his or her household uses for their consumption is not considered in determining the Temporary Assistance for Needy Families (TANF) benefit amount. Any home produce sold to others is ~~considered as~~ self-employment income.

(b) **Self-employment income procedures.** Self-employment income that represents the assistance unit member's annual support is prorated over a 12-month period, even when the income is received in a shorter time period. The worker eligibility staff uses the gross self-employment shown on the person's most recent federal tax return, when filed, or computes the member's gross self-employment income from the member's business or employer records. ~~When the member claimed business expenses, the worker eligibility staff subtracts 50 percent of the member's gross self-employment income as business expenses, whether the member claims the expense or not,~~ and divides the remaining income by the number of months to be averaged to arrive at the member's net monthly self-employment income.

(1) **New income source.** When self-employment income is received for less than a year, the income must be averaged over the time period received and the monthly income projected for the coming year.

(2) **Averaged over time period received.** When there is insufficient data to make a reasonable income projection from this income source, ~~the worker eligibility staff~~ does not consider income from this source until the six-month renewal. At renewal, ~~the worker eligibility staff~~ averages the income over the number of months received until a full year's data information is available.

(3) **Annualized self-employment.** Eligibility staff prorates self-employment income based on how frequently income is received and the period it is intended to cover.

(A) When the income is periodic but intended to support the assistance unit member for the entire year, staff averages the income over a 12-month period.

(B) When the income is for a shorter, specific period but is not intended as the member's annual support, staff prorates the income over actual months received.

~~(4) Substantial increase or decrease in income.~~ When the assistance unit member experiences a substantial increase or decrease in income, ~~the worker eligibility staff~~ does not use prior self-employment income, such as income tax returns, to calculate anticipated self-employment income. Instead, ~~the worker eligibility staff~~ only uses the self-employment income that can reasonably be anticipated to project future earnings.

(c) **Earned income from sources other than self-employment.**

(1) **Earned income from wages, salary, or commission.** When the income is from wages, salary, commission, or contract employment, the earned income is the gross income prior to payroll deductions and withholdings. Money from the sale of whole blood or blood plasma is also ~~considered as~~ earned income.

(2) **Earned income from work and training programs.**

(A) **Workforce Innovation and Opportunity Act (WIOA) of 2014.** Per Section 181 of WIOA, earned income from WIOA is exempt.

(B) **On-the-job training (OJT).** Earned income from OJT is considered as any other earned income.

(3) **S corporations.** When an assistance unit member is a shareholder in an S corporation, he or she may receive profits from the business ~~in three ways~~; as a salary, as a profit share of the business, or as salary and a profit share of the business. Salaries and profit share of the business are reported on the household member's personal income tax return. Salary income is ~~considered as~~ earned income, and profit share income is ~~considered as~~ unearned income.

(d) **Earned income determination.** TANF cash assistance benefit amount is determined based on actual gross income received in the current or past month, when known, and the best estimate of anticipated gross income for future months.

(1) **Income verification.** When income verification is needed, ~~the worker eligibility staff~~ gives or sends Form 08AD092E, Client Contact and Information Request, to the client specifying the income verification needed and gives the client at least 10-calendar days to provide the verification.

(A) When an application includes a past month, ~~the worker eligibility staff~~ obtains actual income, when available, to determine income eligibility for the application month.

~~(B) Once~~ When the client provides acceptable verification, no further information is required unless a change occurs or the renewal is due.

(C) When the client reports new employment and has not received representative pay yet, ~~the worker eligibility staff~~ determines the best estimate from information provided by the client and the employer.

(2) **Varying income.** When the assistance unit member receives income in varying amounts, ~~the worker eligibility staff~~ averages the most recent 30-calendar days of income to anticipate income for future months unless the:

(A) member starts new employment and paystubs are not available. When pay stubs are not available, ~~the worker eligibility staff~~ contacts the employer to obtain the member's hourly wage, anticipated weekly hours, and pay frequency;

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(B) hourly wage changes. ~~The worker~~ Eligibility staff obtains a paystub(s) that shows the member's new hourly rate, uses the past 30-calendar days of paystubs to average the member's weekly hours, and multiplies the hours by the new pay rate to anticipate income. When a paystub showing the new hourly rate is not available, ~~the worker~~ eligibility staff contacts the employer to verify the new hourly rate;

(C) member's work hours change. When paystubs are not available, ~~the worker~~ eligibility staff contacts the employer to verify the increase or decrease in hours. The worker multiplies the new hours by the hourly wage to anticipate the member's new earnings;

(D) member obtains a second job. ~~The worker~~ Eligibility staff averages the client's first 30-calendar days of paystubs from the second job, when available, or contacts the employer to obtain the member's hourly wage, anticipated weekly hours, and frequency of pay. ~~The worker~~ Eligibility staff computes the monthly earnings from each job separately and then adds the earnings together for the total month's gross earnings; or

(E) paystubs are not representative of the normal circumstances. In this instance, ~~the worker~~ eligibility staff only uses the representative paystubs to anticipate future income.

(3) **Income conversion to monthly amount.** When the assistance unit member receives income more often than monthly, ~~the worker~~ eligibility staff converts the income to a monthly amount as described in (A) - (D) of this paragraph. Income received:

(A) on a daily basis is converted to a weekly amount, then multiplied by 4.3;

(B) weekly is multiplied by 4.3;

(C) twice a month is multiplied by 2; or

(D) every two weeks is multiplied by 2.15.

(e) **Benefit changes.** The client ~~is responsible for reporting~~ must report income changes within 10-calendar days of when the change takes place. ~~The worker is responsible for taking timely action~~ Eligibility staff must act within 10-calendar days of the date the client reports the change. All client notices must include the timely reporting requirement.

(1) The TANF cash assistance benefit may be closed based on actual or anticipated earnings when the assistance unit's net income is over the payment standard, per Oklahoma Human Services Appendix C-1, Schedule IX. To determine net income, ~~the worker~~ eligibility staff subtracts the earned income disregard, when applicable, per OAC 340:10-3-31.1 and the earned income exemptions, per OAC 340:10-3-33, from gross earned income.

(2) The TANF benefit may be reopened due to administrative error, per OAC 340:65-5-6, when the client reports within 30-calendar days of the effective closure date that the anticipated income was not received or was less than expected and did not cause ineligibility.

## PART 5. ASSISTANCE PAYMENTS

### 340:10-3-57. Special considerations [AMENDED]

(a) **Parent receiving or applying for State Supplemental Payment (SSP) for the aged, blind, or disabled.** ~~A Oklahoma Human Services (OKDHS) Adult and Family Services (AFS) staff must not concurrently include a person~~ must not concurrently be included in a Temporary Assistance for Needy Families (TANF) assistance unit and SSP for the same month. The person may be ~~included~~ in the TANF assistance unit while an application is pending for SSP or Supplemental Security Income (SSI) when all eligibility requirements are met.

(1) When a parent lives in the home, receives SSP, and is not ~~included~~ in the TANF benefit, ~~the worker~~ eligibility staff does not consider the parent's income or resources as available to the TANF assistance unit.

(2) When a parent becomes ineligible for SSP and does not receive SSI, ~~the worker~~ eligibility staff considers the parent's income, resources, and deprivation status in determining TANF eligibility for the assistance unit and the parent.

(A) When adding the parent and his or her income causes the TANF assistance unit to be over income per ~~Oklahoma Human Services (OKDHS)~~ OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX, ~~the worker~~ eligibility staff closes the TANF and medical benefit.

(B) When the parent's SSP benefit closed because of an overall Social Security increase, ~~and staff may not add the parent~~ cannot be added to the TANF benefit, ~~the worker~~ Eligibility staff places the SSP benefit in Special Medical Status.

(3) When a parent becomes ineligible to receive SSP but continues to receive SSI, ~~the worker~~ eligibility staff does not consider the parent's income or resources as available to the TANF assistance unit. The parent must complete a separate SoonerCare (Medicaid) application to continue receiving medical benefits.



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(b) **Concurrent receipt of TANF and SSI.** ~~A~~Eligibility staff must not concurrently include a person must not concurrently be included in a TANF benefit ~~and receive~~who receives an SSI payment for the same month. When a person included in a TANF application or an active TANF benefit meets the eligibility conditions for TANF and SSI, the person may choose to have eligibility determined for TANF or SSI benefits. The payee must inform OKDHS ~~Adult and Family Services (AFS) worker~~AFS eligibility staff when any member of the assistance unit makes application for, or becomes eligible to receive, SSI. When the payee or a member of the assistance unit makes an application for SSI, the payee must inform the Social Security Administration (SSA) of TANF receipt.

(1) When the only dependent child(ren) receives SSI, the natural or adoptive parent(s) or needy caretaker relative may receive an adult-only TANF benefit when all other eligibility factors are met.

(2) When a TANF applicant is also an SSI applicant, he or she may be ~~included~~ in the TANF benefit, when eligible, until notified of SSI eligibility.

(3) When a TANF recipient is an SSI applicant, SSA notifies OKDHS of SSI eligibility to coordinate closure of the person's TANF benefit and approval of SSI and requests the amount of TANF benefits paid for each month of SSI eligibility. When the actual closure date is later than the date given orally to SSA, TANF payments to SSI recipients are TANF overpayments ~~and that~~ must be recouped, per Oklahoma Administrative Code (OAC) 340:65-9.

(4) When a TANF recipient is determined ineligible for SSI, the person may continue ~~to be included~~ in the TANF assistance unit when all other conditions of eligibility are met.

(5) When a TANF recipient is determined ineligible for SSI for reasons other than a disability determination, the person may be ~~included~~ in a SSP cash assistance benefit instead of TANF, when determined disabled by the Oklahoma Health Care Authority (OHCA) Level of Care Evaluation Unit (~~LOCEU~~), per OAC 317:35-5-4(1)(D).

(c) **Concurrent receipt of state and tribal TANF.** ~~A~~Eligibility staff must not concurrently include a person must not be concurrently included in a tribal TANF payment and a state approved TANF benefit in the same month. When the person meets the criteria of a tribal TANF service area and population, the entire assistance unit must be served by tribal TANF. When the household moves out of the tribe's service area, ~~the worker~~eligibility staff coordinates certification of state TANF benefits.

(d) **Concurrent receipt of TANF in more than one state.** A person must not ~~be included in~~receive a TANF benefit ~~in from~~ Oklahoma and another state for the same month.

(e) **Stepparent, needy caretaker's spouse, person acting in the role of a spouse, or parent(s) of a minor parent.** ~~The natural or adoptive parent's income is available to the TANF assistance unit, and the worker does not divert income to meet the needs of the stepparent or other dependents in the home. The worker does not count any income when the stepparent, needy caretaker's spouse, person acting in the role of a spouse, parent(s) of a minor parent, or his or her dependent is an SSI recipient.~~

~~(f)~~**Stepparent or spouse of needy caretaker income.** When a stepparent or the needy caretaker's spouse lives in the home with the child(ren) applying for or receiving TANF, ~~the worker~~eligibility staff counts a portion of his or her verified gross earned and unearned income, after all applicable TANF income disregards and work-related expenses are subtracted, as income available to the assistance unit. To determine the amount to consider, ~~the worker~~eligibility staff:

~~(A)~~(1) subtracts the work-related expense, one-half of the remaining gross earned income, and any dependent care expense from the stepparent's or spouse of a needy caretaker's earned income per OAC 340:10-3-33;

~~(B)~~(2) adds the net earned income to the gross unearned income of the stepparent or the spouse of a needy caretaker;

~~(C)~~(3) subtracts the need standard for the appropriate number of persons per OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX.A. The need standard includes:

~~(i)~~(A) the stepparent or needy caretaker's spouse; and

~~(ii)~~(B) any dependents not included in the assistance unit but who:

~~(i)~~(i) live in the home; and

~~(ii)~~(ii) can be claimed on the personal income taxes of the stepparent or needy caretaker's spouse; and

~~(D)~~(4) subtracts the verified alimony and child support payments to persons outside of the household to arrive at the stepparent's contribution to the assistance unit; and

~~(E)~~(5) adds the contribution of the stepparent or spouse of a needy caretaker's to all other gross income of persons included in the TANF assistance unit to determine eligibility.

~~(2)~~(f) **Stepparent or spouse of a needy caretaker resources.** ~~The worker~~Eligibility staff does not consider resources owned exclusively by the stepparent or spouse of a needy caretaker to determine the assistance unit's resource eligibility but does consider the assistance unit's share of resources owned jointly with the stepparent or spouse of a needy caretaker.

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~~(3) Person acting in the role of a spouse.~~ The worker must count the income of a person acting in the role of a spouse who lives in the home with the natural or adoptive parent who does not receive a TANF benefit on another case.

(A) For the purpose of this rule, a person is acting in the role of a spouse when one or both of these factors exist:

- (i) the parent and the person represent themselves to be a couple; or
- (ii) have a physical relationship with each other.

(B) When the client states the conditions in (A) of this paragraph do not exist, factors that may indicate the person is acting in the role of a spouse include, when he or she:

- (i) assists in parenting the child(ren), such as exercising responsibility for the child(ren); providing day-to-day care, physical care, and guidance for the child(ren);
- (ii) provides financial support for the family beyond his or her own pro rata share of the household expenses;
- (iii) shares joint bank accounts or real property ownership with the parent; or
- (iv) files a joint tax return with the parent.

(C) The worker computes the income of this person the same as stepparent income, per (1) of this Subsection. The person acting in the role of spouse is not eligible to receive the exemption of one-half of the remainder or a dependent care expense deduction in determining this person's countable earned income.

(D) When the parent or the person acting in the role of a spouse fails to provide information necessary to determine income eligibility, the worker denies the application or closes the cash assistance. The income of non-relative adults may be excluded when the adults have separate living quarters and demonstrate no characteristics of a person acting in the role of spouse.

~~(4)(g) Parent(s) of a minor parent.~~ When a minor parent lives with his or her natural or adoptive parent(s) and the needs of the parent(s) are not included in the assistance unit, the:

~~(A)(1)~~ parent's income is available to the assistance unit and computed the same as stepparent income, per ~~(+)(e)~~ of this ~~Subsection~~Section. The parent of the minor parent may or may not be designated as the substitute payee for the assistance unit; and

~~(B)(2)~~ income of a minor parent's stepparent is not considered.

~~(f)(h) Allocating or diverting income.~~ When family members are not included in the assistance unit, ~~the worker~~eligibility staff follows these rules to determine the income available to the assistance unit.

(1) Income received by a person included in the assistance unit is not allocated or diverted to persons who are not in the assistance unit. All countable unearned and earned income of the person is considered available to the assistance unit.

(2) The Eligibility staff includes the net income of an alien parent excluded from the benefit because the citizenship or alienage requirement is not met is considered the same as stepparent income, per ~~(e)(+)(e)~~ of this Section. The Eligibility staff does not include the income of disqualified alien siblings is not considered when determining eligibility of an otherwise eligible child(ren).

(3) The Eligibility staff includes the net income of a fugitive felon who has been excluded from the benefit is considered and uses the same as the stepparent income procedures, per (e)(+)(e) of this Section, to determine the countable amount.

~~(g)(i) Benefit reduction as a result of program violation.~~ The TANF benefit is reduced by 25 percent of the payment standard when a determination of program violation is made. The 25 percent penalty is removed the next effective date when compliance is documented or the penalty time period ends. When multiple types of program violations occur, a 25 percent penalty of the payment standard is imposed for each type of violation. When the benefit reduction causes existing income to ~~be in excess of~~exceed the benefit amount, the case is closed using the reason for the benefit reduction. The amount of the payment standard reduction applies as Food Stamp Penalty Income (FSPI) in the Supplemental Nutrition Assistance Program (SNAP) per OAC 340:50-7-29(c)(1)(A). Reasons for benefit reduction are:

- (1) refusal to cooperate in an effort to obtain child support per OAC 340:10-10-5(c);
- (2) failure to apply for or provide a Social Security number per OAC 340:10-12-1;
- (3) failure of a child(ren) in kindergarten to 18 years of age to attend school per OAC 340:10-13-1;
- (4) failure to provide verification of child(ren) immunizations per OAC 340:10-14-1; and
- (5) intentional program violations determined as fraud by court action or an administrative disqualification hearing or administrative hearing waiver per OAC 340:65-9-2(d) and 340:65-9-4.

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~~(h)~~(j). **Benefit reduction penalty resulting from use of the TANF benefit in a prohibited business.** Per Section 608(a)(12) of Title 42 of the United States Code and Section 241.4 of Title 56 of Oklahoma Statutes, TANF recipients must not use a debit or electronic benefit transfer (EBT) card containing TANF cash assistance in prohibited businesses. Refer to OAC 340:10-1-3(13) for a list of prohibited businesses and the definition of an EBT transaction.

(1) When the parent or caretaker has violated provisions per OAC ~~340:10-1-3(13)~~340:10-1-3(h), the ~~worker eligibility staff~~ reduces the TANF cash assistance payment standard by:

- (A) 25 percent for three months for the first violation;
- (B) 35 percent for six months for the second violation;
- (C) 50 percent for 12 months for the third violation; and
- (D) permanently by deeming the parent or needy caretaker ineligible for TANF benefits for subsequent violations.

(2) When the parent or needy caretaker is permanently ~~deemed~~ineligible to receive TANF cash assistance for this reason and all other factors of eligibility are met, he or she may receive child-only benefits. The ineligible parent's earned and unearned income ~~is considered~~counts in its entirety.

(3) The amount of the penalty reduction applies as FSPI for SNAP per OAC 340:50-7-29(c)(1)(A).

~~(i)~~(k). **TANF eligibility when the child(ren) is placed in out-of-home care.** When Child Welfare Services (CWS) staff removes the child(ren) from the home and reasonably anticipates the child(ren) will return home within four months, the natural or adoptive parent or needy caretaker relative may continue ~~to be eligible~~ to receive an adult-only TANF benefit per OAC 340:10-3-56(a)(2)(B)(ii). The adult remains eligible when all other conditions of eligibility are met unless the child(ren) is placed with a relative requesting needy caretaker benefits. The child(ren) must be removed from the TANF benefit effective the next advance notice deadline date per Appendix B-2, Deadlines for Case Actions.

(1) A team consisting of the ~~worker eligibility staff~~, CWS specialist, natural or adoptive parent or needy caretaker relative, and any other appropriate partner must meet to develop a mutually agreed upon plan of action. The plan must include the parent or needy caretaker's employability plan and strategies to correct the conditions that caused the child(ren) to be removed from the home.

(2) At the end of the four-month period when the child(ren) ~~is not returned~~does not return to the home, the adult-only TANF benefit ~~is closed~~must close.

~~(j)~~(l). **Strikers.** The assistance unit is not eligible for TANF for any month the natural or adoptive parent living in the home participates in a strike on the last day of that month. ~~A Staff does not include a~~ caretaker relative ~~is not included~~ in the benefit ~~for any month~~ when that person is participating in a strike on the last day of the month.

## SUBCHAPTER 15. CONDITIONS OF ELIGIBILITY - CITIZENSHIP AND ALIENAGE

### 340:10-15-1. Citizenship and alien status [AMENDED]

(a) A person eligible to be included in a Temporary Assistance for Needy Families (TANF) benefit, must be:

- (1) a citizen or a national of the United States (U.S.), including the 50 states, District of Columbia, commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and Northern Mariana Islands. A person may be a citizen of the U.S. by being born in the U.S. or by being born in some other country but moving to the U.S. and being granted U.S. citizenship through the U.S. Citizenship and Immigration Services (USCIS) a bureau of the U.S. Department of Homeland Security; or
- (2) a qualified alien described as:
  - (A) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA);
  - (B) an alien who is paroled into the U.S., per Section 212(d)(5) of INA for a period of at least one year;
  - (C) an alien who is granted conditional entry, per Section 203(a)(7) of INA as in effect prior to April 1, 1980;
  - (D) an alien who is granted asylum, per Section 208 of INA;
  - (E) a refugee who is admitted to the U.S., per Section 207 of INA;
  - (F) an alien whose deportation is withheld, per Section 241(b)(3) of INA;
  - (G) an alien who is a Cuban or Haitian entrant as defined, per Section 501(e) of the Refugee Education Assistance Act of 1980;
  - (H) battered aliens and their children or parents as defined, per Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act as amended, Section 1641(c) of Title 8 of the United States Code (8 U.S.C. § 1641(c));

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(I) an alien and his or her eligible relatives who are victims of a severe form of trafficking, per Section 107(b) of the Trafficking Victims Protection Act of 2000 that was reauthorized and amended by the Trafficking Victims Protection Reauthorization Act of 2013;

(J) an Iraqi admitted in special immigrant status as defined in Section 101(a)(27) of the INA, 8 U.S.C. § 1101(a)(27), and Section 1059, Public Law (P.L.) 109-163, the National Defense Authorization Act for Fiscal Year 2006, and Section 1244 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008, per Section 525 of Division G of P.L. 110-161, the Consolidated Appropriations Act of 2008, Section 1244 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008, and Section 8120 of P.L. 111-118. The person must be treated as a refugee;

(K) an Afghan admitted in special immigrant status as defined, per Section 101(a)(27) of the INA, 8 U.S.C. § 1101(a)(27) and Section 1059, P.L. 109-163, the National Defense Authorization Act for Fiscal Year 2006, Section 602, Division F, P.L. 111-08, the Omnibus Appropriations Act, 2009, pursuant to Section 525 of Division G of P.L. 110-161 of the Consolidated Appropriations Act, 2009, and Section 8120 of P.L. 111-118. The person must be treated as a refugee;

(L) an Afghan non-special immigrant parolee, known as a humanitarian parolee, per the Afghanistan Supplemental Appropriations Act 2022 enacted on September 30, 2021, Section 2502 of P.L. 117-43, as modified by the Section 106(3) and 149(a) of the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023, P. L. 117-180, paroled into the U.S. between July 31, 2021 and December 16, 2022, who meets all other factors of eligibility from October 1, 2021 until March 31, 2023, or the term of parole, whichever is longer; ~~or~~

(M) a Ukrainian citizen or national or person who last habitually resided in Ukraine and received parole per Section 401 of the Additional Ukraine Supplemental Appropriations Act of 2022, P.L. 117-128. The parole must occur between February 24, 2022, and September 30, ~~2023~~2024; if after September 30, ~~2023~~2024, the parolee must be the child, spouse, parent, legal guardian, or primary caretaker of a Ukrainian parolee who was paroled between February 24, 2022 and September 30, ~~2023~~2024; ~~or~~

(N) a lawful resident in the U.S. per a Compact of Free Association, including citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, per 8 U.S.C. §§ 1612(b)(2)(G) and 1641(b)(8).

(b) A qualified alien who enters the U.S. on or after August 22, 1996, is not eligible for TANF benefits for a ~~five-year~~five-year period beginning on the date of the alien's entry into the U.S. with a qualified alien status unless the alien is:

- (1) admitted to the U.S. as a refugee, per (a)(2)(E) of this Section;
- (2) granted asylum, per (a)(2)(D) of this Section;
- (3) one whose deportation is being withheld, per (a)(2)(F) of this Section;
- (4) a Cuban or Haitian entrant, per (a)(2)(G) of this Section;
- (5) admitted to the U.S. as an Amerasian immigrant;
- (6) lawfully residing in the state and is a veteran of the U.S. armed forces, on active duty, or is that person's spouse or unmarried dependent child;
- (7) a victim of a severe form of trafficking, per (a)(2)(I) of this Section;
- (8) an Afghan citizen or national paroled into the U.S. as a humanitarian parolee between July 31, 2021 and September 30, 2022; ~~or~~
- (9) a Ukrainian citizen, national, or person who last habitually resided in Ukraine paroled, per (a)(2)(M) of this Section; ~~or~~
- (10) a lawful resident in the U.S. per a Compact of Free Association, including citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, per 8 U.S.C. §§ 1612(b)(2)(G) and 1641(b)(8).

(c) The applicant or recipient must declare the citizenship or alien status for all adults and children included in the TANF assistance unit when completing and signing the application or renewal. Refer to Oklahoma Administrative Code 340:65-3-1(g) for additional citizenship requirements for persons 14 years of age and older, per Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes.

(d) Declaration on behalf of a newborn child may be delayed provided the delay does not exceed the date of the assistance unit's next eligibility renewal.

(e) Persons declaring qualified alien status must provide documentation of their alien status and have their status verified through the Systematic Alien Verification for Entitlements (SAVE) program's Alien Status Verification Index. When secondary verification must be pursued through USCIS, the worker must not delay, deny, close, or reduce benefits to an alien pending a response from USCIS.

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(f) All persons born in the U.S. are, with rare exceptions, U.S. citizens. Documents of citizenship or national status of persons from certain U.S. territories or possessions listed in (a)(1) of this Section may not be in their possession nor available. Their status may usually be determined by a birth certificate, passport, or other official document.

*[OAR Docket #25-343; filed 5-29-25]*

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**TITLE 340. DEPARTMENT OF HUMAN SERVICES**  
**~~CHAPTER 15. STATE SUPPLEMENTAL PAYMENT AND THE SUPPLEMENTAL SECURITY INCOME-~~**  
**~~DISABLED CHILDREN'S PROGRAM~~CHILDREN AND YOUTH WITH SPECIAL HEALTH CARE NEEDS**  
**(CYSHCN) [AMENDED]**

*[OAR Docket #25-344]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 3. ~~Supplemental Security Income-Disabled Children's Program~~Children and Youth with Special Health Care Needs (CYSHCN) [AMENDED]

340:15-3-1. Eligibility and available services [AMENDED]

**AUTHORITY:**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); 10 O.S. § 175.5; Sections 704 and 1382d of Title 42 of the United State Code.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

**COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

**PUBLIC HEARING:**

January 3, 2025

**ADOPTION:**

January 24, 2025

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 29, 2025

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

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**SUPERSEDED EMERGENCY ACTIONS:**

**SUPERSEDED RULES:**

N/A

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

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N/A

## AVAILABILITY:

N/A

## GIST/ANALYSIS:

The proposed amendments to Chapter 15, Subchapter 3 amend the rules to: (1) change the program's name; (2) revise the roles performed by Health Related and Medical Services (HR&MS) staff, third-party contractor staff, and Adult and Family Services (AFS) workers; and (3) clarify the program's benefits.

## CONTACT PERSON:

Caleb Turner, Programs Manager III, 405-982-3685

**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, 2025:**

### **SUBCHAPTER 3. SUPPLEMENTAL SECURITY INCOME-DISABLED CHILDREN'S PROGRAM CHILDREN AND YOUTH WITH SPECIAL HEALTH CARE NEEDS (CYSHCN) [AMENDED]**

#### **340:15-3-1. Eligibility and available services [AMENDED]**

(a) ~~Supplemental Security Income-Disabled Children's Program (SSI-DCP)~~Children and Youth with Special Health Care Needs (CYSHCN). ~~SSI-DCP is established, per~~ Sections 504 and 1615 of the Social Security Act, Sections 704 and 1382d of Title 42 of the United States Code, ~~SSI-DCP, and~~ Section 175.5 of Title 10 of the Oklahoma Statutes, CYSHCN is a ~~federally-funded~~federally funded social services program for children with special health care needs; and is supported by the Maternal and Child Health Services Title V Block Grant. ~~Pursuant to Section 175.5 of Title 10 of the Oklahoma Statutes, Oklahoma Human Services (OKDHS) administers the Children with Special Health Care Needs Program, and Adult and Family Services (AFS) oversees SSI-DCP.~~

(1) ~~AFS Health Related and Medical Services (HR&MS) staff pre-approves SSI-DCP services and equipment except supplemental formula. AFS HR&MS staff considers many factors in deciding which services or equipment to approve including, but not limited to:~~

- (A) the child's needs;
- (B) the availability of other resources;
- (C) whether the child is in a stable or temporary living situation;
- (D) the cost of the service or equipment; and
- (E) the availability of funding.

(2) ~~A third party service provider accepts the service request, determines eligibility, and provides supplemental formula. AFS HR&MS oversees this provider through the contracting process.~~

(b) **Eligibility.** Any child from birth to 18 years of age may be eligible for ~~SSI-DCP~~CYSHCN services when the child receives ~~ana~~ Supplemental Security Income (SSI) payment or has a special health care need. The Social Security Administration (SSA) establishes financial and medical eligibility for the SSI disability payment. When the child becomes 18 years of age, he or she is no longer eligible for ~~SSI-DCP~~CYSHCN services. The service provider and Health Related and Medical Services (HR&MS) staff considers many factors in deciding which services or equipment to approve including, but not limited to:

- (1) the child's needs;
- (2) the availability of other resources;
- (3) whether the child is in a stable or temporary living situation;
- (4) the cost of the service or equipment; and
- (5) the availability of funding.

(c) **Child in OKDHS custody.** ~~When a child is in OKDHS custody and OKDHS retains the child's SSI, the child's SSI is used to pay for needed services and equipment prior to accessing SSI-DCP funds.~~

(d) **Service plan.** ~~Except for supplemental formula and when~~ When the child does not have a current service plan with another program within Oklahoma Human Services (OKDHS) or another agency, such as early intervention services through SoonerStart or special education services through the local public school, ~~the AFS worker~~HR&MS staff completes a service plan prior to providing ~~SSI-DCP~~ services to the child.

(1) ~~The AFS worker~~HR&MS staff interviews the parent, guardian, or caretaker by phone, in the office, or during a scheduled home visit to complete Form 08MA017E, ~~SSI-DCP~~CYSHCN Service Plan. The service plan is reviewed yearly. ~~When the child receives State Supplemental Payment, the AFS worker completes Form 08MA017E in conjunction with the eligibility renewal.~~

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(2) When the child receives services from another agency that requires a current social service plan, such as early intervention services through SoonerStart or special education services through the local public school, the SSI-DCP service plan is not necessary.

(3) Within OKDHS, the child may receive services from Child Welfare Services (CWS), Developmental Disabilities Services (DDS), or Aging Services (AS) for State Plan Personal Care. When a child is in OKDHS custody and OKDHS retains the child's SSI, the child's SSI is used to pay for needed services and equipment prior to accessing CYSHCN funds. When applicable, the ~~AFS worker/provider~~ collaborates with CWS or DDS to:

(A) address the child's current and future social service needs; and

(B) avoid ~~duplication in providing~~ duplicative services.

~~(c)~~ **(d) Services.** SSI-DCPCYSHCN provides funding for the services and equipment described in (1) and (2) of this subsection. The parent, guardian, or caretaker requests interaction and integration services through an AFS worker and equipment through the provider. A third-party service provider handles supplemental formula requests. When a service provider is responsible for providing the service and the parent, guardian, or caretaker contacts an An Adult and Family Services (AFS) worker, the worker provides the provider's contact information when requested. A third-party service provider accepts the request for professional services and adaptive equipment, pre-approves services and equipment, and delivers any equipment or formula. Due to budget constraints, services are available as a temporary supplement on a short-term basis.

(1) **Formula.** A health care professional provides a prescription naming the brand of formula the child needs for oral consumption. The parent, guardian, or caretaker must provide an updated prescription each year.

(2) ~~Interaction and integration~~ **Professional services.** Non-medical services aimed at strengthening the child physically or mentally; providing opportunities for social interaction; or assisting with mobility may be approved when recommended by an education or health care professional and the recommendation clearly defines the goals and objectives for the child. Examples of such services include, but are not limited to;

(A) ~~swimming or~~;

(B) horseback riding lessons;;

(C) sports activities;; or

(D) a health club membership. ~~Due to budget constraints, services are available as a temporary supplement on a short-term basis.~~

~~(f)~~ **(3) Equipment** **Adaptive equipment.** Equipment approved through SSI-DCPCYSHCN is used to aid the child in accessibility or mobility. Equipment available through SSI-DCP is pre-approved by AFS HR&MS staff. Available equipment that may be approved is described in (1) and (2) of this subsection. The parent, guardian, or caretaker provides a written recommendation from an education or health care professional with knowledge concerning the child's equipment needs. HR&MS Service provider staff does not approve requests for equipment the child can obtain through other sources, such as SoonerCare (Medicaid) or through the child's school.

Examples of adaptive equipment include, but are not limited to:

(A) developmental aids;

(B) portable ramps;

(C) adaptive utensils; and

(D) communication mechanisms.

(1) **Developmental aid.** A developmental aid is any device or equipment adapted to meet the needs of a child with disabilities. An education or healthcare professional provides a written explanation concerning the goals and objectives this developmental aid meets before it is approved. Educational or classroom devices, equipment, or supplies not adapted for the child's needs are not in the scope of the program.

(2) **Van lifts.** Van lifts are devices used for vehicular transportation of wheelchairs. Van lifts may be approved when needed to transport a child in a wheelchair. A van lift is not approved for a child in OKDHS or tribal custody or in the DDS Home and Community-Based Waiver Program. Modifications to the van are not approved.

(A) The parent, guardian, or caretaker must own the van as verified by title registration and license verification, and the van must be in operating condition.

(B) The family provides estimates from two van lift dealers who employ certified van lift installation technicians.

(C) When the request is approved, HR&MS staff contacts the family and approved vendor to arrange van lift installation.

(D) Only a certified van lift specialist is approved to install the van lift and the van lift must have factory and dealership warranties equal to the private purchase warranty.

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(E) HR&MS staff does not approve replacement of a van lift within 10 years of the purchase date.

(F) SSI-DCP staff does not pay for van or van lift repairs not purchased with SSI-DCP funds.

~~(g)~~(e). **Exclusions.** Items or supplies not in the scope of ~~SSI-DCP~~CYSHCN are not approved. Examples of excluded items or supplies include, but are not limited to:

- (1) learning programs;
- (2) psychological programs;
- (3) books;
- (4) video or audio tapes;
- (5) paper, pencils, or art supplies;
- (6) computers, tablet computers, or computer software;
- (7) televisions; and
- (8) video games.

~~(h)~~ **Purchasing procedures.** SSI-DCP orders are processed through AFS HR&MS. Purchased equipment is shipped to the local OKDHS office.

~~(i)~~ **SSI-DCP notices.** When an SSI-DCP request is denied, AFS HR&MS staff sends Form 08MP038E, Client Notice of Action Taken, to inform the child's parent, guardian, or caretaker the item is not approved for purchase through SSI-DCP funding. The family may request a fair hearing by completing Form 13MP001E, Request for a Fair Hearing, within 30-calendar days from the issuance date of Form 08MP038E.

~~(j)~~(f). **Respite Voucher Program.** The Respite Voucher Program provides financial assistance in the form of vouchers to families to pay for respite care. When the family appears eligible for the Respite Voucher Program, the worker gives the client Form 08RV001E, Respite Voucher Application for Children and Youth With Special Health Care Needs, to complete. AFS HR&MS determines eligibility for this Respite Voucher. When funding is not available through HR&MS, the worker advises the family to call a designated number to request a respite voucher application from Sooner SUCCESS for the Lifespan Respite Grant Voucher Program. ~~SSI-DCP~~CYSHCN, other OKDHS programs, and certain public and private agencies provide funding to the Respite Voucher Program.

- (1) The caregiver is the person who provides ongoing care for the child. He or she may be a parent, grandparent, other relative, or non-relative.
- (2) When respite care is approved the respite provider must be at least 18 years of age. Respite care is not:
  - (A) designed to pay for ongoing care, such as child care, therapy, in-home assistance, housekeeping, or home health services; and
  - (B) provided by a member of the child's household.

~~(g)~~ **Phenylketonuria (PKU).** Persons younger than 21 years of age who are diagnosed with the genetic disorder PKU may receive assistance for specialized formula supplements through CYSHCN funds when they do not qualify for SoonerCare (Medicaid). SoonerCare (Medicaid) recipients are automatically entitled to access the supplements through their SoonerCare (Medicaid) coverage. The AFS worker establishes eligibility.

~~(h)~~ **CYSHCN notices.** When a CYSHCN request is denied, the service provider notifies AFS HR&MS staff of the denial. HR&MS staff sends Form 08MP038E, Client Notice of Action Taken, to inform the child's parent, guardian, or caretaker the item is not approved for purchase through CYSHCN funding. The family may request a fair hearing by completing Form 13MP001E, Request for a Fair Hearing, within 30-calendar days from the issuance date of Form 08MP038E.

[OAR Docket #25-344; filed 5-29-25]

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## TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 20. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

[OAR Docket #25-364]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

- Subchapter 1. Low Income Home Energy Assistance Program
- 340:20-1-4. Coordination and outreach [AMENDED]
- 340:20-1-10. Program factors [AMENDED]
- 340:20-1-11. Income and liquid resources [AMENDED]



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340:20-1-12. Applications [AMENDED]  
340:20-1-14. Actions, method of payment, and notifications [AMENDED]  
340:20-1-15. Weatherization assistance and other procedures [AMENDED]  
340:20-1-17. Energy Crisis Assistance Program (ECAP) [AMENDED]  
340:20-1-19. Winter heating [AMENDED]  
340:20-1-20. Summer cooling [AMENDED]

**AUTHORITY:**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); 42 U.S.C §§ 8622 through 8624.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

**COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

**PUBLIC HEARING:**

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**ADOPTION:**

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**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

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Approved May 28, 2025, by HJR 1035

**LEGISLATIVE DISAPPROVAL:**

N/A

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N/A

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**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed amendments to Chapter 20, Subchapter 1 amend the rules to: (1) define what constitutes dual participation in the Oklahoma Human Services (OKDHS) and tribal Low Income Home Energy Assistance Programs (LIHEAP); (2) update terminology to reflect current usage; (3) clarify the OKDHS LIHEAP eligibility and fair hearing requirements; (4) adjust the LIHEAP income determination in light of federal feedback; and (5) modify the temperature-related life-threatening situation criteria.

**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 15, 2025:

## SUBCHAPTER 1. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

### 340:20-1-4. Coordination and outreach [AMENDED]

(a) **Coordination with ~~Indian~~ Native American tribes.** ~~Some, but not all,~~ Oklahoma ~~Indian~~ Native American tribes may receive federal funds to operate their own Low Income Home Energy Assistance Program (LIHEAP), per Section 8623 of Title 42 of the United States Code (42 U.S.C. § 8623). Tribes may choose to use their funds for one assistance payment per household or through multiple application periods throughout the federal fiscal year that runs from October through September each year.

(1) Oklahoma Human Services (OKDHS) and participating tribes share information regarding tribal member's receipt of LIHEAP to prevent assistance duplication.

(2) Tribal members are not eligible to receive energy assistance from their tribe and OKDHS for the same component in the same federal fiscal year.

(3) When a tribal member applies for LIHEAP through OKDHS, ~~LIHEAP~~ Energy Assistance (EA) eligibility staff treats the person's eligibility in the same manner as any other household when the person is a member of a tribe that:

(A) does not operate its own LIHEAP; or

(B) operates its own LIHEAP, but the person has not applied to the tribe for energy assistance.

(4) When a tribal member applies for OKDHS LIHEAP and ~~it is determined~~ EA eligibility staff determines that a household member received energy assistance from a tribal LIHEAP program for the same component in the same federal fiscal year, ~~LIHEAP~~ EA eligibility staff denies the application.

(5) When a tribal member approved for OKDHS LIHEAP later applies for tribal LIHEAP for the same component in the same federal fiscal year, the tribe denies ~~it's~~ the application unless the tribal member requests that OKDHS cancel its certification before payment is made.

(b) **Coordination with utility suppliers.** OKDHS ~~LIHEAP Unit~~ staff ~~are responsible for familiarizing~~ familiarizes utility suppliers with LIHEAP regulations, per 42 U.S.C. § 8624. During ~~the~~ an Energy Crisis Assistance Program, ~~centralized LIHEAP~~ EA staff ~~must coordinate~~ coordinates with utility suppliers to pledge payment and ensure fuel is delivered ~~in a timely manner~~ to settle the energy crisis.

(c) **Coordination with other OKDHS programs.** LIHEAP payments ~~are disregarded in~~ do not count as income for all OKDHS programs. LIHEAP coordinates with other Adult and Family Services income support programs, such as Temporary Assistance for Needy Families (TANF), TANF flex funds, and State Supplemental Payment. When the household's need is for primary home energy, it is met through LIHEAP when LIHEAP funds are available. TANF flex funds are used for emergency needs that LIHEAP does not cover.

(d) **Outreach.** OKDHS provides information and presentations regarding LIHEAP to interested persons and community agencies, per 42 U.S.C. § 8624. OKDHS collaborates with local Community Action agencies to offer energy efficient workshops and coordinate energy assessments on LIHEAP households' homes to evaluate what may be done to lower energy costs. Some utility suppliers enroll LIHEAP clients in discount rates for their main heating and cooling energy sources.

### 340:20-1-10. Program factors [AMENDED]

(a) **Home energy.** For the Low Income Home Energy Assistance Program (LIHEAP), home energy means a household's source of energy used to heat or cool a residential dwelling, per Section 8622(6) of Title 42 of the United States Code (42 U.S.C. § 8622(6)).

(b) **Main energy source.**

(1) The main energy source used to heat the home is approved during the winter heating application period. The main energy source may be electricity, natural gas, propane, kerosene, firewood, coal, butane, or heating oil. When the household uses a generator to heat the home, the generator may use natural gas, propane, or gasoline.

(2) The main energy source used to cool the home is approved during the summer cooling application period. In most instances, the main cooling source is electricity. When the household uses a generator to cool the home, the generator may use natural gas, propane, or gasoline.

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(3) During an Energy Crisis Assistance Program (ECAP) application period or a life-threatening situation, the household must choose the heating or cooling energy source that resolves the energy crisis.

(c) **Household.** Household means any person or group of persons who are living together as one economic unit and for whom residential energy is customarily purchased in common, or who make undesignated payments for energy in the form of rent, per 42 U.S.C. § 8622(5).

(1) The income and resources of all household members is considered, per Oklahoma Administrative Code (OAC) 340:20-1-11 procedures, even when one or more household members is not eligible to be included in the benefit, per (d) or (h)(5) of this Section.

(2) Refer to OAC 340:20-1-4 when one or more household members is a member of a tribe operating its own LIHEAP.

(3) A roomer is a person who rents a room in another person's house. A boarder is a person who lives in temporary housing, such as halfway house or group home, a commercial boarding house, or with another household who furnishes lodging and meals to the person in exchange for a reasonable monthly payment for board. When the household states there is a roomer or boarder living in the home, the person may be considered as a separate household only when:

(A) he or she is not related to the household; and

(B) there is a written lease or roommate agreement that contains a clause stating he or she is responsible for a specific portion of the utility bills.

(4) There is one authorization per household for each ~~heating or cooling application~~ application-based assistance period.

(d) **Citizenship and alien status.** Per Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes, all persons 14 years of age and older must declare if they are residing in the United States (U.S.) lawfully and may be required to sign Form 08MP005E, Citizenship Affidavit, per OAC 340:65-3-1(g). To be eligible for LIHEAP benefits, a person must be:

(1) a U.S. citizen;

(2) a U.S. non-citizen national;

(3) an alien who is both qualified and eligible, per OAC 340:50-67; or

(4) an alien not required to meet qualified alien status.

(e) **Vulnerability.** A household is vulnerable when it is totally or partially responsible for home energy costs. A household whose primary energy source is temporarily discontinued is also ~~considered~~ vulnerable. A roomer or boarder ~~may be considered~~ is vulnerable when:

(1) he or she is not related to a household member with whom he or she lives; and

(2) there is a written lease or roommate agreement that contains a clause stating he or she is responsible for a specific portion of the utility bills.

(f) **Non-vulnerability.** Non-vulnerable households are those that do not bear any home energy expense. Examples of non-vulnerable living arrangements include:

(1) congregate or domiciliary facilities, such as a nursing facility, assisted living or long term care facility when utilities are paid through a corporate or business account, college or university dormitory, or fraternity or sorority housing;

(2) households whose primary energy source is totally paid by someone other than a household member; or

(3) subsidized households whose heating or cooling costs are included in the rent. Subsidized households assessed an energy surcharge during the operation of LIHEAP may be eligible for assistance when they provide verification of the surcharge. ~~Acceptable surcharge verification may be established by an itemized statement from the landlord, a legally-binding lease agreement showing the surcharge, or a rent receipt designating the fuel cost is separate from the total shelter payment.~~

(g) **Subsidized household.** Subsidized households are households that receive a utility allowance to cover all or part of their energy cost or receive assistance in paying their rent or house payment on a regular basis. Subsidized households are not vulnerable when an agency or person pays the entire utility bill every month, even when the utility bill is in the name of a household member or the payment is a loan.

(1) Assistance may be from a government agency, such as a local housing authority, or a private person, usually a relative or friend, who helps the household pay their utility bills, rent or house payment, or allows the household to live rent free.

(2) When apartment rental rates in college or university-owned apartment complexes are set lower than other apartments in the community to help the student, the household is ~~considered~~ a subsidized household.

(3) Eligible subsidized households with out-of-pocket utility expenses receive the same assistance benefit as unsubsidized households.

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(h) **Eligible household criteria.** All eligible households must verify that they meet criteria in (1) through (5) of this subsection, per OAC 340:20-1-13, or the application is denied.

(1) Households must be totally or partially responsible for the cost of home energy and provide accurate utility information.

(2) Households must not exceed the gross income and resource standards, per Oklahoma Human Services (OKDHS) Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size.

(3) Households must include at least one U.S. citizen or eligible alien. An undocumented or ineligible alien may be present in the home; but is not included in household size when determining the household's financial eligibility or the benefit amount. The undocumented or ineligible alien's income is considered, per OAC 340:20-1-11(a)(4).

(4) The applicant must provide proof of his or her identity, per OAC 340:20-1-13(4).

(5) Each household member included in household size for income and benefit determination must provide his or her Social Security number (SSN), per OAC 340:20-1-13(3) and 340:65-3-1(f). When the household does not provide ~~an~~ SSN for a household member, the person's income is counted, but he or she is not included in household size when determining the household's financial eligibility, per OKDHS Appendix C-7, or benefit amount, per OKDHS Appendix C-7-A, Estimated Low Income Home Energy Assistance Program (LIHEAP) Benefit Level for all Households.

(i) **Benefit amount.** LIHEAP funding is contingent on the receipt of federal funds and authorized amounts vary from year-to-year. Benefit amounts are estimated and reserved for winter heating, summer cooling, and ECAP on a yearly basis after the funding amount for the federal fiscal year is known. OKDHS Appendix C-7-A provides estimated benefit amounts for each program component. Adjustments may be made to the estimated benefit amount during the federal fiscal year because of changes in available funding or anticipated need. The household benefit amount for:

(1) winter heating is based upon household size, net income, primary energy source, and if the household pays the energy supplier or the utility cost is included in the rent payment;

(2) summer cooling is based upon household size and net income; and

(3) ECAP is based on the amount needed to resolve the energy crisis up to the maximum amount shown, per OKDHS Appendix C-7-A.

## 340:20-1-11. Income and liquid resources [AMENDED]

(a) **Income.** All gross earned and unearned income that the household receives, except for income exclusions per (b) of this Section, ~~is considered in determining~~determines a household financial eligibility, per Section 8624 of Title 42 of the United States Code (42 U.S.C. § 8624). ~~Income~~Oklahoma Human Services (OKDHS) Energy Assistance (EA) eligibility staff converts income received more than once per month from the same source ~~is converted to a monthly amount and rounded rounds it~~ to the nearest dollar. When ~~a household member's income is reduced due to an overpayment recoupment or a garnishment reduces a household member's income,~~ EA eligibility staff uses the gross amount before the recoupment or garnishment ~~is considered~~.

(1) **Gross income standard.** Eligible households' income must not exceed the gross income standard, per ~~Oklahoma Human Services (OKDHS)~~ Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size.

(A) When the household includes one or more ineligible alien(s), EA eligibility staff uses part of the ineligible alien(s)' income ~~is considered in determining~~to determine gross income for the other household members. Refer to (4) of this subsection to determine the ineligible alien(s)' countable income portion. The ineligible alien(s) is not considered in household size when determining the gross income standard for the other household members.

(B) When all household members and their income are included in Supplemental Nutrition Assistance Program (SNAP) food benefits, Temporary Assistance for Needy Families (TANF), State Supplemental Payment (SSP) cash assistance, Soonercare (Medicaid) for the aged, blind, or disabled, or Child Care Subsidy benefits, eligibility staff uses the gross income used to establish eligibility for the other program ~~is used to determine eligibility for Low Income Home Energy Assistance Program (LIHEAP) benefits unless the household reports new or terminated income, per 42 U.S.C. § 8624(j).~~ When the household reports income from a new source; or does not report income currently considered for another benefit on the LIHEAP application, the household must verify the income from the new source or verify that previous income is terminated, per (2) and (3) of this subsection.

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(C) When some, but not all, household members are included in other benefits, the gross income of the household member(s) whose income was not verified must be determined for the application month, per (2) and (3) of this subsection.

(D) When the household does not receive other benefits, the household's gross income for the application month is verified and calculated to determine income eligibility, per (2) and (3) of this subsection.

(2) **Earned income.** Earned income is income a household member receives in the form of wages, commission, self-employment, or training allowances, and for which he or she puts forth labor. When all household members' earned income is not established for another program; and a household member works for an employer, EA eligibility staff calculates gross earned income ~~is calculated~~ for the application month. When a household member is self-employed or a contract employee, EA eligibility staff averages the household member's income ~~is averaged~~ over 12 months to determine the average gross monthly income.

(A) When the household member receives an hourly wage, has not received all earned income for the month by the application date, and his or her income fluctuates, EA eligibility staff uses the last 30-calendar days of income ~~is used~~ to anticipate income for the pay periods not yet received. When the household member:

- (i) receives an extra paycheck in the application month due to a third or fifth week and the income is ongoing, the last 30-calendar days of income is used to determine countable monthly income instead of counting the extra paycheck; or
- (ii) starts a new job and the amount of the first paycheck is not known, the earnings are not considered.

(B) When the household member's income does not fluctuate, income received during the month prior to the application month may be used.

~~(C) When the household member derives his or her annual income by contract or self-employment in a time period shorter than one year or receives an annual salary, the income~~ Annual salary, contract, or self-employment income is divided over a 12-month period to determine countable monthly income.

(D) To arrive at the monthly gross earned income when the household member is self-employed and:

- (i) filed an income tax return on the self-employment income for the most recent tax year, the gross self-employment income, including capital gains, shown on the income tax return is divided by 12. When the business operated less than 12 months, the self-employment income is divided by the number of months the business operated; or
- (ii) did not file an income tax return for the most recent tax year, the gross self-employment income, including capital gains, shown on the household member's business records is divided by 12 or the number of months the business was in operation when the business operated less than 12 months.

(3) **Unearned income.** Unearned income is income a household receives that is not in the form of wages, self-employment, or training allowances; and for which a person does not put forth labor. Unearned income received or expected to be received during the month of application is considered unless it is excluded per (b) of this Section.

(4) **Income calculation for an ineligible alien.** An ineligible alien is a person who does not meet the eligibility criteria, per Oklahoma Administrative Code (OAC) 340:20-1-10(d). When an ineligible alien is part of an eligible household, the ineligible alien's earned and unearned gross income and that of his or her ineligible dependents is calculated in the same manner as it is for other household members. The ineligible alien's countable income portion is computed per (A) through (E) of this paragraph and added to household income for the eligible members before determining if the household meets the gross income standard per OKDHS Appendix C-7.

(A) Subtract the earned income deduction, per OKDHS Appendix C-7 for each employed ineligible alien.

(B) Add the ineligible alien's unearned income.

(C) Subtract the need standard, per OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards Schedule IX, for the ineligible alien and his or her ineligible alien dependents who:

- (i) are claimable for federal personal income taxes;
- (ii) live in the same household; and
- (iii) are not included in the household size when determining the gross income standard or the LIHEAP benefit level for the eligible household members.

(D) Subtract all applicable deductions per (c) of this Section for the ineligible alien(s).

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(E) The remaining amount is added to the countable income of the household members eligible for LIHEAP.

(b) **Income exclusions.** Exclude from countable income any income that is excluded by SNAP, TANF, SSP, Soonercare (Medicaid) for the aged, blind, or disabled, or Child Care Subsidy rules that include, but may not be limited to: when the income recipient receives one of these benefits. When the income recipient does not receive SNAP, TANF, SSP, Soonercare (Medicaid) for the aged, blind, or disabled, or Child Care Subsidy, LIHEAP excludes the income excluded by the SNAP income exclusions in OAC 340:50-7-22.

- (1) the food benefit amount under the Food and Nutrition Act of 2008;
- (2) any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
- (3) educational assistance including grants, work study, scholarships, fellowships, educational loans on which payment is deferred, veteran's education benefits, and the like;
- (4) loans, regardless of use, when a bona fide debt or obligation to pay can be established:
  - (A) Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan is from a person or financial institution in the loan business.
  - (B) When the loan is from a person(s) not in the loan business, the borrower's acknowledgment of obligation to repay, with or without interest, is required to indicate the loan is bona fide;
- (5) Indian per capita payments distributed from judgment awards or trust funds made, per Section 2 of Public Law (P.L.) 98-64, (25 U.S.C. § 117b) and 25 U.S.C. § 1407:
  - (A) Exclude any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds.
  - (B) Exclude per capita payments, such as Osage tribe headrights, income from mineral leases, or other tribal business ventures, when they meet the distribution requirements stated in this paragraph.
  - (C) Consider interest, income derived from the principal, or income produced by purchases made with the funds after distribution as countable income.
  - (D) The per capita exclusion applies per person rather than per family;
- (6) special allowance for school expenses made available upon written petition from trust funds of the student;
- (7) benefits from state and community programs on aging from Title III and Title V. Title III and Title V are under the Older Americans Act (OAA) of 1965, amended by P.L. 100-175 to become the OAA, as amended in 2000. Each state and various organizations receive Title V funds. These organizations include:
  - (A) Experience Works;
  - (B) National Council on Aging;
  - (C) National Council of Senior Citizens;
  - (D) American Association of Retired Persons (AARP);
  - (E) United States (U.S.) Forest Service;
  - (F) National Association for Spanish Speaking Elderly;
  - (G) National Urban League;
  - (H) National Council on Black Aging; and
  - (I) National Council on Indian Aging;
- (8) allowances, stipends, earnings, compensation in lieu of wages, grants, and other payments made for participation in a Workforce Innovation and Opportunity Act program or other federally-funded workforce training program, with the exception of income paid to persons 19 years of age and older for on-the-job training. This income is treated as any other earned income;
- (9) payments for supportive services or reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE);
- (10) payments, allowances, or earnings made to persons participating in programs under Titles I and II of the Domestic Volunteer Services Act of 1973, Section 404 of P.L. 93-113 as amended (42 U.S.C. §§ 5044(f)(1) and 5058), such as the:
  - (A) Senior Companion Program;
  - (B) AmeriCorps Volunteers in Service to America (VISTA);
  - (C) Special Volunteer Programs;
  - (D) Foster Grandparent Program; and
  - (E) Retired and Senior Volunteer Program;
- (11) the value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

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- (12) any portion of payments, made under the Alaska Native Claims Settlement Act, Section 21(a) of P.L. 92-203, to an Alaska native, which are exempt from taxation under the Settlement Act;
- (13) Experimental Housing Allowance Program payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended;
- (14) a minor dependent child's earnings when he or she is a full-time student;
- (15) rental or housing subsidies by governmental agencies, such as the U.S. Department of Housing and Urban Development (HUD), received in-kind or in cash for rent, mortgage payments, or utilities;
- (16) reimbursements from an employer for out-of-pocket expenditures and allowances for travel or training to the extent the funds are used for expenses directly related to such travel or training.
  - (A) Uniform allowances are excluded when the uniform is uniquely identified with the company name or logo;
  - (B) Any amount the employer adds to the employee's gross income as a benefit allowance to pay for a reimbursable expense, such as insurance or dependent care, is excluded;
  - (C) When the monthly benefit allowance exceeds the monthly expense and the employer includes the excess in the employee's pay each month, the worker counts the excess benefit allowance as earned income;
- (17) advance payments of Earned Income Tax Credit (EITC) received as part of a paycheck or EITC refunds as a result of filing a federal income tax return, per P.L. 100-435;
- (18) state EITC refunds as a result of filing a state income tax return;
- (19) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange Product Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);
- (20) TANF Work support services payments, such as flexible funds and participant allowances, per OAC 340:10-2-8;
- (21) payments made directly to the household's creditors, or to a person or organization providing a service on the household's behalf, when the payment is made by a person or organization outside of the household. When funds owed to the household are diverted to pay a third party for a household expense, they are counted as income;
- (22) in-kind benefits that are not in the form of money directly payable to the household. This includes meals, clothing, housing, or benefits that an employee receives from an employer in lieu of wages or in conjunction with wages;
- (23) payments made under the Radiation Exposure Compensation Act (P.L. 101-426) enacted October 15, 1990;
- (24) funds distributed by Federal Emergency Management Assistance (FEMA) due to a disaster or emergency and to persons directly affected by the event, per the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93-288, as amended (42 U.S.C. § 5155(d)). This exclusion also applies to all federally-funded disaster assistance and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. For payments to be excluded, the disaster or emergency must be declared by the U.S. President;
- (25) interests of individual Native Americans in trust or restricted lands;
- (26) income up to \$2,000 per calendar year received by individual Native Americans that is derived from leases or other uses of an individually-owned trust or restricted lands. Any remaining disbursements from the trust or the restricted lands are considered as unearned income;
- (27) payments made to persons because of their status as victims of Nazi persecution;
- (28) monetary allowances, per 38 U.S.C. § 1823(c) provided to certain persons who are children of Vietnam War veterans;
- (29) Family Support Assistance Payment Program payments paid to persons by OKDHS Developmental Disabilities Services;
- (30) money deposited into or withdrawn from a qualified Oklahoma Achieving a Better Life Experience (ABLE) Program account, or an ABLE account in any other state, owned by the account's designated beneficiary and established to pay for qualified disability expenses (QDE) is excluded from income or resource consideration, per Sections 4001.1 through 4001.5 of Title 56 of the Oklahoma Statutes and the ABLE Act of 2014, 26 U.S.C. § 529A. A person may have only one ABLE account. The client must provide documents to verify the account meets exemption criteria before the funds are excluded. Once the client verifies that the savings or trust account is a valid ABLE account, no further account information is required.

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(A) Another individual's contribution to an ABLE account is excluded unless the contribution exceeds the annual federal gift tax exclusion amount, per 26 U.S.C. § 2503(b). Any money deposited in the account in the calendar year that is in excess of the annual federal gift tax exclusion amount is considered as a countable resource in the amount deposited.

(B) A distribution from an ABLE account that is retained after the month of receipt is excluded in any month when spent on a QDE. Money withdrawn for reasons other than to pay a QDE is considered as a countable resource for the withdrawal month.

(C) A QDE is any expense related to the blindness or disability of the individual and made for the benefit of the individual. QDE's include, but are not limited to:

- (i) education;
- (ii) housing;
- (iii) transportation;
- (iv) employment, training, and support;
- (v) assistive technology and personal support services;
- (vi) health;
- (vii) prevention and wellness;
- (viii) financial management and administrative services;
- (ix) legal fees;
- (x) ABLE account oversight and monitoring;
- (xi) funeral and burial; and
- (xii) basic living;

(31) income received by a member of the U.S. Armed Forces, per 37 U.S.C. Chapter 5 and Section 273.9(c)(20) of Title 7 of the Code of Federal Regulations that is:

- (A) received in addition to the service member's basic pay during combat deployment;
- (B) received as a result of the service member's deployment or service in an area designated as a combat zone as determined pursuant to an Executive Order or P.L.; and
- (C) not received by the service member prior to the service member's deployment to or service in a federally-designated combat zone;

(32) payments, allowances, or earnings to persons participating in the AmeriCorps State and National program or the AmeriCorps National Civilian Community Corps authorized by the National and Community Service Act of 1990 (42 U.S.C. § 12637(d)) and other payments to volunteers authorized by the National and Community Service Trust Act of 1993, P. L. 103-82 (42 U.S.C. §§ 12571, et seq.) and administered by the Corporation for National and Community Service;

(33) payments received under the Civil Liberties Act of 1988. These payments are made to persons of Japanese ancestry whose ancestors were detained in internment camps during World War II;

(34) payments received by a Supplemental Security Income recipient necessary for the fulfillment of a Plan for Achieving Self-Support approved under Title XVI Section 1612(b)(4)(A)(iii) or 1612(b)(4)(B)(iv) of the Social Security Act;

(35) money the household receives and uses for the care and maintenance of a third-party beneficiary who is not a household member;

(36) income that is received too infrequently or irregularly to be reasonably anticipated when it is \$30 or less per quarter;

(37) non-recurring lump sum payments including, but not limited to:

- (A) income tax refunds, rebates, or credits;
- (B) retroactive lump sums from Social Security, SSI, public assistance, Railroad Retirement pensions benefits, or other payments;
- (C) retroactive lump sum insurance settlements; or
- (D) refunds of security deposits on rental property or utilities; and

(38) up to \$2,000 in cash deposited and interest accrued in an individual development account operated under the Assets for Independence Act.

(c) **Income deductions.** The household must meet the gross income standard for its household size, per OKDHS Appendix C-7 before allowing applicable income deductions, per (1) through (5) of this subsection except for self-employment business expenses. After allowing income deductions, the net income is used to determine the benefit amount, per (d) of this Section. Deductible expenses may include:

- (1) verified non-reimbursed medical expenses paid by persons 60 years of age and older or persons considered disabled, per OAC 340:50-5-4;



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- (2) legally binding child support paid by a household member to, or for a non-household member when verified, including payments made to a third party on behalf of the non-household member;
- (3) the earned income deduction, per OKDHS Appendix C-7 for each employed household member;
- (4) when self-employed, 50 percent of the household member's gross self-employment income for incurred business expenses. Self-employed business expenses are subtracted before determining if the household meets gross income standards, per OKDHS Appendix C-7. When the household member did not incur business expenses, he or she is not eligible for a business expense deduction. The household member is also eligible for the earned income deduction per (3) of this subsection when he or she does not take out a salary from the business; and
- (5) child care copayment when the household receives Child Care Subsidy benefits through OKDHS.

(d) **Benefit amount.** Refer to OKDHS Appendix C-7-A, Estimated Low Income Home Energy Assistance Program (LIHEAP) Benefit Level for all Households, to determine the LIHEAP benefit amount. The LIHEAP benefit amount is based on household size, excluding ineligible aliens, the household's net income after applicable deductions are subtracted per (c) of this Section, and the main energy source.

(e) **Resources.** Liquid resources, such as, but not limited to, cash on hand, checking or savings accounts, certificates of deposits, stocks or bonds, bitcoin, or other cryptocurrency, cannot exceed the allowable resource level, per OKDHS Appendix C-7. The applicant's statement is accepted as verification unless the information is inconsistent or questionable.

### 340:20-1-12. Applications [AMENDED]

Households apply for the Low Income Home Energy Assistance Program (LIHEAP) by submitting an online application at [www.okdhslive.org](http://www.okdhslive.org), or calling an Oklahoma Human Services (OKDHS) county office to assist with submitting the online application, or calling the Oklahoma Human Services (OKDHS) phone number on the [www.okdhslive.org](http://www.okdhslive.org) website to submit an online application or request Form 08LH002E, Low Income Home Energy Assistance Program (LIHEAP) Application, be mailed to them. When Form 08LH002E is mailed to the household with a postage paid envelope, the household completes the application is completed and returned returns it by email, faxed to the number on the form fax, or mailed to the return address mail.

(1) Households may be pre-authorized for the LIHEAP winter heating or summer cooling component without filing an application; but are not pre-authorized for both in the same federal fiscal year, October through September. Households pre-authorized for LIHEAP are households that must have:

(A) received Child Care Subsidy, State Supplemental Payment (SSP), Temporary Assistance for Needy Families (TANF), or Supplemental Nutrition Assistance Program (SNAP) benefits all 12 months of the previous federal fiscal year and met criteria in (A) through (D) of this paragraph. The household;

(A)(B) received LIHEAP winter heating or summer cooling the previous federal fiscal year;

(B)(C) the same mailing and service address remains the same, utility account, and utility supplier;

(C)(D) income that did not change or exceed eligibility guidelines for household size during the previous federal fiscal year, per OKDHS Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size; and

(D)(E) the same household members remain the same from as the previous federal fiscal year.

(2) A computer-generated notice is normally mailed the month Pre-authorized households receive a notice before the winter heating or summer cooling application period starts. The notice is sent to households not selected for preauthorization that receive SNAP benefits, TANF, and or SSP. The notice informs the household how to Households who do not receive this notice must apply for LIHEAP.

(3) When an application is denied or not processed within 60-calendar days of the application date, households may request a fair hearing when they do not agree with the decision or submit a new application to reapply.

(4) When a household moves after applying for LIHEAP, a new application is not necessary. However, the household must report the change of "service" address to an OKDHS county office within 10-calendar days of moving by calling the OKDHS phone number.

(5) When submitting an application applying, the household must provide the correct account name, account number, and energy supplier to ensure payments are made to the correct energy supplier.

(6) All households applying for the Energy Crisis Assistance Program must have a verified energy crisis, per Oklahoma Administrative Code 340:20-1-17(f)(2).

### 340:20-1-14. Actions, method of payment, and notifications [AMENDED]

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Contingent upon the receipt of federal funding, submitted Low Income Home Energy Assistance Program (LIHEAP) applications are approved or denied, payments are issued, and households are notified of their eligibility during winter heating, summer cooling, and Energy Crisis Assistance Program (ECAP) application periods.

(1) **Households pre-authorized for LIHEAP.** Selected households may be pre-authorized for winter heating or summer cooling and sent a pre-authorization notice prior to an open application period.

(A) Households are pre-approved for LIHEAP per criteria in Oklahoma Administrative Code (OAC) 340:20-1-19 for winter heating and OAC 340:20-1-20 for summer cooling.

(B) The pre-authorization notice informs the household:

(i) of the utility supplier and the account name and number Oklahoma Human Services

(OKDHS) intends to pay based on the prior year's certification; and

(ii) to report correct information to OKDHS within 10-calendar days of the pre-authorization notice date, when the utility supplier or account name or number is different. When the household reports correct information after this date, the household must apply during the open enrollment period as pre-authorization information may no longer be corrected.

(C) When the household reports that the pre-authorization information on the notice is incorrect within 10-calendar days of the pre-authorization notice date, the household provides correct information to determine if the household meets preauthorization criteria.

(i) When the household reports that the utility supplier changed to a supplier that does not participate in LIHEAP, staff explains that OKDHS may not pay the supplier based on pre-authorization information and ~~encourages~~directs the household to file an application during the open enrollment period.

(ii) When the household reports a different account number with the same utility ~~provider~~supplier, staff ~~asks for~~reviews the address and the account name and number on the utility bill.

(I) When the address is the same as the OKDHS address of record and the account holder is a household member, pre-authorization information is updated.

(II) When the address is different, the household must ~~provide a document that verifies~~verify the household lives at the new address, ~~such as~~. Acceptable verification includes, but is not limited to a lease agreement or other document showing a household member's name and the new address, within 10-calendar days of the date on the notice.

(III) When the account number changed because the account name changed to another household member who is included in another Adult and Family Services (AFS) benefit using the same case number, the preauthorization information is updated.

(IV) When the account name is different and the person is not included as a household member in another AFS benefit using the same case number, the household must verify the account holder has a separate address or provide income or resource information for the account holder before preauthorization information is changed. When the person lives in the home, the pre-authorization is closed, and the household must apply during the open enrollment period.

(D) Households are not pre-authorized for ECAP.

(E) If there are unencumbered funds after meeting the LIHEAP and ECAP requirements, OKDHS may obligate these funds by issuing a supplemental payment as necessary. OKDHS directs supplements to energy providers and does not directly pay households with these funds. If the energy provider invalidates and returns the payment, OKDHS does not reissue the payment to the household. § 4 In selecting households for a supplement, OKDHS prioritizes households that include household members who are aged, blind, or disabled or children younger than five years of age. Households do not submit applications for these funds. To qualify for a supplement, the household must:

(i) have received at least one LIHEAP program benefit in the current fiscal year;

(ii) receive State Supplemental Payment, Temporary Assistance for Needy Families, or Supplemental Nutrition Assistance Program; and

(iii) meet any additional criteria required for a specific supplement.

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(2) **Changes that occur after application submission.** When changes occur in the household's circumstances prior to certification, such as, but not limited to, moving or income changes, the household reports the change within 10-calendar days of the change occurring. When a change is reported, new utility information or income verification may need to be provided prior to the application being processed.

(3) **Approvals.** Households may be approved for LIHEAP during each of the three designated application periods per fiscal year.

(A) Certain households may be approved for ECAP outside of a designated application period when there is a life-threatening emergency, per OAC 340:20-1-17(g).

(B) Households are approved for LIHEAP when they:

(i) submit a signed and completed application during the designated application period, per OAC 340:20-1-12;

(ii) provide required verification, per OAC 340:20-1-13; and

(iii) meet program factors, per OAC 340:20-1-10.

(4) **Denials.** An application is denied when the household:

(A) submits the application outside of a designated application period;

(B) submits an incomplete application. Reasons an application is considered incomplete include submitting an unsigned application or not providing utility information. When the household does not sign the application or fails to provide utility information, the application is immediately denied and the household must reapply;

(C) fails to verify program factors, per OAC 340:20-1-10. Prior to application denial, the household must be given or sent Form 08AD092E, Client Contact and Information Request, indicating what verification must be provided and given at least 10-calendar days to provide the needed verification; or

(D) does not meet program factors, per OAC 340:20-1-10.

(5) **Timeliness.** Applications are ~~considered timely processed~~ when approved or denied within:

(A) 60-calendar days of the application date for winter heating and summer cooling; ~~or~~

(B) ~~no later than 18 hours from the application date~~ of the submission of all necessary verification for an ECAP application referral involving a life-threatening medical situation; or

(C) 48 hours of the application date and the submission of all necessary verification for all other ECAP applications.

(6) **LIHEAP payments.** LIHEAP payment amounts are estimated and reserved for each application period based on available funding and may be adjusted as needed. Refer to OKDHS Appendix C-7-A, Estimated Low Income Home Energy Assistance Program (LIHEAP) Benefit Level for all Households, for maximum payment amounts.

(A) Payment amounts are determined based on the household's size, income, and primary energy source.

(B) One payment is made per approved application directly to:

(i) designated energy suppliers on behalf of approved households responsible for their utilities; or

(ii) the household when the:

(I) utilities are included in the rent; or

(II) energy supplier is not designated to receive direct payments from OKDHS.

(C) When payment is made to the household instead of an energy supplier, approved payment may be made directly to the household on a debit card or, when the household receives Temporary Assistance for Needy Families or State Supplemental Payment cash assistance by direct deposit, payment may be made through direct deposit in the same bank account, per OAC 340:65-3-6.

(D) Payments are made weekly as applications are approved.

(7) **Closures.** The LIHEAP authorization automatically closes after the LIHEAP payment issues. Authorizations are closed when it is discovered that an ineligible household was certified in error before a LIHEAP payment is made.

(8) **Refunds.** The household has 30-calendar days from the date on the PSNEN37D, Heating Notice of Payment, PSNEN37M, Energy Crisis Assistance Program Notice of Payment, and PSNEN37O, Cooling Notice of Payment, to report errors and receive a refund. OKDHS does not reissue payments unless the:

(A) household reports the error to OKDHS or the Energy Assistance Contact Center within 30-calendar days of the Notice of Payment;

(B) reported information indicates the household remains qualified for the payment;

(C) energy supplier returns the payment; and

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(D) funds are made available for OKDHS to make a correction.

(9) **Computer-generated notices.** Computer-generated notices are mailed to the applicant or recipient showing actions taken.

(A) PSNEN37D is mailed to the household as notification that payment was made to the utility supplier on his or her behalf for winter heating.

(B) PSNEN37E, Notice of Denial, is mailed to the household when an application is denied.

(C) PSNEN37F, Notice of Closure, is mailed to the household when the utility supplier reports the recipient's account is inactive, no longer in service, incorrect, or final with no amount due.

(D) PSNEN37K, Utility Account Verification and Pre-Approval Notice, is mailed to households pre-authorized for LIHEAP winter heating.

(E) PSNEN37M is mailed to the recipient as notification that payment was made to the supplier for ECAP.

(F) PSNEN37O is mailed to the recipient as notification that payment was made to the energy supplier on his or her behalf for summer cooling.

(G) PSNEN37P, Notice of Direct Payment for Heating, is mailed to the recipient as notification that payment was made directly to the household for winter heating.

(H) PSNEN37Q, Notice of Direct Payment for Cooling, is mailed to the recipient as notification that payment was made directly to the household for summer cooling.

(I) PSNEN37R, Notice of Direct Payment for ECAP, is mailed to the recipient as notification that payment was made directly to the household for ECAP.

(J) PSNEN37T, Utility Account Verification and Pre-Approval Notice, is mailed to households pre-authorized for LIHEAP summer cooling.

(10) **Employee-generated notice.** Form 08LH003E, Notice of Eligibility for Energy Assistance, is sent to the energy supplier or given to the recipient to take to the energy supplier as notification that the household meets eligibility requirements for crisis assistance, per OAC 340:20-1-17. Issuance of Form 08LH003E is not necessary when the supplier's business system is set up to receive a daily OKDHS approval file.

## 340:20-1-15. Weatherization assistance and other procedures [AMENDED]

(a) **Referral for low income weatherization assistance.** Homeowner households who are eligible for Low Income Home Energy Assistance Program (LIHEAP) may be eligible for low income weatherization assistance through funds the Oklahoma Department of Human Services (~~DHS~~)(OKDHS) allocates to the Oklahoma Department of Commerce (ODOC) for the weatherization assistance program per Section 8623 of Title 42 of the United States Code. Weatherization services are provided locally through Community Action Agencies per ODOC approval. ~~Renters are not eligible for LIHEAP weatherization services.~~

(1) ~~DHS Adult and Family Services LIHEAP program field representative~~OKDHS Energy Assistance (EA) program staff provides ODOC with a list of clients approved for LIHEAP. ODOC staff ~~transmits~~transmits the list to local Community Action Agencies for use in identifying homeowner households eligible for LIHEAP weatherization assistance.

(2) ~~Local AFS county office~~EA eligibility staff responds to direct inquiries from the local Community Action Agency or local weatherization contractor concerning the LIHEAP eligibility of households not appearing on the list.

(b) **Fair hearing.** Fair hearing rules per Oklahoma Administrative Code (OAC) 340:2-5 that apply to the Temporary Assistance for Needy Families (TANF) Program also apply to LIHEAP, except that immediate adverse action may be taken on open LIHEAP benefits without an advance notice. Because of the emergency situation that may exist, a LIHEAP fair hearing request is expedited.

(c) **Overpayments.** When an overpayment occurs, ~~centralized AFS LIHEAP~~EA eligibility staff submits a memo to AFS ~~LIHEAP~~EA program field representative staff explaining the overpayment circumstances, including the date, amount, and reason the overpayment occurred.

(d) **Referral for vendor fraud.** When ~~centralized AFS LIHEAP or county~~OKDHS staff becomes aware that a vendor accepted ~~DHS~~a LIHEAP payment on behalf of a household, ~~but~~and failed to provide service, either wholly or in part, as legally required, staff informs AFS ~~LIHEAP~~EA program field representative staff. AFS ~~LIHEAP~~EA program field representative staff determines whether to make a referral to the ~~DHS~~Office of Inspector General for investigation.

(e) **Transfers.** Transferred cases do not normally need to be closed.

## 340:20-1-17. Energy Crisis Assistance Program (ECAP) [AMENDED]

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(a) **ECAP funds.** Based upon previous years' program experience, Oklahoma Human Services (OKDHS) reserves reasonable funds each year for ECAP to resolve energy crisis situations, per Section 8623(c) of Title 42 of the United States Code (42 U.S.C. § 8623(c)); ~~to:~~

- (1) ~~prevent disconnect of service when the household has a verified, active cut-off order;~~
- (2) ~~restore or start service; or~~
- (3) ~~provide a minimum delivery of propane or other heating fuel.~~

(b) **ECAP components.** ECAP consists of three components:

- (1) a regularly scheduled application period in March each year;
- (2) ~~year-round~~ year-round assistance ~~available to households experiencing an energy crisis that involves a life-threatening medical situation on a case-by-case basis who require life-saving medical equipment to operate to avoid a life-threatening situation; and~~
- (3) assistance to households affected by life-threatening temperatures; and
- (4) disaster Low Income Home Energy Assistance Program (LIHEAP) when a federally declared disaster occurs and disaster LIHEAP is authorized by the Administration for Children and Families (ACF) Office of Community Services (OCS). When this occurs OKDHS follows ACF OCS program instructions issued for the disaster. The instructions may differ from ECAP requirements contained in this Section.

(c) **Component Prioritization.** ECAP funding is contingent on the receipt of federal funds. When OKDHS spends the ECAP budget, OKDHS may not approve additional payments until the next federal fiscal year. When possible, OKDHS prioritizes funding the ECAP components in this order:

- (1) a regularly schedule application period in March each year;
- (2) year-round assistance to households who require life-saving medical equipment to operate; and
- (3) assistance to households affected by life-threatening temperature situations.

(d) **Maximum benefit amount.** When the household applies for ECAP more than once in the same fiscal year, the maximum benefit amount approved for all applications combined ~~cannot~~ may not exceed the amount allowed per fiscal year for ECAP on OKDHS Appendix C-7-A, Estimated Low Income Home Energy Assistance Program (LIHEAP) Benefit Level For All Households, per fiscal year. An additional benefit amount may be approved when additional funds are authorized during a ~~federally-declared~~ federally declared disaster.

~~(d)~~(e) **ECAP application methods.** Households apply for ECAP by submitting an online application ~~at~~ www.okdhslive.org, calling an OKDHS county office to request receiving in-person or telephone OKDHS assistance in submitting an online application, or calling the OKDHS phone number on the www.okdhslive.org website to request Form 08LH002E, Low Income Home Energy Assistance Program (LIHEAP) Application, be mailed to them. ~~Centralized LIHEAP~~ Energy Assistance (EA) eligibility staff includes a postage paid envelope with a mailed Form 08LH002E.

- (1) When there is a life-threatening ~~medical~~ situation, ~~centralized LIHEAP~~ EA eligibility staff gathers eligibility information by phone and an application is not required.
- (2) When the household chooses to complete Form 08LH002E, ~~they~~ the household must complete and return the application by email, by fax to the number on the form, or by mail to the return address shown on Form 08LH002E and the postage paid envelope.
- (3) ~~Centralized LIHEAP~~ EA eligibility staff ~~approve~~ approves or deny ~~denies~~ ECAP applications.

~~(e)~~(f) **Main energy source.** Households may choose heating or cooling as the main energy source for ECAP when the household's main energy source meets criteria per ~~(f)~~(2)(g)(2) of this Section. When a life-threatening ~~medical~~ situation is involved, the household must choose the energy source that resolves the energy crisis and prevents a life-threatening ~~medical~~ situation. When the household chooses:

- (1) heating, the main heating energy source used to heat the home is approved. This may be electricity, natural gas, propane, kerosene, firewood, coal, butane, or heating oil. When the household uses a generator to heat the home, the generator may use natural gas, propane, or gasoline; or
- (2) cooling, the main cooling energy source used to cool the home is approved. In most instances, the main cooling source is electricity. When the household uses a generator to cool the home, the generator may use natural gas, propane, or gasoline.

~~(f)~~(g) **Eligibility criteria.** ECAP eligibility criteria are detailed in (1) through (5) of this subsection.

- (1) Households with an energy crisis must not exceed the income and liquid resource standards, per OKDHS Appendix C-7, ~~Low Income Home Energy Assistance Program Income and Resource Level by Household Size.~~ Households must meet the same income and resource criteria for ECAP as for heating and cooling assistance, per Oklahoma Administrative Code (OAC) 340:20-1-11.
- (2) Households must have a verified energy crisis. An energy crisis exists when the household:
  - (A) service is disconnected by the energy supplier;

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(B) has a verified, active cut-off order. In the event of limited funding, ~~centralized LIHEAP~~eligibility staff prioritizes applications with cut-off notices scheduled within 72 hours and applications that contain at least one household member who is 60 years of age and older, blind, disabled, or a child under five years of age;

(C) receives a refusal notice to provide additional energy needs from the energy supplier ~~and~~or the household's fuel tank indicator is at or below 10 percent during the ~~regularly-scheduled~~regularly scheduled ECAP period, or at 25 percent or less for households with a life-threatening medical situation;

(D) provides information regarding a new connection fee;

(E) has a cash only, cash advance, or pre-paid account and has less than a \$25 minimum balance in the account. The household's utility bill shows that it is a cash only, cash advance, or pre-paid account and the balance amount; or

(F) enters into a payment plan with the energy supplier to prevent a service cut-off. When the household enters into a payment plan to prevent service cut-off, ~~centralized LIHEAP~~eligibility staff verifies the payment plan and the minimum amount needed to resolve the energy crisis for at least one month with the energy supplier.

(3) The household must have experienced a precipitating factor that caused the household to choose between paying the energy bill and another vital household need.

(A) Acceptable factors include, but are not limited to, temporary or short-term situations that caused the household to make a choice between paying the energy bill and:

- (i) purchasing sufficient food for the household;
- (ii) paying for emergency situations, such as medical expenses or disaster recovery; or
- (iii) providing clothing for children in the household.

(B) When the household ~~was~~is approved for the maximum ECAP payment during the ~~most recent~~current federal fiscal year, no further ECAP payments are made during the same fiscal year unless additional funds are authorized during a ~~federally-declared~~federally declared disaster.

(C) Households approved for less than the maximum ECAP payment may be approved for another ECAP payment during the same fiscal year, provided the total approved for all payments does not exceed the maximum ECAP payment, per OKDHS Appendix C-7-A. Per 42 U.S.C. § 8624(b)(16), an additional ECAP payment is not approved for the same fiscal year when the household:

- (i) refuses to participate in budget counseling and home energy conservation workshops ~~provided by~~Community Action agencies provide;
- (ii) does not show any progress in improving its situation; or
- (iii) does not make an effort to maintain current utility bills.

(4) The household must explain why the energy crisis need cannot be met by available income and liquid resources, even when income and liquid resources are equal to or below the standard, per OKDHS Appendix C-7.

(5) When the ECAP benefit amount is insufficient to establish, restore, or prevent the cut-off of the household's energy source, ECAP is authorized only when other resources can be combined with the ECAP payment to resolve the energy crisis. When other resources cannot be developed to help resolve the energy crisis, the ECAP application is denied.

~~(g)~~(h) **ECAP payment requirements.** ECAP payment requirements are included in (1) through (4) of this subsection.

(1) The authorized ECAP benefit is ~~limited to~~ the minimum amount necessary to connect, restore, or maintain energy service to the household, up to the established maximum for the program year, per OKDHS Appendix C-7-A. The payment must resolve the energy crisis for at least one month. ECAP funds are not used to pay utility charges carried over from a previous utility account or that is in debt collection, unless the client moved to a new location because of a domestic violence situation and provides proof of the domestic violence, such as a police report.

(2) OKDHS makes payments for crisis assistance directly to energy suppliers unless the energy supplier is not designated to receive direct payments from OKDHS. When direct payment cannot be made to the energy supplier, OKDHS makes the payment to the household by debit card or direct deposit, per OAC 340:65-3-6.

(3) The authorized benefit ~~cannot~~may not include the propane or butane tank delivery cost.

(4) When other utilities are included with the heating or cooling bill, such as water, sewer, or trash, the authorized benefit ~~cannot~~may not include the other utility charges. In this situation, the client must provide a utility bill that itemizes the charges for each utility, or this information is obtained from the energy supplier.

When the client is unable to pay the other utility costs and the energy supplier is unwilling to continue heating or

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cooling service, the application is denied until the client provides verification that the other utilities were or can be paid.

~~(h)~~(i) **Timeliness requirement.** Per 42 U.S.C. § 8623(c), an ECAP application is considered timely processed when it is approved or denied within:

(1) 18 hours of the household requesting ECAP and providing any necessary verification when the energy crisis involves a life-threatening ~~medical~~ situation.

(A) To be considered a life-threatening ~~medical~~ situation, the energy crisis must involve the energy source required:

(i) for life-saving medical equipment to be operational. The medical equipment must be prescribed by a licensed health care professional and require electricity to operate. When the medical equipment has an available battery backup in case of an electricity outage, the medical situation is not considered life-threatening. The client must provide a licensed health care professional's statement dated within the last 60-calendar day period or ~~the most recent six months of~~ medical records dated within six months of the request verifying that the medical equipment is prescribed and a battery backup is not available. Examples of life-saving medical equipment include, but are not limited to:

- (I) a kidney dialysis machine;
- (II) an iron lung;
- (III) an oxygen concentrator or other type of oxygen machine; or
- (IV) a cardiac monitor; or

(ii) power heating or air conditioning equipment when the temperature is predicted to be hot or cold enough to create a life-threatening ~~medical~~ situation ~~for a person with a pre-existing medical condition~~ if the energy source is not functioning. To be considered a life-threatening ~~medical~~ situation, the temperature on the disconnection date must be predicted to be:

- (I) a heat index of at least 101 degrees ~~in summer months~~ Fahrenheit or higher; or
- (II) 32 degrees Fahrenheit or lower ~~during day-time hours, 20 degrees or lower during night time hours in winter months, or both.~~

(B) Authority for designating a medical situation as life-threatening is limited to a:

- (i) licensed health care professional; or public health official for (i) of this subparagraph; and
- (ii) ~~public health official~~ the online National Weather Service weather forecast for the household's service zip code for (ii) of this subparagraph; and

(2) 48 hours of receipt of a complete application when the energy crisis does not involve a life-threatening ~~medical~~ situation. A complete application means the application is signed and submitted and all verification is provided.

## 340:20-1-19. Winter heating [AMENDED]

(a) ~~Selected~~ Contingent on funding, Oklahoma Human Services (OKDHS) may pre-authorize selected households approved for other benefits administered by ~~Oklahoma Human Services (OKDHS)~~ OKDHS Adult and Family Services are normally pre-authorized for winter heating each year without filing an application. Households pre-approved for the Low Income Home Energy Assistance Program (LIHEAP) ~~are those whom must have:~~

(1) received ~~Child Care Subsidy, State Supplemental Payment (SSP), Temporary Assistance for Needy Families (TANF), or Supplemental Nutrition Assistance Program (SNAP) benefits all 12 months of the previous federal fiscal year and met all the criteria in (1) through (4) of this subsection. The household:~~

~~(1)(2)~~ received LIHEAP winter heating the previous federal fiscal year;

~~(2)~~ address remains the same (3) the same mailing and service, utility account, and utility supplier;

~~(3)(4)~~ income that did not exceed the gross income standard for its household size during the previous federal fiscal year, per OKDHS Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size; and

~~(4)(5)~~ the same household members remain the same from as the previous federal fiscal year.

(b) Households are not pre-authorized for winter heating and summer cooling in the same federal fiscal year; the federal fiscal year runs October through September. When households were pre-authorized for summer cooling for the same federal fiscal year, they must complete an application for winter heating and be approved, per Oklahoma Administrative Code (OAC) 340:20-1-12.

(c) A designated LIHEAP winter heating application period is opened each year federal LIHEAP funds are issued. Applications are taken until allocated funds are expended, per Section 8624 of Title 42 of the United States Code.

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(d) Refer to OKDHS Appendix C-7-A, Estimated Low Income Home Energy Assistance Program, for estimated benefit amounts. The benefit amount is based on the household's net income, household size, heating source, and if the heating bill is included in the rent amount or paid separately.

(1) Payments for ~~unsubsidized~~ renters, roomers, and boarders who pay a surcharge for utilities included in their rent are made directly to approved households, per ~~(g) of this Section~~ OAC 340:20-1-14(6).

(2) Acceptable verification of the surcharge may be established by an itemized statement from the landlord, a legally-binding lease agreement showing the surcharge, or a rent receipt designating that the fuel cost is separate from the total shelter payment. When a roomer or boarder lives with another household, he or she may only qualify as a separate household when he or she:

(A) is not related to the household; and

(B) provides a written lease or roommate agreement that contains a clause stating he or she is responsible for a specific portion of utility bills.

(e) Main home energy sources for heating include natural gas, electricity, propane, firewood, kerosene, coal, or butane.

When the household uses a generator to heat the home, the generator may use natural gas, propane, or gasoline.

(1) LIHEAP payments are made for utility expenses, deposits, and reconnect charges applicable to the household's main source of home energy. When the utility supplier receives payment from the household and OKDHS for reconnect charges or deposits, the utility supplier must reimburse the client for those charges.

(2) When other utilities, such as water, sewer, or trash, are included with the fuel bill, the authorized benefit cannot include the other utility charges. In this situation, the applicant must provide a utility bill that itemizes the charges for each utility or this information must be obtained from the energy supplier.

(f) Payments are not made for:

(1) blankets;

(2) emergency home repair;

(3) new or additional heating equipment or heating appliances;

(4) propane tank rental, hook-up, inspection, delivery, or other service charges; or

(5) utility charges carried over from a previous utility account or that is in debt collection due to non-payment, unless the client moved to a new location because of a domestic violence situation and provides proof of the domestic violence, such as a police report.

(g) Refer to ~~OAC 340:20-1-14(5)~~ OAC 340:20-1-14(6) for ways LIHEAP payments are made. When direct payment is made to the household instead of an energy supplier, it is made on a debit card or by direct deposit, per OAC 340:65-3-6 procedures.

## 340:20-1-20. Summer cooling [AMENDED]

(a) ~~Selected~~ Contingent on funding, Oklahoma Human Services (OKDHS) may pre-authorize selected households already approved for other benefits administered by ~~Oklahoma Human Services (OKDHS)~~ OKDHS Adult and Family Services ~~are normally pre-authorized~~ for summer cooling each year without filling out an application. Households pre-approved for the Low Income Home Energy Assistance Program (LIHEAP) ~~are those who must have:~~

~~(1) received Child Care Subsidy, Supplemental Payment (SSP), Temporary Assistance for Needy Families (TANF), or Supplemental Nutrition Assistance Program (SNAP) benefits all 12 months of the previous federal fiscal year and met all the criteria in (1) through (4) of this subsection. The household;~~

~~(1)~~ (2) received LIHEAP summer cooling the previous federal fiscal year;

~~(2)~~ (3) address remains the same mailing and service addresses, utility account, and utility supplier;

~~(3)~~ (4) income that did not exceed the gross income standard for its household size during the previous federal fiscal year, per OKDHS Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size; and

~~(4)~~ (5) the same household members remain the same from the previous federal fiscal year.

(b) Households are not pre-authorized for summer cooling and winter heating in the same federal fiscal year; the federal fiscal year runs October through September. When households were pre-authorized for winter heating for the same fiscal year, they must complete an application for summer cooling and be approved, per Oklahoma Administrative Code (OAC) 340:20-1-12.

(c) A designated LIHEAP summer cooling application period is opened each year federal LIHEAP funds are issued. Applications are taken until allocated funds are expended, per Section 8624 of Title 42 of the United States Code.

(d) Refer to OKDHS Appendix C-7-A, Estimated Low Income Home Energy Assistance Program (LIHEAP) Benefit Level for all Households, for estimated benefit amounts. The benefit amount is based on the household's net income and household size.



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- (1) The same benefit amount is approved for ~~unsubsidized~~ renters, roomers, and boarders with utilities included in their rent as for households that pay their cooling costs to an energy supplier. Payments for unsubsidized renters, roomers, and boarders who pay a utility surcharge included in the rent are made directly to approved households, per ~~(g) of this Section~~ OAC 340:20-1-14(6).
- (2) Acceptable verification of the surcharge may be established by an itemized statement from the landlord, a legally-binding lease agreement showing the surcharge, or a rent receipt designating that the fuel cost is separate from the total shelter payment. When a roomer or boarder lives with another household, he or she may only qualify as a separate household when he or she:
- (A) is not related to the household; and
  - (B) provides a written lease or roommate agreement that contains a clause stating he or she is responsible for a specific portion of utility bills.
- (e) In most instances, the main home energy source for cooling is electricity. When the household uses a generator to cool the home, the generator may use natural gas, propane, or gasoline.
- (1) LIHEAP payments are made for utility expenses, deposits, and reconnect charges applicable to the household's primary home energy source. When the utility supplier receives payment from the client and OKDHS for reconnect charges or deposits, the utility supplier must reimburse the client for those charges.
- (2) When other utilities are included with the fuel bill, such as water, sewer, or trash, the authorized benefit cannot include the other utility charges. In this situation, the applicant must provide a utility bill that itemizes the charges for each utility or this information must be obtained from the energy supplier.
- (f) Payments may be made to the household to reimburse it for purchasing cooling equipment, such as fans and window air conditioning units, ~~or to repair existing cooling equipment~~ up to the maximum payment allowed, per Appendix C-7-A; ~~Estimated Low Income Home Energy Assistance Program (LIHEAP) Benefit Level for all Households~~, when the household provides proof that the purchase ~~or repair~~ was made within 30-calendar days of the ~~start of the cooling application period~~. When the household chooses this option, it is not eligible to receive help paying its energy bill.
- (g) Refer to ~~OAC 340:20-1-14(5)~~ 340:20-1-14(6) for ways LIHEAP payments are made. When direct payment is made to the household instead of an energy supplier, it is made on a debit card or by direct deposit, per OAC 340:65-3-6 procedures.

*[OAR Docket #25-364; filed 5-29-25]*

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## TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 25. CHILD SUPPORT SERVICES

*[OAR Docket #25-365]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

- Subchapter 1. Scope and Applicability
  - 340:25-1-1.1. Definitions [AMENDED]
  - 340:25-1-1.2. Structure and service [AMENDED]
- Subchapter 3. Commissioned Peace Officers [REVOKED]
- Subchapter 5. Operational Policies
- Part 9. DISCLOSURE OF INFORMATION
  - 340:25-5-67.1. Family violence [AMENDED]
- Part 15. CASE INITIATION, CASE MANAGEMENT, AND CASE CLOSURE
  - 340:25-5-123. Case closure system [AMENDED]
  - 340:25-5-124. Assignment and transfer of cases to child support offices [AMENDED]
- Part 17. PAST SUPPORT
  - 340:25-5-140. Past support [AMENDED]
    - 340:25-5-140.1. Interest [AMENDED]
- Part 20. MEDICAL SUPPORT
  - 340:25-5-171. Enforcement of a medical support order [AMENDED]
- Part 21. ESTABLISHMENT
  - 340:25-5-176. Establishment of parentage [AMENDED]

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340:25-5-190. Service of process [AMENDED]

Part 22. REVIEW AND MODIFICATION

340:25-5-198.1. Review of a child support order [AMENDED]

340:25-5-198.2. Modification [AMENDED]

Part 23. ENFORCEMENT

340:25-5-200. Enforcement [AMENDED]

340:25-5-214. Passport denial, revocation, restriction, or limitation [AMENDED]

Part 37. RECOVERY

340:25-5-305. Overpayment and recovery policies [AMENDED]

Part 39. ACCOUNTING AND DISTRIBUTION

340:25-5-350.3. Payment of support through Centralized Support Registry [AMENDED]

## **AUTHORITY:**

Section 652 of Title 42 of the United States Code (42 U.S.C. 652); Chapters 302 and 303 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 302, 303); 45 C.F.R. § 303.8; 45 C.F.R. § 303.11; 45 C.F.R. 303.21; Director of Human Services; 12 O.S. § 2004; 21 O.S. § 566; 43 O.S. §112A; 43 O.S. § 114; 43 O.S. § 118I; 56 O.S. § 162; 56 O.S. 240.1; 56 O.S. § 240.23; 62 O.S. § 34.64

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

## **COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

## **PUBLIC HEARING:**

January 3, 2025

## **ADOPTION:**

January 24, 2025

## **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 29, 2025

## **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

## **LEGISLATIVE DISAPPROVAL:**

N/A

## **APPROVED BY GOVERNORS DECLARATION:**

N/A

## **FINAL ADOPTION:**

May 28, 2025

## **EFFECTIVE:**

September 15, 2025

## **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 amendments to Chapter 25 Subchapter 5 amend the rules to: (1) implement rule changes recommended during the annual Child Support Services (CSS) Standing Rules Committee policy review process; (2) amend legal authorities as necessary; and (3) make non-substantive changes to improve rule clarity.

## CONTACT PERSON:

Tammy Hall, Programs Manager, 405-982-2855

**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, 2025:**

## SUBCHAPTER 1. SCOPE AND APPLICABILITY

### 340:25-1-1.1. Definitions [AMENDED]

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

**"Address of record" or "AOR"** means an address for a party or a custodial person (CP) in the Central Case Registry of Child Support Services (CSS) used for service of process in support, custody, and visitation actions. An AOR may be different from the party's or CP's physical address.

**"Alleged father"** means *a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined per Section 7700-102 of Title 10 of the Oklahoma Statutes (10 O.S. § 7700-102).*

**"Alternative health coverage"** means health care services other than health insurance including, but not limited to, Indian Health Services (IHS) or Defense Eligibility Enrollment Reporting System (DEERS) available to either parent under which medical services could be provided to the dependent child(ren).

**"Annual notice"** means the yearly notice provided for in 56 O.S. § 237A to notify the noncustodial parent (NCP) and CP of the amount due, actions that may be taken to enforce the child support obligation, actions required of the NCP and CP, and other related information and instructions.

**"Applicant"** means the individual who requests child support services or is referred by another agency or program for child support services.

**"Arrears," "arrearage," or "past-due support"** means the total amount of unpaid support obligations accrued under a support order. Refer to "delinquency" in this Section.

**"Assignment"** means any transfer of rights to support to the state of Oklahoma under Sections 608 and 671 of Title 42 of the United States Code (42 U.S.C. §§ 608 and 671) or any transfer of rights to medical support and to payment of medical care from any third party under Section 433.146 of Title 42 of the Code of Federal Regulations (42 C.F.R. § 433.146).

**"Authorized representative"** means a person designated by a CP, NCP, or biological parent per Oklahoma Administrative Code (OAC) 340:25-1-3.1.

**"Biological parent"** means the natural parent of a child.

**"Case"** means the relationship of a particular group of people bound by legal rights and duties for the support of a child(ren) who is receiving or received child support services and all records and actions associated with the group.

**"Cash medical support"** means *an amount ordered to be paid toward the cost of health coverage provided by a public entity or by a person other than the parents through employment or otherwise per 43 O.S. § 118F.*

**"Central Case Registry" or "CCR"** means Oklahoma's repository for Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code (Title IV-D) cases and child support orders established or modified in Oklahoma after October 1, 1998. It includes, but is not limited to, information required to be transmitted to the Federal Case Registry per 42 U.S.C. § 654a. CSS maintains the CCR per 43 O.S. § 112A.

**"Centralized Support Registry"** means a repository CSS maintains to receive, allocate, and distribute support payments, including child support, spousal support when paid in conjunction with child support, and related support payments per 43 O.S. § 413. It serves as Oklahoma's State Disbursement Unit per 42 U.S.C. § 654b. The Centralized Support Registry processes payments per 43 O.S. § 413:

(A) *in all cases in which child support services are being provided under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes* until all monies owed for child support are no longer owed;

(B) *in all other cases in which support is being paid by income withholding;* and

(C) when a court orders payments to be made through the Centralized Support Registry.

**"Child support order"** means an obligation addressing monetary support, cash medical support, medical support for the child(ren), and support arrearage and arrearage payments, when any.

**"CSED"** means Oklahoma Human Services (OKDHS) Child Support Services and was replaced by Child Support Services.

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"CSS" means Child Support Services. CSS includes a central state office, district offices, and other offices that may be administered through contract or cooperative agreements with district attorneys, ~~community action program agencies~~, and others. CSS includes all these offices, employees, and agents. CSS was formerly known as CSED and Oklahoma Child Support Services (OCSS).

"Current child support" means the base child support obligation and the proportional share of health insurance costs, fixed medical costs, transportation expenses, and annualized child care costs. Current child support does not include cash medical support.

"Custodial person," "custodian," or "CP" means the person who has primary physical custody of the child(ren).

"Delinquency" means *any payment under an order for support which becomes due and remains unpaid* per 12 O.S. §1170 and 56 O.S. § 237.7.

"DHS" means Oklahoma Human Services, also known as OKDHS, which is the state agency designated to administer the state of Oklahoma child support program.

"District office" means a child support services office or duty station OKDHS operates or through contract or agreement with OKDHS to serve a specific area of the state.

"Family violence" means domestic abuse or child abuse, including physical or emotional harm.

"Family Violence Coordinator" means the person(s) identified in the Center for Professional Development who is the subject matter expert on domestic violence.

"Fixed medical" means fixed periodic payments for ongoing medical costs not paid or reimbursed by insurance, or included in a cash medical support order.

"Full-service case" means a child support case for which CSS provides all appropriate Title IV-D services per OAC 340:25-1-1.2.

"Health insurance" means insurance coverage that provides routine and major medical expenses including, but not limited to: preventive care, office visits, hospitalization, and medication coverage that may be provided through a fee for service, health maintenance organization, preferred provider organization, or other private or public organization, other than SoonerCare (Medicaid).

"High-volume administrative enforcement cases in interstate actions" means the request of another state, the identification of by a state, through automated data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in other states, and the seizure of such assets by the state through levy or other appropriate processes per 42 U.S.C. § 666.

~~"Intergovernmental"~~ **"Intergovernmental"** means a case referred by an initiating agency to a responding agency for services when the dependent child(ren) and the NCP lives or works in different jurisdictions.

"Income assignment" means an assignment, by operation of law or by court or administrative order of a portion of the monies, income, or periodic earnings due and owing by the NCP to the person entitled to the support or to another person designated by the support order or assignment, per 12 O.S. § 1170 and 56 O.S. § 237.7. An income assignment may be for payment of current support, arrearages, or both. The terms "income assignment" and "income withholding" may be used interchangeably.

"Interstate case" means a case in which at least one party resides in another state or country or a support order was entered in another state or country.

"Intrastate case" means a case existing or occurring within the boundaries of a single state.

"IV-A" means Title IV, Part A, of the Social Security Act, codified in 42 U.S.C. Part A of Subchapter IV of Chapter 7, covering the federal-state Temporary Assistance for Needy Families (TANF) Program.

"IV-B" means Title IV, Part B, of the Social Security Act, codified in 42 U.S.C. Part B of Subchapter IV of Chapter 7, covering child welfare services.

"IV-D" means Title IV, Part D, of the Social Security Act, codified in 42 U.S.C. Part D of Subchapter IV of Chapter 7, generally relating to child support.

"IV-D case" means a child support case receiving Title IV-D services.

"IV-D programs and services" means programs and services under Title IV, Part D, of the Social Security Act, codified in 42 U.S.C. Part D of Subchapter IV of Chapter 7.

"IV-E" means Title IV, Part E, of the Social Security Act, codified in 42 U.S.C. Part E of Subchapter IV of Chapter 7, covering foster care.

"IV-E foster care" means federal and state funded placement of a child(ren) removed from a home whose family members meet the eligibility criteria for federal participation for Title IV-E foster care.

"Medicaid" means medical assistance provided under a state plan approved under Title XIX of the Social Security Act, codified in 42 U.S.C. Subchapter XIX of Chapter 7 including SoonerCare, State Children's Health Insurance Program (S-CHIP), and Insure Oklahoma. In Oklahoma, the Oklahoma Health Care Authority (OHCA) provides Medicaid services for eligible adults and children.

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**"Medical enforcement only case"** or **"MEO case"** means a child support case for which CSS provides only Title IV-D services related to securing and enforcing medical support to non-TANF SoonerCare (Medicaid) recipients.

**"Medical support"** means health insurance, alternative health coverage, cash medical support, or a combination of these for the benefit of a minor child(ren).

**"Member of military service"** or **"servicemember"** means any member of the uniformed service on active duty including the Army, Navy, Air Force, Marine Corps, and Coast Guard. Also included are members of the National Guard called to active service, certain members of the Public Health Service, National Oceanic and Atmospheric Administration, Reserves when ordered to report for active military duty, and United States citizens serving with the military of other countries when that service is similar to military service per 50 U.S.C. §§ 3911, 3914, and 3917. A servicemember may be an NCP or a CP.

**"Non-cash support"** means support given to a family in the nature of goods or services that can be assigned a specific dollar value in lieu of monetary payment.

**"Noncustodial parent"** or **"NCP"** means a parent who does not have primary physical custody of the child(ren).

**"Non-IV-D case"** means a private child support case not receiving Title IV-D services.

**"Non-IV-E foster care"** means state funded placement of a child(ren) removed from a home where the child(ren) does not meet federal Title IV-E participation requirements.

**"Non-TANF SoonerCare (Medicaid)"** means a case in which a parent or CP receives Title XIX Medicaid services for the minor child(ren).

**"Notice of Income Assignment"** means the tool used to affect the income withholding process. This document is used to notify employers and other withholders to deduct child support payments from an NCP's income and to send the payments to Oklahoma's Centralized Support Registry for distribution. The terms "income withholding" and "income assignment" may be used interchangeably.

**"OAH"** means the OKDHS Legal Office of Administrative Hearings: Child Support (OAH) that employs and assigns administrative law judges to conduct child support administrative hearings.

**"Obligee"** or **"person entitled"** means, per 56 O.S. § 237.7:

(A) *a person to whom a support debt or support obligation is owed;*

(B) *the Department of Human Services or a public agency of another state that has the right to receive current or accrued support payments or that is providing support enforcement services; or*

(C) *a person designated in a support order or as otherwise specified by the court.*

**"Obligor"** means the person who is required to make payments under an order for support per 12 O.S. § 1170 and 56 O.S. § 237.7.

**"OCSS"** means CSS.

**"Offset"** means an amount of money intercepted from an NCP's state or federal tax refund or from an administrative payment, such as federal retirement benefits to satisfy a child support debt.

**"OKDHS"** means Oklahoma Human Services. OKDHS is the state agency designated to administer the child support program for the state of Oklahoma.

**"Oklahoma Health Care Authority (OHCA)"** means the Oklahoma agency that administers the Medicaid and SoonerCare programs for adults and children who meet eligibility requirements. OHCA operates under the authority of Title XIX of the Social Security Act and 63 O.S. §§ 5003 et seq.

**"Overpayment"** means a CSS payment to a CP, NCP, or other entity to which the entity or person is not entitled.

**"Participant in a case"** means a child, parent, alleged father, or CP associated with a child support services case.

**"Past support"** means past-due support or support for a prior period. Refer to "arrear" in this Section.

**"Payment plan"** means and includes but is not limited to, a plan approved by the court or the support enforcement entity provides sufficient security to ensure compliance with a support order, incorporates voluntary or involuntary income assignment, or a similar plan for periodic payment of past-due support and, when applicable, current and future support per 43 O.S. § 139.1 and 56 O.S. § 237.7. A payment plan is intended to incrementally reduce arrear.

**"Payor"** means *any person or entity paying monies, income, or earnings to an obligor. In the case of a self-employed person, the "payor" and "obligor" may be the same person* per 12 O.S. § 1170 and 56 O.S. § 237.7.

**"Presumed father"** means *a man who, by operation of law per 10 O.S. § 7700-204, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.*

**"Record"** means a written document or image stored in electronic or physical form.

**"Social Security Act"** means Public Law 74-271, codified in 42 U.S.C. Chapter 7 that established the Title IV-D program and other social services programs.

**"State's attorney"** means a lawyer employed in the child support program to represent the state in rendering services per the Social Security Act, codified in Title 42 U.S.C. Part D of Subchapter IV of Chapter 7.

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**"Support"** means, per 56 O.S. § 237.7, all payments or other obligations due and owing to the CP or person entitled by the NCP under a support order, and may include, but is not limited to, child support, medical insurance or other health benefit plan premiums or payments, child care obligations, support alimony payments, and other obligations as specified in 43 O.S. §§ 118A through 119.

**"Support for a prior period"** means the amount of child support ordered under the child support guidelines in 43 O.S. §§ 118 through 119 in paternity orders and in TANF notice of support debt orders for past months when no child support order was in effect.

**"Support order"** means, per 43 O.S. § 601-101, a *judgment, decree, order or directive, whether temporary, final, or subject to modification, issued by a tribunal for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.*

**"TANF"** means Temporary Assistance for Needy Families. TANF replaces Aid to Families with Dependent Children (AFDC).

**"Tribunal"** means, per 43 O.S. § 601-101, a court or administrative agency authorized to establish, enforce, modify support orders, or determine parentage.

**"UIFSA"** means the Uniform Interstate Family Support Act. In Oklahoma, UIFSA is codified at 43 O.S. §§ 601-100 through 601-903.

**"Unreimbursed public assistance"** means money paid as cash assistance from Title IV-A and Title IV-E programs that has not been recovered.

**"UPA"** means the Uniform Parentage Act. In Oklahoma, UPA is codified in 10 O.S. §§ 7700-101 through 7700-902.

## 340:25-1-1.2. Structure and service [AMENDED]

### (a) Structure.

(1) Under Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code, every state must designate a single state agency to administer a statewide plan for child support services. Oklahoma Human Services is the designated agency in Oklahoma. Oklahoma Child Support Services (CSS) administers the plan.

(2) CSS provides services through a state office and offices throughout the state that may be administered through service agreements or contracts with district attorneys and other entities, ~~such as Community Action Program agencies~~ to provide legal child support services.

(3) The primary function of CSS is to provide child support services in all Title IV-A Temporary Assistance for Needy Families (TANF), Title IV-E foster care, and non-TANF SoonerCare (Medicaid) cases where eligibility is due to the absence of one or both parents, and in other cases for persons who have applied for services. CSS also provides these services in cases forwarded by:

- (A) Title IV-D agencies of other states;
- (B) Native American tribes; and
- (C) foreign jurisdictions, as appropriate.

(4) CSS is committed to the right of all parties to have access to the justice system for the purpose of enhancing understanding and ownership of the case. In addition to the child support services CSS provides as described in this Chapter, when parties want to be heard on child support issues, regardless of whether the party's positions are contrary to the state's position and may be subject to legal defenses. CSS:

- (A) provides available pro se self-help forms to request a hearing before either the Office of Administrative Hearings: Child Support (OAH) under Oklahoma Administrative Code 340:228-17.2 or the district court. OAH or the district court determine whether a hearing is granted;
- (B) assists pro se customers in completing available CSS self-help forms upon request; and
- (C) refers parties to community resources including, but not limited to:
  - (i) lawyer referral services;
  - (ii) community legal services;
  - (iii) other available self-help legal forms; and
  - (iv) other available informational and community resource materials.

(5) CSS complies with the standards for an effective program and the organization and staffing requirements, per Part 303 of Title 45 of the Code of Federal Regulations (45 C.F.R. Part 303).

### (b) Services. CSS services include, but are not limited to:

- (1) establishment of paternity, child support obligations, ongoing medical support, and ongoing child care obligations through administrative and court actions;
- (2) enforcement of:

- (A) child support;
  - (B) health insurance;
  - (C) fixed sums and judgments for medical support including birthing costs;
  - (D) fixed ongoing child care costs and judgments for child care costs; and
  - (E) certain spousal support obligations when due in conjunction with child support;
  - (3) location of noncustodial parents and their assets by establishing intrastate and interstate links with local, state, and federal agencies, private sources, and international central authorities;
  - (4) case reviews for modification of support orders as appropriate;
  - (5) collection and distribution of support payments per federal and state law; and
  - (6) establishment and maintenance of accounting and other records per federal and state law.
- (c) **Excluded services.** CSS services do not include:
- (1) establishment or modification of spousal support, visitation, or custody;
  - (2) establishment of judgment for unreimbursed medical expenses or child care costs that are not included in the fixed monthly child support obligation;
  - (3) enforcement of alimony in lieu of property division; and
  - (4) enforcement or collection of private attorney fee judgments.
- (d) **Limited services.** CSS provides limited services:
- (1) at the request of an initiating interstate Title IV-D agency or an international central authority, per Sections 601101 through 901 of Title 43 of the Oklahoma Statutes and 45 C.F.R. § 303.7. CSS provides limited services, when appropriate, even when the noncustodial parent or custodial person does not reside in Oklahoma. The CSS director or appointed designee approves requests for intergovernmental limited services not listed in 45 C.F.R. 303.7; or
  - (2) upon application for the establishment of paternity when the noncustodial parent is deceased.

## SUBCHAPTER 3. COMMISSIONED PEACE OFFICERS [REVOKED]

## SUBCHAPTER 5. OPERATIONAL POLICIES

### PART 9. DISCLOSURE OF INFORMATION

#### **340:25-5-67.1. Family violence [AMENDED]**

(a) Oklahoma ~~Department of Human Services (DHS)~~(OKDHS) Child Support Services (CSS) establishes and maintains records regarding family violence per Sections 303.21 and 307.11 of Title 45 of the Code of Federal Regulations and Sections 653 and 654 of Title 42 of the United States Code (42 U.S.C. §§ 653 and 654).

(b) CSS is committed to promoting the safety and well-being of its customers and staff.

(c) A family violence indicator (FVI) is a designation placed on a participant in a Title IV-D or non-Title IV-D case by CSS indicating the risk of child abuse or domestic violence. The ~~family violence indicator~~FVI is used to restrict disclosure of the location of a participant who is reported to CSS as being at risk of family violence.

(d) CSS considers as reasonable evidence of family violence and enters ~~a family violence indicator~~an FVI on appropriate individuals, when:

- (1) a parent or custodian states that he or she or the child(ren) is at risk of emotional or physical harm from another individual in the same child support case; or
- (2) ~~DHS~~OKDHS has knowledge of a court-ordered protective order or other information that family violence exists.

(e) CSS makes available to custodial persons (CP) and noncustodial parents (NCP) Form 03EN008E, Family Violence - Address of Record Statement, to collect address of record (AOR) information and explain how the information is used. CSS may release the AOR per Oklahoma Administrative Code (OAC) 340:25-5-340. The CP or NCP may use Form 03EN008E to:

- (1) request that his or her home address or location information not be released to another parent or party in a child support case because release could result in family violence to the requesting individual or his or her children; or
- (2) designate an AOR per OAC 340:25-5-340. ~~CSS may release the AOR per OAC 340:25-5-340.1.~~

(f) The presence or absence of ~~a family violence indicator~~an FVI on a case does not guarantee anyone's safety. CSS is not liable for harm arising from the use or non-use of ~~a family violence indicator~~an FVI.

(g) CSS may remove ~~a family violence indicator~~an FVI from a case participant when CSS receives:

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- (1) a written request from the participant;
  - (2) information that the ~~family violence indicator~~ FVI was entered in error; or
  - (3) a court order to remove the ~~family violence indicator~~ FVI.
- (h) Upon order of a court having the authority to make or enforce child custody or visitation determinations per 42 U.S.C. § 663, CSS may:
- (1) request the federal Office of Child Support Enforcement to override a ~~family violence indicator~~ FVI in a single instance; and
  - (2) authorize release of the person's home address or location to the court.
- (i) Interstate cases follow OAC 340:25-5-270.
- (j) When an NCP submits an application for Title IV-D services in a case previously closed for good cause, CSS follows OAC 340:25-5-117.

## PART 15. CASE INITIATION, CASE MANAGEMENT, AND CASE CLOSURE

### 340:25-5-123. Case closure system [AMENDED]

- (a) Oklahoma Human Services ~~OKDHS~~ Child Support Services (CSS) closes cases eligible for closure per Section 303.11 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 303.11).
- (b) A child support case may not be closed when there is a pending paternity, establishment, or modification action CSS filed with the court and the non-applicant has been served, unless the pending action is withdrawn or dismissed at the discretion of the CSS state's attorney.
- (c) A child support case may be closed when any of the criteria in (1) and (2) of this subsection applies.
- (1) There is no current support order and arrears are unenforceable. Arrears are determined to be unenforceable when:
    - (A) there has been no collection during the past year; and
    - (B) the noncustodial parent (NCP) has no known or prospective income or assets.
  - (2) The NCP's sole income is from Supplemental Security Income (SSI) or a combination of SSI and Social Security Disability Insurance, or Social Security Retirement.
- (d) A child support case may be closed when the:
- (1) case was referred to CSS by an assistance program, per Oklahoma Administrative Code (OAC) 340:25-5-117 and the:
    - (A) referral is inappropriate to establish or enforce a child support order; and
    - (B) custodial person (CP) or NCP has not applied for services with CSS;
  - (2) CP receives ~~non-TANF~~ non-Temporary Assistance for Needy Families (TANF) Sooner Care (Medicaid) child only benefits and the case is received from the Oklahoma Health Care Authority as a referral, but CSS learns the CP desires to decline child support services and no service of process is initiated on a legal action filed by CSS to establish or enforce the child support order, including the medical support portion; or
  - (3) CP or NCP applicant:
    - (A) cannot be located per 45 C.F.R. § 303.11~~(b)(15)~~; or
    - (B) fails to cooperate and an action by the CP, or NCP applicant is essential for the next step in providing child support services per 45 C.F.R. § 303.11~~(b)(16)~~.
- (e) The case applicant requests that a child support case be closed by submitting CSS Form 03GN542E, Case Closure Application – Child Support Services. When a case closure application is received, CSS staff determines if the case meets federal case closure criteria per 45 C.F.R. § 303.11.
- (f) When CSS staff closes a case, CSS:
- (1) terminates the Order/Notice to Withhold Income for Child Support with the employer per OAC 340:25-5-201.1;
  - (2) resolves enforcement actions filed and CSS processes that are specific to the case being closed;
  - (3) reviews the Family Violence Indicator per OAC 340:25-5-67.1;
  - (4) removes case balances; and
  - (5) documents the date and amounts removed on the Oklahoma Support Information System Case Log (CSLOG) screen.
- (g) Per 45 C.F.R. § 302.33 when Title IV-A ~~Temporary Assistance for Needy Families (TANF)~~, Title IV-E foster care, and non-TANF SoonerCare (Medicaid) services are discontinued, CSS notifies the recipient that CSS maintains a full-service child support case, unless the CP declines services in writing. When the CP declines services in writing, CSS closes the case. When the CP fails to respond, CSS maintains a full-service child support case.



## **340:25-5-124. Assignment and transfer of cases to child support offices [AMENDED]**

(a) **General assignment and transfer.** In assigning cases to child support offices, Oklahoma Human Services Child Support Services (CSS) considers whether the case is eligible for assignment to one of the tribal programs, per Oklahoma Administrative Code (OAC) 340:25-5-286. For purposes of OAC 340:25-5-124(1) and (2), CSS treats an order registered in Oklahoma as an Oklahoma order, per Sections 601-601 through 601-614 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 601-601 through 601-614) as an Oklahoma order for purposes of OAC 340:25-5-124(1) and (2). If the case is not assigned to one of the tribal programs, CSS assigns cases under this Section.

- (1) Oklahoma child support cases are assigned to a district office serving the county where a prior Family and Domestic district court case exists involving the parents and child, regardless of the case style of the order or whether or not a child support order was entered as to either parent.
  - (2) When a guardianship order is in effect, the case is assigned to the district office serving the county in which the guardianship action was filed. The district office proceeds to petition the guardianship court to:
    - (A) defer jurisdiction of child support to CSS. The case then follows regular case assignment rules;
    - (B) defer jurisdiction of child support to a pre-existing Family and Domestic court case involving the parents and child to enforce an existing child support order or establish a child support order. The case is then assigned to the district office serving the county with the existing Family and Domestic court order; or
    - (C) establish or modify a child support order. The case remains assigned to the district office serving the county of the guardianship.
  - (3) Cases with intergovernmental child support orders are assigned to a district office serving the county in which the order is registered per 43 O.S. §§ 601-601 through 601-614.
    - (A) When there are multiple Oklahoma support orders, cases are assigned to a district office serving the county where the presumed controlling order for current child support was entered or docketed in district court.
    - (B) When there is an Oklahoma support order and an intergovernmental support order, the case is assigned to the district office serving the county where the Oklahoma support order is entered or filed.
  - (4) Cases are assigned to a district office serving the county where the custodial person (CP) resides when there is:
    - (A) no Oklahoma child support order and there is no prior Family and Domestic district court case on file;
    - (B) a federal or tribal child support order; or
    - (C) a child support order from another state.
  - (5) When the applicant for child support services is the noncustodial parent (NCP), the location of the CP and child is unknown, and there is no prior paternity or child support order established, cases are assigned to the office responsible for the county in which the NCP resides until the CP and child are located.
  - (6) Except in cases where a child support order is registered in Oklahoma, when the CP does not reside in Oklahoma, cases are assigned to the district office serving the county where the NCP or alleged father resides.
  - (7) When there is no Oklahoma order and no party resides in Oklahoma, cases are assigned to the district office serving the county with significant contacts with the case. When more than one county has significant contacts with the case, the case is assigned to the district office having the most recent significant contact.
  - (8) CSS does not transfer cases docketed or registered, ~~per 43 O.S. §§ 601-601 through 601-614~~ in district court because the CP or NCP moves to a county outside of the original district office's service area, per 43 O.S. §§ 601-601 through 601-614.
  - (9) CSS does not transfer cases because the CP files a contempt action in a county outside of the original district office's service area.
  - (10) CSS reassigns a case to another district office to avoid a conflict of interest, per OAC 340:2-1-8.
  - (11) When there is an existing Office of Administrative hearings: Child Support (OAH) order that was not docketed in the appropriate district court per 340:25-5-185.1, the case is assigned to the district office that obtained the OAH order.
- (b) **Administrative establishment case transfer.**
- (1) A district office transfers an administrative establishment case to another office according to (2) of this Section if the:
    - (A) case is assigned to the wrong child support office; or
    - (B) CP moves to a county outside the original office's service area.

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(2) The original office immediately transfers, rather than dismisses, an administrative establishment court action to the new district office if the original office has not obtained service of process on ~~the NCP~~ both parties. When service has been obtained on both parties, the original office completes any administrative case litigation before transferring the case to the new district office.

## PART 17. PAST SUPPORT

### 340:25-5-140. Past support [AMENDED]

(a) **Legal authority.** Oklahoma Human Services, Child Support Services (CSS) takes appropriate action to collect support and secure compliance with support orders.

(1) When a support order does not specify an effective date, a payment is due on the first day of the month following the child support order's entry and on the first day of each month thereafter except when another state's law governs the due date.

(2) Current monthly child support is due for the entire month when the effective date is later than the first of the month. CSS does not pro rate the monthly amount based on the effective or ending date, unless the court orders otherwise.

(3) CSS determines past-due support and support for a prior period based on information in available records from courts, Title IV-D and other public and private agencies, the custodial persons (CP.s), the noncustodial parents (NCPs), and others.

(4) CSS may require sworn written statements and supporting documents from CPs, NCPs, and others pertaining to support payments. The primary legal foundations for determination and collection of past-due support and support for a prior period are applicable provisions of:

(A) Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code;

(B) Section 1738B of Title 28 of the United States Code (28 U.S.C. § 1738B);

(C) Chapters 302 and 303 of Title 45 of the Code of Federal Regulations; and

(D) Sections 83 and 7700-636 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 83 and 7700-636), Chapters 3 and 21 of Title 12, Title 43, and 56 O.S. §§ 231 through 240.23.

(b) **Definitions.** The following words and terms, when used in this Section shall have the following meanings unless the context clearly indicates otherwise:

(1) **"Abate"** means, per 43 O.S. Section 118I, an NCP does not owe the child support obligation when incarcerated for 180-consecutive days. Upon eligibility, child support is no longer owed effective the first day of the month following the entry date into the correctional facility or jail and does not accrue for the duration of the incarceration. Abate may also refer to an order for the suspension of the child support obligation under specified conditions.

(2) **"Incarceration"** means, per 43 O.S. Section 118I, *an obligor is in custody on a fulltime basis in a local, state or federal correctional facility. Incarceration shall not include probation, parole, work release or any other detention alternative program that allows the obligor to be gainfully employed.*

(c) **Judgment payment.** Per 43 O.S. § 137, the monthly payment schedule on past support may not exceed three years unless specific findings of fact supporting the action are made. CSS considers a three-year payment schedule to be unjust, unreasonable, inequitable, or inappropriate when CSS has evidence that the NCP cannot comply with a three-year payment plan. CSS requests a monthly payment schedule that may exceed three years in accordance with the best evidence available, including the NCP's earning records, past job history, earning ability based on education and training, and mental or physical incapacities. CSS also considers an NCP's other child support obligations and total arrears. The payment plan applies to the judgment determined in the order and any subsequent judgments by operation of law unless the payment plan has been modified by administrative or district court action.

(d) **Enforcement.**

(1) CSS takes action to enforce past-due support and support for a prior period, per Oklahoma Administrative Code (OAC) 340:25-5, Part 23.

(2) CSS collects amounts from the original child support order date, including any judgments for support for a prior period, and does not limit collection of past-due child support to amounts accruing from the time a case is opened or reopened.

(3) When CSS receives a new case with an existing order, or when a previously closed case reopens and has an existing order, CSS does not calculate a past-due support balance, or take action to enforce past-due support, until 30-calendar days from the mailing date of the notice of case letter and affidavit of payments document to the NCP. This does not preclude initiating an income assignment to collect current support.

(4) Past-due child support remains due to the CP with whom a child resided during the month the past support was due.

(5) When CSS takes action to enforce past-due support and support for a prior period for a Servicemember's child, CSS applies the provisions of the Servicemembers Civil Relief Act, codified in 50 U.S.C. §§ 3901 through 4043.

**(e) Settlement of past support.**

(1) Settlements of past support may include:

- (A) an NCP's lump sum partial payment or a series of payments made toward the total amount of past support;
- (B) an agreement for the NCP to pay a specified number of current child support payments in the future; or
- (C) acceptance of in-kind goods or services in exchange for waiving a certain amount of past child support.

(2) Settlements of past support must be memorialized in a court order and the CP must sign the court order when the past support is owed to the CP.

(3) Per 43 O.S. § 112, CSS:

- (A) acknowledges the rights of the CP and NCP to mutually agree to waive with approval of the court, all or a portion of the past child support due to the CP; or
- (B) may negotiate the right to collect all or part of past support owed to Oklahoma.

**(f) Annual notice.** CSS uses the annual notice to the NCP parent, per 56 O.S. § 237A to confirm the amount of past-due support and remaining balances on previously confirmed judgments. Past-due support and remaining balances on judgments for support for a prior period may also be confirmed during other enforcement actions, per OAC 340:25-5, Part 23.

**(g) Death of CP.**

(1) When the CP dies, CSS issues child support payments for past due support to:

- (A) the decedent's estate, when the estate's administrator notifies CSS in writing; or
- (B) any state owed past due support, per OAC 340:25-5-351.

(2) Except as provided in (1) of this subsection, CSS refunds payments to the:

- (A) payor, when the payor's address is known; or
- (B) NCP when the payor's address is unknown, or payments are returned due to the inability to distribute.

(3) CSS does not file a forced probate court action to determine heirs and distribute past support to heirs.

**(h) Jurisdiction.** When an Oklahoma tribunal has personal and subject matter jurisdiction and can obtain service of process on the NCP, CSS uses the annual notice, notice of support debt, contempt, or other appropriate proceedings to determine past support and interest before requesting another state's tribunal to enforce the child support orders.

**(i) Incarcerated NCP.** Per 43 O.S. § 118I, beginning November 1, 2021, there is a rebuttable presumption that an NCP who is incarcerated for a period of 180-consecutive days is unable to pay child support. When a payment is made during incarceration, the presumed ability to pay child support may be rebutted for that payment period. CSS makes a final determination whether the order is abated.

**340:25-5-140.1. Interest [AMENDED]**

**(a) Legal authority.** Oklahoma Department of Human Services Child Support Services (CSS) collects and enforces interest on past-due Oklahoma court-ordered child support payments, per Section 114 of Title 43 of the Oklahoma Statutes (43 O.S. § 114).

**(b) Support for a prior period.** CSS collects interest on support for a prior period, per Oklahoma Administrative Code (OAC) 340:25-5-179.1 and is calculated at a rate, per 43 O.S. § 114.

**(c) Accrual date.**

(1) Interest accrues on any unpaid portion of the monthly current child support obligation on the first day of the month following the:

- (A) due date specified in the court order; or
- (B) entry date of the child support order when a support order does not specify a due date.

(2) Interest accrues on a lump sum judgment for support for a prior period, accrued child care costs, or accrued fixed medical, from the first day of the month after the judgment is entered, per 43 O.S. § 114.

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(3) In a modification order when the effective date is the first of the month following the filing date of the motion to modify, the interest accrual is based upon the order that was effective during that time frame, not on the new modified amount. Interest does not accrue on any increased modified child support until the first day of the month following the date the modification order was filed. If the overall decrease as a result of the modification results in an overpayment, CSS is not responsible for refunds per OAC 340:25-5-305.

(d) **Grace period and accrual.** CSS has a grace period when interest is not charged. Interest begins to accrue from the first day of the month following the date the arrears are in excess of one month's current support.

(e) **Interest on cash medical support.** CSS does not calculate or collect interest on unpaid cash medical support.

(f) **Servicemember relief.**

(1) Upon a servicemember's written request, an interest rate cap of 6 percent applies to child support arrearages of members of the military service incurred prior to the start of military service, per Section 3937 of Title 50 of the United States Code.

(2) The servicemember must provide a written request for reduced interest and a copy of the military orders calling the servicemember to service and any orders further extending military service to CSS no later than 180-calendar days after the date of the servicemember's termination or release from military service.

(3) Upon receipt of these documents, CSS applies the 6 percent interest rate to child support arrearages existing as of the date when the servicemember is called to military service and throughout the active military service.

(4) CSS may initiate a court action to challenge the claim that the servicemember's military duty materially affected his ability to pay an interest rate over 6 percent.

(g) **Interest rate.**

(1) CSS calculates simple interest, per 43 O.S. § 114.

(2) For orders established in other states, the law of the state entering the order determines the amount and rate of interest due until a determination of controlling order is made.

(3) For orders established in Oklahoma, Oklahoma law determines the amount and rate of interest due.

(4) When there are multiple child support orders and Oklahoma is determining the controlling order, CSS determines the rate of interest charged, per 43 O.S. § 601-604.

(h) **Order silent as to interest.** When an order that settles or determines a past-due child support amount is silent as to interest, the party with the right to collect has not waived the interest.

(i) **Enforcement.** Accrued interest is considered child support. Interest is included in enforcement remedies.

(j) **Incoming interstate cases.** In the absence of an Oklahoma order, CSS collects interest on incoming interstate cases when an initiating state calculates the interest owed and requests that CSS collect it.

(k) **Outgoing interstate cases.** Before requesting a responding state to enforce a child support order(s) entered in a state other than the responding state, CSS calculates the arrears including the accrued interest claimed.

(l) **Application of payments to interest.** CSS applies payments to interest per OAC 340:25-5-351.

(m) **Waiver of interest.** CSS acknowledges the rights of the custodial person (CP) and noncustodial parent (NCP) to mutually waive, with approval of the court, all or a portion of the interest due to the CP.

(1) CSS may negotiate the right to collect all or part of the interest owed to Oklahoma.

(2) Settlements of interest must be memorialized in a court order and may include:

(A) an NCP's lump sum partial payment or a series of payments; or

(B) an agreement for the NCP to pay:

(i) a specified number of current child support payments in the future; or

(ii) non-cash support.

(n) **Reopening closed cases.** CSS does not reopen closed child support cases at the request of a customer for the purpose of collecting interest.

(o) **Interest on spousal support.** CSS does not calculate or collect interest on spousal support.

## PART 20. MEDICAL SUPPORT

### 340:25-5-171. Enforcement of a medical support order [AMENDED]

(a) When a parent has been ordered to provide health insurance for the child(ren) and has failed to voluntarily enroll the child(ren), Oklahoma Child Support Services (OCSS), uses the National Medical Support Notice (NMSN) to aid in enrolling the child(ren) in the group health plans for which a parent is eligible. OCSS sends the NMSN to the parent's employer as required by Section 666 of Title 42 of the United States Code, Section 609 of the Employee Retirement Income Security Act of 1974, Section 303.32 of Title 45 of the Code of Federal Regulations, and Section 6058A of Title 36 and Section 118.2 of Title 43 of the Oklahoma Statutes.

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(b) In addition to issuing a NMSN, when a parent is ordered to provide medical support for the minor child(ren) and is not complying with the order, OCSS may either:

- (1) enforce the medical support order by a license revocation action under Section 139.1 of Title 43 of the Oklahoma Statutes, or by an indirect contempt of court action under Section 566.1 of Title 21 of the Oklahoma Statutes; or
- (2) seek a modification of the order under OAC 340:25-5-198.2.

(c) When a child is eligible for enrollment in the United States Department of Defense's managed health care program, TRICARE, (a) of this Section does not apply. OCSS notifies the custodial person to contact the Defense Manpower Data Center Support Office at 1-800-538-9552 to enroll the child, using the Defense Enrollment Eligibility Reporting System registration process.

(d) If the employer response to the NMSN indicates that enrollment cannot be completed because the cost of coverage exceeds the limits of earnings subject to income assignment under Section 1171.2 of Title 12 of the Oklahoma Statutes, OCSS applies OAC 340:25-5-168 to determine if other coverage is available at reasonable cost or if a cash medical order is appropriate. OCSS conducts a review of the order under OAC 340:25-5-198.1 and seeks a modified order if the review indicates that modification would result in an enforceable medical support order or that the child support order should be adjusted.

(e) OCSS issues a non-compliance letter to the employer when the employer:

- (1) has not returned the NMSN within 20 business days after the date of the NMSN notifying OCSS that:
  - (A) the employer does not offer group dependent health coverage;
  - (B) the employee is among a class of employees that is not eligible for family coverage under the employer's plans;
  - (C) the employee is not employed by the employer; or
  - (D) state or federal withholding limitations or prioritization of withholding prevent the required employee contribution to obtain coverage;
- (2) has not forwarded the NMSN to the insurer within 20 business days after the date of the NMSN; or
- (3) is the insurer and has not returned the NMSN within 20 business days after the date of the NMSN indicating that either the child(ren) has been enrolled in the plan and the effective date of coverage or there is more than one option available and one must be selected.

(f) OCSS issues a non-compliance letter to the insurer when the insurer has not returned the NMSN within 40 business days after the date of the NMSN indicating that either the child(ren) has been enrolled in the plan and the effective date of coverage or there is more than one option available and one must be selected.

(g) OCSS may initiate legal proceedings to request the court fine employers and insurers when there is no response indicating full compliance with the requirements of the NMSN within 10 business days after the date of the non-compliance letter. Fines may be imposed by the court for up to \$200 a month per child for each failure to comply with the requirements of the NMSN under Section 6058A of Title 36 and Section 118.2 of Title 43 of the Oklahoma Statutes.

(h) If the employer or insurer complies with the requirements of the NMSN, OCSS may dismiss the case against the employer or insurer.

(i) Employers and insurers must send any fine(s) imposed by the court, under Section 235 of Title 56 of the Oklahoma Statutes, by check or money order to OCSS, Attention: Finance, P.O. Box 248822, Oklahoma City, Oklahoma 73124-8822.

(j) When a parent has been ordered to provide health insurance for the child(ren) and the other parent or custodial person has failed or refused to provide information necessary to enroll the child(ren) in the health insurance plan, OCSS:

- (1) releases the information as appropriate per OAC 340:25-5-67 when family violence is not an issue;
- (2) determines noncooperation and begins the case closure process per OAC 340:25-5-114, ~~340:25-5-118~~, and 340:25-5-123 when the parent refusing to provide the information is the applicant for services;
- (3) obtains the necessary information from the parent by a license revocation action per Section 139.1 of Title 43 of the Oklahoma Statutes, or by an indirect contempt of court action per Section 566.1 of Title 21 of the Oklahoma Statutes; or
- (4) seeks a modification of the order per OAC 340:25-5-198.2.

### PART 21. ESTABLISHMENT

#### **340:25-5-176. Establishment of parentage [AMENDED]**

(a) **Legal authorities.** Oklahoma Department of Human Services Child Support Services (CSS) establishes parentage and provides genetic testing when appropriate based on the facts of the case, per:

- (1) Sections 653, 654, and 666 of Title 42 of the United States Code (42 U.S.C. §§ 653, 654, & 666);

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(2) Parts 302 and 303 of Title 45 of the Code of Federal Regulations; and

(3) Sections 83, 90.4, and 7700-101 - 7700-902 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 83, 90.4, and 7700-101 - 7700-902), 43 O.S. §§ 601-201, 601-401, & 601-701, 56 O.S. §§ 230.60, 231 - 240.23, and 63 O.S. §§ 1-311 and 1-321.

(b) **Legal parents.** CSS applies the presumptions in 10 O.S. § 7700-204(A)(1) through (4) to an individual when the individual and the woman who gave birth to the child are married. CSS applies the presumption in 10 O.S. § 7700-204(A)(5) to an individual regardless of gender. CSS requests the court confirm parentage in cases where the individual is a presumed parent.

(c) **Acknowledgment of Paternity.** Form 03PA209E, Acknowledgment of Paternity, can only be completed by the biological mother and biological father of the child, per 10 O.S. § 7700-301. CSS provides Form 03PA209E for voluntary acknowledgment of paternity, per 10 O.S. § 7700-312 and 63 O.S. §§ 1-311 and 1-311.3. CSS also provides companion forms that include instructions for completion, described (1) through (4) of this subsection. Signed and witnessed forms must be filed with the Oklahoma State Department of Health (OSDH), Division of Vital Records.

(1) When parents of an adult child, 18 years of age and older, complete Form 03PA209E, the adult child must give consent to add the natural father's name to the birth certificate. The child indicates consent by signing Form 03PA212E, Adult Child's (18 Years or Older) Consent.

(2) Form 03PA210E, Denial of Parentage, must accompany Form 03PA209E when the mother of a child is married to someone other than the natural father and the child is born within 300-calendar days after the marriage is terminated, per 10 O.S. § 7700-204.

(3) CSS provides Form 03PA211E, Rescission of Acknowledgment of Paternity, to rescind the legal finding of parentage created by having previously signed Form 03PA209E, per 10 O.S. §§ 7700-307 and 7700-312. This form must be completed, signed, and filed with the OSDH Division of Vital Records within 60-calendar days after the date of the last signature on Form 03PA209E.

(A) When a person submits Form 03PA211E within 60-calendar days after the date of the last signature on Form 03PA209E, CSS sends notice of the rescission to all other signatories on Forms 03PA209E and 03PA210E. Notice is given by mailing a copy of the rescission to the address of the signatories as shown on Forms 03PA209E and 03PA210E and to the last-known address of the signatories, if different.

(B) When rescissions are submitted to CSS past the 60-calendar day time period, CSS sends a letter to the person who submitted Form 03PA211E informing him or her that the rescission is invalid because it was not timely submitted.

(4) CSS provides Form 03PA213E, Rescission of Denial of Parentage, to rescind the legal finding of parentage created by having previously signed Form 03PA210E, per 10 O.S. §§ 7700-307 and 7700-312. Form 03PA213E must be completed, signed, and filed with the OSDH Division of Vital Records within 60-calendar days after the date of the last signature on Forms 03PA209E and 03PA210E.

(A) When a person submits Form 03PA213E to CSS within 60-calendar days after the date of the last signatures on Forms 03PA209E and 03PA210E, CSS sends notice to all other signatories of Forms 03PA209E and 03PA210E. Notice is given by mailing a copy of Form 03PA213E, to the address of the signatories as shown on Forms 03PA209E and 03PA210E and to the last known addresses of the signatories, if different.

(B) When Form 03PA213E is submitted to CSS past the 60-calendar day time period, CSS sends a letter to the person who submitted Form 03PA213E informing him or her that the rescission of denial of parentage is invalid because it was not timely submitted.

(d) **Servicemembers.** When CSS establishes parentage and either parent is a servicemember, CSS applies the provisions of the Servicemembers Civil Relief Act, codified in 50 U.S.C. §§ 3901 through 4043.

(e) **Genetic testing of relatives.** When CSS has the cooperation of a deceased alleged biological father's relatives, CSS establishes parentage of the child(ren) through genetic testing of the relatives as necessary according to the standards and provisions of the Uniform Parentage Act, 10 O. S. §§ 7700-501-7700-511.

(f) **Supplemental Security Income (SSI).** CSS establishes parentage against a parent who is disabled and receiving monthly SSI before reviewing the case for possible closure, per Oklahoma Administrative Code (OAC) 340:25-5-123.

(g) **Defaults.**

(1) CSS pursues all alleged **biological** fathers before requesting the court enter a default parentage order.

(A) CSS requests a default order when genetic testing shows one alleged father is the biological father or all other alleged fathers are excluded by genetic testing. CSS uses other legal processes to compel genetic testing, such as license revocation or contempt of court proceedings.

- (B) CSS requests the court determine parentage when unable to obtain genetic testing on two or more alleged biological fathers.
- (2) CSS does not request a default parentage order when the alleged biological father is the case applicant and the CP objects to the alleged biological father being found the father without genetic testing. When a default parentage order is entered and either party contacts CSS in writing within 30-calendar days of entry of the default order, CSS treats the request as a motion to rehear, vacate, or modify, per 12 O.S. § 1031.1. CSS takes necessary steps to bring the action before the court for resolution.
- (3) When requesting a default parentage order CSS follows OAC 340:25-5-134.
- (h) **Genetic testing costs.** Costs incurred in parentage establishment cases are paid per (1) through (4) of this subsection.
- (1) CSS advances the costs for genetic testing and recovers the genetic test costs from the noncustodial parent or as ordered by the court.
- (2) When CSS genetic test results are contested, CSS requests payment in advance of a second genetic test by the requesting party.
- (3) When a court orders CSS to provide genetic testing and CSS does not have a case open for services, CSS requires a party to complete an application for services.
- (4) In interstate cases, CSS follows OAC 340:25-5-270.
- (i) **Genetic testing services.**
- (1) When parentage is not established, CSS performs genetic testing when appropriate before establishing parentage and child support orders. CSS only performs genetic testing in open, full-service cases and limited services cases per OAC 340:25-1-1.2.
- (2) The case applicant may apply for case closure, per OAC 340:25-5-123 after parentage and child support are established.
- ~~(3) CSS does not provide genetic testing only services.~~

### **340:25-5-190. Service of process [AMENDED]**

- (a) **Authority.** Oklahoma Human Services Child Support Services (CSS) follows the provisions of Section 2004 of Title 12 of the Oklahoma Statutes (12 O.S. § 2004) for service of process. CSS uses the most cost effective and efficient method of service of process depending on what is most appropriate under the facts of the case. CSS ensures the appropriate parents and custodians are served.
- (b) **Service by regular mail to address of record (AOR).** Service to the AOR by regular mail ~~may be appropriate for parents and custodians is used~~ when an AOR is on file with the Central Case Registry for a party in the case, per 43 O.S. § 112A and Oklahoma Administrative Code 340:25-5-340. CSS sends copies of all pleadings and orders to the AOR and all other current addresses. When the party has provided to CSS an email address, CSS sends the pleadings ~~and acknowledgement and waiver of service documents~~ to that email address at the same time as mailing to the AOR by regular mail. Service to the AOR is not appropriate when the:
- (1) remedy sought may result in the obligor's incarceration including, but not limited to, indirect civil contempt actions; or
- (2) ~~court may require a higher level of notice~~ action is to the affected party including, but not limited to, actions to determine paternity.
- (c) **Service by acknowledgment.** CSS delivers the documents directly to a party and requests the party accepts and acknowledges service, as appropriate. The Acknowledgment of Service is filed in the court case.
- (d) **Service by certified mail.** Service by mail is made by certified mail, return receipt requested, and delivery restricted to the addressee. CSS uses service by certified mail when service to the AOR or by Acknowledgment of Service is not appropriate or successful. CSS staff is not required to attempt service by certified mail before attempting personal service when the case history indicates a low probability of acceptance or the court requires personal service.
- (e) **Service by personal delivery.** Service by personal delivery is completed by a sheriff, deputy sheriff, individual licensed to make service of process in civil cases, or an individual specially appointed for that purpose per 12 O.S. § 2004. CSS uses service by personal delivery when:
- (1) an individual has not accepted service by certified mail;
- (2) service to the AOR or by acknowledgment is not available or appropriate;
- (3) case history indicates a low probability of acceptance of service by certified mail; or
- (4) the court requires service by personal delivery.
- (f) **Service by electronic means.**
- (1) After service of the initial pleadings, CSS serves subsequent documents to the party electronically when the party or party's attorney:
- (A) consents in writing to receive service in a particular case by electronic means and

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- (B) designates an email address for sending the electronic service.
- (2) The required written consent and electronic service instructions may be made in:
  - (A) the entry of appearance filed by the party or party's attorney per 12 O.S. § 2005.2; or
  - (B) another document filed by the party or party's attorney in the court case.
- (3) CSS may consent to electronic service per 12 O.S. § 2005.2 at the discretion of the state's attorney.
- (g) **Diligent efforts.** When CSS contracts with vendors for service of process, the vendor must make diligent efforts to complete service and provide timely documentation to CSS. Diligent efforts means at least three-repeated attempts to serve the individual at different times of day or on different days of the week, before declaring inability to serve. CSS:
  - (1) attempts to serve process in the manner, at the time, and place most reasonably calculated to complete service of process in the most efficient and cost effective manner;
  - (2) makes diligent efforts to serve process utilizing all information:
    - (A) CSS staff provides;
    - (B) documented in the case record; or
    - (C) gathered from other locate resources;
  - (3) provides address and employer information to the process server;
  - (4) attempts to serve the person at:
    - (A) work;
    - (B) home; or
    - (C) other locations based on information gathered on his or her lifestyle; and
  - (5) documents all facts about attempts to serve process in the case record.
- (h) **Minor parent.** CSS serves a minor parent who is:
  - (1) 15 years of age and older per 12 O.S. § 2004; or
  - (2) younger than 15 years of age, through a parent, guardian, or other appropriate adult as the next friend of the minor parent.
- (i) **Subsequent Electronic Service.** A party or party's attorney completes a Notice of Consent to Electronic Service or recognized substitute must be completed by a party or party's attorney and filed with the court in accordance with 12 O.S. § 2005(B) and applies to an individual court action. Pleadings asserting new or additional claims require a new consent of electronic service.

## PART 22. REVIEW AND MODIFICATION

### 340:25-5-198.1. Review of a child support order [AMENDED]

- (a) **Purpose.** The purpose of the review process is to determine whether a child support order should be modified to ensure substantial compliance with the child support guidelines in Sections 118-118I through 119 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 118-118I & 119) and Oklahoma Administrative Code (OAC) 340:25-5-178.
- (b) **Notification requirements.** At least once every three years after a child support order is established, reviewed, or modified, Oklahoma Human Services (OKDHS) Child Support Services (CSS) notifies all parties in a full-service case of the right to request a review of the child support order and the process for requesting a review.
- (c) **Authority for review.** CSS conducts a review every three years in cases with a Temporary Assistance for Needy Families (TANF) assignment. CSS determines the tribunal with jurisdiction under subsection (e) of the Full Faith and Credit for Child Support Orders Act, codified in Section 1738B(e) of Title 28 of the United States Code (28 U.S.C. § 1738B(e)) and the Uniform Interstate Family Support Act (UIFSA) in 43 O.S. §§ 601-101 through 601-903 to modify the order. When another tribunal has jurisdiction to modify the child support order, CSS follows the provisions in (j) of this Section. When Oklahoma has jurisdiction to modify the child support order, CSS follows the provisions of this subsection. CSS completes the review and modification process within 180-calendar days after a request is received or the non-requesting party is located, whichever is later.
- (d) **Initiation of review.**
  - (1) CSS reviews an order upon written request by a customer or on its own initiative:
    - (A) when there is a material change in circumstances per 43 O.S. § 118I;
    - (B) per 56 O.S. § 237 when the evidence in the case justifies a modification, per OAC 340:25-5-198.2, regardless of whether there is a change of circumstances; or
    - (C) per Section 303.8 of Title 45 of the Code of Federal Regulations and OAC ~~340:25-5-178(k)~~ 340:25-5-178, when the noncustodial parent (NCP) is incarcerated.
  - (2) CSS notifies the parties of the review with instructions for submitting financial and other information required for the review.
  - (3) CSS does not initiate a review upon customer request when:



- (A) the non-initiating party is not located;
  - (B) it has been less than 12 months since the child support order was established, reviewed, or modified unless there is a material change of circumstances;
  - (C) the preliminary information indicates the change of circumstances does not significantly impact the child support amount or the change of circumstances is temporary; or
  - (D) there is evidence the monthly child support amount or judgment payment is based on a NCP's ability to pay and the NCP is working in a job consistent with the NCP's education and training.
- (4) When CSS determines the customer review request does not meet the provisions in (1) of this subsection, CSS provides available pro se self-help modification forms to the customer.
- (5) CSS does not seek an upward modification of a child support order or a judgment payment upon request when an NCP is:
- (A) employed full-time in an occupation consistent with the NCP's education and training;
  - (B) ordered to pay more than 20 percent of the NCP's gross income; and
  - (C) is not paying the full court-ordered monthly child support amount.
- (e) Medical enforcement only (MEO) cases.**
- (1) When either the custodial person or the noncustodial parent requests a review, CSS changes the services offered from an MEO to a full-service case. CSS notifies the parties of the change in services provided.
  - (2) When the non-applicant requests the review, the non-applicant must complete Form 03EN001E, Application for Child Support Services, per OAC 340:25-5-110.
- (f) Initial review.** Within 15-calendar days after receiving a request for a review, CSS determines if the criteria described in (d)(1) of this Section are met. CSS notifies the requesting person when the criteria for review are not met. If the criteria are met, CSS may:
- (1) request further information as necessary from the parties; or
  - (2) proceed with the review process when CSS considers it has information sufficient to complete the process.
- (g) Final review.** Within 30-calendar days after the deadline for the parties to submit requested financial and other information to CSS, per (d) of this Section, CSS completes the review process and notifies parties of its determination as to whether the support order should be modified.
- (h) Modification after review.** CSS staff follows OAC 340:25-5-198.2 to determine if the child support order is modified after the review process is complete.
- (i) Termination of the review process.**
- (1) The person requesting a review may withdraw the request after the review process begins, upon CSS approval. CSS does not accept requests to withdraw the review after making a determination that the child support order be modified.
  - (2) When the requesting person fails to supply information requested by CSS as instructed, CSS may terminate the review process, unless CSS or the non-requesting party requests the process continue.
  - (3) When CSS initiates the review, failure of the parties to return requested information does not stop the review process. CSS proceeds, using the best information available.
- (j) Interstate cases.**
- (1) When a tribunal other than an Oklahoma district or administrative court has jurisdiction under UIFSA to modify an order, CSS obtains the information necessary for the review.
    - (A) CSS transmits the documents to the Title IV-D agency in the other state within 20-calendar days after receipt of the request to modify the order and of the completed documents from the person requesting the modification.
    - (B) CSS issues and enforces a subpoena to compel compliance with the request for documents if the non-requesting party fails to return the required documents or CSS is unable to obtain the necessary information to proceed and an Oklahoma tribunal has personal jurisdiction over the non-requesting party.
    - (C) CSS may terminate the review process in an interstate case per (i) of this Section and 43 O.S. §§ 601-611 and 601-615.
  - (2) When Oklahoma has jurisdiction to modify the order of another state or foreign country per 43 O.S. § 601-102, the order is registered in Oklahoma for modification per 28 U.S.C. § 1738B(i) and 43 O.S. §§ 601-609 through 601-616.

### 340:25-5-198.2. Modification [AMENDED]

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(a) **Authority for modification.** Oklahoma Human Services Child Support Services (CSS) may initiate modification of a child support order per Section 303.8 of Title 45 of the Code of Federal Regulations (45 C.F.R. §303.8), Sections 112, 118-118I, 118.1, 119, 601-611, 601-613, and 601-615 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 112, 118-118I, 118.1, 119, 601-611, 601-613, and 601-615), and 56 O.S. § 237. CSS initiates a modification in the appropriate tribunal when facts indicate modification is warranted under applicable state or federal law or regulation.

(b) **Modification of child support order.** CSS seeks a modification when:

(1) there is a material change in circumstances per 43 O.S. § 118I. For this purpose, a material change in circumstances occurs when the child support obligation would increase or decrease by 20 percent but not less than \$30. Changes in circumstances include but are not limited to:

(A) a change in either parent's gross income;

(B) a change in child care;

(C) a change in medical;

(D) a child reaching the age of majority per 43 O.S. § 112;

(E) when there is a change in physical custody verified, per Oklahoma Administrative Code (OAC) 340:25-5-201.1;

(F) when the noncustodial parent (NCP) is incarcerated for more than 180-consecutive days per 45 C.F.R. § 303.8 and OAC ~~340:25-5-178(k)~~ 340:25-5-178; or

(G) when the Social Security Administration determines one of the parents is disabled and the parent is receiving Supplemental Security Income or Social Security Disability Income; or

(2) per 56 O.S. § 237 the evidence in the case justifies a modification regardless of whether there has been a change of circumstances including, but not limited to, when:

(A) the original order fails to set child support according to the guidelines;

(B) an adjustment is needed to maximize a NCP's available income to meet the current child support obligation in each of the NCP's cases; or

(C) a parent provides proof the child support obligation is being satisfied in full or in part by an apportionment of the veteran's disability compensation.

(c) **Modification of medical support order.**

(1) CSS seeks a modification of a medical support order, when:

(A) there is no existing order for either parent to provide dependent health care coverage. CSS initiates a modification of a support order to require either or both parents to provide dependent health care coverage when CSS obtains information the child(ren) is not covered under an existing health care plan, regardless if coverage is currently available to either parent;

(B) the availability of medical insurance changes;

(C) there is an order for the custodial person to provide medical support for the minor child(ren) and enforcement of the order is not appropriate per 43 O.S. § 139.1 or 21 O.S. § 566;

(D) an order for the NCP to provide medical insurance and the release of information necessary for enrollment of the child is inappropriate due to family violence and a cash medical order is appropriate per OAC 340:25-5-198; or

(E) there is an order for a parent to provide medical insurance, the applicant for child support services did not request services against that parent, and the ordered parent is not actually providing medical insurance for the child.

(2) When CSS participates in the modification of a child support order filed by a party, CSS requests the court order contain a provision for medical support consistent with OAC 340:25-5-168.

(3) When a child support order exists, CSS considers a request to establish a medical support order as a request for modification of the order per 43 O.S. § 118.1. CSS seeks a medical support order in a tribunal with jurisdiction to modify the child support order and follows procedures per OAC 340:25-5-198.1.

(4) When cash medical support is ordered as part of a modification action, CSS requests a cash medical support order be effective the first day of the month following the entry of the order.

## PART 23. ENFORCEMENT

### 340:25-5-200. Enforcement [AMENDED]

(a) **Scope and applicability.** Oklahoma Human Services Child Support Services (CSS) follows Part D of Subchapter IV of Chapter 7 of Title 42 and Section 1738B of Title 28 of the United States Code (28 U.S.C. § 1738B) Section 303.6 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 303.6), and Section 240.1 of Title 56 of the Oklahoma Statutes (56 O.S. § 240.1) in initiating enforcement proceedings.

(1) Orders for current and past child and spousal support, health care coverage, fixed amounts of medical support, judgments, and delinquencies may be enforced through expedited and judicial processes, or through other collection efforts.

(2) Past-due child support is a judgment by operation of law and may be enforced in the same manner as any other money judgment, per 43 O.S. § 137.

(3) Post-judgment remedies do not require an adjudicated judgment by a district or administrative court.

(4) Each missed support payment is a judgment; thus, a judgment increases with each missed payment. This total judgment becomes a lien on the noncustodial parent's (NCP) real and personal property.

(b) **Non-Oklahoma support order.** CSS registers a support order from another state, Native American tribe, territory, or foreign country, per subsection (b) of the Full Faith and Credit for Child Support Orders Act codified in 28 U.S.C. § 1738B(b) and 43 O.S. § 601-101(21) when enforcement of the order is sought.

(c) **Multiple support orders.** When multiple child support orders are entered in the same or different tribunals involving the same NCP and child, CSS seeks a determination of controlling order, per 43 O.S. §§ 601-207, 601-307, and 601-601 through 601-603 and Oklahoma Administrative Code (OAC) 340:25-5-270.

(d) **Legal remedies.** CSS determines appropriate enforcement actions and may use any legal remedy to enforce support obligations. CSS chooses remedies designed to obtain compliance with an obligor's support obligations and does not use any remedy for the purpose of punishment. When an NCP is participating in the CSS problem-solving court program or complying with a seek work order, CSS considers the NCP's participation and compliance, per OAC 340:25-5-200.3, when choosing enforcement remedies. Remedies CSS may use include, but are not limited to:

(1) annual notice to NCP, per 56 O.S. § 237A and OAC 340:25-5-213;

(2) income assignment, garnishment, and levy, per Chapter 21 of Title 12 Oklahoma Statutes, 43 O.S. §§ 115 and 601-501 through 601-507, 56 O.S. §§ 237, 240.2, and 240.23, and 42 U.S.C. § 666;

(3) hearing on assets, per 12 O.S. § 842;

(4) intercept of federal tax refunds, per 42 U.S.C. § 664, 31 C.F.R. § 285.3, and 45 C.F.R. § 303.72, OAC 340:25-5, Part 25;

(5) Intercept of state tax refunds, per 45 C.F.R. § 303.102, 68 O.S. § 205.2, and OAC 340:25-5, Part 27;

(6) administrative offsets per 31 U.S.C. § 3716, 31 C.F.R. § 285.1, and Executive Order 13019;

(7) denial, revocation, or suspension of United States passports, per 56 O.S. § 240.1 and 42 U.S.C. §§ 652 and 654;

(8) revocation, suspension, non-renewal, and non-issuance of various licenses,, per, 47 O.S. §§ 1-153, 6-201, and 6-211, and 56 O.S. §§ 237.1 and 240.15 through 240.21A;

(9) imposing liens and executing and levying on personal and real property, including, but not limited to, workers' compensation benefits, personal injury, wrongful death, and probate actions, per 43 O.S. § 135, 56 O.S. §§ 237B and 240.23, and Titles 12 and 58 of the Oklahoma Statutes;

(10) registration of foreign support orders and judgments, per the Uniform Interstate Family Support Act per 43 O.S. §§ 601-100 through 601-903 and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. §§ 719 through 726;

(11) credit bureau referrals, per 42 U.S.C. § 666 and 15 U.S.C. § 1681b, 56 O.S. § 240.7, and OAC 340:25-5, Part 31;

(12) financial institution data match, per 42 U.S.C. §§ 666 and 669A, 56 O.S. §§ 240.22 through 240.22G, and OAC 340:25-5-212;

(13) seek work orders, per 56 O.S. § 240.10;

(14) indirect civil contempt of court, per 21 O.S. §§ 566 and 567, 43 O.S. § 137, and 56 O.S. § 234.

(A) CSS does not use contempt as a penal sanction and does not recommend incarceration to the district court at sentencing in an indirect civil contempt proceeding unless there is evidence or information available that the can purge the contempt. CSS asks the court to set a reasonable purge fee, per Rule 8.3 of the Rules of the District Court;

(B) CSS may use indirect civil contempt of court to compel genetic testing of either party per 21 O.S. § 566, 56 O.S. § 240.23; and

(15) when a debtor transfers income or property to avoid child support payments, action to void the transfer or obtain favorable settlement per the Uniform Fraudulent Transfer Act, 24 O.S. §§ 112 through 123 and 42 U.S.C. § 666;

(16) criminal actions brought per 21 O.S. § 852;

(17) civil actions brought per 42 U.S.C. § 660;

(18) transfer of child support obligation to another custodian, per 56 O.S. § 237;

(19) referral to the United States Attorney for federal prosecution, per 18 U.S.C. § 228;

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(20) full collection services by the Secretary of the Treasury, per 6305 of the Internal Revenue Code of 1954; and

(21) attachment of lottery prize winnings from the Oklahoma Lottery Commission, per 3A O.S. § 724.1.

(e) **Servicemember.** When CSS initiates proceedings to enforce a child support order for a child of an NCP or a custodial person who is a servicemember, CSS applies the provisions of the Servicemembers Civil Relief Act, per 50 U.S.C. §§ 3901 through 4043.

(f) **Incarcerated NCP.** When an NCP is incarcerated for 180-consecutive days, CSS follows 43 O.S. §118I and OAC 340:25-5-140 regarding abatement of child support orders.

(g) **Spousal Support.** CSS enforces a spousal support obligation for a spouse or former spouse per 42 U.S.C. § 654 and 45 C.F.R. § 302.31 when CSS is enforcing that spouse's or former spouse's current child support obligation.

## **340:25-5-214. Passport denial, revocation, restriction, or limitation [AMENDED]**

(a) Section 652 of Title 42 of the United States Code (42 U.S.C. 652) provides for the United States Secretary of State to refuse to issue a passport to a person certified as owing child support debt. It also provides for action to revoke, restrict, or limit a passport already issued. If the amount of arrears owed by a person exceeds the threshold amount for certification set by federal law or regulation, Oklahoma Department of Human Services, Child Support Services (CSS) may certify the person under 42 U.S.C. 654 and Section 240.1 of Title 56 of the Oklahoma Statutes (56 O.S. 240.1).

(b) Before issuing a certification as described in (a) of this Section, CSS provides notice to the noncustodial parent (NCP) of CSS determination that the NCP owes child support debt, the consequences of the determination, and the opportunity to contest the determination through either:

(1) the annual notice process as established in 56 O.S. § 237A and Oklahoma Administrative Code (OAC)

340:25-5-213; or

(2) notice of federal offset under Section 303.72 of Title 45 of the Code of Federal Regulations and OAC 340:25-5, Part 25.

(c) If CSS finds a request for certification was submitted in error, or in a life or death situation, CSS requests immediate release of an NCP's passport from the process described in (a) of this Section.

(d) Prior to release of a passport, CSS follows OAC 340:25-5-350.3. CSS may request release of an NCP's passport from the process described in (a) of this Section if the NCP pays the entire child support debt or:

(1) pays the entire child support debt down to the threshold amount;

(2) enters into a repayment agreement or order to retire the remaining child support debt in not more than 36 equal monthly payments; and

(3) provides CSS with a verified source of future income for which an income assignment may be issued for payment of all current support and arrears.

(e) A passport may be released from the passport referral process at the discretion of the CSS director. The district office may request a director's exception when it is determined the passport denial, revocation, restriction, or limitation negatively impacts a reliable source of child support.

(f) After requesting release of a case from the passport referral process, CSS may at any time recertify the case as described in (a) of this Section.

## **PART 37. RECOVERY**

### **340:25-5-305. Overpayment and recovery policies [AMENDED]**

(a) **Legal authority.** Oklahoma Human Services (OKDHS), Child Support Services (CSS) recovers CSS overpayments per Title IV, Part A of Subchapter IV of Chapter 7 of Title 42 of the United States Code; Section 109.5 of Title 43 of the Oklahoma Statutes (43 O.S. § 109.5); and 56 O.S. §§ 171, 185, and 231 through 244.

(b) **Purpose.** The rules in this Part:

(1) establish CSS policies and procedures used to recover CSS overpayments to custodial persons (CP), noncustodial parents (NCP), and other entities; and

(2) resolve payment disputes arising from overpayments.

(c) **Overpayment recipient and categories.** An overpayment means a CSS payment to a CP, NCP, or other entity to which the entity or person is not entitled. The recipient of the overpayment owes the amount to CSS, acting on behalf of the state of Oklahoma. Categories of overpayments are described in (1) through (3) of this subsection.

(1) Retained support occurs when the CP kept support payment(s) in violation of the assignment of support rights.

(2) Erroneous payment occurs when CSS incorrectly paid money to a CP, NCP, or other entity, or failed to retain money assigned to Oklahoma because of an administrative error.

(3) Bad debt occurs when:

- (A) the funding for a payment CSS makes to a CP or NCP is subsequently withdrawn when a tax intercept or other collection is revoked;
- (B) a check or other payment instrument CSS receives from an NCP or other payor on behalf of the NCP is dishonored after a payment is made to the CP; or
- (C) CSS issues a payment to a CP based on an incorrect arrearage balance or an incorrect allocation of a payment.

**(d) Overpayment recovery.**

(1) CSS may use any legal remedy to recover overpayments including, but not limited to:

- (A) voluntary payments;
- (B) state income tax refund intercepts per 68 O.S. § 205.2; and
- (C) lottery prize claims, per 3A O.S. § 724.1.

(2) When an overpayment resulted in whole or in part from false or misleading statements, concealed information, willful misrepresentation, or when fraud is otherwise suspected, CSS reports the information to the OKDHS Office of Inspector General for appropriate action. Action may include, but is not limited to, investigation and criminal prosecution.

(3) In active Temporary Assistance for Needy Families (TANF) cases, when a TANF recipient retains child support receipts, CSS may make a noncooperation referral to Title IV-A staff. CSS recovers overpayments from TANF customers through voluntary payments, state income tax refund intercepts, and lottery prize claims.

**(e) Recovery amount.**

(1) To recover child support overpayments, CSS retains 25 percent of monthly current support payments collected for the recipient and retains the total amount of any arrearage payments collected at any time until the overpayment is recovered in full. The percent retained can be changed:

- (A) at the CSS director's discretion; or
- (B) when the CSS Center for Finance and Budget determines the overpayment is a result of CP fraud.

(2) When the CP receives his or her full monthly support payment in the same month as an overpayment, CSS retains the full amount of any subsequent payments for that month up to the overpayment amount. CSS satisfies any remaining overpayment as set forth in (1) of this subsection.

**(f) Notice and administrative review.**

(1) CSS sends an overpayment and recovery notice to the overpayment recipient. The notice includes the overpayment amount, payment withholding and collection remedies, and instructions for requesting an administrative review and hearing, per Oklahoma Administrative Code 340:25-5-200.1.

(2) The administrative review provides an opportunity for the overpayment recipient to offer new or additional information regarding the overpayment amount. After the review, CSS issues a notice of administrative review decision.

(3) When an agency, agent, or entity of the state of Oklahoma or another state owes the overpayment, CSS may collect the amount of overpayment without notice or providing the opportunity to object.

**(g) Limits to overpayment recovery.**

(1) CSS Center for Finance and Budget completes a case review on the balances owed to a CP prior to disbursing an overpayment.

(2) CSS is not responsible for creating or recovering overpayments for:

- (A) a non-Title IV-D case or time periods when non-Title IV-D cases convert to Title IV-D cases;
- (B) time periods when:
  - (i) CSS collects under a court order that was later vacated or after the case is dismissed;
  - (ii) the parties fail to provide CSS with verification of a change in the child's physical custody;
  - (iii) CSS collects under a court order that is later modified; or
  - (iv) CSS collects under a court order and the child is adopted;
- (C) time periods when cash medical support is distributed to a CP and the Oklahoma Health Care Authority retroactively certifies medical assistance; or
- (D) ongoing regular payments during the period an NCP incarcerated.

(3) When a child support modification order is effective back to the date the motion to modify was filed and the modified support amount is less than the amount previously ordered and paid, CSS satisfies the amount due when the NCP owes past-due child support by offsetting the arrears amount, up to the balances currently owed.

(4) CSS does not charge, collect, or pay interest on overpayments.

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(h) **Issuing refunded amounts.** When an NCP makes an overpayment, amounts less than \$3 are not refunded unless issued on an Electronic Benefits Transfer (EBT) card. Amounts less than \$3 and not issued on an EBT card are remitted to the OKDHS General Revenue Fund Treasury.

(i) **Returning excess support amounts.** When CSS receives a payment that exceeds the NCP's total arrears balance, CSS returns the excess amount to the payor within 45-calendar days after discovering the over collection.

(j) **Payments made in error.** When CSS receives an erroneous payment from the payor that is not disbursed, CSS returns it to the payor within 45-calendar days after discovery. CSS is not required to correct, redirect, or recover the payment unless it is retained;

(k) **Payments that cannot be disbursed to a party.**

(1) CSS applies support collections to other applicable balances associated with the NCP, such as assigned state balances or balances owed to another CP, when the:

- (A) CP's address is unknown;
- (B) CP fails to activate the debit card; or
- (C) debit card is returned to the vendor.

(2) CSS remits a payment to the OKDHS General Revenue Fund Treasury, when the payment cannot be:

- (A) disbursed to a CP;
- (B) applied to assigned state balances associated with an NCP;
- (C) disbursed to the NCP, when the:
  - (i) address is unknown;
  - (ii) debit card is not activated; or
  - (iii) debit card is returned to the vendor; or
- (D) returned to the payor.

(l) **Inactive status and closure of overpayment recovery cases.**

(1) CSS may place an overpayment recovery case in inactive status when the whereabouts of the recipient of the overpayment are unknown. When the recipient is located, CSS returns the case to active status.

(2) CSS may close an overpayment recovery case when:

- (A) the overpayment has been satisfied by payment in full;
- (B) the recipient dies and leaves no resources from which the overpayment may be paid; or
- (C) CSS determines that the overpayment is uncollectible.

## PART 39. ACCOUNTING AND DISTRIBUTION

### 340:25-5-350.3. Payment of support through Centralized Support Registry [AMENDED]

(a) **Centralized Support Registry.** Oklahoma Department of Human Services (~~DHS~~)(OKDHS) Child Support Services (CSS) operates a Centralized Support Registry (Registry), also known as the State Disbursement Unit, for the receipt, recording, allocation, distribution, and disbursement of support payments. CSS operates the Registry per Sections 410 and 413 of Title 43 of the Oklahoma Statutes (43 O.S. §§ 410 and 413), Sections 302.51 and 303.100 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 302.51 and 303.100), and Sections 654b and 657 of Title 42 of the United States Code (42 U.S.C. §§ 654b and 657).

(1) This Section applies to both Title IV-D and non-Title IV-D cases, unless the context clearly indicates otherwise.

(2) When a non-Title IV-D child support case has an income assignment in place, the Registry processes child support payments received from unemployment compensation benefits as income assignments per federal and state law.

(b) **Support payments.**

(1) Support payments must be paid as instructed in writing by CSS to the Registry.

(2) CSS offices may accept support payments when a payment is made:

- (A) in connection with a court action; or
- (B) as part of a settlement agreement on a lien or levy.

(c) **Method of payment.** CSS may require payors and persons to provide information needed to identify and properly allocate and distribute payments and to submit payments to the Registry, per 43 O.S. § 413.

(1) Support payment amounts are converted from a foreign country's order amount to a United States (U.S.) dollar amount at the time of the referral or application and that exchange rate remains in place until the child support order is modified or the arrears are confirmed.

(2) CSS:

- (A) allocates and distributes support payments, per Oklahoma Administrative Code (OAC) 340:25-5-351;
  - (B) modifies or enforces international orders, per OAC 340:25-5-285;
  - (C) safeguards case information and records received from payors and persons. Information and records concerning Title IV-D and non-Title IV-D recipients of services through the Registry are confidential, per 56 O.S. § 183 except as provided in OAC 340:25-5-67;
  - (D) sends custodial persons (CPs) a quarterly written notice of the amount of current support, arrears, and interest collected, and the amount of collections paid to the CP. CPs may also obtain this information over the Internet or by phoning CSS, per OAC 340:25-1-2.1;
  - (E) reserves the right to refuse to accept a personal or business check or direct debit after receiving a dishonored personal or business check, direct debit, electronic funds transfer (EFT), or other negotiable instrument from the same payor or on the same case; and
  - (F) considers the date of collection to be the date payments are received by the Registry and applies payments to existing case balances as of that date. When a payment collected represents the current support amount for future months, the amount is applied to such future months when there are no past due balances on any of the noncustodial parent's (NCP's) cases, per 45 C.F.R. § 302.51.
- (3) When CSS refuses to accept a personal or business check, direct debit, EFT, or other negotiable instrument from a payor per (2)(E) of this subsection, the payor:
- (A) must submit the payment by cashier's check, certified check, money order, or cash at a CSS verified payment location as identified on the CSS page at <http://www.okdhs.org>;
  - (B) is added to the CSS Returned Payments List;
  - (C) remains on the Returned Payments List until CSS receives the equivalent of 12 months of payments unless:
    - (i) the payment is returned due to missing endorsement;
    - (ii) the payor provides prior notification that payment will be returned and remits a replacement payment within 10-calendar days of notification in the manner required by CSS;
    - (iii) the returned payment is insufficient funds caused by a CSS Financial Institution Data Match levy; or
    - (iv) CSS deems the reason for returned payment is out of payor's control; or
  - (D) must request removal from the Returned Payments List by contacting CSS, per OAC 340:25-1-2.1.
- (4) CSS notifies the payor by mail:
- (A) of the reason for the returned payment;
  - (B) that the payor was placed on the Returned Payments List;
  - (C) that the payor must submit payments as outlined in (3)(A) of this subsection; and
  - (D) how the payor can be removed from the Returned Payments List.
- (5) When CSS removes the payor from the Returned Payments List and subsequently has another payment returned, the payor is added back to the Returned Payments List and remains there indefinitely.
- (d) EFT support payments.** NCPs, employers, and other payors may register to make electronic payments through the CSS online child support payment system (e-Pay), available through <http://www.okdhs.org/services/ocss/pages/paymentoptions.aspx>.
- (1) To transfer child support payments electronically, NCPs, employers, and other payors must:
    - (A) call CSS at the phone numbers provided in OAC 340:25-1-2.1 to set up the EFT process;
    - (B) have a valid email account;
    - (C) have Internet access;
    - (D) be a legal owner of a:
      - (i) bank account held at a financial institution within the U.S.; or
      - (ii) VISA or MasterCard credit or debit card held at a financial institution within the U.S.; and
    - (E) register to use e-Pay.
  - (2) E-Pay payments do not replace federally mandated income withholding and will not stop or cancel income-withholding orders for NCPs.
  - (3) CSS may adjust and release payroll deductions that were electronically transferred from an NCP's wages. When an adjustment cannot be processed in time to effect the change on the next scheduled electronic funds transfer, employers do not refund money to the employee, make adjustments to subsequent EFT payments, or take other action to correct the amount deducted.
  - (4) CSS reserves the right to:

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- (A) close an e-Pay account and impose fees and charges when a scheduled payment transaction is returned for any reason;
- (B) add the payor to Returned Payments List, per (c)(3) of this Section; and
- (C) specify what payment formats are used to conduct the electronic funds transfer between businesses to state child support entities.

## (e) Payment issuance.

- (1) Per ~~42 U.S.C. § 654 and 45 C.F.R. § 302.38, 62 O.S. § 34.64~~, CSS issues payments to the CP ~~only by transferring funds electronically, also known as direct deposit, or~~ and refunds to the obligor ~~electronically~~ through debit cards or direct deposit.
- (2) In interstate cases, CSS issues payments to the initiating state Title IV-D agency by electronic funds transfer and only issues payments by paper warrant to initiating states that do not have an electronic funds transfer system.
- (3) Payments issued by debit card.
  - (A) When a ~~DHSOKDHS~~ customer has a debit card, at the point of CSS initial child support payment issuance for a CP, a letter is mailed explaining that child support funds are added to the existing debit card account.
  - (B) When a ~~DHSOKDHS~~ customer was not issued an Oklahoma debit card at the point of CSS initial child support payment issuance, a letter is mailed explaining the debit card activation process and that the debit card should be expected within 10- business days. The CP must activate the debit card within 90-calendar days of issuance.
    - (i) When a card is not activated, CSS mails a second letter to the CP after 45- calendar days and a third letter after 90-calendar days. The letters explain the importance of activating the debit card and that when the card is not activated within 90-calendar days the payment is no longer available on the debit card.
    - (ii) Payments issued to a CP who has not activated the debit card are returned to CSS after 90-calendar days. When payments are returned to CSS, payments are applied, per OAC 340:25-5-350.4. When the payments were distributed to other case balances or returned to the NCP, the payments are not redistributed to the CP.
- (4) Payments issued by direct deposit. After receiving a debit card, the CP may enroll in direct deposit by calling the toll-free customer service phone number located on the back of the debit card. There are no charges or fees for receiving child support payments by direct deposit. A CP must have a bank account held at a financial institution within the U.S. to receive direct deposit child support payments and normal banking charges may apply.

## (f) Forged endorsement on warrants.

- (1) When a CP reports that a warrant has been fraudulently cashed, CSS compares the payee's signature against the endorsement on the warrant and verifies that the signatures do not match.
- (2) CSS sends the following completed and signed documentation by the payee to the Oklahoma State Treasurer's Office (OST):
  - (A) Form 10AD044E, Affidavit of Lost or Destroyed Warrant;
  - (B) Form 10AD045E, Affidavit of Forged Endorsement; and
  - (C) Form 10AD046E, Investigation Questionnaire.
- (3) CSS issues a replacement warrant to the payee after CSS receives the return of funds from OST and the OST mandatory 60-calendar day holding period closes.

## (g) Overcollected support amounts. CSS returns overcollected support amounts, per OAC 340:25-5-350.1.

## (h) Payment errors. When payments were disbursed, CSS manages payment errors as described in this subsection.

- (1) When a payor makes a payment error, CSS is not required to correct, redirect, or recover the distributed payment, unless it was retained by ~~DHSOKDHS~~.
- (2) When CSS errs, CSS recovers overpayments to parties or CPs in Title IV-D and non-Title IV-D cases, per OAC 340:25-5, Part 37.

## (i) Suspicious payment activity. CSS restricts use of payment methods by imposing limits, hold times, or other measures when CSS believes that suspicious activity occurred or may occur on a payor's account.

*[OAR Docket #25-365; filed 5-29-25]*

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## CHAPTER 40. CHILD CARE SUBSIDY PROGRAM

*[OAR Docket #25-366]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 13. Child Care Rates and Provider Issues

340:40-13-2. Approving in-home child care [AMENDED]

**AUTHORITY:**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162);

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

**COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

**PUBLIC HEARING:**

January 3, 2025

**ADOPTION:**

January 24, 2025

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 29, 2025

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

September 15, 2025

**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 amendments to Chapter 40, Subchapter 13 amend the rules to: (1) update acronyms; and (2) require that in-home caregivers provide current CPR verification annually.

**CONTACT PERSON:**

Joshua Edwards, Program Manager, (580)362-7188

**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, 2025:**

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## SUBCHAPTER 13. CHILD CARE RATES AND PROVIDER ISSUES

### 340:40-13-2. Approving in-home child care [AMENDED]

(a) **Purpose.** In-home child care is care given to a child ~~by~~when a relative ~~coming~~comes into the child's own home. A parent may choose an in-home provider even when an out-of-home provider is available. The purpose of standards for in-home care is to help ensure the safety of children cared for in their own home when the usual, responsible adult is temporarily absent due to employment, training, illness, or other valid reason.

(b) **Qualifications of caregiver.** The caregiver:

- (1) must be related to the child. "Related to" means an aunt, uncle, grandparent, great grandparent, or sibling not living in the home;
- (2) must be at least 18 years of age;
- (3) demonstrates the vitality and flexibility needed to care for children and the ability to exercise good judgment and appropriate authority;
- (4) may not be a member of the child's household;
- (5) may only care for the child of one family at a time. The provider may provide care to more than one family as long as the hours do not overlap, and the child of each family is cared for in his or her own home; and
- (6) must not be under the effects of alcohol, illegal drugs, or medication that impairs functioning when caring for children.

(c) **Requirements prior to approval of the caregiver for subsidy payment.** After a parent or caretaker selects a caregiver, requirements in (1) through (3) of this subsection must be met before the caregiver may be approved as an in-home provider.

(1) The client and caregiver ~~must complete~~completes and ~~signs~~signs forms described in (A) through (C) of this paragraph.

(A) Form 08CC003E, In-Home Mutual Agreement and Notification to Provide Child Care Services, notifies the caregiver of the eligibility and child care plan for the child requiring care and the intent of the parent or caretaker to receive care from the caregiver. ~~Once~~When Form 08CC003E is approved, it also serves as the in-home provider's authorization to bill Oklahoma Human Services (OKDHS) for services provided on or after approval.

(B) Form 08CC004E, Mutual Agreement Regarding the Plan of Care, serves as a basis for discussion between the parent or caretaker and the in-home provider of the plan of care for the child, duties of the in-home provider, how to handle emergencies, and the family rules.

(C) Form 08CC005E, In-Home Provider Health and Safety Checklist, serves as a basis for discussion between the parent or caretaker and the in-home provider of adequate safety precautions and possible safety hazards in the child's home. The parent or caretaker is also responsible for informing the provider of known risks of a contagious condition of one or more persons in the household. The disclosure allows for training in the universal precautions against exposure.

(2) The caregiver ~~must provide~~provides a copy of the caregiver's photo identification and Social Security card.

(3) The caregiver must provide proof of the results of an Oklahoma State Bureau of Investigation (OSBI) criminal history investigation as described in (A) of this paragraph and not be guilty of crimes or enter a plea of guilty or nolo contendere, no contest, to crimes described in (B) of this paragraph.

(A) Criminal history investigations:

- (i) are required and must be provided by each caregiver and substitute caregiver prior to caring for children;
- (ii) are not required for persons who have documentation of a criminal history investigation within the last 12 months;
- (iii) must be obtained from:
  - (I) OSBI; and
  - (II) the authorized agency in the previous state of residence when the individual has resided in Oklahoma less than one year; and
- (iv) must include a search of the Oklahoma Department of Corrections files OSBI maintains per the Sex Offenders Registration Act; and
- (v) must include a computer check the worker completes using the potential caregiver's Social Security number. When a Child Welfare Services (CWS) case number appears, the worker consults with CWS staff to determine if concerns exist about the potential in-home provider's ability to care for children.

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(B) When a caregiver's criminal history report includes a conviction of fiscal mismanagement, such as embezzlement or fraud, or repeated convictions that indicate a pattern of criminal activity, the in-home provider is not approved. Persons who are convicted of or enter a plea of guilty or nolo contendere, no contest, to certain crimes are not approved to care for children or be substitute caregivers. These crimes include:

- (i) violence against a person;
- (ii) child abuse or neglect;
- (iii) possession, sale, or distribution of illegal drugs;
- (iv) sexual misconduct; or
- (v) gross irresponsibility or disregard for the safety of others.

(4) After requirements described in (1) through (3) of this subsection are met, ~~the worker scans the supporting documentation into imaging and consults a supervisor. The supervisor sends an email to Adult and Family Services (AFS) Child Care Services (CCS). Child Care Subsidy Unit staff requesting approval approves or denies the caregiver.~~

(A) When the chosen caregiver is approved as an in-home provider, the approval is valid for a maximum of one year from the date ~~AFSCCS~~ Child Care Subsidy Unit staff signs Form 08CC003E. This form must be renewed annually. When approved, ~~AFSCCS~~ Child Care Subsidy Unit staff ~~mails~~ sends the in-home provider a copy of Form 08CC003E advising the in-home provider of the assigned contract number.

(B) When the chosen caregiver is not approved as an in-home provider, ~~AFSCCS~~ Child Care Subsidy Unit staff sends a letter to the ~~caregiver~~ parent or caretaker advising of the denial and need to choose another caregiver. ~~The worker sends Form 08MP038E, Client Notice of Action Taken, to inform the client of the denial of benefits and need to choose another caregiver.~~

(5) The caregiver must be currently certified in first aid and infant and child cardiopulmonary resuscitation (CPR) from an OKDHS-approved source. Verification of current certification is provided annually.

**(d) Duties of the caregiver.** The caregiver:

- (1) provides adequate care and supervision of children at all times, including frequent observations of children in cribs or playpens. ~~The caregiver~~ parent or caretaker must arrange to have a competent adult provide consistent supervision during the caregiver's absence from the home;
- (2) is responsible only for children specified on Form 08CC003E;
- (3) is aware of adequate safety precautions and takes action to correct hazards to children's safety, both indoors and outdoors;
- (4) provides opportunities for learning, indoor and outdoor play, rest periods, and meals. The caregiver ensures the use of television is age-appropriate and suitable for children;
- (5) gives understanding, consistent, and loving guidance. Discipline is constructive, educational in nature, and appropriate to the child's age and circumstances. Loud, profane, and abusive language, corporal punishment, or any technique that is either humiliating or frightening to children is not used. Discipline is not associated with rest, toilet training, or loss of food;
- (6) seeks emergency medical attention in case of sudden illness or accident. The parent or guardian stipulates who to call in case of an emergency by entering this information on Form 07LC038E, Child Information. The caregiver has emergency phone numbers readily available at all times. Emergency phone numbers include 911, the fire department, police department, ambulance service, and physician or clinic;
- (7) prepares and serves food. The child's family provides the food used to prepare snacks and meals. The caregiver consults with the child's parent(s) or guardian to ensure a balanced diet suitable to the age and physical development of the child is provided; and
- (8) ensures the child's school attendance in accordance with the requirements of the Oklahoma State Department of Education.

**(e) In-home provider training requirements.** The in-home provider must read "The Good Health Handbook - A Guide For Those Caring For Children" within 90-calendar days of the approval date of the in-home provider shown on Form 08CC003E. The in-home provider signs and completes Form 08CC008E, In-Home Child Care Provider Training Declaration of Completion, and returns it to the ~~AFSCCS~~ Child Care Subsidy Unit staff. The signature and completion of Form 08CC008E meets the in-home provider training requirement for the first year of approval.

(1) After the first year of approval, the in-home provider must annually receive and declare six clock-hours of training. The provider may meet the training requirement by attending workshops, formal training programs, viewing videos, or through individual job-related readings. The declaration is valid for one year from the date the provider signs the document.

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(2) Training hours ~~earned by~~ the in-home provider earns may transfer from one family to another during the year the declaration is in force.

(f) **Requirement to renew the in-home provider agreement.** Form 08CC003E is completed annually.

(g) **Requirements prior to approval for a special needs child care rate for a child with disabilities.** When an in-home child care provider cares for a child with disabilities, the provider may be approved for the special needs rate in addition to the applicable daily rate. Prior to receiving this additional rate, the:

(1) client, provider, and worker must complete Form 08CC006E, In-home Child Care Certification for Special Needs, per Oklahoma Administrative Code 340:40-7-3.1;

(2) provider must receive on-site consultation regarding the nature of the child's disability and the development of the child care plan including how to operate equipment the child needs and any specialized training needs.

The consultant provides available resource materials that may aid the provider for the child. This consultation may be provided by a:

(A) health care professional;

(B) child guidance specialist;

(C) SoonerStart provider when the child is younger than 3 years of age;

(D) public school teacher who is familiar with the child; or

(E) consultant through the Center for Early Childhood Professional Development; and

(3) provider must agree to obtain six additional hours of training in areas that address the care of children with disabilities within six months of approval. This training is documented on Form 08CC008E.

(A) First aid, CPR, or informal training is not counted to meet the special training requirement.

(B) Countable formal training must be from an OKDHS-approved sponsor.

*[OAR Docket #25-366; filed 5-29-25]*

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## **TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 50. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**

*[OAR Docket #25-345]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. General Provisions

340:50-1-8. Reporting racial~~l~~ and ethnic groups [AMENDED]

Subchapter 3. Application Process

340:50-3-1. The application process [AMENDED]

Subchapter 9. Eligibility and Benefit Determination Procedures

340:50-9-5. Changes after application and during the certification period [AMENDED]

340:50-9-6. Procedures relating to food benefit certification renewals [AMENDED]

Subchapter 10. Electronic Benefit Transfer (EBT)

340:50-10-3. Initial issuance of Electronic Benefit Transfer (EBT) card [AMENDED]

Subchapter 11. Special Procedures

Part 1. HOUSEHOLDS ENTITLED TO EXPEDITED SERVICE

340:50-11-1. Expedited service screening, criteria, and time limits [AMENDED]

Subchapter 15. Overpayments and Fraud

Part 1. OVERPAYMENTS

340:50-15-3. Overpayment claim procedures [AMENDED]

### **AUTHORITY:**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); 7 C.F.R. §§ 272.6, 273.2, 273.13, 274.2, and 274.6.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

### **COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

**PUBLIC HEARING:**

January 3, 2025

**ADOPTION:**

January 24, 2025

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 29, 2025

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

September 15, 2025

**SUPERSEDED EMERGENCY ACTIONS:****SUPERSEDED RULES:**

Chapter 50. Supplemental Nutrition Assistance Program

Subchapter 1. General Provisions

340:50-1-8 [AMENDED]

Subchapter 3. Application Process

340:50-3-1 [AMENDED]

Subchapter 11. Special Procedures

Part 1. Households Entitled to Expedited Services

340:50-11-1 [AMENDED]

(Reference WF 24-08)

**GUBERNATORIAL APPROVAL:**

October 10, 2024

**REGISTER PUBLICATION:**

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**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed amendments to Chapter 50, Subchapter 1 amend the rules to update the collection of required ethnic and racial data according to Section 272(g) of Title 1 of the Code of Federal Regulations (7 C.F.R. § 272.6(g)). The proposed amendments to Chapter 50, Subchapter 3 and Subchapter 11 amend the rules to update the handling of applications received outside Oklahoma Human Services (OKDHS) operating hours, per 7 C.F.R. § 273.2(c)(iv). The proposed amendments to Chapter 50, Subchapter 9 amend the rules to: (1) allow OKDHS Supplemental Nutrition Assistance Program (SNAP) households a notice of adverse action longer than 10-calendar days; (2) grant SNAP flexibility to adjust this notice timeframe by updating the Appendix B-2, Deadlines for Case Action; and (3) remove a reference to scheduling interviews. The proposed amendments to Chapter 50, Subchapter 10 amend the rules to update how OKDHS provides replacement electronic benefit transfer (EBT) SNAP cards. The proposed amendments to Chapter 50, Subchapter 15 amend the rules to remove a reference that required the inclusion of page one of Form 08OP005E, Supplemental Nutrition Assistance Program Overissuance when notifying a household of an overpayment. The proposed amendments to Chapter 50, Subchapter 1 amend the rules to update the collection of required ethnic and racial data according to Section 272(g) of Title 1 of the Code of Federal Regulations (7 C.F.R. § 272.6(g)). The proposed amendments to Chapter 50, Subchapter 3 and Subchapter 11 amend the rules to update the handling of applications received outside OKDHS operating hours, per 7 C.F.R. § 273.2(c)(iv).

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## CONTACT PERSON:

Caleb Turner, Programs Manager III, 405-982-3685

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, 2025:

## SUBCHAPTER 1. GENERAL PROVISIONS

### 340:50-1-8. Reporting racial/ and ethnic groups [AMENDED]

The Oklahoma Department of Human Services ~~is required to obtain~~ (OKDHS) obtains ethnic and racial data on household members participating in the Supplemental Nutrition Assistance Program in the manner ~~described by the Food and Nutrition Service~~ describes per Section 272.6(g) of Title 7 of the Code of Federal Regulations.

(1) **Self-identification.** ~~The OKDHS asks the applicant is asked, adult household member, or authorized representative to self-identify~~ identify ethnic and racial information regarding all participating household members on the application, ~~and/or~~, when necessary, during the interview.

(A) The application must clearly indicate that the:

- (i) provision of ethnic and racial data is voluntary and will not affect the eligibility or benefit level of food benefits; and
- (ii) information is needed to ensure that food benefits are distributed without regard to race, color, or national origin.

(B) When ~~the an~~ applicant, adult household member, or authorized representative does not ~~self-identify~~ identify ethnic and racial information on the application prior to the interview, the worker asks the applicant, adult household member, or authorized representative to provide ethnic and racial information during the interview and explains the:

- (i) provision of ethnic and racial data is voluntary and will not affect the eligibility or benefit level of food benefits; and
- (ii) information is ~~needed~~ to ensure that food benefits are distributed without regard to race, color, or national origin.

(2) **Worker identification.** When the applicant, adult household member, or authorized representative chooses not to provide ethnic and race information, ~~the applicant is informed that when possible, the worker makes a must not record a household member's ethnic or racial information based on visual identification of the applicant's ethnicity and race, and records the data in the system.~~

(A) The worker reviews the existing case record for verification that does not rely on visual identification. When the worker finds verification of the racial and ethnic status, the worker records this information in the eligibility system. Examples include, but are not limited to;

- (i) documentary evidence;
- (ii) the household's racial or ethnic designations on previous OKDHS forms; or
- (iii) other reasonable nonvisual verification.

(B) When the applicant, adult household member, or authorized representative chooses not to provide racial and ethnic status information and there is no nonvisual evidence in the case record, the worker indicates that the racial and ethnic status is unknown in the eligibility system.

(3) **Race and Ethnic Categories.** To provide flexibility and ensure data quality, separate categories are used to collect and report ethnicity and race information.

(A) The applicant, adult household member, or authorized representative is asked to provide ethnicity information first. The ethnicity question is "Are you Hispanic or Latino?" The term "Spanish origin" may be used in addition to "Hispanic" or "Latino." Hispanic or Latino refers to a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

(B) The applicant, adult household member, or authorized representative is then offered the option of selecting one or more racial designations. Racial designations include:

- (i) American Indian or Alaskan Native referring to a person with origins in the original peoples of North or South America, including Central America, and who maintains tribal affiliation or community attachment;

- (ii) Asian referring to a person with origins in the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, or Vietnam;
- (iii) Black or African American referring to a person with origins of the black racial groups of Africa. ~~Terms, such as "Haitian" or "Negro" may be used in addition to "Black" or "African American,"~~
- (iv) Native Hawaiian or Other Pacific Islander referring to a person with origins in the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands; ~~or~~
- (v) White, referring to a person with origins in any of the original peoples of Europe, the Middle East, or North Africa.

## SUBCHAPTER 3. APPLICATION PROCESS

### 340:50-3-1. The application process [AMENDED]

(a) **General.** The Supplemental Nutrition Assistance Program (SNAP) application process begins with a request for benefits and ends ~~when~~with the household's eligibility is ~~determined~~determination and ~~the household is notified of the decision~~notification.

(1) ~~The Oklahoma Human Services (OKDHS) must process the application must be processed~~ no later than 30-calendar days after OKDHS receives the signed application is submitted to Oklahoma Human Services (OKDHS) during operating hours. When OKDHS receives an application outside of operating hours, then the application is considered to be received on the next business day.

(2) Expedited services ~~must be made~~are available to households in immediate need. Refer to Oklahoma Administrative Code (OAC) 340:50-11-1 through ~~340:50-11-6~~340:50-11-5 for expedited service criteria and procedures.

(3) Persons ~~having~~with lawful alien status must have their status verified through Systematic Alien Verification for Entitlements (SAVE), per OAC 340:65-3-4.

(4) Benefits must be provided retroactively to the application date for households who complete the application process and are ~~determined~~ eligible for the application month.

(b) **Filing applications.** Each household wishing to participate in SNAP must file a separate application. Refer to OAC 340:50-5-1 for household definition. The designated head of household is not required to make the food benefit application: ~~Applications may be made by a;~~ a responsible household member or authorized representative may apply for SNAP. A responsible household member or authorized representative completes an authorization for release of information at the time of application, when necessary. Applications may be submitted in person, online, or by fax, mail, or email.

(1) **Right to same day filing.** ~~Because the time limit for providing benefits starts on the date OKDHS receives the application in the county office or online, the~~ The worker informs the household at first contact of its right to submit an application on the contact date and encourages the household to do so. The worker also informs the household it does not have to be interviewed before filing the application and that the household may file an incomplete application. At a minimum, an incomplete application must contain the applicant's name, address, an adult household member's signature or the household's authorized representative's signature.

(A) OKDHS makes Form 08MP001E, Request for Benefits, is made readily accessible to potentially eligible households, groups, and organizations that assist persons in completing applications for ~~food benefits~~SNAP.

(B) When the household requests ~~food benefits~~SNAP:

- (i) by phone, the worker first offers to submit an online application by proxy, meaning, on behalf of the household (by proxy). When the household does not have time to submit the application by proxy, the worker informs the household it may submit an application online ~~at www.okdhslive.org or www.okbenefits.org, or the worker can email or mail~~sends Form 08MP001E to the household the same day; or
- (ii) in writing and provides a phone number, the worker attempts to call the household to proxy the application. When the household did not provide a phone number or the worker is unable to reach the household, he or she mails Form 08MP001E to the household on the same day the written request is received.

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(C) To facilitate SNAP participation for households in which all members are applying for a State Supplemental Payment (SSP) or Temporary Assistance for Needy Families (TANF), these households ~~must be allowed to~~ may apply for food benefits at the same time they apply for financial assistance. The household's eligibility and benefit level are based on ~~food benefit~~ SNAP eligibility criteria, and the ~~household is certified per~~ worker certifies using SNAP rules. Refer to OAC 340:50-11-20 through 340:50-11-27 when processing food benefit applications for households approved for SSP ~~and/or~~ TANF.

(D) ~~Immediately upon receipt in an OKDHS office, all~~ All applications are screened to determine if the household is entitled to expedited services. All initial applicant households that qualify, per OAC 340:50-11-1, must receive expedited processing when certified for ~~food benefits~~ SNAP, whether requested by the household or not.

(2) **Head of household.** A household may select, ~~as a~~ as head of household; ~~provided all adult household members agree to the selection.~~ The head of household must be an adult parent of children of any age living in the food benefit household, or an adult who has parental control over children 17 years of age and younger living in the food benefit household; ~~provided all adult household members agree to the selection.~~

(A) Households select their head of household at each certification action or when there is a change in household composition.

(B) When all adult members do not agree to the selection or decline to select an adult head of household, the household may select another head of household, or the worker may designate a head of household.

(C) In no event does the failure to select an adult who has parental control of children delay the certification or result in the denial of benefits for an otherwise eligible household.

(3) **Authorized representative.** Per Section 273.2(n)(1) of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.2(n)(1)), an authorized representative is an adult non-household member who can act on behalf of the SNAP household. The authorized representative may complete the application process, report changes, obtain benefits, ~~and/or~~ purchase food for the household.

(A) The authorized representative designation must be made in writing and be signed by the head of household, spouse, or other responsible household member. The written designation must clearly state what actions the household wants the authorized representative to perform for it. The worker only allows the authorized representative access to the household's food benefits; when the written statement clearly grants such access. A household may allow any SNAP household member or non-household member, when authorized, to purchase food or meals for the SNAP household with the electronic benefits transfer (EBT) card, per 7 C.F.R. § 273.2(n)(3).

(B) A non-household member may be designated as an authorized representative for the application process provided the person is an adult who is knowledgeable of the relevant household circumstances. In the event the only adult member of the household is ~~classified as~~ a non-household member, per OAC 340:50-5-5, he or she may be designated as the authorized representative for minor household members.

(C) When a household member designates an authorized representative in writing to apply for SNAP benefits on the household's behalf, the worker informs the household it will be held liable for any over-issuance that results from erroneous information given by the authorized representative. When possible, the head of the household or spouse prepares or reviews the application, even though the authorized representative actually files the application and is interviewed.

(4) **Restrictions on authorized representatives.** The worker ensures an authorized representative is properly designated and has not been disqualified for an intentional program violation, per OAC 340:50-5-10.1 and 340:50-15-25, or is not restricted from serving as an authorized representative, per 7 C.F.R. § 273.2(n)(4) and information included in (A) through (E) of this subsection.

(A) Limits are not placed on the number of households an authorized representative may represent. The worker ~~takes care to ensure~~ ensures the household:

- (i) freely requested the authorized representative's assistance;
- (ii) circumstances are correctly reported; and
- (iii) receives the correct amount of benefits.

(B) OKDHS employees involved in certification or issuance processes and retailers authorized to accept food benefits may not act as authorized representatives without the specific written approval of ~~the county director~~ a field manager and only after the ~~county director~~ field manager determines no one else is available to serve as the authorized representative.



(C) A person disqualified for an intentional program violation may not act as an authorized representative during the disqualification period unless the person disqualified is the only adult member of the household able to act on its behalf ~~and the~~. In such instances, the worker determines there is no one else available to serve as an authorized representative. The worker must separately determine if the person is needed to apply for or to obtain benefit on behalf of the household.

(D) An authorized representative is disqualified from serving as an authorized representative in SNAP for up to one year when evidence demonstrates he or she misrepresented a household's circumstances, knowingly provided false information pertaining to the household, or made improper use of benefits.

(i) Information indicating that a person should be disqualified as an authorized representative is forwarded to Adult and Family Services (AFS) SNAP program staff, for a decision. The worker is notified in writing of the decision.

(ii) When the person is disqualified, appropriate notification is mailed to the household by AFS SNAP program staff.

(iii) This provision does not apply to persons serving as authorized representatives for group homes or drug and alcoholic treatment centers. However, authorized representatives for group homes or drug and alcohol treatment centers who intentionally misrepresent household circumstances may be prosecuted under applicable federal and state statutes for their acts.

(E) Homeless meal providers, such as soup kitchens, temporary shelters, or contracted restaurants, are known as authorized or private, non-profit establishments. These authorized or private, non-profit establishments may not act as authorized representatives for homeless food benefit recipients.

**(c) Processing initial applications.** The application date for online submissions SNAP applications is the date ~~the household submits the application to the OKDHS Live website at [www.okdhslive.org](http://www.okdhslive.org) or [www.okbenefits.org](http://www.okbenefits.org)~~ OKDHS receives the application during operating hours. When the household applies outside of operating hours, over the weekend, or on a holiday, the application date is the next day OKDHS is open. When ~~the county~~ an OKDHS AFS office receives an application that contains the applicant's name and address; and is signed by a responsible member of the household or the household's authorized representative, the household's application date is the date it is received and stamped into the county office except as stipulated, per OAC 340:50-9-1(c) ~~and~~, 340:50-9-6(e), and 340:50-11-105(d). When the application is signed by the responsible person or authorized representative for a household also applying for SSP or TANF, the application is processed, per OAC ~~340:50-11-340:50-11-20.~~

(1) **Normal processing standard for initial applications.** The worker must provide eligible households who complete the initial application process with food benefits within 30-calendar days following the date the initial application is submitted.

(2) **Withdrawing application.** A household may voluntarily withdraw its application at any time prior to the eligibility determination.

**(d) Second 30-calendar day period.** A new application is not needed when a household completes the application interview within 30-calendar days, is denied for failing to provide verification, and then provides the required verification within 60-calendar days. When the household waits until the second 30-calendar day period to provide the verification, there is a break in benefits and the worker changes the application and certification dates to the date the verification is provided. Refer to OAC 340:50-11-5 when the verification is postponed for an expedited certification.

### SUBCHAPTER 9. ELIGIBILITY AND BENEFIT DETERMINATION PROCEDURES

#### **340:50-9-5. Changes after application and during the certification period [AMENDED]**

**(a) Change reporting requirements.** Section 273.12 of Title 7 of the Code of Federal Regulations (7 C.F.R. § 273.12) contains change reporting requirements after application and during the certification period described in (a) through (j) of this Section.

**(b) Applicant households.** Applicant households must report all changes related to their food benefit eligibility and benefit amount. Households must report changes that occur after the interview but before the date of the notice of eligibility, within 10-calendar days of the date of the notice.

**(c) Annual reporting households.** Annual reporting households are households in which all adult members are elderly or disabled with no earned income.

(1) **Certification period.** A 24-month certification period is automatically assigned to annual reporting households. Annual reporting households must complete a mid-certification renewal between certification periods to report current household circumstances.

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(2) **Change reporting between renewal periods.** Between the mid-certification renewal and certification renewal reporting months, the household must report gross income changes when the household's income exceeds the maximum gross income scale for household size shown on Form 08MP006E, Information for Benefit Renewal, and when the household wins substantial lottery or gambling winnings as defined, per 7 C.F.R. § 273.11(r) and Oklahoma Administrative Code (OAC) 340:50-7-1, within 10-calendar days of receipt of the first payment attributable to the change. The maximum gross income scale is based on 130 percent of the monthly poverty income guidelines.

(3) **Action taken on reported changes.** The worker must act on all changes reported by households.

(A) The computer system determines if the change results in an increase, decrease, or no change in benefits.

(B) Between the mid-certification renewal and certification renewal months, the changes the worker makes do not decrease or close benefits until the mid-certification renewal is due unless the:

(i) household's income increase exceeds the maximum gross income scale for household size shown on Form 08MP006E;

(ii) household requested benefit closure;

(iii) worker has information about the household's circumstances considered verified upon receipt, per (h) of this Section;

(iv) a household member is identified as a disqualified or ineligible person, per 7 C.F.R. § 273.12(a)(5)(vi) and OAC 340:50-5-10.1; or

(v) the worker verifies the household won substantial lottery or gambling winnings as defined, per 7 C.F.R. § 273.11(r) and OAC 340:50-7-1(b). When this occurs, refer to (j) of this Section, and OAC 340:50-7-1(b) and 340:50-7-6, for information regarding actions that are taken.

(C) The computer system applies all changes that increase benefits. Before entering a change that increases benefits, verification supporting the change must be provided, when required.

(d) **Mid-certification renewal for annual reporting households.** Annual reporting households are sent notification in the 11th month of certification that the mid-certification renewal is due. The notice explains methods the household may choose to complete the renewal and required verification needed. An interview is not required.

(1) **When the mid-certification renewal is due.** The household must complete the benefit renewal and provide required verification by the last day of the 12th month of certification.

(2) **Completion of mid-certification renewal.** The worker reviews benefit renewal information and verification provided to determine completeness and continued eligibility.

(A) When the renewal is complete and the household remains eligible, the worker acts on all reported changes and the computer system applies any increase or decrease in benefits.

(i) When the household fails to provide sufficient information regarding a deductible expense requiring verification, the worker processes the mid-certification renewal without regard to the deduction.

(ii) When benefits are decreased, an advance notice is sent, per Oklahoma Human Services (OKDHS) Appendix B-2, Deadlines for Case Actions.

(iii) When a categorically eligible household as defined in OAC 340:50-11-11(b)(1) has income that now exceeds the maximum gross income standards for household size per Appendix C-3, Maximum Food Benefit Allotments and Standards for Income and Deductions, the worker uses the procedures in (k) of this Section.

(B) When the household is no longer eligible, the worker closes food benefits effective the next advance-notice deadline date, per (OKDHS) Appendix B-2.

(C) When the renewal is incomplete, the computer system closes food benefits effective the next advance-notice deadline date, per (OKDHS) Appendix B-2.

(3) **When benefits may be reopened.** Food benefits may be reopened following closure when criteria is met per (l) of this Section.

(e) **Semi-annual reporting households.** Food benefit households are considered semi-annual reporting households unless they meet criteria per (b), (c), or (g) of this Section.

(1) **Certification period.** A 12-month certification period is automatically assigned to semi-annual reporting households.

(2) **Change reporting between renewal periods.** Between the mid-certification renewal and certification renewal reporting months, the household must report when:

(A) the household's gross income exceeds the maximum gross income scale for household size shown on Form 08MP006E and when the household wins substantial lottery or gambling winnings as defined, per 7 C.F.R. § 273.11(r) and OAC 340:50-7-1, within 10-calendar days of receiving the first payment attributable to the change. The maximum gross income scale is based on 130 percent of the monthly poverty income guidelines; and

(B) a decrease in work hours below an average of 20 hours per week or 80 hours per month occurs for any household member meeting the able-bodied adults without dependents (ABAWD) work rules, per OAC 340:50-5-100, by the 10th of the following month.

**(3) Action taken on reported changes.** The worker must act on all changes reported by households.

(A) The computer system determines if the change results in an increase, decrease, or in no change in benefits.

(B) Between mid-certification renewal and certification renewal months, the changes the worker makes do not decrease or close food benefits until the mid-certification renewal is due unless:

(i) the household's income increase exceeds the maximum gross income scale for household size shown on Form 08MP006E;

(ii) the household requested benefit closure;

(iii) the worker has information about the household's circumstances considered verified upon receipt, per (h) of this Section;

(iv) an ABAWD must be removed from the food benefit household because he or she does not meet the ABAWD work rule, per OAC 340:50-5-100;

(v) a household member is identified as a disqualified or ineligible person, per 7 C.F.R. § 27312(a)(5)(vi) and OAC 340:50-5-10.1;

(vi) a household member is identified as failing to meet work registration requirements, per OAC 340:50-5-85 through OAC 340:50-5-87; or

(vii) the worker verifies the household won substantial lottery or gambling winnings as defined, per 7 C.F.R. § 273.11(r) and OAC 340:50-7-1(b). When this occurs, refer to (j) of this Section, and OAC 340:50-7-1(b) and 340:50-7-6, for information regarding actions that are taken.

(C) The computer system applies all changes that increase benefits. Before entering a change that increases benefits, verification supporting the change must be provided, when required.

**(f) Mid-certification renewal for semi-annual reporting households.** Semi-annual reporting households are sent notification in the fifth month of certification that the mid-certification renewal is due. An interview is not required.

**(1) When the mid-certification renewal is due.** The household must complete the benefit renewal and provide required verification by the last day of the sixth month of certification.

**(2) Completion of mid-certification renewal.** The worker reviews benefit renewal information and verification provided to determine completeness and continued eligibility.

(A) When the renewal is complete and the household remains eligible, the worker acts on all reported changes and the computer system applies any increase or decrease in benefits.

(i) When the household fails to provide sufficient information regarding a deductible expense requiring verification, the worker processes the mid-certification renewal without regard to the deduction.

(ii) When benefits are decreased, the worker sends an advance notice, per OKDHS Appendix B-2, Deadlines for Case Actions, deadline dates.

(iii) When a categorically eligible household as defined in OAC 340:50-11-11(b)(1) has income that now exceeds the maximum gross or net income standards for household size per Appendix C-3, the worker uses the procedures in (k) of this Section.

(B) When the household is no longer eligible, the worker closes food benefits effective the next advance-notice deadline date, per OKDHS Appendix B-2.

(C) When the renewal is incomplete, the computer system closes food benefits effective the next advance-notice deadline date, per OKDHS Appendix B-2.

**(3) When benefits may be reopened.** Food benefits may be reopened following closure when criteria is met, per (l) of this Section.

**(g) Change reporting households.** Change reporting households are assigned a certification period other than 12 or 24 months. These households are required to report changes within 10-calendar days of when the change occurred.

**(1) Household characteristics.** Households not approved for a 12- or 24-month certification period include households approved for:

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(A) expedited services for one or two months because verification was postponed, per OAC 340:50-3-2; and

(B) a three- or four-month certification period because the household includes one or more ABAWDs that do not meet the work rule, per OAC 340:50-5-100.

(2) **Required change reporting.** These households must report changes in:

(A) sources of income;

(B) unearned and earned income of the income reporting threshold, per Appendix C-3;

(C) household composition, such as an addition or loss of a household member;

(D) residence and shelter costs;

(E) the legal obligation to pay child support;

(F) the work hours of an ABAWD subject to benefit time limits, per OAC 340:50-5-100 when they fall below 20 hours per week; and

(G) resources when the household wins substantial lottery or gambling winnings as defined, per 7 C.F.R. § 273.11(r) and OAC 340:50-7-1(b). When this occurs, refer to (j) of this Section, and OAC 340:50-7-1(b) and 340:50-7-6, for information regarding actions that are taken.

(3) **Action taken on case changes.** The worker must act on changes reported by the household within 10-calendar days of the date the household reported the change and provided necessary verification.

(A) When the household fails to report a change within the 10-calendar day period and, as a result, receives benefits to which it is not entitled, an overpayment claim is referred to Adult and Family Services (AFS) Benefit Integrity and Recovery, per OAC 340:50-15.

(B) When the worker fails to take timely action on a reported change and benefits are lost, the worker supplements the household's food benefits.

(4) **Changes that increase benefits.** When the household reports a change that increases benefits the household must verify the information before the worker makes the change. The worker gives the household 10-calendar days to verify the information.

(5) **Changes that decrease or close benefits.** When the household reports a change in household circumstances that decreases or closes food benefits, the worker gives or sends the household Form 08AD092E, Client Contact and Information Request, giving the household 10-calendar days to provide verification of the change. When the household provides required verification, the worker reduces or closes food benefits based on the verification provided. When the household does not provide required verification, the worker closes the food benefits based on the household's failure or refusal to provide verification.

(A) When a household's benefit decreases or closes, an advance notice of adverse action per Appendix B-2 is required unless exempt from such notice for a reason listed in (i) or (ii) of this subparagraph. ~~Per 7 C.F.R. § 273.13, advance notice of adverse action is considered timely when the notice is mailed at least 10-calendar days before the action becomes effective.~~ The household retains its right to a fair hearing and continuation of benefits when a fair hearing is requested within 10-calendar days of the change notice. An adverse action notice may be mailed just prior to the date the household receives or would have received benefits when the:

(i) OKDHS receives a clear written statement signed by a responsible household member:

(I) stating the household no longer wishes to receive food benefits; or

(II) giving information that requires closure or reduction of food benefits and stating that the household understands the food benefit will be reduced or closed; or

(ii) worker closes or reduces food benefits per notice requirements at (m)(3)(A) of this Section.

(B) When an advance notice is required, the benefit decrease or closure is effective action must occur on or before the next advance notice deadline date, per OKDHS Appendix B-2. When the household reports a change:

(i) 10-calendar days or more before the advance-notice deadline, per OKDHS Appendix B-2, the worker decreases or closes the food benefit effective the first of the following month; or

(ii) less than 10-calendar days before the advance-notice deadline, per OKDHS Appendix B-2, the worker must take action before the advance-notice deadline the following month.

(C) When a reported change increases food benefits, the worker makes the change by the non-advance-notice deadline date, per OKDHS Appendix B-2.

(h) **Changes considered verified upon receipt.** Verified upon receipt means the information is not questionable and the provider is the primary source of the information. For example, when OKDHS receives Social Security and Supplemental Security Income verification through data exchange with the Social Security Administration (SSA), it is considered verified upon receipt because SSA is the primary source. When the worker receives information considered verified upon receipt, he or she makes the change within 10-calendar days of notification using OKDHS Appendix B-2 deadline dates.

(i) **Required action on unclear information.** During the certification period, the worker may obtain unclear information about a household's circumstances that may affect the household's continued eligibility or benefit amounts. The worker may receive the unclear information from a third party, such as a data exchange discrepancy, an employer, or a person claiming knowledge of the household's circumstances. Unclear information is information that is not verified or is verified but the worker needs additional information before acting on the change.

(1) Per 7 C.F.R. § 273.12(c)(3)(i), when the worker receives unclear information in a non-report month for semi-annual or annual reporting households or any month for change reporters, he or she sends Form 08AD092E to the household to verify its circumstances within 10-calendar days only when the unclear information:

(A) significantly conflicts with the information used at the time of the certification, indicating the household may have failed to report eligibility information at application; or

(B) is fewer than 60-calendar days old, relative to the current participation month and, when true, must be reported under the household's reporting responsibilities.

(2) When the household provides the requested verification in a non-report month, the worker determines what action to take per requirements at (c)(3) and (e)(3) of this Section.

(3) When the worker sends Form 08AD092E, per (i)(1)(A) or (B) of this Section, and the household does not respond or responds but refuses to provide sufficient information to clarify its circumstances, the worker closes the household's food benefits effective the next advance-notice deadline date, per OKDHS Appendix B-2;

(4) Per 7 C.F. R. § 273.12(c)(3)(iii), when the worker receives a data match that indicates a household member may have died or may be incarcerated for more than 30-calendar days, the worker sends Form 08AD092E to the household notifying it of the discrepancy and requesting information regarding the household member.

(A) When the household is a change reporting household and:

(i) fails to respond to Form 08AD092E or responds but refuses to provide sufficient information to clarify the person's household status, the worker closes the household's food benefits;

(ii) responds and verifies the person is not dead or incarcerated, no action is taken; or

(iii) responds and confirms the accuracy of the data exchange information, the worker removes the person from the food benefit and determines if an overpayment referral is needed, per OAC 340:50-15.

(B) When the household is an annual or semi-annual reporting household and:

(i) fails to respond to Form 08AD092E or responds but refuses to provide sufficient information to clarify the person's household status, the worker removes the person and his or her income from the household and adjusts the food benefits;

(ii) responds and verifies that the person did not die or is not incarcerated, no action is taken; or

(iii) responds and confirms the accuracy of the data exchange information, the worker removes the person and his or her income from the household, adjusts the food benefits, and determines if an overpayment referral is needed, per OAC 340:50-15.

(j) **Required action on substantial lottery or gambling winnings.** The worker must take prompt action to verify receipt of substantial lottery or gambling winnings and begin closure procedures when the household or a third party reports the household received substantial lottery or gambling winnings, per OAC 340:50-7-1(b), for all types of reporting households.

(1) When the household reports substantial winnings, verification of the winnings is required. The worker closes the SNAP food benefit for the entire household when verification is received even when the household states all of the winnings were spent, per 7 C.F. R. § 273.11(r). The worker also closes the SNAP food benefit when the household fails to provide verification after being given 10-calendar days to do so.

(2) When the worker receives information from a data match or other third party regarding the household's receipt of substantial lottery or gambling winnings, the action required depends on whether the information is unclear, per (i) of this Section.

(A) When the worker receives a direct match from a lottery or gambling entity and there is no question regarding which client received the winnings, the worker closes the SNAP food benefit effective the next advance notice deadline date, per OKDHS Appendix B-2.

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(B) When the worker receives the information from a ~~third party~~third-party data match or another third party, the worker follows unclear information procedures per (i) of this Section.

(3) When the worker closes the SNAP food benefit due to substantial lottery or gambling winnings, the household must reapply and may not be considered categorically eligible the first time it reapplies, per 7 C.F.R. § 273.11(r), OAC 340:50-7-1(a)(2) and 340:50-11-111(d). To regain eligibility, the household must meet non-categorical resource requirements, per 7 § C.F.R. 273.8 and OAC 340:50-7-6, and verify how the winnings were spent down below the appropriate resource standard, per OKDHS Appendix C-3. This applies to all households, including households receiving Supplemental Security Income or Temporary Assistance for Needy Families. When the household meets non-categorical resource requirements and is certified, it regains categorical eligibility for future applications and renewals unless the household contains a sponsored alien or may not be considered categorically eligible, per OAC 340:50-7-1(a)(2) and 340:50-11-111(d).

(k) **Categorically eligible household changes.** When categorically eligible households, per OAC 340:50-11-111(b), report changes in income, workers do not close the SNAP case due to the household exceeding the gross or net income standards for the household size per Appendix C-3. The worker updates the system with the new income information. When the categorically eligible household exceeds the income standard, the system:

- (1) reduces the monthly allotment to the minimum benefit for one- and two- person households; and
- (2) does not issue a benefit for three or more person households. The SNAP case remains open with no benefit.

(l) **When benefits may be reopened following closure.** The food benefit may be reopened following closure using current eligibility information, when:

- (1) OKDHS did not administer policy and procedures correctly. The food benefit is reopened effective the first day of the month of closure;
- (2) the household fails to complete the mid-certification renewal timely but provides all required verification by the first day of the month of closure. The food benefit is reopened effective the first day of the month of closure; or
- (3) the household fails to complete the mid-certification renewal timely but provides all required verification by the last day of the month of closure. The food benefit is reopened and prorated from the date the household completes the mid-certification renewal and provides all required verification.

(m) **Notice requirements.** OKDHS is required to send a notice to the household when food benefits increase, reduce, or close.

(1) **Advance notice of adverse action required.** Prior to reducing or closing food benefits during the certification period, per 7 C.F.R. § 273.13, the worker must provide timely advance notice unless circumstances described in (m)(2) or (3) of this Section occur.

(A) Advance notice of adverse action is ~~considered~~ timely when the notice is mailed ~~at least 10-calendar days before the action becomes effective. Refer to~~according to the deadlines for processing actions with advance notice, per OKDHS Appendix B-2 ~~for advance notice processing deadlines.~~

(B) When the household reports a change:

- (i) 10-calendar days or more before the advance notice of adverse action deadline, the worker decreases or closes the food benefit effective the first of the following month. ~~For example, when the household reports a change on May 18th, the effective date of the change is June 1st;~~
- or
- (ii) less than 10-calendar days before the advance notice of adverse action deadline, per OKDHS Appendix B-2, the worker decreases or closes the food benefit effective the first of the month after the following month. ~~For example, when the household reports a change on May 25th, the effective date of the change action is July 1st.~~

(2) **Notice requirement when benefits increase.** When a reported change increases food benefits, the worker makes the change by the non-advance notice deadline date, per OKDHS Appendix B-2. When the change is reported after the ~~non-advance notice~~non-advance notice deadline, the worker supplements food benefits.

(3) **Advance notice of adverse action not required.** Advance notice of adverse action is not required for actions (A) through (H) of this paragraph, per 7 C.F.R. § 273.12(e) and 7 C.F.R. § 273.13(b).

(A) **Mass changes.** When OKDHS initiates mass changes because of changes or requirements in federal or state law, the computer system closes benefits by the non-advance-notice deadline, per OKDHS Appendix B-2. In these situations, the individual notification requirement is waived and AFS mails generic notices to the affected households informing them of the changes that are about to be made.

(B) **Deceased household members.** When the worker determines, based on reliable information, that all members of the household are deceased, the worker closes benefits by the non-advance-notice deadline, per OKDHS Appendix B-2.

(C) **Moved out of state.** When the worker determines, based on reliable information, the household moved out of state, the worker closes benefits by the non-advance-notice deadline, per OKDHS Appendix B-2.

(D) **Unfinished issuance certification.** When the unfinished issuance process is used at certification, the worker adjusts the benefit to account for changes anticipated at the time of certification. The certification notice informs the household of all benefit changes included in this process.

(E) **Disqualified household member.** When the only household member is disqualified for an intentional program violation or fraud, per OAC 340:50-15-25, food benefits are closed by the non-advance-notice deadline, per OKDHS Appendix B-2. When there is more than one person in the household, the remaining household members' benefits are reduced or closed because of that household member's disqualification by the non-advance-notice deadline, per OKDHS Appendix B-2.

(F) **Facility loses approval.** When a household's food benefit closes because the drug or alcohol treatment center or group home facility where the household resides is no longer approved, the worker closes benefits by the non-advance-notice deadline, per OKDHS Appendix B-2.

(G) **Household provides written statement.** The worker closes or reduces benefits by the non-advance-notice deadline, per OKDHS Appendix B-2, when the household provides a written statement:

- (i) stating the household no longer wants to receive food benefits; or
- (ii) requesting closure or reduction in food benefits to avoid or repay an overpayment.

(H) **Case transfer.** When closing and transferring food benefits from one case to another case without a decrease or disruption in benefits, the worker closes food benefits by the non-advance-notice deadline, per OKDHS Appendix B-2.

(n) **Action on changes when fair hearings are requested.** When a household requests a fair hearing within 10-calendar days of the date shown on an adverse action notice, the worker must reopen or restore food benefits to the previous level pending the outcome of the hearing unless the household specifically waives continuation of benefits, per 7 § C.F.R. 273.15(k). When OKDHS is not open on the 10th day, the worker accepts a fair hearing request made the following business day. Refer to OAC 340:2-5 for fair hearing procedures.

### **340:50-9-6. Procedures relating to food benefit certification renewals [AMENDED]**

(a) **Worker action.** The worker completes the application process and approves or denies applications for certification renewal in a timely manner, per §273.14 of Title 7 of the Code of Federal Regulations. The worker does not continue Supplemental Nutrition Assistance Program (SNAP) food benefits to the household beyond the certification period until he or she determines continued eligibility and recertifies the household. Refer to Oklahoma Administrative Code (OAC) 340:50-3-3(i) for information regarding verification required at certification renewal.

#### **(b) Notice of expiration.**

(1) A computer-generated expiration notice titled, Continue My SNAP Benefit, is sent after deadline the month prior to the last month of the certification period. The notice informs households:

- (A) of the date their certification period ends;
- (B) by what date they must submit their certification renewal and provide required information ~~in order~~ to receive uninterrupted food benefits;
- (C) of methods the household may use to submit the certification renewal information including, but not limited to:
  - (i) online ~~at okdhslive.org~~;
  - (ii) phoning Oklahoma Human Services (OKDHS) at the phone number listed on the notice;
  - (iii) mailing a completed and signed paper renewal form to the address listed on the notice; or
  - (iv) faxing or hand delivering a completed and signed paper renewal form to a local OKDHS office;
- (D) of their right to request an application and file an incomplete application as long as it includes a signature and a legible name and address;
- (E) how to obtain a paper certification renewal form;
- (F) OKDHS staff contacts the household when an interview is required. The notice also advises that when an interview is required, failure to ~~attend~~complete the ~~scheduled~~ interview ~~or to reschedule a missed interview~~ may result in a delay or denial of food benefits;
- (G) proof of household income must be provided;

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- (H) proof of certain expenses is required before an expense deduction is given;
- (I) they may submit proof of income and expenses by mail, fax, ~~email~~, or by uploading documents through ~~OKDHS~~ Live the website; and
- (J) of their right to file a fair hearing if they disagree with any action taken on their case.

## (c) Timely certification renewals.

- (1) Timely certification renewals are processed within the periods described in (A) through (B) of this paragraph.
  - (A) A household with a prior certification period of fewer than three months who applies by the 15th day of the last month of the certification period is provided the opportunity to participate, when eligible, no later than 30-calendar days after the date the household last received its food benefits.
  - (B) A household with a prior certification period of three or more months, who applies on or before the 15th day of the last month of the certification period ~~are~~ is considered timely. When the household meets all requirements, the worker certifies or denies the application prior to the end of the certification period.
    - (i) Any eligible household who renews SNAP food benefits timely is provided an opportunity to participate by their normal issuance date in the month following the end of the current certification period.
    - (ii) To retain this right to uninterrupted benefits, the household must complete an interview, when required, and provide required verification due on or after the deadline for filing timely certification renewals.
    - (iii) Although a household loses its right to uninterrupted benefits, it retains its right to complete the process and receive benefits, when eligible, within 30-calendar days of the application date.
- (2) A household that timely renews, but due to worker error, is not timely determined eligible is certified immediately upon being determined eligible. When the delay in certification renewal extends into the following month, the worker certifies the household back to the first day of the month following expiration of the certification period.
- (3) A household applying for certification renewal in the last month of its certification period is not entitled to expedited services. When the certification renewal is certified on or before the last day of the previous certification period, the subsequent month's benefit issues on the second working day of the month.

## (d) Untimely certification renewal.

- (1) A household that submits an untimely certification renewal, without good cause, loses its right to uninterrupted benefits. When this occurs, the worker has 30-calendar days to certify or deny the application. ~~When a certification renewal is not received until after the certification period expires, the application is considered an initial application and benefits for that month are prorated~~
- (2) Applications received within 30-calendar days after the certification period ends are certification renewals. The worker prorates food benefits according to the application date. When eligible, the household is entitled to expedited service, per OAC 340:50-11-1.
- (3) When a household submits a certification renewal before the end of the certification period and fails to complete the interview or provide necessary verification, the worker reopens the case and prorates benefits to the day the household performs the required action.
- (4) When a household submits a certification renewal before the certification period ends and verification is requested with fewer than 10-calendar days remaining in the certification period, the worker allows the household a minimum of 10-calendar days to provide required verification. When verification is provided within the given time period, the worker processes the case within five-business days of the date the verification is submitted and benefits are not prorated for eligible households.

(e) **Good cause for failure to timely renew food benefits.** When the household has a good cause ~~reason~~ for failing to submit a timely certification renewal or ~~completing for failing to complete~~ the certification process timely and does not receive food benefits in the month following benefit expiration, ~~it~~ the household is entitled to restoration of lost benefits, per OAC 340:50-11-4. Good cause may include reasons; such as failure to receive timely notice of expiration or personal illness.

## SUBCHAPTER 10. ELECTRONIC BENEFIT TRANSFER (EBT)

### 340:50-10-3. Initial issuance of Electronic Benefit Transfer (EBT) card [AMENDED]



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(a) ~~An Oklahoma Human Services (OKDHS) issues an Access Oklahoma electronic benefit transfer (EBT) card is issued to the an eligible household's payee of the eligible household and authorized representative designated per Oklahoma Administrative Code (OAC) 340:50-3-1(b)(3). A second Access Oklahoma EBT card may be issued to an authorized representative designated in writing by the household.~~ When a household receives both Supplemental Nutrition Assistance Program (SNAP) and Child Care Subsidy benefits are included in the same case, the household may choose a different authorized representative for each program. ~~Refer to Oklahoma Administrative Code 340:50-3-1 for information regarding SNAP authorized representatives.~~

(b) ~~The OKDHS issues an EBT card when a payee and/or authorized representative:~~

~~(1) obtain their initial EBT cards in visits the county OKDHS office and has not previously been issued a card. If the payee or authorized representative changes, the new payee or authorized representative meets this requirement.~~

~~(1) after viewing To obtain a card, the payee or representative must view a training video and providing proof of their verify his or her identity; and~~

~~(2) select The payee or representative selects a personal identification number in the county OKDHS office or by calling the number on the back of the EBT card.~~

~~(b)(c) An EBT card is considered an initial card, when a:~~ An EBT card is issued to the payee or authorized representative when the person:

~~(1) client applies for SNAP benefits for the first time requests a replacement card; or~~

~~(2) client is given a new case number; has never had an EBT card and requests it over the phone~~

~~(3) change in payee or authorized representative occurs; or~~

~~(4) payee or authorized representative makes a new application and never had an initial EBT card printed.~~

## SUBCHAPTER 11. SPECIAL PROCEDURES

### PART 1. HOUSEHOLDS ENTITLED TO EXPEDITED SERVICE

#### 340:50-11-1. Expedited service screening, criteria, and time limits [AMENDED]

(a) **Expedited service screening.** Oklahoma Human Services (OKDHS) Adult and Family Services staff designated by the county director or field manager must screen every initial Supplemental Nutrition Assistance Program application, including those received from residents of approved drug and alcohol treatment centers and group homes, ~~on the day it is when~~ received in the county office or support center during operating hours to determine if the household is entitled to expedited services. When the household applies when offices are closed after hours, over the weekend, or on a holiday, the application date is the next day OKDHS is open. When an initial application indicates the household is eligible for expedited service, action is taken immediately to begin processing the application.

(1) Applications, other than certification renewals, are considered initial applications.

(2) Certification renewals are applications received before the household's certification period expires or ~~on the first day of the month following expiration within 30-calendar days after the end of the certification period.~~ Certification renewals are not screened for expedited service.

~~(2)(3) When an application a certification renewal is received on the second day of the month following the expiration of the certification period or any day thereafter, it is considered an initial application and is subject to prorated benefits and expedited screening.~~

(4) Certification renewals received before the end of the certification period are not eligible for expedited service.

(b) **Expedited service criteria.** Per 273.2(i) of Title 7 of the Code of Federal Regulations, households entitled to expedited services include households:

(1) with less than \$150 gross income when liquid resources do not exceed \$100;

(2) with migrant or seasonal farm workers considered destitute when liquid resources do not exceed \$100; and

(3) whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage ~~and/or~~ and applicable utility standard, per Oklahoma Administrative Code (OAC) 340:50-7-31(a)(6) (C).

(c) **Expedited service time limits.** When a household is eligible for expedited service, food benefit eligibility must be determined and food benefits issued no later than seven-calendar days from the application date. Refer to OAC 340:50-3-1(b)(1) for right to same day filing processes. When the seventh-calendar day falls on a non-business day, the application must be processed by the last business day prior to the seventh-calendar day. When a household is determined ineligible for food benefits because it does not meet non-financial eligibility criteria, the worker must deny the application no later than 30-calendar days after the application date.

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(d) **Late entitlement determination.** When expedited service screening fails to identify a household as being entitled to expedited service and the worker subsequently discovers the household is entitled to expedited service, the worker provides such service within seven-calendar days of discovery.

## SUBCHAPTER 15. OVERPAYMENTS AND FRAUD

### PART 1. OVERPAYMENTS

#### **340:50-15-3. Overpayment claim procedures [AMENDED]**

(a) **Overpayment determination.** Adult and Family Services (AFS) local office staff calculates overpayments and refers it to AFS Benefit Integrity and Recovery (BIR) for final determination.

(1) When the household failed to report earned income timely, per Oklahoma Administrative Code (OAC) 340:50-9-5, the worker does not subtract an earned income deduction from gross earnings when calculating the overpayment amount.

(2) AFS local office staff documents the circumstances causing the overpayment and the calculations used to determine the over-issuance amount on Form 08OP005E, Report of ~~Food Benefit (FB)~~ Supplemental Nutrition Assistance Program Overissuance and sends Form 08OP005E and supporting documentation to AFS BIR staff for claim establishment.

(3) If Office of Inspector General (OIG) staff determines a trafficking-related offense occurred, AFS BIR staff bases the overpayment amount on the value of the trafficked benefits. Per Section 273.18(c) of Title 7 of the Code of Federal Regulations, the value of the trafficked benefits is determined by:

(A) the household member or authorized representative's admission;

(B) adjudication; or

(C) OIG documentation that formed the basis for the trafficking determination.

(b) **Overpayment claim establishment.** AFS BIR staff is responsible for evaluating overpayment referrals, establishing overpayment claims, and referring overpayment claims to OIG when fraudulent intent is suspected. An overpayment claim is considered established on the date AFS BIR staff sends the overpayment notice to the household.

(1) When fraudulent intent is not suspected, AFS BIR staff:

(A) establishes the overpayment claim and classifies it as an inadvertent household or agency error, per OAC 340:50-15-4;

(B) notifies the household and worker, per (d) and (e) of this Section; and

(C) sets up a repayment plan with the household, per OAC 340:50-15-6.

(2) When fraudulent intent is suspected, AFS BIR staff sends the overpayment referral to OIG to determine whether fraudulent intent occurred. The overpayment claim is not established and notices are not sent until OIG completes its investigation and releases the claim back to AFS BIR. Refer to OAC 340:50-15-25 for procedures when overpayments are referred for an intentional program violation determination.

(c) **Claim establishment time frame.** The amount of time included in an overpayment claim varies.

(1) From when Oklahoma Human Services (OKDHS) learned of the overpayment AFS BIR calculates all overpayment claims back at least 12 months but no more than six years.

(2) When AFS BIR classifies an overpayment as an intentional program violation, the overpayment claim begins with the month the first intentional program violation occurred, subject to paragraph (1).

(3) OKDHS complies with court orders that require a household to pay restitution.

(d) **Household notification.** AFS BIR staff sends the household:

(1) the Notification of Food Benefit Overpayment notice;

(2) ~~page one of~~ Form 08OP005E showing the overpayment over-issuance amount; and

(3) Form 08OP118E, Food Benefit Repayment Agreement.

(e) **Local office notification.** After claim establishment, AFS BIR staff sends the local office:

(1) a copy of the Notification of Food Benefit Overpayment notice sent to the client;

(2) the completed Form 08OP005E; and

(3) the County Notification of Overpayment notice.

*[OAR Docket #25-345; filed 5-29-25]*

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## TITLE 340. DEPARTMENT OF HUMAN SERVICES

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## CHAPTER 60. REFUGEE RESETTLEMENT PROGRAM

*[OAR Docket #25-346]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

340:60-1-3. Refugee Resettlement Program (RRP) [AMENDED]

340:60-1-6. Program eligibility and procedures [AMENDED]

### **AUTHORITY:**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Subsection 501(e) of Refugee Education Assistance Act of 1980 (Public Law 96-422); and 45 C.F.R. §§ 400.2, 400.43, 400.50, 400.81, and 401.12; Section 301 of the Ukraine Security Supplemental Appropriations Act, 2024, P.L. 188-50; and Section 401 of Additional Ukraine Supplemental Appropriations Act, 2022, P.L. 177-128.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

### **COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

### **PUBLIC HEARING:**

January 3, 2025

### **ADOPTION:**

January 24, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 29, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

September 15, 2025

### **SUPERSEDED EMERGENCY ACTIONS:**

### **SUPERSEDED RULES:**

Chapter 60. Refugee Resettlement Program

340:60-1-3 [AMENDED]

(Reference WF 24-06)

### **GUBERNATORIAL APPROVAL:**

October 8, 2024

### **REGISTER PUBLICATION:**

42 Ok Reg 278

### **DOCKET NUMBER:**

24-1084

### **INCORPORATIONS BY REFERENCE:**

### **INCORPORATED STANDARDS:**

N/A

### **INCORPORATING RULES:**

N/A

### **AVAILABILITY:**

N/A

### **GIST/ANALYSIS:**

The proposed amendments to Chapter 60 amend the rules to allow a Ukrainian humanitarian parolee until September 30, 2024, to receive parole and be an eligible refugee, per Section 301 of the Ukraine Security Supplemental Appropriations Act, 2024, Public Law (P.L.) 188-50.

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## CONTACT PERSON:

Caleb Turner, Programs Manager III, 405-982-3685

**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, 2025:**

### **340:60-1-3. Refugee Resettlement Program (RRP) [AMENDED]**

(a) **Purpose.** The RRP purpose is to provide for effective refugee resettlement and to assist refugees to achieve economic self-sufficiency as quickly as possible, per Section 400.1 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 400.1.).

(b) **Legal basis and funding availability.** The Refugee Act of 1980 (Public Law 96-212) provides assistance to refugees, regardless of national origin, to be administered by the states, with up to 100 percent reimbursement from federal funds. Provision of RRP benefits is based on federal fund availability. If federal funding is reduced or terminated, RRP benefits are reduced or terminated accordingly.

(c) **Refugee documentation.** A refugee applying for RRP must provide United States Citizenship and Immigration Services (USCIS) documentation to verify the person's refugee status. Acceptable documentation includes, but is not limited to:

- (1) Form I-94, Departure Record;
- (2) Form I-551, Legal Permanent Resident Card;
- (3) a passport stamped with the classification status;
- (4) a T-Visa; or
- (5) a letter or order from USCIS or court granting asylum.

(d) **Refugee status.** The USCIS documentation the applicant provides must show the applicant's status is:

- (1) paroled as a refugee or asylee under Section 212(d)(5) of the Immigration and Nationality Act (INA);
- (2) admitted as a refugee under Section 207 of the INA;
- (3) granted asylum under Section 208 of the INA;
- (4) admitted as an Amerasian immigrant from Vietnam under Section 584 of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1989, as amended;
- (5) admitted for permanent residence, provided the person previously held one of the statuses identified in this Section;
- (6) a Cuban or Haitian entrant, per requirements in 45 C.F.R. Part 401;
- (7) an alien and the alien's eligible relatives who are victims of a severe form of trafficking per Section 107(b) of the Trafficking Victims Protection Act of 2000 as reauthorized and amended by the Trafficking Victims Protection Reauthorization Act of 2003;
- (8) an Iraqi admitted in special immigrant status as defined in Section 101(a)(27) of Title 8 of the United States Code (8 U.S.C. 1101(a)(27)), and per Section 1059 of P.L. 109-163, the National Defense Authorization Act for Fiscal Year 2006, and Section 1244 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008 per Section 525 of Division G of P.L. 110-161, the Consolidated Appropriations Act of 2008, and Section 1244 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008;
- (9) an Afghan admitted in special immigrant status as defined per 8 U.S.C. 1101(a)(27) and per Section 1059 of P.L. 109-163, the National Defense Authorization Act for Fiscal Year 2006, Section 602, Division F of P.L. 111-08, the Omnibus Appropriations Act, 2009, per Section 525 of Division G of P.L. 110-161 of the Consolidated Appropriations Act, 2009;
- (10) an Afghan who receives special immigrant (SI) conditional permanent residence, SI/SQ parole or who is a humanitarian parolee admitted to the United States (U.S.) due to urgent humanitarian reasons or significant public benefit, per Section 2502 of the Afghanistan Supplemental Appropriations Act, 2022, P. L. 117-43, as modified by Section 106(3) and 149(a) of the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023, P. L. 117-180. Humanitarian parolees paroled into the U.S. between July 31, 2021, through December 16, 2022 are eligible for refugee cash assistance (RCA) and refugee medical assistance (RMA) benefits for 12 months beginning October 1, 2021, or the date the parolee "enters the community" in the U.S., such as when they leave a military base, whichever is later. The latest date humanitarian parolees may receive RCA and RMA benefits is March 31, 2023 or the end of their parole term, whichever is later; or

(11) a Ukrainian citizen or national or person who last habitually resided in Ukraine and received parole per Section 401 of the Additional Ukraine Supplemental Appropriations Act of 2022, P.L. 117-128. The parole must occur between February 24, 2022, and September 30, ~~2023~~2024. If after September 30, ~~2023~~2024, the parolee must be the child, spouse, parent, legal guardian, or primary caretaker of a Ukrainian parolee who was paroled between February 24, 2022 and September 30, ~~2023~~2024.

(e) **Alien status declaration.** Under penalty of perjury, the applicant declares the alien status of all persons applying for RRP benefits on the application and signs the application. Before adding an additional person to the benefit after certification, this declaration is made on Form 08MP022E, Declaration of Citizenship Status. The Systematic Alien Verification for Entitlement (SAVE) process is used to verify alien status, per OAC 340:65-3-4(5).

(f) **Exclusions from RRP.** Persons excluded from participation in RRP are:

- (1) resident aliens who did not previously have refugee or asylee status; or
- (2) any asylum applicant who has not been granted asylum status.

## **340:60-1-6. Program eligibility and procedures [AMENDED]**

(a) **Refugee Resettlement Program components.** The federal Office of Refugee Resettlement provides funding to states for time-limited cash and medical assistance and resettlement case management and support services for new arrivals to the United States (U.S.) who meet refugee status, per Oklahoma Administrative Code (OAC) 340:60-1-3.

(1) A contracted service provider is responsible for providing resettlement case management and support services to newly arriving refugees and asylees in Oklahoma. Refer to Appendix C-9, Refugee Resettlement Program Benefit and Service Providers, for provider information.

(2) Oklahoma Human Services (OKDHS) ~~is responsible for determining~~determines financial eligibility for ~~refugee medical benefits~~Refugee Medical Assistance (RMA), and a contracted provider determines financial eligibility for ~~refugee cash assistance~~Refugee Cash Assistance (RCA) throughout Oklahoma. Refer to Appendix C-9, ~~Refugee Resettlement Program Benefit and Service Providers, to determine which contracted~~for provider serves a specific county information.

(b) **Refugee support services (RSS).** Refugee support services are ~~provided~~available for up to five-calendar years after the arrival date ~~by OKDHS contracted providers~~, per Sections 400.147 through 155 of Title 45 of the Code of Federal Regulations (45 C.F.R. §§ 400.147 through 155). Support services promote economic self-sufficiency through employability services, English language instruction, and social adjustment services.

(c) **Cash assistance.** Refugees and asylees ~~must be afforded~~have an opportunity to apply for cash assistance, per 45 C.F.R. § 400.50. Eligibility is determined according to Temporary Assistance for Needy Families (TANF) or State Supplement Payment (SSP) program rules. When the refugee or asylee does not meet TANF or SSP cash assistance eligibility requirements, an RCA application is made. When the refugee or asylee is 65 years of age and older, blind, or disabled, the refugee is referred to the Social Security Administration to apply for Supplemental Security Income.

(1) **Eligibility requirements for RCA.** RCA eligibility requirements are included in (A) through (H) of this paragraph, per 45 C.F.R. §§ 400.25, 400.53, 400.54, 400.59, 400.75 through 400.79, and 400.81 through 400.83.

(A) **Limited eligibility period.** A refugee or asylee may only receive RCA for the first 12-calendar months the refugee resides in the U.S.

(B) **Refugee documentation and status requirements.** Refugees and asylees must meet documentation and status requirements, per OAC 340:60-1-3.

(C) **Residence requirement.** The refugee or asylee must be an Oklahoma resident and not receiving cash assistance in another state. There is no ~~durational~~minimum residency requirement. OKDHS and contracted service providers accept the refugee's or asylee's statement that the refugee or asylee resides in Oklahoma unless it is inconsistent with other known facts.

(D) **Student status.** A refugee or asylee must not be a full-time student in a higher education institution.

(E) **Household composition.** Household composition may consist of a family unit that includes:

(i) a single adult. Adults living alone or with other adults are considered as single or separate family units; ~~or~~

(ii) an adult and the adult's spouse and all minor children, 17 years of age and younger, for whom the family assumes financial responsibility;

~~(iii) Spouses~~spouses living together must be considered in the same family unit; ~~or~~

(iv) a minor child, 17 years of age or younger, living with an adoptive or biological parent, must be included in the same family unit as their biological or adoptive parent regardless of the parent's marital status.

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(F) **Income requirements.** Maximum countable earned and unearned income for all family unit members must be less than the payment standard for the number of eligible members per Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule XIV.A. When income is reduced due to overpayment or garnishment recoupment, the gross income before recoupment or garnishment is counted.

(i) **Reporting requirements.** Family unit members ~~are responsible for reporting~~ must report all income at application and within 10-calendar days of when:

- (I) a family unit member begins employment or starts receiving unearned income; or
- (II) the income source, amount, or dates received changes.

(ii) **Earned income.** Earned income is income a family unit member receives in the form of wages, salary, commission, in-kind benefits received in lieu of wages or in conjunction with wages from an employer, or self-employment for which a person puts forth physical labor. In-kind benefits are earned income only when an employee and employer relationship is established.

(I) Earned income is not counted against the payment standard for the first six months of the 12-month eligibility period.

(II) When the person works for an employer, gross earnings for the ~~fifth-calendar-seventh-calendar~~ month are determined by averaging gross earnings for the most recent 30-calendar day period and converting the earnings to a monthly amount. Gross earnings from an employer are counted dollar-for-dollar against the payment standard.

(III) When the person is self-employed, gross earnings for the ~~fifth-calendar-seventh-calendar~~ month are determined by averaging income over the number of months the business was in operation and subtracting verified business expenses.

(iii) **Unearned income.** Income other than earned income is unearned income. All unearned income received during a month is counted dollar-for-dollar against the payment standard unless disregarded per (iv) of this subparagraph. Unearned income includes, but is not limited to:

- (I) dividends and interest;
- (II) cash contributions;
- (III) retirement, disability, or unemployment benefits;
- (IV) worker's compensation;
- (V) child support or alimony; or
- (VI) rental income.

(iv) **Income disregards.** Income disregarded when determining income eligibility includes:

- (I) earnings received during the first six-calendar months ~~of~~ after the refugee's arrival in the U.S.;
- (II) benefits received through a cooperative agreement, such as U.S. Department of Justice or U.S. Department of State – Reception and Placement benefits;
- (III) loans;
- (IV) money received from the sale of personal property, unless it is self-employment income;
- (V) income received by someone living in the home who is not included in the family unit;
- (VI) tax refunds;
- (VII) gifts;
- (VIII) lump sum inheritances or insurance payments;
- (IX) Supplemental Nutrition Assistance Program food benefits;
- (X) a child's earnings, provided the child is younger than 18 years of age and is a full-time student;
- (XI) housing and utility assistance;
- (XII) income or resources remaining in the country of origin; or
- (XIII) ~~matching grant~~ Matching Grant or Preferred Communities benefits from a resettlement agency.

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(v) **Verification requirements.** Income is verified at application, when a family unit member begins employment or starts receiving unearned income, and as changes occur. The verification process must be explained to the refugee or asylee at application and as new verification is needed, including what verification must be submitted by a certain date. Assistance in obtaining the required verification must be offered, when needed.

(I) Earned income may be verified by paystubs, an employer statement, or, when self-employed, business records. Self-employed persons must provide expense receipts before business expenses are subtracted from earnings. In-kind benefits' cash value is verified by an employer statement.

(II) Unearned income may be verified by an award letter, a written letter from or verbal contact with the person or agency providing the income, a check stub or a copy of a check, a court order, financial institution statements, or data exchange screens, per OAC 340:65-3-4.

(III) When the family unit fails to provide required verification or fails to ask for assistance to obtain verification, the application may be denied or cash assistance closed.

(G) **Resource requirements.** Refer to Appendix C-1, Schedule XIV.A(B) for the maximum allowable resource amount per family unit. Countable resources refer to real and personal property that have a monetary value and are available or can be converted to cash for current use. Home property and personal items essential to day-to-day living, such as clothing, furniture, and other similar items of limited value are excluded as resources. Countable resources include, but are not limited to:

- (i) cash on hand;
- (ii) savings in a financial institution;
- (iii) stocks and bonds; or
- (iv) equity in an automobile or other vehicles that exceeds \$5,000.

(H) **Requirement to complete and participate in an employment plan.** Non-exempt household members must complete and participate in an employment plan the refugee and the ~~refugee support service~~ RSS provider develop. The employment plan lists an employment goal, barriers to be addressed, and pathways to remove the barriers to meet the employment goal.

(i) Participation in an employment plan includes:

- (I) registering with the ~~refugee support service~~ RSS provider providing employment services;
- (II) going to ~~one or more job interview~~ interviews the ~~refugee support service~~ RSS provider arranges;
- (III) accepting at any time, from any source, an offer of employment that the ~~refugee support service~~ RSS provider determines to be appropriate; and
- (IV) participating in any employability service program that provides job or language training in the area where the refugee resides.

(ii) Household members that meet criteria in (I) through (VIII) of this unit are exempt from the requirement to complete and participate in an employment plan. To be exempt, the household member must be:

- (I) younger than 16 years of age or 65 years of age and older;
- (II) younger than 18 years of age and a full-time student;
- (III) 18 years of age and a full-time student in secondary school or in a technical or trade school at an equivalent level with reasonable expectations to complete the program before the person turns 19 years of age;
- (IV) mentally or physically incapacitated. The refugee must provide medical documentation verifying that the incapacity is serious enough to prevent participation in employment services;
- (V) caring for another household member with a mental or physical impairment that requires care in the home on a substantially continuous basis and no other appropriate household member is available;
- (VI) a parent or relative caretaker of a child younger than one year of age when the person provides full-time care of the child. Only one parent or caretaker relative may be exempt in a household for this reason;
- (VII) ~~working 30 hours per week in unsubsidized employment; or~~

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~~(VIII)~~ pregnant with a due date within the next six-calendar months based on medical verification; or  
(VIII) Cuban or Haitian Entrants, per Section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), who are in pending removal proceedings but have not received a final, non-appealable, and legally enforceable removal order.

(iii) The ~~refugee support service~~ RSS provider follows criteria in (I) through (IX) of this unit when assisting a refugee with a job placement.

(I) The assignment ~~must be~~ is within the scope of the person's employment plan.

(II) The refugee or asylee ~~must be~~ is able to meet the job requirements.

(III) Commuting time to and from work may not exceed a total of two hours.

(IV) The assigned work site ~~must do~~ does not ~~be in violation of~~ violate applicable federal, state, or local health and safety standards.

(V) Work assignments ~~must be~~ are not made on a discriminatory basis.

(VI) Work assignments may be temporary, part-time, full-time, or seasonal.

(VII) The earned wage ~~must meet~~ meets federal or state minimum wage laws or is not ~~be~~ substantially less than the wage normally paid for similar work.

(VIII) The total number of days and hours the person is expected to work ~~must do~~ does not exceed those customary to the occupation.

(IX) The refugee or asylee is not required to accept work when the position is available due to a strike, lockout, or other bona fide labor dispute or when the work is contrary to the refugee's or asylee's union membership.

(iv) RCA is closed for the entire household when a non-exempt household member without good cause:

(I) refuses to complete an employment plan;

(II) refuses or fails to participate in assigned activities included in the employment plan;

(III) refuses or fails to accept appropriate employment; or

(IV) voluntarily terminates employment.

(v) Examples of good cause may include, but are not limited to:

(I) when appropriate child care is not available;

(II) the illness or incapacity of the participant or any household member who cannot give self-care and for whom special care is unavailable;

(III) a court-required appearance or incarceration of the participant;

(IV) the participant's attendance at parent and teacher conferences;

(V) a family crisis or markedly changed individual or family circumstances;

(VI) the unavailability of planned transportation when needed or the inability to arrange for transportation;

(VII) inclement weather that prevented the participant, and other persons similarly situated, from traveling to, or participating in, the prescribed activity;

(VIII) the lack of necessary social services or work activity;

(IX) when the assignment or job referral does not meet the appropriate work activity;

(X) racial, ethnic, religious, sexual, physical or mental disability, or age discrimination or harassment by an employer or other employees; or

(XI) crisis intervention needed due to domestic violence issues.

(2) **Incentive bonuses.** Incentive bonuses are available to eligible individuals; however, the maximum total benefit amount, RCA plus incentive bonuses, that any family unit may receive is the payment standard amount times the 12-month eligibility period. When the maximum benefit amount is reached, the family unit is no longer eligible for RCA or incentive bonuses even when the family unit has been in the U.S. less than 12-calendar months.

(A) **Early job acceptance bonus.** When the refugee or asylee obtains employment within the first 150-calendar days of the U.S. arrival date, the refugee or asylee may be eligible to receive an early job acceptance bonus of up to \$750 to assist the refugee with work-related expenses. To receive the bonus, the refugee or asylee must:

(i) request the bonus within 60-calendar days of the employment start date; and



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(ii) submit proof of employment and a list of employment-related expenses necessary to successfully perform and maintain employment. Expenses may include, but are not limited to:

- (I) a vehicle down payment;
- (II) tools;
- (III) uniforms;
- (IV) driving lessons; or
- (V) automobile insurance.

(B) **Job retention bonus.** A refugee or asylee may be eligible for a job retention bonus of up to \$100 per person in the family unit when the refugee or asylee obtains employment within the first 150-calendar days of arriving in the U.S. and retains the employment through the end of the 10th-calendar month following arrival. To qualify for the bonus, the refugee or asylee must:

- (i) not have received an RCA ~~cash assistance~~ payment for every month of the 10-month eligibility period;
- (ii) submit proof the refugee or asylee retained employment through the end of the 10th-calendar month;
- (iii) not re-apply for RCA following benefit closure based on earnings; and
- (iv) request the job retention bonus within 60-calendar days from the end of the 10-month eligibility period.

(3) **Benefit denial or closure.** The family unit's application may be denied or benefits closed when the family unit does not:

- (A) meet eligibility requirements per (c)(1) of this Section; or
- (B) abide by program terms, such as failing to:
  - (i) provide required verification;
  - (ii) keep scheduled appointments; or
  - (iii) follow employment plans.

(4) **Notice requirement.** Written notice is sent or provided to a recipient at least 10-calendar days before the date RCA is reduced, suspended, or closed. The contracted provider sends or provides notices to refugees.

(5) **Fair hearing requirement.** RCA applicants and recipients may request a fair hearing when they disagree with an adverse action. The contracted provider conducts the fair hearings statewide.

(d) **Medical assistance.** Refugees and asylees must ~~be afforded~~ have an opportunity to apply for medical assistance, per 45 C.F.R. § 400.93.

(1) The refugee's eligibility for SoonerCare (Medicaid) ~~must be~~ is determined before approving a refugee or asylee for RMA. SoonerCare (Medicaid) eligibility is determined per OAC 317:35 rules.

(2) When the refugee or asylee is not eligible for SoonerCare (Medicaid), RMA eligibility is determined per (e) of this Section.

(3) When a refugee or asylee receiving SoonerCare (Medicaid) becomes ineligible because of earnings and has resided in the U.S. for less than 12-calendar months, the refugee or asylee is transferred to RMA for the remaining months.

(e) **RMA.** A refugee or asylee is not required to meet categorical relationship rules per OAC 317:35 for the first 12-calendar months from the date of entry into the U.S. Per 45 C.F.R. §§ 400.100 through 400.104, RMA eligibility requirements are listed in (1) through (5) of this subsection.

(1) **Limited eligibility period.** RMA is limited to the first 12-calendar months the refugee or asylee resides in the U.S. After the first 12-calendar months, the refugee or asylee is referred to the Oklahoma Health Care Authority's online enrollment process to apply for SoonerCare (Medicaid), and Medicaid rules, per OAC 317:35 apply.

(2) **Refugee documentation and status requirements.** Refugees and asylees must meet documentation and status requirements, per OAC 340:60-1-3.

(3) **Student status.** A refugee or asylee must not be a full-time student in a higher education institution unless OKDHS approves enrollment as part of the refugee's employability plan.

(4) **RCA eligibility.** All RCA recipients are eligible for RMA when not eligible for SoonerCare (Medicaid). However, the refugee or asylee is not required to apply for or receive RCA to qualify for RMA.

(5) **Income and resource requirements.** For RMA, only income and resources available on the application date are considered. Refer to OKDHS Appendix C-1, Schedule XIV for income standards per household size and the resource standard per family unit. No consideration is given to:

- (A) in-kind services and shelter provided by a sponsor or a local resettlement agency;
- (B) cash assistance payments; or

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(C) earnings that start after RMA approval.

(f) **Application processing time limit.** The application date is the date a refugee makes the request to apply. RCA and RMA applications must be processed within 30-calendar days of the application date to be ~~considered~~ timely. When the application cannot be processed timely, the applicant is notified in writing of the reason for the delay and the right to request a fair hearing, per OAC 340:2-5.

(g) **Food benefits.** A food benefit application is completed at the same time as the RCA and RMA application and processed using food benefit eligibility rules, per OAC 340:50.

*[OAR Docket #25-346; filed 5-29-25]*

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## TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES

*[OAR Docket #25-360]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

340:65-1-2. Purpose, legal basis, and confidential nature of case material [AMENDED]

Subchapter 3. Eligibility for Benefits

340:65-3-1. Eligibility determination [AMENDED]

340:65-3-2. Definitions [AMENDED]

340:65-3-2.1. Counting days for providing proof, interview dates, and application time limits [AMENDED]

340:65-3-4. Investigation of eligibility conditions and services planning [AMENDED]

340:65-3-5. Application process [AMENDED]

340:65-3-8. Continuing eligibility determination [AMENDED]

### AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); 45 U.S.C. § 604; 45 C.F.R. § 206.10(a)(9); 42 U.S.C. §§ 8622(3) and 8623(c); and 7 C.F.R. § 273(c)(1)(iv); Section 6103 of Title 26 of the United State Code (26 U.S.C. § 6103).

### SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 6, 2024

### COMMENT PERIOD:

December 2, 2024 through January 2, 2025

### PUBLIC HEARING:

January 3, 2025

### ADOPTION:

January 24, 2025

### SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

January 29, 2025

### LEGISLATIVE APPROVAL:

Approved May 28, 2025, by HJR 1035

### LEGISLATIVE DISAPPROVAL:

N/A

### APPROVED BY GOVERNORS DECLARATION:

N/A

### FINAL ADOPTION:

May 28, 2025

### EFFECTIVE:

September 15, 2025

### SUPERSEDED EMERGENCY ACTIONS:

### SUPERSEDED RULES:

## CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES

### Subchapter 1. General Provisions

#### 340:65-1-2 [AMENDED]

(Reference WF 23-06)

### Chapter 65. Public Assistance Procedures

### Subchapter 3. Eligibility for Benefits

#### 340:65-3-2 [AMENDED]

(Reference WF 24-17)

#### **GUBERNATORIAL APPROVAL:**

WF 23-06 340:65-1-2 approved March 15, 2024 WF 24-17 340:65-3-2 approved October 8, 2024

#### **REGISTER PUBLICATION:**

WF 23-06 41 OK Reg 672 WF 24-17 42 Ok Reg 280

#### **DOCKET NUMBER:**

WF 23-06 Docket number 24-536 WF 24-17 Docket number 24-1088

#### **INCORPORATIONS BY REFERENCE:**

#### **INCORPORATED STANDARDS:**

N/A

#### **INCORPORATING RULES:**

N/A

#### **AVAILABILITY:**

N/A

#### **GIST/ANALYSIS:**

The proposed amendment to Chapter 65, Subchapter 1, is to comply with federal findings communicated during the Internal Revenue Service (IRS) Safeguard review. The proposed amendments to Chapter 65, Subchapter 3 amend the rules to: (1) remove the Temporary Assistance for Needy families (TANF) face-to-face interview requirement for a certification renewal; (2) rebrand the "Supplemental Security Income-Disabled Children's Program" as "Children and Youth with Special Health Care Needs"; (3) update the handling of applications received outside of Oklahoma Human Services (OKDHS) operating hours; and (4) align Chapter 65 rules with the proposed Low Income Home Energy Assistance Program (LIHEAP) rules. The proposed amendments achieve OKDHS goals by communicating updated eligibility information to applicants, recipients, OKDHS staff, and contracted partners; aligning eligibility standards with federal regulations; and ensuring effective and efficient program administration.

#### **CONTACT PERSON:**

Caleb Turner, Programs Manager III, 405-982-3685

**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, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### **340:65-1-2. Purpose, legal basis, and confidential nature of case material [AMENDED]**

(a) **Purpose.** The purpose of this Chapter is to describe rules for the comprehensive management of Adult and Family Services (AFS) cases.

(b) **Legal basis.** Oklahoma Human Services (OKDHS) maintains the confidentiality of all applications, information, and records concerning applicants and recipients, per the Oklahoma Social Security Act located in Sections 161-260 of Title 56 of the Oklahoma Statutes (56 O.S. §§ 161-260) and the Federal Social Security Act.

(c) **Custody of records.** All case information including electronic data procured by, or available to, any OKDHS employee is OKDHS property and is used only in accordance with the provisions of federal laws, Oklahoma Statutes, and OKDHS rules.

(1) **Authority to disclose information.** The field manager is responsible for the custody and proper use of records in the OKDHS office. All requests for information from an OKDHS record are referred to the field manager, unless the request originates within OKDHS in carrying out its regular functions. Employees of each OKDHS division may exchange necessary information when working with the same family or a related case to provide benefits and services.

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(2) **Safeguarding case information.** OKDHS employees safeguard case information, per Oklahoma Administrative Code (OAC) 340:1-1-20, OKDHS:2-41-15, OKDHS:2-45, OAC 340:65-3-6, and as provided in (A) through (D) of this ~~subsection~~paragraph.

(A) The field manager is:

- (i) the custodian of client records assigned to and located in an OKDHS office, or processed at an alternate work location; and
- (ii) responsible for:
  - (I) taking reasonable precautions to ensure the confidentiality and proper use of client case information; and
  - (II) ensuring employees know OKDHS rules regarding safeguarding client case information and when and to whom information may be released.

(B) Per OKDHS:2-1-301, alternate work locations must be capable of safeguarding case information. When an alternate work location does not meet safeguarding standards, case information is not received, stored, or processed at that location.

(C) Practices for safeguarding information include:

- (i) secure records storage in locked buildings, rooms, and containers;
- (ii) securely storing OKDHS-owned electronic equipment;
- (iii) controlling or restricting access to areas containing case information;
- (iv) case information is:
  - (I) secured in a storage area, such as in a desk or file cabinet, when an employee is not present;
  - (II) not stored on any electronic device or storage media that is not OKDHS property;
  - (III) not emailed outside of OKDHS unless it is encrypted; and
  - (IV) destroyed in secure destruction bins when in paper form, after it is no longer needed or required; and
- (v) providing reasonable privacy or restricted viewing of electronic data visible on computer screens or mobile devices.

(D) Information that must be safeguarded includes:

- (i) names and addresses, including lists;
- (ii) information contained in an application;
- (iii) investigation reports;
- (iv) medical data including, but not limited to, diagnosis and past history of disease and disability;
- (v) correspondence and other records concerning the condition or circumstances of any person from whom or about whom information is obtained;
- (vi) evaluations of information contained in (i) through (v) of this subparagraph; and
- (vii) all data items available on computer screens. Disclosure to any unauthorized person is a federal and state regulation violation. Authorized persons are:
  - (I) the client;
  - (II) the client's authorized representative;
  - (III) OKDHS employees;
  - (IV) authorized volunteers; and
  - (V) other agencies' employees with a contract or agreement that allows access to specific data.

(3) **Safeguarding federal tax information (FTI).** Per Section 6103 of Title 26 of the United States Code (26 U.S.C. § 6103), OKDHS safeguards and restricts access to FTI to persons whose duties or responsibilities require access.

(A) FTI information that is safeguarded includes:

- (i) the client's name;
- (ii) the client's Social Security number;
- (iii) Internal Revenue Service (IRS) reporting firm, company, and political subdivision;
- (iv) state agency account number;
- (v) income type; and
- (vi) the amount of income or resources.

(B) AFS restricts FTI access to designated AFS FTI specialists who complete a favorably adjudicated suitability or security background investigation prior to handling FTI and ~~annually~~every five years thereafter. At a minimum, the background investigation must be at a tier-two level as designated by federal investigative standards and include:

- (i) the results of a Federal Bureau of Investigation (FBI) fingerprint check using Form FD-258, FBI Applicant Fingerprint Card, from the state identification bureau. In Oklahoma, the Oklahoma State Bureau of Investigation Criminal Identification Section is the agency authorized to conduct FBI fingerprinting. The fingerprint results check the employee's criminal history in all 50 states;
- (ii) a check of local law enforcement agencies where the employee lived, worked, or attended school within the last five years to identify trends of misbehavior and any identified arrests;
- (iii) validating the employee's identity and eligibility to legally work in the United States (U.S.). New employees must complete the U.S. Citizenship and Immigration Services Form I-9, Employment Eligibility Verification, and be processed through E-Verify within three-business days of completing the form to assist with verifying the employee's employment status and the documents provided with Form I-9; and
- (iv) completing another background investigation every five years following the previous background investigation's completion.

(C) AFS Security (IS) manager reviews a person's background investigation to determine whether AFS hires a job seeker, disciplines or terminates an existing employee, or permits or terminates access to FTI. To evaluate past criminal offenses, felonies, and misdemeanors, the AFS IS manager considers:

- (i) whether OKDHS learned about the offense during the application or a subsequent reinvestigation;
- (ii) what the position's duties and FTI access requirements are;
- (iii) how much time has passed without a subsequent charge or conviction relating to a new offense;
- (iv) whether the offender complied or is complying with any probation or parole terms;
- (v) whether the offender has paid restitution; and
- (vi) how any extenuating circumstances the offender offers mitigate the offense.

(D) Information safeguarding practices include:

- (i) securing FTI, such as any written, typed, photocopied, or printed information from the Income Eligibility Verification System-Internal Revenue Service (IEVS-IRS), and Beneficiary and Earnings Data Exchange System (BENDEX) in a storage area, such as in a locked desk or file cabinet;
- (ii) not viewing or storing FTI on any electronic device that is not OKDHS or state of Oklahoma property;
- (iii) not printing or maintaining FTI in a non-electronic format;
- (iv) not emailing FTI;
- (v) not faxing FTI;
- (vi) not sharing FTI in unapproved applications, such as Microsoft Office 365 applications including, but not limited to, Outlook, Yammer, Teams, SharePoint, OneDrive, and Planner; and
- (vii) not bypassing access controls to enter a restricted area that contains FTI.

(E) FTI disclosure in violation of the guidelines specified in IRS Publication 1075, is a felony punishable by a fine in an amount not exceeding \$5,000 or imprisonment of not more than five years, or both, together with the prosecution costs. Further, an AFS FTI specialist may lose access to FTI and be subject to disciplinary action, per OKDHS:2-1-7, when the specialist:

- (i) does not properly safeguard FTI;
- (ii) does not complete or pass the annual favorably adjudicated suitability or security background investigation; or
- (iii) releases FTI to an unauthorized person(s), per 26 U.S.C. § 7213.

**(4) Nature of information to be made available.** General information not identified with any particular person or group of persons, such as total expenditures made, number of recipients, and other statistical information and social data contained in reports or surveys do not fall within the material to be safeguarded.

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(A) Requested information is released to representatives of other agencies that are authorized by federal law or Oklahoma Statutes to have the information. Information may be released to other agencies only when they give assurance that the:

- (i) confidential character of the information is preserved;
- (ii) information is used only for purposes related to administering the assistance program and the inquiring agency's functionality; and
- (iii) protection standards their agency establishes are equal to those OKDHS establishes, regarding both how their employees use the information and their protective procedures provisions.

(B) Client addresses may be disclosed to federal, state, and local law enforcement officers who furnish the client's name, Social Security number, and notify OKDHS that the location or apprehension of the client is within their official duties and that the client is:

- (i) a fugitive felon who is fleeing to avoid prosecution, custody, or confinement after conviction; or
- (ii) violating a probation or parole condition.

(C) The days and hours a child is approved for the Child Care Subsidy Program may be disclosed to a child care provider.

(D) Upon written request, information used to establish eligibility that is not otherwise legally protected is made available to the client or the client's representative during normal business hours. Confidential information, including the names of persons who have disclosed information about the client without the client's knowledge, and the nature or status of pending criminal prosecutions, is withheld.

(E) Information the employee obtains from collateral sources, other than public records or the employee's written evaluation of the client's situation, is not made available to the client or to any other person without the consent of the person who gave the information.

(F) Prior to a fair hearing, the designated OKDHS field employee ~~is responsible for providing~~provides the client with a copy of the completed hearing summary and documents or other records the employee plans to present at the hearing.

**(5) Information release at client request.** Upon the client's, or the client representative's, written request, OKDHS may release client-provided information to the client or the authorized representative. When an OKDHS employee receives a written inquiry from an interested person, another agency, or the courts, and the client's written permission accompanies the inquiry, the employee may furnish the information when the written release specifies what client-provided information to release and to whom it may be released.

**(6) Information release to courts.** OKDHS employees may only release case information about the client in court proceedings upon subpoena, except upon a court official's request in cases of child abandonment and desertion, child neglect, or restitution when OKDHS referred such cases to the court. In these situations, OKDHS employees' testimony is limited to material affecting the administration of public assistance law except when participating in a case the client or the client's representative requested and in which the client's personal interests are at stake.

(A) When a court subpoenas an OKDHS employee to give testimony based upon OKDHS records, the field manager confers with OKDHS Legal Services (LS) regarding the proper way to convey to the court the confidential character of information made available to OKDHS in the process of administering assistance and OKDHS's duty, per 43A O.S. § 10-110, to protect its records.

(B) When there is reason to believe the court will not respect the confidential character of OKDHS records, the field manager communicates immediately with OKDHS LS to determine the best course of action to take.

**(7) Information release to the District Attorney (DA).** OKDHS employees may release information to the DA as necessary, to carry out OKDHS rules regarding child support pursuit from a non-custodial parent. When child support pursuit is required in order for a client to receive Temporary Assistance for Needy Families benefits or SoonerCare (Medicaid), AFS employees inform the client of this requirement.

**(8) Medical information release.** Medical information OKDHS or the Oklahoma Health Care Authority pays for may be released at the request of the person to whom it pertains, as well as to another agency to which the person applied for services with the objective to protect or advance the person's welfare. There is nothing in federal law or Oklahoma Statutes to prevent a physician from releasing medical information to the physician's patient or a patient's authorized representative. In such instances, the physician-patient relationship governs the physician.

(A) OKDHS LS determines if the requested medical information may be released under federal regulations and OKDHS rules.

(B) AFS employees do not release information obtained from the ~~U.S.~~U.S. Department of Veterans Affairs or from the Social Security Administration to anyone outside of OKDHS.

(C) When a client requests a fair hearing on a medical decision, all medical records or reports considered in establishing a medical decision are provided to the client or the client's authorized representative at a reasonable time before the hearing except for psychological and psychiatric records and medical records regarding alcohol or substance abuse treatment. Copies of psychological and psychiatric records and medical records regarding alcohol or substance abuse treatment are only released with the treating physician's or practitioner's consent or when a court of competent jurisdiction orders it released upon a finding that it is in the patient's best interest.

## SUBCHAPTER 3. ELIGIBILITY FOR BENEFITS

### 340:65-3-1. Eligibility determination [AMENDED]

(a) **Eligibility determination.** The eligibility determination process includes the applicant filing a signed application, the worker certifying or denying benefits, and all subsequent activities required to receive continuous benefits. The applicant has the right and responsibility to participate in the eligibility determination process and is relied on as the ~~first source of~~ information source.

(1) Someone acting on the applicant's behalf, such as an authorized representative or a person with power-of-attorney, may complete the application for all programs except for Temporary Assistance for Needy Families (TANF). The applicant must complete and sign a TANF application.

(2) For another person to apply on the applicant's behalf, the applicant must designate the person as the authorized representative on the signed application or the person provides a completed Form 08MP008E, Authorized Representative Request, or a statement signed by the applicant giving the person permission to act on his or her behalf. The SoonerCare (Medicaid) programs allow others to apply for the applicant without a written designation.

(b) **Filing an application.** A household must complete an application to apply for the Child Care Subsidy Program, Low Income Home Energy Assistance Program (LIHEAP), SoonerCare (Medicaid) Program, Supplemental Nutrition Assistance Program (SNAP), State Supplemental Payment (SSP), TANF, or Diversion Assistance (DA). The applicant may request one or more benefits on the same application ~~except for~~ LIHEAP ~~because it is not an ongoing benefit, so the~~ household may only apply during open enrollment.

(1) The applicant may apply for benefits online, with a worker in an Oklahoma Human Services (OKDHS) office or an embedded work location, or by downloading a paper application and bringing or mailing or faxing it to an OKDHS office or an embedded work location. :

(2) When someone applies on behalf of the applicant, the person may apply in any county.

(3) When the applicant applies for TANF cash assistance, OKDHS assigns the applicant's TANF Work activities based on his or her needs, convenience, and career pathway.

(c) **Signature requirements.** The applicant, guardian, or someone acting on the applicant's behalf, such as an authorized representative or a person with power of attorney, must sign the application prior to benefit approval.

(1) The applicant must sign TANF and DA applications. When the TANF applicant lives with his or her spouse, they ~~must~~ both sign the application.

(2) The applicant may voluntarily withdraw the request for benefits or services before or after signing the application.

(3) An applicant who is:

(A) eligible for Medicare signs the application using the name on his or her Medicare Health Insurance Benefits (HHB) card; or

(B) not eligible for Medicare signs the application using the name shown on his or her Social Security card.

(d) **Interview requirements.** Interview requirements vary by program.

(1) ~~Per Section 206.10 of Title 45 of the Code of Regulations, OKDHS staff must complete a face-to-face TANF certification renewal interview every 12 months. The face-to-face interview may occur in the OKDHS office, at a home visit, or through a virtual video conference.~~

(2) The applicant must complete a phone or face-to-face interview that may be a virtual video conference interview, for the:

(A) Child Care Subsidy Program;

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- (B) SSP Program;
- (C) SoonerCare (Medicaid) long-term care programs, such as ADvantage Waiver, nursing home care, or personal care;
- (D) SoonerCare (Medicaid) programs that categorically relate to the aged, blind, and disabled population, such as Qualified Medicare Beneficiary Plus (QMBP), Specified Low-Income Medicare Beneficiary (SLMB), or Qualified Disabled and Working Individuals (QDWI);
- (E) SNAP;
- (F) ~~Supplemental Security Income-Disabled Children's Program~~ Children and Youth with Special Health Care Needs (CYSHCN); or
- (G) TANF, ~~except for the certification renewal every 12 months.~~

(2) An interview is not required when a person applies for:

- (A) LIHEAP; or
- (B) SoonerCare (Medicaid), when the Oklahoma Health Care Authority is responsible for determining eligibility, per Oklahoma Administrative Code (OAC) 317:35-5-63.

(e) **Worker responsibilities.** During the eligibility determination process, the worker ~~is responsible for:~~

(1) ~~informing~~ informs the applicant of the:

- (A) OKDHS responsibility for reaching a decision and notifying the applicant of eligibility or ineligibility within the appropriate time limits, per OAC 340:65-3-5;
- (B) applicant's right to request a fair hearing and obtain representation from any person the applicant chooses, per OAC 340:2-5. The applicant may request a fair hearing when there is a:
  - (i) delay beyond the established time limits for determining eligibility, per OAC 340:65-3-5; or
  - (ii) disagreement with any action taken on the case; and
- (C) applicant's legal responsibility to report all facts pertinent to eligibility;
- (D) types of changes the applicant must report within 10-calendar days;
- (E) penalty for failing to report changes;
- (F) program requirements and information needed to establish eligibility for each program for which the applicant applied. The worker uses Form 08AD092E, Client Contact and Information Request, to request verification and gives the applicant at least 10-calendar days to comply, per OAC 340:65-3-2.1;
- (G) type of assistance OKDHS provides in establishing eligibility;
- (H) permission the applicant gives OKDHS to obtain information from sources other than the applicant by signing the application; and
- (I) applicant's responsibility to cooperate with federal and state officials when his or her case is selected for a Quality Control review; and

(2) ~~collecting~~ collects information necessary for determining the applicant's initial and continuing eligibility. The applicant is the primary information source. Information is verified when ~~not~~ questionable or inconsistent with known facts, ~~and the information provider is the primary source of the information.~~ Unless questionable, the worker accepts, without further verification, the:

(A) applicant's statement concerning:

- (i) residency;
- (ii) relationship;
- (iii) age;
- (iv) living in the home of a relative payee;
- (v) a minor parent living in the home of a relative;
- (vi) Social Security number (SSN);
- (vii) household members; and
- (viii) third party insurance; and

(B) unearned income information obtained through:

- (i) Beneficiary and Earnings Data Exchange System, from the Social Security Administration (SSA);
- (ii) Supplemental Security Income/State Data Exchange System, from SSA;
- (iii) Unemployment Insurance Benefits ~~(UIB)~~, from the Oklahoma Employment Security Commission; and
- (iv) workers' compensation documents from the Workers' Compensation Commission; and

(C) alien status information obtained through Systematic Alien Verification for Entitlements (SAVE), from the United States Citizenship and Immigration Services; and



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- (3) ~~contacting~~contacts other persons who may be able to help establish eligibility;
- (4) ~~determining~~determines if the applicant or other persons seeking assistance currently receive benefits from another state, when he or she has resided in Oklahoma for less than 12 months;
- (5) ~~recognizing~~recognizes expressed or implied needs that include:
  - (A) determining if there is a need for crisis intervention;
  - (B) addressing the applicant's social services needs; and
  - (C) making appropriate referrals; and
- (6) ~~denying~~denies the application when sufficient facts are available to substantiate ineligibility or the applicant fails to cooperate in determining eligibility.

(f) **SSN requirement.** The applicant must provide a verifiable SSN or a pending SSN application for every person requesting food benefits, SSP, ~~SSI-DEPCYSHCN~~, LIHEAP, or TANF benefits. The requirement for a verifiable SSN also applies to all persons whose needs are included for SoonerCare (Medicaid) benefits, except newborn children deemed eligible, per OAC 317:35-6-60, and undocumented aliens requesting emergency medical services, per OAC 317:35-5-25.

- (1) The applicant's statement regarding each household member's SSN is sufficient unless the information is inconsistent or other facts or observations cause the worker to question the statement.

- (A) The OKDHS worker refers persons for whom an SSN is required, but not available, to the appropriate SSA office for SSN enumeration using Form 08AD101E, SSN Enumeration Referral. The return of Form 08AD101E to OKDHS validates the application(s) or indicates which persons have not provided SSA-appropriate original evidence of age, identity, and citizenship.

- (B) Parents of newborns who participate in Enumeration at Birth receive Form SSA-2853-OP3, Message From Social Security, from hospital personnel. This receipt form is verification the newborn was enumerated at birth.

- (2) When the person fails or refuses to furnish or to apply for an SSN, the worker takes action per (A) and (B) of this paragraph.

- (A) For TANF purposes, the person's needs are included; however, the worker imposes a 25 percent payment standard reduction penalty until an application for or an SSN is provided.

- (B) For SNAP, LIHEAP, and SoonerCare (Medicaid) purposes, only the person's needs for whom an SSN is not provided or applied for are not included.

(g) **Citizenship requirement.** All persons applying for federal or state public assistance benefits, such as Child Care Subsidy, SNAP food benefits, LIHEAP, SoonerCare (Medicaid), SSP, or TANF must declare the citizenship or alien status for each household member applying for such benefits on the application or benefit renewal. When the payee requests benefits for additional household members between application and benefit renewal, the payee completes and signs Form 08MP022E, Declaration of Citizenship Status, to declare the citizenship or alien status of the additional household members. Refer to OAC 317:35-5-25 for citizenship and alien status requirements for persons applying for SoonerCare (Medicaid) benefits.

- (1) When the applicant declares that some or all the household members applying for benefits are aliens, the worker follows SAVE procedures, per OAC 340:65-3-4, to determine the validity of documents provided to verify legal alien status.

- (2) The worker follows each program's rules regarding citizenship and alien status requirements to determine benefit eligibility, per:

- (A) OAC 340:40-7-5 for Child Care Subsidy benefits;
  - (B) OAC 340:50-5-67 for SNAP food benefits;
  - (C) OAC ~~340:20-1-8~~, 340:20-1-10; and 340:50-5-67 for LIHEAP;
  - (D) OAC 317:35-5-25 for SSP; and
  - (E) OAC 340:10-15-1 for TANF.

- (3) The citizenship requirements per (g)(3)(A) through (C) and (g)(4) of this Section are pursuant to Section 71 of Title 56 of the Oklahoma Statutes (56 O.S. § 71) and 74 O.S. § 20j.

- (A) Lawful status in the United States (U.S.) is verified when:

- (i) the person applying for benefits provides an SSN or SSA completed Form 08AD101E indicating SSA accepted the person's SSN application; and

- (ii) OKDHS, through the automated SSN enumeration data exchange transaction with SSA, is able to verify the person's SSN.

- (B) Prior to receiving benefits, when OKDHS is unable to verify the SSN with SSA for a person 14 years of age or older, the person must provide a:

- (i) signed and notarized Form 08MP005E, Citizenship Affidavit, attesting to his or her U.S. citizenship or alien status; or

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- (ii) U.S. birth certificate, U.S. passport, a Certificate of Naturalization or other acceptable document, per OAC 317:35-5-25 to verify lawful status.
- (C) When the person fails or refuses to provide a signed and notarized Form 08MP005E or one of the documents per (g)(3)B(ii) of this Section, the worker denies or closes benefits for that person.
- (4) The application, benefit renewal, and Form 08MP022E contain a statement informing the applicant that OKDHS reports fraudulent claims of citizenship or lawful alien status to the U.S. Attorney and, when a fraudulent claim is made, the person may be subject to criminal prosecution.
- (5) When the worker discovers a person who signed Form 08MP005E attesting to U.S. citizenship or legal alien status made a false claim:
  - (A) the worker sends a memo and supporting documentation to the appropriate AFS Program. The memo must include:
    - (i) the time frame, benefit type, and amount the person fraudulently applied for or obtained; and
    - (ii) how the worker discovered the claim was false; and
  - (B) AFS Program staff, in consultation with Legal Services (LS) staff, reviews the memo and supporting documentation to determine if the person made a false claim. LS staff files a complaint with the U.S. Attorney for the applicable district based upon the venue in which the affidavit was executed when appropriate.
- (h) **Eligibility determination.** The worker determines eligibility after the applicant or other authorized person signs the application, completes an interview, when required, and provides required proof.

## 340:65-3-2. Definitions [AMENDED]

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

**"Applicant"** means a person who directly, or through a person acting responsibly on the applicant's behalf, requests a formal eligibility determination for one or more programs ~~administered by~~ Oklahoma Human Services (OKDHS) Adult and Family Services administers.

**"Application process"** means the process by which the applicant requests benefits, completes program requirements, and provides necessary proof, and the worker determines eligibility. Any person who fraudulently represents facts, acts without authority, or exceeds his or her authority to perform a transaction may be prosecuted under all applicable criminal and civil laws.

**"Client"** means a person applying for or receiving services, cash assistance, or other benefits.

**"Date of application"** means:

(A) the Child Care Subsidy Program does not define the application date, per Oklahoma Administrative Code (OAC) 340:40-3-1.

(i) "Request date" ~~is means~~ the date the applicant requests subsidized child care benefits verbally or in writing. When the household requests child care outside of operating hours, the request date is the next day OKDHS is open.

(ii) "Certification date" ~~is means~~ date the applicant or the applicant's authorized representative completes the child care interview and provides all necessary verification to the OKDHS office, including the name of the child care provider the client chooses to use;

(B) for Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP) food benefits, SoonerCare (Medicaid), State Supplemental Payment (SSP), and the Low Income Home Energy Assistance Program (LIHEAP), the application date is the date the applicant or a person acting on the applicant's behalf signs the application.

(i) When the application is initiated outside of OKDHS, the application date is the ~~date the application is stamped in the day~~ OKDHS office ~~or received electronically~~ receives the application during operating hours. When the household applies outside of operating hours, the application date is the next day OKDHS is open.

(ii) Receipt of Form 08MA005E, Notification of Needed Medical Services, preserves the application date ~~of application~~ for SoonerCare (Medicaid) eligibility groups for which OKDHS ~~is responsible for determining~~ determines eligibility, per OAC 317:35-5-63;

(C) when OKDHS staff receives a verbal request prior to the signature date on the application, staff enters documents the verbal request date in ~~red above the signature date~~ the case record. The verbal request date is the application date for TANF, SSP, and SoonerCare (Medicaid) eligibility groups for which OKDHS determines eligibility.

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(i) Per OAC 340:50-3-1, a verbal request for food benefits does not preserve the application date unless the applicant informs staff a hardship exists that prevents him or her from signing a request on that date. A hardship may exist when the applicant states no one can come to an OKDHS office because of a situation beyond the applicant's control, such as illness, disability, or lack of transportation; and the applicant is unable to submit the application online or by ~~phoning an OKDHS office or the phone number on the www.okdhslive.org website~~ calling OKDHS to obtain help in submitting the application.

(ii) A verbal request for LIHEAP does not preserve the application date as funding for the program is limited.

(iii) The verbal request date preserves the application date only when the applicant signs the application within 30-calendar days.

(I) When the applicant fails to sign the application within 30-calendar days, no application request is made.

(II) When the applicant subsequently contacts OKDHS after 30-calendar days and completes the application process, the application date is the date the applicant completes and signs the application; and

(D) when the applicant comes to an OKDHS office to request benefits and cannot stay to complete the application with a worker ~~or no appointment times are available that day~~, the applicant must submit a completed and signed Form 08MP001E, Request for Benefits, to preserve the application date. When the applicant does not leave a completed and signed Form 08MP001E, an application date is not preserved.

**"Inquiry"** means a request for information but does not imply a request for assistance.

**"Payee"** means the person in the household in whose name benefits are issued. ~~The person considered the~~ payee varies depending on the requested programs. The payee may or may not be included in the benefit.

(A) For the Child Care Subsidy Program, the payee must be the person responsible for the child for whom benefits are requested. The payee is not required to be related to the child. When the parent of the child is in the home, the parent is the payee, per OAC 340:40-3-1(a)(2).

(B) For the TANF Program, the payee must have a certain degree of relationship to the child for whom benefits are requested, per OAC 340:10-3-56 and 340:10-9-1.

(C) For SNAP, the payee may be any responsible adult living in the home, per OAC 340:50-3-1.

(D) For the SoonerCare (Medicaid) Program, the payee is the person for whom benefits are requested or the person responsible for the minor child for whom benefits are requested. The payee is not required to be related to the child. When the parent of the child is in the home, the parent must be the payee.

(E) For the SSP Program, the payee is the person for whom benefits are requested. When the person for whom benefits are requested is a minor child, the child is coded as a payee with a guardian.

(F) For LIHEAP, the payee may be any responsible adult living in the home. When the household receives other benefits, the payee is the same person shown as payee for the other benefits.

**"Recipient"** means a person who receives services, cash assistance, or other benefits.

### 340:65-3-2.1. Counting days for providing proof, interview dates, and application time limits [AMENDED]

When counting days for providing proof, interview dates, and application time limits, the worker does not count the first day in the time period. The worker counts the last day in the time period, ~~unless~~ When Oklahoma Human Services (OKDHS) is not open for business on ~~that date~~. ~~When OKDHS is not open on~~ the last day of the application time period, ~~the client~~ the household or assistance unit has until the next business day to comply with eligibility requirements.

(1) **Providing proof.** When OKDHS requires ~~proof is required~~ to determine eligibility, the worker gives the client at least 10-calendar days to provide it. The worker assists the client in obtaining necessary proof, when requested. The worker's assistance may range from explaining how or where to obtain proof to obtaining the proof when the client is unable to do so. The worker is not required to obtain proof for a client who is able; but unwilling to do so.

(2) **Interview.** OKDHS offers all applicants for Child Care Subsidy, SoonerCare (Medicaid), Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families (TANF) the right to interview at any time during operating hours. The client must contact OKDHS via telephone or in person unless the household qualifies for an interview waiver or the program does not require an interview.

(A) When the client must interview and does not interview while submitting the application, the worker calls the household to conduct an on demand interview within two-calendar days of the application date.

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- (i) When the client answers, the worker offers to complete the interview.
    - (ii) When the client does not answer or refuses to interview, OKDHS sends Form 08AD091E, Interview Notice, to inform the client of the interview requirement.
  - (B) When the client does not interview within 10-calendar days of the application date, the worker again calls the household to conduct an on demand interview.
    - (i) When the client answers, the worker offers to complete the interview.
    - (ii) When the client does not answer or refuses to interview, the worker:
      - (I) denies a Child Care Subsidy, Soonercare (Medicaid), or TANF application; and
      - (II) ~~uses the FDENY transaction with reason "59" for~~ sends a Notice of Missed Interview and schedules a SNAP application for denial 30-calendar days after the application date.
  - (C) The OKDHS worker does not schedule an interview unless the applicant refuses the immediate interview options and requests a scheduled interview.
  - (D) The worker uses Form 08AD092E, Client Contact and Information Request, when a scheduled interview is necessary.
- (3) **Application time limits.** Refer to Oklahoma Administrative Code 340:65-3-5 for application processing time limits. To be timely, the worker must certify or deny an application:
- (A) no later than the last business day of the time limit; or
  - (B) when OKDHS is closed on the last day of the time limit, the next open business day.

## 340:65-3-4. Investigation of eligibility conditions and services planning [AMENDED]

The worker is ~~responsible for collecting~~ collects information necessary to determine the client's benefit eligibility and address the client's social service needs. When proof is necessary to determine eligibility, the worker uses sources described in this Section.

- (1) **Home visits.** Home visits are sometimes necessary for Adult and Family Services (AFS) staff to provide services and benefits and promote safety and stability for families. Workers plan all home visits with the client in advance.
- (A) AFS staff makes home visits or other client contacts during normal work hours whenever possible. Home visits may occur outside of normal business hours when the client's needs dictate and a supervisor, field manager, or field manager's designee approves the home visit.
  - (B) The AFS worker makes a home visit when:
    - (i) he or she is unable to obtain necessary documentation from other sources;
    - ~~(ii) a face-to-face interview is required and an office visit creates a hardship for the household;~~
    - ~~(iii)~~ a Temporary Assistance for Needy Families (TANF) benefit closes due to failure to cooperate, per Oklahoma Administrative Code (OAC) 340:10-2-2;
    - ~~(iv)~~ ~~(iii)~~ it is the best method to complete or review the TANF employability plan;
    - ~~(v)~~ ~~(iv)~~ the client needs protective services; or
    - ~~(vi)~~ ~~(v)~~ the worker deems it necessary for another reason and the supervisor concurs.
- (2) **Collateral contact.** A collateral contact is a person outside of the household that confirms the household's circumstances. The collateral contact may occur in person or over the phone.
- (A) A collateral contact is not restricted to a particular person; but may be anyone able to provide an accurate third party confirmation of the household's circumstances. Examples of acceptable collateral contacts are:
    - (i) employers;
    - (ii) agencies, businesses, or community action groups;
    - (iii) migrant service agencies;
    - (iv) the household's neighbors;
    - (v) landlords; or
    - (vi) other persons outside of the household with knowledge of the household's circumstances.
  - (B) The client's signature on the application or renewal authorizes the worker to secure the required information or verification from collateral contacts. When the collateral contact requires additional written authorization before supplying information to Oklahoma Human Services (OKDHS) the client or the affected adult household member signs Form 08AD060E, Request for Release of Information, to give authorization.
  - (C) The worker informs the person contacted for information how OKDHS plans to use the requested information and why OKDHS needs it.

- (i) When the collateral contact requests anonymity, the worker does not record the person's name in the case record or reveal the person's name to the client.
  - (ii) When the collateral contact requests anonymity, the worker may not use information obtained from the collateral contact to reduce or close benefits unless the worker is able to verify the information by another source.
- (D) When the collateral contact provides information related to the client's eligibility that conflicts with information the client provides, the worker gives the client the opportunity to resolve the inconsistency.
- (3) **Public records.** The worker may obtain information from public records that affects the person's eligibility without obtaining the person's consent.
- (4) **Data exchange.** Automated data exchange provides household members' benefit status, wages, income, taxes, Social Security numbers, incarceration status, current address, and death information to OKDHS. Data matches allow eligibility staff to consult this information when making an eligibility decision during an application or renewal or to identify unreported changes. Refer to OAC 340:65-1-2 for information regarding practices for safeguarding case information and raw tax data. The worker:
  - (A) reviews data exchange information at application and eligibility renewal. Available data exchange information screens include:
    - (i) Beneficiary and Earnings Data Exchange System (BENDEX);
    - (ii) Buy-In Data Exchange (BIL);
    - (iii) New Hire Employee lists (including the State New Hire (SNH) and National New Hire (NNH) list;
    - (iv) Social Security Administration (SSA) Death Master File Data Exchange (DOD);
    - (v) SSA Prisoner Data Exchange (PRS);
    - (vi) Social Security Number (SSN) Verification - SSN Enumeration;
    - (vii) Supplemental Security Income (SSI)/State Data Exchange System (SDX);
    - (viii) Unemployment compensation (UIB);
    - (ix) Unearned Income Eligibility Verification System (IEVS) income report (IEVS-IRS) and resource data from the Internal Revenue Service (IRS); and
    - (x) Wage Data Exchange; and
  - (B) initiates appropriate queries; and
  - (C) resolves data exchange discrepancy messages within:
    - (i) "verified upon receipt" processing timeframes;
    - (ii) the unclear information timeframes per OAC 340:50-9-5(i) for Supplemental Nutrition Assistance Program (SNAP) cases; and
    - (iii) 45-calendar days of the date on the data exchange inquiry screen.
- (5) **Systematic Alien Verification for Entitlement (SAVE).** All applicants and recipients of the TANF, SoonerCare (Medicaid), SNAP, Low Income Home Energy Assistance Program, State Supplemental Payment, and Child Care Subsidy Program benefits are required to declare their citizenship status. Persons who declare themselves or their minor child non-citizens must present documentation of their legal alien status from the United States Citizenship and Immigration Services (USCIS) or other acceptable source. The status, as determined from the documentation, must be verified through the USCIS Alien Status Verification Index (ASVI).
- (6) **Workers' compensation.** AFS staff reviews copies of all Workers' Compensation Commission documents by matching SSNs with OKDHS records. Any court action that appears to potentially impact eligibility is forwarded to the applicable OKDHS office for clearance.
- (7) **Birth verification.** For persons born in Oklahoma, OKDHS has an agreement with the Oklahoma State Department of Health to electronically verify birth for persons with an open SoonerCare (Medicaid) benefit.
- (8) **Food stamp disqualification (FSD).** When a client is disqualified for SNAP food benefits due to fraud, the FSD screen shows the date the disqualification began and the length of the disqualification period.
- (9) **Asset Verification System (AVS).** Per Section 1396w of Title 42 of the United States Code, an applicant or recipient, a spouse, if applicable, a parent or guardian, or other person whose resources or assets OKDHS must verify for SoonerCare (Medicaid) for a person who relates to the aged, blind, or disabled (ABD) categories must authorize OKDHS to access their financial assets and resources through an AVS.
  - (A) Before entering a person's information into AVS, the worker obtains a signed authorization using Form 08MP001E, Rights, Responsibilities, and Signature for Benefits, an online application, or Form 08MA014E, Asset Verification System Authorization, before entering a person's information into AVS.

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(B) When asking for an AVS authorization, the worker explains the authorization remains effective until:

- (i) OKDHS denies or closes the ABD Soonercare (Medicaid) application; or
- (ii) the signer notifies OKDHS in writing that the signer wishes to revoke the authorization.

(C) When a person who must sign refuses, the worker denies or closes the ABD Soonercare (Medicaid).

## 340:65-3-5. Application process [AMENDED]

The worker certifies or denies applications received online or in Oklahoma Human Services (OKDHS) offices within time limits specified in (1) of this Section.

(1) **Application processing time limits.** OKDHS workers process applications within program specific time limits. Refer to Oklahoma Administrative Code (OAC) 340:65-3-2.1, when the time limit's last day occurs on a day OKDHS is not open for business. The time ~~limits are~~ limit for:

- (A) Temporary Assistance for Needy Families (TANF) ~~=, is~~ 30-calendar days;
- (B) Title IV-E Foster Care ~~=, is~~ 30-calendar days;
- (C) Supplemental Nutrition Assistance Program ~~=, is~~ 30-calendar days, unless the household is eligible for expedited service. When the household is eligible for expedited service, OKDHS workers must complete the application within seven-calendar days, per OAC 340:50-11-1;
- (D) State Supplemental Payment (SSP), for persons:
  - (i) categorically related to Aid to the Aged ~~=, is~~ 30-calendar days; and
  - (ii) categorically related to Aid to the Blind or Disabled ~~=, is~~ 60-calendar days; and
- (E) SoonerCare (Medicaid) benefits for:
  - (i) persons categorically related to Aid to the Aged ~~=, is~~ 30-calendar days;
  - (ii) persons categorically related to Aid to the Blind or Disabled ~~=, is~~ 60-calendar days;
  - (iii) Optional Tuberculosis (TB) Coverage group ~~=, is~~ 45-calendar days; and
  - (iv) persons requesting long-term care services ~~=, is~~ 45-calendar days; and
- (F) TANF Emergency Assistance ~~=, is~~ five-working days;
- (G) Low Income Home Energy Assistance Program, per OAC 340:20-1-14:
  - (i) is 60-calendar days of the application date for winter heating and summer cooling; or
  - (ii) is no later than 18 hours of the application date submission of all necessary verification for an Energy Crisis Assistance Program (ECAP) application referral involving a life-threatening medical situation or 48 hours of the application date and the submission of all necessary verification for all other ECAP applications; and
- (H) Refugee Medical Assistance ~~=, is~~ 30-calendar days;
- (I) Child Care subsidy benefits ~~=, is~~ two-business days from the interview date and required proof is provided or, when not provided, within 30-calendar days; and
- (J) Diversion Assistance ~~=, is~~ seven-working days.

(2) **Delayed applications.** When it is not possible to process the application timely, the worker sends the applicant Form 08MP038E, Client Notice of Action Taken, to inform the applicant of the reason for the delay and the applicant's hearing rights. An application is not denied when it cannot be processed timely due to:

- (A) the applicant's failure or delay in providing needed information because of circumstances beyond the applicant's control;
- (B) an examining physician's failure or delay in supplying needed information;
- (C) the Social Security Administration's failure or delay in making a disability decision; or
- (D) the worker's failure to take timely action.

(3) **Certification for cash assistance.** When TANF eligibility is established for the application month, certification is effective from the application date and benefits are prorated per (5) of this Section. When SSP eligibility is established for the application month, certification is effective from the first day of the month and the SSP is not prorated.

- (A) When a TANF applicant requests benefits for an additional person after the application date, but before certification, the worker approves benefits for the additional person effective on the same date as the rest of the assistance unit.
- (B) When a TANF recipient requests benefits for an additional person after certification, the recipient must complete a new application before adding the additional person to the TANF benefit. When eligible, the worker prorates benefits for the additional person from the application date per (5) of this Section.

(C) A retroactive payment may be authorized for any month the worker establishes eligibility prior to the current month. An application denied in error must have payment authorized for the period eligibility is established.

(D) A certification is valid even when a month of ineligibility is determined between application and the date the certification action is taken. An applicant who is ineligible for the month of application and eligible for a subsequent month is certified effective the first day of the subsequent month.

(4) **Notice of ineligibility.** When an applicant is ineligible, a computer-generated denial notice is sent to the applicant explaining the reason. The applicant may request a fair hearing within the time period specified in the notice.

(5) **Proration of TANF benefits.** When eligible, the worker certifies a TANF application from the application date and prorates the initial month's benefit, unless the applicant applied on the first day of the month or received a TANF benefit for the previous month and is eligible to be reopened, per OAC 340:65-5-6. Proration also applies for the first month the worker adds an additional person to an open TANF cash assistance benefit. The family is eligible for the full TANF benefit effective the following month, when applicable.

(A) The worker refers to OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule IX to determine the full monthly TANF benefit before computing the prorated benefit.

(B) The worker uses Appendix B, Prorated TANF and Food Benefit Payment, to compute the prorated benefit amount or the formula:  $31 - \text{application date} \times \text{full monthly TANF benefit} / 30 = \text{the prorated payment}$ . The prorated payment is rounded down to the lower dollar amount.

(i) When the prorated benefit is less than \$10, the family is not eligible for a money payment; but is eligible for SoonerCare (Medicaid) benefits for the entire month.

(ii) When the worker certifies food benefits in the TANF case at the same time or after the TANF certification for the month the TANF payment is prorated, the food benefit unearned income shows the TANF benefit before proration.

(iii) The computer-generated client notice shows the benefit amount for the initial month and following month.

### 340:65-3-8. Continuing eligibility determination [AMENDED]

(a) **Continuing eligibility determination.** The worker determines continued eligibility at appropriate intervals, per (b) of this Section. The worker is responsible for:

- (1) ~~informing~~informs the recipient of his or her change reporting responsibilities, per Oklahoma Administrative Code (OAC) 340:65-5-1, at each contact;
- (2) ~~contacting~~contacts the recipient when possible changes are indicated to ensure continuing eligibility;
- (3) ~~synchronizing~~synchronizes renewal dates for all benefits ~~received by~~ the household receives when possible; and
- (4) ~~determining~~determines continuing eligibility.

(b) **Benefit renewal time frames.** The periodic renewal time frame varies depending on the program.

(1) A benefit renewal is completed at six-month intervals with a:

(A) Temporary Assistance for Needy Families (TANF) recipient due to:

(i) pending required immunizations, per OAC 340:10-14-1;

(ii) payment standard reductions because of program violations, per OAC ~~340:10-3-57(g)~~340:10-3-57(h) or ~~(h)(i)~~;

(iii) hardship extension approvals, per OAC ~~340:10-3-56(a)(2)(F)~~340:10-3-56(a)(2)(F);

(iv) earned income, per OAC 340:10-3-31 through 340:10-3-40; or

(v) a work eligible person's exemption from TANF Work activities because of his or her incapacity or to care for a disabled family member living in the household, per OAC 340:10-2-1; or

(B) food benefit recipient subject to a mid-certification renewal, per OAC ~~340:50-9-5(d)~~340:50-9-5(e) and ~~(e)(f)~~.

(2) A benefit renewal is completed at 12-month intervals, unless an earlier renewal date is warranted, with a:

(A) TANF recipient unless (b)(1)(A) of this Section applies;

(B) State Supplemental Payment (SSP) recipient who does not receive Supplemental Security Income (SSI). When the recipient receives SSI, the system passively renews the SSP and SoonerCare (Medicaid) benefit;

(C) Child Care Subsidy recipient, per OAC 340:40-9-1;

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(D) food benefit household subject to an annual mid-certification renewal, per OAC 340:50-9-5(b) and (c);

(E) food benefit household whose Supplemental Nutrition Assistance Program (SNAP) certification renewal is completed at 12-month intervals, per OAC 340:50-9-6; or

(F) SoonerCare (Medicaid) recipient, per OAC 317:35, when the recipient does not receive SSI. When the recipient receives SSI, the system passively renews the SoonerCare (Medicaid) benefit.

(3) The worker completes a SNAP certification renewal at 24-month intervals for households subject to an annual mid-certification renewal, per OAC ~~340:50-9-5(b)~~ 340:50-9-5(c) and ~~(c)(d)~~.

(c) **Benefit renewal notification.** The recipient receives a notice when the benefit renewal is due, informing the recipient he or she must complete the benefit renewal within a specified time frame to continue receiving benefits.

(1) The worker sends Form 08AD092E, Client Contact and Information Request, to TANF recipients.

(2) A computer-generated notice is sent to:

(A) child care recipients;

(B) food benefit recipients due for mid-certification renewal and certification renewal; and

(C) SSP and SoonerCare (Medicaid) recipients who do not receive SSI.

(3) Since SoonerCare (Medicaid) and SSP recipients who receive SSI are passively renewed, they receive a notice informing them that their benefits were renewed. The renewal notice includes the income used to renew their benefit(s). Recipients are asked to sign and return the renewal notice if the income shown on the notice is incorrect. When the notice is signed and returned, the worker contacts the recipient to obtain current information.

(d) **Signature requirements.** The recipient, guardian, or a person acting on the recipient's behalf, such as an authorized representative or a person with power-of-attorney, signs the benefit renewal for all programs except TANF. The recipient signs TANF renewals. When the recipient lives with his or her spouse, both must sign the TANF renewal.

(e) **Interview requirements.** Benefit renewal interview requirements vary depending on the program.

(1) ~~Per Section 206.10 of Title 45 of the Code of Regulations, the TANF program requires a face-to-face certification renewal interview every 12 months. The face-to-face interview may be conducted in the OKDHS office, at a home visit, or through a virtual video conference.~~

~~(2)~~ A phone or face-to-face interview is required for a:

(A) SNAP certification renewal, except for (e)(3)(C) of this Section, per OAC 340:50-3-1; ~~or~~

(B) ~~Supplemental Security Income-Disabled Children's Program~~ Children and Youth with Special Health Care Needs service plan renewal, per OAC 340:15-3-1;;

(C) TANF certification renewal, per OAC 340:65-3-1.

~~(2)~~ An interview is not required for:

(A) any of the SoonerCare (Medicaid) programs when the client signs and completes the renewal, provides all required proof, and none of the information is questionable. When necessary, the worker contacts the recipient to complete the renewal;

(B) passive renewals completed for SoonerCare (Medicaid) or SSP recipients;

(C) Child Care Subsidy program renewals; or

(D) food benefit households completing a:

(i) mid-certification renewal, at six- or 12-month intervals; or

(ii) SNAP certification renewal when all household members are elderly or disabled and there is no earned income in the household, per OAC 340:50-3-2(a)(2).

(f) **Eligibility determination.** The worker determines eligibility after the benefit renewal is signed, all required proof is provided, an interview, if required, is conducted, and all information evaluated.

(1) The worker may:

(A) complete the benefit renewal without changes;

(B) complete the benefit renewal with changes; or

(C) close the benefit or benefits.

(2) When benefits close and the recipient provides required proof by the last day of the closure month, benefits may be reopened.

*[OAR Docket #25-360; filed 5-29-25]*

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## TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 75. CHILD WELFARE SERVICES



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# Permanent Final Adoptions

[OAR Docket #25-361]

## **RULEMAKING ACTION:**

PERMANENT final adoption

## **RULES:**

Subchapter 6. Permanency Planning

Part 8. CHILD WELFARE SPECIALIST ROLE

340:75-6-48.3. Children missing from care [AMENDED]

Part 13. SUCCESSFUL ADULTHOOD

340:75-6-110. Oklahoma Successful Adulthood (OKSA) program [AMENDED]

Subchapter 7. Foster Home Care

Part 1. GENERAL PROVISIONS

340:75-7-2. Purpose, legal basis, and definitions related to foster care [AMENDED]

Part 2. DEVELOPMENT OF RESOURCE FAMILIES

340:75-7-10.1. Resource parent framework [AMENDED]

340:75-7-14. Training requirements [AMENDED]

340:75-7-15. Background information search and assessment of results [AMENDED]

340:75-7-18. Resource family assessment (RFA) [AMENDED]

340:75-7-19. Joint approval of resource homes [AMENDED]

340:75-7-24. Kinship placement for the child in Oklahoma Human Services (OKDHS) custody [AMENDED]

Part 4. ROLES AND RESPONSIBILITIES

340:75-7-38. Discipline for the child in Oklahoma Human Service (OKDHS) custody placed in foster family care Services (OKDHS) custody [AMENDED]

Part 5. ELIGIBILITY AND PAYMENTS

340:75-7-51. Foster care claims [AMENDED]

340:75-7-52. Foster care contracts and maintenance payments [AMENDED]

Part 6. RESOURCE HOME SUPPORT SERVICES

340:75-7-65. Child care and support services for the resource home [AMENDED]

Part 8. RESOURCE HOME CONTINUOUS QUALITY ASSESSMENT

340:75-7-94. Resource home annual updates, non-compliance or rule violations, investigations, closures, fair hearings, and reassessment to re-open a previously closed resource and fair hearings [AMENDED]

## **AUTHORITY:**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Chapter 75 Subchapter 6: 10A O.S. §§ 1-1-102, 1-4-703, 1-4-704, 1-4-805, 1-4-806, and Title IV-E of the Social Security Act, as amended by the Family First Prevention Services Act, Public Law (P.L.) 117-348. Chapter 75 Subchapter 7: 10A O.S. §§ 1-7-101, 1-7-109, 1-9-106, 1-9-116, 1-9-119, and Title 45 of the Code of Federal Regulations (CFR), Part 1355 and Part 1356; Chapter 75 Subchapter 6: 10A O.S. §§ 1-1-102, 1-4-703, 1-4-704, 1-4-805, 1-4-806, and Title IV-E of the Social Security Act, as amended by the Family First Prevention Services Act, Public Law (P.L.) 117-348; Chapter 75 Subchapter 7: 10A O.S. §§ 1-7-101, 1-7-109, 1-9-106, 1-9-116, 1-9-119, and Title 45 of the Code of Federal Regulations (C.F.R.), Part 1355 and Part 1356. Chapter 75 Subchapter 6: 10A O.S. §§ 1-1-102, 1-4-703, 1-4-704, 1-4-805, 1-4-806, and Title IV-E of the Social Security Act, as amended by the Family First Prevention Services Act, Public Law (P.L.) 115-123.

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

## **COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

## **PUBLIC HEARING:**

January 3, 2025

## **ADOPTION:**

January 24, 2025

## **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 29, 2025

## **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

## **LEGISLATIVE DISAPPROVAL:**

N/A

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**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

November 1, 2025

**SUPERSEDED EMERGENCY ACTIONS:****SUPERSEDED RULES:**

Subchapter 6. Permanency Planning

Part 8. Child Welfare Specialist Role

340:75-6-48.3 [AMENDED]

Subchapter 7. Foster Home Care

Part 1. General Provisions

340:75-7-2 [AMENDED]

Part 2. Development of Resource Families

340:75-7-10.1 [AMENDED]

340:75-7-14 [AMENDED]

340:75-7-15 [AMENDED]

340:75-7-18 [AMENDED]

340:75-7-19 [AMENDED]

340:75-7-24 [AMENDED]

Part 5. Eligibility and Payments

340:75-7-51 [AMENDED]

340:75-7-52 [AMENDED]

Part 8. Resource Home Continuous Quality Assessment

340:75-7-94 [AMENDED]

(Reference WF 24-03)

**GUBERNATORIAL APPROVAL:**

October 10, 2024

**REGISTER PUBLICATION:**

42 Ok Reg 657

**DOCKET NUMBER:**

24-1261

**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed amendment to Chapter 75 Subchapter 6 adds requirements for Child Welfare (CW) specialists when reporting children who are in the custody of Oklahoma Human Services (OKDHS) missing from care, per SB 1638 (2024). The proposed amendments to Chapter 75 Subchapter 7 include: (1) adding definitions and legal basis to differentiate between traditional and kinship foster care; (2) clearly differentiating application processes for traditional and kinship foster care; (3) clearly differentiating training requirements for traditional and kinship foster care applicants; (4) providing updated guidance for background check procedures with traditional and kinship foster care applicants; (5) updating guidance for the assessment of resource families specific to traditional foster care; (6) updating process for joint approval of foster home resources specific to traditional and kinship foster homes; (7) updating guidance for the assessment of resource families specific to kinship foster care; (8) providing legal and policy basis for final approval of kinship foster homes; (9) differentiating policy basis for final approval and receiving of foster care maintenance payments specific to traditional and kinship care, respectively; and (10) updating guidance to differentiate process for annual updates specific to traditional and kinship foster homes. The proposed amendments to Chapter 75 Subchapter 6 adds requirements for Child Welfare specialists when reporting children who are in the custody of Oklahoma Human Services (OKDHS) missing from care, per Senate Bill (SB) 1638 (2024). The proposed amendments to Chapter 75 Subchapter 7 include: (1) adding definitions and legal basis to differentiate between traditional and kinship foster care; (2) clearly differentiating

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application processes for traditional and kinship foster care; (3) clearly differentiating training requirements for traditional and kinship foster care applicants; (4) providing updated guidance for background check procedures with traditional and kinship foster care applicants; (5) updating guidance for the assessment of resource families specific to traditional foster care; (6) updating process for joint approval of foster home resources specific to traditional and kinship foster homes; (7) updating guidance for the assessment of resource families specific to kinship foster care; (8) specifying discipline policies apply for all placement providers and are not unique to foster family care; (9) providing legal and policy basis for final approval of kinship foster homes; (10) differentiating policy basis for final approval and receiving of foster care maintenance payments specific to traditional and kinship care, respectively; (11) updating child care center star status requirements consistent with current procedure; and (12) updating guidance to differentiate process for annual updates specific to traditional and kinship foster homes. The proposed amendment to Chapter 75 Subchapter 6 establishes requirements for when a child in Oklahoma Human Services (OKDHS) custody is placed in a Qualified Residential Treatment Program (QRTP), per HB 1072 (2023). The proposed amendment to Chapter 75 Subchapter 6 establishes requirements for when a child in Oklahoma Human Services (OKDHS) custody is placed in a Qualified Residential Treatment Program (QRTP), per HB 1072 (2023).

## CONTACT PERSON:

Mark Carson, Policy & Forms Programs Administrator, 918-607-0308

**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, 2025:**

## SUBCHAPTER 6. PERMANENCY PLANNING

### PART 8. CHILD WELFARE SPECIALIST ROLE

#### **340:75-6-48.3. Children missing from care [AMENDED]**

- (a) A child or youth missing from care is one who runs away, is abducted, or is otherwise absent from placement.
- (b) Per Section 1-9-123 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-123) ~~the Oklahoma Department of Human Services (DHS)~~ OKDHS takes appropriate steps when a child or youth in ~~DHS~~ OKDHS custody or under ~~DHS~~ OKDHS supervision is missing from care or when ~~DHS~~ OKDHS has reasonable cause to believe a child or youth is currently, or is at risk of being, a victim of sex trafficking, including a child or youth:
  - (1) for whom ~~DHS~~ OKDHS has an open case file, but who was not removed from the home;
  - (2) who ran away from foster care and has not attained 18 years of age; or
  - (3) who is not in foster care, but is receiving services.
- (c) When notified a child or youth is missing from care, the child welfare (CW) specialist within 24 hours of notification, reports the child's or youth's status to the:
  - (1) appropriate law enforcement jurisdiction and requests the report be sent to the National Crime Information Center; and
  - (2) National Center for Missing and Exploited Children (NCMEC). Where reasonably possible, the report submitted to law enforcement and NCMEC includes:
    - (A) a photo of the missing or abducted child or youth;
    - (B) a description of the child's or youth's physical features, such as height, weight, sex, ethnicity, race, hair color, and eye color; and
    - (C) endangerment information, such as the child's or youth's pregnancy status, prescription medications, tendency toward suicidal thoughts, vulnerability to being a victim of sex trafficking, and other health or risk factors.
- (d) When a child or youth in ~~DHS~~ OKDHS custody or under ~~DHS~~ OKDHS supervision is missing from care, ~~DHS~~ OKDHS:
  - (1) immediately takes steps to locate the child or youth;
  - (2) determines the primary factors that contributed to the child or youth running away or otherwise being absent from placement;
  - (3) documents and responds, to the extent possible and appropriate, to those factors that contributed to the absence from care or runaway behaviors in the current and subsequent placements of the child or youth; and
  - (4) determines what the child or youth experienced while missing from care, including an appropriate screening to see if the child or youth is a possible victim of sex trafficking.

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(e) ~~The~~ After receiving information on a child or youth who is identified as a sex trafficking victim, CW specialist reports to appropriate law enforcement jurisdictions immediately and; in no case later than 24 hours, ~~after receiving information on a child or youth who is identified as a sex trafficking victim~~; per 10A O.S. § 1-1-105.

(f) Runaway juveniles from other states, with or without delinquent status, may be held in a detention facility, per 10A O.S. § 2-3-101 and the Interstate Compact for Juveniles Act, 10A O.S. §§ 2-9-101 through 2-9-116.

(g) OKDHS maintains regular communication with law enforcement and the NCMEC to provide for a safe recovery of a missing or abducted child or youth, including by sharing information pertaining to the child's or youth's recovery and circumstances related to the recovery.

## PART 13. SUCCESSFUL ADULTHOOD

### 340:75-6-110. Oklahoma Successful Adulthood (OKSA) program [AMENDED]

(a) **OKSA program eligibility.** The OKSA program serves:

- (1) youth 14 through 17 years of age who are in an out-of-home placement; and in:
  - (A) Oklahoma Human Services (OKDHS) legal custody; or
  - (B) the custody of a federally recognized Indian tribe;
- (2) young adults 18, 19, 20, 21 and ~~20~~22 years of age, who:
  - (A) were in an out-of-home placement while in OKDHS or tribal custody on his or her 18th birthday; or
  - (B) entered trial reunification, guardianship, or adoption at 16 years of age and older to achieve permanency and who have not yet reached his or her ~~21st~~23rd birthday; and
- (3) young adults 21 to 26 years of age who participate for no more than five years in the Education and Training Voucher Program.

(b) **Legal authority for OKSA services.** Laws that guide OKSA services administered by OKDHS are described in (1) and (2) of this subsection.

(1) **Federal successful adulthood law.** The Foster Care Independence Act of 1999 enacted as part of Public Law (P.L.) 106-169; Section 475 of the Social Security Act as amended by P.L. 110-351, Fostering Connections to Success and Increasing Adoption Act of 2008; by the Preventing Sex Trafficking and Strengthening Families Act, P.L. 113-183; and the Family First Prevention Services Act, P.L. 115-123:

(A) supports states in the delivery of successful adulthood services to eligible youth and provides them with services that focus on:

- (i) education;
- (ii) career planning;
- (iii) life skills; and
- (iv) aftercare services; and

(B) requires successful adulthood services:

- (i) complement the youth's own efforts to achieve self-sufficiency; and
- (ii) program participants recognize and accept personal responsibility for the transition from out-of-home care to adulthood.

(2) **State successful adulthood law.** Section 1-9-107 of the Oklahoma Statutes (10A O.S. §1-9-107) created the "Successful Adulthood Act," the purpose of which is to ensure eligible youth who, due to abuse or neglect, were or are in the OKDHS foster care program or a federally-recognized Indian tribe with whom OKDHS has a contract or agreement, receive the protection and support necessary to allow them to become self-reliant and productive citizens through the provision of requisite services that include, but are not limited to:

- (A) transitional planning;
- (B) housing;
- (C) medical coverage;
- (D) education; and
- (E) tuition waivers, when eligible, per 70 O.S. § 3230.

(c) **OKSA service provision.** OKSA services for youth:

- (1) are initiated by the child welfare (CW) specialist according to the youth's age, as outlined in OKDHS Publication No. 94-08, Oklahoma Successful Adulthood Program;
- (2) in OKDHS custody placed in other states, are OKDHS responsibility, per Oklahoma Administrative Code (OAC) 340:75-1-86;
- (3) placed in Oklahoma through the Interstate Compact for the Placement of Children (ICPC) are approved by OKSA Program staff on a case-by-case basis, per OAC 340:75-1-86; and

(4) are initiated by the legal guardian or adoptive parent for youth who exited care at 16 years of age and older to trial reunification, permanent guardianship, or adoption.

(d) **Requirements.** Eligible youth are provided each of the items listed in (1) through (6).

(1) **Successful adulthood case assessment.** The successful adulthood case assessment is a comprehensive evaluation of the youth's readiness for successful adulthood and identification of the services and supports required for him or her to achieve a maximum level of self-sufficiency.

(2) **Successful adulthood plan.**

(A) The CW specialist develops an initial plan for the youth transitioning to a successful adulthood within 60-calendar days of his or her 14th birthday or within 60-calendar days of the youth entering care after his or her 14th birthday. The CW specialist develops the plan ~~is developed~~ in consultation with the youth and, at his or her option, with up to two members of the planning team to be chosen by the youth, not including the foster parent and his or her CW specialist, subject to:

- (i) the youth's selection of one person that may be designated to be the advisor and his or her advocate, with respect to the application of the reasonable and prudent parent standard to the youth; and
- (ii) OKDHS rejecting a person selected by the youth to be a member of the permanency planning (PP) team at any time when OKDHS has good cause to believe the selected person would not act in the youth's best interests.

(B) The successful adulthood plan describes the services, supports, and activities the CW specialist, the ~~permanency planning~~ PP team, and youth identify as necessary for the youth to transition to successful adulthood, and includes the components required by federal and state statutes. At a minimum, the successful adulthood plan is reviewed and updated each month with the youth and placement provider.

(C) Prior to the 90-calendar day period immediately before a youth's 18th birthday, OKDHS and, as appropriate, the youth's representatives, provide the youth with assistance and support in developing an appropriate personalized transition plan based upon his or her input, and as detailed as he or she elects, including specific options regarding:

- (i) housing;
- (ii) health insurance;
- (iii) education;
- (iv) local opportunities for mentors and continuing support services; and
- (v) employment supports and services.

(3) **Notice of rights.**

(A) Per 10A O.S. § 1-9-107, each child in OKDHS foster care or a federally- recognized Indian tribe and in an out-of-home placement who reaches 14 years of age is given a notice of foster youth rights describing his or her rights to:

- (i) education, health, visitation, and court participation;
- (ii) provision of documents specified in (4) of this subsection; and
- (iii) stay safe and avoid exploitation.

(B) The youth signs an acknowledgment stating he or she was provided a copy of the notice of foster youth rights and the rights were explained in an age-appropriate way.

(4) **Essential documents.** Per 10A O.S. § 1-9-107, a youth about to leave foster care at 18 years of age and was in foster care for at least six months is given:

- (A) an official or certified copy of his or her United States birth certificate;
- (B) a Social Security Administration Social Security card;
- (C) his or her health insurance information;
- (D) a copy of his or her medical records;
- (E) a state-issued driver license or identification card; and
- (F) official documentation necessary to prove the youth was previously in foster care.

(5) **Judicial oversight.** A judicial determination is made:

- (A) at each dispositional and review hearing involving a youth 14 years of age and older, whether the OKSA services needed to assist the youth in making the transition from out-of-home care to successful adulthood are being provided, not provided, or are not appropriate;
- (B) confirming that information was provided to the youth about the importance of designating another individual to make health care treatment decisions on his or her behalf when he or she:
  - (i) becomes unable to participate in his or her health care decisions; and

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- (ii) does not have, or does not want a relative, who would otherwise be authorized under state or tribal law, to make health care decisions for the youth; and
  - (C) that the youth was provided with the option of executing a health care power of attorney, health care proxy, or other similar documents recognized under state or tribal law.
- (6) **OKSA support services.** A variety of services, resources, and funds are provided to facilitate successful transition into adulthood and each has distinct eligibility requirements.

(A) **Youth 14 through 15 years of age.**

- (i) **Youth development funds.** OKSA youth development funds are obtained through community-contracted providers and are designed to support the youth's successful adulthood case plan in preparation for living independently.
- (ii) **Incentive payments.** The OKSA incentive payment is a category of youth development funds that allows for monetary payments to youth for survey and application completions and for accomplishments prior to exiting OKDHS or tribal custody.
- (iii) **Teen panels.** Teen panels provide an opportunity for OKDHS and tribal custody youth to educate staff, care providers, the community, and potential resource parents by presenting the youth's views and experiences in the CW system.

(B) **Youth 16 years of age and older.**

- (i) **Community-contracted services.** Contracts support the OKSA program activities and serve youth who are OKSA eligible.
- (ii) **Youth development funds.** OKSA youth development funds are obtained through community-contracted providers and are designed:
  - (I) to support the youth's successful adulthood case plan in preparation for living independently; and
  - (II) for emergencies the youth encounters after leaving out-of-home care while learning to live independently.
- (iii) **Incentive payments.** The OKSA incentive payment is a category of youth development funds that allows for monetary payments to youth for survey and application completions and for accomplishments prior to exiting OKDHS or tribal custody.
- (iv) **Educational opportunities and scholarships.** Scholarships and OKSA services are available to assist the youth complete his or her education and training.
- (v) **Youth and Adult Advisory Board.** The Youth and Adult Advisory Board includes current and former OKDHS and tribal custody youth, OKSA Program staff, and adult advisors. The board provides the youth an opportunity to work together with other interested youth and adults to:
  - (I) educate the community regarding issues related to youth in out-of-home placement;
  - (II) improve the CW system through problem solving;
  - (III) promote successful adulthood through training; and
  - (IV) bridge the gap between youth and adults.
- (vi) **Teen panels.** Teen panels provide an opportunity for OKDHS and tribal custody youth to educate staff, care providers, the community, and potential resource parents by presenting youth views and experiences in the CW system.
- (vii) **Voluntary placement of youth after 18 years of age.** Custody youth may request placement in an OKDHS-paid placement and services from OKDHS on a voluntary basis, or in special circumstances, a short-term voluntary placement while 18, 19, or 20 years of age, when the youth:
  - (I) reaches 18 years of age prior to completing his or her General Educational Development (GED) or high school education;
  - (II) did not obtain a GED or high school education and left an out-of-home placement after reaching 18 years of age; or
  - (III) has specified reasons approved by the district director for the county where the youth resides.
- (viii) **Credit reports for youth in out-of-home care.** Each youth beginning at 14 years of age and continuing until the youth is discharged from out-of-home care receives:
  - (I) an annual consumer credit report;
  - (II) assistance interpreting the report; and

(III) assistance resolving any inaccuracies or evidence of identity theft in the report. The court with jurisdiction over the youth is notified of any inaccuracies, evidence of identity theft, or other fraudulent activity.

## SUBCHAPTER 7. FOSTER HOME CARE

### PART 1. GENERAL PROVISIONS

#### **340:75-7-2. Purpose, legal basis, and definitions related to foster care [AMENDED]**

(a) **Purpose for foster care.** Foster care provides 24-hour a day substitute temporary care and supportive services for the child, birth through 17 years of age, who resides in Oklahoma and is in Oklahoma Human Services (OKDHS) custody. Voluntary foster care is available for the child, birth through 20 years of age, who meets criteria, per Oklahoma Administrative Code (OAC) 340:75-4-12.1 and 340:75-6-110.

(b) **Legal basis for OKDHS foster care services.**

(1) The Oklahoma Children's Code, Section 1-1-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-102), acknowledges that the foster parent has a recognizable interest in the familial relationship established with the child placed in the foster parent's care. The law recognizes that the foster parent is an essential participant in the decision-making process related to the care, supervision, guidance, rearing, and other foster care services for the child.

(2) 10A O.S. §§ 1-1-105 and 1-7-109 define and authorize foster care.

~~(3)~~ 10A O.S. §§ 1-9-106 authorizes and establishes a Kinship Foster Care Program within OKDHS.

~~(4)~~ Titles IV-B and IV-E of the Social Security Act mandate and provide funding for certain child welfare services, including foster care. Part 1355 and Part 1356 of Title 45 of the Code of Federal Regulations (45 CFR Part 1355 and Part 1356) provide for the use of title IV-E funding to cover the cost of foster care maintenance payments on behalf of eligible children placed in relative or kinship licensed or approved foster family homes when the agency uses different licensing or approval standards for relative or kinship foster family homes.

~~(4)~~ ~~(5)~~ OKDHS implements recruitment and retention activities supporting the:

(A) Multiethnic Placement Act of 1994, as amended by the Interethnic Provisions of 1996 (MEPA/IEP), per OAC 340:75-1-9;

(B) Federal Indian Child Welfare Act, per Section 1901 et seq. of Title 25 of the United States Code (25 U.S.C. §§ 1901 et seq.), and the Oklahoma Indian Child Welfare Act, per 10 O.S. §§ 40 et seq.;

(C) Adoption and Safe Families Act of 1997 (ASFA) that amended Titles IV-B and IV-E of the Social Security Act, per 42 U.S.C. §§ 621 through 629i;

(D) Family First Prevention Services Act, Public Law 115-123; and

(E) regulations promulgated to implement each Act.

(c) **Definitions.** The following words and terms when used in this Subchapter have the following meaning, unless the context clearly indicates otherwise:

(1) **"Age-appropriate" or "developmentally-appropriate"** means, per 10A O.S. § 1-1-105:

(A) activities or items that are generally accepted as suitable for children of the same age or maturity level or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(B) in the case of a specific child, activities or items that are suitable for the child based on the developmental stages the child attains with respect to the cognitive, emotional, physical, and behavioral capacities of the specific child.

(2) **"Alternate caregiver"** means a person, assessed and approved by OKDHS, who for not more than 14-consecutive days, relieves a resource parent's day-to-day responsibilities by temporarily assuming care and supervision of the child or youth in OKDHS custody. This definition applies only to traditional, contracted, and kinship foster care.

(3) **"Applicant"** means a person who makes a formal application to become a resource parent, but has not completed the approval process.

(4) **"Application"** means a completed Form 04AF001E, Resource Family Application. Form 04AF001E requires the applicant complete documents and actions ~~be completed by the applicant~~.

(5) **"Behavioral health"** means mental health, substance use or abuse, or co-occurring mental health and substance use or abuse diagnoses and the mental health continuum, substance use or abuse, or co-occurring mental health and substance use or abuse treatment.

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(6) **"Foster care"** means an essential, temporary Child Welfare Services (CWS) service for the child and parent, legal guardian, or custodian provided when the child's safety cannot be ensured in his or her own home due to the threat of child abuse, neglect, or special circumstances necessitating out-of-home care in a home away from the child's parent, legal guardian, or custodian. A continuous care service is provided for the child requiring out-of-home placement in a home environment including, but not limited to, the care, supervision, guidance, and rearing of the child by a resource parent, who is under contract with OKDHS or approved by a child-placing agency.

(A) A foster family provides the child in OKDHS custody with continuous 24-hour care in a home-like setting with one or more identified supportive services, including:

- (i) mentoring and actively helping the parent of the child in OKDHS custody improve his or her ability to safely care for the child upon reunification with the parent;
- (ii) staying connected to the child by assisting his or her transition to:
  - (I) reunification with a parent; or
  - (II) another family when the permanency plan is legal guardianship or adoption; or
- (iii) the possibility of becoming the child's legal guardian or adoptive parent when parental reunification is not the permanency plan while safely maintaining the child's connection to kin, culture, and community.

(B) CWS foster care includes:

- (i) traditional foster care, which is continuous 24-hour care and supportive services provided for the child in a home setting by a foster parent without a kinship relationship to the child. A resource family partner (RFP) develops a supported home to provide traditional foster care to meet the needs of a child in OKDHS custody through service coordination and delivery in conjunction with OKDHS;
- (ii) kinship foster care, which is continuous care for the child requiring out-of-home placement provided by a relative, stepparent, or other responsible adult who has a bond or tie with the child or a family relationship role with the child's parent ~~or the child prior to the child's entry into foster care~~. In cases where the Indian Child Welfare Act (ICWA) applies, the definitions, per 25 U.S.C. § 1903 are used; and
- (iii) enhanced foster care (EFC), which is a traditional or kinship resource home where child-specific services are provided for a child already placed in the home. The family in an EFC home receives additional training to support the placement of children:
  - (I) transitioning from congregate care, acute care, or residential treatment; or
  - (II) who are placed in shelter care or are at risk of placement in shelter care;
- (iv) therapeutic foster care (TFC), per OAC 340:75-8 Part 1, residential behavioral management services are provided in a specialized foster care setting for a child, who:
  - (I) meets medical necessity criteria, per OAC 317:30-5-741;
  - (II) has special psychological, behavioral, social, and emotional needs;
  - (III) accepts and responds to close relationships within a family setting; and
  - (IV) requires more intensive or therapeutic services than are found in traditional foster care when additional supports are not available or have failed to stabilize the child in a less restrictive setting;
- (v) intensive treatment family care (ITFC) is a program for children:
  - (I) with special psychological, social, and emotional needs;
  - (II) with intellectual and developmental disabilities requiring more intensive treatment than traditional foster care and TFC settings provide; and
  - (III) meets medical necessity criteria, per OAC 317:30-5-751; and
- (vi) contracted foster care (CFC), which is traditional foster care provided:
  - (I) in a TFC home for children in OKDHS or tribal custody meeting specific criteria, per OAC 340:75-8-11.1(b); and
  - (II) by a contracted child-placing agency to meet the child's needs through service coordination and delivery in conjunction with OKDHS.

(7) **"House assessment"** means the evaluation of the prospective resource family's residence and property to determine if it meets OKDHS physical safety requirements.

(8) **"Infant"** means a child, who is 12 months of age and younger.

(9) **"In-service training"** means yearly instruction the resource parent is required to complete to maintain approval as a resource home.



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(10) **"Inquiry"** means the first contact an individual makes by phone, email, or in person with OKDHS to inquire about foster parenting.

(11) **"Kinship annual update"** means the process by which a kinship resource is reviewed annually from the resource home's approval date in KIDS for any family approved, per OAC 340:75-7-24, to ensure the kinship resource family can continue to meet the child(ren)'s specific needs and provide a safe environment for the child(ren) in OKDHS custody.

(12) **"Kinship final approval"** means the completion of the kinship resource family assessment (KRFA) and disposition to approve the applicant family.

(13) **"Kinship resource family assessment" or "KRFA"** means a joint process between CWS and the kinship family that consists of an evaluation of the family's ability to foster but is not limited to:

(A) consideration of each family member's criminal and child welfare histories;

(B) an assessment of the kinship caregiver(s); and

(C) an assessment of the kinship caregiver(s) physical environment.

(14) **"Kinship training"** means required instruction to prepare and educate the applicant for caregiving, and provision of an opportunity for self-assessment, per OAC 340:75-7-14.

~~(11)~~(15) **"Pre-service training"** means required instruction to prepare and educate the applicant for caregiving and provides an opportunity for self-assessment, prior to approval as a resource parent.

~~(12)~~(16) **"Reasonable and prudent parent standard"** means, per 10A O.S. § 1-1-105, the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests while at the same time encouraging the child's emotional and developmental growth. This standard is used by the child's resource parent when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities.

~~(13)~~(17) **"Relative"** means a grandparent, great-grandparent, brother, or sister of whole or half-blood, aunt, uncle, or any other person related to the child.

~~(14)~~(18) **"Resource"** means all foster care families, including traditional, kinship, CFC, EFC, TFC, ITFC, and adoptive families.

~~(15)~~(19) **"Resource family assessment (RFA)"** means a joint process between CWS and the family, excluding kinship applicants, that consists of an evaluation of the family's ability to foster, adopt, or both and includes, but is not limited to:

(A) consideration of each family member's criminal and child welfare histories;

(B) the safety and physical space available in the home to integrate a new family member;

(C) the number and ages of children residing in the home;

(D) references;

(E) household income; and

(F) health histories.

~~(16)~~(20) **"Resource family partner (RFP)"** means a private, child-placing agency under contract with OKDHS to recruit, retain, and support foster homes to meet the child's needs through service coordination and delivery in conjunction with OKDHS. RFP foster homes are known as supported homes.

~~(17)~~(21) **"Respite care"** means short-term care provided by an approved foster family when foster parents need breaks from day-to-day parenting responsibilities while caring for a child in OKDHS custody.

~~(18)~~(22) **"Targeted recruitment"** means efforts that:

(A) utilize data to focus on specific families or communities most likely to yield results in recruiting resource parents who can safely meet the unique needs of the child and youth in OKDHS custody; and

(B) comply with MEPA/IEP/ICWA requirements.

~~(19)~~(23) **"Written plan of compliance"** means a formal accountability process for the resource parent that identifies concerns and contract and policy violations and, when unresolved, may result in resource home closure.

~~(20)~~(24) **"Youth"** means a child 13 through 17 years of age.

## PART 2. DEVELOPMENT OF RESOURCE FAMILIES

### 340:75-7-10.1. Resource parent framework [AMENDED]

(a) **General.** The requirements in Oklahoma Administrative Code (OAC) 340:110-5 serve as the framework for families and the Oklahoma Department of Human Services (~~DHS~~)(OKDHS) in the mutual assessment process used to select the most suitable home for the child in ~~DHS~~OKDHS custody in need of foster care. Each child in ~~DHS~~OKDHS custody has the right to a safe, affirming, and family-like placement. As a result, resource parents:

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- (1) are responsible, mature, healthy adults capable of meeting the needs of the children in OKDHS custody;
  - (2) apply the reasonable and prudent parent standard;
  - (3) demonstrate a capacity for setting realistic expectations for behavior and performance based on the ages, abilities, and unique needs of the children;
  - (4) have stable relationships and a living arrangement whether married, single, separated, or divorced; and
  - (5) ensure all members of the household are informed of and agree to accept the child into the home.
- (b) **Age.** ~~A resource parent must be at least 21 years of age.~~ Per Section 1-4-705 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-705), when a potential resource parent meets the minimum age required ~~per this Section~~, OKDHS may not use the age of an otherwise eligible ~~individual~~ adult as a reason for denial of placement.
- (c) **Income and employment.** Resource parents must have sufficient income or adequate financial support to meet their needs and ensure the security and stability of the household without relying on the foster care maintenance payment.
- (d) **Foster principles.** A resource parent commits to demonstrating to each child in OKDHS custody basic fostering principles that include:
- (1) understanding and meeting the child's unique needs;
  - (2) actively supporting each child's connections and ongoing relationships with family, kin, culture, and community;
  - (3) understanding the impact of separation, grief, loss, and trauma the child has suffered;
  - (4) partnering with the child's professional team to focus on his or her safety, permanency, and well-being;
  - (5) recognizing that foster care is a planned, temporary placement for a child whose goal is family reunification or other permanency plan;
  - (6) actively mentoring the parent to help improve the parent's ability to safely care for the child, when safe to do so; and
  - (7) recognizing the impact of secondary traumatic stress and the importance of the resource parent's self-care.
- (e) **Relationship with OKDHS.** The resource parent acknowledges, cooperates, and agrees to abide by applicable statutes and OKDHS rules regarding the child in care that include, but are not limited to:
- (1) OKDHS, as the legal custodian of the child, has the right to move any child from any resource home at any time, when in the child's best interests and, per statutes governing movement of the child in OKDHS custody;
  - (2) the necessity to maintain and respect the confidential nature of all information regarding a child placed in the resource home. A breach of confidentiality may be grounds for resource home closure and termination of the foster care contract; and
  - (3) the requirement that OKDHS investigate, in the same manner as any other abuse or neglect investigation conducted by OKDHS, allegations of abuse, neglect, or maltreatment of any child in OKDHS custody placed in an approved resource home;.

## 340:75-7-14. Training requirements [AMENDED]

- (a) **Pre-service training.** Per Section 1-9-116 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-116), Applicants ~~applicants, excluding kinship,~~ and adult household members who care for a child in Oklahoma Human Services (OKDHS) custody are required to complete a prescribed course of training, prior to resource approval. The training incorporates the reasonable and prudent parent standard and addresses the values and guiding principles essential for caring for a child, who is a victim of maltreatment. Pre-service training is required for any family subject to the Resource Family Assessment process, per OAC 340:75-7-18, to include families approved to provide: traditional foster care, supported foster care, therapeutic foster care, intensive treatment family care, or contracted foster care.
- (1) ~~Each applicant completes required Child Welfare Services (CWS)-approved training. Additionally, any adult household member, 18 years of age and older, who provides daily care for a child, completes the required training. An exception may be given when an individual is determined to possess required values and guiding principles as a result of prior foster care training and experience.~~
  - (2) ~~Kinship applicants may be approved for placement of the kinship child prior to completion of pre-service training.~~
  - (3) ~~Kinship applicants complete pre-service training before receiving foster care maintenance payments.~~
  - (4) ~~An applicant who is a former resource parent with a break in OKDHS service of less than five years meets the training requirements.~~
  - (5) ~~An applicant may request a permanent training waiver. The resource field manager approves or denies a request for a permanent training waiver. The applicant may request a permanent waiver; when an individual has:~~

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~~(A)(1) the equivalent training was completed~~ the equivalent training within the last five years. A list of equivalent training from a tribe, private agency, or another state is included that details subjects addressed in the training; or

~~(B)(2) he or she~~ a significant disability that precludes the completion of training. Disability verification is provided by a physician. A person granted a permanent training waiver for disabilities may not be a caregiver for the child in OKDHS custody.

(b) **Kinship training.** Kinship training is required for any family subject to the Kinship Resource Family Assessment process, per OAC 340:75-7-24.

(1) A resource parent providing kinship foster care completes the training developed by OKDHS for kinship foster care prior to placement, per 10A O.S. § 1-9-116. Training cannot take place later than one hundred twenty-calendar days after placement of the child with the kinship foster parent.

(2) The training incorporates the reasonable and prudent parent standard and addresses the values and guiding principles essential for caring for a child who is a victim of maltreatment.

(3) The kinship resource parent is eligible to receive payment for providing foster care services upon Kinship Final Approval from OKDHS per OAC 340: 75-7-24.

(c) **In-service training.** Each resource parent completes ~~12 hours of~~ continuing in-service training per year to enhance his or her skills as a provider.

(1) OKDHS provides free in-service training options for the resource parent.

(2) With CWS approval, other training is accepted as credit toward in-service training requirements. The resource parent provides the resource specialist with the training certificate, when available, from the training source that lists completed, approved hours.

(3) The resource parent selects from training options, such as classes, conferences, reading materials, or other learning opportunities that enhance his or her skills and meet the in-service training requirement. The resource parent receives approval for each training option from the resource specialist.

(4) A resource parent residing in another state and caring for a child in OKDHS custody meets the requirements of his or her state of residence for ongoing training to maintain OKDHS approval as a resource parent.

### **340:75-7-15. Background information search and assessment of results [AMENDED]**

(a) **Authorization to conduct criminal history records searches.** The applicants and adult household members give consent for Oklahoma State Bureau of Investigation (OSBI) and Federal Bureau of Investigation (FBI) criminal histories records searches by signing Form 04AD003E, Request for Background Check.

(b) **Background information search for applicants and adult household members.** A background information search is conducted regarding each adult in the applicant's home as a safeguard for children placed in Oklahoma Human Services (OKDHS) custody. Results from the background information searches are obtained, assessed, and documented prior to the applicant's approval. Background information searches are conducted at the time of application and include, but are not limited to:

(1) an OSBI name and criminal history records search;

(2) an FBI national criminal history records search, based on fingerprints, per Section 1-7-111 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-111);

(3) a search of the Oklahoma Sex Offender Registry;

(4) a search of the Mary Rippey Violent Offender Registry;

(5) a Department of Public Safety (DPS) report;

(6) a search of the Oklahoma State Courts Network, including Oklahoma District Court Records to determine if the applicant or adult household member is, or was, a party in any court action;

(7) a search of the Oklahoma Department of Corrections (DOC) offender information;

(8) a search of all OKDHS records, including child welfare (CW) records;

(9) a search of the Restricted Registry;

(10) a search of Nontechnical Services Worker Abuse Registry maintained by the Oklahoma State Department of Health;

(11) a search of the Community Services Worker Registry;

(12) a search of all applicable out-of-state child abuse and neglect registries for the applicant or adult household member who has not lived in Oklahoma continuously for the past five years, per 10A O.S. § 1-7-111;

~~(A) when a child abuse and neglect registry is maintained in the applicable state, the potential resource home is not approved without the results for the applicant's and adult household member's registry checks; or~~

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(B) ~~when a child abuse and neglect registry is not maintained in the applicable state, OKDHS requests any information that can be provided from the state; and~~

(13) a search of Juvenile Online Tracking System (JOLTS) records for any child not in OKDHS custody, 13 through 17 years of age, living in the home.

(c) **Background information summary.** All background information is documented on Form 04AF007E, Records Check Documentation. A copy of Form 04AF007E is shared with the resource family partner (RFP) or the resource family assessment (RFA) contractor responsible for completing an RFA. The RFP is provided background information only for searches the RFP does not conduct.

(d) **Exception to fingerprinting.** Per 10A O.S. § 1-7-111, the OKDHS Director or designee may authorize an exception to the fingerprinting requirement and an alternative procedure for obtaining a national criminal history records search for any applicant or adult residing in the home who has a severe condition that precludes him or her from being fingerprinted. In limited, case-specific circumstances, OKDHS may not be able to obtain:

- (1) an individual's fingerprints as a result of the individual's disability; or
- (2) legible fingerprints due to low quality fingerprints, as a result of age, occupation, or other conditions, thereby making it impossible for the National Crime Information Center (NCIC) to provide results.

(e) **Out-of-state equivalent records check required child abuse and neglect registry check based on length of residency.** ~~Prior to approval, applicants or adult household members who have lived in Oklahoma for less than five years must provide equivalent background records checks from previous state(s) of residence. Equivalent records checks include, but are not limited to, a state's criminal history search, including Sex Offender registries. Prior to approval, or prior to placement for kinship,~~ OKDHS obtains the child abuse and neglect registry check from the previous state(s) of residence, when a registry is available. When a child abuse and neglect registry is not maintained in the applicable state, OKDHS requests any information that the state can provide.

(f) **Residence time requirement for kinship applicants.** Prior to placement, kinship applicants or adult household members who have not lived in Oklahoma continuously for the past five years must submit fingerprints. OKDHS must obtain the child abuse and neglect registry check from the previous state(s) of residence, when a registry is available. Both the national criminal history records search and the child abuse and neglect registry checks must be completed, prior to a child's placement in a kinship home, per 10A O.S. § 1-7-111. When a child abuse and neglect registry is not maintained in the applicable state, OKDHS requests any information that the state can provide.

(g) **New household members in the resource home.** The resource parent notifies the resource specialist within 24 hours of a new household member in the resource home. A resource family's failure to notify the resource specialist of a new household member, or the refusal of a household member who remains in the home to consent to a background information search, is cause for the foster care child's removal from the resource home, possible closure of the resource home, and cancellation of the foster care contract.

- (1) OKDHS completes a background information search, per this Section, for persons 18 years of age and older residing in the resource home for 30-calendar days or more. The resource parent's child who reaches 18 years of age is considered in this category.
- (2) An adult household member that moves into the resource home must consent to a background information search and be fingerprinted immediately after notification to the resource specialist.
- (3) The resource parent's child who turns 18 years of age must consent to a background information search and be fingerprinted within 30-calendar days of turning 18 years of age.
- (4) Any child 13 through 17 years of age who moves into the home must have a JOLTS check completed immediately.

(h) **Kinship applicant criminal history records searches after normal business hours, or on a holiday, or as needed for emergency placement.** In determining the suitability of the potential kinship home, OKDHS uses the OKDHS Office of Background Investigations (OBI) to perform a name-based state and federal criminal history records search, per Section 901 et seq. of Title 28 of the Code of Federal Regulations. When OBI is not operational, OKDHS may elect to contract or otherwise collaborate with law enforcement agencies to perform a name-based state and federal criminal history records search followed by fingerprint verification. Fingerprint verification ~~must be~~ completed within five-business days immediately after the child entered emergency placement, per 10A O.S. § 1-7-115.

(i) **Assessment of background information search results.**

- (1) **Felony convictions.** OKDHS denies a resource home application when the applicant, or any person residing in the applicant's home, has a criminal conviction record for any felony offenses listed in (A) through (E) of this paragraph. The criminal conviction of an approved resource parent or any person residing in the resource home of any of the felony offenses listed in (A) through (E) of this paragraph requires the resource home's closure, cancellation of the foster care contract, and removal of every child in OKDHS custody from the home. The felony offenses are:

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(A) physical assault, battery, or a drug-related offense, when the conviction occurs within the five-year period preceding the application date;

(B) child abuse or neglect;

(C) spousal abuse or domestic abuse;

(D) a crime against a child including, but not limited to, child pornography; or

(E) a crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes specified in (A) of this paragraph. Per 21 O.S. § 692, homicide includes manslaughter. Per Section 16 of Title 18 of the United States Code, a crime involving violence means; an offense that:

- (i) has an element of the use, attempted use, or threatened use of physical force against the person or property of another; or
- (ii) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(2) **Sex-related crimes.** OKDHS denies ~~the application to become a resource parent~~ home application when the applicant:

(A) or any person residing in the applicant's home, has a conviction for any crime, felony, or misdemeanor, per 57 O.S. § 582, whether the conviction occurred upon a:

- (i) verdict;
- (ii) plea of guilty; or
- (iii) plea of nolo contendere; or

(B) is subject to, living with, or married to a person who is subject to the Oklahoma Sex Offender Registration Act.

(3) **Restricted Registry.** OKDHS denies ~~the application to become a resource parent~~ home application when the applicant is a registrant on the Restricted Registry, per 10 O.S. § 405.3.

(4) **Arrests, charges, or other convictions.** ~~Approval of an~~ An applicant who has, or is, living with a person who has a history of arrests, charges, or convictions for any felony, other than those listed in (1) of this subsection, or a relevant misdemeanor may be approved as a resource parent on a case-by-case basis. A relevant misdemeanor includes:

- (A) assault and battery;
- (B) alcohol- or drug-related offenses;
- (C) domestic violence; or
- (D) other offenses involving the use of physical force or violence against the person or property of another.

(5) **Child abuse and neglect investigations.** OKDHS determines the approval of any resource applicant with a history of child abuse and neglect investigations on a case-by-case basis.

### 340:75-7-18. Resource family assessment (RFA) [AMENDED]

(a) **RFA.** Per Section 1-7-111 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-111), the Oklahoma Human Services (OKDHS) or RFA contractor conducts an assessment of the applicant's and each household member's background and other circumstances and conditions to determine if the home is suitable and provides a safe environment for the child in OKDHS custody requiring foster care. The RFA process is used to assess families providing the following types of out-of-home care to a child in OKDHS custody:

- (1) traditional foster care;;
- (2) therapeutic foster care;;
- (3) intensive treatment family care;; and
- (4) contracted foster care.

(b) **Mandate to conduct background information search.** 10A O.S. § 1-7-111 and the Oklahoma Child Care Facilities Licensing Act, 10 O.S. §§ 401 et seq. mandate that a national criminal history records search based on the submission of fingerprints and a child abuse and neglect ~~information system~~ registry check be conducted for each applicant and each household member 18 years of age and older ~~that is not a foster child~~. The applicant and each adult household member ~~complete and sign Forms 04AF001E, Resource Family Application, and 04AD003E, Request for Background Check to authorize OKDHS to conduct a search into the applicant's and adult household member's criminal history records and OKDHS records.~~

(c) **Form 04AF004E, House assessment.** An in-home evaluation of the applicant's residence is conducted, ~~to assess the location, condition, and capacity to accommodate the child in OKDHS custody who requires foster care. Form 04AF004E includes an assessment of (1) through (13) of this subsection including thorough review of weapon safety.~~

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(1) ~~The home's location. The home is accessible to school, medical, and recreational resources. An applicant or parent ensures the safety of a child in OKDHS custody who comes within close proximity to:~~

~~(A) a firearm or other weapon; or~~

~~(B) an individual in possession of a firearm or other weapon.~~

(2) ~~The home's and property's condition. The home is clean and safe and any structures on the property that are accessible to a child are in a safe condition. The home and surroundings are evaluated regarding possible safety concerns and addressed with a plan of supervision, when applicable.~~

(3) ~~Available play space. Adequate and safe indoor and outdoor space for play activities is available. Outdoor recreational equipment on the resource home's grounds, such as swing sets, riding toys, trampolines, or tree houses are clean and are maintained in good repair.~~

(4) ~~Age-appropriate equipment. Age-appropriate child care equipment, such as beds, high chairs, or toys are available, clean, and in good repair.~~

(5) ~~Medication, cleaning supplies, and other hazardous materials storage. Medication, cleaning supplies, and other hazardous materials are securely stored to ensure safety for all children.~~

(6) ~~Phone communications. An operable phone is available in the home when a child is present.~~

(7) ~~Transportation:~~

~~(A) The applicant:~~

~~(i) maintains a vehicle in safe working order that is capable of transporting children and:~~

~~(I) carries the statutorily mandated vehicle liability insurance;~~

~~(II) possesses a valid driver license; and~~

~~(III) has a current, valid vehicle license tag; or~~

~~(ii) provides an acceptable transportation plan for the child in OKDHS custody.~~

~~(B) The applicant is advised that proper passenger restraints are used at all times when a child in OKDHS custody is riding in a vehicle.~~

~~(C) The applicant agrees to transport all children and adults in compliance with applicable state law, per 47 O.S. § 11-1112.~~

(8) ~~Sleeping arrangements and privacy:~~

~~(A) The applicant's home provides a separate bed for each child, with the exception of siblings younger than 6 years of age who exhibit a need for mutual support.~~

~~(B) A separate bedroom is provided for a child who acts out sexually.~~

~~(C) Preferably, no more than two children share a bedroom. Primary consideration is given to related children according to age and emotional needs.~~

~~(D) The applicant's home provides separate bedrooms for children 7 years of age and older of the opposite sex.~~

~~(E) A child in OKDHS custody, with the exception of an infant who is younger than 12 months of age, does not share a bedroom with an adult in the household. Under no circumstances is a child of any age authorized to sleep with an adult.~~

~~(F) The applicant's home provides space for the child's personal possessions and for a reasonable degree of privacy.~~

~~(G) The applicant may not designate a room, such as the living room, utility room, den, dining room, pantry, or unconverted garage as a bedroom for a child in OKDHS custody unless the room is specifically designed as a bedroom.~~

(9) ~~Infant sleeping arrangements. A crib, port-a-crib, or playpen with a firm, waterproof mattress or pad is used for each child younger than 12 months of age.~~

~~(A) Cribs, port-a-cribs, and playpens with more than two and 3/8 inches between slats or between the side and end panels are not allowed.~~

~~(B) Cribs with decorative cutout areas in crib-end panels or tall decorative knobs on the corner posts that may entrap a child's head or catch the child's clothing are not allowed.~~

~~(C) Cribs with drop-side latches have the manufacturer-provided kits to lock the crib side in the upright position due to safety hazards.~~

~~(D) Mattresses are tight-fitting with no more than one inch between the mattress and crib, port-a-crib, or playpen.~~

~~(E) Mattress and crib sheets fit snugly.~~

~~(F) Soft sleeping surfaces, such as soft mattresses, waterbeds, sofas, pillows, beanbag chairs, and inflatable mats are prohibited.~~

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(G) Pillows, quilts, comforters and blankets, sheepskins, stuffed toys, bumper pads, breathable bumper pads, and other soft products are not permitted in the infant's crib, port-a-crib, or playpen.

(H) Infants birth through three months of age may be swaddled with an infant-sized, thin fabric, such as a receiving blanket.

(I) When placed for sleeping, items, such as pacifiers, teething necklaces, and bibs, are not attached to the infant or his or her clothing.

(J) An infant is immediately moved to a crib, port-a-crib, or playpen when he or she falls asleep in other equipment.

(K) Mobiles may be securely attached or hung above the crib provided no part of the mobile is within the infant's reach.

(10) Infant sleep positions:

(A) To reduce the risk of Sudden Infant Death Syndrome (SIDS), the infant younger than 12 months of age is placed on his or her back for sleeping, unless there is a medical reason documented by a health care professional that the infant cannot sleep on his or her back.

(B) The infant who is able to turn himself or herself over is placed initially on his or her back for sleeping but is allowed to sleep in the position he or she prefers.

(11) Water safety:

(A) Form 04MP061E, Water Safety Agreement, is completed for all applicants.

(B) The definition of a water structure or water mass includes, but is not limited to:

- (i) swimming pools;
- (ii) decorative ponds;
- (iii) farm ponds or streams;
- (iv) fountains;
- (v) wading pools;
- (vi) hot tubs or spas; and
- (vii) waterfalls.

(C) Any activity that involves a child in OKDHS custody wading or swimming is supervised at all times.

(D) All applicable laws, ordinances, rules and regulations, and insurance requirements for pools are followed.

(E) A hot tub is equipped with a hard cover designed for a hot tub.

(F) The use of portable wading pools is monitored at all times. The wading pool is emptied at the end of each use.

(G) A water Safety Plan is developed and each adult identified to provide supervision for the child during water activities signs the water safety plan. ~~§ 5~~ The water Safety Plan includes appropriate measures to ensure the child's safety. Appropriate measures may include, but are not limited to:

- (i) fencing. A water structure or water mass is fenced to prevent unsupervised access. There is a sturdy fence:
  - (I) at least four feet high that cannot be easily climbed; or
  - (II) that connects to the top of an above-ground pool and extends two feet above the pool or follows other specified safety guidelines; or
- (ii) pool covers. A child-safety pool cover is placed over the water area each time the pool is not in use. Pool covers are completely removed prior to pool use;
- (iii) locked doors. All doors and gates leading to the water structure, are locked;
- (iv) pool alarms. Pool alarms are installed and operating when the pool is not in use;
- (v) removable ladders. Removable ladders are removed from the water structure when not in use;
- (vi) safety devices, such as lifejackets or rings;
- (vii) swimming lessons; or
- (viii) training, such as cardio-pulmonary resuscitation and first aid.

(12) Animal and household pet safety:

(A) Animals are in good health, do not show evidence of carrying disease, and do not present a threat to the health, safety, or welfare of children. Appropriate supervision is required when the child in OKDHS custody is in the presence of the family's animals.

(B) The applicant or parent provides documentation of current rabies vaccinations administered by a licensed veterinarian for applicable animals.

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~~(C)~~ When an animal bites a child, the applicant or parent obtains appropriate and immediate medical treatment and contacts the assigned child welfare (CW) specialist as soon as the child's safety is secured.

~~(13)~~ **Weapon safety:**

~~(A)~~ An applicant or parent ensures the safety of a child in OKDHS custody who comes within close proximity to:

~~(i)~~ a firearm or other weapon; or

~~(ii)~~ an individual in possession of a firearm or other weapon.

~~(B)~~~~(2)~~ Any firearm or weapon in the home is maintained, along with any ammunition, in a secure container, cabinet, or closet or otherwise be inaccessible at all times to children who are in the home.

~~(C)~~~~(3)~~ No firearm or weapon is transported in any vehicle in which a child in OKDHS custody is riding unless the firearm or weapon is safely secured or inaccessible to the child.

~~(D)~~~~(4)~~ A law enforcement official is exempt from ~~(B)~~~~(2)~~ and ~~(C)~~~~(3)~~ of this paragraph subsection when conditions of employment require ready and immediate access to his or her weapon.

~~(E)~~~~(5)~~ An applicant or parent licensed to carry a handgun, whether concealed or unconcealed, per 21 O.S. §§ 1290.1 et seq., the Oklahoma Self-Defense Act, may maintain the firearm in a holster secured to his or her person, per 21 O.S. § 1290.2. When the firearm is not holstered and secured to his or her person, it is maintained as required in ~~(A)~~ through ~~(C)~~~~(2)~~ and ~~(3)~~ of this paragraph subsection.

~~(F)~~~~(6)~~ Any activity the child in OKDHS custody participates in that involves a weapon has appropriate adult supervision at all times. The applicant or parent obtains pre-approval for the child's participation in a weapons activity from the child's assigned CW specialist or CW supervisor.

~~(14)~~ **Disaster plans.** Disaster plans are reviewed with each newly-placed child and periodically with all children in the home. The family disaster plan includes:

~~(A)~~ a list of emergency phone numbers posted in an accessible and conspicuous place. The list includes:

~~(i)~~ 911;

~~(ii)~~ doctors' names and phone numbers;

~~(iii)~~ health professionals or clinics;

~~(iv)~~ fire and police departments;

~~(v)~~ an ambulance service; and

~~(vi)~~ the name and phone numbers of the alternate caregiver; and

~~(B)~~ access to a phone at all times when a child in OKDHS custody is present;

~~(C)~~ an evacuation plan in the event of a fire, tornado, earthquake, flood, ice storm, or other natural, state, or national disaster;

~~(D)~~ first aid procedures and supplies;

~~(E)~~ a planned source of available medical care, such as a hospital emergency room, clinic, or health care professional;

~~(F)~~ a plan of whom to contact when there is an accident, an incident involving the child in OKDHS custody, or he or she runs away or is abducted; and

~~(G)~~ a plan of whom to contact and community resources to access when the child in OKDHS custody has behavioral problems.

**(d) Number of children in the home.** OKDHS determines the number and ages of children placed in each resource home.

**(1) Maximum number of children allowed to reside in the resource home.** The total number of children in OKDHS custody placed in a resource home does not exceed five. The total number of children in the resource home does not exceed six, which includes biological, adoptive, foster, and other children not in OKDHS custody. Approval to exceed these limits may be given to allow:

**(A)** a parenting youth in foster care to remain with his or her child;

**(B)** siblings to remain together;

**(C)** a child with an established meaningful relationship with the family to remain with the family; or

**(D)** a family with special training or skills to provide care to a child who has a severe disability.

**(2) Maximum number of children younger than 2 years of age allowed in a resource home.** No more than two children younger than 2 years of age including the resource parent's own children may reside or be placed in the resource home.



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(3) **Child in OKDHS custody placed in a tribal home.** The number of children in OKDHS and tribal custody allowed to reside in a tribal resource home is determined by the applicable tribe. When a child in OKDHS custody is placed in a tribal home and placement exceeds six children, overfill procedures are followed. An Indian child in OKDHS custody is placed in compliance with the placement preferences of the Indian Child Welfare Act, per Oklahoma Administrative Code (OAC) 340:75-19.

(e) ~~**Authorization to check applicant's references.**~~ The applicant grants OKDHS and RFA contractors permission to contact the applicant's references by signing Form 04AF001E, Resource Family Application. Information obtained from the references is confidential and may only be released upon order of a court with competent jurisdiction. **RFA disposition.** Upon completion of the RFA, a decision regarding approval or denial is made after assessing the information gathered.

(1) The assessment process is completed and the determination regarding approval or denial is made no later than 60-calendar days after receipt of completed Form 04AF001E.

(2) OKDHS may approve or deny an applicant as a resource when the applicant or the home meets or does not meet requirements, per OAC 340:75-7.

(3) OKDHS makes the final determination of application denial, which may occur at any point during the process.

(f) ~~**Assessment of applicant's marital and relationship history.**~~ The applicant has stable relationships whether married, single, separated, or divorced. The applicant's ability to develop and sustain stable relationships is assessed and documented.

(g) ~~**Household income.**~~ The applicant completes Form 04AF010E, Resource Family Financial Assessment, and provides documentation of employment, income, and expenditures as an assessment component. The applicant provides verification that he or she can manage personal and household financial needs without relying on the foster care maintenance payment. The applicant has sufficient income or community resources to meet the needs of an additional child placed in his or her home until the foster care maintenance payment for the child in OKDHS custody is received.

(h) ~~**RFA disposition.**~~ Upon completion of the RFA, a decision regarding approval or denial is made after assessing the information gathered.

(1) The assessment process is completed and the determination regarding approval or denial is made no later than 60-calendar days after receipt of completed Form 04AF001E.

(2) OKDHS may approve or deny an applicant as a resource when the applicant or the home meets or does not meet requirements, per OAC 340:75-7.

(3) OKDHS makes the final determination of application denial, which may occur at any point during the process.

(i)(f) ~~**Exceptions to assessment guidelines.**~~ Upon the applicant's or CW specialist's request, OKDHS may grant exceptions, provided adequate standards affording protection for the health, safety, and welfare of the child exist, per (1) and (2) of this subsection:

(1) For kinship resource homes only, OKDHS may, at its discretion, grant a waiver of specific rules or standards that do not compromise a child's safety and does not violate federal or state statutes.

(2) For and, for traditional resource homes, OKDHS may, at its discretion, grant a variance of specific rules or standards that do not compromise a child's safety and does not violate federal or state statutes.

(j)(g) ~~**Application denial.**~~ When a decision is made to deny an applicant as a resource parent home application, the applicant is provided an explanation regarding the reasons for the denial. ~~When the denial pertains to a kinship resource home, the child in OKDHS custody is immediately moved from the applicant's home.~~ Reasons for denying an application may include, but are not limited to:

(1) a lack of stable, adequate income to meet the applicant's own or total family needs, or the poor management of available income;

(2) the physical facility is inadequate to accommodate the addition of the child in OKDHS custody into the home, or presents health or safety concerns;

(3) a household member that has a history of alleged or confirmed child abuse, neglect, or both, per OAC 340:75-7-15;

(4) a household member that has a history of arrests or convictions, per OAC 340:75-7-15;

(5) any household member's health, behavioral health, or any condition that impedes the applicant's ability to provide appropriate care for a child;

(6) relationships in the household that are unstable and unsatisfactory;

(7) references that are guarded or have reservations in recommending the applicant;

(8) the applicant fails to complete the application, required training, or verifications timely as requested, or provides incomplete, inconsistent, or untruthful information;

(9) the home is determined unsuitable for the child requiring placement;

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- (10) the applicant applied for a child that OKDHS reasonably believes may not be available for placement; or
- (11) one or more factors concerning any household member or conditions in the home, as described in the denial letter, renders the applicant or home environment inappropriate as a resource home.

~~(k)~~**(h). Authority to approve or deny resource home and Interstate Compact on the Placement of Children (ICPC) assessments.** OKDHS determines the final disposition of each resource home and ICPC assessment completed by OKDHS or RFA contractors.

~~(h)~~**(i). Changes in the household.** The applicant or parent notifies the resource specialist or RFA contractor:

- (1) immediately of any:
  - (A) charges, arrests, or any alleged illegal activity committed by the applicant or any household member; and
  - (B) proceeding for a protective order filed by or against the applicant or any household member; and
- (2) within 24 hours of any change in the household including, but not limited to:
  - (A) the address or the home's location, including emergency home displacement;
  - (B) any significant change in the home that impacts the family's day-to-day living;
  - (C) the death or serious illness of a resource parent;
  - (D) health;
  - (E) income;
  - (F) individuals moving in or moving out of the home for any reason; or
  - (G) new or terminated relationships.

## **340:75-7-19. Joint approval of resource homes [AMENDED]**

**(a) Joint approval of resource home.** The Oklahoma Human Services (OKDHS) resource parent may be jointly-approved to provide foster care services to the child in OKDHS custody while approved by another agency, entity, or tribe. Joint approval occurs after each agency conducts an assessment and determines the child's needs can be met in a jointly-approved home. While the home is jointly-approved, any changes or concerns are shared between each agency involved with the jointly-approved home. Joint-home approval is child-specific and occurs when, the:

- (1) child's need for specialized services, treatment, or placement changes;
- (2) child re-enters the child welfare (CW) system and has a previous relationship with the placement provider;
- (3) placement provider is kin to the child;
- (4) siblings need to be placed together;
- (5) infant of a youth in OKDHS custody requires placement; or
- (6) child in OKDHS custody requires specialized services or treatment in a kinship placement.

**(b) Joint approval of a therapeutic foster care (TFC) home.** Joint approval of the TFC home as a resource home occurs after an assessment of the child's case and approval by the TFC program staff and the TFC agency.

**(c) Joint approval of an OKDHS Developmental Disabilities Services (DDS) home.** Joint approval of a DDS home as a Child Welfare Services (CWS) resource home occurs after an assessment of the child's case and approval by the CWS DDS and Education program supervisor and the Resource Unit.

**(d) Joint use of CWS resource home by Office of Juvenile Affairs (OJA).** Joint use of the CWS resource home occurs after an assessment of the child's case and approval by the Resource Unit.

**(e) Joint use of CWS kinship resource home.** Use of the kinship resource home as a traditional resource home requires the kinship family continue to meet all the requirements of a CWS resource home, per OAC 340:75-7-18.

**(f) Joint approval of resource home for Interstate Compact on the Placement of Children (ICPC).** An OKDHS resource parent may be jointly-approved to provide foster care services to a child in another state's custody when the request is received through OKDHS ICPC Unit and approved by another agency, entity, or tribe. Joint approval occurs after each agency conducts an assessment and determines the child's needs can be met in a jointly-approved home. While the home is jointly-approved, any changes or concerns are shared between each agency involved with the jointly-approved home.

**(g) Joint use of licensed family child care home.** A resource home is considered for joint approval as an OKDHS-licensed family child care home after an assessment and joint approval by the Resource Unit and Child Care Services (CCS). Prior to each child placement, a request for approval is made in writing on Form 07LC099E, Dual Approval Request for Foster Care Placement, based on the recommendation of CCS Licensing staff and resource staff. When a joint consensus is not achieved, CCS or the Resource Unit may request a review by the dual-approval committee, per Oklahoma Administrative Code 340:110-1-6 for a final decision. The approval decision is based on the number, ages, and specific needs of children potentially eligible for child care and foster care. Receipt of a written agreement from the caregiver is required that states the person(s) from whom the child was removed is not present during child care hours.

(h) **Joint approval of resource home by OKDHS and tribes.** The OKDHS or tribal resource home may be jointly-approved by both the tribe and OKDHS when the home meets OKDHS standards; however, the total number of children placed in the jointly-approved home cannot exceed the total number of children approved for the home.

### **340:75-7-24. Kinship placement for the child in Oklahoma Human Services (OKDHS) custody [AMENDED]**

(a) **Kinship care.** Per Section 1-9-106 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-106), OKDHS establishes standards for kinship foster care.

(1) Per 10A O.S. § 1-4-204, when determining the placement of a child in OKDHS custody, ~~a~~OKDHS gives preference ~~is given~~ to relatives and persons who have a kinship relationship with the child. OKDHS makes diligent efforts to place the child accordingly and, per 10A O.S. § 1-4-704, reports to the court the efforts made to secure a placement for the child in the least restrictive, most family-like setting, in reasonable proximity to the child's home, and where the child's special needs may be met.

(2) When the child is not placed with a relative who was considered for placement, OKDHS notifies the court in writing the reasons the relative was denied placement and becomes part of the court record, per 10A O.S. § 1-4-204.

(3) When the Indian Child Welfare Act (ICWA) applies, ICWA placement preferences are followed. The Indian child in foster care is placed in the following order of preference, absent good cause to the contrary, with:

- (A) a member of the Indian child's extended family as specified by the child's tribe;
- (B) a foster home licensed, approved, or specified by the Indian child's tribe;
- (C) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- (D) an institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the Indian child's needs. If the Indian child's tribe has established by resolution a different order of preference, the tribe's placement preferences must be applied.

(b) **Kinship relationships.** Kinship relationships are identified in (1) through (5) of this subsection.

(1) **Related by blood.** Maternal and paternal blood relatives considered as kinship, including half-blood relatives, are:

- (A) siblings;
- (B) grandparents including those denoted by prefixes of great and great-great;
- (C) aunts and uncles including those denoted by prefixes of great and great-great or by degree of relationship;
- (D) nieces and nephews including those denoted by prefixes of grand and great-grand; and
- (E) cousins.

(2) **Related by marriage.** Relationships created by marriage, as described in (1) of this subsection, whether by common-law or ceremony include:

- (A) step-relations; and
- (B) the previous relationship designation prior to the termination of the marriage by death or divorce.

(3) **Related by adoption.** Relatives by adoption as described in (1) and (2) of this subsection are considered kinship.

(4) **Related by emotional tie or bond.** An emotional tie or bond exists when a child or the child's parent acknowledges and accepts a person as part of the extended family or in the family's close network of friends and relationships. ~~The family or child relationship role must exist prior to the necessity for the child's initial out-of-home placement.~~ Individuals with whom a child in OKDHS custody establishes a relationship after the child's out-of-home placement may be considered as a non-relative kinship placement after an assessment of the child's case ~~and an exception to kinship placement is granted.~~

- (A) When the child is in protective or OKDHS emergency custody, OKDHS gives priority to the child's noncustodial parent for placement, unless the placement is not in the child's best interests.
- (B) When the child cannot be placed with the noncustodial parent, the child's placement is made, per 10A O.S. § 1-4-204.

(5) **Parent not considered kinship.** A kinship placement does not include:

- (A) the child's custodial or noncustodial parent with whom the child is placed or to whom the child is returned; or
- (B) a parent whose parental rights are terminated.

(c) **Residence requirement for kinship applicants.** For kinship applicants or adult household members who have not lived continuously in Oklahoma for the past five years, OKDHS must obtain the child abuse and neglect registry checks from the previous state(s) of residence, when a registry is available, prior to the child's placement in a kinship resource home, per 10A O.S. § 1-7-111.

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(d) **Initial kinship placement.** Per 10A O.S. § 1-9-106, a child may be placed in the kinship resource home prior to final approval of the applicant completion of the resource family assessment, a national criminal history records search, and pre-service training provided:

- (1) Form 04AD003E, Request for Background Check, is completed, signed, and results are received for the applicant and each adult household member, other than a foster child, per Oklahoma Administrative Code (OAC) 340:75-7-15;
- (2) an OKDHS records search, including Child Welfare Services records, is completed and documented for the applicant and each adult household member on Form 04AF007E, Records Check Documentation. When an applicant or adult household member has not lived continuously in Oklahoma for the past five years, the resource specialist gathers all child welfare (CW) histories from other states where the applicant or adult household member lived within the past five years. The applicant or adult household member submits fingerprints for a national criminal history records search to expedite the initial placement approval process.
- (3) Form 04FC001E, Initial Kinship Placement Agreement, is completed and signed;
- (4) Form 04AF001E, Resource Family Application, is completed and signed;
- (5) Form 04AF004E, House Assessment, is completed;
- (6) Form 04MP061E, Water Safety Agreement, is completed and signed;
- (7) Form 04AF021E, Verification of Receipt of OKDHS Rules, is completed and signed;
- (8) Form 04AF052E, Initial Kinship Safety Evaluation and Assessment Tool, is completed and signed; and
- (9) three personal references, only one of whom is a family member, are interviewed.

(e) **Kinship Resource Family Assessment (KRFA).** Per 10A O.S. § 1-7-111, OKDHS conducts an assessment of the applicant's and each household member's background and other circumstances and conditions to determine if the applicants, household members, references, and home environment is suitable and provides a safe environment for the child in OKDHS custody requiring foster care. The goal of KRFA is to prepare a kinship caregiver's home for children. The intention is to support and strengthen families and exercise flexibility for what each child needs. This includes an assessment of:

- (1) consideration of each family member's criminal and child welfare histories;
- (2) an assessment of the kinship caregiver(s); and
- (3) an assessment of the kinship caregiver(s) physical environment.

(f) **Kinship resource applicant criminal history records searches after normal business hours or on holidays.**

- (1) In determining the suitability of the prospective kinship home, OKDHS uses the OKDHS Office of Background Investigations (OBI) to perform a name-based state criminal history records search, per procedures set forth in Section 901 et seq. of Title 28 of the Code of Federal Regulations.
- (2) When OKDHS OBI is not operational, OKDHS may elect to contract or otherwise collaborate with local law enforcement agencies to perform a name-based state and federal criminal history records search followed by fingerprint verification, per 10A O.S. § 1-7-115.

(f)(g) **Kinship maintenance payment option.** The kinship applicant may opt for:

- (1) an OKDHS foster care maintenance payment; or
- (2) a money payment that the child is eligible for, instead of the foster care maintenance payment, when the child lived with the kinship applicant continuously for at least twelve months.

(A) The foster care maintenance payment is reduced by the amount of the money payment when the money payment is less than the foster care maintenance payment. Refer to OAC 340:75-7-52.1 for Supplemental Security Income (SSI) or Social Security Administration (SSA) benefits received for a parent who is deceased or disabled.

(B) Payment may include:

- (i) other financial resources, per OAC 340:75-13-28; or
- (ii) Temporary Assistance for Needy Families (TANF) benefits, per OAC 340:10-9.

(g) **Kinship and traditional resource home requirements the same.** Each kinship resource home, whether paid or non-paid, meets the same requirements as the traditional non-related resource home.

(h) **Kinship start-up and training stipend.** The kinship resource family that has not been approved within the preceding five years is entitled to receive, per OKDHS Appendix C-20, Child Welfare Services Rates Schedule, a:

- (1) one-time kinship start-up stipend to assist with initial expenditures for each child placed in the home for 14-consecutive days; and
- (2) training stipend. Half of the total stipend is paid to the kinship resource family after the kinship resource parent(s) enrolls in the pre-service training and the second half of the total stipend is paid to the kinship parent(s) after the kinship resource parent(s) completes the pre-service training when:

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(A) a child is placed and residing in the home at the time the kinship resource parent enrolls in training; and

(B) the child remains in the home until the kinship resource parent completes training.

(i) **Foster care maintenance payments begin when requirements satisfied the kinship foster parent receives final approval.** Per 10A O.S. § 1-9-106, the kinship resource parent is not entitled to any payments for providing foster care until the resource parent receives final approval from OKDHS. Final approval may only be granted after completion and disposition of the Kinship RFA. Foster care maintenance payments for kinship resource homes begin at the time requirements are met, per OAC 340:75-7-18 and are not retroactive. On a case-by-case basis, the kinship resource parent may be approved for maintenance payments based on an exception to a non-safety requirement, per OAC 340:75-7-10.1.

(j) **Kinship resource family transfer to a resource family partner (RFP).** When a kinship resource family is already approved as a supported foster home or is in the approval process with an RFP, the RFP may request the kinship resource family case be transferred to the RFP agency. Number of children in the kinship resource home. OKDHS determines the number and ages of children placed in each kinship resource home per, OAC 340:75-7-18.

(k) **Authorization to check applicant's references.** The kinship applicant grants OKDHS permission to contact the applicant's references by signing Form 04AF001E, Resource Family Application. Information obtained from the references is confidential and may only be released upon order of a court with competent jurisdiction.

## PART 4. ROLES AND RESPONSIBILITIES

### **340:75-7-38. Discipline for the child in Oklahoma Human Service (OKDHS) custody placed in foster family care Services (OKDHS) custody [AMENDED]**

(a) **Discipline.** "Discipline" means safe practices or methods of teaching and enforcing acceptable patterns of behavior to ensure proper conduct and does not include corporal punishment. The resource parent assists the child in OKDHS custody placed in the resource home learn behaviors that promote the child's self-regard, personal ability, and socialization skills. The rules governing these efforts are outlined in Oklahoma Administrative Code (OAC) 340:75-7-38(b) through (d).

(b) **Positive interactions.** The resource parent and family interactions with a child:

- (1) protect and nurture the child's physical and psychological well-being;
- (2) advance the child's development;
- (3) meet the child's needs;
- (4) teach the child ways to prevent and solve problems;
- (5) maintain and build the parent and child relationship;
- (6) build the child's self-control and responsibility; and
- (7) comply with OKDHS rules regarding discipline to provide a safe, nurturing environment that allows the child to experience security and positive self-esteem.

(c) **Teaching techniques.**

(1) **Positive behavior management.** Positive behavior management techniques include, but are not limited to:

- (A) rewards. Rewards may be small gestures of approval, such as treats or toys, and symbols of recognition, such as stickers, stars, happy faces, or money. Rewards are for the interest, desire, and effort the child displays, not for performance, talent, or ability. This technique must not be used all the time;
- (B) privileges. Privileges allow the child to experience greater freedom or opportunity and an increased responsibility. Privileges are used to encourage the child's interest and talents by supporting the child's efforts in pursuing interests; and
- (C) praise. Praise may be communicated by verbal or non-verbal expression of the child's achievements or good qualities.

(2) **Self-control.** To promote the child's self-control, the resource parent clearly communicates expectations and provides a structured, safe environment. The resource parent's use of planning and preparation prevents confrontation, acting-out, and negative behaviors by:

- (A) establishing expectations. The child in out-of-home care experiences varied expectations in each placement setting. Since each placement setting is different, the resource parent must communicate expectations to the child through setting rules, telling the child what to expect, and modeling. Clearly communicated expectations provide structure for the child and a structure for building and maintaining self-control; and
- (B) modifying the environment. A structured, safe environment allows the child to succeed at identified tasks. The resource parent structures the environment by removing negative sources of stimulation for the child and establishing routines and consistency in the child's day-to-day schedule.

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(3) **Direct intervention.** When the child does not have sufficient self-control to ensure acceptable behavior, the resource parent uses direct intervention and techniques, per OAC 340:75-7-38(c)(1) and (2). Techniques used are dependent upon the child's developmental needs and anticipated outcomes. Techniques appropriate for responding to lack of self-control include:

(A) rules. Rules are established guidelines that:

- (i) allow the child to know what can and cannot be done;
- (ii) help the child know right from wrong;
- (iii) communicate to the child how something is done and help prevent problems; or
- (iv) provide a way to respond to a problem;

(B) time out. Time out provides space between the child and a situation where the child exhibits behavior that is not acceptable or where the situation is dangerous. Recommended time out is one minute per age of the child. Time out is typically used for the younger child;

(C) restricting privileges. Privileges are restricted when a child is not allowed to do something for a specified time period, such as not playing with a particular toy, watching television, playing music or computer games, having phone privileges, or engaging in some other pleasant activity. Talking to parents or siblings is not included in restricting phone privileges;

(D) grounding. Grounding involves imposing restrictions on a child's interaction and involvement with friends or activities outside the placement setting, such as restriction to the house or leaving the premises to attend parties, movies, or visit friends. Grounding is typically used for the older child;

(E) logical consequences. Logical consequences require the resource parent to impose a response to the child's behavior consistent with and connected to the unacceptable behavior exhibited; and

(F) natural consequences. Natural consequences occur in response to the child's behavior. This technique is most appropriately used with adolescents and for the child who tends to get in power struggles. Natural consequences are never allowed when a child's safety or well-being is in question.

(4) **Physical discipline.** OKDHS prohibits the use of any form of physical discipline for the child in OKDHS custody in an out-of-home placement or any act or omission that would emotionally, physically, or psychologically harm the child.

(A) The resource parent contacts the child welfare (CW) or the resource specialist when the resource parent cannot successfully discipline the child.

(B) OKDHS and the resource parent do not authorize school personnel to administer corporal punishment to the child in OKDHS custody. The resource parent does not, when requested, authorize corporal punishment by school personnel, but refers school personnel to the CW specialist to establish alternative discipline methods.

(C) The developmental needs of the child and the desired outcomes define the discipline techniques used to modify the child's behaviors. Some of the circumstances that may affect the discipline technique used include:

- (i) the behavior the child is exhibiting;
- (ii) the resource parent's feelings about the behavior;
- (iii) the purpose assigned to the behavior;
- (iv) where the behavior occurs; and
- (v) who is present at the time of the behavior.

(5) **Punishment.** Unacceptable behavior management methods and techniques promote negative behavior, are punitive, and do not promote self-control. Unacceptable behavior management techniques for the child include, but are not limited to:

(A) the use of the hand or any object, such as a board, fly swatter, paddle, belt, switch, electrical cord, hair brush, or wooden spoon, to hit, strike, swat, or physically discipline the child;

(B) deprivation of food or sleep;

(C) deprivation of family visits;

(D) slapping, pinching, shaking, biting, pushing, shoving, thumping, or rough jerking;

(E) cursing or other verbal abuse;

(F) private or public humiliation or any act that degrades;

(G) derogatory remarks about the child, the child's biological family, race, religion, or cultural background;

(H) solitary confinement in areas, such as closets, cellars, and rooms with locked doors;

(I) threatening to move the child from the resource home;

(J) use of any chemical agent, such as mace, sleeping pills, or alcohol;

(K) physical force or threat of physical force;

(L) assuming and maintaining an unnatural position that may include holding arms out-stretched from the body, placing the nose against a wall, or forced squatting;

(M) tying with a rope, cord, or other object;

(N) ordering, allowing, or encouraging physical discipline or hitting by other children or anyone else in the home;

(O) washing the mouth out with soap, eating certain foods that may include peppers, hot sauce, or other food stuff when intended for punishment; and

(P) forced physical exertion, such as running laps and push-ups.

(d) **OKDHS rules.** The resource parent must abide by OKDHS rules regarding discipline of the child in OKDHS custody even when there is a difference between OKDHS discipline rules and the methods used to discipline the resource parent's own child.

## PART 5. ELIGIBILITY AND PAYMENTS

### 340:75-7-51. Foster care claims [AMENDED]

#### (a) Foster care maintenance payments.

(1) A foster care claim for a maintenance payment is approved after:

(A) the resource family assessment is completed and approved, per Oklahoma Administrative Code (OAC) 340:75-7-18;

(B) the kinship resource parent receives final approval from Oklahoma Human Services (OKDHS) per Section 1-9-106 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-106) and OAC 340:75-7-24;

~~(B)(C)~~ pre-service training is completed by each parent in the resource home, excluding kinship, unless an exception applies, per OAC 340:75-7-14;

~~(C)(D)~~ the results of national criminal history records searches based on fingerprints and results of any applicable child abuse and neglect registries are received regarding each applicant and each adult household member, per OAC 340:75-7-15;

~~(D)(E)~~ a foster care contract is signed by each applicant; and

~~(E)(F)~~ a Designated Client Number (DCN) is assigned to the foster care contract.

(2) A maintenance payment may not precede the date of the foster care contract.

(3) The resource parent authorizes direct deposit or obtains a debit card to receive foster care maintenance payments.

(b) **Overpayment or underpayment of the foster care maintenance payment.** ~~The Oklahoma Department of Human Services (DHS)~~ OKDHS and the resource parent ensure the accuracy of the foster care maintenance payment upon receipt of the payment. When an error occurs, the procedures for adjustments listed in (1) through (3) of this subsection must be completed.

(1) The resource parent immediately notifies the resource specialist or ~~DHS~~ OKDHS notifies the resource parent upon discovery of an error in the foster care maintenance payment.

(2) ~~DHS~~ OKDHS authorizes foster care supplemental payments upon discovery of underpayments. When an overpayment coincides with the underpayment, the overpayment is recouped before the underpayment is paid.

(3) ~~DHS~~ OKDHS authorizes repayment schedules when resource parents are paid for days the child was not in placement or for an amount greater than authorized.

(A) The resource parent reimburses ~~DHS~~ OKDHS for any overpayment, regardless of the party responsible for the error. Each monthly payment toward resolving the overpayment must equal at least 10 percent of the overpayment unless an exception was granted.

(B) The resource specialist assigned to the resource home notifies the resource parent of the overpayment and explains the:

(i) reason for the overpayment;

(ii) amount of overpayment;

(iii) resource parent's responsibility for repayment; and

(iv) repayment options.

(C) Repayment options are:

(i) payment in full by check or money order payable to ~~DHS~~ OKDHS;

(ii) a deduction from the monthly foster care maintenance payment while children in ~~DHS~~ OKDHS custody remain in the home; or

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- (iii) extra payments each month to ~~DHS~~OKDHS as well as the deduction from the monthly foster care maintenance payment.
- (D) When the resource parent:
  - (i) closes the home and does not repay the overpayment, the amount of the overpayment remains in the ~~DHS~~OKDHS electronic system indefinitely; and
  - (ii) reopens the resource home after closure, the overpayment is deducted from the foster care maintenance payment.

## **340:75-7-52. Foster care contracts and maintenance payments [AMENDED]**

(a) **Foster care contracts.** The rules in this Section and the provisions of the foster care contract for services define the resource parent and Oklahoma Department of Human Services (~~DHS~~)(OKDHS) responsibilities regarding the care of the child in a resource home. The foster care contract is signed when each requirement for approval as a resource parent is satisfied, per Oklahoma Administrative Code (OAC) 340:75-7-18, except for kinship, per OAC 340:75-7-24.

(1) Foster care contracts are perpetually renewed and considered in effect unless a specific action by one of the parties to the contract terminates the contract. The resource parent is eligible for foster care maintenance payments effective the date the home is approved. The kinship resource parent is not paid retroactively to the date of the child's placement.

(2) Foster care maintenance payments are authorized for intervals of care provided to a child in foster care:

(A) placed by ~~DHS~~OKDHS; or

(B) by a tribe with an approved Tribal/State Agreement with ~~DHS~~OKDHS.

(3) On a case-by-case basis, the kinship resource parent may be approved for maintenance payments based on ~~an~~ exceptional waiver to a non-safety requirement, per OAC 340:75-7-24.

(4) The kinship resource parent who meets the degree of relationship, per OAC 340:10-9-1, may apply for assistance through Temporary Assistance for Needy Families (TANF) at a local ~~DHS~~OKDHS office pending resource home approval.

(b) **Foster care maintenance payments.** When the child is eligible for a benefit payment, the resource family may opt to receive the larger of either the ~~DHS~~OKDHS foster care maintenance payment or the benefit payment, per OAC 340:75-7-52.1. The foster care contract authorizes foster care maintenance payments to offset the additional expense of caring for a child in ~~DHS~~OKDHS custody.

(1) A foster care maintenance payment is not paid until the home is granted final approval. The foster care maintenance payment is issued the month after the care is provided. No foster care maintenance payment is paid after the effective date of the cancellation or termination of the contract.

(2) The ~~DHS~~OKDHS Director authorizes the amount of the foster care maintenance payment and difficulty of care payment rates. Foster care maintenance payment rates are reviewed annually to ensure continued appropriateness, per Section 1356.21(m) of Title 45 of the Code of Federal Regulations. When additional funding is needed, a request is made through the Oklahoma legislative budget process for state agencies.

(3) The foster care maintenance payment is a fixed monthly amount and corresponds to the child's age, per ~~DHS~~OKDHS Appendix C-20, Child Welfare Services Rates Schedule. When a change in the child's age qualifies for a new rate, the new rate becomes effective on the first day of the month following the child's birthday.

(4) The foster care maintenance payment is provided to the resource parent to address the costs of room, board, clothing, and incidentals for the child in ~~DHS~~OKDHS custody.

(5) The resource parent's monthly foster care maintenance payment includes a clothing allowance for each child in ~~DHS~~OKDHS custody, per OAC 340:75-13-45.

(6) The medical expense of the child in foster care is covered through Medicaid (~~SoonerCare~~) when private insurance is not available to the child or through state funds when the child is not eligible for Medicaid (~~SoonerCare~~), per OAC 340:75-13.

(7) The foster care maintenance payment received through the foster care contract is not considered income, per Section 131 of Title 26 of the United States Code and the resource family does not receive Form 1099 from ~~DHS~~OKDHS at year's end. The resource parent consults a tax advisor for advice, as needed.

(8) When a partial month of foster care service is provided, the foster care maintenance payment begins on the child's date of entry to the resource home and concludes on the day before the child's departure from the home. A prorated sum is paid:

(A) based on the number of days of service provided, multiplied by the daily rate, per ~~DHS~~OKDHS Appendix C-20; and

(B) automatically by KIDS.



(9) When a child is out of the resource home for family reunification purposes, pre-placement visits, or is missing from care for up to seven consecutive days, the resource parent receives a foster care maintenance payment when the child is expected to return to the resource home by the end of the seven consecutive days.  
(10) The resource parent is eligible for prorated foster care maintenance payments when the child attends an Indian boarding school, Oklahoma Schools for the Deaf or Blind, or a similar residential program and returns to the resource home for weekends or school vacations.

(A) When the child returns to the resource home for a summer vacation, the monthly rate is used.

(B) The days the child spends in the resource home are documented in KIDS, and the foster care maintenance payment is automatically generated.

(11) The resource parent is eligible for the foster care maintenance payment for up to 10-calendar days during each of the child's health or behavioral health hospitalization events when the child is expected to return to the resource home.

(12) The foster care maintenance payment is generated electronically based on the child's placement episode in KIDS.

(c) **Termination of the foster care contract.** Termination of the foster care contract occurs, per OAC 340:75-7-94 and results in closure of the resource home.

### PART 6. RESOURCE HOME SUPPORT SERVICES

#### **340:75-7-65. Child care and support services for the resource home [AMENDED]**

(a) **Child care subsidy.** Child care subsidy benefits paid by Oklahoma Human Services (OKDHS) for a child in OKDHS or tribal custody are available, when:

(1) a foster child attends an Early Head Start (EHS) program contracted with OKDHS to receive child care subsidy payments;

(2) the resource is a:

(A) paid or non-paid resource parent authorized for child care subsidy benefits by Child Welfare Services (CWS);

(B) tribal resource family providing care for the child in tribal custody in a paid placement when authorized by the OKDHS tribal program staff;

(C) coordinated foster care parent when authorized by the district of service;

(D) shelter host home when authorized by the assigned child welfare (CW) specialist in the district of service;

(E) supported home when authorized by the assigned OKDHS resource family partner liaison; or

(F) therapeutic foster home when authorized by the therapeutic foster care (TFC) program staff; or

(3) the need for child care is met:

(A) when a single resource parent is:

(i) employed 20 hours a week or more;

(ii) enrolled and attending a formal education program for at least six credit hours per semester. A formal education program is defined as a course of study that leads to the attainment of an associate, bachelor's, or post-graduate degree;

(iii) enrolled and attending a training program. A training program is defined as a course of study that when completed, qualifies a person to meet requirements for a job the individual could not have obtained without the certificate of completion, accreditation, or licensure resulting from completion of training;

(iv) employed during night hours and needs OKDHS paid child care to allow him or her to sleep during the day. During the night working hours, a feasible alternative is used at no cost to OKDHS. Night working hours are defined as the hours between 11:00 p.m. and 7:00 a.m. The maximum amount of child care time the resource specialist approves allows the resource parent eight hours of sleep plus travel time to and from the child care provider; and

(v) approved for child care by the resource program staff for reasons other than those listed in this subparagraph. These decisions are made on a case-by-case basis; or

(B) in a two-parent resource home, when:

(i) both resource parents are employed 20 hours a week or more and have the same working hours;

(ii) one resource parent works and the other resource parent has a significant disability that precludes providing care for the child;

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- (iii) one resource parent works during the same hours the other resource parent is enrolled and attending a formal education or training program as defined in (3)(A) of this subsection;
- (iv) sleep-time child care is needed during the day because one or both resource parents work nights. During the night working hours, a feasible alternative is used at no cost to OKDHS. When one resource parent works nights, the other resource parent must work or need child care for a reason that requires the approval of resource program staff during the hours the other resource parent is sleeping. Night working hours are defined as the hours between 11:00 p.m. and 7:00 a.m. The maximum amount of child care time the resource specialist approves allows the resource parent eight hours of sleep, plus travel time to and from the child care provider; or
- (v) one resource parent works during the same hours the other resource parent needs child care for a reason other than those listed in this subparagraph. In this situation, resource program staff approve the need for subsidized child care on a case-by-case basis; or

(4) child care is provided:

(A) in a licensed and contracted child care center with a ~~one star plus two star~~ or higher star status, unless there are no centers with a ~~one star plus two star~~ or higher star status in the community or special exception criteria are met. Special exception criteria are:

- (i) the child was already approved for care at the one star center ~~prior to January 1, 2003, or~~ prior to the provider's star status being reduced to one star. The child may remain in this facility, unless the child stops attending there for more than 30-calendar days. The child may be approved at this same facility again when the only reason the child did not attend for more than 30-calendar days was because of a school break or due to circumstances beyond the control of the resource home, such as the child's illness;
- (ii) care is requested for a child living in the same home as a child already approved for care per (3)(A)(i) of this paragraph for the same one star child care provider; or
- (iii) the resource parent demonstrates no other child care option meets the family's needs; or

(B) in a licensed and contracted child care home regardless of star level; or

(C) by an approved in-home provider who cares for the child at the resource parent's home, per Oklahoma Administrative Code (OAC) 340:40-13-2.

**(b) Child care subsidy benefits available through Adult and Family Services (AFS).** Child care subsidy benefits may be available through local OKDHS AFS for child care, per OAC 340:40, to:

- (1) resource parents who finalized an adoption of a foster child;
- (2) a child in tribal custody placed by the tribe in a home without a resource case in KIDS; and
- (3) a child in the custody of another state placed in a foster or kinship home in Oklahoma through the Interstate Compact on the Placement of Children.

**(c) Foster care child care subsidy benefits not paid by OKDHS.** Foster care child care subsidy benefits are not paid by OKDHS, when the:

- (1) resource parent has an ownership interest in the chosen child care center;
- (2) foster child attends a family child care home where the child lives, unless:
  - (A) the child care home provided child care to the child immediately prior to the foster care placement; and
  - (B) it is in the child's best interests to remain in the kinship provider's child care home; or
- (3) resource parent works in the child care home during the same hours the child attends child care;
- (4) resource parent chooses more than one child care provider to provide service to a child on the same day;
- (5) resource parent makes informal arrangements for child care;
- (6) provider is receiving state or federal funds, such as Head Start or public schools, and is not charging all parents for the hours the subsidy payment is requested. EHS programs are exempt from this rule; or
- (7) provider is caring for a school-age child during the regular school day when such student could be attending a public or private school during those hours.

**(d) Child care subsidy benefits for a child with disabilities.** A child with disabilities is potentially eligible for the higher special needs rate for child care subsidy benefits. Each child with disabilities requires a separate and specific certification of the child care provider.

(1) A child with disabilities is defined as a child receiving:

(A) Supplemental Security Income (SSI). This includes those whose SSI payment stops because of financial reasons, but who still meet the medical definition of disability as determined by the Social Security Administration;

(B) ~~SoonerStart~~ (Medicaid) early intervention services; or

(C) special education services provided per an Individualized Education Program (IEP) by the child's school district.

(2) When the child with disabilities is 13 years of age and older, the resource parent provides a statement from a licensed health care professional verifying that the child is physically or mentally incapable of self-care as age-appropriate before care is approved, and annually at review. Subsidized child care benefits are not approved when a licensed health care professional states that the child is capable of self-care as age-appropriate.

(e) **Resourceparent's responsibility for electronic benefit transfer (EBT).** Refer to OAC 340:40-10 for information regarding the EBT system that includes the manual claim process. Resource parent responsibilities for EBT include:

(1) watching the EBT training video;

(2) completing and submitting a signed Form 04MP042E, Application for Child Welfare Child Care Benefits;

(3) swiping the EBT card every day the child attends child care or recording attendance using the ECC Connect mobile app at the childcare facility;

(4) not ~~swiping the EBT card~~ recording attendance for any day the child does not attend child care;

(5) checking the message on the point of service machine for correct times of attendance and approval;

(6) not giving the EBT card or personal identification number to anyone, including the child care provider; and

(7) paying for care that OKDHS does not pay because the:

(A) EBT card was not swiped or attendance recorded through the ECC Connect mobile app for the correct days and times the child attended child care;

(B) swipes or attendance records were denied and not corrected within 10-business days; or

(C) provider loses the weekly rate payment for absent days because the correct attendance for every day the child attended that month was not swiped.

(f) **Therapeutic child care services.** Therapeutic child care services are paid by OKDHS when recommended by a mental health professional and supporting documentation is provided. Prior authorization from the CWS Finance and Business (FB) is required. CWS FB makes the determination of the availability of funds.

(g) **Overpayment of child care.** OKDHS seeks repayment for any child care subsidy benefit paid in error to a licensed child care center, home, or professional in the resource parent's own home. The resource parent reimburses these costs to OKDHS when the overpayment occurs due to the resource parent's ineligibility.

(h) **Informal care arrangements for the foster child.** Resource parents may make informal care arrangements with friends, neighbors, or relatives for the foster child's occasional care.

(1) Resource parents apply the reasonable and prudent parent standard when selecting an informal care provider to care for the foster child and ensure he or she possesses the maturity and skills to address the child's needs.

(2) The foster child may stay with a friend, when the resource parent:

(A) knows the family;

(B) reasonably believes the family, household members, and environment are safe for the child; and

(C) exchanges contact information, including names, addresses, and phone numbers.

(3) The resource parent notifies the resource specialist when using informal care arrangements. The resource parent may not use an informal care provider who the resource specialist determines is unsafe.

(4) The resource parent obtains permission from the foster child's assigned CW specialist before allowing the foster child's relatives to provide informal care for the child.

(5) An informal care provider, living outside of the resource parent's home, must be 18 years of age and older.

(6) A teenager living in the resource parent's home must be 16 or 17 years of age, related to the resource parent, and is limited to providing 12-consecutive hours of informal care. The resource specialist and the resource parent assess the teen's ability and appropriateness to assume responsibility for the foster child and ensure his or her needs and well-being can be met.

(7) The resource parent does not use a child in OKDHS custody to care for a younger child unless approved by the resource specialist.

(8) Informal care providers are notified on how to reach the resource parent and other emergency contacts.

(9) An individual providing care for more than seven-consecutive days must be an approved alternate caregiver.

(i) **Alternate caregiver selected by the resource parent.** The resource parent is required to identify at least one formal, alternate caregiver, but no more than two, who can fulfill the resource parent's role for the child in OKDHS custody placed in the resource home in case of family emergencies, or when the family needs an extended break for up to 14-consecutive days. The alternate caregiver is limited to providing care only for resource families for which the caregiver is approved.

(1) The alternate caregiver is not used as a placement for the child.

(2) The resource parent identifies and reimburses the alternate caregiver. When funding is available, respite vouchers may be used for reimbursement.

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- (3) The alternate caregiver is at least ~~21~~18 years of age.
- (4) The alternate caregiver and each adult household member in the alternate caregiver's home must be willing to:

- (A) submit to a name-based records search by the Oklahoma State Bureau of Investigation, per OAC 340:75-7-15;
- (B) submit to an OKDHS records search including, but not limited to:
  - (i) CWS history, per OAC 340:75-7-15;
  - (ii) Restricted Registry; and
  - (iii) Community Services Worker Registry; and
- (C) submit to an Oklahoma State Department of Health Nontechnical Services Worker Abuse Registry search;
- (D) submit to a Juvenile Online Tracking System records search for each child, 13 through 17 years of age, living in the home, per OAC 340:75-7-15;
- (E) engage in an evaluation of the home to assess the location, condition, and capacity to accommodate the child in OKDHS custody;
- (F) provide one reference on Form 04AF026E, Alternate Caregiver Reference Letter;
- (G) comply with discipline policy, per OAC 340:75-7-38, and confidentiality policy, per OAC 340:75-1-42; and
- (H) participate in a yearly update.

- (j) **Respite care.** Respite care may only be provided by an approved resource home. A resource home is not limited to providing respite care to only one resource family.
- (k) **Resource home insurance.** Liability insurance is provided for resource families for damages caused by the child in OKDHS custody per the terms of the policy. Resource families have the right to receive a copy of the liability insurance policy, per Section 1-9-119 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-119). Resource parents are responsible for any deductibles.
- (l) **Foster care associations.** OKDHS cooperates with and promotes the development of foster care associations for resource parents in each district. OKDHS provides information to resource families about local foster care associations.
- (m) **Foster Care and Adoption Support Center.** The Foster Care and Adoption Support Center, 1-800-376-9729, is maintained by the Foster Care and Adoption Support Unit and assists with questions and problem resolution.
- (n) **Foster parents' rights.** Foster parents' rights are found in 10A O.S. § 1-9-119 and a copy is given to every resource parent at the annual update.
- (o) **Shared information.** Information shared between CWS employees, resource parents, and parents includes, but is not limited to the:
  - (1) child's legal status;
  - (2) upcoming court hearings;
  - (3) reason for the child's foster care placement;
  - (4) child's and parent's prior and present living experiences; and
  - (5) child's medical, psychological, and behavioral information, current photographs, and educational records.
- (p) **Foster care grievance procedures.** The resource parent and child in foster care have access to OKDHS grievance procedures through the Office of Client Advocacy, per OAC 340:2-3. Foster parent grievances are confidential and the foster parent has the right to be free from harassment and retaliation, per 10A O.S. § 1-9-119.
- (q) **Foster care mediation program.** The resource parent may access the foster care mediation program through the Oklahoma Commission on Children and Youth (OCCY), per OAC 340:75-7-291.
- (r) **Resource parent complaints about OKDHS employees.** Resource parents may file a complaint with OCCY Office of Juvenile System Oversight about an action of an OKDHS employee involving retaliation or discrimination against a resource parent, per OAC 340:75-7-292.
- (s) **Training topics relevant to fostering.** ~~Pre-service and in-service training~~ Training is provided to enhance the resource parent's foster parenting skills.
- (t) **Travel reimbursement for the resource parent.**
  - (1) The resource parent, including a tribal resource parent, may be reimbursed for four trips per month for mileage incurred when providing transportation for the child in OKDHS custody placed in the resource home. When multiple children are included on a trip, the trip is counted as one trip for the group. Travel reimbursement may occur when the:
    - (A) resource parent provides travel associated with the child's permanency and well-being, limited to:
      - (i) visits with parents and any person approved by the child's CW specialist;
      - (ii) visits with the child's sibling; or

- (iii) court hearings; and
- (B) round trip for a single event is 26 miles or more; and
- (C) trips are documented and filed monthly on Form 10AD006E, Travel Claim, provided by a CW specialist, and processed through the Foster Care and Adoption Support Center.
- (2) Travel reimbursement may occur when transporting a child to and from the foster placement to Oklahoma Schools for the Blind or Deaf on a bi-weekly basis after all other options are exhausted.
- (u) **Tax deduction available.** An Oklahoma income tax deduction may be available for resource parents who meet requirements, per 68 O.S. § 2358.5-1. A resource parent with tax questions related to the care of a child in OKDHS custody contacts a tax professional.

## PART 8. RESOURCE HOME CONTINUOUS QUALITY ASSESSMENT

### **340:75-7-94. Resource home annual updates, non-compliance or rule violations, investigations, closures, fair hearings, and reassessment to re-open a previously closed resource and fair hearings [AMENDED]**

(a) **Annual update.** The resource family assessment is updated annually from the resource home's approval date in KIDS for any family approved per Oklahoma Administrative Code (OAC) 340:75-7-18.

(b) **Kinship annual update.** The kinship resource family assessment is reviewed annually from the resource home's approval date in KIDS for any family approved per OAC 340:75-7-24 to ensure the kinship resource family can continue to meet the child(ren)'s specific needs and provide a safe environment for the child(ren) in Oklahoma Human Services (OKDHS) custody.

(c) **Resource home non-compliance or rule violation issues for families approved by a Resource Family Assessment or Kinship Resource Family Assessment.** When non-compliance or rule violation issues in the home require remediation for continued use of the home, a written plan of compliance is developed as a tool to address the safety and stability of the child in Oklahoma Human Services (OKDHS) custody placed in the home.

~~(c)~~(d) **Resource home investigation for families approved by a Resource Family Assessment or Kinship Resource Family Assessment.**

(1) When a Child Protective Services investigation results in removal of a child in OKDHS custody from the home:

(A) Form 04MP014E, Notice of Child's Removal from Out-of-Home Placement, is provided by the child welfare (CW) specialist, per Oklahoma Administrative Code (OAC) 340:75-6-86; and

(B) the resource parent receives Form 04MP031E, Notice of Decision Not to Return Child After Investigation, from the CW specialist when a decision is made not to return the child to the home.

(2) Per Section 1-9-119 of Title 10A of the Oklahoma Statutes, the resource parent has the right to request and receive a fair and impartial administrative hearing regarding decisions that affect certification, retention, or placement of a child in OKDHS custody in the resource home.

~~(d)~~(e) **Closure of the resource home for families approved by a Resource Family Assessment or Kinship Resource Family Assessment.** The resource home is closed and the contract is terminated, when:

(1) resource home services are no longer needed;

(2) kinship children are no longer placed in the kinship resource home;

(3) the child leaves a resource home jointly-approved for that specific child;

(4) the child is no longer placed in the resource home approved for the specific child;

(5) the resource parent requests closure;

(6) the resource parent fails to timely implement or maintain compliance with provisions of Form 04AF023E, Written Plan of Compliance, to resolve conditions that present a risk to the child or conditions that do not conform to the contract;

(7) there are non-compliance issues related to a rule, statute, contract, or a written plan of compliance that are unresolved including, but not limited to, failure of the resource parent or household member to meet or maintain the initial screening and requirements, per OAC 340:75-7-10.1 or maintain compliance with background requirements, per OAC 340:75-7-15; or

(8) rules, statutes, or contract violations by the resource parent or household member occurred that resulted in OKDHS determining the child to be unsafe in the resource home.

~~(e)~~(f) **Fair hearing for families approved by a Resource Family Assessment or Kinship Resource Family Assessment.**

When the approved resource home is closed, the resource parent has the right to appeal closure through the fair hearing process, per OAC 340:75-1-12.6.

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~~(f)~~(g). **Reassessment to re-open a previously closed resource, excluding kinship.** When the resource is closed for more than 12 months but less than five years, the resource may be opened with an approved reassessment within 30-calendar days of the disposition date.

*[OAR Docket #25-361; filed 5-29-25]*

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## **TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES**

*[OAR Docket #25-362]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 3. Administration

Part 3. ADMINISTRATION

340:100-3-33.2. Provision of waiver services by legally responsible ~~persons~~individuals and other family members or guardians [AMENDED]

340:100-3-34. Incident reporting [AMENDED]

Subchapter 5. Client Services

Part 3. SERVICE PROVISIONS

340:100-5-22.1. Community residential supports [AMENDED]

340:100-5-26.1. Psychotropic medication [AMENDED]

340:100-5-29. Monitoring for tardive dyskinesia [AMENDED]

340:100-5-32. Medication administration [AMENDED]

340:100-5-35. Non-Residential Habilitation Training Specialist (HTS) services [AMENDED]

### **AUTHORITY:**

Director of Human Services; 56 O.S. § 162. Section 1-2211 et seq. of Title 63 (63 O.S. §1-2211 et seq.); and Section 6103 of Title 26 of the United State Code (26 U.S.C. § 6103).

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

### **COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

### **PUBLIC HEARING:**

January 3, 2025

### **ADOPTION:**

January 24, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 30, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

September 15, 2025

### **SUPERSEDED EMERGENCY ACTIONS:**

### **SUPERSEDED RULES:**

CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES

Subchapter 3. Administration

Part 3. Administration

340:100-3-33.2 [AMENDED]

340:100-3-38.14 [NEW]  
Subchapter 5. Client Services  
Part 3. Service Provisions  
340:100-5-22.1. [AMENDED]  
340:100-5-35 [AMENDED]  
Subchapter 11. Admission to Robert M. Greer Center  
340:100-11-2 [AMENDED]  
(Reference WF 24-01)  
Chapter 100. Developmental Disabilities Services  
Subchapter 3. Administration  
Part 3. Administration  
340:100-3-34 [AMENDED]  
(Reference WF 24-11)

**GUBERNATORIAL APPROVAL:**

October 8, 2024

**REGISTER PUBLICATION:**

WF 24-01 42 Ok Reg 283 WF 24-11 42 Ok Reg 296

**DOCKET NUMBER:**

WF 24-01 Docket # 24-1082 WF 24-11 Docket # 24-1085

**INCORPORATIONS BY REFERENCE:**

**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed amendments update the rules to: (1) clarify services a legally responsible individual can provide to a member for whom they are legally responsible; (2) identify a new residential service, extensive residential supports (ERS), and training requirements for staff providing ERS; and (3) implement a change recommended after the Oklahoma Department of Health completed a survey of the Robert M. Greer Center. The proposed amendment to Chapter 100, Subchapter 3, is to comply with approval of State Bill 1709. The proposed amendments update the rules to implement changes recommended during the annual Developmental Disabilities Services (DDS) rule review process.

**CONTACT PERSON:**

Darrin Thompson, Programs Manager, 405-301-2895

**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, 2025:**

## SUBCHAPTER 3. ADMINISTRATION

### PART 3. ADMINISTRATION

**340:100-3-33.2. Provision of waiver services by legally responsible ~~persons~~individuals and other family members or guardians [AMENDED]**

**(a) Legally responsible ~~persons~~individuals.**

(1) ~~Persons who are legally responsible for the care of service recipients are prohibited from providing Developmental Disabilities Services Division (DDSD) Home and Community-Based Waiver Services to service recipients for whom they are responsible.~~ For the purpose of this Section, a legally responsible individual is:

- (A) a biological or adoptive parent(s) of a minor child;
- (B) a step-parent of a minor child;
- (C) a foster parent of a minor child;
- (D) a legal non-volunteer guardian of a minor child;
- (E) a spouse of a service recipient; or

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(E) anyone deemed legally responsible by court order.

(2) For purposes of OAC 340:100-3-33.2, a person who is legally responsible is:

(A) a biological or adoptive parent(s) of a minor child;

(B) a legal guardian of a minor child;

(C) a spouse of a service recipient; or

(D) anyone deemed legally responsible by court order.

(2) Legally responsible individuals may serve as a paid habilitation training specialist (HTS) provided through the Developmental Disabilities Services (DDS) Home and Community-Based Services (HCBS) Community Waiver or In-Home Supports Waiver for a person for whom they are legally responsible when the DDS HCBS waiver recipient requires extraordinary care as documented in the annual Oklahoma Choice Assessment. To serve as an HTS, the responsible individual;

(A) is qualified per applicable DDS and Oklahoma Health Care Authority (OHCA) rules;

(B) meets specific service provider requirements; and

(C) is employed by provider agencies, except per Oklahoma Administrative Code (OAC) 340:100-3-33.2(b)(3); or

(D) is employed by an Employer of Record, per OAC 317:40-9-1.

(3) A legally responsible individual may only provide HTS services in a non-residential setting and are bound by the number of hours worked per OAC 340:100-5-35.

(4) The service must:

(A) be related to the waiver recipient's disability and not be an activity that a parent of a minor or spouse would ordinarily perform or is responsible to perform; and

(B) be necessary to meet at least one identified dependency in activities of daily living (ADL), which is determined based on the ADL items included in the assessment the waiver recipient receives.

(5) Parents of a waiver recipient whose parental rights have been terminated cannot be paid to provide care to the waiver recipient.

(6) Parents of a waiver recipient who is in state custody cannot be paid to care for the waiver recipient while the recipient is in state custody.

(7) Parents of minors and spouses of service recipients may only be paid for providing supports as indicated by the Oklahoma Choice Assessment.

(8) Parents of minors and spouses of service recipients may not be reimbursed for mileage expenses.

(9) The provision of services by a legally responsible individual is in the best interest of the waiver recipient using the Team approach and must be documented in the Individual Plan (IP).

(10) Married waiver recipients must be offered a choice of providers. If they choose a spouse as their care provider, it must be documented in the IP.

(b) **Family members or guardians not legally responsible.** Family members or guardians who are not legally responsible for the care of service recipients:

(1) may provide Home and Community-Based Services (HCBS) under specific circumstances when they:

(A) are qualified per applicable Oklahoma Department of Human Services (OKDHS) and Oklahoma Health Care Authority (OHCA) rules; and

(B) meet specific service provider requirements;

(2)(C) must be employed by provider agencies, except per OAC 340:100-3-33.2(b)(3). Provider agencies must:

(A)(i) provide supervision and oversight of such employees; and

(B)(ii) ensure claims are submitted only for services rendered; and

(3)(D) are prohibited from not being paid as direct contract providers of ~~DDS~~ DDS HCBS, except when such persons are:

(A)(i) the only available provider of covered services due to geographic remoteness; or

(B)(ii) uniquely qualified to provide covered services due to considerations such as language;  
and

(4)(2) may provide services, such as:

(A) audiology;

(B) dental;

(C) respite;

(D) agency companion;

(E) assistive technology;

(F) homemaker;



- (G) ~~habilitation training specialist~~HTS;
- (H) nutrition;
- (I) occupational therapy;
- (J) physical therapy;
- (K) speech therapy;
- (L) transportation; and
- (M) specialized foster care.

(c) **Volunteer guardians.** Volunteer guardians appointed by the court, per OAC 340:100-3-5.1, are prohibited from providing ~~DDS~~ DDS HCBS to their wards.

## **340:100-3-34. Incident reporting [AMENDED]**

(a) **Reporting requirement.** Contract provider staff and Developmental Disabilities Services (DDS) staff must report critical and non-critical incidents involving the health and welfare of any person receiving DDS services, excluding Family Support Assistance Payment Program recipients per Oklahoma Administrative Code (OAC) 340:100-13.

(b) **Critical incidents.** Critical incidents include:

- (1) suspected maltreatment including abuse, verbal abuse, sexual abuse, neglect, financial neglect, exploitation, or sexual exploitation of a vulnerable adult per Section 10-103 of Title 43A of the Oklahoma Statutes (43A O.S. § 10-103) or abuse, neglect, sexual abuse, or sexual exploitation of children per 10A O.S. § 1-1-105;
- (2) threatened or attempted suicide by a service recipient;
- (3) death of a service recipient;
- (4) an unplanned hospital admission of a service recipient;
- (5) a medication event resulting in emergency medical treatment for a service recipient;
- (6) law enforcement involvement in a situation concerning a service recipient;
- (7) property loss of more than \$500 involving a service recipient;
- (8) a service recipient who is missing; and
- (9) a highly restrictive procedure used on a service recipient, such as:
  - (A) p.r.n. medication for behavioral control; or
  - (B) physical hold.

(c) **Non-critical incidents.** Non-critical incidents include:

- (1) an injury or an unplanned health-related event involving a service recipient;
- (2) physical aggression by a service recipient;
- (3) fire setting by a service recipient;
- (4) deliberate harm to an animal by a service recipient;
- (5) property loss of less than \$500 involving a service recipient;
- (6) a vehicle accident involving a service recipient;
- (7) the suspension, termination, or removal of a service recipient's program, including employment; and
- (8) a medication event involving a service recipient, including:
  - (A) a dose at the wrong time;
  - (B) a missed dose;
  - (C) a wrong dose;
  - (D) the wrong medicine;
  - (E) the wrong route;
  - (F) an incorrect medicine label or instructions;
  - (G) a medication refused by the service recipient;
  - (H) incorrect medication documentation; or
  - (I) any other significant occurrence involving medication.

(d) **Incident notification requirements.**

- (1) For Waiver funded service recipients, contract provider staff:
  - (A) report incidents electronically via the DDS Provider Reporting System for all critical and non-critical incidents;
  - (B) program coordination staff:
    - (i) review and submit reports of all critical incidents per OAC 340:100-3-34(b) within one business day of the incident; and
    - (ii) review and submit reports of all non-critical incidents per OAC 340:100-3-34(c) within three business days of the occurrence.
  - (C) notify the service recipient's family or guardian, in accordance with provider policies;

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- (D) notify other persons or entities as required by law or regulation, including:
  - (i) when a service recipient dies per OAC 340:100-3-35; and
  - (ii) investigative authorities immediately in cases of suspected maltreatment, including:
    - (I) Office of Client Advocacy ~~per OAC 340:2-3-33~~;
    - (II) Adult Protective Services per 43A O.S. § 10-104; or
    - (III) Child Protective Services per 10A O.S. § 1-1-105.
- (2) For critical incidents involving state funded service recipients, contract provider staff submits Form 06MP046E, Incident Report, to DDS State Office within one business day of the incident. For non-critical incidents, contract provider staff maintains a copy of Form 06MP046E per OAC 340:100-3-40.

## SUBCHAPTER 5. CLIENT SERVICES

### PART 3. SERVICE PROVISIONS

#### **340:100-5-22.1. Community residential supports [AMENDED]**

(a) **Applicability.** Community residential supports are funded through contracts with ~~the Oklahoma Department of~~ Human Services ~~DHS~~(OKDHS), Oklahoma Health Care Authority (OHCA), or both, and must meet standards per this Section.

- (1) A service recipient is considered receiving community residential supports when the service recipient receives:
  - (A) daily living supports (~~DLS~~), per Oklahoma Administrative Code (OAC) 317:40-5-150;
  - (B) Prader-Willi Syndrome services;
  - (C) agency companion services (ACS), per Part 1 of OAC 317:40-5; ~~or~~
  - (D) specialized foster care (SFC), per Part 5 of OAC 317:40-5; or
  - (E) extensive residential supports, per OAC 317:40-5-154.
- (2) This Section does not apply to:
  - (A) group home services, per OAC 340:100-6; or
  - (B) services provided to service recipients who receive assisted living services, per OAC 340:100-5-22.2.

#### **(b) General information.**

- (1) Services for children are provided in family settings unless approved by the Developmental Disabilities Services (DDS) Community Services Unit programs administrator or designee.
- (2) In addition to OAC 340:100-5-50 through 340:100-5-58, the DDS case manager ensures each Personal Support Team (Team) assesses and addresses the service recipient's needs regarding:
  - (A) safety in the home, including:
    - (i) storage of toxic chemicals, cleaning supplies, and combustibles; and
    - (ii) use of a tempering valve or other anti-scald device or lowered, hot water tank temperature to control water temperature;
  - (B) financial issues in addition to OAC 340:100-3-4, including:
    - (i) a household budget that provides adequate resources for housing, food, clothing, furnishings, personal supplies, and recreational opportunities; and
    - (ii) assistance ~~needed by~~ the service recipient needs in money management;
  - (C) selection, adaptation, and maintenance of a home;
  - (D) community inclusion and access to work, recreation, and therapies;
  - (E) transportation; and
  - (F) water safety.
- (3) Each service recipient is responsible for his or her room and board expenses, including recreational activities, clothing, furnishings, food, and other expenses for services or supports not funded through ~~DHS~~OKDHS, except as:

- (A) provided to members of the Homeward Bound class; or
- (B) approved in emergency circumstances per OAC 340:100-3-33 or 340:100-5-3.

(c) **Homes.** Community residential supports are provided in the service recipient's home. The provider agency ensures:

- (1) the home and yard are clean, well-maintained, safe, hazard free, and adapted to the service recipient's needs;

(2) the home has:

- (A) utility service and adequate heating, cooling, and plumbing;
- (B) safety items in operating condition located in strategic locations in the home, such as a:
  - (i) flashlight;
  - (ii) smoke detector;
  - (iii) carbon monoxide detector;
  - (iv) first aid kit;
  - (v) fire extinguisher; and
  - (vi) tempering valve or other anti-scald device, when ~~determined by the Team~~ determines it necessary to ensure the service recipient's safety;
- (C) phone service is available and accessible to the service recipient. Emergency numbers are available at each phone, including:
  - (i) the DDS toll-free number;
  - (ii) the fire, police, ambulance, hospital, and poison control, when not in a 911 area;
  - (iii) a physician name and number; and
  - (iv) a nursing agency number, when applicable;
- (D) at least two means of exit;
- (E) a bedroom of at least 80 square feet for each service recipient living in the home. When a service recipient shares a bedroom with another individual, the bedroom must have 120 square feet or more;
- (F) adequate enclosed storage space available for personal items;
- (G) laundry equipment, when in the home, located in a safe, well ventilated, and clean area, with dryers vented to the outside;
- (H) an address clearly visible from the street;
- (I) a bathroom that:
  - (i) includes a:
    - (I) flush toilet;
    - (II) fixed basin; and
    - (III) shower or bath tub that meets the service recipient's needs;
  - (ii) is in proper working order;
  - (iii) provides privacy;
  - (iv) is adapted when needed; and
  - (v) provides hot and cold running water; and
- (J) a kitchen and equipment to store, prepare, and serve food in a sanitary manner;

(3) dangerous or deadly weapons are not permitted in the home, except as provided in OAC 317:40-5-40.

Provider agency staff is prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons. Dangerous or deadly weapons include, but are not limited to:

- (A) guns, BB guns, air rifles, or other firearms;
- (B) crossbows;
- (C) paint guns;
- (D) arrows;
- (E) explosives;
- (F) stun guns; and
- (G) knives, except cooking and eating utensils; and

(4) illegal substances are not permitted in the home.

**(d) Pre-service requirements.** The DDS case manager and service recipient, or, when applicable, legal guardian, complete and approve steps (1) through (3) of this subsection when community residential supports are initiated, when the service recipient changes provider agencies, and before the service recipient moves to a new home. The documentation of such is maintained in the home record and the case manager record.

(1) Prior to service delivery, the provider completes an emergency housing back-up plan for review and approval by the service recipient's Team per OAC 340:100-5-52.

- (A) The back-up plan contains the:
  - (i) service recipient's name;
  - (ii) description of the living arrangement;
  - (iii) name and phone number for back-up staff;
  - (iv) back-up housing location;
  - (v) written agreement by the:

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- (I) service recipient or legal guardian;
- (II) direct provider of service, when an ACS or SFC provider;
- (III) agency program coordination staff (PCS), as applicable;
- (IV) provider agency administrative representative, as applicable; and
- (V) DDS case manager;
- (vi) dates for provider review of back-up plan, required quarterly and as changes occur; and
- (vii) review date by the DDS case manager.
- (B) When the location for the back-up plan is a hotel or motel, the provider agency is responsible for including a plan to pay the cost without additional reimbursement from ~~DHS~~SOKDHS.
- (C) ~~DHS~~SOKDHS must complete a home profile on a private home prior to the Team's identification of the home in the back-up plan or use of the home to provide back-up services to the service recipient. A home profile is not required when the service recipient stays in the private home of a relative, per (f)(4)(A) of this Section.
- (D) The ACS or SFC provider is responsible for re-establishing a residence when his or her home becomes uninhabitable.
- (2) The provider agency cooperates with the service recipient and Team to establish and maintain a household budget based on the service recipient's earned and unearned income.
  - (A) Expenses associated with supporting the household are maintained in an auditable fashion sufficient to track the use of money ~~collected~~the contract provider collects from the service recipient ~~by the contract provider~~.
  - (B) Upon request, the contract provider furnishes to the service recipient, service recipient's family, and legal guardian:
    - (i) a record of all funds collected from the service recipient;
    - (ii) documentation of how the money was used; and
    - (iii) the amount of remaining money held by the provider.
  - (C) Upon termination of residential supports from the contract provider, unused funds are returned to the service recipient within 10-calendar days of service termination date.
- (3) Form 06CB034E, Residential Pre-Service Checklist, is completed and this Section's requirements are satisfied.

## (e) Service requirements.

- (1) Unless the service recipient demonstrates the ability under varying conditions to independently and appropriately respond to emergency situations, the provider agency assists in conducting fire drills at least quarterly and weather emergency drills twice a year. The dates, times, and outcomes of the drills are available in the home for review.
- (2) The provider:
  - (A) ensures all financial information necessary for maintaining the service recipient's financial eligibility is provided to ~~DHS~~SOKDHS ~~in a timely manner~~;
  - (B) when serving as payee, ensures the service recipient maintains financial eligibility for benefits and services by notifying appropriate authorities of a change in the service recipient's income;
  - (C) when a change of payee is necessary, cooperates to ensure the change is made ~~in a timely manner~~;
  - (D) establishes a written financial agreement with the service recipient or legal guardian that defines financial responsibilities of the provider's and service recipient's financial responsibilities. The financial agreement:
    - (i) accurately reflects the ongoing financial arrangement between the provider and service recipient;
    - (ii) clearly defines who purchases personal items;
    - (iii) is renewed annually and when changes occur; and
    - (iv) is available to the service recipient, legal guardian, Office of Client Advocacy advocate, and DDS case manager;
  - (E) as a member of the service recipient's Team, assists in determining safeguards necessary to protect the service recipient's assets;
  - (F) allows service recipients to select stores for the purchase of food, clothing, and personal items;
  - (G) implements the service recipient's Individual Plan (Plan);
  - (H) provides necessary assistance, including staff support for each service recipient's active participation in community life;

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- (I) assists the service recipient in maintaining an adequate supply of seasonal clothing that fits appropriately, personal grooming materials, and linens. All items are maintained in good condition;
- (J) promotes the service recipient's health and welfare, including providing meals that meet the service recipient's nutritional needs;
- (K) promotes visitation and contact with each service recipient's natural family, legal guardian, and friends, according to the service recipient's desires;
- (L) promotes friendships with neighbors, co-workers, and peers, according to the service recipient's desires;
- (M) when the service recipient, legal guardian, or provider wants to discontinue services, cooperates in securing alternative services and continues to serve the service recipient until the Team confirms all essential services are in place;
- (N) while providing services, ensures staff is engaged at all times in purposeful activity that directly or indirectly benefits the service recipient;
- (O) ensures the service recipient attends scheduled medical and therapy appointments.
  - (i) Transportation to the appointment is provided.
  - (ii) Adequate records, needed materials, and equipment accompany the service recipient to the appointment.
  - (iii) When the service recipient requires support in describing illness, issues, or concerns to the health care provider, knowledgeable staff accompanies the service recipient;
- (P) ensures the service recipient's prescriptions are filled and administered as prescribed, per OAC 340:100-5-32;
- (Q) ensures the Plan in a positive manner addresses issues related to maintaining the home per (c) of this Section;
- (R) ensures the service recipient has transportation to programs and services.
  - (i) Transportation is provided to and from:
    - (I) medical or therapy appointments;
    - (II) personal shopping;
    - (III) leisure or recreational activities;
    - (IV) vocational or employment activities;
    - (V) religious or cultural activities;
    - (VI) Team meetings;
    - (VII) appointments necessary to secure or maintain needed services; and
    - (VIII) voting;
  - (ii) All vehicles used to transport the service recipient meet local and state licensing, inspection, insurance, and capacity requirements.
  - (iii) A vehicle used to transport a service recipient with physical disabilities is adapted to meet the service recipient's needs.
  - (iv) Drivers of vehicles have valid and appropriate driver licenses.
- (S) ensures the hot water temperature for the home is set to no more than 120 degrees Fahrenheit. The provider tests the hot water temperature of the home at least annually, after any servicing of the home's water system, and any time the water temperature is believed to have increased above 120 degrees Fahrenheit. The provider maintains test documentation and the documentation at minimum includes the test date and the home's hot water temperature. The documentation is maintained in the home and available for inspection. The provisions within this paragraph ~~will~~ henceforth be known as the Julie Teenor Anti-Scald Protocol; and
- (T) ensures reasonable precautions are employed for safety with hot food, cooking oils, and other hot liquids.

**(f) Provider agency policies, practices, and procedures.** The provider agency develops and maintains written policies and procedures that are consistent with ÐHSOKDHS rules and govern all aspects of service provision.

- (1) Provider agency policies are made available to each service recipient, the service recipient's parent(s), legal guardian, or advocate, provider agency staff, and ÐHSOKDHS.
- (2) Provider agency policies and procedures include, but are not limited to:
  - (A) service recipient rights protection;
  - (B) services provided;
  - (C) admission and discharge criteria;
  - (D) grievance procedures;

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- (E) prevention and reporting of abuse, neglect, ~~and/or~~ exploitation;
  - (F) confidentiality;
  - (G) emergency management;
  - (H) fees ~~paid by the~~ service recipient pays;
  - (I) health and safety precautions; and
  - (J) safeguarding service recipient funds.
- (3) The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency.
- (4) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, ensuring direct support staff:
- (A) is not supervised by a relative or person living in the staff's home. A relative includes wife, husband, children, parents, stepparents, parents-in-law, grandchildren, grandparents, brothers, sisters, stepchildren, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, aunts, uncles, nieces, nephews, first cousins or any such person with whom the employee shares a foster relationship;
  - (B) who provides back-up services is available and has received training per OAC 340:100-3-38;
  - (C) is at least 18 years of age;
  - (D) is present in sufficient numbers to ensure the service recipient's health and welfare, ~~as authorized by~~ the service recipient's Plan of Care authorizes;
  - (E) is physically able and mentally alert to carry out the job duties;
  - (F) implements and follows the service recipient's Plan;
  - (G) does not take the service recipient to visit staff's home unless the Team has provided prior written approval; and
  - (H) ~~must meet~~ meets requirements of OAC 317:40-5-40 when overnight visits are going to occur.
- (5) The provider agency ensures ~~the Program Coordinator Staff (PCS)~~ supervises, guides, and oversees all aspects of programming associated with receipt of community residential supports.
- (A) The PCS must:
- (i) get to know the service recipient and his or her needs;
  - (ii) make announced and unannounced visits to the service recipient's home. The PCS makes a minimum of three face-to-face visits per month, to monitor the service recipient's needs and for staff supervision. ~~Agency/Provider agency~~ administration staff meeting (f)(5)(A)(xii) requirements of this Section, may complete these visits in addition to ~~program coordination staff/PCS~~. At least two of the three visits must be unannounced. Of the unannounced visits:
    - (I) at least one visit each month must occur on Saturday or Sunday; or
    - (II) between 8:00 p.m. and 7:00 a.m. on a weekday;
  - (iii) ~~Monthly~~ monthly visits may be reduced to one unannounced face-to-face visit to the service recipient's home when the home:
    - (I) has fully trained staff;
    - (II) has had no turn-over for the past year;
    - (III) does not require restrictive or intrusive procedures; and
    - (IV) has had no medication errors during the previous calendar year.
  - (iv) provide support and assistance to any service recipient who is experiencing an emotional, behavioral, or medical crisis;
  - (v) be accessible to direct service staff 24 hours per day and available to respond, in person when necessary, to an emergency;
  - (vi) supervise direct contact staff to promote achievement of outcomes in the Plan;
  - (vii) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained per OAC 340:100-3-38;
  - (viii) ensure records are maintained according to DDS community records per OAC 340:100-3-40;
  - (ix) ensure basic household requirements are always in place, including:
    - (I) utilities and phone service;
    - (II) furniture;
    - (III) food supplies that meet the service recipient's nutritional needs;
    - (IV) linens;
    - (V) personal items;
    - (VI) adaptive equipment; and

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- (VII) prescription medications;
- (x) assist the DDS case manager as requested to prepare for and implement the Plan and its revisions per OAC 340:100-5-50 through 340:100-5-58;
- (xi) ensure applicable ~~DHS~~OKDHS and OHCA rules are followed;
- (xii) complete necessary training per OAC 340:100-3-38; and
- (xiii) have a minimum of four years of any combination of college level education or full-time equivalent experience in serving persons with disabilities, or full-time equivalent experience in a supervisory position, unless the DDS director or designee waives this requirement~~is waived in writing by the DDS director or designee.~~
- (B) Provider agencies ensure that residential PCS caseloads do not exceed 27 with the ~~following~~ calculations in (i) and (ii) of this subparagraph~~:~~.
  - (i) Provider agencies calculate one for persons receiving community residential supports and group home services~~; and~~.
  - (ii) Provider agencies calculate one for every five persons receiving In-home Supports Waiver services, assisted living services, or any other non-residential service on the PCS caseload.
- (C) Provider agencies providing community residential supports for less than one calendar year ensure the caseload of each PCS numbers no more than 15 service recipients when the PCS serves service recipients receiving community residential supports.
- (D) The DDS director may grant a written exception to the PCS ratios per this Section upon written request and adequate justification from the provider.
- (E) Provider agencies who fail to meet program coordination requirements per this subsection may be required to provide a reduced PCS ratio in accordance with sanctions per OAC 340:100-3-27.
- (6) Staff, who assist a service recipient with bathing or showering, must ensure the water temperature is safe and comfortable for the service recipient. The requirements of this paragraph are enforced even when an anti-scald device is used. Staff:
  - (A) tests the water temperature by touch or with a thermometer designed to test hot liquids, before the service recipient enters the water. The water must be determined safe and comfortable for the service recipient, not merely comfortable for the staff;
  - (B) is trained by his or her employer in the unique needs of each service recipient including tolerance to water temperature and bathing or showering needs; and
  - (C) does not leave a service recipient who is unable to attend to safety considerations alone in the bath or shower.

## **340:100-5-26.1. Psychotropic medication [AMENDED]**

- (a) Oklahoma Administrative Code (OAC) 340:100-5-26.1 applies to service recipients receiving:
  - (1) community residential supports per OAC 340:100-5-22.1;
  - (2) group home services per OAC 340:100-6; or
  - (3) behavioral supports in Level D group homes.
- (b) A psychotropic medication is a drug used to treat a mental disorder or any drug prescribed to stabilize or improve mood, mental status, or behavior per OAC 340:100-1-2.
- (c) Medication is not used as punishment, for staff's convenience, as a substitute for a program, or in quantities that interfere with a service recipient's participation in programming.
- (d) The service recipient's Personal Support Team (Team) obtains a description of data to be collected to evaluate the psychotropic medication's effectiveness, from the prescribing healthcare provider.
  - (1) The Team:
    - (A) identifies a method for collecting necessary data; and
    - (B) specifies a routine method for reporting this data to the prescribing healthcare provider.
  - (2) When psychotropic medication is changed, the Team obtains new instructions for additional or different data needed to evaluate the effectiveness of the new medication, from the prescribing healthcare provider.
- (e) The Team monitors for side effects, such as tardive dyskinesia per OAC 340:100-5-29.
- (f) The Team reviews the use of psychotropic medication annually during the individual planning process per OAC 340:100-5-53.
- (g) The Team must develop a protective intervention protocol per OAC 340:100-5-57 ~~to address behavioral symptoms being treated by the~~when psychotropic medication is used for challenging behavior(s) as defined in OAC 340:100-1-2.

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(h) Developmental Disabilities Services (DDS) defines the use of p.r.n. medication for behavioral control to be a highly-restrictive procedure per OAC 340:100-3-34. Medication is considered for behavioral control when it is prescribed to achieve a desired behavioral outcome. When a medication is ordered to be administered p.r.n. for behavioral control:

(1) the Team:

(A) ensures there is a specific, written protocol for the administration of the p.r.n. medication from the prescribing healthcare provider as part of a protective intervention protocol per OAC 340:100-5-57;

(B) notifies the DDS director of pharmacy services and requests a pharmacy review within five-business days; and

(C) meets to incorporate the protocol in the individual plan within 30-calendar days; and

(2) the contract provider agency staff follows critical incident reporting requirements per OAC 340:100-3-34.

## **340:100-5-29. Monitoring for tardive dyskinesia [AMENDED]**

(a) **Scope and applicability.** ~~Developmental Disabilities Services (DDS) provides training for staff to regularly assess, monitor, and inform service recipients who are at risk for tardive dyskinesia (TD).~~ Monitoring for TD symptoms of tardive dyskinesia (TD) applies to all service recipients who receive medication associated with a risk of TD. Providers of residential services funded by Oklahoma Human Services DDS or Oklahoma Health Care Authority have primary responsibility for implementation of OAC 340:100-5-29. Providers of other types of supports inform service recipients and encourage the implementation of OAC 340:100-5-29. ~~Providers are required to meet standards per OAC 340:100-3-27.~~ Service recipients:

(1) ~~prescribed medication associated with a risk of developing TD are regularly assessed and monitored for symptoms of TD. The service recipient who is prescribed such medication, parent(s) of a minor service recipient, or, if applicable, service recipient's legal guardian is regularly informed about the risk of TD;~~

(2) ~~assessed with signs or symptoms of TD are referred to the prescribing healthcare provider for further evaluation;~~

(3) ~~diagnosed with TD by a healthcare provider, parent(s) of a minor service recipient, or, if applicable, legal guardian are informed of the diagnosis; and~~

(4) ~~diagnosed with TD continue to receive regular assessments and monitoring regarding the status of the diagnosis.~~

(b) **Assessment and monitoring** ~~Monitoring requirements.~~ A trained rater or the prescribing healthcare provider or designee complete assessments using a standardized assessment scale. The Dyskinesia Identification System: Condensed User Scale (DISCUS) is the preferred assessment scale. DDS trains staff service providers identify to be DISCUS raters at no charge to the service provider. Identified staff may be contract staff or employees of the service provider. When rater training is needed, the service provider notifies DDS training staff:

(1) ~~Service provider staff maintains information about service recipient exposure to medication associated with a risk of developing TD.~~ Developmental Disabilities Services (DDS) provides health related services training for staff to recognize symptoms of TD, risk factors for the development of TD, and medication associated with these potential adverse effects.

(2) ~~Copies of assessment scales completed by provider staff, or documentation of assessment completion by a healthcare provider or designee, are filed in the service recipient's record per OAC 340:100-3-40.~~ Service provider staff monitors for symptoms of TD in service recipients at risk and reports observations to the prescribing healthcare provider.

(3) Service provider staff requests copies of TD assessments completed by the prescribing healthcare provider or designee and file in the service recipient's record.

(c) **Service recipients requiring assessments.** Service recipients:

(1) with an unknown history of medication exposure receive an initial DISCUS assessment. When the initial assessment:

(A) has a total score less than five, further assessments are not needed; or

(B) has a total score of five or more, items in (i) and (ii) must occur.

(i) A referral is made to the prescribing healthcare provider for additional evaluation.

(ii) Assessments continue to be completed every six months until a DISCUS score less than 5 is obtained. The assessment is repeated in one month and, if the score remains less than 5, further assessments are not needed;

(2) who are prescribed medication that may cause TD are assessed before medication is started or within 30-calendar days of medication initiation:

(A) Service recipients are routinely assessed every six months while receiving medication associated with a risk of TD.



- (B) ~~Assessments may be done more frequently if medications are changed or side effects are suspected or identified;~~
- (3) ~~who have medications discontinued which are associated with a risk of TD are assessed monthly as described in (A) through (C) of this paragraph:~~
- (A) ~~After four months with DISCUS scores of 5 or greater, monthly assessments are stopped, and assessments are repeated every six months.~~
- (B) ~~If a DISCUS score less than 5 is reported, assessments are completed monthly until two additional scores less than 5 are reported.~~
- (C) ~~After two, assessments with a score less than 5 are reported, assessments are discontinued.~~
- (4) ~~who have medications introduced again that may cause TD are monitored according to OAC 340:100-5-29.~~

## **340:100-5-32. Medication administration [AMENDED]**

(a) **Purpose.** ~~ΘAC~~Oklahoma Administrative Code (OAC) 340:100-5-32 sets forth requirements that enable service recipients to receive medication in the safest possible manner.

(b) **Applicability.** OAC 340:100-5-32 applies to Developmental Disabilities Services ~~Division (DDSD)~~(DDS) staff and service providers who are contracted, licensed, or funded through a Home and Community-Based Services Waiver or ~~DDSD~~DDS state funds and their employees who administer medication or assist with ~~an individualized~~ medication support plan (IMSP) for a service recipient receiving community services, including employment service providers.

(c) **General requirements.** Administration of medication is managed in accordance with applicable Oklahoma ~~Department of Human Services (OKDHS)~~ rules and federal and state laws.

- (1) Every service recipient is free from unnecessary use of medication.
- (2) No medication is used for the convenience of staff or as a substitute for positive supports or program.
- (3) Use of psychotropic medications and associated medication reviews must follow requirements per OAC 340:100-5-26.1.
- (4) ~~Form 06MP046E, Incident Report;~~Incident reporting and follow-up must be completed when a medication event occurs, per OAC 340:100-3-34. ~~The service recipient's Personal Support Team (Team) reviews all medication incident reports and revises the service recipient's medication support plan when needed.~~

(d) **Independent medication administration.** When a service recipient wants to independently administer medication, the service recipient's Personal Support Team (Team) completes an assessment and documents the ability to independently administer medication in the Individual Plan (Plan). The ability to safely continue to self-administer medication is reviewed annually and if a concern is identified by a Team member, DDS Registered Nurse (RN), quality assurance staff, or other interested person. The assessment identifies the service recipient's demonstrated ability to:

- (1) understand and follow medication label directions;
- (2) properly identify medication;
- (3) remember to take medication at the correct time;
- (4) take the correct dosage;
- (5) administer his or her medication without supervision; and
- (6) address problems, including asking staff for help.

(d)(e) **Individual medication support planIMSP.** ~~Each service recipient's~~The Team may developdevelops an individual medication support planIMSP to identify participation by thewhen a service recipient is not independent in his or her medication administration and desires training on his or her medication, individualization of the medication support program or both. The IMSP identifies participation by the service recipient in medication administration and specifiesspecifies supports needed by the service recipient for administering, storing, and monitoring medication.

- (1) The Team completes an assessment that identifies the service recipient's demonstrated ability to:The service recipient's IMSP ensures the service recipient's involvement, with necessary supports, results in a safe program of medication administration.
  - ~~(A) understand and follow medication label directions;~~
  - ~~(B) properly identify the medication;~~
  - ~~(C) remember to take the medication at the correct time;~~
  - ~~(D) take the correct dosage;~~
  - ~~(E) administer his or her medication without supervision; and~~
  - ~~(F) demonstrate ability to address problems, including asking staff for help.~~
- (2) The Team may develop a medication support plan if the service recipient desires training in administering his or her medication, individualization of the medication support program, or bothrevises the IMSP to meet the service recipient's medication support needs when the service recipient's medical status changes or a member of the service recipient's Team or other person reveals a concern with the service recipient's medication supports.

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(A) The service recipient's medication support plan ensures the service recipient's involvement, together with the designed supports implemented by staff, result in a safe program of medication administration.

(B) The Team revises the medication support plan to provide safety and meet the service recipient's medication support needs if a medication change or monitoring by the DDS case manager, program coordinator, nurse or quality assurance staff, or other person reveals a concern with the service recipient's medication supports.

(C) The provider is responsible to ensure:

(i) the medication support plan clearly specifies staff responsibilities in the administration of medication; and

(ii) staff implements the medication support plan as developed by the Team.

(D) The service recipient's medication support plan may address either or both of:

(i) the service recipient's administration of his or her medication. If the service recipient is not independent per OAC 340:100-5-32(d)(1), and he or she desires to achieve greater independence in medication administration, the medication support plan documents:

(I) service recipient's ability to administer medication;

(II) staff assistance that must be provided;

(III) any adaptations or reminder systems used;

(IV) documentation requirements to ensure accountability;

(V) monitoring requirements, including compliance with requirements of the medication review process per OAC 340:100-5-26; and

(VI) staff responsible for implementation and monitoring of the medication training program; or

(ii) modifications to the medication administration responsibilities of staff, per OAC 340:100-5-32(e).

(E) Each medication support plan must address medication safety issues affecting each household member.

(3) The service provider and employer of record (EOR) ensure the IMSP is implemented as developed by the Team.

(4) The service recipient's IMSP addresses the following when applicable:

(A) the service recipient's ability to administer medication;

(B) staff assistance that must be provided;

(C) use of adaptations or reminder systems, including an automated medication dispenser. Self-directed services (SDS), DDS and service provider staff, except specialized foster care (SFC) and agency companion services (ACS) providers, cannot fill automated medication dispensers. A service recipient who is not an ultimate user may transfer his or her medications from the original container to an automated medication dispenser if the Team determines the individual is able to do so safely with any of the following specified staff supports:

(i) verbal assistance;

(ii) oversight to ensure accuracy; or

(iii) assistance with problem resolution.

(D) documentation requirements to ensure accountability;

(E) monitoring requirements, including compliance with requirements of the medication review process per OAC 340:100-5-26;

(F) staff responsible for implementation and monitoring of the medication training program; and

(G) modifications to the medication administration responsibilities of staff, per OAC 340:100-5-32(g).

(5) Each IMSP must address medication safety issues affecting each household member.

(f) **Ultimate User.** An ultimate user is:

(1) the service recipient for whom the medication is prescribed, if assessed by the Team as able to carry out each step in OAC 340:100-5-32(d);

(2) an adult member of the service recipient's family, as identified in the IMSP;

(3) the service recipient's SFC provider; or

(4) the service recipient's ACS provider

(g) **Medication administration.** Items (1) through (9) must be implemented unless the service recipient's medication support plan IMSP identifies a specific alternative. The service recipient's medication support plan IMSP may modify only those rules that state the plan may address an exception.

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(1) **Prescription medication.** Prescription medication, per OAC 340:100-1-2, is administered ~~or used~~ only with a written order by a licensed physician, dentist, advanced practice nurse, physician assistant, or optometrist healthcare provider with prescriptive authority.

(A) Prescription medication must only be administered to or used by the service recipient for whom the medication is ordered.

(B) All prescription medication is clearly labeled with:

- (i) first and last name of the service recipient for whom the medication is prescribed;
- (ii) prescribing physician's~~prescriber's~~ name;
- (iii) prescription number;
- (iv) trade or generic name of medication, except when otherwise directed by the prescriber;
- (v) prescription strength of medication, except when otherwise directed by the prescriber;
- (vi) ~~dosage~~;
- ~~(vii)~~ directions for use~~administration~~;
- ~~(viii)~~ (vii) date of issue~~filling~~;
- ~~(ix)~~ (viii) quantity~~prescribed quantity~~, except when otherwise directed by the prescriber; and
- ~~(x)~~ (ix) name; and address; and phone number of pharmacy of origin or physician who dispensed the medication~~dispensing healthcare provider with prescriptive authority~~.

(C) ~~All labels on containers must be legible and firmly affixed by the pharmacy or ordering physician.~~ Prescription labels must be legible. Containers may only be labeled by pharmacy staff or the dispensing healthcare provider with prescriptive authority.

(D) When an IMSP includes use of an automated medication dispenser and that device cannot be labeled, a copy of the medication administration record (MAR) which provides the information listed in OAC 340:100-5-32(e)(1)(B) must be kept with the device. When more than one service recipient lives in the home, the automated medication dispenser must be kept in a secured location separate from medications of other service recipients. SDS, DDS and service provider staff, except SFC and ACS providers, cannot fill automated medication dispensers. The service recipient's IMSP cannot modify this requirement.

~~(D)~~ (E) No one is permitted to alter the label on a prescription container.

(i) If a ~~medication dosage~~ change in medication instructions is made by the physician~~prescriber~~:

- (I) the container must be ~~flagged or~~ prominently identified to note that a change has occurred; and
- (II) the MAR must be updated when the change occurs noting date of the change and the authorizing prescriber; and
- ~~(H)~~ (III) the EOR or DDS provider ensures the prescription label matches the updated instructions when the medication is next filled. a label change must be made by the dispensing pharmacy or doctor within three business days of receiving the prescription change. If the service recipient uses a system of medication supply that precludes meeting the three-day requirement, that requirement may be modified in the service recipient's medication support plan. Medication is administered according to the updated change on the MAR while waiting on a prescription label change to occur. A copy of the updated order, which has been signed by the prescriber, must be kept with the medication container at the vocational site until the prescription label is updated with the current instructions by the pharmacy or prescriber.

(ii) The container may be ~~marked or otherwise~~ adapted to support a service recipient's independence as described in the medication support plan~~IMSP~~.

~~(E)~~ (F) Sample medications must be:

- (i) accompanied by a physician's~~prescribing healthcare provider's~~ written order ~~including the length of time the medication is to be taken~~;
- (ii) labeled with the service recipient's name; and name; and
- (iii) used for no longer than 30 days, unless reviewed prior to the end of the 30 days by the DDS nurse and case manager, per OAC 340:100-5-26 included on the MAR specifying  
SAMPLE MEDICATION.

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~~(F)~~(G). Prior to the initial administration, if the medication name on the ~~doctor's~~prescriber's order and the generic or trade name of the medication on the label are different, staff responsible for medication administration documents on the ~~medication administration record~~MAR the reason for the difference and source of the information.

~~(G)~~(H). At an employment site, the labeled pharmacy container is considered the ~~written~~ order for a prescription medication. If a change in directions has occurred since the prescription was last filled, the container must be prominently identified to note a change has occurred. A copy of the updated order, which has been signed by the prescribing healthcare provider, must be kept with the container until an updated label change occurs by the pharmacy or prescriber.

(2) **Medication count inventory.** Each prescription medication must be documented upon receipt ~~from the pharmacy~~, and an inventory record maintained.

(A) All ~~new or refilled~~ prescription medication must be:

(i) counted upon receipt, ~~following infection control procedures, using procedures to prevent contamination~~, unless the service recipient's ~~medication support plan~~IMSP defines another method of inventorying ~~new~~ medication; and

(ii) documented in the service recipient's medication inventory record noting the reason for which the medication is prescribed. The reason a medication is prescribed must be requested from the prescriber if not provided on the prescription label or documentation received from the prescriber.

(B) Each prescription medication is counted, ~~following infection control procedures, and documented at least weekly. The service recipient's medication support plan may provide for counting at least monthly. Specialized foster care (SFC) and agency companion services (ACS) providers count and document prescription medications at least monthly.~~ Prescription medication is counted using procedures to prevent contamination and documented at least monthly.

(C) Any staff responsible for administering, storing, monitoring or documenting controlled medications, listed in Schedule II of the current Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD) schedule, is required to count and document controlled medications ~~each time the responsibility for medication administration is transferred to another person, but at least monthly.~~ Medications identified as controlled dangerous substances in the Oklahoma Uniform Controlled Dangerous Substance Act, Title 63, Chapter 2, Article 2, must be counted and the inventory documented monthly and each time the responsibility for medication administration is transferred to another person, but at least monthly.

(D) Any discrepancy in the medication count must be reported immediately to the program coordinator, and then followed up with an incident report per OAC 340:100-3-34. A SFC provider reports the discrepancy to the DDS case manager and completes Form 06MP046E. Staff identifying a discrepancy in the medication inventory must promptly report this information according to service provider policies or procedures. An SFC provider reports any discrepancy to the foster care specialist. SDS staff report any discrepancy to the EOR.

(3) **Non-prescription medication.** Approval for a service recipient to use or be administered a non-prescription medication, per OAC 340:100-1-2, is received ~~in writing and documented~~ at least annually from the service recipient's primary ~~care physician~~healthcare provider with prescriptive authority.

(A) Items used for personal care or hygiene are not considered medications.

(B) The service recipient's ~~medication record~~MAR must document:

(i) condition for which the non-prescription medication is ~~used~~intended to treat; and

(ii) ~~dosage~~the directions for use if prescribed differently from the recommended package instructions

(iii) frequency with which the non-prescription medication may be administered; and

(iv) any specific instructions related to the medication.

(C) Each non-prescription medication must have the service recipient's name clearly ~~marked~~identified on the container when more than one service recipient lives in the home or works at the employment site.

~~(D) Administration of a non-prescription medication does not differ from the recommended dosage as noted by package directions, unless ordered in writing by a licensed physician, dentist, advanced practice nurse, physician assistant, or optometrist.~~

(4) **Medication storage.**

(A) All medications must be:

(i) secured under proper conditions of temperature and light; and

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- (ii) kept in a locked medication area, or container unless the service recipient's ~~medication support plan~~ IMSP specifies other storage arrangements.
  - (B) Each service provider ~~agency~~ is responsible for developing and enforcing written policies or procedures that ensure medication security in the absence of a service recipient ~~medication support plan~~ IMSP. SFC providers and EOR's adhere to established policy.
  - (C) Schedule II medications, per current ~~OBND~~ schedule, must be secured separate from other medications.
  - ~~(D)~~ Medication requiring refrigeration must be:
    - (i) secured, unless this requirement is modified in the service recipient's ~~medication support plan~~ IMSP;
    - (ii) kept in the temperature range according to label directions; and
    - (iii) separated from food and other non-drug items.
  - ~~(E)~~ (D) Hazardous or dangerous materials must not be kept in the secured medication area.
  - ~~(F)~~ (E) Each service recipient's medication must be stored separately from the medication of other persons.
  - ~~(G)~~ (F) Externally applied medications must be stored separately from medications taken internally.
- (5) ~~Medication administration~~ **Administration of Medication.** Only staff who complete an approved training program in medication administration per OAC 340:100-3-38, successfully complete the written test and lab competency, and are able to read, write, understand and communicate the English language are permitted to administer medications.
- (A) Staff responsible for medication administration must personally:
    - (i) read the medication label;
    - (ii) prepare the ~~dosage~~ dose;
    - (iii) give the medication as ordered;
    - (iv) observe the person using the medication ~~as ordered~~; and
    - (v) document the medication administration immediately, but no longer than 30 minutes after administration.
  - (B) The person responsible for medication administration must know ~~the purpose~~ how to obtain information for each medication administered including possible adverse effects and both generic and trade names.
  - (C) All medications must be administered according to label directions unless ~~flagged~~, prominently identified, for change prominently identified with a change in instructions in accordance with OAC 340:100-5-32(c)(1)(~~D~~)(g)(1)(~~E~~)(i). ~~A medication with a flagged container is administered according to the change made on the medication sheet in accordance with the physician's orders. The MAR must be updated with the change in instructions according to the prescriber's orders at the time the change is made.~~
  - (D) No ~~SDS, contract provider, or DDS~~ DDS or service provider staff, ~~except SFC and ACS providers~~, is permitted to transfer medications from the original container to ~~any other~~ another container. The service recipient's ~~medication support plan~~ IMSP cannot modify this requirement.
  - (E) The ultimate user may transfer medication from one container to another, ~~container that clearly identifies the medication, in accordance with criteria established in the service recipient's medication support plan.~~ The ultimate user is:
    - (i) the service recipient for whom the medication is prescribed, if assessed by the Team as able to carry out each step in OAC 340:100-5-32(d)(1);
    - (ii) an adult member of the service recipient's family, as identified in the medication support plan;
    - (iii) the service recipient's SFC provider; or
    - (iv) the service recipient's ACS provider.
  - ~~(F)~~ No one, other than the ultimate user Only the person who transferred the medication to the new container or automated medication dispenser, is allowed to administer transferred medications ~~transferred from the original container~~. The service recipient's ~~medication support plan~~ IMSP cannot modify this requirement.
  - (G) Each medication must be administered at the specified time except when authorization has been obtained from the prescriber or pharmacist and documented on the MAR accordingly with the name, title, date, and time of person authorizing administration.

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- (i) When circumstances prevent administration at the specified time, the medication must be administered no more than one hour before or after the specified administration time.
- (ii) Any time medication is administered more than one hour before or after the scheduled administration time, ~~Form 06MP046E~~ incident reporting is completed according to OAC 340:100-3-34 unless authorization has been obtained as identified in subsection (5)(G).
- (iii) ~~Orders requiring medication administration two, three, or four times a day, unless specific times are ordered by the physician, must be evenly spaced through the day and are required to accommodate the service recipient's schedule.~~ Administration of medication ordered multiple times daily must be evenly spaced through the day unless specific times are ordered by the prescriber. Administration times are required to accommodate the service recipient's schedule.
- (H) The person administering medication or implementing an IMSP must be able to access information to identify common side effects of the medication administered.
- (I) ~~If there is an adverse reaction, a significant change in behavior, or any other significant indication of a problem that may be related to medication currently administered to or by a service recipient, potential medication-related concern occurs,~~ immediate action and notification is required according to written service provider agency protocols, policies or procedures. SFC providers and EOR's adhere to established policy.
- (6) **p.r.n. medication.** Medication prescribed on a p.r.n. basis must have a physician's prescribing healthcare provider's order identifying the medication, amount, route, time requirements, and under what circumstances the medication is administered.
  - (A) The decision to ~~actually~~ administer a p.r.n. medication, except per OAC 340:100-5-32(e)(6)(C), must be made by the service recipient's health care coordinator unless another person is designated by the Team is made after consulting with another staff person or Team member identified in the medication support plan IMSP. When the same p.r.n. medication is administered an average of three times in one week or ten times in one month, the prescribing healthcare provider is contacted for further evaluation.
  - (B) ~~The results of the service recipient's responses~~ response to p.r.n. ~~medications~~ medication must be documented ~~for the physician to determine whether continuation of the medication is required on the MAR.~~
  - (C) ~~DDSDDDS defines the use~~ administration of p.r.n. medication for behavioral control to be a highly restrictive procedure per OAC 340:100-3-34. ~~In cases where~~ When a medication is ordered ~~to be administered p.r.n. for p.r.n. administration for~~ behavioral control, the service recipient's Team ensures there is a written documented protocol for the administration ~~of the p.r.n. medication from the prescribing physician healthcare provider as part of the protective intervention planning protocol per OAC 340:100-5-57; and. The contract service provider, SFC provider and EOR agency staff will follow critical incident reporting requirements per OAC 340:100-3-34.~~
  - (D) Service recipients receiving Hospice hospice services are exempt from the requirements for p.r.n. medications per OAC 340:100-5-32.
- (7) **Medication documentation.** An accurate ~~written~~ record of the medication administration ~~of the service recipient's medication~~ or implementation of the service recipient's medication support plan IMSP must be maintained.
  - (A) Unless the service recipient is independent in medication administration per OAC 340:100-5-32(d)
  - (2)(D)(i), the service recipient's medication administration record MAR must specify:
    - (i) service recipient's first and last name;
    - (ii) name and strength of the medication as written documented on the label;
    - (iii) ~~dosage and frequency to be administered~~ directions for administration as documented on the label;
    - (iv) date and time medication is administered, including a.m. or p.m. for each entry;
    - (v) service recipient's ~~medication allergies and other known allergies;~~
    - (vi) ~~results of the service recipient's response to p.r.n. medications and other treatment;~~
    - (vii) named documentation of the person administering who administered the medication or implementing implemented the medication support plan IMSP, or initials supported by signature;
    - (viii) route of administration, if specified on the label;
    - (ix) any special orders ~~about the for~~ timing of the medication administration, if specified on the label; and

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- (x) reason for the medication's use, if when specified on the label;
- ~~(xi) all medications a service recipient receives including routine medications administered by a healthcare provider, notated accordingly; and~~
- ~~(xii) any special instructions applicable to the service recipient including but not limited to oral intake status, preferred food for administration of medication(s) as approved by the prescriber, any color coding or adaptation systems used.~~

(B) If the service recipient is independent in medication administration per OAC 340:100-5-32(d)(2)(B) ~~(i)~~, the ~~medication support plan~~ Plan documents monitoring and documentation needs.

(8) **Medication away from home.** When a service recipient ~~goes on an outing, vacation, home with family, or otherwise~~ leaves the location where he or she typically takes medication, accountability for the medication is maintained.

(A) When medication is taken from the location:

- (i) the ~~documented medication count confirms~~ medication inventory record documents the amount of medication taken and returned for the leave of absence, with signatures of the responsible party receiving the medication, and staff responsible for medication administration who releases the medication;
- (ii) any discrepancy in ~~the count~~ medication inventory is documented ~~on Form 06MP046E, and any necessary with action is taken by the service provider, EOR, or SFC provider to prevent recurrence;~~ and
- (iii) medication is sent from the home and returned ~~to the home only in the original container.~~ in the original container unless the service recipient uses an automated medication dispenser or has been identified as an ultimate user.

(B) ~~The ultimate user, per OAC 340:100-5-32(e)(5)(E), may remove medication from the location in the original container or another container that fully identifies the medication, if the ultimate user also administers the medication.~~ Service recipients who use an automated medication dispenser can take the device to assist with medication administration while away from home if the Team has determined supports necessary to promote safe medication administration will be available. The IMSP must identify supports needed for verbal assistance, oversight, and problem resolution to safely use the automated medication dispenser away from home. Automated medication dispensers must be accompanied with a copy of the MAR or another document which provides the information listed in OAC 340:100-5-32(g)(1)(B).

(C) Ultimate users that travel with an automated medication dispenser are encouraged to keep a document verifying authorization to possess a controlled dangerous substances if this applies to any medications contained in the device.

~~(C)(D) Although the medication administration record is not removed, medication~~ Medication administration or implementation of the ~~medication support plan~~ IMSP is documented while away from the home.

### (9) Discontinued medication, expired medication, and medication destruction.

(A) Discontinued medication:

- (i) ~~may be kept up to 90 days, unless the time period is adjusted in the service recipient's medication support plan; and~~
- ~~(ii) must be removed from current medications, secured separately from current medications, and discontinued on the MAR; and~~
- ~~(ii) may be kept up to 60-calendar days unless otherwise directed by the prescriber or the time period is adjusted in the service recipient's IMSP.~~

(B) Expired or discontinued medications are safely disposed of in compliance with ~~service provider agency policy;~~ policies or procedures, Environmental Protection Agency recommendations, local, state, and applicable federal requirements. SFC providers and EOR's adhere to established policy.

(C) ~~Scheduled medication~~ Controlled dangerous substance medications are disposed of in compliance with ~~Oklahoma Bureau of Narcotics and Dangerous Drugs~~ OBND and Oklahoma State Bureau of Investigation requirements and the medication inventory record is updated accordingly.

(D) When a service recipient dies, unused medication is ~~kept for at least 30 days or longer if part of an ongoing investigation.~~ safely disposed of in compliance with service provider agency policies or procedures. If death:

- (i) is unexpected or unanticipated, unused medication is kept for at least 30-calendar days.

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(ii) results in an investigation, medication is kept the length of time determined relevant by the investigative authority.

(iii) is due to a terminal illness, unused medication is safely disposed of according to the service recipients end of life plan.

(E) The service provider agency develops and enforces written policy or procedures regarding the disposal of any medication without an expiration date. SFC providers and EOR's adhere to established policy.

## **340:100-5-35. Non-Residential Habilitation Training Specialist (HTS) services [AMENDED]**

(a) **Applicability.** Habilitation Training Specialist (HTS) services, per OAC 317:30-5-482, are authorized per OAC 317:40-5-110 or 317:40-5-111 and OAC 340:100-3-33 and applies to nonresidential HTS services provided to service recipients not receiving community residential or group home services, per OAC 340:100-5-22.1 or OAC 340:100-6.

### **(b) General information.**

(1) Non-residential HTS services are authorized:

- (A) as a result of needs identified by the Developmental Disabilities Services (DDS) Personal Support Team (Team) and informed selection by the service recipient;
- (B) only during periods when staff are engaged in purposeful activity that directly or indirectly benefits the service recipient;
- (C) when directed toward the development or maintenance of a skill in order to achieve a specifically stated outcome; and
- (D) when the service provided is not a function that the parent would provide for the individual without charge as a matter of course in the relationship among members of the nuclear family when the member resides in a family home.

(2) Non-residential HTS services are not authorized when a service recipient is in need of:

- (A) sleep time supervision; or
- (B) assistance responding to emergencies, in which case a residential alternative, per OAC 317:40-1-2, must be selected, unless unpaid natural supports are available to meet these needs and identified in the Individual Plan (Plan).

(3) Non-residential HTS services are not authorized for:

- (A) services provided in the home of the HTS, unless the service recipient and the HTS reside in the same home;
- (B) employment supports that are provided, per OAC 317:40-7;
- (C) respite services provided, per OAC 317:30-5-517;
- (D) homemaker services provided, per OAC 317:30-5-537;
- (E) adult day services provided, per OAC 317:40-5-113; or
- (F) child care services; ~~or~~
- (G) ~~services provided by the legal guardian, biological or adoptive parent of a minor child, per OAC 340:100-3-33.2.~~

(4) ~~In accordance with~~ Per OAC 340:100-3-33.1, services must be provided in the most cost effective manner.

When the need for HTS services is expected to continue to exceed an average of nine hours daily, cost effective community residential services must be considered and requested, per OAC 317:40-1-2. For adults, continuation of non-residential services in excess of nine hours per day for more than one plan of care year is not authorized except:

- (A) when needed for members who receive services through the Homeward Bound Waiver;
- (B) when determined by the division administrator or designee to be the most cost effective option; or
- (C) as a transition period of 120-calendar days or less to allow for identification of and transition to a cost effective residential option. Members who do not want to receive residential services are assisted to identify options that meet their needs within an average of nine hours daily.

(5) Non-residential HTS providers may not perform any job duties associated with other employment, including on call duties at the same time they are providing HTS services.

(6) Non-residential HTS services are limited to no more than 40 hours per week for the household when the HTS resides in the same home as the service recipients. When one or more service recipient lives in the same household, services provided by individuals living in the home may not exceed a total of 40 hours per week. If additional hours of service are needed, they must be provided by someone living outside the home. Exceptions may be authorized when needed for service recipients who receive services through the Homeward Bound Waiver.



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(7) When the service recipient also receives nursing or Homemaker services or is out of the home for school, work, adult day services, or other non-HTS supported activities, the total number of hours of non-residential HTS, Homemaker, and hours away from the home cannot exceed 12 hours per day, unless an exception is granted, per OAC 317:40-5-110.

(8) Legally Responsible Individuals, per OAC 340:100-3-33.2, may provide HTS for extraordinary care as determined by the OK Choice Assessment.

**(c) Service location.**

(1) Non-residential HTS services are provided in the:

- (A) service recipient's home; or
- (B) community.

(2) Non-residential HTS services are not provided in:

- (A) a school;
- (B) a nursing facility;
- (C) an intermediate care facility for persons with intellectual disabilities (ICF/ID);
- (D) an unlicensed facility-based program;
- (E) a private home except the service recipient's home or the home of a relative, unless the home was approved, per OAC 317:40-5-40; or
- (F) the service recipient's employment setting or any other employment setting.

**(d) Backup plan.** Prior to service delivery, an emergency backup plan must be developed and specify how the service recipient's needs will be met when paid staff are unavailable. The emergency backup plan is included in the Plan.

**(e) Service requirements.**

(1) The provider:

- (A) implements the service recipient's Plan;
- (B) promotes community inclusion;
- (C) promotes the service recipient's health and welfare, increased independence, self-sufficiency; and
- (D) cooperates in securing alternative services while continuing to provide services when the service recipient, legal guardian, or provider wants to discontinue services until the Team confirms all essential services are in place.

(2) The provider develops and maintains written policies and procedures that are consistent with Oklahoma Human Services (OKDHS) rules and govern all aspects of service provision, with the exception of services provided, per OAC 317:40-9-1.

(A) Provider agency policies are made available to each service recipient, service recipient's parent(s), legal guardian, advocate, provider agency staff, and OKDHS.

(B) Provider agency policies and procedures include, but are not limited to:

- (i) service recipient rights protection;
- (ii) services provided;
- (iii) admission and discharge criteria;
- (iv) grievance procedures;
- (v) prevention and reporting of abuse, neglect, and exploitation;
- (vi) confidentiality;
- (vii) emergency management;
- (viii) fees paid by service recipient;
- (ix) health and safety precautions;
- (x) safeguarding service recipient funds;
- (xi) medication administration; and
- (xii) incident reporting.

(3) The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency, with the exception of services provided, per OAC 317:40-9-1.

(4) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, and ensuring direct support staff:

- (A) are not supervised by a relative or person living in the staff's home. A relative includes wife, husband, children, parents, stepparents, parents-in-law, grandchildren, grandparents, brothers, sisters, stepchildren, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, aunts, uncles, nieces, nephews, first cousins or any such person with whom the employee shares a foster relationship;
- (B) who provide backup services are available and have received training, per OAC 340:100-3-38;

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- (C) are at least 18 years of age;
  - (D) are present as specified in the Plan and as authorized by the service recipient's Plan of Care;
  - (E) are physically able and mentally alert to carry out the job duties;
  - (F) implement and follow the service recipient's Plan; and
  - (G) do not take the service recipient to visit staff's home, unless the Team provided advance written approval of any visit with the purpose specified in the Plan.
- (5) The provider agency ensures supervision, guidance, and oversight of all aspects of programming associated with receipt of non-residential HTS supports.
- (A) The program coordination staff (PCS) must:
    - (i) ensure staff are familiar with Plan requirements;
    - (ii) make supervisory visits to the service site. The PCS makes a minimum of one monitoring visit per:
      - (I) month, when a service recipient receives an average of 30 or more hours of HTS weekly; or
      - (II) quarter based on calendar year quarters, when a service recipient receives an average of 29 or fewer hours of HTS weekly;
    - (iii) supervise direct contact staff to promote achievement of Plan outcomes;
    - (iv) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained, per OAC 340:100-3-38;
    - (v) ensure records are maintained, per OAC 340:100-3-40;
    - (vi) assist the DDS case manager as requested to prepare for and implement the Plan and its revisions, per OAC 340:100-5-50 through 340:100-5-58;
    - (vii) ensure applicable OKDHS and Oklahoma Health Care Authority (OHCA) rules are followed;
    - (viii) complete necessary training, per OAC 340:100-3-38; and
    - (ix) have a minimum of four years of any combination of college level education or full-time equivalent experience in serving persons with disabilities, or full-time equivalent experience in a supervisory position, unless this requirement is waived in writing by the DDS director or designee.
  - (B) Provider agencies assign PCS caseloads, per OAC 340:100-5-22.1.
- (6) Staff, when assisting a service recipient with bathing or showering, must ensure the water temperature is safe and comfortable for the service recipient. The requirements of this paragraph are enforced even when an anti-scald device is used. Staff:
- (A) tests the water temperature by touch or with a thermometer designed to test hot liquids, before the service recipient enters the water. The water must be determined safe and comfortable for the service recipient, not merely comfortable for the staff.
  - (B) is trained by his or her employer in the unique needs of each service recipient, including tolerance to water temperature and bathing or showering needs; and
  - (C) does not leave a service recipient who is unable to attend to safety considerations, alone in the bath or shower.

*[OAR Docket #25-362; filed 5-29-25]*

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## TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 105. AGING SERVICES

*[OAR Docket #25-363]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. Aging Services Division

340:105-1-7. Advocacy assistance [AMENDED]

Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended

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## Part 9. FISCAL AND ADMINISTRATIVE POLICIES FOR AREA AGENCIES ON AGING AND TITLE III PROJECTS

340:105-10-95. Intrastate funding formula [AMENDED]

Subchapter 11. State Long-Term Care Ombudsman Program

Part 37. STATE LONG-TERM CARE OMBUDSMAN PROGRAM

340:105-11-249. Area Agency on Aging ombudsman supervisor I [AMENDED]

### **AUTHORITY:**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Section 1-2211 et seq. of Title 63 (63 O.S. §1-2211 et seq.); and Section 6103 of Title 26 of the United State Code (26 U.S.C. § 6103).

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

### **COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

### **PUBLIC HEARING:**

January 3, 2025

### **ADOPTION:**

January 24, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 29, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

September 15, 2025

### **SUPERSEDED EMERGENCY ACTIONS:**

### **SUPERSEDED RULES:**

Subchapter 1. Aging Services Division

340:105-1-7 [AMENDED]

Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as amended

340:105-10-95 [AMENDED]

Subchapter 11. State Long-Term Care Ombudsman Program

340:105-11-249 [AMENDED]

(Reference WF 24-16)

### **GUBERNATORIAL APPROVAL:**

October 8, 2024

### **REGISTER PUBLICATION:**

42 Ok Reg 298

### **DOCKET NUMBER:**

Docket # 24-1087

### **INCORPORATIONS BY REFERENCE:**

### **INCORPORATED STANDARDS:**

N/A

### **INCORPORATING RULES:**

N/A

### **AVAILABILITY:**

N/A

### **GIST/ANALYSIS:**

The proposed amendments to Chapter 105, Subchapters 1, 10, and 11 are to comply with approval of State Bill 1709. The proposed amendment achieves Oklahoma Human Services (OKDHS) goals by: (1) updating references to the State Long-Term Care Ombudsman (LTCO) which will be transferred to and become a part of the Office of the Attorney General (OAG) pursuant to the governor approval of State Bill 1709; and (2) ensuring accurate program administration.

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## CONTACT PERSON:

Miranda Kieffer, Programs Administrator, 405-209-7054

**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, 2025:**

## SUBCHAPTER 1. AGING SERVICES DIVISION

### **340:105-1-7. Advocacy assistance [AMENDED]**

(a) **Long-Term Care Ombudsman Program.** The Older Americans Act (OAA), Title 42 United States Code, Section 3001 through 3058, mandates establishment of an Office of the State Long-Term Care Ombudsman (~~Office~~)(LTCO) and a statewide Long-Term Care Ombudsman Program which provides advocacy services to older residents of long-term care facilities, including nursing ~~home~~homes, residential care and other similar adult care homes. The ~~Office~~LTCO is located within ~~Aging Services Division (ASD)~~the Office of the Oklahoma Attorney General, and operates under the general direction of the state long-term care ombudsman.

(1) Advocacy is provided through mandated activities including, but not limited to:

(A) ~~receive~~receiving, ~~investigate~~investigating, and ~~resolve~~resolving complaints;

(B) ~~collect~~collecting and ~~analyze~~analyzing complaints and other data;

(C) ~~monitor~~monitoring the development and implementation of federal, state, and local laws, regulations, and policies;

(D) ~~make~~making recommendations to address issues identified as affecting the quality of care and quality of life of residents; and

(E) ~~provide~~providing information to the public and to public officials.

(2) The ~~Office of the State Long-Term Care Ombudsman~~LTCO works through area ombudsman staff and volunteers at the local level, to assist in the improvement of the quality of life and quality of care available to long-term care facility residents, and has the authority to recommend courses of action.

(3) Statutory authority for access to facilities and residents, receipt of inspection and complaint reports, and participation of ombudsmen as observers in inspections is provided in the Oklahoma Nursing Home Care Act Sections 1-1901 through 1-1943 of Title 63 of the Oklahoma Statutes [63 O.S. § 1-1901 through 1-1943] and the Residential Care Act: [63 O.S. § 1-820 through 1-840]. Creation of the Office, protection for program representatives and complainants, and establishment of an advisory committee are provided in the Long-Term Care Ombudsman Act: [63 O.S. § 1-2211]. Specific policies relating to the operation of the program are located in the Rules for Implementing the OAA of 1965, as amended.

(b) **Legal Services Development Program.** ~~The responsibility of ASD under~~Under federal and state law, Community Living, Aging and Protective Services ~~is to provide~~provides the services of an individual, hired on a full-time basis with other personnel as needed, known as the state legal services developer, to ensure:

(1) leadership to secure and maintain the legal rights of older individuals;

(2) ~~the~~ capacity to coordinate the provision of legal assistance;

(3) ~~the~~ capacity to provide technical assistance, training, and other supportive functions to Area Agencies on Aging, legal assistance providers, ombudsmen, and other persons, as appropriate;

(4) ~~the~~ capacity to promote financial management services to older individuals at risk of guardianship;

(5) ~~the~~ capacity to assist older individuals in understanding their rights, exercising choices, benefiting from services and opportunities authorized by law, and to maintain the rights of older individuals at risk of guardianship;

(6) ~~the~~ capacity to improve the quality and quantity of legal services provided to older individuals;

(7) capacity to analyze, comment on, monitor, develop, and promote federal, state, and local laws, rules and regulations, and other government policies and actions; and

(8) capacity to provide such information as necessary to public and private agencies, legislators, and other persons.

## **SUBCHAPTER 10. POLICIES AND PROCEDURES MANUAL FOR TITLE III OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED**

## PART 9. FISCAL AND ADMINISTRATIVE POLICIES FOR AREA AGENCIES ON AGING AND TITLE III PROJECTS

### 340:105-10-95. Intrastate funding formula [AMENDED]

(a) **Policy.** In consultation with Area Agencies on Aging (AAAs) and the agency housing the State Long-Term Care Ombudsman, and in accordance with guidelines issued by the Assistant Secretary for Aging of the Administration on Aging (AoA), the State Agency uses the best available data to develop and publish for review and comment a formula for distribution within the state of funds received under Title III that takes into account the:

- (1) ~~the~~ geographical distribution of older persons in the state; and
- (2) ~~the~~ distribution among planning and service areas (PSAs) of older persons with greatest economic need and older persons with greatest social need, with particular attention to ~~low income~~ low-income minority older persons.

(b) **Authority.** The authority for this Section is Section 305 of the Older Americans Act (OAA) of 1965, as amended and Part 1321.37 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The State Agency implements this Section by:

- (1) obtaining input from the ~~AAA~~ AAAs, including demographic data, for use in developing the intrastate funding formula;
- (2) following guidelines from the regional office of AoA regarding development of the intrastate funding formula;
- (3) considering the geographic distribution among PSAs of persons ~~age 60 years of age~~ and older in the development of the intrastate funding formula;
- (4) considering the distribution among PSAs of older persons in greatest economic need, based on older persons at or below the poverty level as defined by the United States Bureau of Census. Particular attention is paid to ~~low income~~ low-income minority older persons and older persons residing in rural areas, in the development of the intrastate funding formula;
- (5) considering the distribution among PSAs of older persons in greatest social need ~~per~~ per Oklahoma Administrative Code [(OAC) 340:105-10-3]. Particular attention is paid to ~~low income~~ low-income minority older persons and older persons residing in rural areas, in the development of the intrastate funding formula;
- (6) developing an intrastate funding formula that includes:
  - (A) funds retained for state and AAA administration, and for the State Long-Term Care Ombudsman Program, including:
    - (i) no more than five percent of Oklahoma's allocation of OAA Title III funds or \$300,000, whichever is greater, retained by the State Agency for State Agency administrative costs, unless the total OAA Title III allocation to all states under Section 303 of the OAA exceeds \$800,000,000, in which case the State Agency retains five percent of the state's Title III allocation, or \$500,000, whichever is greater;
    - (ii) no more than ten percent of the funds remaining after providing for State Agency administrative costs are awarded for meeting AAA administrative costs. In awarding administrative funds, each PSA is apportioned a minimum of \$37,500 unless available funds are insufficient to provide for such an apportionment, in which case the available funds are distributed among the PSAs in equal shares. AAA administrative funds remaining, if any, after making this apportionment are allotted among PSAs in the same proportion as each PSA's age 60 and older population bears to the total state population age 60 and older; and
    - (iii) no less than one percent of Oklahoma's OAA Title III, Part B allocation is retained for the Long-Term Care Ombudsman Program ~~of the State Agency~~;
  - (B) 50 percent of the funds remaining after providing for state and AAA administrative costs and for the Long-Term Care Ombudsman Program are apportioned among PSAs in the same proportion as each PSA's age 60 and older population bears to the total state population age 60 and older;
  - (C) 50 percent of the funds remaining after the apportionment described in (B) of this paragraph are apportioned among PSAs in the same proportion as each PSA's age 60 and older population living at or below the poverty level bears to the total state population age 60 and older living at or below the poverty level;
  - (D) all of the funds remaining after the apportionment described in (C) of this paragraph apportioned among PSAs in the same proportion as each PSA's age 60 and older population of minority racial descent bears to the total state population age 60 and older of minority racial descent;

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(E) PSAs containing no medically underserved areas are ineligible to receive funds appropriated specifically for disease prevention and health promotion services. Medically underserved areas mean medically underserved areas designated by the United States Department of Health and Human Services, Public Health Service Bureau of Health Care Delivery and Assistance, Office of Shortage Designation;

(F) allotting each PSA no less than two percent of the sum of the funds apportioned in (B) through (D) of this paragraph;

(G) allotting each PSA sufficient funds to meet the requirements of Section 307(a)(3)(B) of the OAA. Not less than the total of federal fiscal year 2000 expenditures were allotted to rural areas. Rural areas are defined as those counties not included in Standard Metropolitan Statistical Areas (SMSA) as determined by the United States Census Bureau. ~~The amounts necessary to meet this requirement are:~~

~~(i) Arcawide AAA - \$0;~~

~~(ii) Association of South Central Oklahoma Governments (ASCOG) AAA - \$914,127;~~

~~(iii) Central Oklahoma Economic Development District (COEDD) AAA - \$803,399;~~

~~(iv) Eastern Oklahoma Development District (EODD) AAA - \$1,149,319;~~

~~(v) Grand Gateway AAA - \$876,072;~~

~~(vi) Kiamichi Economic Development District of Oklahoma (KEDDO) AAA - \$812,873;~~

~~(vii) Northern Oklahoma Development Authority (NODA) AAA - \$578,108;~~

~~(viii) Oklahoma Economic Development Authority (OEDA) AAA - \$252,781;~~

~~(ix) Southern Oklahoma Development Authority (SODA) AAA - \$900,213;~~

~~(x) South Western Oklahoma Development Authority (SWODA) AAA - \$441,543; and~~

~~(xi) Tulsa AAA - \$0;~~

(7) publishing the formula listed in this subsection for review and comment by the public. The publication includes:

(A) a descriptive statement of the formula's assumptions and goals;

(B) documentation regarding the application of greatest economic need;

(C) documentation regarding the application of greatest social need;

(D) a numerical statement of the actual funding formula to be used;

(E) a listing of the population, economic, and social data used for each PSA; and

(F) a demonstration of the allocation of funds to each PSA, pursuant to the funding formula;

(8) submitting the formula to the federal Assistant Secretary for Aging for approval; and

(9) implementing the formula in allocating all federal OAA funds.

(d) **Cross reference.** See OAC 340:105-10-3.

## SUBCHAPTER 11. STATE LONG-TERM CARE OMBUDSMAN PROGRAM

### PART 37. STATE LONG-TERM CARE OMBUDSMAN PROGRAM

#### **340:105-11-249. Area Agency on Aging ombudsman supervisor I [AMENDED]**

(a) **Definition.** Under the program supervision of the Office of the State Long-Term Care Ombudsman and the general direction of the director of an Area Agency on Aging, the ombudsman supervisor I provides leadership in development, coordination, and implementation of the Long-Term Care Ombudsman Program and receives, investigates, and resolves complaints made by or on behalf of residents of long-term care facilities.

(b) **Examples of duties.** Examples of duties include:

(1) recruiting, screening, training, and supervising ombudsman volunteers using guidelines provided by state ombudsman staff;

(2) publicizing the services of the State Long-Term Care Ombudsman Program and issues affecting older residents of long-term care facilities through media releases, public speaking, and other means;

(3) coordinating with state ombudsman staff in complaint investigation and resolution, ~~identification~~ of identifying priority issues, and ~~certification of~~ certifying new ombudsman volunteers;

(4) maintaining confidentiality of files and other information pertaining to complaints and complainants;

(5) keeping the director of the designated area ombudsman entity informed of the current situation and needs at the local level, recommending plans for meeting needs, and advising the director of resources required for their implementation;

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(6) being available to residents of long-term care facilities in the planning and service areas (PSA), visiting each facility regularly, and working cooperatively with administrators and staff; and

(7) serving as a consultant to community organizations and agencies on issues and needs affecting older long-term care facility residents, techniques of working with these older people, and the solution of special problems.

(c) **Education and experience.** The required education and experience is graduation from an accredited four-year college or university with major course work in social work, gerontology, sociology, general social sciences, or a related field including, but not limited to, health care. ~~Any ombudsman employed as an ombudsman supervisor I prior to this effective date is deemed as eligible for the position.~~

(1) The State Long-Term Care Ombudsman may approve a waiver of the education and experience requirement when a position has remained vacant for more than 90-calendar days after the posting of the position and conditions in (A) through (C) of this paragraph apply.

(A) No applications were received from applicants meeting the education and experience requirements.

(B) No applicant with the necessary education and experience has accepted an offer of employment.

(C) The applicant has a combination of education and experience applicable to the provision of ombudsman services.

(2) Anyone hired using a waiver of the education and experience requirement is eligible for the ombudsman supervisor II classification only when (A) or (B) of this paragraph is complete.

(A) Education requirements described in Oklahoma Administrative Code 340:105-11-249(c) are completed.

(B) Two years of service as a long-term care ombudsman are completed and the individual is in good standing with the State Long-Term Care Ombudsman Office.

(3) Any ombudsman employed as an ombudsman supervisor I prior to this effective date is deemed as eligible for the position.

(d) **Salary range.** The comparable job family descriptor for this position is Adult Protective Services Specialist, #H26A. A person in this position may not be hired at a salary more than the midpoint, nor paid more than the maximum of the approved salary range. For the purpose of determining annual salary longevity pay is not considered.

*[OAR Docket #25-363; filed 5-29-25]*

## TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 110. LICENSING SERVICES

*[OAR Docket #25-367]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

Part 1. LICENSING SERVICES - CHILD CARE

340:110-1-6. Inquiries and request for license process [AMENDED]

340:110-1-9.3. Non-compliance with requirements [AMENDED]

340:110-1-9.4. Emergency Order [AMENDED]

340:110-1-9.5. Consent agreement [AMENDED]

340:110-1-10. Revocation or denial of license [AMENDED]

340:110-1-11. ~~Voluntary case~~ Facility and child-placing agency closures [AMENDED]

340:110-1-13. Unlicensed facilities [AMENDED]

340:110-1-14. ~~Public inspection of licensing files~~ Licensing record availability and confidentiality [AMENDED]

Part 3. LICENSING SERVICES - RESIDENTIAL CARE AND AGENCIES

340:110-1-46. Types of issuances [AMENDED]

340:110-1-47.2. Non-compliance with requirements [AMENDED]

340:110-1-52. Legal actions [REVOKED]

340:110-1-53. Case closures [REVOKED]

340:110-1-54.1. Unlicensed facilities [AMENDED]

340:110-1-55. Public inspection of licensing files [REVOKED]

Subchapter 3. Licensing Standards for Child Care Facilities

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Part 15. REQUIREMENTS FOR CHILD CARE CENTERS, DAY CAMPS, DROP-IN PROGRAMS, OUT-OF-SCHOOL TIME PROGRAMS, PART-DAY PROGRAMS, AND PROGRAMS FOR SICK CHILDREN

340:110-3-300. Facility [AMENDED]

Part 16. REQUIREMENTS FOR COMMUNITY HOPE CENTERS [REVOKED]

340:110-3-400. Community Hope Centers [REVOKED]

Subchapter 5. Requirements for Child-Placing Agencies

Part 5. REQUIREMENTS FOR FOSTER HOME AGENCIES

340:110-5-61.1. Alternative care arrangements [AMENDED]

Part 9. REQUIREMENTS FOR INDEPENDENT LIVING PROGRAMS

340:110-5-115. Independent living [AMENDED]

340:110-5-117. Program description [REVOKED]

340:110-5-118. Responsibilities of the agency [REVOKED]

340:110-5-119. Training and life-skills assessment [REVOKED]

340:110-5-120. Service agreement [REVOKED]

340:110-5-121. Physical facility [REVOKED]

340:110-5-122. Supervision and support [REVOKED]

340:110-5-123. Emergency procedures [REVOKED]

340:110-5-124. Conclusion of participation [REVOKED]

Appendix EE. Oklahoma Director's Credential [AMENDED]

## **AUTHORITY:**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); 10 O.S. §§ 401, 404, 405, 406, and 407 of the Oklahoma Child Care Facilities Licensing Act.

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

## **COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

## **PUBLIC HEARING:**

January 3, 2025

## **ADOPTION:**

January 24, 2025

## **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 30, 2025

## **LEGISLATIVE APPROVAL:**

Approved May 28, 2025 by HJR 1035

## **LEGISLATIVE DISAPPROVAL:**

N/A

## **APPROVED BY GOVERNORS DECLARATION:**

N/A

## **FINAL ADOPTION:**

May 28, 2025

## **EFFECTIVE:**

November 1, 2025

## **SUPERSEDED EMERGENCY ACTIONS:**

## **SUPERSEDED RULES:**

N/A

## **GOVERNATORIAL 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:**

Proposed amendments to Chapter 110, Subchapter 1, Part 1 amend Oklahoma Human Services (OKDHS) Child Care Services (CCS) policy for child care Licensing staff by amending request for Licensing processes, non-compliance with Licensing requirement processes, emergency orders, consent agreements, denial and revocation processes, case closures, unlicensed complaint investigations, and public inspection of Licensing records. Proposed amendments to Chapter 110, Subchapter 1, Part 3 amend OKDHS CCS policy for residential and child-placing agency Licensing staff by amending license issuances processes, non-compliance with Licensing requirement processes, revoking redundant rules to combine within existing rule citations, and unlicensed complaint investigations. Proposed amendments to Chapter 110, Subchapter 3, Part 15 amend Licensing requirements for child care centers, day camps, drop-in, out-of-school time, part-day and programs caring for ill children. Proposed amendments to Chapter 110, Subchapter 3, Part 16 revoke Licensing requirements for community hope centers. Proposed amendments to Chapter 110, Subchapter 5, Part 5 and 9 amend Licensing requirements for child-placing agencies. CCS conducted child-placing agency roundtable sessions to amend Licensing requirements for child-placing agencies and independent living programs. A summary of proposed Licensing requirements was reviewed by residential and child-placing agency standing subcommittees and the Child Care Advisory Committee. Child Welfare Services was consulted for necessary Licensing requirement amendments for improved health and safety and services for child-placing agencies and independent living programs.

**CONTACT PERSON:**

Mitzi Lee, Programs Manager III, 405-202-7449

**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, 2025:**

## **SUBCHAPTER 1. GENERAL PROVISIONS**

### **PART 1. LICENSING SERVICES - CHILD CARE**

**340:110-1-6. Inquiries and request for license process [AMENDED]**

(a) **Inquiries.** Child care program, residential program, or child-placing agency license inquiries are referred to the appropriate Licensing staff. Licensing determines licensure necessity per, Oklahoma Child Care Facilities Licensing Act, Section 403 of Title 10 of the Oklahoma Statutes (10 O.S. § 403). Programs exempt from licensure may request licensure.

(b) **Licensing exemptions.** Program exemptions include (1) through (3) of this subsection.

(1) **Tribal reservation, Indian country, and federal facilities.** Facilities located on tribal reservations or in Indian country and federal child care facilities not requiring a state license that may request licensure are:

- (A) on Indian tribal land;
- (B) licensed by a tribe, with a Child Care Services (CCS) cooperative Licensing agreement; and
- (C) operating on or on military bases or federal property.

(2) **In-home caregiver.** ~~Adult and Family Services (AFS) Child Care~~ CCS Subsidy approves contracted child care when care is provided in the child's own home and no license is required.

(3) **Additional exemptions.** Programs not designed or intended for child care include:

- (A) programs operating less than 10 weeks annually;
- (B) summer programs operating less than eight hours per day;
- (C) programs serving children 3 years of age and older, offering elementary education in kindergarten through third grade;
- (D) summer youth camps, summer programs, or after-school programs for children who are at least 4 years of age, accredited by a national standard-setting agency or church camp accreditation program or are accredited by, chartered by, or affiliated with a national non-profit organization;
- (E) programs providing care and supervision for school-aged children only in a center-based program for 21 or fewer hours per week and located in a county with a population of less than 100,000, per the latest Federal Decennial Census;
- (F) programs where children are limited from enrolling in multiple sessions because of the type of activity or ages accepted;
- (G) programs where children are not enrolled by the parents and free to come and go;

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(H) child care facilities including family child care homes providing care and supervision for 15 or fewer hours per week;

(I) sponsors operating two or more programs in the same building when each operates 15 hours or less per week; and

(J) programs where children attend on a drop-in basis and parents are on the premises and readily accessible.

(c) **Request for licensing information.** The request for license is available through an online submission process. When ~~the~~an inquirer indicates an interest in becoming licensed or licensure is required, Licensing staff:

(1) ~~documents the name, address, phone number, and type of care the program is providing or planning to providediscusses the online request for license process;~~ and

(2) ~~provides the inquirer with:~~

(A) ~~the applicable Licensing requirements;~~

(B) ~~appropriate request for license packet; and~~

(C) ~~referrals to other agencies involved in regulating child care facilities, such as the fire department, health department, and local city regulatory offices, when applicable;~~

~~(3)~~ follows procedures in Oklahoma Administrative Code (OAC) 340:110-1-13 or 340:110-1-54.1, when the program is currently providing child care, residential care, or child-placing activity. Licensing informs the inquirer not to provide child care, residential care, or child-placing activity without permission to operate from CCS, per (h) of this Section; ~~and~~

~~(4)~~ ascertains the inquirer's qualifications for program or agency operation.

(d) **Request for license.** ~~When Form 07LC004E, Request for License – Child Care Program; or Form 07LC040E, Request for License – Child-Placing Agency and Residential Child Care, is received~~request for license information is submitted, Licensing staff:

(1) ~~verifies Form 07LC004E or Form 07LC040E is complete;~~all required information is submitted;

~~(2).~~provides the applicant with Licensing information;

~~(2)(3).~~verifies proof of ownership is provided, per OKDHS Appendix L-7, Ownership Proof Chart refers the applicant to other regulatory agencies, such as fire and health departments, and local city and zoning officials, when applicable; and

~~(4)~~ follows procedures in OAC 340:110-1-13 or 340:110-1-54.1, when the program is currently providing child care, residential care, or child-placing activity. Licensing informs the inquirer not to provide child care, residential care, or child-placing activity without permission to operate from CCS, per (h) of this Section;

~~(3)(5).~~when appropriate, issues a permit within 45-calendar days or completes Form 07LC080E, Licensing Services Supplemental Information, documentingwhen appropriate and documents timeframe extension circumstances.

(e) **Incomplete request for license.** ~~An incomplete request for license is returned to the applicant.~~Licensing staff documents discussions regarding incomplete request for license submissions and missing information on Form 07LC080E, Licensing Services Supplemental Information, when appropriate.

(f) **Withdrawal of request for license.** When an applicant:

(1) requests withdraw prior to the request for license being processed, Licensing staff contacts the state office designee for further instructions;

~~(1)(2).~~requests to withdraw after the request for license request prior to initial permit issuance~~is processed but prior to permit issuance,~~ Licensing staff:

(A) documents the withdrawal request on Form 07LC080E, Licensing Services Supplemental Information;

(B) confirms no children or residents are in care or no child-placing activity is conducted, if applicable; ~~and~~

(C) provides a letter to the applicant verifying withdrawal request; and

(D) may close the case, unless negative action is warranted; and

~~(2)(3).~~has not had children or residents in care or no child-placing activity~~remained on application status~~ for more than 12 months, the applicant is requested to withdraw the request for license. When the applicant:

(A) agrees to withdraw the request, Licensing staff:

(i) documents this discussion on Form 07LC080E;

(ii) provides a letter confirming the discussion and notifying the applicant of request for license withdrawal; and

(iii) proceeds with case closure; or

(B) does not agree to withdraw the request, Licensing staff:

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- (i) documents this discussion on Form 07LC080E;
- (ii) provides a letter notifying the applicant of case closure within 10-calendar days of receipt of letter; and
- (iii) proceeds with case closure.

(g) **Application monitoring visit.** Licensing staff conducts a monitoring visit to determine compliance with requirements. Licensing staff:

- (1) reviews the request for license information;
- (2) discusses and documents any incomplete or incorrect information on Form 07LC080E, Licensing Services Supplemental Information. Form 07LC080E is provided to the applicant;
- (3) provides program consultation regarding quality care and quality rating and improvement (QRIS) criteria;
- ~~(2)~~(4) discusses Oklahoma Human Service (OKDHS) subsidy contract opportunities and documents that contract information was provided to the applicant, when applicable; and
- ~~(3)~~(5) issues a proceeds with permit issuance, per OAC 340:110-1-8 or 340:110-1-46, when applicable.

(h) **Permission to operate.** ~~The program~~Regional programs manager or programs supervisor consult with the statewide licensing coordinator regarding approving programs to operate on application status.

- (1) Permission to operate may be granted permission to operate on application status considered when the Licensing staff determines;
  - (A) services are needed; however an applicant is temporarily unable to comply with all Licensing requirements, but the services are needed and the non-compliance does not place children or residents at risk of imminent harm; and
  - (B) compliance with health and safety requirements without serious non-compliances, per OAC 340:110-1-9.3 or OAC 340:110-1-47.2.

~~(1)~~(2) These situations are discussed with the regional programs manager or programs manager. Permission to operate may be granted when the operator:

- (A) submits required request for license information;
- (B) provides all required background information, per OAC 340:110-1-8.1; and
- (C) has personnel present meeting Licensing requirements regarding:
  - (i) documented current cardio-pulmonary resuscitation and first aid certification;
  - (ii) completion of required health and safety training;
  - (iii) minimum educational qualifications, per assigned position; and
  - (iv) in addition, personnel with certification in behavioral intervention techniques for:
    - (I) residential programs; and
    - (II) independent living programs, when applicable.

~~(2)~~(3) Permission to operate cannot exceed 30-calendar days.

~~(3)~~(4) When permission to operate is or was not granted, phone contact is made every two months 60-calendar days and documented on Form 07LC080E, Licensing Services Supplemental Information.

(i) **Primary caregiver and spouse license issuance.** When requested, a license may be issued to a primary caregiver and his or her spouse. References are obtained for both individuals, and both must demonstrate requirement compliance. A primary caregiver must be identified and meet all primary caregiver requirements.

(j) **Alternative residence.** Care may be provided in a location other than the primary caregiver's residence.

(k) **Reopening a family child care home.** When a family child care home was closed for less than 12 months and had a record of compliance prior to closure, Licensing staff ~~obtains a new Form 07LC004E, Request for License - Child Care Program,~~requests the operator to complete on-line submission of request for license and may recommend license issuance after one compliant monitoring visit. Previous references are utilized used. Prior to license issuance, background investigations are conducted, per OAC 340:110-1-8.1.

(l) **Reopening a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children.** When a program was closed and the same owner requests to reopen, ~~a new Form 07LC004E, Request for License - Child Care Program, is completed~~Licensing staff requests the operator to complete on-line submission of request for license.

(1) Fire and health inspections completed within the last 12 months, are utilized used unless concerns exist.

(2) When the program was closed less than 12 months:

- (A) previously obtained director references are utilized used;
- (B) background investigations are conducted, per OAC 340:110-1-8.1; and
- (C) with a record of compliance prior to closure, Licensing staff may recommend license issuance after one compliant monitoring visit.

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(m) **Reopening a residential program or child-placing agency.** When a residential program or child-placing agency was closed and the same owner requests to reopen, ~~a new Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care, is completed~~ Licensing staff requests the operator to complete on-line submission of request for license.

- (1) Fire and health inspections completed within the last 12 months, are ~~utilized~~ used unless concerns exist.
- (2) When the program was closed less than 12 months:
  - (A) background investigations are conducted, per OAC 340:110-1-8.1; and
  - (B) with a record of compliance prior to closure, the Licensing staff may recommend license issuance after one compliant monitoring visit.

(n) **Family child care homes approved to provide foster care.** A primary caregiver approved to provide foster care may be licensed as a family child care home. The primary caregiver cannot be licensed when approved for therapeutic foster care, per OAC 340:75-7-19. The approval for dual service is made by the Licensing supervisor prior to each child placement, based on the recommendation of Licensing staff and OKDHS foster care staff. Licensing staff completes Form 07LC099E, Dual Approval Request for Foster Care Placement. When a joint consensus is not achieved, either division may request a review by the dual approval committee for a final decision. The decision for approval is:

- (1) based on the number, ages, and children's specific needs potentially eligible for child care and foster care and a written agreement from the primary caregiver stating the individual(s) from whom the child was removed will not be present during the child care hours;
- (2) documented in the case ~~record~~; and
- (3) reviewed with the primary caregiver and foster care worker at least once every 12 months or when concerns exist.

## 340:110-1-9.3. Non-compliance with requirements [AMENDED]

(a) **Non-compliance documentation.** Licensing staff clearly and concisely documents ~~areas of~~ non-compliance on the monitoring checklist and summary, including operator discussion.

(1) ~~A plan of correction, including~~ Plans of correction documented on the monitoring summary include a specific agreed-on time period for non-compliance correction ~~is documented on the monitoring summary.~~ Plans of correction for serious non-compliances or substantiated complaints also include methods to maintain compliance. When a previous non-compliance was not corrected by the agreed-on time period, the non-compliance is documented again with a ~~shorter plan of correction date~~ reduced correction timeframe.

(2) Immediate correction is required when the non-compliance directly impacts children's health, safety, or well-being.

(3) Licensing staff requests the ~~operator's~~ signature of the operator or individual in charge on the monitoring summary, explaining the signature indicates acknowledgment of recorded information. Licensing staff documents in discussion when the operator or individual in charge declines to sign the monitoring summary.

(4) ~~When the operator or individual in charge refuses to sign, the refusal is documented on the monitoring summary.~~

~~(5)~~ The operator is provided ~~at~~ the monitoring summary ~~copy.~~

~~(6)~~ (5) Timeframes for filing a grievance are provided on the monitoring summary. Grievance time frames may be discussed with the operator or individual in charge. Refer to grievance procedures, per Oklahoma Administrative Code (OAC) 340:110-1-15.

(b) **Referrals to fire and health officials.** When non-compliance regarding fire or health requirements places children at risk or remains uncorrected, Licensing staff requests ~~an inspection by~~ a fire, health, or Oklahoma Department of Environmental Quality ~~official~~ inspection. ~~When there is~~ For non-compliance regarding smoke detectors, the ~~child care provider~~ operator is provided ~~a copy of~~ the Smoke Detector Law, Section 324.11A of Title 74 of the Oklahoma Statutes (74 O.S. § 324.11A). When the non-compliance is not corrected by the third monitoring visit or is repeated, ~~copies of the monitoring summaries are provided with a cover~~ letter, including the non-compliances, is provided to the appropriate fire official.

(c) **Numerous, repeated, and serious non-compliance.** Procedures for numerous, repeated, and serious non-compliance documentation are followed.

(1) Numerous non-compliance is determined by the number of Licensing requirement sections documented as non-compliant on the monitoring checklist. Numerous non-compliance is ~~monitoring visits with:~~

- (A) five or more Licensing requirement sections ~~documented as non-compliant on the monitoring checklist~~ with non-compliances for a family child care home or large child care home;

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(B) six or more Licensing requirement sections ~~documented as non-compliant with~~ non-compliances on the monitoring checklist for a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children with a licensed capacity of less than 60; or

(C) seven or more Licensing requirement sections with non-compliances for a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children with a licensed capacity of 60 or more.

(2) Repeated non-compliance is three or more documented incidents of non-compliance with the same requirement within the last 12 months. Missing immunizations are considered a repeated non-compliance only when regarding the same child.

(3) Serious non-compliance is non-compliance with Licensing requirements exposing children to ~~conditions presenting~~ an imminent risk of harm based on the child's age, the amount of time the operator was out of compliance, and the operator's efforts to mitigate the risk. Serious non-compliance is identified through Licensing observations, confirmed complaint investigations, ~~and/or~~ self-reported incidences. Failure to comply with ~~licensing~~ Licensing requirements that may be considered as serious non-compliance include:

- (A) staff-child ratio;
- (B) child supervision;
- (C) infant sleep environments and safe-sleep training;
- (D) prohibited disciplinary actions;
- (E) licensed capacity;
- (F) transportation;
- (G) water activities;
- (H) pools and other water hazards;
- (I) multiple hazards;
- (J) weapons;
- (K) failure to report child abuse or human trafficking;
- (L) knowingly permitting access to children by individuals identified as prohibited, restricted or Restricted Registry registrants;
- (M) failure to obtain background investigations or Restricted Registry searches;
- (N) medication administration;
- (O) room temperatures;
- (P) heat sources ~~and/or~~ loss of any utility service; and
- (Q) cardio-pulmonary resuscitation and first aid training.

**(d) Case management responses to non-compliant facilities.** One or more responses in this subsection are used ~~there~~ is for numerous, repeated, or serious non-compliance.

(1) **Technical assistance.** Licensing staff offers technical assistance, including referrals to consultants or professional development resources, and assisting the operator ~~in~~ with meeting and maintaining Licensing requirements.

(2) **Follow-up phone call to the program.** Phone calls regarding non-compliance follow-up are documented on Form 07LC080E, Licensing Services Supplemental Information, and ~~a copy~~ provided to the ~~program~~ operator.

(3) **Non-compliance letters.** A non-compliance letter may be ~~written~~ provided to the operator. Licensing staff provides a monitoring summary ~~copy~~ with the non-compliance letter to the owner or registered agent, when applicable.

(4) **Return monitoring visit.** A return monitoring visit may be conducted when there is numerous, repeated, or serious non-compliance with Licensing requirements or when non-compliance places children at imminent risk of harm. When the non-compliance is associated with a specific time of day, ~~such as understaffing after school or a lack of early morning supervision~~, the return monitoring visit is conducted at the approximate time.

(5) **Use of witnesses.** A witness may accompany Licensing staff when the program had numerous, repeated, or serious non-compliance or is considered for request for license denial or license revocation. The witness may be an Oklahoma Department of Human Services (DHS) employee or a representative from the health or fire department, or law enforcement. The witness signs the monitoring summary.

(6) **Increased monitoring visits.** Licensing staff may increase monitoring frequency plans when there were numerous, repeated, or serious non-compliance or when the need for additional technical assistance is indicated.

(7) **Notice to comply.** Licensing staff provides the operator with Form 07LC037E, Notice to Comply, and the operator documents the plan of correction. Immediate correction may be required when the non-compliance places children's health, safety, or well-being at risk.

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(A) When the plan submitted is unacceptable to Licensing staff, Licensing staff negotiates a revised plan, and requests resubmission within 10-calendar days.

(B) When Form 07LC037E, Notice to Comply, is not submitted within the specified time period, Licensing staff contacts the operator and documents the conversation.

(C) When non-compliances continue to place children at risk, Licensing staff provides a letter stating the non-compliances ~~and/or~~ and continued failure to correct non-compliances may result in request for license denial, license revocation, filing of an injunction, or Emergency Order.

(8) **Office conference.** Licensing staff may schedule an office conference with the owner ~~and/or~~ or operator. The Licensing supervisor is present at the office conference. The regional programs manager (RPM) is informed of the office conference and may be present, when necessary.

(A) Program status, areas of non-compliance, and progress toward meeting the plan(s) of correction are reviewed and technical assistance is offered.

(B) The office conference is documented on Form 07LC080E, Licensing Services Supplemental Information, and is signed by Licensing staff, the operator, and witnesses. This documentation includes a list of individuals present, conference purpose, and re-verification of ownership documentation.

(C) Form 07LC037E, Notice to Comply, is completed when one addressing these issues was not previously completed.

(9) **Consent agreement.** ~~Child Care Services (CCS) and the program owner may enter into a~~ A consent agreement may be offered when the program owner agrees to specific conditions in lieu of request for license denial or license revocation, per OAC 340:110-1-9.5.

(10) **Revocation or denial.** Licensing staff may recommend the request for license be denied or license revoked when numerous, repeated, or serious non-compliance ~~with requirements was observed and~~ with requirements was observed and documented or the ~~program operator~~ program operator failed to adequately protect children, per OAC 340:110-1-10.

(11) **Voluntary cease care.** With CCS State Office approval, the owner is ~~asked~~ requested to voluntarily cease caring for children. The RPM is notified of ~~every~~ any situation involving ~~a request for voluntary cease care requests.~~

(12) **Voluntary closure.** With CCS State Office approval, the owner is ~~asked~~ requested to voluntarily close the facility, per OAC 340:110-1-10.

(e) **Case management responses when children are at risk.** ~~When Licensing staff documents non-compliance with requirements or is investigating a complaint allegations that may place children's health, safety, or well-being at imminent risk of harm, options to consider with the operator and licensing supervisor are outlined in this subsection.~~ Licensing staff consults with the Licensing supervisor for appropriate actions.

(1) The operator is ~~asked~~ requested to immediately correct the non-compliance; ~~such as, program personnel will not be present or work alone with children at the facility pending the outcome of an investigation.~~

(2) With CCS State Office approval, the owner is ~~asked~~ requested to voluntarily:

(A) cease child care until the non-compliance is corrected or the investigation is complete; or

~~(3)(B). With CCS State Office approval, the owner is asked to voluntarily close the facility.~~

~~(4)(3).~~ When immediate action is needed to protect children, Licensing staff requests an Emergency Order, per OAC 340:110-1-9.4.

~~(5)(4).~~ ~~The owner and CCS agrees to enter into a~~ A consent agreement is offered when the program owner agrees to specific conditions in lieu of request for license denial or license revocation, per OAC 340:110-1-9.5.

~~(6)(5).~~ Licensing staff may recommend the request for license be denied or license be revoked when numerous, repeated, or serious non-compliance with requirements was observed and documented or the ~~program operator~~ program operator failed to adequately protect children, per OAC 340:110-1-10.

~~(7)(6).~~ An injunction may be requested when a child care program is:

(A) unlicensed;

(B) on request for license status;

(C) licensed;

(D) violating an Emergency Order;

(E) operating during an appeal following request for license denial or license revocation and children are at risk; or

(F) violating the notice to cease and desist care following request for license denial or license revocation.

(f) **Notification to supervisor when children are at risk.** During a monitoring visit when Licensing staff is concerned children's health, safety, or well-being is at imminent risk, the Licensing supervisor or CCS State Office staff is contacted immediately.

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(g) **Alternative method of compliance.** ~~CCS~~ The statewide licensing coordinator or designee may approve an alternative method of compliance to a minimum Licensing requirement.

(1) An alternative method of compliance may be authorized when Licensing determines the alternative method of compliance;

(A) offers equal protection of children's health, safety, and well-being;;

(B) meets the requirement's basic intent for the requested alternative compliance;; and

(C) does not violate statutory requirements.

~~(1)(2)~~ (2) An applicant or licensee submits a written request for each requirement identified with supporting documentation on Form 07LC061E, Alternative Compliance Request, to Licensing staff. ~~A separate alternative method of compliance request is submitted for each requirement identified.~~

~~(2)(3)~~ (3) Licensing staff completes Form 07LC105E, Alternative Compliance Referral, and submits all documentation to the statewide licensing coordinator or designee.

~~(3)(4)~~ (4) Approval of an alternative method of compliance does not set a precedent; and is independently evaluated on the merits of each request.

~~(4)(5)~~ (5) The program's compliance record history is considered when determining approval.

~~(5)(6)~~ (6) An alternative method of compliance is not authorized for requirements affecting children's health and safety, such as exceeding licensed capacity or staff-child ratios, fire safety, or behavior and guidance.

~~(6)(7)~~ (7) Form 07LC075E, Notice of Alternative Compliance, stating indicating the nature of the exception, is posted with the license.

## 340:110-1-9.4. Emergency Order [AMENDED]

(a) **Purpose.** An Emergency Order directing ~~the closure of a child care facility and/or program, residential program or child-placing agency (agency) closure or~~ immediate removal of children may be issued by the Oklahoma Department of Human Services (OKDHS) when there is a direct and serious hazard to ~~the health, safety, or welfare of any child cared for by the a facility~~ children's health, safety, or well-being. Examples of serious hazardous situations may include, but ~~is are~~ not limited to, ~~circumstances~~:

(1) ~~that result in the~~ serious injury or death of a child;

(2) ~~that place a child at a high risk for death or injury or death;~~

(3) ~~when compelling evidence of child abuse or neglect exists;~~

(4) ~~when a child leaves~~ children leaving a facility without the staff's personnel's knowledge;

(5) ~~when a child is~~ children left;

(A) at a location away from the facility;

~~(6)(B)~~ (B) ~~when a child is left unattended in a vehicle; or~~

~~(7)(C)~~ (C) ~~when a child is left alone in a facility; or~~

~~(8)(6)~~ (6) ~~when there are serious non-compliance issues;~~

~~(9)(7)~~ (7) ~~when a person an individual is on the premises whose health or behavior would may endanger the health, safety, or well-being of children~~ children's health, safety or well-being;

~~(10)(8)~~ (8) ~~when there is compelling evidence of the presence of illegal drugs and/or or drug paraphernalia; or~~

~~(11)(9)~~ (9) ~~continued operation of an unlicensed facility~~ program or agency operation.

(b) **Issuance of Emergency Order issuance.** ~~If~~ When the operator is unable or unwilling to correct the hazardous situation ~~and/or or~~ refuses to voluntarily cease care of children or child-placing activity:

(1) ~~the licensing specialist or the licensing supervisor submits a request for an Emergency Order to the licensing regional programs manager (RPM) or assistant licensing coordinator, or statewide licensing coordinator~~ the Licensing specialist or Licensing supervisor consults with the regional programs manager (RPM), programs supervisor, assistant licensing coordinator, or statewide licensing coordinator for consideration of Emergency Order issuance;

(2) ~~the programs supervisor consults with the statewide licensing coordinator, Child Care Services (CCS) director, and Legal Services (LS) regarding residential program and agency~~ Emergency Orders for appropriate action, per (b) through (k) of this Section;

~~(2)(3)~~ (3) ~~the licensing regional programs manager RPM may contact or~~ programs supervisor contacts the operator by phone to determine if the operator will voluntarily cease care of children ~~and operation~~. A voluntary cease care agreement by the operator does not prohibit ~~the issuance of an~~ Emergency Order issuance; and

~~(3)(4)~~ (4) ~~a request for an Emergency Order is considered by the licensing regional programs manager RPM, programs supervisor, assistant licensing coordinator, or statewide licensing coordinator within one facility program or agency business day. The decision to issue an Emergency Order~~ decision may be made by the licensing regional programs manager RPM programs supervisor, assistant licensing coordinator, or statewide

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~~licensing coordinator.~~ Upon ~~and upon~~ making a decision, the official ~~will~~:

- (A) ~~issue~~issues and signs a written Emergency Order, signed by the approving official and ~~notify~~notifies the licensing specialist, the licensing Licensing staff, Licensing supervisor, the ~~RPM~~, assistant licensing coordinator, and statewide licensing coordinator; or
- (B) ~~submit a written denial notice to the licensing specialist, the licensing supervisor, the assistant licensing coordinator, and the statewide licensing coordinator~~documents the justification of Emergency Order denial on Form 07LC080E, Licensing Services Supplemental Information.

(c) ~~Provisions of the Emergency Order provisions.~~ The Emergency Order ~~shall provide for~~provisions include:

- (1) basis for the Emergency Order;
- (2) if the ~~facility~~program is to close or cease specific services;
- (3) if children ~~are to~~will be removed from the facility;
- (4) ~~the Emergency Order is effective immediately~~immediate effect of the Emergency Order, remaining effective until modified or rescinded;
- (5) ~~the Emergency Order remains in effect until modified or rescinded~~; and
- (6) the right to ~~have a hearing on the~~an Emergency Order hearing.

(d) ~~Serving of the Emergency Order service procedures.~~ The ~~procedures for serving an~~ Emergency Order service procedures are:

- (1) prior to delivery, the ~~licensing specialist~~Licensing staff contacts law enforcement and requests assistance in serving the Emergency Order ~~on the operator~~; and
- (2) an Emergency Order is served on the operator within one program or agency business day of issuance, or an alternate date, ~~if~~when approved by ~~an~~the programs supervisor, assistant licensing coordinator, or statewide licensing coordinator.

(e) **Removal of children.** ~~If there is a threat of a direct and serious hazard to the health, safety, and welfare of children and the operator is unable or unwilling to correct the situation and immediate removal from the child care facility is indicated, a licensing regional programs manager RPM~~Procedures for removal of children are followed.

(1) ~~The programs supervisor, assistant licensing coordinator, or statewide licensing coordinator, or CCS director may give verbal approval for removal of children~~when:

- (A) direct and serious hazard to children's health, safety, and well-being exists;
- (B) the operator is unable or unwilling to correct the situation; and
- (C) immediate removal from the facility is indicated.

(2) Parents or legal guardians are provided Form 07LC088E, Notice of Emergency Order, explaining the Emergency Order and how to locate other ~~child care~~ programs. ~~Two options available are~~:

(3) Notification procedures are followed, per (A) or (B) of this paragraph.

(1) ~~the operator and parents are told that the child care facility will not reopen on the following day; or~~

(2) ~~(A) parents~~Parents or legal guardians are contacted by the operator or Licensing and advised to pick up ~~their~~ children immediately. ~~If~~When every effort ~~has been~~was made to contact the parents or legal guardians, and children are at imminent risk of harm, the ~~licensing staff~~contacts Licensing staff contacts the programs supervisor, assistant licensing coordinator, or statewide licensing coordinator for approval to contact law enforcement to requestrequesting children be taken into protective custody or removed from the residential facility.

(B) The operator and parents or legal guardians are informed the program will not reopen on the following day.

(f) **Duration of Emergency Order duration.**

(1) The ~~facility~~program or agency remains closed and care of children ~~by the operator~~child-placing activity is prohibited pending ~~a hearing on the~~an Emergency Order hearing.

(2) ~~A review of the Emergency Order is conducted. If the decision to deny or to issue an Emergency Order is made by a licensing regional programs manager RPM, an assistant licensing coordinator reviews all requests for an Emergency Order within three business days from the date of the decision by the licensing regional programs manager RPM. The assistant licensing coordinator provides written notification to the licensing specialist, licensing supervisor, regional programs manager RPM, and statewide licensing coordinator that they:~~

- (A) concur with the issuance of the Emergency Order;
- (B) issue a modified Emergency Order; or
- (C) rescind the Emergency Order.



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~~(3) Modification or rescission of~~ Emergency Order modification or rescission may occur when ~~there is~~ documentation that indicates the direct and serious hazard ~~has been~~ was corrected, or ~~that~~ children are no longer at imminent risk of serious harm. When the Emergency Order is modified or rescinded, the operator is notified in writing.

~~(4)(3) Licensing staff verify compliance with~~ verifies Emergency Order compliance for a period of 30-calendar days after the action becomes final, unless the Emergency Order is rescinded within ~~that~~ the timeframe.

**(g) Hearing process.** Hearing processes in this subsection are followed.

(1) The operator may request a hearing by submitting a written request within 10-calendar days of Emergency Order receipt. The hearing is conducted within 10-calendar days from receipt of the request.

(2) When the hearing results are disputed, the operator may file an appeal in district court within 10-calendar days of the decision.

~~(g)(h) **Violation of the Emergency Order violation.** If~~ When an operator violates ~~the~~ conditions set forth in the Emergency Order, ~~the licensing specialist, after consultation with the approving official, the Licensing staff~~ contacts a CLEET-certified Council on Law Enforcement Education and Training (CLEET)-certified officer for assistance.

~~(h)(i) **Citation request.** A referral is made on Form 07LC097E, Citation Request, for the assistance of a CLEET-certified officer is completed on Form 07LC097E, Citation Request. The following procedures are followed:~~

(1) Licensing staff contacts a CLEET-certified officer to schedule a visit to the facility program or agency visit.

(2) Upon violations of conditions set forth in the Emergency Order violations, a citation may be issued by the CLEET-certified officer for not less than \$100 nor more than \$500 for every day the facility program or agency maintains and, receives, or serves children may be issued by the CLEET-certified officer.

(3) Licensing staff and a CLEET-certified officer monitor the facility program or agency until care of children or child-placing activity has ceased.

~~(i)(j) **Referral to the District Attorney (DA) referral.** If~~ When violation of the Emergency Order occurs, ~~licensing~~ Licensing staff consults with regional programs manager RPM the programs supervisor, assistant licensing coordinator, or statewide licensing coordinator for the necessity of a referral to DA referral. Should When a referral ~~be~~ is necessary, ~~licensing~~ Licensing staff complete completes Form 07LC098E, District Attorney Referral, ~~that includes documentation of the facts of the case including Licensing information. A copy~~ Information is sent provided to the statewide licensing coordinator who ~~informs the OKDHS Legal Division of the referral then notifies LS.~~

~~(j)(k) **Referral to the Attorney General referral.** If~~ When no action is taken by a DA ~~of the county where the facility is operating, a referral may be made to the Attorney General by the statewide licensing coordinator or designee may initiate an Attorney General referral.~~

### 340:110-1-9.5. Consent agreement [AMENDED]

**(a) Purpose.** The Oklahoma Department of Human Services (OKDHS) may offer to enter into a consent agreement with a facility in In lieu of license denial or revocation recommendation, Oklahoma Human Services may offer to enter into a consent agreement with a child care program, residential program, or child-placing agency (agency) operator. If such action has already taken place a consent agreement may be used during the appeal process if the facility comes into operator establishes compliance with licensing Licensing requirements. The use of a A consent agreement is not required prior to denying or revoking a license denial or revocation processes.

**(b) Process.** When the documented evidence reflects that the facility operator is unable or unwilling to comply with minimum requirements, the Oklahoma Child Care Services (OCCS) licensing Licensing staff discusses the use and terms of a consent agreement with the licensing Licensing supervisor and regional programs manager (RPM), or programs supervisor. If When the licensing regional programs manager RPM, programs supervisor, and the statewide licensing coordinator or designee concur with this action, a meeting an office conference is scheduled with the operator.

(1) The operator is asked to provide the names and addresses of all children currently enrolled at the facility. Prior to the office conference, the Licensing supervisor, RPM or programs supervisor, and statewide licensing coordinator or designee discuss acceptable consent agreement terms. The statewide licensing coordinator or designee develops the agreement terms and time frames based on the nature and severity of the program's or agency's non-compliance history.

(A) The agreement may include voluntary restrictions, such as:

- (i) prohibition on future children's enrollment or resident's admissions;
- (ii) restriction on the ages and number of children or residents accepted into care;
- (iii) reduction in the facility's capacity or operating hours; or
- (iv) restriction of transportation or other services provided by the program or agency.

(B) The agreement may also require additional terms, such as:

- (i) professional development;

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- (ii) drug testing or medical evaluation;
- (iii) additional staffing and supervision procedures; or
- (iv) additional record keeping.

(C) Time frames to initiate and conclude the agreement are established and may be extended with the statewide Licensing coordinator's or designee's approval.

(2) ~~During the meeting, areas of non-compliance~~Non-compliances and the terms of the consent agreement terms are discussed during the office conference. The meeting conference is documented on Form 07LC080E, Licensing Services Supplemental Information, and is signed by the operator, licensing staff and Licensing representatives, and any witness present. A copy is provided to the operator.

(3) ~~An agreement is written by the statewide licensing coordinator or designee. Terms and time frames of the agreement are based upon the nature and severity of the non-compliance. The agreement may include voluntary restrictions, such as a ban on future admissions of children to the facility, a restriction on the ages of children cared for in the facility, a reduction in the number of children attending the facility or the number of hours the facility may operate each day, specific staff training, drug testing, and medical or psychological evaluation. Time frames to initiate and conclude the terms of the agreement are established and may be extended upon approval of the statewide licensing coordinator or designee and the OKDHS Legal Division.~~

(4) The operator is advised to prominently post ~~a copy of the consent agreement in the child care facility or agency.~~ During the next monitoring visit, the licensing Licensing staff verifies ~~that the consent agreement is posted.~~ If it is~~When~~ not posted, the licensing Licensing staff documents ~~it as a violation of the terms of the consent agreement terms.~~

(5)(4) ~~The licensing staff mails a copy of the consent agreement, with a cover letter, to parents of children currently enrolled at the facility. Upon enrollment of new children, the facility must provide those names and addresses to licensing staff. Licensing staff mails a copy of the consent agreement and cover letter upon receipt of this information. If the operator has not provided children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit. Parent and guardian notifications are provided, per (A) through (C) of this paragraph.~~

(A) Operators are requested to provide parent or legal guardian addresses for:

- (i) currently enrolled children or residents within five-business days of the consent agreement effective date; and
- (ii) new children or residents upon enrollment or admission to the program.

(B) When the operator has not provided the parent or guardian information, Licensing staff records the information from the children's or resident's records during the next monitoring visits.

(C) Upon information receipt, the Licensing staff mails a cover letter with a copy of the consent agreement to:

- (i) parents of children currently or newly enrolled at the program; or
- (ii) parents or guardians of current or newly admitted residents.

(c) **Violations of the terms of the consent**Consent agreement violations. Any violation of ~~the terms of the consent agreement terms~~ is considered grounds for proceeding with license revocation, denial, or refusal to renew~~recommending license denial or revocation.~~

(d) **Appeals.** ~~The child care facility is not entitled to an appeal of the terms of the consent agreement, as participation in the agreement~~As consent agreement participation is voluntary, the operator cannot appeal the agreement.

## 340:110-1-10. Revocation or denial of license [AMENDED]

(a) **Failure to meet requirements.** When numerous, repeated, or serious non-compliance with licensing Licensing requirements is ~~observed and documented, or the facility operator fails to adequately protect the health and safety of children~~the children's health and safety, Oklahoma Department of Human Services (OKDHS) may deny the application request for license or revoke the license.

(1) **Denial of application**Request for license denial. ~~If a facility~~When an operator has filed ~~an application a request~~ for an initial license, OKDHS may deny the application request for licensure.

(2) **Revocation of license**License revocation. ~~If~~When a license ~~or provisional license~~ is currently in effect, the licensing Licensing staff may recommend ~~that~~ the license be revoked.

(b) **Licensing staff recommendation.** The licensing Licensing staff consults with the licensing Licensing supervisor or programs supervisor regarding ~~his or her~~ recommendation for revocation or denial or revocation. ~~If~~When the licensing Licensing supervisor or programs supervisor concurs with the recommendation, the decision is discussed with the licensing regional programs manager (RPM), when applicable, and the statewide licensing coordinator, or designee. ~~If~~

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~~they~~ When all concur with the decision, ~~licensing~~ Licensing staff prepares the case for review by the statewide licensing coordinator or designee. Licensing staff submits the ~~complete case record~~ to the ~~licensing~~ Licensing supervisor ~~who reviews or programs supervisor reviewing~~ the case to ensure all monitoring visits, complaints, correspondence, and relevant documents are included. The ~~facility owner~~ is notified in writing ~~that the case has been~~ referred to the statewide licensing coordinator.

(c) **Approval of recommendation** ~~Recommendation and notification approval.~~ The case record and summary are reviewed by the statewide licensing coordinator or designee ~~reviews the case and revocation or denial letter.~~ Licensing staff's ~~recommendation of revocation or denial~~ or revocation recommendation is either approved, disapproved, or the decision delayed pending further investigation.

(1) When ~~the recommendation is approved by~~ the statewide licensing coordinator, ~~it approves the recommendation, the record~~ is submitted to OKDHS Legal ~~Division~~ Services (LS) for review ~~of the legal adequacy of the notice of pending action that is mailed to the owner.~~ The director of Child Care Services ~~director~~ or designee ~~has provides~~ final approval ~~of the revocation or denial.~~

(2) The statewide licensing coordinator ~~sends a provides~~ written notice of the ~~pending proposed~~ action to the owner by certified mail at least 30-calendar days prior to the effective ~~date of the action~~ date. The notice includes:

- (A) ~~a copy of the summary~~ reasons for proposed denial or revocation;
- (B) ~~a statement regarding~~ the owner's right to appeal the decision;
- (C) ~~a statement that requires written notification to parents of the action taken, and instruction to for the owner to submit the enrolled children's names and addresses of children currently enrolled for parent or legal guardian notification, per the Oklahoma Child Care Facilities Licensing Act, Section 407 of Title 10 of the Oklahoma Statutes (10 O.S. § 407);~~
- (D) a sign ~~providing notice of proposed revocation or denial that is required to be prominently posted in the facility~~ or agency providing notice of proposed denial or revocation actions; and
- (E) a statement regarding the ~~facility's program's~~ reduction in Stars status, ~~if when~~ applicable.

(3) During the next monitoring visit, the ~~licensing~~ Licensing staff and a witness verify ~~that the sign providing notice of regarding proposed revocation or denial or revocation is posted.~~ ~~If When~~ the sign is not posted, the ~~licensing~~ Licensing staff ~~sends documents a non-compliance and provides~~ a letter to the owner documenting the ~~violation of the legal notice violation.~~

(4) ~~If When~~ the owner does not provide children's names and addresses, the ~~licensing~~ Licensing staff records the information ~~from the children's records~~ during the next monitoring visit.

(5) Questions from the owner regarding the ~~action request for license denial or license revocation~~ and appeal process are referred to the statewide licensing coordinator or designee.

(6) ~~If When~~ the owner does not appeal the decision within the designated time period, the statewide licensing coordinator ~~sends provides~~ a letter to the owner giving notice of the denial or revocation ~~and stating the effective date.~~ The ~~closure date is entered into the database by the~~ statewide licensing coordinator or designee ~~enters the closure date in the Licensing database.~~ A copy of the ~~The~~ correspondence is ~~sent to the licensing provided to Licensing staff and to the licensing records office for potential restricted registration forwarded to Restricted Registry Review Committee for potential Restricted Registry procedures, per Oklahoma Administrative Code (OAC) 340:110-1-10.1.~~

(7) ~~The licensing~~ Licensing staff conducts a follow-up visit ~~to confirm that confirming child care has been discontinued. The or agency operation has ceased, and the~~ statewide licensing coordinator or designee is notified ~~of the visit.~~

(8) ~~If When~~ the owner continues to maintain and operate ~~the facility for child care~~ after a final decision ~~revoking or denying or revoking~~ licensure, after consultation with RPM, ~~licensing or programs supervisor,~~ Licensing staff contacts a Council on Law Enforcement Education and Training (CLEET)-certified officer for assistance and submits a ~~referral to the district attorney (DA) referral~~ on Form 07LC098E, District Attorney Referral, for further action.

(9) Citation Request. A referral ~~is made on Form 07LC097E, Citation Request,~~ for the assistance of a CLEET-certified officer ~~is completed on Form 07LC097E, Citation Request.~~ The following procedures are followed:

- (A) Licensing staff contacts a CLEET-certified officer to schedule a ~~visit to the facility or agency visit.~~
- (B) ~~Upon violations of conditions set forth in the Emergency Order, or following~~ Following the ~~revocation, or denial or revocation~~ of a license, a citation ~~may be issued by the CLEET-certified officer~~ for not less than \$100, nor more than \$500 for every day the ~~facility program~~ maintains ~~and, receives, or serves~~ children may be issued by the CLEET-certified officer.

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(C) Licensing staff and a CLEET-certified officer monitor the facility program until care of children or child-placing activity has ceased.

(10) Referral to the District Attorney (DA) referral. ~~If violation of an Emergency Order occurs, licensing~~ When a program or agency continues operation after a citation is issued, Licensing staff consults with RPM assistant licensing coordinator or programs supervisor and statewide licensing coordinator for the necessity of a referral to DA referral. ~~Should a referral be~~ When necessary, licensing ~~Licensing staff complete~~ Licensing staff complete Form 07LC098E, District Attorney Referral, ~~that includes documentation of the facts of the case including facility or agency information.~~ A copy is sent to the ~~The~~ statewide licensing coordinator who informs the OKDHS Legal Division of the referral ~~is provided~~ Form 07LC098E and notifies LS.

(11) Referral to the Attorney General referral. ~~If~~ When no action is taken by a DA ~~of the county where the facility is operating,~~ a referral may be made to the Attorney General by the statewide licensing coordinator or designee may initiate an Attorney General referral.

(d) **Appeal process.** ~~The appeal process regarding denial of application or revocation of license is described in (1) through (6) of this subsection.~~

(1) ~~The appeal is submitted to the Oklahoma Commission for Human Services by the owner~~ owner submits an appeal to the statewide licensing coordinator within 30-calendar days of receipt of the notice receipt. LS is notified of appeal requests.

(2) ~~If~~ When the owner appeals, a hearing is scheduled by the OKDHS Appeals Unit.

(3) ~~The facility owner~~ may continue to operate during any appeal process unless an Emergency Order, per OAC 340:110-1-9.4, is in effect.

(A) ~~The licensing~~ Licensing staff conducts monitoring visits at least once a month, unless advised otherwise by the statewide licensing coordinator or designee, and is accompanied by the same witness whenever possible. During monitoring Licensing staff obtains an updated list of enrolled children or residents and parent or legal guardian names and contact information. Information is then forwarded to state office to provide proper parent or legal guardian notification, per the Oklahoma Child Care Facilities Licensing Act, Section 407 of Title 10 of the Oklahoma Statutes (10 O.S. § 407).

(B) ~~If at any time during the appeal process OKDHS Licensing believes that the children's health, safety, or well-being of children cannot be ensured:~~

~~(A)~~ (i) an Emergency Order is requested; or

~~(B)~~ (ii) following consultation with the statewide licensing coordinator or designee, the licensing Licensing supervisor or programs supervisor contacts the DA and requests that an injunction be filed.

(4) ~~If~~ When the decision ~~of OKDHS to revoke or deny or revoke~~ a license is upheld during all appeals, the statewide licensing coordinator ~~sends~~ provides a letter ~~to informing the owner that child care must immediately cease to cease care or child-placing activity immediately.~~ A copy of the ~~The~~ cease and desist letter is forwarded to the licensing records office for potential restricted ~~Restricted Registry~~ registration procedures, per OAC 340:110-1-10.1. The licensing Licensing staff conducts a follow-up visit to confirm that child care confirming care or child-placing activity has been discontinued ~~ceased.~~ If When the owner continues ~~to operate the child care facility, the licensing field operation,~~ Licensing staff, in consultation with the statewide licensing coordinator or designee, may request that the:

(A) local DA pursue an injunction or initiate criminal proceedings; or the statewide licensing coordinator may pursue legal action through the

(B) Attorney General pursue legal action.

(5) ~~If~~ When the decision ~~of OKDHS to revoke or deny or revoke~~ a license is not upheld, OKDHS takes action to implement the decision within ~~ten~~ 10-calendar days.

(6) ~~When OKDHS denies or revokes a facility's or agency's license, the responsible entity can not make application for~~ cannot request a new child care facility or agency license within Oklahoma for five years following notification to the responsible entity ~~of the license denial or revocation~~ and during an appeal process.

(e) **Change in ownership during appeal process.** ~~If there is~~ When a change in ownership occurs during the appeal process, the owner must provide documentation verifying the change. This information is reviewed by the ~~RPM assistant licensing coordinator or programs supervisor.~~ The statewide licensing coordinator may proceed with the previous owner's denial or revocation.

## 340:110-1-11. Voluntary case Facility and child-placing agency closures [AMENDED]

(a) **Voluntary program or child-placing agency (agency) closures.** When an operator requests program or agency closure, the Licensing case is closed, unless denial or revocation was recommended.

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~~(a)(b). Child care centers, part-day children's programs, and school-age programs~~Changes of ownership. When a facility or agency is sold to a new owner or discontinues providing child care, the case record, the Licensing case is closed, unless the case has been recommended for revocation or denial or revocation was recommended. Changes of ownership procedures are followed, per Oklahoma Administrative Code (OAC) 340:110-1-9 or 340:110-1-47. A facility's case is closed when care has not been provided for more than 12 consecutive months in accordance with OAC 340:110-1-9(n). State Office is consulted for appropriate action. A license is not transferable; however, transitional change of ownership, per OAC 340:110-1-9 or 340:110-1-47, may be applicable.

(c) Licensing-initiated closures. After multiple attempts to establish contact with an operator to verify continued program or agency operation, Licensing may initiate closure procedures. A letter is provided indicating closure will occur if the operator does not contact the licensing staff within 10-calendar days of letter receipt. If the caregiver fails to respond, a second letter verifying case closure is provided as soon as possible.

~~(b)(d). Family child care home~~Inactive care. A family child care home case is closed when the caregiver discontinues care or care has not been provided for more than 12 consecutive months in accordance with OAC 340:110-1-9(o). When a family child care home is sold to a new owner, the case record is closed, unless the case has been recommended for revocation or denial. When child care was not provided for more than 12-consecutive months, closure procedures, per OAC 340:110-1-9 or 340:110-1-47, may be applicable. State Office ~~The regional programs manager or programs supervisor~~ is consulted for appropriate action.

~~(e)(e). Reopening a closed family child care home~~facility or agency. Policy regarding reopening a family child care home is at Reopening procedures for facilities and agencies are followed, per OAC 340:110-1-6(e).

## 340:110-1-13. Unlicensed facilities [AMENDED]

(a) Legal basis and authority. Pursuant to ~~Per~~ Section 405 of Title 10 of the Oklahoma Statutes (10 O.S. § 405) the Oklahoma Child Care Facilities Licensing Act, no child care facility may be operated or maintained in this state, unless licensed or given permission to operate by the Oklahoma Department of Human Services (OKDHS).

(b) Procedure for investigating the operation of an unlicensed facility investigation procedures. When information is received regarding the operation of an unlicensed facility operation, Licensing staff conducts a full monitoring visit no later than three facility-business days to assess the necessity of a license necessity, unless an unlicensed duplicate complaint is determined, per Oklahoma Administrative Code (OAC) 340:110-1-9.2.

(1) ~~If~~When care is being provided, Licensing staff informs the facility ~~they have not been given~~operator permission to operate has not been granted, and ~~they are in violation of~~the operator is violating the Oklahoma Child Care Facilities Licensing Act, 10 O.S. § 405. During the visit the ~~facility~~operator is informed on Form 07LC095E, Notice Regarding Unlicensed Care, that:

(A) care must cease by the end of the current business day unless imminent risk indicates ~~the need for warrants~~ the ~~facility~~operator to cease care immediately; or

(B) permission to operate may be granted, ~~when the facility:~~

(i) ~~is in compliance with health and safety requirements without serious non-compliances as referenced in OAC 340:110-1-9.3;~~

(ii) ~~has submitted a completed application in accordance with OAC 340:110-1-6;~~

(iii) ~~provides all required background information per OAC 340:110-1-8.1; and~~

(iv) ~~has staff present who meet the following licensing requirements:~~

(i) ~~documented current cardio-pulmonary resuscitation and first aid certification;~~

(ii) ~~required health and safety training completed; and~~

(iii) ~~minimum educational qualifications for the position held~~per OAC 340:110-1-6.

(2) ~~If a facility~~When an operator is not granted permission to operate, a follow-up visit is conducted within one facility-business day ~~to verify the~~verifying termination of care, ~~and~~ The follow-up visit timeframe may be extended up to five facility-business days with supervisory approval, and ~~the approval~~ is documented on Form 07LC080E, Licensing Services Supplemental Information. When care ~~of children~~ has not ceased, Licensing staff ~~proceed~~proceeds, per OAC 340:110-1-9.4.

(3) When ~~the necessity of a license is not required~~, licensingLicensing staff documents the investigation of unlicensed operation investigation on Form 07LC080E, Licensing Services Supplemental Information.

(c) Documentation of Findings documentation. Following the unlicensed complaint investigation licensingLicensing staff ~~proceed with procedures in~~proceeds, per OAC 340:110-1-9.2 ~~(k) for unlicensed complaint finding documentation.~~ All ~~case~~facility staffings and discussions of case actions are documented on Form 07LC080E, Licensing Services Supplemental Information, and maintained in the case file.

## 340:110-1-14. Public inspection of licensing files Licensing record availability and confidentiality [AMENDED]

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(a) **Legal basis.** ~~The Oklahoma Department of Human Services (OKDHS) is subject to the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes (51 O.S. §§ 24A.1), which mandates that public records are open for public inspection unless they are requiring records be released to the public, unless confidentiality is required by law to be kept confidential.~~

(b) **Licensing records.** All (OKDHS) records of licensed facilities required to be licensed under 10 O.S. § 401 et seq. that are considered public records are open and available for public inspection during reasonable hours. Information obtained concerning a report of a violation of a licensing requirement is confidential pursuant to 10 O.S. § 406 with the exception of a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but permits the public to evaluate the facility.

(c) **Location of case records**Licensing record location. Child care facility licensing records are located and inspected in the OKDHS Human Service Center where licensing staff reside. If a parent resides in another county, the licensing staff makes the record available in that county. Licensing record information is maintained in the Child Care Services (CCS) database.

~~(d)~~(c) **Preparation of case files for inspection**Licensing record availability. Licensing information maintained on the OKDHS website is not confidential and available to the public. Licensing records maintained in the CCS database are also public records; however, some information is confidential. The licensingWhen information other than what is maintained on the OKDHS website is requested by the public, Licensing staff carefully reviews the entire Licensing record and removes confidential information.

~~(e)~~(d) **Records of complaints**Complaint information. To allow persons inspecting a licensing record to have individuals access to complaint information regarding complaints, Form 07LC081E, Licensing Complaint Report Summary, is included in the filenot confidential. However, Form 07LC012E, Licensing Complaint, is removed from the filethat is open for public inspectionconfidential. If information regarding a When complaint information is requested prior to completion of theduring an investigation, the licensing Licensing staff explains that information regarding the allegation and findings information is released after the investigation is completecompletion. The allegation summaries and findings do not disclose identities but permits the public to evaluate the facility or child-placing agency.

(f) **Supervision of files during inspection.** Facility records are inspected in the presence of OKDHS staff persons who are available to provide clarification on licensing policy and requirements.

~~(g)~~(e) **Fees for photocopying**Photocopying fees. Guidelines for photocopying fees Photocopying fee guidelines are provided, per Oklahoma Administrative Code (OAC) 340:2-21-16.

(1) A Licensing record summary maintained on the OKDHS website as recorded in public view is provided upon request at no fee. Correspondence provided with the Licensing record summary states the provided information does not include the complete Licensing record.

(2) When additional public record information maintained in the CCS database is requested, photocopying fees per (e) of this subsection apply.

~~(h)~~(f) **Release of confidential information.** Release of confidential information procedures are listed in (1) and (2) of this subsection.

(1) A complete case file that includes Complete Licensing record information containing confidential information is not released to the public, and may be provided only to certain persons according to individuals, per applicable laws and regulations, for example, OKDHS Legal Division Services, Children and Family Services Division Child Welfare Services, Office of Client Advocacy, law enforcement officials, and upon order of a court of competent jurisdiction.

(2) The name or other identifying information of a complainant information listed on Form 07LC012E, Licensing Complaint, or Form 04K1001E, CWS-KIDS-1, is confidential and released only upon order of a court of competent jurisdiction.

(i) **Computer licensing record.** A summary of the facility licensing record maintained on the OKDHS Web site as recorded in public view may be provided upon request at no charge. A cover letter is sent with the licensing summary that notes that the summary does not include the complete case record, and that the complete case record may be reviewed in the OKDHS Human Service Center where the facility is located.

~~(j)~~(g) **Release of information over the telephone**phone. Information on OKDHS website public view information may be released over the telephonephone, including completed complaint information. ~~If~~When more Licensing information is requested, the file may be viewed at the county officerefer to (c) of this Section.

## PART 3. LICENSING SERVICES - RESIDENTIAL CARE AND AGENCIES

### 340:110-1-46. Types of issuances [AMENDED]

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(a) **Six-month permit.** New residential ~~child-care~~ programs or child-placing agencies (agency) may be issued a six-month permit. When the program was previously licensed at another location and ~~had maintained~~ a pattern of compliance, the six-month permit may be waived. The owner's Licensing compliance history is considered.

(1) Licensing staff may recommend a permit when the program is in compliance with Licensing requirements, regarding:

- (A) the number of qualified personnel;
- (B) completed criminal history review results for all required individuals;
- (C) professional development, including current cardio-pulmonary resuscitation (CPR) and first aid certifications;
- (D) hazards indoors and outdoors;
- (E) liability insurance coverage;
- (F) fire safety; and
- (G) other areas affecting ~~children's~~ residents' safety.

(2) Licensing staff conducts a full-monitoring visit documenting compliance with Licensing requirements no more than 60-calendar days, prior to six-month permit issuance.

**(b) Documentation for six-month permit.**

(1) ~~The items required on file~~ Information required for a six-month permit issuance include:

- (A) ~~Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care~~ submission of request for license information;
- (B) proof of ownership;
- (C) current personnel list;
- (D) Form 07LC041E, Personnel Information, for each personnel;
- (E) required background investigations documentation, per Oklahoma Administrative Code (OAC) 340:110-1-8.1, including completed criminal history review results for all required individuals;
- ~~(F) State Fire Marshal's approval for residential programs within the previous 12 months;~~
- ~~(G) health department approval for residential programs within the previous 12 months, when meals are prepared and served;~~
- ~~(H) Form 07LC057E, Physical Plant, for residential programs;~~
- ~~(E)~~ (E) completed applicable compliance review questionnaire with supporting documentation; ~~and~~
- ~~(F)~~ (G) applicable policy, per applicable Licensing requirements;;
- (H) letter from licensed public accountant;
- (I) budget for 12 months of operation and reserve funds; and
- (J) for residential programs:
  - (i) State Fire Marshal's approval within the previous 12 months;
  - (ii) Oklahoma State Department of Health approval within the previous 12 months, when meals are prepared and served; and
  - (iii) physical drawing or architectural plans including Licensing measurement calculations.

(2) During the six-month permit period, ~~at least three monitoring visits are completed to document Licensing requirements are met, and observe child-care or child-placing activity where applicable~~ Licensing staff completes a minimum of three monitoring visits documenting requirement compliance. Residents in care or child-placing activity must be observed during at least one monitoring visit, when applicable.

**(c) Second and subsequent six-month permits.** When subsequent permits are recommended, the procedures in this subsection are followed.

(1) ~~Programs manager~~ Licensing coordinator approval is needed for second and subsequent permits when programs are recommended for, or are in the process of, a consent agreement or request for license denial.

(2) Licensing staff consults with the programs ~~manager~~ supervisor prior to recommending a second or subsequent permit.

(3) Licensing coordinator approval is needed for third and subsequent permits.

~~(3)~~ (4) Licensing staff provides a letter to the applicant notifying ~~him or her~~ each time a second or subsequent permit is recommended. The ~~reason for the recommendation~~ reason is clearly stated in the letter, with each non-compliance area listed separately, and any missing documents required for license issuance.

~~(4)~~ (5) When the subsequent permit is due to repeated or serious non-compliance ~~with Licensing requirements~~, Licensing staff monitors the program; at least monthly and is accompanied by a witness, when possible. When the non-compliance indicates the program is unable or unwilling to meet Licensing requirements, the programs ~~manager~~ supervisor is consulted.

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~~(5)(6)~~ When requirements are met prior to the second or subsequent six-month permit expiration, license issuance may be recommended, per (a)(1) of this Section.

~~(6)(7)~~ When children residents were not in care on a regular basis or no child-placing activity occurred during the previous 12 months, the applicant is requested to withdraw the request for license, per OAC 340:110-1-~~45~~1-6.

(d) **License issuance.** When Licensing staff determines the program or agency is operating in compliance ~~with the program's or agency's own policy and procedures and in compliance~~ with Licensing requirements, a ~~recommendation is made to issue a license~~ issuance is recommended. ~~Prior to recommending license issuance, Licensing staff completes at least three monitoring visits.~~ A monitoring visit must be conducted within 60-calendar days of the issuance date, ~~and children in care must be observed during at least one monitoring visit, when applicable.~~ A license is in effect unless revoked or the program or agency voluntarily closes.

(e) ~~Documentation for license~~ **License issuance documentation.** In addition to ~~the items listed in (a) through (c)(6)(7) of this Section for permit issuance,~~ the items required on file before license issuance include, an updated personnel list is required before license issuance.

(f) **Evaluation and disposition.** The programs supervisor reviews all case action recommendations for approval. When a permit or license is approved, owner notification is provided.

~~(1) The programs manager reviews Licensing staff case action recommendations before forwarding to the statewide licensing coordinator or designee.~~

~~(2) The statewide licensing coordinator or designee reviews all case action recommendations. When a license or permit is approved, owner notification is provided.~~

## 340:110-1-47.2. Non-compliance with requirements [AMENDED]

(a) **Non-compliance documentation.** Licensing staff clearly and concisely documents non-compliance ~~are~~ on the monitoring checklist and summary, including operator discussion.

~~(1) A plan of correction, including Plans of correction documented on the monitoring summary include a specific agreed-on time period for non-compliance correction is documented on the monitoring summary. Each non-compliance or documentation indicates a plan of correction will be submitted by the executive or program director. Plans of correction for serious non-compliances or substantiated complaints also include methods to maintain compliance.~~ When a previous non-compliance was not corrected by the agreed-on time period, the non-compliance is documented again with a ~~shorter plan of correction date~~ reduced correction time frame.

(2) Immediate correction is required when the non-compliance directly impacts children's health, safety, or well-being.

(3) Licensing staff requests the ~~operator's~~ signature of the operator or individual in charge on the monitoring summary, explaining the signature indicates acknowledgment of recorded information. Licensing staff documents in discussion when the operator or individual in charge declines to sign the monitoring summary.

~~(4) When the operator or individual in charge refuses to sign, the refusal is documented on the monitoring summary.~~

~~(5)(4)~~ The operator is provided ~~at the~~ monitoring summary ~~copy~~.

~~(6)(5)~~ Timeframes for filing a grievance regarding non-compliance with requirements are provided on the monitoring summary. Grievance time frames may be discussed with the operator or individual in charge. Refer to grievance procedures, per Oklahoma Administrative Code (OAC) 340:110-1-~~54~~15.

(b) **Referrals to fire and health officials.** When non-compliance regarding fire or health requirements places children at risk of harm or remains uncorrected, Licensing staff requests ~~an inspection by a~~ fire, health, or Oklahoma Department of Environmental Quality ~~official~~ inspection.

(c) **Repeated and serious non-compliance.** Procedures for repeated and serious non-compliance documentation are followed.

(1) Repeated non-compliance is three or more documented incidents of non-compliance with the same requirement within the last 12 months.

(2) Serious non-compliance is non-compliance with Licensing requirements exposing children to ~~conditions presenting~~ an imminent risk of harm based on the child's age, the amount of time the program or ~~agency~~ child-placing agency (agency) was out of compliance, and the program or agency efforts to mitigate the risk. Serious non-compliance is identified through Licensing observations, ~~and/or~~ confirmed complaint investigations. Failure to comply with ~~licensing~~ Licensing requirements that may be considered as serious non-compliance include:

(A) ~~when applicable,~~ staff-child ratio;

(B) child or resident supervision;

(C) infant sleep environments;



- (D) prohibited disciplinary actions;
- (E) licensed capacity;
- (F) transportation;
- (G) water activities;
- (H) pools and other water hazards;
- (I) multiple hazards;
- (J) weapons;
- (K) failure to report child abuse or human trafficking;
- (L) knowingly permitting access to children by individuals identified as prohibited, restricted, or Restricted Registry registrants;
- (M) failure to obtain background investigations or Restricted Registry searches;
- (N) medication administration;
- (O) room temperatures;
- (P) heat sources ~~and/or~~ loss of any utility service;
- (Q) cardio-pulmonary resuscitation and first aid training; or
- (R) required behavior management training.

(d) **Case management responses to non-compliant facilities.** One or more responses in this subsection are used ~~when there is~~ for repeated or serious non-compliance.

- (1) **Technical assistance.** Licensing staff offers technical assistance, including referrals to consultants or professional development resources, and assisting the operator ~~in~~ with meeting and maintaining Licensing requirements.
- (2) **Follow-up phone call ~~to the program~~.** Phone calls regarding non-compliance follow-up are documented on Form 07LC080E, Licensing Services Supplemental Information, and ~~a copy~~ provided to the program operator.
- (3) **Non-compliance letter.** A non-compliance letter may be written provided to the operator. Licensing staff provides a monitoring summary ~~copy~~ with the non-compliance letter to the governing board or owner, when applicable.
- (4) **Return monitoring visit.** A return monitoring visit may be conducted when there is repeated or serious non-compliance with Licensing requirements or when non-compliance places children at imminent risk of harm. When the non-compliance is associated with a specific time of day, ~~such as understaffing after school or a lack of early morning supervision~~, the return monitoring visit is conducted at the approximate time.
- (5) **Use of witnesses.** A witness may accompany Licensing staff when the program had repeated or serious non-compliance or considered for request for license denial or license revocation. The witness may be an Oklahoma ~~Department of Human Services~~ employee, a representative from the fire or health department, or law enforcement. The witness signs the monitoring summary.
- (6) **Increased monitoring visits.** Licensing staff may increase monitoring frequency plans when there was repeated or serious non-compliance or when the need for additional technical assistance is indicated.
- (7) **Notice to comply.** Licensing staff provides the operator with Form 07LC037E, Notice to Comply, and the operator documents the plan of correction. Immediate correction may be required when the non-compliance places children's health, safety, or well-being at risk.
  - (A) When the plan submitted is unacceptable, Licensing staff negotiates a revised plan and requests submission within 10-calendar days.
  - (B) When Form 07LC037E, Notice to Comply, is not submitted within the specified time period, Licensing staff contacts the operator and documents the conversation.
  - (C) When non-compliances continue to place children or residents at risk, Licensing staff provides a letter stating non-compliances ~~and/or~~ continued failure to correct non-compliances may result in request for license denial, license revocation, filing of an injunction, or issuance of an Emergency Order.
- (8) **Office conference.** Licensing staff may schedule an office conference with the program owner or operator. The programs ~~manager~~ supervisor is present at the office conference.
  - (A) Program status, non-compliance areas, and progress toward meeting the plan(s) of correction are reviewed and technical assistance is offered.
  - (B) The office conference is documented on Form 07LC080E, Licensing Services Supplemental Information and signed by Licensing staff, the operator, and witnesses. This documentation includes a list of individuals present, conference purpose, and re-verification of ownership documentation.
  - (C) Form 07LC037E, Notice to Comply, is completed when one addressing these issues was not previously completed.

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(9) **Consent agreement.** ~~Child Care Services (CCS) and the program owner may enter into a~~ consent agreement may be established when the program owner agrees to specific conditions in lieu of request for license denial or license revocation, per OAC 340:110-1-~~529.5~~.

(10) **Revocation or denial.** Licensing staff may recommend the request for license be denied or license revoked when repeated or serious non-compliance ~~with requirements was observed and~~ documented or the ~~program operator~~ failed to adequately protect children, per OAC 340:110-1-~~5210~~.

(11) **Voluntary cease care.** With Child Care Services (CCS), State Office approval, the owner is ~~asked~~ requested to voluntarily cease caring for children or child-placing activity. The programs ~~manager~~ supervisor is notified of ~~every~~ any situation involving a request for voluntary cease care or child-placing activity.

(12) **Voluntary closure.** With CCS State Office approval, the owner is ~~asked~~ requested to voluntarily close the program, per OAC 340:110-1-10.

(e) **Case management responses when children are at risk.** ~~When Licensing staff documents non-compliance with requirements or is investigating a complaint that children may be~~ complaint allegations may place children's health, safety, or well-being at imminent risk of harm, options to consider with the operator and the programs manager are outlined in this subsection Licensing staff consults with the programs supervisor for appropriate actions.

(1) The operator is ~~asked~~ requested to immediately correct the non-compliance; ~~such as, the personnel will not be present or work alone with children or at the program pending the outcome of an investigation.~~

(2) With CCS State Office approval, the owner is ~~asked~~ requested to voluntarily:

(A) ~~cease care until the non-compliance is corrected or the investigation is complete;~~ or

(B) ~~With CCS State Office approval, the owner is asked to voluntarily close the program or agency.~~

(3) ~~When immediate action is needed to protect children, Licensing staff requests an Emergency Order, per OAC 340:110-1-529.4.~~

(4) ~~CCS and the owner may enter into a~~ consent agreement is established when the program owner agrees to specific conditions in lieu of request for license denial or license revocation, per OAC 340:110-1-~~529.5~~.

(5) ~~Licensing staff may recommend the request for license be denied or license be revoked when repeated or serious non-compliance with requirements was observed and~~ documented or the ~~program operator~~ failed to adequately protect children, per OAC 340:110-1-~~5210~~.

(6) ~~An injunction may be requested when the residential program or child-placing agency is:~~

(A) unlicensed;

(B) on request for license status;

(C) licensed;

(D) violating an Emergency Order;

(E) operating during an appeal following request for license denial or license revocation and children or residents are at risk of harm; or

(F) violating the notice to cease and desist care following request for license denial or license revocation.

(f) **Notification to programs ~~manager~~ supervisor when children are at risk.** ~~When during~~ During a monitoring visit when Licensing staff is concerned the children's health, safety, or well-being is at imminent risk, the programs ~~manager~~ supervisor or CCS State Office staff is contacted immediately.

(g) **Alternative method of compliance.** ~~CCS~~ The statewide licensing coordinator or designee may approve an alternative method of compliance to a minimum Licensing requirement.

(1) An alternative method of compliance may be authorized when Licensing determines the alternative method of compliance:

(A) offers equal protection of children's health, safety, or well-being;;

(B) meets the requirement's basic intent for the requested alternative compliance;; and

(C) does not violate statutory requirements.

(2) ~~An applicant or licensee submits a written request for each requirement identified with supporting documentation on Form 07LC061E, Alternative Compliance Request, to Licensing staff. A separate alternative method of compliance request is submitted for each requirement identified.~~

(3) Licensing staff completes Form 07LC105E, Alternative Compliance Referral, and submits all documentation to the statewide licensing coordinator or designee.

(4) Approval of an alternative method of compliance does not set a precedent; and is independently evaluated ~~on the merits of each request.~~

(5) The program's compliance ~~record~~ history is considered when determining approval.

~~(5)~~(6). An alternative method of compliance is not authorized for requirements affecting children's health and safety, such as exceeding licensed capacity of a residential program, staff-child ratios, fire safety, or behavior and guidance.

~~(6)~~(7). Form 07LC075E, Notice of Alternative Compliance, stating~~indicating~~ the nature of the exception, is posted with the license.

## 340:110-1-52. Legal actions [REVOKED]

(a) **Failure to meet requirements.** When numerous, repeated, or serious non-compliance with licensing requirements is observed and documented, or when an operator is unable to comply with the requirements, or fails to protect the health and safety of children, the Oklahoma Department of Human Services (OKDHS) may deny or revoke the license. Denial or revocation of a license is based on observation, investigation, and documentation that the operator is unable or unwilling to comply with minimum requirements:

(1) Denial of a license is recommended for a facility or agency that has filed an application for license.

(2) Revocation of a license is recommended for a facility or agency that is currently licensed.

(b) **Consent agreement.** OKDHS may offer to enter into a consent agreement with a facility in lieu of license denial or revocation. If such action has already taken place, a consent agreement may be used during the appeal process if the facility comes into compliance with licensing requirements. The use of a consent agreement is not required prior to denying or revoking a license:

(1) An office conference with the operator is scheduled to develop the consent agreement. The programs manager is present at the meeting. The operator may bring legal representation:

(A) The programs manager determines the minimum terms that are acceptable to avoid negative sanctions. Terms and time frames of the agreement are based upon the nature and severity of the non-compliance.

(B) The agreement may include emergency voluntary restrictions, such as a ban on future admissions of children to the facility, a restriction on the ages of children cared for in the facility, a reduction in the number of children attending the facility, and specific staff training, drug testing, and medical or psychological evaluation.

(C) Time frames to initiate and conclude the terms of the agreement are established and may be extended upon approval of the programs manager and the OKDHS Legal Division:

(2) The operator is required to prominently post a copy of the consent agreement in the residential facility or child-placing agency. During the next monitoring visit, the licensing staff verifies that the consent agreement is posted. If it is not posted, the licensing staff documents it as a violation of the terms of the consent agreement.

(3) The licensing staff mails a copy of the consent agreement, with a cover letter to parents or guardians of children currently housed at the facility. If the operator has not provided children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.

(4) The licensing staff conducts monitoring visits at least monthly while the consent agreement is in effect. The same witness accompanies the licensing staff on monitoring visits whenever possible.

(5) Any violation of the terms of the consent agreement is:

(A) documented on Form 07LC080E, Licensing Services Supplemental Information; and

(B) considered grounds for proceeding with license revocation or denial.

(6) The residential child care facility or child-placing agency is not entitled to an appeal of the terms of the consent agreement, as participation in the agreement is voluntary.

(c) **Denial or revocation of license.** The licensing staff consults with the programs manager regarding the denial or revocation recommendation:

(1) The licensing staff prepares a summary of non-compliance and submits it to the programs manager for review, with a recommendation to approve, disapprove, or delay decision pending further investigation.

(2) When the programs manager approves the denial or revocation, it is reviewed by the OKDHS Legal Division. The director of Child Care Services or designee has final approval of denial or revocation.

(3) Notification of proposed denial or revocation is sent by certified mail to the operator, and to the OKDHS Legal Division, at least 30 days prior to the effective date of the proposed action, and includes a:

(A) copy of the recommendation summary;

(B) notice of the operator's right to appeal the decision;

(C) statement that the law requires notice in writing of the denial or revocation be given to parents or custodians of children attending the facility. The operator is instructed to submit to OKDHS the names and addresses of currently enrolled children; and

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(D) sign providing notice of proposed denial or revocation that must be prominently posted in the facility.

## **(d) Appeal:**

(1) An appeal of the decision to deny or revoke license must be submitted to the Oklahoma Commission for Human Services by the operator within 30 days of receipt of the notice. If the operator does not appeal the decision within the time period, the programs manager sends to the operator by regular mail a notice of denial or revocation that includes the effective date. This is also forwarded to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1.

(2) If an appeal is made by an operator to OKDHS, a hearing is scheduled by the OKDHS Appeals Unit. The operator is notified of the hearing by personal service, or by delivery to the proper address by certified mail, at least two weeks prior to the date of the hearing.

(3) If the administrative hearing officer upholds the OKDHS decision, the hearing officer provides a written notice at the conclusion of the hearing, which contains an explanation of appeal rights.

(4) The facility may continue to operate during any appeal process unless an Emergency Order is in effect.

(A) The licensing staff conducts monitoring visits at least once a month, unless advised otherwise in writing by the programs manager or designee, and is accompanied by the same witness whenever possible.

(B) If at any time during the appeal process OKDHS believes the health, safety, or well-being of children is at risk:

(i) an Emergency Order is requested; or

(ii) following consultation with the programs manager or designee, the licensing staff contacts the district attorney (DA) of the local county or Attorney General and requests that an injunction be filed.

## **(e) Child care discontinued:**

(1) If the decision of OKDHS to deny or revoke is upheld during all appeals, the programs manager informs the operator in a letter that child care must immediately cease. This is also forwarded to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1.

(A) The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. The programs manager or designee is notified of the visit.

(B) If the operator continues to maintain and operate the residential child care facility or child-placing agency after a final decision to deny or revoke license, the licensing staff consult with the programs manager regarding following procedures in (i) - (l) of this Section.

(2) If the OKDHS decision to deny or revoke is not upheld, OKDHS takes action to implement the decision within ten days.

(3) When OKDHS denies or revokes a facility's license, the responsible entity can not make application for a new residential child care facility or child-placing agency license within Oklahoma for five years.

**(f) Emergency Order.** An Emergency Order may be issued by OKDHS when immediate action is needed to protect the health, safety, or well-being of children in a child care facility or served by a child-placing agency.

(1) If the operator is unwilling to voluntarily correct the hazardous situation, the licensing staff notifies the programs manager of the circumstances. If the programs manager agrees that an Emergency Order is warranted, all supporting documentation is given to the director of Oklahoma Child Care Services (OCCS) for review. The written order is issued and signed by the programs manager. If the risk is such that children must be immediately removed from the residential facility or placement through a child-placing agency, the director of OCCS may give verbal approval for removal of children:

(A) The administrator or director and parents or custodians are told that the facility will not be open on the following day; or parents or custodians are contacted to pick up their children immediately.

(B) If every effort has been made to reach the parents or custodians, and children are at immediate risk of harm, the programs manager contacts law enforcement to remove the children.

(2) The Emergency Order states the existence of an emergency and sets forth remedies such as removal of children from the facility or closure of a facility. The order is effective immediately and includes the right to appeal the decision.

(3) Licensing staff verify compliance with Emergency Order for a period of 30 days after the action becomes final, unless the Emergency Order is rescinded within that timeframe.

(4) The Emergency Order may be rescinded when the programs manager verifies correction of the hazardous situation. Upon receipt of such documentation, the director of OCCS notifies the operator in writing that the order has been rescinded.

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(5) The operator may request a hearing by filing a written request within ten days of receipt of the Emergency Order. The hearing is conducted within ten days from receipt of the operator's request.

(6) If operator disagrees with the results of the administrative hearing, the operator may appeal to the district court within 30 days of the decision of the administrative hearing officer.

(g) **Rescinding the order.** The Emergency Order may be rescinded when the licensing staff verifies correction of the hazardous situation. Upon receipt of such documentation, the programs manager notifies the operator in writing that the order has been rescinded.

(h) **Hearing process:**

(1) The operator may request a hearing by filing a written request within ten days of receipt of the Emergency Order. The hearing is conducted within ten days from receipt of the operator's request. An OKDHS hearing officer conducts the hearing.

(2) If the results of the OKDHS hearing are disputed, the operator may file an appeal in district court within ten days of the decision.

(i) **Violation of the Emergency Order.** If an operator violates the conditions set forth in the Emergency Order, the licensing specialist, after consultation with the programs manager, contacts a Council on Law Enforcement Education and Training (CLEET)-certified officer for assistance and makes a referral to the DA for further action.

(j) **Citation Request.** A referral is made on Form 07LC097E, Citation Request, for the assistance of a CLEET-certified officer. Procedures regarding citation request are:

(1) Licensing staff contacts a CLEET-certified officer to schedule a visit to the facility.

(2) Upon violations of conditions set forth in the Emergency Order, or following the revocation, or denial of a license, a citation may be issued by the CLEET-certified officer for not less than \$100, nor more than \$500 for every day the facility maintains and receives children.

(3) Licensing staff and a CLEET-certified officer monitor the facility until care of children has ceased.

(k) **DA referral.** If violation of an Emergency Order occurs, licensing staff consults with Programs Manager for the necessity of a referral to DA. Should a referral be necessary, licensing staff completes Form 07LC098E, District Attorney Referral, which includes documentation of the facts of the case. A copy is sent to the statewide licensing coordinator who informs the OKDHS Legal Division of the referral.

(l) **Referral to the Attorney General.** If no action is taken by a DA of the county where the facility is operating, a referral may be made to the Attorney General by the statewide licensing coordinator or designee.

## 340:110-1-53. Case closures [REVOKED]

(a) A case is closed when:

(1) the residential child care facility or child-placing agency is sold to a new owner unless a case is in the appeal process;

(2) care of children is discontinued, or in a child-placing agency, operation is discontinued unless the case is in the appeal process; or

(3) the license is revoked or the application for license is denied.

(b) When a licensed child care facility closes of its own accord, the licensing staff updates the database and submits to the licensing programs manager a narrative and a copy of the letter sent to the facility verifying closure.

(c) If the case is closed because of denial or revocation, the facility may not make application for a new child care facility license in Oklahoma for five years following closure of the facility.

## 340:110-1-54.1. Unlicensed facilities [AMENDED]

(a) **Legal basis and authority.** Pursuant to ~~Per~~ Section 405 of Title 10 of the Oklahoma Statutes [10 O.S. § 405] the Oklahoma Child Care Facilities Licensing Act, no child care facility may be operated or maintained in this state, unless licensed or given permission to operate by the Oklahoma Department of Human Services (OKDHS).

(b) **Procedures for investigating the operation of an unlicensed Unlicensed residential facility and child-placing agency (agency) investigation procedures.** When information is received regarding the operation of an unlicensed residential facility or agency operation, Licensing staff conducts a full monitoring visit no later than three facility or agency-business days to assess the necessity of a license necessity, unless an unlicensed duplicate complaint is determined, per Oklahoma Administrative Code (OAC) 340:110-1-47.1.

(1) ~~If~~ When care or child-placing activity is being provided, Licensing staff informs the facility they have not been given operator permission to operate ~~has not been granted~~, and they are in violation of the operator is violating the Oklahoma Child Care Facilities Licensing Act (Act), [10 O.S. § 405]. During the visit, the facility operator is informed on Form 07LC095E, Notice Regarding Unlicensed Care, that:

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(A) care or agency activity must cease by the end of the current facility or agency business day unless imminent risk indicates the need for the facility operator or agency to cease care or operation immediately; or

(B) permission to operate may be granted, ~~when the facility:~~

(i) ~~is in compliance with health and safety requirements without serious non-compliances as referenced in OAC 340:110-1-46(a)(1);~~

(ii) ~~has submitted a completed application in accordance with OAC 340:110-1-45;~~

(iii) ~~provides all required background information per OAC 340:110-1-51; and~~

(iv) ~~has staff present who meet the following licensing requirements:~~

~~(I) documented current cardio-pulmonary resuscitation and first aid certification;~~

~~(II) completed behavioral intervention training; and~~

~~(III) minimum educational qualifications for the position held per procedures in OAC 340:110-1-6.~~

(2) ~~If a facility~~ When an operator is not granted permission to operate, a follow-up visit is conducted within one facility or agency business day ~~to verify the~~ verifying termination of care or operation. The follow-up visit timeframe may be extended up to five facility or agency-business days with programs managersupervisor approval, and the approval is documented on Form 07LC080E, Licensing Services Supplemental Information. When care of children or operation has not ceased, Licensing staff proceedproceeds, per OAC 340:110-1-52(f).

(3) When ~~the necessity of a~~ license is not required, licensingLicensing staff documents the investigation ofunlicensed operation investigation on Form 07LC080E, Licensing Services Supplemental Information.

(c) **Procedures for investigating the operation of an unlicensed child placing agency.** When information is received regarding the operation of an unlicensed child placing agency, staff makes contact with the agency representative within three agency-business days to assess the necessity of license:

(1) If child placing activity is being provided, staff informs the agency they have not been given permission to operate and they are in violation of the Oklahoma Child Care Facilities Licensing Act (Act). Licensing staff document on Form 07LC080E:

(A) child placing activity must cease by the end of the current business day, unless imminent risk indicates the need for the agency to cease operation immediately; or

(B) permission to operate may be granted when the agency:

(i) has submitted a completed application per OAC 340:110-1-45;

(ii) provides all required background information per OAC 340:110-1-51; and

(iii) has staff who meet minimum educational qualifications for the position held.

(2) If an agency is not granted permission to operate, a follow-up visit is conducted within one agency business day to verify the termination of child placing activity. The follow-up visit timeframe may be extended up to five days with programs manager approval and is documented on Form 07LC080E. When child placing activity has not ceased, staff proceed per OAC 340:110-1-52(f).

(3) When the necessity of a license is not required, licensing staff documents the investigation of an unlicensed operation on Form 07LC080E.

(d) **Documentation of Findings documentation.** Following the unlicensed complaint investigation, licensingLicensing staff ~~proceed with procedures im~~proceeds, per OAC 340:110-1-47.1 ~~(f)for unlicensed complaint finding documentation~~. All ~~case~~facility and agency staffings and ~~discussions of case action~~actions are documented on Form 07LC080E, Licensing Services Supplemental Information, and maintained in the case file.

(e)~~(d)~~. **Procedures for investigating unlicensed out of state**Out-of-state child-placing agenciesagency investigating procedures.

(1) The licensingLicensing staff ~~mails to the owner the licensing~~provides Licensing requirements and ~~a letter that includes information about licensure and~~information to the owner, with a request for a response within 14-calendar days.

(2) ~~If~~When a response is not received within 14-calendar days, ~~several contacts are made or attempted to encourage~~Licensing staff follows up with the owner of an unlicensed facility to comply with the Act.

(3) ~~If~~When the owner fails to apply for licensure as required by the Act, the licensingLicensing staff consults with the programs managersupervisor and statewide licensing coordinator for appropriate action ~~which could include the issuance of an Emergency Order~~.

**340:110-1-55. Public inspection of licensing files [REVOKED]**

(a) **Legal basis.** The Oklahoma Department of Human Services (OKDHS) is subject to the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes, which mandates that public records are open for public inspection unless they are required by law to be kept confidential.

(b) **Licensing records.** All OKDHS records of facilities required to be licensed under Sections 401 through 410 of Title 10 of the Oklahoma Statutes that are considered public records are open and available for public inspection during reasonable hours. However, information obtained concerning a report of a violation of a licensing requirement is confidential pursuant to Section 406 of Title 10 with the exception of a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits the public to evaluate the facility.

(c) **Location of case records.** Child care facility licensing records are located in the OKDHS Human Service Center of the licensing staff and are inspected at that location. Licensing records may be inspected by the public in the presence of licensing staff.

(d) **Preparation of case files for inspection.** The licensing staff carefully reviews the entire record and removes confidential information.

(e) **Fees for photocopying.** For photocopy fee information refer to OAC 340:2-21-16.

(f) **Release of confidential information.** A complete case file that includes confidential information may be provided only to certain persons according to applicable laws and regulations, such as the OKDHS Legal Division and Division of Children and Family Services, law enforcement officials, and upon order of a court of competent jurisdiction.

(g) **Computer licensing record.** A summary of the facility licensing record maintained on the computer database may be provided upon request at no charge. A cover letter is sent with the licensing summary that notes the summary does not include the complete case record, and the complete case record may be reviewed in the OKDHS Human Service Center where the facility is located.

## SUBCHAPTER 3. LICENSING STANDARDS FOR CHILD CARE FACILITIES

### PART 15. REQUIREMENTS FOR CHILD CARE CENTERS, DAY CAMPS, DROP-IN PROGRAMS, OUT-OF-SCHOOL TIME PROGRAMS, PART-DAY PROGRAMS, AND PROGRAMS FOR SICK CHILDREN

#### 340:110-3-300. Facility [AMENDED]

(a) **Location.** The facility is located in an area minimizing children's health and safety hazards.

(b) **Other business.** When the program shares the facility with another business, requirements are met, per Oklahoma Administrative Code (OAC) 340:110-3-277(b).

(c) **Construction.** The facility complies with the building and fire codes of the local or state governmental authority having jurisdiction applicable at permit or license issuance. Programs operating 24-hours per day comply with additional codes.

(1) New construction and reconstruction, such as building remodeling or area not previously licensed for child care, complies with current requirements and building and fire codes.

(A) Construction plans for a new building, an addition, or reconstruction of an existing building are submitted to the local or state fire governmental authority having jurisdiction for approval prior to construction.

(B) Construction, reconstruction, or alterations occurring during operating hours is conducted safely.

(C) When existing or new surfaces are painted, the lead paint content is not above 0.06 percent.

(2) Mobile or permanently situated manufactured and mobile homes are prohibited. However, a program licensed in a manufactured home before February 1, 1981, is exempt unless the program has an address change.

(d) **Floors.** Floor surfaces are:

(1) easily cleaned;

(2) sealed when made of absorbent material, such as concrete and wood; and

(3) smooth and non-carpeted within food service areas and restrooms.

(e) **Walls and ceilings.** Wall and ceiling surfaces are:

(1) easily cleaned; and

(2) smooth and washable up to the highest level reached by splash or spray in areas where:

(A) food is prepared;

(B) food-contact items are washed; and

(C) food service personnel wash his or her hands, such as walls behind sinks and counters.

(f) **Electrical.** The electrical system is installed, per the Oklahoma Electrical Licensing Act.

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- (1) Electrical systems installed and maintained after June 1, 1987, comply with current electrical codes of the local or state governmental authority having jurisdiction.
- (2) Temporary wiring, used as permanent wiring is prohibited.
- (3) Extension cords, used as permanent wiring are prohibited, unless equipped with built-in circuit breakers or fuses, such as surge protectors with a built-in fuse.
- (4) Unused electrical outlets accessible to children 5 years of age and younger are equipped with safety devices, such as outlet covers.

**(g) Lighting.** The lighting:

- (1) levels provide comfort and safety, including observing children's facial features; and
- (2) fixtures in food preparation and service areas are shielded.

**(h) Heating and cooling.** The systems pose no risk and comply with building and fire codes of the local or state governmental authority having jurisdiction.

- (1) The indoor temperature in children's areas is between 65 and 80 degrees Fahrenheit (F).
- (2) Electric baseboard heaters may be used when wired directly into the electrical system and no objects have heating element contact.
- (3) Prohibited use of heating equipment includes:
  - (A) portable fuel-burning space heaters;
  - (B) open flame heaters, such as gas-fed, wall mounted heaters, wood-burning fireplaces and stoves, fireplace inserts, pellet stoves, and other devices producing open flames;
  - (C) unvented and vent-free fuel-burning heaters; and
  - (D) equipment not specifically designed or installed as a typical heat source, such as cooking equipment.
- (4) The prohibited equipment controls, such as the knobs, are removed or inaccessible during operating hours.
- (5) Portable, electric space heaters, including electric, oil-filled heaters, may be used as supplemental heat provided the equipment:
  - (A) has Underwriters Laboratory (UL) approval;
  - (B) has an automatic shut off feature for tipping over and overheating;
  - (C) has an external protective covering protecting hands and objects from the electric heating elements;
  - (D) is used, per the manufacturer's instructions;
  - (E) is not used with an extension cord, including extension cords equipped with built-in circuit breakers or fuses;
  - (F) does not overload the electrical circuits, such as causing flickering lights or continuously shutting the electric power off;
  - (G) placement is:
    - (i) on a flat floor only;
    - (ii) at least three feet from flammable materials, such as paper, curtains, and furniture; and
    - (iii) inaccessible, including the electrical power cord; and
  - (H) is attended while in use, such as personnel present in the room or classroom.
- (6) Guards protect children from hot heater surfaces, including floor furnaces.

**(i) Ventilation.** Rooms are properly ventilated, such as with a central heat and air system.

- (1) Rooms, including the kitchen have sufficient ventilation keeping rooms free from heat, steam, vapors, smoke, and fumes.
- (2) Ventilation systems comply with building and fire codes of the local or state governmental authority having jurisdiction.

**(j) Plumbing.** The plumbing is installed, per the Oklahoma Plumbing Licensing Act.

- (1) Plumbing systems installed and maintained after June 1, 1987, are installed, per the current plumbing codes of the local or state governmental authority having jurisdiction.
- (2) Cross-connections are prohibited between the safe drinking water supply and non-safe or questionable drinking water supply or pollution source contaminating the safe drinking water.

**(k) Water supply.** The water supply:

- (1) is adequate, safe, sanitary, and from a:
  - (A) public water supply; or
  - (B) non-public water supply, such as well water, meeting local and Oklahoma Department of Environmental Quality (DEQ) testing requirements. The program obtains at least total coliform bacteria, nitrate, and lead test results every 12 months from a DEQ accredited drinking water laboratory. Documentation is maintained, per OAC 340:110-3-281.2(c); and



- (2) has hot and cold running water under pressure in food preparation areas or where food-contact items and surfaces are washed.
- (l) **Sewage disposal.** Sewage, including mop water, is disposed in a public sewage system or, in its absence, a manner approved by DEQ.
- (m) **Toileting facilities.** The toileting facilities requirements in (1) and (2) of this subsection are met.
  - (1) For every 15 children 2 years of age and older, the facility has at least one toilet, excluding urinals and potty chairs, easily accessible and in the same building where care is provided.
  - (2) The toileting facilities:
    - (A) have operable toilets;
    - (B) have toilet paper within easy reach of children;
    - (C) with doors meet the door requirements in (q) of this Section; and
    - (D) used by 6-year-olds or older provide privacy, such as being equipped with doors or having children take turns while supervision is maintained.
- (n) **Hand washing facilities.** The hand washing facilities requirements in (1) through (3) of this subsection are met.
  - (1) Required sinks are plumbed, per (j) of this Section.
    - (A) For every 15 children of any age, the facility has at least one sink, excluding food service areas and portable sinks, easily accessible and in the same building where care is provided.
    - (B) Diaper changing areas have at least one sink, excluding portable sinks in the same classroom or a restroom opening directly into the classroom when the classroom has 2-year-olds or younger in diapers. However, a sink is not required when the:
      - (i) classroom has 2-year-olds or older with disposable or cloth training pants, provided adequate supervision and sanitation provisions are made; or
      - (ii) licensed capacity is 15 or less and the facility was originally designed as a family residence provided:
        - (I) a centrally located restroom sink with a diaper changing area is nearby; and
        - (II) children in diapers play throughout the house rather than an assigned classroom.
    - (C) The food service areas have at least one hand washing sink, excluding portable sinks:
      - (i) with a mixed-valve faucet, in programs licensed after June 1, 1987; and
      - (ii) that is separate and in addition to food preparation and dishwashing sinks.
  - (2) Portable sinks do not replace required sinks, per (1) of this subsection. However, portable sinks may be used in addition to required sinks, provided sanitary conditions are maintained, including obtaining water from an appropriate water supply, per (k) of this Section.
  - (3) Hand washing facilities have:
    - (A) operable sinks with running water between 80 and 120 degrees Fahrenheit;
    - (B) soap, paper towels, or mechanical hand dryers, and trash containers within children's easy reach; and
    - (C) posted procedures, per OAC 340:110-3-281.1(g).
- (o) **Kitchens.** Kitchens are in a separate area discouraging unsupervised children and unauthorized individuals.
- (p) **Basements.** Basements used for children meet the requirements, per OAC 340:110-3-301(b).
- (q) **Exits, doors, windows, and screens.** The requirements in (1) through (7) of this subsection are met.
  - (1) Exits and exit routes are not blocked by equipment, furniture, or other objects.
  - (2) Interior and exterior evacuation exit doors:
    - (A) open from the inside without a key; and
    - (B) unlock, unlatch, and open with a single motion.
  - (3) Restroom doors unlock from the outside in an emergency, with an opening device readily accessible to personnel.
  - (4) Closet doors can be opened from the inside by children.
  - (5) Clear glass doors and windows beginning at ground level are plainly marked at children's eye level.
  - (6) Exterior screen or storm doors have a self-closing apparatus.
  - (7) Opened exterior doors and windows have properly fitted screens.
- (r) **Stairways.** Interior and exterior stairways with four or more steps have at least one handrail.
- (s) **Barriers.** Barriers:
  - (1) are provided on porches, elevated walkways, and elevated play areas of more than two feet in height; and
  - (2) have openings less than:
    - (A) two and 3/8 inches when accessible to 1-year-olds and younger; and
    - (B) four inches when accessible to 2-year-olds and older.

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- (t) **Individual smoke alarms.** Individual smoke alarms are:
  - (1) required when the facility is not equipped with a central detection and alarm system for smoke, per (v) of this Section;
  - (2) mounted, per the manufacturer's instructions and fire governmental authority having jurisdiction; and
  - (3) tested and maintained, per OAC 340:110-3-279(f).
- (u) **Individual carbon monoxide alarms.** At least one individual carbon monoxide alarm is:
  - (1) required when a fuel burning appliance is in the building and the facility is not equipped with a central detection and alarm system for carbon monoxide, per (v) of this Section;
  - (2) mounted, per the manufacturer's instructions and fire governmental authority having jurisdiction; and
  - (3) tested and maintained, per OAC 340:110-3-279(f).
- (v) **Central detection and alarm system for smoke and carbon monoxide.** The facility may be equipped with hard-wired or wireless detectors connected to a central control panel. When equipped, the system is:
  - (1) installed, per the manufacturer's instructions and fire governmental authority having jurisdiction; and
  - (2) tested and maintained, per OAC 340:110-3-279(f).
- (w) **Fire extinguishers.** Fire extinguishers:
  - (1) are portable and Class ABC;
  - (2) are the quantity, size, type, and installation required by the fire governmental authority having jurisdiction;
  - (3) have locations posted, per OAC 340:110-3-281.1(i); and
  - (4) are tested and maintained, per OAC 340:110-3-279(f).
- (x) **Phone.** The program provides an operable landline or cellular phone in each building and on each floor.
- (y) **Utilities.** The facility has operable utilities.
- (z) **Maintenance of facility.** The facility is structurally sound, with interior and exterior in good repair, such as:
  - (1) floors without broken tile, torn carpet, and holes;
  - (2) walls and ceilings without holes and peeling paper and paint; and
  - (3) windows and doors without broken glass and other hazards.

## PART 16. REQUIREMENTS FOR COMMUNITY HOPE CENTERS [REVOKED]

### 340:110-3-400. Community Hope Centers [REVOKED]

- (a) **Program definition.** Community hope centers are programs operating more than 15 hours per week, serving children and youth 5 through 17 years of age. Programs provide access to mental health professionals and resources meeting children's and youths' social and emotional well-being, the science of hope, and connections to additional community resources for families.
- (b) **Request for license.** Programs complete Form 07LC004E, Request for License-Child Care Program.
- (c) **Inspections and approvals.** Programs meet inspection and approvals in (1) through (3) of this subsection:
  - (1) The program is inspected and approved by Oklahoma Human Services (OKDHS) Child Care Services (CCS); per Oklahoma Administrative Code (OAC) 340:110-3-400 (a) through (u);
  - (2) A fire inspection and approval is required;
  - (3) An Oklahoma State Department of Health (OSDH) inspection and approval is required when meals are prepared and served;
- (d) **Personnel qualifications.** Personnel meet qualifications in (1) through (3) of this subsection:
  - (1) **Program or site director.** Program or site directors are at least 21 years of age and responsible for the day-to-day program operation. Program or site directors meet one of the educational and experience qualifications in (A) and (B) of this paragraph. Program or site directors:
    - (A) have obtained a bachelor's degree from an accredited college or university with at least nine-college credit hours in family focus, child or youth development, sociology, social work, or a closely related subject, and six months children's and youth's services experience; or
    - (B) in lieu of a bachelor's degree have five years of experience in children's or youth's services; including care of children or youth with complex emotional needs and daily program operations.
  - (2) **Personnel meeting staff child and youth ratio.** Personnel possess adequate education, professional development, and experience to perform the position's essential functions. Personnel are at least 18 years of age and have a high school diploma or General Education Development (GED).
  - (3) **Personnel in charge.** Program personnel left alone with children or youth must meet personnel qualifications, be at least 21 years of age, and have a good understanding of licensing requirements and program policy.
- (e) **Background investigations.** Background investigation requirements are met.

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(1) **Required individuals.** Background investigations are required, per Section 401 et seq. of Title 10 of the Oklahoma Statutes (10 O.S. §§ 401 et seq.), Oklahoma Child Care Facilities Licensing Act (Licensing Act), unless an exception, per (3) of this subsection applies for:

- (A) owners, prior to authorization to operate;
- (B) responsible entities, prior to authorization to operate and, when there is a change in responsible entity;
- (C) personnel applicants, prior to hire. However, the program may hire individuals, when:
  - (i) the program has submitted a criminal history review request to the Office of Background Investigations (OBI);
  - (ii) only awaiting the national criminal history records search, based on fingerprint submission;
  - (iii) criminal history review results from OBI are received by the program. However, until complete results are received, the individual does not have unsupervised access to children or youth; and
  - (iv) coming from another licensed program owned by the same business entity. Individuals are not required to repeat the background investigation process, unless required, per (2) of this subsection, with the exception of criminal history restriction waivers, provided there is no break in employment from the business entity; and
- (D) individuals with unsupervised access to children and youth, prior to having access to children and youth, unless an exception per (3) of the subsection applies;
- (E) adults living in the facility, prior to authorization to operate or moving into the facility of an existing program. This includes children and youth, who become 18 years of age while living in the facility; and
- (F) individuals having access to, or review of, fingerprint results, prior to access to or review of results.

(2) **Resubmission of criminal history reviews as of November 2, 2017.** Effective November 2, 2017, programs request a criminal history review process, excluding fingerprinting, for required individuals every five years. However, criminal history reviews requested prior to November 2, 2017, are resubmitted by November 1, 2022.

(3) **Non-required individuals.** Background investigations are not required for:

- (A) specialized service professionals who are not program personnel, parent releases are signed and dated with an indication of understanding unsupervised access prior to children or youth seeing each professional;
- (B) volunteer drivers transporting children or youth on an irregular basis and not filling another position, parent releases are signed and dated with an indication of understanding unsupervised access prior to children or youth having access to each volunteer driver;
- (C) contracted drivers not filling another position or having unsupervised access to children or youth; and
- (D) contracted non-personnel not having unsupervised access to children or youth, such as when the program contracts for special activities or facility repair.

(4) **Restricted Registry.** The program conducts an online search of the Restricted Registry, also known as Joshua's List, when required, per (1) of this subsection:

- (A) **Non-registrants.** Non-registrants are individuals not recorded on the Restricted Registry.
- (B) **Registrants.** Registrants are individuals recorded on the Restricted Registry, who are prohibited from licensure, ownership, employment, unsupervised access to children or youth, or residence in a facility, or program licensed, certified, operated or contracted with by the Department or the Office of Juvenile Affairs, and prohibited individuals, per (8) of this subsection.

(5) **Criminal history.** The program and required individuals complete the criminal history review process. The program receives the completed criminal history review results from OBI when required, per (1) of this subsection:

- (A) **Criminal history prohibitions.** Individuals with criminal history prohibitions are prohibited, per (8) of this subsection. Criminal history prohibitions include:
  - (i) required registration under the:
    - (I) Sex Offenders Registration Act, including state and national repositories; or
    - (II) Mary Rippey Violent Crime Offenders Registration Act; or
  - (ii) pleas of guilty or nolo contendere (no contest), or convictions of felonies involving:
    - (I) murder, as defined in Section 1111 of Title 18 of United States Code;
    - (II) child or youth neglect or abuse;
    - (III) crimes against children and youth, including child and youth pornography;

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- (IV) spousal abuse;
- (V) crimes involving rape or sexual assault;
- (VI) kidnapping;
- (VII) arson;
- (VIII) physical assault or battery; or
- (IX) a drug-related offense committed during the preceding five years, unless a criminal history restriction waiver, per (6) of this subsection is granted; or
- (iii) pleas of guilty or nolo contendere (no contest), or convictions of violent misdemeanors committed as adults against a child or youth involving:
  - (I) child or youth abuse or child or youth endangerment; or
  - (II) sexual assault; or
- (iv) pleas of guilty or nolo contendere (no contest), or convictions of misdemeanors involving child or youth pornography; or
- (v) when an individual:
  - (I) refuses to consent to background investigations, per (1) of this subsection; or
  - (II) knowingly makes a materially false statement in connection with criminal background investigations.

**(B) Criminal history restrictions.** Individuals with criminal history restrictions are prohibited, per (8) of this subsection, unless a criminal history restriction waiver is granted. Criminal history restrictions include pending charges, pleas of guilty or nolo contendere (no contest), or convictions of criminal activity involving:

- (i) gross irresponsibility or disregard for the safety of others;
- (ii) violence against an individual;
- (iii) sexual misconduct;
- (iv) child and youth abuse or neglect;
- (v) animal cruelty;
- (vi) illegal drug possession, sale, or distribution; or
- (vii) a pattern of criminal activity.

**(6) Criminal history restriction waivers.** Restriction waivers are described in (A) through (D) of this paragraph:

(A) Restriction waivers may be requested for individuals having criminal history restrictions. The owner, responsible entity, or director completes requests on an OKDHS-provided form:

(B) Restriction waivers are not requested or granted for:

- (i) Restricted Registry registrants;
- (ii) individuals with criminal history prohibitions; or
- (iii) individuals whose sentence has not expired for criminal history restrictions.

(C) Individuals identified in pending or denied restriction waiver requests are prohibited, per (8) of this subsection:

(D) Granted criminal history restriction waiver notifications are maintained at the facility.

**(7) References.** The program obtains at least three, non-relative references prior to hiring personnel applicants, with at least two references from the most recent employers, when applicable:

**(8) Prohibited individuals.** Prohibitions are described in (A) through (F) of this paragraph:

**(A) Background investigation of required individuals.** The program does not allow a required individual to be the owner or responsible entity, to be employed, to live in the facility, or have:

- (i) access to children and youth, such as being present at the facility during the hours of operation or present with the children or youth in care while off-site, when the individual has:
  - (I) criminal history prohibitions;
  - (II) criminal history restrictions, unless a criminal history restriction waiver is granted. Individuals identified in a pending or denied restriction waiver request are prohibited; or
  - (III) a substantiated heinous and shocking abuse finding; or
- (ii) unsupervised access to children or youth, when the individual is a Restricted Registry registrant.

(B) **Background investigation of drivers.** In addition to (A) of this paragraph, the program does not allow an individual who is required to obtain a background investigation to transport children or youth when the individual has entered a plea of guilty or nolo contendere (no contest), or been convicted of driving under the influence of alcohol or drugs or another impaired driving offense within the last five years.

(C) **Background of any individual.** The program does not allow any individual to have access to children and youth, such as being present at the facility during the hours of operation or present with the children and youth in care while off-site, when the program is aware the individual has criminal history prohibitions, per (5) of this subsection. However individuals may drop-off and pick-up children and youth in care.

(D) **Behavior or health of any individual.** The program does not allow any individual to have access to children and youth or live in the facility when the individual's behavior or health could endanger the health, safety, or well-being of children and youth.

(E) **Health of food service personnel.** In addition to (A) and (D) of this paragraph, the program does not allow any individual to work in any capacity in any area of food service whose health could endanger the health, safety, or well-being of children and youth, including communicable disease and infestation symptoms, other than head lice.

(F) **Treating medical personnel statement.** When it is reported or observed an individual has a physical, mental, or emotional condition that may negatively impact the children and youth or impair individual's ability to perform his or her assigned job responsibilities, the program may be required to submit a treating medical personnel statement to Licensing.

(f) **Personnel forms.** All program personnel, including program and site directors, complete an OKDHS-provided personnel form.

(g) **Responsibilities.** Personnel meet the general responsibility requirements in (1) through (2) of this subsection.

(1) **Complying with requirements.** Personnel comply with the requirements.

(2) **Caring for and educating children and youth.** Personnel:

(A) individualize the care and learning opportunities to meet each child's or youth's needs based upon the child's or youth's age and abilities, including reviewing the information provided by parents while respecting confidentiality;

(B) recognize and act to correct hazards to physical safety, both indoors and outdoors;

(C) demonstrate good judgment as evidenced by prudent and responsible behavior that reasonably ensures the health and safety of children and youth;

(D) demonstrate realistic expectations for behavior based on the age, abilities, and needs of children and youth; and

(E) work with children and youth without physical, psychological, or emotional punishment, mistreatment, or abuse.

(h) **Professional development.** Personnel meet professional development requirements in (1) through (5) of this subsection:

(1) All program personnel, including program and site directors, obtain an OKDHS- approved orientation, online video within one week of employment and prior to having sole responsibility of children or youth.

(2) At least one personnel is present in each building where children or youth are in care, off-site, or in vehicles during transportation; with current, age-appropriate cardio-pulmonary resuscitation and first aid (CPR/FA):

When personnel do not currently have CPR/FA, obtaining at least online CPR/FA training is required.

(3) All program personnel, including program and site directors, receive Science of Hope training.

(4) At least one person per site is certified as a Hope Navigator.

(5) All program personnel, including program and site directors, obtain job-related professional development annually that includes health and safety topics as well as emergency preparedness. Documentation is maintained on-site and includes the topic, training source, length of training, and date received. Topics include:

(A) prevention and control of infectious disease;

(B) administration of medication, consistent with standards for parental consent;

(C) prevention and response to emergencies due to food and allergic reactions;

(D) appropriate precautions in transporting children, when applicable;

(E) building and physical premises safety, including identification of, and protection from, hazards; bodies of water; and vehicular traffic;

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- (F) emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event, such as violence at the facility, within the meaning of those terms, per Section 602(a)(1) of the Robert T. Stafford Disaster Relief And Emergency Assistance Act, per Section 5195a(a)(1) of Title 42 of the United States Code, that includes procedures for evacuation, relocation, shelter-in-place and lockdown, personnel and volunteer emergency continuity of operations and, accommodation of children and youth with disabilities and chronic medical conditions;
- (G) handling and storage of hazardous materials and appropriate disposal of bio-contaminants;
- (H) age appropriate CPR/FA; and
- (I) recognition and reporting of child abuse and neglect, per (j) of this Section:

(i) **Child and youth records.** Programs maintain child and youth information on an OKDHS-provided form:

(j) **Reporting.** Programs meet reporting requirements in (1) through (3) of this subsection:

(1) **Licensing.** The owner, responsible entity, or program or site director notifies Licensing by the next OKDHS-business day of:

- (A) a known legal action, such as a Victim Protection Order, arrest, or criminal investigation or charge, involving the program, owner, responsible entity, personnel, or an individual living in the facility;
- (B) a known child or youth neglect or abuse investigation involving the owner, responsible entity, personnel, or an individual living in the facility that is pending or has a disposition;
- (C) an unscheduled, temporary or permanent program closure or relocation;
- (D) facility damage affecting the amount of usable square footage or compliance with requirements;
- (E) an incident that exposes children or youth to an imminent risk of harm, such as a child or youth leaving the facility without program knowledge, or being left alone on- or off-site or in a vehicle;
- (F) an animal bite to an individual that occurs on-site at any time or off-site when participating in program activities;
- (G) an accident involving transportation, unless there were no injuries and only minor damage to the vehicles;
- (H) a child or youth injury requiring emergency medical attention; and
- (I) a child or youth death or near death, occurring while in care.

(2) **Child or youth abuse and neglect and human trafficking:**

- (A) Abuse and neglect. Any person who has reason to believe a child or youth has been abused or neglected, per 10A O.S. § 1-1-105, is required to report the matter promptly to the OKDHS Child Abuse and Neglect Hotline at 1-800-522-3511, per 10A O.S. § 1-2-101. Failure to report is a misdemeanor offense and, upon conviction, is punishable by law. Failure to report with prolonged knowledge, six months or more, of ongoing abuse or neglect is a felony offense.
- (B) Human trafficking. Per 21 O.S. § 870, every person having reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children or youth, as described in 21 O.S. § 866, reports the matter promptly to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control:

(3) **Heinous and shocking abuse notification.** OKDHS notifies programs of a substantiated finding of heinous and shocking abuse by a person responsible for a child's health, safety, or welfare, as defined, per 10A O.S. § 1-1-105. Upon receiving the notice, the facility owner or primary caregiver provides notification to parents or legal guardians of children attending the facility using an OKDHS-provided form:

(A) Notification is:

- (i) immediately attempted but not later than 72 hours of notice receipt from OKDHS; and
- (ii) provided by certified mail.

(B) The program maintains the list of notified parents and legal guardians for at least 12 months:

(k) **Staff to child and youth ratio.** Children and youth are adequately supervised at all times whether on or off the facility premises. Ratios and age groups of children and youth are maintained, per (1) and (2) of this subsection:

- (1) Children 5 through 12 years of age have one personnel to 20 children.
- (2) Youth 13 through 17 years of age have one personnel to 25 youth.

(l) **Facility and premises.** Facility requirements are met, per (1) through (16) of this subsection:

(1) **Utilities.** Programs have operable utilities, including hot water:

(2) **Square footage and capacity.** Indoor square footage and areas are maintained, per (A) through (C) of this paragraph:

(A) **Indoor square footage for licensed capacity.** A minimum of 35 square feet of indoor floor space per child and or youth is required for routine use by children and youth:

(B) **Areas not counted toward licensed capacity or limited for children's and youth's use.** Some areas may not be suitable for children's and youth's use or only under the conditions listed in (i) through (iii) of this subparagraph:

(i) Areas not counted toward the licensed capacity are:

- (I) restrooms, kitchens, and hallways;
- (II) storage closets and supply rooms;
- (III) personnel offices, work rooms, and break rooms;
- (IV) areas occupied by furniture not for children's or youth's use; and
- (V) supplemental areas or rooms used exclusively for eating, rest time, gross motor activities, or care of ill children or youth.

(ii) Basements, areas partially below ground level, and floors above ground level are only counted toward the licensed capacity when approved by the local or state fire governmental authority having jurisdiction. Fire inspection approval is also required before children or youth use the area for any reason, except as part of the emergency plans and procedures, such as during tornados or lock-downs. Fire inspection reports indicate age restrictions. When used by children or youth, basements are finished, dry, and ventilated.

(iii) Large areas, such as gymnasiums are only counted toward the licensed capacity when divided into rooms for children 5 years of age and older; however, they may be used as a supplemental area for any age.

(C) **Room capacity.** Rooms are not routinely occupied by more children or youth than can be accommodated by the square footage, per (A) of this paragraph.

(3) **Hazards.** Hazards mean anything that may inflict injury or cause harm:

(A) The facility is free of hazards:

(B) Hazardous items are inaccessible, including those in personal belongings, such as backpacks and purses:

(C) Personnel recognize and act to correct hazards to physical safety, both indoors and outdoors:

(4) **Illegal drugs.** The facility and vehicles used to transport children or youth are free of illegal drugs and paraphernalia:

(5) **Tobacco products.** Tobacco and simulated tobacco products and related items, such as ashtrays and cigarette butts are inaccessible:

(6) **Matches and lighters.** Matches and lighters are inaccessible:

(7) **Open flames.** Items with open flames, such as candles are not used during the hours of operation:

(8) **Weapons and ammunition.** Any weapons and ammunition, such as firearms, cap pistols, bows and arrows, and hunting knives are kept in an inaccessible area. In addition:

(A) weapons are kept unloaded in locked containers or cabinets;

(B) ammunition is kept in locked containers or cabinets, separate from weapons;

(C) keys, combinations, and codes used for locked storage are inaccessible; and

(D) parents are informed of weapons:

(9) **Vehicle items.** When transported, children or youth are protected from items in the vehicle that may become a hazard during vehicle operation or in the event of an accident:

(10) **Miscellaneous.** The requirements in (A) and (B) of this paragraph are met:

(A) Fireworks are inaccessible:

(B) Compressed gas cylinders are secured to prevent falling over:

(11) **Animals.** Animals on the premises do not pose a health or safety risk to children and youth. Current vaccination records are maintained at the facility:

(12) **Water safety.** Pools and other bodies of water are inaccessible:

(A) On-site indoor and outdoor swimming pools are enclosed and secured to prevent unsupervised access. Doors and gates leading to the pool are locked:

(B) Outdoor in-ground pools are fenced and fencing:

(i) is sturdy;

(ii) cannot be easily climbed;

(iii) is at least four feet high and starts at ground-level; and

(iv) may include a building wall, provided doors are kept locked and any windows are unable to be opened by children or youth:

(C) Outdoor above-ground pools have:

(i) a fence that meets the in-ground pool fencing requirements;

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- (ii) at least four feet of non-climbable pool sidewalls; or
- (iii) a combination of pool sidewalls and fencing, with the fence attaching to and extending above the pool sidewalls, for a total height of at least four feet.

(D) Outdoor above-ground pools with steps leading to the pool have the steps removed or otherwise protected to prevent unsupervised access.

(13) **Bathrooms.** Bathrooms meet sink and toilet requirements. Programs may request an alternative compliance, when needed. OKDHS approvals are granted on a case-by-case basis. The facility has:

- (A) one toilet and one sink for every 25 children and youth; and
- (B) separate restrooms for male and female youth 13 through 17 years of age.

(14) **Toileting facilities.** The toileting facilities:

- (A) have operable toilets;
- (B) have toilet paper within easy reach of children and youth;
- (C) with doors, unlock from the outside in an emergency; and
- (D) used by children 6 years of age and older provide privacy, such as being equipped with doors or having children or youth take turns while supervision is maintained.

(15) **Hand washing facilities.** The hand washing facilities requirements in (A) and (B) of this paragraph are met:

- (A) Required sinks are plumbed, per the Oklahoma Plumbing Licensing Act;
- (B) Hand washing facilities have:
  - (i) operable sinks with running water between 80 and 120 degrees Fahrenheit; and
  - (ii) soap, paper towels or mechanical hand dryers, and trash containers within easy reach of children and youth.

(16) **Food storage.** Programs maintain adequate food storage.

(m) **Children and youth health.** Programs meet medication and health requirements, per (1) through (9) of this subsection:

(1) **Program policy.** The program maintains medication policy that includes procedures for:

- (A) storing, administering, returning, and disposing of medications;
- (B) storing, using, returning, and disposing of medical waste, such as syringes, needles, and lancets;
- (C) using sun safety methods, such as sunscreen; and
- (D) using insect repellent.

(2) **Parent provides.** Prescription and over-the-counter medications are provided by the individual child's or youth's parent.

(3) **Parental permission.** Parental permission is obtained prior to administering the medication. Documentation is maintained at the facility.

(4) **Administration.** Medications are administered, per the requirements in (A) through (F) of this paragraph:

- (A) Medications are only administered:
  - (i) by the designated personnel; and
  - (ii) to the child or youth whose full name is on the container label.
- (B) Expired medication is not administered.
- (C) Prescription medications are administered according to the container instructions, including only administering when the medication is part of a prescribed therapeutic treatment.
- (D) Over-the-counter medications are administered according to the:
  - (i) container instructions; or
  - (ii) physician instructions.
- (E) Oral medications are administered with a measuring device designed to measure medication.
- (F) Each dose administered is immediately documented.

(5) **Inaccessible.** Medications are inaccessible to children and youth.

(6) **Labeling and storing.** Medications are:

- (A) maintained in the original container;
- (B) labeled with the child's or youth's full name;
- (C) stored according to the container label, including temperature; and
- (D) stored in locations, such as cabinets or drawers, clearly labeled "medication." In addition:
  - (i) refrigerated medications are stored in a container clearly labeled "medication"; and
  - (ii) life-threatening condition medications, such as epinephrine pens and rescue inhalers, are in close proximity to the child or youth for immediate administration when needed, such as being in the same classroom or supplemental activity area as the child or youth, outdoors when the child or youth is outside, or on field trips.



- (7) **Return to parents.** Medications are returned to parents:
  - (A) daily;
  - (B) when the parental permission period ends as documented;
  - (C) when the medication expires; or
  - (D) when the child or youth is withdrawn from the program.
- (8) **Insect repellents and sunscreens.** Insect repellents and sunscreens are not considered medications. The program maintains insect repellent and sun safety policies.
- (9) **COVID-19 virus guidelines.** Programs follow the Center for Disease Control (CDC) or Oklahoma State Department of Health COVID-19 virus guidelines for hand washing, group sizes, and use of personal protective equipment (PPE).
- (n) **Food and nutrition.** Programs provide two meals and snacks per day and meet Child and Adult Care Food Program (CACFP) guidelines. Nutritional weekend food supplements are provided to children and youth:
  - (1) **Required meals and snacks.** The program ensures children and youth are served meals and snacks according to program hours of operation and children's and youth's attendance, regardless of the program or parents providing the food:
    - (A) **Full day care.** Morning meal or snack, mid-day meal, and afternoon snack are served.
    - (B) **Evening care.** Evening meal and evening snack are served.
    - (C) **Overnight care.** Evening meal, evening snack, and morning meal are served.
    - (D) **Children's and youth's attendance.** Children or youth in care over a four-hour period are served a meal.
  - (2) **Nutritional quality and quantity.** The nutritional requirements in (A) and (B) of this paragraph are met:
    - (A) **Meals and snacks.** Meals and snacks are required to meet the current CACFP guidelines, per OAC 340 Appendix LL - Meal and Snack Patterns.
    - (B) **Additional servings.** Additional servings:
      - (i) are available when the child or youth remains hungry;
      - (ii) meet the nutritional requirements, per this subsection; and
      - (iii) are not required to be the same food as the first serving.
  - (3) **Water.** Safe drinking water is freely available to children and youth at all times. Children and youth are encouraged to drink water throughout the day, especially before, during, and after outdoor activities.
  - (4) **Program provided meals and snacks.** When the program provides the meals, snacks, or both, the parents may be requested and allowed to provide for:
    - (A) their own children or youth who:
      - (i) have special dietary needs, including health or religious restrictions; or
      - (ii) are participating in a field trip; and
    - (B) a group of children or youth on special occasions.
  - (5) **Allergies.** Programs request child and youth food allergy information from parents.
- (o) **Discipline and personnel interaction.** Discipline is developmentally appropriate, responsive to the circumstances, constructive, and provides an opportunity to learn and meets requirements in (1) through (3) of this subsection:
  - (1) **General.** Personnel do not seek or accept parental permission that does not comply with requirements.
  - (2) **Appropriate discipline.** Personnel use appropriate discipline methods:
    - (A) **Assessment.** Personnel evaluate the environment, atmosphere, and activities before considering specific child or youth interventions.
    - (B) **Interaction.** Personnel interact with an attitude of understanding and firmness.
    - (C) **Fairness and consistency.** Personnel use fair and consistent rules.
    - (D) **Perspective.** Personnel maintain perspective and recognize every behavior does not require the teaching personnel's attention or intervention.
    - (E) **Expressing acceptance and disapproval.** Personnel speak so children and youth understand they and their feelings are acceptable, but their action or behavior may be unacceptable.
    - (F) **Self-control.** Personnel encourage children and youth to develop self-control.
    - (G) **Relevant.** Personnel choose discipline relevant to the behavior.
    - (H) **Redirect.** Personnel provide alternatives when the behavior is unacceptable.
    - (I) **Consequences.** Personnel use safe, natural, and logical consequences to help children and youth take responsibility for their actions.
    - (J) **Individualize.** Personnel recognize every discipline method is not effective with every child or youth, circumstance, or both.
  - (3) **Inappropriate discipline.** Personnel are prohibited from using or threatening to use inappropriate discipline.

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(A) **Physical.** Examples of inappropriate physical discipline include:

- (i) actions that could cause pain, such as shaking, striking, spanking, swatting, thumping, pinching, popping, shoving, spitting, hair pulling, yanking, and slamming;
- (ii) biting a child or youth;
- (iii) putting anything in, or on, a child's or youth's mouth;
- (iv) exposure to extreme temperatures;
- (v) excessive or forced exercise; and
- (vi) restraining a child or youth by any means other than holding, and then for only as long as necessary for the child or youth to regain self-control.

(B) **Psychological and emotional.** Examples of inappropriate psychological and emotional discipline include:

- (i) humiliating, rejecting, or neglecting a child or youth;
- (ii) making derogatory or sarcastic remarks about a child's or youth's family, race, gender, religion, or cultural background;
- (iii) yelling at a child or youth out of anger or using harsh or profane language;
- (iv) punishing or threatening a child or youth in association with:
  - (I) education, such as writing repetitive sentences and homework;
  - (II) withdrawing, denying or forcing food, rest, or toileting; and
  - (III) withdrawing or denying outdoor activity or a weather-alternate activity; or
- (v) isolating a child or youth without supervision;
- (vi) placing a child or youth in a dark area;
- (vii) allowing a child or youth to discipline other children or youth; or
- (viii) punishing an entire group due to the actions of one or a few children or youth.

(p) **Child and youth programming and equipment.** Program activities are age-appropriate and provide enrichment activities to address social and emotional well-being and the science of hope.

(1) Program personnel help facilitate children and youth's remote and virtual learning, including assistance with homework and class assignments.

(2) Activities for children 5 through 12 years of age meet requirements in (A) through (D) of this paragraph. Each child or youth is:

(A) provided an inclusive environment that:

- (i) meets the child's and youth's needs and encourages full participation; and
- (ii) is equipped and prepared for learning, based on each child's or youth's age, needs, and interests;

(B) provided multiple opportunities to engage individually or in small, informal groups for the majority of the day;

(C) allowed to choose an activity, whether teaching personnel-directed or child- or youth-selected; and

(D) encouraged, but not forced, to participate in program activities, with adaptations made to ensure safety and participation.

(3) **Electronic and print media.** Media may be used with children and youth, provided these restriction requirements are met:

(A) Electronic and print media are chosen with discretion and selectivity and are:

- (i) non-violent;
- (ii) non-vulgar;
- (iii) non-sexually explicit;
- (iv) culturally sensitive; and
- (v) age-appropriate, according to widely accepted rating systems.

(B) When the Internet is accessible for children's or youth's use, the program ensures children and youth do not have access to inappropriate websites, email, instant messaging, and similar technology.

(C) Screen time is:

- (i) viewing electronic media with a screen, such as television (TV), digital video display (DVD), videos, video games, phones, and computers. Screen time includes children and youth watching the screens while others use the media, such as game playing or watching videos;
- (ii) not used during meal and snack times; however, snacks may be provided during occasional special activities; and
- (iii) limited for all other groups whether a teaching personnel-directed or child- or youth-selected activity.

(D) Technology and media do not replace hands-on learning activities. Instead technology aligns and is integrated with other core lesson plan experiences and opportunities in the child or youth care program.

(E) Recommended daily screen time for limited screen time activities outside of virtual learning activities should not exceed:

- (i) one hour and 45 minutes a day for pre-kindergarten and kindergarten;
- (ii) two hours and 10 minutes a day for 1st and 2nd grades;
- (iii) two hours and 20 minutes a day for 3rd through 5th grades; or
- (iv) four hours a day for 6th grade and above.

(F) Personnel do not use electronic media for personal use in the presence of children or youth, with the exception of an e-reader when used during rest time for reading, provided supervision is maintained.

**(4) Equipment for children 5 through 12 years of age.** Equipment meets developmental needs of children in care. When obtaining and maintaining basic activity equipment, the requirements in this paragraph are met:

**(A) Type and quantity.** The equipment is:

- (i) of appropriate type and size to meet the physical, cognitive, emotional, and social development needs of the age group, individual children, or youth in care; and
- (ii) provided in type and quantity, per OAC 340 Appendix MM – Equipment, utilizing the equipment chart for children 6 years of age and older. An exception to the book quantity requires only five books for every 20 children.

**(B) Condition.** The equipment is:

- (i) safely constructed, and lead free;
- (ii) installed, maintained, and used according to the manufacturers' instructions;
- (iii) maintained in a safe condition that prevents hazards, such as splinters, loose parts, protrusions, and sharp edges;
- (iv) complete and in good working condition and repair, without holes and tears; and
- (v) clean and sanitary.

**(5) Equipment for youth 13 through 17 years of age.** Equipment is adequate for the number of youth in care and provides a variety of appropriate activities:

**(q) Transportation.** When children or youth in care are transported in a vehicle, whether provided, arranged, or contracted by the program, requirements in (1) through (8) of this subsection are met:

**(1) General.** Programs meet requirements in (A) through (C) of this paragraph:

**(A)** When the program contracts for transportation, including the use of public transportation, the program is responsible for ensuring the contracted entity meets the transportation requirements, including child passenger safety training.

**(B)** Children and youth are not transported in vehicles or parts of vehicles not designed for transporting people, such as truck beds, campers, and trailers.

**(C)** Drivers and vehicles used to transport children and youth are in compliance with all applicable state laws, including vehicle insurance. Insurance documentation is maintained at the facility.

**(2) Driver, child passenger safety, and CPR/FA.** Driver and professional development requirements in (A) through (D) of this paragraph are met:

**(A) Drivers.** The program may employ individuals or use volunteers or other personnel who meet these position specific requirements. Drivers:

- (i) are at least 21 years of age;
- (ii) are not youth in care;
- (iii) have a valid driver or commercial driver license (CDL) in his or her state of residence; appropriate for the type of vehicle driven. License documentation is maintained at the facility;
- (iv) who are contracted personnel or volunteers, may not be required to obtain criminal history reviews, per (c)(3); and
- (v) are prohibited when required, per (c)(8).

**(B) Position specific responsibilities.** Drivers:

- (i) transport children and youth; and
- (ii) meet the transportation requirements, per this subsection.

**(C) Position specific professional development.** Drivers, excluding volunteers who transport on an irregular basis and do not fill another position, obtain within three months of transporting children or youth:

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- (i) child passenger safety training, from the program's trained personnel or an OKDHS-approved child passenger safety course or a trained personnel is in the vehicle with the contracted driver, unless the vehicle used is exempt, per (7)(E) of this subsection. In addition, personnel who assist with child passenger restraints obtain this training from the options indicated, within three months of assisting; and
- (ii) vehicle safety training:
  - (f) for the safe operation of the type of vehicle driven, when driving a vehicle designed to transport 10 or more passengers; and
  - (ff) from any training source, excluding owner manuals.
- (D) **CPR/FA.** The CPR/FA certification requirements are met.
- (3) **Parental permission and attendance documentation.** Permission and attendance requirements in (A) and (B) of this paragraph are met:
  - (A) Transportation and field trip permission is maintained at the facility.
  - (B) Attendance documentation is maintained at the facility.
- (4) **Ratios and supervision.** Ratios and supervision requirements in (A) through (D) of this paragraph are met:
  - (A) The driver may count in ratios.
  - (B) Children and youth are never left unattended in vehicles.
  - (C) Supervision during transportation:
    - (i) begins at the pre-arranged pick-up time or when the child or youth is actually picked up, whichever is earlier. When the child or youth is not present or there is a contradiction about who is responsible for picking up the child or youth, the program informs the parent; and
    - (ii) ends at the pre-arranged drop-off time or when the child or youth is actually dropped off, whichever is later. The child or youth is only left at the pre-arranged drop-off location or with the individual designated by the parent.
  - (D) Children's and youth's entire bodies remain in the vehicle.
- (5) **Communication.** Communication device requirements in (A) and (B) of this paragraph are met:
  - (A) An operable phone is in each vehicle when children or youth are transported.
  - (B) Drivers do not use any communication device while driving.
- (6) **Safety and tobacco-free.** Safety requirements in (A) through (E) of this paragraph are met:
  - (A) Vehicles have a first aid kit.
  - (B) Vehicles are free of hazards.
  - (C) Safe conduct to, and from the vehicles, and safe off-street loading spaces are provided to protect children and youth from:
    - (i) backing vehicles;
    - (ii) being between vehicles; and
    - (iii) traffic hazards.
  - (D) The vehicle door locks are activated when the vehicle is moving.
  - (E) Tobacco use is prohibited.
- (7) **Passenger restraint, seating, and airbags.** Passenger restraint, seating, and airbag requirements in (A) through (E) of this paragraph are met:
  - (A) Vehicle maximum capacity and seating space, per manufacturers' designations is not exceeded.
  - (B) Children and youth sit in seats behind the front seat. However, when all these positions are taken by other children or youth in care, children and youth may sit in the front seat, provided requirements in (i) and (ii) of this subparagraph are met:
    - (i) When there is a front seat passenger airbag and children 12 years of age and younger are in the front seat, the airbag is deactivated by a weight-sensitive seat when equipped with such, or a manual switch.
    - (ii) When the airbag cannot be deactivated, the front seat is pushed back as far as possible and only a child whose age and weight requires a forward facing car seat with a harness, per manufacturers' instructions may sit in the front seat.
  - (C) Child passengers remain properly secured in child passenger restraint system, such as a booster seat or an individual seat belt in compliance with applicable state laws, unless the vehicle is exempt, per (E) of this paragraph. Children or youth do not share a seat belt:
    - (i) Booster seats are:
      - (f) federally approved;
      - (ff) installed according to the manufacturers' instructions;

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(HH) appropriate to the height, weight, and physical condition of the child, per manufacturers' instructions; and

(IV) properly maintained, such as not expired or previously involved in a vehicle accident.

(ii) Seat belts:

(I) are properly anchored to the vehicle; and

(II) fit the child appropriately, per child passenger safety training.

(D) Adult passengers, including the driver, remain properly secured in an individual seat belt unless:

(i) unable, due to medically documented reasons; or

(ii) the vehicle is exempt, per (E) of this paragraph.

(E) The vehicle exemption to passenger restraints is for buses, unless designed for, or equipped with seat belts, or the Lower Anchors and Tethers for Children (LATCH) system. Passengers remain seated in exempt vehicles.

**(8) Vehicles and vehicle maintenance.** Vehicle maintenance requirements in (A) through (C) of this paragraph are met:

(A) The vehicle requirements apply to:

(i) program vehicles at all times; and

(ii) personal vehicles when transporting children or youth.

(B) Vehicle maintenance is:

(i) conducted at least quarterly on:

(I) program vehicles; and

(II) personal vehicles used on a regular basis; and

(ii) documented and maintained at the facility.

(C) The vehicles:

(i) are identified with the program or business entity name and phone number that is easily read by the public, unless using contracted transportation;

(ii) are in a safe operating condition;

(iii) have an operable heater used during cold weather to maintain an interior temperature of at least 65 degrees Fahrenheit;

(iv) have a ventilation system used during hot weather, such as air conditioning or operable windows; and

(v) have stationary padded seats, with a back properly anchored to the vehicle.

**(r) Family communication and community resources.** Parents are informed of children's and youth's activities and health, per (1) through (4) of this subsection:

**(1) Immediately.** The program immediately notifies parents of:

(A) a child or youth who does not arrive on his or her own at the facility as scheduled, such as when walking to the facility;

(B) a child or youth not present at the pick-up location as scheduled;

(C) a child, youth, or individual at the pick-up location who believes the child or youth is to be transported by the program, when the program is not providing this transportation;

(D) administration of a life-threatening condition medication only administered as needed;

(E) an injury that may need a licensed physician's evaluation;

(F) poison exposure; and

(G) an animal bite to a child or youth, when the skin is broken or when a licensed physician's evaluation may be needed.

**(2) Promptly.** The program notifies parents promptly of a child or youth who is separated from the group due to an illness or infestation or when exclusion is required, per OAC 340 Appendix JJ - Exclusion Criteria for Children Who Are Ill.

**(3) Upon child and youth pick up.** The program notifies parents upon child or youth pick up of:

(A) changes in the child's or youth's physical or emotional state;

(B) known minor injuries;

(C) illness or infestation symptoms that developed or changed;

(D) a communicable disease or infestation exposure;

(E) an animal bite to a child or youth, when the skin is not broken; and

(F) implemented emergency plans and procedures, except for drills.

**(4) Prior.** Parental permission is required prior to:

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- (A) medication administration;
- (B) transportation;
- (C) field trips including the date, time, and location; and
- (D) volunteer drivers transporting children or youth, per (c)(3) of this Section.

(s) **Emergency preparedness.** Programs meet (1) through (7) of this subsection:

(1) **Emergency plans and procedures.** Emergency plans and procedures requirements are met:

(A) **General.** The program is required to have emergency plans that are:

- (i) individualized to the program and hours of operation;
- (ii) followed, unless children's or youth's safety is at risk or emergency personnel provide alternative instructions during an emergency; and
- (iii) maintained in a readily available and portable manner for emergencies.

(B) **Situations.** Emergency plans include procedures for:

- (i) serious injuries;
- (ii) serious illnesses;
- (iii) poison exposure;
- (iv) outbreaks of communicable diseases, including pandemics, such as influenza and Covid-19 virus;
- (v) weather conditions, including tornados, floods, blizzards, and ice storms;
- (vi) fires, including wildfires;
- (vii) man-made disasters, including chemical and industrial accidents;
- (viii) human threats, including individuals with threatening behaviors, bomb threats, and terrorist attacks;
- (ix) lost or abducted children and youth;
- (x) utility disruption; and
- (xi) other natural or man-made disasters that could create structural damage to the facility or pose health hazards.

(C) **Children and youth needs.** Emergency plans include procedures for addressing each child's or youth's needs, with additional considerations for children and youth with disabilities or chronic medical conditions.

(D) **Account for children and youth.** The emergency plans include procedures to account for each child's and youth's location during an emergency.

(E) **Shelter-in-place.** Emergency plans include shelter-in-place procedures for short and extended stay situations that require children and youth to stay in the building, such as during tornados and other weather emergencies.

(F) **Lock-down.** Emergency plans include lock-down procedures for situations threatening children's, youth's and personnel's safety. Lock-down procedures include:

- (i) notifying personnel;
- (ii) keeping children and youth in designated safe locations in the building;
- (iii) encouraging children and youth to remain calm and quiet;
- (iv) securing building entrances;
- (v) preventing unauthorized individuals from entering the building. When the program is in a shared facility, the program entrances are secured; and
- (vi) responding when outdoors and on field trips.

(G) **Evacuation.** Emergency plans include evacuation procedures for situations, such as building fires, requiring children, youth, and personnel to leave the building. Evacuation procedures:

- (i) include at least two evacuation routes labeled on the floor plan of the program;
- (ii) are posted in each area of the program utilized by children, youth, and personnel; and
- (iii) identify pre-determined meeting locations.

(H) **Relocation.** Emergency plans include relocation procedures for situations requiring children and youth move to an alternate location, such as bomb threats and wildfires. Relocation procedures include:

- (i) pre-determined primary and secondary alternate locations, with prior approval from the contact individual at the alternate locations;
- (ii) relocating children and youth, including a pre-determined transportation plan; and
- (iii) reuniting parents with children and youth.

(I) **Reporting.** Emergency plans include procedures for notifying:

- (i) emergency authorities, including the poison control center, when necessary;

- (ii) parents, including a method and backup method for how and when parents are notified; and
  - (iii) Licensing, per (j) of this Section.
- (J) **Personnel.** Emergency plans include procedures for ensuring personnel are familiar with the:
  - (i) current emergency plans and procedures, including roles and responsibilities in an emergency;
  - (ii) location of the emergency plans and procedures;
  - (iii) location of the posted emergency information;
  - (iv) location of the first aid and emergency supply kits; and
  - (v) location and use of the fire extinguishers.
- (2) **Phones.** Phone requirements in (A) through (C) of this paragraph are met:
  - (A) **On-site.** The program provides an operable phone in each building and on each floor.
  - (B) **Off-site.** An operable phone is available at off-site activities.
  - (C) **Vehicles.** An operable phone is in each vehicle when children or youth are transported.
- (3) **Posted emergency information.** Emergency information is posted, per (A) through (C) of this paragraph:
  - (A) **Program information and emergency numbers.** Information and numbers are posted in a prominent location for personnel and all areas utilized for children, youth, and personnel. Items to post include:
    - (i) the program name and address, with main cross streets or directions to the facility;
    - (ii) 911, where available; or local law enforcement, fire department, and ambulance services and
    - (iii) poison control; 1-800-222-1222.
  - (B) **First aid kit, emergency supply kit, and fire extinguisher locations.** Locations of first aid and emergency supply kits and extinguishers are posted in all areas used by children and youth.
  - (C) **Evacuation routes.** Routes are posted, per (1)(G) of this subsection.
- (4) **First aid kits.** First aid kits meet requirements in (A) through (E) of this paragraph:
  - (A) **Location.** First aid kits are located in each building and in vehicles when transporting children and youth.
  - (B) **Accessibility.** First aid kits are accessible to personnel at all times and inaccessible to children and youth.
  - (C) **Replacement.** First aid kit supplies are replaced as needed, including expired items.
  - (D) **Sanitary.** First aid kit supplies are maintained in a clean and sanitary manner, including sanitizing re-usable supplies.
  - (E) **Supplies.** First aid kit supplies are stored together in a portable container:
    - (i) Supplies include, at least:
      - (I) non-medicated adhesive strips;
      - (II) sterile gauze pads;
      - (III) rolled flexible or stretch gauze;
      - (IV) bandage tape;
      - (V) disposable non-porous, latex-free gloves;
      - (VI) blunt-tipped scissors;
      - (VII) tweezers;
      - (VIII) a non-glass and non-mercury thermometer. The appropriate thermometer and method are used to take a child's or youth's temperature when there is a concern;
      - (IX) a current first aid guide; and
      - (X) a copy of the posted program information and emergency numbers, per (3) of this subsection.
    - (ii) In addition, the first aid kits in vehicles include, at least:
      - (I) a cold pack;
      - (II) liquid soap and water or individually packaged moist, disposable towelettes, for cleaning wounds;
      - (III) hand sanitizer and moist, disposable towelettes, for hand hygiene;
      - (IV) plastic bags for disposal of items contaminated with blood or other body fluids; and
      - (V) a pen or pencil and note pad.
- (5) **Emergency supply kit.** Emergency supply kits meet requirements in (A) and (B) of this paragraph.

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(A) **Records.** Records available during an emergency include, at least the:

- (i) emergency plans and procedures and alternate location addresses, phone numbers, and contacts;
- (ii) emergency contacts; and
- (iii) full names of children, youth, and personnel currently in attendance.

(B) **Supplies.** Emergency supplies gathered at the time of an emergency or maintained in a portable container at all times include, at least:

- (i) a first aid kit; and
- (ii) children's and youth's prescribed medications, including life-threatening condition medications.

(6) **Testing and maintaining emergency equipment.** Equipment is tested and maintained, per (A) through (C) of this paragraph:

(A) **Individual smoke and carbon monoxide alarms.** When the facility is equipped with individual alarms and not a central detection system the alarms are:

- (i) operable; and
- (ii) tested at least monthly. Documentation is maintained in writing at the facility and includes the testing date.

(B) **Central detection and alarm system for smoke and carbon monoxide.** When the facility is equipped with a hard-wired or wireless detectors connected to a central control panel, the system is:

- (i) fully functional;
- (ii) checked at least monthly by viewing the control panel and documentation is maintained in writing at the facility and includes the date checked. This is not required when a company continuously monitors the system for full-function as documented per the contract; and
- (iii) inspected and tagged at least every 12 months by a state-licensed authority.

(C) **Fire extinguishers and automatic sprinkler systems.** Fire extinguishers and automatic sprinkler systems are:

- (i) fully functional; and
- (ii) inspected and tagged at least every 12 months by a state-licensed authority.

(7) **Drills and reviews.** Drills and reviews are conducted, per (A) through (E) of this paragraph:

(A) **General.** Drills and reviews are documented in writing and maintained at the facility, including the dates of the activity and the personnel in charge of conducting the drill. The drills are conducted:

- (i) at various times throughout the hours of operation, such as morning, mid-day, afternoon; and evening, so children, youth, and personnel in attendance at various times are involved in each type of drill at least one time every three months;
- (ii) by following the pre-determined emergency plans and procedures; and
- (iii) per required scheduling.

(B) **Monthly drills.** Monthly drills include:

- (i) fire drills conducted by evacuating and meeting at pre-determined locations; and
- (ii) tornado drills conducted by sheltering in pre-determined on-site locations.

(C) **Annual drills.** Annual drills include:

- (i) locking-down by sheltering in pre-determined on-site locations;
- (ii) relocating according to procedures of preparation to relocate, but do not require physical relocation;
- (iii) sheltering-in-place, requiring children, youth, and personnel stay inside the facility, such as during tornados and other weather emergencies; and
- (iv) evacuating and meeting at pre-determined locations.

(D) **Lock-down and relocation procedures review.** Personnel review the procedures at least once every 12 months.

(E) **Emergency plans and procedures review.** The director updates as necessary, and reviews emergency plans and procedures:

- (i) at least once every 12 months;
- (ii) upon enrollment of children and youth with disabilities or chronic medical conditions;
- (iii) after a drill when procedure issues are identified; and
- (iv) after an emergency, as identified in this subsection.

(f) **Required postings and policy.** Items in (1) and (3) are posted at the program's main entrance where the parents and public enter and posted in a conspicuous location within clear view.



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(1) **Notice to parents.** OKDHS Publication No. 14-01, Notice to Parents, is posted.

(2) **Program liability insurance policy.** Program liability insurance is maintained, unless an exception, per Section 404.3 of Title 10 of the Oklahoma Statutes, Oklahoma Child Care Facilities Licensing Act, is posted, per (3) of this subsection.

(3) **Program liability insurance exception notification.** The OKDHS-provided form is posted when program liability insurance is not maintained or program reports being self-insured.

(u) **Parental notifications.** Compliance file and insurance notification requirements are met, per (1) and (2) of this subsection.

(1) **Compliance file.** Items are originals or copies and are maintained together, with the most recent on top and all child and youth identifying information removed. The compliance file includes items within the last 120 calendar days, at a minimum, from the date on the document or the investigation completion date on the form, unless requirements specifically state otherwise. The compliance file only contains:

(A) compliance monitoring from Licensing, Stars, and tribal agencies, such as:

(i) monitoring visit forms, including most recent visit; and

(ii) case status information, such as forms and correspondence regarding:

(I) issuance of permits and licenses;

(II) non-compliances and Stars violations;

(III) notices to comply;

(IV) complaint findings;

(V) office conferences with Licensing, Stars, and tribal agencies;

(VI) Stars alternative settlements and reductions; and

(VII) consent agreements, denials of a request for a license, and revocations of a license;

(B) child welfare investigative summary, regardless of findings. However, confirmed or substantiated findings are maintained in the file for 12 months;

(C) granted criminal history restriction waiver notifications. However, notification is maintained in the file for as long as the individual is employed or is living in the facility; and

(D) other documents indicating placement in the compliance file.

(2) **Compliance file and insurance parental notifications.** Parents are provided information regarding insurance liability and the compliance file:

(A) Parents complete OKDHS-provided forms every 12 months regarding insurance liability and the compliance file. Forms are maintained at the facility.

(B) When the child or youth is enrolled, parents are provided copies of OKDHS-provided Form 07LC093E, Insurance Exception Notification, and OKDHS Publication No. 14-01, Notice to Parents.

## SUBCHAPTER 5. REQUIREMENTS FOR CHILD-PLACING AGENCIES

### PART 5. REQUIREMENTS FOR FOSTER HOME AGENCIES

#### 340:110-5-61.1. Alternative care arrangements [AMENDED]

(a) **Informal arrangements.** The foster parent may make informal care arrangements with friends, neighbors, or relatives for occasional child care for no more than seven-consecutive calendar days.

(1) The foster parent:

(A) ensures informal care providers ~~possess the maturity and skills to address~~are able to meet the needs of the child in foster care;

(B) secures prior authorization for informal care from the foster home agency (~~agency~~). Prior authorization may apply ~~to multiple events when the same informal provider is used~~when using an informal provider for multiple events;

(C) does not ~~utilize~~use a child in foster care to ~~babysit~~care for a younger child unless approved by the agency;

(D) provides the informal provider ~~information for contacting the~~ foster parent and other emergency ~~contacts~~contact information; and

(E) uses reasonable and prudent parent standards when selecting an informal caregiver.

(2) The informal provider who is living:

(A) outside of the foster home must be at least 18 years of age; or

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(B) in the foster home must be at least 16 years of age and a foster parent's relative at least 16 years of age.

(3) An informal provider ~~cannot be an individual excluded by Child Welfare Services~~ must provide a safe and constructive environment.

~~(4) An individual providing care for more than seven consecutive days must be approved as alternate care.~~

(b) **Alternate care.** An individual providing care for more than seven consecutive days must be approved as alternate care. Alternate care is used for temporary care only, not for permanent placement. The foster family ~~is~~ and agency are encouraged to develop a relationship with another family as an alternate provider who can provide care for the child in foster care in case of emergencies, vacations, or ~~needed respite care~~ as needed.

(1) The agency must approve the alternate care and ~~have~~ obtain documentation the alternate provider:

~~(1)(A)~~ (A) is at least 21 years of age;

~~(2)(B)~~ (B) obtained a criminal history records search within the last 12 months conducted by:

~~(A)~~ (i) the Oklahoma State Bureau of Investigation (OSBI) that includes a search of Oklahoma Department of Corrections files maintained by OSBI, per the Sex Offenders Registration Act for each household member, 18 years of age or older; and

~~(B)~~ (ii) the authorized agency in the previous state of residence when the person resided in Oklahoma less than ~~one year~~ five years; and

~~(3)(C)~~ (C) meets the foster home requirements, per Oklahoma Administrative Code (OAC) 340:110-5-60 (c) and (f);

(D) completed an Oklahoma Human Services-provided physical environment safety checklist;

(E) received agency-provided professional development regarding:

(i) confidentiality;

(ii) mandatory child abuse and neglect reporting;

(iii) grievance process; and

(iv) fire and disaster plans; and

~~(4)(E)~~ provides ~~provided~~ one reference; and

~~(5)(G)~~ (G) complies with discipline and behavior management requirements, per OAC 340:110-5-62.

(2) When arranging care, the foster parent or agency ensures requirements, per (a)(1) of this Section, are met.

(3) Child records are maintained by the alternate care provider for 12 months after providing care. Records at least, include:

(A) the child's name and date of birth;

(B) foster parents' and agency personnel's names, addresses, and phone numbers;

(C) medical information, such as current medications or known allergies; and

(D) medical treatment authorization.

## PART 9. REQUIREMENTS FOR INDEPENDENT LIVING PROGRAMS

### 340:110-5-115. Independent living [AMENDED]

(a) **Independent living program definition.** ~~An independent living program is a program in which youth, who are at least 16 years of age, are placed in living situations supervised by a licensed child-placing agency to prepare the youth to live independently without supervision provides living environments for youth 16 years of age up to 18 years of age, preparing the youth to live independently. Independent living programs are a service provided by a licensed child-placing agency (agency).~~

(b) **Policy.** The agency maintains a written policy regarding:

(1) placement philosophy;

(2) placement selection criteria;

(3) independent living placement assessment for continued appropriateness;

(4) available programs and services;

(5) description of living environments provided;

(6) grievances and youth rights;

(7) youth supervision;

(8) behavior management;

(9) youth and adult supervision plan when using any shared physical program space; and

(10) crisis response procedure, ensuring youth have 24-hour access to agency personnel.

(c) **Agency responsibilities.** Agency responsibilities include:

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- (1) evaluating each youth's ability to assume responsibility and achieve independence within a specified time frame;
- (2) obtaining written placement approval from the:
  - (A) parents or legal guardian; or
  - (B) court, when applicable; and
- (3) providing to each youth:
  - (A) grievance information; and
  - (B) youth's rights; and
- (4) reviewing the service agreement every three months and revising when necessary;
- (5) maintaining physical environment safety;
- (6) developing a monthly budget and reviewing monthly with the youth. After six months, when the youth demonstrates ability to maintain the budget, reviews may occur less frequently;
- (7) providing two monthly face-to-face contacts for youth counseling and support, including at least one monthly contact at the youth's residence; and
- (8) releasing discharged youth prior to the age of 18 to parents or legal guardians, with court notification when appropriate.

**(d) Youth training and life skills assessment.** Prior to youth's placement, appropriate training and a life-skills assessment are required and documented. The assessment identifies potential risk areas associated with independent community life and includes:

- (1) money management and consumer awareness;
- (2) grocery shopping and meal planning;
- (3) personal appearance and hygiene;
- (4) health services;
- (5) housekeeping skills;
- (6) transportation skills and concerns;
- (7) future housing pursuit;
- (8) educational planning, when appropriate;
- (9) vocational training;
- (10) employment attainment skills;
- (11) community involvement and available resources; and
- (12) knowledge of legal rights.
- (13) emergency awareness and preparedness;
- (14) drug and alcohol use;
- (15) matters of a sexual nature; and
- (16) interpersonal skills.

**(e) Service agreement** Prior to youth's placement, a written service agreement is completed.

- (1) A service agreement includes:
  - (A) agency, youth, and other involved parties' respective roles and responsibilities;
  - (B) agency-provided or arranged goals and services, including youth and agency personnel contact;
  - (C) any financial arrangements regarding placement; and
  - (D) youth and agency representative signatures.
- (2) When a youth reaches 18 years of age, agency services may continue through service agreement conclusion.

**(f) Emergency procedures.** Within one week of a youth's placement, the agency documents emergency procedure training was provided. Training includes:

- (1) emergency equipment use, such as fire extinguishers and smoke detectors;
- (2) an evacuation plan;
- (3) police, fire, and other emergency service contacts;
- (4) fire and accident prevention; and
- (5) tornados and natural disaster response.

**(g) Supervision and support.** The staff to youth ratio is based upon youth's supervision needs and location.

- (1) The agency ensures agency personnel and youth contact, per the youth's service agreement or plan.
- (2) Daily contact occurs with youth.
- (3) During routine residence visits, the agency documents:
  - (A) observations do not indicate concerns regarding youth's health and safety or environmental hazards;
  - (B) the youth is receiving necessary medical care; and
  - (C) the current program plan provides appropriate and sufficient services.

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(h) Direct care personnel requirements. Agency personnel providing direct care for youth in independent living programs:

- (1) are at least 21 years of age and have a high school diploma or General Education Development (GED);
- (2) receive agency-provided training regarding:
  - (A) agency policy;
  - (B) confidentiality;
  - (C) mandatory child abuse and neglect reporting;
  - (D) grievance process;
  - (E) emergency medical procedures;
  - (F) fire and disaster plans; and
  - (G) application of reasonable and prudent parent standards; and
- (3) obtain and maintain current age-appropriate first aid and cardiopulmonary resuscitation documentation prior to direct care of youth;
- (4) obtain and maintain current certification in Oklahoma Human Services approved behavioral intervention techniques prior to direct care of youth; and
- (5) comply with discipline and behavior management policy; and
- (6) do not use prohibited punishments, such as:
  - (A) acts of physical nature;
  - (B) emotional abuse;
  - (C) exploitation of a sexual nature;
  - (D) youth disciplining other youth;
  - (E) denying meals, sleep, or mail; and
  - (F) placing a youth in a locked room.

(i) Participation conclusion. Independent living program participation concludes when youth:

- (1) achieve independence where financial support and social services are no longer needed;
- (2) voluntarily decide to no longer participate in the program;
- (3) demonstrate unwillingness or inability to meet requirements and agreement terms; or
- (4) reach service plan completion.

## **340:110-5-117. Program description [REVOKED]**

—— The child-placing agency (agency) has a written statement describing the agency's:

- (1) philosophy on independent living placements;
- (2) independent living placement selection criteria;
- (3) approach used to assess the appropriateness of independent living placement;
- (4) supervision provided to youth in the program;
- (5) available programs and services;
- (6) living environments provided;
- (7) crisis response system, ensuring youth have 24-hour access to agency personnel; and
- (8) supervision plan for youth and adults when utilizing any shared physical program space.

## **340:110-5-118. Responsibilities of the agency [REVOKED]**

—— Responsibilities of the child-placing agency (agency) are to:

- (1) evaluate each youth's ability to assume responsibility and work towards the goal of independence within a specified time frame;
- (2) obtain written approval from:
  - (A) the parents or custodian regarding the youth's participation in the program; or
  - (B) the court if the youth's placement is court-ordered;
- (3) release the youth who is discharged from the program prior to the age of 18 to the youth's custodian with notification to the court when appropriate;
- (4) review the service agreement every three months and revise and update as necessary;
- (5) develop a monthly budget with the youth and meet monthly with the youth to review the budget. Budget reviews may occur less frequently after the first six months if the youth demonstrates ability to maintain the budget; and
- (6) provide counseling and support to the youth at least twice a month through face-to-face contact, which includes at least one meeting per month at the youth's residence.

## **340:110-5-119. Training and life-skills assessment [REVOKED]**

(a) **General.** Prior to placement of the youth in an independent living program, appropriate training and a life-skills assessment are required and documented:

(b) **Life-skills assessment.** The assessment identifies potential areas of risk associated with independent life in the community and includes:

- (1) money management and consumer awareness;
- (2) food management;
- (3) personal appearance and hygiene;
- (4) health services;
- (5) housekeeping and personal belongings;
- (6) housing search skills;
- (7) transportation skills and issues;
- (8) educational planning, if appropriate;
- (9) vocational training;
- (10) job seeking skills;
- (11) skills in emergency situations;
- (12) drug and alcohol use;
- (13) sexuality;
- (14) interpersonal skills;
- (15) community involvement and knowledge of resources; and
- (16) legal issues and knowledge of legal rights.

## **340:110-5-120. Service agreement [REVOKED]**

—— Prior to placement of the youth in an independent living program, a written service agreement is completed that includes:

- (1) respective roles and responsibilities of the child-placing agency (agency), the youth, and other involved parties;
- (2) goals and all services to be provided or arranged by the agency, including the plan for contact between the youth and agency staff;
- (3) any financial arrangements related to the placement; and
- (4) signatures of the youth and a representative of the agency.

## **340:110-5-121. Physical facility [REVOKED]**

—— The child-placing agency approves each living unit based upon written policy.

## **340:110-5-122. Supervision and support [REVOKED]**

(a) The ratio of staff to youth is based upon the needs and location of the youth under supervision.

(b) The agency ensures regular contact between agency personnel and each youth as documented in the youth's service agreement or plan.

(c) There is daily contact with youth participating in a transitional living program.

(d) The agency, through routine visits to the living situation, documents that:

- (1) there is no reasonable cause for believing that the youth's residence or life style presents any unacceptable risks to the youth's health or safety;
- (2) the youth is receiving necessary medical care; and
- (3) the current program plan provides appropriate and sufficient services to the youth.

## **340:110-5-123. Emergency procedures [REVOKED]**

—— The child-placing agency documents that training in emergency procedures was provided to each youth within one week of placement in the independent living program. Such training includes:

- (1) use of emergency equipment, such as fire extinguishers and smoke detectors, and a plan for evacuation from the living situation;
- (2) contacting police, fire, and other emergency services;
- (3) fire and accident prevention; and
- (4) response to tornados and natural disasters.

# Permanent Final Adoptions

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## 340:110-5-124. Conclusion of participation [REVOKED]

Participation in the independent living program is concluded when the youth:

- (1) achieves independence to the extent that financial support and social services are no longer needed;
- (2) makes a voluntary decision to no longer participate in the program; or
- (3) demonstrates unwillingness or inability to meet the requirements of the program and terms of the agreement.

# Permanent Final Adoptions

## APPENDIX EE. OKLAHOMA DIRECTOR'S CREDENTIAL [AMENDED]

### APPENDIX EE. OKLAHOMA DIRECTOR'S CREDENTIAL [REVOKED]

### APPENDIX EE. OKLAHOMA DIRECTOR'S CREDENTIAL [NEW]

Level	General Education	Early-Childhood-Education (ECE) Child-Development (CD) School-Age (SA) Knowledge and Skills	Administration (admin) Management (mgt) Knowledge and Skills	Experience	Annual Renewal Clock Hours
Platinum	PhD, EdD <sup>11</sup> MS, MA <sup>2</sup> BS, BA <sup>3</sup>	15 ECE/CD/SA credit-hours <sup>4</sup>	9 admin/mgt credit-hours <sup>4</sup>	3 months <sup>5</sup>	30 hours <sup>7</sup> job-related training <sup>6</sup>
Gold	AA, AS, AAS <sup>7</sup>	12 ECE/CD/SA credit-hours <sup>4</sup>	6 admin/mgt credit-hours <sup>4</sup> -or- Directors' Leadership Academy I & II <sup>8</sup>	6 months <sup>5</sup>	30 hours <sup>7</sup> job-related training <sup>6</sup>
Silver	3 credit-hours in English Composition <sup>1</sup>	Certificate of Mastery <sup>9</sup> -or- 9 ECE/CD/SA credit-hours <sup>4</sup> -or- CDA/CCP <sup>10</sup>	6 admin/mgt credit-hours <sup>4</sup> -or- Directors' Leadership Academy I & II <sup>8</sup> -or- Director's Certificate of Completion <sup>11</sup> -or- Pathway Director Training <sup>12</sup>	9 months <sup>5</sup>	30 hours <sup>7</sup> job-related training <sup>6</sup>
Copper Effective 11/1/16	BS, BA <sup>3</sup> , or any advanced degree beyond bachelors level	Not required	Not required	12 months <sup>5</sup>	30 hours <sup>7</sup> job-related training <sup>6</sup>
Bronze	High School Diploma -or- GED	6 ECE/CD/SA credit-hours <sup>4</sup> -or- CDA/CCP <sup>10</sup> -or- Oklahoma Competency Certificate in ECE <sup>13</sup>	3 admin/mgt credit-hours <sup>4</sup> -or- approved admin/mgt credential <sup>14</sup> -or- 40 admin/mgt clock-hours <sup>15</sup>	12 months <sup>5</sup>	20 hours <sup>7</sup> job-related training <sup>6</sup>

# Permanent Final Adoptions

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## Footnotes¶

- ¶
1. → Doctoral Degree of Philosophy, Doctoral Degree of Education.¶
2. → Master Degree of Science, Master Degree of Art.¶
3. → Bachelor Degree of Science, Bachelor Degree of Art.¶
4. → Approved college credit hours must be on the Recommended Approved Coursework List ([www.cecpc.org](http://www.cecpc.org)) and articulate to a two- or four-year college or university.¶
5. → Qualifying experience must be as a teacher, master teacher, family child care home primary caregiver, assistant director, or director in a licensed or legally exempt child care setting (30 hours per week).¶
6. → **No more than 6 clock hours of informal professional development are counted toward annual renewal hours.** Training in the core content areas identified in "Oklahoma Core Competencies for Early Childhood Practitioners": 1) child growth and development; 2) health, safety, and nutrition; 3) child observation and assessment; 4) family and community partnerships; 5) learning environments and curriculum; 6) interactions with children; 7) program planning, development, and evaluation; and/or 8) professionalism and leadership.¶  
NOTE: Entry-Level Child Care Training (ELCCT) cannot be used to meet level or renewal criteria.¶
7. → Associate in Arts, Associate in Science, Associate in Applied Science.¶
8. → Directors' Leadership Academy is available through the Center for Early Childhood Professional Development ([www.cecpc.org](http://www.cecpc.org)).¶
9. → The Certificate of Mastery in child development or early childhood education is a minimum 18-credit hour certificate awarded by an Oklahoma community college.¶
10. Current Child Development Associate (CDA) or Certified Childcare Professional (CCP) credential.¶
11. Certificate of Completion for directors and assistant directors is issued by the Scholars for Excellence in Child Care ([www.okhighered.org/scholars/](http://www.okhighered.org/scholars/)).¶
12. Early Care and Education: Director's Pathway to Program Administration is available through Oklahoma Career Technology Centers ([www.okhighered.org/scholars/career-tech.shtml](http://www.okhighered.org/scholars/career-tech.shtml)).¶
13. Master Teacher or Director Competency Certificate only awarded by Oklahoma Department of Career Technology.¶
14. Approved administration/management credential, such as the National Administrator Credential (NAC).¶
15. Training approved through the Oklahoma Professional Development Registry, with at least 10 clock hours in any three management core knowledge areas: Educational Programming & Family Support; Personnel & Professional Self-Awareness; Staff Management & Human Relations; Leadership & Advocacy; Program Operation & Facilities Management; Legal Management; or Fiscal Management.¶

¶  
NOTE: Completion of Director's Entry-Level Training (DELT) course meets 20 clock hours of this requirement. Informal professional development is not counted toward meeting this requirement.¶  
Family Child Care Home Entry-Level Training (FHELT), Director's Entry-Level Training (DELT), and Out-of-School-Time Entry-Level Training (OST-ELT) can only be counted one time toward renewal hours.¶

¶

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¶

[OAR Docket #25-367; filed 5-29-25]

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## TITLE 365. INSURANCE DEPARTMENT CHAPTER 10. LIFE, ACCIDENT AND HEALTH [AMENDED]



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# Permanent Final Adoptions

*[OAR Docket #25-444]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 29. External Review Regulation  
365:10-29-6. External review requests [AMENDED]  
365:10-29-7. Notice of initial determination [AMENDED]  
Appendix QQ. External Review Request Form [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, 2024

**COMMENT PERIOD:**

December 2, 2024 through January 9, 2025

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N/A

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**INCORPORATIONS BY REFERENCE:**

**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The rule changes allow the Department to update our address and remove outdated forms.

**CONTACT PERSON:**

Ashley Scott, 405.521.6616

**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 JULY 11, 2025:**

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## SUBCHAPTER 29. EXTERNAL REVIEW REGULATION

### **365:10-29-6. External review requests [AMENDED]**

A covered person or authorized representative requesting an external review pursuant to 36 O.S. § 6475.6 shall do so by submission of the External Review Request Form as set out on the Oklahoma Insurance Department website at <https://www.oid.ok.gov/consumers/external-review-process/>~~in Appendix QQ.~~

### **365:10-29-7. Notice of initial determination [AMENDED]**

A notice of initial determination issued pursuant to Section 6475.8(C), 6475.9(B), 6475.10(A), or 6475.10(C) of Title 36 shall, in addition to providing notice of a right to appeal external review ineligibility to the Commissioner, provide that appeals shall be made in writing to the Oklahoma Insurance Department, 400 N.E. 50<sup>th</sup> Street, Oklahoma City, Oklahoma 73105~~Five Corporate Plaza, 3625 NW 56<sup>th</sup> Street, Suite 100, Oklahoma City, OK, 73112-4511.~~

## APPENDIX QQ. EXTERNAL REVIEW REQUEST FORM [REVOKED]

Figure Q1

This **EXTERNAL REVIEW REQUEST FORM** must be filed with the Oklahoma Insurance Department within **FOUR (4) MONTHS** after receipt from your insurer of a denial of payment on a claim or request for a health care service or treatment.

### EXTERNAL REVIEW REQUEST FORM

#### APPLICANT NAME

Please Check One:

☐

Covered person/Patient

☐

Authorized Representative

#### COVERED PERSON/PATIENT INFORMATION

Covered Person Name: \_\_\_\_\_

Patient Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Covered Person Phone #: Home (\_\_\_\_) \_\_\_\_\_ Work (\_\_\_\_) \_\_\_\_\_

#### INSURANCE INFORMATION

Insurer/HMO Name: \_\_\_\_\_

Covered Person Insurance ID#: \_\_\_\_\_

Insurance Claim/Reference #: \_\_\_\_\_

Insurer/HMO Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Insurer Telephone #: (\_\_\_\_) \_\_\_\_\_

#### EMPLOYER INFORMATION

Employer's Name: \_\_\_\_\_

Employer's Phone #: (\_\_\_\_) \_\_\_\_\_

Is the insurance you have through your employer a self-funded plan? \_\_\_\_\_. If you are not certain please check with your employer. Most self-funded plans are not eligible for external review. However, some self-funded plans may voluntarily provide external review, but may have different procedures. You should check with your employer.

#### HEALTH CARE PROVIDER INFORMATION

Treating Physician/Health Care Provider: \_\_\_\_\_

Address: \_\_\_\_\_

Figure Q2

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City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone #: (\_\_\_\_) \_\_\_\_\_

Medical Record #: \_\_\_\_\_

**REASON FOR HEALTH CARRIER DENIAL** (Please check one)\*

- ☐ The health care service or treatment is not medically necessary.  
☐ The health care service or treatment is experimental or investigational.

\*You can describe in your own words the health care service or treatment in dispute using the attached pages below.

**EXPEDITED REVIEW**

**If you need a fast decision**, you may request that your external appeal be handled on an expedited basis. To complete this request, your treating health care provider must fill out the attached form stating that a delay would seriously jeopardize the life or health of the patient or would jeopardize the patient's ability to regain maximum function. Is this a request for an expedited appeal? ☐ Yes ☐ No

**SIGNATURE AND RELEASE OF MEDICAL RECORDS**

To appeal your health carrier's denial, you must sign and date this external review request form and consent to the release of medical records.

I, \_\_\_\_\_, hereby request an external appeal. I attest that the information provided in this application is true and accurate to the best of my knowledge. I authorize by insurance company and my health care providers to release all relevant medical or treatment records to the independent review organization and the Oklahoma Insurance Department. I understand that the independent review organization and the Oklahoma Insurance Department will use this information to make a determination on my external appeal and that the information will be kept confidential and not be released to anyone else. This release is valid for one year.

\_\_\_\_\_  
Signature of Covered Person (or legal representative)\*

\*(Parent, Guardian, Conservator or Other – Please Specify)

\_\_\_\_\_  
Date

Figure Q3

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## APPOINTMENT OF AUTHORIZED REPRESENTATIVE

(Fill out this section only if someone else will be representing you in this appeal.)

You can represent yourself, or you may ask another person, including your treating health care provider, to act as your authorized representative. You may revoke this authorization at any time.

I hereby authorize \_\_\_\_\_ to pursue my appeal on my behalf.

\_\_\_\_\_  
Signature of Covered Person (or legal representative)\*

\_\_\_\_\_  
Date

\*(Parent, Guardian, Conservator or Other—Please Specify)

Address of Authorized Representative: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone #: Daytime (\_\_\_\_) \_\_\_\_\_ Evening (\_\_\_\_) \_\_\_\_\_

Figure Q4

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**HEALTH CARE SERVICE OR TREATMENT DECISION IN DISPUTE**

DESCRIBE IN YOUR OWN WORDS THE DISAGREEMENT WITH YOUR HEALTH CARRIER. INDICATE CLEARLY THE SERVICE(S) BEING DENIED AND THE SPECIFIC DATE(S) BEING DENIED. EXPLAIN WHY YOU DISAGREE. ATTACH ADDITIONAL PAGES IF NECESSARY AND INCLUDE PERTINENT MEDICAL RECORDS, IF AVAILABLE. YOU MUST ALSO ATTACH ANY INFORMATION YOU RECEIVED FROM YOUR HEALTH CARRIER CONCERNING THE DENIAL, AND ANY ADDITIONAL INFORMATION FROM YOUR PHYSICIAN/HEALTH CARE PROVIDER THAT YOU WANT THE INDEPENDENT REVIEW ORGANIZATION REVIEWER TO CONSIDER.

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Figure Q5

## WHAT TO SEND AND WHERE TO SEND IT

**PLEASE CHECK BELOW (NOTE: YOUR REQUEST WILL NOT BE ACCEPTED FOR FULL REVIEW UNLESS ALL FOUR (4) ITEMS BELOW ARE INCLUDED\*)**

1. ☐ **YES**, I have included this completed application form signed and dated.
2. ☐ **YES**, I have included a photocopy of my insurance identification card or other evidence showing that I am insured by the health insurance company named in this application;
3. ☐ **YES\*\***, I have enclosed the letter from my health carrier or utilization review company that states:
  - (a) Their decision is final and that I have exhausted all internal review procedures; or
  - (b) They have waived the requirement to exhaust all of the health carrier's internal review procedures.

**\*\*You may make a request for external review without exhausting all internal review procedures under certain circumstances. You should contact the Oklahoma Insurance Department for more information.**

4. ☐ **YES**, I have included a copy of my certificate of coverage or my insurance policy benefit booklet, which lists the benefits under my health benefit plan.

**\*Call the Oklahoma Insurance Department at 800-522-0071 or 405-521-2828 if you need help in completing this application or if you do not have one or more of the above items and would like information on alternative ways to complete your request for external review.**

**If you are requesting a standard external review, send all paperwork to:**

Oklahoma Insurance Department  
External Review  
400 N.E. 50<sup>th</sup>  
Oklahoma City, Oklahoma 73105

**If you are requesting an expedited external review, call the Insurance Department at 800-522-0071 or 405-521-2828 before sending your paperwork, and you will receive instructions on the quickest way to submit the application and supporting information.**

Figure Q6

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## **CERTIFICATION OF TREATING HEALTH CARE PROVIDER FOR EXPEDITED CONSIDERATION OF A PATIENT'S EXTERNAL REVIEW APPEAL**

### **NOTE TO THE TREATING HEALTH CARE PROVIDER**

Patients can request an external review when a health carrier has denied a health care service or course of treatment on the basis of a utilization review determination that the requested health care service or course of treatment does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness of the health care service or treatment you requested. The Oklahoma Insurance Department oversees external appeals. The standard external review process can take up to 45 days from the date the patient's request for external review is received by our department. Expedited external review is available only if the patient's treating health care provider certifies that adherence to the time frame for the standard external review would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function. An expedited external review must be completed at most within 72 hours. This form is for the purpose of providing the certification necessary to trigger expedited review.

### **GENERAL INFORMATION**

Name of Treating Health Care Provider: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone #: (\_\_\_\_) \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_

Licensure and Area of Clinical Specialty: \_\_\_\_\_

Name of Patient: \_\_\_\_\_

Patient's Insurer Member ID#: \_\_\_\_\_

Figure Q7



## CERTIFICATION

I hereby certify that: I am a treating health care provider for \_\_\_\_\_  
(hereafter referred to as 'the patient'); that adherence to the time frame for conducting a standard external review of the patient's appeal would, in my professional judgment, seriously jeopardize the life or health of the patient or would jeopardize the patient's ability to regain maximum function; and that, for this reason, the patient's appeal of the denial by the patient's health carrier of the requested health care service or course of treatment should be processed on an expedited basis.

\_\_\_\_\_  
Treating Health Care Provider's Name (Please Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Figure Q8

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## PHYSICIAN CERTIFICATION EXPERIMENTAL/INVESTIGATIONAL DENIALS (To Be Completed by Treating Physician)

I hereby certify that I am the treating physician for \_\_\_\_\_  
(covered person's name) and that I have requested the authorization for a drug, device, procedure or therapy denied for coverage due to the insurance company's determination that the proposed therapy is experimental and/or investigational. I understand that in order for the covered person to obtain the right to an external review of this denial, as treating physician I must certify that the covered person's medical condition meets certain requirements:

**In my medical opinion as the Insured's treating physician, I hereby certify to the following:**  
**(Please check all that apply) (NOTE: Requirements #1 - #3 below must all apply for the covered person to qualify for an external review).**

1) <input type="checkbox"/>	The covered person has a terminal medical condition, or a life threatening condition, or a seriously debilitating condition.						
2) <input type="checkbox"/>	The covered person has a condition that qualifies under one or more of the following: [please indicate which description(s) apply]: <table border="1"><tr><td>i. <input type="checkbox"/></td><td>Standard health care services or treatments have not been effective in improving the covered person's condition;</td></tr><tr><td>ii. <input type="checkbox"/></td><td>Standard health care services or treatments are not medically appropriate for the covered person; or</td></tr><tr><td>iii. <input type="checkbox"/></td><td>There is no available standard health care service or treatment covered by the health carrier that is more beneficial than the requested or recommended health care service or treatment.</td></tr></table>	i. <input type="checkbox"/>	Standard health care services or treatments have not been effective in improving the covered person's condition;	ii. <input type="checkbox"/>	Standard health care services or treatments are not medically appropriate for the covered person; or	iii. <input type="checkbox"/>	There is no available standard health care service or treatment covered by the health carrier that is more beneficial than the requested or recommended health care service or treatment.
i. <input type="checkbox"/>	Standard health care services or treatments have not been effective in improving the covered person's condition;						
ii. <input type="checkbox"/>	Standard health care services or treatments are not medically appropriate for the covered person; or						
iii. <input type="checkbox"/>	There is no available standard health care service or treatment covered by the health carrier that is more beneficial than the requested or recommended health care service or treatment.						
3) <input type="checkbox"/>	The health care service or treatment I have recommended and which has been denied, in my medical opinion, is likely to be more beneficial to the covered person than any available standard health care services or treatments.						
4) <input type="checkbox"/>	The health care service or treatment I have recommended would significantly less effective if not promptly initiated.  Explain: _____ _____						
5) <input type="checkbox"/>	It is my medical opinion based on scientifically valid studies using accepted protocols that the health care service or treatment requested by the covered person and which has been denied is likely to be more beneficial to the covered person than any available standard health care services or treatments.  Explain: _____ _____						

Figure Q9

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Please provide a description of the recommended or requested health care service or treatment that is the subject of the denial. (Attach additional sheets as necessary.)

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\_\_\_\_\_  
Physician's Name (Please Print)

\_\_\_\_\_  
Physician's Signature

\_\_\_\_\_  
Date

*[OAR Docket #25-444; filed 6-2-25]*

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## TITLE 365. INSURANCE DEPARTMENT CHAPTER 25. OTHER LICENSEES

# Permanent Final Adoptions

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*[OAR Docket #25-445]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 7. Companies

Part 5. OKLAHOMA INSURANCE HOLDING COMPANY SYSTEM REGULATORY ACT

365:25-7-32. Group ~~Capital Calculations~~capital calculation [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, 2024

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N/A

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**DOCKET NUMBER:**

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Updates rules to adopt newer model law provision Group Capital Calculations, which is a requirement for Accreditation with the National Association of Insurance Commissioners (NAIC).

**CONTACT PERSON:**

Ashley Scott, 405.521.6616

**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 JULY 11, 2025:**

## SUBCHAPTER 7. COMPANIES

### PART 5. OKLAHOMA INSURANCE HOLDING COMPANY SYSTEM REGULATORY ACT

#### **365:25-7-32. Group Capital Calculationcapital calculation [NEW]**

(a) Where an insurance holding company system has previously filed an annual group capital calculation at least once, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead state commissioner makes a determination based upon that filing that the insurance holding company system meets all of the following criteria:

- (1) Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than One Billion Dollars (\$1,000,000,000.00);
- (2) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
- (3) Has no banking, depository or other financial entity that is subject to an identified regulatory capital framework within its holding company structure;
- (4) The holding company system attests that there are no material changes in the transactions between insurers and non-insurers in the group that have occurred since the last filing of the annual group capital; and
- (5) The non-insurers within the holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.

(b) Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to accept in lieu of the group capital calculation a limited group capital filing if: The insurance holding company system has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than One Billion Dollars (\$1,000,000,000.00); and all of the following additional criteria are met:

- (1) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
- (2) Does not include a banking, depository or other financial entity that is subject to an identified regulatory capital framework; and
- (3) The holding company system attests that there are no material changes in transactions between insurers and non-insurers in the group that have occurred since the last filing of the report to the lead state commissioner and the non-insurers within the holding company system do not pose a material financial risk to the insurers ability to honor policyholder obligations.

(c) For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant Subsection (a) or Subsection (b) of this regulation, the lead state commissioner may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the NAIC Group Capital Calculation Instructions, if any of the following criteria are met:

- (1) Any insurer within the insurance holding company system is in a Risk-Based Capital action level event as set forth in the Risk-Based Capital for Insurers Act, 36 O.S. §§ 1521, et seq., or a similar standard for a non-U.S. insurer; or
- (2) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in OAC 365:25-7-42; or
- (3) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the lead state commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

(d) A non-U.S. jurisdiction is considered to "recognize and accept" the group capital calculation if it satisfies the following criteria:

- (1) With respect to 36 O.S. § 1635(L):
  - (A) The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision

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including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or

(B) Where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard. This will serve as the documentation otherwise required in Subsection (d)(1)(a) of this rule.

(2) The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The commissioner shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreements are in force.

(e) A list of non-U.S. jurisdictions that “recognize and accept” the group capital calculation will be published through the NAIC Committee Process:

(1) A list of jurisdictions that “recognize and accept” the group capital calculation pursuant to 36 O.S. § 1635(L)(2)(d), is published through the NAIC Committee Process to assist the lead state commissioner in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under 36 O.S. § 1635(L)(2)(d). To assist with a determination under 36 O.S. § 1635(L)(2)(e), the list will also identify whether a jurisdiction that is exempted under either 36 O.S. § 1635(L)(2)(c) and (L)(2)(d) requires a group capital filing for any U.S. based insurance group’s operations in that non-U.S. jurisdiction.

(2) For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of Subsection (d)(1)(b) of this regulation will serve as support for recommendation to be published as a jurisdiction that “recognizes and accepts” the group capital calculation through the NAIC Committee Process.

(3) If the lead state commissioner makes a determination pursuant to 36 O.S. § 1635(L)(2)(d) that differs from the NAIC List, the lead state commissioner shall provide thoroughly documented justification to the NAIC and other states.

(4) Upon determination by the lead state commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to “recognize and accept” the group capital calculation, the lead state commissioner may provide a recommendation to the NAIC that the non-U.S. jurisdiction be removed from the list of jurisdictions that “recognize and accepts” the group capital calculation.

*[OAR Docket #25-445; filed 6-2-25]*

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## TITLE 377. OFFICE OF JUVENILE AFFAIRS

### CHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS

*[OAR Docket #25-521]*

#### **RULEMAKING ACTION:**

PERMANENT final adoption

#### **RULES:**

Subchapter 1. Function and Structure of the Office of Juvenile Affairs

377:1-1-1. Purpose [AMENDED]

377:1-1-5. Board of Juvenile Affairs [REVOKED]

377:1-1-6. Rates and Standards Committee [REVOKED]

377:1-1-7. Legal Base for Rates and Standards Committee [REVOKED]

377:1-1-8. Rates and Standards Committee membership [REVOKED]

377:1-1-9. Conduct of Committee meetings [REVOKED]

377:1-1-10. Public hearing regarding a fixed rate [REVOKED]

Subchapter 3. Board of Juvenile Affairs

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# Permanent Final Adoptions

377:1-3-25. Purpose [NEW]

377:1-3-26. ~~Legal base~~Board Composition [NEW]

377:1-3-27. Rates and Standards Committee ~~membership~~ [NEW]

377:1-3-28. Conduct of Committee meetings [NEW]

377:1-3-29. Board meeting in which the Board may vote for a fixed rate [NEW]

**AUTHORITY:**

The Board of Juvenile Affairs, pursuant to 10A O.S. §§ 2-7-101(F)(2) and 2-7-101(G)(1), and 75 O.S. § 302(A)(1).

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 25, 2024

**COMMENT PERIOD:**

December 17, 2024 through January 15, 2025

**PUBLIC HEARING:**

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Approved May 28, 2025, by HJR 1034

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

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May 28, 2025

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August 1, 2025

**SUPERSEDED EMERGENCY ACTIONS:**

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N/A

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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 were created, amended, or revoked as part of the agency review completed under Executive Order 2020-03.

**CONTACT PERSON:**

Audrey Rockwell, Executive Assistant/ Paralegal, (405) 530-2806, or [audrey.rockwell@oja.ok.gov](mailto:audrey.rockwell@oja.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 1, 2025:**

**SUBCHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS**

**377:1-1-1. Purpose [AMENDED]**

# Permanent Final Adoptions

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The purpose of this Chapter is to describe the organizational structure and function of the Office of Juvenile Affairs (OJA). This Chapter indicates the legal basis bases of OJA, identifies OJA divisions and units, and outlines other rules governing the overall operation of the OJA.

## 377:1-1-5. Board of Juvenile Affairs [REVOKED]

(a) **Composition.** The Board of Juvenile Affairs (Board), per 10A O.S. § 2-7-101, is the governing body for OJA. The Board consists of nine (9) members; five (5) members appointed by the Governor, two (2) members appointed by the President Pro-Tempore of the Senate, and two (2) members appointed by the Speaker of the House, all members serve at the pleasure of their appointing authority.

(b) **Meetings.** Regularly scheduled meetings of the Board shall be held at places, dates, and times fixed by the Board and after appropriate notice. Special meetings may be called by the Chair or by five (5) members of the Board. Emergency meetings of the Board may be called as provided by Oklahoma statutes. All meetings, including executive sessions, shall be conducted in accordance with the provisions of the Open Meeting Act.

(c) **Voting.** A majority of members serving on the Board shall constitute a quorum.

(1) The acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Board except that a vote of not less than four (4) members of the Board shall be required to amend these rules.

(2) A member may disqualify from a vote at any time and without explanation. A member who disqualifies from a vote shall be considered to be not present for purposes of that vote.

(d) **Election of officers.** The Chair and Vice-chair shall be elected in accordance with 10A O.S. § 2-7-101(E), and shall hold office until his or her successor has been duly elected or upon death, resignation, or removal.

(e) **Vacancies.** A vacancy in the elected position of Chair or Vice-chair because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term of the position.

(f) **Duties of the position of Chair and Vice-chair.** The Chair, or in the Chair's absence, the Vice-chair, shall preside at all meetings of the Board, including executive sessions. The Chair shall be the final authority on all procedural issues, and may, when appropriate, refer to and follow the recommendations of legal counsel for the OJA or "Robert's Rules of Order" to resolve a procedural issue.

(1) The Chair, within two (2) weeks of a member's new appointment, shall:

(A) brief the member of the Board regarding the duties and responsibilities of the Board and its members;

(B) provide the new member a copy of the statutes pertinent to the Board and its duties;

(C) provide a copy of the monthly operating budgets of OJA for the preceding twelve months;

(D) provide a copy of the rules under which OJA functions and operates; and

(E) provide such other information as is necessary to assure that the new member is advised of his or her duties and responsibilities.

(2) The Chair may delegate the briefing described in paragraph (1) of this subsection in whole or part to the Executive Director or a managing officer, but the responsibility for its accomplishment shall remain with the Chair.

(g) **Responsibilities.** The Board of Juvenile Affairs, in addition to the duties required by 10A O.S. §§ 2-3-103, 2-4-103, 2-7-101, 2-7-201, 2-7-305(D), 2-7-306, 2-7-608, 2-7-613, 2-7-614, 2-7-616, 2-7-704, and 2-8-112, may:

(1) review and approve OJA's budget request to the Governor;

(2) adopt nonbinding resolutions requesting action by OJA in response to comments from the public or upon the Board's own initiative;

(3) if necessary and in accordance with 10A O.S. § 2-7-201(G), designate an interim or acting Executive Director;

(4) advise OJA with respect to real estate leases;

(5) review the OJA Annual Report which analyzes and evaluates the effectiveness of OJA programs and services;

(6) promulgate rules for OJA to obtain national criminal history records searches for personnel working with or around juveniles in OJA institutions and contracted facilities, pursuant to 10 O.S. § 404.1(A)(14);

(7) receive and review institutional inspection reports of the State Fire Marshall and Commissioner of Public Health;

(8) establish standards for regimented juvenile training programs;

(9) establish certification standards for municipal juvenile facilities for temporary detention;

(10) approve a form for the statistical reporting of detention of persons under the age of 18;

## 377:1-1-6. Rates and Standards Committee [REVOKED]



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~~—— The Board of Juvenile Affairs (Board) is the official rate-setting body for the programs administered by OJA. The Rates and Standards Committee (Committee) is responsible for making recommendations to the Board regarding fixed fiscal rates and standards for service contracts entered into by OJA. The Rates and Standards Committee is not authorized to make decisions regarding rate setting. The Committee's purpose is to advise and make recommendations to the Board.~~

## **377:1-1-7. Legal Base for Rates and Standards Committee [REVOKED]**

~~—— The legal base for establishing fixed and uniform rates is found at 10A O.S. 2-7-101(F)(6) and 74 O.S. § 85.7(A)(6).~~

## **377:1-1-8. Rates and Standards Committee membership [REVOKED]**

~~—— The Chair of the Rates and Standards Committee shall be a member of the Board of Juvenile Affairs (Board) and shall be appointed by the Board. In addition to the Chair, the Committee shall be comprised of the Board's Finance Subcommittee Chair, and the Executive Director of OJA, or designee.~~

## **377:1-1-9. Conduct of Committee meetings [REVOKED]**

- ~~(a) Committee meetings are called by either the Chair, Executive Director, or Board of Juvenile Affairs. A majority of the Committee constitutes a quorum. Recommendations of the Committee are approved by a majority of the members present and voting.~~
- ~~(b) During a meeting in which the Committee intends to vote on a rate setting recommendation for the Board of Juvenile Affairs, the public, vendors, or OJA staff shall provide evidence to support rate recommendations.~~
- ~~(c) A party requesting a rate shall supply the following information and data to justify the proposed rate recommendation:~~
- ~~(1) a description of the program or service, including the target population and an annual estimate of the number of juveniles to whom the service will be provided;~~
  - ~~(2) any historical rate information regarding previous rates established for the program, or rates for similar programs or services if no rate exists;~~
  - ~~(3) an explanation and cite of cite and explain any Federal, State, and other regulations and standards which apply;~~
  - ~~(4) the rate being proposed, a summary of the program and cost variables included in the rate, and a program and fiscal impact statement on the juvenile justice system;~~
  - ~~(5) the operational budget and narrative justification for each budget category, including the methodology and cost computations used to arrive at the proposed rate; and~~
  - ~~(6) an estimated total cost of the service.~~

~~(d) If the Committee determines additional information is needed, the Chair may recess the meeting until a later date to allow interested parties or staff additional time to secure the information.~~

~~(e) In making its recommendations, the Committee shall consider any relevant data which is consistent with applicable state plans, all relevant administrative rules, OJA policies and procedures, and statutory provisions.~~

~~(f) Once the Committee establishes a recommendation, notification of the proposed rates and standards along with any supporting documentation will be sent to the Office of Management and Enterprise Services (OMES). The Chair shall place the item on the agenda of a Board of Juvenile Affairs meeting for a public hearing to set the rate, after proposed rates and standards have been approved by OMES. The public hearing may be held during any Board meeting.~~

## **377:1-1-10. Public hearing regarding a fixed rate [REVOKED]**

- ~~(a) Any comments from OMES, whether made in person or in writing, are included in the minutes of the Board meeting.~~
- ~~(b) During the Board meeting, the Chair of the Rates and Standards Committee, or a designee, shall present the proposed rate and provide the Committee's recommendation to the Board.~~
- ~~(c) After the Chair's presentation, interested parties shall be given the opportunity for public comments regarding the proposed rates. Each rate must be openly and separately discussed before the Board's vote. The Board may vote to approve, deny, or modify the recommendation of the Rates and Standards Committee.~~

## **SUBCHAPTER 3. BOARD OF JUVENILE AFFAIRS**

### **377:1-3-25. Purpose [NEW]**

The purpose of this Chapter is to describe the organizational structure and function of the Board of Juvenile Affairs (Board). See 10A O.S. § 2-7-101.

# Permanent Final Adoptions

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## **377:1-3-26. ~~Legal base~~Board Composition [NEW]**

(a) **Composition.** The Board of Juvenile Affairs (Board), per 10A O.S. § 2-7-101, is the governing body for OJA. The Board consists of nine (9) members: five (5) members appointed by the Governor, two (2) members appointed by the President Pro-Tempore of the Senate, and two (2) members appointed by the Speaker of the House. All members serve at the pleasure of their appointing authority.

(b) **Meetings.** Regularly scheduled meetings of the Board shall be held at places, dates, and times fixed by the Board and after appropriate notice. Special meetings may be called by the Chair or by five (5) members of the Board. Emergency meetings of the Board may be called as provided by Oklahoma statutes. All meetings, including executive sessions, shall be conducted in accordance with the provisions of the Open Meeting Act.

(c) **Voting.** A majority of members serving on the Board shall constitute a quorum. The acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Board except that a vote of not less than four (4) members of the Board shall be required to amend these rules.

(d) **Election of officers.** The Chair and Vice-chair shall be elected in accordance with 10A O.S. § 2-7-101(E), and shall hold office until his or her successor has been duly elected or upon death, resignation, or removal.

(e) **Vacancies.** A vacancy in the elected position of Chair or Vice-chair because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term of the position.

(f) **Duties of the position of Chair and Vice-Chair.** The Chair, or in the Chair's absence, the Vice-Chair shall preside at all meetings of the Board, including executive sessions. The Chair shall be the final authority on all procedural issues. When appropriate, the Board may refer to and follow the recommendations of legal counsel for OJA or "Robert's Rules of Order" to resolve a procedural issue.

(1) The Chair, within two (2) weeks of a member's new appointment, shall:

(A) Brief the member of the Board regarding the duties and responsibilities of the Board and its members;

(B) Provide the new member a copy of the statutes pertinent to the Board and its duties;

(C) Provide a copy of the monthly operating budgets of OJA for the preceding twelve months;

(D) Provide a copy of the rules under which OJA functions and operates; and

(E) Provide such other information as necessary to assure the new member is advised of his or her duties and responsibilities.

(2) The Chair may delegate the briefing described in paragraph (1) of this subsection in whole or part to the Executive Director or a managing officer. It is still the Chair's responsibility to verify the new member received the briefing.

(g) **Responsibilities.** The Board of Juvenile Affairs, in addition to the duties required by 10A O.S. §§ 2-3-103, 2-4-103, 2-7-101, 2-7-201, 2-7-305(D), 2-7-306, 2-7-608, 2-7-613, 2-7-614, 2-7-616, 2-7-704, and 2-8-112, may:

(1) Review and approve OJA's budget request to the Governor;

(2) Adopt nonbinding resolutions requesting action by OJA in response to comments from the public or upon the Board's own initiative;

(3) If necessary and in accordance with 10A O.S. § 2-7-201(G), designate an interim or acting Executive Director;

(4) Advise OJA with respect to real estate leases;

(5) Review the OJA Annual Report, which analyzes and evaluates the effectiveness of OJA programs and services;

(6) Promulgate rules for OJA to obtain national criminal history record searches for personnel working with or around juveniles in OJA institutions and contracted facilities, pursuant to 10 O.S. § 404.1(A)(14);

(7) Receive and review institutional inspection reports of the State Fire Marshall and Commissioner of Public Health;

(8) Establish standards for regimented juvenile training programs;

(9) Establish certification standards for municipal juvenile facilities for temporary detention; and

(10) Approve a form for the statistical reporting of detention of persons under the age of 18.

## **377:1-3-27. Rates and Standards Committee membership [NEW]**

The Board of Juvenile Affairs (Board) is the official rate-setting body for the programs administered by OJA. See 10A O.S. 2-7-101(F)(6) and 74 O.S. § 85.7(A)(6)(f). The Chair of the Rates and Standards Committee shall be a member of the Board of Juvenile Affairs (Board) and shall be appointed by the Board. In addition to the Chair, the Committee shall comprise the Board's Finance Sub-Committee Chair and the Executive Director of OJA or designee. The Rates and Standards Committee (Committee) is responsible for making recommendations to the Board regarding fixed

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fiscal rates and standards for service contracts entered into by OJA. The Rates and Standards Committee is not authorized to make decisions regarding rate setting; its purpose is to advise and make recommendations to the Board.

## **377:1-3-28. Conduct of Committee meetings [NEW]**

- (a) Committee meetings are called by the Committee Chair, Executive Director, or the Board. A majority of the Committee constitutes a quorum. The committee's recommendations are approved by a majority of the members present and voting.
- (b) During a meeting in which the Committee intends to vote on a rate-setting recommendation for the Board, the public, vendors, or OJA staff shall provide evidence to support rate recommendations.
- (c) A party requesting a rate shall supply the following information and data to justify the proposed rate recommendation:
- (1) A description of the program or service, including the target population and an annual estimate of the number of juveniles to whom the service will be provided;
  - (2) Any historical rate information regarding previous rates established for the program or rates for similar programs or services if no rate exists;
  - (3) An explanation and an explanation of and citation to any Federal, State, and other regulations and standards that apply;
  - (4) The rate being proposed, a summary of the program and cost variables included in the rate, and a program and fiscal impact statement on the juvenile justice system;
  - (5) The operational budget and narrative justification for each budget category, including the methodology and cost computations used to arrive at the proposed rate; and
  - (6) An estimated total cost of the service.
- (d) If the Committee determines additional information is needed, the Chair may recess the meeting until later to allow interested parties or staff additional time to secure the information.
- (e) In making its recommendations, the Committee shall consider any relevant data consistent with applicable state plans, all relevant administrative rules, OJA policies and procedures, and statutory provisions.
- (f) Once the Committee establishes a recommendation, notification of the proposed rates and standards and any supporting documentation will be sent to the Office of Management and Enterprise Services (OMES). After OMES has approved the proposed rates and standards, they will be placed on the next Board agenda for a public hearing to set the rate.

## **377:1-3-29. Board meeting in which the Board may vote for a fixed rate [NEW]**

- (a) Any comments from OMES, whether made in person or in writing, are included in the minutes of the Board meeting.
- (b) During the Board meeting, the Chair of the Rates and Standards Committee, or a designee, shall present the proposed rate and provide the Committee's recommendation to the Board.
- (c) Interested parties shall be given the opportunity for public comments regarding the proposed rates. The Board may vote to approve, deny, or modify the recommendation of the Rates and Standards Committee.

*[OAR Docket #25-521; filed 6-6-25]*

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## **TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES**

*[OAR Docket #25-524]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. Office of the Executive Director

Part 3. OFFICE OF THE ADVOCATE GENERAL

377:3-1-20. Legal ~~base and authority~~ basis [AMENDED]

377:3-1-21. Definitions [AMENDED]

377:3-1-23. Job duties [AMENDED]

377:3-1-24. Staff [AMENDED]

377:3-1-25. Abuse, neglect, and caretaker misconduct of a child in OJA custody and placed in a secure facility or other facility operated by or through contract with OJA [AMENDED]

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377:3-1-26. Advocate General procedures during an abuse, neglect, or caretaker misconduct investigation for other than OJA secure institutions [AMENDED]

377:3-1-27. OJA grievance policy [AMENDED]

377:3-1-28. General Grievance Procedure [AMENDED]

377:3-1-31. Monitoring and evaluation [AMENDED]

377:3-1-32. Notice to the Executive Director [REVOKED]

377:3-1-33. Coordination with other OJA divisions [REVOKED]

377:3-1-34. Coordination with other monitoring entities [REVOKED]

377:3-1-35. Conflict of interest [REVOKED]

377:3-1-36. Mandatory annual review of rules [REVOKED]

## **AUTHORITY:**

The Board of Juvenile Affairs, pursuant to 10A O.S. §§ 2-7-101(F)(2) and 2-7-101(G)(1), and 75 O.S. § 302(A)(1).

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 25, 2024

## **COMMENT PERIOD:**

December 17, 2024 through January 15, 2025

## **PUBLIC HEARING:**

January 17, 2025

## **ADOPTION:**

January 29, 2025

## **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 31, 2025

## **LEGISLATIVE APPROVAL:**

Approved May 28, 2025 by House Joint Resolution 1034

## **LEGISLATIVE DISAPPROVAL:**

N/A

## **APPROVED BY GOVERNORS DECLARATION:**

N/A

## **FINAL ADOPTION:**

May 28, 2025

## **EFFECTIVE:**

August 1, 2025

## **SUPERSEDED EMERGENCY ACTIONS:**

## **SUPERSEDED RULES:**

N/A

## **GUBERNATORIAL APPROVAL:**

N/A

## **REGISTER PUBLICATION:**

N/A

## **DOCKET NUMBER:**

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## **INCORPORATIONS BY REFERENCE:**

## **INCORPORATED STANDARDS:**

N/A

## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

The proposed rules were created, amended, or revoked as part of the agency review completed under Executive Order 2020-03.

## **CONTACT PERSON:**

Audrey Rockwell, Executive Assistant, (405) 530-2806, [audrey.rockwell@oja.ok.gov](mailto:audrey.rockwell@oja.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 1, 2025:

## SUBCHAPTER 1. OFFICE OF THE EXECUTIVE DIRECTOR

### PART 3. OFFICE OF THE ADVOCATE GENERAL

#### 377:3-1-20. ~~Legal base and authority basis~~ [AMENDED]

The State's legal basis and authority for the rules and procedure in this subchapter are found in 10A O.S.; §§ 1-2-101, 1-2-102, 2-7-302, and 2-7-603.

#### 377:3-1-21. Definitions [AMENDED]

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

"**Abuse**" is defined in Title 10A O.S., § 1-1-105, for purposes of this subchapter abuse includes sexual harassment.

"**Advocate defender**" means the ~~institutional~~ staff member responsible for:

- (A) assuring that juveniles in custody have available and understand the grievance process channels;
- (B) other duties as assigned by the Executive Director or policy; ~~monitoring and reviewing grievance procedures~~;
- ~~(C) conducting the tentative release date hearings with juveniles and attending parole hearings;~~
- ~~(D) supervising the communication of grievance procedure to staff and juveniles;~~
- ~~(E) facilitating resolutions and regularly reviewing informal grievances;~~
- ~~(C)(F)~~ ensuring allegations of abuse and neglect are properly reported to the Advocate General of the Office Of Juvenile Affairs; and
- ~~(D)(G)~~ ensuring that allegations of caretaker misconduct by a person responsible for a child residing in an OJA secure facility not rising to the level of abuse or neglect are reported to the Advocate General of the Office of Juvenile Affairs.

"**Caretaker**" with regard to juveniles in the Office of Juvenile Affairs' custody means an agent or employee of a public or private institution or a public or private residential home above the level of foster care.

"**Caretaker Misconduct**" is defined in Department of Human Services' Rule OAC:340:2-3-2.

"**Grievance coordinator**" means a group home staff member responsible for:

- (A) assuring that juveniles in custody have available and understand grievance channels;
- (B) monitoring and reviewing grievance procedures and hearings;
- (C) supervising the communication of grievance procedure to staff and juveniles; and
- (D) regularly reviewing informal grievances and resolutions.

"**Neglect**" is defined in Title 10A O.S., § 1-1-105.

"**Sexual harassment**" as used in this subchapter is defined in 28 C.F.R. § 115.6.

#### 377:3-1-23. Job duties [AMENDED]

The job duties of the Advocate General (AG) are provided in (1)- (11) of this Section.

- (1) The AG shall supervise staff assigned to ~~secure juvenile facilities~~ as advocate defenders.
- (2) The AG shall inquire into and make recommendations to the appropriate Division Director regarding juvenile-related grievances which are not resolved at the facility level.
- (3) The AG shall monitor the system to ensure that allegations of abuse or neglect of a child who is in OJA custody and placed in a facility operated by or under contract with OJA are reported as provided by law.
- (4) The AG shall coordinate any hearings or meetings of administrative review committees conducted as a result of investigations or unresolved grievances.
- (5) The AG shall make recommendations to the OJA Executive Director and appropriate Division Director pursuant to 377:3-1-25~~;~~.
- (6) The AG shall provide quarterly reports on grievance procedures, hearings, and investigations to the Executive Director of OJA, the Board of Juvenile Affairs, and to other persons or entities as necessary to facilitate system responsiveness.

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(7) The AG shall forward an abstract of grievances which are not resolved in favor of the person filing the grievance, and which have exhausted all available levels of appeal, to the Office of Juvenile System Oversight, the Executive Director, and the OJA Board of Juvenile Affairs.

(8) The AG shall:

(A) monitor rules and practices of OJA and its contractors to ensure compliance with juveniles' rights;

(B) report the number and types of investigations at juvenile facilities at least quarterly to the OJA Board of Juvenile Affairs in open meeting; and

(C) make additional reports to the OJA Board of Juvenile Affairs as needed.

(9) The AG shall perform other duties as required by the Executive Director.

(10) In cooperation with the Executive Director, the Advocate General shall establish a system for review of allegations of caretaker misconduct by a person responsible for a child residing in an OJA secure facility not rising to the level of abuse or neglect. Such system shall be approved by the Board of Juvenile Affairs.

(11) The AG shall ensure that an appropriate training program in child abuse and neglect reporting for facility staff is developed by the Office of Juvenile Affairs.

## 377:3-1-24. Staff [AMENDED]

~~In order to~~ ~~To ensure~~ ~~ensure~~ that OJA and contract facility staff are aware of the rights of juveniles and the responsibilities of staff, the facility administrator or designee shall give each staff member a copy of the rules in this Part as part of a new staff member's orientation. The facility director shall ~~ensure~~ ~~assure~~ that each staff member receives an initial orientation on the rules in this Part within 30 days of employment and comprehensive training at least annually. The ~~AG Advocate General~~, or designee, along with the facility administrator, shall share the responsibility for training staff. The facility administrator or designee shall maintain a system to document compliance with the training requirement.

## 377:3-1-25. Abuse, neglect, and caretaker misconduct of a child in OJA custody and placed in a secure facility or other facility operated by or through contract with OJA [AMENDED]

(a) **Requirements for reporting incidents of abuse and neglect.** ~~Section 1-2-101 of Title 10A of the Oklahoma Statutes, O.S., § 1-2-101~~ requires every person who, in good faith ~~and~~ exercising due care, has reason to believe that a child under the age of eighteen (18) is a victim of abuse or neglect to report the condition or incident to the appropriate office for investigation through the DHS statewide centralized hotline. For purposes of the reporting requirements for this subchapter, abuse is defined in ~~Title 10A O.S.; § 1-1-105~~, and shall include sexual harassment. An employee who, in good faith and exercising due care, has reason to believe that a child is a victim of abuse or neglect shall make an immediate, verbal or email report, as required by 10A O.S.; § 1-2-101 and to ~~the~~ ~~their~~ supervisor who shall ensure a report is made to the OJA Office of Advocate General, or as required by 10A O.S.; § 1-2-102 to the DHS hotline, when:

(1) the employee has reason to believe ~~as~~ ~~such~~ child has been the victim of abuse or neglect;

(2) a child, parent, guardian, or other person makes an allegation of abuse or neglect ~~of such child~~.

(b) **Use of restraints and use of physical force.** Abuse and neglect ~~does not~~ include the use of restraints or ~~physical use of force~~ as authorized by law; ~~or~~ allowed by regulation or policy, and performed in such a manner as to be deemed acceptable by approved systems of restraint. Approved systems of restraints include ~~including~~, but ~~are not~~ limited to, MANDT, CPI, CAPE, or CCMS. Medical attention shall be provided immediately upon the juvenile's release from restraint ~~as a result of physical force~~ even if there is no visible evidence or complaint of injury. Medical attention shall be provided in an institution by a licensed physician, licensed practical nurse, registered nurse, physician's assistant, or emergency medical technician; or in a group-home or private facility, staff certified in first aid and CPR may provide medical attention and are responsible for referring the juvenile to licensed medical personnel, if warranted.

(c) Within 24-hours of a ~~When a~~ reportable situation, ~~arises and within 24-hours~~, each staff member, resident, or other person present during the incident shall prepare and submit to the facility administrator or designee, a written incident report describing what the person saw or heard. The facility administrator, shall ensure a preliminary assessment is conducted to:

(1) assure the safety of any juvenile named in the referral and of other juveniles in the same placement;

(2) protect the integrity of any evidence which may be relevant to the allegation, including taking photos following every restraint or ~~act of physical restraint~~ use of force; and,

(3) coordinate activities with OCA and any law enforcement authority involved in investigating the allegation.

(d) The facility administrator shall collect medical records, other documents, ~~and reports that~~ ~~which~~ pertain to the alleged incident, written statements, and any other documentary evidence and place them in a holding file for investigative use by the appropriate investigative authority.

(e) **Caretaker misconduct in OJA secure facilities.** Every employee in an OJA secure facility shall report allegations of caretaker misconduct to the OJA ~~AG Advocate General~~ for investigation and disposition. ~~The AG shall develop a~~ The system for investigation and disposition of such investigation ~~shall be developed by the Advocate General~~ in cooperation with the Executive Director and shall be approved by the Board of Juvenile Affairs. The ~~AG Advocate General~~ shall determine whether the allegation involves caretaker misconduct.

(f) **Caretaker misconduct in facilities other than OJA secure facilities.** Every employee of a facility, other than an OJA secure facility, operated by or through a contract with OJA shall report allegations of caretaker misconduct in accordance with OAC 310:678-3-2 ~~DHS Rule 340:2-3-33~~.

(g) **Educational employees.** If the alleged abuse, neglect, or caretaker misconduct involves an employee of a school district ~~that which~~ provides ~~contract~~ educational services to OJA or an OJA-contracted group home, either as a witness or as an accused caretaker, the facility administrator shall notify the ~~principal of the school~~ principal of the nature of the allegation; and name of the assigned investigator. The principal shall advise the employee accordingly ~~then be responsible for advising the employee accordingly~~ and coordinate ~~coordinating~~ with the appropriate investigative authority.

(h) **Protection or medical treatment.** In the event of alleged abuse, neglect, or caretaker misconduct in a facility, the facility administrator or designee shall assure the protection of the juvenile and obtain medical attention for the juvenile.

(i) **Failure to report.** Any employee who fails to report abuse, neglect, or caretaker misconduct, as required by this Section, is subject to disciplinary action ~~under OJA's personnel rules~~. If it is determined the employee failed to report as required, the ~~Advocate General of OJA~~ AG shall make a referral to the appropriate law enforcement agency as provided by ~~in Title~~ 10A O.S.; § 1-2-101.

(j) **Interference prohibition.** Any employee who interferes with an abuse, neglect, or caretaker misconduct investigation; or attempts to intimidate or harass a witness, victim, or employee accused of alleged abuse, neglect, or caretaker misconduct through force or fear; or by threatening physical or mental harm to a witness, victim or others, is subject to disciplinary action under OJA's personnel policy and could be subject to criminal prosecution.

(k) **Contract termination.** A contractor's contract shall be subject to immediate termination for failure to adhere to this subchapter or knowingly allowing an employee to:

- (1) interfere with an abuse, neglect, or caretaker misconduct investigation;
- (2) interfere or retaliate against any employee for reporting or cooperating in such investigation; or
- (3) deny the assigned investigator immediate and direct access to the contractor's employees, facilities, clients, places, or records of any type.

(l) **Retaliation.** The agency shall ensure the protection of both staff and juveniles who report sexual abuse or sexual harassment or for cooperating in sexual abuse or sexual harassment investigations from retaliation.

### **377:3-1-26. Advocate General procedures during an abuse, neglect, or caretaker misconduct investigation for other than OJA secure institutions [AMENDED]**

(a) Upon receiving a screened-out report from OCA or DHS concerning an investigation of abuse, neglect, or caretaker misconduct, the ~~AG Advocate General~~ shall send a copy of the report to the facility administrator and notify the appropriate OJA staff. ~~Executive Director or appropriate Division Director~~. If a facility administrator is named as an accused caretaker in the allegation, the report shall be forwarded to the facility owner, the Chair of the facility's Board of Directors ~~of the facility~~ or to the Director of the state agency operating the facility.

(b) If OCA confirms findings of abuse, neglect, or caretaker misconduct, the Advocate General shall request appropriate corrective action within 21 days of the ~~AG's Advocate General's~~ receipt of OCA's report.

(c) ~~Even if abuse, neglect, or caretaker misconduct is not confirmed by OCA, the~~ The AG Advocate General may recommend appropriate measures to the Executive Director ~~appropriate measures~~ to address systemic or individual concerns raised during the course of the OCA investigation.

(d) Upon receipt of OCA's report, the facility administrator, OJA administration, or ~~AG Advocate General~~ on behalf of a juvenile who is the subject of the report may request that the ~~DHS~~ Grievance Abuse Review Committee (GARC) review its findings and return a different result.

(e) OCA investigative reports, records, files, and audio tapes are considered confidential under ~~Title~~ 10A O.S.; § 1-6-102. See OAC 310:678-7-1.

### **377:3-1-27. OJA grievance policy [AMENDED]**

(a) It is OJA's intent to establish and maintain a fair, simple, and speedy system for the resolution of grievances of all OJA-custody juveniles. The grievance policy and procedure is designed to provide an OJA-custody juvenile with a way to have another person review and, when appropriate, correct problems the juvenile is having. Any grievance regarding allegations of abuse, including sexual abuse and sexual harassment, or neglect, shall be forwarded to the DHS hotline.

(b) A juvenile, or another person on behalf of a juvenile, may file a grievance regarding:

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- (1) the conditions of confinement, action of staff, and incidents occurring within or under the authority and control of OJA, and the Office of Juvenile Affairs.
- (2) any decision, behavior, or action by an OJA employee or contractor, or by another juvenile in OJA custody. ~~Any grievance regarding allegations of abuse, including sexual abuse and sexual harassment, or neglect, shall be forwarded to the DHS hotline.~~
- (c) ~~A grievance may be filed by either a juvenile or by another person on behalf of the juvenile.~~ The juvenile or person filing on behalf of the juvenile shall try to resolve the grievance informally at the local level before he or she submits a formal appeal. The procedures for informally resolving grievances ~~with JSU and in institutions and contract facilities~~ are set forth in OAC 377:3-1-28. If a resolution cannot be achieved through the informal process, the juvenile has the right to appeal.
- (d) Staff members shall not in any way discourage any juvenile from filing a grievance or appealing a grievance resolution. The rules in this Section shall not be construed to ~~impinge upon~~ hinder the duties of the Advocate General, Advocate Defender, grievance coordinator, or any designee ~~thereof~~ from fairly and accurately advising a juvenile of his or her rights or alternative means of dispute resolution.
- (e) OJA ensures the quality of the system by maintaining minimum ~~a~~ system of standards and by using an ongoing monitoring program carried out by the Office of Advocate General in conjunction with other OJA Divisions.
- (f) Each OJA and contracted facility shall make its grievance policies and procedures available upon request to any member of the public.
- (g) Each OJA and contracted facility shall post its grievance policies in conspicuous places readily accessible to the juveniles in residence.
- (h) Each OJA and contracted facility shall explain OJA grievance policies and procedures to every resident during intake at the facility.
- (i) Every effort should be made to utilize the correct form, but all grievances must be processed regardless of the form used by the juvenile.
- (j) The secure facility shall permit a juvenile to report sexual abuse or sexual harassment to DHS via the hotline.

## 377:3-1-28. General Grievance Procedure [AMENDED]

### (a) Informal grievances.

- (1) Informal grievances are issues relating to daily life at the juvenile's placement, which can be resolved at the facility or local level. Informal grievances include, but are not limited to:
  - (A) grooming and hygiene;
  - (B) clothing;
  - (C) facility ~~cottage~~ cleanliness;
  - (D) food;
  - (E) disrespect not involving threats of harm;
  - (F) restrictions; or
  - (G) routine problems with the JSU, ~~i.e.,~~ for example complaints against a JSU worker.
- (2) A juvenile shall try to informally resolve his or her grievance by talking with the Advocate Defender, supervising employee, or other appropriate staff, excluding a staff member who is the subject of the grievance, within three (3) working days, excluding weekends and holidays, of the incident. If the issue is not resolved the juvenile may submit in writing a brief description of the problem and what efforts have been made to resolve the issue within (7) seven working days, excluding weekend and holidays, of the incident. The grievance should include the name of the person or group with whom the juvenile wants to meet to discuss the problem. The juvenile may put the written information in a designated grievance box or give the grievance to any staff member.
- (3) The grievance must be numbered and logged in a grievance log on the day the grievance is received and distributed to the appropriate staff, excluding a staff member who is the subject of the grievance, for processing and possible resolution.
- (4) The assigned staff shall review each grievance and attempt to resolve the grievance with the juvenile.
- (5) If the grievance is not resolved within (5) five working days (excluding weekends and holidays), the juvenile may seek review by the supervisor.
- (6) The supervisor shall have (10) ten working days (excluding weekends and holidays) from receipt of the review to resolve the grievance.
- (7) If the juvenile does not accept the resolution of the supervisory review, he/she may file a formal grievance, which shall be received within 5 working days (excluding weekends and holidays) from the receipt of the review.



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(8) The grievance log must also indicate the disposition of the grievance and the date of the resolution or the review. OJA Form OJA-AG-2 may be used to facilitate the grievance resolution process.

**(b) Formal Grievances.**

(1) Formal grievances are those grievances, which are appeals of informal grievances or those which cannot otherwise be resolved at the facility or local level. Issues which cannot be resolved at the facility or local level include, but are not limited to:

- (A) placement;
- (B) treatment;
- (C) psychological services;
- (D) social services;
- (E) educational services;
- (F) recreation; or
- (G) abuse, neglect, or caretaker misconduct.

(2) Grievances which contain allegations of abuse, neglect, or caretaker misconduct shall be processed in accordance with 377:3-1-25 and 377:3-1-26.

(3) Formal grievances may be filed with any staff member, excluding a staff member who is the subject of the grievance, but shall be routed to the Advocate General for appropriate distribution and resolution by OJA State Office as set forth in paragraph (c) of this section. Form OJA-AG-3 may be used to facilitate the formal grievance process.

**(c) Emergency Grievances.** Any situation where the juvenile believes that he or she is subject to substantial risk of imminent sexual abuse, may file a grievance as an emergency grievance. Immediately upon the discovery that an emergency grievance has been filed, the emergency grievance shall be forwarded to the superintendent or designee, who may take corrective action within 48 hours.

**(d) Grievances received by Advocate General.** Upon receipt of an appeal of an informal grievance or formal grievance, the Advocate General's Office shall post the date of receipt. The Advocate General shall review the grievance and the accompanying documentation to determine what additional information is necessary for disposition of the grievance within five (5) working days and set deadlines for receipt of required information. If the Advocate General finds that an appeal or formal grievance was prematurely filed, the Advocate General shall send a reply containing suggestions regarding the proper procedure to the person that sent the grievance. The Advocate General shall review the applicable OJA rules, policy, and/or Oklahoma law to determine if the appeal or formal grievance is appropriate and provide an opinion regarding possible resolution.

**(e) Appeal to the Division Director/final decision.** The Advocate General shall prepare a cover worksheet or memorandum for the appeal or formal grievance and forward a copy to the Division Director/designee for response. The response shall be completed within ten (10) working days (extension may be granted by the Advocate General where a formal, legal opinion or policy decision is necessary). Upon receipt of the proposed resolution, the Advocate General shall forward a copy to the juvenile and/or to other appropriate person named in the grievance and to the appropriate advocate defender or grievance coordinator. A copy of the resolution shall be inserted in the juvenile's master file. Resolutions, which will change or create OJA rules, are submitted to the appropriate division responsible for drafting new or revised rules. The Advocate General shall ensure that resolutions containing directives for specific action are completed.

**(f) Board notification.** All matters referred to the Division Director for final decision may be placed on the agenda for the next, regularly scheduled meeting of the Board of Juvenile Affairs upon authorization of the Executive Director. If the Executive Director denies the request the OJA Board shall be informed. The Executive Director shall review any such grievance with the Board during Executive Session. At that time, the Advocate General will be allowed to voice concerns, the wishes of the juvenile, or such other matters as are relevant to the Board's understanding of the issues presented in the appeal.

**(g) Review by juvenile.** The grievance coordinator, Advocate Defender, or Advocate General (whoever filed the last grievance), shall review the Division Director's resolution with the juvenile and notify the juvenile that his or her administrative remedies have been exhausted. If the juvenile does not accept the resolution, a copy of the grievance, appeals, and proposed resolutions shall be forwarded to the Office of Juvenile Systems Oversight.

**(h) Grievances originated by the Advocate General.** The Advocate General may, on behalf of all or part of the juveniles committed to OJA, originate a grievance at the State Office level concerning:

(1) the substance or application of any written or unwritten policy, rule, or regulation of:

- (A) OJA;
- (B) an agent of OJA; or
- (C) an OJA contractor; or

(2) any decision, behavior, or action of

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- (A) an OJA employee;
- (B) an agent of OJA;
- (C) an OJA contractor; or
- (D) any other person committed to OJA.

(i) The Advocate General may write the grievance by way of a detailed memorandum.

(h)(j) The appropriate Division Director and Advocate General may determine there is misuse of the grievance process.

Types of misuse; include, but are not limited to:

- (1) Grievances intended to harass another;
- (2) The continual and repeated submitting of frivolous grievances (frivolous grievances are those with no basis in fact or law);
- (3) The repeated submitting of grievances about an issue, which has been adequately and completely addressed by staff.
- (4) If misuse of the process is determined, the juvenile will be notified in writing, which shall include the above-listed reason(s) citing the above listed reason or reasons the grievance will not be processed through the grievance procedure. ~~A copy~~ Copies of the determination ~~will~~ must be placed in the juvenile's offender's field file, and Advocate General's ~~and Advocate Defender's file~~. ~~The agency may discipline a resident for filing a grievance related to alleged sexual abuse only where the agency demonstrates that the resident filed the grievance in bad faith.~~

(i)(k) Non-grievable issues include;

- (1) any appeals finalized and resolved by the disciplinary hearing process shall not be processed through the grievance process, or
- (2) Requests for disciplinary action against staff.

(j)(t) At any level of the administrative process, including the final level, if the juvenile does not receive a response within the time allotted for reply, including any properly noticed extension, the juvenile may consider the absence of a response to be a denial at that level.

## 377:3-1-31. Monitoring and evaluation [AMENDED]

The purpose of this section is to describe the process by which the Advocate General monitors and evaluates group home and institutional grievance systems.

- (1) The grievance coordinator or advocate defender may request a personal visit with the Advocate General as needed on an as-needed basis.
- (2) If the grievance coordinator or advocate defender becomes aware of any program deficiencies or service program omissions ~~that which~~ result in individual group home or community-based problems, the grievance coordinator or advocate defender shall write a special report to the ~~Office of the~~ Advocate General about the program deficiencies or omissions. The grievance coordinator or advocate defender shall write the special report even when a grievance has not been filed. The grievance coordinator or advocate defender shall send copies of the report to the group home supervisor and the affected Division Director. ~~The grievance coordinator or advocate defender shall maintain the master grievance log and grievance files and shall report grievance statistical information to the Office of Advocate General monthly.~~
- (3) The grievance coordinator or advocate defender shall maintain the master grievance log and grievance files and shall report grievance statistical information to the Office of Advocate General monthly.

## 377:3-1-32. Notice to the Executive Director [REVOKED]

~~—— The Advocate General shall notify keep the Executive Director timely and closely advised of any action taken by or initiated at the request of the Advocate General. The Advocate General shall forward copies of all reports, memoranda, or correspondence to the Executive Director which is originated by or at the request of the Advocate General. The Advocate General shall also meet with the Executive Director when necessary to brief for the purpose of briefing the Executive Director regarding concerns, issues, or observations noted by the Advocate General in the performance of his or her duties.~~

## 377:3-1-33. Coordination with other OJA divisions [REVOKED]

~~—— In carrying out his or her duties, the Advocate General shall coordinate his or her activities with the Agency divisions by:~~

- (1) gathering information and observations needed for oversight activity;
- (2) producing and distributing reports documenting findings of visits including identifying areas of noncompliance; and

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~~(3) communicating and coordinating to improve planning, programs, and policy based upon information and findings resulting from monitoring activities;~~

## **377:3-1-34. Coordination with other monitoring entities [REVOKED]**

~~(a) The Advocate General shall coordinate with the Department of Human Services' Office of Client Advocacy, the Oklahoma Commission on Children and Youth's Office of Juvenile System Oversight, or such other government entities which possesses overlapping or concurrent jurisdiction of OJA juveniles or placements, in conducting the Advocate General's activities. The Advocate General shall perform the following functions with these entities:~~

- ~~(1) communicate and coordinate, whenever possible, the scheduling of on-site visits to programs and facilities to control disruptions of operations by monitoring entities;~~
- ~~(2) compare and consolidate program information and data needed to minimize duplicate requests;~~
- ~~(3) provide copies of Advocate General reports or grievances when requested;~~
- ~~(4) meet with staff to discuss issues that are of common concern to all offices; and~~
- ~~(5) receive reports from said agencies which raise issues of concern affecting OJA juveniles or policy.~~

~~(b) Title 21 O.S., § 870 requires every person having reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children to make an immediate report to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control. An employee who, in good faith and exercising due care, has reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children shall make an immediate report, as required by 21 O.S., § 870 and to the OJA Office of Advocate General when:~~

- ~~(1) the employee has reason to believe that such crime has been committed; or~~
- ~~(2) a child, parent, guardian, or other person makes an allegation of such crime.~~

## **377:3-1-35. Conflict of interest [REVOKED]**

~~—— If the Advocate General determines that a conflict of interest may affect his or her ability to proceed in a certain matter, he or she shall immediately refer the case to the Executive Director for appropriate action which may include referral to the Advocate General of the Department of Human Services.~~

## **377:3-1-36. Mandatory annual review of rules [REVOKED]**

~~—— Rules for the Office of the Advocate General shall be reviewed annually by the Advocate General and appropriate staff. The Advocate General shall present recommendations for approval of any rule modification, amendment, or deletion to Board of Juvenile Affairs no later than the December Board meeting of each successive year.~~

*[OAR Docket #25-524; filed 6-6-25]*

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## **TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES**

*[OAR Docket #25-525]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 3. Office of General Counsel Services [REVOKED]

Part 1. GENERAL PROVISIONS [REVOKED]

377:3-3-1. Purpose [REVOKED]

377:3-3-2. Legal base [REVOKED]

377:3-3-3. Duties and responsibilities [REVOKED]

Subchapter 5. Office of Human Resources Management [REVOKED]

Part 1. OVERVIEW OF THE OFFICE OF HUMAN RESOURCES MANAGEMENT [REVOKED]

377:3-5-1. Purpose [REVOKED]

377:3-5-2. Duties & Responsibilities of the office of Human Resources Management [REVOKED]

Part 3. OFFICE OF HUMAN RESOURCES MANAGEMENT- PERSONNEL PROGRAMS [REVOKED]

377:3-5-12. The Office Of Juvenile Affairs promotional plan [REVOKED]

### **AUTHORITY:**

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The Board of Juvenile Affairs, pursuant to 10A O.S. §§ 2-7-101(F)(2) and 2-7-101(G)(1), and 75 O.S. § 302(A)(1).

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 25, 2024

## **COMMENT PERIOD:**

December 17, 2024 through January 15, 2025

## **PUBLIC HEARING:**

January 17, 2025

## **ADOPTION:**

January 29, 2025

## **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 31, 2025

## **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by House Joint Resolution 1034

## **LEGISLATIVE DISAPPROVAL:**

N/A

## **APPROVED BY GOVERNORS DECLARATION:**

N/A

## **FINAL ADOPTION:**

May 28, 2025

## **EFFECTIVE:**

August 1, 2025

## **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 were created, amended, or revoked as part of the agency review completed under Executive Order 2020-03.

## **CONTACT PERSON:**

Audrey Rockwell, Executive Assistant, (405) 530-2806, [audrey.rockwell@oja.ok.gov](mailto:audrey.rockwell@oja.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 1, 2025:**

### **SUBCHAPTER 3. OFFICE OF GENERAL COUNSEL SERVICES [REVOKED]**

#### **PART 1. GENERAL PROVISIONS [REVOKED]**

##### **377:3-3-1. Purpose [REVOKED]**

~~The purpose of this Subchapter is to describe the functions and responsibilities of the Office of General Counsel Services.~~

##### **377:3-3-2. Legal base [REVOKED]**

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The statutory authorization for the Office of General Counsel Services is found in 10A O.S., § 2-7-201(D).

## 377:3-3-3. Duties and responsibilities [REVOKED]

The Office of General Counsel Services provides legal services to the Office of Juvenile Affairs (OJA), and members of the Board of Juvenile Affairs acting in the scope of their official capacities, the Executive Director of the Office of Juvenile Affairs (OJA), the Chief of Staff of OJA, and all other OJA employees acting in the course or scope of their employment.

## SUBCHAPTER 5. OFFICE OF HUMAN RESOURCES MANAGEMENT [REVOKED]

### PART 1. OVERVIEW OF THE OFFICE OF HUMAN RESOURCES MANAGEMENT [REVOKED]

#### 377:3-5-1. Purpose [REVOKED]

(a) The purpose of this subchapter is to set forth the rules governing the operation of the Office of Human Resources Management. The rules in this Chapter are authorized by the authority of the Office of Juvenile Affairs as set forth in Title 10A O.S., § 2-7-101(I) (2), Oklahoma Personnel Act, 74 O.S., § 840-1.1 et seq., and Oklahoma State Merit Rules.

(b) The purpose of the Office of Human Resources Management (OHRM) is to provide comprehensive human resource management and development programs which support the achievement of the agency's mission, values, and goals. The Office of Human Resources Management programs focus on recruiting, retaining, and developing qualified agency staff.

#### 377:3-5-2. Duties & Responsibilities of the office of Human Resources Management [REVOKED]

Office of Human Resources Management shall insure that OJA follows all State and Federal Laws governing Human Resources Management of State Agencies. OHRM shall follow all rules as outlined by Title 74 O.S. § 840-1.1 et seq. Oklahoma Personnel Act; Oklahoma Administrative Code Title 455 Merit Protection Commission, Chapter 10; and Title 530 Office of Personnel Management, Chapter 10.

### PART 3. OFFICE OF HUMAN RESOURCES MANAGEMENT- PERSONNEL PROGRAMS [REVOKED]

#### 377:3-5-12. The Office Of Juvenile Affairs promotional plan [REVOKED]

(a) **Promotional policy.** The Office of Personnel Management (OPM) requires that each state agency shall post vacancies in a particular job family in accordance with a promotional plan filed by the agency with OPM (530:10-11-51). The Office of Juvenile Affairs (OJA) shall follow this plan when posting and filling classified positions. The OJA promotional plan is designed to provide employees with opportunities for career growth and advancement. No person shall be discriminated against because of race, sex, age, color, creed, religion, political affiliation, national origin, or disability [74 O.S. §840-2.9(A)].

(b) **Posting decision.** The Executive Director or designee shall make the decision to fill a vacancy, whether classified or unclassified, and post a notice. When continuous, multiple vacancies are anticipated, general promotional opportunities may be posted. [74 O.S. §840- 4.15(B)].

(c) **Agency Selection Process.** The Office of Juvenile Affairs shall conduct the selection process of applicants in accordance with (OPM) requirements, state and federal laws. Applicants may be required to participate in other selection and assessment procedures.

(1) A personal background investigation shall be conducted, which may include civilian and military court records. Background investigations will be conducted in compliance with Title 10 O.S. §404.1A.

(2) Applicant drug testing may be required in accordance with 377:3-11-1 through 377:3-11-12.

[OAR Docket #25-525; filed 6-6-25]

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## TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #25-526]

### RULEMAKING ACTION:

# Permanent Final Adoptions

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PERMANENT final adoption

## **RULES:**

Subchapter 7. Finance Department

377:3-7-1. Legal basis and purpose [AMENDED]

377:3-7-2. Purpose [REVOKED]

377:3-7-3. Regulatory authority [REVOKED]

377:3-7-4. OJA financial system [REVOKED]

Subchapter 9. Office of Policy

Part 7. POLICY AND ACCREDITATION

377:3-9-40. Legal basis [AMENDED]

377:3-9-41. Purpose [REVOKED]

377:3-9-42. Public hearings [REVOKED]

377:3-9-43. Availability of OJA rules, policies, and procedures [AMENDED]

377:3-9-44. Petitions for the promulgation, amendment, or repeal of rules [AMENDED]

## **AUTHORITY:**

The Board of Juvenile Affairs, pursuant to 10A O.S. §§ 2-7-101(F)(2) and 2-7-101(G)(1), and 75 O.S. § 302(A)(1).

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 25, 2024

## **COMMENT PERIOD:**

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January 31, 2025

## **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by House Joint Resolution 1034

## **LEGISLATIVE DISAPPROVAL:**

N/A

## **APPROVED BY GOVERNORS DECLARATION:**

N/A

## **FINAL ADOPTION:**

May 28, 2025

## **EFFECTIVE:**

August 1, 2025

## **SUPERSEDED EMERGENCY ACTIONS:**

## **SUPERSEDED RULES:**

N/A

## **GUBERNATORIAL APPROVAL:**

N/A

## **REGISTER PUBLICATION:**

N/A

## **DOCKET NUMBER:**

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## **INCORPORATIONS BY REFERENCE:**

## **INCORPORATED STANDARDS:**

N/A

## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

The proposed rules were created, amended, or revoked as part of the agency review completed under Executive Order 2020-03.

## **CONTACT PERSON:**

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# Permanent Final Adoptions

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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 1, 2025:**

## SUBCHAPTER 7. FINANCE DEPARTMENT

### 377:3-7-1. Legal basis and purpose [AMENDED]

(a) The Office of Juvenile Affairs (OJA) Finance Division is designated by OJA to conduct OJA's financial matters. ~~OJA shall follow:~~

(b) ~~Section 2-7-304 of Title 10A of the Oklahoma Statutes, O.S., § 2-7-304, authorizes the OJA to enter into financial agreements with governmental entities or private agencies for juvenile delinquency prevention and treatment programs.~~

(c) The purpose of this subchapter is to set forth rules for the OJA Office of Juvenile Affairs' (OJA) Finance Division.

(1) The OJA Finance Division shall properly manage the OJA annual budgeting process and account for OJA funds and other assets, including facilities and materials, in accordance with state laws and procedures.

(2) The OJA Finance Division shall manage the OJA budgeting process.

### 377:3-7-2. Purpose [REVOKED]

~~— The purpose of this subchapter is to set forth rules for the Office of Juvenile Affairs' (OJA) Finance Division:~~

~~(1) The OJA Finance Division shall properly manage the OJA annual budgeting process and account for OJA funds and other assets, including facilities and materials, in accordance with state laws and procedures.~~

~~(2) The OJA Finance Division shall manage the OJA budgeting process.~~

### 377:3-7-3. Regulatory authority [REVOKED]

~~— The Office of Juvenile Affairs shall follow:~~

~~(1) Oklahoma state statutes;~~

~~(2) procedures of the Office of Management and Enterprise Services;~~

~~(3) procedures of the Office of State Treasurer;~~

~~(4) procedures from federal grantor agencies; and~~

~~(5) generally accepted accounting principles.~~

### 377:3-7-4. OJA financial system [REVOKED]

~~— The financial system established and maintained by the Office of Juvenile Affairs shall comply with state statutes and guidelines or requirements established by the Office of Management and Enterprise Services, State Treasurer, State Auditor and Inspector, and federal grantor agencies. Changes to OJA procedures related to financial matters shall be provided to the Finance Subcommittee of the Board of Juvenile Affairs for review, and then subsequently to the full Board of Juvenile Affairs.~~

## SUBCHAPTER 9. OFFICE OF POLICY

### PART 7. POLICY AND ACCREDITATION

### 377:3-9-40. Legal basis [AMENDED]

The Board of Juvenile Affairs, pursuant to 10A O.S. § 2-7-101(F)(2), shall be the rulemaking body for OJA. OJA shall follow the rulemaking requirements in accordance with ~~pursuant to~~ the Oklahoma Administrative Procedures Act (APA); See Title 75 O.S. § 250 et seq. The General Counsel, designee, manages OJA's rules and procedures; serving as a link between the program, administrative, and legal functions of OJA and OJA's rules and policies. Public hearings will be held in accordance with 75 O.S. § 303(C).

### 377:3-9-41. Purpose [REVOKED]

~~— The General Counsel, designee, manages OJA's rules and procedures; serving as a link between the program, administrative, and legal functions of OJA and OJA's rules and policies.~~

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## 377:3-9-42. Public hearings [REVOKED]

~~Public hearings will be held in accordance with 75 O.S. § 303(C).~~

## 377:3-9-43. Availability of OJA rules, policies, and procedures [AMENDED]

In accordance with the Open Records Act, 51 O.S. § 24A.1 *et seq.*, all OJA rules, policies, and procedures are available upon request. Requests should be submitted ~~by letter to the Office of Juvenile Affairs, Attention: General Counsel, 3812 North Santa Fe Avenue, Suite 400, Oklahoma City, OK 73118, by telephone call 405-530-2800 and ask to speak with the General Counsel, or via email at records@oja.ok.gov.~~

## 377:3-9-44. Petitions for the promulgation, amendment, or repeal of rules [AMENDED]

(a) **Submission.** Any person may petition OJA requesting the promulgation, amendment, or repeal of a rule. The person making the request shall submit via email to records@oja.ok.gov ~~a petition to the Office of Juvenile Affairs, by mailing or delivering the petition to the Office of Juvenile Affairs, Attention: General Counsel, 3812 North Santa Fe Avenue, Suite 400, Oklahoma City, OK 73118. A petition mailed to OJA is considered submitted upon receipt by the General Counsel. A designated staff member shall stamp the petition upon receipt to show the date of submission.~~

(b) **Form.** The petitioner shall submit the petition in the form given in paragraphs 1 - 5 below.

(1) The petition must contain a clear statement of the action requested and the solution desired as a result of the request.

(2) When the petition seeks to amend or repeal an existing rule, the existing rule must be identified in the petition in the following format OAC Title:Chapter-Subchapter-Part. If the petition is submitted electronically, please hyperlink the current rule in the petition. If the petition is submitted via mail, please include a copy of the current rule.

(3) The petition must contain a statement of the facts supporting the requested rule or rule change, including any legal grounds, if known, and other relevant information or views on which the petitioner relies. A copy of any reference or source cited in the statement must be submitted or hyperlinked with the petition unless the reference or source is readily available to OJA. When a petition requests more than one rule change, a single statement ~~that~~which supports and justifies each proposed change meets the requirements of this subsection.

(4) The petition must describe, if known, who most likely will be affected by the proposed change.

(5) The petition must ~~be signed by the petitioner or his/her authorized representative,~~ and contain the printed name, address, email, and day-time telephone number of the petitioner or his/her authorized representative.

(6) A petitioner may supplement or revise a petition at any time ~~before~~prior to approval by the Executive Director or submission of the proposed change to the Board. However, if significant changes are made, the petitioner should withdraw ~~the petition~~ and submit a revised petition.

(c) **Notification of receipt.** The General Counsel, or designee, shall notify~~send~~ the petitioner ~~notification~~ of receipt of the petition within five (5) working days after receipt.

(d) **Consideration and disposition.** In accordance with 75 O.S. § 305, if rulemaking action has not occurred by the 30th day after receipt of the petition, the petition shall be deemed denied. Within fourteen (14) calendar days after the submission of the petition, the General Counsel, or designee, shall review the request and recommend the Executive Director:

(1) approve the petition for Board action;

(2) deny the petition, in whole or in part, on any of the following grounds:

(A) the petition requests promulgation of a rule that OJA clearly lacks authority to promulgate;

(B) the petition requests a rule or rule change inconsistent with any applicable statutory or constitutional authority;

(C) the petition requests promulgation, amendment, or repeal of an OJA policy that does not constitute a rule as defined in the Oklahoma Administrative Procedures Act;

(D) the petition is frivolous and not pursued in good faith; or

(E) the petition is not feasible, taking into consideration available and anticipated agency resources for the category of the subject matter of the proposed change and the public policy or other grounds supporting the proposed change; or

(F) for other just cause; or

(3) request additional material from the petitioner.

(e) **Executive Director responsibilities.** The Executive Director, or designee, shall send the recommendation and other pertinent material to each member of the Board within two (2) calendar days of decision.



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(1) If the next regularly scheduled Board meeting falls within twenty (20) calendar days of receipt of the petition, the Executive Director, or designee, shall ensure that the petition is placed as an action item on the agenda of the Board's next regularly scheduled meeting.

(2) If the next regularly scheduled Board meeting does not fall within thirty (30) calendar days of receipt of the petition, the Executive Director, or designee, shall notify the Board. The Board may choose to call a Special meeting, in accordance with OAC 377:1-1-5(b) within the thirty (30) day time period to consider the petition.

(f) **Responsibilities of the Board of Juvenile Affairs.** The Board shall decide whether to approve or deny the petition.

(g) **Notification of approval or denial of petition.** The General Counsel, or designee, shall notify the petitioner of the decision to approve or deny the petition within thirty (30) days of receipt of the petition.

(h) **Rulemaking process.** If the Board approves the petition, the General Counsel, or designee, shall initiate OJA's rulemaking process.

(i) **Notice to petitioner.** If the petitioner does not attend the Board meeting in which the vote on the rule revision is made, the General Counsel, or designee, shall provide written notice within five (5) working days after the Board's meeting of the Board's decision.

*[OAR Docket #25-526; filed 6-6-25]*

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## TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

*[OAR Docket #25-527]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 13. Office of Public Integrity

Part 1. GENERAL PROVISIONS

377:3-13-1. General purpose, legal basis, and authority [AMENDED]

377:3-13-2. Internal affairs investigations [AMENDED]

Part 3. REQUIREMENTS FOR SECURE JUVENILE DETENTION CENTERS

377:3-13-43. Staff requirements [AMENDED]

377:3-13-44. Security and control [AMENDED]

Part 7. REQUIREMENTS FOR COMMUNITY INTERVENTION CENTERS (CIC)

377:3-13-88. Personnel [AMENDED]

Part 11. REQUIREMENTS FOR SECURE ~~JUVENILE DETENTION CENTERS~~ CARE [AMENDED]

377:3-13-123. Provisional certification [REVOKED]

377:3-13-144. Security and control [AMENDED]

### **AUTHORITY:**

The Board of Juvenile Affairs, pursuant to 10A O.S. §§ 2-7-101(F)(2) and 2-7-101(G)(1), and 75 O.S. § 302(A)(1).

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 25, 2024

### **COMMENT PERIOD:**

December 17, 2024 through January 15, 2025

### **PUBLIC HEARING:**

January 17, 2025

### **ADOPTION:**

January 29, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 31, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by House Joint Resolution 1034

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

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**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

August 1, 2025

**SUPERSEDED EMERGENCY ACTIONS:****SUPERSEDED RULES:**

377:3-13-43. Staff requirements

**GOVERNATORIAL APPROVAL:**

March 13, 2024

**REGISTER PUBLICATION:**

41 Ok Reg 676

**DOCKET NUMBER:**

24-535

**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed rules were created, amended, or revoked as part of the agency review completed under Executive Order 2020-03. Additionally, qualifications for hiring directors were amended to address ongoing issues with hiring and retaining staff. The proposed amendments remove unnecessary burdens on the hiring and retention abilities of juvenile facilities licensed by the Office of Juvenile Affairs.

**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 1, 2025:**

## SUBCHAPTER 13. OFFICE OF PUBLIC INTEGRITY

### PART 1. GENERAL PROVISIONS

**377:3-13-1. General purpose, legal basis, and authority [AMENDED]**

(a) **Purpose.** ~~The Office of Public Integrity (OPI) division~~ within OJA is directly responsible, organizationally and administratively, to conduct investigations, ~~performs~~ ~~performs~~ on-site assessments; ~~and~~ licensing visits, and financially ~~monitors~~ ~~monitors~~ OJA state contracts, functions, and activities to ensure compliance with; state statutes, OJA ~~policies and procedures~~ ~~policies/procedures~~, contractual provisions, and other applicable professional rules and standards. ~~The division~~ ~~OPI~~ is composed of three ~~divisions~~ ~~sections~~: (1) ~~Internal Affairs/Employment Discrimination~~ Investigations; (2) Licensing and Programs Assessment ~~Section~~; and (3) Financial Contract ~~Monitoring and Review~~ ~~Monitoring/Reviews~~ ~~Section~~. ~~each section is under the supervision of the Executive Director, or designee.~~

(1) ~~Internal Affairs/EEO~~ Investigations division may among other activities and functions include investigations of:

(A) ~~Criminal investigations~~;

(B) ~~(A)~~ Allegations of serious misconduct and/or criminal violations committed by OJA personnel as assigned to the division by the Executive Director, ~~or designee~~;

(C) ~~(B)~~ Allegations of discrimination (Equal Employment Opportunity) either by or against OJA employees as received and assigned by the affirmative action officer, or the agency's grievance manager, Executive Director, or designee; and

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- ~~(D)(C)~~ Specifically assigned Caretaker Conduct Reviews (CCR) that are returned to the OJA-operated juvenile institutions by the Oklahoma Department of Human Services' Office of Client Advocacy (OCA) or other entity as prescribed by law for administrative review, as well as major incidents (i.e. serious assaults, riots, escapes) that occur at OJA operated institutions.
- (2) Licensing and Programs Assessment ~~division~~~~division~~ includes the licensing and/or assessing of the following:
- (A) ~~On-site licensing and unannounced monitoring visits to OJA state-contracted juvenile detention centers, community intervention centers (CIC) and municipal juvenile detention facilities. See OAC 377-3-13-6; OJA state-contracted juvenile detention centers, community intervention centers (CIC) and municipal juvenile detention facilities. See OAC 377:3-13-6;~~
  - (B) ~~Announced and unannounced assessments of contracted residential care, non-residential services and shelters as directed by the Executive Director, or designee. Contracted residential care, non-residential services, and shelters, as directed by the Executive Director or designee;~~
  - (C) ~~On-site assessments and licensing of a Secure Juvenile Facility~~Secure Juvenile Facilities;
  - ~~(D) On-site or electronic assessments of the Juvenile Services Unit (JSU) offices located throughout the state;~~
  - ~~(D)(E) Assessments of State Office units as directed by the Executive Director, or designee~~The Juvenile Services Unit (JSU); and,
  - (E) State Office units as directed by the Executive Director or designee.
- (3) Financial Contract Monitoring/Review division includes but is not limited to the financial monitoring of the following:
- (A) Secure Juvenile Facilities;
  - (B) OJA contracted detention centers and community intervention centers;
  - (C) OJA contracted residential care and shelter services as directed by the Executive Director, or designee;
  - (D) OJA contracted non-residential services provided by designated youth services agencies; by performing
    - (i) On-site contractor visits to reconcile claims against supporting documentation with a documented recommended corrective action, if appropriate;
    - (ii) Reviews of reimbursed claims for payment by OJA, to include: compliance with contract requirements; applicable laws, rules and regulations; and adequate supporting documentation.
  - (E) In addition to the above duties, the financial contract monitoring/review section shall perform in-depth financial audits as directed by the Executive Director, or designee.
- (b) **Legal Basis/Authority.** Authorization for the monitoring/assessment functions is found in 10A O.S. § 2-7-301(E)(1)
- (c). Authorization for detention certification is found in 10A O.S. § 2-3-103(C)(1). Authorization for certification of community intervention centers (CIC) is found in 10A O.S. § 2-7-305(D)(1).
- (c) **Unit Independence.** Communication and coordination with agency and contractor personnel is necessary and desirable during the investigative, assessment, and monitoring procedures.
- (d) **Frequency of Assessments/Monitoring.**
- (1) Announced certification assessments of contracted facilities, i.e. detention centers and community intervention centers, and municipal juvenile detention facilities shall occur on a bi-annual basis, with announced annual inspections during the interim year. Unannounced assessments shall occur at the direction of the division supervisor or Executive Director. ~~Announced assessments of JSU in each county of the state shall occur on a bi-annual basis and unannounced assessments as requested by the Juvenile Services Division Director with approval of the Executive Director, or designee. Program assessments~~Assessments of OJA institutions, State Office units, contracted residential care facilities, non-residential services and shelters as directed by the Executive Director, or designee.
  - (2) OJA contracts with the youth services agencies shall be monitored at a minimum of twice per fiscal year. Other contracted facilities and services, OJA institutions, JSU, and State Office units shall be monitored at the direction of the Executive Director.

## 377:3-13-2. Internal affairs investigations [AMENDED]

- (a) The ~~Internal Affairs/EEO~~ Investigations division is responsible for conducting internal investigations of agency personnel who have been accused of serious misconduct and/or criminal behavior while on or off duty. Serious misconduct is defined as any violation of laws, policies, rules, or procedures that, if proven, could result in disciplinary actions of, suspension without pay, demotion, involuntary transfer, or termination of employment. The Internal

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Affairs/EEO Investigations division investigates only those internal misconduct allegation cases that have been assigned by the OJA Executive Director, or designee.

(b) The ~~Internal Affairs/EEO~~ Investigations division is also responsible for conducting Equal Employment Opportunity (EEO) (discrimination) investigations as a result of complaints/grievances filed by OJA employees and/or clients. The Executive Director, or designee; grievance manager, or the affirmative action officer may assign EEO (discrimination) complaints or grievances to the ~~Internal Affairs/EEO~~ Investigations division for investigation.

(c) The ~~Internal Affairs/EEO~~ Investigations division shall ensure there is a minimum of one state-certified EEO investigator on its staff to investigate EEO (discrimination) complaints or grievances. The EEO (discrimination) investigator(s) shall maintain state EEO investigator certification by attending the required number of hours of annual training as mandated by OAC 260-25-3-22 and 260-25-3-26.

## PART 3. REQUIREMENTS FOR SECURE JUVENILE DETENTION CENTERS

### 377:3-13-43. Staff requirements [AMENDED]

(a) **General provisions.** The requirements for facility staff are set forth in this Section.

(1) **Personnel policy.** Every facility shall have written personnel policy which includes the maintenance of personnel records. The facility director shall make available to employees personnel policy and written job descriptions. The policy and job descriptions specify the person to whom the employee is responsible and the duties the employee is expected to perform.

(2) **Juveniles' tasks.** A juvenile in detention shall not be used as an employee. A juvenile in detention is permitted to perform tasks, if the tasks teach the juvenile responsibility and the juvenile is supervised. A juvenile shall be allowed to perform tasks (chores) in any area (restricted to the facility) in which adequate security exists. The facility administrator shall approve all work assignments.

(3) **Supervision.** Sufficient staff shall be available to provide continuous day and night supervision of the residents and protection of the facility as well as to allow staff relief from duty.

(4) **Auxiliary staff.** There shall be sufficient auxiliary staff to maintain adequate support services. Auxiliary staff are all staff that are not direct-care staff.

(5) **Health requirements.** Staff health requirements are given in (A)-(B) of this paragraph.

(A) Each person employed must be physically fit and able to perform all job functions necessary to ensure the health, safety and well-being of the juveniles in their care. A physical examination by a licensed physician may be requested should the employee's ability to perform their mandatory job functions be in question.

(B) Testing for tuberculosis is not required on a routine basis. Tuberculin skin testing shall be required when there is a local identified tuberculin exposure identified by the Oklahoma State Department of Health.

(i) When a tuberculin skin test is required, employees with a positive skin test reaction must submit documentation by medical personnel that signs or symptoms of tuberculosis are not present.

(ii) An employee who has ever had a positive skin test reaction must have or provide documentation of a chest x-ray. Additional tests or x-rays are not required unless symptoms develop that are suggestive of tuberculosis.

(6) **Background history records searches.** OJA, through direct request, shall require a records search for each applicant for employment, which shall include the following:

(A) OJA shall make a direct request for background searches to be conducted on behalf of any:

(i) operator or responsible entity making a request to establish or operate a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by OJA,

(ii) employee or applicant of a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by OJA, or

(iii) persons allowed unsupervised access to children, including contract employees or volunteers, of a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by OJA;

(B) a national criminal history records search based upon submission of fingerprints that shall be provided by the Oklahoma State Bureau of Investigation (OSBI), including Rap Back notification, and the Federal Bureau of Investigation (FBI), pursuant to National Child Protection Act, 42 U.S.C. § 5119a, and 74 O.S. § 150.9, provided both the OSBI and FBI act in their designated role;

(C) a search of the Oklahoma State Courts Network (OSCN) including Oklahoma District Court Records (ODCR);

(D) a search of the Department of Human Services (DHS) Child Care Restricted Registry, also known as Joshua's List;

(E) a search of the Department of Corrections (DOC) Sex Offender Registry;

(F) a search of the DOC Violent Offender Registry, also known as the Mary Rippey Violent Crime Offenders Registry;

(G) a search of all applicable out-of-state child abuse and neglect registries if the applicant has not lived continuously in Oklahoma for the past five (5) years;

(i) The prospective applicant is not approved without the results of the out-of-state maintained child abuse and neglect registry checks, when a registry is maintained in the applicable state;

(ii) When no child abuse and neglect registry is maintained in the applicable state, the facility shall request any information that can be provided; and

(H) a criminal history records search conducted by an authorized source, when an applicant has lived outside the United States within the last five (5) years.

**(7) Criminal history investigation.** The facility shall not employ or retain any person for whom there is documented evidence that the employee would endanger the health, safety, and/or well-being of juveniles.

(A) A facility shall not employ or retain an individual who has been:

(i) convicted of or entered a plea of guilty or nolo contendere to any felony involving:

(I) violence against a person;

(II) child abuse or neglect;

(III) possession, trafficking, manufacturing, sale or distribution of illegal drugs, or conspiracy to traffic, manufacture, sale, or distribute illegal drugs;

(IV) sexual misconduct;

(V) gross irresponsibility or disregard for the safety of others;

(VI) any crime against a child; or

(ii) in the case of child abuse and neglect, identified as a perpetrator in a juvenile court proceeding and/or has made an admission of guilt to a person authorized by state or federal laws or regulations to investigate child abuse and neglect.

(B) As to ~~the offenses identified in subsection A(i)(III) and (V)~~a simple drug possession offender, the facility may, at its own discretion, make exceptions to the prohibition of employment if five (5) years have passed from completion of the applicant's criminal sentence and the facility can document that the health, safety, and well-being of juveniles would not be endangered.

(i) The facility shall consider, document, and submit to the Licensing and Programs Assessment division within ten (10) days of the employees first day of work the:

(I) type of crime or offense for which the individual was convicted or a finding was made; and

(II) reference letters concerning the individual in question.

(ii) The Licensing and Programs Assessment division may make a recommendation to the facility administrator as to whether the applicant for employment should be approved or disapproved.

(C) If there is an allegation that a staff member has committed an act as described in OAC 377:3-13-43(a)(7)(A), the facility shall determine and document whether the staff member shall be removed from contact with juveniles until the allegation is resolved.

(D) If any person is formally charged with any of the offenses described in OAC 377:3-13-43(a)(7)(A), notification must be made to the OJA Licensing and Programs Assessment division, and the employee must be removed from contact with juveniles until the charges are resolved.

(E) No employee of the facility shall use or be under the influence of alcohol or illegal drugs during hours of work nor shall any employee use or possess illegal drugs at any time.

**(8) Personnel records.** The facility shall keep on file a written personnel record available for review for every staff person employed by the facility.

(A) The personnel record includes, but is not limited to:

(i) an application, resume or staff information sheet that documents qualifications for the position, valid driver's license or other state ID, birth certificate, applicable educational diploma;

(ii) health records as required by the facility;

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- (iii) three (3) written references and/or documentation of telephone interviews;
- (iv) any reports and notes relating to the individual's employment with the facility and an annual job performance evaluations;
- (v) dates of employment; and
- (vi) date and reason for leaving employment.

(B) When employment is involuntarily terminated, a statement regarding the reason for termination is to be included in the personnel file.

(C) Personnel records are maintained for at least three years following a staff member's separation.

(D) All employees' records are kept confidential subject to existing state and federal statutes.

(E) Staff members shall have access to their personnel files for reviewing purposes if a request is made to the facility administrator.

(9) **Staff training.** All staff shall be trained on facility policy and procedure and a training record be established for each staff member. A record of all annual training shall be maintained. At the end of the year, it shall become part of the personnel record.

(A) Each direct-care staff member shall be provided orientation before being allowed to work independently.

(B) Auxiliary staff shall receive orientation to the facility's policy and procedure and to their assigned duties.

(C) During orientation the trainer shall acquaint staff with the philosophy, organization, program practice, and goals of the secure juvenile detention facility.

(D) "Requirements for Secure Juvenile Detention Facilities" is reviewed as a part of the orientation process and is available to staff at all times.

(E) Within ninety (90) days of employment, by a detention facility, all direct-care staff shall have successfully completed a specific course of instruction in first aid as established by the Red Cross, ASHI, AHA, and presented by a certified instructor, or by a certified instructor in an equivalent professionally recognized first aid training program. There shall be a certificate or card issued to the employee and this card must be signed by the certified instructor attesting to the employee's successful completion of the professionally recognized first aid training program. The Red Cross, ASHI, AHA, or its equivalent, first aid course of instruction, presented by a certified instructor shall be updated within the employee's third year of employment and each succeeding three-year increment. The first aid training may count towards the employee's required annual training hours.

(F) Within ninety (90) days of employment by a detention facility, all direct-care staff shall be certified in have successfully completed an approved course of instruction in cardiopulmonary resuscitation (CPR) as established by the Red Cross, ASHI, AHA, or its equivalent. This training must be presented by a certified instructor, or by a certified instructor in an equivalent professionally recognized CPR training program. There shall be a certificate or card issued to the employee and this card must be signed by the certified instructor attesting to the employee's successful completion of the professionally recognized CPR training program. The Red Cross, ASHI, AHA, or its equivalent CPR course of instruction shall be presented by a certified instructor. Employees will maintain their certification, as required by the certifying entity. The CPR training may count towards the employee's required annual training hours.

(G) Full-time direct-care staff and administrators shall obtain at least 24 hours of training per employment year. Hours are prorated at two hours per month for staff who have not been employed for a full year.

(H) Part-time direct-care staff shall have training hours prorated based on the average number of hours of work per month.

(I) On-call staff shall have a minimum of six (6) hours of training per year.

(J) Support staff shall obtain a minimum of twelve (12) hours of training per employment year.

(K) The content of staff development courses for direct-care staff is relative to their roles and responsibilities. Content may include:

- (i) crisis intervention;
- (ii) child development;
- (iii) behavior management;
- (iv) discipline;
- (v) stress management;
- (vi) therapeutic relationship and intervention;

- (vii) child abuse detection, reporting and prevention;
- (viii) suicide prevention;
- (ix) human sexuality;
- (x) client grievance procedures;
- (xi) communicable diseases, including sexually transmitted diseases; and
- (xii) any other training deemed necessary to meet individual or group training needs.

(L) Attendance at professional conferences, workshops, seminars, formal education classes, or in-service training is counted toward the training requirements provided the training is documented and meets the content requirements.

**(b) Facility Administrator.** The duties and qualifications of the facility administrator are described in 1 - 2 of this subsection.

**(1) Responsibilities.** The facility administrator is responsible for implementing the policies adopted by the governing body, the ongoing operation of the facility, and compliance with the Requirements for Secure Juvenile Detention Facilities.

(A) In the facility administrator's absence a person shall be designated to act as administrator and shall be available to detention staff in person or by telephone.

(B) A designated person of responsibility shall be at the secure juvenile detention facility at all times. The designated person is directly responsible to the administrator who is to be notified of any irregularities in the general affairs of detention and follow through with directives given.

(C) The duties of the facility administrator include, but are not limited to:

- (i) preparing and presenting the budget for the appropriate authority to review and approve;
- (ii) administering the budget and maintaining accurate financial records;
- (iii) employing and discharging staff according to the established personnel rules;
- (iv) supervising the program overall;
- (v) holding staff meetings on a monthly basis to discuss plans and interpret policies to the staff;
- (vi) organizing a program for the continued training and development of staff;
- (vii) establishing and maintaining working relationships with other social services agencies within the community; and
- (viii) interpreting the program to professional and lay groups.

**(2) Qualifications.**

(A) The education, experience, and qualifications of the administrator of a ~~large facility (20 beds or more)~~ are specified in writing by the governing body of the facility and includes, at a minimum:

- (i) bachelor's degree from an accredited college/university in an appropriate discipline and five (5) years relevant work experience; or
- (ii) an associate's degree from an accredited junior college, college, or university in an appropriate discipline and seven (7) years relevant work experience ~~two (2) years of experience working with juveniles; or and~~
- (iii) ten (10) years relevant work experience ~~five (5) years in staff supervision and administration.~~

(B) ~~As used in subsection (2)(A) above, relevant work experience shall include~~ The education, experience, and qualifications of the administrator of a small facility (less than 20 beds) are specified in writing by the governing body of the facility and includes, at a minimum:

- (i) two (2) years of experience working with juveniles; and ~~an associate's degree from an accredited junior college/college/university in an appropriate discipline (i.e. social work, sociology, psychology, criminal justice, etc.); OR~~
- (ii) five (5) years in staff supervision and administration ~~sixty (60) hours of credits from an accredited junior college/college/university of which fifteen (15) hours must be in the appropriate discipline as indicated in (i); and~~
- (iii) two (2) years in staff supervision; and
- (iv) one (1) year of experience working with juveniles.

(C) A facility administrator hired prior to January 1, 2000 shall be exempt from the rules set forth in (A) of this paragraph.

**(3) Location.** All facilities administrators must maintain their primary office at the detention facility.

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(4) No individual(s) shall be allowed to serve as the facility administrator, or their designee, with a confirmed/substantiated finding of abuse or neglect by DHS or other entity authorized by state, federal laws or regulations to investigate child abuse and neglect.

(c) **Direct care staff.** The qualifications and hiring requirements for direct care staff are described in (1) - (2) of this subsection.

(1) **Qualifications.** All direct-care staff shall be at least 21 years of age and possess a high school diploma or its equivalent or obtain a high school diploma or equivalent within the first year of employment.

(2) **Hiring requirements.** A direct-care staff person can be hired when the person:

(A) has his or her character and fitness attested to by three (3) satisfactory written references and a criminal history background check is conducted as required and in conformance with 377:3-13-43(a)

(6);

(B) is qualified and capable of satisfactorily performing assigned job responsibilities; and

(C) does not pose a known risk to juveniles.

(d) **Support staff.** Support staff shall be able to read and write; demonstrate knowledge and skills necessary to the job assignments; and meet the requirements for direct-care staff if responsible for direct care of juveniles for any part of the day.

## 377:3-13-44. Security and control [AMENDED]

(a) The facility shall have policy and procedure for security and control.

(b) A list of in-house rules, outlining acts prohibited in the facility and the range of disciplinary procedures, is given to all juveniles. The list is posted in a conspicuous and accessible area.

(1) Staff members shall explain in-house rules to each juvenile admitted to the facility.

(2) When a literacy or language problem prevents a juvenile from understanding the list of rules, a staff member or translator shall assist the juvenile in understanding the rules.

(c) Required security control procedures are described in 1 - 15 of this subsection.

(1) **Resident count.** The facility shall have a system to physically count detained juveniles.

(A) The facility director shall designate one staff member per shift to conduct at least one uninterrupted population count during the shift.

(B) The staff member conducting the count shall be a trained employee in each living unit who shall see the juveniles being counted.

(C) Juveniles shall not be permitted to move about the facility during the count.

(D) Documentation of resident counts is available at the facility at all times.

(2) **Mail security.** Written policy and procedure provide that a juvenile may send or receive mail without limitation, censorship, or prior reading by staff. Staff may open a juvenile's mail in the presence of the juvenile to inspect for contraband. However, staff shall not read the opened mail.

(3) **Searches and control of contraband.** The facility shall have written policy and procedure governing searches and control of contraband.

(A) Policy and procedure include, but are not limited to:

(i) control of contraband;

(ii) searches for contraband;

(iii) body searches;

(iv) property searches;

(v) searches of the facility; and

(vi) visitor searches;

(B) Residents and visitors shall be notified that they are subject to search.

(C) No resident shall be searched beyond what is necessary to maintain proper security.

(D) Searches are conducted by a staff member of the same sex as the resident or visitor.

(E) A body cavity search may be conducted only when there is a strong reason to believe that the juvenile is concealing contraband in a body cavity.

(i) The facility administrator must give authorization to medical personnel for any body cavity search.

(ii) Medical personnel are the only persons authorized to perform body cavity searches.

(iii) The body cavity search must be conducted in a private area of the facility, without windows, which ensures the privacy and dignity of the juvenile.

(iv) A supervisory witness of the same sex as the juvenile shall be present during the body cavity search.



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(v) The detention facility shall contact the OJA Advocate General within 24-hours of conducting a body cavity search.

(4) **Staff ratios and staffing patterns.** There is a minimum ratio of 1:87 direct-care staff to residents during waking hours and 1:16 during residents' sleeping hours, except during limited and discrete exigent circumstances, which shall be fully documented as required by the Oklahoma Administrative Code.

(A) Direct-care staff means staff responsible for the supervision and control of residents in housing units, recreational areas, dining areas, and other program areas of the facility. At least one (1) direct care staff member is to be assigned to each occupied common area during waking hours. Staff immediately adjacent to occupied common areas to permit staff to facilitate personal contact, to observe, to hear, and to respond promptly shall be deemed as direct-care staff. On-duty staff primarily responsible for monitoring cameras shall not be considered direct-care staff. Common areas is defined as any space where there are two (2) or more juveniles present, excluding bathrooms or resident's room.

(B) When a female is placed in detention, there must be a female staff member on duty and when a male is placed in detention, there must be a male staff member on duty;

(C)(B) A minimum of two direct-care staff are on duty at all times in the facility.

(D)(C) Juveniles in detention shall be supervised at all times. The facility shall have enough staff available for staff to remain close to and in visual contact with the juveniles.

(i) If a resident is placed in their room for medical, safety, or behavioral concerns, this will be considered a room confinement and the facility licensing standards on resident visual observation checks will be adhered at all times.

(ii) During residents' sleeping hours room checks will be completed not to exceed 30 minutes between checks.

(iii) All room checks should be documented daily in an observation log and maintained by the facility.

(E) Exceptions to this rule may be approved in writing by the Office of Public Integrity's Licensing and Programs Assessment division.

(5) **Surveillance plan.** The facility shall have a plan for surveillance of all areas of the perimeter of the facility. Outside lighting must be sufficient to provide visibility under all conditions with no blind spots.

(6) **Door security.** All doors that are security perimeter entrances, exterior doors, and doors which the facility administrator determines should be locked are kept locked. These doors are unlocked only for admission or exit of juveniles, employees, or visitors or in case of an emergency.

(A) Doors to vacant units, unoccupied areas, and storage rooms are kept locked when not in use.

(B) Staff members shall know what doors must be locked and under what circumstances they are opened.

(C) Once a door is locked, it is checked to see that it is secured.

(7) **Key control.** The facility's key-control system provides for the following:

(A) a log to record the number of keys given out, the location of the lock, the number of keys to that lock, and the names of employees possessing keys;

(B) a central administrative area from where the keys can be issued;

(C) a manner of storage that permits easy determination of either the presence or absence of keys;

(D) labeling of all keys and maintenance of at least one duplicate key for each lock; and

(E) readily available fire and emergency keys.

(8) **Physical force.** Rules relating to the use of physical force are set forth in this paragraph.

(A) Written policy and procedure limit the use of physical force:

(i) for self-protection;

(ii) to separate juveniles from fighting;

(iii) to restrain juveniles in danger of inflicting harm to themselves or others; and

(iv) to restrain juveniles who have escaped or who are in the process of escaping;

(B) The least amount of force is used.

(C) Physical force may not be used as punishment or retaliation.

(D) Facility personnel shall not encourage or knowingly permit any person to use physical force which is contrary to policy.

(E) Staff members shall not provoke physical confrontation by taunting, harassing, or cursing a resident or otherwise manipulating a resident into activities which would justify physical force.

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(F) A written report is prepared following all uses of force and submitted to the facility administrator by the end of the shift detailing the incident which initiated the use of force, the type of force used and the beginning and end time of the use of force.

(G) Staff members shall receive written guidelines on the use of physical force and shall be informed that loss of employment may result if unauthorized use of physical force is proven.

(H) Medical attention shall be provided immediately upon the juvenile's release from restraint as a result of physical force even if there is not visible evidence or complaint of injury. Staff certified in first aid and CPR may provide medical attention and are responsible for referring the juvenile to licensed medical personnel, if warranted.

(9) **Use of mechanical restraints.** Any instrument of restraint must be approved by the facility administrator or designee.

(A) Restraints are used only:

- (i) for self-protection;
- (ii) to separate juveniles from fighting;
- (iii) to restrain juveniles in danger of inflicting harm to themselves or others;
- (iv) to restrain juveniles who have escaped or who are in the process of escaping; and
- (v) prevent destruction of property if reasonably related to (i) through (iv).

(B) Restraints are used only with the approval of the facility administrator or designee.

(C) Restraints may not be used as a form of punishment.

(D) Restraints are used only as long as necessary and are removed as soon as the juvenile regains control of his/her behavior.

(E) When restraints are placed on a juvenile, such placement must be made by a trained and authorized staff member in a humane manner that does not restrict the juvenile's blood circulation.

(F) Juveniles shall not be restrained to an immovable object.

(G) A juvenile's hands and feet may be restrained, however restraining of the juvenile's hands to his or her feet is prohibited.

(H) The use of hog-tying is prohibited.

(I) A juvenile placed in restraints shall not be left unattended and must be continually supervised.

(J) A full written report is submitted by the end of the shift to the administrator following every use of an instrument of restraint.

(10) **Chemical agents.** Facility staff shall not use chemical agents for security. Staff may not use tear gas, mace, pepper spray, and related chemical agents to control juveniles.

(11) **Weapons.** Weapons are not permitted except when authorized by state law.

(12) **Procedures for separation from general population and/or general activities for disciplinary reasons.**

The following procedure shall be utilized as an intermediary level of intervention, which requires the continual line of sight and sound observation of the juvenile. If a juvenile is separated from the general population, the reasons for the separation and length of time shall be documented in the written daily observation of the juvenile. The separation should not be in excess of 60 minutes. Additional intervals shall be approved by a supervisor/administrator who was not involved in the original incident. Facilities which do not have another supervisor/administrator on site shall receive re-authorization from the on-call administrator. The reasons for the continued separation must be documented. The juvenile shall be released when staff determines that he or she can safely be returned to the group.

(13) **Room restriction.** Room restriction is one means of informally resolving minor juvenile misbehavior. It serves a "cooling off" purpose and has a short time period (up to 60 minutes) that is specified at the time of the assignment.

(14) **Room confinement.** Room confinement means locking a juvenile in his/her room when the juvenile has been charged with a major rule violation requiring confinement for his/her safety or the safety of others or to ensure the security of the facility.

(A) Room confinement is used with detained juveniles:

- (i) for self-protection;
- (ii) to separate juveniles from fighting;
- (iii) to restrain juveniles in danger of inflicting harm to themselves or others;
- (iv) to restrain juveniles who have escaped or who are in the process of escaping;
- (v) to prevent destruction of property if reasonably related to (i) through (iv); and
- (vi) stop behavior that incites other juveniles which jeopardizes the safety of staff and residents of the facility and is reasonably related to (i) through (iv).

(B) Room confinement of juveniles shall be re-authorized every 3 hours, except during normal sleeping hours, by a supervisor/administrator who was not involved in the original incident. Facilities which do not have another supervisor/administrator on site shall receive re-authorization every 3 hours from the on-call administrator. Reasons for continued room confinement shall be documented.

(C) A juvenile shall not be in room confinement in excess of 24 hours without the opportunity of an administrative review by the administrator or designee who was not involved in the incident. Any juvenile for whom it is determined by the administrator, or designee, to continue room confinement in excess of forty-eight (48) hours, must complete a report detailing the reasons for continued room confinement and submit it to the OJA for review within twenty-four (24) hours of exceeding the forty-eight (48) hours.

(15) **Procedure for room confinement or room restriction.** When room restriction or confinement is used, the procedure given in (A) - (E) of this paragraph is followed.

(A) Prior to room restriction or confinement, facility staff shall explain the reasons for the restriction or confinement to the juvenile and shall give the juvenile an opportunity to explain his or her behavior.

(B) Any juvenile shall be visibly observed by a staff member every 15 minutes, and this must be documented.

(C) Juveniles placed in room confinement shall be afforded living conditions and essential services approximating those available to the general juvenile population. Exceptions shall be justified in writing by clear and substantial evidence.

(D) The juvenile shall be released when staff determines juvenile can safely be returned to the group and no longer presents a safety risk to self or others.

(E) A written record shall be maintained on any juvenile placed in room restriction or confinement. It includes a log stating who authorized the action, names of persons observing the juvenile and times of observation, the person authorizing release, and the time of release.

(16) **Escape and absence without leave.** The facility shall develop written policy and procedure for juveniles who escape from the facility or are absent without leave which shall include the notification of law enforcement agencies.

### PART 7. REQUIRMENTS FOR COMMUNITY INTERVENTION CENTERS (CIC)

#### 377:3-13-88. Personnel [AMENDED]

##### (a) **Community Intervention Center (CIC) program director.**

(1) **Qualifications.** The qualifications (including education and experience), authority, and responsibilities of the program director shall be specified in writing by the CIC's governing body, and include:

(A) a bachelor's degree; and

(B) one year of experience working with juveniles or working in the juvenile justice system.

(b) **Direct-care staff qualifications.** All direct care staff shall be at least 21 years of age and possess a high school diploma or its equivalent or obtain a high school diploma or equivalent within the first year of employment.

(c) **Background history records searches.** The Office of Juvenile Affairs, through direct request, shall require a records search for each applicant for employment, which shall include the following:

(1) a national criminal history records search based upon submission of fingerprints that shall be provided by the Oklahoma State Bureau of Investigation (OSBI), including the Rap Back notification, and the Federal Bureau of Investigation (FBI) National Child Protection Act, 42 U.S.C.A. § 5119a, and 74 O.S. § 150.9, provided both the OSBI and FBI act in their designated role;

(2) a search of the Oklahoma State Courts Network (OSCN) including Oklahoma District Court Records (ODCR);

(3) a search of the Department of Human Services (DHS) Child Care Restricted Registry, also known as Joshua's List;

(4) a search of the Department of Corrections (DOC) Sex Offender Registry;

(5) a search of the Department of Corrections (DOC) Violent Offender Registry, also known as the Mary Rippy Violent Crime Offenders Registry;

(6) a search of all applicable out-of-state child abuse and neglect registries if the applicant has not lived continuously in Oklahoma for the past five (5) years;

(A) The prospective applicant is not approved without the results of the out-of-state maintained child abuse and neglect registry checks, when a registry is maintained in the applicable state;

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(B) When no child abuse and neglect registry is maintained in the applicable state, the facility shall request any information that can be provided; and

(7) a criminal history records search conducted by an authorized source, when an applicant has lived outside the United States within the last five (5) years.

(8) the Office of Juvenile Affairs shall make a direct request for background searches to be conducted on behalf of any:

(A) operator or responsible entity making a request to establish or operate a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by the Office of Juvenile Affairs,

(B) employee or applicant of a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by the Office of Juvenile Affairs, or

(C) persons allowed unsupervised access to children, including contract employees or volunteers, of a secure detention center, municipal juvenile facility, community intervention center or secure facility licensed or certified by the Office of Juvenile Affairs.

(d) **Criminal history investigation.** An employee's criminal history investigation record must be kept in a secure location, separate from his or her personnel file.

(1) A facility shall not employ or retain an individual who has been convicted of or entered a plea of guilty or nolo contendere to any felony involving:

(A) violence against a person;

(B) child abuse or neglect;

(C) possession, trafficking, manufacturing, sale or distribution of illegal drugs, or conspiracy to traffic, manufacture, sale, or distribute illegal drugs;

(D) sexual misconduct; or

(E) gross irresponsibility or disregard for the safety of others;

(F) any crime against a child; or

(G) in the case of child abuse and neglect, identified as a perpetrator in a juvenile court proceeding and/or has made an admission of guilt to a person authorized by state or federal laws or regulations to investigate child abuse and neglect.

(2) No employee of the CIC shall use or be under the influence of alcohol or illegal drugs during the hours of work nor shall any employee use or possess illegal drugs at any time.

(3) As to a simple drug possession offender, the facility may, at its own discretion, make exceptions to the prohibition of employment if five years have passed from completion of the applicant's criminal sentence and the facility can document that the health, safety, and well-being of juveniles would not be endangered.

(A) The facility shall consider, document, and submit to the Office of Public Integrity within 10 days of the employees first day of work the;

(i) type of crime or offense for which the individual was convicted or a finding was made; and

(ii) reference letters concerning the individual in question.

(B) The Office of Public Integrity may make a recommendation to the facility administrator as to whether the applicant for employment should be approved or disapproved.

(4) If any person is formally charged with any of the offenses described in OAC 377:3-13-88(d)(1), he or she must be removed from contact with juveniles until the charges are resolved.

(5) If there is an allegation that a staff member has committed an act as described in OAC 377:3-13-88(d)(1), the facility shall determine and document whether the staff member shall be removed from contact with juveniles until the allegation is resolved.

(e) **Health requirements.** An employee's health record must be kept in a secure location, separate from his or her personnel file.

(1) Each employee must have a pre-employment physical conducted by a licensed physician.

(2) Testing for tuberculosis is not required on a routine basis. Tuberculin skin testing shall be required when there is a local identified tuberculin exposure identified by the Oklahoma State Department of Health.

(A) When a tuberculin skin test is required, employees with a positive skin test reaction must submit documentation by medical personnel that signs or symptoms of tuberculosis are not present.

(B) An employee who has ever had a positive skin test reaction must have or provide documentation of a chest x-ray. Additional tests or x-rays are not required unless symptoms develop that are suggestive of tuberculosis.

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(f) **Personnel records.** Every staff person employed by the CIC shall have a written personnel record, which complies with personnel policies of the municipality or service provider. The CIC shall have written personnel policies. The program director shall make personnel policies, which include written job descriptions, available to all employees. Either the policy or job description specifies the person to whom the employee is responsible and the duties the employee is expected to perform.

(1) Each personnel record must include:

- (A) an application, resume, or staff information sheet that documents qualifications for the position;
- (B) three reference letters, or if the reference was interviewed by phone, documentation of telephone interview must contain the:
  - (i) content of the interview;
  - (ii) date and time of the interview; and
  - (iii) name of employee conducting the telephone inter-view;
- (C) documentation that the staff member was provided a copy of personnel policies, including his or her job description.
- (D) written disciplinary action forms and job performance evaluations;
- (E) dates of employment; and
- (F) date and reason for employment separation or termination.

(2) Personnel records shall be maintained for at least three (3) years following an employee's separation.

(3) All employee records shall be confidential subject to existing federal and state statutes.

(4) All employees shall have access to their personnel files for reviewing purposes upon request to the program director and according to agency policy.

(g) **Staff orientation.**

(1) Each direct-care staff shall be provided orientation before being allowed to work independently. In addition to a review of the certification standards and on-the-job training with an experienced staff member, the orientation must include a review of the CIC's:

- (A) policies and procedures;
- (B) philosophy and goals;
- (C) organization;
- (D) behavior management/crisis intervention training; and
- (E) job expectations for the individual employee.

(2) Within 90 days of employment, each direct-care staff shall successfully complete first aid training. The training must be conducted by a certified instructor from the American Red Cross or its equivalent. The employee must be recertified in first aid every three years. First aid training may be counted as training hours. At least one staff person trained and certified in first aid shall be present in the CIC at all times.

(3) Within 90 days of employment, each direct-care staff shall be certified in cardiopulmonary resuscitation (CPR). The employee shall be recertified annually. CPR certification and recertification may be counted as training hours. At least one staff person trained and certified in CPR shall be present at all times.

(4) Within six (6) months of employment, each direct-care staff shall complete a certified class on behavior management; e.g., MAB, MANDT, CLEET, etc.

(5) The CIC must maintain written documentation of each area in which the employee received orientation.

(h) **Staff training.**

(1) All direct-care staff and program administrators shall obtain at least 24 clock hours of training per employment year. Hours are prorated for staff who have not been employed for a full year or are part-time employees.

(2) Professional conferences, workshops, seminars, formal education classes, or in-service training are considered training.

(3) Documentation of the employee's training shall be maintained in the employee's file.

### **PART 11. REQUIREMENTS FOR SECURE JUVENILE DETENTION CENTERS CARE [AMENDED]**

#### **377:3-13-123. Provisional certification [REVOKED]**

~~(a) Secure facilities certified by the Department of Human Services as residential childcare facilities prior to November 1, 2009, shall receive provisional certification to operate as a secure juvenile facility for 180 days. Prior to the conclusion of the 180 days, the Office of Juvenile Affairs shall evaluate the facility to ensure that the facility meets the certification standards promulgated by the Board of Juvenile Affairs for secure juvenile facilities.~~

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(b) The Office of Juvenile Affairs shall initially evaluate any newly established secure juvenile facility to ensure compliance with standards relating to staffing and the physical plant. A determination that the facility meets the standards shall result in the issuance of a provisional certification for 180 days and authorization for the placement of juveniles into the facility. Prior to the conclusion of the 180 days, the Office of Juvenile Affairs shall evaluate the facility to ensure that it meets all certification standards promulgated by the Board of Juvenile Affairs for secure juvenile facilities.

(c) **Denial or revocation of certification.** When the operator of a secure juvenile facility is unable or unwilling to comply with standards promulgated by the Office of Juvenile Affairs' Board or has failed to adequately protect the health, safety and welfare of the juveniles in its facility, OJA may deny or revoke the facility's certification. OJA shall furnish thirty (30) calendar days written notice of the decision to deny or revoke certification and the grounds for such action. The facility operator shall have thirty (30) calendar days from receipt of the OJA notice of denial or revocation to protest the action in writing to the OJA Executive Director. An administrative hearing shall be convened where the facility operator will be given the opportunity to present testimony and witnesses. If the result of the hearing is to uphold the OJA action of denial or revocation, the facility operator may appeal to the district court pursuant to 12 O.S. § 951. In the event there is not an appeal, the secure juvenile facility shall cease operation on the effective date of the denial or revocation action.

## 377:3-13-144. Security and control [AMENDED]

### (a) Juvenile count.

- (1) At least one daily uninterrupted juvenile population count shall be conducted on each shift;
- (2) The results of the population count shall be transmitted to central control where it is documented and available at all times; and
- (3) No movement of juveniles shall be permitted during the population count.

### (b) Mail security. The secure facility shall have a mail security policy that shall include the following:

- (1) A child shall have constant access to writing materials and may send mail without limitation, censorship or prior reading, and may receive mail without prior reading, except that mail may be opened in the presence of the child, without being read, to inspect for contraband, as defined by 57 O.S., § 21 or as otherwise defined by rules promulgated by the Board of Juvenile Affairs, or to inspect for material harmful to minors, as defined by 21 O.S., § 1040.75. Provided that, when based on legitimate facility interests of order and security as determined by the facility administrator, mail addressed to a child or sent by a child may be read, censored, or rejected, except that mail addressed to a child from the attorney of the child or sent by the child to the attorney of said child shall not be opened, censored, or withheld in any way. The child shall be notified when incoming or outgoing mail is withheld in part or in full.

#### (A) Legitimate facility interests may include but are not limited to:

- (i) for security reasons where a clearly documented reason exists, e.g., the correspondent has aided the juvenile in planning an escape or has used the mail to send the juvenile contraband items;
- (ii) where it is clearly documented that the correspondence is from a person whose continued relationship poses a threat to the juvenile's treatment or rehabilitation; or
- (iii) when the correspondence is from correctional facility inmates whose continued relationship poses a threat to the juvenile's treatment or rehabilitation.

(B) In any of the above cases, staff shall return the unopened mail to its point of origin, unless it is clearly documented that the correspondence is from a relative.

### (c) Control of contraband and Facility Prohibited Item (FPI).

(1) Contraband is defined as any item introduced or found in the secure facility, the mere presence or possession of which shall constitute a violation of criminal law. Contraband discovery procedures require:

- (A) confiscation by staff with the completion of a report prior to the end of the shift;
- (B) a log entry by staff containing the contraband description and names of involved person(s);
- (C) placement of the contraband into secure storage;
- (D) a notification to the facility administration for the initiation of a criminal investigation; and
- (E) the establishment of a timeline and procedures for storing and disposing of contraband;

(2) A Facility Prohibited Item (FPI) is defined as an item in an individual's possession or control, which is a violation of facility, or unit rules, but does not constitute a violation of criminal law. FPI discovery procedures require:

- (A) The confiscation of the FPI by staff with the completion of a report prior to the end of the shift;
- (B) a log entry by staff containing the FPI description and the names of involved person(s);
- (C) non-perishable FPI confiscated from a juvenile shall be entered on the juvenile's personal property inventory and, if appropriate, returned upon the juvenile's release;

- (D) all other non-perishable FPI confiscated from staff, visitors or others shall be inventoried and properly disposed of when no longer administratively necessary;
- (E) all perishable FPI shall be photographed, if necessary, and immediately disposed of in an appropriate manner; and
- (F) the opportunity for juveniles to challenge the confiscation of FPI through the established grievance procedure.

**(d) Searches.**

(1) **General area search** is defined as a random search of all areas of the secure facility for the security and safety of the juveniles and staff.

- (A) The facility administrator shall authorize the procedures through the distribution of a post order.
- (B) The search shall be accomplished under the direction of a security shift supervisor by teams of two or more staff trained in conducting searches.
- (C) The use of a canine may be authorized, if appropriate and available.
- (D) Dates and times for the searches shall be at the discretion of the secure facility's administrator.
- (E) The objective of the searches shall be to discover and confiscate contraband and/or FPI.
- (F) The completion of staff reports shall be required before the end of shift.

(2) **Specific area search** is defined as a search limited to a certain time and area involving juveniles' personal property in one or more juvenile living quarters.

- (A) The search shall be based on reasonable suspicion that a juvenile(s) is in possession of contraband and/or FPI or without reasonable suspicion upon the routine transfer of a juvenile from one living area to another.
- (B) A facility administrator shall authorize a search based upon reasonable suspicion while a shift supervisor or above shall authorize a search based on a routine transfer.
- (C) The search shall be accomplished under the direction of a security shift supervisor by teams of two or more staff trained in conducting searches.
- (D) The use of a canine may be authorized, if appropriate and available.
- (E) The date and time for the search shall be specific to the event establishing reasonable suspicion or to the date, time and location of the routine juvenile transfer.
- (F) The search objective shall be to discover and confiscate contraband and/or FPI and/or recover missing property and/or injurious item(s).
- (G) The completion of staff reports shall be required prior to the end of shift.

(3) **Juvenile body search** is defined as observing and touching the body to discover contraband and/or FPI and is described from the least intrusive to the most intrusive types of search:

(A) **Pat search** is considered to be a routine search and the least intrusive type of search.

(i) It shall be routinely conducted based on suspicion of contraband and/or FPI on the juvenile's person.

(ii) It shall be routinely conducted:

- (I) Upon the completion of work assignments (i.e. kitchen, maintenance, etc.); or
- (II) At the conclusion of visitation;
- (III) After returning from recreation or from school; or
- (IV) Following a restraint.

(iii) The search shall be conducted by a minimum of two staff members trained in searches, one of whom shall be the same gender as the juvenile, except in an emergency situation.

(iv) Procedures for conducting the search include:

- (I) The use of hands to pat the outside clothing covering the body;
- (II) The back of the hands shall be used to pat the genitals, buttocks (males and females) and breasts (female); and
- (III) The search may include the removal of coat, hat, gloves, shoes and socks.

(v) A written report shall be required by the end of the shift only when an illegal and/or prohibited item(s) is found.

(B) **Disrobing search** is considered intrusive and involves the complete removal of all clothing items from the body.

(i) This search requires reasonable suspicion that a juvenile(s) is in possession of contraband and/or injurious item(s) and shall be conducted pursuant to verbal or written authorization from the facility administrator or designee.

(ii) The search shall be routinely conducted:

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- (I) During admission to the secure facility; or
- (II) During discharge from the secure facility; or
- (III) Upon return from a pass; or
- (IV) Upon return from any appointment, court appearance, event or activity outside the perimeter fence of the secure facility.

(iii) The search shall be accomplished under the direction of a security shift supervisor by a minimum of two staff members trained in searches, both of whom are the same gender as the juvenile.

(iv) The search shall be conducted in a professional manner in an area that prevents observation by other staff and/or other juveniles and not covered by surveillance cameras.

(v) A written report is required by the end of the shift whether or not an illegal and/or prohibited item(s) is found.

(C) **Cavity search** is defined as a non-routine and intrusive search that involves medical personnel in searching the internal areas of body orifices.

(i) The search requires prior written authorization by the facility's administrator or designee based on written facts that would lead a reasonable person to believe a juvenile is carrying contraband and/or injurious item(s) in a body cavity.

(ii) The search shall only be conducted by a physician at the secure facility or by medical personnel at a local hospital.

(iii) A written report shall be required by the end of the shift documenting the search, including the names of the medical personnel involved, whether or not an illegal and/or prohibited item(s) is found.

(4) Each facility shall maintain a stationary and mobile magnetometer in good working order. All juveniles, staff, and visitors shall be required to pass through the facility's magnetometer (metal detector), and hand-wand if necessary, prior to entry into the facility.

**(e) Staff ratios.**

(1) The ratio of staff to juveniles on a unit shall not be less than 1 to ~~8+0~~ during waking hours and 1 to ~~10+2~~ during sleeping hours. For units composed entirely of secure individual sleeping rooms the ratio shall not be less than 1 to 10 during waking hours and 1 to 14 during sleeping hours.

(2) At least one staff member of the same gender as the juveniles shall be on duty within the facility on each shift.

(3) Juveniles shall be supervised at all times. Each secure facility shall maintain a plan that details the frequency of visual checks of juveniles made by the staff.

**(f) Surveillance plan.**

(1) The secure facility shall have a plan for surveillance of all areas of the facility's perimeter. Outside lighting must be sufficient to provide visibility under all conditions with no blind spots.

(2) The facility shall maintain a camera system that is in working condition and monitored by staff in real time with recording capabilities to maintain a minimum of ninety (90) days of video.

**(g) Door security.**

(1) All perimeter security doors to the living units shall be locked and doors to vacant or unoccupied living units and storage rooms shall remain locked when not in use.

(2) The facility shall maintain a backup release system that allows for the immediate release of juveniles from locked areas in the event of an emergency.

**(h) Key control.**

(1) The facility's key control system shall include:

(A) The maintenance of a log of all keys with lock locations and names of employees possessing keys;

(B) Key storage that permits easy determination of the presence or absence of keys;

(C) The maintenance of at least one duplicate key for each lock in the facility;

(D) A central area from which keys are issued; and

(E) The labeling of all keys to include color-coding and touch identification of emergency keys.

(F) No keys shall be taken off the premises except as authorized by the facility administrator.

**(i) Physical force.**

(1) Use of force is authorized, as provided in 10A O.S., § 2-7-604 and 377:10-1-4.

(2) Use of physical force requires a medical evaluation and photo(s) of the juvenile(s) immediately following the incident.

(3) A written report is required prior to the end of shift following all uses of physical force.



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(j) **Mechanical restraints.** The standards regarding mechanical restraints are found in 10A O.S., § 2-7-604 and 377:10-1-4.

(k) **Oleoresin Capsicum.** The use of Oleoresin Capsicum (OC) spray is prohibited~~shall conform to 377:10-1-4.1.~~

(l) **Solitary Confinement.**

(1) The use of confinement as a method of intervention with juveniles shall be limited to the following:

(A) Solitary confinement is the involuntary removal of a juvenile from contact with other persons by confinement in a locked room, including the juvenile's own room, except during normal sleeping hours. Solitary confinement is a serious and extreme measure to be imposed only in emergency situations. It may be imposed only upon a juvenile in a secure facility who is out of control and is a serious and immediate physical danger to him or herself or others, and only after less restrictive methods of control have failed.

(B) Solitary confinement shall not be used for punishment at any secure facility. No juvenile shall remain continuously in solitary confinement in excess of three (3) hours. As soon as the juvenile is sufficiently under control so as to no longer pose a serious and immediate danger to him or herself or others, the juvenile shall be released from solitary confinement. The use of such confinement is not limited to three (3) continuous hours within any twenty-four (24) hour period when the juvenile is out of control and poses a continuing serious and immediate physical danger to him or herself or others, provided that any juvenile who meets this required standard for such confinement for a period in excess of three (3) continuous hours must be examined by a licensed mental health professional at the conclusion of the 3-hour period.

(C) All rooms used for solitary confinement shall have at least eighty (80) square feet of floor space, and shall have toilets, potable water, and adequate lighting, heating/cooling, and ventilation for the comfort of the juvenile. Juveniles in solitary confinement shall have access to appropriate medical and psychological services.

(2) A facility shall establish procedures for solitary confinement that include:

(A) a log of events to include date, time, location and rationale;

(B) staff visual observation of juvenile behavior as documented every fifteen minute period the juvenile is in solitary confinement; and

(C) reauthorization by the facility administrator after every twenty-four (24) hour period of time the juvenile has been in solitary confinement.

(3) Juveniles are afforded living conditions and privileges based on their behavior.

(4) The establishment of a cool down period and time out period as appropriate types of interventions for inappropriate juvenile behaviors.

(m) **Firearms and tools.**

(1) Firearms shall not be permitted in the secure facility except for law enforcement officers during emergency situations.

(2) All tools and kitchen utensils shall be classified, controlled and stored based on their level of risk for death or serious injury.

(n) **Escape.** The facility shall develop procedures for apprehension of juveniles who escape from the facility to include notification of law enforcement agencies and OJA criminal investigators.

*[OAR Docket #25-527; filed 6-6-25]*

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## TITLE 380. DEPARTMENT OF LABOR CHAPTER 25. BOILER AND PRESSURE VESSEL RULES

*[OAR Docket #25-438]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 3. Administration

380:25-3-29. Penalties [AMENDED]

### AUTHORITY:

Department of Labor; 40 O.S. §§ 141.3 and 141.6, Boiler and Pressure Vessel Safety Act

# Permanent Final Adoptions

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## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 14, 2024

## **COMMENT PERIOD:**

December 16, 2024 through January 16, 2025

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January 16, 2025

## **ADOPTION:**

January 21, 2025

## **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 23, 2025

## **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by SJR 21

## **LEGISLATIVE DISAPPROVAL:**

N/A

## **APPROVED BY GOVERNORS DECLARATION:**

N/A

## **FINAL ADOPTION:**

May 28, 2025

## **EFFECTIVE:**

July 11, 2025

## **SUPERSEDED EMERGENCY ACTIONS:**

## **SUPERSEDED RULES:**

N/A

## **GOVERNATORIAL APPROVAL:**

N/A

## **REGISTER PUBLICATION:**

N/A

## **DOCKET NUMBER:**

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## **INCORPORATIONS BY REFERENCE:**

## **INCORPORATED STANDARDS:**

N/A

## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

The proposed rule amendments provide for an administrative enforcement program and fine schedule for violations of the Boiler and Pressure Vessel Safety Act and Rules. The circumstances which created the need for the amendments are that HB1331 went into effect November 1, 2023 giving the Oklahoma Department of Labor the authority to promulgate rules establishing a schedule of administrative penalties and fines for violations of the Boiler and Pressure Vessel Safety Act and/or the Boiler and Pressure Vessel Rules. The intended effect of the proposed amendments is to give the Oklahoma Department of Labor the ability to more effectively enforce the provisions of the Oklahoma Boiler and Pressure Vessel Safety Act. Any funds collected under this enforcement program are transferred to the General Revenue Fund.

## **CONTACT PERSON:**

Daniel A. Mares, Assistant General Counsel, (405) 521-6186 or [daniel.mares@labor.ok.gov](mailto:daniel.mares@labor.ok.gov) or Don Schooler, Chief of Staff and General Counsel, (405) 521-6181 or [don.schooler@labor.ok.gov](mailto:don.schooler@labor.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 JULY 11, 2025:**

### **SUBCHAPTER 3. ADMINISTRATION**

#### **380:25-3-29. Penalties [AMENDED]**

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(a) Any person, firm or corporation violating any of the provisions of this Chapter shall be guilty of a misdemeanor and subject to a fine to be collected by suit or through compromise as provided for in Title 40, Section 141.1 through 141.18 Oklahoma Statutes, 1982. Each day of such operation in violation of the provisions shall be considered a separate offense.

(b) In lieu of, or in addition to, the penalties provided in (a) of this Section, for any violation of the Boiler and Pressure Vessel Safety Act, the Commissioner may assess an administrative fine of not more than One Thousand Dollars (\$1,000.00) per violation, per day.

(c) Payment for the fines set forth in (b) of this Section shall be due within thirty (30) days of issuance of a citation by the Commissioner or designee. Any person wishing to contest any of the aforementioned fines shall, within thirty (30) days of issuance of the citation, petition the Commissioner of Labor, in writing, for an administrative hearing. If requested, the hearing shall then be scheduled by the Commissioner or designee as provided in the Administrative Procedures Act.

(d) Any person failing to comply with a fine assessment or other administrative order of the Department within ninety (90) days of issuance of such assessment or order shall be subject to license suspension and/or revocation and/or revocation of all certificates of operation for vessels subject to the aforementioned fines. The Department may decline to renew a license or certificate of operation, or inspect all boilers or pressure vessels owned or operated by the same person or entity, until all outstanding fine assessments have been paid unless timely appeal of the assessment(s) was made and the appeal is still pending.

(e) Funds collected as payment from a violator for administrative fines imposed for violation of the Boiler and Pressure Vessel Safety Act shall not be retained by the Department of Labor, but shall be deposited to the Department of Labor Administrative Penalty Revolving Fund and transferred to the General Revenue Fund.

*[OAR Docket #25-438; filed 6-2-25]*

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## TITLE 420. OKLAHOMA LIQUEFIED PETROLEUM GAS BOARD CHAPTER 1. ADMINISTRATIVE RULES OF PROCEDURE

*[OAR Docket #25-429]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

420:1-1-4. Public inspection of policies and rules [AMENDED]

### **AUTHORITY:**

Oklahoma Liquefied Petroleum Gas Board; 52 O.S. § 420.3

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

### **COMMENT PERIOD:**

December 2, 2024 through January 3, 2025

### **PUBLIC HEARING:**

January 3, 2025

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January 14, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 24, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1033

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

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### **SUPERSEDED EMERGENCY ACTIONS:**

### **SUPERSEDED RULES:**

# Permanent Final Adoptions

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N/A

**GOVERNMENTAL APPROVAL:**

N/A

**REGISTER PUBLICATION:**

N/A

**DOCKET NUMBER:**

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**INCORPORATIONS BY REFERENCE:**

**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

OAC 420:1-1-4 has been revised to clarify that the Board's policies regarding the public inspection of documents to be clear they are in accordance with the provisions of the Oklahoma Open Records Act codified at Title 51 O.S. §24A.1, et seq.

**CONTACT PERSON:**

Chandra Heitzinger, Administrator, LP Gas Administration, 2501 N. Lincoln Blvd., Suite 218, Oklahoma City, OK 73105, (405) 521-2458, Chandra.Heitzinger@lpgas.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(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 11, 2025:**

**420:1-1-4. Public inspection of policies and rules [AMENDED]**

(a) All rules and other written statements of policy or interpretations formulated, or adopted by the Administration in the discharge of its functions shall be available for public inspection to the public in accordance with the provisions of the Oklahoma Open Records Act codified at Title 51 O.S. §24A.1, et seq. during normal business hours at the office of the LP Gas Administration.

(b) All orders and decisions will be made available to the public in accordance with the provisions of the Oklahoma Open Records Act codified at Title 51 O.S. §24A.1, et seq. for public inspection within a reasonable period following order or decision.

*[OAR Docket #25-429; filed 5-30-25]*

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**TITLE 420. OKLAHOMA LIQUEFIED PETROLEUM GAS BOARD  
CHAPTER 10. LIQUEFIED PETROLEUM GAS ADMINISTRATION**

*[OAR Docket #25-431]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

420:10-1-3. Definitions [AMENDED]

420:10-1-5. Permits [AMENDED]

420:10-1-8. Processing and handling of applications and examinations [AMENDED]

420:10-1-9. Issuing of certificates of permits [AMENDED]

420:10-1-13. Responsible employees and managers who shall be required to have technical qualifications and manager's permits [AMENDED]

420:10-1-14. Standards for the storage and handling of liquified petroleum gas [AMENDED]

**AUTHORITY:**

Oklahoma Liquefied Petroleum Gas Board; 52 O.S. § 420.3.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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# Permanent Final Adoptions

November 8, 2024

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December 2, 2024 through January 3, 2025

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January 14, 2025

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January 24, 2025

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Approved May 28, 2025, by HJR 1033

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N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

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**SUPERSEDED EMERGENCY ACTIONS:**

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**REGISTER PUBLICATION:**

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**DOCKET NUMBER:**

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N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

OAC 420:10-1-3 corrects the scrivener error to the definition of employee which should have been the definition of employer and corrects errors in the references to Title 52 O.S. Sections 420.1, et seq. OAC 420:10-1-5(b)(8) increases the Class VII annual permit to Eighty-Five Dollars (\$85.00), a Thirty Five Dollar (\$35.00) increase, for the purpose of decreasing administrative and financial burden on Class I permit holders related to purchasing, tracking, and applying cylinder tags on cylinders in the cylinders exchange program as the LP Gas Board begins to head in the direction of no longer requiring cylinder tags for cylinders participating in the cylinder exchange program. OAC 420:10-1-8 adds language to clarify the composition of examination questions pulled from NFPA 54 (including removing the word pamphlet), NFPA 58 (including removing the word pamphlet), and the rules and regulations of the LP Gas Board for Class 1 and Class X exams. OAC 420:10-1-9 modifies and clarifies the administrative process to be followed upon the relief of duty of a Class X manager, including when seeking a temporary exception to the requirement of Class X manger coverage. OAC 420:10-1-13 modifies and clarifies the administrative process to be followed when requesting single Class X manager coverage on not more than two locations, removes language stating that inactive Class X permit holders must attend the required safety seminar, and reduces the annual permit renewal fee for inactive Class X permit holders by 30% to \$105.00. OAC 420:10-1-14 corrects a grammatical error by adding a space between two words; corrects an erroneous error in the plan review and inspection fees for any facility using Un-Odorized LP Gas (Class VIII permits) to be consistent with these same fees as previously updated and set forth in the current language of OAC 420:10-1-5(b)(9); and modifies and clarifies language related to required markings on propane containers and bulk storage containers owned by permit holders and authorizations required to fill propane containers owned by a permit holder and located on the property of consumer

**CONTACT PERSON:**

# Permanent Final Adoptions

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Chandra Heitzinger, Administrator, LP Gas Administration, 2501 N. Lincoln Blvd., Suite 218, Oklahoma City, OK 73105, (405) 521-2458, Chandra.Heitzinger@lpgas.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(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 11, 2025:**

## **420:10-1-3. Definitions [AMENDED]**

All words, phrases, and terms used in this chapter shall have the same general meaning as contained in Title 52 O.S., Section 420.1 et seq., in so far as the same are defined in said act. Where no specific definition is provided in the act, the words, phrases, and terms used in this chapter shall have the same general meaning that they are commonly understood to have and as they are used in the industry, unless a specific definition of word, phrase, or term is used within the rules of this chapter. The following words or terms, when used in this chapter, shall have the following meaning:

**"Act"** means Title 52 O.S., Sections 420.1, ~~et seq through 420.17.~~

**"Administrator"** means the State Liquefied Petroleum Gas Administrator as created by 52 O.S., 1971, Section 420.2 or in event of vacancy in office of the Administrator, or in the event of his absence or disability as provided in 52 O.S. 1971, Section 420.2.

**"Applicant"** means an individual or entity that applies for a permit with the Board.

**"Board"** means the Oklahoma Liquefied Petroleum Gas Board created by 52 O.S., 1971, Section 420.3.

**"Board-Approved"** as used in OAC 420:10-1-5(b)(7) means any class, training, or other type of course that the Board approves to satisfy safety school requirements.

**"Dealer"** means any entity or person (if operating as a sole proprietor) engaged in any phase of the LP gas business.

**"~~Employee~~Employer"** means person for whom services are performed and who has the right to control and direct the individual who performs services, not only as to the result to be accomplished by the work, but also as to details and means by which the result is accomplished. ~~An individual's status as an employee may be further evidenced by employee payroll deductions, withholding of state and federal income tax, social security or workmans compensation.~~

**"Full-Time Employee"** means any employee who is, for a calendar month, an employee employed on average at least 30 hours of service per week, or 130 hours of service per month.

**"Gas Processor(s)"** means any entity that extracts natural gas liquids from natural gas and does not include Class VIII usage.

**"Holder"** means either an individual or an entity, depending on the permit type. Class I Holders are entities with the exception of sole proprietors.

**"Non-Personal Entity"** means any legal business entity other than a sole proprietor.

**"Person"** unless otherwise indicated, means individuals, corporations, partnerships, cooperatives or other entities.

## **420:10-1-5. Permits [AMENDED]**

(a) **Permits required.** No person, firm, corporation, association or other entity shall engage in the manufacturing, assembling, fabrication, installing or selling of any system, container, or apparatus to be used in this State in or for the transportation, storing, dispensing, or utilization of LPG, nor shall any transporter, distributor, or retailer of LPG store, dispense and/or transport over the highways of this State any LPG for use in this State in any system, container, apparatus or appliance without having first obtained a permit to do so as provided in this section.

(b) **Permit classifications.** The permits required for engaging in business shall be divided into the following classifications:

(1) **Class I - Dealer permit.** The Class I Dealer Permit permits the holder to engage in any phase of the LP Gas business. A Class X Manager's permit must be secured for the person actually in charge of an LP Gas operation at each separate branch or base of operation of a Class I permit holder. The initial permit fee for a Class I is One Thousand Dollars (\$1,000.00) The annual renewal fee required to be paid for the Class I permit is Five Hundred Dollars (\$500.00).

(A) Class I holder can go on inactive status, but will have to meet all the requirements of the permit, including paying the annual renewal fee, and having proper insurance requirements filed with the Administrator, before going back on active status. If requirements are not met the permit will then be revoked. The annual renewal fee required to be paid for a Class I permit holder on inactive status is Three Hundred and Fifty Dollars (\$350.00).

(B) Applicant must furnish to the Board, evidence of the following insurance:

(i) A minimum of \$1,000,000.00 general liability insurance, as per OAC 420:10-1-18;

(ii) Worker's Compensation insurance shall be required as per state requirements;

(iii) Motor vehicle insurance must meet State and Federal requirements.

(C) Brokers/wholesalers selling LP Gas to anyone other than Class I permit holders or refinery/gas processing type facilities shall obtain a Class I permit and meet the requirements thereof, except for minimum storage and metering, when said sales are by transport bulkhead to bulkhead.

(D) Before testing for a Class I permit, an applicant must meet the following requirements as approved by the Board:

(i) Five (5) years experience as an active Class X Manager or equivalent; and

(ii) Forty (40) hours of specified training.

(E) Prior to application or renewal of any Class I Permit, the applicant or holder shall provide the Administration as part of this application or renewal a complete list of facilities and each delivery location, including the name of facility, street address of facility, name of contact person, and contact information of said facility, to which Un-Odorized LP Gas is being delivered. Sales and deliveries of Un-Odorized LP Gas shall only be made to facilities in Oklahoma that are properly permitted by this Administration.

(2) **Class II - Truck Transporter permit.** The Class II Transporter Permit permits the holder to transport LP Gas as a common carrier or private carrier to another of the following: a person, firm, or corporation engaged in the production or manufacture of LP Gas and/or selling or reselling LP Gas to transporters, industrial consumers, processors, distributors, retailers, and/or to holders of Class I, III, or VI permits. A Class II permit shall not authorize the resale of LP Gas to an end-user. A Class II permit shall not be a substitute where a Class I is needed. A transport must meet all CFR 49 requirements. The initial permit fee for a Class II is One Thousand Dollars (\$1,000.00). The annual fee for a Class II permit is Four Hundred Dollars (\$400.00). All LP Gas transport drivers employed by a Class II permit holder are required to obtain a fuel handlers card. The annual filing fee for a fuel handlers card is Ten Dollars (\$10.00).

(3) **Class III - DOT Cylinder Transporter Permit.**

(A) The Class III DOT Cylinder Transporter Permit permits the holder to operate a LP Gas cylinder sale or delivery service for LP Gas in accordance with all other rules and regulations and NFPA Pamphlets 54 and 58. A Class III DOT Cylinder Transporter Permit holder shall obtain LP Gas for sale or delivery from a lawfully-permitted Class I dealer.

(B) The Class III DOT Cylinder Transporter Permit for Un-Odorized LP Gas Endorsement. A separate endorsement to a Class III permit is required, if applicable, and in addition to the Class III DOT Cylinder Transporter Permit, and allows the holder to operate a DOT cylinder sale or delivery service for un-odorized LP Gas in accordance with all other rules and regulations, NFPA Pamphlets 54 and 58, and the following:

(i) Pursuant to this Endorsement, un-odorized LP Gas shall be sold or delivered in approved DOT cylinders only.

(ii) All deliveries shall be made in appropriately marked and placarded vehicles.

(iii) Delivery vehicles shall be operated by licensed personnel holding appropriate certificates and qualifications for the safe handling of LP Gas.

(iv) Prior to application or renewal of any Class III DOT Cylinder Transporter Permit for Un-Odorized LP Gas Endorsement, the applicant or holder shall provide the Administration as part of this application or renewal a complete list of facilities and each delivery location, including the name of facility, street address of facility, name of contact person and contact information of said facility, and the name and location of the Class I permit dealer supplying the Un-Odorized LP Gas to the permit holder.

(v) Sales and deliveries of Un-Odorized LP Gas made pursuant to this Endorsement shall only be made to facilities in Oklahoma that are properly permitted by this Administration.

(C) The Bulk Delivery Class III A Endorsement. The separate Class III A Bulk Delivery Endorsement to the Class III permit is required if applicable and shall permit the holder to invoice the end user for bulk delivery of odorized LP Gas to the facility of the end user only when the LP Gas is delivered to that location by a Class I permit holder.

(D) The annual fee for a Class III permit is \$300. The annual fee for the Un-Odorized LP Gas Endorsement is \$300. The annual fee for the Bulk Delivery Endorsement is \$300.

(E) All DOT cylinder transport drivers employed by a Class III permit holder are required to obtain a fuel handlers card. The annual filing fee for a fuel handlers card is Ten Dollars (\$10.00).

(4) **Class IV - Installer permit.**

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(A) The Class IV Installer Permit permits the holder to install and service LP Gas systems, appliances, and other LP Gas equipment. The applicant is required to have immediate supervision for two (2) weeks with a Class IV, IV-D, Class X, or a person licensed by Oklahoma Construction Industries Board with a Mechanical License, and then shall be required to pass a written examination for each separate endorsement. The endorsements will be as follows:

- (i) LP, Low Pressure systems covered by NFPA 54;
- (ii) HP, High Pressure systems covered by NFPA 58;
- (iii) RV, Recreational Vehicle systems covered by NFPA 1192;
- (iv) MC, Meter Calibration systems covered by NIST Handbook 44;
- (v) TI, Truck Inspections and Piping covered by NFPA 58 and CFR 49;
- (vi) DO, Dispenser Operator for Class IV permit holders that also dispense propane.
- (vii) RHM, Recreational Home Maintenance which encompasses only the limited maintenance activities of lighting or relighting pilot lights; cleaning gas logs; and exchanging cylinders on a stationary gas grill that qualifies as an outdoor cooking appliance under NFPA 54.3.3.4.9. This subsection shall not be interpreted to allow a RHM endorsement holder from performing any other activity related to the installation or servicing of an LP Gas system, appliance, or other LP Gas equipment.

(B) Exception from two (2) week training period would be anyone already licensed by Oklahoma Construction Industries Board with a Mechanical License. If the supervising person determines that the new applicant is properly trained, proper documentation of the training is on file, and a Class IV application has been forwarded to the LP Gas Administration, the applicant at that time may begin performing the duties of a Class IV permit holder until such time as the test is administered and the permit issued. This time shall not exceed thirty (30) days or the applicant shall cease to perform these duties. Current Class IV's, as of September 1, 1994, are not required to take a written exam. Upon renewal, endorsements will be based on services provided as authorized by the Administrator. The annual fee for a Class IV permit with one (1) endorsement is Seventy Dollars (\$70.00). Each additional endorsement is Ten Dollars (\$10.00).

(C) Class IV permit does not permit the holder to install or service LP-Gas carburetion systems.

(D) Any installer not under the personal and direct supervision of a Class X holder at the immediate time and location of installation shall be required to have a Class IV or IV-D permit.

## **(5) Class IV-D - Driver/Installer Permit.**

(A) The Class IV-D Driver/Installer Permit permits the holder to deliver LP Gas by bobtail and install and service LP Gas systems, appliance, and other LP Gas equipment. Class IV-D permit can only be issued under a Class I permit. New applicants must be under immediate supervision from a current Class IV-D, or Class X while in a minimum of a two (2) week training period before testing. Permit holder shall be required to pass a written examination. The tests shall be given according to current policies of the LP Gas Administration. If the supervising Class X determines that the new applicant is properly trained, proper documentation of the training is on file, and a Class IV-D application has been forwarded to the LP Gas Administration, the applicant at that time may begin performing the duties of a Class IV-D permit holder until such time as the test is administered and the permit issued. This time shall not exceed thirty (30) days or the applicant shall cease to perform these duties. Current Class IV permit holders, as of September 1, 1994, properly trained in delivery of LP Gas will not be required to take the test and will be issued a IV-D permit. The annual fee for a Class IV-D is Fifty Dollars (\$50.00).

(B) Class IV-D permit does not permit the holder to install or service LP Gas carburetion systems.

(C) Any installer not under the personal and direct supervision of a Class X holder at the immediate time and location of installation shall be required to have a Class IV or IV-D permit.

## **(6) Class VI - DOT Cylinder &/or LP Gas Motor Fuel Station Operator Permit.**

(A) The Class VI DOT Cylinder and/or LP Gas Motor Fuel Station Operator Permit permits the holder to operate DOT cylinder dispensing station and/or a motor fuel dispenser for public resale. Said Permit must be prominently displayed for public and official inspection at all times. A permit is required for each DOT cylinder dispensing station and/or motor fuel station. The endorsements will be as follows:

- (i) AAG, This Attended Autogas "AAG" endorsement permits the holder to operate LP Gas dispenser stations that fill DOT cylinders and/or Attended LP Gas motor fuel refueling dispensers for resale.



(ii) UAG, This Unattended Autogas "UAG" endorsement permits the holder to operate Unattended self-service LP Gas motor fuel dispenser stations; however, these installations require more stringent regulations than those that are attended. In addition to the requirements in this section, the permit holder shall be required to install equipment that meets or exceeds the minimum installation and performance standards described in OAC 420:10-1-14(b)(26). For the purpose of defraying the cost and expenses of administering and enforcing this rule, persons, firms and corporations shall pay at the time of initial inspection a fee of Three Hundred Dollars (\$300.00) for each unattended LP Gas motor fuel dispenser station. Thereafter, the annual inspection fee is One Hundred Fifty Dollars (\$150.00) for each unattended LP Gas motor fuel dispenser station.

(B) Permit holder must comply with reasonable training requirements of the Class I and Class X manager of the LP Gas provider ensuring that all employees dispensing LP Gas at each location of permit holder are trained and permitted by this agency including notification to the Class X manager whenever training is necessary for new and/or unpermitted employees. Class VI locations may not become operational until a permit has been issued. A Class VI-A LP Gas Dispensing permit must be secured for the person actually in charge of an LP Gas dispensing operation of a Class VI permit holder. A permit will not be issued until the proper fee has been paid and certificate of insurance is received by the LP Gas Administration. The annual fee for a Class VI permit is One Hundred Fifty Dollars (\$150.00).

(7) **Class VI-A - LP Gas Dispensing Permit.** All employees involved in dispensing LP Gas must acquire a Class VI-A permit, except a Class IV, Class IV-D, and Class X. A Class VI-A LP Gas Dispensing permit is required for a person actively in charge of or engaged in LP Gas dispensing operations for the holder of a Class VI permit. All Class VI-A permit holders must be an employee of said Class VI permit holder. Class VI-A applicants must be properly trained by a Class X or at a Board-approved training class on proper filling of ASME tanks and DOT cylinders, and inspection thereof per NFPA 58. Applicants shall be required to pass an approved written examination. Test shall be administered by a Safety Code Enforcement Officer, or by Class X manager. In either case, the test fee for the Class VI-A permit is Ten Dollars (\$10.00). Holder must post permit at the facility they are employed by and attend a Board-approved annual safety school once every year. This does not prohibit any person, firm or corporation from filling his own equipment from his own supply line, or dispensing motor fuel from an approved limited access self-service dispenser. The annual fee for a Class VI-A permit is Thirty-Five Dollars (\$35.00).

(8) **Class VII - Cylinder Exchange Program Permit.** The Class VII Cylinder Exchange Program Permit permits the holder to participate in the cylinder exchange program for odorized LP Gas only. A permit is required for each cylinder exchange location. Class VII locations may not become operational until a permit has been issued. Permits will not be issued until the proper fee has been paid and certificate of insurance is received by the LP Gas Administration. The annual fee for a Class VII permit is ~~Fifty Dollars (\$50.00)~~ Eighty Five Dollars (\$85.00). A Class VII Cylinder Exchange Program Permit holder shall obtain LP Gas for its cylinder exchange from a lawfully-permitted Class I dealer.

(9) **Class VIII - Un-Odorized LPG Permit.** Facilities obtaining un-odorized LP Gas in approved DOT cylinders or otherwise for use must obtain an Un-Odorized LPG Permit. To obtain a permit, detailed plans describing such use and location of cylinder storage, and any and all LP Gas plumbing in said facility must be submitted in writing and approved for any facility using un-odorized LP Gas in any manner. These plans must be submitted to the Administration Office along with the proper fee, and a successful on-site inspection must be performed by a Safety Code Enforcement Officer prior to final approval and before the introduction of LP Gas into the system. A plan review fee of Two Hundred and Fifty Dollars (\$250.00) must accompany all plans submitted. The fee for inspection is Two Hundred and Fifty Dollars (\$250.00), and it will be assessed for each and every inspection, including, but not limited to, failed inspections, annual re-inspections and any other re-inspection needed to check that identified hazards have been corrected. The annual fee for the Un- Odorized LPG Permit is Five Hundred Dollars (\$500.00).

(10) **Class IX - LP Gas Container Sales Permit.** The Class IX Gas Container Sales Permit permits the holder to manufacture and/or sell LP Gas containers. This permit is required by both wholesalers and retailer. The annual fee for a Class IX permit is Seventy Dollars (\$70.00).

(11) **Class IX-A - Manufactured Homes and Recreation Sales Permit.**

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(A) The Class IX-A Manufactured Homes and Recreation Sales Permit permits the holder to manufacture, fabricate and sell all LP Gas facilities or systems used in manufactured homes, campers, recreational vehicles and portable buildings whether such LP Gas system is manufactured, fabricated or sold separately or as an integral part of such trailer, camper, recreational vehicle or portable building. The annual fee for a Class IX-A is Seventy Dollars (\$70.00).

(B) This shall not be construed to require a permit for a sale by the owner of a manufactured home or recreational vehicle who is not engaged in such business on a commercial basis and does not make over two such sales in one year.

**(12) Class X - Manager's Permit.**

(A) A Class X Manager's permit is required for a person actively in charge of LP Gas operation for holder of Class I permit and at each separate branch or base of operation of a Class I permit. All Class X holders must be a full-time employee of said Class I holder. The annual fee for a Class X permit is One Hundred Fifty Dollars (\$150.00).

(B) Before testing for a Class X permit, an applicant must meet the following requirements as approved by the Board:

- (i) Hold an active Class IV or Class IV-D permit and employed under an active Class I Dealer for a minimum of three (3) years or equivalent; and
- (ii) One (1) year of the minimum three (3) years required experience can be satisfied with forty (40) hours of specified training.

(C) Temporary exemptions for emergency conditions can be granted by the Administrator.

**(13) Additional permits required for employees of Class I dealers.** Class IV, IV-D, VI-A, X, and fuel handler permits are the only additional permits that may be required for the employees of a Class I dealer, or as may be required by future Board action.

**(14) LP Gas Trailer, Bobtail or Cargo Tank inspections.** For the purpose of defraying the cost and expenses of administering and enforcing this act, persons, firms and corporations shall also pay at the time of inspection an annual inspection fee of One Hundred Fifty Dollars (\$150.00) for each LP Gas bobtail, MC 330 or MC 331 trailer or cargo tank that transports LP Gas in this State. All requirements imposed subsequent to these inspections must be met within thirty (30) days of the initial inspection. Failure to comply will necessitate a re-inspection at a charge of One Hundred Fifty Dollars (\$150.00) for each inspection. The inspection fee shall increase to Three Hundred Dollars (\$300.00) for each LP Gas bobtail, MC 330 or MC 331 trailer or cargo tank that transports LP Gas in this State if said LP Gas bobtail, MC 330 or MC 331 trailer or cargo tank is not initially inspected within sixty (60) days following the current permit expiration date, or if requirements imposed subsequent to the initial inspection are not completed within sixty (60) days of the initial inspection, whichever is later, or at the discretion of the Administrator.

**(15) Containers or cylinders.** There is hereby levied the following fee, to be paid to the Administrator, upon all first sales, purchases, rentals or uses in this state of liquefied petroleum gas containers or cylinders; on all Department of Transportation (DOT) cylinders, vehicle fuel containers, a fee of Three Dollars (\$3.00) each, and on all other containers, a fee of Ten Dollars (\$10.00) each.

## **420:10-1-8. Processing and handling of applications and examinations [AMENDED]**

(a) **Scheduling.** Upon the receipt of an application for a permit for Class I or Class X permit the Board or Administrator shall schedule the applicant provided therein for examination at the next periodic written examination, unless the application be filed less than 30 days prior to the next scheduled written examination.

(b) **Passing score.** A score of 80% correct shall be a passing grade for all examinations.

**(c) Examinations.**

**(1) Class I examination.** ~~There shall be a total of 150 questions~~ Questions for a Class I examination consisting of: a percentage of questions from NFPA 58, NFPA 54, and from the rules and regulations promulgated by the Board. The Administrator shall have discretion to set, and the Board shall approve, the percentages of questions taken from each category. The questions for each examination shall be selected at random from a reservoir of questions consisting of no less than 500 questions but no more than 1000 questions. Questions shall be of four-part, multiple choice. Prior to being placed in the reservoir the questions shall be reviewed by the Administrator and approved by the Board. For each examination a total of 150 questions shall be drawn from the reservoir. All applicants sitting at one time shall receive identical examinations. Questions shall be from NFPA pamphlets 58 and 54 and rules and regulations promulgated by the Board. All exams shall be coded in such a manner that identity of the applicant shall be unknown to the grading authority.

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(2) **Class 10 Qualified Managers examination.** There shall be a total of 100 questions for a Class X Qualified Managers Examination consisting of: a percentage of questions from NFPA 58, NFPA 54, and from the rules and regulations promulgated by the Board. The Administrator shall have discretion to set, and the Board shall approve, the percentages of questions taken from each category. The questions for each examination Questions for a Class X Qualified Managers Examination shall be selected at random from a reservoir of questions consisting of no less than 500 questions but no more than 1000 questions. Questions shall be of four-part, multiple choice. Prior to being placed in the reservoir the questions shall be reviewed by the Administrator and approved by the Board. ~~For each examination a total of 100 questions shall be drawn from the reservoir. All applicants sitting at one time shall receive identical examinations. Questions shall be from NFPA pamphlets 58 and 54 and rules and regulations promulgated by the Board.~~ All exams shall be coded in such a manner that identity of the applicant shall be unknown to the grading authority.

(3) **Class IV and IV-D examinations.** Class, IV and IV-D examinations consist of standardized examinations. Class IV examinations will consist of 50 questions and Class IV-D exam will consist of 75 questions, each to be prepared by the Administrator.

(4) **Class VI-A examinations.** Class VI-A examinations shall be standard concerning basics of safety and handling of LP Gas. The examination to be prepared by the Administrator.

**(d) Applicant information.**

(1) All applicants for the same type permit sitting at any one time shall receive identical examinations.

(2) All applications and examinations except Class I and Class X shall be scheduled by the Administrator at such times as he may deem appropriate.

(3) Applicants may review their examination papers at the Administration Office within 30 days after examination date.

### **420:10-1-9. Issuing of certificates of permits [AMENDED]**

When an applicant for a permit has passed the written examination, when required, and has satisfied the Board as to all of the legal requirements including insurance, the Board shall issue the license sought upon the following terms and conditions:

(1) **Compliance.** The holder of the permit shall bind himself to comply with all of the laws, rules and regulations applicable to the business and to the permit which he has sought. Class I applicants shall attend an orientation with the Administrator prior to receiving their permit. After one year of business a Class I holder may be required to meet with the Board at the next regular Board meeting to review safety records and history. If not in compliance a 90 day show-cause hearing will be called to possibly revoke the permit. The burden of proof within the 90 days is placed on the permit holder. Permits issued under the act and the rules of this chapter shall be personal to the holder thereof and shall only be used and the rights thereunder authorized exercised by him and his duly qualified employees. No holder of a permit issued under the statutes and these rules shall lease, sub-let or permit in any manner the use of said permit or the performance of acts authorized thereunder by any person, other than duly qualified, bona fide employees of the holder of such permit, except as specifically provided in this chapter.

(2) **Record keeping.** Permit holders shall furnish a designated place or places at which all the books and records of the holder of the license shall be kept, including the records of any persons, firms or corporations who act in the name, place and stead of the permit holder in any manner. These records shall be open to inspection at all reasonable business hours by the Administrator or any other employee of the Board and a failure of the holder of the license, or employees, to permit such examination of the books and records shall be cause for suspension or revocation of the license under which such person, firm, or corporation might be operating.

(3) **Branches.** Prior to renewal of any Class I permit, the holder shall provide the Administration a complete list of branches of operations, dispensers, and a list of the Class IV, IV-D, VI and X permit holders for each location, as a part of his renewal application.

(4) **School attendance.** The Class I permit holder must indicate if all personnel have attended the mandatory schools as required by the rules and regulations. Failure to list all employees or fulfill the school attendance requirements of these rules and regulations shall be a cause for suspension or revocation of the license under which such person, firm or corporation might be operating.

(5) **Cylinder Exchange Programs.** All Class I permit holders that participate in the Cylinder Exchange Program must supply the Administration with a list of Class VII serviced customers, to include Company Name and Address, as part of the renewal application.

(6) **Manager termination.**

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(A) When a Class X Manager quits or is otherwise relieved of his duties and his permit is canceled as per 420:10-1-13(c), it shall be the duty of the Class I dealer to immediately notify the Administrator. The Administrator shall authorize interim continuance of an operation where no undue hazard would result, such authorized interim continuance may be granted for a period not to exceed 120 days. During such interim, it shall be the duty of the Class I permit holder to acquire the services of a qualified manager.

(B) No further continuances beyond 120 days shall be granted without review and approval of the Board, and can in no event be extended more than an additional three months.

(7) **Exceptions.** Except as enumerated in OAC 420:10-1-9(6) ~~(6) of this subsection~~ and 420:10-1-10 no operation shall be allowed to operate unless a Class I dealer and a Class X Manager acting for the Class I holder is in charge; provided however the Board may extend the time enumerated in OAC 420:10-1-9(6) and 420:10-1-10 in a situation of extreme hardship in the nature of physical or mental disability or when the convenience and necessity of the public demands, to be determined by the Board upon written after application to the Board submitted by the affected Class I holder before the expiration of the time allotted by OAC 420:10-1-9(6) and 420:10-1-10. The application must identify and hearing a situation of extreme hardship, in the nature of physical or mental disability, or identify why convenience and necessity of the public demands additional time to operate without a Class X Manager. The Board will consider the application at the next meeting of the Board or may call a special meeting. After a determination has been made by the Board, the Class I permit holder shall be notified of the Board's determination in writing, and if the application is denied, within thirty (30) days of receipt of the Board's determination, the Class I permit holder shall suspend operations at the affected location until a Class X Manager is retained, or if the Class I permit holder only has one location, the Class I permit holder shall suspend operations at its location and cause its Class I permit to go inactive until a Class X Manager is retained. If the affected Class I permit holder continues to operate at the affected location or continues to operate at all, in the case that the Class I permit holder only has one location, then the Administration shall proceed with an action for fines, revocation and/or suspension of the affected Class I permit as provided for by OAC 420:10-1-20.

(8) **Class I and Class X permit issuance.** When a corporation, partnership, association or other non-personal entity seeking a Class I permit has satisfied all legal requirements, the Board shall issue a Class I permit to the non-personal entity, and a Class X permit to the individual designated by the non-personal entity, that submitted himself for the examination.

## **420:10-1-13. Responsible employees and managers who shall be required to have technical qualifications and manager's permits [AMENDED]**

(a) **Class X requirements.** A qualified manager possessing a Class X permit shall be required to actively supervise the LP Gas related sales and/or service being offered to the public at each separate branch or base of operation of a Class I permit holder which is operated as a relatively independent operation free from the day to day immediate supervision and control of the holder of the Class I permit, or the manager of a non-personal Class I permit holder. A Class X manager shall be considered to be actively supervising if such a manager is employed by the Class I permit holder to be the responsible party for the day to day immediate supervision of a branch or base operation of the Class I permit holder no more than two (2) separate branches or bases of operation, including training and oversight of employees, and is readily available to address daily operational needs and unforeseen events and emergencies. In no event shall a single Class X manager be retained for more than two (2) separate branches or bases of operation upon the Board's approval of a Class I permit holder's written request to retain a single Class X manager at two (2) locations. If the Administrator approves a request to operate LP gas related sales and/or services offered to the public without the active supervision of a Class X manager. The decision to allow a Class I permit holder to retain a single Class X manager for two (2) separate locations is in the sole discretion of the Board. If the Board allows a Class I permit holder to retain a single Class X manager for two locations, that decision is, then such request shall be subject to future review by the Administrator in his or her sole discretion. Board to occur at least once a year, or more frequently as the Board deems necessary in its sole discretion. In determining whether ~~such~~ a separate branch or base of operation exists, or whether to allow a Class I permit holder to retain a single Class X manager for two (2) locations, the Administrator Board shall consider the following:

(1) The distance of the LP Gas related sales and/or service being provided from the location of the main or central base of operation, or the distance between the two (2) locations for which a Class I permit holder seeks to retain a single Class X manager. In any case where a truck is stationed twenty-five (25) miles or more away from the direct supervision of a Class X managed operation, then the burden of proof is on the Class I permit holder to prove that it is not a separate branch or base of operation and meets all the requirements of the Oklahoma Rules and Regulations.

(2) The type and kind of LP Gas related sales and/or service offered to the public. Sales and/or service to residential customers and public buildings is considered to require more supervision than sales and/or service to industrial, agricultural and motor fuel customers;

(3) Any and all other pertinent information, including but not limited to, information which indicates indicating that a separate branch or base of operation exists, and information related to public needs and safety.

**(b) Exception hearing.** If the Board denies a Class I permit holder's initial request to retain a single Class X manager for two locations, that decision is within the sole discretion of the Board as provided above. A Class I permit holder who does not currently have permission to assign a single Class X manager to two locations may make a written request to the Board, as set forth above, to have a single Class X manager assigned to two locations at any time. The exception hearing provided for by this section is applicable when the Board determines upon annual, or more frequent, review that the Class I permit holder whom the Board previously allowed to retain a single Class X manager for two locations now needs a separate Class X manager at the separate branch or base of operation. After a determination has been made by the Board that a Class I permit holder may not continue to retain a single Class X manager for two (2) locations, the Class I permit holder shall be notified of the Board's determination in writing. The Class I permit holder shall then have ~~ten (10)~~ fifteen (15) business days thereafter to request in writing a hearing before the Board for the purpose of presenting any facts and circumstances which would indicate that a Class X permit holder is not required where the separate LP Gas related sales and/or service is offered. A hearing will be held at the next Board meeting, or the Board may call a special meeting. Failure to timely request such a hearing from the Board by the Class I permit holder shall constitute acquiescence in the Board's determination. WhenIf the Board determines that a Class I permit holder who was previously allowed to retain a single Class X manager for two (2) locations now needs a separate Class X is needed manager at the separate branch or base of operation, then the Class I permit holder has 120 days, from the date of Board's written notice of determination or from the date of Board's decision at the exception hearing whichever is applicable, or until the next Board meeting to secure a Class X manager for the affected location permit holder. If the affected Class I permit holder continues to operate at the affected location, then the Administration shall proceed with an action for fines, revocation and/or suspension of the affected Class I permit as provided for by OAC 420:10-1-20.

**(c) Class X cancellations.** Class X permits are immediately and without notice canceled when a holder thereof leaves the employment of a Class I permit holder. The Class X permit holder must notify the Board within ninety (90) days of their intent to place the Class X permit on inactive status. The inactive Class X permit holder must ~~attend the required safety seminar and~~ pay the annual permit renewal fee required for a Class X permit holder on inactive status of One Hundred and Five Dollars (\$105.00). Thereafter, the inactive Class X holder can make application to the Board for issuance of an active Class X permit, upon proof of full-time employment by a Class I permit holder and with Board approval.

### **420:10-1-14. Standards for the storage and handling of liquefied petroleum gas [AMENDED]**

**(a) NFPA standards.** The standards for the storage and handling of liquefied petroleum gases adopted by the National Fire Protection Association (NFPA) and published in its pamphlets No. 58, and the standards for the installation of gas appliances and gas piping adopted by said NFPA and published in its pamphlet No. 54 have been adopted by the Legislature in 52 O.S., Section 420.3(E) and shall be accepted standards for the State of Oklahoma. All Class I, Class II, and Class III permit holders must have a current electronic or paper copy of NFPA 58 and 54 available for use at each separate branch.

**(b) Supplemental standards.** The following standards are supplemental to NFPA pamphlet No. 58 and shall be part of the rules and regulations of the Oklahoma Liquefied Petroleum Gas Board:

#### **(1) Definitions.**

(A) The word "approved" as used in this section means acceptable to the State Liquefied Petroleum Gas Administrator. A device or system having materials or forms different from those detailed in this section may be examined and tested according to the intent of the regulations and if found equivalent, may be approved.

(B) In this section those provisions which are considered essential for adequate protection of life and property from fire are indicated by the words "shall" and "must." The words "should" or "preferably" indicate advisory provisions concerning which the State Liquefied Petroleum Gas Administrator of Oklahoma should be consulted.

(C) In each place mentioned in NFPA No. 54 and NFPA No. 58 where it refers to "the authority having jurisdiction" this would mean the Liquefied Petroleum Gas Administrator.

(D) An "important building" shall be any building, open to the public, or inhabited by people, in which any LP Gas system of any type is installed.

#### **(2) Submittal of plans.**

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(A) Prior to the installation of new, or the modification of liquefied petroleum gas plumbing systems, excluding tank change outs, in school buildings, churches, courthouses, office buildings and other buildings to which the public is invited, such as cafes, dance halls, tourist courts and parks, plans and specifications for such installation in duplicate, shall be submitted to, and ~~approved by~~approved by, the State Liquefied Petroleum Gas Administrator, and before such systems are filled with liquefied petroleum gas, they shall be physically inspected and approved by a licensed installer and a report made by him or her to the State Liquefied Petroleum Gas Administrator on LPG Form 4, or its revision, furnished by the LP Gas Administrator's office.

(B) Plans must be submitted and approved on any dispenser used to fill DOT cylinders and/or ASME containers, and used for public resale of LP Gas, including unattended self-service LP Gas motor fuel dispenser stations. These plans must be submitted by a Class I permit holder to the Administration office along with the proper fee, and an onsite inspection must be performed by a Safety Code Enforcement Officer prior to final approval and before the dispenser can be placed into service. A One Hundred Dollar (\$100.00) plan review fee must accompany all dispenser plans submitted. If a dispenser is taken out of service, written notice must be given to the Administration office within seven (7) working days. If a dispenser is moved to a new location, new plans must be submitted to the Administrator and onsite inspection performed by a Safety Code Enforcement Officer prior to final approval and dispenser being placed into service. A complete list of dispensers by location shall be submitted to the LP Gas Administration as indicated on Class I permit renewal forms.

(C) Plans must be submitted to, and approved, by the Administrator on any fixed installation with individual water capacity of 2,000 gallons or more, or aggregate water capacity exceeding 4,000 gallons.

(D) Plans must be submitted and approved for any facility using Un-Odorized LP Gas in any manner and a permit must be obtained pursuant to OAC 420:10-1-5(b)(9). These plans must be submitted to the Administration Office by the Class VIII permit holder or applicant proposing to service such facility with product, along with the proper fees. A successful on-site inspection must be performed by a Safety Code Enforcement Officer of the LP system prior to final approval and before the introduction of LP Gas and the system placed into service. A plan review fee of ~~One Hundred Dollars (\$100.00)~~Two Hundred Fifty Dollars (\$250.00) must accompany all plans submitted. The fee for inspection is ~~One Hundred Dollars (\$100.00)~~Two Hundred Fifty Dollars (\$250.00), and it will be assessed for each and every inspection, including, but not limited to, failed inspections, annual re-inspections and any other re-inspection needed to check that identified hazards have been corrected.

**(3) Report of accident.** In case of accident or fire at any location where a liquefied petroleum gas system or equipment is involved, or any accident involving liquefied petroleum gas systems or equipment, the dealer owning, operating or servicing the equipment or installation shall notify the State Liquefied Petroleum Gas Administrator. This notification shall be forwarded as soon as feasibly possible after the dealer has knowledge of the accident in order that an inspection may be made by the State Liquefied Petroleum Gas Administrator before the site has been disturbed.

**(4) Piping - including pipe, tubing and fittings.**

(A) No person, firm, or corporation shall connect a liquefied petroleum gas tank to any piping without having first determined that such piping complies with the laws of the State of Oklahoma and the rules and regulations of the State Liquefied Petroleum Gas Board relative to liquefied petroleum gas piping.

(B) All installations, installed after July 1, 2002, of storage containers, with more than 4,000 gallon water capacity, shall have internal valves installed as per NFPA 58.

(C) On installations of stationary or portable storage, with an aggregate of more than 4,000 gallon water capacity, a bulkhead approved by the LP Gas Administrator shall be required on each liquid line of one and one-half (1-1/2) inch or larger and each vapor line of one and one-quarter (1-1/4) inch or larger.

**(5) Vaporizers and housings.**

(A) The minimum capacity of the storage container feeding the vaporizer shall not be less than ten (10) times the hourly capacity of the vaporizer in gallons.

(B) The minimum capacity of a storage container being heated by a direct fired tank heater shall not be less than ten (10) times the hourly vaporizing capacity of the tank heater in gallons.

**(6) Liquid metering systems.** Each bulk retail delivery of liquid LP Gas shall be measured by a suitable LP Gas liquid meter system, except those deliveries of liquid LP Gas in cylinders which are filled by weight, deliveries of LP Gas vapor through vapor meters and a delivery of a full transport load from the terminal to the end-user with a bill of lading, are exempt from the requirements of this paragraph.

(A) LP Gas Liquid meters shall indicate deliveries in terms of gallons and to the nearest tenth of a gallon.

(B) The LP Gas liquid meter shall meet, in addition to the other requirements of this paragraph, the following requirements:

(i) The system shall include a device (such as a differential back-pressure regulator) so designed and installed that the product being measured will remain in a liquid state during passage through the meter.

(ii) No means shall be provided by which any measured liquid can be diverted from the measuring chamber, differential valve equipment or the discharge line therefrom.

(iii) Effective January 1, 1994, in accordance with the National Institute of Standards and Technology (NIST) Handbook 44, all LP Gas Liquid meters used for bulk delivery shall be designed with the necessary equipment for mechanically printing gallons on a delivery ticket and the customer served thereby shall be given a ticket mechanically imprinted by the printing device. The customer's name and Class I Dealer's name must be included on the metered ticket. Meters used for stationary dispensing of motor fuel will not be required to be equipped with such printing device.

(iv) All bulk metered sales of propane, via bobtail or transport, shall be made by temperature compensated measure. Except, any truck now operating without a temperature compensation meter shall be retrofitted by no later than July 1, 2003.

(C) All meters where product is sold to the public must be proved by an approved meter tester/inspector and have written certification on file at permit holder's place of business. Meters that are located on vehicles or that are otherwise moveable must be proved at least once every two calendar years; meters that are stationary must be proved at least once every four calendar years.

(i) All meters and temperature compensators must be accurate within the manufacturer's tolerance, not to exceed + or -1% at any time. The Administrator, at his or her discretion, may require a meter be proved to determine its accuracy at any time, even if such proving would be outside of or in addition to the two-year or four-year schedule established above.

(ii) The LP Gas liquid meter system shall be designed and constructed to provide for applying lead-and-wire seals in such a manner that no modifications or adjustments which would affect the accuracy of deliveries, can be made without mutilating the seal or seals. If a seal is broken, notification must be made to the Administrator and the seal must be resealed by a Safety Code Enforcement Officer, an approved meter tester, or a person approved by the Administrator.

(D) No dealer or firm controlled or affiliated with a dealer may calibrate or certify its own meters. All meters must be tested with a volumetric meter prover.

**(7) Qualified personnel.** Each holder of an LP Gas permit shall be responsible for having qualified personnel operating and installing LP Gas equipment.

**(8) Filling unsafe or unapproved dispensing or storage tanks prohibited.** No person, firm, or corporation shall introduce liquefied petroleum gas into a dispensing or storage tank in the State with knowledge that such dispensing or storage tank or piping is known to be in an unsafe operating condition.

**(9) Standards for containers.**

(A) In accordance with 52 O.S., Section 420.5, all first sales, rentals, purchases or uses of DOT cylinders and ASME tanks in this State, must have Oklahoma Identification tags attached to such cylinders or tanks. However, all DOT cylinders and ASME tanks in Oklahoma, with a manufacturer's date prior to September 1, 1993, are not required to have Oklahoma Identification tags. These Oklahoma Identification tags are not transferable from one cylinder or tank to another.

(B) Any new container sold or installed in Oklahoma for use in this State shall carry a five-year warranty covering workmanship and material. This warranty shall provide that any container not in compliance with this regulation must be repaired or replaced by the fabricator at no expense to the dealer or customer. This provision is to take care of "pin-hole" leaks in the weld that were not detected at the time of fabrication and does not apply to fittings.

(C) ~~Containers shall be filled or used only upon authorization of the fee simple owner. The name of the fee simple owner, if other than the consumer, shall be conspicuously shown on the container.~~ All registered permit holders shall conspicuously mark any containers it owns with "property of:" and the owner's name so that the owner of any given container can be easily identified. Containers owned by one permit holder shall only be filled or used by another permit holder upon authorization of the permit

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holder owning the container. In all instances, a consumer's authorization to fill a container shall be required before filling it.

(D) Any stationary storage container converted from anhydrous ammonia to propane shall be converted as follows:

- (i) The container shall be purged of anhydrous ammonia by water flooding, steam or other methods described by the National Propane Gas Association's (NPGA) Recommendation for Prevention of Ammonia Contamination; and
- (ii) It shall then be properly purged with propane vapor and tested with the red litmus paper as described in NFPA 58 or by any other test approved by the Board; and
- (iii) The test shall be completed by the permit holder that performs the conversion; and
- (iv) The results shall be documented and shall contain the container manufacturer, water capacity, serial number, the results of the test, the capacity of the relief valve, the date of the test, and the signature of the permit holder conducting the test. A copy of the results shall be provided to the owner of the container;
- (v) Any dealer filling a converted anhydrous ammonia container for the first time shall either be provided a copy of the test or complete the test as described above; and
- (vi) The container shall meet all requirements of NFPA 58.

**(10) Underground containers.**

(A) Underground containers must be installed by an individual who:

- (i) Is properly permitted by the LP Gas Administration with a Class X or Class IV permit; and
- (ii) Has completed Board-approved Cathodic Protection training. Documentation of proof of completion of training must be provided upon request.

(B) Underground containers shall be dug up at the expense of the owner at any time at the discretion of the State Liquefied Petroleum Gas Administrator.

**(11) Minimum storage.** All new Class I permit holders must provide bulk propane storage capacity of not less than an aggregate of 18,000 water gallons. The minimum storage must be maintained and operational, with installation approved by the authority having jurisdiction, and within a fifty (50) mile radius of the corporate office or branch location. The minimum storage shall be considered maintained if the area meets the requirements of NFPA 58, the rules and regulations established by the Board and is kept reasonably clear of long, dry grass, weeds, debris, and any other combustible material. Any exceptions to the minimum storage requirement may be granted by the Board. Current active Class I permit holders, as of September 1, 1994, are not required to meet this minimum storage requirement. After a change of ownership, the new Class I permit holder must secure the minimum storage requirement within one year.

**(12) Painting.** All bulk storage containers of a capacity 120 gallons water capacity or greater shall be painted a heat reflection color.

**(13) Lettering bulk storage and dispensers.**

(A) All bulk storage 2,000 gallons and above shall be lettered with the name of the contents, such as LP Gas, butane, propane, and a "No Smoking" sign in letters not less than six (6) inches high.

(B) In addition to subparagraph (A) of this paragraph, all bulk storage used for loading and unloading facilities, and all container filling storages (dispensers) shall include the name of the person, firm, or corporation operating the bulk storage or dispenser and their phone number in letters not less than two (2) inches high. This information shall be placed so as to be readily visible to the public.

(C) ~~For all~~ All size bulk storage containers owned by a registered permit holder shall be conspicuously marked with "property of:" and the owner's name so that the owner can be easily identified. ~~the name of the fee simple owners, if other than the consumer, shall be conspicuously shown on the container.~~

**(14) Extinguishers required.** Extinguishers of the dry chemical type, with a B:C or A:B:C rating, are required. Extinguishers shall have a net content of not less than the current NFPA 58 requirements and shall be inspected at least once each year by an authorized inspector such as Fire Department's or Fire Appliance Company representatives. Current weatherproof inspection tags shall be attached to the extinguisher.

**(15) Marking cargo vehicles.** Every tank vehicle used for transportation of liquefied petroleum gas shall be marked and placarded according to current DOT requirements. Each tank vehicle must also have the name of the person, firm or corporation on each side of the cargo tank in letters a minimum of two (2) inches in height. This information shall be placed so as to be readily visible to the public. This name shall be the same as permit holder has designated on the Class I or Class II permit.



(16) **Parking and garaging LP gas tank vehicles.** Any tank vehicle used for transportation of liquefied petroleum gas shall not be parked beneath or adjacent to any electric transmission line in such position that there is a possibility of a conductor contacting the tank in event of breakage.

(17) **Filling unapproved truck, trailer or cargo tanks prohibited.**

(A) An inspection form, when properly completed, and an LPG registration decal (the serial number of which is shown on the inspection form), shall be evidence that the liquefied petroleum gas truck, trailer or cargo tank described on the inspection form by its serial number has been approved by the Liquefied Petroleum Gas Administrator for use in the transportation of liquefied petroleum gas. Such LPG registration decal and inspection form also shall authorize the person, firm or corporation whose name appears on the inspection form or its bona fide employees to operate the truck or trailer tank described on the inspection form, and further shall authorize the filling of such truck, trailer or cargo tank with liquefied petroleum gas.

(B) The LPG registration decal shall be displayed at all times in an easily visible location on the left front of the cargo tank, which is on the driver's side. A copy of the inspection form shall be retained, until the expiration date, in the office of the person, firm or corporation whose name appears thereon. It will not be necessary to keep or display a copy of the inspection form on the truck, trailer or cargo tank.

(C) No person, firm or corporation shall operate a truck, trailer or cargo tank in the transportation of liquefied petroleum gas in this State unless such person, firm or corporation has been issued an LPG registration decal and an inspection form certifying that such tank has been registered with and approved by the State Liquefied Petroleum Gas Administrator, or unless its operation has been specifically approved by a communication from the State Liquefied Petroleum Gas Administrator.

(D) The LPG registration decal and the inspection form required in this paragraph are not transferable by the person, firm or corporation to whom they are issued or from one truck, trailer or cargo tank to another, and they are not to be used after the expiration date of the fiscal year for which they were issued, or in the event the Class I or Class II permit becomes inactive.

(18) **Vaporizers.** Exhaust gases shall not be used as a direct means of heat supply for the vaporization of fuel.

(19) **Stationary engines in building.**

(A) All engine rooms shall be well ventilated at the floor level.

(B) When engines are installed below grade level, suitable floor level mechanical exhaust ventilation shall be provided and operated continuously, or adequate means shall be provided to purge the room before the engine is started. In any case the mechanical ventilation shall be in operation when the engine is running. Before and during any repairs to the engine the room shall be ventilated.

(C) Automatic fire doors shall be provided at openings in the engine room that open into other sections of the building.

(D) Exhaust gases shall be discharged outside the building in a manner that will not create a fire or any other hazard.

(E) Regulators and pressure relief valves installed in buildings and engine rooms shall be vented to the outside and discharge at least five (5) feet away from any building opening. Such venting will not be required for combination engine fuel vaporizing - fuel reducing - fuel metering devices, provided that an acceptable automatic shut-off valve is installed immediately ahead of such devices.

(20) **Storage outside of buildings.** Valves and safety relief devices shall be protected against accumulations of ice and snow. Protective caps shall be deemed adequate.

(21) **Appliances.** Any mobile home, travel trailer, camper or recreational vehicle shall be delivered to the buying public by the permit holder with the system properly installed and free of leaks.

(22) **Maximum vapor pressure and container working pressure.**

(A) The maximum vapor pressure of the product at 100-degree Fahrenheit which may be transferred to a container shall not exceed the design working pressure of the container. Exception: 200 psig ASME working pressure vessels in LP Gas service in Oklahoma prior to January 1, 1994, may be continued in service for commercial propane, provided that they are fitted with relief valves and meet the start-to-leak setting in relation to the design pressure of the container, shall be in accordance with NFPA 58. For the purpose of this exception, "commercial propane" is defined as having a vapor pressure not in excess of 210 psig at 100-degree Fahrenheit. This exception does not apply to LP Gas motor fuel and mobile fuel containers.

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(B) Any stationary 200 psig ASME containers brought into Oklahoma from out of state and intended for stationary LP Gas installation in Oklahoma at any facility requiring submission of plans and specification must be tested by at least two (2) of the following nondestructive test methods recognized by ASME to determine if the container or assembly is safe for LP Gas use in Oklahoma. The following test results must be submitted to the Oklahoma LP Gas Administration for approval.

- (i) Hydrostatic test;
- (ii) Ultrasonic thickness test; and
- (iii) Wet particle fluorescent or magnaflux.

**(23) Testing, leakage and visual inspection, and meter calibration.**

(A) Hydrostatic testers operating in Oklahoma that are hydrostatic testing cargo containers for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and shall:

- (i) Hold a Federal C.T. number;
- (ii) Include in their testing the use of a calibrated pressure chart recorder; and
- (iii) Hold a Class IV installer permit.

(B) Leakage and visual inspectors operating in Oklahoma and performing this inspection on cargo containers and their systems for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and meet the following requirements:

- (i) Inspectors shall hold a Federal C.T. number; and
- (ii) If the inspection includes repairs that require the LP Gas system to be re-plumbed, a Class IV permit is required.

(C) Meter calibrators operating in Oklahoma that are calibrating meters for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and meet the following requirements:

- (i) Meters shall be tested in accordance with OAC 420:10-1-14(b)(6);
- (ii) Meter calibrators shall furnish the meter owner a copy of the calibration showing the correct gear numbers and temperature compensator settings;
- (iii) Meter calibration results shall be on a form approved by the LP Gas Administrator and a copy of the completed form shall be furnished to the meter owner;
- (iv) Meter calibrators shall hold a Class IV permit; and
- (v) Meter calibration testers shall test meters according to National Institute of Standards and Technology (NIST) standards.

**(24) Cylinder exchange stations.**

(A) Cylinder exchange cabinets shall be constructed as per NFPA 58.

(B) The cabinet shall have the following signs affixed to it and readily visible to the public:

- (i) "Propane" or "Flammable Gas" and "No Smoking" in letters not less than two (2) inches high;
- (ii) "Net Weight \_\_\_ lbs." with the net weight of the cylinders to be specified, all of which shall be displayed on the front of the cabinet in letters not less than two (2) inches high;
- (iii) Name of Class I permit holder who supplies the cylinders; and
- (iv) 24-hour Emergency telephone number.

(C) The cabinet shall be located for distance and number of cylinders as per NFPA 58.

(D) The cylinder storage area shall be kept free of wood, debris and other combustible/flammable material not necessary to the storage for a distance of ten (10) feet, not to include the construction materials of the building itself.

(E) Protection against vehicle impact shall be provided in accordance with good engineering practice where vehicle traffic normally is expected at the location, as per NFPA 58.

(F) A fire extinguisher shall be provided, as per NFPA 58.

(G) A warning sign shall be posted at or near any entrance doorway stating the "LP GAS EXCHANGE CYLINDERS EMPTY OR FULL SHALL NOT BE TAKEN INDOORS FOR ANY REASON."

(H) The Class I permit holder shall provide safety training materials to the Class VII permit holder. The Class VII permit holder is responsible for providing appropriate safety information to the individual exchanging the cylinder. This documentation of training will be kept by the Class VII permit holder at the Class VII location.

(I) Automated cylinder exchange cabinets that include an automated vending system for exchanging cylinders shall comply with the following additional requirements:

- (i) Electrical equipment installed in cylinder storage compartments shall comply with the requirements for Class I, Division 2 equipment in accordance with NFPA 70, National Electrical Code;
  - (ii) Cabinets shall be designed such that cylinders can be placed inside only in the upright position;
  - (iii) Door releases for access to stored cylinders shall be permitted to be pneumatic, mechanical or electrically powered;
  - (iv) A manual override control shall be permitted for use by authorized personnel; and
  - (v) The vending system shall not be capable of returning to automatic operation after a manual override until the system has been inspected and reset by authorized personnel.
- (J) A Class I permit shall be required in order to supply exchange cylinders for the cylinder exchange permit holder.
- (K) A busy sidewalk and thoroughfare, as referenced in NFPA 58, shall be further defined as not being located on private property. A busy sidewalk is alongside a public road and a thoroughfare is a public road.
- (25) **Recreational vehicles.** Installations or repairs on LP Gas systems on recreational vehicles shall be performed as per NFPA 1192, Standard on Recreational Vehicles.
- (26) **Minimum installation and performance standards of unattended self-service LP Gas motor fuel dispenser stations.**
- (A) Unattended self-service LP Gas motor fuel dispenser stations shall meet the applicable sections of the rules and regulations of the Oklahoma Liquefied Petroleum Gas Board and NFPA 58.
  - (B) Any unattended self-service LP Gas motor fuel dispenser shall also meet all Alternative Provisions for Installations of ASME containers found in NFPA 58 regardless of tank size. This includes Redundant Fail-Safe Product Control and Low Emission Transfer requirements.
  - (C) The delivery valve and nozzle combination shall be designed, installed, and operated, so that LP Gas will not be released unless the valve is correctly attached to the filler coupling on the receiving valve of the LP Gas motor fuel container.
  - (D) To maintain minimum performance standards, the following shall be considered minimum system performance requirements:
    - (i) Dispensing rate minimum of eight (8) gallons per minute (GPM) per manufacturer's specifications; and
    - (ii) Vehicle fueling area, ground where vehicle is parked, shall be reasonably level to allow for complete fuel fills.
  - (E) The dispenser shall have the following signs affixed to the dispenser and readily visible to the public:
    - (i) Step by step operating instructions, approved in advance by the Administrator;
    - (ii) A warning sign(s) stating, "WARNING, STATE LAW PROHIBITS FILLING ANY PORTABLE DOT CONTAINERS AT THIS DISPENSER" and "All vehicles refueling at this dispenser must have an appropriate ASME container fitted with an operational OPD valve" in letters not less than two (2) inches high;
    - (iii) Proper name of LP Gas being dispensed, as specified by federal regulations at CFR-Title 49, in letters not less than two (2) inches high;
    - (iv) "No Smoking" in letters not less than two (2) inches high;
    - (v) 24-hour emergency telephone number in letters not less than two (2) inches high; and
    - (vi) Name of the Class I permit holder that services the dispenser, in letters not less than two (2) inches high.

*[OAR Docket #25-431; filed 5-30-25]*

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### TITLE 429. OKLAHOMA LOTTERY COMMISSION CHAPTER 1. GENERAL ADMINISTRATION

*[OAR Docket #25-400]*

#### RULEMAKING ACTION:

# Permanent Final Adoptions

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PERMANENT final adoption

## **RULES:**

429:1-1-3. Definitions [AMENDED]

429:1-1-5. Procedures for retailer appeal to Board [AMENDED]

429:1-1-6. Officers [AMENDED]

## **AUTHORITY:**

Oklahoma Lottery Commission Board of Trustees; Title 3A of the Oklahoma statute section 701 – 735

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

October 3, 2024

## **COMMENT PERIOD:**

November 1, 2024 through December 13, 2024

## **PUBLIC HEARING:**

December 9, 2024

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December 13, 2024

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December 13, 2024

## **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by SJR 21

## **LEGISLATIVE DISAPPROVAL:**

N/A

## **APPROVED BY GOVERNORS DECLARATION:**

N/A

## **FINAL ADOPTION:**

May 28, 2025

## **EFFECTIVE:**

July 11, 2025

## **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 are administrative in nature regarding a lottery retailers ability to appeal a decision made the lottery. Rules also include terms for the officers of the board of trustees. A definition was redefined and a board of trustees sentence removed regarding it's initial creation from 2005.

## **CONTACT PERSON:**

Jay Finks 405-522-7721

**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 JULY 11, 2025:**

**429:1-1-3. Definitions [AMENDED]**

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## Permanent Final Adoptions

In addition to terms defined in the Oklahoma Education Lottery Act, the following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

**"Lottery Retailer" or "Retailer"** means a business entity contracted to OLC to sell lottery tickets.

**"Oklahoma Lottery Retailer Contract"** ~~means the terms agreed upon in the online application to become an official OLC retailer. means Parts 1 through 8 of the Lottery Retailer Sales Contract Application, Title 3A, Section 701 ff of the Oklahoma Statutes as amended, Emergency and Permanent Rules approved by the OLC Board. As used in these Rules the terms, "Retailer Contract," "Oklahoma Ticket Sales Contract," "Lottery Retail Sales Contract," and "Lottery Retailer Sales Contract" all mean "Oklahoma Lottery Retailer Contract".~~

**"OLC"** means the Oklahoma Lottery Commission.

### 429:1-1-5. Procedures for retailer appeal to Board [AMENDED]

(a) The provisions of this rule are provided to retailers who wish to appeal the cancellation, denial, revocation, temporary suspension, suspension or rejection of renewal of a lottery retailer contract by the executive director or designee.

(b) These rules shall be given the most reasonable meaning, taken in their total context, and will be construed to secure due process in the resolution of retailer appeals. They shall not be construed to limit legal rights or obligations of any party.

(c) The executive director shall designate a member of the Oklahoma Lottery Commission (OLC) staff to evaluate lottery retailer contracts. That designee may:

- (1) Temporarily suspend a lottery retailer contract without prior notice pending any prosecution, hearing, or investigation, whether by a third party or by the OLC; or,
- (2) Cancel, suspend, deny, revoke, terminate, or reject renewal of a lottery retailer contract when it is in the best interest of the lottery, the public welfare, or the State of Oklahoma, and shall promptly notify the retailer of such action.

(d) Retailers will be notified by certified mail at the last retailer address known to the OLC. The notification will outline the reasons for OLC's action and advise retailers of their right to appeal to the executive director.

(e) Retailers shall have twenty (20) days from the date of the notice of the (1) temporary suspension or (2), cancellation, suspension, denial, revocation, termination, or rejection of renewal of a lottery retailer contract to appeal to the executive director. Appeals shall be filed and signed by the retailer and shall set out therein:

- (1) The name, address and retailer's certificate number;
- (2) The argument and/or legal authority upon which each assignment of error is made; and
- (3) A statement of relief sought by the retailer.

(f) The executive director or OLC designee will consider the appeal of the (1) temporary suspension or (2) cancellation, suspension, denial, revocation, or termination or rejection of renewal of a lottery retailer contract ~~by the OLC designee and shall fix schedule~~ a date for a hearing.

- (1) The hearing date shall be set within thirty (30) days of the date the appeal is received.
- (2) Notice of the time, date and location of the hearing will be sent to the parties.
- (3) The executive director or OLC designee shall issue a written order after the hearing which shall be sent by certified mail to the retailer within thirty (30) days of the hearing date.

(g) Any aggrieved party to the contract may appeal the order of the executive director to the Board of Trustees of the OLC by filing a notice of such appeal with the executive director within twenty (20) days of the mailing of the written order by the executive director. Such appeal must specify the grounds upon which the party alleges the executive directors order to be erroneous.

(h) The Board of Trustees will hear the appeal of the order of the executive director's and shall fix a date of hearing, at which time the Board shall be authorized and empowered to hear evidence pertinent to the appeal.

- (1) Notice of the time, date and location of the hearing will be sent to the parties.
- (2) The Board may, in its discretion, vacate, modify, or affirm, in part or whole, the order of the executive director.
- (3) The Board shall issue a written order in each case within sixty days of the hearing date.

(i) Orders of the Board shall be subject to judicial review (3A OS, §730).

### 429:1-1-6. Officers [AMENDED]

(a) **Officers.** The officers of the Board of Trustees shall be a Chair, Vice Chair, Secretary and Treasurer. No member of the Board shall hold more than any one office at the same time.

(b) **Terms of Officers.** Officers of the Board of Trustees shall be elected annually, prior to January 1st of each calendar year, to serve a term of one (1) year in the calendar year following their election. The affirmative vote of a majority of present and voting Board members shall be required for the election of each officer.

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(c) **Limit on Terms of Officers.** A Board member may not serve more than three consecutive years in the same office. ~~For this purpose service of a partial year in calendar year 2005 shall be counted as one of the three years.~~ A Board member may serve in any other office following three years of service in the same office and may be elected for additional service in the same office after serving a three year term so long as there has been one full year in which that Board member did not serve in that office.

(d) **Vacancies.** In the event of a vacancy in any of the offices listed in (a) of this Section, the Board of Trustees shall elect a successor to such office to fill the unexpired term of the officer previously elected to such office. In the event of a vacancy in the office of Chair, the Vice Chair shall serve as Chair until election of a successor Chair. In the event of a vacancy in the office of Vice Chair, Secretary or Treasurer, the Chair may appoint from among the Board of Trustees a person to serve as such officer in the vacant office until election of a successor to that office.

*[OAR Docket #25-400; filed 5-29-25]*

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## TITLE 429. OKLAHOMA LOTTERY COMMISSION CHAPTER 10. RETAILER PROVISIONS

*[OAR Docket #25-401]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

- 429:10-1-2. Definitions [AMENDED]
- 429:10-1-3. Retailer compensation [AMENDED]
- 429:10-1-4. Retailer application fee [AMENDED]
- 429:10-1-5. Acceptance and return of instant lottery tickets [AMENDED]
- 429:10-1-6. Acceptance of ~~online~~ draw game tickets [AMENDED]
- 429:10-1-7. Payment of prizes [AMENDED]
- 429:10-1-10. Settlement and retailer invoicing [AMENDED]
- 429:10-1-11. Banking, deposits and payment requirements [AMENDED]

### **AUTHORITY:**

Oklahoma Lottery Commission Board of Trustees; Title 3A of the Oklahoma statute section 701 – 735

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

October 3, 2024

### **COMMENT PERIOD:**

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December 13, 2024

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Approved May 28, 2025, by SJR 21

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

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### **SUPERSEDED RULES:**

N/A

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N/A

**REGISTER PUBLICATION:**

N/A

**DOCKET NUMBER:**

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**INCORPORATIONS BY REFERENCE:**

**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Chapter 10 deals with business aspects of licensed lottery retailers to include retailer compensation, licensing fees, the return of unsold tickets, and weekly accounting procedures. Removed a bonus program no longer in existence, clarified the application and bond fee schedule, refined language regarding the return of unsold tickets or the process to handle stolen or lost tickets. Refined language regarding payment of prizes, the settlement of packs of tickets, and removed a fee for first time offenders for delinquent accounts. Oklahoma lottery is modernizing the and simplifying their rules language.

**CONTACT PERSON:**

Jay Finks 405-522-7721

**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 JULY 11, 2025:**

**429:10-1-2. Definitions [AMENDED]**

In addition to terms defined in the Oklahoma Education Lottery Act, the following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

**"Activated Pack"** means the status of a pack of tickets that have been activated on an official Lottery terminal and are available in the system to be validated, which indicates to the OLC that tickets are being sold from that pack.

~~\_\_\_\_\_~~ **"Claim Form"** means the printed form authorized by OLC that a player shall complete and submit to OLC along with a ticket to determine eligibility for prize payment, in the event that such prize has not been validated and paid by an OLC retailer.

**"Claimant"** means a player who has submitted a claim ticket for prize payment.

~~\_\_\_\_\_~~ **"Draw Game"** means a game where tickets are purchased through a network of terminals located at OLC authorized retail outlets via the selection of specific numbers tied to a drawing to occur in the future.

~~\_\_\_\_\_~~ **"Inactive Pack"** means a pack of tickets received by the retailer from the OLC but not yet activated on an official Lottery terminal and therefore not yet available for sale.

**"Lottery Retailer" or "Retailer"** means a business entity contracted to OLC to sell lottery tickets.

**"Low-Tier Prize"** means a prize of twenty-five dollars (\$25) or less.

**"OLC"** means the Oklahoma Lottery Commission.

**"Pack" or "Pack Size"** means a package of instant tickets, each ticket with a different number. The number of tickets in a pack is generally from 60 to 500; 12 to 300.

~~\_\_\_\_\_~~ **"Pack Number"** means the unique number on the ticket that designates each pack of instant tickets in the game. Each pack number is unique within each instant game.

**"Retailer Commission"** means the amount of money paid to retailers for selling lottery products.

**"Settled Pack"** means the status of an activated pack of instant tickets when the OLC has invoiced the retailer based upon a pre-determined formula or schedule and the retailer has paid for the pack.

~~\_\_\_\_\_~~ **"Terminal"** means any machine provided and maintained by the OLC that prints and / or distributes Lottery tickets.

**"Ticket"** means any tangible evidence issued by the lottery to provide participation in a lottery game or drawing authorized by the Act.

~~\_\_\_\_\_~~ **"Validation Procedures"** means the procedures utilized by OLC and/or its authorized vendors to determine if a claimed ticket is a valid winner.

**"Valid Ticket"** means a ticket which meets all OLC game specifications and OLC validation requirements.

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## 429:10-1-3. Retailer compensation [AMENDED]

(a) Retailers will earn six-percent (6%) for each dollar of ticket sales plus three-quarters of one-percent (.75%) for each dollar of prizes \$600.00 or less paid by the retailer.

(b) In the event OLC designates certain retailers to pay prizes of up to \$5,000, pursuant to the Act and 429:10-1-7(b) (relating to payment of prizes), retailers so designated shall earn six-percent (6%) for each dollar of ticket sales plus three-quarters of one-percent (.75%) for each dollar of prizes \$5,000 or less paid by the retailer; ~~retailers so designated will receive \$10 for each prize claim processed and forwarded to OLC for payment.~~

(c) Retailers may earn a bonus payment for selling a winning PowerBall or Lotto America ticket as provided herein:

- (1) Powerball Jackpot prize ticket (6 of 6), not more than \$25,000;
- (2) Powerball second level prize ticket (5 of 5 white balls with no PowerBall), not more than \$5,000;
- (3) Lotto America Jackpot prize ticket (6 of 6), not more than \$5,000;
- (4) Lotto America second level prize ticket (5 of 5 white balls with no All Star Bonus), not more than \$1,000;
- (5) MegaMillions Jackpot prize ticket (6 of 6), not more than \$25,000;
- (6) MegaMillions second level prize ticket (5 of 5 white balls with no MegaBall), not more than \$5,000;

(d) This bonus payment will be paid to the retailer in a manner as determined by the Oklahoma Lottery Commission regardless of whether the winning prize ticket is claimed by the apparent winner or not. All bonus payment programs shall be approved by the Board of Trustees of the Oklahoma Lottery Commission prior to implementation.

## 429:10-1-4. Retailer application fee [AMENDED]

Persons applying to become lottery retailers shall be charged a uniform application fee of ~~\$95~~\$45. If the location is the applicant's second or more location, no additional application fee will be charged. The OLC may designate a portion of this fee as a non-refundable application fee and the remaining portion to cover the retailer bonding requirements. The OLC shall charge an initial and subsequent annual bond fee of \$50 to be collected at the time of retailer approval and annually in the first month of each fiscal year. Bond monies will be utilized for the repayment of any retailer bad debt incurred by the Lottery during the course of the fiscal year. Any monies not applied to bad debt will be applied to the OLC's profit formula.

## 429:10-1-5. Acceptance and return of instant lottery tickets [AMENDED]

(a) All instant lottery tickets ordered by retailer and accepted from OLC or its authorized distributor are deemed to be purchased by retailer at the price established by OLC, less appropriate retailer commissions and/or OLC approved adjustments.

(b) Retailers will accept only complete ticket orders and will not be allowed to accept a part of the ticket order delivered to them:

(c) Retailers shall be responsible for lost, stolen, missing, damaged or destroyed active packs of instant tickets and will be charged the full price of the tickets minus any applicable commissions, unless the tickets are recovered by OLC. If a retailer notifies the OLC within 24 hours of any active pack of tickets becoming lost, stolen, missing, damaged or destroyed and files a police report, in instances when packs are stolen, and cooperates in the investigation by the OLC, the OLC may reduce the retailer's costs to \$25.00 for each active pack:

(d) Retailers are responsible for lost, stolen, missing, damaged or destroyed inactive instant tickets. If a retailer notifies the OLC within 24 hours of any inactive pack of tickets becoming lost, stolen, missing, damaged or destroyed and files a police report, in instances when packs are stolen, and cooperates with OLC in the investigation by OLC, the OLC may waive any retailer cost for each inactive pack:

(e) The OLC will accept the return of all instant tickets damaged prior to delivery acceptance by the retailer. These tickets must be returned to a designated OLC representative within one week of receipt of the tickets. The OLC may, at their sole discretion, elect to accept the return of tickets damaged after delivery:

(b) Retailers shall be responsible for all packs of instant tickets once received on an official Lottery terminal. Instant games can be returned to the OLC for credit based on market criteria such as game end, poor sales or changes in retailer inventory levels. All packs of instant games are due for return 90 days after the announcement of an official game end by the OLC. Any packs not returned by that date will be charged to the retailer. The Oklahoma Lottery reserves the right to issue a late credit to a retailer at their sole discretion.

(c) While retailers will bear the responsibility of all instant games, the OLC will provide credit to retailers under the following circumstances...

- (1) Active packs or tickets – full credit will be provided only if tickets are returned during the games' lifecycle and before 90 days after official game end announcement



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- (2) Stolen active packs or ticket – any stolen tickets must be immediately reported to the OLC. The Retailer will be required to fill out the required OLC Security documentation in order to receive a credit. The OLC reserves the right to modify the credit amount based on the results of the security investigation.
- (3) Damaged active packs or tickets - full credit will be provided only if tickets are returned during the games' lifecycle and before 90 days after official game end announcement
- (d) Missing or lost packs or tickets must be reported to the OLC's security department upon discovery. A \$25 administrative fee will be assessed per occurrence. If a retailer finds that the report of lost or missing tickets was in error, the OLC must be notified immediately, and the \$25 fee will be credited back.
- (e) All inactive packs of tickets can be returned at any time; credit will not be provided since there is no financial burden for an inactive pack.

### **429:10-1-6. Acceptance of onlinedraw game tickets [AMENDED]**

Retailers shall confirm all draw game ticket purchases before printing the ticket. Draw game tickets cannot be cancelled once printed on an OLC terminal.~~(a) Retailers shall agree that all online tickets cannot be cancelled once printed.~~  
~~(b) Retailers shall utilize the online game sales confirmation screen or prompt to advise players of the cost of the player's ticket selection cost whenever the total cost exceeds \$25.00, or whenever multiple draw tickets are requested or multiple tickets are requested for a single draw; for each individual transaction, this player confirmation will occur prior to actual printing and sale of the tickets.~~

### **429:10-1-7. Payment of prizes [AMENDED]**

- (a) During the retailer's normal business hours, retailers are ~~required~~ authorized to pay prizes \$600.00 or under. Retailers are encouraged to pay in cash, but they may pay mid-tier prizes (\$25.01 to \$600) with a business check or money order if this is disclosed in advance to the claimant. Consistent reported failure to pay prizes to claimants or the issuance of a non-sufficient funds (NSF) check to claimants may be sufficient grounds to suspend or terminate the retailer contract.
- (b) OLC may authorize designated retailers to pay prizes up to five-thousand dollars (\$5,000.00), without regard to where the ticket or share was purchased, after performing validation procedures appropriate to the game and as specified by the Board.
- (c) After validating and paying a winning instant game ticket, the retailer should deface the ticket in a manner sufficient to prevent subsequent attempts to claim the ticket prize amount.~~Before attempting to validate a ticket, the Retailer should instruct the Claimant to print their name on the back of the ticket and sign their name in the space provided:~~
- (d) For prizes greater than \$600, retailers will direct claimants to the OLC's website or claimant office in Oklahoma City. Retailer must establish that the ticket is a winning ticket by using the OLC validation procedures/system. If the retailer does not receive the appropriate authorization to pay, the ticket should be returned to the claimant with instructions to file a claim with OLC.
- (e) A retailer shall not charge any player or claimant a fee for selling a ticket, validating a winning ticket, paying a winning ticket, verifying a non-winning ticket, providing a claim form, or for any other assistance not authorized by OLC.~~After validating and paying a winning instant game ticket, the retailer should deface the ticket in a manner sufficient to prevent subsequent attempts to claim the ticket prize amount.~~
- (f) If a claimant of a winning ticket is less than 18 years of age, retailers must instruct the claimant that the Act prohibits prize payment to any person under the age of 18 years and return the ticket to the claimant.~~For prizes greater than \$600, retailers will provide claimants with OLC claim forms, if available, or direct them to an authorized claim center, the OLC office, or the OLC website:~~
- (g) A retailer shall not charge any player or claimant a fee for selling a ticket, validating a winning ticket, paying a winning ticket, verifying a non-winning ticket, providing a claim form, or for any other assistance not authorized by OLC.
- (h) If a claimant of a winning ticket is less than 18 years of age, retailers must instruct the claimant that the Act prohibits prize payment to any person under the age of 18 years and return the ticket to the claimant.

### **429:10-1-10. Settlement and retailer invoicing [AMENDED]**

- (a) The accounting period for purposes of preparing retailer invoices shall be weekly from Saturday at 12:00 midnight through the following Saturday at 11:59:59 p.m.
- (b) All packs of instant tickets ~~activated~~ settled in an accounting period and for which the prize validation requirements specified in (c) of this Section have occurred, and all sales of online draw game tickets occurring within the accounting period will be invoiced to the retailer, less any retailer commissions and/or OLC authorized adjustments. The retailer invoice will be available through the OLC lottery sales terminal after 6:00 a.m. on Sunday, immediately following the end of the accounting period.

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(c) For instant games, retailers may select one of the following three (3) settlement options. Retailers ~~may~~must select a settlement option during the initial contract process and can change their selection at any time during the fiscal year, and may change the option only on their annual renewal date and only if they advise the OLC of their desire to change the option no later than two (2) weeks prior to their annual renewal date.

(1) Settlement Option 1: all ticket packs activated by the retailer or by the OLC on behalf of the retailer for which eighty percent (80%) of the winning low-tier tickets contained in the pack have been validated by the end of the previous accounting period will be included in the current retailer weekly invoice. Any pack which has been activated for a period of thirty (30) days will be invoiced to the retailer, even if eighty percent (80%) of the pack's winning low-tier tickets have not been validated. In the event a retailer activates concurrently two or more instant game packs from the same game, the first pack activated will be included in the current retailer weekly invoice regardless of how many low-tier tickets have been validated from the first If a retailer has been authorized in the OLC's gaming system to sell more than one pack at a time, the second activation will not automatically settle the first pack. Retailers will be assigned a number of active packs, of the same game, by location before an auto-settlement occurs. An auto-settlement will occur on a per pack basis based on the number of packs, of the same game, activated above the pre-authorized system number, except in situations where the retailer has two or more selling locations within the same retail business, in which case the first pack activated will be included in the current retailer weekly invoice when the third or subsequent pack of that game is activated, regardless of how many low-tier tickets have been validated from the first pack.

(2) Settlement Option 2: all ticket packs will be settled 21 days after activation, at which time such settled packs will be included on the weekly invoice for the week in which they were settled. In the event a retailer activates concurrently two or more instant game packs from the same game, the first pack activated will be included in the current retailer weekly invoice, except in situations where the retailer has two or more selling locations within the same retail business, in which case the first pack activated will be included in the current retailer weekly invoice when the third or subsequent pack of that game is activated.

(3) Settlement Option 3: all ticket packs will be settled immediately on activation, at which time such settled packs will be included on the weekly invoice for the week in which they were settled.

(d) The retailer invoice will provide a calculation of the proceeds due the OLC. The proceeds will be equal to the retail value of instant game ticket packs, plus the retail value of ~~on-line~~draw game ticket sales, less applicable sales or cashing commissions, less any winning tickets paid by the retailer during the accounting period, plus or minus any adjustments to the retailer account authorized by OLC.

(e) For purposes of calculating the retailer invoice, free ticket prizes validated by the retailer shall have the same value as the applicable retail value of free ticket(s) provided to the claimant.

## 429:10-1-11. Banking, deposits and payment requirements [AMENDED]

(a) The Act requires each retailer to establish a separate bank account in trust of the Oklahoma Lottery at an institution insured by the Federal Deposit Insurance Corporation (FDIC) and to provide the OLC with authorization to transfer lottery proceeds from this account using Electronic Funds Transfer (EFT). All funds due the OLC shall be considered State funds until paid to the OLC and are to be deposited into this separate bank account prior to the OLC's weekly EFT transfer, no later than the close of the next banking day after the date of their collection by the retailer.

(b) The OLC will provide notification of the amount of the accounting period EFT by way of an invoice to the retailer. Lottery proceeds due the OLC, as calculated on the invoice for an accounting period, will be transferred from the retailer bank account to the OLC on the Tuesday morning following the accounting period. When the Monday immediately preceding a scheduled Tuesday EFT transfer is a legal holiday, the transfer will occur on Wednesday morning.

(c) On the EFT funds transfer day (Tuesday morning), if all net lottery proceeds as detailed on the retailer invoice are not in the separate retailer bank account and this results in a non-sufficient funds (NSF) sweep, the retailer will be deemed to be in default. The OLC will charge a \$25 NSF fee for every occurrence of insufficient funds. The OLC reserves the right to waive that fee for extenuating circumstances. OLC will immediately contact the retailer and:

(1) If it is a first NSF default, require the retailer to deposit the required funds into the EFT lottery account to enable a wire transfer to be completed that day. ~~A \$25.00 NSF fee will be charged as an adjustment to the retailer account.~~

(2) If a second NSF default occurs within a 6 month period, OLC may immediately suspend the retailer's terminal operation until the required funds are brought to OLC or received by an OLC representative. ~~A \$25.00 NSF fee will be charged as an adjustment to the retailer account.~~

(3) If a third NSF default occurs within the same 6 month period provided in paragraph 2 of this subsection, the OLC may terminate the retailer contract immediately and commence collection proceedings on all money due to OLC.

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*[OAR Docket #25-401; filed 5-29-25]*

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## TITLE 429. OKLAHOMA LOTTERY COMMISSION CHAPTER 15. LOTTERY GAMES

*[OAR Docket #25-402]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

- 429:15-1-2. Definitions [AMENDED]
- 429:15-1-3. Ticket responsibility [AMENDED]
- 429:15-1-5. Determination of lottery prize winner [AMENDED]
- 429:15-1-6. Lottery ticket validation requirements [AMENDED]
- 429:15-1-8. Game end date or game promotion end date and prize claim period [AMENDED]
- 429:15-1-8.1. Draw procedures [AMENDED]
- 429:15-1-10. Required prize withholding [REVOKED]
- 429:15-1-13.1. Entry of plays [AMENDED]
- 429:15-1-13.2. ~~Online~~Draw Game detail [AMENDED]
- 429:15-1-14. Lottery Game Promotion Procedures [AMENDED]
- 429:15-1-15. Game sell-out prohibited [AMENDED]

### **AUTHORITY:**

Oklahoma Lottery Commission Board of Trustees; Title 3A of the Oklahoma statute section 701 – 735

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

October 3, 2024

### **COMMENT PERIOD:**

November 1, 2024 through December 2, 2024

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### **ADOPTION:**

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### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

December 13, 2024

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### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

July 11, 2025

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### **SUPERSEDED RULES:**

N/A

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### **INCORPORATED STANDARDS:**

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N/A

## INCORPORATING RULES:

N/A

## AVAILABILITY:

N/A

## GIST/ANALYSIS:

Chapter 15 covers rules for the lottery's instant and draw games. Modified and removed some definitions: changed the word online game which refers to draw to "draw games". Removed section regarding withholding prizes because it is already referred in Title 3A. Oklahoma Lottery is modernizing and simplifying the rules.

## CONTACT PERSON:

Jay Finks 405-522-7721

**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 JULY 11, 2025:**

### 429:15-1-2. Definitions [AMENDED]

In addition to terms defined in the Oklahoma Education Lottery Act, the following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

**"Altered Ticket"** means any ticket intentionally changed by a player or by other persons or means in an attempt to make the ticket appear as a winning ticket.

**"Authorized Location"** means a business authorized by a contract with OLC to sell OLC Lottery products.

**"Authorized Location"** and **"Authorized Retailer"** are synonymous terms.

**"Caption"** means the letters appearing near the play symbols in the instant ticket play area that verify the correctness of play symbols.

**"Counterfeit Ticket"** means any ticket not produced by an OLC authorized ticket printer or an OLC drawonline games sales terminal.

~~**"Defectively Printed Tickets"** means the same as misregistered ticket.~~

**"Draw Game"** means a game where tickets are purchased through a network of terminals located at OLC authorized retail outlets via the selection of specific numbers tied to a drawing to occur in the future.

**"Draw Game Procedures"** means the document summarizing game specifications for each online game offered for sale by OLC.

**"Drawing"** means the process by which the lottery randomly selects numbers or items in accordance with the specific game rules or game promotion rules for those games or game promotions requiring random selection of numbers or items.

**"Duplicate Ticket"** means a ticket produced by photograph, xerography or any other duplication method other than an authorized instant ticket printed for OLC or generated by an authorized online terminal.

~~**"Game Name"** means the name of the Instant or Online game, as specified in the game procedures.~~

~~**"Game Number"** means the preprinted number on an instant ticket which identifies a particular game.~~

**"Instant Game"** means an instant ticket lottery game offered by OLC for sale to the public that is played by revealing a hidden play area on a ticket to display the play symbols.

**"Instant Game Procedures"** means the document summarizing the game specifications as provided in the working papers for each Instant Game.

**"Lottery game promotion procedures"** means the document summarizing promotion specifications for each lottery game promotion offered by OLC.

**"Lottery Retailer"** or **"Retailer"** means a business entity contracted to OLC to sell lottery tickets.

~~**"Miscut Ticket"** means a ticket cut during production such that the ticket is not whole and able to be validated.~~

~~**"Misregistered Ticket"** means any ticket on which printed data has been misprinted in such a manner as to prevent reading during the validation process.~~

~~**"Mutilated Ticket"** means any lottery ticket accidentally or intentionally damaged such that completion of OLC validation procedures is not possible.~~

**"OLC"** means the Oklahoma Lottery Commission.

~~**"Online Game"** means a game where tickets or shares are purchased through a network of sales terminals located at OLC authorized retail outlets through use of an OLC authorized play slip or manual retailer input of player requested numbers. "Online Game" does not include a game played via the Internet.~~

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~~"Online Game Procedures" means the document summarizing game specifications for each online game offered for sale by OLC.~~

~~"Online Terminal" means the OLC authorized sales terminal used to sell various online lottery number games, draw games and used to validate winning tickets.~~

~~"Pack" or "Pack Size" means a package of instant tickets, each ticket with a different number. The number of tickets in a pack is generally from 60 to 500.~~

~~"Pack Number" means the unique number on the ticket that designates each pack of instant tickets in the game. Each pack number is unique within each instant game.~~

~~"Play Area" means the covered area of an instant ticket that contains the ticket play symbols.~~

~~"Play Slip" means a pre-printed or electronic OLC form for use by players in selecting numbers for draw online games (see game board).~~

~~"Play Style" means the method of play to determine a winner for an individual game or game promotion.~~

~~"Play Symbol" means the printed data under the removable covering on an instant ticket that is used to determine eligibility for a prize. The symbols for individual games will be specified in individual instant game procedures.~~

~~"Prize" means a cash amount or product (merchandise) that can be won in a lottery game or game promotion.~~

~~"Prize Structure" means the number, value, and odds of winning prizes for an individual game as approved by OLC in individual game procedures.~~

~~"Retail Sales Price" means the OLC designated price OLC retailers must charge for a ticket when sold.~~

~~"Retailer Validation Code" means the code found under the covered area over the play symbols on the instant ticket which the OLC retailer may use to verify and validate low-tier winners.~~

~~"Ticket" means any tangible evidence issued by the lottery to provide participation in a lottery game or drawing authorized by the Act.~~

~~"Ticket Number" means the number on the ticket that refers to the ticket sequence within the pack.~~

~~"Unreadable Ticket" means any ticket on which any play data or other ticket validation information cannot be read as part of the prize validation procedure.~~

~~"Validation Number" means the unique data printed on a ticket that enables verification of the ticket as a valid winner.~~

~~"Validation Procedures" means the procedures utilized by OLC and/or its authorized vendors to determine if a claimed ticket is a valid winner.~~

~~"Valid Ticket" means a ticket which meets all OLC game specifications and OLC validation requirements.~~

~~"Working Papers" means the written document approved by the OLC for instant game production that includes, among other things, the game name, the art work for the ticket, how a prize is won, game prize structure, play style, ticket delivery schedule to OLC, and eligibility for a drawing, if any.~~

## 429:15-1-3. Ticket responsibility [AMENDED]

(a) A ticket is a bearer instrument until signed on the back by the ticket holder.

(b) The OLC will not be responsible for lost, stolen, or destroyed tickets.

(c) The OLC will not be responsible for mutilated, altered, unreadable tickets or tickets tampered with in any manner.

~~(d) The OLC will not be responsible for tickets claimed by a player in error for a lower prize at a retailer.~~

~~(e)(d) The OLC may not pay prizes to any claimant who purchases a ticket from an unauthorized retailer or unauthorized person.~~

## 429:15-1-5. Determination of lottery prize winner [AMENDED]

~~(a) A player's eligibility to win a prize is subject to OLC ticket validation requirements. The play symbols shall be used by a player to determine eligibility for instant game prizes. The numbers appearing on an online ticket shall be used by the player to determine eligibility for online game prizes.~~

~~(b) The play symbols shall be used by a player to determine eligibility for instant game prizes. For each instant game, the player shall uncover the play area on the front of the ticket to reveal the play symbols. Eligibility to win a prize is based on the approved play style programmed in the Lottery's central gaming system. A player's eligibility to win a prize is subject to OLC ticket validation requirements.~~

~~(c) The numbers appearing on a draw ticket shall be used by the player to determine eligibility for Draw Game prizes. A draw game play may only be claimed for the highest prize category won. For purposes of calculation of any prize to be paid in any draw game, the winning prize amount shall be rounded down to the nearest dollar. For each instant game, the player shall uncover the play area on the ticket to reveal the play symbols. Eligibility to win a prize is based on the approved play style programmed in the Lottery's central gaming system.~~

~~(d) The numbers appearing on an Online ticket shall be used by the player to determine eligibility for Online Game prizes.~~

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- ~~(e) A player's eligibility to win a prize is subject to the OLC ticket validation requirements.~~
- ~~(f) Eligibility to win a prize is based on the approved play style provided in the Online Game Procedures.~~
- ~~(g) An online game play may only be claimed for the highest prize category won.~~
- ~~(h) For purposes of calculation of any prize to be paid in any Online game, the winning prize amount shall be rounded down to the nearest dollar.~~

## **429:15-1-6. Lottery ticket validation requirements [AMENDED]**

- (a) Each lottery ticket shall be validated according to OLC validation procedures prior to payment of a prize.
- (b) An Instant Game ticket shall comply with all of the following:
  - (1) The ticket shall not be stolen or appear on any list of printer omitted tickets on file with the OLC;
  - (2) The ticket shall not be counterfeit or forged, in whole or in part;
  - (3) The ticket shall not be mutilated, altered, or unreadable;
  - (4) The ticket shall have been issued by the OLC in an authorized manner;
  - (5) The ticket shall pass the confidential OLC validation and security tests appropriate to the applicable play style;
  - (6) The validation number of an apparent winning ticket shall appear on the OLC's official file of validation numbers of winning tickets. A ticket with that validation number shall not have been paid previously;
  - (7) The ticket shall be intact, and not miscut, and have exactly one play symbol and exactly one caption in each of the play spots, exactly one pack number, exactly one ticket number, exactly one retailer validation code, and exactly one validation number on the ticket;
  - (8) The game, pack, ticket, and validation numbers must be present in their entirety and be fully legible. The validation numbers shall correspond, using the OLC's files, to the play symbols on the ticket;
  - (9) The play symbols, captions, validation number, retailer validation code, pack number, and ticket number must be right side up and not reversed in any manner;
  - (10) The ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error;
  - (11) Each of the play symbols must be exactly one of those described in the Instant Game Working Papers, and each of the captions must be exactly one of those described in the Instant Game Working Papers;
  - (12) Each of the play symbols on the ticket must be printed in the correct symbol font and correspond precisely to the artwork on file at the OLC. Each of the captions must be printed in the caption font and must correspond precisely to the artwork on file at the OLC. The retailer validation code must be printed in the retailer validation code font and must correspond precisely to the artwork on file at the OLC. The validation number must be printed in the validation number font and must correspond precisely to the artwork on file at the OLC;
  - (13) The display printing must be regular in every respect and correspond precisely with the artwork on file at the OLC.
- ~~(c) An Online game~~ A Draw Game ticket shall comply with all of the following:
  - (1) The ticket validation number shall be present in its entirety and shall correspond to the prize validation file and with the data printed on the ticket;
  - (2) The ticket shall not be mutilated, altered, unreadable, or tampered with in any manner;
  - (3) The ticket shall not be counterfeit or a duplicate of another winning ticket;
  - (4) The ticket shall have been issued by the lottery through an authorized Online game sales terminal in an authorized manner;
  - (5) The ticket shall be validated in accordance with confidential OLC procedures for claiming, validating and payment of prizes;
  - (6) The ticket shall have been recorded in the OLC central computer system or recording media before the drawing and the ticket shall match this OLC record in every aspect;
  - (7) The validation number data and the drawing date of an apparent winning ticket shall appear on the official file of winning tickets and a single play grid with the exact data and the ticket may not have been previously paid;
  - (8) The ticket may not be misregistered or defectively printed to an extent that it cannot be validated by the lottery;
  - (9) The ticket shall pass all other confidential security tests of OLC.
- (d) Any ticket not passing all of the validation tests and requirements is void and ineligible for any prize and shall not be paid. The OLC may, in its sole discretion, reimburse the player for the cost of the void ticket. This shall be the claimant's only remedy.
- (e) If a defective ticket is purchased by a player, the only OLC liability shall be reimbursement for the cost of the defective ticket.

## **429:15-1-8. Game end date or game promotion end date and prize claim period [AMENDED]**

- (a) The OLC, at any time, may announce the game end date for an individual game or game promotion.
- (b) No tickets shall be sold past the game end date.
- (c) Instant Game prizes shall be claimed no later than 90 days after the official game end date of the individual game. ~~Online draw games Winning draw tickets~~ shall be claimed no later than 180 days after the games' individual drawing date of the individual game.
- (d) Instant and ~~Online Draw~~ Game Promotion end dates and related promotion entry dates will be provided in the Instant Game and ~~Online Draw~~ Game Promotion Procedures for each Promotion.

## **429:15-1-8.1. Draw procedures [AMENDED]**

~~Drawings procedures~~ Procedures for ~~online games~~ Draw Games and ~~Online Game~~ Draw Game promotions will be defined in an OLC approved and secure draw procedures document.

## **429:15-1-10. Required prize withholding [REVOKED]**

~~All prizes are subject to applicable federal tax withholdings, state income tax, and other required state withholdings, or delinquent state debt.~~

## **429:15-1-13.1. Entry of plays [AMENDED]**

- (a) ~~Online Draw~~ Game plays may only be entered manually using the authorized lottery sales terminal or by means of a digital playslip provided ~~by via the OLC OLC's app and hand-marked by the player~~ or by other means approved by the OLC.
- (b) ~~Retailers shall not permit any device to be connected to a lottery sales terminal to enter plays, except as approved by OLC. Retailers shall not permit facsimile playslips, copies of playslips, or other materials not printed or approved by the OLC to be inserted into the sales terminal's playslip reader.~~
- (c) ~~Retailers shall not permit any device to be connected to a lottery sales terminal to enter plays, except as approved by OLC.~~

## **429:15-1-13.2. Online Draw Game detail [AMENDED]**

- (a) OLC shall make available to retailers and the public game information for each ~~Online Draw~~ Game prior to the game being introduced to the public for sale via the Lottery website to include....
- (b) The ~~Online Draw~~ Game Procedures shall contain at a minimum the following:
  - (1) The game name;
  - (2) The retail sales price;
  - (3) How to Play;
  - (4) The game odds;
  - (5) The game prize structure.

## **429:15-1-14. Lottery Game Promotion Procedures [AMENDED]**

- (a) OLC shall make available ~~to retailers and the public~~ all promotional procedures for each Lottery Game Promotion prior to the promotion being introduced to the public for participation via the Lottery website.
- (b) The Promotional Procedures shall contain, at a minimum, the following:
  - (1) Game promotion name;
  - (2) Retail sales price, if any;
  - (3) Number of winners to be drawn;
  - (4) Eligibility requirements;
  - (5) Number of prizes by prize level;
  - (6) Submission requirements;
  - (7) Prize drawings or winner selection method; and
  - (8) Deadline for player entry.

## **429:15-1-15. Game sell-out prohibited [AMENDED]**

No OLC office or OLC retailer shall directly and knowingly sell a ticket or combination of tickets to any person or entity which would guarantee such a purchaser a prize in ~~an onlinea draw game or online game promotion~~.

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*[OAR Docket #25-402; filed 5-29-25]*

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## TITLE 442. OKLAHOMA MEDICAL MARIJUANA AUTHORITY CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #25-459]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

442:1-1-6. Failure to appear [AMENDED]

### **AUTHORITY:**

Executive Director of the Oklahoma Medical Marijuana Authority; 63 O.S. § 420-430

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

October 25, 2024

### **COMMENT PERIOD:**

November 15, 2024 through December 17, 2024

### **PUBLIC HEARING:**

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### **ADOPTION:**

January 29, 2025

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January 30, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025 by SJR21

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

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### **EFFECTIVE:**

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### **SUPERSEDED RULES:**

N/A

### **GUBERNATORIAL APPROVAL:**

N/A

### **REGISTER PUBLICATION:**

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### **DOCKET NUMBER:**

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### **INCORPORATIONS BY REFERENCE:**

### **INCORPORATED STANDARDS:**

N/A

### **INCORPORATING RULES:**

N/A

### **AVAILABILITY:**

N/A

### **GIST/ANALYSIS:**

The amendment clarifies administrative rules governing proceedings before the agency, including provisions regarding failure to appear before the assigned administrative law judge. The agency and individuals and entities holding licenses issued by the Authority will benefit from clarity regarding nonappearance of a summoned person or entity after adequate notice and that nonappearance of a summoned person or entity after adequate notice shall be construed as a waiver of right



to be present at 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 JULY 11, 2025:**

**442:1-1-6. Failure to appear [AMENDED]**

The license of any licensee or summoned person or entity who fails to appear before the assigned administrative law judge after having been ordered personally or in writing to do so may be suspended pending appearance before the assigned administrative law judge. Nonappearance of a summoned person or entity after adequate notice ~~may~~ shall be construed as a waiver of right to be present at a hearing.

*[OAR Docket #25-459; filed 6-2-25]*

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**TITLE 442. OKLAHOMA MEDICAL MARIJUANA AUTHORITY  
CHAPTER 10. MEDICAL MARIJUANA REGULATIONS**

*[OAR Docket #25-460]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions

442:10-1-4. Definitions [AMENDED]

Subchapter 2. Medical Marijuana Licenses

442:10-2-9. Prohibited acts and penalties [AMENDED]

Subchapter 3. Transporter License

442:10-3-1. License for transportation of medical marijuana [AMENDED]

442:10-3-2. Requirements for transportation of marijuana [AMENDED]

442:10-3-3. Transporter agent license [AMENDED]

442:10-3-6. Inventory manifests [AMENDED]

Subchapter 4. Research Facilities and Education Facilities

442:10-4-1. License required [AMENDED]

442:10-4-1.1. Responsibilities of the license holder [AMENDED]

442:10-4-2. Licenses [AMENDED]

442:10-4-3. Applications [AMENDED]

442:10-4-4. Inspections [AMENDED]

442:10-4-5. Inventory tracking, records, reports, and audits [AMENDED]

442:10-4-6. Penalties [AMENDED]

Subchapter 5. Medical Marijuana Businesses

442:10-5-1. License required [AMENDED]

442:10-5-1.1. Responsibilities of the license holder [AMENDED]

442:10-5-2. Licenses [AMENDED]

442:10-5-3. Applications [AMENDED]

442:10-5-3.1. Proof of residency for commercial licensees [AMENDED]

442:10-5-4. Inspections [AMENDED]

442:10-5-4.1. Operational status visit [AMENDED]

442:10-5-5. Processing medical marijuana on behalf of a patient or caregiver [AMENDED]

442:10-5-6. Inventory tracking, records, reports, and audits [AMENDED]

442:10-5-8. Food safety standards for processors [AMENDED]

442:10-5-10. Medical marijuana waste disposal [AMENDED]

442:10-5-16. Prohibited acts [AMENDED]

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## Subchapter 6. Commercial Licensees

442:10-6-1. General security requirements for commercial licensees [AMENDED]

## Subchapter 7. Packaging, Labeling, and Advertising

442:10-7-1. Labeling and packaging [AMENDED]

442:10-7-2. Prohibited products [AMENDED]

442:10-7-3. Advertising [AMENDED]

## Subchapter 8. Laboratory Testing

442:10-8-1. Testing standards and thresholds [AMENDED]

442:10-8-2. General operating requirements and procedures [AMENDED]

442:10-8-3. Sampling requirements and procedures [AMENDED]

442:10-8-4. Laboratory quality assurance and quality control [AMENDED]

## Subchapter 9. Waste Disposal Facilities

442:10-9-1. License or permit required [AMENDED]

442:10-9-2. Licenses and permits [AMENDED]

442:10-9-3. License applications [AMENDED]

442:10-9-4. Permit applications [AMENDED]

442:10-9-5. Inspections [AMENDED]

442:10-9-6. Security requirements [AMENDED]

442:10-9-7. Audits and inventory [AMENDED]

442:10-9-9. Waste disposal [AMENDED]

## Subchapter 11. Process Validation

442:10-11-1. Standards and requirements to achieve process validation [AMENDED]

### **AUTHORITY:**

Executive Director of the Oklahoma Medical Marijuana Authority; 63 O.S. § 426.1, 63 O.S. § 427.14, 63 O.S. § 427.14b, 63 O.S. § 427.14c, 63 O.S. § 427.17, and 63 O.S. § 431.1.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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N/A

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### **SUPERSEDED EMERGENCY ACTIONS:**

### **SUPERSEDED RULES:**

442:10-1-4. Definitions [AMENDED]

442:10-3-1. License for transportation of medical marijuana [AMENDED]

442:10-3-6. Inventory manifests [AMENDED]

442:10-4-2. Licenses [AMENDED]

442:10-4-3. Applications [AMENDED]

442:10-4-5. Inventory tracking, records, reports, and audits [AMENDED]

442:10-5-1.1. Responsibilities of the license holder [AMENDED]

442:10-5-2. Licenses [AMENDED]

442:10-5-3. Applications [AMENDED]  
442:10-5-5. Processing medical marijuana on behalf of a patient or caregiver [AMENDED]  
442:10-5-6. Inventory tracking, records, reports, and audits [AMENDED]  
442:10-5-16. Prohibited acts [AMENDED]  
442:10-7-1. Labeling and packaging [AMENDED]  
442:10-7-2. Prohibited products [AMENDED]  
442:10-8-1. Testing standards and thresholds [AMENDED]  
442:10-8-2. General operating requirements and procedures [AMENDED]  
442:10-8-3. Sampling requirements and procedures [AMENDED]  
442:10-8-4. Laboratory quality assurance and quality control [AMENDED]  
442:10-9-2. Licenses and permits [AMENDED]  
442:10-9-3. License applications [AMENDED]  
442:10-9-7. Audits and inventory [AMENDED]  
442:10-11-1. Standards and requirements to achieve process validation [AMENDED]

**GUBERNATORIAL APPROVAL:**

August 16, 2024; October 29, 2024; June 2, 2025

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed permanent rules implement legislative changes mandated by HB 3361, SB 758, SB 1635, SB1939, and address changes in state statute under 63 O.S. § 422, 426.1, 427.2, 427.14, 427.14b, 427.14c, 427.17, and 431.1. The permanent rules are intended to provide a structure for the implementation of these legislative requirements. Changes to required application materials like certificates of occupancy or ownership transfers, pursuant to SB1635 and SB1939, occur at OAC 442:10-3-1(c-e), OAC 442:10-4-2(c)(2); OAC 442:10-4-2(e)(A)(i); OAC 442:10-4-3(e); OAC 442:10-5-2(c); OAC 442:10-5-2(e); OAC 442:10-5-3(e)(8-9); and OAC 442:10-9-3(e)(9). New definitions for “change of ownership request”, “license transfer application”, “location change request”, and “name change request” provide clarification of the new ownership transfer requirements pursuant to SB1939 and are added to definitions at OAC 442:10-1-4. Updated timeframes to submit renewal applications pursuant to SB1939 are incorporated at OAC 442:10-4-2(c)(6) and OAC 442:10-5-2(c)(5). Specific location prohibitions regarding multiple licenses of the same type pursuant to SB1939 are added to OAC 442:10-5-2(b)(2). Amendments regarding ownership transfers pursuant to SB1939 are added to OAC 442:10-4-2(e); OAC 442:10-5-2(e); and OAC 442:10-9-2(e)(2). Language regarding the possession, sale, or transfer of medical marijuana upon expiration of a license are added to OAC 442:10-4-2(d); OAC 442:10-5-2(d); and OAC 442:10-9-2(d)(1) as required by SB1939. The requirement that employees wear or display their employee credential pursuant to SB758 is added at OAC 442:10-5-1.1(13)(C). Changes to laboratory testing requirements, including final form testing requirements pursuant to SB1635, occur at OAC 442:10-4-5(d)(2)(D); OAC 442:10-5-5(f); OAC 442:10-5-6(d)(2)(D); OAC 442:10-7-1(f)(4); OAC 442:10-8-1; OAC 442:10-8-2; OAC 442:10-8-3; OAC 442:10-8-4; OAC 442:10-9-7(b)(2)(D); and OAC 442:10-11-1(g)(2)(C). Rules requiring medical marijuana to be sold in pre-packaged quantities pursuant to HB3361 are added to OAC 442:10-7-1 and OAC 442:10-7-2. Specific prohibitions regarding opening pre-packaged products are added to OAC 442:10-5-16(s). Based on public comments regarding returned products, the Authority made minor changes to rules at OAC 442:10-3-6(g)(2), OAC 442:10-3-6(i), OAC 442:10-7-1(b) to clarify product that is eligible for return. Medical marijuana products that are defective or hazardous to the health of the patient may be returned to a dispensary at OAC 442:10-7-1(b). Medical marijuana or medical marijuana product that is rejected, refused, and/or sent back to the originating licensee upon rejection and/or refusal to accept delivery shall not be considered medical marijuana waste, provided the medical marijuana or medical marijuana product were immediately sent back to the originating licensee upon rejection and/or refusal to accept delivery, at OAC 442:10-3-6(g)(2), OAC 442:10-3-6(i), and OAC 442:10-7-1(b). Amendments to streamline and clarify inventory manifest requirements are added to the rules at OAC 442:10-3-6(a), OAC 442:10-3-6(b)(1); OAC 442:10-4-5(c)(2); OAC 442:10-4-5(d)(1)(G); OAC 442:10-5-6(d)(1)(H); and

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OAC 442:10-9-7(b)(1)(G). Amendments to OAC 442:10-4-2(g); OAC 442:10-5-2(g)(2-3); and OAC 442:10-9-2(g) reiterate that commercial license surrender requests are effective upon written approval by the Authority and clarify when the Authority may reject surrender requests. Amendments to OAC 442:10-5-1(a) state that all requirements of Oklahoma law and these Rules are continuing in nature and must be satisfied in order to retain licensure. OAC 442:10-6-1(c) is amended to clarify that commercial growers must maintain required commercial grower signage. The requirement that dispensaries shall produce any and all COAs for products currently in the dispensary's inventory upon request of a licensed medical marijuana patient or caregiver is added to OAC 442:10-8-1(h). The requirement that processors verify patient license information when processing on behalf of a licensed patient is added to OAC 442:10-5-5. Amendments to labeling requirements at OAC 442:10-7-1(d)(11) provide clarification that if a package or container is relabeled, all initial labels must be completely removed before the new label is applied. Clean up and clarification of existing rules occurs through Chapter 10 of OAC 442. Definitions for "decontamination", "final product", "production batch", and "remediation" are amended, new definitions for "final harvest batch", "final production batch", and "tamper-evident" are added, and definitions are alphabetized at OAC 442:10-1-4. Record retention requirements are amended for consistency at OAC 442:10-3-2(c); OAC 442:10-3-6(f); OAC 442:10-4-5(c); OAC 442:10-5-4(h); OAC 442:10-5-5(b); OAC 442:10-5-6(b); OAC 442:10-5-6(b)(6); OAC 442:10-5-6(i)(1); OAC 442:10-5-10(b)(3); OAC 442:10-9-6(c)(1)(C); OAC 442:10-9-6(c)(2)(B); OAC 442:10-9-6(e); OAC 442:10-11-(f)(3). Amendments to ensure consistent application requirements occur at OAC 442:10-4-1(b), OAC 442:10-4-1.1; OAC 442:10-4-3(b), OAC 442:10-4-3(c)(12-14); OAC 442:10-4-2(h); OAC 442:10-5-3(f); OAC 442:10-9-3(c)(7-8); OAC 442:10-9-3(f); OAC 442:10-9-4(b)(9-10) and OAC 442:10-11-(d)(4). Amendments to ensure consistent language throughout all subchapters of the rules, including adding words where numbers are used, replacing dashes with commas, removing dates that have previously passed, and ensuring consistent verbiage throughout the rules, occur at OAC 442:10-2-9(a-b); OAC 442:10-3-3; OAC 442:10-4-4(b); OAC 442:10-5-1.1(7); OAC 442:10-5-2(b)(1); OAC 442:10-5-3(b); OAC 442:10-5-4(b-c); OAC 442:10-5-4.1(a); OAC 442:10-5-6(i)(7); OAC 442:10-7-2(b); OAC 442:10-9-1(b); OAC 442:10-11-(d)(1); and OAC 442:10-11-(j).

## CONTACT PERSON:

Ashley Crall, Director of Government Affairs, Oklahoma Medical Marijuana Authority, 2501 N. Lincoln Blvd., OK 73105, 405-568-5766. Ashley.Crall@omma.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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 442:10-1-4. Definitions [AMENDED]

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

**"Actively operating" or "Actively conducting business operations"** means a commercial licensee that possesses, sells, purchases or transfers medical marijuana and/or medical marijuana products to or from its licensed premises in a regular or seasonal capacity.

**"Advertising"** means the act of providing consideration for the publication, dissemination, solicitation, or circulation of visual, oral, or written communication to induce directly or indirectly any person to patronize a particular medical marijuana business or to purchase any particular medical marijuana or medical marijuana products. "Advertising" includes marketing but does not include packaging and labeling.

**"Alcoholic beverage"** means *alcohol, spirits, beer and wine and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings* [37A O.S. § 1-103].

**"Applicant"** means the natural person or entity in whose name a license would be issued.

**"Application status"** means the status of a submitted application and includes the following:

- (A) **"Submitted"** means the application has been submitted but a review is not yet complete;
- (B) **"Rejected"** means the application has been reviewed but contains one or more errors requiring correction by the applicant before a final determination on the application can be made. "Rejected" does not mean the application is denied;
- (C) **"Approved"** means the application has been approved and that a license will be issued and mailed to the applicant; and
- (D) **"Denied"** means the applicant does not meet the qualifications under Oklahoma law and this Chapter for a license.

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**"Authority"** or **"OMMA"** means the Oklahoma Medical Marijuana Authority.

**"Batch number"** means a unique numeric or alphanumeric identifier assigned prior to any testing to allow for inventory tracking and traceability.

**"Business license"** means a license issued by the Authority to a medical marijuana dispensary, grower, processor, testing laboratory, or transporter.

**"Cannabinoid"** means any of the chemical compounds that are active principles of marijuana.

**"Canopy"** means the total surface area within a cultivation area that is dedicated to the cultivation of flowering marijuana plants.

**"Caregiver"** means a family member or assistant who regularly looks after a licensed medical marijuana patient license holder whom a physician attests needs assistance.

**"CFR"** means the Code of Federal Regulations, the compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government which is published by the U.S. Government Printing Office. Citations in this Chapter to the CFR refer sequentially to the Title, Part and Section numbers.

**"Change of ownership request"** means any request submitted to the Authority that would change, amend, or in any way alter the ownership of a medical marijuana commercial license, including, but not limited to:

- (A) Any shareholders owning an interest of a corporate entity and all officers of a corporate entity;
- (B) Any partners of a general partnership;
- (C) Any general partners and all limited partners that own an interest in a limited partnership;
- (D) Any members that own an interest in a limited liability company;
- (E) Any beneficiaries that hold a beneficial interest in a trust and all trustees of a trust;
- (F) Any persons or entities that own interest in a joint venture;
- (G) Any persons or entities that own an interest in an association;
- (H) Any owners of any other type of legal entity; and
- (I) Any other person holding an interest or convertible note in any entity which owns, operates, or manages a licensed medical marijuana facility.

**"Child-resistant"** means packaging that is:

- (A) Designed or constructed to be significantly difficult for children under five (5) years of age to open and not difficult for normal adults to use properly as defined by 16 CFR § 1700.15 (1995) and 16 CFR § 1700.20 (1995); and
- (B) Resealable to maintain its child-resistant effectiveness for multiple openings for any product intended for more than a single use or containing multiple servings.

**"Clone"** means a non-flowering plant cut from a mother plant that is capable of developing into a new plant and has shown no signs of flowering.

**"COA"** means certificate of analysis.

**"Commercial license"** means any license issued to an individual or entity that is not a patient, caregiver, or transporter agent.

**"Commercial licensee"** means an individual or entity issued a commercial license and does not mean a patient, caregiver, or transporter agent.

**"Complete(d) application"** means a document prepared in accordance with Oklahoma law, these Rules, and the forms and instructions provided by the Authority, including any supporting documentation required by the Authority and the license fee.

**"Decontamination"** means a ~~type of remediation~~ process that attempts to remove or reduce to an acceptable level a contaminant exceeding an allowable threshold set forth in these Rules without changing or altering the medical marijuana form in a harvest batch, provided it is not processed into a solvent-based concentrate.

**"Director"** or **"Executive Director"** means the Executive Director of the Oklahoma Medical Marijuana Authority.

~~— "Dispense" means the retail selling of medical marijuana or medical marijuana products that are packaged and labeled in accordance with the law to a licensed patient, the licensed patient's parent(s) or legal guardian(s) if licensed patient is a minor, or a licensed caregiver.~~

**"Dispensary"** or **"Commercial dispensary"** means an individual or entity that has been issued a medical marijuana business license by the Authority, which allows the dispensary to purchase medical marijuana or medical marijuana products from a licensed processor, grower, or dispensary; to sell medical marijuana and medical marijuana products to a licensed patient, to a licensed caregiver, and to the licensed patient's parent(s) or legal guardian(s) if licensed patient is a minor; to ~~prepare~~create and package noninfused pre-rolled medical marijuana with a net weight that does not exceed one (1) gram to sell to medical marijuana patients and caregivers; and to sell, transfer, and transport or contract

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with a commercial transporter to transport medical marijuana or medical marijuana products to another licensed dispensary, a research facility, and an educational facility; and to transfer samples to testing laboratories.

**"Dispose"** means the retail selling of medical marijuana or medical marijuana products that are packaged and labeled in accordance with the law to a licensed patient, the licensed patient's parent(s) or legal guardian(s) if licensed patient is a minor, or a licensed caregiver.

**"Dispose"** or **"Disposal"** means the disposition of medical marijuana waste by either a process which renders the waste unusable and unrecognizable through physical destruction or a recycling process.

**"Disqualifying criminal conviction"** means:

(A) Any non-violent felony conviction within last two (2) years of submitting an application to the Authority;

(B) Any violent felony conviction for an offense listed in 57 O.S. § 571(2) within last five (5) years of submitting an application to the Authority; or

(C) Incarceration for any reason during submission of application to the Authority.

**"Education facility"** means an individual or entity that has been issued a license by the Authority to operate a facility providing training and education to individuals involving the cultivation, growing, harvesting, curing, preparing, packaging, or testing of medical marijuana, or the production, manufacture, extraction, processing, packaging, or creation of medical-marijuana-infused products or medical marijuana products for the limited education and research purposes permitted under state and federal law and these Rules; to transfer, by sale or donation, medical marijuana grown within its operation to licensed research licensees; and to transfer samples to licensed testing laboratories.

**"Entity"** means an individual, sole proprietorship, a general partnership, a limited partnership, a limited liability company, a trust, an estate, an association, a corporation, or any other legal or commercial entity.

**"Entrance to a private or public school"** means an opening, such as a door, passage, or gate, that allows access to any public or private schools, including school buildings, facilities, or other indoor and outdoor properties utilized for classes or school activities.

**"Error in measurement"** means a mistake made by the Authority or a municipality in the setback measurement process where either the distance between a medical marijuana dispensary and a school is miscalculated due to mathematical error or the methods used to measure the setback distance is inconsistent with 63 O.S. § 425(G).

**"Error in measurement allowance"** means an allowance of an error in measurements of the distance between a medical marijuana dispensary and a school up to and including five hundred (500) feet when remeasured after an original license has been issued.

**"Exit package"** means an opaque bag that is provided at the point of sale in which pre-packaged medical marijuana is placed.

**"Final harvest batch"** means a specifically identified quantity of medical marijuana that is:

(A) uniform in strain;

(B) cultivated utilizing the same cultivation practices;

(C) harvested at the same time from the same location;

(D) cured under uniform conditions; and

(E) completed and ready for consumption prior to transfer to a licensed medical marijuana dispensary.

**"Final product"** or **"Final medical marijuana product"** means any finished medical marijuana product that has been infused with a concentrate or that has been further processed and is in the form in which it will be sold to medical marijuana patients and caregivers, meaning no other ingredients or additives will be infused or otherwise added into the product the finished product that is available for transport to licensed medical marijuana dispensaries and ready for consumption by licensed medical marijuana patients.

**"Final production batch"** means

(A) any amount of medical marijuana finished product of the same category and produced using the same extraction methods, standard operating procedures, meeting all applicable law, rules, and regulations required by the Oklahoma Medical Marijuana and Patient Protection Act prior to transfer to a licensed medical marijuana dispensary, licensed medical marijuana patient, or licensed medical marijuana caregiver; or

(B) any amount of medical marijuana finished product of the same exact type, produced using the same ingredients, standard operating procedures, and the same production batch of medical marijuana concentrate.

**"Flower"** means the reproductive organs of the marijuana or cannabis plant referred to as the bud or parts of the plant that are harvested and used for consumption in a variety of medical marijuana products.

**"Flowering"** means the reproductive state of the marijuana or cannabis plant in which there are physical signs of flower or budding out of the nodes of the stem.

**"Food"** means *articles used for food or drink for man, (2) chewing gum, and (3) articles used for components of any such article* [63 O.S. § 1-1101] and *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* [OAC 310:257-1-2 and OAC 310:260-1-6].

**"Grower"** or **"Commercial grower"** means an individual or entity that has been issued a medical marijuana business license by the Authority, which allows the grower to grow, harvest, dry, cure, package medical marijuana and noninfused pre-rolled medical marijuana with a net weight that does not exceed one (1) gram, to sell, transfer, and transport or contract with a commercial transporter for the transport of medical marijuana in accordance with Oklahoma law and this Chapter to a dispensary, processor, grower, research facility, education facility, or samples to a testing laboratory, and includes the following:

(A) **"Indoor grow"** means an indoor, greenhouse, or light deprivation medical marijuana grow facility;

(B) **"Greenhouse"** means a structure located outdoors that is completely covered by a material that allows a controlled level of light transmission;

(C) **"Light deprivation"** means a structure that has concrete floors and the ability to manipulate natural light; and

(D) **"Outdoor grow"** means an outdoor medical marijuana grow facility that does not include any indoor, greenhouse, or light deprivation medical marijuana grow facilities.

**"Harvest batch"** means a specifically identified quantity of usable medical marijuana, not to exceed harvest batch sizes allowable under OAC 442:10-8-1(b), that is uniform in strain, cultivated utilizing the same cultivation practices, harvested at the same time from the same location, and dried or cured under uniform conditions. For purposes of this Chapter, "harvested at the same time" refers to medical marijuana harvested during a single continuous harvest process that may exceed one (1) day.

**"Hazardous processor license"** means a license issued to a medical marijuana processor that performs an extraction method that utilizes chemicals considered hazardous by the OSHA Hazard Communication Standard under 29 CFR § 1910.1200.

**"Immature plant"** means a nonflowering marijuana plant that has not demonstrated signs of flowering.

**"Indirect beneficial owner"** means an individual or entity who indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns ten percent (10%) or more of the equity interests of a grower, processor, or dispensary.

**"Information panel"** means the same definition as set forth in 21 CFR § 101.2 and means "that part of the label immediately contiguous and to the right of the principal display panel as observed by an individual facing the principal display panel."

**"Infused pre-roll"** means pre-rolled medical marijuana into which cannabis concentrate, extracts, derivatives, or other ingredients have been incorporated.

**"Integration"** or **"Integrated"** means a third-party vendor's software application or a software service that has been fully validated to share inventory tracking or other data directly with the State inventory tracking system via a secure Application Programming Interface ("API").

**"Inventory tracking system"** or **"State inventory tracking system"** means the required tracking system established by the Authority that accounts for medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana product is sold to a patient at a medical marijuana dispensary, disposed of in accordance with these Rules, or used in a research project by a medical marijuana research facility, meaning that the State's inventory tracking system accounts for the entire life span of medical marijuana and medical marijuana products, including any testing samples thereof and medical marijuana waste.

**"Kief"** means the resinous trichomes of marijuana that have been separated from the marijuana plant.

**"Label"** means the same definition as set forth in 63 O.S. § 1-1101 and *means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this article that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if there be any, of the retail package of such article, or is easily legible through the outside container or wrapper.*

**"License"** means a state issued license or other state issued documentation proving the holder of such license is a member of a state-regulated medical marijuana program.

**"License number"** means the unique multi-character identifier issued and printed upon each license.

**"Licensee"** means ~~any natural born person or entity that holds a medical marijuana license provided for in this Chapter, excluding inmates of any local, county, state, or federal correctional facility or jail.~~

**"Licensed packager"** means as used in 63 O.S. § 422(C) a processor.

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**"Licensed premises"** means the premises specified in an application for a medical marijuana business, research facility, education facility, or waste disposal facility that is owned or in lawful possession of the licensee and within which the licensee is authorized to operate.

**"License transfer application"** means any request submitted to the Authority in the form or manner prescribed by the Authority that would do one of the following:

- (A) Transfer a medical marijuana commercial license from a prior owner to a new owner;
- (B) Change, amend, or in any way alter the location of the licensed premises due to a change in ownership;
- (C) Change, amend, or alter in any way the business name or individual or entity holding the license;

**"Licensee"** means any natural born person or entity that holds a medical marijuana license provided for in this Chapter, excluding inmates of any local, county, state, or federal correctional facility or jail.

**"Location change request"** means any request submitted to the Authority that would change, amend, or alter in any way the location of the licensed premises.

**"Lot"** means the food produced during a period of time indicated by a specific code.

**"Marijuana"** means the same as the term that is defined in 63 O.S. § 2-101 and shall not include any plant or material containing delta-8 or delta-10 tetrahydrocannabinol which is grown, processed or sold pursuant to the provisions of the Oklahoma Industrial Hemp Program.

**"Material change"** means any change that would affect the qualifications for licensure of an applicant or licensee.

**"Mature plant"** means harvestable female marijuana plant that is flowering.

**"Medicaid"** means the program that is also commonly known in Oklahoma as "SoonerCare."

**"Medical marijuana"** means marijuana that is grown, processed, dispensed, tested, possessed, or used for a medical purpose.

**"Medical marijuana business"** means ~~an individual or entity licensed by the Authority as a medical marijuana dispensary, grower, processor, testing laboratory, or transporter~~ a licensed medical marijuana dispensary, medical marijuana processor, medical marijuana commercial grower, medical marijuana laboratory, medical marijuana business operator or a medical marijuana transporter.

**"Medical marijuana concentrate" or "Concentrate"** means a substance obtained by separating cannabinoids from any part of the marijuana plant by physical or chemical means, so as to deliver a product with a cannabinoid concentration greater than the raw plant material from which it is derived. Categories of concentrate include water-based medical marijuana concentrate, food-based medical marijuana concentrate, solvent-based concentrate, and heat- or pressure-based medical marijuana concentrate as those terms are defined in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

**"Medical marijuana infused product"** means a product infused with medical marijuana including, but not limited to, edible products, ointments, tinctures and infused pre-rolls.

**"Medical marijuana product"** means a product that contains cannabinoids that have been extracted from plant material or the resin therefrom by physical or chemical means and is intended for administration to a licensed patient, including but not limited to concentrates, oils, tinctures, edibles, pills, topical forms, gels, creams, and other derivative forms, except that this term does not include live plant forms.

**"Medical marijuana research"** means research on medical marijuana and medical marijuana products for public purposes, including the advancement of (A) Public health policy and public safety policy, (B) Agronomic and horticultural best practices, and (C) Medical and pharmacopoeia best practices. For purposes of this Chapter, this term does not include biomedical and clinical research that is subject to federal regulations and institutional oversight and shall not be subject to Authority oversight.

**"Medical marijuana waste"** means

- (A) unused, surplus, returned or out-of-date marijuana; recalled marijuana; unused marijuana; plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts, except the term shall not include seeds, roots, stems, stalks and fan leaves,
- (B) all product which is deemed to fail laboratory testing and cannot be remediated or decontaminated, or
- (C) all products and inventory from commercial licensees that:
  - (i) have gone out of business;
  - (ii) are not subject to the provisions of Section 1560 of Title 12 of the Oklahoma Statute; and
  - (iii) are unable to lawfully transfer or sell the product and inventory to another commercial licensee.

**"Minor"** means any natural person younger than eighteen (18) years of age.



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**"Mother plant"** means a marijuana plant that is grown or maintained for the purpose of generating clones, and that will not be used to produce plant material for sale to a processor or dispensary.

**"Municipality"** means the same definition as set forth in the Oklahoma Municipal Code, 11 O.S. § 1-102, and *"means any incorporated city or town."*

**"Name change request"** means any request submitted to the Authority that would change, amend, or alter in any way the business name or individual or entity holding the license. Name change requests must be submitted in a license transfer application.

**"Nonhazardous processor license"** means a license issued by the Authority to a processor that will not perform any processing or extraction methods that utilize a chemical considered hazardous by the OSHA Hazard Communication Standard under 29 CFR § 1910.1200.

**"Noninfused pre-roll"** means pre-rolled medical marijuana that consist only of flower, shake, or trim, and may include unflavored paper, a filter, tip, or cone. This product shall not include marijuana concentrates, extracts, derivatives, or any other ingredients.

**"Nonliquid medical marijuana product"** means a substance obtained by separating cannabinoids that have been extracted from plant material by physical or chemical means and is not a liquid, meaning that it does not conform to a container in which it is placed. Examples include wax, budder, shatter, and hash.

**"Nonoperational"** means a commercial licensee that cannot provide proof that it is actively operating or working towards operational status.

**"Officer of a corporate entity" or "Principal officer"** means an officer identified in the corporate bylaws, articles of organization or other organizational documents, or in a resolution of the governing body.

**"Officer of a municipality"** means *any person who is elected to an office in municipal government or is appointed to fill an unexpired term of an elected office, and the clerk and the treasurer whether elected or appointed* [11 O.S. § 1-102].

**"Oklahoma resident" or "Resident"** means an individual who can provide proof of residency as required by OAC 442:10-1-6 (relating to proof of residency) or OAC 442:10-5-3.1 (relating to proof of residency for commercial business licensees).

**"Oklahoma uniform symbol" or "Universal symbol"** means the image, established by the Authority and made available to commercial licensees through the OMMA website, which indicates the package contains medical marijuana or medical marijuana products with THC and must be printed at least one-half inch in size by one-half inch in size in the color designated by the Authority.

**"Openly in existence"** means any building, location, or structure on a school site that has visible outward markings indicating the building, location, or structure was operating as a school which would serve as sufficient notice of the existence of the school or a reason for further inquiry on the part of the medical marijuana dispensary license applicant. "Openly in existence" shall not mean any school that operated secretly or discreetly without any signs or other markings on any building, location, or structure on the school site, undeveloped land or a structure owned by a school that was not openly used and marked as a school site, or any school site that was established after the medical marijuana dispensary had been established and licensed by the Authority.

**"Organic"** means the same as the term defined in the National Organic Program codified at 7 CFR § 205.2. This includes the terms "organically produced" as set forth in 7 U.S.C. § 6502(15) and "100 percent organic" and "made with organic (specified ingredients or food group(s))" as set forth in 7 CFR § 205.102.

**"Out-of-state medical marijuana patient license"** means an unexpired medical marijuana patient license issued by another U.S. state, which is the substantial equivalent of the Oklahoma medical marijuana patient license issued pursuant to OAC 442:10-2-1 and OAC 442:10-2-2.

**"Owner"** means, except where the context otherwise requires, a direct beneficial owner, including, but not limited to, all persons or entities as follows:

- (A) All shareholders owning an interest of a corporate entity and all officers of a corporate entity;
- (B) All partners of a general partnership;
- (C) All general partners and all limited partners that own an interest in a limited partnership;
- (D) All members that own an interest in a limited liability company;
- (E) All beneficiaries that hold a beneficial interest in a trust and all trustees of a trust;
- (F) All persons or entities that own interest in a joint venture;
- (G) All persons or entities that own an interest in an association;
- (H) The owners of any other type of legal entity; and
- (I) Any other person holding an interest or convertible note in any entity which owns, operates, or manages a licensed medical marijuana facility.

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**"Package"** or **"Packaging"** means any container or wrapper that a medical marijuana business may use for enclosing or containing medical marijuana or medical marijuana products, except that "package" or "packaging" shall not include any carry-out bag or other similar container.

**"Patient"** or **"Licensed patient"** means a person that has been properly issued a medical marijuana license pursuant to Oklahoma law and these Rules.

**"Pesticide"** means

(A) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or

(B) any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

"Pesticide" shall not include any article that is a "new animal drug" as designated by the United States Food and Drug Administration.

**"Physician"** or **"Oklahoma Physician"** means a doctor of medicine, a doctor of osteopathic medicine, or a doctor of podiatric medicine who holds a valid, unrestricted and existing license to practice in the State of Oklahoma.

**"Plant material"** means the leaves, stems, buds, and flowers of the marijuana plant, and does not include seedlings, seeds, clones, stalks, or roots of the plant or the weight of any non-marijuana ingredients combined with marijuana.

**"Political subdivision"** means any county or municipal governments.

**"Preschool"** means a public early childhood education program offered under 70 O.S. §§ 11-103.7 and 1-114 (B) or similar program offered by a private school whose primary purpose is to offer educational (or academic) instruction. Preschool does not include a homeschool, daycare, or child care facility licensed under the Oklahoma Child Care Facilities Licensing Act, 10 O.S. § 401 et seq.

**"Principal display panel"** has the same definition as set forth in 21 CFR § 101.1 and "means the part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale."

**"Private school"** means an elementary, middle, or high school maintained by private individuals, religious organizations, or corporations, funded, at least in part, by fees or tuition, and open only to pupils selected and admitted based on religious affiliations or other particular qualifications. "Private school" shall not include a homeschool, daycare, or child care facility licensed under the Oklahoma Child Care Facilities Licensing Act, 10 O.S. § 401 et seq.

**"Process"** means to distill, extract, manufacture, prepare, or otherwise produce a medical marijuana product.

**"Processor"** or **"Commercial processor"** means an individual or entity that has been issued a medical marijuana business license by the Authority, which allows the processor to: purchase medical marijuana or medical marijuana products from a grower or processor; process, package, sell, transfer, and transport or contract with a commercial transporter to transport medical marijuana and medical marijuana products that they processed to a licensed dispensary, processor, or samples to a testing laboratory in accordance with Oklahoma law and this Chapter; and process medical marijuana received from a licensed patient into a medical marijuana concentrate, for a fee. Processors will receive either a hazardous processor license or a non-hazardous processor license based on the type of chemicals the processor will be utilizing in the extraction process in accordance with these Rules.

**"Production batch"** means

(A) Any amount of medical marijuana concentrate or nonliquid medical marijuana products, not to exceed production batch sizes allowable under OAC 442:10-8-1(b), of the same category and produced using the same extraction methods, standard operating procedures, and an identical group of harvest batch of medical marijuana; ~~and or~~

(B) Any amount of ~~finished~~ medical marijuana product, not to exceed production batch sizes allowable under OAC 442:10-8-1(b), of the same exact type, produced using the same ingredients, standard operating procedures, and same production batch of medical marijuana concentrate or same harvest batch of medical marijuana.

**"Public institution"** means any entity established or controlled by the federal government, state government, or a local government or municipality, including, but not limited, institutions of higher education and related research institutions.

~~**"Publicly traded company"** means a business entity organized under the laws of the United States or Canada where the domicile for the business entity permits the sale of marijuana and such business entity has a class of securities that are registered and traded for investment pursuant to the Securities Exchange Act of 1934 or listed and traded for investment on a reputable recognized foreign stock exchange or foreign market.~~

**"Public money"** means any funds or money obtained from any governmental entity, including, but not limited to, research grants.

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**"Public school"** means an elementary, middle, high school, or technology center school established under state law, regulated by the local state authorities in the various political subdivisions, funded and maintained by public taxation, and open and free to all children of the particular district where the school is located.

**"Publicly traded company"** means a business entity organized under the laws of the United States or Canada where the domicile for the business entity permits the sale of marijuana and such business entity has a class of securities that are registered and traded for investment pursuant to the Securities Exchange Act of 1934 or listed and traded for investment on a reputable recognized foreign stock exchange or foreign market.

**"Quality assurance laboratory"** means a laboratory designated by the Authority to conduct surveillance of testing laboratories for compliance purposes.

**"Readily accessible"** means that a licensee can immediately produce the documentation upon the Authority's request.

**"Registered to conduct business"** means any individual or entity that is required under Oklahoma law to register with the Oklahoma Secretary of State and has provided sufficient proof to the Authority of its good standing with such.

**"Remediation"** means the process by which ~~a harvest batch or production batch that fails testing undergoes a procedure to remedy the harvest batch or production batch failure and is retested~~ medical marijuana flower or trim, which has failed testing, is processed into solvent-based medical marijuana concentrate and the final product is tested in accordance with Oklahoma law and these Rules.

**"Research project"** means ~~a discrete scientific endeavor to answer a research question or a set of research questions related to medical marijuana and is required for a medical marijuana research license.~~

**"Research facility"** means an individual or entity that has been issued a license by the Authority to grow, cultivate, possess, and transfer samples to testing laboratories, and to transfer by sale or donation to other licensed research facilities, medical marijuana for the limited research purposes permitted under state and federal law and these Rules.

**"Research project"** means a discrete scientific endeavor to answer a research question or a set of research questions related to medical marijuana and is required for a medical marijuana research license.

**"Retailer" or "Retail marijuana establishment"** as used in 63 O.S. § 420 et seq. means an entity licensed by the Oklahoma Medical Marijuana Authority as a medical marijuana dispensary.

**"Revocation"** means the Authority's final decision in accordance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq., that any license issued by the Authority pursuant to Oklahoma law and this Chapter is rescinded.

**"Rules"** means, unless otherwise indicated, the rules as adopted and set forth in OAC 442:10.

**"Sampler"** means a person who is employed by or is an owner of a licensed laboratory, dispensary, grower, or processor and is authorized by that employer to collect samples in accordance with the testing laboratory's standard operating procedures and these Rules.

**"Seedling"** means a marijuana plant that has no flowers.

**"Seed-to-sale tracking system"** means an electronic inventory tracking system utilized by a commercial licensee to track inventory, any steps through the process of cultivating or manufacturing medical marijuana and/or medical products, transactions with other licensees, testing, and other required information for the purpose of reporting that information to the Authority in accordance with Oklahoma law, rules, and regulations.

**"Seedling"** means a marijuana plant that has no flowers.

**"Shipping container"** means a hard-sided container with a lid or other enclosure that can be secured into place. A shipping container is used solely for the transport of medical marijuana, medical marijuana concentrate, or medical marijuana products between medical marijuana businesses, a medical marijuana research facility, or a medical marijuana education facility.

**"State question"** means Oklahoma State Question No. 788 and Initiative Petition Number 412.

**"Strain"** means the name given to a particular variety of medical marijuana that is based on a combination of factors which may include, but is not limited to, botanical lineage, appearance, chemical profile, and accompanying effects. An example of a "strain" would be "OG Kush" or "Pineapple Express".

**"Tamper-evident"** means a seal, security tape, or marking that has one or more indicators or barriers to entry which, if breached or missing, can reasonably be expected to provide visible evidence to consumers that tampering has occurred.

**"Terpenoids"** means isoprenes that are the aromatic compounds found in cannabis, including, but not limited to those listed at OAC 442:10-8-1(i)(7)(A).

**"Testing laboratory" or "Laboratory"** means a public or private laboratory licensed pursuant to state law and these Rules to conduct testing and research on samples of medical marijuana and medical marijuana products.

**"THC"** means tetrahydrocannabinol, which is the primary psychotropic cannabinoid formed by decarboxylation of naturally occurring tetrahydrocannabinolic acid, which generally occurs by exposure to heat.

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**"Transporter" or "Commercial transporter"** means an individual or entity issued a medical marijuana commercial license by the Authority, which allows the transporter to transport, store, and distribute, but not take ownership of, medical marijuana and medical marijuana products to and from the licensed premises of commercial licensees. As used in this Chapter, "Transporter" or "Commercial Transporter" does not mean licensed commercial growers, processors, dispensaries, laboratories, research facilities, and education facilities who are automatic holders of transporter licenses.

**"Transporter agent"** means an agent, employee, officer, or owner of commercial transporter, grower, processor, dispensary, laboratory, research facility, or education facility who has been issued a transporter agent license by the Authority to transport medical marijuana and medical marijuana products on behalf of the said commercial transporter, grower, processor, dispensary, laboratory, research facility, and education facility.

**"Transporter license"** means a medical marijuana business license issued by the Authority either (A) automatically to commercial growers, processors, dispensaries, laboratories, research facilities, and education facilities upon approval of a business license, or (B) to commercial transporters solely for the transportation, storage, and distribution of medical marijuana and medical marijuana products.

**"Usable medical marijuana"** means the dried leaves, flowers, oils, vapors, waxes, and other portions of the marijuana plant and any mixture or preparation thereof, excluding seed, roots, stems, stalks, and fan leaves.

**"Waste disposal facility"** means an individual or entity that has been issued a medical marijuana waste disposal facility license by the Authority to dispose of medical marijuana waste as authorized in Oklahoma law and these Rules.

**"Waste disposal facility license"** means a license issued by the Authority to possess, transport, and dispose of medical marijuana waste. The waste disposal facility license shall be issued to the location submitted by the applicant that is first approved by the Authority.

**"Waste disposal facility permit"** means a permit issued by the Authority to a waste disposal licensee to possess, transport, and dispose of medical marijuana waste at the location submitted on the permit application. Waste disposal facility permits shall be required for each approved facility operated by a waste disposal facility licensee.

**"Wholesale package"** means medical marijuana from the same harvest batch or multiple units of medical marijuana product from the same production batch that are combined together as a single unit for the purpose of inventory tracking system tagging and are transported to a single commercial licensee.

**"Working towards operational status"** means a commercial licensee that:

- (A) Has applied for any additional permits, registrations, or licenses required by the Authority or another Oklahoma agency, organization, or political subdivision to lawfully conduct operations at the licensed premises and is awaiting issuance of such permit(s), registration(s), or other license(s);
- (B) Is performing construction or other material changes to the licensed premises in preparation of operations at the licenses premises;
- (C) Is onboarding or training initial staff in preparation of operations at the licensed premises;
- (D) Is in the process of purchasing or is awaiting receipt of delivery of physical materials essential to operations at the licensed premises, such as furniture or equipment; or
- (E) Any additional actions determined to be sufficient by the Authority.

## SUBCHAPTER 2. MEDICAL MARIJUANA LICENSES

### 442:10-2-9. Prohibited acts and penalties [AMENDED]

(a) A licensed patient shall not sell or otherwise transfer any medical marijuana or medical marijuana products to another individual or entity. Intentional and impermissible diversion of medical marijuana or medical marijuana products by a licensed patient may result in, for a first offense, a fine of ~~\$400.00~~ four hundred dollars (\$400.00), and for a second offense, a fine of ~~\$1,000~~ one thousand dollars (\$1,000.00) and revocation of license upon a showing that the violation was willful or grossly negligent. A licensed patient who shares less than three (3) grams of medical marijuana with an unauthorized person, without the transfer being for value or other consideration, shall not be subject to criminal prosecution but shall be subject to an administrative fine of four hundred dollars (\$400).

(b) A licensed caregiver shall not sell or otherwise transfer any medical marijuana or medical marijuana products to any individual other than the licensed patient on whose behalf the caregiver is lawfully authorized to grow, possess, purchase or otherwise obtain said medical marijuana or medical marijuana products. Intentional and impermissible diversion of medical marijuana or medical marijuana products by a licensed caregiver may result in, for a first offense, a fine of ~~\$400.00~~ four hundred dollars (\$400.00), and for a second offense, a fine of ~~\$1,000~~ one thousand dollars (\$1,000.00) and revocation of license upon a showing that the violation was willful or grossly negligent. A licensed caregiver who shares less than three (3) grams of medical marijuana with an unauthorized person, without the transfer being for value or other

consideration, shall not be subject to criminal prosecution but shall be subject to an administrative fine of four hundred dollars (\$400).

(c) All medical marijuana grown by medical marijuana patient license holders or caregivers may only be grown on real property owned by the patient license holder or on real property for which the patient license holder has the property owner's written permission to grow medical marijuana on the property. The growth of medical marijuana in locations not permitted under this Subsection is prohibited.

(d) Any and all medical marijuana grown by licensed patients or caregivers shall not be accessible to a member of the general public.

(e) Any and all medical marijuana grown by licensed patients or caregivers shall not be visible from any street adjacent to the property. Medical marijuana is "visible" if it is viewable by a normal person with 20/20 eyesight without the use of any device to assist in improving viewing distance or vantage point.

(f) No licensed patient or caregiver shall operate or otherwise use any extraction equipment or processes utilizing butane, propane, carbon dioxide or any potentially hazardous material in or on residential property.

### SUBCHAPTER 3. TRANSPORTER LICENSE

#### 442:10-3-1. License for transportation of medical marijuana [AMENDED]

(a) A medical marijuana transporter license shall be issued to qualifying applicants for grower, processor, dispensary, laboratory, research facility, or education facility licenses at the time of approval. This license shall enable licensed growers, processors, dispensaries, laboratories, research facilities, and education facilities to apply for and receive individual transporter agent licenses for agents, employees, officers or owners of the commercial licensed facility. Through their licensed transporter agents, licensed growers, processors, dispensaries, laboratories, research facilities, and education facilities may transport medical marijuana or medical marijuana products to other commercial licensees. This license shall not authorize licensed growers, processors, dispensaries, laboratories, research facilities, or education facilities to transport, store, or distribute medical marijuana or medical marijuana products on behalf of other medical marijuana licensees.

(b) A medical marijuana commercial transporter license shall be issued as an independent business license to applicants meeting the requirements set forth in OAC 442:10-5-3, OAC 442:10-5-3.1, and OAC 442:10-5-3.2. This license shall be subject to the same restrictions and obligations as any commercial licensee and shall enable the commercial transporter to:

- (1) transport, store, and distribute medical marijuana and medical marijuana products on behalf of other commercial licensees;
- (2) contract with multiple commercial licensees; and
- (3) maintain multiple warehouses at licensed premises that are approved by the Authority for the purpose of temporarily storing and distributing medical marijuana and medical marijuana products.

(c) A commercial transporter applicant or licensee must obtain and submit to the Authority for each warehouse location ~~a certificate of compliance~~ all building permits and/or certificate(s) of occupancy issued by the Oklahoma State Fire Marshal or by the political subdivision where the licensed premises is to be located with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal certifying compliance with the categories listed in 63 O.S. § 426.1(E) for the construction or alteration of any buildings or structures classified as occupancies under the building codes adopted by the Oklahoma Uniform Building Code Commission, and the licensed premises shall meet security requirements applicable to a medical marijuana business.

(d) Pursuant to 63 O.S. § 427.3(D)(11), 63 O.S. § 427.14(L), 63 O.S. § 427.14(G)(2), and 63 O.S. § 427.14(J), for each warehouse location, a commercial transporter applicant or licensee must submit all Certificate(s) of Occupancy, Final Inspection Report(s), and Site Plan(s), issued from or approved by the organization, political subdivision, office, or individual responsible for enforcing the requirements of all building and fire codes adopted by the Oklahoma Uniform Building Code Commission pursuant to OAC 748:20. Pursuant to 74 O.S. § 324.11, in all geographical areas where the applicable Certificate(s) of Occupancy, Final Inspection Report(s), Site Plan(s) and/or permit(s) are not issued from and/or approved by local authorities, such documentation must be obtained from the Oklahoma Office of the State Fire Marshal. Once a certificate of occupancy is issued by the Oklahoma State Fire Marshal or by the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal and such certificate of occupancy has been submitted to the Authority showing full compliance, a licensee shall only need to submit an affidavit for license renewal stating the premises continues to comply with zoning classifications, applicable municipal ordinances, and all applicable safety, electrical, fire, plumbing, waste, construction, and building specification codes. An additional certificate of occupancy along with an affidavit shall be submitted if a change of use or occupancy occurs, or there is any change concerning the facility or location that would, by law, require additional inspection, licensure or permitting by the state or municipality. Licensees are responsible for compliance with applicable state fire, building, and electrical codes and may be

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liable for all damage that results from noncompliance with state fire, building, and electrical codes to the extent authorized by law.

(e) For all commercial license applications submitted on or after June 14, 2024 that require a building permit and/or certificate of occupancy for licensure, applicants who submitted a full and complete application for a building permit and/or certificate of occupancy issued by the Oklahoma State Fire Marshal or the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal prior to February 1, 2024 and while the same application remains under review by the State Fire Marshal or political subdivision, the applicant may submit an attestation on a form and in a manner prescribed by the Authority certifying that the applicant submitted a full and complete application for a building permit and/or certificate of occupancy prior to February 1, 2024, and that the same application remains under review by the Oklahoma State Fire Marshal or the political subdivision.

(f) A commercial transporter applicant or licensee must have each warehouse location inspected and approved by the Authority prior to its use.

(f)(g) A commercial transporter shall be responsible for any and all medical marijuana and medical marijuana products within its custody, control, or possession.

(g)(h) No person or entity shall transport or otherwise transfer any medical marijuana or medical marijuana products without both a valid transporter license and a valid transporter agent license.

## 442:10-3-2. Requirements for transportation of marijuana [AMENDED]

(a) With the exception of a lawful transfer between medical marijuana businesses that are licensed to operate at the same physical address, all medical marijuana and medical marijuana products shall be transported:

(1) In a locked shipping container, shielded from public view, and clearly labeled "Medical Marijuana or Derivative"; and

(2) In a secured area of the vehicle that is not accessible by the driver during transit.

(b) All vehicles used to transport medical marijuana and medical marijuana products shall be:

(1) Equipped with active Global Positioning System (GPS) trackers, which shall not be mobile cellular devices and which shall be capable of storing and transmitting GPS data; and

(2) Insured at or above the legal requirements in Oklahoma.

(c) Commercial transporters, growers, processors, dispensaries, laboratories, research facilities, and education facilities shall maintain updated and accurate records and information on all vehicles engaged in the transport of medical marijuana or medical marijuana products, including GPS data and records. Such records and information shall be kept ~~at the licensed premises on-site and readily accessible~~ for at least seven (7) years ~~and shall be readily accessible~~.

(d) Licensed transporter agents shall carry a copy of the commercial transporter license or the grower, processor, dispensary, laboratory, research facility, or education facility transportation license, and the transporter agent's license while transporting medical marijuana or medical marijuana products. Penalties for violations of this subsection shall include fines in the amounts set forth in Appendix C against the individual transporter and the employing commercial transporter, grower, processor, dispensary, laboratory, research facility, or education facility for whom the transporting agent is transporting medical marijuana or medical marijuana products at the time of the violation.

(e) Commercial licensees and transporter agents shall implement appropriate security measures to deter and prevent the theft and diversion of medical marijuana and medical marijuana products during transportation.

(f) Commercial transporters and transporter agents shall comply with all applicable motor vehicle laws.

(g) In addition to any other penalties established by law, the Authority may revoke the transporter agent license of any transporter agent who knowingly violates any provision of 63 O.S. § 427.16.

(h) In addition to any other penalties established by law, the Authority may revoke or suspend the transporter license of any commercial transporter who knowingly aids or facilitates a transporter agent in the violation of any provision of 63 O.S. § 427.16.

## 442:10-3-3. Transporter agent license [AMENDED]

(a) **License required.** Only agents, employees, officers, or owners of commercial transporters, growers, processors, dispensaries who are issued a transporter agent license by the Authority shall be qualified to transport medical marijuana or medical marijuana products.

(b) **Application fee.** Either the individual applicant for a transporter agent license or the business licensee employing the applicant shall submit the transporter agent license application or any renewal application to the Authority on a form and in a manner prescribed by the Authority, along with the annual application fee of ~~\$25.00~~ twenty-five dollars (\$25.00) as established in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(c) **Submission.** The application for a transporter agent license shall be on the Authority prescribed form and shall include at a minimum:

- (1) The applicant's first name, middle name, last name, and suffix, if applicable;
- (2) The applicant's residential address and valid mailing address;
- (3) The applicant's date of birth;
- (4) The applicant's telephone number and email address;
- (5) The applicant's Oklahoma driver license number and expiration date;
- (6) An affidavit of lawful presence signed by the transporter agent applicant;
- (7) An attestation that the transporter agent applicant shall not divert medical marijuana or medical marijuana products to any entity or individual that is not lawfully entitled to possess;
- (8) An attestation that the transporter agent understands and/or has been notified that the business licensee identified as the employer in the application may terminate the transporter agent license at any time; and
- (9) An attestation that the information provided in the application is true and correct.

(d) **Supporting documentation.** A complete application shall include the following documentation:

- (1) A copy of the applicant's valid, unexpired Oklahoma driver license;
- (2) Documents establishing the applicant is an Oklahoma resident as established in OAC 442:10-1-6 (relating to proof of residency);
- (3) A digital photograph as established in OAC 442:10-1-8 (relating to applicant photograph).
- (4) An employment verification form prescribed by the Authority verifying the applicant's employment with a commercial transporter, grower, processor, dispensary, laboratory, research facility, or education facility; and
- (5) A criminal background check conducted by the Oklahoma State Bureau of Investigation establishing that the applicant does not have a disqualifying criminal conviction.

(e) **License term.** A transporter agent license shall be valid for one year, unless the license is deactivated by the business licensee employing the transporter agent, voluntarily surrendered, or revoked by the Authority. Transporter agent licenses shall not extend beyond the expiration, surrender, or revocation of the business license of the commercial transporter, grower, processor, dispensary, laboratory, research facility, or education facility employing the transporter agent.

(f) **Renewal.** It is the responsibility of the license holder to renew the license, with all applicable documentation, prior to the date of expiration of the license by following the procedures provided in OAC 442:10-3-3. The Authority may refuse to renew a license of a transporter agent for the following:

- (1) Failure to meet the requirements for licensure set forth in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., or OAC 442:10.
- (2) Noncompliance with 63 O.S. § 420 et seq.; the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq.; or OAC 442:10.

(g) **License reprints.** Transporter agents may request a reprint of their license in the event the physical license is lost, destroyed, or otherwise misplaced by the licensee. The transporter agent shall be charged a ~~\$20.00~~ twenty dollar (\$20.00) fee for the license reprint.

## **442:10-3-6. Inventory manifests [AMENDED]**

(a) Commercial transporters, growers, processors, dispensaries, laboratories, research facilities, and education facilities shall utilize the State inventory tracking system in accordance with OAC 442:10-5-6(d) to create and maintain ~~shipping inventory~~ manifests documenting all transport of medical marijuana and medical marijuana products throughout the State of Oklahoma.

(b) When transporting medical marijuana or medical marijuana products, commercial transporters, research facilities, education facilities, laboratories, growers, processors, and dispensaries shall provide copies of the inventory manifests to each originating and receiving licensee at the time the product changes hands. Inventory manifests are to be left with the originating and receiving licensees and shall include, at a minimum:

- (1) The copy of the inventory manifest to be left with the originating licensee shall include, at a minimum: The license number, business name, address, and contact information of the originating and receiving licensees;
  - (A) ~~The license number, business name, address, and contact information of the originating licensee;~~
  - (B) ~~The license number, business name, address, and contact information of the commercial transporter, grower, processor, dispensary, laboratory, research facility, or education facility transporting the medical marijuana if such licensee is not the originating licensee;~~
  - (C) ~~A complete inventory of the medical marijuana and medical marijuana products to be transported, including the quantities by weight or unit of each type of medical marijuana and medical marijuana products and the batch number(s);~~
  - (D) ~~The date of transportation and the approximate time of departure;~~

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(E) Printed names, signatures, and transporter agent license numbers of personnel accompanying the transport;

(F) Notation of the commercial transporter, grower, processor, dispensary, laboratory, research facility, or education facility authorizing the transport; and

(G) The license number(s), business name(s), address(es), and contact information for all end point recipients.

(2) The copy of the inventory manifest to be left with the receiving licensee shall include, at a minimum: The license number, business name, address, and contact information of the commercial transporter, grower, processor, dispensary, laboratory, research facility, or education facility transporting the medical marijuana or medical marijuana products if such licensee is not the originating licensee;

(A) The license number, business name, address, and contact information for the receiving licensee;

(B) The license number, business name, address, and contact information of the originating licensee;

(C) The license number, business name, address, and contact information of the commercial transporter, grower, processor, dispensary, laboratory, research facility, or education facility transporting the medical marijuana if such licensee is not the originating licensee;

(D) A complete inventory of the medical marijuana and medical marijuana products delivered to the receiving licensee, including the quantities by weight or unit of each type of medical marijuana and medical marijuana products and the batch number(s);

(E) The date and estimated time of arrival;

(F) The printed names, signatures, and transporter agent license numbers of the personnel accompanying the transport; and

(G) The printed names, titles, and signatures of any personnel accepting delivery on behalf of the receiving licensee;

(3) A complete inventory of the medical marijuana and medical marijuana products to be transported, including the quantities by weight or unit of each type of medical marijuana and medical marijuana products and the batch number(s);

(4) The date of transportation and the approximate time of departure and estimated time of arrival;

(5) The printed names, signatures, and transporter agent license numbers of personnel accompanying the transport;

(6) Notation of the commercial transporter, grower, processor, dispensary, laboratory, research facility, or education facility authorizing the transport; and

(7) The printed names, titles, and signatures of any personnel accepting delivery on behalf of the receiving licensee and the license number(s), business name(s), address(es), and contact information for all end point recipients.

(c) A separate inventory manifest shall be prepared for each licensee receiving the medical marijuana or medical marijuana products.

(d) Commercial transporters, processors, growers, dispensaries, laboratories, research facilities, or education facilities shall also maintain copies of all inventory manifests in accordance with OAC 442:10-5-6(b).

(e) Inventory manifests should reflect all medical marijuana and medical marijuana products being transported, including all instances in which the medical marijuana and medical marijuana products are stored at a commercial transporter warehouse.

(f) ~~Originating and receiving~~ Commercial licensees shall maintain copies of inventory manifests and inventory records logging the quantity of medical marijuana or medical marijuana products transferred or received on-site and readily accessible for at least seven (7) years from the date of receipt.

(g) An inventory manifest shall not be altered after departing from the originating licensee's premises, except to make the following changes:

(1) The addition of the printed names, titles, and signatures of any personnel accepting delivery on behalf of the receiving licensee;

(2) Documenting any rejection and/or refusal to accept delivery of medical marijuana or medical marijuana products or if delivery of the medical marijuana or medical marijuana products is impossible, which shall include, at minimum:

(A) The license number, business name, address, and contact information of the licensee to which the medical marijuana or medical marijuana products were to be delivered;

(B) A complete inventory of the medical marijuana or medical marijuana products being returned, rejected, refused, and/or sent back, including batch number;

(C) The date and time of attempted delivery and the refusal;



(D) Documentation establishing the medical marijuana or medical marijuana products were ~~returned, rejected, refused, and/or sent back~~ in accordance with OAC 442:10-3-6(i).

(h) A receiving licensee shall refuse to accept any medical marijuana or medical marijuana products that are not accompanied by an inventory manifest.

(i) If a receiving licensee refuses to accept delivery of any medical marijuana ~~and/or~~ medical marijuana product or if delivery of the medical marijuana or medical marijuana product is impossible, the medical marijuana ~~and/or~~ medical marijuana ~~products~~ product shall be immediately ~~returned, rejected, refused, and/or sent back~~ to the originating licensee who retains legal ownership of the products and the refusal shall be fully documented in accordance with OAC 442:10-3-6(g)(2). For the purposes of this section, medical marijuana or medical marijuana product that is sent back to the originating licensee upon rejection and/or refusal to accept delivery shall not be considered medical marijuana waste, provided the medical marijuana or medical marijuana product were immediately sent back to the originating licensee upon rejection and/or refusal to accept delivery.

### SUBCHAPTER 4. RESEARCH FACILITIES AND EDUCATION FACILITIES

#### 442:10-4-1. License required [AMENDED]

(a) No person or entity shall operate a research facility or education facility without first obtaining a license from the Authority pursuant to 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., other applicable Oklahoma laws, and the Rules in this Chapter. All research and development conducted by a medical marijuana research facility or education facility shall be conducted in furtherance of an approved research project. Only a person who is in compliance with the requirements of Oklahoma law and these Rules shall be entitled to receive or retain such a license.

(b) All license applications shall be complete and accurate in every detail, shall include all attachments or supplemental information required by the forms ~~supplied~~ prescribed by the Authority, and shall be accompanied by full remittance of the entire application fee. Any misstatements, omissions, misrepresentations, or untruths made in the application shall be grounds for administrative action against the licensee by the Authority.

(c) All research facility and education facility licenses shall be on forms prescribed by the Authority.

(d) Application fees are nonrefundable.

(e) A medical marijuana research facility license may be issued for the following purposes, with the exception that biomedical and clinical research subject to federal regulations and institutional oversight is not subject to licensure or regulation by the Authority:

- (1) To test chemical potency and composition levels;
- (2) To conduct clinical investigations of marijuana-derived medicinal purposes;
- (3) To conduct research on the efficacy and safety of administering marijuana as part of a medical treatment;
- (4) To conduct genomic, horticultural, or agricultural research; and
- (5) To conduct research on marijuana-affiliated products or systems.

(f) A medical marijuana education facility license may be issued for the following purposes, with the exception that biomedical and clinical research subject to federal regulations and institutional oversight is not subject to licensure or regulation by the Authority:

- (1) To test cultivation techniques, strategies, infrastructure, mediums, lighting, and other related technology;
- (2) To demonstrate cultivation techniques, strategies, infrastructure, mediums, lighting, and other related technology;
- (3) To demonstrate the application and use of product manufacturing technologies;
- (4) To conduct genomic, horticultural, or agricultural research; and
- (5) To conduct research on marijuana-affiliated products or systems.

#### 442:10-4-1.1. Responsibilities of the license holder [AMENDED]

Upon acceptance of the license issued by the Authority, the license holder in order to retain the license shall:

- (1) Post the license or permit in a location in the licensed premises that is conspicuous;
- (2) Comply with the provisions in this Chapter;
- (3) Permit representatives of the Authority access to the licensed premises as specified under OAC 442:10-4-4 and OAC 442:10-4-6(e);
- (4) Comply with directives of the Authority including time frames for corrective actions specified in inspection reports, audit reports, notices, orders, warnings, and other directives issued by the Authority in regard to the license holder's business licensee, licensed premises, or facility or in response to community emergencies;

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- (5) Accept notices issued and served by the Authority according to law;
- (6) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Chapter or a directive of the Authority, including time frames for corrective actions specified in inspection reports, audit reports, notices, orders, warnings, and other directives;
- (7) Ensure that all information and records maintained in the licensee's online OMMA license ~~account=~~ including account, including the hours of operation for all licensed premises, trade name, and a valid mailing address, if ~~applicable=are applicable~~, are complete, accurate, and updated in a timely manner in accordance with these Rules; and
- (8) If applicable, submit the annual renewal application and pay all renewal license or application fees and any late fees; ~~if any~~.

## 442:10-4-2. Licenses [AMENDED]

- (a) **Timeframe.** Research facility and education facility licenses shall be issued for a twelve (12) month period expiring one (1) year from the date of issuance. The license may be issued upon receipt of a completed application, payment of application fee, and verification by the Authority that the individual or entity complies with the requirements set forth in Oklahoma law and this Chapter.
- (b) **Location.** Research facility and education facility licenses shall only be valid for a single location at the address listed on the application. If a single research project will occur in multiple locations, a separate research facility or education facility license shall be required for each location.
- (c) **Renewal of license.**
  - (1) It is the responsibility of the license holder to renew the license, with all applicable documentation, prior to the date of expiration of the license by following the procedures provided in OAC 442:10-4-3.
  - (2) Before renewing a license, the Authority may require further information and documentation to determine the licensee continues to meet the requirements set forth in Oklahoma law and these Rules. ~~Once a certificate of compliance is properly submitted showing full compliance, no additional certificate of compliance will be required for license renewal unless a change of use or occupancy occurs, or other change that would require additional inspection, licensure, or permitting by the state or municipality.~~
  - (3) If the research conducted by a research facility licensee includes a public institution or public money, the Authority shall review any reports made by the licensee to determine if the research continues to meet qualifications ~~in state law and these Rules set forth in Oklahoma law and this Chapter.~~
  - (4) The Authority may refuse to renew a license of a research or education facility for the following:
    - (A) Failure to meet the requirements for licensure set forth in 63 O.S. § 420 et seq; the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; or OAC 442:10.
    - (B) Noncompliance with 63 O.S. § 420 et seq.; the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq.; or OAC 442:10.
  - (5) Upon the determination that a licensee has not met the requirements for renewal, the Authority shall provide written notice to the licensee. The notice shall provide an explanation for the denial of the renewal application.
  - (6) ~~A commercial licensee that attempts to renew its license after the expiration date of the license shall pay a nonrefundable late renewal fee in the amount of \$500.00 to reinstate the license once processed. A license that has been expired for more than ninety (90) days shall not be renewed.~~ research facility or education facility licensee that attempts to renew its license after the expiration date of the license shall pay a nonrefundable late renewal fee of five hundred dollars (\$500.00) per week that the license is expired and a license that has been expired for more than sixty (60) calendar days shall not be renewed. Only license renewal applications submitted at least sixty (60) calendar days prior to the expiration date shall be considered timely submitted and subject to the requirement that applications be reviewed within ninety (90) business days of receipt of the application in accordance with Subsection F of Section 427.14 of Title 63 of the Oklahoma Statutes. A medical marijuana business license shall remain unexpired during the pendency of the application for renewal provided that such application was timely submitted. The Authority shall allow renewal applications to be submitted at least one hundred twenty (120) calendar days prior to the expiration date of a medical marijuana business license.
- (d) **Liquidation of products.** A research facility or education facility licensee whose license is not renewed, or whose license is revoked, suspended, or voluntarily surrendered, shall cease all operations immediately upon expiration of the license and shall liquidate or dispose of all medical marijuana and medical marijuana products in accordance with OAC 442:10-5-2(d) and OAC 442:10-5-10 that were not liquidated prior to licensure expiration in accordance with Oklahoma law and these Rules. Except as provided by Section 427.14 of Title 63 of the Oklahoma Statutes, immediately upon expiration of a license, any medical marijuana research facility or medical marijuana education facility shall cease all

possession, transfer, or sale of medical marijuana or medical marijuana products. Any continued possession, sale, or transfer shall subject the business owners and operators to felony prosecution pursuant to the Uniform Controlled Dangerous Substances Act.

**(e) Change in information.**

(1) Licensees shall notify the Authority in writing within fourteen (14) days of any changes in contact information by electronically submitting a change request in accordance with the Authority's instructions.

(2) Licensees shall obtain Authority approval for any material changes that affect the licensee's qualifications for licensure. No licensee shall operate under the conditions of a material change ~~unless and until the Authority has approved in writing the material change without written approval of an application by the Authority. Applications for written approval of material changes that affect the licensee's qualifications for licensure shall not occur during the renewal application and must be submitted in a separate material change request to the Authority.~~ Licensees shall submit a material change request to the Authority in writing in advance of any material change that may affect the licensee's qualifications for licensure by electronically submitting a change request, along with any relevant documentation and fees, in accordance with the Authority's instructions. ~~When submitting a material change request, the licensee will be required to pay a \$500.00 nonrefundable fee. Except as is otherwise authorized by the Authority, licensees are limited to one location change request and one ownership change request per year of licensure.~~

(A) Medical marijuana research and education licensees submitting a location change must provide a five hundred dollar (\$500.00) nonrefundable application fee and the information and documentation required in OAC 442:10-4-3 relating to locations, including but not limited to the following:

(i) ~~A certificate of compliance as~~ As required in OAC 442:10-4-3(e)(1), all building permits and/or certificate(s) of occupancy issued by the Oklahoma State Fire Marshal or by the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal on a form prescribed or otherwise authorized by the Authority that is issued by the political subdivision where the licensed premises is to be located certifying compliance with the categories listed in 63 O.S. § 426.1(E) for the construction or alteration of any buildings or structures classified as occupancies under the building codes adopted by the Oklahoma Uniform Building Code Commission; and

(ii) Any further documentation the Authority determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

(B) Medical marijuana research and education licensees submitting an ownership change request must provide the nonrefundable application fee listed below and the information and documentation required in OAC 442:10-4-3 relating to owners, including but not limited to the following:

(i) If applicable, a list of all owners and principal officers of the applicant and supporting documentation as set forth in OAC 442:10-4-3(e)(3);

(ii) Documents required under OAC 442:10-4-3(e)(4) establishing that the applicant; and the members, managers, and board members if applicable; and seventy-five percent (75%) of the research facility's or education facility's ownership interests are Oklahoma residents as required in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.;

(iii) For public institutions seeking a research facility license, a background check for each principal investigator and co-principal investigator; ~~and~~

(iv) A nonrefundable application fee that is the annual license or application fee established under Section 427.14 of Title 63 of the Oklahoma Statutes for the medical marijuana business license type; and

(v) Any further documentation the Authority determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

(3) Licensees shall notify the Authority prior to any changes that affect the initial research project and/or curriculum, including funding, in a manner prescribed by the Authority. If the research will be conducted with a public institution or public money, the licensee shall supply any documentation or information the Authority determines is necessary to determine whether any change to the research project and/or curriculum constitutes a material change. If there is a material change, the Authority may deny the change and require the licensee to submit a new application.

**(f) Transfer of license.**

(1) Licenses shall not be changed from one license type to another.

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(2) Licenses are limited to the research project(s) approved by the Authority and shall not be transferred to any other research project, research, or curriculum.

(g) **Surrender of license.** A research facility or education facility licensee may voluntarily surrender a license to the Authority at any time in accordance with OAC 442:10-5-2(g). A license surrender shall be considered effective upon written approval by the Authority. The Authority may reject a license surrender if medical marijuana or medical marijuana products remain in the possession of the licensee at time of surrender, or if any of the required documentation is missing or incomplete. All medical marijuana and medical marijuana products must be liquidated or disposed of in accordance with Oklahoma law and these Rules prior to the surrender of a license.

## 442:10-4-3. Applications [AMENDED]

(a) **Application fee.** An applicant for a research facility or education facility license, or renewal thereof, shall submit to the Authority a completed application on a form and in a manner prescribed by the Authority, along with the application fee as established in 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(b) **Submission.** The application shall be on the Authority prescribed form and shall include the following information about the establishment:

- (1) Name of the establishment;
- (2) Physical address of the establishment, including the county in which any licensed premises will be located;
- (3) GPS coordinates of the establishment;
- (4) Phone number and email address of the establishment; and
- (5) Hours of operation for any licensed premises.

(c) **Individual applicant.** The application for a research facility or education facility license made by an individual on his or her own behalf shall be on the Authority prescribed form and shall include at a minimum:

- (1) The applicant's first name, middle name, last name, and suffix if applicable;
- (2) The applicant's residence address and valid mailing address;
- (3) The applicant's date of birth;
- (4) The applicant's telephone number and email address;
- (5) Indication of the type of research to be conducted;
- (6) Indication of any public money involved in the research and/or curriculum, if applicable;
- (7) An attestation that the information provided by the applicant is true and correct;
- (8) An attestation that any licensed premises shall not be located on tribal lands;
- (9) An attestation that the research project does not involve biomedical or clinical research subject to federal regulations and institutional oversight, which is exempt from Authority regulations, and that research facility and education facility licenses granted by the Authority are only issued for the research and/or curriculum described and approved in the application;
- (10) An attestation that the use of any public funds or involvement of any public institution for research purposes must be disclosed at the time of application and that additional information and documentation regarding the research and/or curriculum may be required to be submitted during and after the application submission;
- (11) An attestation that the applicant adheres to 45 CFR § 46 (Protection of Human Subjects under United States Law) regulations; ~~and~~
- (12) An attestation that the business has obtained all applicable local licenses and permits for all licensed premises;
- (13) An attestation that no individual with ownership interest in the business is a sheriff, deputy sheriff, police officer, prosecuting officer, an officer or employee of OMMA, or an officer or employee of a municipality in which the commercial entity is located; and
- (14) A statement signed by the applicant pledging not to divert medical marijuana to any individual or entity that is not lawfully entitled to possess medical marijuana.

(d) **Application on behalf of an entity.** In addition to requirements of Subsection (c), an application for a research facility or education facility license made by an individual on behalf of an entity shall include:

- (1) An attestation that applicant is authorized to make application on behalf of the entity;
- (2) Full name of organization;
- (3) Trade name, if applicable;
- (4) Type of business organization;
- (5) Mailing address;
- (6) Telephone number and email address;
- (7) The name, residence address, and date of birth of each owner, if applicable; and

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(8) The name and residence address of each principal investigator or principal officer, if applicable.

(e) **Supporting documentation for research facility applicants.** Pursuant to 63 O.S. § 427.3(D)(11), 63 O.S. § 427.14(L), 63 O.S. § 427.14(G)(2), and 63 O.S. § 427.14(J), each application for a research facility shall be accompanied by the following documentation:

(1) ~~A certificate of compliance on a form prescribed or otherwise authorized by the Authority that is~~ All building permits and/or certificate(s) of occupancy issued by the Oklahoma State Fire Marshal or by the political subdivision where the licensed premises is to be located with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal certifying compliance with the categories listed in 63 O.S. § 426.1(E); for the construction or alteration of any buildings or structures classified as occupancies under the building codes adopted by the Oklahoma Uniform Building Code Commission.

(A) Once a certificate of occupancy is issued by the Oklahoma State Fire Marshal or by the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal and such certificate of occupancy has been submitted to the Authority showing full compliance, a licensee shall only need to submit an affidavit for license renewal stating the premises continues to comply with zoning classifications, applicable municipal ordinances, and all applicable safety, electrical, fire, plumbing, waste, construction, and building specification codes. An additional certificate of occupancy along with an affidavit shall be submitted if a change of use or occupancy occurs, or there is any change concerning the facility or location that would, by law, require additional inspection, licensure or permitting by the state or municipality. Licensees are responsible for compliance with applicable state fire, building, and electrical codes and may be liable for all damage that results from noncompliance with state fire, building, and electrical codes to the extent authorized by law.

(B) For all commercial license applications submitted on or after June 14, 2024 that require a building permit and/or certificate of occupancy for licensure, applicants who submitted a full and complete application for a building permit and/or certificate of occupancy issued by the Oklahoma State Fire Marshal or the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal prior to February 1, 2024 and while the same application remains under review by the State Fire Marshal or political subdivision, the applicant may submit an attestation on a form and in a manner prescribed by the Authority certifying that the applicant submitted a full and complete application for a building permit and/or certificate of occupancy prior to February 1, 2024, and that the same application remains under review by the Oklahoma State Fire Marshal or the political subdivision.

(2) If applicable, official documentation from the Oklahoma Secretary of State establishing the applicant's trade name;

(3) If applicable, a list of all owners and principal officers of the applicant and supporting documentation, including, but not limited to: certificate of incorporation, bylaws, articles of organization, operating agreement, certificate of limited partnership, resolution of a board of directors, or other similar documents;

(4) If applicable, documents establishing the applicant; and the members, managers, and board members; and seventy-five percent (75%) of the applicant's ownership interests are Oklahoma residents as required in accordance with OAC 442:10-1-6. This requirement shall not apply to research facility applicants that are public institutions or Oklahoma non-profit entities registered with the Oklahoma Secretary of State;

(5) The applicant shall submit a full description of the research including the following:

- (A) Defined protocol;
- (B) Clearly articulated goals;
- (C) Defined methods and outputs;
- (D) Defined start and end date; and
- (E) Funding source(s);

~~(6) If applicable, all Certificate(s) of Occupancy, Final Inspection Report(s), and Site Plan(s), issued from or approved by the organization, political subdivision, office, or individual responsible for enforcing the requirements of all building and fire codes adopted by the Oklahoma Uniform Building Code Commission pursuant to OAC 748:20. Pursuant to 74 O.S. § 324.11, in all geographical areas where the applicable Certificate(s) of Occupancy, Final Inspection Report(s), Site Plan(s) and/or permit(s) are not issued from and/or approved by local authorities, such documentation must be obtained from the Oklahoma Office of the State Fire Marshal; and~~

~~(7) Any further documentation or information the Authority determines is necessary to ensure the applicant is qualified under Oklahoma law and these Rules to obtain a research facility license.~~

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(f) **Supporting documentation for education facility applicants.** Each application for an education facility license shall be accompanied by the following documentation:

(1) ~~A certificate of compliance on a form prescribed or otherwise authorized by the Authority that is~~ All building permits and/or certificate(s) of occupancy issued by the Oklahoma State Fire Marshal or by the political subdivision where the licensed premises is to be located with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal certifying compliance with the categories listed in 63 O.S. § 426.1(E); for the construction or alteration of any buildings or structures classified as occupancies under the building codes adopted by the Oklahoma Uniform Building Code Commission.

(2) An application for an education facility must include non-profit registration with the Oklahoma Secretary of State;

(3) If applicable, official documentation from the Oklahoma Secretary of State establishing the applicant's trade name;

(4) If research is being conducted the applicant shall submit a full description of the research including the following:

- (A) Defined protocol;
- (B) Clearly articulated goals;
- (C) Defined methods and outputs;
- (D) Defined start and end date; and
- (E) Funding source(s)

(5) If applicable, the education facility applicant must submit the curriculum and/or a description of the curricula that will be used; and

(6) Any further documentation or information the Authority determines is necessary to ensure the applicant is qualified under Oklahoma law and these Rules to obtain an education facility license.

(g) **Supporting documentation for public research or education.**

(1) Research facility and education facility licensees may contract to perform research and/or education in conjunction with a public higher education research institution. If the research will be conducted with a public institution or public money, the Authority shall review the research project and/or curriculum of the applicant to determine if it meets additional requirements in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq. The applicant shall supply all relevant information and documentation to establish that the research or education meets these additional requirements. The Authority shall review the research or education project to assess:

- (A) The quality, study design, value, or impact of the project;
- (B) Whether the applicant has the appropriate personnel, expertise, facilities, infrastructure, funding, and human, animal, or other approvals in place to successfully conduct the project; and
- (C) Whether the amount of marijuana to be grown by the applicant is consistent with the scope and goals of the project.

(2) To assess these criteria, research facility and education facility applications for research or education involving public institutions or public money shall include:

(A) A description of how public institutions and public funds will be utilized in the research or education;

(B) A full description of the research project to include:

- (i) Abstract;
- (ii) Study problem or curriculum;
- (iii) Rationale, including identification of the need, gaps, benefits, advance best practices, public policy or safety
- (iv) Literature review, including a bibliography of all referenced materials;
- (v) Study or curriculum objectives;
- (vi) Research method; and
- (vii) Ethical considerations.

(C) An overview of the amount of marijuana to be purchased, grown, or cultivated, and an explanation for the amount to be purchased or grown;

(D) Contract(s) and agreement(s) with public institutions involved in the research and sources of public funds supporting the research;

(E) Documentation of applicant's ability to successfully implement the research project and/or curriculum to include:

- (i) Curriculum vitae or resumes for all principal investigators and co-principal investigators;

- (ii) Organizational chart; and
- (iii) Description of the funding source(s).

(F) Any further documentation or information the Authority determines is necessary to ensure the applicant is qualified under Oklahoma law and these Rules.

(h) **Incomplete application.** Failure to submit a complete application with all required information and documentation shall result in a rejection of the application. The Authority shall notify the applicant ~~via email through the electronic application account in the same method the application was submitted to the Authority~~ of the reasons for the rejection, and the applicant shall have thirty (30) days from the date of notification to correct and complete the application without an additional fee. If the applicant fails to correct and complete the application within the thirty (30) day period, the application shall expire. Unless the Authority determines otherwise, an application that has been resubmitted but is still incomplete or contains errors that are not clerical or typographical in nature shall be denied.

(i) **Review process.** Research facility and education facility license approval shall be assessed by a procedural review process as determined by the Authority.

(j) **Application denial.** If the Authority determines that the research or education project does not meet the requirements of state law or these Rules, the application shall be denied.

### 442:10-4-4. Inspections [AMENDED]

(a) Submission of an application for a medical marijuana research license and educational facility license constitutes permission for entry to and inspection of any licensed premises and any vehicles on the licensed premises used for the transportation of medical marijuana and medical marijuana products during hours of operation and other reasonable times. Refusal to permit entry or impeding such entry or inspection shall constitute grounds for administrative penalties, which may include but are not limited to fines as set forth in Appendix C and the denial, nonrenewal, suspension, or revocation of a license.

(b) The Authority may perform two (2) on-site inspections per calendar year of the licensed research facility or education facility to determine, assess, and monitor compliance with applicable Oklahoma law and these Rules or ensure qualifications for licensure. The Authority may perform an unannounced, on-site inspection of the operations and any facility of the medical marijuana research licensee or medical marijuana educational facility licensee.

(c) The Authority may conduct additional inspections to ensure correction of or investigate violations of applicable Oklahoma law and these Rules. If the Authority receives a complaint concerning noncompliance by a medical marijuana research licensee or a medical marijuana education facility licensee, the Authority may conduct additional unannounced, on-site inspections.

(d) The Authority shall refer all complaints alleging criminal activity or other violations of Oklahoma law that are made against a licensee to appropriate Oklahoma state or local law enforcement or regulatory authorities. Except for license information concerning licensed patients, the Authority may share confidential information to assist other agencies in ensuring compliance with applicable laws, rules and regulations.

(e) If the Authority discovers what it reasonably believes to be criminal activity or other violations of Oklahoma law during an inspection, the Authority may refer the matter to appropriate Oklahoma state or local law enforcement or regulatory authorities for further investigation. Except for license information concerning licensed patients, the Authority may share confidential information to assist other agencies in ensuring compliance with applicable laws, Rules and regulations.

(f) The Authority may review any and all records of a licensee and may require and conduct interviews with such persons or entities and persons affiliated with such entities, for the purpose of determining compliance with Authority rules and applicable laws. Failure to make documents or other requested information available to the Authority and/or refusal to appear or cooperate with an interview shall constitute grounds for administrative penalties, which may include, but are not limited to, fines as set forth in Appendix C and the denial, nonrenewal, suspension, ~~and/or~~ revocation of a license, or any other remedy or relief provided under law. All records shall be kept on-site and readily accessible.

(g) If the Authority identifies a violation of 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; or these Rules during an inspection of the licensee, the Authority shall take administrative action in accordance with Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 et seq.

(h) Except as otherwise provided in Oklahoma law or these Rules, correctable violations identified during an inspection shall be corrected within thirty (30) days of receipt of a written notice of violations. If a licensee fails to correct violations within thirty (30) days, the licensee will be subject to a fine in the amount set forth in Appendix C for each violation and any other administrative action and penalty authorized by law.

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(i) The Authority may assess fines in the amounts set forth in Appendix C and seek any other administrative penalties authorized by law against a licensee without providing opportunity to correct when the violation is not capable of being corrected. The Authority may suspend or revoke a license for failure to pay any fine or monetary penalty lawfully assessed by the Authority against the licensee.

## 442:10-4-5. Inventory tracking, records, reports, and audits [AMENDED]

(a) **Monthly reports.** Research facility licensees shall submit monthly reports to the Authority, which shall include:

- (1) The amount of marijuana purchased from medical marijuana businesses and research facilities in pounds;
- (2) The amount of medical marijuana grown and used for research in pounds;
- (3) The amount of marijuana waste in pounds;
- (4) If necessary, a detailed explanation of why any marijuana cannot be accounted for as having been purchased, used for research, disposed of, or maintained in current inventory; and
- (5) Any information the Authority determines is necessary to ensure that all marijuana grown in Oklahoma is accounted for as required under 63 O.S. § 420 et seq. the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.
- (6) Upon implementation, submission of information and data to the Authority through the State inventory tracking system will be required in accordance with the Oklahoma Medical Marijuana Protection Act, 63 O.S. § 427.1 et seq., and these Rules, and submission of information and data to the Authority through the State inventory tracking system shall be sufficient to satisfy monthly reporting requirements.

(b) **Transfer or sale.** A research facility licensee and an educational facility licensee may only transfer, ~~by sale or donation,~~ marijuana grown within its operation to medical marijuana research licensees. Research facility and education facility licensees shall keep records for every transaction related to the ~~donation or sale~~ transfer of marijuana. Records related to the ~~donation or sale~~ transfer shall include at a minimum the following:

- (1) The name and license number of the medical marijuana researcher licensee that ~~purchased or received~~ transferred the medical marijuana;
- (2) The address and phone number of each ~~recipient~~ licensee involved in the transfer;
- (3) The type of marijuana ~~donated or sold~~ transferred;
- (4) The amount of marijuana ~~donated or sold~~ transferred in pounds; and
- (5) The date of the ~~donation or sale~~ transfer.

(c) **Records.** Pursuant to the Authority's audit and inspection responsibilities, research facility and education facility licensees shall keep ~~onsite~~ on-site and readily accessible, either in paper or electronic form, a copy of the records listed below. Except as otherwise specifically provided in Oklahoma law and this Chapter, all records shall be maintained for at least seven (7) years from the date of creation.

- (1) Business records, which may include but are not limited to employee records, organizational documents or other records relating to the governance and structure of the licensee, manual or computerized records of assets and liabilities, monetary transactions, tax records, journals, ledgers, and supporting documents, including agreements, checks, invoices, receipts, and vouchers.
- (2) As applicable, any documents related to the cultivation, processing, preparation, transportation, sampling, and/or testing of medical marijuana and medical marijuana products, including but not limited to sample field logs, lab reports, inventory manifests, transporter agent licenses, COAs, testing records, equipment inspections, training materials, and standard operating procedures.
- (3) Documentation of every instance in which medical marijuana was sold or otherwise transferred to or purchased or otherwise obtained from another licensee, which shall include, but is not limited to:
  - (A) The name, license number, address, and phone number of all commercial licensees involved in each transaction; ~~and~~
  - (B) The quantity and type of medical marijuana or medical marijuana products involved in each transaction;
  - (C) The batch number of the medical marijuana or medical marijuana products involved in each transaction;
  - (D) The date of each transaction;
  - (E) The monetary value of the medical marijuana or medical marijuana products involved in each transaction, including the total sale or purchase amounts;
  - (F) All point-of-sale and tax records; and
  - (G) All inventory manifests and other documentation relating to the transport of medical marijuana and medical marijuana products as required under OAC 442:10-3-6(b).



(4) Any and all documents relating to the disposal or destruction of medical marijuana, medical marijuana products, and medical marijuana waste.

(d) **Inventory tracking system.** Pursuant to 63 O.S. § 427.3(D)(8) and 63 O.S. § 427.13(B), each commercial licensee shall use the State inventory tracking system by inputting inventory tracking data required to be reported to the Authority directly into the State inventory tracking system or by utilizing a seed-to-sale tracking system that integrates with the State inventory tracking system. All commercial licensees must have an inventory tracking system account activated to lawfully operate and must ensure all information is reported to the Authority accurately and in real time or after each individual sale in accordance with 63 O.S. § 427.13(B)(1) and these Rules. All commercial licensees shall ensure the following information and data are accurately tracked and timely reported to the Authority through the State inventory tracking system:

(1) The chain of custody of all medical marijuana and medical marijuana products, including every transaction with another commercial licensee, patient, or caregiver including, but not limited to:

- (A) The name, address, license number, and phone number of the medical marijuana business that cultivated, manufactured, sold, purchased, or otherwise transferred the medical marijuana or medical marijuana product(s);
- (B) The type, item, strain, and category of medical marijuana or medical marijuana product(s) involved in the transaction;
- (C) The weight, quantity, or other metric required by the Authority, of the medical marijuana or medical marijuana product(s) involved in the transaction;
- (D) The batch number of the medical marijuana or medical marijuana product(s);
- (E) The total amount spent in dollars;
- (F) All point-of-sale records as applicable;
- (G) Transportation information documenting All inventory manifests and other documentation relating to the transport of medical marijuana or medical marijuana product(s) products as required under OAC 442:10-3-6(b);
- (H) Testing results and information;
- (I) Waste records and information;
- (J) Marijuana excise tax records, if applicable;
- (K) Inventory tracking system tag number(s);

(2) The entire life span of a licensee's stock of medical marijuana and medical marijuana products, including, at a minimum, notifying the Authority:

- (A) When medical marijuana seeds or clones are planted;
- (B) When medical marijuana plants are harvested and/or destroyed;
- (C) When medical marijuana is transported, or otherwise transferred, sold, stolen, diverted, or lost;
- (D) When medical marijuana changes form, including, but not limited to, when it is planted, cultivated, processed, and infused or otherwise processed into a final product ~~or final form~~;
- (E) A complete inventory of all medical marijuana; seeds; plant tissue; clones; ~~usable~~ usable medical marijuana; trim; shake; leaves; other plant matter; and medical marijuana products;
- (F) All samples sent to a testing laboratory or used for internal quality testing or other purposes;

(3) Any further information the Authority determines is necessary to ensure all medical marijuana and medical marijuana products are accurately and fully tracked throughout the entirety of the lifespan of the plant and product.

(e) **Seed-to-sale tracking system.** A commercial licensee shall use a seed-to-sale tracking system or integrate its own seed-to-sale tracking system with the State inventory tracking system established by the Authority. If a commercial licensee uses a seed-to-sale tracking system that does not integrate with the State inventory tracking system, or does integrate but does not share all required information, the commercial licensee shall ensure all required information is reported directly into the State inventory tracking system.

(f) **Inventory tracking system requirements.**

- (1) At a minimum, commercial licensees shall track, update, and report inventory after each individual transaction, transfer, or sale to the Authority in the State inventory tracking system.
- (2) All commercial licensees must ensure all on-premises and in-transit medical marijuana and medical marijuana product inventories are reconciled each day in the State inventory tracking system at the close of business, if not already done.
- (3) Commercial licensees are required to use inventory tracking system tags from an Authority-approved supplier for the State inventory tracking system. Each ~~Licensee~~ licensee is responsible for the cost of all inventory tracking system tags and any associated vendor fees.

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(A) A commercial licensee shall ensure its inventories are properly tagged and that an inventory tracking system tag is properly assigned to medical marijuana, medical marijuana products, and medical marijuana waste as required by the Authority.

(B) A commercial licensee shall ensure it has an adequate supply of inventory tracking system tags at all times. If a commercial licensee is unable to account for unused inventory tracking system tags, the commercial licensee must report to the Authority and the State inventory tracking system vendor within forty-eight (48) hours.

(C) Inventory tracking system tags must contain the legal name and correct license number of the commercial licensee that ordered them. Commercial licensees are prohibited from using another licensee's inventory tracking system tags.

(D) The inventory tracking system tag shall be placed on the container holding the medical marijuana plant and must remain physically near and clearly associated with the medical marijuana plant until the plant reaches twelve (12) inches in height. Clones must be tracked in the state seed-to-sale system and must be associated with a wholesale package tag, whether cut from a mother plant or transferred from another licensee, prior to reaching twelve (12) inches in height.

(E) When the plant reaches twelve (12) inches in height, the inventory tracking system tag shall be securely fastened to a lower supporting branch. The inventory tracking system tag shall remain affixed for the entire life of the plant until disposal. If the plant changes forms, is removed from the original planting location after harvest, or is being trimmed, dried, or cured by the grower, the inventory tracking system tag shall be placed on the container holding the medical marijuana plants and/or must remain physically near and clearly associated with the medical marijuana plants until the plant is placed into a package in both the seed-to-sale tracking system and physically packaged and affixed with the inventory tracking system tag.

(F) Mother plants must be tagged before any cuttings or clones are generated therefrom.

(G) If an inventory tracking system tag gets destroyed, stolen, or falls off of a medical marijuana plant or medical marijuana product, the licensee must ensure a new inventory tracking system tag is placed on the medical marijuana plant or medical marijuana product and the change of the inventory tracking system tag is properly reflected in the State inventory tracking system.

(H) Commercial licensees shall not reuse any inventory tracking system tag that has already been affixed to any regulated medical marijuana or medical marijuana products.

(4) Each wholesale package of medical marijuana must have an inventory tracking system tag during storage and transfer and may only contain one harvest batch of medical marijuana.

(5) Prior to transfer, commercial licensees shall ensure that each immature plant is properly affixed with an inventory tracking system tag if the plant was not previously tagged in accordance with these Rules.

(6) Commercial licensees' inventory must have an inventory tracking system tag properly affixed to all medical marijuana products during storage and transfer in one of the following manners:

(A) Individual units of medical marijuana products shall be individually affixed with an inventory tracking system tag; or

(B) Medical marijuana products may only be combined in a single wholesale package using one inventory tracking system tag if all units are from the same production batch.

(7) If any medical marijuana or medical marijuana products are removed from a wholesale package, each individual unit or new wholesale package must be separately tagged.

(8) All packages of medical marijuana waste shall have an inventory tracking system tag affixed and the contents of the waste package shall be reported in the State inventory tracking system.

## **(g) Inventory tracking system administrators and users.**

(1) A commercial licensee must have at least one owner, or manager, who is an inventory tracking system administrator.

(2) The inventory tracking system administrator must attend and complete all required inventory tracking system training.

(3) If at any point, the inventory tracking system administrator for a licensee changes, the commercial licensee shall change or assign a new inventory tracking system administrator within thirty (30) business days.

(4) Commercial licensees shall maintain an accurate and complete list of all inventory tracking system administrators and employee users.

(5) Commercial licensees shall ensure that all owners and employees that are granted inventory tracking system account access for the purpose of conducting inventory tracking functions are trained and authorized before the owners or employees may access the State inventory tracking system.

(6) All inventory tracking system users shall be assigned an individual account in the State inventory tracking system.

(7) Any individual entering data into the State inventory tracking system shall only use the inventory tracking system account assigned specifically to that individual. Each inventory tracking system administrator and inventory tracking system user must have unique log-in credentials that shall not be used by any other person.

(8) Within three (3) business days, commercial licensees must remove access for any inventory tracking system administrator or user from their accounts if any such individual no longer utilizes the State inventory tracking system or is no longer employed by the commercial licensee.

(h) **Loss ~~access to~~ use of the State inventory tracking system.** If at any time a commercial licensee loses access to the State inventory tracking system due to circumstances beyond the commercial licensee's control, the commercial licensee shall keep and maintain records detailing all inventory tracking activities that were conducted during the loss of access. Once access is restored, all inventory tracking activities that occurred during the loss of access must be immediately entered into the State inventory tracking system. If a commercial licensee loses access to the State inventory tracking system due to circumstances within its control, the commercial licensee may not perform any business activities that would be required to be reported into the State inventory tracking system until access is restored and reporting is resumed; any transfer, sale, or purchase of medical marijuana or medical marijuana products shall be an unlawful sale.

(i) **Audits.** The Authority may perform on-site audits of all research facility and education facility licensees to ensure the accuracy of information and data reported to the Authority and to ensure that all medical marijuana grown in Oklahoma is accounted for. Submission of an application for a research facility or education facility license constitutes permission for entry to any licensed premises and auditing of the licensee during hours of operation and other reasonable times. Refusal to permit the Authority entry or refusal to permit the Authority to inspect all books and records shall constitute grounds for and administrative penalties, which may include, but are not limited to, fines as set forth in Appendix C and the denial, nonrenewal, suspension, and/or revocation of a license.

(1) The Authority may review any and all records and information of a research facility or education facility licensee and may require and conduct interviews with such persons or entities and persons affiliated with such licensees, for the purpose of determining compliance with Authority Rules and applicable laws. Failure to make documents or other requested information available to the Authority and/or refusal to appear or cooperate with an interview shall constitute grounds for administrative penalties, which may include, but are not limited to, fines as set forth in Appendix C and the denial, nonrenewal, suspension, ~~and/or~~ revocation of a license, or any other remedy or relief provided under law. All records shall be kept on-site and readily accessible.

(2) Licensees shall comply with all written requests from the Authority to produce or provide access to records and information within ten (10) business days.

(3) If the Authority identifies a violation of 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; or these Rules during an audit of the licensee, the Authority shall take administrative action against the licensee in accordance with Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

(4) The Authority may refer all complaints alleging criminal activity or other violations of Oklahoma law that are made against a licensee to appropriate Oklahoma state or local law enforcement or regulatory authorities.

(5) If the Authority discovers what it reasonably believes to be criminal activity or other violations of Oklahoma law during an audit, the Authority may refer the matter to appropriate Oklahoma state or local law enforcement or regulatory authorities for further investigation. Except for license information concerning licensed patients, the Authority may share confidential information to assist other agencies in ensuring compliance with applicable laws, Rules and regulations.

(6) Except as is otherwise provided in Oklahoma law or these Rules, correctable violations identified during an audit shall be corrected within thirty (30) days of receipt of a written notice of violation.

(7) If a licensee fails to correct violations within thirty (30) days, the licensee will be subject to a fine in the amount set forth in Appendix C for each violation and any other administrative action and penalty authorized by law.

(8) The Authority may assess fines in the amounts set forth in Appendix C and seek any other administrative penalties authorized by law against a licensee without providing opportunity to correct when the violation is not capable of being corrected. The Authority may suspend or revoke a license for failure to pay any fine or monetary penalty lawfully assessed by the Authority against the licensee.

### 442:10-4-6. Penalties [AMENDED]

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- (a) **Failure to file timely reports.** If a research facility licensee fails to submit a timely, complete, and accurate required monthly report and fails to correct such deficiency within thirty (30) days of the Authority's written notice, the licensee shall be subject to a fine in the amount set forth in Appendix C for each violation and any other administrative action and penalty authorized by law.
- (b) **Fraudulent reports.** Within any one (1) year period of time, if the licensee has submitted one (1) or more reports containing gross errors that cannot reasonably be attributed to normal human error, the licensee shall be subject to a fine in the amount set forth in Appendix C for each violation and any other administrative action and penalty authorized by law.
- (c) **Unlawful purchase, sale, or transfer.** Within any one (1) year period of time, if the licensee has made an unlawful purchase, sale, or transfer of medical marijuana, the licensee shall be subject to a fine in the amount set forth in Appendix C for each violation and any other administrative action and penalty authorized by law. The Authority may revoke the license at any time regardless of the number of the offense upon a showing that the violation was willful or grossly negligent.
- (d) **Noncompliance and criminal activity.** A research facility or education facility license shall be subject to revocation, suspension, monetary penalties, and any other penalty authorized by law upon a determination by the Authority that the licensee has not complied with applicable Oklahoma law or this Chapter, or upon official notification to the Authority that the licensee has engaged in criminal activity in violation of Oklahoma law.
- (e) **Administrative penalties.** Procedures for administrative penalties against a licensee are stated in the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq. These procedures provide for the licensee to receive notice and to have the opportunity to be present at a hearing and to present evidence in his or her defense. The Executive Director or his or her designee may promulgate an administrative order revoking or suspending the license, dismissing the matter, or providing for other relief as allowed by law. At any time after the action is filed against the research facility or education facility licensee, the Authority and the licensee may dispose of the matter by consent order or stipulation. Orders are appealable in accordance with the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.
- (f) **Fines.** Monetary penalties shall be assessed in the amounts set forth in Appendix C. Failure to pay any fine within thirty (30) days of assessment of the fine shall result in nonrenewal, suspension, and/or revocation of the license.

## SUBCHAPTER 5. MEDICAL MARIJUANA BUSINESSES

### 442:10-5-1. License required [AMENDED]

- (a) No person or entity shall operate a medical marijuana business without first obtaining a license from the Authority pursuant to 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., other applicable Oklahoma law, and the Rules in this Chapter. Only a person who is in compliance with the requirements of Oklahoma law and these Rules shall be entitled to receive or retain such a license. All requirements of Oklahoma law and these Rules shall be continuing in nature and must be satisfied in order to retain licensure.
- (b) All commercial business applications shall be complete and accurate in every detail, shall include all attachments or supplemental information required by the forms supplied ~~prescribed~~ by the Authority, and shall be accompanied by full remittance of the entire application fee. Any misstatements, omissions, misrepresentations, or untruths made in the application shall be grounds for administrative action against the licensee by the Authority.
- (c) All commercial businesses shall be on forms prescribed by the Authority.
- (d) Application fees are nonrefundable.

### 442:10-5-1.1. Responsibilities of the license holder [AMENDED]

Upon acceptance of the license issued by the Authority, the license holder in order to retain the license shall:

- (1) Post the license or permit in a location in the licensed premises that is conspicuous;
- (2) Comply with the provisions in this Chapter;
- (3) Allow representatives of the Authority access to the medical marijuana business as specified under OAC 442:10-5-4 and OAC 442:10-5-6(i);
- (4) Comply with directives of the Authority including time frames for corrective actions specified in inspection reports, audit reports, notices, orders, warnings, and other directives issued by the Authority in regard to the license holder's medical marijuana business or in response to community emergencies;
- (5) Accept notices issued and served by the Authority according to law;
- (6) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Chapter or a directive of the Authority, including time frames for corrective actions specified in inspection reports, audit reports, notices, orders, warnings, and other directives;

- (7) Ensure that all information and records maintained in the licensee's online OMMA license ~~account~~account, including the hours of operation for all licensed premises, trade name, and a valid mailing address, if ~~applicable~~applicable, are complete, accurate, and updated in a timely manner in accordance with these Rules;
- (8) If applicable, submit the annual renewal application and pay all renewal license and late fees, if any;
- (9) Bear the financial responsibility for all compliance and inventory tracking obligations and responsibilities set forth in Oklahoma ~~statutes~~law and these Rules. The Authority will not contribute to, fund, or subsidize any commercial licensee's compliance or tracking expenses. Nothing herein shall be construed to require the Authority to contribute to, subsidize, or fund in any way a commercial licensee's compliance or tracking expenses; and
- (10) If multiple commercial licensees are located at the same location, each commercial license must ensure that all inventory is separately and properly tracked, accounted for, and physically and distinctly separated from the inventory of any other commercial licensee such that licensees and the Authority are readily able to distinguish as to which licensee each item of medical marijuana and medical marijuana products belongs.
- (11) All medical marijuana commercial grower licensees who operate an outdoor medical marijuana production facility shall be required to register with the Oklahoma Department of Agriculture, Food, and Forestry as an environmentally sensitive crop owner. Registration shall provide notice to commercial and private pesticide applicators of the locations of medical marijuana crops and help minimize the potential for damaging pesticide drift. Medical marijuana commercial grower licensees shall provide their business name, address, Global Positioning System (GPS) coordinates for all outdoor medical marijuana production facilities, and any other information required by the Department when registering with the Environmentally Sensitive Area Registry.
- (12) All medical marijuana commercial grower licensees shall file with the Authority a bond or attestation as required under OAC 442:10-5-3.3 and ensure that all information and records are complete, accurate, and updated in a timely manner in accordance with OAC 442:10-5-2(e)(3)
- (13) Beginning January 1, 2024, the Authority shall require employees of a medical marijuana business licensee to apply for and receive a credential authorizing the employee to work in a licensed medical marijuana business.
- (A) For purposes of this Section, "employee" means any natural person who:
- (i) Grows, harvests, dries, cures, purchases, sells, transfers, transports, processes, produces, manufactures, creates, or packages medical marijuana, medical marijuana products, and/or medical marijuana waste on behalf of or for a medical marijuana licensed commercial grower, processor, or dispensary;
  - (ii) Samples, trains, or educates on behalf of or for a medical marijuana licensed education or research facility;
  - (iii) Disposes of or transports medical marijuana, medical marijuana products, and/or medical marijuana waste on behalf of a medical marijuana waste disposal facility licensee;
  - (iv) Tests and/or conducts research on medical marijuana and/or medical marijuana products on behalf of a medical marijuana licensed testing laboratory;
  - (v) Transports, stores, distributes, but does not take ownership of, medical marijuana and/or medical marijuana products on behalf of a medical marijuana licensed commercial transporter;
  - (vi) Tracks, traces, reports, and/or inputs any information into the State inventory tracking system on behalf of a medical marijuana commercial licensee; or
  - (vii) Conducts any other additional business for the benefit of a medical marijuana commercial licensee authorized under OAC 442:10, with the exception of professional services not involved in the handling of medical marijuana, medical marijuana concentrates, or medical marijuana products.
- (B) A credential will be issued to an individual employee and can be associated with multiple medical marijuana businesses or employers.
- (C) A medical marijuana business license holder shall require all individuals employed under their license to have an active, unexpired credential prior to employment and must associate all employee credentials with the corresponding commercial license in a manner prescribed by the Authority. Each approved applicant shall be issued a credential, which shall act as proof of his or her approved status, to be worn or displayed on their person during the employee's hours of work.
- (D) Employee credentials shall be valid from the date of issuance until January ~~31<sup>st</sup>~~31 of the following year.
- (E) An employee may voluntarily surrender a credential to the Authority at any time.
- (i) If an employee voluntarily surrenders a credential, the employee shall:
    - (I) Destroy or return the credential to the Authority;

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- (II) Submit a surrender employee credential form provided by the Authority; and
- (III) Submit proof of the employee's identity through submission of documentation identified in OAC 442:10-1-7 (relating to Proof of Identity).
- (ii) The surrender of a credential is effective upon written acceptance by the Authority.
- (iii) Employee credential surrender forms and any other documentation or information submitted by an employee shall be confidential.

## 442:10-5-2. Licenses [AMENDED]

(a) **Timeframe.** A medical marijuana business license shall be issued for a twelve (12) month period expiring one (1) year from the date of issuance. The license may be issued upon receipt of a completed application, payment of application fee, and verification by the Authority the individual or entity complies with the requirements set forth in Oklahoma law and this Chapter.

(b) **Location.** A business license issued to a grower, processor, dispensary, or testing laboratory shall only be valid for a single location at the address listed on the application. A transporter license shall only be valid at the physical locations that have been submitted to and approved by the Authority and are listed on the application.

(1) For a medical marijuana commercial grower that has a combination of both indoor and outdoor growing facilities at one (1) location, the medical marijuana commercial grower shall be required to obtain a separate license from the Authority for each type of grow operation and shall be subject to the licensing fees provided in 63 O.S. 427.14 and these Rules.

(2) ~~Beginning June 1, 2023, no more than one (1) medical marijuana commercial grower license shall be issued for any one (1) property; a medical marijuana commercial grower holding a combination of both indoor and outdoor licenses at one (1) location shall be exempt from this requirement. No medical marijuana business premises is permitted to have multiple licenses of the same type, excluding the following:~~

(A) a commercial grower with a combination of an indoor or outdoor growing facility on one (1) parcel of land. For the purposes of this section, a "parcel of land" means the specific portion of land that is identified by a legal description, which is considered as a single unit for the purpose of ownership, and upon which the licensed premises is located.

(B) a licensed medical marijuana processor used by multiple licensees, and

(C) a licensed medical marijuana business that has an approved application by the Authority while the new business seeks registration from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (OBND).

## (c) **Renewal of license.**

(1) It is the responsibility of the license holder to renew the license, with all applicable documentation, prior to the date of expiration of the license by following the procedures provided in OAC 442:10-5-3.

(2) Before renewing a license, the Authority may require further information and documentation and may require additional background checks to determine the licensee continues to meet the requirements set forth in Oklahoma law and these Rules. ~~Once a certificate of compliance is properly submitted showing full compliance, no additional certificate of compliance will be required for license renewal unless a change of use or occupancy occurs, or other change that would require additional inspection, licensure, or permitting by the state or municipality.~~

(3) The Authority may refuse to renew a license of a medical marijuana business for the following:

(A) Failure to meet the requirements for licensure set forth in 63 O.S. § 420 et seq; the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; or OAC 442:10.

(B) Noncompliance with 63 O.S. § 420 et seq.; the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq.; or OAC 442:10.

(4) Upon the determination that a licensee has not met the requirements for renewal, the Authority shall provide written notice to the licensee. The notice shall provide an explanation for the denial of the renewal application.

~~(5) A commercial licensee that attempts to renew its license after the expiration date of the license shall pay a nonrefundable late renewal fee in the amount of \$500.00 to reinstate the license once processed and approved by the Authority. A license that has been expired for more than ninety (90) days shall not be renewed. A commercial licensee that attempts to renew its license after the expiration date of the license shall pay a nonrefundable late renewal fee of five hundred dollars (\$500.00) per week that the license is expired and a license that has been expired for more than sixty (60) calendar days shall not be renewed. Only license renewal applications submitted at least sixty (60) calendar days prior to the expiration date shall be considered timely submitted and subject to the requirement that applications be reviewed within ninety (90) business days of receipt of the application in~~

accordance with Subsection F of Section 427.14 of Title 63 of the Oklahoma Statutes. A medical marijuana business license shall remain unexpired during the pendency of the application for renewal provided that such application was timely submitted. The Authority shall allow renewal applications to be submitted at least one hundred twenty (120) calendar days prior to the expiration date of a medical marijuana business license. (6) Late renewal applications and late renewal fees provided in OAC 442:10-5-2(C)(5) apply only to initial renewal applications. If an initial renewal application is rejected for any reason, the licensee has thirty (30) days to resubmit the application with the required information as provided by OAC 442:10-5-3(f). Failure to resubmit the application within the thirty (30) days shall result in expiration of the application and the licensee is prohibited from submitting a new renewal application subject to the late renewal fee as provided in OAC 442:10-5-2(C)(5).

**(d) Liquidation of products.** A medical marijuana business licensee whose license is not renewed, or whose license is revoked, suspended, or voluntarily surrendered, shall cease all operations immediately upon expiration of the license and shall liquidate or dispose of any medical marijuana or medical marijuana products in accordance with OAC 442:10-5-10 that were not liquidated prior to licensure expiration in accordance with Oklahoma law and these Rules. Except as provided by Section 427.14 of Title 63 of the Oklahoma Statutes, immediately upon expiration of a license, any medical marijuana business shall cease all possession, transfer, or sale of medical marijuana or medical marijuana products. Any continued possession, sale, or transfer shall subject the business owners and operators to felony prosecution pursuant to the Uniform Controlled Dangerous Substances Act.

**(e) Change in information.**

(1) Licensees shall notify the Authority in writing within fourteen (14) days of any changes in contact information by electronically submitting a change request in accordance with the Authority's instructions.

(2) Licensees shall obtain Authority approval for any material changes that affect the licensee's qualifications for licensure. No licensee shall operate under the conditions of a material change ~~unless and until the Authority has approved in writing the material change without written approval of an application by the Authority. Applications for written approval of material changes that affect the licensee's qualifications for licensure shall not occur during the renewal application and must be submitted in a separate material change request to the Authority.~~ Licensees shall submit a material change request to the Authority in writing in advance of any material change that may affect the licensee's qualifications for licensure by electronically submitting a change request, along with any relevant documentation and fees, in accordance with the Authority's instructions. ~~When submitting a material change request, the licensee will be required to pay a \$500.00 nonrefundable fee. Except as is otherwise authorized by the Authority, licensees are limited to one location change request, one name change request, and one ownership change request per year of licensure.~~

(A) Medical marijuana business licensees submitting a location change request must provide a five hundred dollar (\$500.00) nonrefundable application fee and the information and documentation required in OAC 442:10-5-3 relating to locations, including but not limited to the following:

(i) If applicable, proof as required in OAC 442:10-5-3(e)(6) that the location of the dispensary or grower is at least one thousand (1,000) feet from any public and private school;

(ii) ~~A certificate of compliance as~~ required in OAC 442:10-5-3(e)(8) ~~on a form prescribed or otherwise authorized by the Authority that is issued by the political subdivision where the licensed premises is to be located, all building permits and/or certificate(s) of occupancy issued by the Oklahoma State Fire Marshal or by the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal certifying compliance with the categories listed in 63 O.S. § 426.1(E) for the construction or alteration of any buildings or structures classified as occupancies under the building codes adopted by the Oklahoma Uniform Building Code Commission;~~

(iii) If applicable, all Certificate(s) of Occupancy, Final Inspection Report(s), and Site Plan(s); issued from or approved by the organization, political subdivision, office, or individual responsible for enforcing the requirements of all building and fire codes adopted by the Oklahoma Uniform Building Code Commission pursuant to OAC 748:20. Pursuant to 74 O.S. § 324.11, in all geographical areas where the applicable Certificate(s) of Occupancy, Final Inspection Report(s), Site Plan(s) and/or permit(s) are not issued from and/or approved by local authorities, such documentation must be obtained from the Oklahoma Office of the State Fire Marshal;

(iv) If applicable, a bond or attestation as required under OAC 442:10-5-3.3 certifying compliance with 63 O.S. § 427.26; and

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~~(v)~~(iv). Any further documentation the Authority determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

~~(vi)~~(v). Upon written acceptance of a location change by the Authority, commercial licensees must carry a physical copy of the written location change approval while transporting medical marijuana products from location to location.

(vi) If a location change request is being submitted due to a change of ownership, name, or the transfer of a license to a new licensee, the location change request must be included in a license transfer application pursuant to OAC 442:10-5-2(f)(2).

(B) Medical marijuana business licensees submitting an ownership change request must provide the nonrefundable application fee listed below and the information and documentation required in OAC 442:10-5-3 relating to owners, including but not limited to the following:

(i) A list of all owners and principal officers of the commercial applicant and supporting documentation as set forth in OAC 442:10-5-3(e)(1);

(ii) An affidavit of lawful presence for each new owner;

(iii) Documents required under OAC 442:10-5-3(e)(7) establishing that the applicant; and the members, managers, and board members if applicable; and seventy-five percent (75%) of the commercial applicant's ownership interests are Oklahoma residents as required in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.;

(iv) A background check in accordance with OAC 442:10-1-5;

(v) If applicable, a bond or attestation as required under OAC 442:10-5-3.3 certifying compliance with 63 O.S. § 427.26; ~~and~~

(vi) A nonrefundable application fee that is the annual license or application fee established under Section 427.14 of Title 63 of the Oklahoma Statutes for the medical marijuana business license type; and

(vii) Any further documentation the Authority determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

(viii) All licensees submitting a change of ownership request must submit a license transfer application pursuant to OAC 442:10-5-2(f)(2).

(C) A medical marijuana business licensee submitting a name change request must provide a five hundred dollar (\$500.00) nonrefundable application fee and the information and documentation required in OAC 442:10-5-3 relating to the business name, including, but not limited to, the following:

(i) A certificate of good standing from the Oklahoma Secretary of State issued within thirty (30) days of submission of the application;

(ii) If applicable, official documentation from the Oklahoma Secretary of State establishing the applicant's trade name;

(iii) If applicable, an electronic copy or digital image in color of a sales tax permit issued by the Oklahoma Tax Commission;

(iv) A list of all owners and principal officers of the licensee under the new name and supporting documentation as set forth in OAC 442:10-5-3(e)(1);

(v) Documents establishing that seventy-five percent (75%) of the ownership of the licensee under the new name are Oklahoma residents in accordance with OAC 442:10-5-3(e)(7);

(vi) If applicable, a bond or attestation as required under OAC 442:10-5-3.3 certifying compliance with 63 O.S. § 427.26; and

(vii) Any further documentation the Authority determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

(viii) Requests to change the name of a business or individual holding the license is considered a transfer of license from one licensee to another. Licensees submitting a name change request must do so by submitting a license transfer application pursuant to OAC 442:10-5-2(f)(2).

(D) Medical marijuana growers, processors, or commercial transporters that have held a valid medical marijuana business license for at least eighteen (18) months and are operating in good standing may submit an ownership change request to add a publicly traded company as an owner. The publicly traded company shall not own more than forty percent (40%) of the equity in the existing medical marijuana grower, processor, or commercial transporter. The following documentation must be provided:

(i) If applicable, a certificate of good standing from the Oklahoma Secretary of State issued within thirty (30) days of submission of the application.



- (ii) A list of all owners, excluding all shareholders of the publicly traded company, and principal officers of the commercial applicant and supporting documentation as set forth in OAC 442:10-5-3(e)(1);
  - (iii) Documents required under OAC 442:10-5-3(e)(7) establishing that the applicant; and the members, managers, and board members if applicable; and seventy-five percent (75%) of the grower, processor, or transporter applicant's ownership interests, excluding the publicly traded company, are Oklahoma residents as required in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.
- (3) Upon cancellation or expiration of a bond, commercial grower licensees shall provide proof to the Authority on forms and in a manner prescribed by the Authority of a new alternate bond or attestation and accompanying documentation meeting the requirements of OAC 442:10-5-3.3 before the date of cancellation or expiration of the previous bond. Any grower that fails to comply with this section shall be subject to disciplinary action including, but not limited to, revocation, nonrenewal, or monetary penalties.
- (f) **Transfer of license.** ~~Licenses may not be changed from one license type to another.~~
  - (1) Licenses may not be changed from one license type to another.
  - (2) Beginning on November 1, 2024, licensees wishing to transfer a license, submit an ownership change request, or submit a name change request are required to submit a license transfer application. The license transfer application shall be submitted by the new owner. The application fee for license transfer applications shall be the annual license or application fee established under Section 427.14 of Title 63 of the Oklahoma Statutes for medical marijuana business license types. License transfer applications shall be subject to all requirements under OAC 442:10-5-3.
    - (A) Upon approval of a license transfer application, the applicant must register with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control before the transfer of the license is finalized. Prior to finalization of the license transfer, the prior owner will remain responsible for maintaining the license, including submission of license renewal applications. Upon issuance of the registration by OBND, The prior owner and the new owner will have fifteen (15) business days from the issuance of an OBND registration to transfer all inventory of medical marijuana, medical marijuana concentrate, and medical marijuana products, if any. Fifteen (15) business days after issuance of an OBND registration, the prior owner will no longer be a licensee.
    - (B) The new owner is not authorized to take possession of medical marijuana, medical marijuana concentrate, or medical marijuana products, exercise control over any activities involving the medical marijuana business, or hold themselves out as having control over any activities involving the medical marijuana business unless and until the application has been approved by the Authority and the new owner is registered with OBND.
    - (C) Any attempt to transfer a medical marijuana business, medical marijuana, medical marijuana concentrate, or medical marijuana products of a medical marijuana business without approval from the Authority shall be grounds for revocation or nonrenewal of the license and denial, revocation, or nonrenewal of current or future licenses or license applications with ownership held by any such person involved in the unlawful transfer.
- (g) **Surrender of license.**
  - (1) A licensee may voluntarily surrender a license to the Authority at any time.
  - (2) If a licensee voluntarily surrenders a license, the licensee shall:
    - (A) Return the license to the Authority;
    - (B) Submit on a form prescribed by the Authority a report to the Authority including the reason for surrendering the license; contact information following the close of business; the person or persons responsible for the close of the business; ~~and~~ where business records will be retained; and a statement confirming that all medical marijuana and medical marijuana products remaining in the possession of the licensee were liquidated or disposed of in accordance with Oklahoma law and these Rules.
    - (C) Submit proof of the licensee's identity through submission of documentation identified in OAC 442:10-1-7 (relating to Proof of Identity); and
    - (D) Liquidate or dispose of any medical marijuana or medical marijuana products remaining in the possession of the licensee in accordance with OAC 442:10-5-2(d) and OAC 442:10-5-10. The licensee must liquidate and dispose of all medical marijuana and medical marijuana products in accordance with OAC 442:10-5-2(d) prior to license surrender.

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(3) A license surrender shall be considered effective upon written approval by the Authority. The Authority may reject a license surrender if medical marijuana or medical marijuana products remain in the possession of the licensee at time of surrender, or if any of the required documentation is missing or incomplete. All medical marijuana and medical marijuana products must be liquidated or disposed of in accordance with Oklahoma law and these Rules prior to the surrender of a license.

## 442:10-5-3. Applications [AMENDED]

(a) **Application fee.** An applicant for a medical marijuana business, or renewal thereof, shall submit to the Authority a completed application on a form and in a manner prescribed by the Authority, along with the application fee as established in 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(b) **Submission.** ~~Applications for a business license will be accepted by the Authority no earlier than sixty (60) days from the date that the State Question is approved by the voters of the State of Oklahoma.~~ The application shall be on the Authority prescribed form and shall include the following information about the establishment:

- (1) Name of the establishment;
- (2) Physical address of the establishment, including the county in which any licensed premises will be located;
- (3) GPS coordinates of the establishment;
- (4) Phone number and email address of the establishment; and
- (5) Hours of operation for any licensed premises.

(c) **Individual applicant.** The application for a business license made by an individual on his or her own behalf shall be on the Authority prescribed form and shall include at a minimum:

- (1) The applicant's first name, middle name, last name and suffix if applicable;
- (2) The applicant's residence address and valid mailing address;
- (3) The applicant's date of birth;
- (4) The applicant's telephone number and email address;
- (5) An attestation that the information provided by the applicant is true and correct;
- (6) An attestation that any licensed premises shall not be located on tribal lands;
- (7) An attestation that the business has obtained all applicable local licenses and permits for all licensed premises;
- (8) An attestation that no individual with ownership interest in the business is a sheriff, deputy sheriff, police officer, prosecuting officer, an officer or employee of OMMA, or an officer or employee of a municipality in which the commercial entity is located; and
- (9) A statement signed by the applicant pledging not to divert marijuana to any individual or entity that is not lawfully entitled to possess marijuana.

(d) **Application on behalf of an entity.** In addition to requirements of Subsection (c), an application for a business license made by an individual on behalf of an entity shall include:

- (1) An attestation that applicant is authorized to make application on behalf of the entity;
- (2) Full name of organization;
- (3) Trade name, if applicable;
- (4) Type of business organization;
- (5) Mailing address;
- (6) Telephone number and email address; and
- (7) The name, residence address, and date of birth of each owner and each member, manager, and board member, if applicable.

(e) **Supporting documentation.** Pursuant to 63 O.S. § 427.3(D)(11), 63 O.S. § 427.14(L), 63 O.S. § 427.14(G)(2), and 63 O.S. § 427.14(J), each application shall be accompanied by the following documentation:

- (1) A list of all owners and principal officers of the business applicant and supporting documentation, including, but not limited to: certificate of incorporation, bylaws, articles of organization, operating agreement, certificate of limited partnership, resolution of a board of directors, or other similar documents;
- (2) If applicable, a certificate of good standing from the Oklahoma Secretary of State issued within thirty (30) days of submission of the application;
- (3) If applicable, official documentation from the Oklahoma Secretary of State establishing the applicant's trade name;
- (4) If applicable, an electronic copy or digital image in color of a sales tax permit issued by the Oklahoma Tax Commission;
- (5) An Affidavit of Lawful Presence for each owner;

(6) If a licensed dispensary or grower, proof that the location of the facility is at least one thousand (1,000) feet from a public or private school. For a dispensary, the distance specified shall be measured in a straight line from the nearest property line of such public school or private school to the nearest perimeter wall of the licensed premise of such medical marijuana dispensary. For a grower, the distance specified shall be measured in a straight line from the nearest property line of such public school or private school to the nearest property line of the licensed premises of such medical marijuana commercial grower. For the purposes of this subsection, a school shall not include a property owned, used, or operated by a public or private school that is not used for classroom instruction on core curriculum, such as an administrative building, athletic facility, ballpark, field, or stadium, unless such property is located on the same campus as a building used for classroom instruction on core curriculum;

(7) Documents establishing the applicant; and the members, managers, and board members if applicable; and seventy-five percent (75%) of the commercial applicant's ownership interests are Oklahoma residents as required in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.

(A) Applicants seeking to renew a commercial license issued prior to the enactment of the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., shall submit documentation establishing proof of residency in accordance with OAC 442:10-1-6 (relating to proof of residency);

(B) All other applicants shall submit documentation establishing proof of residency in accordance with OAC 442:10-5-3.1 (relating to proof of residency for business licenses).

(8) If applicable, a certificate of compliance on a form prescribed or otherwise authorized by the Authority that is all building permits and/or certificate(s) of occupancy issued by the Oklahoma State Fire Marshal or by the political subdivision where the licensed premises is to be located with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal certifying compliance with the categories listed in 63 O.S. § 426.1(E); for the construction or alteration of any buildings or structures classified as occupancies under the building codes adopted by the Oklahoma Uniform Building Code Commission.

(A) Once a certificate of occupancy is issued by the Oklahoma State Fire Marshal or by the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal and such certificate of occupancy has been submitted to the Authority showing full compliance, a licensee shall only need to submit an affidavit for license renewal stating the premises continues to comply with zoning classifications, applicable municipal ordinances, and all applicable safety, electrical, fire, plumbing, waste, construction, and building specification codes. An additional certificate of occupancy along with an affidavit shall be submitted if a change of use or occupancy occurs, or there is any change concerning the facility or location that would, by law, require additional inspection, licensure or permitting by the state or municipality. Licensees are responsible for compliance with applicable state fire, building, and electrical codes and may be liable for all damage that results from noncompliance with state fire, building, and electrical codes to the extent authorized by law.

(B) For all commercial license applications submitted on or after June 14, 2024 that require a building permit and/or certificate of occupancy for licensure, applicants who submitted a full and complete application for a building permit and/or certificate of occupancy issued by the Oklahoma State Fire Marshal or the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal prior to February 1, 2024 and while the same application remains under review by the State Fire Marshal or political subdivision, the applicant may submit an attestation on a form and in a manner prescribed by the Authority certifying that the applicant submitted a full and complete application for a building permit and/or certificate of occupancy prior to February 1, 2024, and that the same application remains under review by the Oklahoma State Fire Marshal or the political subdivision.

(9) If applicable, all Certificate(s) of Occupancy, Final Inspection Report(s), and Site Plan(s), issued from or approved by the organization, political subdivision, office, or individual responsible for enforcing the requirements of all building and fire codes adopted by the Oklahoma Uniform Building Code Commission pursuant to OAC 748:20. Pursuant to 74 O.S. § 324.11, in all geographical areas where the applicable Certificate(s) of Occupancy, Final Inspection Report(s), Site Plan(s) and/or permit(s) are not issued from and/or approved by local authorities, such documentation must be obtained from the Oklahoma Office of the State Fire Marshal;

(10) If applicable, accreditation documentation, including documentation of enrollment in analyte-specific proficiency testing results, showing applicants meet requirements stated in OAC 442:10-8-2(a);

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- ~~(11)~~(10). If a licensed grower, processor or transporter has added or is seeking to add a publicly traded company as an owner, additional documentation as required under OAC 442:10-5-2(e)(2)(C) to show the grower, processor, or transporter applicants meet the requirements stated in 63 O.S. § 427.15a;
- ~~(12)~~(11). If applicable, a list of all chemicals a processor will utilize to process medical marijuana;
- ~~(13)~~(12). If applicable, safety data sheets for every chemical a processor will utilize to process medical marijuana;
- ~~(14)~~(13). If applicable, a bond or attestation as required under OAC 442:10-5-3.3 certifying compliance with 63 O.S. § 427.26;
- ~~(15)~~(14). Supplemental application materials to be submitted by the applicant and utilized by the Authority to determine medical marijuana business licensing fees pursuant to 63 O.S. 427.14; and
- ~~(16)~~(15). Any further documentation the Authority determines is necessary to ensure the commercial applicant is qualified under Oklahoma law and ~~this Chapter~~ these Rules to obtain a commercial license.

(f) **Incomplete application.** Failure to submit a complete application with all required information and documentation shall result in a rejection of the application. The Authority shall notify the applicant ~~via email through the electronic application account~~ in the same method the application was submitted to the Authority of the reasons for the rejection, and the applicant shall have thirty (30) days from the date of notification to correct and complete the application without an additional fee. If the applicant fails to correct and complete the application within the thirty (30) day period, the application shall expire. Unless the Authority determines otherwise, an application that has been resubmitted but is still incomplete or contains errors that are not clerical or typographical in nature shall be denied.

(g) **Status update letter.** If a delay in processing has occurred, the Authority shall notify the applicant via email of the delay and the reason for the delay.

(h) **Moratorium.** Beginning August 26, 2022, and ending August 1, 2026, there shall be a moratorium on processing and issuing new medical marijuana business licenses for dispensaries, processors, and growers. The Authority will review and process applications received on or before August 26, 2022. The Executive Director of the Authority may terminate the moratorium prior to August 1, 2026, upon a determination that all pending license reviews, inspections, or investigations have been completed. The moratorium shall not apply to:

- (1) The renewal of a medical marijuana business license for dispensaries, processors, or growers;
- (2) The issuance of a medical marijuana business license necessitated by a change in the ownership or location of a dispensary, processor, or grower; or
- (3) The issuance or renewal of a testing laboratory, transporter, education facility, research, or waste disposal license.

## 442:10-5-3.1. Proof of residency for commercial licensees [AMENDED]

(a) Applicants shall provide sufficient documentation establishing either:

- (1) Oklahoma residency for at least two (2) years immediately preceding the application submission date; or
- (2) Five (5) years continuous Oklahoma residency during the twenty-five (25) years immediately preceding the application submission date.

(b) Applicants shall establish residency through submission of electronic copies or digital images in color of a combination of the following documents establishing residency for the entire span of the applicable time period:

- (1) An unexpired Oklahoma-issued driver license or Real ID;
- (2) An Oklahoma identification card;
- (3) Utility bills, excluding cellular telephone, television, and ~~Internet~~ internet bills;
- (4) Residential property deeds or other official documentation establishing proof of ownership of Oklahoma residential property;
- (5) Rental agreements for residential property located in the State of Oklahoma;
- (6) Oklahoma Tax Returns showing the applicant as an Oklahoma taxpayer; or
- (7) Other documentation the Authority deems necessary and/or sufficient to establish residency.

## 442:10-5-4. Inspections [AMENDED]

(a) Submission of an application for a medical marijuana commercial license constitutes permission for entry to and inspection of any licensed premises and any vehicles on the licensed premises used for the transportation of medical marijuana and medical marijuana products during hours of operation and other reasonable times. Refusal to permit or impeding such entry or inspection shall constitute grounds for administrative penalties, which may include but are not limited to fines as set forth in Appendix C and the denial, nonrenewal, suspension, and/or revocation of a license.

(b) The Authority may perform two (2) on-site inspections per calendar year of each licensed grower, processor, dispensary, or commercial transporter to determine, assess, and monitor compliance with applicable Oklahoma law and these Rules or ensure qualifications for licensure.

- (c) The Authority shall conduct one (1) on-site inspection of a testing laboratory applicant prior to licensure and up to two (2) on-site ~~inspection~~inspections annually thereafter. The inspection prior to initial licensure may include proficiency testing, and shall be conducted to ensure all application materials are accurate and the applicant meets all requirements in 63 O.S. § 427.17 and these Rules. The inspection prior to initial licensure may include verification that applicant can achieve analyte-specific testing thresholds showing applicants meet requirements stated in OAC 442:10-8-2.
- (d) The Authority shall conduct one (1) on-site inspection of each warehouse location of a medical marijuana transporter applicant or licensee prior to approving the location for use to ensure all information and documentation is true and correct and to determine if the proposed warehouse location meets all requirements of 63 O.S. § 427.16 and these Rules.
- (e) The Authority may conduct additional inspections to ensure correction of or investigate violations of applicable Oklahoma law and these Rules.
- (f) The Authority shall refer all complaints alleging criminal activity or other violations of Oklahoma law that are made against a licensee to appropriate Oklahoma state or local law enforcement or regulatory authorities.
- (g) If the Authority discovers what it reasonably believes to be criminal activity or other violations of Oklahoma law during an inspection, the Authority may refer the matter to appropriate Oklahoma state or local law enforcement or regulatory authorities for further investigation. Except for license information concerning licensed patients, the Authority may share confidential information to assist other agencies in ensuring compliance with applicable laws, Rules, and regulations.
- (h) The Authority may review any and all records of a licensee and may require and conduct interviews with such persons or entities and persons affiliated with such entities, for the purpose of determining compliance with Authority Rules and applicable laws. Failure to make documents or other requested information available to the Authority and/or refusal to appear or cooperate with an interview shall constitute grounds for administrative penalties, which may include, but are not limited to, fines as set forth in Appendix C and the denial, nonrenewal, suspension, ~~and/or~~ revocation of a license, or any other remedy or relief provided under law. All records shall be kept on-site and readily ~~available~~accessible.
- (i) If the Authority identifies a violation of 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., ~~and/or~~ these Rules during an inspection of the licensed business, the Authority shall take administrative action in accordance with Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.
- (j) The Authority may assess fines in the amounts set forth in Appendix C and seek any other administrative penalties authorized by law against a licensee without providing opportunity to correct when the violation is not capable of being corrected. The Authority may suspend or revoke a license for failure to pay any fine or monetary penalty lawfully assessed by the Authority against the licensee.
- (k) Except as otherwise provided in Oklahoma law or these Rules, correctable violations identified during an inspection shall be corrected within thirty (30) days of receipt of a written notice of violations. If a licensee fails to correct violations within thirty (30) days, the licensee will be subject to a fine in the amount set forth Appendix C for each violation and any other administrative action and penalty authorized by law.
- (l) The Authority may employ secret shoppers to inspect licensed commercial medical marijuana businesses. Secret shoppers may purchase medical marijuana or medical marijuana products for compliance testing or attempt to purchase medical marijuana or marijuana products in order to prove compliance with the Oklahoma Medical Marijuana and Patient Protection Act or any rule ~~determined~~promulgated by the Authority. In the absence of unanimous confirmation of test results with safety failures for contaminants, the Authority may investigate, embargo, or recall any medical marijuana or medical marijuana products. Nothing in this section otherwise prohibits the Authority from conducting investigations resulting from a secret shopper inspection.

### 442:10-5-4.1. Operational status visit [AMENDED]

- (a) **Initial operational status visit for growers, processors, and dispensaries.** ~~Effective September 1, 2021, the~~ The Authority shall ~~begin scheduling~~schedule on-site visits at licensed growers, processors, and dispensaries for the purposes of verifying whether the licensed grower, processor, or dispensary is actively operating or is working towards becoming operational.
- (1) Initial operational status visits shall be scheduled and shall occur within the first one hundred eighty (180) days after issuance of a medical marijuana grower, medical marijuana processor, or medical marijuana dispensary license.
- (2) Each operational status visit shall be performed on-site at the licensed premises on file with the Authority.
- (3) If, at the time of the initial operational status visit, the grower, processor, or dispensary being inspected fails to provide proof to the Authority that the licensee is actively operating or working towards operational status, the Authority shall grant the grower, processor, or dispensary a grace period of one hundred eighty (180) additional days from the date of their initial operational status visit to become operational.

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(b) **Follow-up operational status visits.** Upon the expiration of an operational status visit grace period, the Authority shall perform a follow-up inspection of the licensed grower, licensed processor, or licensed dispensary for the purposes of verifying whether the licensed grower, processor, or dispensary has begun actively operating or is continuing to work towards becoming operational.

(1) Follow-up operational status visits shall be scheduled upon expiration of the grace period.

(2) Each follow-up operational status visit shall be performed on-site at the licensed premises on file with the Authority.

(3) If, at the time of the follow-up operational status visit, the grower, processor, or dispensary fails to provide proof to the Authority that the medical marijuana commercial licensee is actively operating or is continuing to work towards becoming operational, the Authority may elect to grant an additional grace period of one hundred eighty (180) days to become operational. However, if granted, such grace period shall not extend beyond the one-year term of the license.

(A) If the Authority does not grant a grower, processor, or dispensary a secondary grace period, the Authority shall seek revocation of the grower, processor, or dispensary license.

(B) If, after conducting a follow-up visit, the Authority grants a secondary grace period, a grower, processor, or dispensary shall be afforded an additional term of one hundred eighty (180) days to become operational. Upon expiration of the secondary grace period, if a grower, processor, or dispensary has failed to provide proof to the Authority that operations have commenced, the Authority shall seek revocation of the grower, processor, or dispensary license. A third operational status visit of the licensed premises shall be at the discretion of the Authority in making such a determination but shall not be required.

## 442:10-5-5. Processing medical marijuana on behalf of a patient or caregiver [AMENDED]

(a) A licensed processor shall not sell or otherwise transfer medical marijuana or medical marijuana products to a patient or caregiver, except that a licensed processor may process medical marijuana into medical marijuana concentrate on behalf of a licensed patient or caregiver in exchange for a fee. Processors shall utilize an OMMA provided system to verify and ensure that all medical marijuana transactions are conducted with medical marijuana patients or caregivers in accordance with Oklahoma law and these Rules. Verification of all patient licenses shall include, at a minimum: name; valid, unexpired license number; expiration date; and verification of the photo of the patient or caregiver licensee.

(b) For each occasion in which medical marijuana is processed in accordance with this subsection, a processor shall enter all information required by OAC 442:10-5-6(b)(4) into a log, which shall be maintained for at least seven (7) years and all records shall be kept on-site and readily accessible on the licensed premises.

(c) Processors shall only use medical marijuana provided by the licensed patient or caregiver when processing on behalf of a patient or caregiver and shall not add, mix in, or otherwise incorporate any medical marijuana or medical marijuana concentrate obtained from a separate source. A processor shall return any excess medical marijuana to the licensed patient. Plant material and any waste generated from processing shall be disposed of in accordance with OAC 442:10-5-10.

(d) The medical marijuana concentrate shall be labeled, and the label shall contain, at a minimum, the following information:

(1) Patient and, if applicable, caregiver license number;

(2) Processor name and license number;

(3) Date processed; and

(4) The Oklahoma uniform symbol.

(e) All medical marijuana and processed concentrate must be maintained on the premises in a manner that protects it from contamination, including, but not limited to, filth, mold, pests, and other contaminants.

(f) ~~Concentrate processed directly on behalf of a patient or caregiver pursuant to this section is not subject to the testing requirements set forth in 63 O.S. § 427.17 and these Rules. However, a~~ patient or caregiver may submit any medical marijuana and medical marijuana products to a licensed laboratory for testing pursuant to 63 O.S. § 427.17(J).

(g) Any transaction not in accordance with this Section shall constitute an unlawful sale.

## 442:10-5-6. Inventory tracking, records, reports, and audits [AMENDED]

(a) **Monthly reports.** Licensed growers, processors, and dispensaries shall complete a monthly report on a form and in a manner prescribed by the Authority. These reports shall be deemed untimely if not received by the Authority by the fifteenth (15th) of each month for the preceding month.

(1) Dispensary reports shall include:

(A) The amount of marijuana purchased in pounds;

(B) The amount of marijuana sold or otherwise transferred in pounds;

- (C) The amount of marijuana waste in pounds;
  - (D) If necessary, a detailed explanation of why any medical marijuana product purchased by the licensee cannot be accounted for as having been sold or still remaining in inventory;
  - (E) Total dollar amount of all sales to medical marijuana patients and caregivers;
  - (F) Total dollar amount of all taxes collected from sales to medical marijuana patients and caregivers; and
  - (G) Any information the Authority determines is necessary to ensure that all marijuana grown in Oklahoma is accounted for as required under 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.
- (2) Grower reports shall include:
- (A) The amount of marijuana harvested in pounds;
  - (B) The amount of marijuana purchased in pounds;
  - (C) The amount of marijuana sold or otherwise transferred in pounds;
  - (D) The amount of drying or dried marijuana on hand;
  - (E) The amount of marijuana waste in pounds;
  - (F) If necessary, a detailed explanation of why any marijuana cannot be accounted for as having been sold, disposed of, or maintained in current inventory;
  - (G) Total dollar amount of all sales; and
  - (H) Any information the Authority determines is necessary to ensure that all marijuana grown in Oklahoma is accounted for as required under 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.
- (3) Processor reports shall include:
- (A) The amount of marijuana purchased in pounds;
  - (B) The amount of marijuana sold or otherwise transferred in pounds;
  - (C) The amount of medical marijuana manufactured or processed in pounds;
  - (D) If necessary, a detailed explanation of why any marijuana cannot be accounted for as having been purchased, sold, processed, or maintained in current inventory;
  - (E) The amount of marijuana waste in pounds; and
  - (F) Any information the Authority determines is necessary to ensure that all marijuana grown in Oklahoma is accounted for as required under 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.
- (4) Upon implementation, submission of information and data to the Authority through the State inventory tracking system will be required in accordance with the Oklahoma Medical Marijuana Protection Act, 63 O.S. § 427.1 et seq., and these Rules, and submission of the information and data to the Authority through the State inventory tracking system shall be sufficient to satisfy monthly reporting requirements.
- (b) Records.** Pursuant to the Authority's audit and inspection responsibilities, medical marijuana business shall keep onsite/on-site and readily accessible, either in paper or electronic form, a copy of the records listed below. Except as otherwise specifically provided in Oklahoma law and this Chapter, all records shall be maintained for at least seven (7) years from the date of creation.
- (1) Business records, which may include but are not limited to employee records, organizational documents or other records relating to the governance and structure of the licensee, manual or computerized records of assets and liabilities, monetary transactions, tax records, journals, ledgers, and supporting documents, including agreements, checks, invoices, receipts, and vouchers.
  - (2) As applicable, any documents related to the cultivation, processing, preparation, transportation, sampling, and/or testing of medical marijuana and medical marijuana products, including but not limited to sample field logs, patient processing logs, safety data sheets and inventory for each chemical utilized by a processor, inventory manifests, transporter agent licenses, COAs, testing records, equipment inspections, training materials, and standard operating procedures.
  - (3) Except as otherwise provided in this Subsection, documentation of every instance in which medical marijuana was sold or otherwise transferred to or purchased or otherwise obtained from another licensee, which shall include, but is not limited to:
    - (A) The name, license number, address, and phone number of all commercial licensees involved in each transaction, and the name and license number of all patient licensees involved in each transaction;
    - (B) The quantity and type of medical marijuana or medical marijuana products involved in each transaction;

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- (C) The batch number of the medical marijuana or medical marijuana products involved in each transaction;
- (D) The date of each transaction;
- (E) The monetary value of the medical marijuana or medical marijuana products involved in each transaction, including the total sale or purchase amounts;
- (F) All point-of-sale and tax records; and
- (G) All inventory manifests and other documentation relating to the transport of medical marijuana and medical marijuana products as required under OAC 442:10-3-6(b).

(4) For processors processing medical marijuana directly on behalf of a patient or caregiver pursuant to OAC 442:10-5-5, a log documenting each instance in which the processor processed medical marijuana received from a licensed patient into a concentrate form on behalf of the licensed patient, which shall include, but is not limited to, the following information:

- (A) The patient and, if applicable, caregiver license number;
- (B) The date the processor received the medical marijuana from the patient or caregiver;
- (C) The weight of medical marijuana received from the patient;
- (D) The weight or amount of concentrate produced, along with the weight of any excess medical marijuana, if applicable; and
- (E) The date the concentrate was returned to the patient or caregiver.

(5) Any and all documents relating to the disposal or destruction of medical marijuana, medical marijuana products, and medical marijuana waste.

(6) Commercial licensees must also have the following documentation on-site and readily available ~~accessible~~ on the licensed ~~premise~~ premises:

- (A) the square footage or total acres of the licensed premises;
- (B) a diagram of the licensed premises;
- (C) if applicable, the number and type of lights at the licensed premise of a commercial grower;
- (D) if applicable, the number, type and production capacity of equipment located at the licensed premise of a commercial processor;
- (E) the names, addresses and telephone numbers of employees or agents of a medical marijuana business;
- (F) employment manuals and standard operating procedures for the medical marijuana business; and
- (G) any other information the Authority deems reasonably necessary.

(c) **Patient information.** Records containing private patient or caregiver information retained by a commercial licensee shall comply with all relevant state and federal laws. "Private patient information" means personally identifiable information, such as the patient name, address, date of birth, social security number, telephone number, email address, photograph, and financial information. This term does not include the patient's medical marijuana license number, which shall be retained by the business and accurately reported to the Authority in the State inventory tracking system for all transactions to ensure compliance and protect public health and safety, including the verification of lawful sales or patient traceability in the event of product recall.

(d) **Inventory tracking system.** Pursuant to 63 O.S. § 427.3(D)(8) and 63 O.S. § 427.13(B), each commercial licensee shall use the State inventory tracking system by inputting inventory tracking data required to be reported to the Authority directly into the State inventory tracking system or by utilizing a seed-to-sale tracking system that integrates with the State inventory tracking system. All commercial licensees must have an inventory tracking system account activated to lawfully operate and must ensure all information is reported to the Authority accurately and in real time or after each individual sale in accordance with 63 O.S. § 427.13(B)(1) and these Rules. All commercial licensees shall ensure the following information and data are accurately tracked and timely reported to the Authority ~~through~~ through the State inventory tracking system:

- (1) The chain of custody of all medical marijuana and medical marijuana products, including every transaction with another commercial licensee, patient, or caregiver, including but not limited to:
  - (A) The name, address, license number, and phone number of the medical marijuana business that cultivated, manufactured, sold, purchased, or otherwise transferred the medical marijuana or medical marijuana product(s);
  - (B) The complete, accurate, and valid patient or caregiver license number of all patient or caregiver licensees involved in each transaction;
  - (C) The type, item, strain, and category of medical marijuana or medical marijuana product(s) involved in the transaction;



- (D) The weight, quantity, or other metric required by the Authority, of the medical marijuana or medical marijuana product(s) involved in the transaction;
  - (E) The batch number of the medical marijuana or medical marijuana product(s);
  - (F) The total amount spent in dollars;
  - (G) All point-of-sale records as applicable;
  - (H) ~~Transportation information documenting~~ All inventory manifests and other documentation relating to the transport of medical marijuana or medical marijuana product(s) products as required under OAC 442:10-3-6(b);
  - (I) Testing results and information;
  - (J) Waste records and information;
  - (K) Marijuana excise tax records, if applicable;
  - (L) Inventory tracking system tag number(s);
- (2) The entire life span of a licensee's stock of medical marijuana and medical marijuana products, including, at a minimum, notifying the Authority:
- (A) When medical marijuana seeds or clones are planted;
  - (B) When medical marijuana plants are harvested and/or destroyed;
  - (C) When medical marijuana is transported, or otherwise transferred, sold, stolen, diverted, or lost;
  - (D) When medical marijuana changes form, including, but not limited to, when it is planted, cultivated, processed, and infused or otherwise processed into a final product ~~or final form~~;
  - (E) A complete inventory of all medical marijuana; seeds; plant tissue; clones; usable medical marijuana; trim; shake; leaves; other plant matter; and medical marijuana products;
  - (F) All samples sent to a testing laboratory or used for internal quality and testing or other purposes;
- (3) Any further information the Authority determines is necessary to ensure all medical marijuana and medical marijuana products are accurately and fully tracked throughout the entirety of the lifespan of the plant and product.
- (e) **Seed-to-sale tracking system.** A commercial licensee shall use a seed-to-sale tracking system or integrate its own seed-to-sale tracking system with the State inventory tracking system established by the Authority. If a commercial licensee uses a seed-to-sale tracking system that does not integrate with the State inventory tracking system, or does integrate but does not share all required information, the commercial licensee shall ensure all required information is reported directly into the State inventory tracking system.
- (f) **Inventory tracking system requirements.**
- (1) At a minimum, commercial licensees shall track, update, and report inventory after each individual transaction, transfer, or sale to the Authority in the State inventory tracking system.
  - (2) All commercial licensees must ensure all on-premises and in-transit medical marijuana and medical marijuana product inventories are reconciled each day in the State inventory tracking system at the close of business, if not already done.
  - (3) Commercial licensees are required to use inventory tracking system tags from an Authority-approved supplier for the State ~~Inventory Tracking System~~ inventory tracking system. Each ~~Licensee~~ licensee is responsible for the cost of all inventory tracking system tags and any associated vendor fees.
    - (A) A commercial licensee shall ensure its inventories are properly tagged and that an inventory tracking system tag is properly assigned to medical marijuana, medical marijuana products, and medical marijuana waste as required by the Authority.
    - (B) A commercial licensee shall ensure it has an adequate supply of inventory tracking system tags at all times. If a commercial licensee is unable to account for unused inventory tracking system tags, the commercial licensee must report to the Authority and the State inventory tracking system vendor within forty-eight (48) hours.
    - (C) Inventory tracking system tags must contain the legal name and correct license number of the commercial licensee that ordered them. Commercial licensees are prohibited from using another licensee's inventory tracking system tags.
    - (D) The inventory tracking system tag shall be placed on the container holding the medical marijuana plant and must remain physically near and clearly associated with the medical marijuana plant until the plant reaches twelve (12) inches in height. Clones must be tracked in the state seed-to-sale system and must be associated with a wholesale package tag, whether cut from a mother plant or transferred from another licensee, prior to reaching twelve (12) inches in height.

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(E) When the plant reaches twelve (12) inches in height, the inventory tracking system tag shall be securely fastened to a lower supporting branch. The inventory tracking system tag shall remain affixed for the entire life of the plant until disposal. If the plant changes forms, is removed from the original planting location after harvest, or is being trimmed, dried, or cured by the grower, the inventory tracking system tag shall be placed on the container holding the medical marijuana plants and/or must remain physically near and clearly associated with the medical marijuana plants until the plant is placed into a package in both the seed-to-sale tracking system and physically packaged and affixed with the inventory tracking system tag.

(F) Mother plants must be tagged before any cuttings or clones are generated therefrom.

(G) If an inventory tracking system tag gets destroyed, stolen, or falls off of a medical marijuana plant or medical marijuana product, the licensee must ensure a new inventory tracking system tag is placed on the medical marijuana plant or medical marijuana product and the change of the inventory tracking system tag is properly reflected in the State inventory tracking system.

(H) Commercial licensees shall not reuse any inventory tracking system tag that has already been affixed to any regulated medical marijuana or medical marijuana products.

(4) Each wholesale package of medical marijuana must have an inventory tracking system tag during storage and transfer and may only contain one harvest batch of medical marijuana.

(5) Prior to transfer, commercial licensees shall ensure that each immature plant is properly affixed with an inventory tracking system tag if the plant was not previously tagged in accordance with these Rules.

(6) Commercial licensees' inventory must have an inventory tracking system tag properly affixed to all medical marijuana products during storage and transfer in one of the following manners:

(A) Individual units of medical marijuana products shall be individually affixed with an inventory tracking system tag; or

(B) Medical marijuana products may only be combined in a single wholesale package using one inventory tracking system tag if all units are from the same production batch.

(7) If any medical marijuana or medical marijuana products are removed from a wholesale package, each individual unit or new wholesale package must be separately tagged.

(8) All packages of medical marijuana waste shall have an inventory tracking system tag affixed and the contents of the waste package shall be reported in the State inventory tracking system.

## **(g) Inventory tracking system administrators and users.**

(1) A commercial licensee must have at least one owner, or manager, who is an inventory tracking system administrator.

(2) The inventory tracking system administrator must attend and complete all required inventory tracking system training.

(3) If at any point, the inventory tracking system administrator for a commercial licensee changes, the commercial licensee shall change or assign a new inventory tracking system administrator within thirty (30) business days.

(4) Commercial licensees shall maintain an accurate and complete list of all inventory tracking system administrators and employee users.

(5) Commercial licensees shall ensure that all owners and employees that are granted inventory tracking system account access for the purpose of conducting inventory tracking functions are trained and authorized before the owners or employees may access the State inventory tracking system.

(6) All inventory tracking system users shall be assigned an individual account in the State inventory tracking system.

(7) Any individual entering data into the State inventory tracking system shall only use the inventory tracking system account assigned specifically to that individual. Each inventory tracking system administrator and inventory tracking system user must have unique log-in credentials that shall not be used by any other person.

(8) Within three (3) business days, commercial licensees must remove access for any inventory tracking system administrator or user from their accounts if any such individual no longer utilizes the State inventory tracking system or is no longer employed by the commercial licensee.

**(h) Loss of use of the State inventory tracking system.** If at any time a commercial licensee loses access to the State inventory tracking system due to circumstances beyond the commercial licensee's control, the commercial licensee shall keep and maintain records detailing all inventory tracking activities that were conducted during the loss of access. Once access is restored, all inventory tracking activities that occurred during the loss of access must be immediately entered into the State inventory tracking system. If a commercial licensee loses access to the State inventory tracking system due to circumstances within its control, the commercial licensee may not perform any business activities that would be required

to be reported into the State inventory tracking system until access is restored and reporting is resumed; any transfer, sale, or purchase of medical marijuana or medical marijuana products shall be an unlawful sale.

(i) **Audits.** The Authority shall perform on-site audits of all commercial licensees to ensure the accuracy of information and data reported to the Authority and to ensure that all marijuana grown in Oklahoma is accounted for. Submission of an application for a medical marijuana commercial license constitutes permission for entry to any licensed premises and auditing of the commercial licensee during hours of operation and other reasonable times. Refusal to permit the Authority entry or refusal to permit the Authority to inspect all books and records shall constitute grounds for administrative penalties, which may include, but are not limited to, fines as set forth in Appendix C and the denial, nonrenewal, suspension, and/or revocation of a license.

(1) The Authority may review any and all records and information of a commercial licensee and may require and conduct interviews with such persons or entities and persons affiliated with such licensees, for the purpose of determining compliance with Authority Rules and applicable laws. Failure to make documents or other requested information available to the Authority and/or refusal to appear or cooperate with an interview shall constitute grounds for administrative penalties, which may include, but are not limited to, fines as set forth in Appendix C and the denial, nonrenewal, suspension, or revocation of a license, or any other remedy or relief provided under law. All records shall be kept ~~onsite~~on-site and readily accessible.

(2) Commercial licensees shall comply with all written requests from the Authority to produce or provide access to records and information within ten (10) business days.

(3) If the Authority identifies a violation of 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., or these Rules during an audit of the commercial licensee, the Authority shall take administrative action against the licensee in accordance with the Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

(4) The Authority may refer all complaints alleging criminal activity or other violations of Oklahoma law that are made against a commercial licensee to appropriate Oklahoma state or local law enforcement or regulatory authorities.

(5) If the Authority discovers what it reasonably believes to be criminal activity or other violations of Oklahoma law during an audit, the Authority may refer the matter to appropriate Oklahoma state or local law enforcement or regulatory authorities for further investigation. Except for license information concerning licensed patients, the Authority may share confidential information to assist other agencies in ensuring compliance with applicable laws, Rules and regulations.

(6) Except as is otherwise provided in Oklahoma law or these Rules, correctable violations identified during an audit shall be corrected within thirty (30) days of receipt of a written notice of violation.

(7) If a licensee fails to correct violations within thirty (30) days, the licensee will be subject to a fine of ~~\$500.00~~five hundred dollars (\$500.00) for each violation and any other administrative action and penalty authorized by law.

(j) **Confidential records.** All monthly ~~reports~~reports, inventory tracking and seed-to-sale information, data, and records submitted to the Authority are treated as confidential records and are exempt from the Oklahoma Open Records Act.

### 442:10-5-8. Food safety standards for processors [AMENDED]

(a) **Purpose.** This Section sets forth the food safety standards that processors must comply with in the preparation, production, manufacturing, processing, handling, packaging, and labeling of edible medical marijuana products.

(b) **Existing law.** This Section does not relieve licensed processors of any obligations under existing laws, rules, and regulations, including 63 O.S. § 1-1101 et seq., OAC 310:257, and OAC 310:260, to the extent they are applicable and do not conflict with 63 O.S. § 420 et seq.

(1) The sale, offer to sell, dispense or release into commerce of any food or confection under a name, label, or brand when the name, label, or brand either precisely or by slang term or popular usage, is the name, label, or brand of marijuana is not prohibited.

(2) Marijuana used in food shall be considered an additive, a component, and/or an edible substance.

(3) Marijuana shall not be considered a deleterious, poisonous, or nonnutritive substance, and the use of marijuana, alone, in food shall not make such food adulterated or misbranded.

(c) **Updated law.** In the event the Oklahoma Board of Health or the Commissioner of Health amends OAC 310:257 or OAC 310:260, adopts new food safety rules, or incorporates into Oklahoma law updated federal food safety standards, including Title 21 of the Code of Federal Regulations, licensed processors shall comply with such rules to the extent they are applicable and do not conflict with 63 O.S. § 420 et seq., 63 O.S. § 427.1 et seq., or these Rules.

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(d) **Labeling and packaging.** Labels and packages for food containing medical marijuana shall comply with all applicable requirements in existing Oklahoma law, rules, and regulations, and any laws incorporated therein by reference, to the extent they do not conflict with 63 O.S. § 420.

(1) 21 CFR Part 101, as of August 22, 2018, is hereby incorporated by reference into this Section to the extent it is applicable and does not conflict with 63 O.S. § 420 et seq. and 63 O.S. § 427.1 et seq.

(2) Existing requirements for principal display panels or information panels include:

- (A) Name and address of the business;
- (B) Name of the food;
- (C) Net quantity or weight of contents;
- (D) Ingredients list
- (E) Food allergen information; and
- (F) Nutrition labeling, if required under 21 CFR § 101.9.

(3) In addition, principal display panels or information panels must contain:

- (A) List of cannabis ingredients;
- (B) The batch of marijuana;
- (C) The strain of marijuana (optional);
- (D) THC dosage in milligrams per unit; and
- (E) The lot code.

(4) Nutrient content, health, qualified health and structure/function claims must comply with the Food and Drug Administration ("FDA") Food Labeling Guide.

(5) Packaging must contain the statement, "For accidental ingestion call 1-800-222-1222."

(6) All packages and individually-packaged product units, including but not limited to those from bulk packaging, must contain the Oklahoma uniform symbol in clear and plain sight. The Oklahoma uniform symbol must be printed at least one-half inch by one-half inch in size in color.

(7) In order to comply with OAC 442:10-7-1(d)(4) and this Section, a label must contain a warning that states, "Women should not use marijuana or medical marijuana products during pregnancy because of the risk of birth defects or while breastfeeding."

(e) **Recommended HACCP.** A Hazard Analysis and Critical Control Plan ("HACCP"), as set forth under 21 CFR Part 120, shall be recognized as a standardized best practice to ensure that food is suitable for human consumption and that food-packaging materials are safe and suitable. Processors are encouraged to adopt a HACCP to help ensure compliance with existing Oklahoma food safety laws, particularly OAC 310:260-3-6.

(f) **Private homes; living or sleeping quarters.**

(1) A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting processing operations.

(2) Living or sleeping quarters located on the premises of a processor such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.

## **442:10-5-10. Medical marijuana waste disposal [AMENDED]**

(a) All medical marijuana plant material and waste generated during the cultivation, production, processing, handling, and testing of medical marijuana and medical marijuana products must be stored, managed, and disposed of in accordance with these Rules, the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and any other applicable Oklahoma statutes and rules, except that medical marijuana waste shall not be subject to the provisions of the Uniform Controlled Dangerous Substances Act, 63 O.S. § 2-101 et seq.

(b) Licensees may dispose of root balls, stems, fan leaves, seeds, and the mature stalks or fiber produced from such stalks at the licensed premises by open burning, incineration, burying, mulching, composting or any other technique approved by the Department of Environmental Quality.

(1) Commercial licensees engaged in the disposal of root balls, stems, fan leaves, seeds, and the mature stalks or fiber produced from such stalks shall create and maintain a disposal log that contains, at a minimum, the following information:

- (A) Name and license number of the commercial licensee;
- (B) A description of the plant material being disposed;
- (C) A brief description of the method used for disposal;
- (D) Date and time of the disposal; and
- (E) Names of employee(s) conducting the disposal.

- (2) The disposal log shall contain a signed statement from the commercial licensee, or authorized representative of the commercial licensee, attesting to the lawful disposal of these plant parts under penalty of perjury.
- (3) All disposal records shall be maintained by commercial licensees for a period of ~~five (5)~~seven (7) years and shall be subject to inspection and auditing by the Authority.

### 442:10-5-16. Prohibited acts [AMENDED]

- (a) No commercial licensee shall allow the consumption of alcohol or the smoking or vaping of medical marijuana or medical marijuana products on the licensed premises, except that if the licensed premises is a residence, a commercial licensee shall only be prohibited from consuming alcohol or the smoking or vaping of medical marijuana in areas of the licensed premises where operations of the business are conducted.
- (b) No commercial licensee shall employ any person under the age of eighteen (18).
- (c) No commercial licensee shall allow for or provide the delivery of medical marijuana or medical marijuana products to licensed patients or caregivers.
- (d) No dispensary shall allow any physician to be located, maintain an office, write recommendations, or otherwise provide medical services to patients at the same physical address as a dispensary.
- (e) No commercial licensee shall engage in advertising prohibited under OAC 442:10-7-3.
- (f) No commercial licensee shall sell or offer to sell medical marijuana or medical marijuana product by means of any advertisement or promotion that includes any statement, representation, symbol, depiction, or reference, directly or indirectly, which would reasonably be expected to induce minors to purchase or consume marijuana or medical marijuana products.
- (g) No commercial licensee shall falsify or misrepresent any documents, forms, or other materials or information submitted to the Authority.
- (h) No commercial licensee shall threaten or harm a patient, medical practitioner, or an employee of the Authority.
- (i) No commercial licensee shall fail to adhere to any acknowledgment, verification, or other representation made to the Authority.
- (j) No licensed grower shall possess, sell or otherwise transfer, or offer to sell or otherwise transfer medical marijuana products.
- (k) No licensee shall operate or otherwise use any extraction equipment or processes utilizing butane, propane, carbon dioxide or any potentially hazardous material in residential property.
- (l) Licensees shall not sell or otherwise transfer, purchase, obtain, or otherwise accept the transfer of medical marijuana or medical marijuana products from ~~any~~ any individual or entity that is not an Oklahoma-licensed medical marijuana business, except that licensed dispensaries may sell medical marijuana and medical marijuana products to licensed patients and caregivers and a processor may process medical marijuana directly on behalf of a licensed patient or caregiver in accordance with OAC 442:10-5-5. No licensee shall purchase or sell medical marijuana or medical marijuana products to or from any unlicensed individual or entity.
- (m) After implementation of the State inventory tracking system, no licensee shall sell or otherwise transfer, purchase, obtain or otherwise accept the transfer of medical marijuana or otherwise accept the transfer of medical marijuana or medical marijuana products that are not properly inputted and tracked in the State inventory tracking system in accordance with Oklahoma law and regulations.
- (n) Medical marijuana growers and dispensaries shall not make or package infused pre-rolls.
- (o) Medical marijuana growers and dispensaries shall not make or package pre-rolls that exceed one (1) gram in net weight.
- (p) Licensees shall not allow any other entity or person to use their OMMA license number who is not an owner, employee, or authorized contractor of the commercial licensee while conducting business on behalf of that commercial licensee.
- (q) No commercial licensee shall make, sell, transfer, or offer to sell any alcoholic beverage that has been infused with medical marijuana or medical marijuana products.
- (r) Growers shall not purchase, make, sell, transfer, or otherwise obtain any medical marijuana products except growers may package and sell noninfused pre-rolls and kief in accordance with these Rules.
- (s) Dispensaries shall not open, package or alter ~~packaging or labeling of pre-packaged~~ medical marijuana or medical marijuana products except for the following reasons:
- (1) Dispensaries are authorized to create, package and sell noninfused pre-rolled marijuana provided all other packaging, labeling, and testing requirements are met prior to transfer to a licensed patient or licensed caregiver; and;

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(2) ~~Dispensaries, or employees thereof, may handle loose or nonpackaged medical marijuana to be placed in packaging for retail sale consistent with Oklahoma law and these Rules, including packaging and labeling requirements in OAC 442:10-7-1(d)-(e) are authorized to display samples of medical marijuana of no more than three (3) grams pursuant to OAC 442:10-5-14;~~

(3) Dispensaries may apply barcodes, ~~qr~~QR codes, or other inventory tracking tags and labels. These items shall not obscure required label and packaging requirements; and

(4) Dispensaries must place medical marijuana or medical marijuana products into a child-resistant exit package at the point of transfer to a patient or caregiver if those items are not already in child-resistant packaging.

(t) Growers shall not engage in any commercial growing operations without a bond or attestation as required under OAC 442:10-5-3.3 certifying compliance with 63 O.S. § 427.26.

(u) No licensed medical marijuana commercial grower shall knowingly hire or employ undocumented immigrants to perform work inside a medical marijuana commercial grow facility or anywhere on the property of the medical marijuana commercial grower operation. A licensed medical marijuana commercial grower that violates the provisions of this subsection shall be subject to penalties including but not limited to, license revocation and denial of future license applications.

(v) No commercial licensee shall employ any employee without a credential issued pursuant to OAC 442:10-5-1.1(13). For purposes of this Section, "employee" shall have the same meaning as OAC 442:10-5-1.1(13).

## SUBCHAPTER 6. COMMERCIAL LICENSEES

### 442:10-6-1. General security requirements for commercial licensees [AMENDED]

(a) Commercial licensees shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft and diversion of medical marijuana and medical marijuana products.

(b) Commercial licensees are responsible for the security of all marijuana items on the licensed premises or all marijuana items in their possession during transit.

(c) Commercial grower licensees shall be required to ~~post~~erect and maintain signage at the site of the commercial grow operation that must be visible from the road at the primary entrance to the grow facility. For purposes of this Section, primary entrance means the principal or main entrance of the commercial grow facility which is used by staff and/or persons accessing the property.

(1) Signage shall be located at the perimeter of the property with dimensions measuring no less than eighteen (18) inches by twenty-four (24) inches with a font size of no less than two (2) inches. For purposes of this Section, perimeter of the property refers to the outermost boundaries of the property that is licensed by the Authority as a commercial grow operation. Information required to be displayed on the sign shall be in black standardized font on a white background. The required signage shall also comply with county regulations and local ordinances related to the real property where the commercial grow operation is located. The following information shall be included on the required signage:

- (A) Business name;
- (B) Physical address of the licensed business;
- (C) Phone number of the licensed business; and
- (D) Medical marijuana business license number.

(2) Failure to erect and maintain the proper signage within sixty (60) days after the renewal of each application for a medical marijuana commercial grower license in accordance with the provisions of this subsection shall result in the immediate revocation of the medical marijuana commercial grower license.

## SUBCHAPTER 7. PACKAGING, LABELING, AND ADVERTISING

### 442:10-7-1. Labeling and packaging [AMENDED]

(a) **Prohibition on sale or transfer.** Commercial licensees shall not sell, distribute, or otherwise transfer medical marijuana and medical marijuana products that are not packaged and labeled in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules. Beginning June 1, 2025, all medical marijuana flower, trim, shake, kief, medical marijuana product, or other flower-based product not defined as a concentrate, shall be sold by licensed medical marijuana processors and licensed medical marijuana commercial growers to licensed medical marijuana dispensaries only in pre-packaged form in package sizes weighing not less than one-half (1/2) of one (1) gram to not more than three (3) ounces. Nonopaque materials may be used when packaging medical marijuana flower, provided all other packaging and labeling requirements for medical marijuana products sold in this state are met and it is

placed in an opaque container before leaving a licensed medical marijuana dispensary. Dispensaries shall not open, package, or alter pre-packaged medical marijuana or medical marijuana products except for the following reasons:

- (1) Dispensaries are authorized to create and package noninfused pre-rolled marijuana provided all other packaging, labeling, and testing requirements are met prior to transfer to a licensed patient or licensed caregiver; and
- (2) Dispensaries are authorized to display samples of medical marijuana of no more than three (3) grams pursuant to OAC 442:10-5-14. Any remaining medical marijuana from a pre-packaged package size that exceeds three (3) grams must be wasted or disposed of in accordance with Oklahoma law and these Rules.

**(b) Nonacceptance or return.** A dispensary shall reject, refuse to accept or shall return delivery, and send back to the licensee transferring medical marijuana or medical marijuana products to the dispensary, any medical marijuana or medical marijuana products that are not packaged and labeled in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules. If a dispensary rejects and/or refuses to accept delivery of any medical marijuana or medical marijuana product or if delivery of the medical marijuana or medical marijuana product is impossible, the medical marijuana or medical marijuana product shall be immediately sent back to the originating licensee who retains legal ownership of the products and the rejection and/or refusal shall be fully documented in accordance with OAC 442:10-7-1(c). For the purposes of this section, medical marijuana or medical marijuana product that is sent back to the originating licensee upon refusal to accept delivery shall not be considered medical marijuana waste, provided the medical marijuana or medical marijuana product were immediately sent back to the originating licensee upon refusal to accept delivery. The business licensee who sold or otherwise transferred the nonconforming medical marijuana or medical marijuana products shall accept such return. If circumstances are such that the dispensary cannot ~~return or refuse to accept the~~ refuse to accept delivery or immediately send back to the originating licensee the nonconforming medical marijuana or medical marijuana products, the dispensary shall dispose of the nonconforming medical marijuana and medical marijuana products in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules. Products may be returned to the licensed medical marijuana dispensary when found defective or hazardous to the health of the patient. The return of all medical marijuana and medical marijuana products from a licensed medical marijuana dispensary to a licensed medical marijuana processor or licensed medical marijuana commercial grower, or from a licensed medical marijuana processor to a licensed medical marijuana commercial grower, or from any other licensed entity that transferred medical marijuana products to another licensed entity shall be permitted.

**(c) Documentation.** A dispensary shall document any such return, nonacceptance, or disposal, and such documentation shall include at a minimum:

- (1) The license number, name, contact information, and address of the licensee who sold or otherwise transferred the nonconforming medical marijuana or medical marijuana products to the dispensary;
- (2) A complete inventory of the medical marijuana and medical marijuana products to be returned or disposed, including the batch number;
- (3) The reason for the nonacceptance, return, or disposal; and
- (4) The date of the nonacceptance, return, or disposal.

**(d) General requirements.** The following general label and packaging requirements, prohibitions, and exceptions shall apply to all medical marijuana and medical marijuana products being transferred or sold to a dispensary or by a dispensary:

- (1) Labels, packages, and containers shall not be attractive to minors and shall not contain any content that reasonably appears to target children, including toys, cartoon characters, and similar images. Packages should be designed to minimize appeal to children and shall not depict images other than the business name logo of the medical marijuana producer and image of the product.
- (2) Packaging must contain a label that reads: "Keep out of reach of children." and "For use by licensed medical marijuana patients only. "
- (3) All medical marijuana and medical marijuana products must be packaged in child-resistant containers, although the containers may be clear in order to allow licensed medical marijuana patient and licensed medical marijuana caregivers the ability to view the product inside the container, and placed into an exit package at the point of sale or ~~other~~ transfer to a licensed medical marijuana patient, a patient's parent or legal guardian if patient is a minor, or a licensed medical marijuana caregiver.
- (4) ~~Label~~Labels must contain a warning that states "Women should not use marijuana or medical marijuana products during pregnancy because of the risk of birth defects." \_
- (5) Packages and labels shall not contain any deceptive, false or misleading statements. For purposes of this section, information that is deceptive, false, or misleading includes:

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(A) Any indication that the medical marijuana or medical marijuana product is organic, unless the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Section 6501 et seq.)) authorizes organic certification and designation for marijuana and marijuana products. This includes variants of the word "organic" such as "organix" and "organique."

(B) Any indication that the medical marijuana or medical marijuana product is "Pesticide-free," unless the medical marijuana or a medical-marijuana product was grown, harvested, processed, and dispensed without any pesticide.

(6) No medical marijuana or medical marijuana products shall be intentionally or knowingly packaged or labeled so as to cause a reasonable patient confusion as to whether the medical marijuana or medical marijuana product is a trademarked product.

(7) No medical marijuana or medical marijuana products shall be packaged or labeled in a manner that violates any federal trademark law or regulation.

(8) Packages and labels shall not make any claims or statements that the medical marijuana or medical marijuana products provide health or physical benefits to the patient.

(9) Packages and labels shall not contain the logo of the Oklahoma Medical Marijuana Authority.

(10) Packages and labels shall not contain any universal symbols from another state, any statements that the medical marijuana was grown in another state, or any depictions, symbols, or other information that could cause a reasonable patient to be confused as to the state of origin of the medical marijuana or medical marijuana product.

(11) Labels shall be designed and applied in a manner that does not cause patient confusion regarding the package's contents, potency, or other required information. In the event that any package or immediate container of medical marijuana or medical marijuana product is relabeled, all ~~prior initial~~ labels must be ~~removed in entirety prior to~~ completely removed before the new label ~~being~~ is applied. Covering an initial label with an ~~updated~~ a new label is prohibited.

(12) All packaging and labeling must contain current and accurate information on file with the Authority, including, but not limited to, the licensee's legal name, trade name, and license number.

(13) Packages and labels shall be considered inaccurate if the difference in percentage of the cannabinoid and/or total THC claimed to be present on a package or label is plus or minus fifteen percent (15%) of the percentage on the COA. For example, bulk order packaging that identifies a THC amount as 100mg would be inaccurate if the COA for that production batch indicated a THC content of less than 85mg or more than 115mg.

## **(e) Label requirements for sales to dispensaries or by dispensaries.**

(1) Labels on medical marijuana and medical marijuana products being transferred or sold to a dispensary or by a dispensary shall contain, at a minimum, the following information:

(A) The name and license number of the grower, dispensary, or processor who is selling or otherwise transferring the medical marijuana or medical marijuana products to the dispensary;

(B) Name of the medical marijuana or medical marijuana product;

(C) The batch number of the medical marijuana or medical marijuana product;

(D) Net quantity or weight of contents;

(E) Ingredients list;

(F) The Oklahoma Uniform Symbol in the manner and form prescribed by the Authority;

(G) THC potency on the COA for that batch;

(H) Total terpenoid content in the manner prescribed by the Authority; ~~and~~

(I) The date the medical marijuana or medical marijuana product was packaged, and

(J) The statement, "This product has been tested for contaminants."

(2) Labels for edible medical marijuana products shall also meet the requirements set forth in OAC 442:10-5-8.

(3) As applicable, inventory tracking system tags shall not obscure required label and packaging requirements.

## **(f) Label requirements for sales between growers and/or processors.** All medical marijuana and medical marijuana products sold or otherwise transferred between growers and/or processors shall be labeled and the label shall contain, at a minimum, the following information:

(1) Name and license number of the grower or processor who is selling or otherwise transferring the medical marijuana or medical marijuana product;

(2) The batch number of the medical marijuana or medical marijuana product; and

(3) Date of harvest or production; ~~and~~

~~(4) A statement that the medical marijuana or medical marijuana products have passed testing or statement that the medical marijuana failed testing and is being transferred to a processor for purposes of remediation.~~

## **(g) Storage requirements for growers, processors, and dispensaries.**



- (1) Growers, processors, and dispensaries shall store medical marijuana and medical marijuana products under conditions and in a manner that protects the medical marijuana and medical marijuana products from physical and microbial contamination and deterioration.
- (2) When not in use, medical marijuana and medical marijuana products shall be tagged and stored in receptacles that are capable of being fully closed and sealed and are kept fully closed and sealed.
- (3) When any storage receptacle is in use and contains medical marijuana or medical marijuana products, commercial licensees shall identify the batch number and tag on the storage receptacle of all medical marijuana and medical marijuana products so that an inspector can easily identify to which batch the medical marijuana and medical marijuana products belong.

### **442:10-7-2. Prohibited products [AMENDED]**

- (a) No commercial licensee shall manufacture, process, or offer for sale or consumption any medical marijuana product intended to be attractive to children or minors.
- (b) No commercial licensee, other than a licensed dispensary, shall offer for retail sale any marijuana seedlings or mature plants. ~~No mature plants are authorized in the possession of either a commercial licensee or patient license holder until 60 days after August 27, 2018. No seedlings are authorized in the possession of a commercial license holder until 7 days after August 27, 2018.~~
- (c) No dispensary shall sell, distribute, or otherwise transfer any medical marijuana flower, trim, shake, kief, medical marijuana product, or other flower-based product not defined as a concentrate, not packaged in pre-packaged form in package sizes weighing not less than one-half (1/2) of one (1) gram to not more than three (3) ounces.

### **442:10-7-3. Advertising [AMENDED]**

- (a) Commercial licensees shall not engage in, circulate, or otherwise cause the dissemination of advertising that contains any materials prohibited under Oklahoma law and these ~~rules~~ Rules.
- (b) Advertising for medical marijuana and medical marijuana products shall not contain any statements, illustrations, or other material that:
  - (1) Is deceptive, false, or misleading;
  - (2) Represents that a licensee is engaged in medical marijuana commercial services for which the licensee is not licensed;
  - (3) Promotes overconsumption;
  - (4) Represents that the use of marijuana has curative or therapeutic effects;
  - (5) Depicts a child or other person under legal age consuming marijuana;
  - (6) Depicts objects such as toys, cartoons, cartoon characters, or similar images, which suggest the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume marijuana;
  - (7) Has any manner or design that would be especially appealing to children or other persons under eighteen (18) years of age; or
  - (8) Could cause a reasonable patient to believe the medical marijuana was grown in another state or to be confused as to the state of origin of the medical marijuana or medical marijuana product.
- (c) For purposes of this section, information that is deceptive, false, or misleading includes:
  - (1) Any indication that the medical marijuana or medical marijuana product is organic, unless the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Section 6501 et seq.)) authorizes organic certification and designation for marijuana and marijuana products. This includes variants of the word "organic" such as "organix" and "organique."
  - (2) Any indication that the medical marijuana or medical marijuana product is "Pesticide-free," unless the medical marijuana or a medical-marijuana product was grown, harvested, processed, and dispensed without any pesticide.

## **SUBCHAPTER 8. LABORATORY TESTING**

### **442:10-8-1. Testing standards and thresholds [AMENDED]**

- (a) **Purpose.** To ensure the suitability and safety for human consumption of medical marijuana and medical marijuana products, growers and processors are required to test medical marijuana and medical marijuana products for microbials, mycotoxins, residual solvents, pesticides, THC and cannabinoid concentration, terpenoid type and concentration, heavy metals, foreign materials and filth, and water activity and moisture content in accordance with the following standards and

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thresholds. No laboratory may test medical marijuana without a valid, unexpired testing laboratory license issued by the Authority. A licensed laboratory shall only send samples for testing to another Oklahoma licensed laboratory.

**(b) Batches.**

(1) **Batch size.** Growers shall separate all harvested medical marijuana into harvest batches that weigh less than or equal to fifteen ( $\leq 15$ ) pounds with the exception of any plant material to be sold to a licensed processor for the purposes of turning the plant material into concentrate which may be separated into harvest batches that weigh less than or equal to fifty ( $\leq 50$ ) pounds. Processors shall separate all medical marijuana product into production batches that contain a volume that is less than or equal to four ( $\leq 4$ ) liters of liquid medical marijuana concentrate or that weigh less than or equal to nine ( $\leq 9$ ) pounds for nonliquid medical marijuana products, and ~~for final~~ medical marijuana infused final products shall contain less than or equal to one-thousand ( $\leq 1,000$ ) grams of total delta-9-tetrahydrocannabinol ( $\Delta$ -9-THC).

(2) **Research and Development ("R&D") testing.** Growers and processors may submit samples for research and development testing. R&D testing may be performed by a licensed laboratory in accordance with these Rules:

(A) Passing R&D test results. If a sample submitted to a laboratory passes a R&D test, it shall not constitute a pass for the purposes of compliance with required testing under ~~OAC 442:10-8-1(i)~~ this Subchapter;

(B) Failing R&D test results. If a sample submitted to a laboratory fails a R&D test, laboratories shall clearly note in the State's inventory tracking system and on any COA created for an R&D sample that the test results are for R&D purposes only; and

(C) Growers and processors shall ensure that any R&D testing done under this subsection is appropriately documented and identified in the State's inventory tracking system.

(c) **Frequency.** Growers and processors shall ensure samples from each final harvest batch and final production batch are collected, labeled, and tested in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules.

(d) **Prohibitions.** Growers, processors, and dispensaries shall not sell or otherwise transfer any final harvest batch or final product to a dispensary until the product has undergone final product testing. For the purposes of this section, "final product" means the finished product that is available for transport to a licensed medical marijuana dispensary and ready for consumption by licensed medical marijuana patients. Final product testing shall only be required when the final product is completed and prior to transfer to a licensed medical marijuana dispensary, licensed medical marijuana patient, or licensed medical marijuana caregiver.

~~(1) Growers shall not sell or otherwise transfer any medical marijuana from any medical marijuana harvest batch until samples of the harvest batch have passed all tests in accordance with this Subchapter, except that growers may sell or otherwise transfer harvest batches that have failed testing to processors for decontamination or remediation in accordance with OAC 442:10-8-1(i)(2). Growers may transfer medical marijuana from harvest batches to processors for decontamination prior to testing, so long as decontaminated medical marijuana is not processed into a solvent-based concentrate and is returned to the originating licensed commercial grower. Decontaminated harvest batches must successfully pass all tests in accordance with this Subchapter prior to transfer or sale.~~

~~(2) Processors shall not purchase or otherwise obtain, process, sell, or otherwise transfer any medical marijuana or medical marijuana products from any medical marijuana harvest batch or production batch until samples of the harvest batch or production batch have passed all tests in accordance with this Subchapter, except that processors may purchase or otherwise obtain and process harvest batches that have failed testing for the purpose of remediation only in accordance with OAC 442:10-8-1(i)(2).~~

~~(3) Dispensaries shall not purchase, accept transfer of, sell, or otherwise transfer any medical marijuana or medical marijuana products that have not passed all tests in accordance with this Subchapter.~~

(e) **Authority required testing.** The Authority may require a medical marijuana commercial business to submit a sample of medical marijuana, medical marijuana concentrate, or medical marijuana product to a licensed testing laboratory or the quality assurance laboratory upon demand when the Authority has reason to believe the medical marijuana is unsafe for patient consumption or inhalation or has not been tested in accordance with Oklahoma law and these regulations. The Authority may also require a medical marijuana business to periodically submit samples of medical marijuana or medical marijuana products to the quality assurance laboratory for quality assurance purposes. The licensee shall provide the samples or units of medical marijuana or medical marijuana products at its own expense but shall not be responsible for the costs of testing.

(f) **Prohibited transfers.** Except as is authorized in these Rules, growers, processors, and dispensaries shall dispose of and shall not use, sell, or otherwise transfer any medical marijuana or medical marijuana products that exceed any testing thresholds or fail to meet any other standards or requirements set forth in this Subchapter.

**(g) Embargo and recall.**

(1) **Embargo.** In the event that any medical marijuana or medical marijuana product is found by an authorized agent of the Authority to fail to meet the requirements of 63 O.S. § 420 et al., or the Oklahoma Medical Marijuana and Patient Protection Act as it relates to health and safety, the medical marijuana or medical marijuana product is handled in violation of applicable laws or rules and regulations promulgated by the Executive Director of the Authority, or the medical marijuana or medical marijuana product may be poisonous, deleterious to health or is otherwise unsafe, the following shall occur:

(A) All such medical marijuana and medical marijuana products in the possession of a commercial licensee shall be immediately affixed with an electronic tag, physical tag and/or other appropriate marking or hold, including a hold in the State's inventory tracking system, giving notice of the reason that the medical marijuana or medical marijuana product is subject to embargo. The affixed tag(s) and/or electronic hold shall further warn all persons not to remove or dispose of the medical marijuana or medical marijuana product by sale, donation, or otherwise transfer without permission of the Authority. It shall be unlawful for any person to remove or dispose of the embargoed medical marijuana or medical marijuana products without permission of the Authority.

(B) The Authority, upon determination that any medical marijuana or medical marijuana product embargoed is in violation of applicable laws, rules or regulations, or is otherwise poisonous, deleterious to health or unsafe for consumption may institute an action in a district court of competent jurisdiction for the condemnation and destruction of the medical marijuana or medical marijuana product in accordance with 63 O.S. § 427.24.

(C) The Authority, upon determination that any medical marijuana or medical marijuana product meets the requirements of applicable laws, rules or regulations, or otherwise is not poisonous, deleterious to health or unsafe shall remove the embargo.

(D) In the event any medical marijuana or medical marijuana products subject to an embargo are sold or otherwise transferred, such embargoed medical marijuana or medical marijuana products shall be recalled in accordance with these Rules.

(E) Every commercial licensee who is in possession or has ever had possession of such embargoed medical marijuana or medical marijuana products shall assist in the embargo.

(2) **Recall.** If any medical marijuana or medical marijuana products test above allowable thresholds, are the subject of an embargo, are otherwise determined to be unsafe, or that otherwise fail to meet standards set forth in this Subchapter, the following shall occur:

(A) Any commercial licensee with knowledge of such event shall immediately notify the Authority;

(B) All such medical marijuana and medical marijuana products shall be immediately recalled and cannot be sold or otherwise transferred; and

(C) Every commercial licensee who is in possession or has ever had possession of such medical marijuana or medical marijuana products shall assist in the immediate recall, including, but not limited to, the following:

(i) Undertake necessary measures to ensure any affected medical marijuana or medical marijuana products are not transferred;

(ii) Create a distribution list of all commercial licensees that received the medical marijuana or medical marijuana products subject to the recall, including the licensee's name, license number, address and contact information;

(iii) Create a list identifying all medical marijuana or medical marijuana products subject to the recall, including the category of medical marijuana or medical marijuana products, product description, net contents, batch number, and, if applicable, the name and license number of the commercial licensee that cultivated or manufactured the medical marijuana or medical marijuana product subject to the recall;

(iv) Provide notice to all affected licensees and consumers once identified;

(v) Communicate with the Authority regarding the status of the recall and provide all required information and documentation to the Authority within two (2) weeks unless granted additional time by the Authority.

(vi) The Licensee's failure to timely comply with the provisions of this subsection and/or provide required information and documentation to the Authority may result in revocation, suspension, and monetary penalties. The Authority may also issue a public recall notice, at any time, if it determines it is necessary to protect the public's health safety and welfare.

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(D) The commercial licensee whose harvest or production batch is being recalled, and who bears responsibility for the recall, shall bear the costs for disposal of all medical marijuana waste subject to the recall in accordance with Oklahoma law and these Rules.

(h) **Retention of test results and records.** Prior to accepting any sale or transfer of any medical marijuana or medical marijuana products, commercial licensees shall obtain copies of any and all COAs for every test conducted on the harvest batch(es), production batch(es), final harvest batch(es), or final production batch(es). Commercial licensees shall maintain copies of any and all COAs for at least seven (7) years and all records shall be kept on-site and readily accessible. Commercial licensees shall immediately, in the manner and form prescribed by the Authority, provide notification to the Authority of any medical marijuana or medical marijuana products that have failed testing, and such notification shall include copies of the applicable COAs. For medical marijuana testing laboratories, submission of a COA by the laboratory into the State's inventory tracking system is sufficient to meet the testing laboratory's requirement to report and maintain such records; all other commercial licensees shall obtain and maintain copies of any and all COAs required under this section and all records shall be kept on-site and readily accessible. Licensed dispensaries shall produce any and all COAs required under this section for any products currently in the dispensary's inventory upon request of a licensed medical marijuana patient or licensed medical marijuana caregiver

(1) Prior to accepting any sale or transfer of any medical marijuana, growers shall obtain copies of any and all certificates of analysis (COAs) for every test conducted on the harvest batch(es) of the medical marijuana.

(2) Prior to accepting any sale or transfer of any medical marijuana or medical marijuana products, processors shall obtain copies of any and all COAs for every test conducted on the harvest batch(es) of the medical marijuana or production batch(es) of the medical marijuana products.

(3) Prior to accepting any sale or transfer of medical marijuana, dispensaries shall obtain copies of any and all COAs for every test conducted on the harvest batch(es);

(4) Prior to accepting any sale or transfer of medical marijuana products, dispensaries shall obtain copies of any and all COAs for every test conducted on the production batch(es);

(5) Commercial licensees shall maintain copies of any and all COAs for at least seven (7) years and these records must be kept onsite and readily accessible.

(6) Growers and processors shall immediately provide copies of COAs to the Authority upon request and to any medical marijuana licensee upon request when the purpose of such request is compliance with this Section.

(7) Growers and processors shall, in the manner and form prescribed by the Authority, provide notification to the Authority of any medical marijuana or medical marijuana products that have failed testing. Such notification shall include copies of the applicable COAs.

(8) For the purposes of this subsection, submission of a COA by the laboratory into the State's inventory tracking system is sufficient to meet a commercial licensee's requirements to report and maintain such records.

(i) **Allowable thresholds. Analyte testing requirements.** If changes to this Subsection require a change in methodology, proficiency testing enrollment, or accreditation the medical marijuana testing laboratory has up to ninety (90) days to comply. The in-sample limit of quantification (LOQ) must be less than or equal to fifty percent ( $\leq 50\%$ ) of the allowable thresholds listed in this Section for residual solvents, mycotoxins, and metals. The in-sample limit of quantification (LOQ) for pesticides must be less than or equal to ( $\leq$ ) the allowable thresholds listed in OAC 442:10-8-1(i)(5).

(1) **Microbial testing.** Harvest Final harvest batch samples and final production batch samples shall be tested for microbial analytes in accordance with the following:

(A) **Allowable thresholds.** Samples shall be tested for the following microbial analytes and must be less than ( $<$ ) the allowable thresholds, in colony forming units found in one gram (CFU/ g), listed below:

(i) All medical marijuana, medical marijuana products and medical marijuana concentrates, excluding pressurized metered dose inhaler products, metered dose nasal spray products, vaginal administration products or rectal administration products, shall be tested for the following microbial analytes and shall be less than the associated allowable threshold:

(I) Total yeast and mold microbials  $< 10^4$  CFU/g;

(II) Shiga toxin-producing Escherichia coli (STEC)  $< 1$  CFU/g;

(III) Pathogenic Salmonella spp.  $< 1$  CFU/g;

(IV) Aspergillus flavus  $< 1$  CFU/g;

(V) Aspergillus fumigatus  $< 1$  CFU/g;

(VI) Aspergillus niger  $< 1$  CFU/g; and

(VII) Aspergillus terreus  $< 1$  CFU/g.

(ii) Pressurized metered dose inhaler and metered dose nasal spray medical marijuana and medical marijuana products shall be tested for the following microbial analytes and shall be less than the associated allowable threshold:

- (I) Total yeast and mold microbials <  $10^1$  CFU/g;
- (II) Total aerobic microbials <  $10^2$  CFU/g;
- (III) Staphylococcus aureus < 1 CFU/g; and
- (IV) Bile tolerant gram-negative bacteria < 1 CFU/g.

(iii) Vaginal administration products shall be tested for the following microbial analytes and shall be less than the associated allowable threshold:

- (I) Total yeast and mold microbials <  $10^1$  CFU/g;
- (II) Total aerobic microbials <  $10^2$  CFU/g;
- (III) Staphylococcus aureus < 1 CFU/g;
- (IV) Pseudomonas aeruginosa < 1 CFU/g; and
- (V) Candida albicans < 1 CFU/g.

(iv) Rectal administration products shall be tested for the following microbial analytes and shall be less than the associated allowable threshold;

- (I) Total yeast and mold microbials <  $10^2$  CFU/g; and
- (II) Total aerobic microbials <  $10^3$  CFU/g.

(B) **Instrumentation.** Testing laboratories shall use a genetically based assay or agar plate culture to perform microbial testing. The manufacturer's instructions for use, including recommendations, must be followed, unless otherwise specified by these rules.

(C) **Methodologies.** The method employed by a testing laboratory must pass a matrix proficiency test as required by the Authority. ~~The~~ Upon operational status of the Authority's Quality Assurance Laboratory, the Authority will conduct the matrix proficiency test and will supply medical marijuana samples with known microbial contamination values. Passing values must demonstrate the expected result.

(D) **Genetically based assay.** Genetically based assay testing requirements are as follows:

(i) **Sample preparation.** Sample must weigh greater than or equal to one gram ( $\geq 1$  g).

Methods of microbial sample preparation that reduce or kill the targeted microbes, such as cryogenic grinding or heat introduction, shall not be used. ~~For non-quantitative testing, the primary sample must be enriched and incubated for at least twenty-four (24) hours using enrichment media suitable for identification of the target organism and if~~ the manufacturer does not offer instructions or recommendations regarding enrichment and incubation, then the primary sample must be enriched and incubated for at least twenty-four (24) hours using enrichment media suitable for identification of the target organism

(ii) **Laboratory quality control (LQC) samples.** The following LQC samples must be run once every plate in an analytic run and must include:

- (I) A positive control, for each targeted organism, that shall result in detection of amplification. If amplification of the target organism is not detected, all samples in the associated batch shall be reanalyzed. A positive control shall be a positive template control that contains the DNA sequence of the targeted analyte or a positive extraction control that contains a sample of the live microbial analyte, that was extracted using the same process as the samples; and
- (II) A negative control that shall not result in amplification. If amplification is detected, all samples in the associated batch shall be re-analyzed;
- (III) A laboratory replicate sample that demonstrates repeatability of the initial sample; and
- (IV) An internal control, in each sample, that contains a non-targeted DNA sequence that is co-amplified with the targeted sequences and results in detection of amplification. If amplification is not detected that sample shall be reprepared and reanalyzed in a different batch. If amplification is not detected a second time, the sample shall be re-extracted and reprepared for new analysis.

(iii) **Reporting results.** Microbial analytes shall be reported to the nearest whole number, in CFU. All results shall include the sample weight in grams (g).

(E) **Agar plate culture.** If using agar plate culture methodologies, the following requirements apply:

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(i) **Sample preparation.** The primary sample must weigh greater than or equal to one gram ( $\geq 1$  g). Methods of microbial sample preparation that may reduce or kill targeted microbes, such as cryogenic grinding or heat introduction, shall not be used. For non-quantitative testing, the primary sample must be enriched and incubated for at least twenty-four (24) hours using enrichment media suitable for identification of the target organism. The primary sample must be used for all additional analysis. If the primary sample has been depleted prior to additional analysis, the reserve sample must be enriched and incubated for forty-eight (48) hours, using enrichment media suitable for identification of the target organism.

(ii) **Laboratory quality control (LQC) samples for qualitative agar plating.** Plating techniques shall undergo an initial validation to determine an appropriate dilution factor. The following LQC samples must be run once every day and must include:

- (I) A positive control, for each targeted microorganism, that shall result in detectable growth, or a positive reaction if the method uses a reaction to identify an organism;
- (II) A negative control that shall not detect the presence of a microbial organism; and
- (III) A laboratory replicate sample with results that match the initial sample results, detecting the presence or absence of a microbial organism.

(iii) **Laboratory quality control (LQC) samples for quantitative agar plating.** Plating techniques shall undergo an initial validation to determine an appropriate dilution factor. The following LQC samples must be run once every day and must include:

- (I) A positive control, for each targeted microorganism, that shall result in detectable growth; and
- (II) A negative control that shall not result in detectable microbial growth.

(iv) **Reporting Results.** Microbial analytes shall be reported to the nearest whole number, in CFU. All results shall include the sample weight in grams (g). For non-quantitative testing, a result that exceeds the allowable thresholds for a microbial analyte must be verified in duplicate using the original enrichment from the primary sample. If the primary sample has been depleted prior to additional analysis, the reserve sample must be enriched and incubated for forty-eight (48) hours, using enrichment media suitable for identification of the target organism. Upon re-analysis, any result that exceeds allowable thresholds shall be considered a failure the entire batch.

(F) **Remediation.** A final harvest batch of medical marijuana flower or of medical marijuana trim that fails microbial testing may be remediated into a solvent-based concentrate. All other types of final harvest batches and final production batches that fail microbial testing shall not be remediated. A final harvest batch, that is remediated into a final production batch, must be fully tested and successfully pass all the analytes required under this Subsection. If that batch fails to pass these testing requirements, it must be disposed of in accordance with the Waste Management Act, 63 O.S. § 427a et seq. and these Rules.

(G) **Decontamination.**

(i) A final harvest batch that has failed microbial testing may be decontaminated and returned to the grower, provided that the harvest batch remains in its original form and was not processed into a solvent-based medical marijuana concentrate.

(ii) A final production batch of a cannabinoid concentrate or cannabinoid extract that has failed microbial testing may be decontaminated.

(iii) A final harvest batch or a final production batch that is decontaminated, in accordance with this Subsection, must be fully tested and successfully pass all the analytes required under this Subchapter. A decontaminated final harvest batch or final production batch that fails to pass these testing requirements must be disposed of in accordance with the Waste Management Act, 63 O.S. § 427a et seq. and these Rules, except that, a final harvest batch of medical marijuana flower or of medical marijuana trim may be remediated in accordance with Subsection (F).

(2) **Mycotoxins.** ~~Production~~ Final production batch samples shall be tested for mycotoxin analytes in accordance with the following:

(A) **Allowable thresholds.** Samples shall be tested for the following mycotoxin analytes and shall be less than ( $<$ ) the allowable threshold, in parts per billion (ppb), listed below:

- (i) [Aflatoxin B1 + Aflatoxin B2 + Aflatoxin G1 + Aflatoxin G2]  $< 20$  ppb; and
- (ii) Ochratoxin A  $< 20$  ppb.

(B) **Instrumentation.** For mycotoxin analyte testing, laboratories shall use Liquid Chromatography Tandem Mass Spectrometry (LC-MS/MS) with Electrospray Ionization (ESI), LC-MS/MS with Atmospheric Pressure Chemical Ionization (APCI), or Enzyme Linked Immunosorbent Assay (ELISA).

(C) **Methodologies.** A testing laboratory's method must pass a matrix proficiency test as required by the Authority. ~~The~~ Upon operational status of the Authority's Quality Assurance Laboratory, the Authority will conduct the matrix proficiency test and will supply medical marijuana samples with known analyte concentration values. Passing values must be within plus or minus two and a half on a standard deviation index ( $\pm 2.5$  SDI).

(D) **Sample preparation.** Sample must weigh greater than or equal to five tenths of a gram ( $\geq 0.5$  g). Sample preparation solvents must be Liquid Chromatography Mass Spectrometry (LC-MS) grade. Solid form samples shall be homogenized by blending, using a food processor or similar apparatus, or cryogrinding. Liquid form samples shall be homogenized by stirring. Analytes shall be extracted from the sample using the following techniques: solid-liquid extraction or solid phase extraction.

(E) **Laboratory quality control (LQC) requirements.**

(i) **LQC samples.** The following LQC samples must be run with each analytic run, and repeated every twenty (20) samples in an analytic run and must include:

(I) A method blank with a resulting value that is less than or equal to the limit of quantification ( $\leq$  LOQ);

(II) A laboratory control sample (LCS) shall be spiked at or near the allowable thresholds for all required analytes to be reported and shall be determined with the correction factor applied. The LCS shall be carried through preparation and analysis as if it were a sample. A percent recovery calculation will be performed using the following mathematical formula: the resulting LCS concentration shall be divided by the known analyte concentration, which will then be multiplied by one hundred [(LCS concentration / known analyte concentration) \* 100]. If the continuing calibration verification (CCV) and LCS are the same material, then the LCS acceptable limit shall be plus or minus thirty percent ( $\pm 30\%$ ). If the CCV and LCS are different material, then the laboratory shall establish the ninety-nine percent (99%) confidence interval for control performance for each analyte. If insufficient historical data exists to establish the ninety-nine percent (99%) confidence interval, the laboratory shall use plus or minus forty percent ( $\pm 40\%$ ) as an interim limit. In no case shall the acceptable limit exceed forty percent (40%). If the LCS results fall outside of the acceptance limits, then a testing laboratory cannot verify that it is able to acceptably perform the analysis in a clean matrix. A failing LCS may be re-analyzed once. If the results of the re-analysis also fall outside of the acceptance limits, then all samples associated with the LCS must be re-prepared and re-analyzed, along with all other appropriate analysis batch QC samples;

(III) A matrix spike with a recovery greater than or equal to seventy percent ( $\geq 70\%$ ) and less than or equal to one hundred and thirty percent ( $\leq 130\%$ ) of expected values;

(IV) A matrix spike duplicate that results in a relative percent difference that is less than or equal to thirty percent ( $RPD \leq 30\%$ ) for all mycotoxin analytes resulting in concentrations greater than ( $>$ ) the LOQ; and

(V) Continuing calibration verification (CCV) with a recovery greater than or equal to seventy percent ( $\geq 70\%$ ) and less than or equal to one hundred and thirty percent ( $\leq 130\%$ ) of expected values. A CCV sample is required at the beginning of an analytic run, every twenty (20) samples, and at the end of the run.

(ii) **Instrument QC.** New calibrations must be accurately verified in the lower twenty-five percent (25%) of the calibration curve using second source certified reference materials (CRM) or a second preparation. Recoveries must be greater than or equal to seventy percent ( $\geq 70\%$ ) and less than or equal to one hundred and thirty percent ( $\leq 130\%$ ) of expected values.

(F) **Calibration criteria.** Calibrations shall include the following requirements:

(i) Testing laboratories may use commercially available CRM calibration standards or those prepared by the laboratory. Commercially available calibration standards shall only be used according to the manufacturer's instructions. All calibration standards shall be used before their date of expiration;

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- (ii) Data that is above the highest retained calibrator shall not be reported without qualification;
- (iii) ~~Gravimetric dilution shall be used to determine dilution factors for standards and shall be reported in grams per gram (g/g);~~
- (iv) Matrix matching or surrogate matrix shall be used in calibration standards;
- ~~(v)~~(iv) Five (5) levels of linear or weighted linear regression, or six (6) levels of quadratic regression, using an average response factor;
- ~~(vi)~~(v) A coefficient of determination that is greater than or equal to ninety-nine hundredths ( $R^2 \geq 0.99$ ) and a relative standard error that is less than thirty percent ( $RSE < 30\%$ ); and
- ~~(vii)~~(vi) The calibration curve shall not be manipulated so that it artificially passes through zero.

(G) **Reporting results.** Mycotoxin analytes shall be reported to three (3) significant figures, using the unit parts per billion (ppb).

(H) **Remediation and decontamination.** If a final production batch fails mycotoxin testing, that batch shall not be remediated or decontaminated and must be disposed of in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules.

(3) **Residual solvents.**~~Production~~Final production batch samples shall be tested for residual solvent analytes in accordance with the following:

(A) **Allowable thresholds.** Samples shall be tested for the following residual solvent analytes and shall be less than (<) the allowable threshold, in parts per million (ppm), listed below. ~~If the cannabis concentrate used to make an infused product was tested for residual solvents and test results indicate the lot was within established limits, then the infused product does not require additional testing for residual solvent analytes.~~

- (i) Acetone < 1000 ppm;
- (ii) Benzene < 2 ppm;
- (iii) Butane < 1000 ppm;
- (iv) Ethanol < 5000 ppm (required for inhaled products only);
- (v) Ethyl acetate < 1000 ppm;
- (vi) Heptane < 1000 ppm;
- (vii) Hexane < 60 ppm;
- (viii) Methanol < 600 ppm;
- (ix) Pentane < 1000 ppm;
- (x) Propane < 1000 ppm;
- (xi) Isopropyl Alcohol < 1000 ppm;
- (xii) Toluene < 180 ppm; and
- (xiii) Total Xylenes (m, p, o-xylenes) < 430 ppm.

(B) **Instrumentation.** For residual solvent testing, laboratories shall use Headspace Gas Chromatography Flame Ionization Detection (GC-FID) or Headspace Gas Chromatography Mass Spectrometry (GC-MS).

(C) **Methodologies.** A testing laboratory's method must pass a matrix proficiency test as required by the Authority. ~~The~~Upon operational status of the Authority's Quality Assurance Laboratory, the Authority will conduct the matrix proficiency test and will supply medical marijuana samples with known analyte concentration values. Passing values must be within plus or minus two and a half on a standard deviation index ( $\pm 2.5$  SDI).

(D) **Sample preparation.** Sample must weigh greater than or equal to two tenths of a gram ( $\geq 0.2$  g). The extraction and/or dilution solvent chosen for preparation of standards and samples shall not be included on the analyte list of residual solvents tested for in ~~OAC 442:10-8-1(i)(3)(A)~~this subsection. All analytes shall be soluble in the extraction and/or dilution solvent. Background levels of contamination from laboratory solvents shall be controlled and shall be below the allowable threshold for each solvent.

(E) **Laboratory quality control (LQC) requirements.**

- (i) **LQC samples.** The following LQC samples must be run with each analytic run, and repeated every twenty (20) samples in an analytic run and must include:
  - (I) A method blank with a resulting value that is less than or equal to the limit of quantification ( $\leq$  LOQ);



(II) A laboratory control sample (LCS) shall be spiked at or near the allowable thresholds for all required analytes to be reported and shall be determined with the correction factor applied. The LCS shall be carried through preparation and analysis as if it were a sample. A percent recovery calculation will be performed using the following mathematical formula: the resulting LCS concentration shall be divided by the known analyte concentration, which will then be multiplied by one hundred [(LCS concentration / known analyte concentration) \* 100]. If the continuing calibration verification (CCV) and LCS are the same material, then the LCS acceptable limit shall be plus or minus thirty percent ( $\pm 30\%$ ). If the CCV and LCS are different material, then the laboratory shall establish the ninety-nine percent (99%) confidence interval for control performance for each analyte. If insufficient historical data exists to establish the ninety-nine percent (99%) confidence interval, the laboratory shall use plus or minus forty percent ( $\pm 40\%$ ) as an interim limit. In no case shall the acceptable limit exceed forty percent (40%). If the LCS results fall outside of the acceptance limits, then a testing laboratory cannot verify that it is able to acceptably perform the analysis in a clean matrix. A failing LCS may be re-analyzed once. If the results of the re-analysis also fall outside of the acceptance limits, then all samples associated with the LCS must be re-prepared and re-analyzed, along with all other appropriate analysis batch QC samples;

(III) A matrix spike with a recovery greater than or equal to seventy percent ( $\geq 70\%$ ) and less than or equal to one hundred and thirty percent ( $\leq 130\%$ ) of expected values;

(IV) A matrix spike duplicate that results in a relative percent difference that is less than or equal to twenty percent ( $RPD \leq 20\%$ ) for all residual solvent analytes resulting in concentrations greater than ( $>$ ) the LOQ; and

(V) Continuing calibration verification (CCV) with a recovery that is greater than or equal to eighty percent ( $\geq 80\%$ ) and less than or equal to one hundred and twenty percent ( $\leq 120\%$ ) of expected values. A CCV sample is required at the beginning of an analytic run, every twenty (20) samples, and at the end of the run.

(ii) **Instrument QC.** New calibrations must be accurately verified using second source certified reference materials (CRM) or a second preparation in the lower twenty-five percent (25%) of the calibration curve. Recoveries must be greater than or equal to eighty percent ( $\geq 80\%$ ) and less than or equal to one hundred and twenty percent ( $\leq 120\%$ ).

(F) **Calibration criteria.** Calibrations shall include the following requirements:

- (i) Testing laboratories may use commercially available CRM calibration standards or those prepared by the laboratory. Commercially available calibration standards shall only be used according to the manufacturer's instructions. All calibration standards shall be used before their date of expiration;
- (ii) Data that is above the highest retained calibrator shall not be reported without qualification;
- (iii) ~~Gravimetric dilution shall be used to determine dilution factors for standards and shall be reported in grams per gram (g/g);~~
- ~~(iv)~~ Five (5) levels of linear or weighted linear regression, or six (6) levels of quadratic regression, using an average response factor;
- ~~(v)~~ (iv) A coefficient of determination that is greater than or equal to nine hundred and ninety-five thousandths ( $R^2 \geq 0.995$ ) and a relative standard error that is less than twenty-five percent ( $RSE < 25\%$ ); and
- ~~(vii)~~ (v) The calibration curve shall not be manipulated so that it artificially passes through zero (0).

(G) **Reporting results.** Residual solvent analytes shall be reported to three (3) significant figures using the unit parts per million (ppm). Integration type and QC integration must correspond to the calibration integration. Peaks shall be integrated from baseline to baseline and non-resolved peaks shall be split peak at the valley minimum.

(H) **Remediation.** If a final production batch fails residual solvent testing, that batch shall not be remediated and must be disposed of in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules.

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(I) **Decontamination.** A final production batch that has failed residual solvent testing may be decontaminated. A final production batch that is decontaminated, in accordance with this Subsection, must be fully tested and successfully pass all the analytes required under this Subchapter. A decontaminated final production batch that fails to pass these testing requirements must be disposed of in accordance with the Waste Management Act, 63 O.S. § 427a et seq. and these Rules.

(4) **Metals.** ~~Harvest~~ Final harvest batch samples and final production batch samples shall be tested for heavy metal analytes in accordance with the following:

(A) **Allowable thresholds.** Samples shall be tested for the following heavy metal analytes and shall be less than (<) the allowable threshold, in parts per million (ppm), as determined by the product form listed below:

(i) Inhaled product, administration by metered dose nasal spray, or pressurized metered dose inhaler medical marijuana and medical marijuana products shall be tested for the following heavy metal analytes and shall be less than the associated allowable thresholds:

- (I) Arsenic < 0.2 ppm;
- (II) Cadmium < 0.2 ppm;
- (III) Lead < 0.5 ppm; and
- (IV) Mercury < 0.1 ppm.

(ii) Topical and transdermal medical marijuana and medical marijuana products shall be tested for the following heavy metal analytes and shall be less than the associated allowable thresholds:

- (I) Arsenic < 3 ppm;
- (II) Cadmium < 3 ppm;
- (III) Lead < 10 ppm; and
- (IV) Mercury < 1 ppm.

(iii) Oral consumption, rectal, or vaginal administration medical marijuana and medical marijuana products shall be tested for the following heavy metal analytes and shall be less than the associated allowable thresholds:

- (I) Arsenic < 1.5 ppm;
- (II) Cadmium < 0.5 ppm;
- (III) Lead < 1 ppm; and
- (IV) Mercury < 1.5 ppm.

(B) **Instrumentation.** For heavy metal analyte testing, laboratories shall use Inductively Coupled Plasma Mass Spectrometry (ICP-MS) equipped with Collision/Reaction Cell technology or Coupled Plasma Optical Emission Spectroscopy (ICP-OES). For sample preparation, a closed vessel microwave digestion system capable of reaching two hundred and ten degrees Celsius (210 °C), or a hot plate capable of reaching ninety-five degrees Celsius (95 °C) for one (1) hour, are required.

(C) **Methodologies.** A testing laboratory's method must pass a matrix proficiency test as required by the Authority. ~~The~~ Upon operational status of the Authority's Quality Assurance Laboratory, the Authority will conduct the matrix proficiency test and will supply medical marijuana samples with known analyte concentration values. Passing values must be within plus or minus two and a half on a standard deviation index ( $\pm 2.5$  SDI). All internally developed methods shall comply with AOAC Standard Method Performance Requirements (SMPR) 2020.001. For Determination of Heavy Metals in a Variety of Cannabis and Cannabis-Derived Products. (2020);

(D) **Sample preparation.** Samples must weigh greater than or equal to five tenths of a gram ( $\geq 0.5$  g). Internal Standards must be used for all analytes. Recovery of internal standards must be greater than or equal to fifty percent ( $\geq 50\%$ ) and less than or equal to two hundred percent ( $\leq 200\%$ ). A fifteen (15) minute pre-digestion is required to initiate the breakdown of hydrocarbons. Glass vials must be acid washed before use. Concentrated ultrapure, or equivalent nitric acid ( $\text{HNO}_3$ ) shall be used for sample digestion and concentrated ultrapure, or equivalent hydrochloric acid ( $\text{HCl}$ ) shall be used for mercury stabilization. The diluent for sample preparation shall be determined by the following formula: one to five percent volume per volume  $\text{HNO}_3$  and five tenths percent volume by volume  $\text{HCl}$  solution in deionized water with a resistance greater than eighteen megaohms per centimeter [ $1\% - 5\% \text{ (v/v) } \text{HNO}_3 / 0.5\% \text{ (v/v) } \text{HCl}$  solution in DI Water (Resistance >  $18 \text{ M}\Omega \cdot \text{cm}$ )]. The rinse blank solution shall be prepared on the same day as analysis and shall be determined by the following formula: one to five percent volume per volume  $\text{HNO}_3$  and five tenths percent  $\text{HCl}$  solution in deionized water with a resistance greater than eighteen megaohms per centimeter [ $1\% - 5\% \text{ (v/v) } \text{HNO}_3 / 0.5\% \text{ HCl}$  solution in

DI Water (Resistance > 18 MΩ•cm)]. When mercury analysis is performed, gold shall be added to the rinse blank, calibrators, samples, and LQC samples to a concentration of a hundred micrograms per liter (100 µg/L).

**(E) Laboratory quality control (LQC) requirements.**

(i) **LQC samples.** The following LQC samples must be run with each analytic run, and repeated every twenty (20) samples in an analytic run and must include:

(I) A method blank with a resulting value that is less than the limit of quantification (< LOQ);

(II) A laboratory control sample (LCS) shall be spiked at or near the allowable thresholds for all required analytes to be reported and shall be determined with the correction factor applied. The LCS shall be carried through preparation and analysis as if it were a sample. A percent recovery calculation will be performed using the following mathematical formula: the resulting LCS concentration shall be divided by the known analyte concentration, which will then be multiplied by one hundred [(LCS concentration / known analyte concentration) \* 100]. If the continuing calibration verification (CCV) and LCS are the same material, then the LCS acceptable limit shall be plus or minus thirty percent ( $\pm 30\%$ ). If the CCV and LCS are different material, then the laboratory shall establish the ninety-nine percent (99%) confidence interval for control performance for each analyte. If insufficient historical data exists to establish the ninety-nine percent (99%) confidence interval, the laboratory shall use plus or minus forty percent ( $\pm 40\%$ ) as an interim limit. In no case shall the acceptable limit exceed forty percent (40%). If the LCS results fall outside of the acceptance limits, then a testing laboratory cannot verify that it is able to acceptably perform the analysis in a clean matrix. A failing LCS may be re-analyzed once. If the results of the re-analysis also fall outside of the acceptance limits, then all samples associated with the LCS must be re-prepared and re-analyzed, along with all other appropriate analysis batch QC samples;

(III) A matrix spike with a recovery greater than or equal to eighty percent ( $\geq 80\%$ ) and less than or equal to one hundred twenty percent ( $\leq 120\%$ ) of expected values;

(IV) A matrix spike duplicate that results in a relative percent difference that is less than or equal to twenty percent ( $RPD \leq 20\%$ ) for all heavy metal analytes resulting in concentrations greater than ( $>$ ) the LOQ; and

(V) Continuing calibration verification (CCV) with a recovery greater than or equal to eighty-five percent ( $\geq 85\%$ ) and less than or equal to one hundred and fifteen percent ( $\leq 115\%$ ) of expected values. A CCV sample is required at the beginning of an analytic run, every twenty (20) samples, and at the end of the run.

(ii) **Instrument QC.** New calibrations must be accurately verified using second source certified reference materials (CRM) or a second preparation targeting the lower twenty-five percent (25%) of the calibration curve. Recoveries must be greater than or equal to eighty-five percent ( $\geq 85\%$ ) and less than or equal to one hundred and fifteen percent ( $\leq 115\%$ ).

**(F) Calibration criteria.** Calibrations shall include the following requirements:

(i) Testing laboratories may use commercially available CRM calibration standards or those prepared by the laboratory. Commercially available calibration standards shall only be used according to the manufacturer's instructions. All calibration standards shall be used before their date of expiration;

(ii) A minimum of three replicate integrations are required for each analyte;

(iii) Data that is above the highest retained calibrator shall not be reported without qualification;

~~(iv) Gravimetric dilutions shall be used to determine dilution factors for standards and shall be reported in grams per gram (g/g);~~

~~(v)~~ Five (5) levels of linear or weighted linear regression; and

~~(vi)~~ (v) A coefficient of determination that is greater than or equal to nine hundred and ninety-five thousandths ( $R^2 \geq 0.995$ ) and a relative standard error that is less than twenty-five percent ( $RSE < 25\%$ ).

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(G) **Reporting results.** Heavy metal analytes shall be reported to three (3) significant figures, using the unit ppm and on a dry weight basis, for samples that require reporting moisture results, as determined by the following equation: the moisture concentration of the sample as it was received, divided by the percent moisture of the sample subtracted from one hundred, multiplied by one hundred, equals the corrected moisture concentration dry weight  $(["\text{As received"} \text{ concentration}] / (100 - \% \text{ moisture})) \times 100 = \text{corrected moisture concentration dry weight}$ .

(H) **Remediation and decontamination.** If a final harvest batch or final production batch fails heavy metal testing, that batch shall not be remediated or decontaminated and must be disposed of in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules. The Authority may report to the Oklahoma Department of Environmental Quality all test results showing samples failing heavy metals testing.

(5) **Pesticide residue.** ~~Harvest~~ Final harvest batch samples and final production batch samples shall be tested for pesticide analytes in accordance with the following:

(A) **Allowable thresholds.** Samples shall be tested for the following pesticide analytes and shall be less than (<) the allowable threshold, in parts per million (ppm), listed below:

(i) ~~Abamectin (B1a & B1b) < 0.5 ppm;~~ Testing for the following pesticide analytes and allowable thresholds shall be required:

(I) Abamectin (B1a & B1b) < 0.5 ppm;

(II) Azoxystrobin < 0.2 ppm;

(III) Bifenazate < 0.2 ppm;

(IV) Etoxazole < 0.2 ppm;

(V) Imazalil < 0.2 ppm;

(VI) Imidacloprid < 0.4 ppm;

(VII) Malathion < 0.2 ppm;

(VIII) Myclobutanil < 0.2 ppm;

(IX) Permethrins (cis & trans) < 0.2 ppm;

(X) Spinosad (mixture of A and D) < 0.2 ppm;

(XI) Spiromesifen < 0.2 ppm;

(XII) Spirotetramat < 0.2 ppm; and

(XIII) Tebuconazole < 0.4 ppm.

(ii) Azoxystrobin < 0.2 ppm;

(iii) Bifenazate < 0.2 ppm;

(iv) Etoxazole < 0.2 ppm;

(v) Imazalil < 0.2 ppm;

(vi) Imidacloprid < 0.4 ppm;

(vii) Malathion < 0.2 ppm;

(viii) Myclobutanil < 0.2 ppm;

(ix) Permethrins (cis & trans) < 0.2 ppm;

(x) Spinosad (mixture of A and D) < 0.2 ppm;

(xi) Spiromesifen < 0.2 ppm;

(xii) Spirotetramat < 0.2 ppm; and

(xiii) Tebuconazole < 0.4 ppm.

(B) **Instrumentation.** For pesticide analyte testing, laboratories shall use any combination of the following: LC-MS/MS with ESI, or LC-MS/MS with APCI, or Gas Chromatography Tandem Mass Spectrometry (GC-MS/MS).

(C) **Methodologies.** The method employed by a testing laboratory must pass a matrix proficiency test as required by the Authority. The Upon operational status of the Authority's Quality Assurance Laboratory, the Authority will conduct the matrix proficiency test and will supply medical marijuana samples with known analyte concentration values. Passing values must be within plus or minus two and a half on a standard deviation index ( $\pm 2.5$  SDI).

(D) **Sample preparation.** Sample must weigh greater than or equal to five tenths of a gram ( $\geq 0.5$  g). Sample preparation solvents must be LC-MS grade. Internal standards must be used for all analytes. Solid form samples shall be homogenized by blending, using a food processor or similar apparatus, or cryogrinding. Liquid form samples shall be homogenized by stirring. Analytes shall be extracted from the sample using the following techniques: solid-liquid extraction or solid phase extraction.

(E) **Laboratory quality control (LQC) requirements.**

- (i) **LQC samples.** The following LQC samples must be run with each analytic run, and repeated every twenty (20) samples in an analytic run and must include:
- (I) A method blank with a resulting value that is less than or equal to the limit of quantification ( $\leq$  LOQ);
  - (II) A laboratory control sample (LCS) shall be spiked at or near the allowable thresholds for all required analytes to be reported and shall be determined with the correction factor applied. The LCS shall be carried through preparation and analysis as if it were a sample. A percent recovery calculation will be performed using the following mathematical formula: the resulting LCS concentration shall be divided by the known analyte concentration, which will then be multiplied by one hundred [(LCS concentration / known analyte concentration) \* 100]. If the continuing calibration verification (CCV) and LCS are the same material, then the LCS acceptable limit shall be plus or minus thirty percent ( $\pm 30\%$ ). If the CCV and LCS are different material, then the laboratory shall establish the ninety-nine percent (99%) confidence interval for control performance for each analyte. If insufficient historical data exists to establish the ninety-nine percent (99%) confidence interval, the laboratory shall use plus or minus forty percent ( $\pm 40\%$ ) as an interim limit. In no case shall the acceptable limit exceed forty percent (40%). If the LCS results fall outside of the acceptance limits, then a testing laboratory cannot verify that it is able to acceptably perform the analysis in a clean matrix. A failing LCS may be re-analyzed once. If the results of the re-analysis also fall outside of the acceptance limits, then all samples associated with the LCS must be re-prepared and re-analyzed, along with all other appropriate analysis batch QC samples;
  - (III) A matrix spike with a recovery greater than or equal to seventy percent ( $\geq 70\%$ ) and less than or equal to one hundred thirty percent ( $\leq 130\%$ ) of expected values;
  - (IV) A matrix spike duplicate that results in a relative percent difference that is less than or equal to thirty percent ( $RPD \leq 30\%$ ) for all pesticide residue analytes resulting in concentrations greater than ( $>$ ) the LOQ; and
  - (V) Continuing calibration verification (CCV) with a recovery greater than or equal to seventy percent ( $\geq 70\%$ ) and less than or equal to one hundred and thirty percent ( $\leq 130\%$ ) of expected values. A CCV sample is required at the beginning of an analytic run, every twenty (20) samples, and at the end of the run.
- (ii) **Instrument QC.** New calibrations must be accurately verified using second source certified reference materials (CRM) or a second preparation targeting the lower twenty-five percent (25%) of the calibration curve. Recoveries must be greater than or equal to seventy percent ( $\geq 70\%$ ) and less than or equal to one hundred and thirty percent ( $\leq 130\%$ ) of expected values.
- (F) **Calibration criteria.** Calibrations shall include the following requirements:
- (i) Testing laboratories may use commercially available CRM calibration standards or those prepared by the laboratory. Commercially available calibration standards shall only be used according to the manufacturer's instructions. All calibration standards shall be used before their date of expiration;
  - (ii) Data that is above the highest retained calibrator shall not be reported without qualification;
  - (iii) ~~Gravimetric dilution shall be used to determine dilution factors for standards and shall be reported in grams per gram (g/g);~~
  - ~~(iv)~~ Matrix matching or a surrogate matrix shall be used in calibration standards; and
  - ~~(v)~~(iv). Internal standards with a correction factor that is greater than or equal to fifty percent ( $\geq 50\%$ ) and less than or equal to two hundred percent ( $\leq 200\%$ );
  - ~~(vi)~~(v). Five (5) levels of linear or weighted linear regression, or six (6) levels of quadratic regression;
  - ~~(vii)~~(vi). A coefficient of determination that is greater than or equal to ninety-nine hundredths ( $R^2 \geq 0.99$ ) and a relative standard error that is less than thirty percent ( $RSE < 30\%$ ); and
  - ~~(viii)~~(vii). The calibration curve shall not be manipulated so that it artificially passes through zero (0).

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(G) **Reporting results.** Pesticide analytes shall be reported to three (3) significant figures, using the unit parts per million. Samples that require moisture analysis shall be reported on a dry weight basis as determined by the following equation: the moisture concentration of the sample as it was received, divided by the percent moisture of the sample subtracted from one hundred, multiplied by one hundred, equals the corrected moisture concentration dry weight  $\left( \left( \frac{\text{"As received" concentration}}{100 - \% \text{ moisture}} \right) \times 100 = \text{corrected moisture concentration dry weight} \right)$ .

(H) **Positive identification.** Positive identification of pesticide analytes using LC-MS/MS shall be deemed accurate only if there is a qualifier ion in transition; and the peak area ratio (quantitation transition/qualification transition) of the samples is within plus or minus fifty percent ( $\pm 50\%$ ) of the peak area ratio (quantitation transition/qualification transition) of the calibrator.

(I) **Remediation and decontamination.** If a final harvest batch or final production batch fails pesticide testing, that batch shall not be remediated or decontaminated and must be disposed of in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules. The Authority may report to the Oklahoma Department of Agriculture, Food, and Forestry all test results showing samples failing pesticide testing.

(6) **THC and cannabinoid concentration.** ~~Harvest~~ Final harvest batch samples and final production batch samples shall be tested for THC and cannabinoid concentration in accordance with the following:

(A) **Cannabinoid analytes.** Samples shall be tested for cannabinoid analytes including, but not limited to, the following:

- (i) Cannabichromene (CBC);
- (ii) Cannabidiol (CBD);
- (iii) Cannabidiol acid (CBDA);
- (iv) Cannabigerol (CBG);
- (v) Cannabigerolic acid (CBGA);
- (vi) Cannabinol (CBN);
- (vii) Delta-8-tetrahydrocannabinol ( $\Delta$ -8-THC);
- (viii) Delta-9-tetrahydrocannabinol ( $\Delta$ -9-THC);
- (ix) Tetrahydrocannabinolic acid (THCA);
- (x) Tetrahydrocannabivarin (THCV); and
- (xi) Tetrahydrocannabivarinic acid (THCVA).

(B) **Total cannabinoid concentrations.** Samples shall be tested for total cannabinoid analyte concentrations in accordance with the following:

(i) Total  $\Delta$ -9-THC concentration shall be determined by combining the THCA and  $\Delta$ -9-THC concentrations using the following calculation: the THCA concentration as expressed in milligrams per gram multiplied by ~~the conversion factor listed in the subsections below~~ multiplied by eight hundred and seventy-seven thousandths plus the  $\Delta$ -9-THC concentration expressed in milligrams per gram is equal to the total  $\Delta$ -9-THC concentration as expressed in milligrams per gram  $[(\text{THCA concentration (mg/g)} \times \text{conversion factor}) + \Delta\text{-9-THC concentration (mg/g)} = \text{total } \Delta\text{-9-THC concentration (mg/g)}]$ ; and

~~(I) For CBD and CBDA use a conversion factor of eight hundred and seventy-seven thousandths (0.877).~~

~~(II) For CBGA and CBGA use a conversion factor of eight hundred and seventy-eight thousandths (0.878).~~

~~(III) For THCV and THCVA use a conversion factor of eight hundred and sixty-seven thousandths (0.867).~~

(ii) When the acidic form and the decarboxylated form of a cannabinoid are both detected, the total concentration for that cannabinoid shall be determined using the following calculation: the concentration of the cannabinoid's acidic form, expressed in milligrams per gram, multiplied by ~~eight hundred and seventy-seven thousandths~~ the conversion factor listed in the subsections below plus the concentration of the decarboxylated form, expressed in milligrams per gram equals the total concentration, as expressed in milligrams per gram, for that cannabinoid.  $[(\text{acidic form [cannabinoid] concentration (mg/g)} \times \text{conversion factor listed below}) + \text{decarboxylated form [cannabinoid] concentration (mg/g)} = \text{total [cannabinoid] concentration (mg/g)}]$ .

(I) For CBD and CBDA use a conversion factor of eight hundred and seventy-seven thousandths (0.877).

(II) For CBG and CBGA use a conversion factor of eight hundred and seventy-eight thousandths (0.878).

(III) For THCV and THCVA use a conversion factor of eight hundred and sixty-seven thousandths (0.867).

(C) **Instrumentation.** For THC and cannabinoid concentration testing, laboratories shall use Liquid Chromatography Diode Array Detection (LC-DAD), LC-MS or Liquid Chromatography Ultraviolet (LC-UV).

(D) **Methodologies.** The method employed by a testing laboratory must pass a matrix proficiency test as required by the Authority. ~~The~~ Upon operational status of the Authority's Quality Assurance Laboratory, the Authority will conduct the matrix proficiency test and will supply medical marijuana samples with known analyte concentration values. Passing values must be within plus or minus two and a half on a standard deviation index ( $\pm 2.5$  SDI).

(E) **Laboratory quality control (LQC) requirements.**

(i) **LQC samples.** The following LQC samples must be run with each analytic run, and repeated every twenty (20) samples in an analytic run and must include:

(I) A method blank with a resulting value that is less than or equal to the limit of quantification ( $\leq$  LOQ);

(II) A laboratory control sample (LCS) shall be spiked ~~at or near the allowable thresholds for all required analytes to be reported~~ and shall be determined with the correction factor applied. The LCS shall be carried through preparation and analysis as if it were a sample. A percent recovery calculation will be performed using the following mathematical formula: the resulting LCS concentration shall be divided by the known analyte concentration, which will then be multiplied by one hundred [(LCS concentration / known analyte concentration) \* 100]. If the continuing calibration verification (CCV) and LCS are the same material, then the LCS acceptable limit shall be plus or minus thirty percent ( $\pm 30\%$ ). If the CCV and LCS are different material, then the laboratory shall establish the ninety-nine percent (99%) confidence interval for control performance for each analyte. If insufficient historical data exists to establish the ninety-nine percent (99%) confidence interval, the laboratory shall use plus or minus forty percent ( $\pm 40\%$ ) as an interim limit. In no case shall the acceptable limit exceed forty percent (40%). If the LCS results fall outside of the acceptance limits, then a testing laboratory cannot verify that it is able to acceptably perform the analysis in a clean matrix. A failing LCS may be re-analyzed once. If the results of the re-analysis also fall outside of the acceptance limits, then all samples associated with the LCS must be re-prepared and re-analyzed, along with all other appropriate analysis batch QC samples;

(III) A matrix spike with a recovery greater than or equal to eighty percent ( $\geq 80\%$ ) and less than or equal to one hundred and twenty percent ( $\leq 120\%$ ) of expected values;

(IV) A matrix spike duplicate that results in a relative percent difference that is less than or equal to twenty percent ( $RPD \leq 20\%$ ) for all cannabinoid analytes resulting in concentrations greater than ( $>$ ) the LOQ; and

(V) Continuing calibration verification (CCV) with a recovery greater than or equal to eighty-five percent ( $\geq 85\%$ ) and less than or equal to one hundred and fifteen percent ( $\leq 115\%$ ) of expected values. A CCV sample is required at the beginning of an analytic run, every twenty (20) samples, and at the end of the run.

(ii) **Instrument QC.** New calibrations must be accurately verified using second source certified reference materials (CRM) or a second preparation. Recoveries must be greater than or equal to eighty-five percent ( $\geq 85\%$ ) and less than or equal to one hundred and fifteen percent ( $\leq 115\%$ ) of expected values.

(F) **Calibration criteria.** Calibrations shall include the following requirements:

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- (i) Testing laboratories may use commercially available CRM calibration standards or those prepared by the laboratory. Commercially available calibration standards shall only be used according to the manufacturer's instructions. All calibration standards shall be used before their date of expiration;
- (ii) Data that is above the highest retained calibrator shall not be reported without qualification;
- (iii) ~~Gravimetric dilution shall be used to determine dilution factors for standards and shall be reported in grams per gram (g/g);~~
- ~~(iv)~~ Five (5) levels of linear or weighted linear regression;
- ~~(v)~~ (iv) A coefficient of determination that is greater than or equal to nine hundred and ninety-five thousandths ( $R^2 \geq 0.995$ ) and a relative standard error that is less than twenty-five percent ( $RSE < 25\%$ ).

(G) **Reporting results.** Cannabinoid analytes shall be reported to three (3) significant figures. Samples that require moisture analysis shall be reported on a dry weight basis as determined by the following equation: the moisture concentration of the sample as it was received, divided by the percent moisture of the sample subtracted from one hundred, multiplied by one hundred, equals the corrected moisture concentration dry weight  $(["As received" \text{ concentration}] / (100 - \% \text{ moisture})) \times 100 = \text{corrected moisture concentration dry weight}$ .

(H) **Peak integration.** Integration type and QC integration must correspond to the calibration integration. Peaks shall be integrated from baseline to baseline and non-resolved peaks shall be split peak at the valley minimum.

(I) **Total  $\Delta$ -9-THC concentration acceptance criteria.** If a sample of medical marijuana flower has a total  $\Delta$ -9-THC concentration of greater than or equal to thirty percent ( $\geq 30\%$ ) or if a distillate sample has a total  $\Delta$ -9-THC concentration of greater than or equal to ninety percent ( $\geq 90\%$ ), the following requirements shall apply before those results are reported:

- (i) For medical marijuana flower with a total  $\Delta$ -9-THC concentration that is:
  - (I) Greater than or equal to thirty percent ( $\geq 30\%$ ) total  $\Delta$ -9-THC concentration, and less than thirty-two and five tenths percent ( $< 32.5\%$ ) total  $\Delta$ -9-THC concentration, it must be retested using the primary sample. If the retest results are within plus or minus fifteen percent ( $\pm 15\%$ ) of the original results, the higher of the two results shall be reported. If the retest results are not within plus or minus fifteen percent ( $\pm 15\%$ ) of the original results, a third test must be performed. A median value of all three (3) test results shall be reported. If retesting under this subsection results in a value greater than or equal to thirty-two and five tenths percent ( $\geq 32.5\%$ ) total  $\Delta$ -9-THC concentration, results may not be reported under this subunit and (II) of this unit applies; or
  - (II) ~~Greater~~ Upon operational status of the Authority's Quality Assurance Laboratory, a result that is greater than or equal to thirty-two and five tenths percent ( $\geq 32.5\%$ )  $\Delta$ -9-THC concentration, the Authority will collect a new primary and reserve sample from the source batch. The Authority will conduct testing for total  $\Delta$ -9-THC concentration using the original reserve sample and the new primary sample. If both retest results are within plus or minus fifteen percent ( $\pm 15\%$ ) original results, the original results shall be reported. If the retest on the original reserve sample results in a value that is not within plus or minus fifteen percent ( $\pm 15\%$ ) of the original concentration, the Authority may refer the matter for further investigation. If the retest on the new primary sample results in a value that is not within plus or minus fifteen percent ( $\pm 15\%$ ) of the original results, the testing laboratory must retest using the new reserve sample and report those results. Testing values generated by the Authority shall not be reported in place of testing laboratory results.
- (ii) For medical marijuana distillate with a total  $\Delta$ -9-THC concentration that is:
  - (I) ~~Greater~~ Upon operational status of the Authority's Quality Assurance Laboratory, a result that is greater than or equal to ninety percent ( $\geq 90\%$ ) and less than ninety-five percent ( $< 95\%$ ) total  $\Delta$ -9-THC concentration, it must be retested using the primary sample. If the retest results are within plus or minus ten percent ( $\pm 10\%$ ) of the original results, the higher of the two results shall be reported. If the retest results are not within plus or minus ten percent ( $\pm 10\%$ ) of the original results, a third test



must be performed. A median value of all three (3) test results shall be reported. If retesting under this subsection results in a value that is greater than or equal to ninety-five percent ( $\geq 95\%$ ) total  $\Delta$ -9-THC concentration, results may not be reported under this subunit and (II) of this unit applies; or

(II) Greater than or equal to ninety-five percent ( $\geq 95\%$ )  $\Delta$ -9-THC concentration, the Authority will collect a new primary and reserve sample from the source batch. The Authority will conduct testing for total THC concentration using the original reserve sample and the new primary sample. If both retest results are within plus or minus ten percent ( $\pm 10\%$ ) original results, the original results shall be reported. If the retest on the original reserve sample results in a value that is not within plus or minus ten percent ( $\pm 10\%$ ) of the original concentration, the Authority may refer the matter for further investigation. If the retest on the new primary sample results in a value that is not within plus or minus ten percent ( $\pm 10\%$ ) of the original results, the testing laboratory must retest using the new reserve sample and report those results. Testing values generated by the Authority shall not be reported in place of testing laboratory results.

(7) **Terpenoid type and concentration.** ~~Harvest~~ Final harvest batch samples and final production batch samples shall be tested for terpenoid type and concentration in accordance with the following:

(A) **Terpene analytes.** Samples shall be tested for terpene analytes including, but not limited to, the following:

- (i) alpha-Bisabolol ( $\alpha$ -Bisabolol);
- (ii) beta-Caryophyllene ( $\beta$ -Caryophyllene);
- (iii) Caryophyllene oxide;
- (iv) Eucalyptol;
- (v) alpha-Humulene ( $\alpha$ -Humulene);
- (vi) Limonene;
- (vii) Linalool;
- (viii) beta-Myrcene ( $\beta$ -Myrcene);
- (ix) cis-Nerolidol;
- (x) trans-Nerolidol;
- (xi) alpha-Pinene ( $\alpha$ -Pinene);
- (xii) beta-Pinene ( $\beta$ -Pinene); and
- (xiii) alpha-Terpinene ( $\alpha$ -Terpinene).

(B) **Instrumentation.** For terpene analyte testing, laboratories shall use GC-MS or GC-FID.

(C) **Sample preparation.** Sample must weigh greater than or equal to two tenths of a gram ( $\geq 0.2$  g).

(D) **Methodologies.** The method employed by a testing laboratory must pass a matrix proficiency test as required by the Authority. ~~The~~ Upon operational status of the Authority's Quality Assurance Laboratory, the Authority will conduct the matrix proficiency test and will supply medical marijuana samples with known analyte concentration values. Passing values must be within plus or minus two and a half on a standard deviation index ( $\pm 2.5$  SDI).

(E) **Laboratory quality control (LQC) requirements.**

(i) **LQC samples.** The following LQC samples must be run with each analytic run, and repeated every twenty (20) samples in an analytic run and must include:

(I) A method blank with a resulting value that is less than or equal to the limit of quantification ( $\leq$  LOQ);

(II) A laboratory control sample (LCS) shall be spiked at or near the allowable thresholds for all required analytes to be reported and shall be determined with the correction factor applied. The LCS shall be carried through preparation and analysis as if it were a sample. A percent recovery calculation will be performed using the following mathematical formula: the resulting LCS concentration shall be divided by the known analyte concentration, which will then be multiplied by one hundred [(LCS concentration / known analyte concentration) \* 100]. If the continuing calibration verification (CCV) and LCS are the same material, then the LCS acceptable limit shall be plus or minus thirty percent ( $\pm 30\%$ ). If the CCV

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and LCS are different material, then the laboratory shall establish the ninety-nine percent (99%) confidence interval for control performance for each analyte. If insufficient historical data exists to establish the ninety-nine percent (99%) confidence interval, the laboratory shall use plus or minus forty percent ( $\pm 40\%$ ) as an interim limit. In no case shall the acceptable limit exceed forty percent (40%). If the LCS results fall outside of the acceptance limits, then a testing laboratory cannot verify that it is able to acceptably perform the analysis in a clean matrix. A failing LCS may be re-analyzed once. If the results of the re-analysis also fall outside of the acceptance limits, then all samples associated with the LCS must be re-prepared and re-analyzed, along with all other appropriate analysis batch QC samples;

(III) A matrix spike with a recovery greater than or equal to eighty percent ( $\geq 80\%$ ) and less than or equal to one hundred and twenty percent ( $\leq 120\%$ ) of expected values;

(IV) A matrix spike duplicate that results in a relative percent difference that is less than or equal to twenty percent ( $RPD \leq 20\%$ ) for all terpenoid analytes resulting in concentrations greater than ( $>$ ) the LOQ; and

(V) Continuing calibration verification (CCV) with a recovery greater than or equal to eighty-five percent ( $\geq 85\%$ ) and less than or equal to one hundred and fifteen percent ( $\leq 115\%$ ) of expected values. A CCV sample is required at the beginning of an analytic run, every twenty (20) samples, and at the end of the run.

(ii) **Instrument QC.** New calibrations must be accurately verified using second source certified reference materials (CRM) or a second preparation that targets the lower twenty-five percent (25%) of the calibration curve. Recoveries must be greater than or equal to eighty-five percent ( $\geq 85\%$ ) and less than or equal to one hundred and fifteen percent ( $\leq 115\%$ ) of expected values.

(F) **Calibration criteria.** Calibrations shall include the following requirements:

(i) Testing laboratories may use commercially available CRM calibration standards or those prepared by the laboratory. Commercially available calibration standards shall only be used according to the manufacturer's instructions. All calibration standards shall be used before their date of expiration;

(ii) Data that is above the highest retained calibrator shall not be reported without qualification;

~~(iii) Gravimetric dilution shall be used to determine dilution factors for standards and shall be reported in grams per gram (g/g);~~

~~(iv)~~ Five (5) levels of linear regression or six (6) levels of quadratic regression;

~~(v)~~ ~~(iv)~~ A coefficient of determination that is greater than or equal to ninety-eight hundredths ( $R^2 \geq 0.98$ ) for linear regression. For quadratic regression, a coefficient of determination that is greater than or equal to ninety-nine hundredths ( $R^2 \geq 0.99$ ) is required; and

~~(iv)~~ ~~(v)~~ The calibration curve shall not be manipulated so that it artificially passes through zero (0).

(G) **Reporting results.** Terpenoid analytes shall be reported to three (3) significant figures. Samples that require moisture analysis shall be reported on a dry weight basis as determined by the following equation: the moisture concentration of the sample as it was received, divided by the percent moisture of the sample subtracted from one hundred, multiplied by one hundred, equals the corrected moisture concentration dry weight  $[(\text{"As received" concentration}) / (100 - \% \text{ moisture})] \times 100 = \text{corrected moisture concentration dry weight}$ .

~~(H) Positive identification. The standard addition method or analyzing the sample on a secondary column shall be used to demonstrate analyte recovery for GC-FID methods.~~

Positive identification of a terpenoid analyte using GC-MS requires the presence of the target ions and all qualifier ions.

(8) **Foreign materials and filth.** ~~Harvest~~ Final harvest batch samples and final production batch samples shall be tested for foreign materials and filth in accordance with the following:

(A) **Allowable thresholds.** Foreign materials and filth are contaminants that include any biological or chemical agent, foreign matter, or other substances not intentionally added to medical marijuana or medical marijuana products that may compromise safety or suitability. Samples shall be tested for foreign material and filth contaminants in accordance with the following:

- (i) **Organic contaminants.** Foreign organic material shall be less than or equal to two percent ( $\leq 2\%$ ) by weight of each sample; and
- (ii) **Inorganic contaminants.** Inorganic material, including but not limited to plastic, glass, and metal shavings, shall not be present in a sample.

(B) **Methodologies.** The method employed by a testing laboratory must pass a matrix proficiency test as required by the Authority. ~~The~~ Upon operational status of the Authority's Quality Assurance Laboratory, the Authority will conduct the matrix proficiency test and will supply medical marijuana samples with known analyte concentration values. Passing values must be within plus or minus two and a half on a standard deviation index ( $\pm 2.5$  SDI).

(C) **Reporting results.** Results shall be reported as passing or failing.

~~(D) **Remediation.** A final harvest batch of medical marijuana flower or of medical marijuana trim that fails foreign materials and filth testing may be remediated into a solvent-based concentrate. All other types of final harvest batches and final production batches that fail foreign materials and filth testing shall not be remediated. A final harvest batch, that is remediated into a final production batch, must be fully tested and successfully pass all the analytes required under this Subsection. If that batch fails to pass these testing requirements, it must be disposed of in accordance with the Waste Management Act, 63 O.S. § 427a et seq. and these Rules.~~

~~(E) **Decontamination.** If a final harvest batch or final production batch fails foreign materials and filth testing, that batch may decontaminated. A final harvest batch or final production batch that is decontaminated in accordance with this Subsection must be fully tested and successfully pass all the analytes required under this Subchapter. A decontaminated final harvest batch or production batch that fails to pass these testing requirements must be disposed of in accordance with the Waste Management Act, 63 O.S. § 427a et seq. and these Rules.~~

(9) **Water activity and moisture content.** ~~Harvest~~ Final harvest batch samples shall be tested to determine the level of water activity and the percentage of moisture content in accordance with this subsection. This subsection shall not apply to harvest batches that are fresh frozen.

(A) **Sample preparation.** Sample must weigh greater than or equal to five tenths of a gram ( $\geq 0.5$  g).

(B) **Water activity.** Samples shall be tested to determine the level of water activity in accordance with the following:

- (i) **Allowable thresholds.** A final harvest batch sample shall be deemed to have passed water activity testing if the water activity is less than or equal to sixty-five hundredths ( $\leq 0.65$   $a_w$ ).
- (ii) **Instrumentation.** Testing laboratories shall use a water activity calibrated measurement system capable of a measurement resolution of one thousandth water activity ( $0.001$   $a_w$ ), with an accuracy of plus or minus five thousandths water activity ( $\pm 0.005$   $a_w$ ), with a measurement range of at least four tenths to eight tenths water activity ( $0.40$  to  $0.80$   $a_w$ ), and capable of a temperature measurement resolution of one tenth degree Celsius ( $0.1$   $^{\circ}\text{C}$ ) with an accuracy of one tenth degree Celsius ( $0.1$   $^{\circ}\text{C}$ ).
- (iii) **Methodologies.** The method employed by a testing laboratory must pass a matrix proficiency test as required by the Authority. ~~The~~ Upon operational status of the Authority's Quality Assurance Laboratory, the Authority will conduct the matrix proficiency test and will supply medical marijuana samples with known analyte concentration values. Passing values must be within plus or minus two and a half on a standard deviation index ( $\pm 2.5$  SDI).
- (iv) **Laboratory quality control (LQC) samples.** The following LQC samples must be run once per day in an analytic run and must include:
  - (I) A sample replicate that results in a relative percent difference that is less than or equal to five percent ( $\text{RPD} \leq 5\%$ ); and
  - (II) Continuing calibration verification (CCV) with a recovery greater than or equal to ninety-five percent ( $\geq 95\%$ ) and less than or equal to one hundred and five percent ( $\leq 105\%$ ) of expected values.
- (v) **Reporting results.** Results shall be reported to two (2) decimal places, using the unit water activity ( $a_w$ ).

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(C) **Moisture content.** Samples shall be tested to determine the percentage (%) of moisture content in accordance with the following:

- (i) **Allowable thresholds.** A final harvest batch sample shall be deemed to have passed moisture content testing if the moisture content is less than or equal to fifteen percent ( $\leq 15.0\%$ ) of the dry weight of the sample.
- (ii) **Instrumentation.** To test the moisture content of a sample, laboratories shall use an oven for the loss on drying technique, a moisture analyzer, or the Karl Fischer technique.
- (iii) **Methodologies.** The method employed by a testing laboratory must pass a matrix proficiency test as required by the Authority. ~~The~~ Upon operational status of the Authority's Quality Assurance Laboratory, the Authority will conduct the matrix proficiency test and will supply medical marijuana samples with known analyte concentration values. Passing values must be within plus or minus two and a half on a standard deviation index ( $\pm 2.5$  SDI).
- (iv) **Laboratory quality control (LQC) samples when using the loss on drying technique or a moisture analyzer.** The following LQC samples shall be run once per day in an analytic run and shall include:
  - (I) A laboratory duplicate sample that results in a relative percent difference that is less than or equal to twenty percent ( $RPD \leq 20\%$ ); and
  - (II) A continuing calibration verification (CCV) to verify the laboratory balance used by using a calibrated weight set, result must be less than or equal to one tenth percent ( $\leq 0.1\%$ ) difference from assigned mass.
- (v) **Laboratory quality control (LQC) samples** when using the Karl Fischer technique. The following LQC samples shall be run once per day in an analytic run and shall include:
  - (I) A method blank with a resulting value that is less than or equal to the limit of quantification ( $\leq LOQ$ );
  - (II) A laboratory duplicate sample that results in a relative percent difference that is less than or equal to ten percent ( $RPD \leq 10\%$ );
  - (III) A continuing calibration verification (CCV) that shows that the water standard is within the stated criteria for the standard used; and
  - (IV) Instrument QC, titer shall be determined following the manufacturer's instructions and recommendations.
- (vi) **Reporting results.** Results shall be reported to three (3) significant figures indicating the percentage of moisture content by dry weight in the sample.

(D) **Remediation.** A final harvest batch of medical marijuana flower or of medical marijuana trim that fails water activity or moisture content testing may be remediated into a solvent-based concentrate. All other types of final harvest batches that fail moisture content testing shall not be remediated. A final harvest batch, that is remediated into a final production batch, must be fully tested and successfully pass all the analytes required under this Subsection. If that batch fails to pass these testing requirements, it must be disposed of in accordance with the Waste Management Act, 63 O.S. § 427a et seq. and these Rules.

(E) **Decontamination.** A final harvest batch that fails water activity or moisture content testing may be further dried and cured by the grower. A final harvest batch that is decontaminated as described in this section must be fully tested and successfully pass all the analytes required under this Subchapter. A decontaminated final harvest batch that fails to pass these testing requirements must be disposed of in accordance with the Waste Management Act, 63 O.S. § 427a et seq. and these Rules.

(j) **Retesting.** If a final harvest batch or final production batch fails any analyte testing, the final harvest batch or final production batch may be retested in accordance with the following:

- (1) Any retesting of a reserve sample requested by the originating licensee must be requested within thirty (30) days. The reserve sample shall be used first for all retesting. If there is not enough reserve sample for any additional tests required under this Subsection, a new sample may be collected. The new sample must be a representative sample of the batch and shall be gathered in accordance with these Rules.
- (2) The retest may be limited to testing for the category of analyte that has failed testing. For example, if a primary sample fails pesticide testing, testing of the reserve sample may be limited to pesticide testing.
- (3) If the first retest fails testing for the same analyte that failed the initial test, the final harvest batch or final production batch must either be remediated or decontaminated in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules, or must be disposed of in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq. and these

Rules.

(4) If the first retest(s) passes testing, a second retest shall be conducted to confirm the final product does not exceed allowable thresholds and is safe to consume. If the second retest also passes for the same analyte, the batch may be processed, sold, or otherwise transferred. If the second retest fails for the same analyte that failed the initial test, the final harvest batch or final production batch must either be remediated or decontaminated in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules, or must be disposed of in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq. and these Rules.

(5) If during the first retest, a final harvest batch or final production batch fails testing for an analyte that passed initial testing, the final harvest batch or final production batch must pass testing for that analyte during the second retest.

(6) Any final harvest batch or final production batch that is retested and does not have two (2) successful tests for each analyte must either be remediated or decontaminated in accordance with the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., and these Rules, or must be disposed of in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq. and these Rules.

(7) At the request of the grower or processor, the Authority may authorize a re-test to validate a failed test result on a case-by-case basis. All costs of the re-test will be borne by the grower or the processor requesting the re-test.

**(k) Remediation, decontamination, and retesting, general. Growers and processors must, as applicable:**

(1) If a sample fails testing under this Subchapter, the harvest batch or production batch from which the sample was taken: Have detailed procedures for remediation and decontamination processes.

(A) May be remediated or decontaminated in accordance with these Rules; or

(B) If it is not or cannot be remediated or decontaminated under these Rules, it must be disposed of in accordance with the Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq. and these Rules.

(2) A harvest batch or production batch that has been remediated or decontaminated must be fully tested and successfully pass all the analyses required under this Subchapter and as set forth in Appendix F. If the harvest batch or production batch fails to pass testing after remediation or decontamination, the harvest batch or production batch must be either disposed of in accordance with the Waste Management Act, 63 O.S. § 427a et seq. and these Rules or retested in accordance with OAC 442-10-8-1(j) with the following exceptions: Document all re-sampling, re-testing, decontamination, remediation, and/or disposal of marijuana or marijuana-derived products that fail laboratory testing under these Rules.

(A) Any harvest batch that has been decontaminated and fails retesting for microbials must be either remediated or disposed of in accordance with these Rules.

(B) Any production batch that has been decontaminated and fails retesting shall not be further decontaminated.

(3) Growers and processors may remediate failed harvest batches or production batches providing the remediation method does not impart any toxic or deleterious substance to the usable medical marijuana or medical marijuana products. Any remediation methods or remediation solvents used on medical marijuana or medical marijuana products must be disclosed to the testing laboratory. Prior to samples being taken, inform the laboratory that the final harvest batch or final production batch has failed testing and is being re-tested after undergoing remediation or decontamination.

(4) Growers and processors must, as applicable: Prior to retesting, provide to the testing laboratory a document specifying how the final product was remediated or decontaminated. This document shall be retained by the laboratory together with other testing documentation.

(A) Have detailed procedures for remediation and decontamination processes to remove microbial contaminants and foreign materials, and for reducing the concentration of solvents.

(B) Prior to retesting, provide to the testing laboratory a document specifying how the product was remediated or decontaminated. This document shall be retained by the laboratory together with other testing documentation.

(C) Document all re-sampling, re-testing, decontamination, remediation, and/or disposal of marijuana or marijuana-derived products that fail laboratory testing under these Rules.

(5) At the request of the grower or processor, the Authority may authorize a re-test to validate a failed test result on a case-by-case basis. All costs of the re-test will be borne by the grower or the processor requesting the re-test.

(6) Growers and processors must inform a laboratory prior to samples being taken that the harvest batch or production batch has failed testing and is being re-tested after undergoing remediation or decontamination.

**(l) Remediation, decontamination, and retesting, microbial testing:**

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(1) If a sample from a harvest batch or production batch fails microbial testing, the batch may be used to make a cannabinoid concentrate or extract if the processing method effectively decontaminates the batch.

(2) A grower may only sell or otherwise transfer a harvest batch that has failed microbial testing to a processor and only for the purpose of remediation. The processor shall either remediate the harvest batch by processing it into a solvent-based concentrate or shall dispose of the batch in accordance with these Rules. Any production batches resulting from the remediation must be tested in accordance with OAC 442:10-8-1(k). Processors shall not sell any medical marijuana from any harvest batch that has failed testing. Harvest batches that have failed microbial testing may be sent to a processor for decontamination of microbial contaminants and returned to the grower, provided the harvest batch was not processed into a solvent-based concentrate.

(3) If a sample from a batch of a cannabinoid concentrate or extract exceeds a microbial analyte allowable threshold, the batch may be further processed, if the processing method effectively decontaminates the batch, such as a method using a hydrocarbon-based solvent or a CO2 closed-loop system.

(4) A batch that is remediated or decontaminated in accordance with this Subsection of this section must be sampled and tested in accordance with these rules in the following manner:

(A) A batch that has failed microbial testing at a testing laboratory, that is decontaminated in accordance with this Subsection must be tested for microbials, heavy metals, THC and cannabinoid concentration, terpenoid type and concentration, and must be tested for pesticide residue, foreign material and filth, and water activity and moisture content if not previously tested.

(B) A batch that has failed for microbials during a grower's inspection, that is decontaminated in accordance with this Subsection must be tested for microbials, heavy metals, pesticide residue, THC and cannabinoid concentration, terpenoid type and concentration, foreign materials and filth, and water activity and moisture content.

(C) A batch that is remediated in accordance with this Subsection by processing into a solvent based concentrate must be tested for THC and cannabinoid concentration, terpenoid type and concentration, microbials, mycotoxins, residual solvents, heavy metals, and residual pesticides.

(5) A batch that fails microbial testing after undergoing a decontamination process in accordance with subsection (1) or (2) of this section must be disposed of in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules.

## **(m) Decontamination and retesting, residual solvent testing:**

(1) If a sample from a batch fails residual solvent testing, the batch may be decontaminated using procedures that would reduce the concentration of solvents to less than the action level.

(2) A batch that is decontaminated in accordance with this section must be sampled and retested for residual solvents in accordance with these Rules.

(3) A batch that fails residual solvent testing and is not decontaminated or is decontaminated and fails retesting must be disposed of in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules.

## **(n) Decontamination and retesting, foreign materials and filth testing:**

(1) If a sample from a batch of usable marijuana fails foreign materials and filth testing, the batch from which the sample was taken may be remediated to reduce the amount of foreign materials and filth to below action levels.

(2) A batch that undergoes decontamination as described in this section must be sampled and tested in accordance with these Rules.

## **(o) Remediation, decontamination and retesting, pesticide testing:**

(1) If a sample from a batch fails residual pesticide testing, the batch may not be remediated or decontaminated and must be disposed of in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules.

(2) The Authority may report to the Oklahoma Department of Agriculture all test results showing samples failing pesticide testing.

## **(p) Remediation, decontamination and retesting, heavy metals testing:**

(1) If a sample from a batch fails heavy metals testing, the batch may not be remediated or decontaminated and must be disposed of in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules.

(2) The Authority may report to the Oklahoma Department of Environmental Quality all test results showing samples failing heavy metals testing.

**(q) Remediation, decontamination and retesting, mycotoxin testing:** If a sample from a batch fails mycotoxins testing, the batch may not be remediated or decontaminated and must be disposed of in accordance with the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules.

**(r) Decontamination and retesting, water activity and moisture content.**

- (1) If a harvest batch sample fails water activity and/or moisture content testing, the harvest batch may be further dried and cured by the grower.
- (2) A harvest batch that undergoes decontamination as described in this section must be sampled and tested in accordance with these Rules. If the harvest batch passed initial testing for residual solvents, metals, and/or pesticides, then the harvest batch does not require additional testing for those testing categories.
- (3) If a harvest batch that fails microbial testing and water activity and/or moisture content testing, the harvest batch does not need to be further dried and cured by the grower before being transferred to a processor for remediation in accordance with OAC 442:10-8-1(i).

**(s) Testing of pre-rolls, kief, shake and trim.**

- (1) **Pre-rolls.** Pre-rolls may be created in accordance with the following:

(A) **Noninfused pre-rolls.** Growers, processors and dispensaries may create noninfused pre-rolls from flower, shake, or trim collected from single harvest or multiple harvest batches. For multiple harvest batches, ~~provided all harvest batches have passed all testing requirements under this Subchapter,~~ the plant material must be homogenized into a new batch that weighs less than or equal to fifteen ( $\leq 15$ ) pounds. ~~Multiple harvest batch noninfused~~ Noninfused pre-rolls created by a grower, processor or dispensary are subject to the same testing requirements of a final harvest batch under ~~OAC 442:10-8-1(i)~~ this subsection and must successfully pass all the analytes required under this subsection prior to transfer to a licensed medical marijuana dispensary, licensed medical marijuana patient, or licensed medical marijuana caregiver. For single harvest batch noninfused pre-rolls made from flower, shake or trim that has passed full compliance testing, growers, processors, or dispensaries must conduct additional testing on the pre-rolls only for heavy metals, THC and cannabinoid concentration, and foreign materials and filth.

(B) **Infused pre-rolls.** Only processors may create infused pre-rolls. Infused pre-rolls must be tested for microbials, mycotoxins, residual solvents, heavy metals, pesticide residue, THC and cannabinoid concentration, terpenoid type and concentration, foreign material and filth, and water activity and moisture content. ~~If medical marijuana concentrate, that has previously passed residual solvent and pesticide testing, is used to infuse the pre-roll, residual solvent and pesticide testing is not required.~~

- (2) **Kief.** Growers and processors may collect kief from multiple harvest batches, ~~provided those harvest batches have passed all testing requirements under this Subchapter.~~ The kief must be homogenized into a new batch that weighs less than or equal to fifteen ( $\leq 15$ ) pounds. Kief collected by a grower or processor is subject to the same testing requirements of a final harvest batch under ~~OAC 442:10-8-1(i)~~ this subsection.

- (3) **Shake and trim.** Growers and processors may collect shake and trim from multiple harvest batches ~~provided those harvest batches have passed all testing requirements under this Subchapter.~~ The shake and trim must be homogenized into a new batch that weighs less than or equal to fifty ( $\leq 50$ ) pounds. Shake and trim collected by a grower or processor is subject to the same testing requirements of a final harvest batch under ~~OAC 442:10-8-1(i)~~ this subsection.

- (4) **Medical marijuana concentrate and medical marijuana infused products.** Medical marijuana concentrate and medical marijuana infused products, excluding infused pre-rolls, must be tested for microbials, mycotoxins, residual solvents, heavy metals, pesticide residue, THC and cannabinoid concentration, terpenoid type and concentration, and foreign material and filth. ~~If the medical marijuana product is made from medical marijuana concentrate that has previously passed pesticides, residual solvents and heavy metals testing then testing for pesticides, residual solvents and heavy metals are not required for that product. If a licensee produces both the medical marijuana concentrate and the medical marijuana infused product from that concentrate, the licensee may forgo testing the medical marijuana concentrate, provided the medical marijuana infused product successfully passes all testing requirements under OAC 442:10-8-1(i).~~

**442:10-8-2. General operating requirements and procedures [AMENDED]**

(a) **Laboratory accreditation.** All medical marijuana testing laboratories shall obtain accreditation by any accrediting entity approved by the Authority and subscribing to the International Laboratory Accreditation Cooperation ("ILAC"), prior to applying for and receiving a medical marijuana testing laboratory license. The accreditation must be from one of these entities in both chemistry and biology, or cannabis and must be specific to the procedure used in the laboratory. Renewal of any medical marijuana testing laboratory license shall be contingent upon maintaining accreditation in accordance with these Rules.

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(b) **Testing limited to scope of accreditation.** Upon accreditation, a testing laboratory shall only report test results on COAs for the testing of analytes the laboratory conducted that are within the scope of the testing laboratory's accreditation. Laboratories must notify the Authority of any change in scope of the testing laboratory's accreditation and the Authority may verify that the applicant can achieve analyte-specific testing thresholds showing applicants meet requirements stated in this section. A lab may outsource testing and report those results on a COA but must identify the testing laboratory that actually conducted the testing.

(c) **External quality control program testing.** ~~The laboratory~~ Upon operational status of the Authority's Quality Assurance Laboratory, testing laboratories shall be subject to an external quality control program administered by the Authority or its designee. Frequency of external quality control testing is to be determined by the Authority or its designee.

(1) The laboratory shall cooperate with the Authority or its designee for purposes of conducting external quality control testing. The Authority or its designee may require submission of samples from the licensed laboratory for purposes of external quality control testing.

(2) ~~The quality assurance laboratory~~ Authority or its designee shall obtain reserve samples from licensed laboratories for the purposes of external quality control testing, which shall occur at a minimum of three (3) times per year for regular monitoring. The Authority or ~~the quality assurance laboratory~~ its designee may require additional external quality control tests to ensure correction of or investigate violations of Oklahoma law and these Rules.

(3) A result outside of the target range of any analyte in an external quality control sample event shall be deemed an unsatisfactory result. Each unsatisfactory result shall be evaluated by the licensed laboratory and corrective measure identified. The evaluation and completion of corrective measures shall be documented and signed by the laboratory director. The laboratory must then demonstrate its ability to achieve the target value.

(4) More than twenty percent (20%) unsatisfactory results in any external quality control testing event shall be deemed unsuccessful participation in the external quality control program. Unsuccessful participation in external quality control testing for two (2) testing events in a row, or two (2) out of three (3) events, may result in suspension or revocation of a laboratory license.

(5) Failure to participate in any external quality control testing shall be deemed unsuccessful participation in the external quality control program.

(6) If a laboratory fails its external quality control testing for an analyte, the batch testing results since the last external quality control test for that analyte must be re-evaluated. The laboratory director shall assess and implement necessary procedures to ensure risks to public safety are mitigated following failed external quality control testing results.

(d) **Conflict of interest.** A person who is a direct beneficial owner of a licensed dispensary, commercial grower, or processor shall not be an owner of a licensed laboratory. A licensed testing laboratory shall establish policies to prevent the existence of or appearance of undue commercial, financial, or other influences that may diminish the competency, impartiality, and integrity of the testing processes or results of the laboratory. At a minimum, employees, owners, or agents of a licensed laboratory who participate in any aspect of the analysis and results of a sample are prohibited from improperly influencing the testing process, improperly manipulating data, or improperly benefiting from any ongoing financial, employment, personal, or business relationship with the medical marijuana business licensee that provided the sample. A medical marijuana testing laboratory shall not test samples for any medical marijuana business in which an owner, employee or agent of the medical marijuana testing laboratory has any form of ownership or financial interest in the medical marijuana business.

(e) **Safety standards.** Licensed laboratories must comply with Occupational Safety and Health Administration (OSHA) Standard 29 CFR § 1910.1450.

(f) **Personnel.** A licensed laboratory shall not operate unless a medical laboratory director is on site during operational hours; in his or her absence, the medical laboratory director may delegate in writing the duties and responsibilities to a qualified designee that meets all requirements of a laboratory director required by applicable Oklahoma law and these rules. Personnel of a licensed laboratory shall meet the following minimum requirements:

(1) A medical laboratory director must possess a bachelor's degree in the chemical, environmental, biological sciences, physical sciences or engineering, with at least twenty-four (24) college semester credit hours in chemistry and at least two (2) years of experience in the environmental analysis of representative inorganic and organic analytes for which the laboratory will be performing. A master's degree or doctoral degree in one of the above disciplines may be substituted for one (1) year of experience. The medical laboratory director shall be responsible for the development of and adherence to all pre-analytic, analytic, and post-analytic procedures, and the implementation of a quality system that assures reliable test results and regulatory compliance.

(2) Analysts must possess a bachelor's degree applicable to a laboratory testing environment, with a minimum of two (2) years of experience, or an associate's degree and five (5) years of applicable experience.



(3) Ancillary personnel must possess a high school diploma or equivalent.

(4) A licensed laboratory shall notify the Authority within seven (7) business days after any change of the laboratory's director occurs.

**(g) Equipment.**

(1) Equipment used for analysis must have an ~~in-sample~~in-sample Limit of Quantification (LOQ) capable of detecting quantities at or below fifty percent (50%) of the allowable analyte thresholds listed in ~~OAC 442:10-8-1(i)~~this subchapter for residual solvents, mycotoxins, and metals. Equipment used for pesticide analysis must have an in-sample limit of quantification (LOQ) capable of detecting quantities less than or equal to ( $\leq$ ) the allowable thresholds listed in OAC 442:10-8-1(i)(5) for pesticides.

(2) Equipment used for the analysis of test samples shall be adequately inspected, cleaned, and maintained. Preventive maintenance shall be carried out in accordance with the requirements and recommendations of the manufacturer. Equipment used for the generation or measurement of data shall be adequately tested and calibrated on an appropriate schedule, as applicable. Any modification or repair of an instrument shall undergo verification that it can meet the quality control requirements of these Rules.

(3) Laboratory operations shall document procedures setting forth in sufficient detail the methods and schedules to be used in the routine inspection, cleaning, maintenance, testing, and calibration of equipment used in preparation or analysis of laboratory samples, storage of samples, reagents, calibrators and controls, and shall specify, as appropriate, remedial action to be taken in the event of failure or malfunction of equipment. The procedures shall designate the personnel responsible for the performance of each operation and shall be readily accessible to all personnel who operate the equipment.

(4) Records shall be maintained of all inspection, maintenance, testing, and calibrating operations. These records shall include the date of the operation, the person who performed it, the written procedure used, and any deviations from the written procedure. All deviations must be reviewed and approved in writing by the medical laboratory director. Records shall be kept of non-routine repairs performed on equipment. Such records shall document the nature of the repair, how and when the need for the repair was discovered, and any remedial action taken in response to the repair to bring the instrument into compliance with the quality control requirements of these Rules. A written assessment of the validity of the results obtained previous to the failure must be made. Documentation of any repeat testing performed must also be maintained.

(5) Computer systems used for the analysis of samples, retention of data, sample tracking, calibration scheduling, management of reference standards, or other critical laboratory management functions shall ensure that electronic records, electronic signatures, and handwritten signatures executed to electronic records are trustworthy, reliable, and generally equivalent to paper records and handwritten signatures executed on paper.

**(h) Data storage.**

(1) The laboratory shall ensure that all raw data, documentation, protocols, and final reports associated with analysis of a test sample are retained for at least seven (7) years from the date of completion of analysis.

(2) The laboratory shall designate an individual as responsible for records maintenance. Only authorized personnel may access the maintained records.

(3) The laboratory shall maintain the records identified in this section:

(A) In a manner that allows retrieval, as needed;

(B) Under conditions of storage that minimize deterioration throughout the retention period; and

(C) In a manner that prevents unauthorized alteration.

**(i) Materials to be maintained on premises.** The laboratory shall maintain on its premises, and shall promptly present to the Authority upon request:

(1) Personnel documentation including, but not limited to employment records, job descriptions, education, and training requirements of the laboratory, and documentation of education and training provided to staff for the purpose of performance of assigned functions;

(2) Policies concerning laboratory operations, business licensing, and security procedures;

(3) Any policies, protocols, or procedures for receipt, handling, and disposition of samples of usable medical marijuana;

(4) Equipment information detailing the type of equipment used, inspection policies and practices, testing and calibration schedules and records, and standards for cleaning and maintenance of equipment;

(5) Reagents, solutions, and reference policies including, but not limited to standards for labeling, storage, expiration, and re-qualification dates and records including traceability from current container to original container; all reagents must be traceable from current container to original container;

(6) Reference standards, acquired or internally produced, including the certificate of analysis;

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(7) Sample analysis procedures including, but not limited to procedures for the use of only primary or secondary standards for quantitative analyses;

(8) Documentation demonstrating that the analytical methods used by the laboratory are appropriate for their intended purpose; that deviations from approved standards of practice do not occur without documented authorization in writing; method performance is verified each time a new analyst performs the test; and that staff is competent in the process; including but not limited to:

(A) Direct observations of routine test performance, including sample preparation, handling, processing and testing as appropriate;

(B) Monitoring recording and reporting of test results;

(C) Review of intermediate test results or worksheets, quality control records, proficiency testing results and preventive maintenance records;

(D) Direct observation of instrument maintenance and function checks;

(E) Test performance using previously analyzed specimens, blind sample testing, and external proficiency testing results;

(F) Assessment of problem-solving skills;

(G) Initial assessment within the first six (6) months of employment, with annual assessments thereafter unless a change in methodology occurs; and

(H) Documentation must be complete before reporting results.

(9) Policies for data recording, review, storage, and reporting that include, but are not limited to standards to ensure that:

(A) Data are recorded in a manner consistent with applicable Oklahoma law and these Rules, and are reviewed to verify that applicable standards of practice, equipment calibration, and reference standards were applied before reporting;

(B) All data, including raw data, documentation, protocols, and reports are retained in accordance with applicable Oklahoma law and these rules; and

(C) Reports are the property of the business or individual who provided the sample, and reports meet the requirements of this rule.

(10) Documentation showing the laboratory complies with OSHA Standard 29 CFR § 1910.1450; and

(11) Such other materials as the Authority may require.

(j) **Authority access to materials and premises.** The laboratory shall promptly provide the Authority or the Authority's designee access to a report of a test, and any underlying data, that is conducted on a sample. The laboratory shall also provide access to the Authority or the Authority's designee to laboratory premises, and to any material or information requested by the Authority, for the purpose of determining compliance with the requirements of applicable Oklahoma law and these rules.

(k) **Reporting of accreditation and proficiency testing results.** The laboratory must submit to the Authority, within thirty (30) days of an accrediting entity's assessment, the results of any proficiency testing or an accrediting entity's audit, including the findings and any corrective action required following the assessment.

(l) **Licensed premises standards.** The laboratory must be constructed, arranged and maintained in a way that ensures the laboratory premises, ventilation and utilities are sufficient for conducting all phases of the testing process:

(1) Work area shall be arranged to minimize problems in specimen handling, examination and testing, and reporting of test results. Workbench space must be sufficient for the performance of testing, including, but not limited to, adequate lighting, water, gas, vacuum, and electrical outlets. Instruments, equipment, and computer systems shall be placed in locations where their operation is not affected adversely by physical or chemical factors, such as heat, humidity, direct sunlight, vibrations, power fluctuations, or fumes from acid or alkaline solutions. Equipment tops shall not be used as a workbench space;

(2) Lighting or backgrounds as appropriate for visual interpretation of test results;

(3) There is a system in place which ensures that the ventilation system properly removes vapors, fumes, and excessive heat as appropriate for the type of testing done in the laboratory;

(4) There is an adequate, stable electrical source maintained at each testing location that meets the power requirements for each piece of equipment;

(5) The ~~Laboratory~~laboratory is designed to minimize contamination of samples, equipment, instruments, reagents and supplies. Laboratories performing molecular amplification procedures must have a mechanism to detect cross-contamination of specimens; and

(6) Reagents must be prepared in an area that is separate, as applicable, from where specimens are processed, prepared, amplified, and detected to prevent contamination.

## 442:10-8-3. Sampling requirements and procedures [AMENDED]

(a) **General requirements.** Samples must be collected, handled, stored, and disposed of in accordance with this Section. Individuals collecting samples are called "Samplers."

(1) Samplers shall:

- (A) Follow the approved standard operating procedures of the laboratory that will be testing the samples collected
- (B) Be trained on how to collect samples in accordance with the standard operating procedures of the laboratory(ies) that will be conducting the testing on the samples collected;
- (C) Have access to a copy of the laboratory's standard operating procedures while they are collecting the samples; and
- (D) Follow inventory manifest requirements set forth in these Rules.

(2) Samplers shall collect samples at the location of the grower, processor or dispensary and must affix the samples with a ~~tamper-proof~~tamper-evident seal at the time of collection.

(3) All commercial transporters, growers, processors or dispensaries transporting samples to a laboratory shall be prohibited from storing samples at any location other than the laboratory facility. All samples must be delivered the day of collection.

(4) ~~For transfer or sale of harvest batches or production batches, samples must be collected in the final form. For purpose of this Subsection, "final form" means the following: Final product samples must be collected and tested before being transferred, or sold, to a dispensary. For the purposes of this Subsection "final product" means the following:~~

- (A) For all medical marijuana and medical marijuana products excluding medical marijuana products that are administered via inhalation, "~~final form~~product" means the form medical marijuana or a medical marijuana product is in when sold or transferred.
- (B) For medical marijuana products that are administered via inhalation, "~~final form~~product" means the form the medical marijuana product is in after being placed into any physical glass, metal, or plastic cartridge or container used to smoke, vaporize, vape, or e-cigarette the product.

(5) The sampler shall collect both a primary sample and a reserve sample from each final harvest batch and final production batch. The sample shall be clearly and conspicuously labeled, and the label shall include at least the following information:

- (A) Whether the sample is the "Primary Sample" or "Reserve Sample";
- (B) The name and license number of grower, processor or dispensary from whom the sample was taken; and
- (C) The batch number of the final harvest batch or final production batch from which the sample was taken.

(6) The primary sample and reserve sample shall be stored separately and analyzed separately. The reserve sample shall only be used for quality control purposes or for retesting in accordance with OAC 442:10-8-1(j).

(7) Samples shall be transported and subsequently stored at the laboratory in a manner that prevents degradation, contamination, and tampering. If the medical marijuana or medical marijuana product specifies on the label how the product shall be stored, the laboratory shall store the sample as indicated on the label.

(8) The sampler shall create and use a sample field log to record the following information for each sample, and copies of the sample field log shall be maintained by both the laboratory and the commercial licensee from which the samples are being collected. The field log shall include, at a minimum, the following information:

- (A) Laboratory's name, address, and license number;
- (B) Title and version of the laboratory's standard operating procedure(s) followed when collecting the sample;
- (C) Sampler's name(s) and title(s);
- (D) Date and time sampling started and ended;
- (E) Grower's, processor's or dispensary's name, address, and license number;
- (F) Batch number of the batch from which the sample was obtained;
- (G) Sample matrix;
- (H) Total batch size, by weight or unit count;
- (I) Total weight or unit count of the primary sample;
- (J) Total weight or unit count of the reserve sample;
- (K) The unique sample identification number for each sample;
- (L) Name, business address, and license number of the person who transports the samples to the laboratory;

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- (M) Requested analyses;
- (N) Sampling conditions, including temperature;
- (O) Problems encountered and corrective actions taken during the sampling process, if any; and
- (P) Any other observations from sampling, including major inconsistencies in the medical marijuana color, size, or smell.

(9) The laboratory shall maintain inventory manifest documentation listed in OAC 442:10-3-6 and utilize an electronic inventory management system that meets the requirements set forth in OAC 442:10-5-6(d) for each sample that the laboratory collects, transports, and analyzes.

(10) Commercial licensees shall document all employee training on a testing laboratory's standard operating procedures.

(11) Commercial licensees must maintain the documentation required in these rules for at least seven (7) years and must provide that information to the Authority upon request.

## (b) Sample size.

(1) To obtain a representative sample of a final harvest batch or the final product composed of non-infused pre-rolls, a total of one-half of one percent (0.5%) of the batch shall be collected from different areas of the batch following the laboratory's approved protocol. The sample shall then be well mixed and aliquoted into a primary sample and reserve sample. The primary sample and the reserve sample shall each weigh greater than or equal to five grams ( $\geq 5$  g). Any amounts left over after aliquoting may be returned to the harvest or production batch.

(2) To obtain a representative sample of a final production batch that is a well mixed liquid, a sampler shall obtain a primary sample and a reserve sample that shall each weigh greater than or equal to five grams ( $\geq 5$  g). To obtain a representative sample of infused pre-rolls or a non-liquid final production batch, one-half of one percent (0.5%) of the batch shall be collected from different portions of the batch following the laboratory's approved protocol. The sample shall then be well mixed and aliquoted into a primary sample and reserve sample, which shall be equal in amount. The primary sample and reserve sample shall each weigh greater than or equal to five grams ( $\geq 5$  g). Any amount left over after aliquoting may be returned to the final production batch.

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## (c) Sampling standard operating procedures.

(1) Samples collected must be representative of the entire batch to ensure accurate microbial analysis and foreign material assessments.

(2) Sampling protocol shall be approved by the laboratory director. The laboratory shall develop and implement written sampling policies and procedures that are appropriate for each test method and each type of matrix to be tested and that are consistent with these regulations. Sampling procedures must describe the laboratory's method for collection, preparation, packaging, labeling, documentation, and transport of samples from each matrix type the laboratory tests.

(3) The sampling standard operating procedures (SOP) shall include at least the following information:

- (A) A step-by-step guide for obtaining samples from each matrix type the laboratory samples;
- (B) Protocols for ensuring that contaminants are not introduced during sampling, including protocols relating to the sanitizing of equipment and tools, protective garb, and sampling containers;
- (C) Accepted test sample types;
- (D) Minimum test sample size;
- (E) Recommended test sample containers;
- (F) Test sample labeling;
- (G) Transport and storage conditions, such as refrigeration, as appropriate to protect the physical and chemical integrity of the sample;
- (H) Other requirements, such as use of preservatives, inert gas, or other measures designed to protect sample integrity; and
- (I) Chain-of-custody documentation for each sample in accordance with OAC 442:10-5-6.

(4) The sampling SOP shall be signed and dated by the medical laboratory director and shall include any revision dates and authors. The laboratory director's signature denotes approval of the plan.

(5) The laboratory shall retain a controlled copy of the sampling SOP on the laboratory premises and ensure that the sampling SOP is accessible to the sampler in the field during sampling.

**(d) Sample handling, storage and disposal.** A laboratory shall establish sample handling procedures for the tracking of test samples through the analytical process (by weight, volume, number, or other appropriate measure) to prevent diversion.

- (1) The laboratory shall not accept a test sample that is less than the minimum amount listed in OAC 442:10-8-3(b);

- (2) The laboratory shall store each test sample under the appropriate conditions appropriate to protect the physical and chemical integrity of the sample;
- (3) Analyzed test samples consisting of medical marijuana or medical marijuana products shall be held in a controlled access area pending destruction or other disposal.
- (4) Reserve samples shall be maintained and properly stored by the laboratory for at least thirty (30) days. Any retesting requested by the originating licensee must be requested within thirty (30) days to ensure the retesting occurs within the required thirty (30) day storage period for reserve samples.
- (5) After the required thirty (30) day storage period, any portion of a medical marijuana or medical marijuana product test sample that is not destroyed during analysis shall be:
  - (A) Returned to the licensed individual or entity that provided the sample after the required retention period for reserve samples;
  - (B) Transported to a state or local law enforcement office; or
  - (C) Disposed of in accordance with OAC 442:10-5-10 (relating to medical marijuana waste disposal).

**(e) Data reporting.**

- (1) The laboratory shall generate a certificate of analysis (COA) for each sample that the laboratory analyzes.
- (2) The laboratory shall issue the COA to the ~~requester~~originating licensee within two (2) business days after technical and administrative review of analysis has been completed. Any amendments to a COA shall include a revision identifier or report number, an explanation of the amendment, and shall identify all changes included in the amendment.
- (3) All COAs, whether in paper or electronic form, shall contain, at minimum, the following information:
  - (A) The name, address, license number, and contact information of the laboratory that conducted the analysis;
  - (B) If the laboratory sends a sample to another laboratory for testing, the reference laboratory must be identified as having performed that test;
  - (C) The name, address, and license number of the requester;
  - (D) The description of the type or form of the test sample (leaf, flower, powder, oil, specific edible product, etc.) and its total primary sample weight in grams, reported to the nearest gram;
  - (E) The unique sample identifier;
  - (F) Batch number of the batch from which the sample was obtained;
  - (G) Sample history, including the date collected, the date received by the laboratory, and the date(s) of sample analyses and corresponding testing results, including units of measure where applicable;
  - (H) The analytical methods used, including at a minimum identification of the type of analytical equipment used (e.g., GC, HPLC, UV, etc.);
  - (I) The reporting limit for each analyte tested;
  - (J) Any compounds detected during the analyses of the sample that are not among the targeted analytes and are unknown, unidentified, tentatively identified or known and injurious to human health if consumed, if any;
  - (K) The identity of the supervisory or management personnel who reviewed and verified the data and results and ensured that data quality, calibration, and other applicable requirements were met;
  - (L) Definitions of any abbreviated terms; and
  - (M) The state inventory tracking system tag number, the sample tag number, and the source package tag number.
- (4) The laboratory shall report test results for each primary sample on the COA as follows:
  - (A) When reporting quantitative results for each analyte, the laboratory shall use the appropriate units of measurement as required under this chapter and indicate "pass" or "fail";
  - (B) When reporting qualitative results for each analyte, the laboratory shall indicate "pass" or "fail";
  - (C) "Pass" and "Fail" must be clear, conspicuous, and easily identifiable in a font size no less than the size of 12 pt font in Times New Roman and shall not be in fine print or footnotes;
  - (D) When reporting results for any analytes that were detected below the analytical method limit of quantitation (LOQ), indicate "<LOQ" and list the results for analytes that were detected above the LOQ but below the allowable limit; and
  - (E) Indicate "NT" for not tested for any test that the laboratory did not perform.
- (5) Upon detection of any compounds during the analyses of the sample that are not among the targeted analytes and are unknown, unidentified, tentatively identified, or known and injurious to human health if consumed, laboratories shall notify the Authority immediately and shall submit to the Authority a copy of the COA containing those compounds as required in OAC 442:10-8-3(e)(3)(I). The Authority may require a processor,

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grower, or dispensary to submit samples for additional testing, including testing for analytes that are not required by these Rules. The licensee shall provide the samples or units of medical marijuana or medical marijuana products at its own expense but shall not be responsible for the costs of testing.

(6) When a laboratory determines that a harvest batch or production batch has failed any ~~required~~ testing, the laboratory shall immediately, ~~notify the Authority in the manner and form prescribed by the Authority, on its website and shall submit a copy of the COA to the Authority within two (2) business days~~ notify the Authority and shall submit a copy of the COA. Submission of this information to the Authority through the State's inventory tracking system shall be sufficient to satisfy this reporting requirement.

## **442:10-8-4. Laboratory quality assurance and quality control [AMENDED]**

(a) **Laboratory Quality Assurance (LQA) program.** The medical laboratory director shall develop and implement an LQA program to ensure the reliability and validity of the analytical data produced by the laboratory.

(1) The LQA program shall, at minimum, include a written LQA manual that addresses the following:

- (A) Quality control procedures, including remedial actions;
- (B) Laboratory organization and employee training and responsibilities;
- (C) LQA criteria for acceptable performance;
- (D) Traceability of data and analytical results;
- (E) Instrument maintenance, calibration procedures, and frequency;
- (F) Performance and system audits;
- (G) Steps to change processes when necessary;
- (H) Record retention;
- (I) Test procedure standardization; and
- (J) Method validation, including, but not limited to, accuracy, precision, sensitivity, cross-over, Limit of Detection (LOD), Limit of Quantitation (LOQ), linearity, and measurement of uncertainty. For chromatographic methods, accuracy measurements must include statistical determination of an acceptable retention time window for identification of an analyte;
- (K) Method verification of all externally validated methods, including but not limited to the laboratory's ability to achieve the validated method's performance criteria, analyst demonstration of competency, and a passing score for sample proficiency testing in an appropriate matrix;
- (L) Any material alteration of a validated method, whether developed externally or internally, causes the method to become a laboratory developed method and subject to full validation;
- (M) Validation or verification of a method following non-routine maintenance, repair of an instrument, or relocation of an analytical piece of equipment.

(2) The laboratory director shall annually review, amend if necessary, and approve the LQA program and manual when:

- (A) The LQA program and manual are created; and
- (B) There is a change in methods, laboratory equipment, or the supervisory or management laboratory employee overseeing the LQA program.

## **(b) Laboratory quality control samples.**

(1) The laboratory shall use laboratory quality control (LQC) samples in the performance of each analysis as required by ~~ΘAC 442:10-8-1(i)~~ this subchapter.

(2) The laboratory shall analyze LQC samples in the same manner as the laboratory analyzes samples of medical marijuana and medical marijuana products.

(3) If the result of the analyses is outside the specified acceptance criteria in ~~ΘAC 442:10-8-1(i)~~ this subchapter, the laboratory shall determine the cause and take steps to remedy the problem until the result is within the specified acceptance criteria. Samples after the last acceptable run must be re-tested.

(4) The laboratory shall generate a LQC sample report for each analytical run that includes LQC parameters, measurements, analysis date, and matrix. The results must fall within the criteria set forth in ~~ΘAC 442:10-8-1(i)~~ this subchapter.

## **(c) Reagents, solutions, and reference standards.**

(1) Reagents, solutions, and reference standards shall be:

- (A) Secured in accordance with the laboratory's storage policies; labeled to indicate identity of the reagent, identity of the preparer, date received or prepared, and expiration or requalification date; and labeled with, where applicable, concentration or purity, storage requirements, lot tracking number, and date opened;
- (B) Stored under appropriate conditions to minimize degradation or deterioration of the material; and

- (C) Used only within the item's expiration or requalification date.
- (2) Deteriorated or outdated reagents and solutions shall be properly disposed of, in compliance with all federal, state and local regulations.
- (3) The laboratory may acquire commercial reference standards for cannabinoids and other chemicals or contaminants, for the exclusive purpose of conducting testing for which the laboratory is approved. The laboratory may elect to produce reference standards in-house (internally). When internally produced, the laboratory shall utilize standard analytical techniques to document the purity and concentration of the internally produced reference standards. The laboratory is authorized to obtain marijuana or marijuana-derived product from a licensed non-profit producer for this purpose.
- (4) The laboratory shall obtain or, for internally-produced standards, shall create a certificate of analysis (COA) for each lot of reference standard. Each COA shall be kept on-file and the lot number of the reference standard used shall be recorded in the documentation for each analysis, as applicable.

### SUBCHAPTER 9. WASTE DISPOSAL FACILITIES

#### 442:10-9-1. License or permit required [AMENDED]

- (a) No person or entity shall operate a medical marijuana waste disposal facility without first obtaining a license from the Authority pursuant to the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., other applicable Oklahoma law, including regulations of the Oklahoma Department of Environmental Quality, and the Rules in this Chapter. Only a person who is in compliance with the requirements of Oklahoma law and these Rules shall be entitled to receive or retain such a license or permit.
- (b) ~~The Authority shall not, until November 1, 2021, issue more than ten (10) waste disposal facility licenses. The Authority shall have the authority to develop and utilize criteria, standards, and preferred qualifications for the selection of licensees and timing of licensure as it deems appropriate and reasonable. Beginning November 1, 2021, there~~ There shall be no limit to the number of medical marijuana waste disposal licenses issued by the Authority.
- (c) All license and permit applications shall be complete and accurate in every detail, shall include all attachments or supplemental information required by the forms supplied by the Authority, and shall be accompanied by full remittance of the entire application fee. Any misstatements, omissions, misrepresentations, or untruths made in the application shall be grounds for administrative action against the licensee by the Authority.
- (d) All licenses and permits shall be on forms prescribed by the Authority.
- (e) Application fees are nonrefundable.
- (f) Upon issuance of a waste disposal facility license, each waste disposal facility licensee shall automatically receive a waste disposal transportation license. Medical marijuana waste disposal facility licensees shall ensure that a copy of the waste disposal transportation license is inside any vehicles used for transporting medical marijuana waste during transportation.

#### 442:10-9-2. Licenses and permits [AMENDED]

- (a) **Timeframe.** Waste disposal facility licenses and permits shall be issued for a twelve (12) month period expiring one (1) year from the date of issuance. The license or permit may be issued upon receipt of a completed application, payment of application fee, and verification by the Authority the individual or entity complies with the requirements set forth in Oklahoma law and this Chapter.
- (b) **Location.** Waste disposal facility licenses and permits shall only be valid for a single location at the address listed on the application.
- (c) **Renewal of license or permit**
- (1) It is the responsibility of the license holder to renew the license and any associated permits, with all applicable documentation, prior to the date of expiration of the license or permit by following the procedures provided in OAC 442:10-9-3 and OAC 442:10-9-4.
- (2) Before renewing a license or permit, the Authority may require further information and documentation to determine if the licensee continues to meet the requirements set forth in Oklahoma law and these Rules.
- (3) The Authority may refuse to renew a license or permit of a medical marijuana waste facility for the following:
- (A) Failure to meet the requirements for licensure or permits set forth in the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., or OAC 442:10.
- (B) Noncompliance with 63 O.S. § 420 et seq.; the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.; the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq.; or OAC 442:10.

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(4) Upon the determination that a licensee has not met the requirements for renewal, the Authority shall provide written notice to the licensee. The notice shall provide an explanation for the denial of the renewal application.

**(d) ~~Disposal of waste upon termination of license/permit~~ Liquidation of products.**

(1) A waste disposal facility licensee whose license is not renewed, or whose license is revoked, suspended, expired, or voluntarily surrendered, shall immediately cease all operations at all licensed and permitted locations upon expiration of the license and shall immediately either liquidate or dispose of any medical marijuana waste remaining in its possession or transfer such medical marijuana waste to another licensed medical marijuana waste disposal facility licensee. Except as provided by Section 427.14 of Title 63 of the Oklahoma Statutes, immediately upon expiration of a license, any medical marijuana waste disposal facility shall cease all possession, transfer, or sale of medical marijuana or medical marijuana products. Any continued possession, sale, or transfer shall subject the business owners and operators to felony prosecution pursuant to the Uniform Controlled Dangerous Substances Act.

(2) A waste disposal facility licensee whose permit is not renewed, or whose permit is revoked, suspended, expired, or voluntarily surrendered, shall cease all operations at the permitted location immediately upon expiration of the permit and shall immediately take one of the following actions:

(A) ~~Dispose~~ Liquidate or dispose of any medical marijuana waste remaining in its possession at the permitted location;

(B) Transfer such medical marijuana waste to another permitted location belonging to the same licensed medical marijuana waste disposal facility licensee; or

(C) Transfer such medical marijuana waste to another licensed medical marijuana waste disposal facility licensee.

**(e) Change in information.**

(1) Licensees shall notify the Authority in writing within fourteen (14) days of any changes in contact information by electronically submitting a change request in accordance with the Authority's instructions.

(2) Licensees shall obtain Authority approval for any material changes that affect the licensee's qualifications for licensure. No licensee shall operate under the conditions of a material change ~~unless and until the Authority has approved in writing the material change without written approval of an application by the Authority. Applications for written approval of material changes that affect the licensee's qualifications for licensure shall not occur during the renewal application and must be submitted in a separate material change request to the Authority.~~ Licensees shall submit a material change request to the Authority in writing in advance of any material change that may affect the licensee's qualifications for licensure by electronically submitting a change request, along with any relevant documentation and fees, in accordance with the Authority's instructions. ~~When submitting a material change request, the licensee will now be required to pay a \$500.00 nonrefundable fee. Except as is otherwise authorized by the Authority, licensees are limited to one location change request, one ownership change request, and one name change request per year of licensure.~~

(A) Medical marijuana waste licensees submitting a location change for any licensed or permitted location must provide a \$500.00 nonrefundable application fee and the information and documentation required in OAC 442:10-9-4 relating to locations, including but not limited to the following:

(i) Proof as required in OAC 442:10-9-4(c)(1) that the location of the waste facility is at least one thousand (1,000) feet from any public or private school; and

(ii) As required in OAC 442:10-9-3(e)(2), all building permits and/or certificate(s) of occupancy issued by the Oklahoma State Fire Marshal or by the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal certifying compliance with the categories listed in 63 O.S. § 426.1(E) for the construction or alteration of any buildings or structures classified as occupancies under the building codes adopted by the Oklahoma Uniform Building Code Commission; and

(iii) Any further documentation the Authority determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

(B) Medical marijuana business licensees submitting an ownership change request must provide the nonrefundable application fee listed below and the information and documentation required in OAC 442:10-9-3 relating to owners, including but not limited to the following:

(i) An list of all owners and principal officers of the commercial applicant and supporting documentation as set forth in OAC 442:10-9-3(e)(1);

(ii) An affidavit of lawful presence for each new owner;



(iii) Documents required under OAC 442:10-9-3(e)(5) establishing that the applicant; and the members, managers, and board members if applicable; and seventy-five percent (75%) of the commercial applicant's ownership interests are Oklahoma residents as required in the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq.;

(iv) Background checks in accordance with OAC 442:10-1-5; ~~and~~

(v) A nonrefundable application fee that is the annual license or application fee established under Section 427.14 of Title 63 of the Oklahoma Statutes for the medical marijuana business license type; and

(vi) Any further documentation the Authority determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

(C) A medical marijuana business licensee submitting a name change request must provide a \$500.00 nonrefundable application fee and the information and documentation required in OAC 442:10-5-3 relating to the business name, including but not limited to the following:

(i) A certificate of good standing from the Oklahoma Secretary of State issued within thirty (30) days of submission of the application as required under OAC 442:10-5-3(e)(2);

(ii) If applicable, official documentation from the Oklahoma Secretary of State establishing the applicant's trade name;

(iii) If applicable, an electronic copy or digital image in color of a sales tax permit issued by the Oklahoma Tax Commission;

(iv) A list of all owners and principal officers of the licensee under the new name and supporting documentation as set forth in OAC 442:10-5-3(e)(1);

(v) Documents establishing that seventy-five (75%) of the ownership of the licensee under the new name are Oklahoma residents in accordance with OAC 442:10-5-3(e)(6); and

(vi) Any further documentation the Authority determines is necessary to ensure the business licensee is still qualified under Oklahoma law and this Chapter to obtain a business license.

(f) **Transfer of license or permit.** Licenses may not be changed from one license type to another.

(g) **Surrender of license or permit.** A waste disposal facility licensee may voluntarily surrender a license or permit to the Authority at any time in accordance with OAC 442:10-5-2(g). If a waste disposal facility license is surrendered, all associated permitted locations will be surrendered. A license surrender shall be considered effective upon written approval by the Authority. The Authority may reject a license surrender if medical marijuana or medical marijuana products remain in the possession of the licensee at time of surrender, or if any of the required documentation is missing or incomplete. All medical marijuana and medical marijuana products must be liquidated or disposed of in accordance with Oklahoma law and these Rules prior to the surrender of a license.

(h) **Revocation of license or permit.** If a waste disposal facility license is revoked, all associated permitted locations will be revoked.

## 442:10-9-3. License applications [AMENDED]

(a) **Application fee.** An applicant for a waste disposal facility license, or renewal thereof, shall submit to the Authority a completed application on a form and in a manner prescribed by the Authority, along with the application fee as established in 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq.

(b) **Submission.** The application shall be on the Authority prescribed form and shall include the following information about the establishment:

- (1) Name of the establishment;
- (2) Physical address of the establishment, including the county in which any licensed premises will be located;
- (3) GPS coordinates of the establishment;
- (4) Phone number and email address of the establishment;
- (5) Hours of operation for any licensed premises;
- (6) Type of waste facility; and
- (7) Proposed number and location of additional waste disposal facilities associated with the applicant.

(c) **Individual applicant.** The application for a waste disposal facility license made by an individual on his or her own behalf shall be on the Authority prescribed form and shall include at a minimum:

- (1) The applicant's first name, middle name, last name, and suffix if applicable;
- (2) The applicant's residence address and valid mailing address;
- (3) The applicant's date of birth;
- (4) The applicant's telephone number and email address;
- (5) An attestation that the information provided by the applicant is true and correct;

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- (6) An attestation that any licensed premises shall not be located on tribal lands; ~~and~~
- (7) An attestation that the business has obtained all applicable local licenses and permits for all licensed premises;
- (8) An attestation that no individual with ownership interest in the business is a sheriff, deputy sheriff, police officer, prosecuting officer, an officer or employee of OMMA, or an officer or employee of a municipality in which the commercial entity is located; and
- (9) A statement signed by the applicant pledging not to divert medical marijuana to any individual or entity that is not lawfully entitled to possess medical marijuana.

(d) **Application on behalf of an entity.** In addition to requirements of Subsection (c), an application for a waste facility license made by an individual on behalf of an entity shall include:

- (1) An attestation that applicant is authorized to make application on behalf of the entity;
- (2) Full name of organization;
- (3) Trade name, if applicable;
- (4) Type of business organization;
- (5) Mailing address;
- (6) Telephone number and email address; and
- (7) The name, residence address, and date of birth of each owner and each member, manager, and board member, if applicable.

(e) **Supporting documentation.** Pursuant to 63 O.S. § 427.3(D)(11), 63 O.S. § 427.14(L), 63 O.S. § 427.14(G)(2), and 63 O.S. § 427.14(J), each application shall be accompanied by the following documentation:

- (1) A list of all persons and/or entities that have an ownership interest in the entity;
- (2) If applicable, a certificate of good standing from the Oklahoma Secretary of State;
- (3) If applicable, official documentation from the Oklahoma Secretary of State establishing the applicant's trade name;
- (4) An Affidavit of Lawful Presence for each owner;
- (5) Proof that the proposed location of the waste disposal facility is a least one thousand (1,000) feet from a public or private school. The distance specified shall be measured from any entrance of the school to the nearest front entrance of the facility;
- (6) Documents establishing the applicant, the members, managers, and board members, if applicable, and seventy-five percent (75%) of the ownership interests are Oklahoma residents as established in 63 O.S. § 420 et seq., and OAC 442:10-1-6 (relating to proof of residency);
- (7) Proof of sufficient liability insurance. Liability insurance or a letter of insurability from the insurance company shall be provided by the applicant and shall apply to sudden and nonsudden bodily injury and property damage on, below, and above the surface of the facility. Such insurance shall be maintained for the period of operation of the facility during operation and after closing. Sufficient liability insurance means that the licensee shall maintain at all times insurance coverage with at least the following minimum limits:

(A) Commercial General Liability: \$5,000,000.00 each occurrence;

(B) Pollution Legal Liability: \$5,000,000.00 each occurrence;

- (8) Relevant waste permit(s) from the Oklahoma Department of Environmental Quality or the Oklahoma Department of Agriculture;
- (9) If applicable, all Certificate(s) of Occupancy, Final Inspection Report(s), and Site Plan(s), issued from or approved by the organization, political subdivision, office, or individual responsible for enforcing the requirements of all building and fire codes adopted by the Oklahoma Uniform Building Code Commission pursuant to OAC 748:20. Pursuant to 74 O.S. § 324.11, in all geographical areas where the applicable Certificate(s) of Occupancy, Final Inspection Report(s), Site Plan(s) and/or permit(s) are not issued from and/or approved by local authorities, such documentation must be obtained from the Oklahoma Office of the State Fire Marshal; and All building permits and/or certificate(s) of occupancy issued by the Oklahoma State Fire Marshal or by the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal certifying compliance with the categories listed in 63 O.S. § 426.1(E) for the construction or alteration of any buildings or structures classified as occupancies under the building codes adopted by the Oklahoma Uniform Building Code Commission.

(A) Once a certificate of occupancy is issued by the Oklahoma State Fire Marshal or by the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal and such certificate of occupancy has been submitted to the Authority showing full compliance, a licensee shall only need to submit an affidavit for license renewal stating the premises continues to comply with zoning classifications, applicable municipal ordinances, and all applicable

safety, electrical, fire, plumbing, waste, construction, and building specification codes. An additional certificate of occupancy along with an affidavit shall be submitted if a change of use or occupancy occurs, or there is any change concerning the facility or location that would, by law, require additional inspection, licensure or permitting by the state or municipality. Licensees are responsible for compliance with applicable state fire, building, and electrical codes and may be liable for all damage that results from noncompliance with state fire, building, and electrical codes to the extent authorized by law.

(B) For all commercial license applications submitted on or after June 14, 2024 that require a building permit and/or certificate of occupancy for licensure, applicants who submitted a full and complete application for a building permit and/or certificate of occupancy issued by the Oklahoma State Fire Marshal or the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal prior to February 1, 2024 and while the same application remains under review by the State Fire Marshal or political subdivision, the applicant may submit an attestation on a form and in a manner prescribed by the Authority certifying that the applicant submitted a full and complete application for a building permit and/or certificate of occupancy prior to February 1, 2024, and that the same application remains under review by the Oklahoma State Fire Marshal or the political subdivision.

(10) Any further documentation the Authority determines is necessary to ensure the applicant is qualified under Oklahoma law and this Chapter to obtain a waste disposal facility license.

(f) **Incomplete application.** Failure to submit a complete application with all required information and documentation shall result in a rejection of the application. The Authority shall notify the applicant ~~via email through the electronic application account~~ in the same method the application was submitted to the Authority of the reasons for the rejection.

#### **442:10-9-4. Permit applications [AMENDED]**

(a) **Application fee.** An applicant for a waste disposal facility permit, or renewal thereof, shall submit to the Authority a completed application on a form and in a manner prescribed by the Authority, along with the application fee as established in 63 O.S. § 420 et seq. and the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq. A waste disposal facility permit application shall be submitted after and associated with an approved waste disposal facility license application.

(b) **Submission.** The application shall be on the Authority prescribed form and shall include the following information about the establishment:

- (1) Name and license number of the waste disposal facility licensee associated with the permit;
- (2) Physical address of the establishment, including the county in which any licensed premises will be located;
- (3) GPS coordinates of the establishment;
- (4) Phone number and email address of the establishment;
- (5) Hours of operation of the establishment.
- (6) Mailing address of the establishment;
- (7) An attestation that the information provided by the applicant is true and correct;
- (8) An attestation that any licensed premises shall not be located on tribal lands;
- (9) An attestation that the business has obtained all applicable local licenses and permits for all licensed premises;
- (10) An attestation that no individual with ownership interest in the business is a sheriff, deputy sheriff, police officer, prosecuting officer, an officer or employee of OMMA, or an officer or employee of a municipality in which the commercial entity is located;
- ~~(9)~~(11) A statement signed by the applicant pledging not to divert medical marijuana to any individual or entity that is not lawfully entitled to possess medical marijuana; and
- ~~(10)~~(12) An attestation that applicant is authorized to make application on behalf of the entity.

(c) **Supporting documentation.** Each application shall be accompanied by the following documentation:

- (1) Proof that the proposed location of the waste disposal facility is a least one thousand (1,000) feet from a public or private school. The distance specified shall be measured from any entrance of the school to the nearest front entrance of the facility;
- (2) Proof of sufficient liability insurance. Liability insurance shall be provided by the applicant and shall apply to sudden and nonsudden bodily injury and property damage on, below, and above the surface of the facility. Such insurance shall be maintained for the period of operation of the facility and shall provide coverage for damages resulting from operation of the facility during operation and after closing. Sufficient liability insurance means that the licensee shall maintain at all times insurance coverage with at least the following minimum limits:

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(A) Commercial General Liability: \$5,000,000.00;

(B) Pollution Legal Liability: \$5,000,000.00 each occurrence;

(3) Relevant waste permit(s) from the Oklahoma Department of Environmental Quality; and

(4) Any further documentation the Authority determines is necessary to ensure the commercial applicant is qualified under Oklahoma law and this Chapter to obtain a waste disposal facility license.

(d) **Incomplete application.** Failure to submit a complete application with all required information and documentation shall result in a rejection of the application. The Authority shall notify the applicant ~~via email through the electronic application account~~ in the same method the application was submitted to the Authority of the reasons for the rejection.

## 442:10-9-5. Inspections [AMENDED]

(a) Submission of an application for a medical marijuana waste disposal facility license or permit constitutes permission for entry to and inspection of any licensed premises and any vehicles on the licensed premises used for the transportation of medical marijuana and medical marijuana products during hours of operation and other reasonable times. Refusal to permit entry or impeding such entry or inspection shall constitute grounds for administrative penalties, which may include but are not limited to fines as set forth in Appendix C and the nonrenewal, suspension, and/or revocation of a license.

(b) The Authority may perform one annual unannounced on-site inspection of each licensed and/or permitted premises to determine, assess, and monitor compliance of applicable Oklahoma law and these Rules.

(c) The Authority shall conduct one on-site inspection of a waste disposal facility license or permit applicant prior to approving the application to determine if the proposed site and facility are physically and technically suitable, and that all application information and documentation is true and correct. The inspection shall also ensure the applicant meets all requirements in OAC 442:10-9-6.

(d) The Authority may conduct additional inspections to ensure correction of or investigate violations of applicable Oklahoma law and these Rules.

(e) The Authority shall refer all complaints alleging criminal activity or other violations of Oklahoma law that are made against a waste disposal facility to appropriate Oklahoma state or local law enforcement or regulatory authorities.

(f) If the Authority discovers what it reasonably believes to be criminal activity or other violations of Oklahoma law during an inspection, the Authority may refer the matter to appropriate Oklahoma state or local law enforcement or regulatory authorities for further investigation. Except for license information concerning licensed patients, the Authority may share confidential information to assist other agencies in ensuring compliance with applicable laws, Rules and regulations.

(g) The Authority may review any and all records of a waste disposal facility and may require and conduct interviews with such persons or entities and persons affiliated with the facility, for the purpose of determining compliance with Authority rules and applicable laws. Failure to make documents or other requested information available to the Authority and/or refusal to appear or cooperate with an interview shall constitute grounds for administrative penalties, which may include but are not limited to fines as set forth in Appendix C and nonrenewal, suspension, and/or revocation of a license. All records shall be kept on-site and readily accessible.

(h) If the Authority identifies a violation of 63 O.S. § 420 et seq., the Oklahoma Medical Marijuana and Patient Protection Act, 63 O.S. § 427.1 et seq., the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., and these Rules, during an inspection of the waste disposal facility, the Authority shall take administrative action in accordance with Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

(i) Except as otherwise provided in Oklahoma law or these Rules, ~~a correctable violation~~ violations identified during an inspection shall be corrected within thirty (30) days of receipt of a written notice of ~~the violation~~ violations. If a waste disposal facility fails to correct violations within thirty (30) days, the entity will be subject to a fine in the amount set forth in Appendix C for each violation and any other administrative action and penalty authorized by law.

(j) The Authority may assess fines in the amounts set forth in Appendix C and seek any other administrative penalties authorized by law against a licensee without providing opportunity to correct when the violation is not capable of being corrected. The Authority may suspend or revoke a license for failure to pay any fine or monetary penalty lawfully assessed by the Authority against the licensee.

(k) A waste disposal facility permit that has been revoked shall be reinstated upon correction of each deficiency and remittance of a reinstatement fee of five hundred dollars (\$500.00).

## 442:10-9-6. Security requirements [AMENDED]

(a) **General requirements.** All licensed entities shall provide effective controls and procedures to guard against theft and diversion of medical marijuana and medical marijuana products. ~~In order to determine whether a registrant has provided effective controls against diversion, the licensee~~ and shall adhere to the security requirements as set forth by these Rules.

(b) **Storage.** ~~OMMA licensed entities~~ Commercial licensees shall dispose of medical marijuana waste using a medical marijuana waste disposal facility licensed by the Authority. The commercial licensee shall ~~dispose of~~ store all medical marijuana waste in a secure waste receptacle that is locked with commercial-grade locks prior to disposal or transfer to a medical marijuana waste disposal facility. The receptacle shall be kept in a safe and secure location with limited access.

(c) **Transport.**

(1) Medical marijuana waste disposal facilities or medical marijuana commercial licensees transporting waste to licensed medical marijuana waste disposal facilities shall transport medical marijuana waste in accordance with the following:

(A) All medical marijuana waste shall be transported:

(i) In a locked shipping container, shielded from public view and clearly labeled "Medical Marijuana Waste"; and

(ii) In a secured area of the vehicle that is not accessible by the driver during transit.

(B) All vehicles used to transport medical marijuana and medical marijuana products shall be:

(i) Equipped with active Global Positioning System (GPS) trackers, which shall not be mobile cellular devices and which shall be capable of storing and transmitting GPS data; and

(ii) Insured at or above the legal requirements in Oklahoma.

(C) Medical marijuana waste facilities or medical marijuana commercial licensees transporting waste to licensed medical marijuana waste disposal facilities shall maintain updated and accurate records and information on all vehicles engaged in the transport of medical marijuana waste, including GPS data and records. Such records and information shall be kept ~~at the licensed premises and shall be on-site~~ and readily accessible.

(D) Medical marijuana waste facilities or medical marijuana commercial licensees transporting waste to licensed medical marijuana waste disposal facilities shall implement appropriate security measures to deter and prevent the theft and diversion of medical marijuana waste during transportation.

(E) Medical marijuana waste facilities or medical marijuana commercial licensees transporting waste to licensed medical marijuana waste disposal facilities shall comply with all applicable motor vehicle laws.

(2) Waste disposal facilities who render the medical marijuana unusable and unrecognizable at the collection site shall transport the ~~processed~~ unusable and unrecognizable medical marijuana waste in accordance with the following:

(A) All vehicles used to transport medical marijuana, ~~and~~ medical marijuana products, and medical marijuana waste shall be insured at or above the legal requirements in Oklahoma.

(B) Medical marijuana waste facilities shall maintain updated and accurate records and information on all vehicles engaged in the transport of medical marijuana waste. Such records and information shall be kept ~~at the licensed premises and shall be on-site and~~ readily accessible.

(C) Medical marijuana waste facilities shall comply with all applicable motor vehicle laws.

(d) **Documentation.** The medical marijuana business, research facility, and education facility licensees transferring the medical marijuana waste for disposal shall document in the electronic inventory system all waste placed in the secure container and transferred to the medical marijuana waste facility licensee. The inventory manifest for transport of medical marijuana waste shall also contain this information and shall adhere to OAC 442:10-9-6(c). Each person authorized by the waste facility licensee to transport to a waste disposal facility shall maintain records before and during transport and at the waste disposal facility. Electronic inventory should match the inventory manifest form prior to travel and upon arrival at the disposal facility.

(1) The copy of the inventory manifest to be left with the business, research facility, or education facility licensee include the following:

(A) The license number, business name, address and contact information of the business, research facility, or education facility licensee;

(B) The license number, business name, address and contact information of the waste disposal facility licensee;

(C) A complete inventory of the medical marijuana waste to be transported, including quantities by weight or unit of the medical marijuana waste;

(D) The date of transportation and approximate time of departure;

(E) Printed names and signatures of personnel accompanying the transportation of the medical marijuana waste; and

(F) Notation of the business, research facility, or education facility from which the medical marijuana waste was collected.

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(2) The copy of the inventory manifest to be retained by the medical marijuana waste facility shall include, at a minimum:

- (A) The license number, business name, address and contact information of the business, research facility, or education facility licensee(s) from which the waste was collected;
- (B) The license number, business name, address and contact information of the waste disposal facility licensee;
- (C) A complete inventory of the medical marijuana waste collected, including quantities by weight or unit of the medical marijuana waste;
- (D) The date and time of arrival; and
- (E) The printed names and signatures of personnel accompanying the transportation of the medical marijuana waste.

(e) **Records and reporting.** Reporting the loss of in-transit shipments is the responsibility of the waste disposal facility licensee. Any losses shall be reported to the Authority immediately in writing and through the electronic inventory system. ~~Every inventory and other record required shall be kept by the licensee available for at least seven (7) years from the date of such inventory or record, for inspecting and copying. Except as otherwise specifically provided in Oklahoma law and this Chapter, all records shall be maintained for at least seven (7) years from the date of creation.~~

## 442:10-9-7. Audits and inventory [AMENDED]

(a) **Audits.** The Authority may perform on-site audits of all waste disposal facility licensees and permitted locations to ensure that all medical marijuana grown in Oklahoma is accounted for. Submission of an application for a medical marijuana waste disposal facility license constitutes permission for entry to any licensed premises and auditing of the licensee during hours of operation and other reasonable times. Refusal to permit the Authority entry or refusal to permit the Authority to inspect all books and records shall constitute grounds for administrative penalties, which may include, but is not limited to, fines as set forth in Appendix C and the denial, nonrenewal, suspension, ~~and/or~~ revocation of a license or permit.

(1) The Authority may review any and all records and information of a waste disposal facility licensee and may require and conduct interviews with such persons or entities and persons affiliated with such licensees, for the purpose of determining compliance with Authority rules and applicable laws. Failure to make documents or other requested information available to the Authority and/or refusal to appear or cooperate with an interview shall constitute grounds for administrative penalties, which may include, but are not limited to, fines as set forth in Appendix C and the denial, nonrenewal, suspension, ~~and/or~~ revocation of a license, or any other remedy or relief provided under law. All records shall be kept on-site and readily accessible.

(2) Waste disposal facility licensees shall comply with all written requests from the Authority to produce or provide access to records and information within ten (10) business days.

(3) If the Authority identifies a violation of the Oklahoma Medical Marijuana Waste Management Act, 63 O.S. § 427a et seq., other applicable Oklahoma law, or these Rules during an audit of the licensee, the Authority shall take administrative action against the licensee in accordance with the Oklahoma law, including the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

(4) The Authority may refer all complaints alleging criminal activity or other violations of Oklahoma law that are made against a waste disposal licensee to appropriate Oklahoma state or local law enforcement or regulatory authorities.

(5) If the Authority discovers what it reasonably believes to be criminal activity or other violations of Oklahoma law during an audit, the Authority may refer the matter to appropriate Oklahoma state or local law enforcement or regulatory authorities for further investigation. Except for license information concerning licensed patients, the Authority may share confidential information to assist other agencies in ensuring compliance with applicable laws, Rules and regulations.

(6) Except as is otherwise provided in Oklahoma law or these Rules, correctable violations identified during an audit shall be corrected within thirty (30) days of receipt of a written notice of violation.

(7) If a licensee fails to correct violations within thirty (30) days, the licensee will be subject to a fine in the amount set forth in Appendix C for each violation and any other administrative action and penalty authorized by law.

(8) The Authority may assess fines in the amounts set forth in Appendix C and seek any other administrative penalties authorized by law against a licensee without providing opportunity to correct when the violation is not capable of being corrected. The Authority may suspend or revoke a license for failure to pay any fine or monetary penalty lawfully assessed by the Authority against the licensee.

(b) **Inventory tracking system.** Pursuant to 63 O.S. § 427.3(D)(8) and 63 O.S. § 427.13(B), each commercial licensee shall use the State inventory tracking system by inputting inventory tracking data required to be reported to the Authority directly into the State inventory tracking system or by utilizing a seed-to-sale tracking system that integrates with the State inventory tracking system. All commercial licensees must have an inventory tracking system account activated to lawfully operate and must ensure all information is reported to the Authority accurately and in real time or after each individual sale in accordance with 63 O.S. § 427.13(B)(1) and these Rules. All commercial licensees shall ensure the following information and data are accurately tracked and timely reported to the Authority through the State inventory tracking system

- (1) The chain of custody of all medical marijuana and medical marijuana products, including every transaction with another commercial licensee, patient or caregiver, including but not limited to:
  - (A) The name, address, license number and phone number of the medical marijuana business that cultivated, manufactured, sold, purchased, or otherwise transferred the medical marijuana or medical marijuana product(s);
  - (B) The type, item, strain, and category of medical marijuana or medical marijuana product(s) involved in the transaction;
  - (C) The weight, quantity, or other metric required by the Authority, of the medical marijuana or medical marijuana product(s) involved in the transaction;
  - (D) The batch number of the medical marijuana or medical marijuana product(s);
  - (E) The total amount spent in dollars;
  - (F) All point-of-sale records as applicable;
  - (G) ~~Transportation information documenting~~ All inventory manifests and other documentation relating to the transport of medical marijuana or medical marijuana product(s) products as required under OAC 442:10-3-6(b);
  - (H) Testing results and information;
  - (I) Waste records and information;
  - (J) Marijuana excise tax records, if applicable;
  - (K) Inventory tracking system tag number(s);
- (2) The entire life span of a licensee's stock of medical marijuana and medical marijuana products, including, at a minimum, notifying the Authority:
  - (A) When medical marijuana seeds or clones are planted;
  - (B) When medical marijuana plants are harvested and/or destroyed;
  - (C) When medical marijuana is transported, or otherwise transferred sold, stolen, diverted, or lost;
  - (D) When medical marijuana changes form, including, but not limited to, when it is planted, cultivated, processed, and infused or otherwise processed into a final product ~~or final form~~;
  - (E) A complete inventory of all medical marijuana; seeds; plant tissue; clones; usable medical marijuana; trim; shake; leaves; other plant matter; and medical marijuana products; and
- (3) Any further information the Authority determines is necessary to ensure all medical marijuana and medical marijuana products are accurately and fully tracked throughout the entirety of the life span of the plant and product.

(c) **Seed-to-sale tracking system.** A commercial licensee shall use a seed-to-sale tracking system or integrate its own seed-to-sale tracking system with the State inventory tracking system established by the Authority. If a commercial licensee uses a seed-to-sale tracking system that does not integrate with the State inventory tracking system, or does integrate but does not share all required information, the commercial licensee shall ensure all required information is reported directly into the State inventory tracking system.

(d) **Inventory tracking system requirements.**

- (1) At a minimum, commercial licensees shall track, update and report its inventory after each individual sale to the Authority in the State inventory tracking system.
- (2) All commercial licensees must ensure all on-premises and in-transit medical marijuana and medical marijuana product inventories are reconciled each day in the State inventory tracking system at the close of business, if not already done.
- (3) Commercial licensees are required to use inventory tracking system tags from an Authority-approved supplier for the State ~~Inventory Tracking System~~ inventory tracking system. Each ~~Licensee~~ licensee is responsible for the cost of all inventory tracking system tags and any associated vendor fees.
  - (A) A commercial licensee shall ensure its inventories are properly assigned to medical marijuana, medical marijuana products, and medical marijuana waste as required by the Authority.

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(B) A commercial licensee shall ensure it has an adequate supply of inventory tracking system tags at all times. If a commercial licensee is unable to account for unused inventory tracking system tags, the commercial licensee must report to the Authority and the State inventory tracking system vendor within forty-eight (48) hours.

(C) Inventory tracking system tags must contain the legal name and correct license number of the commercial licensee that ordered them. Commercial licensees are prohibited from using another licensee's inventory tracking system tags.

(D) The inventory tracking system tag shall be placed on the container holding the medical marijuana plant and must remain physically near and clearly associated with the medical marijuana plant until the plant reaches twelve (12) inches in height. Clones must be tracked in the state seed-to-sale system and must be associated with a wholesale package tag, whether cut from a mother plant or transferred from another licensee, prior to reaching twelve (12) inches in height.

(E) When the plant reaches twelve (12) inches in height, the inventory tracking system tag shall be securely fastened to a lower supporting branch. The inventory tracking system tag shall remain affixed for the entire life of the plant until disposal. If the plant changes forms, is removed from the original planting location after harvest, or is being trimmed, dried, or cured by the grower, the inventory tracking system tag shall be placed on the container holding the medical marijuana plants and/or must remain physically near and clearly associated with the medical marijuana plants until the plant is placed into a package in both the seed-to-sale tracking system and physically packaged and affixed with the inventory tracking system tag.

(F) Mother plants must be tagged before any cuttings or clones are generated therefrom.

(G) If an inventory tracking system tag gets destroyed, stolen, or falls off of a medical marijuana plant or medical marijuana product, the licensee must ensure a new inventory tracking system tag is placed on the medical marijuana plant or medical marijuana product and the change of the inventory tracking system tag is properly reflected in the State inventory tracking system.

(H) Commercial licensees shall not reuse any inventory tracking system tag that has already been affixed to any regulated medical marijuana or medical marijuana products.

(4) Each wholesale package of medical marijuana must have an inventory tracking system tag during storage and transfer and may only contain one harvest batch of medical marijuana.

(5) Prior to transfer, commercial licensees shall ensure that each immature plant is properly affixed with an inventory tracking system tag if the plant was not previously tagged in accordance with these Rules.

(6) Commercial licensees' inventory must have an inventory tracking system tag properly affixed to all medical marijuana products during storage and transfer in one of the following manners:

(A) Individual units of medical marijuana products shall be individually affixed with an inventory tracking system tag; or

(B) Marijuana products may only be combined in a single wholesale package using one inventory tracking system tag if all units are from the same production batch.

(7) If any medical marijuana or medical marijuana products are removed from a wholesale package, each individual unit or new wholesale package must be separately tagged.

(8) All packages of medical marijuana waste shall have an inventory tracking system tag affixed and the contents of the waste package shall be reported in the State inventory tracking system.

## **(e) Inventory tracking system administrators and users.**

(1) The inventory tracking system administrator must attend and complete all required inventory tracking system training.

(2) If at any point, the inventory tracking system administrator for a licensee changes, the commercial licensee shall change or assign a new inventory tracking system administrator within thirty (30) business days.

(3) Commercial licensees shall maintain an accurate and complete list of all inventory tracking system administrators and employee users.

(4) Commercial Licensees shall ensure that all owners and employees that are granted inventory tracking system account access for the purpose of conducting inventory tracking functions are trained and authorized before the owners or employees may access the State inventory tracking system.

(5) All inventory tracking system users shall be assigned an individual account in the State inventory tracking system.

(6) Any individual entering data into the State inventory tracking system shall only use the inventory tracking system account assigned specifically to that individual. Each inventory tracking system administrator and inventory tracking system user must have unique log-in credentials that shall not be used by any other person.



(7) Within three (3) business days, commercial licensees must remove access for any inventory tracking system administrator or user from their accounts if any such individual no longer utilizes the State inventory tracking system or is no longer employed by the commercial licensee.

(f) **Loss of access to use of the State inventory tracking system.** If at any time a commercial licensee loses access to the State inventory tracking system due to circumstances beyond the commercial licensee's control, the commercial licensee shall keep and maintain records detailing all inventory tracking activities that were conducted during the loss of access. Once access is restored, all inventory tracking activities that occurred during the loss of access must be immediately entered into the State inventory tracking system. If a commercial licensee loses access to the inventory tracking system due to circumstances within its control, the commercial licensee may not perform any business activities that would be required to be reported into the State inventory tracking system until access is restored and reporting is resumed; any transfer, sale, or purchase of medical marijuana or medical marijuana products would be an unlawful sale.

### 442:10-9-9. Waste disposal [AMENDED]

(a) **Frequency.** Commercial licensees shall transfer medical marijuana waste to a medical marijuana waste facility for disposal within ninety (90) days.

(b) **Permissible methods.** Waste shall be disposed through either a process which renders the waste unusable and unrecognizable through physical destruction or a recycling process that the waste disposal facility is authorized to conduct pursuant to Oklahoma law.

(c) **Unusable and unrecognizable.**

(1) Medical marijuana waste facilities shall render medical marijuana waste (except hazardous waste) unusable and unrecognizable through one of the following methods. Other methods to render medical marijuana waste unusable and unrecognizable must be approved by the Authority before implementation.

(A) Grinding and incorporating the medical marijuana waste with the non-consumable, solid wastes listed below such that the resulting mixture is at least ~~50-fifty~~ percent (50%) non-marijuana waste, and such that the resulting mixture cannot easily be separated and sorted:

- (i) Paper waste;
- (ii) Plastic waste;
- (iii) Cardboard waste;
- (iv) Food waste;
- (v) Grease or other compostable oil waste;
- (vi) Bokashi, or other compost activators;
- (vii) Soil;
- (viii) Sawdust; and
- (ix) Other wastes approved by the Authority that will render the medical marijuana waste unusable and unrecognizable.

(B) Disposal of hazardous waste shall be conducted in a manner consistent with federal, state and local laws, regulations, rules or other requirements.

(2) Medical marijuana waste facilities shall only use methods or materials permitted under their licensure with the Oklahoma Department of Environmental Quality or the Oklahoma Department of Agriculture and any applicable laws.

(d) **Applicable laws apply.** Medical marijuana waste, including any hazardous waste, shall be stored, secured, managed, and disposed in accordance with all applicable state and local statutes, rules, regulations, ordinances, or other requirements.

## SUBCHAPTER 11. PROCESS VALIDATION

### 442:10-11-1. Standards and requirements to achieve process validation [AMENDED]

(a) **Purpose.** The Authority is authorized to establish process validation requirements. Process validation shall be voluntary, and no licensee shall be required to validate their process.

(b) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Certified Process Validation Testing Laboratory"** means a testing laboratory certified by the Authority to conduct testing and research on samples of medical marijuana and medical marijuana products for medical marijuana businesses pursuing or operating under process validation.

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(2) **"Process change"** means any alteration or modification to a process that previously underwent process validation and has the potential to affect the quality, safety, or integrity of a final product. This includes, but is not limited to, changes in raw material sources or suppliers, alterations in equipment type, scale, or location, modifications in process parameters, methods, or procedures, implementation of new technologies or techniques, changes in the facility or environment where the process occurs, or alterations in the sequence, duration, or conditions of process steps.

(3) **"Process validated"** means a licensed medical marijuana business operating in accordance with this Subchapter.

(4) **"Process validation"** means the documented data and objective evidence that a particular process, when operated according to standard operating procedures, will consistently produce medical marijuana and medical marijuana products that meet predetermined quality attributes and specifications and are adequate for an intended use.

(5) **"Process Validation Report"** means a document that provides a detailed account of the approach, intentions, and activities to be conducted during a validation activity and the results and findings from a validation activity.

(6) **"Process validation self-assessment"** means a systematic evaluation tool provided by the Authority, designed to allow medical marijuana businesses to assess and quantify their adherence to the requirements in this Subchapter.

(7) **"Process verification"** means the continual and documented monitoring, evaluation, and/or assessment of whether or not a particular process complies with these Rules and a medical marijuana licensee's standard operating procedures.

(8) **"Standard operating procedures" or "SOPs"** means written procedures produced by a medical marijuana licensee that provides detailed instructions on how to perform activities to ensure consistency, quality, and safety of medical marijuana and medical marijuana products and demonstrates compliance with Oklahoma law and these Rules.

(c) **General requirements.** Licensees seeking to achieve process validation and licensees maintaining process validation must meet the ongoing requirements listed below.

(1) **Applicable laws apply.** Licensees must comply with all requirements of Oklahoma law and these Rules in addition to any additional requirements to operate under process validation.

(2) **Seed to sale tracking system.** All licensees must track their marijuana and marijuana product inventory with the Authority's designated seed-to-sale system. This requirement for compliance with the seed-to-sale system shall be mandatory for licensees seeking to achieve process validation whether or not compliance with a seed-to-sale system is mandatory for all licensees.

(3) **Initial requirements to achieve process validation.** Licensees seeking to achieve process validation must submit every harvest batch or production batch for testing to a Certified Process Validation Testing Laboratory and must successfully pass all required testing with no failures over a three (3) month period.

(4) **Ongoing requirements to maintain process validation.** Licensees maintaining process validation must continue to submit every harvest batch or production batch for testing to a Certified Process Validation Testing Laboratory and must successfully pass all required testing with no failures. Any testing failures under process validation will require the licensee to revalidate the process. Licensees shall immediately notify the Authority in the manner and form prescribed by the Authority on its website and shall submit a copy of the COA to the Authority within two (2) business days. Further, the licensee must perform and document a corrective action and preventative action (CAPA) investigation to determine the root cause of the failure. The report shall be made available to the Authority upon request.

(5) **Process validated laboratory.** Licensees seeking to achieve process validation and licensees maintaining process validation must use and report results from a laboratory that is certified as a Certified Process Validation Testing Laboratory.

(6) **Required programs and standard operating procedures.** Licensees must utilize a Quality Management System (QMS) based on consensus standards generated by entities such as ASTM International or the International Organization for Standardization (ISO) relevant to this process validation program. Licensees seeking to achieve process validation and licensees maintaining process validation shall implement, document, and adhere to the following programs as part of the licensee's standard operating procedures:

(A) Implement and maintain a Quality Management System (QMS) documented in a quality manual that outlines the medical marijuana licensee's commitment to quality and serves as a reference guide for all quality-related activities focused on ensuring consistency in medical marijuana and medical marijuana product quality.

(i) A formal quality policy statement expressing the organizational commitment to quality;

- (ii) Specific, measurable quality objectives aligned with the quality policy, aiming to ensure continuous improvement in product quality and operational efficiency;
  - (iii) A clear depiction of the organizational hierarchy, detailing roles and responsibilities related to quality management and process validation;
  - (iv) Procedures for an annual management review meeting to assess the effectiveness of the quality management system, discuss any non-conformities, and set directions for future improvements; and
  - (v) Mechanisms for identifying opportunities for improvements, implementing changes, and monitoring their effectiveness.
- (B) Employee training program, including, but not limited to:
- (i) A structured program that ensures all employees are adequately trained on their specific roles, quality principles, hygiene and sanitation practices, and any other relevant topics;
  - (ii) Initial and annual ongoing training requirements for all employees that at a minimum, include training on specific job responsibilities, emergency response and safety protocols, all the programs described in these Rules, and any other training required by these Rules;
  - (iii) Procedures for evaluating training to gauge the effectiveness of the training, including, but not limited to, training quizzes and shadowing by trained employees; and
  - (iv) Documentation of all training sessions, including attendees, trainers, topics covered, and date of training.
- (C) Recordkeeping, record retention, and document control program including, but not limited to:
- (i) A master list of documents related to process validation, including, but not limited to, document titles, version numbers, and dates of revision for all documents;
  - (ii) Procedures for accurately maintaining all records and documents related to product quality and compliance with these Rules, ensuring they are easily retrievable, and protected from unauthorized alterations;
  - (iii) Procedures for approving documents;
  - (iv) Defined retention periods for record retention for each type of record, indicating compliance with Oklahoma law and these Rules;
  - (v) Protocols and naming conventions for naming documents to ensure consistency and ease of identification; and
  - (vi) Procedures for document revisions and tracking document versions, ensuring that only the latest and approved version is in use.
- (D) Disease and foreign material control program, including, but not limited to:
- (i) Detailed policies on personal hygiene, including but not limited to, handwashing, grooming, and attire for employees and visitors;
  - (ii) Procedures for the use of personal protective equipment for employees and visitors;
  - (iii) Protocols for employees to report illnesses, ensuring they are relieved from duties that might risk contamination; and
  - (iv) Implemented measures to prevent contamination from foreign materials, including, but not limited to, regular inspections, use of sieves/filters, and metal detectors.
- (E) Equipment program, including, but not limited to:
- (i) A master list of equipment;
  - (ii) A defined system for equipment identification;
  - (iii) Equipment calibration protocols, including frequency of calibrations;
  - (iv) Equipment installation protocols, including documented procedures and appropriate records for verifying the equipment against the manufacturer's specifications including, but not limited to, model, capacity, checking for the presence and completeness of all equipment components and accessories, ensuring the equipment is installed in an appropriate environment including, but not limited to, clean and temperature-controlled, confirming that all necessary utility connections including, but not limited to, electrical and water are available and correctly set up, reviewing and storing equipment manuals, schematics, and installation instructions, and documenting any deviations or issues identified during installation and their resolutions;

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- (v) Operational check protocols, including procedures and appropriate records for verifying that all safety features and alarms are functional, testing the equipment under different settings to ensure it operates within the defined limits, confirming that the equipment can achieve and maintain required operational parameters including, but not limited to, temperature and pressure, documenting the equipment's response to potential failures or interruptions including, but not limited to, power outage, and recording any deviations or inconsistencies in operation and their resolutions;
  - (vi) Performance verification protocols, including procedures and appropriate records for running the equipment using actual or simulated materials to mimic real production scenarios, monitor and document key output parameters to ensure they meet the required specifications including, but not limited to, weight, conducting repeated runs to verify the consistency of the equipment's performance over time, and documenting any deviations in performance and their resolutions;
  - (vii) Equipment preventive maintenance and repair protocols with a preventive maintenance schedule; and
  - (viii) Documentation of all equipment-related activities.
- (F) Sanitation program, including but not limited to:
- (i) The cleaning and sanitation procedures for all equipment, tools, and facilities to ensure that all areas are free from potential contaminants and operate under hygienic conditions;
  - (ii) A defined frequency for cleaning and sanitation tasks;
  - (iii) A list of approved cleaning agents and sanitizers; and
  - (iv) Protocols for cleaning verification and validation.
- (G) Environmental monitoring program that describes a system to regularly monitor and document environmental conditions to ensure conditions remain appropriate and consistent, including, but not limited to:
- (i) Procedures for regular monitoring of environmental conditions such as temperature, humidity, and potential contaminants, including frequency of monitoring;
  - (ii) Use of calibrated instruments for monitoring, with defined frequency for calibration;
  - (iii) Defined environmental monitoring alert limits and environmental monitoring action limits to indicate there may be something going wrong within the environment that are based on trend analysis, risk assessment, standards, and/or regulatory requirements in these Rules. For the purposes of this section, "environmental monitoring action limit" means a predetermined threshold that signifies a process has deviated from its accepted operating range and corrective action(s) must be taken and documented to restore the process to its normal state. For the purposes of this section, "environmental monitoring alert limit" means a predetermined threshold that serves as an early indication of a drift from normal environmental conditions, which, when exceeded, results in increased attention;
  - (iv) Procedures for corrective actions when alert or action limits are exceeded; and
  - (v) Documentation and trending of environmental monitoring data.
- (H) Supplier qualification program, including, but not limited to:
- (i) Procedures for initial assessment and approval of suppliers, including, but not limited to, audits, sample testing, and regular reviews of supplier performance, to meet the medical marijuana business's quality specifications and comply with these Rules;
  - (ii) Defined criteria and frequency for evaluating suppliers' quality systems and historical performance; and
  - (iii) Documentation of supplier performance and any corrective actions taken when supplier issues arise.
- (I) Raw materials, ingredients, and final product qualification program, including, but not limited to:
- (i) Protocols for inspecting and testing raw materials and ingredients upon receipt, as well as the final product before transfer;
  - (ii) Defined quality attributes and specifications for raw materials, ingredients, and final products;
  - (iii) Procedures for quarantine, approval, or rejection of raw materials, ingredients, and final products; and
  - (iv) Documentation of all inspections, tests, and decisions.

- (J) Corrective and preventive action (CAPA) program that provides a systematic approach to investigate, address, and prevent issues related to product quality or safety, including, but not limited to:
    - (i) Procedures to identify, document, and address quality or safety issues;
    - (ii) Description of root cause analysis techniques that may be used to determine underlying causes of issues;
    - (iii) Defined procedures for implementing corrective actions and verifying their effectiveness to ensure that corrective actions prevent recurrence; and
    - (iv) Documentation and trending of all CAPA activities.
  - (K) Batch records program, including, but not limited to:
    - (i) Procedures for each stage of production or processing;
    - (ii) Traceability records for raw materials and ingredients used in each batch;
    - (iii) Procedures for reviewing and approving batch records; and
    - (iv) Procedures for archiving and retrieving batch records.
  - (L) Packaging and labeling program, including, but not limited to:
    - (i) Detailed step-by-step procedures for packaging and labeling and verifying packaging and labeling to ensure that final products are packaged under sanitary conditions and the labels provide accurate, compliant information that adheres to these Rules; and
    - (ii) Procedures for label control, including but not limited to storage, issuance, and reconciliation.
  - (M) Waste program, including, but not limited to:
    - (i) Defined categories of waste, including but not limited to waste disposal requirements of Oklahoma law and these Rules;
    - (ii) Protocols for segregating, storing, and disposing of waste, minimizing contamination risks, and ensuring compliance with these Rules;
    - (iii) Procedures for treating or decontaminating waste, if applicable; and
    - (iv) Documentation of all waste disposal including but not limited to documents from licensed medical marijuana waste disposal facilities, disposal logs required under OAC 442:10-5-10, and authorized industrial waste disposal entities.
  - (N) Storage program, including, but not limited to:
    - (i) Protocols for ensuring compliance with these Rules and the proper storage of raw materials, chemicals, ingredients, in-process products, final products, and retained samples. This shall include temperature and humidity controls, where appropriate, approaches to protect stored materials and products from contaminants, and approaches to minimize safety hazards;
    - (ii) Protocols for stock rotation, such as First In, First Out (FIFO) and First Expired, First Out (FEFO); and
    - (iii) Measures to protect stored items from contamination, pests, and theft.
  - (O) Transport and shipping program, including, but not limited to:
    - (i) Procedures to ensure products are transported under conditions that maintain their quality, safety, and compliance with these Rules. This shall include considerations for temperature control, protection from contamination, and secure packaging;
    - (ii) Use of validated shipping containers or systems; and
    - (iii) Documentation of transport and shipping, including any deviations or issues.
- (7) Process Validation Report.** Licensees shall annually submit to the Authority a detailed Process Validation Report outlining the approach, intentions, and activities conducted during process validation and any results and findings. The Process Validation Report shall include, but is not limited to, the following:
- (A) Introduction, including, but not limited to, the purpose of the process validation, a brief description of the processes being validated, and the scope of the process validation;
  - (B) Process validation team, including the list of employees involved in the process validation and their roles and responsibilities;
  - (C) Equipment, including, but not limited to, a list of equipment and instruments used and calibration and maintenance records for equipment;
  - (D) Process descriptions, including, but not limited to, detailed step-by-step description of each process that is required to produce final products. This includes, but is not limited to, all the processes within the programs described in this subchapter;

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- (E) Protocol, including, but not limited to, pre-defined criteria and methods for conducting process validation, sampling plans, including sample size, sampling points, and frequency, and acceptance criteria for each validation activity, prescribed by these Rules and the medical marijuana business's standard operating procedures;
- (F) Results, including, but not limited to, detailed results from each validation activity, data, graphs, charts, and/or other relevant evidence, comparison of results against acceptance criteria;
- (G) Deviations and corrective actions, including, but not limited to, a list of deviations, nonconformances, or anomalies observed during validation activities, root cause analysis for each deviation, corrective actions taken, and their outcomes;
- (H) Risk assessment, including, but not limited to, a list of identified sources of potential risks from equipment, chemicals, work processes, human behaviors, or other sources, an evaluation of the likelihood each risk will lead to harm and the severity of the impact if the risk could lead to harm, a list of implemented measures to eliminate or reduce the risk, and procedures for how these measures will be monitored, recorded, and reviewed for continuous improvement;
- (I) Quality attributes and specifications, including, but not limited to, references to where the medical marijuana business's quality attributes and specifications are listed in their standard operating procedures and examples of actual results from approved raw materials, ingredients, and final products compared with specifications. Specifications serve as the criteria that describe the acceptable limits for the quality attributes. For the purposes of this section, "quality attributes" means the desired physical, chemical, biological, or microbiological properties or characteristics medical marijuana and medical marijuana products should have to ensure quality. For the purposes of this section, "specification" means any requirement with which a process, ingredient, medical marijuana, or medical marijuana product must conform, including but not limited to, the requirements set forth in these Rules and those written in a medical marijuana licensee's standard operating procedures;
- (J) Process verification, including, but not limited to, procedures for how the medical marijuana business will conduct process verification activities along with their frequency, monitoring parameters, and acceptance criteria;
- (K) Conclusion, including, but not limited to, a summary of the process validation results, a statement on whether the processes were successfully validated, and plans for any improvements or changes, if applicable;
- (L) Attachments, including, but not limited to, raw data, calibration certificates, equipment manuals, testing results, and other relevant documents that supply information and evidence of process validation; and
- (M) Approval and sign-off, including signatures of the validation team and management with dates confirming the accuracy and completeness of the report.

**(8) Process validation self-assessment or third-party good manufacturing practices certification.** Licensees must submit annually to the Authority at least one of the following:

- (A) A process validation self-assessment, provided by the Authority, to determine the licensee's compliance with process validation requirements. For successful completion of the process validation self-assessment, licensees must achieve a score indicating eighty percent (80%) adherence or higher, in addition to adhering to the other requirements in this subchapter. The process validation self-assessment shall be submitted with any new or renewal process validation applications and must detail any corrective and preventive action taken or planned and any areas of non-compliance, if identified
- (B) A Good Manufacturing Practices certification document from a certification body that is ISO 17021-1:2015 or ISO 17065:2012 accredited, recognized by the International Accreditation Forum (IAF), and approved by the Authority. The certification document shall be submitted with the audit report, the medical marijuana licensee's responses to deficiencies, and associated corrective and preventive action documentation, if applicable.

## **(d) Application.**

**(1) Application fee.** The nonrefundable, annual registration fee of ~~Five Thousand Dollars~~ five thousand dollars (\$5,000.00) per licensee is in addition to any other fees due by the licensee.

**(2) Submission.** Applications for a licensee to achieve process validation shall be on the Authority prescribed form and shall include the following information about the licensee:

- (A) Name of the establishment;
- (B) Physical address of the establishment, including the county in which any licensed premises will be located;

- (C) GPS coordinates of the establishment;
- (D) Phone number and email address of the establishment; and
- (E) Hours of operation for any licensed premises.

(3) **Supporting documentation.** Each application for process validation shall be accompanied by the following documentation:

- (A) Accreditation documentation, including documentation of enrollment in analyte specific proficiency testing results, showing applicants meet requirements stated in these Rules;
- (B) Standard operating procedures, policies, protocol or procedures for receipt, handling, and disposition of samples of usable medical marijuana, as well as documented proof of required programs and standard operating procedures required by this subchapter;
- (C) Documented compliance with required programs and standard operating procedures pursuant to ~~OAC 10-11-1(c)(6)~~442:10-11-1(c)(6);
- (D) Process Validation report;
- (E) Process validation self-assessment or third-party good manufacturing practices certification;
- (F) If applicable, reference standards, sample analysis procedures, and documentation demonstrating that the analytical methods used by the laboratory are appropriate for their intended purpose;
- (G) Policies for data recording, review, storage, and reporting and record retention requirements; and
- (H) Any further documentation or information the Authority determines is necessary to ensure the applicant is qualified under Oklahoma law and these Rules.

(4) **Incomplete application.** Failure to submit a complete application with all required information and documentation shall result in a rejection of the application. The Authority shall notify the applicant ~~via email through the electronic application account~~in the same method the application was submitted to the Authority of the reasons for the rejection.

(e) **Record retention requirements.** Licensees must establish document retention policies and shall keep all records and documents related to their process validation ready and accessible at the address listed on their marijuana business license for inspection or audit by the Authority.

- (1) Records shall be maintained by the licensee for as long as the licensee is continuing to operate under that validated process.
- (2) Licensees shall retain all such documents and records for at least four (4) years after the licensee has stopped using the validated process or after the licensee has made a significant process change to a validated process. Any significant process change to the validated processes of a licensee is subject to the same document retention requirements and shall be retained for as long as the significant process change is part of an ongoing validated process, and for at least four (4) years after the licensee has stopped using the validated process or after the licensee has made a subsequent significant process change to the validated process.
- (3) Records shall be maintained of all inspection, maintenance, testing, and calibrating operations. These records shall include the date of the operation, the person who performed it, the written procedure used, and any deviations from the written procedure. All deviations must be reviewed and approved in writing by the medical laboratory director.

(f) **Biannual inspections.**

- (1) Submission of an application to operate under process validation constitutes permission for entry to and inspection of any licensed premises and any vehicles on the licensed premises used for the transportation of medical marijuana and medical marijuana products during hours of operation and other reasonable times. Refusal to permit entry or impeding such entry or inspection shall constitute grounds for administrative penalties, which may include but are not limited to fines as set forth in Appendix C and the nonrenewal, suspension, and/or revocation of a license.
- (2) Licensees shall be subject to biannual inspections by the Authority that include random testing of products being produced under process validation. ~~The~~Upon operational status of the Authority's Quality Assurance Laboratory, the Authority shall obtain the random sample during the biannual inspections and take samples to the quality assurance laboratory. The Authority shall have access to all products being produced or grown under process validation.
- (3) The Authority may review any and all records of a licensee and may require and conduct interviews with such persons or entities and persons affiliated with such entities, for the purpose of determining compliance with Authority Rules and applicable laws. Failure to make documents or other requested information available to the Authority and/or refusal to appear or cooperate with an interview shall constitute grounds for administrative penalties, which may include, but are not limited to, fines as set forth in Appendix C and the denial, nonrenewal, suspension, and/or revocation of a license. All records shall be kept on-site and readily ~~available~~accessible.

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(g) **Certified Process Validation Testing Laboratory.** A testing laboratory may apply to be certified as a Certified Process Validation Testing Laboratory to conduct testing for licensees pursuing or operating under process validation.

(1) Accreditation. Testing laboratories seeking to be a Certified Process Validation Testing Laboratory must be accredited by or have made application for accreditation to ANSI/ASQ National Accreditation Board, American Association for Laboratory Accreditation (A2LA), Perry Johnson Laboratory Accreditation (PJLA), or any other accrediting entity using the ISO/IEC Standard 17025. Accreditation or application for accreditation must be from one of these entities in both chemistry and biology or cannabis.

(2) Laboratories seeking to become a certified Process Validation Testing Laboratory must, in addition to all other requirements to achieve and maintain process validation required under this subchapter, Oklahoma law and these Rules:

(A) Conform to ASTM International Standard D8244-21a: Standard Guide for Analytical Laboratory Operations Supporting the Cannabis/Hemp Industry and demonstrate conformance by submitting at least one of the following:

(i) A Certified Process Validation Testing Laboratory self-assessment, provided by the Authority, to determine the licensee's percentage of compliance with ASTM International Standard D8244-21a. For successful completion of the self-assessment, a testing laboratory must achieve a score indicating eighty percent (80%) adherence or higher, in addition to adhering to the other requirements in Oklahoma law and these rules. The self-assessment shall be submitted with associated documentation detailing any corrective and preventive action taken or planned, if areas of non-compliance are identified.

(ii) A certification document demonstrating conformance to ASTM International Standard D8244-21a from a certification body that is ISO 17021-1:2015 accredited and approved by the Authority. The certification document shall be submitted with the audit report, the testing laboratory's responses to deficiencies, and associated corrective and preventive action documentation, if applicable.

(B) Follow ASTM International's D8282-19: Standard Practice for Laboratory Test Method Validation and Method Development to validate test methods that will be used to test samples of final products produced under process validation.

(C) ~~At~~ Upon operational status of the Authority's Quality Assurance Laboratory, at a minimum, pass five (5) consecutive blind proficiency tests administered by the quality assurance laboratory without a failure over the course of six (6) months.

(h) **Revocation of process validation certification.** The Authority may revoke the certification of licensees to operate under process validation or revoke the certification of a testing laboratory that is seeking to operate or operating as a Certified Process Validation Testing Laboratory.

(i) **Surrender of process validation certification.** A licensee operating under process validation may voluntarily surrender their authority to operate under process validation to the Authority at any time. If a licensee voluntarily surrenders their certification to operate under process validation, the licensee shall:

~~(A)~~ (1) Submit on a form prescribed by the Authority a report to the Authority including the reason for surrendering their certification to operate under process validation; the effective date of surrendering their certification to operate under process validation; and where all records required under this subsection will be retained;

~~(B)~~ (2) Submit proof of the licensee's identity through submission of documentation identified in OAC 442:10-1-7 (relating to Proof of Identity); and

~~(C)~~ (3) Comply with all applicable requirements of Oklahoma law and these Rules as it relates to medical marijuana businesses not seeking or operating under process validation.

(j) **Penalties.** A licensee's failure to timely comply with the provisions of this subsection and/or provide required information and documentation to the Authority may result in revocation, suspension, and monetary penalties, in addition to any other penalties established by Oklahoma law and these Rules.

(1) Punishment for violations of process validation that, at a minimum, would prohibit a licensee from operating under process validation for five (5) years and the assessment of a fine not to exceed ~~Fifty Thousand Dollars~~ fifty thousand dollars (\$50,000.00). Any such fine levied against a licensee found to have violated the laws or rules of process validation shall be remitted to the Department of Mental Health and Substance Abuse Services,

(2) If an adulterated product that was produced under process validation fails testing and the batch or lot has been sold to a dispensary,



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(A) A first violation shall be the assessment of a fine not to exceed ~~Ten Thousand Dollars~~ ten thousand dollars (\$10,000.00) and a public recall of the product. The licensee shall further be required to revalidate the process.

(B) A second violation within two (2) years of a previous violation shall be the assessment of a fine not to exceed ~~Seventy-five Thousand Dollars~~ seventy-five thousand dollars (\$75,000.00) and a public recall of the product. The licensee shall further be prohibited from utilizing process validation for a minimum of five (5) years.

(C) A third violation within two (2) years of a previous violation shall be the assessment of a fine of ~~Two Hundred Fifty Thousand Dollars~~ two hundred fifty thousand dollars (\$250,000.00) and a public recall of the product. The licensee shall further be prohibited from utilizing process validation,

(3) Any willful violation of process validation shall result in:

(A) A first willful violation of process validation shall result in the assessment of a fine of ~~Two Hundred Fifty Thousand Dollars~~ two hundred fifty thousand dollars (\$250,000.00) and a license revocation hearing.

(B) A second willful violation of process validation shall result in the assessment of a fine of ~~One Million Dollars~~ one million dollars (\$1,000,000.00) and a hearing to permanently revoke the license.

(4) Punishment for violations by a Certified Process Validation Testing Laboratory that has been found to have been falsifying data, providing misinformation, or any unethical practices related to process validation at a minimum shall prohibit a licensee from operating under process validation for up to twenty- five (25) years and the assessment of a fine not to exceed ~~One Million Dollars~~ one million dollars (\$1,000,000.00). Any such fine levied against a licensee shall be remitted to the Authority for deposit into the Oklahoma Medical Marijuana Authority Revolving Fund. In addition to this fine, in response to a finding of a willful violation of process validation by the Authority, the Authority shall also be authorized to collect, levy, or impose any other fee, fine, penalty, or action as allowed by law.

*[OAR Docket #25-460; filed 6-2-25]*

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## TITLE 445. BOARD OF MEDICOLEGAL INVESTIGATIONS CHAPTER 10. MEDICAL EXAMINER CASES

*[OAR Docket #25-411]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

445:10-1-11. Fees for Forensic Science and Laboratory Services [AMENDED]

### **AUTHORITY:**

Medicolegal Board of Investigations; 63 O.S. § 932, 948.1

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

August 19, 2024

### **COMMENT PERIOD:**

September 16, 2024 through October 16, 2024

### **PUBLIC HEARING:**

October 22, 2024

### **ADOPTION:**

December 13, 2024

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

December 13, 2024

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

# Permanent Final Adoptions

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May 28, 2025

**EFFECTIVE:**

August 1, 2025

**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:**

N/A

**CONTACT PERSON:**

Kari Learned, Director of Operations, 405-248-9705

**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 1, 2025:**

**445:10-1-11. Fees for Forensic Science and Laboratory Services [AMENDED]**

As provided in Title 63 O.S., Section 948 and 948.1, the following fees are set for forensic and laboratory services.

(1) Any of the listed fees may be waived by the Chief Medical Examiner.

(2) Schedule of fees for forensic science services are as follows:

(A) Civil Cases

(i) Digital photos on CD: \$25.00

(ii) Microscopic slides - H & E slides: \$10.00 each

(iii) Digital copies of x-rays: \$15.00 each

(B) M.D., D.O., Ph.D.

(i) Case Review/Literature Review: \$500.00 per hour to include the first hour or any part thereof. Thereafter, \$125.00 per quarter hour.

(ii) Conference: \$400.00 per hour to include the first hour or any part thereof. Thereafter, \$100.00 per quarter of hour.

(iii) Interrogatories: ~~\$375.00~~\$500.00 per hour/minimum one hour.

(iv) Deposition: \$550.00 per hour to include the first hour or any part thereof. Thereafter, \$300.00 per hour or any part thereof.

(v) Court Appearance: \$2000 per day to include expenses/minimum one day.

(C) Investigators

(i) Conference: \$200.00 per hour to include the first hour or any part thereof. Thereafter, \$50.00 per quarter of hour.

(ii) Interrogatories: \$325.00 per hour/minimum one hour.

(iii) Deposition: \$350.00 per hour to include the first hour or any part thereof. Thereafter, \$175.00 per hour or any part thereof.

(iv) Court Appearance: \$1000 per day to include expenses/minimum one day.

(D) All Requesting Parties

(i) Cremation permits: ~~\$200.00~~\$235.00

(ii) Cremation late fee (over 30 days): \$25.00

(iii) Transport out of state investigations: ~~\$150.00~~\$185.00

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- (iv) Body storage fee: \$50.00 per day after 3 days
  - (v) Specimen storage fee: \$100.00 per year
  - (vi) Conference room usage fee: \$50 per hour or \$150 per ½ day
  - (vii) Copy of CME-1 and Toxicology report: \$10.00
  - (viii) Copy of CME-1, Autopsy and Toxicology report: \$20.00
  - (ix) Copy of entire case file - certified: \$25.00 per report
  - ~~(x)~~(x) Copy of entire toxicology file - certified: \$1.00 per page
- (3) Schedule of fees of toxicology laboratory services.
- (A) Alcohols: ~~\$75.00~~\$100.00
  - (B) Immunoassay (8 drug classes): \$125.00
  - (C) Alkaline Drug Screen: ~~\$150.00~~\$225.00
    - ~~(i)~~ Qualitative Confirmation by repeat analysis: \$75.00
  - (D) Acid Neutral Drug Screen: ~~\$150.00~~\$225.00
    - ~~(i)~~ Qualitative Confirmation by repeat analysis: \$75.00
  - ~~(ii)~~(E). Drug Quantitative (per drug): \$150.00
  - ~~(E)~~(F). Carbon Monoxide: \$100.00
  - ~~(F)~~(G). Volatiles: \$150.00
  - ~~(G)~~(H). Specimen Storage Fee (per year, up to maximum 5 years): \$100.00
  - ~~(H)~~(I). Administrative Services (documentation and handling): \$50.00
  - (J) Targeted Drug Screen: \$200.00

[OAR Docket #25-411; filed 5-29-25]

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## TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 1. ADMINISTRATION

[OAR Docket #25-442]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Information

450:1-1-1.1. Definitions [AMENDED]

450:1-1-7. Requests for agency public information [AMENDED]

Subchapter 3. Contracts for Mental Health, Substance Abuse, and Residential Care Services

Part 1. ELIGIBILITY TO CONTRACT

450:1-3-5. Staff qualifications for contracted entities [AMENDED]

Subchapter 9. Certification and Designation of Facility Services

450:1-9-5. Qualifications for certification of facilities, programs and individuals [AMENDED]

450:1-9-5.7. Types and duration of certification status for facilities and programs [AMENDED]

450:1-9-5.8. Types and duration of certification of individuals [AMENDED]

450:1-9-7.1. Procedures for completion of additional certification processes subsequent to a Permit for Temporary Operations [AMENDED]

450:1-9-7.2. Procedures for renewal of certification [AMENDED]

Subchapter 15. County Community Safety Investment Fund [NEW]

450:1-15-1. Purpose [NEW]

450:1-15-3. Applicability [NEW]

450:1-15-5. Allowable Programs [NEW]

450:1-15-7. Application Requirements [NEW]

450:1-15-9. Additional Requirements [NEW]

450:1-15-11. Disbursement of Funds [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:

# Permanent Final Adoptions

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November 8, 2024

**COMMENT PERIOD:**

December 2, 2024 through January 3, 2025

**PUBLIC HEARING:**

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**ADOPTION:**

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N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

September 1, 2025

**SUPERSEDED EMERGENCY ACTIONS:**

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N/A

**REGISTER PUBLICATION:**

N/A

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**INCORPORATIONS BY REFERENCE:**

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N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Proposed rule revisions amend and clarify language regarding requests for public information and add language regarding the County Community Safety Investment Fund established by the legislature. Changes also include clarifications regarding certification application notifications and other clean up. The definition of a sentinel event is also amended.

**CONTACT PERSON:**

Melissa Miller, melissa.miller@odmhsas.org, 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, 2025:**

## 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:

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**"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 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.

**"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 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 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.

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**"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.

**"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.

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**"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, within seventy-two (72) hours of contact after mobile/outpatient crisis intervention services are provided, 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.

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"**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.

## 450:1-1-7. Requests for agency public information [AMENDED]

Any person making a request pursuant to 450:1-1-6 shall comply with the following:

- (1) ~~The request must~~ It is preferred that the requests be in writing and ~~may be~~ mailed to the Oklahoma Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, Oklahoma 73152-3277, ~~or sent via facsimile to (405) 522-3650,~~ or made in person during regular office hours between 8:00 a.m. and 5:00 p.m. at ~~2000 N. Classen, Suite E600, Oklahoma City.~~ All requests sent through email shall be made to the ODMHSAS Legal Division.
- (2) The request must specifically describe the record(s) requested, the names, type of record, relevant time frame, the purpose of such request, whether personal, public interest, or commercial, and any other pertinent information. ~~The request must be signed by~~ indicate the name of the party making the request, and ~~have~~ include the party's mailing address, email address, and telephone number.
- (3) ~~Whenever possible, requests shall be made to the division or area of the Department that maintains the records. Requests by attorneys in formal litigation must go through the Legal Division. Requests for personnel records that are not confidential must go through the Human Resources Management Division. Requests for records regarding facilities or programs certified by the Board must be directed to the Provider Certification Division. Requests for records regarding persons or entities contracting with the Department must be directed to the Contracts Division. Requests from the media for records must go through the Communications Division. Requests for records regarding Board meetings must go through the Office of the Commissioner. If the division or area that maintains the records is unknown to the party making the request, the request should be directed to the Legal Division.~~
- ~~(4)~~ (3) The requesting party shall pay a fee for copies. Said fee shall be twenty-five cents (25¢) per page, twelve dollars (\$12.00) per 3½-inch diskette, CD-ROM, or flash drive, and \$1.00 per page for certified documents. Copies provided via fax machine cost \$1.00 per page, regardless of the destination of the faxed copy. ~~For commercial requests or those that would cause excessive disruption of office function, such as documents that are archived, either internally or with the Oklahoma Archives and Records Commission, a search fee will be charged based upon the hourly rate of the individual(s) searching for, and locating, the requested records.~~
- ~~(4)~~ For commercial requests or those that would cause excessive disruption of office function, such as documents that are archived, either internally or with the Oklahoma Archives and Records Commission, a search fee will be charged based upon the hourly rate of the individual(s) searching for, and locating, the requested records.
- (5) Mental health and substance abuse treatment records are confidential and not subject to release by statutes and federal regulations including, but not limited to, 43A O.S. §§ 1-109, 3-313, 3-422 and 3-423; 63 O.S. § 1-1502; and 42 CFR, Part 2.
- (6) Certain ODMHSAS employee personnel records are confidential and not subject to the Oklahoma Open Records Act, including employee evaluations, payroll deductions, applications submitted by persons not hired by ODMHSAS; internal personnel investigations including examination and selection material, employees' home addresses, telephone numbers, and social security numbers, medical and employee assistance records, and other personnel records where disclosure would constitute a clear invasion of privacy. Personnel records information that are subject to release are the application of a person who becomes an employee of the Department, gross receipt of public funds, dates of employment, title or position and any final disciplinary action resulting in loss of pay, suspension, demotion or termination.
- (7) Any other document protected, as confidential, by any Oklahoma or federal law, or Oklahoma or federal administrative rule, or by order of a court of competent jurisdiction, is not subject to the Oklahoma Open Records Act.

## SUBCHAPTER 3. CONTRACTS FOR MENTAL HEALTH, SUBSTANCE ABUSE, AND RESIDENTIAL CARE SERVICES

### PART 1. ELIGIBILITY TO CONTRACT



## **450:1-3-5. Staff qualifications for contracted entities [AMENDED]**

(a) All staff who provide clinical or supportive services for an agency contracting with ODMHSAS shall have documented qualifications, licensing or training specific to the clinical services they provide.

(b) The following service providers, as defined in 450:1-1-1.1, may provide behavioral health treatment and support services as agreed upon per contract between ODMHSAS and the contractor:

- (1) Behavioral Health Aide (BHA);
- (2) Behavioral Health Case Manager (CM);
- (3) Certified Alcohol and Drug Counselor (CADC);
- (4) Employment Consultant (EC);
- ~~(5) Family Support and Training Provider (FSP);~~
- ~~(6)(5)~~ Gambling Treatment Professional (GTP)/Certified Problem Gambling Treatment Counselor;
- ~~(7)(6)~~ Intensive Case Manager (ICM);
- ~~(8)(7)~~ Licensed Behavioral Health Professional (LBHP);
- ~~(9)(8)~~ Licensure Candidate;
- ~~(10)(9)~~ Licensed Mental Health Professional (LMHP);
- ~~(11)(10)~~ Licensed Physician;
- ~~(12)(11)~~ Licensed Practical Nurse;
- ~~(13)(12)~~ Paraprofessional;
- ~~(14)(13)~~ Psychiatrist;
- ~~(15)(14)~~ Peer Recovery Support Specialist (PRSS), including Family PRSS;
- ~~(16)(15)~~ Registered Nurse; and
- ~~(17)(16)~~ Support Services Provider (SSP).

(c) Compliance with 450:1-3-5 shall be determined by a review of staff personnel files and other supporting documentation provided.

(d) Failure to comply with 450:1-3-5 will result in the initiation of procedures to deny, suspend and/or revoke certification.

## **SUBCHAPTER 9. CERTIFICATION AND DESIGNATION OF FACILITY SERVICES**

### **450:1-9-5. Qualifications for certification of facilities, programs and individuals [AMENDED]**

(a) Qualifications for certification of facilities and programs providing mental health, substance related, or addictive disorder treatment services are as follows:

(1) Substantial compliance with applicable Standards and Criteria as authorized within the authority of Title 43A of the Oklahoma Statutes, including but not limited to those Core Organizational Standards, Core Operational Standards and Quality Clinical Standards formally codified in Title 450 regulating the area for which certification is sought:

- (A) Chapter 16, Standards and Criteria for Community Residential Mental Health Facilities;
- (B) Chapter 17, Standards and Criteria for Community Mental Health Centers;
- (C) Chapter 18, Standards and Criteria for Substance Related and Addictive Disorder Treatment Services;
- ~~(D)~~ Chapter 21, Alcohol and Drug Substance Abuse Courses (ADSAC) and Assessments;
- ~~(E)(E)~~ Chapter 23, Standards and Criteria for Community Based Structured Crisis Centers;
- ~~(F)(F)~~ Chapter 24, Standards and Criteria for Comprehensive Community Addiction Recovery Centers;
- ~~(G)(G)~~ Chapter 27, Standards and Criteria for Mental Illness Service Programs;
- ~~(H)(H)~~ Chapter 55, Standards and Criteria for Programs of Assertive Community Treatment;
- ~~(I)(I)~~ Chapter 60, Standards and Criteria for Certified Eating Disorder Treatment Programs;
- ~~(J)(J)~~ Chapter 65, Standards and Criteria for Gambling Treatment Programs; and
- ~~(K)(K)~~ Chapter 70, Standards and Criteria for Opioid Substitution Treatment Programs.

(2) With the exception of facilities and programs certified under Chapter 21 of this Title, Substantial ~~substantial~~ compliance with applicable Core Organizational Standards, Core Operational Standards and Quality Clinical Standards set forth in OAC 450:1-9-5.4, OAC 450:1-9-5.5 and OAC 450:1-9-5.6. Core Organizational Standards, Core Operational Standards and Quality Clinical Standards address separate requirements as follows:

(A) Core Organizational Standards address requirements necessary to assure the public and consumers of services that essential organizational functions are substantially in place at the facility and the facility is prepared to initiate services for which certification is being requested. These requirements can be verified prior to the initiation of services for which the organization is requesting certification.

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(B) Core Operational Standards address other essential conditions and processes that must be in place to assure basic safety and protection of consumer rights. Some of these requirements can also be verified prior to the initiation of service. Others must be verified when an organization begins providing services.

(C) Quality Clinical Standards address actual services provided, qualifications of staff, clinical documentation, and processes designed to assure consistency in quality and efficacy of services. These requirements can only be verified after a reasonable time during which services have been provided.

(3) Substantial compliance with applicable Core Organizational Standards, Core Operational Standards and Quality Clinical Standards will be evaluated by assessing each program or facility's level of compliance with applicable standards. Standards will have separate minimum compliance thresholds based on their categorization as critical or necessary in accordance with 450:1-9-5.7. Critical and Necessary Standards are defined as follows:

(A) Critical Standards are standards that have the potential to significantly impact the safety, well-being, and/or rights of consumers, or consumers' access to appropriate services.

(B) Necessary Standards are standards that are important for the organization's overall functioning but generally do not have a significant, immediate impact on consumers.

(4) Compliance with all applicable Core Organizational Standards, Core Operational Standards and Quality Clinical Standards will be evaluated in the manner and methods prescribed by ODMHSAS. Compliance methods include, but are not limited to, on-site inspections and observation, staff interviews, and review of relevant records and documentation as determined by ODMHSAS. 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. Failure to provide documentation or access requested by ODMHSAS will be grounds for disciplinary action. Failure to demonstrate substantial compliance with applicable standards will result in immediate suspension and/or revocation.

(5) An applicant for certification must also comply with all other applicable statutory licensing provisions, including but not limited to individual professional licensure, other licenses, or permits required of organizational entities.

(b) A certified Community Mental Health Center that provides alcohol and drug treatment services in the course of its outpatient or inpatient services, but has no designated or specialized alcohol and drug abuse treatment program component, shall not be subject to additional certification under Chapter 18 of this Title.

(c) A certified Community Mental Health Center providing alcohol and drug abuse treatment services as a designated or specialized program component shall be subject to certification under Chapter 18 or Chapter 24 of this Title.

(d) Qualifications for certification of ~~entities~~ and individuals providing alcohol and drug course instruction or assessments are as follows:

(1) Compliance with applicable Standards and Criteria as authorized within the authority of Title 43A of the Oklahoma Statutes, including but not limited to those formally codified in Title 450, Chapter 21, Alcohol and Drug Substance Abuse Courses (ADSAC) and Assessments.

(2) An applicant for certification must also comply with all other applicable statutory licensing provisions, including but not limited to individual professional licensure and other licenses or permits.

(e) Qualifications for certification of individual providers of mental health, substance use, or addictive disorder services are as follows:

(1) Compliance with applicable Standards and Criteria as authorized within the authority of Title 43A of the Oklahoma Statutes, including but not limited to those formally codified in Title 450 regulating the area for which certification is sought:

(A) Chapter 50, Standards and Criteria for Certified Behavioral Health Case Managers;

(B) Chapter 53, Standards and Criteria for Certified Peer Recovery Support Specialists; and

(C) Chapter 75, Standards and Criteria for Certified Problem Gambling Treatment Counselors.

(2) An applicant for certification must also comply with all other applicable statutory licensing provisions, including but not limited to individual professional licensure and other licenses or permits.

## **450:1-9-5.7. Types and duration of certification status for facilities and programs [AMENDED]**

(a) The ODMHSAS may grant the following types of certification for the durations specified below.

(1) **Permit for Temporary Operations.** A Permit for Temporary Operations may be granted upon ODMHSAS's verification that the organization has substantially complied with Core Organizational Standards and Core Operational Standards applicable to the type of services for which Certification is sought. A Permit for Temporary Operations allows for the organization to begin operations so that compliance with Quality Clinical Standards may be assessed by the Department.

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(A) A Permit for Temporary Operations will be granted for six (6) months and will expire upon subsequent certification achieved by the organization or upon a determination by ODMHSAS that the organization is not in substantial compliance with Quality Clinical Standards.

(B) Organizations shall notify ODMHSAS in writing no later than fourteen (14) calendar days after initiating clinical services in order to begin the compliance review of Quality Clinical Standards. Failure to provide such notification within the required timeframe may result in immediate termination of the Permit for Temporary Operation.

(C) A Permit for Temporary Operations may not be renewed. ODMHSAS may extend a Permit for Temporary Operations for no more than ninety (90) days in the event of extenuating circumstances as determined by ODMHSAS.

(D) Organizations that do not achieve subsequent Certification after obtaining a Permit for Temporary Operations must wait a minimum of ninety (90) days before making re-application.

**(2) Probationary Certification.** Probationary Certification may be awarded for a one (1) year period by ODMHSAS in cases where a program or facility has changed majority ownership or majority board composition but operations of the program or facility continue. Such programs or facilities must provide ODMHSAS with documentation of any changes in policies, procedures, personnel, services, and other documentation as requested by ODMHSAS. Upon determination by ODMHSAS that the program or facility meets the requirements of 450:1-9-5.7(a)(3) prior to expiration of the Probationary Certification, the program or facility may obtain applicable Certification.

**(3) Certification.** ODMHSAS may award Certification for a one (1) year or two (2) year period beyond the period approved for a Permit for Temporary Operations or as a renewal of a previously awarded Certification in accordance with applicable chapters as stipulated in 450:1-9-5 and when ODMHSAS determines that the organization has met substantial compliance with applicable standards. Programs certified under Chapter 21 of this Title may be awarded a three (3) year Certification beyond the period approved for a Permit for Temporary Operations or as a renewal of a previously awarded Certification. To qualify for Certification, programs must meet the following:

(A) Demonstrate compliance with a minimum of ninety percent (90%) of all Critical Standards as identified in the ODMHSAS Provider Certification Manual on the initial site review, file an acceptable plan of correction in the required timeframe addressing standards for which compliance was not achieved on the initial site review, and demonstrate compliance with one hundred percent (100%) of all Critical Standards after the initial site review.

(B) Demonstrate compliance with a minimum of seventy-five percent (75%) of all Necessary Standards as identified in the ODMHSAS Provider Certification Manual on the initial site review and file an acceptable plan of correction in the required timeframe addressing standards for which compliance was not achieved on the initial site review. ODMHSAS may verify compliance with standards identified in the plan of correction at its discretion.

(C) Programs with fewer than five (5) active cases for which clinical records could be reviewed must meet the requirements in (B) above, but can be considered for no more than a one (1) year certification.

(D) Community Residential Mental Health Programs can be considered for no more than a one (1) year certification.

(E) Programs awarded a Probationary Certification are not eligible for Certification under the conditions described in 450:1-9-5.7(3) until all conditions of 450:1-9-5.7(2) have been satisfied.

(F) Programs found to have initiated operations prior to the awarding of a Permit for Temporary Operations for the services for which certification is statutorily required shall obtain the necessary Permit for Temporary Operations to continue operations. Subsequently, these programs will be eligible for Certification for a one (1) year period only for the first two (2) years of Certification. Programs that fail to obtain the necessary Permit for Temporary Operations shall be required to cease operations.

**(4) Certification with distinction.** Certification with Distinction may be awarded for up to three (3) years by ODMHSAS in accordance with applicable chapters as stipulated in 450:1-9-5 for programs seeking renewal of previously awarded certification when ODMHSAS verifies all of the following minimal conditions are satisfied:

(A) Programs must have provided services with an approved ODMHSAS Certification as described in 450:1-9-5.7(a)(3) for one (1) year or longer in addition to the time services were provided under an approved Permit for Temporary Operations.

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(B) Programs must demonstrate compliance with a minimum of ninety percent (90%) of all Critical Standards as identified in the ODMHSAS Provider Certification Manual on the initial site review, file an acceptable plan of correction in the required timeframe addressing standards for which compliance was not achieved on the initial site review, and demonstrate compliance with one hundred percent (100%) of all Critical Standards after the initial site review.

(C) Programs must demonstrate compliance with a minimum of eighty-five percent (85%) of all Necessary Standards as identified in the ODMHSAS Provider Certification Manual on the initial site review and file an acceptable plan of correction in the required timeframe addressing standards for which compliance was not achieved on the initial site review. ODMHSAS may verify compliance with standards identified in the plan of correction at its discretion.

(D) ODMHSAS may refund certification renewal application fees for organizations that demonstrate 100% compliance with all standards (i.e. Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards) during the initial renewal site visit and review.

(E) Community Residential Mental Health Programs can be considered for no more than a one (1) year Certification with Distinction.

(F) Programs awarded a Probationary Certification are not eligible for Certification under the conditions described in 450:1-9-5.7(4) until all conditions of 450:1-9-5.7(2) have been satisfied.

(5) **Certification with special distinction.** Certification with Special Distinction may be awarded for up to three (3) years by ODMHSAS in accordance with applicable chapters as stipulated in 450:1-9-5 for programs seeking renewal of previously awarded certification when ODMHSAS verifies all of the following minimal conditions are satisfied.

(A) The program must meet all conditions for Certification with Distinction as outlined in 450:1-9-5.7(a)(4); and,

(B) The program has attained national accreditation (COA, CARF, or TJC) for the services to which ODMHSAS Certification applies.

(C) Certification with Special Distinction will be reduced by ODMHSAS to Certification with Distinction by ODMHSAS if during the certification period for which the Special Distinction was approved, the program fails to maintain national accreditation status.

(D) ODMHSAS may refund certification renewal application fees for organizations that demonstrate 100% compliance with all standards (i.e. Core Organizational Standards, Core Operational Standards, and Quality Clinical Standards) during the initial renewal site visit and review.

(E) Community Residential Mental Health Programs can be considered for no more than a one (1) year Certification with Special Distinction.

(F) Programs awarded a Probationary Certification are not eligible for Certification under the conditions described in 450:1-9-5.7(a)(4) until all conditions of 450:1-9-5.7(a)(2) have been satisfied.

(b) Permits for Temporary Operations granted to applicants for initial certification of a facility, location, or level of service shall be for a period of six (6) months and shall become effective immediately upon approval by the ODMHSAS Board, the Commissioner or designee.

(c) Certification, other than Permits for Temporary Operations, granted to an applicant shall become effective the first day of the month following the date of the action by the Board, provided however, the Board may waive this requirement and make the Certification effective immediately.

## **450:1-9-5.8. Types and duration of certification of individuals [AMENDED]**

(a) Certification for ~~organizations and~~ individuals providing alcohol and drug abuse course instruction or assessments will be in accordance with requirements and procedures stipulated in OAC 450:21.

(b) Certification for Behavioral Health Case Managers will be in accordance with requirements and procedures stipulated in OAC 450:50.

(c) Certification for Recovery Support Specialists will be done in accordance with requirements and procedures stipulated in OAC 450:53.

(d) Certification for Problem Gambling Treatment Counselors will be done in accordance with requirement and procedures stipulated in OAC 450:75.

## **450:1-9-7.1. Procedures for completion of additional certification processes subsequent to a Permit for Temporary Operations [AMENDED]**

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(a) The following procedures apply for organizations awarded Permit for Temporary Operation pursuant to 450:1-9-7 that elect to progress to an additional certification by ODMHSAS. The process outline below will be done in cooperation between the applicant and ODMHSAS staff, and consists of the following:

- (1) ~~No later than ninety (90) days prior~~Prior to the expiration of a Permit for Temporary Operation, ODMHSAS will notify the facility of necessary records and documentation to verify compliance with applicable Quality Clinical Standards for Certification. The facility shall provide the required materials within thirty (30) days of notification from ODMHSAS. This thirty (30) day timeline will be allowed regardless of the expiration date of the Permit for Temporary Operation.
- (2) A site review of the facility or program will be scheduled and completed once the necessary records and documentation have been received.
- (3) Any deficiencies of applicable Quality Clinical Standards cited as a result of the site visit or subsequent review(s) of documents requested by ODMHSAS will be identified and a report will be provided to the facility by ODMHSAS within five (5) working days of the site visit unless precluded by extenuating circumstances.
- (4) The facility will have ten (10) working days from receipt of the deficiency report to correct deficiencies related to Quality Clinical Standards categorized as Necessary Standards. The facility will have five (5) working days from receipt of the report to submit a plan of correction related to cited deficiencies in Quality Clinical Standards categorized as Critical Standards. ODMHSAS may conduct an additional site visit(s) to verify proof of compliance. Compliance with all Quality Clinical Standards categorized as Critical Standards for which the facility was not compliant upon the initial review must be demonstrated through a follow up review.
- (5) If any pending deficiencies in Quality Clinical Standards are identified following this ten (10) day correction period, the program will have five (5) additional working days from receipt of any subsequent report to correct and verify compliance with any pending deficiencies.
- (6) Facilities for which ODMHSAS cannot determine compliance with all Quality Clinical Standards categorized as Critical Standards during the follow up site visit or review may request ODMHSAS to complete one additional site visit or review prior to the finalization of a report. Facilities desiring this additional review must do so in writing to ODMHSAS within three (3) working days of receipt of the follow up report and indicate the earliest date by which ODMHSAS should schedule the final review but not more than fifteen (15) working days from receipt of the follow up report. If the applicant fails to demonstrate compliance during the additional site visit or review, the application for subsequent certification shall be denied, and the Permit for Temporary Operations will expire.
- (7) Facilities for which ODMHSAS can verify substantial compliance with applicable Critical and Necessary Quality Clinical Standards during the initial review, and subsequently submit required plans of correction and demonstrate compliance with all Critical Quality Clinical Standards within the timeframes specified in (4) through (6) above may be considered for Certification in accordance with guidelines established in 450:1-9-5.7.
- (8) Anytime, during the process outlined above, ODMHSAS may request one or more written plan(s) of correction in a form and within a timeframe designated by ODMHSAS.
- (9) Failure of any applicant to demonstrate compliance with standards within the timeframes specified in (4) through (6) above shall result in denial of the application for subsequent certification and the Permit for Temporary Operations will expire.

### **450:1-9-7.2. Procedures for renewal of certification [AMENDED]**

(a) The following procedures apply to organizations previously awarded certification pursuant to 450:1-9-5.7 and organizations that have maintained Certification or Certification with Commendation awarded by ODMHSAS prior to November 1, 2010. The process outline below can result in an entity being awarded Certification, Certification with Distinction, or Certification with Special Distinction. The process will be done in cooperation between the applicant and ODMHSAS staff, and consists of the following:

- (1) ~~No later than ninety (90) days prior~~Prior to the expiration of a current Certification, ODMHSAS will provide the certified facility with a notice of certification expiration and advise the facility that a renewal certification application form must be completed so the organization can be reviewed for consideration for a renewal of certification. Along with the notice of certification expiration, ODMHSAS will provide a document listing Core Organization Standards, Core Operational Standards, and Quality Clinical Standards potentially applicable to the renewed certification.
- (2) Each organization desiring to renew Certification must submit a completed certification application form, fees and other required materials in accordance with 450:1-9-6 ~~and at least~~within sixty (60) days ~~prior to the expiration of the current Certification~~of notification from ODMHSAS. This sixty (60) day timeline will be allowed regardless of the expiration date of the current Certification.

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- (3) In the event an organization, after being notified of the Certification expiration in accordance with (1) above fails to submit the renewal certification application, fees, or other materials as referenced in (2) above, the current Certification will be allowed to expire.
- (4) The application shall be reviewed for completeness by ODMHSAS staff. If the application is deemed complete, a site review of the facility or program will be scheduled and completed.
- (5) The facility shall provide ODMHSAS documentation regarding its policies and procedures prior to the site review. This documentation may include an attestation that the facility's policies and procedures have not changed since the latest certification review, or a list of which policies and procedures have changed, in lieu of submitting all policies and procedures for review.
- (6) Any deficiencies of applicable standards identified as a result of the renewal site visit or subsequent review(s) of documents requested by ODMHSAS will be identified and a report will be provided to the facility by ODMHSAS within five (5) working days of the initial renewal site visit unless precluded by extenuating circumstances.
- (7) The facility will have ten (10) working days from receipt of the report to correct deficiencies of all Necessary Standards. ODMHSAS may require an additional site visit to verify proof of compliance of Necessary Standards.
- (8) The facility will have five (5) working days from receipt of the report to submit a plan of correction related to cited deficiencies in Critical Standards. The plan of correction will indicate the earliest date by which ODMHSAS should schedule an additional review to determine compliance with Critical Standards for which deficiencies were cited but not more than twenty (20) working days from receipt of report as referenced in (6) above. The site visit may or may not be conducted in conjunction with a site visit to verify compliance with pending Necessary Standards. Compliance with all Critical Standards for which the facility was not compliant upon the initial review must be demonstrated through a follow up review.
- (9) Any deficiencies of applicable standards identified during the follow up review referenced in (8) above will be identified by ODMHSAS and included in a report provided to the facility by ODMHSAS within three (3) working days of the site visit or review unless precluded by extenuating circumstances.
- (10) Facilities for which ODMHSAS cannot determine compliance with all Critical Standards during the follow up review may request ODMHSAS to complete one additional review prior to the finalization of a report. Facilities desiring this additional review must do so in writing to ODMHSAS within three (3) working days of receipt of the follow up report and indicate the earliest date by which ODMHSAS should schedule the final review but not more than fifteen (15) working days from receipt of the follow up report.
- (11) Facilities for which ODMHSAS can verify substantial compliance with Critical and Necessary Standards upon the initial site review and demonstrate compliance with all Critical Standards within the timeframes specified in (7) through (10) above may be considered for Certification renewal in accordance with guidelines established in 450:1-9-5.7.
- (12) Anytime, during the process outlined above, ODMHSAS may request one or more written plan(s) of correction in a form and within a timeframe designated by ODMHSAS.
- (13) If the applicant fails to demonstrate compliance with standards within the timeframes specified in (7) through (10) above, a recommendation to initiate revocation proceedings must be made to the Commissioner or designee. If the Commissioner or designee approves the initiation of revocation proceedings, the provisions of Subchapter 5 will be followed.

## **SUBCHAPTER 15. COUNTY COMMUNITY SAFETY INVESTMENT FUND [NEW]**

### **450:1-15-1. Purpose [NEW]**

The purpose of this Subchapter is to set forth criteria and procedures for the disbursement of monies from the County Community Safety Investment Fund. All monies allocated to the County Community Safety Investment Fund by the Oklahoma Legislature will be expended for the purpose of providing funds to counties and/or multi-county government partnerships for the development and implementation of allowable programs in accordance with OAC 450:1-15-5.

### **450:1-15-3. Applicability [NEW]**

This Subchapter is applicable to counties and multi-county government partnerships which are eligible to receive monies from the County Community Safety Investment Fund.

### **450:1-15-5. Allowable Programs [NEW]**

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(a) Programs eligible for funding under this Subchapter include the following:

- (1) Mental health and substance use disorder programs or other healthcare programs;
- (2) Pretrial diversion programs;
- (3) Employment programs;
- (4) Education programs; and
- (5) Housing programs.

(b) Programs funded through the County Community Safety Investment Fund must be in addition to services/programs already provided by the county or counties and shall not supplant existing funds or otherwise fund programs or services which the county or counties are responsible to provide.

(c) Programs funded through the County Community Safety Investment Fund must include one or more local entities that are either contracted with or certified by the Department.

(d) Counties shall follow all rules of the request for proposals (RFP) and applicable state purchasing and accounting practices for the receipt and expenditure of funds.

### **450:1-15-7. Application Requirements [NEW]**

Applications for funding through the County Community Safety Investment Fund shall be submitted in a manner prescribed by ODMHSAS. The application must include the following:

- (1) Assurance the application represents the single proposal submitted on behalf of the county or multi-county government partnership;
- (2) Attestation that the program or services proposed meet the requirements of 450:1-15-5(b);
- (3) Description of the proposed program or services;
- (4) Description of the manner in which the proposed program includes one or more local entities that are either contracted with or certified by the Department;
- (5) Documentation of support from local partners, including:
  - (A) Memorandum of Understanding or other document(s) showing a formal agreement between the applicant and one or more ODMHSAS-contracted or ODMHSAS-certified entities; and
  - (B) Letter from the County Commissioners demonstrating majority support for the application.
- (6) Budget request for the proposal.

### **450:1-15-9. Additional Requirements [NEW]**

(a) Applicants awarded funding must have relevant staff attend trainings and meetings as required by ODMHSAS.

(b) All changes in program operations must be submitted to ODMHSAS for prior approval.

(c) Awardees must submit data as requested by ODMHSAS and participate in evaluation processes as requested by ODMHSAS, including but not limited to regular data reporting and an annual program report.

(d) Non-compliance with the requirements within 450:1-15-9 may result in a notice of non-compliance to be issued to the awardee. Upon receipt of the notice, which may be issued through an on-site audit or by certified mail, the awardee shall have thirty (30) days to demonstrate compliance. Failure to demonstrate compliance within thirty (30) days of receipt of the notice may result in immediate cancellation of funding.

### **450:1-15-11. Disbursement of Funds [NEW]**

(a) The funding amounts granted to each awardee shall be at the discretion of the Department and shall be based on total available funds and total county population as established by the Legislature.

(b) Regardless of total county population, no county shall receive less than 0.5% of the total annual appropriation.

(c) Upon notification of approval of a bid for the County Community Safety Investment Fund, the awardee shall designate one person who will be the designee for submitting e-invoices to ODMHSAS for the disbursement of awarded funds.

*[OAR Docket #25-442; filed 6-3-25]*

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## **TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 16. STANDARDS AND CRITERIA FOR COMMUNITY RESIDENTIAL MENTAL HEALTH FACILITIES**

*[OAR Docket #25-451]*

# Permanent Final Adoptions

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**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 21. Personnel, Staffing and Training

450:16-21-4. Residential care staff licensure and training requirements, administrator [AMENDED]

**AUTHORITY:**

Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101 and 3-315

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 8, 2024

**COMMENT PERIOD:**

December 2, 2024 through January 3, 2025

**PUBLIC HEARING:**

January 6, 2025

**ADOPTION:**

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N/A

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N/A

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**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Proposed rule revisions clarify training requirements for residential care facility administrators.

**CONTACT PERSON:**

Melissa Miller, melissa.miller@odmhsas.org, 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, 2025:**

**SUBCHAPTER 21. PERSONNEL, STAFFING AND TRAINING**

**450:16-21-4. Residential care staff licensure and training requirements, administrator [AMENDED]**



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- (a) The administrator of the RCF shall maintain current licensure as a Residential Care (RC) Administrator, ~~or a Residential Care (RC) / Assisted Living (AL) Administrator, or Long-Term Care Administrator;~~ through the Oklahoma State Board of Examiners for Long Term Care Administrators (~~OSBELTCA~~) Department of Health (OSDH).
- (b) The administrator of the RCF shall annually complete eight (8) hours of training on mental health and substance use disorder-related subjects within thirty (30) days of the administrator's hire date and each calendar year thereafter. These eight (8) hours of training can be included in the hours of training required to maintain licensure through ~~OSBELTCA~~ OSDH, and must include at least one (1) hour of training regarding substance use disorders and intervention strategies; ~~and three (3) hours of training must be in techniques and philosophies within a curriculum that has been pre-approved by the Director of ODMHSAS Provider Certification which addresses appropriate non-violent intervention and potentially aggressive 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 and at least one (1) hour of non-physical intervention training. The non-physical intervention training must address techniques and philosophies for appropriate non-violent interventions for potentially physical interpersonal conflicts, including verbal and non-verbal interactions. This non-physical intervention training curriculum must either be pre-approved by ODMHSAS or documented in a manner prescribed by ODMHSAS that demonstrates compliance with these requirements.~~
- (c) The administrator of the RCF shall ~~receive~~ maintain current certification in CPR (cardiopulmonary resuscitation); Cardiopulmonary Resuscitation (CPR) and basic first aid provided by certified instructors.
- (d) Compliance with 450:16-21-4 shall be determined by a review of the administrator's personnel file.

*[OAR Docket #25-451; filed 6-3-25]*

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## TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 17. STANDARDS AND CRITERIA FOR COMMUNITY MENTAL HEALTH CENTERS

*[OAR Docket #25-452]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. General Provisions

450:17-1-2. Definitions [AMENDED]

450:17-1-6. Services and service areas [AMENDED]

Subchapter 5. Optional Services

Part 25. CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINICS

450:17-5-176. Availability and accessibility of services [AMENDED]

### **AUTHORITY:**

Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, 3-306, 3-306.1 and 3-315

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N/A

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# Permanent Final Adoptions

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed rule revisions amend language regarding catchment areas. Language is also added to clarify requirements for crisis sites and to address exception requests for crisis sites. Definitions are also added and amended.

**CONTACT PERSON:**

Melissa Miller, melissa.miller@odmhsas.org, 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, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 450:17-1-2. Definitions [AMENDED]

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

**"Abuse"** means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a consumer by a staff responsible for the consumer's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a consumer.

**"Adults who have a Serious Mental Illness"** means persons eighteen (18) years of age or older who show evidence of points of (A), (B) and (C) below:

(A) The disability must have persisted for six months and be expected to persist for a year or longer.

(B) A condition or Serious Mental Illness as defined by the most recently published version of the DSM or the International Classification of Disease (ICD) equivalent with the exception of DSM "V" codes, substance abuse, and developmental disorders which are excluded, unless they co-occur with another diagnosable Serious Mental Illness.

(C) The adult must exhibit either (i) or (ii) below:

(i) Psychotic symptoms of a Serious Mental Illness (e.g. Schizophrenia characterized by defective or lost contact with reality, often hallucinations or delusions); or

(ii) Experience difficulties that substantially interfere with or limit an adult from achieving or maintaining one or more developmentally appropriate social, behavioral, cognitive, communicative, or adaptive skills. There is functional impairment in at least two of the following capacities (compared with expected developmental level):

(I) Impairment in self-care manifested by a person's consistent inability to take care of personal grooming, hygiene, clothes and meeting of nutritional needs.

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(II) Impairment in community function manifested by a consistent lack of appropriate behavioral controls, decision-making, judgment and value systems which result in potential involvement or involvement with the criminal justice system.

(III) Impairment of social relationships manifested by the consistent inability to develop and maintain satisfactory relationships with peers.

(IV) Impairment in family function manifested by a pattern of disruptive behavior exemplified by repeated and/or unprovoked violence, disregard for safety and welfare of self or others (e.g., fire setting, serious and chronic destructiveness, inability to conform to reasonable limitations and expectations.

(V) Impairment in functioning at school or work manifested by the inability to pursue educational or career goals.

**"Advance Practice Registered Nurse"** means a registered nurse in good standing with the Oklahoma Board of Nursing, and has acquired knowledge and clinical skills through the completion of a formal program of study approved by the Oklahoma Board of Nursing Registration and has obtained professional certification through the appropriate National Board recognized by the Oklahoma Board of Nursing. Advance Practice Registered Nurse services are limited to the scope of their practice as defined in 59 Okla. Stat. § 567.3a and corresponding rules and regulations at OAC 485:10-5-1 through 10-16-9.

**"AOA"** means American Osteopathic Association

**"ASAM"** means the American Society of Addiction Medicine.

**"ASAM criteria"** means the most current edition of the American Society of Addiction Medicine's published criteria for admission to treatment, continued services, and discharge.

**"Behavioral Health Aide" or "BHA"** means 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 and successfully complete training as prescribed by ODMHSAS.

**"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.

**"Case management services"** means planned referral, linkage, monitoring and support, and advocacy provided in partnership with a consumer to assist that consumer with self sufficiency and community tenure and take place in the individual's home, in the community, or in the facility, in accordance with a service plan developed with and approved by the consumer and qualified staff.

**"CARF"** means Commission on Accreditation of Rehabilitation Facilities

**"Certified Alcohol and Drug Counselor" or "CADC"** means an individual with certification as an Alcohol and Drug Counselor from the Oklahoma Board of Licensed Alcohol and Drug Counselors.

**"Child with Serious Emotional Disturbance" or "SED"** means a child under the age of 18 who shows evidence of points of (A), (B) and (C) below:

(A) The disability must have persisted for six months and be expected to persist for a year or longer.

(B) A condition or Serious Emotional Disturbance as defined by the most recently published version of the DSM or the International Classification of Disease (ICD) equivalent with the exception of DSM "V" codes, substance use disorders, and developmental disorders which are excluded, unless they co-occur with another diagnosable serious emotional disturbance.

(C) The child must exhibit either (i) or (ii) below:

(i) Psychotic symptoms of a Serious Mental Illness (e.g. Schizophrenia characterized by defective or lost contact with reality, often hallucinations or delusions); or

(ii) Experience difficulties that substantially interfere with or limit a child or adolescent from achieving or maintaining one or more developmentally appropriate social, behavioral, cognitive, communicative, or adaptive skills. There is functional impairment in at least two of the following capacities (compared with expected developmental level):

(I) Impairment in self-care manifested by a person's consistent inability to take care of personal grooming, hygiene, clothes and meeting of nutritional needs.

(II) Impairment in community function manifested by a consistent lack of age appropriate behavioral controls, decision-making, judgment and value systems which result in potential involvement or involvement with the juvenile justice system.

(III) Impairment of social relationships manifested by the consistent inability to develop and maintain satisfactory relationships with peers and adults.

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- (IV) Impairment in family function manifested by a pattern of disruptive behavior exemplified by repeated and/or unprovoked violence to siblings and/or parents, disregard for safety and welfare or self or others (e.g., fire setting, serious and chronic destructiveness, inability to conform to reasonable limitations and expectations which may result in removal from the family or its equivalent).
- (V) Impairment in functioning at school manifested by the inability to pursue educational goals in a normal time frame (e.g., consistently failing grades, repeated truancy, expulsion, property damage or violence toward others).

**"Chronic Homelessness"** means a disabling condition in which and individual has either: (a) been continuously homeless for one (1) year or more, or (b) has had at least four (4) episodes of homelessness in the past three (3) years. For this condition, the individual must have been on the streets or in an emergency shelter (i.e. not transitional housing) during these episodes. Chronic homelessness only includes single individuals, not families. A disabling condition is a diagnosable substance abuse disorder, serious mental illness, or developmental disability, including the co-occurrence of two or more of these conditions.

**"Clinical privileging"** means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

**"Clubhouse"** means a psychiatric rehabilitation program currently certified as a Clubhouse through the International Center for Clubhouse Development (ICCD).

**"Community living programs"** means either transitional or permanent supported housing for persons not in crisis who need assistance with obtaining and maintaining an independent living situation.

**"Community-based Structured Crisis Center"** or **"CBSCC"** means a program of non-hospital emergency services for mental health and substance abuse crisis stabilization as authorized by 43A O.S. §3-317, including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse services. This service is limited to CMHC's and Comprehensive Community Addiction Recovery Centers (CCARCs) who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

**"Community mental health center"** or **"CMHC"** means a facility offering a comprehensive array of community-based mental health services, including but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education; and, certain services at the option of the center, including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation.

**"Consultation"** means the act of providing information or technical assistance to a particular group or individual seeking resolution of specific problems. A documented process of interaction between staff members or between facility staff and unrelated individuals, groups, or agencies for the purpose of problem solving or enhancing their capacities to manage consumers or facilities.

**"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.

**"Consumer advocacy"** means activities on behalf of the consumer to assist with or facilitate resolution of problems in the acquisition of resources or services needed by the consumer.

**"Consumer committee"** or **"consumer government"** means any established group within the facility comprised of consumers, led by consumers and meets regularly to address consumer concerns to support the overall operations of the facility.

**"Contract"** means a document adopted by the governing authority of a treatment facility and any other organization, facility, or individual, which specifies services, personnel, or space to be provided by the program, as well as the monies to be expended in exchange.

**"Co-occurring disorder" (COD)** means any combination of mental health symptoms and substance use disorder symptoms or diagnoses that affect a consumer and are typically determined by the current Diagnostic and Statistical Manual of Mental Disorders.

**"Co-occurring disorder capability"** means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to consumers with co-occurring disorders.

**"Crisis Diversion"** means an unanticipated, unscheduled situation requiring supportive assistance, face-to-face or telephone, to resolve immediate problems before they become overwhelming and severely impair the individual's ability to function or maintain in the community.

**"Crisis Intervention"** means actions taken, and services provided to address emergency psychological, physiological, and safety aspects of alcohol, drug-related, and mental health crises.

**"Crisis stabilization"** means emergency, psychiatric, and substance use disorder treatment services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment, and, if needed, referral to an ODMHSAS certified facility having nursing and medical support available.

**"Critical incident"** means an occurrence or set of events inconsistent with the routine operation 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 visitors; medication errors; residential consumers that are 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.

**"Cultural competency"** means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

**"Designated Collaborating Organization" or "DCO"** means a provider with whom a Certified Community Behavioral Health Clinic has a formal relationship to provide certain allowable services on behalf of the Certified Community Behavioral Health Clinic.

**"DSM"** means the most current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

**"Emergency detention"** means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination, either in person or via telemedicine, and a determination that emergency detention is warranted for a period not to exceed one hundred twenty (120) hours or five (5) days, excluding weekends and holidays, except upon a court order authorizing detention beyond a one hundred twenty (120) hour period or pending the hearing on a petition requesting involuntary commitment or treatment as provided by 43A of the Oklahoma Statutes.

**"Emergency examination"** means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted by a licensed mental health professional to determine if emergency detention of the person is warranted.

**"Emergency services"** means a twenty-four (24) hour capability for assessment, intervention, and resolution of a consumer's crisis or emergency provided in response to unanticipated, unscheduled emergencies requiring prompt intervention to resolve immediate, overwhelming problems that severely impair the individual's ability to function or remain in the community and may include placement of the individual in a protective environment, withdrawal management, individual and group consultation, and medical assessment.

**"Face-to-face"** means, for the purpose of the delivery of behavioral health care, an in-person encounter between the health care provider and the consumer, or a telehealth encounter with two-way video functionality.

**"Facility" or "Facilities"** means entities as described in Title 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.

**"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.

**"General psychiatric rehabilitation" or "PSR"** means a type of psychiatric rehabilitation program which focuses on long term recovery and maximization of self-sufficiency, role function and independence. General psychiatric rehabilitation programs may be organized within a variety of structures which seek to optimize the participants' potential for occupational achievement, goal setting, skill development and increased quality of life.

**"Home-based services to children and adolescents"** means intensive therapeutic services provided in the home to children for the purpose of reduction of psychiatric impairment and preventing removal of the child to a more restrictive setting for care. Services include a planned combination of procedures developed by a team of qualified mental health professionals, including a physician.

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**"Homeless"** means a state in which a person is sleeping in an emergency shelter; sleeping in places not meant for human habitation, such as cars, parks, sidewalks, or abandoned or condemned buildings; spending a short time (30 consecutive days or less) in a hospital or other institution, but ordinarily sleeping in the types of places mentioned above; living in transitional/supportive housing but having come from streets or emergency shelters; being evicted within a week from a private dwelling unit and having no subsequent residence identified and lacking the resources and support networks needed to obtain access to housing; being discharged from an institution and having no subsequent residence identified and lacking the resources and support networks needed to obtain access to housing; or is fleeing a domestic violence situation and no subsequent residence has been identified and the person lacks the resources and support networks needed to obtain housing.

**"ICCD"** means the International Center for Clubhouse Development.

**"Independent living skills, assistance in development of"** means all activities directed at assisting individuals in the development of skills necessary to live and function within the community, e.g., cooking, budgeting, meal planning, housecleaning, problem-solving, communication and vocational skills.

**"Individual Placement and Support" or "IPS"** means an evidence-based, specific type of employment and education service to help people with mental illness, substance use disorders, or co-occurring disorders find and keep competitive employment.

**"Intensive services"** means a comprehensive range of services, supports and coordinated care using a team-based approach that necessitate contact multiple times per week (or at a minimum, weekly) to a defined population. Coordination requires an ongoing relationship between the individual and a designated member of the care team.

**"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 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
  - (v) Alcohol and Drug Counselor.

**"Licensed mental health professional" or "LMHP"** means a practitioner who meets qualifications as defined in Title 43A §1-103(11).

**"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.

**"Linkage"** means the communication and coordination with other service providers to assure timely appropriate referrals between the CMHC and other providers.

**"Medical resident"** means an allopathic physician or an osteopathic physician who is a graduate of a school of medicine or college of osteopathic medicine and who is receiving specialized training in a teaching hospital under physicians who are certified in that specialty.

**"Medically necessary"** means health care services or supplies needed to prevent, diagnose or treat an illness, injury, condition, disease or its symptoms and that meet accepted standards of medicine.

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**"Medication error"** means an error in prescribing, dispensing or administration of medication, regardless if the error reached the consumer, e.g., omission of prescribed drugs, giving drugs not prescribed, prescribing inappropriate drugs, prescribing or administering incorrect dosages, incorrectly filling or labeling prescriptions, incorrectly transcribing medication orders.

**"Mobile crisis"** means the provision of crisis intervention services by at least one (1) professional at the location of a consumer who is not at the treatment facility (e.g., services provided at the consumer's home).

**"Nurse Care manager"** means a Licensed Practical Nurse (LPN) or a Registered Nurse (RN).

**"ODMHSAS"** 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.

**"Peer Recovery Support Specialist" or "PRSS"** means an individual who meets the qualifications and is certified as a PRSS pursuant to OAC 450:53.

**"Performance Improvement" or "PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous quality improvement, continuous improvement, organization-wide quality improvement and total quality management.

**"Permanent supported housing"** means a type of Community Living Program, either permanent scattered site housing or permanent congregate housing, where consumers are assisted with locating housing of their choice and are offered on-going support services based on need and choice to ensure successful independent living.

**"PICIS System"** means a management information system based on national standards for mental health and substance abuse databases. Information gathered through PICIS is used for prior authorizations, service utilization management and continuous quality improvement processes. PICIS data is reported throughout the treatment episode to ensure service recipients receive appropriate types and levels of care and are making satisfactory progress. Numerous reports are developed using PICIS data and are provided to clinicians, administrators and the general public.

**"Primary Care Practitioner (PCP)"** means a licensed allopathic physician, osteopathic physician, Advance Practice Registered Nurse (APRN), or Physician Assistant (PA) licensed in the State of Oklahoma.

**"Program of Assertive Community Treatment" or "PACT"** means a clinical program that provides continuous treatment, rehabilitation, and support services to persons with mental illness in settings that are natural to the consumer.

**"Progress notes"** mean a chronological written description of services provided to a consumer, resident, client, or patient that documents, utilizing acceptable documentation practices, the consumer's response related to the intervention plan or services provided.

**"Psychiatric Residential Treatment Facility" or "PRTF"** means a non-hospital facility that provides inpatient psychiatric services to individuals under the age of twenty-one (21).

**"Psychosocial assessments"** means in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

**"Psychosocial rehabilitation" or "PSR"** means 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.

**"Psychotherapy" or "Therapy"** means a goal directed process using generally accepted clinical approaches provided face-to-face by a qualified service provider with consumers in individual, group or family settings to promote positive emotional or behavioral change.

**"Rehabilitation Services"** means face-to-face individual or group services provided by qualified staff to develop skill necessary to perform activities of daily living and successful integration into community life.

**"Resident"** means a person residing in a community living program certified by ODMHSAS.

**"Restraint"** means manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of an individual's body.

**"Risk Assessment"** means a clinical function that aims to determine the nature and severity of the mental health problem, determine which service response would best meet the needs of the consumer, and how urgently the response is required.

**"Screening"** means the process to determine whether the person seeking assistance needs further comprehensive assessment.

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**"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, within seventy-two (72) hours of contact after mobile/outpatient crisis intervention services are provided, 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 and substance abuse services [43A O.S. §3-302(1)]. Only one certified Community Mental Health Center is allowed per service area.

**"Service Intensity"** means the frequency and quantity of services needed, the extent to which multiple providers or agencies are involved, and the level of care coordination required.

**"Service plan"** or **"Treatment plan"** means the document used during the process by which a qualified service provider and the consumer together and jointly identify and rank problems, establish agreed-upon immediate short-term and long-term goals, and decide on the treatment process and resources to be utilized.

**"Socialization"** means all activities, which encourage interaction and the development of communication, interpersonal, social and recreational skills and can include consumer education.

**"Special population 1"** means individuals eighteen (18) years of age and over with serious mental illness and complex needs, including those with co-occurring substance use disorder, who meet Most in Need criteria as identified in the CCBHC Manual.

**"Special population 2"** means children and youth [ages six (6) through twenty-one (21)] with serious emotional disturbance and complex needs, including those with co-occurring substance use disorder, who meet Most in Need criteria as identified in the CCBHC Manual.

**"Supportive services"** means assistance with the development of problem-solving and decision-making skills to maintain or achieve optimal functioning within the community and can include consumer education.

**"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.

**"Transitional housing program"** means a type of Community Living Program in which the consumer's stay in the residence is considered temporary and time-limited in nature. The actual program model may include a range of approaches, including but not limited to supervised transitional living programs and supervised transitional housing programs.

**"Trauma informed capability"** means the capacity for a facility and all its programs to recognize and respond accordingly to the presence of the effects of past and current traumatic experiences in the lives of its consumers.

**"Urgent recovery clinic"** means a program of non-hospital emergency services for mental health and substance use crisis response including, but not limited to, observation, evaluation, emergency treatment, and referral, when necessary to a higher level of care. This service is limited to CMHCs and Comprehensive Community Addiction Recovery Centers (CCARCs) certified by ODMHSAS or facilities operated by ODMHSAS.

**"Vocational assessment services"** means a process utilized to determine the individual's functional work-related abilities and vocational preferences for the purpose of the identification of the skills and environmental supports needed by the individual in order to function more independently in an employment setting, and to determine the nature and intensity of services which may be necessary to obtain and retain employment.

**"Vocational placement services"** means a process of developing or creating an appropriate employment situation matched to the functional abilities and choices of the individual for the purpose of vocational placement. Services may include, but are not limited to, the identification of employment positions, conducting job analysis, matching individuals to specific jobs, and the provision of advocacy with potential employers based on the choice of the individual served.

**"Vocational preparation services"** means services that focus on development of general work behavior for the purpose of vocational preparation such as the utilization of individual or group work-related activities to assist individuals in understanding the meaning, value and demands of work; to modify or develop positive work attitudes, personal characteristics and work behaviors; to develop functional capacities; and to obtain optimum levels of vocational development.



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**"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.

**"Wellness"** means the condition of good physical, mental and emotional health, especially when maintained by an appropriate diet, exercise, and other lifestyle modifications.

**"Wellness Coach"** means an individual who is actively working on personal wellness and who is designated to collaborate with others to identify their personal strengths and goals within the eight dimensions of wellness (spiritual, occupational, intellectual, social, physical, environmental, financial, and emotional):

(A) In order to qualify to be a Wellness Coach, individuals shall:

- (i) Have a behavioral health related associates degree or two years of experience in the field and/or have an active certification and/or license within the behavioral health field (e.g. PRSS, Case Management, LBHP, LPN, Recreational Therapist, etc.); and
- (ii) Complete the ODMHSAS Wellness Coach Training Program and pass the examination with a score of 80% or better.

(B) Wellness Coach roles and responsibilities include:

- (i) Role model wellness behaviors and actively work on personal wellness goals;
- (ii) Apply principles and processes of coaching when collaborating with others;
- (iii) Facilitate wellness groups;
- (iv) Conduct motivational interventions;
- (v) Practice motivational interviewing techniques;
- (vi) Provide referrals to community resources for nutrition education, weight management, Oklahoma Tobacco Helpline, and other wellness-related services and resources;
- (vii) Create partnerships within local community to enhance consumer access to resources that support wellness goals;
- (viii) Raise awareness of wellness initiatives through educational in-service and community training;
- (ix) Elevate the importance of wellness initiatives within the organization;
- (x) Promote a culture of wellness within the organization for both consumers and staff;
- (xi) Respect the scope of practice and do not practice outside of it, referring people to appropriate professionals and paraprofessionals as needed.

**"Wellness Coach"** means an individual who meets the qualifications and is credentialed as a Wellness Coach as prescribed by the Department.

**"Young Adults in Transition"** means persons between sixteen to twenty-five (16-25) years of age who have a Serious Mental Illness (ages 18 - 25), or Serious Emotional Disturbance (ages 16 - 18).

## 450:17-1-6. Services and service areas [AMENDED]

(a) All facilities providing services shall have a group of services herein designated as required core services in accordance with 450:17-3-2. Each site certified as a CMHC shall offer all required core services through in-person and/or virtual means. CMHCs may have specific additional services some of which are designated as optional services in accordance with 450:17-5-1. All required core services and all optional services must be co-occurring disorder capable.

(b) Service areas are established by ODMHSAS to ensure the most efficient statewide availability of treatment services.

Only one certified CMHC is allowed per service area, with the exception of Oklahoma County and Tulsa County.

Oklahoma County and Tulsa County, in their entirety, shall be joint service areas available to every CMHC with at least one (1) certified CMHC location within the county. The Commissioner shall designate the number of CMHCs that may obtain certification within Oklahoma County and Tulsa County. Each CMHC entity may only operate CMHC sites within its designated service area(s).

(c) If operated by a CMHC entity, Community-Based Structured Crisis Center (CBSCC) sites must be within the CMHC's designated service area unless special approval by ODMHSAS is obtained.

## SUBCHAPTER 5. OPTIONAL SERVICES

### PART 25. CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINICS

## 450:17-5-176. Availability and accessibility of services [AMENDED]

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(a) A CCBHC must conduct outreach activities to 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.

~~(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) Each CCBHC must meet the following for the provision of crisis services:

(1) CCBHCs are responsible for the provision of 24-hour in-person crisis care to all individuals in need of crisis services within their catchment area. Services must include the following: triage crisis response, crisis intervention, crisis assessment, crisis intervention plan development, and linkage and referral to other services as applicable, with the ability to serve all ages within each catchment area.

(2) Each CCBHC shall ensure the availability of urgent recovery clinics (URCs) and crisis stabilization units (CSUs) in accordance with nationally recognized crisis data (such as NASMHPD Crisis Resource Needs data), state crisis resource needs data, and regional sustainability data. At a minimum, each CCBHC must maintain the total number of crisis receiving chairs for all counties within its catchment area, as designated by the NASMHPD "CrisisNow" calculator, through strategic URC and CSU locations in the catchment area. For Tulsa County and Oklahoma County, the total receiving chairs must be maintained between all CCBHCs/CBSCCs that serve the county. If necessary to meet the minimum in either county, ODMHSAS may require one CCBHC entity to add URC and/or CSU sites or chairs/beds at its discretion.

(3) CCBHCs shall ensure individuals' travel time to a crisis facility meets the following:

(A) Individuals living within a rural county of the CCBHC's catchment area shall not have to travel more than seventy-five (75) miles to reach a URC or CSU.

(B) Individuals living within an urban county of the CCBHC's catchment area shall not have to travel more than twenty-five (25) miles to reach a URC or CSU.

(C) In lieu of a certified URC or CSU, a CCBHC may utilize a formal partnership with a hospital facility/emergency department to provide appropriate facility-based crisis care in accordance with OAC 450:23 to meet the above requirements, as permitted by state and federal regulations.

(D) A CCBHC may request an exception to the requirements in (A) and (B) above by providing written justification for the exception, subject to approval by ODMHSAS.

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(4) Any CCBHC intending to close any URC or CSU must first obtain written approval from ODMHSAS prior to closing the facility.

(5) Each CCBHC shall submit to ODMHSAS no later than October 1, 2025 a written Crisis Framework that will ensure the above is met. This document must describe the following:

(A) How the CCBHC will ensure timely access to the full continuum of crisis services to all individuals in its catchment area;

(B) The number, bed capacity, and location of URC and CSU facilities the CCBHC will maintain;

(C) The farthest distance an individual in the catchment area would need to travel to access a URC or CSU and the travel time required;

(D) How the CCBHC will ensure timely transportation for any individual in the catchment area in need of crisis services;

(E) The number of mobile crisis teams operating in the catchment area, including total number of staff, total number of LBHPs, and average response time (time from the call to in-person interaction with the individual) for mobile crisis services;

(F) How the CCBHC interfaces with law enforcement, first responders, and each emergency department and inpatient hospital in its catchment area to ensure appropriate crisis and other behavioral health services are provided to reduce unnecessary emergency/inpatient stays; and

(G) How the CCBHC will monitor access to the full continuum of crisis services throughout its catchment area utilizing measurable outcomes.

(6) CCBHCs seeking to modify their crisis continuum as described in its Crisis Framework shall submit to ODMHSAS a formal proposal that identifies how the recommended adjustments will ensure continued or enhanced access to behavioral health crisis services in accordance with SAMHSA's National Guidelines for Behavioral Health Crisis Care. Modifications shall be subject to approval by ODMHSAS and shall not be implemented prior to approval.

(7) ODMHSAS shall identify key measurable outcomes to be reported at regular intervals by each CCBHC (no less than once per year) to monitor access to crisis services within each catchment area. At its discretion, ODMHSAS may require the implementation of modifications to a CCBHC's Crisis Framework based on these outcomes.

(i) Compliance with this Section shall be determined by a review of policies, consumer records and facility fee schedule.

*[OAR Docket #25-452; filed 6-3-25]*

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## TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 18. STANDARDS AND CRITERIA FOR SUBSTANCE RELATED AND ADDICTIVE DISORDER TREATMENT SERVICES

*[OAR Docket #25-453]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

450:18-1-2. Definitions [AMENDED]

Subchapter 7. Facility Clinical records

Part 9. SERVICE PLANNING

450:18-7-84. Service plans, medically supervised withdrawal management [AMENDED]

Subchapter 13. Substance Use Disorder Treatment Services

Part 7. MEDICALLY SUPERVISED WITHDRAWAL MANAGEMENT, ASAM LEVEL 3.7

450:18-13-61. Medically-supervised withdrawal management [AMENDED]

Subchapter 17. Certificate of Need [REVOKED]

450:18-17-1. Purpose [REVOKED]

450:18-17-2. Applicability [REVOKED]

450:18-17-3. Certificate of Need requirements [REVOKED]

### AUTHORITY:

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Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, 3-306, 3-317, 3-403(1), 3-404, 3-406, 3-415 and 3-416

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 8, 2024

**COMMENT PERIOD:**

December 2, 2025 through January 3, 2025

**PUBLIC HEARING:**

January 6, 2025

**ADOPTION:**

January 30, 2025

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 31, 2025

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

September 1, 2025

**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:**

Proposed rule revisions amend staffing requirements, including assessments and service plans, for medically supervised withdrawal management services. Revisions also remove Certificate of Need requirements.

**CONTACT PERSON:**

Melissa Miller, melissa.miller@odmhsas.org, 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, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 450:18-1-2. Definitions [AMENDED]

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

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**"Abuse"** means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a consumer by a staff responsible for the consumer's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a consumer.

**"Acute intoxication or withdrawal potential"** means one dimension to be considered in consumer placement, continued stay, and discharge and is an evaluation of the consumer's withdrawal patterns and current level of intoxication and potential for withdrawal complications as it impacts level of care decision making.

**"Admission"** means the acceptance of a consumer by a treatment program to receive services at that program.

**"Admission criteria"** means those criteria which shall be met for admission of a consumer for services.

**"Adult"** means any individual eighteen (18) years of age or older.

**"ASAM"** means the American Society of Addiction Medicine.

**"ASAM levels of care"** means the different options for treatment as described in the current edition of the ASAM criteria that vary according to the intensity of the services offered. Each treatment option is a level of care.

**"ASAM criteria"** means the most current edition of the American Society of Addiction Medicine's published criteria for admission to treatment, continued services, and discharge.

**"ASAM level 1"** means Outpatient Services for adolescents and adults. This level of care typically consists of less than nine (9) hours of services per week for adults or less than six (6) hours of services per week for adolescents. Services may be delivered in a wide variety of settings.

**"ASAM level 3"** means residential and inpatient services and encompasses ASAM levels 3.1, 3.3, 3.5 and 3.7.

**"ASAM level 3.1"** means Clinically Managed Low-Intensity Residential Services for adolescents and adults. This level of care typically provides at least five (5) hours of clinical services a week and provides a twenty-four (24) hour living support and structure with trained personnel. The corresponding service description for this level of care is Halfway House Services.

**"ASAM level 3.3"** means Clinically Managed Population-Specific High-Intensity Residential Services. This level of care is for adults only and typically offers twenty-four (24) hour care with trained personnel and is designed to accommodate individuals with cognitive or other impairments, including co-occurring disorders. The corresponding service description for this level of care is Residential Treatment for Adults with Co-Occurring Disorders.

**"ASAM level 3.5"** means Clinically Managed Medium-Intensity Residential Services for adolescents and Clinically Managed High-Intensity Residential Services for adults. This level of care provides twenty-four (24) hour care and offers a wide range of therapeutic services. The corresponding service descriptions for this level of care are Residential Treatment and Intensive Residential Treatment.

**"ASAM level 3.7"** means Medically Monitored High-Intensity Inpatient Services for adolescents and Medically Monitored Intensive Inpatient Withdrawal Management for adults. This level of care provides twenty-four (24) hour nursing care with physician supervision and medication availability. This level of care is provided by a physician, Advanced Practice Registered Nurse, or Physician Assistant either on-site or on-call with twenty-four (24) hour care by a Registered Nurse on-site for supervision and medication availability. This level of care is appropriate for individuals withdrawing from alcohol or other drugs with subacute biomedical and emotional, behavioral, or cognitive problems severe enough to require inpatient treatment but for whom hospitalization is not necessary. The corresponding service description for this level of care is Medically Supervised Withdrawal Management.

**"Assessment"** means those procedures by which a program provides an on-going evaluation process with the consumer as outlined in applicable rules throughout OAC 450 to collect pertinent information needed as prescribed in applicable rules and statutes to determine courses of actions or services to be provided on behalf of the consumer. Assessment may be synonymous with the term evaluation.

**"Behavioral health services"** means a wide range of diagnostic, therapeutic, and rehabilitative services used in the treatment of mental illness, substance use disorders, and co-occurring disorders.

**"Biomedical condition and complications"** means one dimension to be considered in placement, continued stay, and discharge and is an evaluation of the consumer's current physical condition and history of medical and physical functioning as it impacts level of care decision making.

**"Biopsychosocial assessment"** means face-to-face interviews conducted by a Licensed Behavioral Health Professional (LBHP) or Licensure Candidate designed to elicit historical and current information regarding the behaviors, experiences, and support systems of a consumer, and identify the consumer's strengths, needs, abilities, and preferences for the purpose of guiding the consumer's recovery plan.

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**"Care management"** means a type of case management in residential substance use disorder (ASAM Level 3) treatment settings that includes assessment, development of a care plan, and referral and linkage to community supports and community-based or lower level of care services to promote continued recovery after the individual discharges from the treatment facility.

**"Case management"** means planned referral, linkage, monitoring, support, and advocacy provided in partnership with a consumer to assist that consumer with self-sufficiency and community tenure and take place in the individual's home, in the community, or in the facility, in accordance with a service plan developed with and approved by the consumer and qualified staff.

**"Child"** or **"Children"** means any individuals under eighteen (18) years of age.

**"Client"** See "Consumer."

**"Community-based Structured Crisis Center"** or **"CBSCC"** means a program of non-hospital emergency services for mental health and substance use disorder crisis stabilization as authorized by 43A O.S. §3-317 including, but not limited to, observation, evaluation, emergency treatment, and referral, when necessary, for inpatient psychiatric or substance use disorder treatment services. This service is limited to CMHCs who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department of Mental of Substance Abuse Services.

**"Community mental health center"** or **"CMHC"** means a facility offering a comprehensive array of community-based mental health services including, but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education, and certain services at the option of the center including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation.

**"Consultation"** means the act of providing information or technical assistance to a particular group or individual seeking resolution of specific problems. A documented process of interaction between staff members or between facility staff and unrelated individuals, groups, or agencies for the purpose of problem solving or enhancing their capacities to manage consumers or facilities.

**"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.

**"Consumer advocacy"** means all activities on behalf of the consumer to assist with or facilitate resolution of problems in the acquisition of resources or services needed by the consumer.

**"Consumer record"** means the collection of written information about a consumer's evaluation or treatment that includes the admission data, evaluation, treatment or service plan, description of treatment or services provided, continuing care plan, and discharge information on an individual consumer.

**"Continuing care"** means providing a specific period of structured therapeutic involvement designed to enhance, facilitate, and promote transition from a current level of services to support ongoing recovery.

**"Contract"** means a document adopted by the governing authority of a treatment facility and any other organization, facility, or individual, which specifies services, personnel, or space to be provided by the program, as well as the monies to be expended in exchange.

**"Co-occurring disorder" (COD)** means any combination of mental health symptoms and substance use disorder symptoms or diagnoses that affect a consumer and are typically determined by the current Diagnostic and Statistical Manual of Mental Disorders.

**"Co-occurring disorder capability"** means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to consumer's with co-occurring disorders.

**"Correctional institution"** means any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program operated by, or under contract to, the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense, or other persons held in lawful custody. Other persons held in lawful custody include juvenile offenders adjudicated delinquent, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial. Programs which are providing treatment services within a correctional facility may be exempt from certain services described in this chapter which cannot be provided due to circumstance.

**"Crisis Diversion"** means an unanticipated, unscheduled situation requiring supportive assistance, face-to-face or telephone, to resolve immediate problems before they become overwhelming and severely impair the individual's ability to function or maintain in the community.

**"Crisis intervention"** means actions taken and services provided to address emergency psychological, physiological, and safety aspects of alcohol, drug-related, and mental health crises.

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**"Cultural competency"** means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs, and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

**"Day school"** means the provision of therapeutic and accredited academic services on a regularly scheduled basis.

**"Department"** or **"ODMHSAS"** means the Oklahoma Department of Mental Health and Substance Abuse Services.

**"Detoxification"** means the process of eliminating the toxic effects of drugs and alcohol from the body. Supervised detoxification methods include social detoxification and medical monitoring or medical management and are intended to avoid withdrawal complications.

**"DHS"** or **"OKDHS"** means the Oklahoma Department of Human Services.

**"Diagnosis"** means the determination of a disorder as defined by current DSM criteria and in accordance with commonly accepted professional practice standards.

**"Dietitian"** or **"Dietician"** means an individual trained and licensed in the development, monitoring, and maintenance of food and nutrition in accordance with the Oklahoma State Board of Medical Licensure and Supervision.

**"Discharge criteria"** means individualized measures by which a program and the consumer determine readiness for discharge or transition from services being provided by that facility. These may reference general guidelines as specified in facility policies or procedures and/or in published guidelines including, but not limited to, the current ASAM criteria for individuals with substance use disorders, but should be individualized for each consumer and articulated in terms of consumer behaviors, resolutions of specific problems, and attainment of goals developed in partnership with the participant and the provider.

**"Discharge planning"** or **"transition planning"** means the process, begun at admission, of determining a consumer's continued need for treatment services and of developing a plan to address ongoing consumer post-treatment and recovery needs. Discharge planning may or may not include a document identified as a discharge plan.

**"Discharge summary"** or **"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.

**"DOC"** or **"ODOC"** means the Oklahoma Department of Corrections.

**"Documentation"** means the provision of written, dated, and authenticated evidence to substantiate compliance with standards, e.g., minutes of meetings, memoranda, schedules, notices, logs, records, policies, procedures, and announcements.

**"DSM"** means the most current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

**"Education"** means the dissemination of relevant information specifically focused on increasing the awareness of the community and the receptivity and sensitivity of the community concerning mental health, substance-related and addictive disorders, or other related problems and services related to the specific focus of treatment.

**"Emergency services"** means a twenty-four (24) hour capability for assessment, intervention, and resolution of a consumer's crisis or emergency provided in response to unanticipated, unscheduled emergencies requiring prompt intervention to resolve immediate, overwhelming problems that severely impair the individual's ability to function or remain in the community and may include placement of the individual in a protective environment, withdrawal management, individual and group consultation, and medical assessment.

**"Emotional, behavioral or cognitive conditions and complications"** means one dimension to be considered in consumer placement, continued stay, and discharge and is an evaluation of the consumer's historical and current emotional, behavioral, or cognitive status including the presence and severity of any diagnosed mental illnesses, as well as, the level of anxiety, depression, impulsivity, guilt, and behavior that accompanies or follows these emotional states and historical information, as it impacts on level of care decision making.

**"Evaluation"** See "Assessment."

**"Evidence based practice"** means programs or practices that are supported by research methodology and have produced consistently positive patterns of results when replicated within the intent of the published guidance.

**"Executive director"** means the person hired by the governing authority to direct all the activities of the organization; may be used synonymously with administrative director, administrator, chief executive officer, and director.

**"Face-To-Face"** for the purposes of the delivery of behavioral health care, means a face-to-face physical contact and in-person encounter between the health care provider and the consumer, including the initial visit. The use of telemedicine shall be considered a face-to-face encounter.

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**"Facilities"** or **"facility"** means entities as described in Title 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 disorder 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.

**"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.

**"Gambling disorder treatment services"** means treatment activities for consumers by a gambling treatment professional that include, but are not limited to, the following:

- (A) Assessment and diagnostic impression, ongoing;
- (B) Treatment planning and revision, as necessary;
- (C) Individual, group and family therapy;
- (D) Case management;
- (E) Psychosocial rehabilitation; and
- (E) Discharge planning.

**"Goals"** means broad general statements of purpose or intent that indicates the general effect the facility or service is intended to have.

**"Guardian"** means an individual who has been given the legal authority for managing the affairs of another individual.

**"Halfway house"** means low intensity substance use disorder treatment in a supportive living environment to facilitate the individual's reintegration into the community, most often following completion of primary treatment. Corresponding ASAM Treatment Level: Level III.1, Clinically managed Low Intensity Residential Services.

**"Halfway house for persons with children"** means a halfway house that includes services for the recovering person's children who will reside with him or her in the house. Corresponding ASAM Treatment Level: Level III.1, Clinically managed Low Intensity Residential Services.

**"Infant"** means any child from birth up to 3 years of age.

**"Initial contact"** means a person's first contact with the facility, e.g., a request for information or service by telephone or in person.

**"Inpatient services"** means the process of providing care to persons who require twenty-four (24) hour supervision in a hospital or other suitably equipped medical setting as a result of acute or chronic medical or psychiatric illnesses and professional staff providing medical care according to a treatment plan based on documentation of need.

**"Intervention"** means a process or technique intended to facilitate behavior change.

**"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 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
  - (v) Alcohol and Drug Counselor.

**"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"** means the process by which an agency of government grants permission to persons or health facilities meeting qualifications to engage in a given occupation or business or use a particular title.

**"Licensure Candidate"** means practitioners 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.

**"Life skills"** means abilities and techniques necessary to function independently in society.

**"Medical care"** means those diagnostic and treatment services which, under the laws of the jurisdiction in which the facility is located, can only be provided or supervised by a licensed physician.

**"Medical withdrawal management"** means diagnostic and treatment services performed by licensed facilities for acute alcohol or drug intoxication, delirium tremens, and physical and neurological complications resulting from acute intoxication. Medical withdrawal management includes the services of a physician and attendant medical personnel including nurses, interns, and emergency room personnel, the administration of a medical examination and a medical history, the use of an emergency room and emergency medical equipment if warranted, a general diet of three meals each day, the administration of appropriate laboratory tests, and supervision by properly trained personnel until the person is no longer medically incapacitated by the effects of alcohol or drugs. [43 A.O.S. § 3-403(5)] It is an organized service delivered by medical and nursing professionals that provides for twenty-four (24)-hour medically directed evaluation and withdrawal management in an acute care inpatient setting. Services are delivered under a defined set of physician-approved policies and physician-managed procedures or medical protocols. Corresponding ASAM Service Level: Level 4-WM, Medically Managed Intensive Inpatient Withdrawal Management.

**"Medical services"** means the administration of medical procedures by a physician, registered nurse, nurse practitioner, physician's assistant, or dentist and in accordance with a documented treatment plan and medical supervision available to provide the consumer with the service necessitated by the prevalent problem identified and includes physical examinations, withdrawal management from alcohol or drugs, methadone maintenance, dental services, or pharmacy services, etc.

**"Medically supervised withdrawal management"** means withdrawal management outside of a medical setting, directed by a physician who has attendant medical personnel including nurses for intoxicated consumers, and consumer's withdrawing from alcohol and other drugs, presenting with no apparent medical or neurological symptoms as a result of their use of substances that would require hospitalization as determined by an examining physician. Corresponding ASAM Service Level: Level 3.7-WM, Medically Monitored Inpatient Withdrawal Management. Withdrawal management is intended to stabilize and prepare consumers in accessing treatment.

**"Medication"** means any prescription or over-the-counter drug that is taken orally, injected, inserted, applied topically, or otherwise administered by staff or self-administered by the consumer for the appropriate treatment or prevention of medical or psychiatric issues.

**"Medication assisted treatment"** means the use of medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.

**"Medication-self administration"** means the consumers administer their own medication to themselves, or their children, with staff observation.

**"Neglect"** means:

- (A) the failure of staff to provide adequate food, clothing, shelter, medical care or supervision which includes, but is not limited to, lack of appropriate supervision that results in harm to a consumer;
- (B) the failure of staff to provide special care made necessary by the physical or mental condition of the consumer;
- (C) the knowing failure of staff to provide protection for a consumer who is unable to protect his or her own interest; or
- (D) staff knowingly causing or permitting harm or threatened harm through action or inaction that has resulted or may result in physical or mental injury.

**"Non-medical withdrawal management"** means withdrawal management services for intoxicated consumers and consumers withdrawing from alcohol or other drugs presenting with no apparent medical or neurological symptoms as a result of their use of substances. Corresponding ASAM Service Level: Level 3.2-WM, Clinically managed Residential Withdrawal Management. Withdrawal management is intended to stabilize and prepare consumers in accessing treatment.

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**"Objectives"** means a specific statement of planned accomplishments or results that are specific, measurable, attainable, realistic, and time-limited.

**"ODMHSAS"** 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.

**"OSDH"** means the Oklahoma State Department of Health.

**"Outpatient services"** means an organized, nonresidential treatment service in regularly scheduled sessions intended for individuals not requiring a more intensive level of care or those who require continuing services following more intensive treatment regimens. For substance use disorder treatment services, the corresponding ASAM Treatment Level is Level I, Outpatient Treatment.

**"Peer Recovery Support Specialist"** or **"PRSS"** means an individual who meets the qualifications and is certified as a PRSS pursuant to OAC 450:53.

**"Performance Improvement"** or **"PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms, include continuous quality improvement, continuous improvement, organization-wide quality improvement, and total quality management.

**"Personnel record"** means a chart or file containing the employment history and actions relevant to individual employee or volunteer activities within an organization and may contain application, evaluation, salary data, job description, citations, credentials, etc.

**"PICIS"** is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, consumer profiles, program or treatment focus, and many other topics of interest to clinicians, administrators, and consumers. It includes unique identifiers for agencies, staff, and consumers that provide the ability to monitor the course of consumer services throughout the statewide ODMHSAS network. PICIS collects data from hospitals, community mental health centers, substance abuse agencies, community residential mental health facilities, prevention programs, and centers for the homeless which are operated or funded in part by ODMHSAS.

**"Play therapy"** means a form of action therapy that uses, but is not limited to, sand play, fairy tales, art and puppetry to encourage communication in children who have inadequate or immature verbalization skills or who verbalize excessively due to defensiveness.

**"Policy"** means statements of facility intent, strategy, principle, or rules in the provision of services; a course of action leading to the effective and ethical provision of services.

**"Prevention"** means the assessment, development, and implementation of strategies designed to prevent the adverse effects of mental illness, substance use disorders, addiction, and trauma.

**"Procedures"** means the written methods by which policies are implemented.

**"Process"** means information about what a program is implementing and the extent to which the program is being implemented as planned.

**"Program"** means a structured set of activities designed and structured to achieve specific objectives relative to the needs of the consumers or patients.

**"Progress notes"** means a chronological written description of services provided to a consumer, resident, client, or patient that documents, utilizing acceptable documentation practices, the consumer's response related to the intervention plan or services provided.

**"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 or has equivalent training or experience.

**"Psychotherapy"** or **"Therapy"** means a goal directed process using generally accepted clinical approaches provided face-to-face by a Licensed Behavioral Health Professional (LBHP) or Licensure Candidate with consumers in individual, group, or family settings to promote positive, emotional, or behavioral change.

**"Readiness to change"** means one dimension to be considered in consumer placement, continued stay, and transition and is an evaluation of the consumer's current emotional and cognitive awareness of the need to change, coupled with a commitment to change.

**"Recovery"** means an ongoing process of discovery and/or rediscovery that must be self-defined, individualized, and may contain some, if not all, of the fundamental components of recovery as outlined by the Substance Abuse and Mental Health Services Administration (SAMHSA).

**"Recovery/living environment"** means one dimension to be considered in consumer placement, continued stay, and discharge and is an evaluation of the consumer's current recovery environment, current relationships, degree of support for recovery, current housing, employment situation, availability of alternatives, and historical information as it impacts on level of care decision making.

**"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.

**"Rehabilitation 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. Rehabilitation services for substance use disorders are also referred to as skill development services.

**"Relapse"** means the process which may result in the return to the use of substances after a period of abstinence.

**"Relapse potential, continued use, or continued problem potential"** means one dimension to be considered in consumer placement, continued stay, and discharge and is an evaluation of the consumer's attitudes, knowledge, and coping skills, as well as the likelihood that the consumer will relapse from a previously achieved and maintained abstinence and/or stable and healthy mental health function. If an individual has not yet achieved abstinence and/or stable and healthy mental health function, this dimension assesses the likelihood that the individual will continue to use alcohol or other drugs and/or continue to have mental health problems.

**"Residential treatment-substance abuse"** means treatment for a consumer in a live-in setting which provides a regimen consisting of twenty-four (24) treatment hours per week. This level of care should correspond with the ASAM Service Level: Level 3.5, Clinically managed High-Intensity Residential Services.

**"Residential treatment for persons with children-substance abuse"** means a residential treatment facility that includes services for the recovering person's children who will reside with him or her in the residential facility. Corresponding ASAM Service Level (Parent Only): Level 3.5 Clinically Managed High-Intensity Residential Services.

**"Screening"** means the process to determine whether the person seeking assistance needs further comprehensive assessment.

**"Service plan" or "Treatment plan"** means the document used during the process by which a LBHP or a Licensure Candidate and the consumer together and jointly identify and rank problems, establish agreed-upon immediate short-term and long-term goals, and decide on the treatment process and resources to be utilized.

**"Service Provider"** means a person who is allowed to provide treatment services within the regulation and scope of their certification level or license.

**"Significant others"** means those individuals who are, or have been, significantly involved in the life of the consumer.

**"Socialization"** means all activities, which encourage interaction and the development of communication, interpersonal, social, and recreational skills and can include consumer education.

**"Substance-related and addictive disorders"** means a substance-related disorder involving problems related to the use of ten distinct classes of drugs: alcohol; caffeine; cannabis; hallucinogens; inhalants; opioids; sedatives, hypnotics and anxiolytics; stimulants; tobacco; and other (unknown) substances. Substance-related disorders fall into one of two categories, substance use disorders and substance induced disorders. A substance use disorder is a cluster of cognitive, behavioral and physiological symptoms indicating the consumer continues using the substance(s) despite significant substance-related problems. A substance-induced disorder is a reversible substance-specific syndrome due to the recent ingestion of a substance. Addictive disorders involve repetitive clusters of behaviors that activate reward systems similar to those activated by drugs and create behavioral symptoms comparable to those produced by substance use disorders such as compulsive gambling.

**"Substance use disorder treatment services"** means the coordination of treatment activities for consumers by service provider that includes, but is not limited to, the following:

- (A) Screening, diagnostic impression, and assessment.
- (B) Treatment planning and revision, as necessary.
- (C) Continuing care review to assure continuing stay and discharge criteria are met.
- (D) Case management services.
- (E) Reports and record keeping of consumer related data.
- (F) Consultation that facilitates necessary communication in regard to consumers.
- (G) Discharge planning that assists consumers in developing continuing care plans and facilitates transition into post-treatment recovery.
- (H) Individual, group, and family therapy.
- (I) Rehabilitation services.
- (J) Peer recovery support services.
- (K) Crisis intervention services.

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**"Substance-use disorders"** means alcohol or drug dependence or psychoactive substance use disorder as defined by current DSM criteria or by other standardized and widely accepted criteria.

**"Substance withdrawal"** means a state of being in which a group of symptoms of variable clustering and degree of severity occur on cessation or reduction of use of a psychoactive substance that has been taken repeatedly, usually for a prolonged period and/or in high doses. The syndrome may be accompanied by signs of physiological disturbance. Onset and course of the withdrawal state are time-limited and are related to the type of substance and the dose being used immediately before abstinence.

**"Supportive services"** refers to assistance with the development of problem-solving and decision making skills to maintain or achieve optimal functioning within the community and can include consumer education.

**"Therapeutic hour(s)"** means the amount of time in which the consumer is engaged with a service provider identifying, addressing, and/or resolving issues that are related to the consumer's treatment plan.

**"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.

**"Trauma informed capability"** means the capacity for a facility and all its programs to recognize and respond accordingly to the presence of the effects of past and current traumatic experiences in the lives of its consumers.

**"Treatment"** means the broad range of emergency, inpatient, intermediate and outpatient services and care including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation, and career counseling. [43A O.S. § 3-403(11)].

**"Treatment hours - residential"** means the structured hours in which a consumer is involved in receiving professional services to assist in achieving recovery.

**"Treatment session-outpatient"** means each face-to-face contact with a consumer in a therapeutic setting whether individually or in a group.

**"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.

**"Wellness"** means the condition of good physical, mental, and emotional health, especially when maintained by an appropriate diet, exercise, and other lifestyle modifications.

**"Withdrawal Management"** means the process of eliminating the toxic effects of substances from the body. Withdrawal management methods include social detoxification and medical monitoring or medical management and are intended to avoid withdrawal complications.

## SUBCHAPTER 7. FACILITY CLINICAL RECORDS

### PART 9. SERVICE PLANNING

#### **450:18-7-84. Service plans, medically supervised withdrawal management [AMENDED]**

(a) Medically supervised withdrawal management facilities shall complete medical service plans to address the medical stabilization treatment and service needs of each consumer within three (3) hours of admission. ~~When necessary, medically supervised withdrawal management service plans may be initiated by a licensed physician or licensed registered nursing staff.~~ Service plans shall be completed by a licensed physician, Advanced Practice Registered Nurse (APRN), Physician Assistant (PA), or Registered Nurse (RN). A Licensed Practical Nurse (LPN) may assist with the service plan. LPN signatures must be co-signed by a physician, APRN, PA or RN at the time the service plan is completed.

(b) Compliance with 450:18-7-84 may be determined by a review of the following:

- (1) Policies and procedures;
- (2) Treatment protocols;
- (3) Clinical services manuals;
- (4) Service plan forms;
- (5) Consumer records;
- (6) Interviews with staff and consumers; and
- (7) Other facility documentation.

## SUBCHAPTER 13. SUBSTANCE USE DISORDER TREATMENT SERVICES

### PART 7. MEDICALLY SUPERVISED WITHDRAWAL MANAGEMENT, ASAM LEVEL 3.7

### 450:18-13-61. Medically-supervised withdrawal management [AMENDED]

(a) Medically supervised withdrawal management shall be provided outside a medical facility, but under the direction of a licensed physician, Advanced Practice Registered Nurse, or Physician Assistant and a licensed registered nurse supervisor, for consumers who are withdrawing or are intoxicated from alcohol or other drugs. Presenting consumers shall be assessed as currently experiencing no apparent medical or neurological symptoms as a result of their substance use that would require hospitalization.

(b) The facility shall maintain written programmatic descriptions and operational methods addressing the following:

(1) Environment: The facility shall provide for beds, food service, monitoring/documenting vital signs, food, and liquids. The facility shall provide a safe, welcoming, and culturally/age appropriate environment. If the facility provides services to consumers under the age of eighteen (18), it shall be licensed by the Oklahoma State Department of Human Services (OKDHS) as a "Residential Child Care Facility".

(2) Support system:

(A) A licensed physician, Advanced Practice Registered Nurse, or Physician Assistant providing supervision of withdrawal management shall be on site or on call twenty-four (24) hours per day, seven (7) days per week;

(B) The facility shall maintain a written plan for emergency procedures which shall be approved by a licensed physician; and

(C) The facility shall have supplies, as designated in the written emergency procedures, which shall be accessible to the staff.

(3) Staff:

(A) Staff members shall be knowledgeable about the physical signs of withdrawal, the taking of vital signs, the implication of those vital signs, and emergency procedures.

(B) ~~Oklahoma licensed nurses~~ A Registered Nurse shall provide twenty-four (24) hour on-site supervision and monitoring, and statutorily approved personnel shall administer medications in accordance with physician's orders;

(C) Staff shall be knowledgeable regarding facility-required education, evidenced based practices, training, and policies; and

(D) The facility shall document in personnel records all education, training, and experience stated in (A), (B), and (C) above prior to staff providing direct care services.

(E) The facility shall have a minimum of two (2) staff members on site twenty-four (24) hours per day, seven (7) days per week. If consumers under eighteen (18) are on site, staffing ratios shall not exceed those specified in OAC 340:110-3-153.2.

(4) Treatment services:

(A) Daily (twenty-four [24] hours a day, seven [7] days a week) substance use disorder withdrawal management treatment services shall be provided which shall include, but are not limited to, oral intake of fluids, three (3) meals a day, taking of vital signs (temperature, pulse, respiration rate, blood pressure), documentation of fluid and food intake a minimum of one (1) time every six (6) hours or more often as indicated by the consumer's condition.

(B) Medications are to be prescribed if needed during withdrawal management. The medications are to include those needed for physical health issues and mental impairment if acquired during the withdrawal process.

(5) Assessment:

(A) An individualized case management plan shall be developed for each consumer prior to discharge;

(B) A medical assessment for appropriateness of placement shall be completed and documented by a licensed physician, Advanced Practice Registered Nurse (APRN), or Physician Assistant (PA) during the admission process to the program. A Registered Nurse (RN) may assist with the assessment. RN signatures must be co-signed by a physician, APRN or PA at the time the assessment is completed and must include a dated signature(s) of each practitioner.

(C) All assessments shall be signed by a licensed physician within twenty-four (24) hours of admission, with the physician as the admitting practitioner of record.

(c) Compliance with 450:18-13-61 may be determined by review and/or observation of facility documentation and operations, including but not limited to the following:

(1) Licenses;

(2) Policies and procedures;

(3) Treatment protocols;

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- (4) Personnel records, documentation of professional licensure, certification or licensure as an alcohol and drug counselor, documentation of professional work experience, and ongoing in-service trainings;
- (5) Treatment records;
- (6) Interviews with staff; and
- (7) Other supporting facility documentation

## SUBCHAPTER 17. CERTIFICATE OF NEED [REVOKED]

### 450:18-17-1. Purpose [REVOKED]

~~\_\_\_\_\_ The purpose of this Subchapter is to set forth rules regulating Certificate of Need requirements for applicable facilities:~~

### 450:18-17-2. Applicability [REVOKED]

~~\_\_\_\_\_ The rules set forth in this Subchapter are applicable only to facilities that seek to obtain initial certification under this Chapter for residential substance use disorder services, medically supervised withdrawal management services, or halfway house services and that intend to enroll with the Oklahoma Health Care Authority as a Medicaid provider:~~

### 450:18-17-3. Certificate of Need requirements [REVOKED]

~~(a) Facilities seeking initial certification for residential substance use disorder services, medically supervised withdrawal management services, or halfway house services that intend to enroll with the Oklahoma Health Care Authority shall be subject to a Certificate of Need evaluation completed by the Department. Such facilities will be required to provide a Certificate of Need from the Department to the Oklahoma Health Care Authority upon enrollment as a Medicaid provider, in accordance with OAC 317:30-5-95.44(a)(3). In addition to the standard certification application, entities shall provide information requested by the Department on the Department-prescribed form. Such information shall include, but not be limited to, the following:~~

- ~~(1) Number of beds that are/will be in the facility;~~
- ~~(2) Number of beds that will be added, if any;~~
- ~~(3) Timeframe for the addition of new beds;~~
- ~~(4) Population(s) that will be served; and~~
- ~~(5) Type(s) of services that will be provided.~~

~~(b) The following factors shall be considered in determining whether a Certificate of Need shall be granted:~~

- ~~(1) Residential substance use disorder, medically supervised withdrawal management, and/or halfway house bed occupancy rates for the applicable population and geographic area;~~
- ~~(2) Residential substance use disorder, medically supervised withdrawal management, and/or halfway house bed occupancy rates for Medicaid beneficiaries within the geographic area;~~
- ~~(3) The estimated need that the population to be served has for the services proposed by the entity based on the following:~~

- ~~(A) Current population estimates and demographics;~~
- ~~(B) Population trends or projections; and~~
- ~~(C) Substance use disorder service utilization trends~~

~~(4) The type and number of residential substance use disorder, medically supervised withdrawal management, and/or halfway house providers in the same geographic area; and~~

~~(5) Any extenuating circumstances or factors the Department considers substantial, such as anticipated increases in the need or demand for residential substance use disorder, medically supervised withdrawal management, or halfway house services.~~

~~(c) If the Department determines that, based upon these factors, a need for an additional residential substance use disorder, medically supervised withdrawal management, or halfway house facility and associated number of beds cannot be demonstrated, a Certificate of Need shall not be issued to the facility.~~

~~(d) Failure of a facility to obtain a Certificate of Need shall not prohibit the facility from obtaining certification from the Department.~~

*[OAR Docket #25-453; filed 6-3-25]*

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## TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

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## CHAPTER 24. STANDARDS AND CRITERIA FOR COMPREHENSIVE COMMUNITY ADDICTION RECOVERY CENTERS

*[OAR Docket #25-454]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions

450:24-1-2. Definitions [AMENDED]

Subchapter 27. Certificate of Need [REVOKED]

450:24-27-1. Purpose [REVOKED]

450:24-27-2. Applicability [REVOKED]

450:24-27-3. Certificate of Need requirements [REVOKED]

**AUTHORITY:**

Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, and 3-415

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 8, 2024

**COMMENT PERIOD:**

December 2, 2024 through January 3, 2025

**PUBLIC HEARING:**

January 6, 2025

**ADOPTION:**

January 30, 2025

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 31, 2025

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

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N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

September 1, 2025

**SUPERSEDED EMERGENCY ACTIONS:**

**SUPERSEDED RULES:**

N/A

**GUBERNATORIAL APPROVAL:**

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**DOCKET NUMBER:**

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Proposed rule revisions remove Certificate of Need requirements and amend the definition of ASAM level 3.7.

**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, 2025:

## SUBCHAPTER 1. GENERAL PROVISIONS

### 450:24-1-2. Definitions [AMENDED]

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

**"Ambulatory Withdrawal Management without extended on-site monitoring"** means withdrawal management within an outpatient setting, directed by a physician and has attendant medical personnel including nurses for intoxicated consumers, and consumers withdrawing from alcohol and other drugs, presenting with no apparent medical or neurological symptoms as a result of their use of substances require ambulatory withdrawal management as determined by an examining physician. This corresponds to ASAM Service Level: Level 1-WM Ambulatory withdrawal management without extended on-site monitoring.

**"ASAM"** means the American Society of Addiction Medicine.

**"ASAM criteria"** means the most current edition of the American Society of Addiction Medicine's published criteria for admission to treatment, continued services, and discharge.

**"ASAM level 1"** means Outpatient Services for adolescents and adults. This level of care typically consists of less than nine (9) hours of services per week for adults or less than six (6) hours of services per week for adolescents. Services may be delivered in a wide variety of settings.

**"ASAM level 2.1"** means Intensive Outpatient Services for adolescents and adults. This level of care typically consists of nine (9) or more hours of service a week for adults or six (6) or more hours of service a week for adolescents. Services are delivered as organized outpatient services during the day, before or after work or school, in the evening, and/or on weekends.

**"ASAM level 3"** means residential and inpatient services and encompasses ASAM levels 3.1, 3.3, 3.5 and 3.7.

**"ASAM level 3.1"** means Clinically Managed Low-Intensity Residential Services for adolescents and adults. This level of care typically provides at least five (5) hours of clinical services a week and provides a twenty-four (24) hour living support and structure with trained personnel. The corresponding service description for this level of care is Halfway House Services.

**"ASAM level 3.3"** means Clinically Managed Population-Specific High-Intensity Residential Services. This level of care is for adults only and typically offers twenty-four (24) hour care with trained personnel and is designed to accommodate individuals with cognitive or other impairments. The corresponding service description for this level of care is Residential Treatment for Adults with Co-Occurring Disorders.

**"ASAM level 3.5"** means Clinically Managed Medium-Intensity Residential Services for adolescents and Clinically Managed High-Intensity Residential Services for adults. This level of care provides twenty-four (24) hour care and offers a wide range of therapeutic services. The corresponding service descriptions for this level of care are Residential Treatment and Intensive Residential Treatment.

**"ASAM level 3.7"** means Medically Monitored High-Intensity Inpatient Services for adolescents and Medically Monitored Intensive Inpatient Withdrawal Management for adults. ~~This level of care provides twenty-four (24) hour nursing care with physician supervision and medication availability.~~ This level of care is provided by a physician, Advanced Practice Registered Nurse, or Physician Assistant either on-site or on-call with twenty-four (24) hour care by a Registered Nurse on-site for supervision and medication availability. This level of care is appropriate for individuals withdrawing from alcohol or other drugs with subacute biomedical and emotional, behavioral, or cognitive problems severe enough to require inpatient treatment but for whom hospitalization is not necessary. The corresponding service description for this level of care is Medically Supervised Withdrawal Management.

**"Case management services"** means planned referral, linkage, monitoring and support, and advocacy provided in partnership with a consumer to assist that consumer with self sufficiency and community tenure and take place in the individual's home, in the community, or in the facility, in accordance with a service plan developed with and approved by the consumer and qualified staff.

**"Clinical privileging"** means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.



**"Comprehensive Community Addiction Recovery Center"** or **"CCARC"** means a facility offering a comprehensive array of community-based substance use disorder treatment services, including but not limited to, outpatient services, Intensive outpatient services, ambulatory withdrawal management services, emergency care, consultation and education; and , certain services at the option of the center, including but not limited to, prescreening, rehabilitative services, aftercare, training programs, research and evaluation.

**"Community-based Structured Crisis Center"** or **"CBSCC"** means a program of non-hospital emergency services for mental health and substance use disorder crisis stabilization as authorized by 43A O.S. §3-317, including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance use disorder treatment services. This service is limited to CCARC's who are certified by the Department of Mental Health and Substance Abuse Services or facilities operated by the Department 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.

**"Consumer advocacy"** includes all activities on behalf of the consumer to assist with or facilitate resolution of problems in the acquisition of resources or services needed by the consumer

**"Co-occurring disorder" (COD)** means any combination of mental health symptoms and substance use disorder symptoms or diagnoses that affect a consumer and are typically determined by the current Diagnostic and Statistical Manual of Mental Disorders.

**"Co-occurring disorder capability"** means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to consumers with co-occurring disorders.

**"Crisis Diversion"** means an unanticipated, unscheduled situation requiring supportive assistance, face-to-face or telephone, to resolve immediate problems before they become overwhelming and severely impair the individual's ability to function or maintain in the community.

**"Crisis Intervention"** means actions taken, and services provided to address emergency psychological, physiological, and safety aspects of alcohol, drug-related, and mental health crises.

**"Crisis stabilization"** means emergency, psychiatric, and substance use disorder treatment services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment, and, if needed, referral to an ODMHSAS certified facility having nursing and medical support available.

**"Cultural competency"** means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

**"Emergency examination"** means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted by a licensed mental health professional to determine if emergency detention of the person is warranted.

**"Face-To-Face"** for the purposes of the delivery of behavioral health care, means a face-to-face physical contact and in-person encounter between the health care provider and the consumer, including the initial visit. The use of telemedicine shall be considered a face-to-face encounter.

**"Gambling disorder treatment services"** means treatment activities for consumers by a gambling treatment professional that include, but are not limited to, the following:

- (A) Assessment and diagnostic impression, ongoing;
- (B) Treatment planning and revision, as necessary;
- (C) Individual, group and family therapy;
- (D) Case management;
- (E) Psychosocial rehabilitation; and
- (F) Discharge planning.

**"Independent living skills, assistance in development of"** means all activities directed at assisting individuals in the development of skills necessary to live and function within the community, e.g., cooking, budgeting, meal planning, housecleaning, problem-solving, communication and vocational skills.

**"Intensive outpatient services"** means an organized, non-residential outpatient treatment services with scheduled sessions that provide a range of nine (9) to fifteen (15) treatment hours per week for adults or six (6) to twelve (12) treatment hours per week for children. Intensive outpatient services may offer evening outpatient services several nights per week or be incorporated into an inpatient or residential treatment program in which the consumer participates in

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daytime treatment services but goes home at night. This corresponds to ASAM patient Placement Criteria Treatment Level: Level II.1 Intensive outpatient.

**"Levels of care"** means the different options for treatment as described in the current edition of the ASAM criteria that vary according to the services offered. Each treatment option is a level of care.

**"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 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
  - (v) Alcohol and Drug Counselor.

**"Licensed mental health professional" or "LMHP"** as defined in Title 43A §1-103(11).

**"Licensure Candidate"** means practitioners 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.

**"Linkage"** refers to the communication and coordination with other service providers to assure timely appropriate referrals between the CCARC and other providers.

**"ODMHSAS"** 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.

**"On-premise meal service"** means meals that are prepared and cooked in a commercial kitchen located on the facility premises.

**"Outpatient services"** means an organized, non-residential treatment service in regularly scheduled session intended for individuals not requiring a more intensive level of care or those who require continuing services following more intensive treatment regimens. This corresponds to ASAM criteria Treatment Level I, Outpatient Treatment. Services can address early intervention needs and increase in frequency and intensity up to 9 treatment hours per week.

**"Peer Recovery Support Specialist" or "PRSS"** means an individual who meets the qualifications and is certified as a PRSS pursuant to OAC 450:53.

**"Performance Improvement" or "PI"** means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous quality improvement, continuous improvement, organization-wide quality improvement and total quality management.

**"Progress notes"** means a chronological written description of services provided to a consumer, resident, client, or patient that documents, utilizing acceptable documentation practices, the consumer's response related to the intervention plan or services provided.

**"Psychotherapy" or "Therapy"** means a goal directed process using generally accepted clinical approaches provided face-to-face by a LBHP or Licensure Candidate with consumers in individual, group or family settings to promote positive emotional or behavioral change.

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**"Rehabilitation Services"** means face-to-face individual or group services provided by qualified staff to develop skill necessary to perform activities of daily living and successful integration into community life.

**"Screening"** means the process to determine whether the person seeking assistance needs further comprehensive assessment.

**"Service area"** means a geographic area established by the Department of Mental Health and Substance Abuse Services for support of mental health and substance use disorder treatment services [43A O.S. §3-302(1)].

**"Service plan"** or **"Treatment plan"** means the document used during the process by which a LBHP or Licensure Candidate and the consumer together and jointly identify and rank problems, establish agreed-upon immediate short-term and long-term goals, and decide on the treatment process and resources to be utilized.

**"Substance withdrawal"** means a state of being in which a group of symptoms of variable clustering and degree of severity occur on cessation or reduction of use of a psychoactive substance that has been taken repeatedly, usually for a prolonged period and/or in high doses. The syndrome may be accompanied by signs of physiological disturbance. Onset and course of the withdrawal state are time-limited and are related to the type of substance and the dose being used immediately before abstinence.

**"Supportive services"** refers to assistance with the development of problem-solving and decision-making skills to maintain or achieve optimal functioning within the community and can include consumer education.

**"Trauma informed capability"** means the capacity for a facility and all its programs to recognize and respond accordingly to the presence of the effects of past and current traumatic experiences in the lives of its consumers.

**"Urgent Recovery Clinic"** means a program of non-hospital emergency services for mental health and substance use crisis response including, but not limited to, observation, evaluation, emergency treatment, and referral, when necessary to a higher level of care. This service is limited to CMHCs and Comprehensive Community Addiction Recovery Centers (CCARCs) certified by ODMHSAS or facilities operated by ODMHSAS.

**"Vocational assessment services"** means a process utilized to determine the individual's functional work-related abilities and vocational preferences for the purpose of the identification of the skills and environmental supports needed by the individual in order to function more independently in an employment setting, and to determine the nature and intensity of services which may be necessary to obtain and retain employment.

**"Vocational placement services"** means a process of developing or creating an appropriate employment situation matched to the functional abilities and choices of the individual for the purpose of vocational placement. Services may include, but are not limited to, the identification of employment positions, conducting job analysis, matching individuals to specific jobs, and the provision of advocacy with potential employers based on the choice of the individual served.

**"Vocational preparation services"** means services that focus on development of general work behavior for the purpose of vocational preparation such as the utilization of individual or group work-related activities to assist individuals in understanding the meaning, value and demands of work; to modify or develop positive work attitudes, personal characteristics and work behaviors; to develop functional capacities; and to obtain optimum levels of vocational development.

**"Wellness"** means the condition of good physical, mental and emotional health, especially when maintained by an appropriate diet, exercise, and other lifestyle

## SUBCHAPTER 27. CERTIFICATE OF NEED [REVOKED]

### 450:24-27-1. Purpose [REVOKED]

~~—The purpose of this Subchapter is to set forth rules regulating Certificate of Need requirements for applicable facilities:~~

### 450:24-27-2. Applicability [REVOKED]

~~—The rules set forth in this Subchapter are applicable only to facilities that seek to obtain initial certification under this Chapter for residential substance use disorder services, medically supervised withdrawal management services, or halfway house services and that intend to enroll with the Oklahoma Health Care Authority as a Medicaid provider. Such facilities will be required to provide a Certificate of Need from the Department to the Oklahoma Health Care Authority upon enrollment as a Medicaid provider, in accordance with OAC 317:30-5-95.44(a)(3):~~

### 450:24-27-3. Certificate of Need requirements [REVOKED]

~~(a) Applicable providers must provide required documentation and meet criteria as specified in 450:18-17-3 to obtain a Certificate of Need:~~

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~~(b) Failure of a facility to obtain a Certificate of Need shall not prohibit the facility from obtaining certification from the Department.~~

*[OAR Docket #25-454; filed 6-3-25]*

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## **TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 50. STANDARDS AND CRITERIA FOR CERTIFIED BEHAVIORAL HEALTH CASE MANAGERS**

*[OAR Docket #25-455]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

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]

450:50-3-4. Fees [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:**

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N/A

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N/A

## GIST/ANALYSIS:

Proposed rule revisions amend qualifications and application requirements for Behavioral Health Case Manager I and clarify experience requirements for case managers. Revisions also change language regarding renewal deadlines.

## 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, 2025:**

### 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) 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 Behavioral Health Case Manager must meet the requirements in either (1) or (2) below:

(1) Applicants for Behavioral Health Case Manager I (CM I) must:

(A) Possess a High School Diploma, General Equivalency Diploma (GED), or High School Equivalency (HSE) Credential; and have a minimum of six (6) months of direct, documented experience working with persons with mental illness and/or substance use disorder; or

~~(B) Have a minimum of six (6) months of direct, documented experience working with persons with mental illness and/or substance use disorder.~~

(B) Have completed a minimum of sixty (60) college credit hours.

(2) Applicants for Behavioral Health Case Manager II (CM II) must meet the requirements in (A), (B), (C), (D) or (E) below:

(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 Behavioral Health Case Manager shall be submitted electronically to the Department on a form and in a manner prescribed by ODMHSAS.

(b) Applications for certification as a CM I must include:

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- (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;~~
  - (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.
  - (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~~ Work and/or volunteer experience must be time spent directly with persons who have a mental illness and/or substance use disorder.
    - (D) Qualifying experience must have ended within no more than five (5) years of the date of application.
  - (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~~ Work and/or volunteer experience must be time spent directly with persons who have a mental illness and/or substance use disorder.
    - (D) Qualifying experience must have ended within no more than five (5) years of the date of application.
  - (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.
- (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 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.
- (e) An application must be submitted and approved by the Department prior to attending any Behavioral Health Case Manager certification training.
- (f) Applications shall only be valid for a period up to six (6) months from the date of application.
- (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.

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(h) Applicants shall have no violations of moral turpitude or misconduct as set forth in these rules during time of application process.

(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. The date(s) of the annual renewal deadline(s) will be established by ODMHSAS and posted online on the agency's website. 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 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 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.

## **450:50-3-4. Fees [AMENDED]**

(a) **Application Fee.** Twenty-five dollars (\$25.00) shall be submitted with the application form.

(b) **Renewal Fee.** Fifteen dollars (\$15.00) shall be submitted with the renewal application and required continuing education documentation.

(c) **Late Renewal Fee.** An additional twenty-five dollars (\$25.00) shall be included with the Renewal Fee (\$15.00), renewal application, and required continuing education documentation if the certification is renewed after the ~~June 30~~renewal deadline.

*[OAR Docket #25-455; filed 6-3-25]*

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## **TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 53. STANDARDS AND CRITERIA FOR CERTIFIED PEER RECOVERY SUPPORT SPECIALISTS**

*[OAR Docket #25-456]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 3. Peer Recovery Support Specialist Certification Application

450:53-3-3. Duration of certification [AMENDED]

Subchapter 7. Rules of Professional Conduct

450:53-7-6. Reimbursement for services rendered [AMENDED]

Subchapter 11. ~~Grandfathering~~Special Provisions [AMENDED]

450:53-11-1. ~~Grandfathering~~Special Provisions [AMENDED]

### **AUTHORITY:**

Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, and 3-326

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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**GIST/ANALYSIS:**

Proposed rule revisions amend language regarding renewal deadlines and make other clean-up changes.

**CONTACT PERSON:**

Melissa Miller, melissa.miller@odmhsas.org, 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, 2025:**

**SUBCHAPTER 3. PEER RECOVERY SUPPORT SPECIALIST CERTIFICATION APPLICATION**

**450:53-3-3. 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 December 31 of the calendar year~~ following twelve (12) months of continuous certification and annually thereafter. The date(s) of the annual renewal deadline(s) will be established by ODMHSAS and posted online on the agency's website. Renewal is accomplished by submitting:

- (1) The renewal application;
- (2) Annual report of continuing education units with accompanying documentation; and
- (3) The renewal fee.



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(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.

## SUBCHAPTER 7. RULES OF PROFESSIONAL CONDUCT

### 450:53-7-6. Reimbursement for services rendered [AMENDED]

Peer Recovery Support Specialists shall ~~be reimbursed for Recovery Support Services only~~ use the title if employed by an eligible employer in accordance with 450:53-3-1(5). Reimbursement for services rendered shall not be collected outside of the agency's system of service reimbursement.

## SUBCHAPTER 11. ~~GRANDFATHERING~~ SPECIAL PROVISIONS [AMENDED]

### 450:53-11-1. ~~Grandfathering~~ Special Provisions [AMENDED]

(a) Upon request, individuals Credentialed as Peer Recovery Support Specialists by the Oklahoma Department of Mental Health and Substance Abuse Services as of June 1, 2009 through the effective date of this Chapter shall be issued Certification as a Certified Peer Recovery Support Specialist as provided in this Chapter.

(b) Upon request, individuals Credentialed as Peer Recovery Support Specialists by the Oklahoma Department of Mental Health and Substance Abuse Services from December 1, 2004 through May 31, 2009 that have demonstrated providing peer support in their employment, volunteerism or advocacy to others as peers shall be issued Certification as a Certified Peer Recovery Support Specialist as provided in this Chapter.

*[OAR Docket #25-456; filed 6-3-25]*

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## TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 70. STANDARDS AND CRITERIA FOR OPIOID TREATMENT PROGRAMS

*[OAR Docket #25-457]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

450:70-1-2. Definitions [AMENDED]

Subchapter 3. Facility Record System

Part 3. INTAKE AND ADMISSION ASSESSMENT

450:70-3-5. Assessment and record content - ~~Medical~~ Initial medical examination [AMENDED]

450:70-3-5.1. Assessment and record content - History [AMENDED]

450:70-3-5.16. Assessment and record content - Initial dosing [AMENDED]

450:70-3-5.4. Assessment and record content - Level of care [AMENDED]

450:70-3-6. Assessment - Process requirements [AMENDED]

Part 5. ~~BIOPSYCHOSOCIAL~~ COMPREHENSIVE ASSESSMENT [AMENDED]

450:70-3-7. ~~Biopsychosocial~~ Comprehensive assessment [AMENDED]

Subchapter 4. Services Support and Enhancement

Part 1. STAFF SUPPORT

450:70-4-4.2. Staffing - Medical Director coverage [AMENDED]

450:70-4-4.4. Staffing - Qualifications [AMENDED]

Part 3. ORGANIZATIONAL AND FACILITY MANAGEMENT

450:70-4-7.1. Operations - Medication security [AMENDED]

450:70-4-7.2. Operations - Dual enrollments [AMENDED]

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450:70-4-7.3. Operations - Dosing considerations [AMENDED]

450:70-4-8.3. Take-home doses, general criteria [AMENDED]

450:70-4-8.5. Take-home doses, limits [AMENDED]

Subchapter 6. Substance Use Disorder Treatment Services

Part 2. LEVELS OF TREATMENT

450:70-6-4. Levels of Care [AMENDED]

450:70-6-5.1. Withdrawal management - Maintenance to withdrawal management [AMENDED]

450:70-6-7. Short-term managed withdrawal [AMENDED]

450:70-6-9. Interim maintenance treatment services [AMENDED]

450:70-6-10. Medication units [AMENDED]

450:70-6-10.1. ~~Mobile medication units~~ Long-term care facilities, hospitals, and correctional facilities [AMENDED]

450:70-6-12. HIV/STD/AIDS education, testing and counseling services [AMENDED]

Part 3. TREATMENT SERVICES

450:70-6-15. Clinical Services [AMENDED]

450:70-6-16. Treatment for persons served who are pregnant [AMENDED]

## **AUTHORITY:**

Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. § 3-601 et. seq.

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# Permanent Final Adoptions

Proposed rule revisions include various changes throughout to align with changes to federal regulations for Opioid Treatment Programs. Revisions include changes to requirements for medical examinations, dosing, assessments, medication security, dual enrollments, interim maintenance, medication units, and treatment services. Additional clean-up, including amendments to definitions, are also included.

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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, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 450:70-1-2. Definitions [AMENDED]

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

**"Accreditation"** means the process of review and acceptance by a nationally recognized accreditation body.

**"Accreditation body"** means a body that has been approved by SAMHSA to accredit opioid treatment programs using opioid agonist or partial agonist treatment medications.

**"Administer"** means the direct application of a prescription drug by ingestion or any other means to the body of a person served by a licensed practitioner, or the patient at the direction of, or in the presence of, a practitioner.

**"Administrative withdrawal"** means medically supervised withdrawal involving the gradual tapering of dose of medication over time, coinciding with the usually involuntary discharge from medication assisted treatment. Administrative withdrawal typically results from non-payment of fees, violent or disruptive behavior, incarceration or other confinement.

**"Approved narcotic drug"** means a drug approved by the United States Food and Drug Administration for maintenance and/or detoxification of a person physiologically dependent upon opioid drugs.

**"ASAM criteria"** means the most current edition of the American Society of Addiction Medicine's published criteria for admission to treatment, continued services, and discharge.

**"Biopsychsocial assessment"** means in-person interviews conducted by a LBHP or Licensure Candidate designed to elicit historical and current information regarding the behavior and experiences of a person served, and are designed to provide sufficient information for problem formulation, intervention planning, case management needs, and formulation of appropriate substance abuse-related treatment and service planning.

**"Buprenorphine"** means a partial agonist, Schedule III narcotic approved for use in opioid dependence treatment.

**"CARF"** means the Commission on the Accreditation of Rehabilitation Facilities.

**"Central registry"** means a document or database to which an OTP shall report identifying information about individuals who are applying for or undergoing medically supervised withdrawal or maintenance treatment on an approved opioid agonist or partial agonist to a central record system approved by the Commissioner or designee.

**"Certification"** means the process by which ODMHSAS or SAMHSA determine that an OTP is qualified to provide opioid treatment under applicable State and Federal standards.

**"Chain of custody"** means the process of protecting items so that movement, possession and location are secure and documented and there is no possibility for altering or otherwise tampering with the item.

**"Chronic pain disorder"** means an ongoing condition or disorder consisting of chronic anxiety, depression, anger and changed lifestyle, all with a variable but significant level of genuine neurologically based pain. The pain becomes the main focus of the person served, and results in significant distress and dysfunction.

**"Clinical Opioid Withdrawal Scale" or "COWS"** means a well validated, standardized assessment instrument for evaluating the severity of withdrawal through the identification of objective and subjective symptoms and the severity of these symptoms.

**"Clinical record" or "treatment record"** means the collection of written information about the evaluation or treatment of a person served that includes the intake data, evaluation, service plan, description of services provided, medications as prescribed, continuing care plan, and discharge information.

**"Clinical supervision"** means an organized process by which knowledgeable and skilled supervisors systematically and routinely provide ongoing and in-depth review of direct service providers' performance.

**"COA"** means the Commission on Accreditation.

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**"Comprehensive maintenance treatment"** means dispensing or administering an approved opioid agonist or partial agonist medication at stable dosage levels for a period in excess of 21 days for opioid use disorder; and providing medical, clinical and educational services to the person served with opioid use disorder.

**"Continuing care plan"** or **"discharge summary"** means a written plan of recommendations and specific referrals for implementation of continuing care services, including medications, developed with the knowledge and cooperation of the person served.

**"Co-occurring disorder"** or **"COD"** means any combination of mental health and substance use disorder symptoms or diagnoses as determined by the current Diagnostic and Statistical Manual of Mental Disorders that affect a person served.

**"Critical incident"** means an occurrence or set of events inconsistent with the routine operation of a facility, service setting, or otherwise routine care of a person served. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to persons served, staff and visitors; medication errors; persons receiving residential treatment that are absent without leave (AWOL); neglect or abuse of a person served; fire; unauthorized disclosure of information; damage to or theft of property belonging to persons served or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

**"Cultural competency"** means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

**"DEA"** means Drug Enforcement Administration.

**"Discharge planning"** means the process, beginning at admission of determining a consumer's continued need for treatment services and developing a plan to address ongoing consumer recovery needs.

**"Diskette"** means a compressed wafer form of methadone intended to be dissolved in water for consumption.

**"Dispense"** means preparing, packaging, compounding and labeling for delivery, a prescription drug in the course of professional practice to an ultimate user by the lawful order of a physician.

**"Diversion"** means the unauthorized or illegal transfer of an opioid agonist or partial agonist treatment medication.

**"Diversion control plan"** or **"DCP"** means documented procedures to reduce the possibility that controlled substances are used for any purpose other than legitimate use.

**"Drug test"** means the assessment of an individual to determine the presence or absence of illicit or non-prescribed drugs or alcohol or to confirm maintenance levels of treatment medication(s), by a methodology approved by the OTP medical director based on informed medical judgment and conforming to State and Federal law. This may include blood testing, oral-fluid and urine testing.

**"Exception request process"** means a process recording the justification of the need to make a change in treatment protocol for person receiving medication assisted treatment for opioid use disorder and submitted to SAMHSA using form SMA-168.

**"FDA"** means the Federal Food and Drug Administration.

**"Federal opioid treatment standards"** means the established standards of SAMHSA, CSAT and the DEA that are used to determine whether an OTP is qualified to engage in medication assisted opioid treatment.

**"HIPAA"** means Health Insurance Portability and Accountability Act

**"Holiday"** means those days recognized by the State of Oklahoma as holidays.

**"Individual Placement and Support"** or **"IPS"** means an evidence based specific type of employment and education service to help people with mental illness, substance use disorders or co-occurring disorders, find and keep competitive employment.

**"Individualized service planning"** means the ongoing process by which a clinician and the person served identify and rank problems, establish agreed upon goals, and decide on the treatment process and resources to be utilized.

**"Interim maintenance treatment"** means maintenance treatment provided in conjunction with appropriate medical services while a person served is awaiting transfer to a program that provides comprehensive maintenance treatment.

**"JC"** or **"TJC"** means the Joint Commission.

**"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 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
- (v) Alcohol and Drug Counselor.

**"Licensure candidate"** means practitioners 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.

**"Liquid methadone"** means a liquid concentrate of methadone meant to be mixed with water for ingestion.

**"Lock box"** means a container with a combination lock or key lock entry system for securing take home medications. The box must have the ability to lock and should be secure enough to thwart access by children.

~~**"Long-term care facilities"** means a facility or institution that is licensed, certified or otherwise qualified as a nursing home or long term care facility by the state in which methadone or buprenorphine treatment services are rendered. This term includes skilled, intermediate, and custodial care facilities which operate within the terms of licensure.~~

**"Long-term care facility"** means a facility that provides rehabilitative, restorative, and/or ongoing services to those in need of assistance with activities of daily living. Long-term care facilities include extended acute care facilities; rehabilitation centers; skilled nursing facilities; permanent supportive housing; assisted living facilities; and chronic care hospitals.

**"Long-term withdrawal management"** means detoxification treatment for a period of more than 30 days but less than 180 days.

**"Medical director"** means a physician, licensed to practice medicine in Oklahoma, who assumes responsibility for the administration of all medical services performed by an OTP, either by performing them directly or by delegating specific responsibility to authorized program physicians and healthcare professionals functioning under the medical director's direct supervision, unless otherwise indicated in this chapter. This includes ensuring the program is in compliance with all federal, state, and local laws and regulations regarding the medical treatment of dependence on an opioid drug.

**"Medical withdrawal"** means a condition created by administering an opioid agonist or partial agonist treatment medication in decreasing doses to an individual to alleviate adverse physical or psychological effects of withdrawal from the continuous or sustained use of an opioid drug and as a method of bringing the individual to a drug-free state.

**"Medication for Opioid Use Disorder" or "MOUD"** means medications, including opioid agonist medications, approved by the Food and Drug Administration under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), for use in the treatment of opioid use disorder.

**"Medication unit"** means a satellite facility established as part of, but geographically separate from, an OTP from which appropriately licensed practitioners dispense or administer an opioid agonist or partial agonist treatment medication or collect samples for drug testing or analysis. ~~No medical or clinical interventions related to OTP treatment can be conducted at this site.~~ Medication units include mobile and brick and mortar facilities.

**"Non-oral methadone"** means an injectable form of methadone not allowed for use by an OTP.

**"Nurse practitioner"** means a registered nurse who is prepared through advanced education and clinical training, to provide a wide range of health care services.

**"ODMHSAS"** 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.

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**"OBND**

**"Opiate drug"** means any of a class of drugs also called narcotics derived from the opium poppy or containing opium and with analgesic or sedative effects that can form sustain or enhance addiction and physical dependency.

**"Opioid agonist"** means a drug that has an affinity for and stimulates physiologic activity at cell receptors in the central nervous system normally stimulated by opioids. Methadone is an opioid agonist.

**"Opioid agonist or partial agonist treatment medication"** means a prescription medication, such as methadone, buprenorphine or other substance scheduled as a narcotic under the Federal Controlled Substances Act (21 U.S.C. Section 811) that is approved by the U.S. Food and Drug Administration for use in the treatment of opiate addiction or dependence.

**"Opioid antagonist"** means a drug that binds to cell receptors in the central nervous system that normally are bound by opioid psychoactive substances and that blocks the activity of opioids at these receptors without producing the physiologic activity produced by opioid agonists. Naltrexone is an opioid antagonist.

**"Opioid dependence"** means a cluster of cognitive, behavioral, and physiological symptoms in which an individual continues use of opioids despite significant opioid-induced problems. Opioid dependence is characterized by repeated self-administration resulting in opioid tolerance, withdrawal symptoms, and compulsive drug-taking. Dependence may occur with or without the physiological symptoms of tolerance and withdrawal.

**"Opioid drug"** means any of a class of drugs also called narcotics, having a dependence-forming or dependence-sustaining liability similar to morphine. Originally a term for synthetic narcotics only, but for the purposes of this chapter and unless otherwise specified, currently used to describe both opium based and synthetic narcotics. These drugs have analgesic or sedative effects.

**"Opioid partial agonist"** means a drug that binds to, but incompletely activates, opiate receptors in the central nervous system, producing effects similar to those of an opioid agonist but, at increasing doses, does not produce as great an agonist effect as do increased doses of an agonist. Buprenorphine is a partial opioid agonist.

~~**"Opioid treatment"** means the dispensing of opioid agonist or partial agonist treatment medication, along with a comprehensive range of medical and rehabilitative services, when clinically necessary, to an individual to alleviate the adverse medical, psychological, or physical effects incident to opioid dependence. This term encompasses detoxification treatment, short-term detoxification treatment, long-term detoxification treatment, maintenance treatment or comprehensive maintenance treatment, interim maintenance treatment and treatment provided in medication units, long term care facilities or hospitals.~~

**"Opioid Treatment Program (OTP)"** means an organization which has been certified by ODMHSAS to provide therapeutic services and FDA-approved medications for opioid use disorder, referred to in statute as an Opioid Substitution Treatment Program.

**"Opioid Use Disorder treatment"** means the dispensing of MOUD, along with the provision of a range of medical and behavioral health services, as clinically necessary and based on an individualized assessment and a mutually agreed-upon care plan, to an individual to alleviate the combination of adverse medical, psychological, or physical effects associated with an Opioid Use Disorder.

**"Pain management"** means the successful management of chronic pain or a chronic pain disorder.

**"Parenteral"** means injected, infused or implanted, used to describe drug administration other than oral or anal.

**"Person served"** 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), consumer(s), patient(s) or resident(s) or a combination thereof.

**"Physician assistant"** means a licensed or certified mid-level medical practitioner who works under the supervision of a licensed physician (MD) or osteopathic physician (DO).

**"Program physician"** means a licensed physician who provides medical treatment and counsel to the persons served by an OTP while under the supervision of the medical director.

**"Program sponsor"** means a person named in the application for an OTP permit who is responsible for the operation of the OTP and who assumes responsibility for all its employees, including any practitioners, staff, or other persons providing medical, rehabilitative, or therapy services at the program or any of its medication units. The program sponsor need not be a licensed physician but shall employ a licensed physician for the position of medical director.

**"Psychotherapy" or "Therapy"** means a goal directed process using generally accepted clinical approaches provided face-to-face by a Licensed Behavioral Health Professional (LBHP) or Licensure Candidate with consumers in individual, group, or family settings to promote positive, emotional, or behavioral change.

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**"Rehabilitation Services"** means face-to-face individual or group services provided by qualified staff to develop skill necessary to perform activities of daily living and successful integration into community life. Rehabilitation services must be provided by a Licensed Behavioral Health Professional (LBHP), Licensure Candidate, Certified Alcohol and Drug Counselor (CADC) or Certified Behavioral Health Case Manager II (CM II).

**"SAMHSA"** means the Substance Abuse and Mental Health Services Administration.

**"Sentinel event"** means a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a person served, 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 a person receiving outpatient services is an active client, within seventy-two (72) hours of contact after mobile/outpatient crisis intervention services are provided, and within seventy-two (72) hours of discharge from inpatient and residential settings, including sites certified under Chapter 23 of this Title.

**"Service Provider"** means a person who is allowed to provide services for those with substance use disorders within the regulation and scope of their certification level or license.

**"Short-term withdrawal management"** means detoxification treatment for a period not in excess of 30 days.

**"Split dosing"** means dispensing of a single dose of MOUD as separate portions to be taken within a 24-hour period. Split dosing is indicated among, but not limited to, those patients who: possess a genetic variant which increases methadone metabolism; concurrently take other medications or drink alcohol that also induce hepatic enzymes leading to more rapid metabolism of methadone; who are pregnant; or for whom methadone or buprenorphine are being used to treat a concurrent pain indication in addition to the diagnosis of OUD. This leads to more stable, steady-state medication levels.

**"State Opioid Treatment Authority" or "SOTA"** means the agency designated by the Governor or other appropriate official designated by the Governor to exercise the responsibility and authority within the State or Territory for governing the treatment of opioid dependence with an opioid drug. For Oklahoma it is the Oklahoma Department of Mental Health and Substance Abuse Services.

**"STD"** means sexually transmitted disease.

**"Tablet methadone"** means methadone in a tablet form intended to be taken orally. For the purposes of this chapter diskettes will not be considered to be tablet methadone. Tablet methadone is not allowed for use by an OTP.

**"Take-home dose" or "take-home medication"** means one or more doses of an opioid agonist or partial agonist treatment medication dispensed to a person served for use off the premises.

**"Therapeutic hour(s)"** means the amount of time in which the person served was engaged with a service provider in identifying, addressing, and/or resolving those issues that have been identified in that individual's treatment plan.

**"Urine drug screen"** means a urine sample taken to determine if metabolites are present indicating the use of drugs.

~~**"Withdrawal treatment"** means either administrative withdrawal, or medical titration and withdrawal from any drug or medication until the person served has achieved a drug-free state.~~

**"Withdrawal management"** means the dispensing of a MOUD in decreasing doses to an individual to alleviate adverse physical effects incident to withdrawal from the continuous or sustained use of an opioid and as a method of bringing the individual to an opioid-free state within such period. Long-term withdrawal management refers to the process of medication tapering that exceeds thirty (30) days.

## SUBCHAPTER 3. FACILITY RECORD SYSTEM

### PART 3. INTAKE AND ADMISSION ASSESSMENT

#### 450:70-3-5. Assessment and record content - ~~Medical~~Initial medical examination [AMENDED]

(a) All OTPs shall assess each individual for appropriateness for admission, ensuring the individual is placed in the least restrictive level of care.

(b) ~~Each OTP shall ensure that persons served are admitted to treatment by a program physician, who determines that such treatment is appropriate for the specific person served by applying current and established DSM diagnostic and ASAM criteria.~~

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(c) The OTP shall have written policy and procedure stating the program shall require each person served to undergo a complete, fully documented history and physical examination by the medical director, a program physician or physician with a valid Oklahoma license before admission to the medication assisted opioid treatment program. For the purposes of this chapter, a Physician Assistant or Nurse Practitioner, with appropriate Oklahoma license/certification and working under the direction and supervision of the OTP medical director may perform services allowed by Oklahoma certification or licensure such as those listed here, unless otherwise specified. A full medical examination, including the results of serology and other tests, must be completed within fourteen (14) days following admission.

(b) OTPs shall require each person served to undergo an initial medical examination. The initial medical examination shall be comprised of two parts:

(1) A screening examination to ensure that the person served meets criteria for admission and that there are no contraindications to treatment with MOUD; and

(2) A full history and examination, to determine the individual's broader health status, with lab testing as determined to be required by an appropriately licensed practitioner. An individual's refusal to undergo lab testing for co-occurring physical health conditions should not preclude them from access to treatment, provided such refusal does not have potential to negatively impact treatment with medications.

(c) If there are no contraindications, an individual may commence treatment with MOUD after the screening examination has been completed. Both the screening examination and full examination must be completed by an appropriately licensed practitioner. If the licensed practitioner is not an OTP practitioner, the screening examination must be completed no more than seven (7) days prior to OTP admission. Where the examination is performed outside of the OTP, the written results and narrative of the examination, as well as available lab testing results, must be transmitted, consistent with applicable privacy laws, to the OTP, and verified by an OTP practitioner.

(d) A full in-person physical examination, including the results of serology and other tests that are considered to be clinically appropriate, must be completed within fourteen (14) calendar days following an individual's admission to the OTP. The full exam can be completed by a non-OTP practitioner, if the exam is verified by a licensed OTP practitioner as being true and accurate and transmitted in accordance with applicable privacy laws.

(e) Serology testing and other testing as deemed medically appropriate by the licensed OTP practitioner based on the screening or full history and examination, drawn not more than thirty (30) days prior to admission to the OTP, may form part of the full history and examination.

(f) The screening and full examination may be completed via telehealth for those individuals being admitted for treatment at the OTP with either buprenorphine or methadone, if a practitioner or primary care provider determines that an adequate evaluation can be accomplished via telehealth. When using telehealth, the following caveats apply:

(1) In evaluating patients for treatment with schedule II medications (such as Methadone), audio-visual telehealth platforms must be used, except when not available to the patient. When not available, it is acceptable to use audio-only devices, but only when the patient is in the presence of a licensed practitioner who is registered to prescribe (including dispense) controlled medications. The OTP practitioner shall review the examination results and order treatment medications as indicated.

(2) In evaluating patients for treatment with schedule III medications (such as Buprenorphine) or medications not classified as a controlled medication (such as Naltrexone), audio-visual or audio only platforms may be used. The OTP practitioner shall review the examination results and order treatment medications as indicated.

~~(d)~~(g) Compliance with 450:70-3-5 may be determined by:

(1) A review of policies and procedures,

(2) Treatment records, and

(3) Other facility documentation.

## 450:70-3-5.1. Assessment and record content - History [AMENDED]

(a) Persons served who have had a complete history and physical including laboratory tests within the past three months may be admitted to the OTP without a new medical examination and laboratory tests, unless the program physician requests it. The admitting program shall obtain copies of these results within fifteen (15) days of admission. If records are not obtained within fifteen (15) days, the program shall conduct a complete history and physical.

~~(b)~~(a) The OTP shall have written policy and procedure stating any FDA-approved medications for use in treating a significant opioid use disorder when used by an OTP for persons with a history of physiologic dependence, shall only be used in treating persons with a history of symptoms of opioid use disorder as stated in Title 43A, ~~Section 3-601 A-~~ ~~†Section 3-601(A)~~ and as verified by the medical director or a program physician through medical examination; or persons with a history of dependence as stated in Title 43A, ~~Section 3-601 A-~~ ~~†Section 3-601(A)~~ and written documentation from an agency at which another type of substance use disorder treatment was attempted or accomplished.



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Such documentation shall be received prior to admission to the program and/or induction of any drug uses as a part of an opioid treatment regimen. ~~When buprenorphine is used to provide medication assisted treatment in this setting, a one year history of opioid use disorder or dependence shall be required.~~

~~(c)~~(b). The OTP shall have written policy and procedure stating that if clinically appropriate, the program physician may waive the requirement as stated in Title 43A, ~~Section 3-601 A. 1.~~Section 3-601(A)(2) for:

- (1) A person served within six (6) months of release from a correctional institution;
- (2) A person served with a pregnancy verified by the program physician; or
- (3) A person served having previously received medication-assisted recovery services for an opioid use disorder and within two (2) years of discharge from an OTP.

~~(d)~~(c). Compliance with 450:70-3-5.1 may be determined by:

- (1) A review of policies and procedures,
- (2) Treatment records, and
- (3) Other facility documentation.

## **450:70-3-5.16. Assessment and record content - Initial dosing [AMENDED]**

(a) OTPs shall develop and maintain written policies and procedures that are adequate to ensure that the following dosage form and initial dosing requirements are met:

- (1) Methadone shall be administered or dispensed only in oral form and shall be formulated in such a way as to reduce its potential for parenteral abuse.
- ~~(2) For each new person served enrolled in a program, the initial dose of methadone shall not exceed thirty (30) milligrams and the total dose for the first day shall not exceed forty (40) milligrams, unless the program physician documents in the clinical record that forty (40) milligrams did not suppress opiate abstinence symptoms.~~
- ~~(3) Any increase above forty (40) milligrams shall be based on the physician's medical judgment and documented in the chart.~~
- (2) For each new person served enrolled in an OTP, the initial dose of methadone shall be individually determined and shall include consideration of the type(s) of opioid(s) involved in the individual's opioid use disorder, other medications or substances being taken, medical history, and severity of opioid withdrawal.
- (3) The total dose for the first day should not exceed fifty (50) milligrams unless the OTP practitioner, licensed under the appropriate State law and registered under the appropriate State and Federal laws to administer or dispense MOUD, finds sufficient medical rationale, including but not limited to if the individual is transferring from another OTP on a higher dose that has been verified, and documents in the clinical record that a higher dose was clinically indicated.
- (4) Buprenorphine may be administered in tablet or sublingual form.
- (5) Initial and later treatment dosing shall be determined by the medical director and according to best medical practice.

(b) Compliance with 450:70-3-5.16 may be determined by:

- (1) A review of policies and procedures,
- (2) Treatment records, and
- (3) Other facility documentation.

## **450:70-3-5.4. Assessment and record content - Level of care [AMENDED]**

~~(a) The OTP shall have written policy and procedure stating that persons served with two (2) or more unsuccessful managed withdrawal episodes within a twelve (12) month period must be assessed by the medical director or a program physician for identification of need for other forms of treatment. An OTP shall not admit a person served for more than two (2) withdrawal management episodes in one (1) year.~~

(a) The OTP shall have written policy and maintain current procedures that ensure that those persons served who choose to taper from treatment medication are provided the opportunity to do so with informed consent and at a mutually agreed upon rate that minimizes taper-related risks. Such consent must be documented in the clinical record by the treating practitioner.

(b) Compliance with these standards and criteria may be determined by a review of the following:

- (1) Policy and Procedures,
- (2) Review of all facility records, and
- (3) Investigations, site visits, treatment protocols, clinical records, clinical service manuals and certification reviews.

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## 450:70-3-6. Assessment - Process requirements [AMENDED]

(a) A periodic physical examination shall occur no less than one time each year and be conducted by an OTP practitioner. The periodic physical examination shall be documented in the clinical record and include:

- (1) A review of MOUD dosing;
- (2) Treatment response;
- (3) Other substance use disorder treatment needs; and
- (4) Other relevant physical and psychiatric treatment needs and goals.

(a)(b). Written policies and procedures governing the intake and assessment process shall specify the following:

- (1) The information to be obtained on all applicants or referrals for admission;
- (2) The procedures for accepting referrals from outside agencies or organizations;
- (3) The records to be kept on all applicants;
- (4) Any prospective data regarding the person served to be recorded during the intake process;
- (5) The procedures to be followed when an applicant or a referral is found ineligible for admission; and
- (6) The procedures and policies for the purpose of admitting and assessing persons with special needs or disabilities.

(b)(c). Compliance with 450:70-3-5.16 may be determined by:

- (1) A review of policies and procedures,
- (2) Treatment records, and
- (3) Other facility documentation.

## PART 5. ~~BIOPSYCHSOCIAL~~ COMPREHENSIVE ASSESSMENT [AMENDED]

## 450:70-3-7. ~~Biopsychsocial~~ Comprehensive assessment [AMENDED]

(a) All OTPs shall complete a ~~biopsychsocial~~ comprehensive assessment which gathers sufficient information to assist the person served in developing an individualized ~~treatment~~ service plan and shall include screening for imminent risk of harm to self or others. The OTP may utilize the current edition of the Addiction Severity Index (ASI) or ~~develop~~ complete a ~~biopsychsocial~~ comprehensive assessment which contains, ~~but not be limited to,~~ the following:

- (1) Identification of the strengths, needs, abilities, and preferences of the person served;
- (2) Presenting problem and history of the presenting problem;
- (3) Previous mental health and substance use disorder treatment history, including opioid substitution therapy;
  - (A) ~~Mental health;~~
  - (B) ~~Substance abuse; and~~
- (4) ~~Health history and current biomedical conditions and complications;~~
- (5)(4) Alcohol and drug use history;
- (6)(5) History of trauma;
- (7)(6) Family and social history, including family history of alcohol and drug use;
- (8)(7) Educational attainment, difficulties, and history;
- (9)(8) Cultural and religious orientation;
- (10)(9) Vocational, occupational and military history;
- (11)(10) Sexual history, including HIV, AIDS and STD at-risk behaviors;
- (12)(11) Marital or significant other relationship history;
- (13)(12) Recreational and leisure history;
- (14)(13) Legal history;
- (15)(14) Present living arrangement;
- (16)(15) Economic resources;
- (17)(16) Level of functioning;
- (18)(17) Current support system;
- (19) ~~Current medications, including the name of prescribing physician, name of medication, strength and dosage, and length of time the consumer has been on the medication;~~
- (20)(18) Expectations of the person served in terms of service; and
- (21)(19) Assessment summary or diagnosis, and signature of the assessor and date of the assessment.

(b) The assessment shall be completed by a LBHP or licensure candidate.

(c) The assessment shall be completed as soon as possible after admission and no later than ~~the third (3) therapy or rehabilitation service visit~~ fourteen (14) calendar days following admission.

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(d) In the event of a consumer re-admission after one (1) year of the last ~~biopsychosocial~~comprehensive assessment, a new ~~biopsychosocial~~comprehensive assessment shall be completed. If readmission occurs within one (1) year after the last ~~biopsychosocial~~comprehensive assessment, an update shall be completed.

(e) Compliance with 450:70-3-7 may be determined by:

- (1) A review of policies and procedures,
- (2) Treatment records, and
- (3) Other facility documentation.

## SUBCHAPTER 4. SERVICES SUPPORT AND ENHANCEMENT

### PART 1. STAFF SUPPORT

#### 450:70-4-4.2. Staffing - Medical Director coverage [AMENDED]

(a) The OTP shall have written policy and procedure requiring the medical director be present, on site for two hours each week during normal dispensing hours for every one hundred (100) active persons served in an OTP.

~~(b) With the exception of short-term, ad hoc absences, a designee cannot substitute for the medical director. For short-term, ad hoc absences such as those due to illness or planned time off, a physician or physician assistant may temporarily serve as a substitute for the medical director.~~

(b) The medical director may delegate specific responsibilities to authorized program physicians, appropriately licensed non-physician practitioners with prescriptive authority functioning under the medical director's supervision, or appropriately licensed and/or credentialed non-physician healthcare professionals providing services in the OTP, in compliance with applicable Federal and State laws. Such delegations will not eliminate the medical director's responsibility for all medical and behavioral health services provided by the OTP.

(c) Compliance with 450:70-4-4.2 may be determined by:

- (1) A review of policies and procedures,
- (2) Staff schedules,
- (3) Privileging documents,
- (4) Employee contracts,
- (5) Interviews with staff, and
- (6) Other facility documentation.

#### 450:70-4-4.4. Staffing - Qualifications [AMENDED]

(a) The OTP shall have written policy and procedure requiring FDA-approved medications for opioid use disorder be administered or dispensed only by a practitioner licensed and registered under the appropriate State and Federal laws to administer or dispense such medications, or by an agent of such practitioner if the agent is supervised by and under the order of the licensed practitioner, if the agent is authorized by Federal and State law to administer or dispense medications for opioid use disorder.

(b) The facility shall maintain documentation verifying the qualifications for the service providers.

~~(c) Staff shall be at least twenty-one (21) years old (excluding student interns).~~

~~(d)~~(c) Compliance with 450:70-4-4.4 may be determined by:

- (1) A review of policies and procedures,
- (2) Credentialing and privileging documents,
- (3) Interviews with staff, and
- (4) Other facility documentation.

~~(e)~~(d) Failure to comply with 450:70-4-4.4 will result in the initiation of procedures to deny, suspend and/or revoke certification.

### PART 3. ORGANIZATIONAL AND FACILITY MANAGEMENT

#### 450:70-4-7.1. Operations - Medication security [AMENDED]

(a) The OTP shall develop written policy and procedures to maintain security over all stocks of medication, the manner in which it is received, stored and distributed consistent with the regulations of the DEA, state and federal law.

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~~(b) OTPs must maintain written policies and procedures adequate to identify the theft or diversion of take-home medications to the illicit market, including labeling containers with the OTP's name, address, and telephone number. Programs also must ensure that take-home supplies are packaged in a manner that is designed to reduce the risk of accidental ingestion, including child-resistant containers.~~

(b) OTPs must maintain current procedures adequate to identify the theft or diversion of take-home medications, including labeling containers with the OTP's name, address, and telephone number. Programs also must ensure that each individual take-home dose is packaged in a manner that is designed to reduce the risk of accidental ingestion, including child-proof containers (see Poison Prevention Packaging Act, Pub. L. 91-601 (15 U.S.C. 1471 et seq.)).

(c) Programs must provide education to each person served on: Safely transporting medication from the OTP to their place of residence; and the safe storage of take-home doses at the individual's place of residence, including child and household safety precautions. The provision of this education should be documented in the clinical record.

~~(e)(d)~~ An OTP must maintain a written, active "Diversion Control Plan" or "DCP" as part of its quality assurance program that contains specific measures to reduce the possibility of diversion of ~~controlled substances~~ dispensed MOUD from legitimate treatment use and that assigns specific responsibility to the medical and administrative staff of the OTP for carrying out the diversion control measures and functions described in the DCP. The DCP shall include:

- (1) Written policy and procedure stating a requirement that treatment and administrative activities be continuously monitored to reduce the risk of diversion,
- (2) Written policy and procedure for stopping identified diversion and for preventing future diversion, and
- (3) Written policies and procedures for how staff members who diverts medication are held accountable for the medication diversion.

~~(d)(e)~~ Compliance with 450:70-4-7.1 may be determined by:

- (1) A review of policies and procedures,
- (2) Personnel records,
- (3) On-site verification,
- (4) Interviews with staff, and
- (5) Other facility documentation.

## **450:70-4-7.2. Operations - Dual enrollments [AMENDED]**

(a) The OTP shall have written policy and procedure stating FDA-approved medications shall not be provided to a person served who is known to be currently receiving medications from another OTP. ~~Persons Served who are known to be enrolled in more than one OTP at a time shall be required to choose one OTP for treatment. The person served must also be reported to the SOTA.~~

(b) A person served enrolled in an OTP shall not be permitted to obtain treatment in any other OTP except in circumstances involving an inability to access care at the person's OTP of record. Such circumstances include, but are not limited to, travel for work or family events, temporary relocation, or an OTP's temporary closure. If the medical director or program practitioner of the OTP in which the person served is enrolled determines that such circumstances exist, the individual may seek treatment at another OTP, provided the justification for the particular circumstances are noted in the clinical record both at the OTP in which the individual is enrolled and at the OTP that will provide the MOUD.

~~(b)(c)~~ Compliance with 450:70-4-7.2 may be determined by:

- (1) A review of policies and procedures,
- (2) Treatment records,
- (3) Interviews with staff, and
- (4) Other facility documentation.

## **450:70-4-7.3. Operations - Dosing considerations [AMENDED]**

(a) The OTP shall have written policy and procedure stating that methadone shall be dispensed orally and in liquid form only. Non-oral forms and tablet form methadone are prohibited from use. Tablet and sublingual forms of buprenorphine are allowed.

(b) Each OTP shall develop written policies and procedures giving preference to the use of liquid and diskette forms of methadone. Diskettes shall be dissolved in liquid prior to being dispensed, or dissolved in liquid by the patient in full and clear view of OTP staff.

(c) OTPs shall have written policies and procedures adequate to ensure that each opioid agonist and partial agonist treatment medication used by the program is administered and dispensed in accordance with its approved product labeling.

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- (d) Written policy and procedure shall reflect that dosing and administration ~~decisions shall be made by a program physician familiar with the most up-to-date product labeling of each MOUD is completed in accordance with its FDA-~~ approved product labeling. These procedures must ensure that any significant deviations from the approved labeling, including deviations with regard to dose, frequency, or the conditions of use described in the approved labeling, are specifically documented in the clinical record.
- (e) The OTP shall have written policy and procedure stating the OTP shall use only those opioid agonist treatment medications that are approved by the Food and Drug Administration for use in the treatment of significant opioid use disorders and opioid dependence.
- (f) The OTP shall be fully compliant with the protocol of any investigational use of a drug and other conditions set forth in the application may administer a drug that has been authorized under an investigational new drug application through all applicable Federal law for investigational use in the treatment of significant opioid use disorders and opioid dependence.
- (g) Compliance with 450:70-4-7.3 may be determined by:
- (1) A review of policies and procedures,
  - (2) Treatment records,
  - (3) Interviews with staff, and
  - (4) Other facility documentation.

### **450:70-4-8.3. Take-home doses, general criteria [AMENDED]**

(a) The OTP shall have written policy and procedure stating that unsupervised take-home use shall be determined by the medical director. In determining which persons served may be permitted unsupervised take-home use, the medical director shall consider the following criteria in determining whether a person served is responsible in handling opioid medications. The same criteria shall be considered when receiving a person served from a transferring program verifying the amount of time the person served has spent satisfactorily adhering to the criteria found below. This information will be used to determine if the person served shall be allowed to continue the same frequency of clinic attendance permitted at the former program immediately before transferring to the new program. Criteria include but are not limited to:

- (1) Absence of ~~recent unapproved use of drugs (opioid or non-narcotic), including alcohol~~ active substance use disorders, other physical or behavioral health conditions that increase the risk of patient harm as it relates to the potential for overdose, or the ability to function safely;
  - (2) Regular clinic attendance;
  - (3) Absence of serious behavioral problems at the clinic;
  - (4) Absence of known recent criminal activity, e.g., drug dealing;
  - ~~(5) Stability of the home environment and social relationships of the person served;~~
  - (5) Whether the take-home medication can be safely transported and stored;
  - (6) Length of time in comprehensive maintenance treatment;
  - ~~(7) Assurance that take-home medication can be safely stored within the home of the person served;~~
  - ~~(8)(7).~~ Whether the rehabilitative benefit the person served derived from decreasing the frequency of clinic attendance outweighs the potential risks of diversion; and
  - ~~(9)(8).~~ The current phase in treatment of the person served.
- (b) Such determinations and the basis for such determinations consistent with the criteria above shall be documented in the clinical record.
- (c) The medical director, using reasonable judgment, may deny or rescind the take-home medication privileges of a person served.
- ~~(d) No unsupervised or take-home doses shall be dispensed to persons served in short-term withdrawal management or interim maintenance treatment.~~
- ~~(e)(d).~~ Compliance with 450:70-4-8.3 may be determined by:
- (1) A review of policies and procedures,
  - (2) Treatment records,
  - (3) Interviews with staff,
  - (4) Incident reports, and
  - (5) Other facility documentation.

### **450:70-4-8.5. Take-home doses, limits [AMENDED]**

(a) With the exception of FDA-approved buprenorphine and buprenorphine combination products for opioid use disorder, take-home doses shall be limited, in accordance with 42 CFR § 8.12. Unless requirements at 42 CFR § 8.12 state otherwise, take-home doses shall be limited as follows:

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(1) Any person served in comprehensive treatment may receive their individualized take-home doses as ordered for days the OTP is closed for business, including one weekend day and State and Federal holidays, regardless of length of time in treatment.

(2) During the first fourteen (14) days of treatment, the take-home supply (beyond that of (1) in this subsection) is limited to seven (7) days.

(3) Beginning at fifteen (15) days of treatment, the take-home supply (beyond that of (1) in this subsection) is limited to fourteen (14) days.

(4) Beginning at thirty-one (31) days of treatment, the take-home supply (beyond that of (1) in this subsection) is limited to twenty-eight (28) days.

(b) The number of take-home doses allowed shall be at the OTP practitioner's discretion but shall be based on the criteria listed in OAC 450:70-4-8.3.

~~(b)~~(c). Compliance with 450:70-4-8.5 may be determined by:

(1) A review of policies and procedures,

(2) Treatment records, and

(3) Other facility documentation.

## SUBCHAPTER 6. SUBSTANCE USE DISORDER TREATMENT SERVICES

### PART 2. LEVELS OF TREATMENT

#### **450:70-6-4. Levels of Care [AMENDED]**

(a) OTPs shall document the provision of the following levels of care in policy and procedure, with the exception of medication units, unless that level of service is provided. ~~All facilities shall include the requirements found in Facility Record System. All OTPs certified by ODMHSAS providing any of the following levels of care shall also provide short and long term withdrawal treatment services.~~

(b) Compliance with 70-6-4 may be determined by a review of the following:

(1) Policy and Procedures,

(2) Review of treatment records, and

(3) Any other supporting facility documentation.

#### **450:70-6-5.1. Withdrawal management - Maintenance to withdrawal management [AMENDED]**

(a) The OTP shall have written policy and procedure stating persons served involved in maintenance management will enter withdrawal ~~treatment management~~:

(1) Only when initiated as administrative withdrawal or when requested by the person served and approved by the OTP medical director; and

(2) When planned and supervised by the medical director or a program physician.

(b) The OTP shall have written policy and procedure stating that before a person served begins managed withdrawal, the person served must be:

(1) Informed by the agency medical director, a program physician or a staff member that:

(A) The person served has the right to leave opioid treatment at any time,

(B) The risks of managed withdrawal and

(C) Signs and symptoms of relapse.

(2) The person served will receive a schedule for medical withdrawal management developed by the medical director or a program physician with input from the person served.

(c) Compliance with 70-6-5.1 may be determined by a review of the following:

(1) Policy and Procedures,

(2) Review of treatment records, and

(3) Any other supporting facility documentation.

#### **450:70-6-7. Short-term managed withdrawal [AMENDED]**

(a) The OTP shall have written policy and procedure regarding short-term managed withdrawal ~~treatment~~ services.

(b) There shall be written policy stating a person served may be admitted to short-term managed withdrawal regardless of age. Persons served under the age of eighteen (18) may be admitted with written parent or guardian approval. If a minor is eligible to self-consent to treatment pursuant to state law, written approval from a parent or guardian is not required.

- (c) The program physician shall document in the clinical record the reason for admitting the person served to short-term managed withdrawal.
- (d) Take-home medication is not allowed during short-term managed withdrawal.
- (e) A history of one year or more opioid dependence and an attempt at another form of treatment is not required for admission to short-term managed withdrawal.
- (f) No test or analysis is required except for the initial drug screening test, and a tuberculin skin test.
- (g) The initial treatment plan and periodic treatment plan evaluation required for persons served in comprehensive maintenance are required for persons served in short-term managed withdrawal.
- (h) A primary LBHP, Licensure Candidate or CADC must be assigned by the program to monitor progress toward the goal of short-term withdrawal management and possible drug-free treatment referral.
- (i) Methadone is required to be administered daily by the OTP in reducing doses to reach a drug-free state over a period not to exceed thirty (30) days. Buprenorphine shall be administered as determined by the OTP medical director.
- (j) All other requirements of comprehensive maintenance treatment apply.
- (k) Compliance with 450:70-6-7 may be determined by:
  - (1) A review of policies and procedures,
  - (2) Treatment records,
  - (3) Interviews with staff, and
  - (4) Other facility documentation.

### **450:70-6-9. Interim maintenance treatment services [AMENDED]**

- ~~(a) The OTP shall have documentation before providing interim maintenance treatment services indicating the written approval of both SAMHSA and ODMHSAS.~~
- (a) The program shall notify ODMHSAS when a person served begins and leaves interim treatment, and before the date of transfer to comprehensive services, and shall document such notifications.
- (b) The OTP shall have written policy and procedure stating the program sponsor may place an individual who is eligible for admission to comprehensive maintenance services in interim maintenance services if the individual cannot be placed in comprehensive maintenance treatment services within a reasonable geographic distance and within fourteen (14) days of ~~application for admission to comprehensive maintenance treatment services~~the time the individual requests treatment for OUD.
- (c) The OTP shall identify the maximum length of stay in interim opioid services is one hundred and eighty (180) days.
- (d) The OTP shall provide a minimum of two (2) drug screens to persons served in interim maintenance during the one hundred and eighty (180) days of interim services.
- (e) The OTP shall have written policies and procedures outlining all criteria for transfer from interim maintenance to comprehensive maintenance services. These transfer criteria shall be in writing and shall include, at a minimum, a preference for pregnant women in admitting persons served to interim maintenance and in transferring persons served from interim maintenance to comprehensive maintenance treatment. Individuals enrolled in interim treatment shall not be discharged without the approval of an OTP practitioner, who shall consider on-going and patient-centered treatment needs, which are to be documented in the clinical record, while awaiting transfer to a comprehensive treatment program.
- (f) The OTP shall have policy and procedure ensuring interim maintenance services shall be provided in a manner consistent with all applicable Federal and State laws and regulations.
- (g) The interim maintenance services program shall meet and/or possess all applicable Federal and State certifications, licensures, laws and regulations.
- (h) The OTP shall have written policy and procedure stating all rules and requirements for comprehensive maintenance services apply to interim maintenance services with the exception of:
  - (1) Opioid agonist medication is required to be administered daily and under observation. Unsupervised or take home dosing is not allowed.
  - (2) A primary LBHP, Licensure Candidate or CADC does not need to be assigned, but crisis services should be available.
  - (3) Interim maintenance is limited to one hundred and eighty (80) days in any twelve (12) month period.
  - (4) By day one hundred and twenty (120), a plan for continuing treatment beyond one hundred and eighty (180) days shall be developed and documented in the clinical record.
  - (5) Educational, rehabilitative and therapy services are not required. However, information pertaining to locally available, community-based resources for ancillary services shall be made available to persons served in interim maintenance.
- ~~(5)(6)~~ (6) An initial treatment plan and periodic updates are not required.
- (i) Compliance with 450:70-6-9 may be determined by:

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- (1) A review of policies and procedures,
- (2) Treatment records,
- (3) Interviews with staff, and
- (4) Other facility documentation

## **450:70-6-10. Medication units [AMENDED]**

(a) Before providing medication assisted opioid use disorder services through a stand-alone medication unit, the program must receive the written approval of both SAMHSA and ODMHSAS, and ODMHSAS certification, OBNDD approval, and national accreditation. A mobile medication unit must have an associated OTP physical location for purposes of ODMHSAS certification.

~~(b) Certification as an OTP will not be required for the maintenance or managed withdrawal of a person served who is admitted to a hospital or long term care facility for the treatment for medical conditions other than opioid addiction and who requires maintenance or withdrawal management during the stay in the hospital or long term care facility.~~

(b) Any services that are provided in an OTP may be provided in the medication unit, assuming compliance with all applicable Federal, State, and local law, and the use of units that provide appropriate privacy and have adequate space.

(c) Medication units shall be in compliance with the following:

- (1) Currently licensed by the DEA; and approved by SAMHSA.
- (2) Written policy and procedure stating the medical director shall make all recommendations for medication dosages according to best medical practice guidelines and all applicable rules contained in this chapter.
- (3) Written policy and procedure stating all female consumers shall have a pregnancy test on admission and at least annually thereafter, unless otherwise indicated.
- (4) Written policy and procedure to address the provision of all services in compliance with Federal Drug Administration Guidelines for opioid treatment programs in accordance with 42 CFR, Part 8.

(d) Compliance with 450:70-6-10 may be determined by:

- (1) A review of policies and procedures,
- (2) Certifications and licenses, and
- (3) Other facility documentation.

## **450:70-6-10.1. ~~Mobile medication units~~Long-term care facilities, hospitals, and correctional facilities [AMENDED]**

(a) Before providing medication assisted opioid use disorder services through a mobile medication unit, the program must provide notification to SAMHSA, ODMHSAS Provider Certification, OBNDD, and the program's national accreditation entity. The mobile medication unit must have an associated OTP physical location for purposes of ODMHSAS certification.

(b) ~~Mobile medication units shall have the following:~~

- ~~(1) Written policy and procedure stating the medical director shall make all recommendations for medication dosages according to best medical practice guidelines and all applicable rules contained in this Chapter.~~
- ~~(2) Written policy and procedure to address the provision of all services in compliance with Federal Drug Administration Guidelines for opioid treatment programs in accordance with 42 CFR, Part 8.~~

(c) ~~Mobile medication units may provide the following services, in accordance with applicable state and federal requirements and applicable rules contained in this Chapter:~~

- ~~(1) Administering and dispensing medications for opioid use disorder treatment;~~
- ~~(2) Collecting samples for drug testing or analysis;~~
- ~~(3) Dispensing of take-home medications; and~~
- ~~(4) Initiating methadone or buprenorphine after an appropriate medical assessment has been performed.~~

(d) ~~Mobile medication units that provide appropriate privacy and adequate space may additionally provide the following services:~~

- ~~(1) Intake/initial biopsychosocial and appropriate medical assessments (with a full physical examination to be conducted within fourteen [14] days of admission); and~~
- ~~(2) Clinical services, such as therapy, provided in-person or when permissible through use of telehealth services.~~

(e) ~~Any required assessment or treatment services not provided by the mobile medication unit must be provided by the OTP in accordance with all requirements in this Chapter.~~

(f) ~~Compliance with 450:70-6-10.1 may be determined by:~~

- ~~(1) A review of policies and procedures;~~
- ~~(2) Certifications and licenses; and~~
- ~~(3) Other facility documentation.~~



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Certification as an OTP is not required for the initiation or continuity of medication treatment or withdrawal management of an individual who is admitted to a hospital, long-term care facility, or correctional facility that is registered with the Drug Enforcement Administration as a hospital/clinic, for the treatment of medical conditions other than OUD, and who requires treatment of OUD with methadone during their stay, when such treatment is permitted under applicable Federal law.

## **450:70-6-12. HIV/STD/AIDS education, testing and counseling services [AMENDED]**

(a) Every OTP shall provide or refer for Human Immunodeficiency Virus (HIV), Sexually Transmitted Diseases (STD), and Acquired Immunodeficiency Syndrome (AIDS) education, testing, and counseling services for drug dependent persons in accordance with 43A O.S. § 3-425.1 and 42 CFR § 8.12. Every OTP shall:

- (1) Provide or refer for educational sessions regarding HIV/STD/AIDS and viral hepatitis to persons served and the significant other(s) of persons served;
- (2) Provide or refer all drug dependent persons, and their identified significant others, for HIV/STD/AIDS and viral hepatitis testing and counseling;
- (3) Provide counseling on preventing exposure to, and the transmission of, HIV, viral hepatitis, and STDs and either directly provide services and treatments or actively link to treatment each person admitted or readmitted to treatment who has received positive test results for these conditions from initial and/or periodic medical examinations;
- (4) Provide documentation of services or referral to services described in (1) through (3) above, including refusal of these services; and
- (5) Maintain all test results in the confidential manner prescribed by applicable state or federal statutes or regulations.

(b) Compliance with 450:70-6-12 shall be determined by a review of written policies and procedures, clinical records, and other supporting facility records and documentation.

## **PART 3. TREATMENT SERVICES**

## **450:70-6-15. Clinical Services [AMENDED]**

(a) Each OTP shall use opioid agonists or partial agonists in conjunction with other treatment services including, but not limited to, individual, family and group therapy; case management; Individual Placement and Support services; peer recovery support services; and other services ~~enhancing positive life style changes in the consumer that support recovery.~~

(b) The OTP shall provide adequate and appropriate services to each person served as clinically necessary, including medical services, therapy/rehabilitation services, crisis intervention services, vocational/educational services, and other screening, assessment and treatment services. These services must be available at the primary facility, except where the program sponsor has entered into a formal, documented agreement with a private or public agency, organization, practitioner, or institution to provide these services to individuals enrolled in the OTP. The program sponsor, in any event, must be able to document that these services are fully and reasonably available to all persons served.

(c) Services shall be provided by appropriately credentialed staff in accordance with state requirements, including Chapter 50 and Chapter 53 of this Title. Therapy shall be provided by a program LBHP or Licensure Candidate. Rehabilitation services must be provided by a LBHP, Licensure Candidate, CADC or Certified Case Manager II. Case Management services must be provided by a LBHP, Licensure Candidate, CADC, or Certified Case Manager I or II. Peer recovery support services must be provided by a Certified Peer Recovery Support Specialist. Individual Placement and Support (IPS) services must be provided by a provider trained and credentialed in IPS.

(d) The OTP shall have written policy and procedure stating there will be referral to adequate and reasonably accessible community resources, vocational rehabilitation, education, and employment services for consumers who either request such services or who have been determined through the assessment process to be in need of such services.

(e) The OTP shall have written policy and procedure stating consumers shall attend clinical services as prescribed in the individualized service plan and this Chapter.

(f) Compliance with 450:70-6-15 may be determined by:

- (1) A review of policies and procedures,
- (2) Treatment records, and
- (3) Other facility documentation.

## **450:70-6-16. Treatment for persons served who are pregnant [AMENDED]**

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(a) The OTP shall have written policy and procedure stating the OTP address the special needs of persons served who are pregnant and ensure appropriate evidence-based treatment protocols. Prenatal care and reproductive health services for persons served who are pregnant or post-partum must be provided either by the OTP or by referral to appropriate healthcare providers.

(b) An OTP shall ensure that policies and procedures are developed, implemented, and complied with for the treatment of persons served who are pregnant, to include:

- (1) Documentation that staff members are educated in the unique needs of persons served who are pregnant;
- (2) Priority for pregnant individuals seeking medication assisted opioid treatment medications for opioid use disorder;
- (3) Documentation of the reasons for a pregnant individual's denial of admission to an agency;
- (4) Availability of prenatal care for persons served who are pregnant either at the agency or through referral to a medical practitioner;
- (5) Written agreement(s) with a medical practitioner who is providing prenatal care to a person served who is pregnant, to include procedures for exchanging medication assisted opioid treatment and prenatal care information regarding medications utilized for opioid use disorder and prenatal care;
- (6) Education from agency staff to a person served who is pregnant who does not obtain prenatal care services for prenatal care;
- (7) Procedures to obtain a written refusal of prenatal care services from a person served who is pregnant who refuses prenatal care services offered by the agency or a referral for prenatal care;
- (8) Procedures to ensure a person served who is pregnant receiving comprehensive maintenance treatment before pregnancy shall be maintained at the pre-pregnancy dose of opioid agonist or partial agonist medication, if effective;
- (9) Monitoring by an agency medical practitioner of a person served who is pregnant to determine if pregnancy induced changes in the elimination or metabolism of opioid agonist or partial agonist treatment medication may necessitate an increased or split dose; and
- (10) Referral of a person served who is pregnant who is discharged from the agency to a medical practitioner and that a staff member document the name, address, and telephone number of the medical practitioner in the clinical record.

(c) Compliance with 70-6-11 may be determined by:

- (1) A review of policies and procedures,
- (2) Treatment records,
- (3) Interviews with staff, and
- (4) Other facility documentation.

*[OAR Docket #25-457; filed 6-3-25]*

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## **TITLE 510. STATE BOARD OF OSTEOPATHIC EXAMINERS CHAPTER 1. ADMINISTRATIVE OPERATIONS**

*[OAR Docket #25-406]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. General Provisions

510:1-1-1. Purpose [AMENDED]

Subchapter 3. General Course and Method of Operations

510:1-3-1. Office location [REVOKED]

510:1-3-2. Office hours [REVOKED]

510:1-3-3. Communication with the Board [AMENDED]

510:1-3-4. Board meetings [AMENDED]

510:1-3-5. Public access to records [AMENDED]

510:1-3-6. Certification of records [AMENDED]

510:1-3-8. Investigations [AMENDED]

Subchapter 5. Individual Proceedings

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# Permanent Final Adoptions

510:1-5-1. Initiation of individual proceedings, complaint, and citation [AMENDED]

510:1-5-1.1. Definitions [AMENDED]

510:1-5-3. Service [AMENDED]

510:1-5-4. Hearing date, continuance, or extension of time [AMENDED]

510:1-5-6. Prehearing procedures [AMENDED]

510:1-5-6.1. Hearing procedures [AMENDED]

510:1-5-7. Respondent's failure to appear [AMENDED]

510:1-5-8. Subpoena of witnesses, evidence or records for hearing [AMENDED]

510:1-5-9. Hearing records [AMENDED]

510:1-5-10. Final orders [AMENDED]

510:1-5-10.1. Terms and conditions of probation [AMENDED]

510:1-5-11. Petition for rehearing [AMENDED]

510:1-5-12. Assessment of costs [AMENDED]

Subchapter 7. Rulemaking Procedures

510:1-7-1. Opportunity for public input on proposed rules [AMENDED]

510:1-7-3. Notice and hearing requirements [AMENDED]

Subchapter 13. Declaratory Rulings

510:1-13-1. Persons who may seek a declaratory rule [AMENDED]

## **AUTHORITY:**

Oklahoma State Board of Osteopathic Examiners; 59 O.S., Sections 620-645; 650

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# Permanent Final Adoptions

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## GIST/ANALYSIS:

Administrative amendments made to this chapter intended to solidify the agencies paperless status and to expand the hearing process, allowing respondents more clarity following a filed petition.

## 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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 510:1-1-1. Purpose [AMENDED]

The rules of this chapter establish the framework by which the Board carries out its statutory duties, including the licensure, education, and discipline of osteopathic physicians.

## SUBCHAPTER 3. GENERAL COURSE AND METHOD OF OPERATIONS

### 510:1-3-1. Office location [REVOKED]

~~———— The office of the Board is located at 4848 North Lincoln Boulevard, Suite 100, in Oklahoma City, Oklahoma; 73105-3321. The phone number is (405) 528-8625.~~

### 510:1-3-2. Office hours [REVOKED]

~~———— The office of the Board will be open from 8:00 a.m. until 4:30 p.m. each week day. The office will be closed on weekends and holidays established by statute or proclamation of the Governor.~~

### 510:1-3-3. Communication with the Board [AMENDED]

Written communication may be addressed to the Board at the office of the Board. Electronic communication shall be addressed to [support@osboe.ok.gov](mailto:support@osboe.ok.gov). Facsimile communications may be sent to the office of the Board. All applications for licensure, renewal and related documents must be submitted through the Board's online platform. Telephonic communications may be made during regular office hours for assistance and accommodation.

### 510:1-3-4. Board meetings [AMENDED]

The Board holds regular quarterly meetings on the third Thursday of ~~March~~, June and September and the second Thursday of March and December of each year except that such regularly scheduled meetings may be cancelled or changed at the Board's discretion. The Board may hold other meetings of a special or emergency nature in its discretion. Meetings will be conducted at the Board office or other designated locations as necessary or desirable. A majority of the members of the Board constitute a quorum and may transact any business of the Board by a simple majority vote of the quorum present. The Board Executive Director, or designee, shall ensure all notice and final Agenda posting requirements for any meeting of the Board comply with 25 O.S. § 311.

### 510:1-3-5. Public access to records [AMENDED]

The following documents shall be available for public inspection and copying or printing at the Board's principal office during regular office hours: all records of receipt and expenditure of funds, rules adopted by the Board, declaratory rulings issued by the Board, minutes of Board meetings, applications for licensure and renewal, the official record of individual proceedings and other records required to be maintained by Oklahoma law and to be made public by the Oklahoma Open Records Act. The records to be made public do not include documents that are confidential or subject to an evidentiary privilege (including patient records and attorney/client communications) or are protected from disclosure under the work product doctrine, the Board's litigation files, the Board's investigatory files and reports and communications to the Board about current and prospective licensees. Printed copies ~~Copies~~ of the documents available to the public will be provided upon the Board's receipt of a written request and payment of required fees, including \$.25 for each page ~~copied~~ printed and, where appropriate under the Open Records Act, ~~\$20.00 per hour for searching for documents.~~ [59 O.S., Section 627, 51 O.S., Section 24A.1 et seq.]

## 510:1-3-6. Certification of records [AMENDED]

True and correct copies of records of the Board may be certified by the Board's secretary or executive director. ~~The fee for certification of records shall be \$1.00 per document and must be paid upon the delivery of the certified record. [51 O.S., Section 24A.5]~~

## 510:1-3-8. Investigations [AMENDED]

The Board may investigate any matter within its statutory authority. Licensees and applicants for licensure shall provide information requested by the Board and shall allow the Board to inspect their records and facilities without advanced notice. The Board may compel oral testimony, written responses to interrogatories, production of documents and inspection of property through subpoenas issued by the Board President, Board Secretary, Board Executive Director, any other persons authorized by the Board authorized to issue subpoenas, or search warrants issued by ~~the district court~~ a court of competent jurisdiction. Additionally, the Board Executive Director may issue a subpoena for substance abuse screening with no advanced notice to the respondent, with prior written approval by the Board President, or designee. [59 O.S., Section 626(D) and 637(C)].

## SUBCHAPTER 5. INDIVIDUAL PROCEEDINGS

### 510:1-5-1. Initiation of individual proceedings, complaint, and citation [AMENDED]

An individual proceeding may be initiated, upon information indicating the possible violation of the Act, through the filing of a ~~verified complaint~~ petition by the Board staff setting out the matters enumerated in 75 O.S., Section 309, and containing a statement setting forth the allegations and naming the licensee against whom the complaint is made. The ~~Secretary General Counsel~~, or Board staff, shall issue a citation notifying the respondent of the ~~verified complaint~~ petition and the date and place of the hearing.

#### 510:1-5-1.1. Definitions [AMENDED]

The following words and terms, as used in this subchapter shall have the following meaning, unless the context clearly indicates otherwise.

**"Allegation"** ~~means the unverified information concerning a physician's acts or omissions provided to or discovered by Board investigative staff or other source, and reviewed by the Medical Review Committee. Such information may or may not ultimately merit a verified complaint of unprofessional conduct.~~

**"Individual proceeding"** means consideration of issuing a formal sanction penalizing against a licensee of the Board. ~~It does not mean consideration of the issuance or reinstatement of a license.~~

**"Petition"** means the formal allegation of potential violation of the Act against the named physician.

**"Respondent"** means the licensed osteopathic physician whose licensure is the subject of the individual proceeding.

~~**"Verified Complaint"** means the formal allegation of unprofessional conduct against the named physician filed by Board staff that leads to an individual proceeding adjudged by the Board en banc.~~

### 510:1-5-3. Service [AMENDED]

(a) ~~The verified complaint~~ petition and citation and all subpoenas shall be served personally in the manner authorized by state law for service of summons in a judicial proceeding or by certified mail, return receipt requested, delivery restricted to the addressee. If personal service or service by certified mail cannot be completed, service of the ~~verified complaint~~ petition and citation may be made by first class mail to the respondent at the last address furnished to the Board by the respondent or by publication in a newspaper or newspapers for the time, or posting at the places, the Secretary of the Board determines will be most likely to provide notice to the respondent.

(b) Personal service may be made by any person appointed by the ~~Secretary of the Board~~ Executive Director, Board Investigators, or any person authorized by State law to serve process in judicial proceedings.

(c) Service of all other papers shall be made by first-class mail to the address at which service of the ~~initial complaint~~ petition and citation was made or in the manner by which such service was made if not by mail or personal service or such other address designated by the respondent; to the Board at its office, ~~the office of its general counsel and the prosecuting attorney~~; and to the address designated by any other party to the proceeding.

(d) Service by mail shall be complete three (3) days after upon the date the notice is placed in the U.S. Mail with sufficient postage prepaid. Service by publication shall be complete on the date of the first publication. Service by posting shall be complete on the date the notice is posted. Personal service shall be complete upon delivery.

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## 510:1-5-4. Hearing date, continuance, or extension of time [AMENDED]

- (a) The hearing, shall not be less than twenty (20) days after service of the ~~complaint~~petition and citation unless an agreement of the parties is made in writing and on the record. The Board may suspend a license without notice if the Board determines, upon the vote of three-fourths ( $\frac{3}{4}$ ) of the quorum present at the meeting that an emergency exists and the Board schedules a hearing within thirty (30) days of the date the suspension takes effect.
- (b) Written motions for any continuance or extension of time by either party shall state the additional time desired and the reason for the request, unless a written agreement is made by the Board's Executive Director and the respondent. The Board's ~~General Counsel~~Executive Director must rule on these motions prior to the scheduled hearing. Any agreement to continue the hearing must be on the record at the next regularly scheduled meeting. If the request is denied, either party may renew the request and make a proper showing at the hearing.

## 510:1-5-6. Prehearing procedures [AMENDED]

- (a) **Discovery.** The Board and the respondent may use discovery techniques available to parties in civil proceedings in Oklahoma courts. See Title 12 O.S., Sections 3201 Et Seq. Subpoenas to compel testimony, production of documents and inspection of property may be issued by the president, secretary of the Board, or any Board staff or designee licensed to practice law in the State of Oklahoma.
- (b) **Scheduling orders.** The Board's General Counsel or Executive Director may establish a schedule for the parties' completion of discovery, submission of motions, identification of witnesses and exhibits and other matters. The Board's General Counsel or Executive Director may also make rulings on extension of time to respond to a ~~verified~~ complaintpetition or any hearing date.
- (c) **Pre-Hearing Conference.** The Board's Executive Director may order a Pre-Hearing Conference to discuss the petition, discovery process, potential scheduling order, and the hearing with Respondent and Respondent's attorney. This Pre-Hearing Conference may be held a date chosen by the Board's Executive Director prior to a scheduled meeting of the Board.

## 510:1-5-6.1. Hearing procedures [AMENDED]

- (a) **Order of proceeding;** rules of evidence. Hearings shall be conducted in public view and in an orderly manner by the President of the Board. The order of proceeding will follow that which applies in civil proceedings of law. However, the rules of evidence shall be those specified by the Oklahoma Administrative Procedures Act.
- (b) **Rulings of the President.** The President of the Board, or general counsel of the Board, shall rule upon the admissibility of evidence and objections thereto, and shall rule upon other motions or objections as they arise during the course of the hearing. The rulings of the President, in all questions, shall be the rulings of the Board unless reversed by a majority vote of the Board upon a party's appeal from such rulings of the President. ~~Rulings by the President may be delegated.~~
- (c) **Burden of proof.** The Board's decisions shall be based on clear and convincing evidence presented at a public hearing.

## 510:1-5-7. Respondent's failure to appear [AMENDED]

Any respondent who fails to appear at a scheduled hearing as directed by the provisions of 510:1-5-2, after first having received proper notice, shall be determined to have waived his/her right to present a defense to the allegations in the ~~complaint~~petition and appropriate sanctions may be imposed by the Board if it appears, after having reviewed the evidence, that action is warranted.

## 510:1-5-8. Subpoena of witnesses, evidence or records for hearing [AMENDED]

Subpoenas for the attendance of witnesses and for the production of evidence or records of any kind shall be issued by the President, ~~Secretary of the Board~~Executive Director, ~~or by any Board staff~~ or designee licensed to practice law in the State of Oklahoma. Subpoenas shall be served and a return made in any manner prescribed by civil law.

## 510:1-5-9. Hearing records [AMENDED]

- (a) An audio or video record will be made of all hearings conducted by the Board. A transcript of the proceedings shall not be made except upon the written application and payment of a deposit sufficient to pay for having the record transcribed, according to the provisions of Title 75 O.S., Section 309.
- (b) The records of the hearings and the files containing the pleadings will be maintained in the Board's office in electronic format. The records of the proceedings shall be maintained in accordance with the Oklahoma Archives and Records Act and the Oklahoma Open Records Act.

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## 510:1-5-10. Final orders [AMENDED]

(a) All final orders in individual proceedings shall be memorialized in writing. Any ~~final~~written order shall include Findings of Fact and Conclusions of Law, ~~separately stated~~. The order shall contain the date it is effective regardless of the date it is signed. A copy of the ~~final~~written order will be mailed to ~~each party~~the respondent and to his/her attorney of record.

(b) Final orders shall be effective the date of announced ruling by the Board.

(c) Copies of written orders shall be maintained by the Board in a manner readily accessible by the public.

## 510:1-5-10.1. Terms and conditions of probation [AMENDED]

The Board may impose such terms and conditions for probation, as an alternative to or in addition to other disciplinary measures, as it deems appropriate. In memorialized written orders, the Board may add Standard Conditions of Probation, or other standard language, in addition to hearing specific announced terms. These standard conditions may include a monthly monitoring fee which is established pursuant to Title 59 Section 645.

## 510:1-5-11. Petition for rehearing [AMENDED]

A petition for rehearing is not required before an appeal may be perfected in accordance with Title 75 O.S., Section 317. A petition for rehearing, reopening or reconsideration of a final order may be filed with the Board within ten (10) days from the entry of the final order. It must be signed by the party respondent or his/her attorney or representative and must set forth the statutory grounds upon which it is based. However, a petition for rehearing based upon fraud by any party or procurement of the final order by perjured testimony or fictitious evidence may be filed at any time.

## 510:1-5-12. Assessment of costs [AMENDED]

Costs may be assessed against a respondent in accordance with 59 O.S., Section 637.1. The amount may be determined at the hearing ~~on the complaint and citation or listed in the memorialized written order. at a separate hearing conducted after the Board issues its final order.~~

## SUBCHAPTER 7. RULEMAKING PROCEDURES

### 510:1-7-1. Opportunity for public input on proposed rules [AMENDED]

For at least ~~20~~thirty (30) days before it adopts, amends, or repeals any rule, the Board shall accept data, views, arguments or other comments, presented orally or in writing, on the proposed rule, amendment or repeal. The Board will conduct a public hearing on a proposed rule if requested, in writing, by at least twenty-five persons, a political subdivision, an association having at least twenty-five members, or a constitutionally or statutorily created state board, bureau, commission, department, authority, public trust in which the state is a beneficiary or an interstate commission.

### 510:1-7-3. Notice and hearing requirements [AMENDED]

(a) In any rule-making action, whether initiated by the Board or by petition, the Board shall comply with the current notice requirements in the Administrative Procedures Act [75 O.S., Section 301 et seq.].

(b) Notice of the Board's consideration of proposed rulemaking action shall be mailed to all interested persons who have made a request of the Board for advance notice of the rulemaking proceedings, or who were specified in the petition and shall be published in the Oklahoma Register.

(c) Unless otherwise specified in the notice, all hearings will be conducted in the Office of the Board, or designated location.

(d) Appearance may be made individually, or by an authorized agent.

## SUBCHAPTER 13. DECLARATORY RULINGS

### 510:1-13-1. Persons who may seek a declaratory rule [AMENDED]

Any person may file a written petition seeking a declaratory ruling by the Board with respect to the application of a statute, rule or order of the Board. A petition for declaratory ruling shall be set for a ~~public~~ hearing before the Board at its next regularly scheduled meeting.

*[OAR Docket #25-406; filed 5-29-25]*

# Permanent Final Adoptions

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## TITLE 510. STATE BOARD OF OSTEOPATHIC EXAMINERS CHAPTER 5. PROFESSIONAL STANDARDS

*[OAR Docket #25-409]*

### **RULEMAKING ACTION:**

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### **RULES:**

Subchapter 1. General Provisions  
510:5-1-1. Purpose [AMENDED]  
Subchapter 9. Prescribing For Pain  
510:5-9-3. Violations [AMENDED]  
Subchapter 11. Medical Micropigmentation  
510:5-11-1. Purpose [AMENDED]  
510:5-11-2. Definitions [AMENDED]  
510:5-11-3. Duties and Responsibilities [AMENDED]  
Subchapter 13. Advertising Board Certification  
510:5-13-1. Purpose [AMENDED]  
510:5-13-2. Requirements of certifying organizations [AMENDED]

### **AUTHORITY:**

Oklahoma State Board of Osteopathic Examiners; 59 O.S., Sections 620-645; 650

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## GIST/ANALYSIS:

Amendments to this chapter are intended to clarify and modernize language included.

## CONTACT PERSON:

Kelsey Devinney, 405-724-8835, kelsey.devinney@osboe.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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 510:5-1-1. Purpose [AMENDED]

The purpose of this chapter is to describe various standards for the practice of osteopathic medicine by persons licensed by the Board or practicing osteopathic medicine in Oklahoma.

## SUBCHAPTER 9. PRESCRIBING FOR PAIN

### 510:5-9-3. Violations [AMENDED]

The violation of any provision of this subchapter shall constitute ~~unprofessional conduct~~ a violation of the Act, for which appropriate sanctions, including costs, and fines, may be imposed on a licensee.

## SUBCHAPTER 11. MEDICAL MICROPIGMENTATION

### 510:5-11-1. Purpose [AMENDED]

The purpose of this subchapter is to set forth the duties and responsibilities of an osteopathic physician electing to employ and/or utilize a Medical Micropigmentologist according to the provisions of ~~House Bill 1964~~ the Oklahoma Medical Micropigmentation Regulation Act. [Title 63 O.S. 1-1450 et seq.]

### 510:5-11-2. Definitions [AMENDED]

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

**"Direct supervision"** ~~means that the supervising physician is present in the office before, during and after the procedure and includes the authorization and evaluation of the procedure with the physician/patient relationship remaining intact.~~

**"Medical Micropigmentologist"** means a person credentialed according to the provisions of Title 63 O.S. Section 1-1450 et seq.

**"Patient"** means any person undergoing a micropigmentation procedure.

**"Physician"** means an osteopathic physician licensed in good standing by the Oklahoma State Board of Osteopathic Examiners.

### 510:5-11-3. Duties and Responsibilities [AMENDED]

(a) To be eligible to serve as a supervising physician for a Medical Micropigmentologist a physician shall meet the following criteria:

- (1) Have possession of a full and unrestricted license to practice osteopathic medicine and surgery in the State of Oklahoma.
- (2) The supervising physician shall be in practice with a minimum of twenty (20) hours per week of direct patient contact.

(b) Medical micropigmentation procedures may only be undertaken within the context of an appropriate physician-patient relationship wherein a proper patient record is maintained.

(c) The supervising physician is limited to the total number of mid-level providers allowed in 510:10-4-3.

~~(d) The employment and/or utilization of a Medical Micropigmentologist requires direct supervision by the supervising physician.~~

# Permanent Final Adoptions

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## SUBCHAPTER 13. ADVERTISING BOARD CERTIFICATION

### 510:5-13-1. Purpose [AMENDED]

An osteopathic physician's authorization of or use of the term "board certified," or "diplomate," or any similar word or phrase in any advertising for his or her osteopathic medical practice shall constitute misleading or deceptive advertising unless the osteopathic physician discloses the complete name of the specialty board or certifying organization which conferred the certification and the specialty board or certifying organization, so named, meets requirements in paragraph 1 and 2 of this section:

- (1) The certifying organization is a certifying board of the American Osteopathic Association or a member of the Bureau of Osteopathic Specialists or the American Board of Medical Specialties, or the American Association of Physician Specialists.
- (2) The certifying organization requires that its applicants be certified by a separate certifying organization that is a certifying board of the American Osteopathic Association or a member of the Bureau of Osteopathic Specialists or the American Board of Medical Specialties or American Association of Physician Specialists ~~and the certifying organization meets the criteria set forth in Section B, below.~~

### 510:5-13-2. Requirements of certifying organizations [AMENDED]

Each certifying organization that is not a certifying board of the American Osteopathic Association or a member board of the Bureau of Osteopathic Specialists or the American Board of Medical Specialties or American Association of Physician Specialists must meet each of the requirements set forth in paragraph 1 through 5 of this section:

- (1) The certifying organization requires all physicians who are seeking certification to successfully pass a written or an oral examination or both, which test the applicant's knowledge and skills in that specialty or subspecialty area of osteopathic medicine. All or part of the examination may be delegated to a testing organization. All examinations require a psychometric evaluation for validation;
- (2) The certifying organization has written proof of a determination by the U.S. Internal Revenue Service that the body is tax exempt under the Internal Revenue Code pursuant to Section 501(c);
- (3) The certifying board has a permanent headquarters and staff;
- (4) The certifying board has at least 100 duly licensed certificate holders from at least one-third of the States of the United States; and,
- (5) The certifying organization requires all physicians who are seeking certification to have satisfactorily completed identifiable and substantial training in the specialty or subspecialty area of osteopathic medicine in which the physician is seeking certification, and the certifying organization utilizes appropriate peer review. This identifiable training shall be deemed acceptable unless determined by the Board to be adequate in scope, content and duration in that specialty or subspecialty area of osteopathic medicine in order to protect the public health and safety.

*[OAR Docket #25-409; filed 5-29-25]*

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## TITLE 510. STATE BOARD OF OSTEOPATHIC EXAMINERS CHAPTER 10. LICENSURE OF OSTEOPATHIC PHYSICIANS AND SURGEONS

*[OAR Docket #25-410]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

510:10-1-1. Purpose [AMENDED]

Subchapter 3. Licensure Requirements

510:10-3-1. Full licensure requirements [AMENDED]

510:10-3-4. Licensure by endorsement [AMENDED]

510:10-3-5. Other criteria [AMENDED]

510:10-3-8. Annual registration [AMENDED]

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510:10-3-11. Resident training license [AMENDED]

510:10-3-13. Volunteer and Emeritus Medical License [AMENDED]

510:10-3-14. Military License [NEW]

Subchapter 4. Osteopathic Supervision of Mid-Level practitioners

510:10-4-2. Definitions [AMENDED]

510:10-4-3. Eligibility, Limits, and Responsibilities of supervising osteopathic physician [AMENDED]

Subchapter 7. Fee Schedule

510:10-7-1. Fee Schedule [AMENDED]

**AUTHORITY:**

Oklahoma State Board of Osteopathic Examiners; 59 O.S., Sections 620-645; 650

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**GIST/ANALYSIS:**

Amendments to this chapter are intended to streamline licensure requirements. This includes more concise language regarding licensure and supervision, the addition of a military license and expanded rules on resident training licenses. A fee change is also included.

**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 JULY 11, 2025:**

# Permanent Final Adoptions

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## SUBCHAPTER 1. GENERAL PROVISIONS

### 510:10-1-1. Purpose [AMENDED]

The purpose of this chapter is to describe the process of licensure for applicants, renewal for current license holders and annual registration requirements for ~~dispensing of drugs~~ statutory permits.

## SUBCHAPTER 3. LICENSURE REQUIREMENTS

### 510:10-3-1. Full licensure requirements [AMENDED]

(a) **Licensure.** It is the general requirement in the State of Oklahoma that osteopathic physicians be licensed by the State Board of Osteopathic Examiners. No person shall be licensed by the Board unless and until that person first fully complies with all licensure provisions of the Act and these Rules and has satisfied the Board of the ability to practice osteopathic medicine and surgery with reasonable skill and safety.

(b) **Postgraduate training.** One completed year of postgraduate training is a requirement for full licensure. The training must be or have been completed in a residency program that is approved by ~~either~~ the Accreditation Council for Graduate Medical Education (ACGME), ~~or the Accreditation Council for Graduate Medical Education International (ACGME-I),~~ the American Osteopathic Association (AOA) or the World Federation Medical Education (WFME). If the applicant did not complete a residency, then this experience may be in the form of a rotating internship or its equivalent, in an accredited internship or residency program acceptable to the Board. ~~To be deemed equivalent to a rotating internship and, acceptable to the Board, a program must provide the following: Clerkships are not permitted and do not replace the Postgraduate training requirements.~~

(1) The program must provide the following core experience:

- (A) One (1) month - General Practice
- (B) Two (2) months - General Internal Medicine
- (C) One (1) month - General Surgery
- (D) One (1) month - Obstetrics/Gynecology
- (E) One (1) month - Pediatrics

(2) ~~This core experience must be supplemented by three (3) months of Selectives and three (3) months of Electives, accounting for a total of twelve (12) months. A Selective may be defined as any core category or Emergency Medicine. An Elective may be any category of experience chosen by the intern or resident.~~

(c) **Application.** An applicant for a license to practice osteopathic medicine and surgery shall complete an application provided by the Board, which is available on the Board's website at: ~~www.osboc.ok.gov~~. The applicant shall complete and submit the application in full prior to the Board consideration. In addition to the application form online, each candidate must also provide the following materials:

- (1) A 3x4 photograph or larger taken within the previous sixty (60) days which meets the requirements of a passport photo;
- (2) Verification of graduation from an osteopathic medical school approved by the American Osteopathic Association (AOA) or the Board. The applicant's medical school shall provide a copy of a final transcript and diploma in addition to verifying graduation;
- (3) the postgraduate training certificate, as applicable;
- (4) certificate of specialty board certification, as applicable;
- (5) Payment of all fees as established by the Board in the Fee Schedule under rule 510:10-7-1;
- (6) A transcript ordered from the National Board of Osteopathic Medical Examiners (NBOME) or the National Board of Medical Examiners (NBME), with a passing score on all steps of the examination as set forth by the testing entity. Any applicant who has failed more than four (4) of the following examination attempts: COMLEX-USA, FLEX, or USMLE, may be required to appear before the Board. The Board may accept an equivalent exam given by another State Board. The Board is not required, however, to accept these exams in lieu of the COMLEX-USA or USMLE examinations;
- (7) A notarized copy of the applicant's birth certificate or passport;
- (8) Verification of postgraduate training on a form furnished by the Board on its website; ~~www.osboc.ok.gov~~. The postgraduate training form shall be filled out in its entirety by the program's residency coordinator or director, for each residency that the physician attended;

(9) License verification of standing from each state where the physician has held a license, whether that license is current or inactive and whether or not the physician has been the subject of any disciplinary action in that state. If action has been taken by another state board, all orders and relevant documentation are required to be sent to the Board before the physician can be reviewed for licensure;

(10) A chronology of events which accounts for the applicants time and activity, from medical school graduation to the present.

(11) A report from the National Practitioner Data Bank (NPDB), shall be ordered by the applicant and sent to the Board;

(12) ~~Fingerprints~~ Fingerprint-based background check completed by a Board approved entity that ~~meet~~ meets the requirements of a National Criminal History Record check pursuant to 74 O.S. § 150.9.

(d) **Interview.** The Board may require a personal interview from any applicant.

(e) **Beginning of practice.** Applicants for licensure shall not begin practice until their license information is publicly provided on the Board's website at [www.osboc.ok.gov](http://www.osboc.ok.gov).

### 510:10-3-4. Licensure by endorsement [AMENDED]

(a) **Reciprocity.** An applicant for licensure by reciprocity, may, at the discretion of the Board, be licensed without further examination. Such applicants may be required to appear before the Board. An applicant for a license to practice osteopathic medicine and surgery by reciprocal endorsement shall:

(1) Complete and submit the uniform application together with all applicable fees and required documentation;

(2) Provide evidence of graduation from a medical school accredited by the Commission on Osteopathic College Accreditation (COCA);

(3) Provide license verification from each state in which the applicant is currently or was previously licensed.

(b) **Endorsement of the National Board of Osteopathic Medical Examiners or the National Board of Medical Examiners.** An applicant who has successfully completed all parts of the examination sequence of the National Board of Osteopathic Medical Examiners or the National Board of Medical Examiners and, who presents the required documentation of having met all of the scholastic and other requirements of the Board, may, at the discretion of the Board, be licensed without further examination.

(c) **Interstate Medical Licensure Compact.** An applicant for licensure who has successfully completed the Letter of Qualification (LOQ) process in their State of Principal License (SPL), may be granted licensure upon submittal of a license application through the Interstate Medical Licensure Compact (IMLC). [Title 59 O.S. 493.7 et seq.]

(d) **Reinstatement.** A previously cancelled license issued by this Board, may, at the discretion of the Board, be reinstated. Such applicants may be required to appear before the Board. An applicant for reinstatement in this state, whose license has been cancelled for a period of two (2) years or greater, shall complete and submit the uniform application together with required documentation and payment of applicable fee.

(e) **Board discretion.** The Board may refuse to grant a license by reciprocity or endorsement to any applicant who has failed any examination administered by or accepted by the Oklahoma State Board of Osteopathic Examiners.

### 510:10-3-5. Other criteria [AMENDED]

An application for licensure or renewal may be denied or tabled if the applicant has engaged in any of the conduct ~~described~~ described at Title 59 O.S. Section 637 or any other conduct prescribed by statute or Board rule.

### 510:10-3-8. Annual registration [AMENDED]

(a) A licensee shall renew his or her license every year, by submitting a renewal application, which is available on the Board's website, and paying a non-refundable renewal fee in an amount established by the Board in its Fee Schedule pursuant to 510:10-7-1. If the licensee pays by mailing in a check, the payment must be postmarked by June 30. A physician who fails to acquire and submit a renewal application may not practice using an ~~expired~~ lapsed license. The renewal application together with all documents submitted with the application is the property of the Board and shall not be returned.

(b) **Continuing education required.** Annual license renewal requires proof of having attended and received credit for sixteen (16) American Osteopathic Association (AOA) Category One hours of Continuing Medical Education (CME).

(1) Osteopathic physicians who are obtaining or maintaining board certification through the American Medical Association (AMA) Board of Medical Specialties (ABMS) may complete sixteen (16) Category One American Medical Association (AMA) credit hours for purposes of satisfying their CME credits for renewal.

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~~(2)~~ One (1) hour every year of the required sixteen (16) hours shall be devoted to the subject of prescribing Controlled Dangerous Substances (CDS) as defined in Title 21, Code of Federal Regulations, Part 1308 or Title 63 of the Oklahoma Statutes.

~~(1A)~~ The one (1) hour of CME shall be dedicated to pain management, opioid use, or addiction. The course shall be obtained at a seminar approved by the State Board of Osteopathic Examiners.

~~(2B)~~ Certification of attendance shall be ~~provided~~ submitted to CE Broker by the organization sponsoring the program.

~~(3C)~~ Those osteopathic physicians who are licensed in Oklahoma who do not possess the State Bureau of Narcotics and Drug Enforcement Administration authority to handle CDS are exempt from this requirement.

(3) A licensee who, for any period during the CME cycle year, was considered a Resident or Fellow is exempt from CME requirements. CME requirements will be required beginning the first July 1 following graduation from Residency or Fellowship.

(4) All relevant CME data and completion certificates shall be submitted through CE Broker. If applicable, the course provider may report the relevant CME data on behalf of the licensee.

(c) **Fee required.** All osteopathic physicians licensed to practice by the Board shall pay an annual renewal fee ~~on or before~~ July 1. In addition to the annual renewal fee, the Board may charge a convenience fee. A late fee shall be charged for any license not renewed ~~by before~~ July 1 or any check not postmarked by June 30. ~~Any license reinstated by Board staff within six (6) months of cancellation for failure to renew timely shall pay all renewal fees and an administrative fine of five hundred (500) dollars.~~ The Board's fees are provided in the Fee Schedule in 510:10-7-1.

(d) **Professional Standards Questionnaire.** Annual license renewal requires the physician to truthfully answer questions posed by the Board regarding relevant personal and professional history of the applicant since their last renewal. If any question is answered "yes", then the applicant shall provide supporting documentation and a personal statement to the Board regarding the question answered.

(e) Fitness to Practice Attestation. Annual license renewal requires the physician to attest to their fitness to practice.

(f) Cancellation of License. A licensee who does not successfully complete the annual renewal of their license shall be cancelled at the September regular meeting of the Board and will be issued an Order of Cancellation. A licensee who wishes to reinstate their license following cancellation may request to do so within two (2) years. This request shall include the following and is subject to Board review:

(1) Completion of the Professional Standards Questionnaire;

(2) Signed Fitness to Practice Attestation;

(3) Proof of sixteen (16) current cycle CME credit hours;

(4) License Verifications from all states the licensee holds or had held a license.

## 510:10-3-11. Resident training license [AMENDED]

The Osteopathic Medicine Act authorizes the Board to issue a Resident Training license for medical school graduates during their first year of postgraduate training, also known as PGY-1. In order to begin the first year of residency, all resident physicians must obtain a Resident Training license. The Board may issue a Resident Training license upon completion of an application, payment of any fees, and submission of documentation from the applicant's Oklahoma training program recommending the physician and stating the applicant meets all the requirements for such license. Any person holding a Resident Training license is not guaranteed subsequent full licensure in Oklahoma as an osteopathic physician.

(1) A Resident Training license shall be:

(A) Issued by the State Board of Osteopathic Examiners to eligible physicians;

(B) Issued for no longer than one (1) year unless extended by the Board;

(C) Issued without continuing medical education (CME) requirements unless the physician holds a registration to prescribe controlled drugs in Oklahoma;

~~(D) Nonrenewable unless approved by the State Board of Osteopathic Examiners and upon payment of the fee.~~

(2) If the physician's resident training program specifically approves the resident to have prescribing authority, the resident training license shall permit the physician to apply for prescribing privileges from state or federal authorities.

(3) The Resident Training license shall not permit:

(A) The physician to apply for prescribing privileges for controlled drugs unless authorized by the resident's training program;

(B) The physician to recommend medical marijuana;

- (C) The physician to supervise any mid-level practitioner;
  - (D) The physician to practice medicine outside the scope allowed by the training program; or
  - (E) The physician to practice independent of the training program.
- (4) Following completion of PGY-1 training the resident must apply for an advanced resident medical license to practice medicine in Oklahoma. The advanced resident license shall allow the practice of medicine for all necessary purposes to complete resident training. Termination of the resident from the training program, voluntarily or involuntarily, will result in the automatic suspension of the advanced resident license until the licensee appears before the Board at the next regularly scheduled meeting. In addition, the advanced resident license holder may practice medicine in nongraduate student training locations provided the individual submits to the Board a letter signed by the post-graduate Medical Director that provides all the following information:
- (A) The name and practice location of all places in which the resident will be permitted to practice medicine. Changes in location or duties of the resident must result in the submission of a new letter signed by the Medical Director of the post-graduate program.
  - (B) The Medical Director has ensured that the resident has been properly trained to provide competent medical services required in the locations listed.
  - (C) The practice of medicine by the resident in the listed locations will not interfere with the training of the resident and is consistent with the program training goals.

### **510:10-3-13. Volunteer and Emeritus Medical License [AMENDED]**

(a) The Osteopathic Medicine Act authorizes the Board to issue a volunteer medical license for physicians who are retired from active practice and wish to donate their expertise for the medical care and treatment of indigent and needy persons of the State. The Board may issue a volunteer medical license:

- (1) Upon completion of a special volunteer medical license application, including documentation of the physician's osteopathic school graduation and practice history;
  - (2) Upon receipt of documentation that the physician has been previously issued a full and unrestricted license to practice medicine in Oklahoma or in another state of the United States and that they have never been the subject of any medical disciplinary action in any jurisdiction;
  - (3) Upon acknowledgement and documentation that the physician's practice under the volunteer medical license will be exclusively and totally devoted to providing medical care to needy and indigent persons in Oklahoma or to providing care under the Oklahoma Medical Reserve Corps; and
  - (4) Upon acknowledgement and documentation that the physician will not receive or have the expectation to receive any payment or compensation, either direct or indirect, for any medical services rendered under the volunteer medical license.
- (5) A volunteer medical license shall be:
- (A) Issued by the State Board of Osteopathic Examiners to eligible physicians;
  - (B) Issued without any fees;
  - (C) Issued without continuing medical education (CME) requirements;
  - (D) Issued for no longer than one (1) year;
  - (E) Renewable annually upon completion of renewal application furnished by Board.
- (6) The volunteer medical license shall not permit:
- (A) The physician to apply for prescribing privileges for controlled drugs;
  - (B) The physician to recommend medical marijuana;
  - (C) The physician to supervise any mid-level practitioner;
  - (D) The physician to receive compensation for medical care and treatment provided.

(b) Holders of full and unrestricted licenses in Oklahoma for at least ten (10) years may choose at any time to apply for a Physician Emeritus license by notifying the office of the Board. The Physician Emeritus license is for fully retired physicians. The Physician Emeritus license shall be issued with no Continuing Medical Education (CME) requirements. A fee may be charged for this license.

- (1) Physicians holding an Emeritus license may continue to use the title or append to their name the letters, D.O., Doctor, Specialist, Physician or any other title, letters or designation which represents that such person is a physician. Service on boards, committees or other such groups which require that a member be a physician shall be allowed.
- (2) Physicians holding an Emeritus license shall not practice medicine in any form or prescribe, dispense, or administer drugs.
- (3) When a physician has retired from practice and subsequently chooses to return to active practice from Physician Emeritus status, the physician may, be required, at the Boards discretion, to,:

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- (A) Pay required reinstatement fees;
  - (B) Complete required forms;
  - (C) Make a personal appearance before the Board or Secretary of the Board;
  - (D) Submit to a physical examination, psychological and/or psychiatric examination; and
  - (E) Provide evidence of successful completion of continuing medical education.
- (4) Upon acknowledgement and documentation that the physician will not receive or have the expectation to receive any payment or compensation, either direct or indirect, for any medical services rendered under the Physician Emeritus license.

## 510:10-3-14. Military License [NEW]

This section was created to comply with the Servicemember Civil Relief Act (SCRA), 50 U.S.C. § 4025a. The purpose of which is to enhance portability of professional licenses of servicemembers and their spouses when they must relocate due to military orders. All active-duty servicemembers and their spouses who have moved to a location outside the jurisdiction of the licensing authority that issued the covered license or certificate may apply for a Military License. This license shall be issued for a period of one (1) year and is renewable, without fee, upon request of the servicemember or spouse for the duration of the military orders provided.

- (1) Each applicant for Military License shall meet the following requirements:
  - (A) Have actively used the license or certificate during the two (2) years immediately preceding the move;
  - (B) Remain in good standing with:
    - (i) The licensing authority that issued the covered license or certificate; and
    - (ii) Every other licensing authority that issued a certificate valid for a similar scope of practice and in the discipline applied in the new jurisdiction.
  - (C) Submittal to the authority of the Oklahoma State Board of Osteopathic Examiners for the purposes of standards of practice, discipline, and fulfillment of any continuing education requirements.
- (2) Each applicant for Military License shall provide the following requirements:
  - (A) Submittal of the Military License application;
  - (B) Payment of the fee as provided in the fee schedule;
  - (C) A copy of the relevant military orders;
  - (D) A copy of the applicants military identification;
  - (E) License verifications for the states in which the servicemember or spouse is licensed; and
  - (F) Attestation of Fitness to Practice.

## SUBCHAPTER 4. OSTEOPATHIC SUPERVISION OF MID-LEVEL PRACTITIONERS

### 510:10-4-2. Definitions [AMENDED]

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

**"Board"** means the State Board of Osteopathic Examiners.

**"Mid-level practitioners"** include physician assistants and advanced practice nurses.

**"Primary Care Medicine"** means the practice of medicine with emphasis on emergency medicine, family medicine, general internal medicine, general pediatrics, and obstetrics and gynecology.

**"Proper physician supervision"** means the supervising physician regularly and routinely reviews the prescriptive practices and patterns of the mid-level practitioners. Proper physician supervision of mid-level practitioners is essential.

### 510:10-4-3. Eligibility, Limits, and Responsibilities of supervising osteopathic physician [AMENDED]

(a) To be eligible to serve as a supervising physician for mid-level practitioners, an osteopathic physician shall meet the following criteria:

- (1) Have possession of a full and unrestricted Oklahoma license to practice osteopathic medicine; with Drug Enforcement Agency (DEA) and Oklahoma Bureau of Narcotics and Dangerous Drugs Control (OBNDD) permits.
- (2) The supervising physician shall be trained and fully qualified in the field of the mid-level practitioners specialty.

(b) No physician shall supervise more than six (6) mid-level practitioners.



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- (c) The Board may make an exception to any limit set herein upon written request of the physician. Exception requests for rural primary care shall be given priority by the Board.
- (d) Subject to approval, disapproval, or modification by the Board, the Executive Director of the Board may temporarily approve a written request to supervise up to seven (7) or more mid-level practitioners between regularly scheduled meeting of the Board. ~~Under no circumstance shall the Executive Director approve more than ten (10) mid-level practitioners without expressed approval of the Board.~~
- (e) All supervising osteopathic physicians shall have a written agreement with each mid-level practitioner they supervise to memorialize the extent of the authority of the mid-level practitioner to practice under the supervision of the physician. The written agreement shall comply with Oklahoma law.
- (f) All supervising osteopathic physicians shall visit each location in which he or she supervises mid-level practitioners at least once a month.
- (g) To ensure appropriate levels of chart review of mid-level practice, all supervising osteopathic physicians shall ensure a physician shall review at least fifteen percent (15%) of patient charts recording treatment by the supervised mid-level practitioners each month.
- (h) To ensure appropriate levels of chart review, a supervising physician shall develop a list of High-risk procedures, for each mid-level practitioner. The performance of any of those procedures by the respective mid-level practitioner shall, in each instance, be reviewed within twenty-four (24) hours of treatment by the physician.
- (i) A physician may not supervise a mid-level provider who is an immediate family member, however, this prohibition shall not apply to family members outside the second degree of consanguinity or affinity.

### SUBCHAPTER 7. FEE SCHEDULE

#### 510:10-7-1. Fee Schedule [AMENDED]

(a) The fees charged by the Board are as follows:

- (1) Physician and Surgeon License Application Fee ~~\$600.00~~ \$25.00
- (2) Physician and Surgeon Renewal Fee for full license - ~~\$225.00~~ \$250.00
- (3) Physician and Surgeon Reinstatement Fee within two (2) years of ~~after~~ cancellation by Board \$500.00
- (4) Duplicate License (Physician/Surgeon) \$50.00
- (5) Late Re-registration Fee \$150.00
- (6) Copy of Licensure File \$50.00
- (7) Copy of Disciplinary File \$25.00
- (8) Verification of Licensure \$30.00
- (9) ~~Registration to Dispense Dangerous Drugs \$50.00 per location~~ Statutory Permits \$100 per location
- (10) Licensure Data Base \$50.00
- ~~(11) Fee for Certification of Files \$5.00~~
- ~~(1211)~~ Returned Check Fee \$25.00
- ~~(1312)~~ Letter of Good Standing for incorporations \$30.00
- ~~(1413)~~ Specialty Licenses
  - (A) Temporary Resident License (6-month license) \$100
  - (B) Resident Training License (PGY1 resident only) \$120
  - (C) Military License \$125
- (14) Monthly Probation Monitoring Fee \$100

(b) **Note:** Licensure fees may include a convenience fee.

*[OAR Docket #25-410; filed 5-29-25]*

### TITLE 540. HEALTH CARE WORKFORCE TRAINING COMMISSION CHAPTER 50. OKLAHOMA MEDICAL LOAN REPAYMENT PROGRAM

*[OAR Docket #25-436]*

#### RULEMAKING ACTION:

PERMANENT final adoption

#### RULES:

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540:50-1-1. Purpose [AMENDED]

540:50-1-3. Terms and conditions of loans [AMENDED]

540:50-1-4. Eligibility [AMENDED]

540:50-1-5. Amount and method of payment [AMENDED]

540:50-1-6. Procedures for administering loans [AMENDED]

540:50-1-7. Repayment by practice or repayment of monies received [AMENDED]

540:50-1-8. Applicant contracts [AMENDED]

## **AUTHORITY:**

Health Care Workforce Training Commission; 63 O.S., § § 1-2721 through 1-2723

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 4, 2024

## **COMMENT PERIOD:**

December 2, 2024 through January 13, 2025

## **PUBLIC HEARING:**

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## **ADOPTION:**

January 16, 2025

## **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

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## **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1035

## **LEGISLATIVE DISAPPROVAL:**

N/A

## **APPROVED BY GOVERNORS DECLARATION:**

N/A

## **FINAL ADOPTION:**

May 28, 2025

## **EFFECTIVE:**

July 11, 2025

## **SUPERSEDED EMERGENCY ACTIONS:**

## **SUPERSEDED RULES:**

N/A

## **GUBERNATORIAL APPROVAL:**

N/A

## **REGISTER PUBLICATION:**

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## **INCORPORATED STANDARDS:**

N/A

## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

The Health Care Workforce Training Commission amended its rules for the administration of the Oklahoma Medical Loan Repayment Program to make the rules comply with current statute. Recent statutory changes expanded the scope of the Program to include certified nurse practitioners and to apply to general surgery. (H.B. 1696, 59th Leg., 2d Reg. Sess. (Okla. 2024), codified at 63 O.S., §§ 1-2721 and 1-2722).

## **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 JULY 11, 2025:**

## 540:50-1-1. Purpose [AMENDED]

The purpose of the Physician ~~and~~ Physician Assistant, and Certified Nurse Practitioner Loan Repayment Programs (~~PLRP~~) and (~~PALRP~~), and (PLRP, PALRP, and CNPLRP, respectively), is to provide financial assistance to physicians, ~~and~~ physician assistants, and certified nurse practitioners in repaying educational loans when they elect to provide health care in rural and underserved areas of Oklahoma. The Programs, depending upon and limited to available funding, shall provide educational loan repayment assistance to Oklahoma licensed primary care physicians, ~~and~~ physician assistants, and certified nurse practitioners who agree to establish a practice in a community located in Oklahoma approved by the Commission. [63:1-2721(A)(5)]

## 540:50-1-3. Terms and conditions of loans [AMENDED]

(a) The terms and conditions governing the Programs shall be as prescribed and formulated by the Health Care Workforce Training Commission. The physician, ~~or~~ physician assistant, certified nurse practitioner shall agree to practice in the designated need areas identified by the Commission as a condition of the loan repayment. If the physician, ~~or~~ physician assistant, or certified nurse practitioner does not fulfill the service obligation, or doesn't comply with the reporting requirements, the Commission may discontinue the payments beginning with the current year, and may remove the physician, ~~or~~ physician assistant, or certified nurse practitioner from the Program.

(b) Physicians, ~~and~~ physician assistants, and certified nurse practitioners must submit proof that they are not currently obligated, and will not become obligated, to any other repayment program that has a conflicting service obligation.

## 540:50-1-4. Eligibility [AMENDED]

(a) A physician, ~~or~~ physician assistant, certified nurse practitioner shall be eligible to participate in the PLRP, ~~or~~ PALRP, or CNPLRP, respectively, if the physician, ~~or~~ physician assistant, or certified nurse practitioner:

- (1) Is licensed to practice medicine in Oklahoma;
- (2) Is a new primary care residency graduate/Physician Assistant school graduate/nursing school graduate; or
- (3) Is a current practicing physician, ~~or~~ physician assistant, or certified nurse practitioner and has met criteria established by the Commission. [63:1-2721(C)(1-3)]; and
- (4) ~~Agree~~ Agrees to provide medical care and services to Medicaid and Medicare recipients as authorized by the Oklahoma Health Care Authority [63:1-2721(B)]

(b) "Primary care ~~services~~ physicians and physician assistant" shall mean the practice of family medicine, geriatrics, general internal medicine, general pediatrics, obstetrics/gynecology, emergency medicine, or general surgery by physicians, ~~and~~ physician assistants, and certified nurse practitioners practicing in family medicine, geriatrics, general internal medicine, general pediatrics, obstetrics/gynecology, or emergency medicine. [63:1-2721(A)(2)]

## 540:50-1-5. Amount and method of payment [AMENDED]

(a) Physicians, ~~and~~ physician assistants, and certified nurse practitioners would have to provide documentation of legitimate educational debt in the amount of \$200,000/\$60,000 or above to receive the maximum amount available. If total debt is less than \$200,000/\$60,000 a contract would be tailored, on a prorated basis, to provide an amount not to exceed legitimate educational debt of the physician, ~~or~~ physician assistant, or certified nurse practitioners. Prior to any disbursement, the Commission will certify and properly review reports submitted by the participating physician, ~~or~~ physician assistant, or certified nurse practitioners detailing performance of activities in accordance with the Program. [63:1-2721(A)(6)]

(b) Maximum amounts of financial assistance first year \$50,000/\$10,000; second year \$50,000/\$20,000; third year \$50,000/\$30,000; and fourth year \$50,000 physicians only. Payments would be made after the physician, ~~or~~ physician assistant, or certified nurse practitioner completed the first year and on each anniversary thereafter, up to a maximum of four years. The Commission will review the performance in the Program of the participating physician, ~~or~~ physician assistant, or certified nurse practitioner and determine whether an award may be granted for additional years pursuant to rules. [63:1-2727(A)(7)]

## 540:50-1-6. Procedures for administering loans [AMENDED]

The Commission shall promulgate and adopt procedures as may be necessary to carry out the administration of the program. The Commission shall delineate the following procedures:

- (1) **Promulgation of information concerning loans.** Every reasonable effort shall be made to contact all eligible physicians, ~~or~~ physician assistants, or certified nurse practitioners concerning the availability of the program. Preference will be given to graduates of the primary care residency programs affiliated with the Oklahoma State University of College of Osteopathic Medicine, the University of Oklahoma College of Medicine, the University

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of Oklahoma College of Nursing, the Oklahoma State University Nurse Science Program, and the teaching hospitals affiliated with both schools of medicine and teaching health centers located in this state. [63:1-2721(C) (2)]

(2) **Applications.** All interested physicians, ~~or~~ physician assistants, or certified nurse practitioners shall file an application with the Health Care Workforce Training Commission. This application can be submitted at any time during the year. Applications are available at [www.pmtc.ok.gov](http://www.pmtc.ok.gov) <https://www.oklahoma.gov/hwtc> and in the office of the Health Care Workforce Training Commission.

(3) **Approval by the Commission.** Applications shall be submitted to the Commission for approval at any regular Commission meeting. Applications will be reviewed in the order they are received and will be approved or denied as determined by the Commission.

(4) **Renewal of contracts.** The original contract shall be guaranteed for the initial year, and renewed each anniversary thereafter contingent upon available funding.

## **540:50-1-7. Repayment by practice or repayment of monies received [AMENDED]**

(a) Each physician, ~~or~~ physician assistant, or certified nurse practitioner shall repay the financial assistance received by practicing full time in an approved community in Oklahoma. The period shall begin on the date the physician, ~~or~~ physician assistant, or certified nurse practitioner begins to practice in the approved community.

(b) Repayment of the total amount received, plus interest, and litigation costs as assessed by the Commission, upon failure of the physician, ~~or~~ physician assistant, or certified nurse practitioner to fulfill the contractual obligations, shall be made payable to the Commission.

## **540:50-1-8. Applicant contracts [AMENDED]**

(a) Each physician, ~~or~~ physician assistant, or certified nurse practitioner shall enter into a contract with the Commission agreeing to the terms and conditions upon which financial assistance shall be granted to the physician, ~~or~~ physician assistant, or certified nurse practitioner.

(b) The physician, ~~or~~ physician assistant, or certified nurse practitioner shall fulfill their contractual obligation to a qualifying community as outlined in the original contract.

(c) The contract shall include such terms and provisions as will carry out the full purpose and intent of the Program, and shall be in a form prepared and approved by the Attorney General.

(d) The contract shall be signed by the Executive Director on behalf of the Commission, and by the applicant.

(e) The Commission may cancel any contract made between it and any physician, ~~or~~ physician assistant, or certified nurse practitioner upon cause deemed sufficient by the Commission.

(f) The Commission shall maintain copies of the contracts in its offices.

*[OAR Docket #25-436; filed 6-6-25]*

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## **TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS**

*[OAR Docket #25-424]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. General Provisions

590:1-1-9. Designee Board members [AMENDED]

Subchapter 3. Administrative Review and Hearings

590:1-3-2. Definitions [AMENDED]

### **AUTHORITY:**

Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S. §§ 909 and 935.3

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The amendment to 590:1-1-9 is necessary to specify when certain OPERS Board Members are permitted to designate an individual to appear in their place and the amendment to 590:1-3-2 is necessary to include the Oklahoma Defined Contribution System as an eligible plan to participate in Administrative Hearings before the Board.

**CONTACT PERSON:**

Andrea Unruh, Deputy 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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

**590:1-1-9. Designee Board members [AMENDED]**

(a) ~~The State Insurance Commissioner, the Director of the Office of Management and Enterprise Services, and the Corporation Commission are Board Members authorized by 74 O.S. §905 to designate an individual to act in his or her~~ their place as a member of the Board of Trustees: must make This ~~this~~ designation must be in writing, which shall be signed by the designating official Board Member and filed with ~~submitted to the System. The designation must clearly indicate the identity of the name a specific designee and indicate whether the designation is limited as to duration or is an on-going designation. The designation should also set forth instructions as to membership on any Committees where the official is a member. Absent specific instructions regarding committee attendance, it is assumed that the designee is authorized to appear at both Committee and Board meetings. Once a proper designation is filed~~ submitted, the designee may appear at meetings and may act on any items properly before the Board.

# Permanent Final Adoptions

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(b) The Corporation Commission and the Oklahoma Tax Commission shall each select a member of the respective Commission to serve on the Board of Trustees. Each Commission shall provide a notification of the selection in writing, signed by the Chairman of the respective Commission to be ~~filed with~~submitted to the System. In lieu of such selection of a member, the Corporation Commission may select a designee of the Commission with notification as provided in subsection (a) of this section.

## SUBCHAPTER 3. ADMINISTRATIVE REVIEW AND HEARINGS

### 590:1-3-2. Definitions [AMENDED]

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

"**Claimant**" means the member or participating employer, or in the case of a deceased member a joint annuitant or beneficiary, filing an appeal with the System.

"**System**" means the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma State Employees Deferred Compensation Plan, ~~and~~ the Oklahoma State Employees Deferred Savings Incentive Plan, and the Oklahoma Defined Contribution System.

*[OAR Docket #25-424; filed 5-30-25]*

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## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

*[OAR Docket #25-425]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 3. Credited Service

590:10-3-13. Credit for involuntary furlough [AMENDED]

Subchapter 7. Retirement Benefits

590:10-7-6. Failure to submit documents; ~~benefit estimates~~ [AMENDED]

590:10-7-10. Final benefit [AMENDED]

Subchapter 8. ~~Department of Corrections~~Hazardous Duty Member Benefits [AMENDED]

590:10-8-1. ~~Department of Corrections~~ Hazardous Duty Members [AMENDED]

590:10-8-3. Continuation of Hazardous Duty benefits for Department of Corrections Employees [AMENDED]

590:10-8-4. Maximum Participation ~~as a Hazardous Duty Member~~for Hazardous Duty and Post-Hazardous Duty Members [AMENDED]

590:10-8-6. Employer Responsibility for Continuation of Hazardous Duty Benefits [AMENDED]

Subchapter 9. Survivors and Beneficiaries

590:10-9-4. Probate waivers [AMENDED]

Subchapter 10. ~~Department of Corrections Death in Performance of Duty Benefits~~Benefits for a Death in Performance of Duty [AMENDED]

590:10-10-1. Eligibility for Benefit [AMENDED]

590:10-10-2. Killed in Performance of Duty [AMENDED]

590:10-10-5. Surviving Spouse Benefit [AMENDED]

590:10-10-6. Surviving Spouse Benefit Election [AMENDED]

590:10-10-7. Surviving Child Benefit [AMENDED]

590:10-10-8. Filing for Surviving Spouse and Surviving Child Benefits [AMENDED]

Subchapter 11. Transported and State Portable Service Credit

590:10-11-7. Funds transfer [AMENDED]

### AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S. Section 909

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**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The amendment to 590:10-3-13 is due to changes in state law. The amendment to 590:10-7-6 reduces the burden on OPERS members, and the amendment to 590:10-7-10 clarifies how the final benefit is paid. The amendments to 590:10-8-1, 590:10-8-3, 590:10-8-4, and 590:10-8-6 are due to changes in state law and clarify eligibility for and continued participation for OPERS Hazardous Duty and Post-Hazardous Duty Members. The amendment to 590:10-9-4 clarifies payment of benefits under probate waivers. The amendments to 590:10-10-1, 590:10-10-2, 590:10-10-5, 590:10-10-6, 590:10-10-7, and 590:10-10-8 are due to changes in state law and clarify requirements for payments to the surviving spouse and child(ren) of OPERS members killed in their performance of duty. The amendment to 590:10-11-7 clarifies when funds are transferred to the Oklahoma Teacher's Retirement System for transported service.

**CONTACT PERSON:**

Andrea Unruh, Deputy 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 JULY 11, 2025:**

## SUBCHAPTER 3. CREDITED SERVICE

**590:10-3-13. Credit for involuntary furlough [AMENDED]**

# Permanent Final Adoptions

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(a) **Office of ~~Personnel Management and Enterprise Services~~ approved furloughs.** A leave of absence as a result of an involuntary furlough established by the Office of ~~Personnel Management and Enterprise Services~~ under ~~OPM Personnel Administration Rule 530:10-15-48 260:25-15-48~~ *Involuntary leave without pay (furlough)*, or as it may be amended, may be credited as participating service. It is the responsibility of the employer to provide a copy of the furlough plan approved by the Administrator of the ~~Office of Personnel~~ Human Capital Management Division.

(b) **District Attorneys Council approved furloughs.** The employees of a district attorney may receive participating service credit for a leave of absence due to an involuntary furlough after July 1, 2004, provided the furlough was conducted in substantial compliance with ~~OPM Personnel Administration Rule 530:10-15-48 260:25-15-48~~ *Involuntary leave without pay (furlough)*, or as it may be amended. It is the responsibility of the district attorney to provide a copy of the furlough plan approved by the District Attorneys Council. The approved furlough plan must include a certification from the Council that the plan was in substantial compliance with the ~~OPM rule~~ Personnel Administration Rule.

(c) **Legislative or Supreme Court approved furloughs.** A leave of absence as a result of an involuntary furlough of legislative employees pursuant to a furlough plan adopted by the President Pro Tempore of the Senate or the Speaker of the House of Representatives ~~as authorized by 74 O.S. §840-5.1~~, and involuntary furloughs of court employees authorized by the Oklahoma Supreme Court may be credited as participating service. It shall be the responsibility of the employer to provide a copy of the adopted furlough plan.

## SUBCHAPTER 7. RETIREMENT BENEFITS

### **590:10-7-6. Failure to submit documents; ~~benefit estimates~~ [AMENDED]**

~~(a)~~ \_\_\_\_ If all of a retired member's required documents have not been received by the fifteenth day of the month in which the first retirement benefit payment is to be issued, the System will withhold payment of any benefit until all required documents have been received. If all the required documents are not received within six (6) months after the requested retirement date, the retirement shall be cancelled and no retroactive benefits shall be paid. In the event the retirement is cancelled pursuant to this section, the member shall be required to reapply for a new retirement date which shall be considered as having met the sixty (60) day notice requirement.

~~(b) In order to receive a benefit estimate, a member shall provide all the required documents necessary for the System to calculate the benefit estimate. No benefit estimate shall be processed until such documents have been received. The System shall determine which documents are necessary to calculate a benefit estimate.~~

### **590:10-7-10. Final benefit [AMENDED]**

~~(a)~~ The retirement benefit payable for the month of death of a member, joint annuitant or ~~survivor~~ surviving spouse shall be payable to said member, joint annuitant, or surviving spouse. In the event the final benefit is returned to the System or is not otherwise paid, the benefit shall be paid to the ~~member's member, joint annuitant or surviving spouse's~~ named beneficiary.

~~(b)~~ If there is no named beneficiary ~~or estate~~, the final monthly benefit payment ~~shall~~ may be paid to the first of the following:

- ~~(1) surviving spouse~~ the estate;
- ~~(2) surviving children in equal shares~~ surviving spouse;
- ~~(3) surviving parents~~ children in equal shares;
- ~~(4) surviving siblings~~ grandchildren in equal shares;
- ~~(5) member's estate~~ surviving parents in equal shares;
- ~~(6) surviving siblings in equal shares.~~

## SUBCHAPTER 8. ~~DEPARTMENT OF CORRECTIONS~~ HAZARDOUS DUTY MEMBER BENEFITS [AMENDED]

### **590:10-8-1. ~~Department of Corrections Hazardous Duty Members~~ [AMENDED]**

Any correctional officer, probation and parole officer or fugitive apprehension agent employed by the Department of Corrections Members designated in 74 O.S. §902(24)(d) and (e) shall be eligible to participate in the Hazardous Duty benefit provisions of the System.

### **590:10-8-3. Continuation of Hazardous Duty benefits for Department of Corrections Employees [AMENDED]**



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(a) Any employee of the Department of Corrections who participated in the System as a Hazardous Duty Member as a result of employment as a correctional officer, probation and parole officer or fugitive apprehension agent shall be required to continue to participate as a hazardous duty employee for all future periods of employment with the Department of Corrections, provided that:

- (1) the member was employed by the Department of Corrections as a correctional officer, probation and parole officer or fugitive apprehension agent on June 30, 2004, or was first hired by the Department of Corrections as a correctional officer, probation and parole officer or fugitive apprehension agent after June 30, 2004; and
- (2) the member received a promotion or change in job classification after June 30, 2004; and
- (3) the member has participated as a Hazardous Duty Member as a correctional officer, probation and parole officer or fugitive apprehension agent at least five (5) full years.

(b) For purposes of this rule, the requirement of five (5) full years of participation as a Hazardous Duty Member means five (5) years of full-time-equivalent employment as provided in 590:10-3-6 of these rules for which the required higher contribution for Hazardous Duty Members is paid.

(c) The requirements of this rule shall be applicable for all future employment with the Department of Corrections for any Post-Hazardous Duty Member. Breaks in service will not affect this requirement.

## **590:10-8-4. Maximum Participation as a Hazardous Duty Member for Hazardous Duty and Post-Hazardous Duty Members [AMENDED]**

Hazardous Duty Members and Post-Hazardous Duty Members who are employed by the Department of Corrections shall pay the higher contribution rate set forth in Title 74 O. S. Section 919.1 (1)(c) and (d) 74 O.S. §919.1(1)(b), (c), (d), (e), (f), and (g) for a maximum of twenty (20) full years. If ~~the a Hazardous Duty Member Member and or~~ Post-Hazardous Duty Member remains employed by the Department of Corrections after twenty (20) full years of payment of the higher contribution rate, the required employee contribution rate shall be as provided in 919.1(1)(a) and (b) 74 O.S. §919.1(1)(a).

## **590:10-8-6. Employer Responsibility for Continuation of Hazardous Duty Benefits [AMENDED]**

It is the responsibility of the ~~Department of Corrections~~ participating employer to ensure that the correct employee contributions are withheld for all employees. It is also the responsibility of the ~~Department of Corrections~~ participating employer to provide any necessary documentation to confirm eligibility of any current or former employee for benefits under this Subchapter.

## **SUBCHAPTER 9. SURVIVORS AND BENEFICIARIES**

### **590:10-9-4. Probate waivers [AMENDED]**

(a) In the event a member dies, leaving no living beneficiary or having designated ~~his~~ their Estate as beneficiary, the System may require the judicial appointment of an administrator or executor for the member's estate prior to payment of any benefits or unpaid contributions.

~~(b) This The judicial appointment requirement in (a) may be waived for payments in an amount of Twenty Five Twenty-Five Thousand Dollars (\$25,000) or less upon presentation of:~~

- ~~(1) the member's valid Last Will and Testament, trust documents or affidavit that a will does not exist;;~~
- ~~(2) an Affidavit of Heirship naming all heirs to the member's estate;;~~
- ~~(3) a Hold-Harmless Agreement signed by all heirs;;~~
- ~~(4) a corroborating affidavit from someone other than an heir who is familiar with the deceased member;; and~~
- ~~(5) proof of payment of all last debts of the member. These documents shall comply with the provisions of 74 O.S. §916.1. If there is any question as to the validity of any document herein required, the judicial appointment shall not be waived.~~

~~(b) If the System is paying a benefit or unpaid contributions under this rule, the payment shall be paid to the first of the following:~~

- ~~(1) surviving spouse;~~
- ~~(2) surviving children in equal shares;~~
- ~~(3) surviving parents in equal shares;~~
- ~~(4) surviving siblings in equal shares;~~
- ~~(5) member's estate.~~

~~(c) The documents in (b) shall comply with the provisions of 74 O.S. §916.1. If there is any question as to the validity of any document herein required, the judicial appointment shall not be waived.~~

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(d) If the System is paying a benefit or unpaid contributions under this rule, the payment may be paid to the first of the following:

- (1) the member's estate;
- (2) surviving spouse;
- (3) surviving children in equal shares;
- (4) surviving grandchildren in equal shares;
- (5) surviving parents in equal shares;
- (6) surviving siblings in equal shares.

## **SUBCHAPTER 10. DEPARTMENT OF CORRECTIONS DEATH IN PERFORMANCE OF DUTY BENEFITS BENEFITS FOR A DEATH IN PERFORMANCE OF DUTY [AMENDED]**

### **590:10-10-1. Eligibility for Benefit [AMENDED]**

The ~~Surviving Spouse~~surviving spouse and the ~~Surviving Child~~surviving child or children of any ~~correctional officer or probation and parole officer employed by the Department of Corrections who is killed or mortally wounded on or after January 1, 2000, and of any employee of the Department of Corrections who is killed or mortally wounded on or after July 1, 2004~~ member designated in 74 O.S. §916.3(A), shall be eligible for the benefits as set out in this Subchapter, provided said employee was a participating member of the Oklahoma Public Employees Retirement System at the time of ~~his or her~~their death and ~~his or her~~their death occurred as a direct result of the performance of ~~his or her~~their duties for the ~~Department of~~employment.

### **590:10-10-2. Killed in Performance of Duty [AMENDED]**

Killed in the performance of duty means an employee's death ~~as is~~ a direct result of an action, whether felonious or accidental, occurring as a direct result of performing ~~his or her~~their assigned work-related functions for the ~~Department of Corrections of~~employment. Work-related function means action that the employee is authorized or obligated to perform by law, rule, regulation, or condition of employment or service, which is performed while on paid duty with the ~~Department of Corrections~~participating employer.

### **590:10-10-5. Surviving Spouse Benefit [AMENDED]**

The ~~Surviving Spouse~~surviving spouse of an employee killed or mortally wounded in the performance of ~~his or her~~their duties ~~with the Department of Corrections of~~employment shall receive benefits as provided in ~~Title 74 O.S. Section 916.3~~74 O.S. §916.3. Surviving ~~Spouse~~spouse means a person who was legally married to the employee at the time of the employee's death. The burden of proof regarding establishing and proving the existence of the marriage shall rest with the person claiming ~~Surviving Spouse~~surviving spouse status.

### **590:10-10-6. Surviving Spouse Benefit Election [AMENDED]**

An otherwise eligible ~~Surviving Spouse~~surviving spouse of an employee killed or mortally wounded in the performance of ~~his or her~~their duties ~~with the Department of Corrections of~~employment shall not receive benefits as provided in ~~Title 74 O.S. Section 916.3~~74 O.S. §916.3 if ~~he or she is~~they are receiving or ~~elects~~select to receive any type of survivor benefits from the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, or the Oklahoma Law Enforcement Retirement System on account of this or any spouse. The ~~Surviving Spouse~~surviving spouse must make an irrevocable election of benefits within ninety (90) days of eligibility for benefits. The ~~Surviving Spouse~~surviving spouse cannot receive surviving spouse benefits for more than one member of the specified retirement systems. Receipt of benefits from any such retirement system shall be presumed to constitute such an election. The ~~Surviving Spouse~~surviving spouse must certify annually that ~~he or she is~~they are not receiving any type of survivor benefits from another state retirement system.

### **590:10-10-7. Surviving Child Benefit [AMENDED]**

(a) A total monthly benefit amount as set by statute shall be paid where an eligible employee of the Department of Corrections identified in 590:10-10-1 is killed or mortally wounded in the performance of ~~his or her~~their duty and leaves one or more ~~Surviving Children~~surviving children. This benefit is paid in addition to the ~~Surviving Spouse~~surviving spouse benefit.

(b) Surviving ~~Child~~child means a minor child under ~~the age of~~eighteen (18) years of age or a child between the ages of eighteen (18) and twenty-two (22) who is attending school. Surviving ~~Child~~child further means a child who is the ~~natural biological~~ or legally adopted child of the deceased employee.

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- (c) Any child of any age who is or has been married is considered emancipated and is not considered to be a ~~Surviving Child~~surviving child for purposes of payment of this benefit.
- (d) Attending school means enrolled in and regularly attending on a full-time basis an accredited public or private secondary school or institution of higher education. Proof of attending school shall be provided by the person receiving the benefit at the beginning of each semester as well as a copy of grades received at the end of each semester. If there is more than one ~~Surviving Child~~surviving child, proof of school attendance shall not be required unless that child is the sole basis for payment of the benefit or the sole basis for payment of a part of the benefit if the benefit is divided as provided in subsection (e) ~~below of this section~~. If the ~~Surviving Child~~surviving child ~~drops classes and~~ becomes a part-time student or withdraws from the school or institution of higher education, then benefits shall cease the last day of the month in which the child becomes a part-time student or withdraws. It is the responsibility of ~~both the Surviving Child and~~ the person receiving the benefit payment to provide the proof of attendance and to notify the System of any change in student or marital status of the child.
- (e) In the event that there is more than one ~~Surviving Child~~surviving child and the children are in the care and custody of different individuals, the benefit shall be divided pro-rata for each child.
- (f) The burden of proof of the relationship of the child to the deceased employee and to the person claiming payment shall be upon the person claiming entitlement to the payment. If a guardian has been named for a ~~Surviving Child~~surviving child, the guardian shall be entitled to receive the benefit payment. A certified copy of the Guardianship Order must be provided to the System. A ~~Surviving Spouse~~surviving spouse who is the ~~natural biological or legally adopted~~ parent of the ~~Surviving Child~~surviving child shall be presumed to have care and custody of said child unless the System receives a claim containing information to the contrary.
- (g) Benefits terminate the last day of the month in which the last ~~Surviving Child~~surviving child ~~becomes~~turns twenty-two (22) years of age or becomes ineligible for benefits under this Subchapter. Any benefits paid on behalf of an ineligible ~~Surviving Child~~surviving child must be repaid to the System immediately.

### 590:10-10-8. Filing for Surviving Spouse and Surviving Child Benefits [AMENDED]

- (a) Claims for ~~Surviving Spouse~~surviving spouse and/or ~~Surviving Child~~surviving child benefits should be made as soon as possible following the employee's date of death. Benefits shall be payable beginning with the month following the employee's date of death, however, benefit payments will not commence until all required documentation has been furnished and a final determination has been made by the System. Required documentation to be provided by the claimant include, but are not limited to, a completed application for benefits, a copy of the employee's death certificate, a copy of the public record of marriage and copies of birth certificates for ~~Surviving Children~~surviving children.
- (b) It is the responsibility of the ~~Department of Corrections~~participating employer to assist the ~~Surviving Spouse~~surviving spouse or the person with the care and custody of a ~~Surviving Child~~surviving child with the completion of all necessary forms. It is also the responsibility of the ~~Department of Corrections~~employer to provide any necessary documentation to confirm eligibility of any person for benefits under this Subchapter. Required documentation to be provided by the ~~Department of Corrections~~employer include, but are not limited to;
- (1) a completed report of death form which shall include a notarized statement from the deceased employer's supervisor describing in detail the duties being performed by the employee at the time and the circumstances under which death occurred;;
  - (2) all workers' compensation claim information in the possession of the employer;;
  - (3) a certified copy of the autopsy report;; and
  - (4) any medical records in the possession of the employer.
- (c) In addition to the information supplied by the claimant and the employer, the System may require a medical statement from a treating physician which includes a detailed analysis of the cause of death and the circumstances surrounding the death.
- (d) Where the System feels that it is necessary or appropriate, it may, at its own expense, have the medical and other records reviewed and evaluated by an independent physician of its own choosing. The System may also use the services of law enforcement agencies or may contract for a licensed investigator for any situations that it deems necessary or appropriate.
- (e) The System shall make a determination on all claims for benefits under this Subchapter within ninety (90) days following receipt of all required documentation and reviews and shall notify the employer and the claimant in writing.

## SUBCHAPTER 11. TRANSPORTED AND STATE PORTABLE SERVICE CREDIT

### 590:10-11-7. Funds transfer [AMENDED]

# Permanent Final Adoptions

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No retirement funds shall be transferred or accepted for transported service until receipt of the signed final election form and upon notice from Teacher's Retirement System that all of the necessary documentation has been received to accept the funds transfer. The amount of funds transferred by OPERS shall be based upon the service credit accepted by Teachers' Retirement System.

*[OAR Docket #25-425; filed 5-30-25]*

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## **TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 25. DEFERRED COMPENSATION**

*[OAR Docket #25-426]*

### **RULEMAKING ACTION:**

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### **RULES:**

Subchapter 3. Election to Defer Compensation

590:25-3-5. Over Age 50 Catch-up Limits [AMENDED]

Subchapter 9. Benefits

590:25-9-9. Designated beneficiary [AMENDED]

590:25-9-16. ~~Rollover contributions to the plan~~ Rollovers and In-Plan Roth Conversions [AMENDED]

590:25-9-23. Death after December 31, 2021 [AMENDED]

### **AUTHORITY:**

Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S. §§ 1701

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N/A

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## GIST/ANALYSIS:

The amendment to 590:25-3-5 updates the allowable catch-up contributions to comply with the federal SECURE 2.0 legislation. The amendment to 590:25-9-9 clarifies how benefits are paid in the event of the death of the member. The amendment to 590:25-9-16 allows the member to complete in-plan Roth conversions. The amendment to 590:25-9-23 is to comply with the federal SECURE 2.0 legislation.

## CONTACT PERSON:

Andrea Unruh, Deputy 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 JULY 11, 2025:**

### SUBCHAPTER 3. ELECTION TO DEFER COMPENSATION

#### **590:25-3-5. Over Age 50 Catch-up Limits [AMENDED]**

(a) In addition to the maximum limits under 590:25-3-1, the Plan provides for a special catch-up for all ~~employees~~ Participants who have attained age 50 before the close of the plan year. Such additional contributions shall be in accordance with, and subject to the limitations of Section 414(v) of the Internal Revenue Code. Effective January 1, 2025, the adjusted dollar amount under Section 414(v)(2)(E) of the Internal Revenue Code shall apply to Participants who will attain age 60 but will not attain age 64 by the end of the calendar year. The applicable dollar amount and the adjusted dollar amount under this paragraph (a) shall be increased by cost-of-living to the extent provided under Section 414(v) of the Internal Revenue Code for such calendar year. Such catch-up contributions shall not be ~~taken into account~~ considered for purposes of the provisions of the plan implementing the required limitations of section 457 of the Internal Revenue Code. This catch-up may not be used in the same years the ~~employee~~ Participant is using the election under 590:25-3-2.

(b) Effective January 1, 2026, or such later effective date determined by the Secretary of the Treasury through guidance, with respect to a Participant whose wages within the meaning of Section 3121(a) of the Internal Revenue Code from the Employer for the preceding calendar year exceed the limitation under Section 414(v)(7)(A) of the Internal Revenue Code, paragraph (a) of this section shall apply only if the Participant elects, or is deemed to have elected, the additional amount of Elective Deferrals to be made as Roth Elective Deferrals. The wage limitation under this paragraph (b) shall be increased by cost-of-living to the extent provided under Section 414(v) of the Internal Revenue Code for such calendar year.

### SUBCHAPTER 9. BENEFITS

#### **590:25-9-9. Designated beneficiary [AMENDED]**

The Participant shall have the right to file with the ~~Board~~ Recordkeeper, a beneficiary or change of beneficiary form designating the person or persons who shall receive the benefits payable under the Plan in the event of the Participant's death. Following the death of the Participant, the beneficiary shall also have the right to file with the ~~Board~~ Recordkeeper, a beneficiary or change of beneficiary form designating the person or persons who shall receive the benefits payable under the Plan in the event of the beneficiary's death.

(1) The form for this purpose shall be provided by the ~~Board~~ Recordkeeper and will have no effect until it is signed, filed with the ~~Board~~ Recordkeeper by the Participant or the beneficiary, and accepted by the ~~Board~~ Recordkeeper.

(2) The Participant and the beneficiary shall have the burden for executing and filing, with the Recordkeeper, a proper beneficiary designation form.

(3) The Participant and the beneficiary accepts and acknowledges that he has the burden for executing and filing, with the Board, a proper beneficiary designation form. If the Participant or beneficiary dies without having a beneficiary form on file, the payments shall be made to the properly appointed fiduciary of the Participant's probate estate. Provided that if a fiduciary has not been appointed by a Court and qualified within one hundred twenty (120) days after the death, the payment may be made paid to the first of the following:

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- (A) Participant's estate;
- (B) to a surviving spouse;;
- (C) second, to a surviving child or children in equal shares;;
- (D) surviving grandchildren in equal shares;
- (E) third, to a surviving parent or parents in equal shares; or
- (F) surviving siblings in equal shares.

## **590:25-9-16. Rollover contributions to the plan Rollovers and In-Plan Roth Conversions [AMENDED]**

(a) **Eligible Rollover Contributions.** A Participant who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan as eligible rollover contributions unless the distributing eligible retirement plan includes funds previously transferred or rolled-over which require tax accounting or distribution rules that are different from those contained in this Plan.

(b) **Roth Rollover Contributions.** Notwithstanding any other provisions in the Plan to the contrary, effective June 1, 2023, the Plan shall accept Roth Rollover Contributions from a Roth account under an applicable retirement plan in accordance with Code Section 402A(e)(1) only if it is a direct rollover and only to the extent the rollover is permitted under the rules of Code Section 402(c).

(c) **Separate Accounts.** The Plan shall establish and maintain for the Participant separate accounts for any:

- (1) Eligible rollover contributions or Roth Rollover Contributions paid to the Plan;
- (2) Eligible Roth rollover contributions paid to the Plan from any eligible retirement plan including an eligible governmental plan under Code Section 457(b); and
- (3) Eligible rollover contributions paid to the Plan from an eligible governmental plan under Code Section 457(b).

(d) **In-Plan Roth Conversions.** The following transfers are permitted under the Plan. Any such transfer shall be treated as a qualified rollover contribution, within the meaning of Section 408A(e) of the Internal Revenue Code, to such Account.

- (1) Any amount held in a Pre-Tax Elective Deferral Subaccount is eligible for direct transfer to a Roth Elective Deferral Subaccount even if not otherwise distributable.
- (2) Any amount held in a subaccount of the Participant's Transfer Contribution Account holding pre-tax Transfer Contributions or after-tax Transfer Contributions is eligible for direct transfer to a subaccount of the Participant's Transfer Contribution Account holding Roth Transfer Contributions and earnings even if not otherwise distributable.
- (3) Any amount held in a subaccount of the Participant's Rollover Contribution Account holding pre-tax Rollover Contributions and earnings is eligible for direct transfer to a subaccount of the Participant's Rollover Contribution Account holding Roth Rollover Contributions and earnings.

(e) **Administrative Procedures.** A Participant's election under paragraph (d) of this section shall be subject to the reasonable administrative procedures established by the Board, Section 402A(c)(4) of the Internal Revenue Code and the regulations thereunder, and subsequent guidance from the Internal Revenue Service.

(f) **Taxable Amounts.** The taxable portion of the Participant's Accounts transferred to a Roth Contribution Account or to a subaccount of the Participant's Roth Rollover Contribution Account holding Roth Rollover Contributions and earnings pursuant to paragraph (d) of this section shall be included in the Participant's gross income in the tax year in which the transfer occurs.

## **590:25-9-23. Death after December 31, 2021 [AMENDED]**

Notwithstanding any contrary provisions, effective for Participant deaths after December 31, 2021, the following distribution provisions shall take effect; provided, however, that such provisions shall be subject to any regulations or other guidance issued under the SECURE Act:

- (1) If the Participant dies before the distribution of ~~his or her~~ their entire account (regardless of whether any distributions had begun before the Participant's death) and the Participant has a designated Beneficiary:
  - (A) The entire Account shall be distributed to the designated Beneficiary by December 31 of the calendar year containing the tenth anniversary of the Participant's death.
  - (B) Notwithstanding paragraph (1)(A), if the designated Beneficiary is an eligible designated Beneficiary, then the eligible designated Beneficiary may elect for the Participant's Account(s) to be distributed:
    - (i) by December 31 of the calendar year containing the tenth (10th) anniversary of the Participant's death, or

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(ii) beginning no later than December 31 of the calendar year immediately following the calendar year in which the Participant died, over the life of the eligible designated Beneficiary or over a period not exceeding the life expectancy of the eligible designated Beneficiary. If the eligible designated Beneficiary is the surviving spouse, payment under item (ii) is not required until the later of December 31 of the calendar year immediately following the calendar year in which the Participant died or December 31 of the calendar year in which the Participant would have attained the applicable age seventy and one-half (70 ½) (age seventy-two (72) with respect to a Participant who would have attained age seventy and one-half (70 ½) after December 31, 2019) as permitted by the federal Internal Revenue Code Section 401(a)(9)(C)(v). If the eligible designated Beneficiary does not elect a method of distribution as provided above, the Participant's Account(s) shall be distributed in accordance with item (ii).

(C) Upon either:

- (i) the death of an eligible designated Beneficiary before distribution of the Participant's entire account or
- (ii) the attainment of the age of majority for an eligible designated Beneficiary who is a minor child under subsection (4), paragraph (B) shall no longer apply, and the remainder of the account shall be distributed under paragraph (1)(A).

(2) If the Participant dies before distributions of ~~his or her~~ their Account begins and the Participant has no designated Beneficiary, the Participant's Account under the Plan shall be distributed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death. If the Participant dies after distribution of ~~his or her~~ their Account begins and the Participant has no designated Beneficiary, any remaining portion of the Account shall continue to be distributed at least as rapidly as under the method of distribution in effect at the time of the Participant's death.

(3) Any distribution required under the incidental death benefit requirements of Code Section 401(a) shall be treated as distributions required under ~~this section 590:25-9-22~~ 590:25-9-23.

(4) For purposes of this section, "Eligible Designated Beneficiary" means a designated Beneficiary who, as of the date of the death of the Participant, is:

- (A) the surviving spouse of the Participant;
  - (B) a child of the Participant who has not reached the age of majority;
  - (C) disabled within the meaning of Code Section 72(m)(7);
  - (D) chronically ill within the meaning of Code Section 7702B(c)(2) (except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature); or
  - (E) any other individual who is not more than ten (10) years younger than the Participant.
- Notwithstanding the preceding, a child described in (4)(B) above shall cease to be an eligible designated Beneficiary as of the date ~~he or she reaches~~ they reach the age of majority.

*[OAR Docket #25-426; filed 5-30-25]*

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### TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 35. DEFERRED SAVINGS INCENTIVE PLAN

*[OAR Docket #25-427]*

#### **RULEMAKING ACTION:**

PERMANENT final adoption

#### **RULES:**

- Subchapter 1. General Provisions
- 590:35-1-3. Definitions [AMENDED]
- Subchapter 13. Benefits and Distributions
- 590:35-13-6. Designated beneficiary [AMENDED]
- Subchapter 15. Limitations on Annual Additions
- 590:35-15-2. Definitions [AMENDED]

#### **AUTHORITY:**

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Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S. §§ 1701 et seq.

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N/A

## **GIST/ANALYSIS:**

The amendment to 590:35-1-3 is due to changes in state law and clarifies definitions. The amendment to 590:35-13-6 clarifies how benefits are paid in the event of the death of the member. The amendment to 590:35-15-2 corrects a citation error within the rule.

## **CONTACT PERSON:**

Andrea Unruh, Deputy 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 JULY 11, 2025:**

### **SUBCHAPTER 1. GENERAL PROVISIONS**

#### **590:35-1-3. Definitions [AMENDED]**

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

"Account" means any of the accounts established for a Participant under the Plan, as described in Section 590:35-5-1.



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**"Allocation Date"** means each business day of the calendar year.

**"Beneficiary"** means beneficiary or beneficiaries designated in writing by the Participant. If more than one designated beneficiary survives the Participant, payments shall be made equally to the surviving beneficiaries unless otherwise provided in the form provided by the Plan Administrator. Nothing herein shall prevent the Participant from designating primary and contingent beneficiaries.

**"Board of Trustees"** means the Oklahoma Public Employees Retirement System Board of Trustees, acting by and through the Plan Administrator.

**"Code"** means the Internal Revenue Code of 1986, as amended.

**"Compensation"** with respect to a Participant means taxable gross income from the Employer. Notwithstanding the prior sentence, Compensation shall include amounts deferred pursuant to Code Sections 125, 402(h), 402(a)(8), 457, 414(h), and 403(b). For purposes of the Plan, only compensation from the Employer that is attributable to services performed for the Employer may be includable in gross income. The Compensation taken into account under the Plan shall not exceed the "OBRA '93 annual compensation limit." The "OBRA '93 annual compensation limit" is \$150,000, as adjusted by the Commissioner of Internal Revenue for increases in the cost of living in accordance with Code Section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Compensation is determined ("Determination Period") beginning in such calendar year. If a Determination Period consists of fewer than 12 months, the OBRA '93 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the Determination Period, and the denominator of which is 12. Compensation of each Participant taken into account in determining allocations for any Plan Year beginning after December 31, 2001, shall not exceed Two Hundred Thousand Dollars (\$200,000), as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B). Compensation means Compensation during the Plan Year or other consecutive twelve (12) month period over which Compensation is otherwise determined under the Plan (the Determination Period). The cost-of-living adjustment in effect for a calendar year applies to Compensation for the Determination Period that begins with or within such calendar year.

**"Deferred Compensation Plan"** means the Oklahoma State Employees Deferred Compensation Plan and as it may be amended from time to time, which is governed by Code Section 457.

**"Disability"** means an actual and continuous physical or mental incapacity which causes the Participant to be retired with a retirement under the Participant's State retirement plan.

**"Early Retirement"** means the first date upon which each of the following shall have occurred: separation from service and attainment of Early Retirement Age.

**"Early Retirement Age"** means age 55.

**"Effective Date"** means January 1, 1998.

**"Employer"** means The State of Oklahoma, its agencies and any duly constituted authority or instrumentality of the State of Oklahoma.

**"Employer Contribution"** means the amount contributed to the Plan by the Employer on behalf of Participants under Section 590:35-7-1.

**"Fiscal Year"** means the fiscal year of the State of Oklahoma, which is July 1 to June 30.

**"Limited Participant"** means a Participant who is not a State Employee or who is not otherwise a Qualified Participant and who has amounts in the Plan as a result of the transfer of excess contributions from the Oklahoma Public Employees Retirement System pursuant to ~~Section 910.5 of Title 74 of the Oklahoma Statutes~~ 74 O.S. §910.5.

**"Normal Retirement"** means the first date upon which each of the following shall have occurred: separation from service and attainment of Normal Retirement Age.

**"Normal Retirement Age"** means age 62.

**"Participant"** means a State Employee who is participating in the Plan or who has funds invested in accordance with its provisions or any former State Employee who is retired or who has had a Termination of Service, but who has not received a distribution of his entire interest under the Plan or a person who has funds invested in the Plan as a result of the transfer of excess contributions from the Oklahoma Public Employees Retirement System.

**"Plan"** means the Oklahoma State Employees Deferred Savings Incentive Plan and as it may be amended from time to time.

**"Plan Administrator"** means the person designated by the Board of Trustees to administer the Plan.

**"Plan Year"** means the twelve month period ending on June 30.

**"Qualified Participant"** means a State Employee who is an active participant in the Oklahoma State Employees Deferred Compensation Plan making deferrals of at least twenty-five dollars (\$25.00) per month.

**"Recordkeeper"** means the company designated by the Board of Trustees to perform recordkeeping, administrative, and/or investment services to the Plan.

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**"State Employee"** means any officer or employee of the executive, legislative or judicial branches of the government of the State of Oklahoma who is an active member of a public retirement system of the State of Oklahoma, but does not include:

- (A) Employees of the public elementary, secondary, or area vocational school districts;
- (B) Employees of The Oklahoma State System of Higher Education except employees of the Oklahoma State Regents of Higher Education and employees of the governing boards;
- (C) Persons on temporary, student, internship, or other limited-term appointments ~~except for Executive Fellows in the Carl Albert Public Internship Program created in Section 840-3.4 of Title 74 of Oklahoma Statutes;~~
- (D) Persons employed pursuant to ~~Section 1-6a of Title 53 of the Oklahoma Statutes~~ 53 O.S. §1.6a or ~~Section 1806.1 of Title 74 of the Oklahoma Statutes;~~ or 74 O.S. §2241.

**"Termination of Service"** means the severance of the Participant's employment relationship with the Employer prior to his Early Retirement, Normal Retirement, death or Disability, including Limited Participants severing the employment relations with an OPERS participating employer.

**"Trust"** means the provisions of this document that comprise the trust established hereunder.

**"Trust Fund"** means the fund established under the Trust, with the Board of Trustees as trustee, and held by said trustee in accordance with this Plan and Trust, to which deposits and contributions under this Plan and Trust will be made and out of which benefits under this Plan and Trust will be provided.

**"Trustee"** means the individuals appointed to the Board of Trustees to administer the Trust Fund in accordance with this Plan and Trust.

**"Valuation Date"** means each business day of the calendar year. On each Valuation Date, the Recordkeeper shall determine the value of the Trust Fund.

## SUBCHAPTER 13. BENEFITS AND DISTRIBUTIONS

### 590:35-13-6. Designated beneficiary [AMENDED]

The Participant shall have the right to file with the ~~Plan Administrator~~ Recordkeeper a beneficiary or change of beneficiary form designating the person or persons who shall receive the benefits payable under the Plan in the event of the Participant's death. The Beneficiary shall have the right to apply to the ~~Plan Administrator~~ Recordkeeper to amend the payment option as previously elected by the Participant.

(1) The form for this purpose shall be provided by the ~~Plan Administrator~~ Recordkeeper and will have no effect until it is signed, filed with the ~~Plan Administrator~~ Recordkeeper by the Participant or Beneficiary, and accepted by the ~~Plan Administrator~~ Recordkeeper.

(2) If the Participant dies without having a Beneficiary form on file or is not survived by the designated Beneficiary, the payments shall be made to the beneficiary designated by the Participant pursuant to Section 590:25-9-9.

(3) The Participant shall have the burden for executing and filing, with the Recordkeeper, a proper beneficiary designation form.

~~(4) The Participant accepts and acknowledges that he has the burden for executing and filing, with the Plan Administrator, a proper beneficiary designation form.~~ If the Participant dies without having a Beneficiary form on file or is not survived by the designated Beneficiary under this Plan or the Deferred Compensation Plan, the payments shall be made to the properly appointed fiduciary of the Participant's probate estate. Provided that if a fiduciary has not been appointed ~~by a Court and qualified~~ within one hundred twenty (120) days after the death, the payment may be made to the first of the following:

- ~~(A) to a surviving spouse;~~
- ~~(B) second, to a surviving child or children in equal shares;~~
- ~~(C) third, to a surviving parent or parents/grandchildren in equal shares;~~
- (D) surviving parents in equal shares;
- (E) surviving siblings in equal shares.

## SUBCHAPTER 15. LIMITATIONS ON ANNUAL ADDITIONS

### 590:35-15-2. Definitions [AMENDED]

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

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**"Annual addition"** means the sum for any Plan year of the following amounts allocated on behalf of a Qualified Participant for a Limitation Year:

- (A) All Employer contributions;
- (B) All Qualified Participant contributions determined without regard to any rollover contributions (as defined in Code Sections 402(c), 403(a)(4), 403(b)(8), and 408(d)(3)) without regard to Qualified Participant contributions to a simplified employee pension which are excludable from gross income under Code Section 408(k)(6);
- (C) All forfeitures;
- (D) Amounts allocated to an individual medical account, as defined in Code Section 415(l)(2), which is part of a pension or annuity plan maintained by the Employer; and
- (E) Amounts derived from contributions which are attributable to post-retirement benefits allocated to the separate account of a key employee, as defined in Code Section 419A(d)(3), under a welfare benefit fund, as defined in Code Section 419(e), maintained by the Employer. Subparagraph (ii) of Section 590:35-15-1 shall not apply to any contribution for medical benefits (within the meaning of Code Section 419A(f)(2)) after separation from service which is treated as an Annual addition. For purposes of this Subchapter, excess amounts reapplied to reduce Employer contributions under Section ~~590:15-3~~ 590:35-15-3 in the Limitation Year shall also be included as an Annual Addition for such Limitation Year.

**"Compensation"** means:

- (A) For purposes of applying the limitation of Code Section 415, a Qualified Participant's wages, salaries, fees for professional services, and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining this Plan to the extent that the amounts are includable in gross income (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan (as described in Treasury Regulation Section 1.62-2(c)), and excluding the following:
  - (i) Distributions from a plan of deferred compensation, regardless of whether such amounts are includable in the gross income of the Qualified Participant when distributed; and
  - (ii) other amounts which receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includable in the gross income of the Qualified Participant). Compensation shall also include contributions made pursuant to a salary reduction agreement which are not includable in the gross income of the Qualified Participant under Code Sections 125, 132(f)(4), 401(k), 408(k), 403(b) or 457. For purposes of applying the limitation of this Subchapter, Compensation for a Limitation Year is the Compensation actually paid or made available to the Qualified Participant within the Limitation Year. Notwithstanding the preceding sentence, Compensation for a Qualified Participant who is permanently and totally disabled (as defined in Code Section 22(e)(3)) is the Compensation such Qualified Participant would have received for the Limitation Year if such Qualified Participant had been paid at the rate of Compensation paid immediately before becoming permanently and totally disabled. If the Plan provides for the continuation of such contributions on behalf of all Qualified Participants who are permanently and totally disabled for a fixed or determinable period, then imputed Compensation may be taken into account for a disabled Qualified Participant. Such contributions on behalf of a permanently and totally disabled Qualified Participant must be nonforfeitable when made.
- (B) Payments made by the later of 2 1/2 months after severance from employment or the end of the limitation year that includes the date of the Qualified Participant's severance from employment shall be included in compensation if they are payments that, absent a severance from employment, would have been paid to the Qualified Participant while the Qualified Participant continued in employment with the Employer and are:
  - (i) Regular compensation for services during the Qualified Participant's regular working hours, or compensation for services outside the Participant's regular work hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and the compensation would have been paid to the Participant prior to a severance from employment if the Participant had continued employment with the Employer; or

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- (ii) payments for unused accrued bona fide sick, vacation or other leave, but only if the Qualified Participant would have been able to use the leave if employment had continued; or
- (iii) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the Qualified Participant at the same time if the Participant had continued employment with the Employer and only to the extent that the payment is includible in the Qualified Participant's gross income.

(C) Any payments not described in paragraph (B) of this definition are not considered compensation if paid after severance from employment, even if they are paid within 2 1/2 months following severance from employment. However, payments to the individual who does not currently perform services for the Employer by reason of qualified military service (within the meaning of Code Section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(D) An employee who is in qualified military service (within the meaning of Code Section 414(u)(1)) shall be treated as receiving compensation from the employer during such period of qualified military service equal to:

- (i) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or
- (ii) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

(E) For purposes of Code Section 415(c) and this subchapter, compensation of each Participant taken into account in determining allocations for any Plan Year shall not exceed the applicable limit established by Code Section 401(a)(17) as of the first day of the Plan Year, as increased for the cost-of-living adjustment (Two Hundred Thirty Thousand Dollars (\$230,000 for 2008)). The cost-of-living adjustment in effect for a calendar year applies to compensation for the Plan Year that begins with or within such calendar year.

**"Employer"** means, for purposes of this Subchapter, the Employer and all members of a controlled group of corporations (as defined in Code Section 414(b) and as modified by Code Section 415(h)), all commonly controlled trades or businesses (as defined in Code Section 414(c) and as modified by Code Section 415(h)), or an affiliated service group (as defined in Code Section 414(m)), of which the adopting Employer is a part, and any other entity required to be aggregated with the Employer pursuant to Treasury Regulations under Code Section 414(o).

**"Limitation year"** means the Plan Year ending on December 31.

*[OAR Docket #25-427; filed 5-30-25]*

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## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 40. DEFINED CONTRIBUTION SYSTEM

*[OAR Docket #25-428]*

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Subchapter 5. Eligibility and Participation - Applicable to The 401(A) Plan and the 457(B) Plan

Part 7. BENEFICIARIES - APPLICABLE TO THE 401(a) PLAN AND THE 457(b) PLAN

590:40-5-21. Death without beneficiary [AMENDED]

Subchapter 7. Defined Contribution 401(A) Plan

Part 9. BENEFITS AND DISTRIBUTIONS

590:40-7-30. Commencement [AMENDED]

590:40-7-32. Late retirement [AMENDED]

590:40-7-34. Death prior to January 1, 2022 [AMENDED]

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590:40-7-37. Minimum distribution requirements [AMENDED]

590:40-7-39. Death after December 31, 2021 [AMENDED]

Subchapter 9. Defined Contribution 457(B) Plan

Part 1. ELECTION TO DEFER

590:40-9-3. Over Age 50 Catch-up Limits [AMENDED]

Part 7. BENEFITS

590:40-9-38. ~~Rollover contributions to the plan~~ Rollovers and In-Plan Roth Conversions [AMENDED]

590:40-9-44. Death after December 31, 2021 [AMENDED]

Subchapter 11. Qualified Domestic Relations Orders - Applicable to The 401(A) Plan and the 457(B) Plan

590:40-11-7. Death of Participant or alternate payee [AMENDED]

**AUTHORITY:**

Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S. §§ 909 and 935.1.

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**DOCKET NUMBER:**

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**INCORPORATIONS BY REFERENCE:**

**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The amendment to 590:40-5-21 clarifies how benefits are paid in the event of the death of the member. The amendments to 590:40-7-30, 590:40-7-32, 590:40-7-34, 590:40-7-37, 590:40-7-39, and 590:40-9-44 amend the required minimum distribution age to comply with the federal SECURE 2.0 legislation. The amendment to 590:40-9-3 is to comply with the federal SECURE 2.0 legislation. The amendment to 590:40-9-38 allows the member to complete in-plan Roth conversions. The amendment to 590:40-11-7 clarifies how benefits are paid in the event of the death of an alternate payee.

**CONTACT PERSON:**

# Permanent Final Adoptions

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Andrea Unruh, Deputy 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 JULY 11, 2025:**

## **SUBCHAPTER 5. ELIGIBILITY AND PARTICIPATION - APPLICABLE TO THE 401(A) PLAN AND THE 457(B) PLAN**

### **PART 7. BENEFICIARIES - APPLICABLE TO THE 401(A) PLAN AND THE 457(B) PLAN**

#### **590:40-5-21. Death without beneficiary [AMENDED]**

(a) **Participant.** If a Participant dies without filing a beneficiary form with ~~OPERS~~the Recordkeeper or is not survived by a designated Beneficiary under either the 401(a) plan or the 457(b) plan, the distribution of remaining benefits shall be made to the properly appointed administrator, executor, personal representative, or other fiduciary of the estate of the Participant. If there is no estate, or if no administrator, executor, personal representative, or other fiduciary of estate of the Participant has been appointed by a Court and qualified within one hundred twenty (120) days after death, the distribution of benefits may be ~~made to~~paid to the first of the following:

- (1) surviving spouse;
- (2) surviving children in equal shares;
- (3) surviving ~~parents~~grandchildren in equal shares; ~~or~~
- (4) surviving ~~siblings~~parents in equal shares; or
- (5) surviving siblings in equal shares.

(b) **Surviving Beneficiary.** If, after the death of the Participant, a Beneficiary dies without having a beneficiary form on file or is not survived by a designated Beneficiary, the distribution of remaining benefits shall be made to the properly appointed administrator, executor, personal representative, or other fiduciary of the estate of the Beneficiary. If there is no estate of the Beneficiary, the distribution of the Beneficiary's benefits shall be in the same manner as the distribution of the Participant's benefits as set forth in (a) of this Section.

## **SUBCHAPTER 7. DEFINED CONTRIBUTION 401(A) PLAN**

### **PART 9. BENEFITS AND DISTRIBUTIONS**

#### **590:40-7-30. Commencement [AMENDED]**

(a) **Events initiating benefits.** In the event of a Participant's separation from service as a result of Termination of Service, Normal Retirement, Disability, or death, the Participant shall be entitled to receive a distribution of the vested funds in ~~his or her~~their Account under the Trust Fund. ~~In the event that~~ If a Participant dies before the entire balance of the Account is distributed, 590:40-7-34 shall apply.

(b) **Electing time for commencing of benefits.** The Participant may elect, on forms prescribed by ~~OPERS~~the Recordkeeper, the time at which distributions under the Plan are to commence by designating the month and year during which the first distribution is to be made; however, in no event shall payment begin 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 of 72 or ~~such other date as may be permitted by the federal Internal Revenue Code Section 401(a)(9)(C)(v)~~, except as provided in 590:40-7-32, or the April 1 of the year following the calendar year in which the Participant terminates. The payment of benefits shall begin no earlier than forty-five (45) days after the occurrence of the event that gives rise to the beginning of the payment of benefits. If the Participant fails to apply for benefits after the required beginning date, the Board shall begin distribution of the Participant's entire interest as required by these rules in the form provided in 590:40-7-35.

(c) **Distribution of rollover contributions.** Rollover contributions as described in 590:40-7-10 are not subject to the requirements for separation of service as described in section subsection (a) of this section and shall be available for distribution within 30 days of acceptance of a properly completed distribution form as prescribed by ~~OPERS~~the Recordkeeper.

#### **590:40-7-32. Late retirement [AMENDED]**

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If the Participant continues employment after attaining ~~72 years of the applicable age, or such other date~~ as may be permitted by 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, or dies. 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 the applicable age 72 or such other date as may be permitted by the federal Internal Revenue Code Section 401(a)(9)(C)(v).

### 590:40-7-34. Death prior to January 1, 2022 [AMENDED]

(a) **Effective Date.** This Section shall be effective for Participant deaths prior to January 1, 2022.

(b) **Payment to beneficiary.** If the Participant dies prior to receiving Plan benefits, or the Participant dies while benefits are being paid to the Participant under the Plan and before such benefits have been exhausted, the benefits payable under this Plan shall be paid to the designated Beneficiary of the Participant in accordance with the distribution option selected by the Participant or the Beneficiary.

(c) **Distribution method.** Distributions must be made primarily for the benefit of the Participant (or former Participant). Therefore, distribution which begins prior to the death of a Participant must be in a form such that the total benefit amount will be paid over a period not to exceed the life expectancy of the Participant and a designated Beneficiary. Any amount not distributed to the Participant during ~~his or her~~ their lifetime shall be distributed after the death of the Participant at least as rapidly as under the method of distribution used as of the date of ~~his or her~~ their death. In addition, if the Participant dies prior to the commencement of distributions, the Participant's Account shall be distributed to the Beneficiary, commencing within one year of the ~~employee's~~ Participant's death, over the life of such Beneficiary (or over a period not extending beyond the life expectancy of such Beneficiary) but not to exceed ~~15~~ fifteen (15) years; provided however if such Beneficiary is the surviving spouse of the Participant, then

(1) such distributions shall, in all events, commence no later than December 31 of the calendar year in which the Participant would have attained the applicable age 70 ½ (or such other date as may be permitted under applicable Treasury Regulations) ~~by the federal Internal Revenue Code Section 401(a)(9)(C)(v)~~, and

(2) benefits payable to such spouse shall be completed during a period not in excess of such spouse's life expectancy. Life expectancies will not be recalculated annually.

### 590:40-7-37. Minimum distribution requirements [AMENDED]

(a) **Application.** Notwithstanding anything herein to the contrary, the following minimum distribution requirements will apply.

(b) **Compliance with Code.** The Plan will make all distributions in accordance with a good faith interpretation of the requirements of Code Section 401(a)(9) and the Treasury Regulations thereunder, as applicable to governmental plans within the meaning of Code Section 414(d), including the minimum distribution incidental benefit requirement of Code Section 401(a)(9)(G) and Section 1.401(a)(9)-2 of the ~~proposed~~ Treasury Regulations, or any successor rules or regulations.

(c) **Time of distribution.** The entire interest of a Participant must be distributed or begin to be distributed no later than the Participant's Required Beginning Date.

(d) **Limits on distribution periods.** As of the first Distribution Calendar Year, distributions, if not made in a single lump sum, may be made over one of the following periods (or a combination thereof):

- (1) the life of the Participant,
- (2) the life of the Participant and a designated Beneficiary
- (3) a period certain not extending beyond the Life Expectancy of the Participant, or
- (4) a period certain not extending beyond the joint and last survivor expectancy of the Participant and a designated Beneficiary.

(e) **Distributions other than lump sum.** If the Participant's interest is to be distributed in other than a single lump sum, the following minimum distribution rules shall apply on or after the Required Beginning Date:

- (1) If a Participant's benefit is to be distributed over
  - (i) a period not extending beyond the life expectancy of the Participant or the joint life and last survivor expectancy of the Participant and the Participant's designated Beneficiary or
  - (ii) a period not extending beyond the life expectancy of the designated Beneficiary, the amount required to be distributed for each calendar year, beginning with distributions for the first Distribution Calendar Year must at least equal the quotient obtained by dividing the Participant's benefit by the Applicable Life Expectancy.
- (2) The amount to be distributed each year, beginning with distributions for the first Distribution Calendar Year shall not be less than the quotient obtained by dividing the Participant's benefit by lesser of

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(i) the Applicable Life Expectancy or

(ii) if the Participant's Spouse is not the designated Beneficiary, the applicable divisor determined from the table set forth in ~~Q&A-4 of Section 1.401(a)(9)-2~~ 1.401(a)(9)-6 of the Treasury Regulations.

Distributions made after the death of the Participant shall be distributed using the Applicable Life Expectancy in (1) above as the relevant divisor without regard to Treasury Regulations Section ~~1.401(a)(9)-2~~ 1.401(a)(9)-6.

(3) The minimum distribution required for the Participant's first Distribution Calendar Year must be made on or before the Participant's Required Beginning Date. The minimum distribution for other calendar years, including the minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, must be made on or before December 31 of that Distribution Calendar Year.

(f) **Insurance company annuity.** If the Participant's benefit is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury Regulations thereunder. OPERS or the Board shall assume no liability after distribution if Participant's benefit is distributed in the form of an annuity purchased from an insurance company or converted into an annuity by an insurance company.

(g) **Definitions.** For purposes of this Section, the following terms shall have the meanings as set forth below:

(1) **"Applicable Life Expectancy"** means the life expectancy (or joint and last survivor expectancy) calculated using the attained age of the Participant (or designated Beneficiary) as of the Participant's (or designated Beneficiary's) birthday in the applicable calendar year reduced by one for each calendar year which has elapsed since the date life expectancy was first calculated. Life expectancies will not be recalculated annually. If annuity payments commence before the Required Beginning Date, the applicable calendar year is the year payments commence. If distribution is in the form of an immediate annuity purchased after the Participant's death with the Participant's remaining interest, the applicable calendar year is the year of purchase.

(2) **"Distribution Calendar Year"** means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin pursuant to this Section.

(3) **"Participant's Benefit"** means the Participant's Account as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year ("Valuation Calendar Year") increased by the amount of any contributions allocated to the Account as of dates in the Valuation Calendar Year after the Valuation Date and decreased by distributions made in the Valuation Calendar Year after the Valuation Date. If any portion of the minimum distribution for the first Distribution Calendar Year is made in the second Distribution Calendar Year on or before the Required Beginning Date, the amount of the minimum distribution made in the second Distribution Calendar Year shall be treated as if it has been made in the immediately preceding Distribution Calendar Year.

(4) **"Required Beginning Date"** means the later of the first day of April of the calendar year following the calendar year in which the Participant

~~(1)(A) attains the applicable age 72 or such other date as may be permitted by the federal Internal Revenue Code Section 401(a)(9)(C)(v) or~~

~~(2)(B) retires.~~

## 590:40-7-39. Death after December 31, 2021 [AMENDED]

Notwithstanding any contrary provisions, effective for Participant deaths after December 31, 2021, the following distribution provisions shall take effect; provided, however, that such provisions shall be subject to any regulations or other guidance issued under the SECURE Act:

(1) If the Participant dies before the distribution of ~~his or her~~ their entire account (regardless of whether any distributions had begun before the Participant's death) and the Participant has a designated Beneficiary:

(A) The entire Account shall be distributed to the designated Beneficiary by December 31 of the calendar year containing the tenth anniversary of the Participant's death.

(B) Notwithstanding paragraph (1)(A), if the designated Beneficiary is an eligible designated Beneficiary, then the eligible designated Beneficiary may elect for the Participant's Account(s) to be distributed:

(i) by December 31 of the calendar year containing the tenth (10th) anniversary of the Participant's death, or



(ii) beginning no later than December 31 of the calendar year immediately following the calendar year in which the Participant died, over the life of the eligible designated Beneficiary or over a period not exceeding the life expectancy of the eligible designated Beneficiary. If the eligible designated Beneficiary is the surviving spouse, payment under item (ii) is not required until the later of December 31 of the calendar year immediately following the calendar year in which the Participant died or December 31 of the calendar year in which the Participant would have attained the applicable age seventy and one-half (70 1/2) (age seventy-two (72) with respect to a Participant who would have attained age seventy and one-half (70 1/2) after December 31, 2019) as permitted by the federal Internal Revenue Code Section 401(a)(9)(C)(v). If the eligible designated Beneficiary does not elect a method of distribution as provided above, the Participant's Account(s) shall be distributed in accordance with item (ii).

(C) Upon either

- (i) the death of an eligible designated Beneficiary before distribution of the Participant's entire account or
- (ii) the attainment of the age of majority for an eligible designated Beneficiary who is a minor child under (4)(B) of this section ~~subsection (4), paragraph (B)~~ shall no longer apply, and the remainder of the account shall be distributed under paragraph (1)(A) of this section.

(2) If the Participant dies before distributions of his or her Account begins and the Participant has no designated Beneficiary, the Participant's Account under the Plan shall be distributed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death. If the Participant dies after distribution of ~~his or her~~ their Account begins and the Participant has no designated Beneficiary, any remaining portion of the Account shall continue to be distributed at least as rapidly as under the method of distribution in effect at the time of the Participant's death.

(3) Any distribution required under the incidental death benefit requirements of Code Section 401(a) shall be treated as distributions required under this section 590:35-13-13.

(4) For purposes of this section, "Eligible Designated Beneficiary" means a designated Beneficiary who, as of the date of the death of the Participant, is:

- (A) the surviving spouse of the Participant;
  - (B) a child of the Participant who has not reached the age of majority;
  - (C) disabled within the meaning of Code Section 72(m)(7);
  - (D) chronically ill within the meaning of Code Section 7702B(c)(2) (except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature); or
  - (E) any other individual who is not more than ten (10) years younger than the Participant.
- Notwithstanding the preceding, a child described in (4)(B) ~~above of this section~~ shall cease to be an eligible designated Beneficiary as of the date ~~he or she reaches~~ they reach the age of majority.

### SUBCHAPTER 9. DEFINED CONTRIBUTION 457(B) PLAN

#### PART 1. ELECTION TO DEFER

##### 590:40-9-3. Over Age 50 Catch-up Limits [AMENDED]

(a) In addition to the maximum limits under 590:40-9-1, the Plan provides for a special catch-up for all ~~employees~~ Participants who have attained age 50 before the close of the plan year. Such additional contributions shall be in accordance with, and subject to the limitations of Section 414(v) of the Code. Effective January 1, 2025, the adjusted dollar amount under Section 414(v)(2)(E) of the Code shall apply to Participants who will attain age 60 but will not attain age 64 by the end of the calendar year. The applicable dollar amount and the adjusted dollar amount under this paragraph (a) shall be increased by cost-of-living to the extent provided under Section 414(v) of the Code for such calendar year. Such catch-up contributions shall not ~~be taken into account~~ considered for purposes of the provisions of the plan implementing the required limitations of Section 457 of the Code. This catch-up may not be used in the same years the employee is using the election under 590:40-9-2.

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(b) Effective January 1, 2026, or such later effective date determined by the Secretary of the Treasury through guidance, with respect to a Participant whose wages within the meaning of Section 3121(a) of the Code from the Employer for the preceding calendar year exceed the limitation under Section 414(v)(7)(A) of the Code, paragraph (a) shall apply only if the Participant elects, or is deemed to have elected, the additional amount of Elective Deferrals to be made as Roth Elective Deferrals. The wage limitation under this paragraph (b) shall be increased by cost-of-living to the extent provided under Section 414(v) of the Code for such calendar year.

## PART 7. BENEFITS

### **590:40-9-38. Rollover contributions to the plan Rollovers and In-Plan Roth Conversions [AMENDED]**

(a) **Eligible Rollover Contributions.** A Participant or Employee who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan as eligible rollover contributions, unless the distributing eligible retirement plan account includes funds previously transferred or rolled-over which require tax accounting or distribution rules that are different from those contained in this Plan.

(b) **Roth Rollover Contribution.** Notwithstanding any other provisions in the Plan to the contrary, effective June 1, 2023, the Plan shall accept Roth Rollover Contributions from a Roth account under an applicable retirement plan in accordance with Code Section 402A(e)(1) only if it is a direct rollover and only to the extent the rollover is permitted under the rules of Code Section 402(c).

(c) **Separate Accounts.** The Plan shall establish and maintain for the Participant separate accounts for any:

- (1) Eligible rollover contributions or Roth Rollover Contributions paid to the Plan;
- (2) Eligible Roth rollover contributions paid to the Plan from any eligible retirement plan including an eligible governmental plan under Code Section 457(b); and
- (3) Eligible rollover contributions paid to the Plan from an eligible governmental plan under Code Section 457(b).

(d) **In-Plan Roth Conversions.** The following transfers are permitted under the Plan. Any such transfer shall be treated as a qualified rollover contribution, within the meaning of Section 408A(e) of the Code, to such Account.

- (1) Any amount held in a Pre-Tax Elective Deferral Subaccount is eligible for direct transfer to a Roth Elective Deferral Subaccount even if not otherwise distributable.
- (2) Any amount held in a subaccount of the Participant's Transfer Contribution Account holding pre-tax Transfer Contributions or after-tax Transfer Contributions is eligible for direct transfer to a subaccount of the Participant's Transfer Contribution Account holding Roth Transfer Contributions and earnings even if not otherwise distributable.
- (3) Any amount held in a subaccount of the Participant's Rollover Contribution Account holding pre-tax Rollover Contributions and earnings is eligible for direct transfer to a subaccount of the Participant's Rollover Contribution Account holding Roth Rollover Contributions and earnings.

(e) **Administrative Procedures.** A Participant's election under paragraph (d) of this section shall be subject to the reasonable administrative procedures established by the Board, Section 402A(c)(4) of the Code and the regulations thereunder, and subsequent guidance from the Internal Revenue Service.

(f) **Taxable Amounts.** The taxable portion of the Participant's Accounts transferred to a Roth Contribution Account or to a subaccount of the Participant's Roth Rollover Contribution Account holding Roth Rollover Contributions and earnings under paragraph (d) of this section shall be included in the Participant's gross income in the tax year in which the transfer occurs.

### **590:40-9-44. Death after December 31, 2021 [AMENDED]**

Notwithstanding any contrary provisions, effective for Participant deaths after December 31, 2021, the following distribution provisions shall take effect; provided, however, that such provisions shall be subject to any regulations or other guidance issued under the SECURE Act:

- (1) If the Participant dies before the distribution of ~~his or her~~ their entire account, (regardless of whether any distributions had begun before the Participant's death,) and the Participant has a designated Beneficiary:
  - (A) The entire Account shall be distributed to the designated Beneficiary by December 31 of the calendar year containing the tenth (10th) anniversary of the Participant's death.

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(B) Notwithstanding paragraph (1)(A) of this section, if the designated Beneficiary is an eligible designated Beneficiary, then the eligible designated Beneficiary may elect for the Participant's Account(s) to be distributed:

- (i) by December 31 of the calendar year containing the tenth (10th) anniversary of the Participant's death, or
- (ii) beginning no later than December 31 of the calendar year immediately following the calendar year in which the Participant died, over the life of the eligible designated Beneficiary or over a period not exceeding the life expectancy of the eligible designated Beneficiary. If the eligible designated Beneficiary is the surviving spouse, payment under this item (ii) is not required until the later of December 31 of the calendar year immediately following the calendar year in which the Participant died or December 31 of the calendar year in which the Participant would have attained the applicable age seventy and one-half (70 1/2) (age seventy-two (72) with respect to a Participant who would have attained age seventy and one-half (70 1/2) after December 31, 2019) as permitted by the federal Internal Revenue Code Section 401(a)(9)(C)(v). If the eligible designated Beneficiary does not elect a method of distribution as provided above, the Participant's Account(s) shall be distributed in accordance with item (ii).

(C) Upon either:

- (i) the death of an eligible designated Beneficiary before distribution of the Participant's entire account or
- (ii) the attainment of the age of majority for an eligible designated Beneficiary who is a minor child under subparagraph (4)(B) subsection (4), paragraph (B) of this section shall no longer apply, and the remainder of the account shall be distributed under paragraph (1)(A) of this section.

(2) If the Participant dies before distributions of ~~his or her~~ their Account begins and the Participant has no designated Beneficiary, the Participant's Account under the Plan shall be distributed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death. If the Participant dies after distribution of ~~his or her~~ their Account begins and the Participant has no designated Beneficiary, any remaining portion of the Account shall continue to be distributed at least as rapidly as under the method of distribution in effect at the time of the Participant's death.

(3) Any distribution required under the incidental death benefit requirements of Code Section 401(a) shall be treated as distributions required under ~~this~~ section 590:35-13-13.

(4) For purposes of this section, "Eligible Designated Beneficiary" means a designated Beneficiary who, as of the date of the death of the Participant, is:

- (A) the surviving spouse of the Participant;
  - (B) a child of the Participant who has not reached the age of majority;
  - (C) disabled within the meaning of Code Section 72(m)(7);
  - (D) chronically ill within the meaning of Code Section 7702B(c)(2) (except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature); or
  - (E) any other individual who is not more than ten (10) years younger than the Participant.
- Notwithstanding the preceding, a child described in paragraph (4)(B) above of this section shall cease to be an eligible designated Beneficiary as of the date ~~he or she reaches~~ they reach the age of majority.

### SUBCHAPTER 11. QUALIFIED DOMESTIC RELATIONS ORDERS - APPLICABLE TO THE 401(A) PLAN AND THE 457(B) PLAN

#### 590:40-11-7. Death of Participant or alternate payee [AMENDED]

(a) **Death of Participant.** If the Participant predeceases the alternate payee, the Participant's death shall not affect the alternate payee's right to the portion of benefits as set forth in the order.

(b) **Death of alternate payee.** In the event of the alternate payee's death ~~prior to receiving the full amount of benefits assigned under the order and under the benefit option chosen by the alternate payee,~~ the alternate payee's beneficiaries, as designated on the appropriate form, shall receive the remainder of any unpaid benefits under the terms of the order. In the absence of a beneficiary designation, the unpaid benefits shall be paid the alternate payee's estate. If no administrator, executor, personal representative, or other fiduciary of the estate of the alternate payee has been appointed by a Court

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within one hundred twenty (120) days after death, If there is no estate, the distribution of benefits may be made paid to the first of the following:

- (1) surviving spouse;
- (2) surviving children in equal shares;
- (3) surviving ~~parents~~grandchildren in equal shares;
- (4) surviving ~~siblings~~parents in equal shares;;
- (5) surviving siblings in equal shares.

*[OAR Docket #25-428; filed 5-30-25]*

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## TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 1. GENERAL RULES OF THE DEPARTMENT OF PUBLIC SAFETY

*[OAR Docket #25-470]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 5. Petition to Promulgate, Amend or Repeal a Rule

595:1-5-2. Petition [AMENDED]

595:1-5-3. Decision of Department of Public Safety [AMENDED]

### **AUTHORITY:**

Commissioner of Public Safety; 47 O.S. § 2-108

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

October 20, 2024

### **COMMENT PERIOD:**

November 15, 2024 through December 16, 2024

### **PUBLIC HEARING:**

December 17, 2024

### **ADOPTION:**

January 30, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 30, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1034

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

July 11, 2025

### **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 bring the Department's administrative rules into alignment with Oklahoma Statute.

**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 JULY 11, 2025:**

## **SUBCHAPTER 5. PETITION TO PROMULGATE, AMEND OR REPEAL A RULE**

**595:1-5-2. Petition [AMENDED]**

The petition for rulemaking may be directed to the Department of Public Safety, Administrative Rules Liaison, P.O. Box 1141553004, Oklahoma City, OK 73136-041573152-9998. Petitions shall be in writing and state:

- (1) The name, address and telephone number of the petitioner;
- (2) The full text of the rule requested to be promulgated, amended or repealed;
- (3) A paragraph stating the reason for the promulgation, amendment or repeal of the rule;
- (4) Citations to any statute that the rule interprets; any related statutes or related rules, and any other legal authorities which authorize, support or require the requested action;
- (5) Supporting documents including legal memoranda or affidavits.

**595:1-5-3. Decision of Department of Public Safety [AMENDED]**

~~Within thirty (30) days of the receipt of a petition, the Department may either initiate rulemaking proceedings in accordance with the Oklahoma Administrative Procedures Act or the petition may be deemed denied. Petitioner may be notified in writing or by telephone as to the decision of the Department of Public Safety. The Department will respond to requests for review, promulgation, adoption, or repeal of a rule or rules in accordance with 75 O.S. § 250.10 or 75 O.S. § 305, as applicable.~~

*[OAR Docket #25-470; filed 6-4-25]*

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## **TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 25. WRECKERS AND TOWING SERVICES**

*[OAR Docket #25-471]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions

595:25-1-1. Purpose [AMENDED]

595:25-1-2. Definitions [AMENDED]

595:25-1-3. General policies [REVOKED]

595:25-1-4. Individual proceedings [NEW]

595:25-1-5. Petition for rulemaking [NEW]

595:25-1-6. ~~Wrecker Services Division management system~~ Departmental wrecker services information management systems [NEW]

595:25-1-7. Release of information from Departmental Records [NEW]

Subchapter 3. Wrecker License

595:25-3-1. General requirements [REVOKED]

595:25-3-2. Applications [REVOKED]

595:25-3-3. Renewal [REVOKED]

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- 595:25-3-4. Trade name [REVOKED]
- 595:25-3-5. Licenses required [NEW]
- 595:25-3-6. Wrecker services license [NEW]
- 595:25-3-7. Original wrecker service application [NEW]
- 595:25-3-8. Renewal application [NEW]
- 595:25-3-9. Wrecker vehicle operator license - scope and effect [NEW]
- 595:25-3-10. Minimum qualifications for wrecker vehicle operators [NEW]
- 595:25-3-11. Drug testing [NEW]
- 595:25-3-12. Wrecker ~~Vehicle License~~ vehicle license [NEW]
- Subchapter 5. All Wrecker Operators
- 595:25-5-1. Physical requirements for storage facility [REVOKED]
- 595:25-5-2. Equipment requirements for all classes of wrecker vehicles [REVOKED]
- 595:25-5-3. Operation [REVOKED]
- 595:25-5-4. Insurance [REVOKED]
- 595:25-5-5. Records [REVOKED]
- 595:25-5-7. Tow request and authorization forms [REVOKED]
- 595:25-5-8. Conflicts of interest [REVOKED]
- 595:25-5-9. Inspections [REVOKED]
- 595:25-5-10. General requirements [NEW]
- 595:25-5-11. General prohibitions [NEW]
- 595:25-5-12. Traffic Incident Management [RESERVED]
- 595:25-5-13. Towing vehicles from private property [NEW]
- 595:25-5-14. Place of business [NEW]
- 595:25-5-15. Storage facility requirements - general [NEW]
- 595:25-5-16. Outdoor storage facility requirements [NEW]
- 595:25-5-17. Exception from storage facility requirements [NEW]
- 595:25-5-18. Indoor storage facility requirements [NEW]
- 595:25-5-19. Personal property [NEW]
- 595:25-5-20. Exceptions to vehicle release rules [NEW]
- 595:25-5-21. Release of stored vehicles [NEW]
- 595:25-5-22. Release of stored vehicle to another licensed wrecker service [NEW]
- 595:25-5-23. Insurance requirements [NEW]
- Subchapter 7. Class AA Operators [REVOKED]
- 595:25-7-2. Release and holding of vehicle [REVOKED]
- Subchapter 9. Oklahoma Highway Patrol ~~Rotation Log - Additional Requirements~~ Wrecker Rotation [AMENDED]
- 595:25-9-1. Oklahoma Highway Patrol Rotation Log [REVOKED]
- 595:25-9-2. Operator requirements [REVOKED]
- 595:25-9-3. Rotation calls for truck wreckers (Class AA-TL) [REVOKED]
- 595:25-9-4. Oklahoma Highway Patrol wrecker rotation - general [NEW]
- 595:25-9-5. Oklahoma Highway Patrol wrecker rotation - placement and removal [NEW]
- 595:25-9-6. Oklahoma Highway Patrol wrecker rotation - process [NEW]
- 595:25-9-7. Oklahoma Highway Patrol wrecker rotation - special situations [NEW]
- 595:25-9-8. Oklahoma Highway Patrol wrecker rotation - minimum response requirements [NEW]
- 595:25-9-9. Oklahoma Highway Patrol wrecker rotation - geographic boundaires [NEW]
- Subchapter 11. Denial, Suspension, Revocation or Cancellation of License; Denial or Removal of Class AA Operators from Rotation Log of the Oklahoma Highway Patrol [REVOKED]
- 595:25-11-1. Failure to qualify [REVOKED]
- 595:25-11-2. Violation of rules [REVOKED]
- 595:25-11-3. Procedure [REVOKED]
- Subchapter 13. Training and Education [NEW]
- 595:25-13-1. Continuing education requirements [NEW]
- 595:25-13-2. Approved training [NEW]
- Subchapter 15. WRECKER VEHICLES [NEW]
- 595:25-15-1. Classes of wrecker vehicles [NEW]
- 595:25-15-2. Licensed wrecker vehicle requirements [NEW]
- Subchapter 17. Administration [NEW]

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595:25-17-1. Required records [NEW]

595:25-17-2. Initial business, wrecker vehicle, and storage facility inspections [NEW]

595:25-17-3. Supplemental wrecker vehicle and storage facility inspections [NEW]

595:25-17-4. Transfer of ownership [NEW]

595:25-17-5. Administrative action by the Department [NEW]

**AUTHORITY:**

Commissioner of Public Safety; 47 O.S. § 952

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

October 20, 2024

**COMMENT PERIOD:**

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**PUBLIC HEARING:**

December 17, 2024

**ADOPTION:**

January 29, 2025

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 30, 2025

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1034

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

July 11, 2025

**SUPERSEDED EMERGENCY ACTIONS:**

**SUPERSEDED RULES:**

N/A

**GUBERNATORIAL APPROVAL:**

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**REGISTER PUBLICATION:**

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**INCORPORATED STANDARDS:**

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**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed amendments further clarify the licensing requirements for wrecker and towing companies; make clear the requirement for wrecker and towing company operations and services provided by those companies; revoking rules that are considered outdated or duplicative and updates the requirements for a wrecker or tow company to remain on 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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

# Permanent Final Adoptions

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## 595:25-1-1. Purpose [AMENDED]

The purpose of the Wrecker and Towing Services rules is to establish procedures for the licensing, supervision, administration and control of wrecker vehicles and wrecking and towing services. It is the public policy of the State of Oklahoma, as expressed through 47 O.S. § 951, et. seq. for the Department of Public Safety to regulate the providers of wrecker services to promote the safety of the traveling public, the protection of private property, and the safety of first responders and wrecker operators. The rules in this Chapter are intended to implement the public policy of the State as expressed by the Legislature and to carry out the authority of the Department to regulate the wrecker service industry, except for the determination of lawful maximum fees set by the Oklahoma Corporation Commission.

## 595:25-1-2. Definitions [AMENDED]

~~Any reference to "this Act" means 47 O.S. § 951 et seq. unless otherwise specified.~~ The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Alternate primary storage facility" means an outdoor or indoor storage facility for the sole purpose of storing vehicles towed in accordance with a contract with a municipal or county government.

"Approved wrecker vehicle" means a wrecker vehicle meeting the equipment requirements for the applicable class of vehicle that has been inspected and approved by the Department, and a Cab Card issued, for use in the provision of wrecker services under these rules.

"Authorized Wrecker Vehicle Operator" means an individual who, by training, experience, or both, meets the knowledge requirements of these rules to operate an approved wrecker vehicle on behalf of a licensed wrecker service and meets the minimum standards of conduct as set forth in these rules.

"Cab card" means the record of the Department's approval for use of an authorized wrecker vehicle.

"Call" means each request for service of an operator resulting in an operator being able to receive compensation for these services.

"Casualty" means a vehicle towed from the scene of a traffic incident or as a result of a private property impound.

"Commissioners Designee" means the authorized individual such as a director or administrative officer of the division individuals authorized to take official action on behalf of the Department to administer the rules of this Chapter, and the provisions of the Oklahoma Statutes pertaining to wrecker services.

"Class AA wrecker operator" or "AA truck wrecker operator" means any wrecker operator who also meets all the requirements of 47 O.S. § 952(D) for towing for law enforcement agencies. Class AA may also be used for private property towing and consent towing. Class AA must have the ability to tow, recover and haul.

"Class AA Wrecker Support Vehicle" or "Support Vehicle" means a general class wrecker capable of assisting and supporting the towing and recovery at the scene of an incident.

"Commission" means the Oklahoma Corporation Commission.

"Commissioner" means the Commissioner of Public Safety, as defined by 47 O.S. § 1-109 and as described in 47 O.S. § 2-102.

"Corrective action plan" means a document issued to a licensed wrecker service providing actionable steps to come into compliance with these rules. The corrective action plan will, at a minimum, contain a notation of the rule(s) violated, the specific actionable steps to return to conformity with the rules, and a deadline by which the licensed wrecker service must complete the corrective action plan.

"Department" means the Department of Public Safety.

"DPS number" means a permanent number assigned to a wrecker operator, by the Department which is personal and unique to the wrecker service.

"Driver card" means the record of the Department's authorization of an individual to operate an approved wrecker vehicle on behalf of a licensed wrecker service.

"GVWR" means gross vehicle weight rating.

"IM categories" means the severity of the incident.

(A) Minor incident is any incident which can be mitigated within thirty (30) minutes or less with limited traffic interference;

(B) Intermediate incident is any incident in which mitigation is thirty (30) to sixty (60) minutes in length and one or more vehicle lanes of travel are affected; and

(C) Major incident is any incident in which mitigation is greater than sixty (60) minutes in length and one or more lanes of travel are affected and the potential for special equipment may be needed and utilized for IM.

"Incident Management (IM)" means any on or off roadway incident in which traffic flow is significantly reduced, delayed or stopped as a result of vehicle collisions, cargo/content spills, visibility/weather conditions, or any other hazards associated with severe reductions of vehicular speed and movement within a traffic lane or lanes.



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**"Inspection Officer"** means the individual that has been trained and certified by the Department to inspect wrecker vehicles and wrecker facilities.

**"Junk vehicle"** means a vehicle which is ten (10) years old or older and worth less than three hundred dollars (\$300.00) [42 O.S. §91].

**"Law enforcement tow"** means a tow of a vehicle made by an operator when a law enforcement officer compels a vehicle be towed or makes a request for a tow using a law enforcement rotation log and to which the rates and fees as prescribed by the Corporation Commission shall apply.

**"Licensed wrecker service"** means the legal entity, whether a person, partnership, or corporation, functioning as an operator as defined by 47 O.S. § 951(11), to whom a license is issued by the Department for the lawful operation of a wrecker service. A licensed wrecker service may be designated Class AA or Class G, depending on the largest sized vehicles the licensed wrecker service is authorized to tow.

**"Nonconsensual tow"** means *the transportation of a vehicle without the consent or knowledge of the vehicle's owner, possessor, agent, insurer, lien holder, or any other person in possession of or in charge of any vehicle and includes the transportation or towing of the vehicle under lawful circumstances or necessity for the public interest including removing from the roadway for public safety or public convenience, or accidents, by any law enforcement officer or property agent or removal from public or private property as a result of abandonment or unauthorized parking by the property owner, agent, possessor, or other legal entity for the property owner.* [47 O.S. § 951(10)] the towing of a vehicle as defined by 47 O.S. § 951(10).

**"Officer"** means any peace officer.

**"Oklahoma Highway Patrol wrecker rotation"** means a voluntary rotation(s) of licensed wrecker services meeting the requirements of these rules to provide nonconsensual towing services on behalf of the Oklahoma Highway Patrol.

**"Operator"** means any person or legal entity owning or operating a licensed wrecker vehicle or a licensed wrecker or towing service and any employee thereof.

**"Owner request tow"** means a tow of a vehicle made by an operator at the request of the owner, or authorized agent of the owner regardless whether the tow is compelled or required by a law enforcement officer.

**"Place of business"** means an approved location of a licensed wrecker service as reflected in the records of the Department.

**"Principal Place of business" or "Business location"** means a permanent structure, not mounted on wheels, occupied by the wrecker operator at the physical address of the wrecker service, as shown on the wrecker license, with a publicly listed telephone number and functioning utilities including but not limited to electricity and water, where normal business is transacted and all wrecker records are maintained. Effective January 1, 2005, the place of business shall be located in Oklahoma. The principal business full address, including county, must be verified by documentation, such as company letterhead, business card, tax documents, or other official business documents. The facility must be capable and large enough to conduct business, storage of records and all transactions of business. Any additional location or locations within twenty-five (25) miles of the principal place of business will be considered an extension location and will not be made to meet the requirements of the primary/principal business office but shall meet all storage requirements. All business transactions including, but not limited to, invoicing, ticketing, receipting, releasing, and collecting payment, will be conducted at the location in which the vehicle is stored.

**"Private Property Tow"** means a tow of a vehicle which is made from private property by an operator at the request of the owner, legal possessor, or authorized agent in control of the real property, which shall be towed under the provisions of 47 O.S. § 954A and to which the rates and fees as prescribed by the Corporation Commissioner shall apply.

**"Renewal period"** means the period in which licensed wrecker services are required to submit renewal application packets for the following calendar year.

**"Rotation log"** means a list for each Highway Patrol Troop of the Department of current Class AA wrecker operators, meeting the qualifications of Class AA truck wrecker services, whose place of business are within the geographical boundaries of the Troop and who have requested and been approved by the Department to be on the list. This list governs the alternation among approved Class AA-TL truck wrecker operators only.

**"Tow/Towing"** means the use of a wrecker vehicle to lift, pull, move, haul or otherwise transport any other vehicle by means of: (a) attaching the vehicle to and pulling the vehicle with the wrecker vehicle, or (b) loading the vehicle onto and transporting the vehicle upon the wrecker vehicle". [47 O.S. § 951(3)]

**"Traffic tie-up"** means any situation in which any officer deems it necessary to control the orderly flow of traffic.

**"Traffic incident"** means any circumstance in which a law enforcement officer deems it necessary to have a vehicle(s) towed to maintain orderly flow of traffic. This also includes the order of a law enforcement officer to impound a vehicle.

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**"Truck wreckers"** means every motor vehicle properly designed and equipped according to Department of Public Safety specifications with wrecker body and winch or lifting apparatus suitably designed to safely move, pull or tow wrecked, damaged or disabled trucks, truck-tractors, road tractors, trailers, semi-trailers, buses and/or other vehicles and conveyances that use the highways of the state of Oklahoma. The designation as a truck wrecker shall be used for Class AA-TL wrecker vehicles only.

**"Truck wrecker rotation log"** means a list for each Highway Patrol Troop of the Department of current Class AA wrecker operators, meeting the qualifications of Class AA truck wrecker services, whose places of business are within the geographical boundaries of the Troop and who have requested and been approved by the Department to be on the list. This list governs the alternation among approved Class AA-TL truck wrecker operators only.

**"Wrecker dolly"** means a wheeled device which is used to support one end of a motor vehicle for towing.

**"Wrecker service license"** means the wrecker license issued by the Department as provided by 47 O.S. § 951, et seq.

**"Wrecker operator"** means any operator who is licensed under this chapter and the laws of this state and who meets all requirements of the rules of this Chapter, pertaining to wrecker vehicles as defined in this Chapter. **"Wrecker or towing service", "wrecker service", or "towing service"** means engaging in the business of or performing the act of towing or offering to tow any vehicle, except: (a) where the operator owns the towed vehicle and displays on both sides of the wrecker vehicle in plainly visible letters not less than two (2) inches in height the words "NOT FOR HIRE", (b) where the service is performed by a transporter as defined in [47 O.S.] section 1-181 of this title, (c) where service is performed in conjunction with the transportation of household goods and property, (d) where the wrecker vehicle is owned or operated by the United States government, the State of Oklahoma, or any department or political subdivision thereof, or (e) where the service is performed by an out-of-state wrecker service at the request of the vehicle owner or operator, and the vehicle is being towed: (1) in either direction across the border between Oklahoma and a neighboring state, or (2) through Oklahoma in transit to another state; provided, the out-of-state wrecker service shall comply with all other requirements regarding interstate commerce as set forth in law. [47 O.S. § 951(6)]

**"Wrecker Services"** means the provision of services related to the recovery, towing, storage, and release of towed vehicles to appropriate parties by an individual or corporate entity in accordance with these rules and includes the reasonable and necessary tasks incident thereto.

**"Wrecker" or "wrecker vehicle"**, as defined by 47 O.S. § 951, et. seq., means any vehicle, other than a transport as defined in 47 O.S. § 1-181, equipped with a winch, cable or other device designed to lift, pull or move a disabled vehicle incapable of self-propulsion. (Does not include a vehicle with a push bumper only.)

(A) Class AA - Any wrecker vehicle not less than nine thousand pounds (9,000 lbs.) GVWR and meeting minimum requirements as established for Class AA wreckers in this Chapter.

(B) Class AA-FM - Any wrecker vehicle not less than twenty-four thousand pounds (24,000 lbs.) GVWR and meeting minimum requirements as established for Class AA-FM Wreckers in this Chapter.

(C) Class AA-TL - Any wrecker vehicle not less than forty-four thousand pounds (44,000 lbs.) GVWR and meeting minimum requirements as established for Class AA-TL Wreckers in this Chapter.

(D) Class G (General) - All other wrecker vehicles as defined by 47 O.S. § 951, et. seq., provided a Class G wrecker shall also be considered a wrecker support vehicle for the purposes of 47 O.S. § 12-218.1. If a Class G wrecker service provides storage, it must meet the same facilities, storage, and insurance as a Class AA wrecker service. If the Class G wrecker service does not provide storage, it will not be required to meet the facilities, storage and insurance requirements as a Class AA wrecker service. Class G wreckers services must meet the Class G vehicle requirements and must have a verified primary business location.

## 595:25-1-3. General policies [REVOKED]

(a) All operators of wrecker or towing services shall conduct operations in accordance with all applicable laws of the State of Oklahoma and all applicable rules of the Department of Public Safety and rules and orders of the Corporation Commission.

(b) Each operator shall be knowledgeable of the laws of this state, as found in 47 O.S. § 951 et. seq., and the rules of this Chapter and the rules and orders of the Corporation Commission relating to wrecker and towing services and wrecker vehicles. Each operator shall maintain at least one (1) copy of said laws and rules on the premises of the place of business at the address specified on the license and shall require every employee to be knowledgeable of the laws and rules.

(c) All rules in this Chapter are subject to the Administrative Procedures Act 75 O.S. § 309, et. seq., and to 47 O.S. § 951 et. seq., which shall be incorporated herein by reference, as applicable to the Department and all parties governed by this Chapter.

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(d) The Department shall be charged with the duty of enforcing the provisions of 47 O.S. §951 et seq. except for rates and fees charged by wrecker services, which shall be under the authority of the Corporation Commission. The duly appointed officers of the Department shall have authority to make arrests for violation of law and the provisions of the rules of this Chapter.

(e) Any Oklahoma statute now existent or duly enacted in the future shall supersede any conflicting provision of the rules of this Chapter to the extent of such conflict, but shall not affect the remaining provisions herein.

(f) Any violation of the rules of this Chapter may result in license suspension, revocation and/or penalty provisions in accordance with 47 O.S. § 951, et. seq.

(g) Every operator shall cooperate with the Department should it become necessary to review, audit, examine, or investigate any records relating to the operation of the wrecker service. Any operator who fails to cooperate with any review, audit, investigation shall be subject to suspension, revocation or cancellation of his or her wrecker license in accordance with 47 O.S. § 951, et. seq.

(h) All wrecker operators must be able to communicate and understand the information related to the tow of a vehicle.

## **595:25-1-4. Individual proceedings [NEW]**

Individual proceedings are governed by 595 O.A.C. §1-3-3. When the applicant, operator, or other interested party is organized as a corporation, a limited liability company, or a partnership, it must be represented by an attorney through all stages of the proceeding. See *Massongill v. McDevitt*, 1989 OK CIV APP 82, *Allen v. City of Chickasha*, 2009 OK CIV APP 52, Cf. *Rowland v. Calif. Men's Colony*, 506 U.S. 194, 202-203 (1993).

## **595:25-1-5. Petition for rulemaking [NEW]**

Requests to promulgate, amend, or repeal a rule are governed by Subchapter 5 of Chapter 1 of Title 595 of the Oklahoma Administrative Code.

## **595:25-1-6. Wrecker Services Division management system Departmental wrecker services information management systems [NEW]**

Licensed wrecker services shall report information as required by the Department in the form and format designated by the Department, including but not limited to:

- (1) The original or renewal application,
- (2) Storage reports required by 47 O.S. §4-105(c),
- (3) Change of ownership information,
- (4) Wrecker operator information required by these rules,
- (5) Wrecker vehicle information required by these rules,
- (6) Proof of insurance as required by these rules,
- (7) Tow request and authorization forms,
- (8) Requests for placement on an OHP Wrecker Rotation,
- (9) Requests for temporary or permanent removal from any OHP Wrecker Rotation,
- (10) Completed Corrective Action Plans.

## **595:25-1-7. Release of information from Departmental Records [NEW]**

(a) In addition to the release of information pursuant to the Oklahoma Open Records Act or a properly issued subpoena, the Department will release information related to the following upon request directly to the administrative staff assigned wrecker services duties:

- (1) Information requested by the operator of a Licensed Wrecker Service about its own company.
- (2) Contact information for a Licensed Wrecker Service.
- (3) Insurance contact information for a Licensed Wrecker Service.
- (4) Information regarding complaints requested by the complainant or the applicable licensed wrecker service.

(b) All other requests for information must be submitted and processed through the Department's Open Records Request procedures.

## **SUBCHAPTER 3. WRECKER LICENSE**

### **595:25-3-1. General requirements [REVOKED]**

The following are the requirements for obtaining an original or renewal of a wrecker license:

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(1) **License required.** No 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.** 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.** 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 proof of insurance reflecting the minimum coverages for applicable wrecker vehicles are on file with the Department;

(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

(C) Each wrecker driver 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.

(5) **Wrecker vehicle cab card.** A copy of the wrecker vehicle cab card issued by the Department shall be carried at all times in the applicable wrecker vehicle.

(6) **Disposition of wrecker vehicles.** 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.

(7) **Wrecker vehicles.** No wrecker vehicle shall be used to provide wrecker services until:

(A) The wrecker vehicle is registered in accordance with the rules of Service Oklahoma, in the name of the operator or the name of the wrecker service, and 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) The Department is provided the make, model, GVW, and serial number of the vehicle. This information may be provided through the proof of insurance.

(C) The Department is provided the proof of insurance indicating the vehicle has been added to the wrecker service's insurance coverage.

(D) The wrecker vehicle is inspected and approved by an employee of the Department.

(8) **License number and business name.**

(A) The wrecker service license number issued by the Department for the operation of a wrecker or towing service, along with the name of the wrecker service, shall be conspicuously displayed and vertically centered on each side of every wrecker vehicle used by the wrecker service. All wrecker services will display AA or G designation at the end of the wrecker service license number. Example: DPS 12345W AA or DPS 12345WG.

(B) On each wrecker vehicle in use, the wrecker service license number and business name shall be at least three inches (3") in height. The font shall not be highly decorative or difficult to read. The lettering shall be in a color that will contrast with the color of the wrecker vehicle in order to be readily noticed and legible.

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(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.

(9) **Service of notice.** Any notice required by law or by these rules shall be served by first class, prepaid U.S. mail to the last known address as reflected by the records of the Department. It is the duty of every 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.

**(10) License prohibited:**

(A) No person under eighteen (18) years of age shall be licensed or employed as a wrecker driver.

(B) No person shall be licensed as an operator or 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; or

(ii) any provision of Title 21 O.S. § 1029 while providing wrecker services; or

(C) No person shall be licensed as an operator or wrecker driver, or be employed by a 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 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.

(11) **One Class AA license per place of business.** An operator shall be issued no more than one Class AA wrecker license for any one place of business.

(12) **One Class AA wrecker service on Oklahoma Highway Patrol's rotation log in same rotation area.** A licensed wrecker service shall be permitted no more than one position on an Oklahoma Highway Patrol rotation log in a designated rotation area. For 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.

(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 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.

(14) **Business sign.** Each 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 signs required by this paragraph shall be at least two feet (2') by four feet (4') with letters at least 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.

(15) **Wrecker drivers.** Wrecker services shall notify the Wrecker Services Division within ten (10) calendar days of hiring or 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 wrecker driver. Notification shall be made by email to wrecker@dps.ok.gov.

## 595:25-3-2. Applications [REVOKED]

(a) Every 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)

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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 wrecker service a permanent identification number for all matters relating to the licensed wrecker service.

(c) The filing of an application for a license does not authorize wrecker service operations by the applicant. 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) 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.

(e) The Department may deny the original application, or renewal application, of a wrecker service should it appear, by a preponderance of the evidence, the identity of the business is substantially the same as one currently under revocation or suspension by the Department.

## 595:25-3-3. Renewal [REVOKED]

(a) Title 47 O.S. §953, provides the wrecker license shall expire on the 31st day of December of each year. The renewal shall be truthfully and completely filled out.

(b) The operator shall complete and submit a renewal application with the renewal fee prescribed in 47 O.S. §953 in the form of cash, check (business, personal, or cashier), money order, or debit/credit card, to the Department between October 1 and December 1, each year. Checks and money orders should be made payable to the Department of Public Safety.

(c) Any wrecker service which fails to submit a renewal application on or before December 1 shall be considered cancelled and removed from the rotation log, if applicable, as of January 1 the following year. An application for an original or reinstatement license may be submitted, but not be effective until on or after February 1 with all procedures and fees to apply.

## 595:25-3-4. Trade name [REVOKED]

(a) Each operator shall use a unique trade name which shall be printed and appear on the license and shall be clearly distinguishable from the trade name of any other operator.

(b) Upon written request by the operator, the Department may change the trade name of a wrecker or towing service if there is no change in ownership. The identifying number shall be retained and no license fee shall be assessed.

(c) Any change in ownership due to sale, merger, dissolution, or any other reason, except as provided in subsection (d), shall reserve the wrecker service trade name for a period of ninety (90) days, during which time the successor or owner shall apply for a wrecker license using the same trade name or another trade name. However, the successor may not operate as a licensed wrecker service until the application has been accepted and approved by the Department.

(d) When the owner of a sole-proprietorship wrecker service dies, the wrecker license shall be considered cancelled by the Department effective upon the date of the death of the owner. Upon the death of the wrecker service owner, the wrecker service shall be immediately removed from Oklahoma Highway Patrol rotation. The heirs shall apply for a reinstatement of the wrecker service license using the same name and the same Department-assigned number; provided, the application shall be treated by the Department as a new application, and all procedures and fees shall apply.

## 595:25-3-5. Licenses required [NEW]

No 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 for the purpose of the actual towing of vehicles without first obtaining a Wrecker Service License, and accompanying Driver Card, as provided in this Chapter. All applicable wrecker services, as defined in this chapter, shall be provided in an approved wrecker vehicle as evidenced by a cab card issued by the Department. 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, in addition to any other sanction provided by

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law. Provided this restriction does not apply to an individual towing a vehicle owned by the individual or the individual's employer, or an individual meeting the definition of a transporter in 47 O.S. § 1-181.

## **595:25-3-6. Wrecker services license [NEW]**

The wrecker service license allows the holder to operate a wrecker and towing service in conformance with the class of license issued. A wrecker service license shall be issued only to a sole proprietor, a corporation, or some other legal entity. The license is non-transferable. The wrecker service license shall be displayed at the place of business. When all requirements are met, the Department will issue a separate wrecker service license for each place of business.

## **595:25-3-7. Original wrecker service application [NEW]**

(a) Every applicant for an original wrecker service license shall submit to the Department a completed application packet in a format prescribed by the Department. The applicant shall tender to the Department the application fee prescribed by 47 O.S. § 953(B). Checks and money orders shall be made payable to the Department of Public Safety. The application packet shall be denied upon the return of a dishonored check. The Department may deny the application should it appear, by a preponderance of the evidence, the identity of the business is substantially the same as one that is currently under suspension by the Department. Operation may commence only after all requirements have been met and the wrecker service license has been issued by the Department. The application packet shall consist of:

- (1) A completed application form;
- (2) Proof of Insurance of the types, and in the amounts prescribed by these rules.
- (3) A copy of the applicant's Certificate of Limited Liability Company, a Certificate of Authority, a Certificate of Limited Partnership, or a Certificate of Incorporation from the Secretary of State, or the equivalent documentation from the state in which the wrecker service was formed.
- (4) Evidence of compliance with the training requirements prescribed by these rules;
- (5) The applicant must provide a nationwide criminal history check, including sex offender registry check, dated not more than 60 days prior to the application date for every employee, partner, shareholder, or officer involved in the operation of the licensed wrecker service.

(b) Upon approval of the application packet, the applicant shall submit to the Department:

- (1) A completed Wrecker Vehicle inspection for at least one Wrecker Vehicle.
- (2) A copy of the registration certificate for all Wrecker Vehicles to be used by the wrecker service.

## **595:25-3-8. Renewal application [NEW]**

The renewal period for Wrecker Service Licenses begins on October 1 and ends on December 1, each year. A Wrecker Service License for which a renewal application packet is not submitted during this period will expire on January 1 of the following calendar year. Renewal applications processing received after the end of the renewal period, but on or before December 31, will commence in the order received, but only after review of timely renewal application packets are completed. For purposes of this rule, renewal application packets submitted by U.S. First Class Mail shall be considered received on the date of the postmark. Initial application packets approved by the Department during the renewal period shall be in effect until December 31 of the following calendar year.

## **595:25-3-9. Wrecker vehicle operator license - scope and effect [NEW]**

A licensed wrecker service must have at least one (1) authorized wrecker vehicle operator holding a Driver Card. The Driver Card allows the holder thereof to drive, operate, and control a authorized wrecker vehicle in the course and scope of providing towing and recovery operations governed under these rules. The authorized wrecker vehicle operator must have the Driver Card on his or her person at all times when providing towing services under these rules. When requested, the authorized wrecker vehicle operator shall present the Driver Card to any law enforcement officer or member of the public with whom the authorized wrecker vehicle operator is interacting on the scene of a traffic incident or a tow from private property. When requested, the authorized wrecker vehicle operator shall present a state issued driver license corresponding to the Driver Card to any law enforcement officer or member of the public with whom the authorized wrecker vehicle operator is interacting on the scene of a traffic incident or tow from private property.

## **595:25-3-10. Minimum qualifications for wrecker vehicle operators [NEW]**

To obtain a Driver Card, an individual must meet the following minimum qualifications:

- (1) The applicant must be employed by, or be an operator of, a licensed wrecker service.
- (2) The applicant must be at least eighteen (18) years of age.

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(3) The applicant must complete the sixteen (16) hour Basic Wrecker Vehicle Operator Training Course and the four (4) hour Traffic Incident Management Systems Course.

(4) The applicant must not be subject to a pending conviction or deferred sentence, including probation or supervised release, for the following:

(A) An offense deemed a violent crime pursuant to 21 O.S. § 571;

(B) Human trafficking pursuant to 21 O.S. § 748, et. seq.;

(C) Robbery pursuant to 21 O.S. § 791, et. seq.;

(D) Burglary pursuant to 21 O.S. § 1431, et. seq.;

(E) Embezzlement pursuant to 21 O.S. § 1451, et. seq.;

(F) Larceny pursuant to 21 O.S. § 1701, et. seq.;

(G) A violation of 21 O.S. § 1029 while operating a wrecker vehicle;

(H) A violation of 47 O.S. § 4-103.

(5) No applicant may be licensed while he or she is required to be registered as a sex offender pursuant to 57 O.S. § 582.

(6) The applicant must provide a nationwide criminal history check, including sex offender registry check, dated not more than 60 days prior to the application date.

## **595:25-3-11. Drug testing [NEW]**

The position of licensed wrecker operator is a safety sensitive position as defined by 63 O.S. § 427.8(K). All applicants seeking to obtain or renew a wrecker operator license must provide a negative drug screen result from a drug testing laboratory approved by the Oklahoma State Department of Health.

## **595:25-3-12. Wrecker Vehicle Licensevehicle license [NEW]**

The wrecker vehicle license, or cab card, must always be carried in the applicable vehicle while providing wrecker services. The wrecker vehicle license will be presented upon request by any law enforcement officer or officer of the Department. Wrecker vehicle licenses shall be unique to the applicable vehicle and are not transferable.

## **SUBCHAPTER 5. ALL WRECKER OPERATORS**

### **595:25-5-1. Physical requirements for storage facility [REVOKED]**

**(a) General Requirements.** All wrecker operators, who, in conjunction with or as part of a licensed wrecker operation, store, park or maintain possession of a towed vehicle, shall store such vehicle in a storage facility which shall meet the minimum physical requirements prescribed in this Section. No vehicle shall be stored in any facility or area which has not been inspected and approved by the Department except in case of exceptional circumstances such as natural disasters or at the direction of law enforcement officers at the scene of an incident.

**(1) An operator shall not store vehicles:**

**(A) At their home;**

**(B) In another operator's storage lot; or**

**(C) Any other location unknown to the Department.**

**(2) The entrance to the storage facility shall be separate from any other business entity.**

**(3) A vehicle accepted for storage may not be altered without consent of the vehicle owner or their authorized representative.**

**(4) No stored vehicle may be used for personal or business use without the prior written consent of the vehicle's owner.**

### **(b) Outdoor Storage Facilities:**

**(1) Every primary outdoor storage facility:**

**(A) Shall be designed to be minimum of 5000 square feet for small truck and minimum of 15000 square feet for large truck in size. A previously licensed proprietor, partnership or corporation business will be allowed to renew the DPS license for their location unless they are changing locations of business.**

**(B) Shall be surrounded completely by a fence. Construction material for fences shall be of wood, metal, chain link or masonry and be at least six feet (6') in height built solid, firmly, and securely to provide the best protection for restricted access. Livestock paneling (welded wire) shall not be used unless the wire diameter is equal to or larger than 8 gauge (0.160 diameter) with horizontal panels no larger than 4" x 4". T-post construction shall not be approved. Outdoor storage facilities, effective July**



1, 2014, shall meet new standards or if facilities previous of date, upon a failed inspection, if found the fence did not meet previous standards, new standards will be imposed:

(C) Shall have at least one (1) gate of the same quality of material and height of the fence and must be locked if not attended:

(D) The storage lot area:

(i) Shall be maintained, including but not limited to removal of tall weeds, overgrown vegetation and debris;

(ii) The lot surface shall be an all-weather surface such as concrete, asphalt, blacktop, gravel, or any equivalent materials;

(iii) And cover the complete area of the storage lot that enables the safe and effective movement of stored vehicles upon all portions of the storage lot:

(2) If the construction requirements in paragraph (1) of this subsection are in violation of municipal zoning ordinances or other laws, regulations, or ordinances, the operator may request an exemption in writing and submit a proposed security plan in lieu of the requirements. The operator shall attach a copy of such zoning ordinance or other laws, regulations, or ordinances with the petition:

**(c) Facility Location and Number:**

(1) A minimum of one (1) primary storage facility shall be located within a two (2) mile radius of the place of business address as reflected on the wrecker license and, effective January 1, 2005, shall be located within Oklahoma. Secondary storage facilities may be located outside the two (2) mile radius:

(2) Each vehicle stored must be initially stored and held at the primary storage facility. After thirty (30) days from date of initial storage, vehicles may be moved to a secondary storage facility. The provisions of this paragraph shall not apply to junk vehicles:

**(d) Alternate Primary Storage Facility.** In lieu of or in addition to the primary storage facility described in this Section, a wrecker operator that tows a vehicle pursuant to a contract with a municipality or county may store such vehicle in a facility meeting the requirements set forth in such contract, provided, that:

(1) A copy of the proposed contract is furnished to the Department, along with documentation that requirements specified in this Section will be or have been met:

(2) Only vehicles towed at the request of the municipality shall be stored in such facilities unless such facility meets all the requirements of this Section:

(3) The wrecker operator shall have assumed reasonable responsibility with respect to the owner of such towed vehicle for any damages or loss of contents occurring during such time as the towed vehicle is stored in the facility:

(4) If the storage facility is not owned by the operator, the owner of such storage facility shall also assume joint responsibility for damages or loss of contents to the vehicle secured during such time as the vehicle is stored at such facility:

(5) Such storage facility must meet or exceed the requirements of this Section:

(6) If such storage facility is not operated by the operator, the operator shall have made arrangements with the owner of such storage facility to enable the owner of the vehicle to make full payment for towing and storage costs at the storage facility location and thereby obtain full release of the vehicle:

(7) A wrecker operator may not store any vehicle in a facility which has not been inspected and approved by the Department:

**(e) Indoor storage facility.** An operator may also provide an indoor storage facility as either a primary or secondary storage facility. Due to a special situation such as, but not limited to, a pending fatal collision, asset forfeiture or criminal investigation, law enforcement may select without regard to rotation, an operator nearest to the incident with appropriate indoor storage. The facility must meet the requirements of the Oklahoma Highway Patrol and the operator must comply with any special instructions. An indoor storage facility shall be a permanent structure that meets the following minimum physical requirements:

(1) A solid roof;

(2) A solid hard-surface floor;

(3) Solid walls which fully enclose all sides, i.e., reach from corner to corner on each side and from the floor to the roof on all sides so there is no public access. The walls may be penetrated by windows and doors which must be fully operable so as to make the facility fully enclosed when the windows and doors are closed, and

(4) Must be a minimum of 500 square feet in size:

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(f) **Each Wrecker Service is a Separate Entity.** Each wrecker service shall be licensed as a separate legal entity. Any wrecker service with storage shall maintain a primary storage facility that is physically separated from any other entity's storage facility as determined by the Department, so that the responsibility and accountability of the operator relating to compliance with these rules is maintained.

(g) **Shared Storage Prohibited.** Shared use of any outdoor or indoor storage facility by two (2) or more wrecker services is not permitted, except as may be determined by the Commissioner.

(h) **Leased or rented building, office, or storage.** Wrecker operators intending to lease or rent any building, office or storage facilities shall file such plan of lease or rent with the Department for approval. Such plan shall be signed and approved by the owner of the property or representative of the owner and be of at least one year in duration and include specific terms therein delineating the responsibility of the operator relating to compliance with the rules of this Chapter and assurance that accountability is maintained.

(i) **Accessibility.** Any primary storage facility used to store vehicles at the request of law enforcement shall be accessible to the public by way of an all-weather road. This provision shall not apply to primary storage facilities which have been approved prior to July 14, 2003.

(i) **Accessibility.** Any primary storage facility used to store vehicles at the request of law enforcement shall be accessible to the public by way of an all-weather road. This provision shall not apply to primary storage facilities which have been approved prior to July 14, 2003.

## 595:25-5-2. Equipment requirements for all classes of wrecker vehicles [REVOKED]

(a) **All Wrecker Vehicles.** Each wrecker which is used by an operator in the performance of a wrecker or towing service shall be equipped with the following:

(1) **Fire Extinguisher.** One (1) or more dry chemical, B.C. rating, fire extinguisher having a minimum of ten pounds (10 lbs.) total capacity, which shall be mounted and readily accessible.

(2) **Flashing light.** At least one (1) amber rotating or flashing light, mounted and centered above the cab of the vehicle, visible from 360 degrees or on a light bar, and approved by an officer of the Department. The amber rotating light is for use only at the scene of an emergency or where a traffic hazard exists and there is the necessity to warn approaching vehicles, such as at a routine vehicle pickup [47 O.S. §12-218.1]. In addition to the required amber rotating light, the wrecker may be equipped with a red or blue flashing light, or a combination of red and blue flashing lights, for use only at the scene of an emergency [47 O.S. §12-218.1]; provided, on any wrecker vehicle approved after July 15, 2005, the red or blue light, or the combination of red and blue flashing lights, shall be on a separate switch from the amber light. Under no circumstances are any of the rotating or flashing red or blue lights intended for use when traveling on the streets or highways [47 O.S. §12-218.1]. White rotating lights are not authorized under Oklahoma statutes.

(3) **Chains.** Two (2) chains of sufficient grade to assist in securing the towed vehicle.

(4) **Broom.** One (1) push-type broom, suitable for clearing debris from the road.

(5) **Shovel.** One (1) shovel, suitable for clearing debris from the road.

(6) **Tire Chains.** One (1) set of tire chains, mud and snow tires or other device to assist wrecker to maintain traction in mud, snow, or ice.

(7) **Warning Devices.** Warning devices, applicable to trucks as required in 47 O.S. § 12-407, capable of protecting the scene of a collision by day or night.

(8) **Lighting for Towed Vehicle.** Wreckers must be equipped to operate a towed vehicle's stop, turn and clearance lights (if applicable), or be equipped with a light bar or other lighting equipment to comply with lighting requirements for vehicles. When used, the light bar or tow lights shall be affixed securely to the towed vehicle to assure a minimum of movement while traveling on the highway and to prevent any damage to the towed vehicle.

(9) **Safety Chains or Straps.** Two (2) safety chains or wheel straps of sufficient capacity to keep the towed vehicle attached to the wrecker in the event of disengagement.

(10) **Additional Equipment.** Each operator of a roll back wrecker shall secure towed vehicles with four-point tie downs. Operators of other wrecker vehicle types shall secure towed vehicles in accordance with wrecker vehicle chassis recommendations.

(11) **Approved dolly use.** When a wrecker dolly is used as the lift or towing device, both the wrecker dolly and the wrecker shall first be approved and licensed as a unit by the Department. In addition to the requirements in (a) of this Section for all wreckers, a wrecker dolly towing vehicle shall also be equipped at a minimum with the following:

(A) A ball or pintle hook of sufficient size and capacity to safely control the wrecker dolly, securely fastened to the appropriate frame member of the wrecker.

(B) Two safety chains of sufficient capacity to keep the wrecker dolly attached to the wrecker in the event of hitch failure.

(12) **Safety Apparel.** A minimum of (1) one high-visibility safety apparel (vest, jacket or shirt), per wrecker vehicle, in compliance with 2009 MUTCD section 6D.03.

(13) **Safety Apparel while in right-of-way.** Each wrecker operator or driver shall wear high visibility safety apparel, in compliance with 2009 MUTCD section 6D.03, when working in any highway right-of-way.

(b) **Class AA Wrecker Vehicles.** Each Class AA wrecker vehicle, in addition to the equipment required by subsection (a), shall be equipped with the following:

(1) **Scotch Blocks.** Two (2) scotch blocks, or similar devices, capable of adding stability to the wrecker during winching. Scotch blocks shall be constructed of steel plate with a chain or cable of sufficient grade and quality to attach to the frame or body of the wrecker. Hydraulic stabilizing equipment shall be approved. (NOTE: Roll-back wrecker vehicles are exempt from this requirement.)

(2) **Dollies.** Dollies for the purpose of providing a method of towing a disabled vehicle which is otherwise incapable of being towed safely on either axle. (NOTE: Roll-back wrecker vehicles are exempt from this requirement.)

(3) **Axe.** One (1) axe.

(4) **Pry-bar.** One (1) pry-bar or wrecking bar capable of prying open doors.

(5) **Sling and Stay-bar.** One (1) sling and stay-bar, wheel lift device, or other type of device capable of safely loading and protecting the disabled vehicle while being towed.

(6) **Dual Rear Wheels.** At least one (1) set of dual rear wheels for stability in towing another vehicle.

(7) **Winch.** A winch or winches permanently mounted at the rear of the vehicle with a minimum factory rated capacity of eight thousand pounds (8,000 lbs.) and equipped with a cable to be compatible with manufacturer's specifications and be of sufficient length based on the design of the wrecker vehicle.

(8) **Absorbent.** An adequate supply of an absorbent capable of absorbing liquid spills from vehicles (not including cargo spills); provided, the wrecker service or wrecker operator shall not be required to pick up or dispose of the used absorbent. The Department recommends keeping at least four (4) gallons of absorbent on each wrecker vehicle.

(9) **Hydraulic Jack.** One (1) hydraulic bottleneck jack or floor jack with a minimum two and a half ton rating.

(10) **Basic equipment list:**

(A) First Aid kit

(B) Trash bags (33 gal. min.) or 5-gallon buckets (2)

(C) Flashlight

(D) Wire/Cable cutter pliers (8")

(E) Jumper cables or Jumper Box

(F) Safety glasses (1pr)

(G) Traffic cones (3) MUTCD compliant

(H) Adjustable pliers

(I) Rubber gloves and or work gloves (PPE gear)

(c) **Class AA-TM Wrecker Vehicles.** Each Class AA-TM wrecker (medium truck wrecker), in addition to the equipment required by subsection (a and b), shall be equipped with the following:

(1) **Minimum Vehicle Requirements:**

(A) **Air Brakes.** Factory or certified installed full air brakes with a full tractor package (hand control, in line foot valve, air hoses and trailer emergency valve) capable of releasing the air brakes on a tractor-trailer and capable of operating the brakes of the towed vehicle with the same application as the towing vehicle.

(B) **Parking Brake.** Air-activated spring parking brake.

(C) **GVWR Compatibility.** Wrecker body and equipment shall be compatible with the chassis GVWR in size and shall be suitable by design to operate under emergency conditions.

(i) Vehicle body must be capable of safely anchoring scotch blocks.

(ii) Vehicle must be designed to adequately anchor snatch blocks.

(2) **Equipment Requirements:**

(A) **Winch.** A winch or winches permanently mounted at the rear of the vehicle with a minimum factory rated capacity of thirty thousand pounds (30,000 lbs.) and be equipped with a cable to be compatible with manufacturer's specifications and be of sufficient length based on the design of the wrecker vehicle.

(B) **Boom.** A boom or booms constructed so as to be compatible with winch rating.

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(C) **Snatch Blocks.** A minimum of two (2) snatch blocks compatible with winch cable size and cable rating.

(D) **Sling and Stay-bar.** One (1) sling and stay-bar, wheel lift device, or other type of device capable of safely loading and protecting the disabled vehicle while being towed.

## (d) **Class AA-TL Wrecker Vehicles.**

### (1) **Minimum Vehicle Requirements.**

(A) **Air Brakes.** Factory-installed or certified installed full air brakes with a full tractor package (hand control, in-line foot valve, air hoses, and trailer emergency valve) capable of releasing the air brakes on a tractor-trailer and capable of operating the brakes of the towed vehicle with the same application as the wrecker.

(B) **Parking Brake.** Air-activated spring parking brake.

### (C) **Axle and Suspension.**

(i) Minimum front axle and suspension of twelve thousand pounds (12,000 lbs.). (Note: GVWR rating are altered or affected by tires, springs and axles.)

(ii) Minimum rear axle and suspension combination of thirty-two thousand pounds (32,000 lbs.).

(iii) Be equipped with full-driven tandem axle (NOTE: A drag axle or pusher axle is not acceptable).

(D) **Wheel Base.** Chassis must have a minimum Wheel base of 280 (two hundred and eighty) inches. 200 inches will be allowed on vehicles previously licensed if they have a hydraulic wheel lift, spades and an additional operator.

(E) **GVWR Compatibility.** Wrecker body and equipment shall be compatible with chassis GVWR and size and shall be suitable by design to operate under emergency conditions.

(i) Body must be capable of safely anchoring scotch blocks.

(ii) Must be designed to adequately anchor snatch blocks.

### (2) **Equipment Requirements.**

(A) Winches must be maintained with at least 75% capacity of the manufactures recommended length of wire or synthetic rope. Must have at least 2 (two) winches with a minimum combined capacity of 40,000 (forty thousand) lbs.

(B) Boom(s). Wrecker unit must have a factory built or certified 25 (twenty-five) minimum ton boom rating that is an elevating and telescoping recovery boom.

(C) Wrecker unit must have a factory built or certified hydraulic telescoping wheel lift.

### (D) **Large truck requirements:**

(i) 2 or more air hoses 3/8", with combined minimum length of 100' (feet)

(ii) Cage Bolts (8)

(iii) Two Air outlets on the wrecker for emergency and service line activation

(iv) Metric and Standard end wrench sets with minimum 3/8" 1/4" to 1" and 8mm to 19mm

(v) Metric and Standard 1/2" drive socket set and ratchet with minimum 1/4" to 1" and 8mm to 19mm

(vi) Hydraulic or pneumatic jack with 10-ton min. rating

(vii) 10 gallons of absorbent material

(viii) 2.5 lb. Sledge/shop hammer

(ix) 2 pr. Locking pliers

(x) 4 axle covers

(xi) 5 traffic cones (MUTCD compliant)

(xii) Saddle Tank fluid mitigation compound (Plug and Dyke or other similar product).

(xiii) Minimum of 4 (four) snatch blocks that are recommended for the size of rope contained on the winches.

(xiv) Minimum of sixty feet (60') of one-half inch (1/2") Grade 80 Recovery Chain with hooks.

(xv) 2 (two) - one-inch (1") screw pin clevises.

(xvi) 2 (two) - one-half inch (1/2") screw pin clevises

## 595:25-5-3. Operation [REVOKED]

—All operators using the public roads and highways within the State of Oklahoma shall comply with the following:

- (1) All operators shall require each driver of a wrecker vehicle be proficient in the operation thereof and be properly licensed for the type of vehicle operated.
- (2) No operator shall knowingly permit any operator of a wrecker vehicle to consume beer, wine, intoxicating beverages, drugs or other stimulants or depressants while subject to call nor knowingly permit any operator to come on duty after having inhaled or consumed any such beverage, drug or other stimulants or depressants.
- (3) No operator shall proceed to the scene of a collision or traffic tie-up without being requested to do so by a law enforcement agency or the owner or driver of a vehicle involved.
- (4) Any operator traveling on the roads and highways of the State of Oklahoma during the normal course of his business may, upon arriving at the scene of a collision or traffic tie-up, stop and assist in rendering emergency aid. However, the operator shall not solicit business directly or indirectly from the owner or drivers at the scene.
- (5) An operator at the scene of a collision or traffic tie-up is subject to the same traffic-control directions issued by an officer to the motoring public.
- (6) An operator shall not use the rotating or flashing light while traveling on the roadway en route to any location. The use of the flashing or rotating light is authorized only in the vicinity of hook-up or at the scene of an incident to protect the scene and the vehicle involved. Only amber flashing lights may be used when leaving the scene of a wrecker service call for the purpose of warning the operators of other vehicles to exercise care in approaching, overtaking, or passing. [47 O.S. § 12-218.1]
- (7) Each operator must conduct the operation of the storage facilities and towing service in a responsible manner so as not to endanger the public safety of persons or property of others in the custody of the operator.
- (8) No operator shall tow a vehicle when the combined weight of the wrecker vehicle and the wrecker supported weight of the towed vehicle exceeds the factory gross vehicle weight rating of the wrecker vehicle, regardless of the weight for which the wrecker vehicle is licensed.
- (9) No wrecker service shall suspend, or abandon said service without prior written notice to this Department of such intent and returning of all wrecker licenses issued.
- (10) Wrecker services and operators shall be responsible for the removal of any glass or other injurious substances dropped upon the highway or highway right-of-way at the location of an accident as required by title 47 O.S. § 11-1110(C).
- (11) Upon payment of the reasonable cost of removal, and storage of a stored vehicle, whether stored at the request of law enforcement or a private property owner and recorded by the wrecker service as provided in OAC 595:25-5-5(b), the vehicle shall be released to:
  - (A) the owner, upon presentation of one (1) of each of the following:
    - (i) Proof of ownership:
      - (I) A valid certificate of title, to show proof of purchase and ownership to include tribal and other state titles; or
      - (II) Registration Receipt (Digital or Electronic verification shall be accepted); or
      - (III) Title properly assigned by the seller, dated, notarized (if required on title) and the owner's name filled out on the title; or
      - (IV) Written verification from a local law enforcement agency as to the identity of the owner; or
      - (V) Other appropriate documentation sufficient to establish ownership.
    - (ii) Proof of identification:
      - (I) Oklahoma driver license; or
      - (II) Oklahoma identification card; or
      - (III) Other state driver license; or
      - (IV) Other state or federally issued photo identification; or
      - (V) Other documentation sufficient to establish identity.
    - (iii) Proof of Insurance:
      - (I) Valid insurance verification form, not expired with VIN of vehicle listed; or
      - (II) Valid insurance policy not expired with VIN of vehicle listed; or
      - (III) Valid affidavit of non-use and vehicle cannot be driven from facility
  - (B) a person representing the owner, upon presentation of, a notarized letter from the owner permitting said person to act on behalf of the owner, with year, make, model and vehicle identification number of the vehicle and proof as listed in paragraph A.

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(C) a lien holder or a duly authorized agent of a lien holder, upon presentation to the wrecker operator proof of being a lien holder [47-904.1], hold harmless letter and a notarized letter from the lien holder permitting said person to act on behalf of the lien holder that includes year, make, model and vehicle identification number; or

(D) the insurer or the representative of the insurer accepting liability for or purchasing a motor vehicle as provided in 47 O.S. §§ 904, 953.1, or 953.2, must provide a hold harmless letter and a letter from the insurer permitting said person to act on behalf of the insurer that includes year, make, model and vehicle identification number.

(E) a legal representative or family member within the first or second degree of consanguinity or affinity upon presentation of a notarized affidavit describing the relationship between the legal representative or family member and the owner, in the event the owner is incapacitated or deceased.

(12) Personal property, which shall include everything in a stored vehicle except the vehicle and its attached or installed equipment, vehicle keys, or devices to start and unlock the vehicle, and the spare tire and tools to change the tire, shall be released, upon request, to the owner or owner's representative, upon showing of proof as described in (11) of this section. Wrecker operators shall allow the vehicle owner or owner's representative to have access to the vehicle for the sole purpose of retrieving ownership documentation, such as title or registration. [47 O.S. § 955(E)] Personal property shall not be removed from the vehicle unless the operator has a written company policy or procedure for the intended safekeeping of any personal property removed from a vehicle. Personal property may not be removed from vehicles with law enforcement investigative holds for evidence or vehicles with biohazards. Personal property stored at the operator's business office must be secured under lock and key or with an attendant on-duty twenty-four (24) hours per day. Any personal property removed from the vehicle shall be released, to the owner or owner's representative, upon showing of proof as described in (11) of this section.

(13) Each operator shall require each wrecker driver to maintain the appropriate driver license for the type of vehicle being operated.

(14) Each operator shall prohibit any known thief or felon from loitering, visiting, or otherwise being on the premises of the place of business or any storage facility of the wrecker service.

(15) Each operator shall secure vehicles on roll back wreckers with four (4) point tie down. Other wrecker vehicles shall secure vehicles in accordance with wrecker vehicle chassis recommendations.

(16) A wrecker operator or driver responding to the scene of a motor vehicle collision in the capacity of a first responder, fireman, or volunteer fireman shall not respond to the scene in a wrecker vehicle.

(17) Operator shall not take photos of a crash scene that would include bodies, personal information of anyone or any personal identifiers, including but not limited to, license plates or names on vehicles. Any photo of a crash scene that includes bodies, personal information, or any identifiers of any person must not be posted on any form of social media.

(18) During normal business hours, the operator shall provide access to the vehicle for the purposes of inspection, identification, or assessment to any person or entity to whom release is authorized by these rules.

## 595:25-5-4. Insurance [REVOKED]

(a) **Liability for operator's negligent acts.** Each operator, from the time of movement of or otherwise making contact with any vehicle to be towed, may be liable for injury to persons, damage to property, fire or theft resulting from the operator's negligent acts.

(b) **Certificate of insurance.** The Certificate of Insurance form must be obtained from and submitted by an insurance company authorized to do business in the State of Oklahoma.

(1) The operator is responsible for ensuring the submission of the Certificate of Insurance form when applying for an initial license, renewal of the insurance, changing a business name or changing the business address.

(2) The name and address of the applicant, the operator or business name shown on the Certificate of Insurance form must be the same as the name and address on the application and/or wrecker service license. The applicant or operator is responsible for ensuring that the insurance information on file with the Department reflects the correct name and address of the insured. The address for all storage facilities must be included on the form.

(3) Any time an operator changes insurance company during a policy period, a new Certificate of Insurance form shall be submitted by the new insurance provider showing at least the minimum coverage.

(4) The Certificate of Insurance form shall show the make, year, and vehicle identification number for each wrecker vehicle and wrecker support vehicle licensed by the Department.

(c) **Insurance policy.** The insurance policy shall be issued for a period of at least six (6) months and shall protect the public against loss of life, bodily injury to person, and damage to property in the following amounts:

**(1) Class G General or Class AA:**

(A) Bodily Injury and Property Damage - Not less than One Hundred Thousand Dollars (\$100,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage:

(B) Garagekeeper's Legal Liability - Not less than Fifty Thousand Dollars (\$50,000.00) in Garagekeeper's Legal Liability with a deductible no greater than five hundred dollars (\$500.00), which must include comprehensive perils to the towed vehicle while being stored by the wrecker operator. Any General class wrecker service which does not have storage facilities shall be exempt from the provisions of this subparagraph:

(C) On-Hook or In-Tow - Not less than Fifty Thousand Dollars (\$50,000.00) in On-Hook or In-Tow Coverage with a deductible no greater than Five Hundred Dollars (\$500.00), which must include comprehensive perils and collision to the towed vehicle while it is being towed by the wrecker operator:

**(2) Class AA-FM:**

(A) Bodily Injury and Property Damage - Not less than Two Hundred Thousand Dollars (\$200,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage:

(B) Garagekeeper's Legal Liability - Not less than One Hundred Thousand Dollars (\$100,000.00) in Garagekeeper's Legal Liability with a deductible no greater than five hundred dollars (\$500.00), which must include comprehensive perils to the towed vehicle while being stored by the wrecker operator:

(C) On-Hook or In-Tow - Not less than One Hundred Thousand Dollars (\$100,000.00) in On-Hook or In-Tow Coverage with a deductible no greater than Five Hundred Dollars (\$500.00), which must include comprehensive perils and collision to the towed vehicle while it is being towed by the wrecker operator:

**(3) Class AA-FL:**

(A) Bodily Injury and Property Damage - Not less than Three Hundred Thousand Dollars (\$300,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage:

(B) Garagekeeper's Legal Liability - Not less than One Hundred Fifty Thousand Dollars (\$150,000.00) in Garagekeeper's Legal Liability with a deductible no greater than five hundred dollars (\$500.00); which must include comprehensive perils to the towed vehicle while being stored by the wrecker operator:

(C) On-Hook or In-Tow - Not less than One Hundred Fifty Thousand Dollars (\$150,000.00) in On-Hook or In-Tow Coverage with a deductible no greater than Five Hundred Dollars (\$500.00), which must include comprehensive perils and collision to the towed vehicle while it is being towed by the wrecker operator:

**(4) All Wrecker Classes.** Bailee Coverage - Not less than Two Thousand Five Hundred Dollars (\$2,500.00) for loss of contents of the vehicle with a deductible not greater than Five Hundred Dollars (\$500.00):

**(c) Judgment.** Any final judgment rendered by a court of competent jurisdiction against a wrecker service or an owner or employee thereof, arising out of any services provided by the operator of or any employee of the wrecker service, including towing or storage of towed vehicles, must be satisfied within thirty (30) days. If such judgment is not timely satisfied, the wrecker license shall be revoked and such revocation shall remain in effect until the judgment is satisfied. Provided, however, a release or written agreement signed by the judgment creditor and approved by the Department shall reinstate eligibility. Provided, if judgment is covered by insurance up to the amount and to the extent required in the rules, this Subsection shall not apply:

**(d) Carrier certification.** The insurance company of each wrecker service shall certify to the Department on a form prescribed by the Department that the insurance company will notify the Department in writing at least ten (10) days before the date the company cancels such policy:

**(e) Insurance information.** An operator shall provide contact and other pertinent information regarding the insurance company and policy covering the wrecker service to any person who might be eligible to file a claim against the operator's insurance policy:

**(f)** A notice from the insurance company to the Department of insurance cancellation for non-payment of the premium shall be sufficient reason for suspension of the wrecker service license:

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## 595:25-5-5. Records [REVOKED]

(a) Each operator shall comply with the provisions of 47 O.S. §4-105(c), and provide a thirty (30) day vehicle report to the Department. A junk vehicle may be reported beginning on the fifth day of storage of the junk vehicle, and the vehicle report shall be notated with the word "JUNK".

(b) Each operator shall maintain, on a form prescribed by the Department, a record system covering all services performed in pulling or towing all vehicles impounded for law enforcement or at the request of private property owners, and such records shall include the following:

- (1) The day and time the operator was contacted and requested to perform the service.
- (2) The name of the person requesting this service.
- (3) The location of the vehicle.
- (4) A description of the towed vehicle, including license tag and vehicle identification number.
- (5) The owner or driver of the vehicle when known.
- (6) The service charge and fees.

(c) The operator shall maintain said records for at least three (3) calendar years from the date the records are created.

(d) All records herein shall be stored in a manner which makes such records readily retrievable for inspection or examination of an individual record by the Department.

(e) Every operator shall cooperate with the Department whenever the Department requests copies of or finds it necessary to review, audit, examine, or investigate any records relating to the operation of the wrecker service.

## 595:25-5-7. Tow request and authorization forms [REVOKED]

(a) Only Class AA wreckers are authorized to remove abandoned vehicles from real property. [47 O.S. § 954A] Wrecker services shall complete the Tow Request and Authorization Form prior to removal of abandoned vehicles from real property.

(b) One copy of the Tow Request and Authorization Form shall be forwarded to the Department of Public Safety, Wrecker Services Division, P. O. Box 53004, Oklahoma City, Oklahoma 73136, and the local law enforcement agency with jurisdiction over the area where the vehicle was removed, within seventy-two (72) hours from time of removal. A facsimile or email of the Tow Request and Authorization Form shall be considered the original form if a printed or digital confirmation of the facsimile transmission is available. [47 O.S. § 954A- F]

(c) The Tow Request and Authorization Form can be obtained from the Wrecker Services Division, Department of Public Safety, Oklahoma City, Oklahoma 73136. Disposition of copies are as follows:

- (1) Original copy to the Department of Public Safety. Facsimile in lieu of the original will be accepted.
- (2) One copy to the local law enforcement agency.
- (3) One copy to be retained by the wrecker service.
- (4) One copy to the real property owner, legal possessor, or agent.

(d) Each wrecker operator shall be responsible for verifying the identity of the person signing the tow request and authorization form and shall put the driver license number or state-issued identification card number of that person on the tow request and authorization form.

(e) No licensed Class AA wrecker service or operator of a licensed Class AA wrecker service shall tow or cause to be towed a vehicle from the real property until this form has been appropriately completed by the parties.

(f) *The Tow request and authorization form shall be completed with the following information:*

- (1) *A description of the vehicle, including the type of vehicle, year of manufacture, name of the manufacturer, vehicle color or colors, identification number and license tag number;*
- (2) *The name, address and business telephone number of the licensed Class AA wrecker service;*
- (3) *The name, address, telephone number and driver license number or state-issued identification card number of the real property owner, legal possessor or authorized agent;*
- (4) *Inventory of personal property within the vehicle to be towed, if no inventory is completed, the reason shall be clearly stated on the form;*
- (5) *Time and date the form is completed; and*
- (6) *Signatures of the driver of the wrecker vehicle and of the owner, legal possessor or authorized agent of the real property. They shall jointly, and each in the presence of the other, inventory personal property found within or upon the vehicle.*

(g) *A copy of the completed Tow Request and Authorization Form shall be retained by the signatories and the licensed Class AA wrecker service shall maintain the wrecker vehicle driver's copy for not less than one (1) year.*

(h) *Upon completion of the tow the Class AA wrecker service shall perform the following:*



- (1) Within three (3) business days of the time indicated on the form, request the Oklahoma Tax Commission or other appropriate motor license agent to furnish the name and address of the current owner and/or lien holder of the vehicle.*
- (2) Within seven (7) days from receipt of the requested information from the Oklahoma Tax Commission or other motor license agent, send a notice of the location of the vehicle by certified mail, postage prepaid, at the addresses furnished, to the owner and any lien holder of the vehicle.*
- (3) If the licensed Class AA wrecker service has not complied with the notification procedures required in this section the owner or lien holder shall not be required to pay for storage of the vehicle per Title 47 § 954A (G).*

### **595:25-5-8. Conflicts of interest [REVOKED]**

~~There shall be no conflict of interest between the wrecker service and the owner or legal possessor, or the agent of the owner or legal possessor, of real property from which a vehicle is towed or may be towed by a wrecker service. The operator of a wrecker service, or any employee thereof, shall not offer or attempt to offer to or shall not request or accept from the owner, legal possessor, or agent any gratuity, kickback, exchange or promise of services, incentive, or any other thing of value.~~

### **595:25-5-9. Inspections [REVOKED]**

- ~~(a) **Availability of Records.** The wrecker operator, manager, or their representative must make available to the inspection officer all records, notices and other documents required by these rules. Due to possible noncompliance or complaint, the inspection of the facility or tow trucks may be required. May include an inspection of any and all tow trucks and inspection of records, tow authorizations, thirty (30) day reports and facilities. Upon completion of the inspection, the operator, manager, or representative shall be given a contact report that will provide the results of the inspection. A date and Time will be provided to make corrective action and a follow up inspection will be performed to assure compliance.~~
- ~~(b) **Initial Inspection.** Will include inspection of all tow trucks and any or all storage facilities. Any tow truck meeting FMCSA requirements of single or combination weight limits of 26,001 GVWR, shall provide a copy of the DOT inspection, per 49 C.F.R. § 396.17, before the Department of Public Safety inspection can be performed. This will apply to the initial inspection or if the truck requires a re-inspection.~~

### **595:25-5-10. General requirements [NEW]**

Licensed wrecker services and wrecker vehicle operators must comply with all provisions of applicable state law, applicable rules or the Department, applicable Oklahoma Corporation Commission rules, and applicable Oklahoma Corporation Commission orders. The licensed wrecker service is responsible for compliance with these rules before, during, and after towing, recovery, and storage services. When providing wrecker services, all licensed wrecker services shall:

- (1) Establish and maintain familiarity with the statutes, rules, and orders applicable to the operation of the licensed wrecker service.
- (2) Require each wrecker vehicle operator to be proficient in the operation of the wrecker vehicle and its accessory equipment by virtue of experience, training, or both.
- (3) Operate approved wrecker vehicles and accessory equipment within the working limits of the equipment, including but not limited to winches, cables, chains, and booms.
- (4) Require each wrecker vehicle operator to be properly licensed for the class of vehicle, or combination of vehicles, being operated.
- (5) A wrecker vehicle operator traveling on the roads and highways of the State of Oklahoma during the normal course of business may, upon arriving at the scene of a collision or traffic tie-up, stop and assist in rendering emergency aid.
- (6) Obey traffic-control directions issued by a law enforcement officer at the scene of a traffic incident.
- (7) Provide wrecker services in a responsible manner so as not to endanger the safety of persons or property of others.
- (8) Require all employees to maintain a professional demeanor in their interactions with customers, personnel of the Department, personnel of the Oklahoma Corporation Commission, law enforcement personnel, and employees of other licensed wrecker services.
- (9) Cooperate with a Departmental review, audit, request for documents, or investigation.
- (10) Provide access to stored vehicles for the purposes of inspection, identification, or assessment to any person or entity to whom release is authorized by these rules, during the licensed wrecker service's normal business hours.

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- (11) Notify the Department of the make, model, GVWR, and VIN of additional wrecker vehicles within three (3) business days of acquisition.
- (12) Notify the Department within three (3) business days of hiring or termination of employment of any wrecker vehicle operator. This includes the assignment of wrecker vehicle operator duties to a current employee on an as needed or probationary basis.
- (13) Authorized wrecker vehicle operators shall wear high visibility safety apparel, in compliance with 2009 MUTCD section 6D.03, when working in any highway right-of-way.
- (14) Respond to law enforcement agencies' calls for service with an approved wrecker vehicle operated by an authorized wrecker vehicle operator capable of efficiently righting an overturned vehicle and pulling or winching a vehicle back onto the roadway and clear the roadway.
- (15) Remove glass or other injurious substances from the roadway or right-of-way related to a traffic incident.
- (16) A licensed wrecker service shall immediately notify local law enforcement when an illegally parked or abandoned vehicle being towed from private real property cannot be positively identified by the VIN.
- (17) Unless otherwise approved by the Department, a licensed wrecker service lacking an approved wrecker vehicle will have thirty (30) days to have another wrecker vehicle inspected, approved, and licensed to avoid suspension and/or cancellation of the wrecker service license.
- (18) The licensed wrecker service shall require the securement of vehicles on a roll back wrecker vehicle with four (4) point tie downs. Other wrecker vehicles shall secure vehicles in accordance with wrecker vehicle chassis recommendations.
- (19) Shall maintain records of wrecker services governed by these rules for a period of three (3) years from the date of providing the services. Individual records shall be maintained in a manner that makes them readily accessible to the Department in the event of inspection, investigation, or audit.
- (20) When responding to a call, consult with the lead official or law enforcement personnel on scene before requesting the services of a remediation company.

## **595:25-5-11. General prohibitions [NEW]**

In addition to any other prohibition in the Oklahoma Statutes, these rules, the rules and orders of the Oklahoma Corporation Commission, licensed wrecker services are prohibited from:

- (1) Using rotating or flashing lights while traveling to any location. The use of flashing or rotating lights is authorized only at or near the scene of a traffic incident. Only amber flashing lights may be used when leaving the scene of a traffic incident for the purpose of warning the drivers of other vehicles to exercise care in approaching, overtaking, or passing the approved wrecker vehicle.
- (2) Knowingly permit any wrecker vehicle operator to consume alcohol, other intoxicating substances, or a combination thereof while subject to call nor knowingly permit any operator to come on duty after having consumed alcohol, other intoxicating substances, or a combination thereof.
- (3) Operating an approved wrecker vehicle while under the influence of alcohol, other intoxicants, or a combination thereof.
- (4) Proceeding to the scene of a traffic incident without being requested to do so by a law enforcement agency or the owner or driver of a vehicle involved.
- (5) Soliciting business directly or indirectly from the owner or drivers at the scene of a traffic incident to which the licensed wrecker service was not dispatched by law enforcement.
- (6) Discriminating against customers on the basis of race, sex, national origin, or ethnicity.
- (7) Posting to social media or selling photos of a crash scene that include bodies, personal information of anyone, or any personal identifiers, including but not limited to, license plates or names on vehicles.
- (8) A wrecker vehicle operator responding to the scene of a traffic incident in the capacity of a first responder, firefighter, or volunteer firefighter shall not respond to the scene in a approved wrecker vehicle.

## **595:25-5-12. Traffic Incident Management [RESERVED]**

## **595:25-5-13. Towing vehicles from private property [NEW]**

Licensed wrecker services shall complete a Tow Request and Authorization Form, in accordance with the instructions on the form, prior to removing illegally parked or abandoned vehicles from private property. Within seventy-two (72) hours of removing an illegally parked or abandoned vehicle from private property, the licensed wrecker service shall:

- (1) Submit one (1) copy of the Tow Request and Authorization form to the Department, and;

- (2) Submit one (1) copy of the Tow Request and Authorization form to the owner, legal possessor, or agent of the owner of the real property from which the vehicle was removed, and;
- (3) Submit one (1) copy of the Tow Request and Authorization form to the local law enforcement agency having jurisdiction over the real property from which the vehicle was removed, and;
- (4) Retain one (1) copy of the Tow Request and Authorization form.

### **595:25-5-14. Place of business [NEW]**

- (a) The place of business for a licensed wrecker service shall be in Oklahoma. The address, including the county, must be verified by documentation as filed with the Secretary of State, tax documents, or other business documents deemed appropriate by the Department.
- (b) The Department shall issue one (1) wrecker service license to a wrecker service for each place of business.
- (c) Licensed wrecker services shall display a business sign at the place of business. If the storage lot is at a separate location, the storage lot must also have a business sign. The signs shall be at least two feet (2') by four feet (4') with letters at least three inches (3") in height with contrasting background and shall display, at a minimum, the name of the licensed wrecker service as shown on the license and a telephone number accessible to the public twenty-four (24) hours a day.
- (d) Class AA Licensed wrecker services shall have a telephone number that is accessible to the public twenty-four hours a day. The licensed wrecker service shall provide notice in writing to the Department of any permanent business telephone number change prior to the new telephone number being placed in service.
- (e) The place of business shall be a permanent structure, not mounted on wheels, with functioning electricity and water, where normal business is transacted, and all business records are maintained. The facility must be large enough to conduct business and store business records.
- (f) All business transactions including, but not limited to, invoicing, ticketing, receipting, releasing, and collecting payment, will be conducted at the location at which the casualty is stored.
- (g) Licensed wrecker operators intending to lease or rent any building, office, or storage facility shall submit the lease to the Department. The lease shall cover the entire License Period. Leased facilities shall be subject to the same restrictions and requirements as storage facilities owned by a licensed wrecker operator.

### **595:25-5-15. Storage facility requirements - general [NEW]**

The following requirements apply to storage facilities operated by a licensed wrecker service or to any storage facility operated by a third party on behalf of a licensed wrecker service.

- (1) Licensed wrecker services which store, park, or maintain possession of a towed vehicle, shall store such vehicle in a storage facility which meets the following minimum physical requirements. No vehicle shall be stored in any facility or area which has not been inspected and approved by the Department except in case of exceptional circumstances such as natural disasters or at the direction of law enforcement officers at the scene of a traffic incident. Additionally, casualties shall not be stored:
  - (A) At any private residence, or
  - (B) In the storage facility of another licensed wrecker service; or
  - (C) Any other location unknown, unapproved, or uninspected by the Department.
- (2) The entrance to the storage facility shall be separate from any other business entity.
- (3) A vehicle accepted for storage may not be altered without consent of the vehicle owner or their authorized representative.
- (4) No stored vehicle may be used for personal or business use without the prior written consent of the vehicle's owner.
- (5) Licensed Wrecker Services operating a previously approved storage facility not meeting the requirements of these rules shall be exempt from compliance insofar as these rules are inconsistent with previous rules related to storage facilities.
- (6) The Primary Storage Facility shall be within two (2) miles of the Principal Place of Business. The Primary Storage Facility shall be accessible by way of an all-weather road. This provision shall not apply to Primary Storage Facilities approved prior to July 14, 2003.
- (7) A Licensed Wrecker Service may maintain a Secondary Storage Facility further than two (2) miles from the Principal Place of Business. Vehicles stored by the Licensed Wrecker Service must be stored at the Primary Storage Facility for the first thirty (30) days of storage of the vehicle.
- (8) An Alternate Primary Storage Facility may be utilized to store vehicles other than those towed pursuant to a contract with a county or municipal government. However, the Alternate Primary Storage Facility must meet all requirements of this Subchapter.

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(9) Shared use of any outdoor or indoor storage facility by two (2) or more Licensed Wrecker Services is not permitted, except as may be approved by the Commissioner or the Commissioner's designee.

## **595:25-5-16. Outdoor storage facility requirements [NEW]**

Outdoor storage facilities shall:

- (1) Contain a minimum of five thousand square feet (5,000 ft.<sup>2</sup>) of storage space for Class AA-TS licensed wrecker services, a minimum of seven thousand five hundred square feet (7,500 ft.<sup>2</sup>) for Class AA-TM licensed wrecker services, and a minimum of fifteen thousand square feet (15,000 ft.<sup>2</sup>) for Class AA-TL licensed wrecker services.
- (2) Be surrounded completely by a fence. Construction material for fences shall be made of wood, metal, chain link or masonry and be at least six feet (6') in height with restricted access. T-post construction shall not be approved.
- (3) Have at least one (1) gate of the same quality of material and height of the fence which is locked if not attended.
- (4) Be maintained, including but not limited to removal of tall weeds, overgrown vegetation and debris.
- (5) Be covered with an all-weather surface such as concrete, asphalt, blacktop, gravel, or equivalent materials which covers the entire area of the storage lot.

## **595:25-5-17. Exception from storage facility requirements [NEW]**

The Department may, in its discretion, grant an exception to a licensed wrecker service from the storage facility requirements of these rules under the following circumstances.

- (1) The requirements of these rules conflict with municipal zoning ordinances or other laws applicable to the location.
- (2) The licensed wrecker service requests the exception in writing, including a copy of the municipal zoning ordinance or other law with which the rules conflict.
- (3) The licensed wrecker service submits a proposed security plan in lieu of the requirements of these rules.
- (4) Class G licensed wrecker services performing only repossessions may request an exception to the storage facility requirements.

## **595:25-5-18. Indoor storage facility requirements [NEW]**

A licensed wrecker service may provide indoor storage as either a primary or secondary storage facility. An indoor storage facility shall be a permanent structure which effectively prohibits public access that meets the following minimum physical requirements:

- (1) A solid roof,
- (2) A solid hard-surface floor,
- (3) Solid walls which fully enclose all sides except for windows and doors,
- (4) Must provide a minimum of five hundred square feet (500 ft.<sup>2</sup>) of storage space per vehicle.

## **595:25-5-19. Personal property [NEW]**

Personal property, as defined by 47 O.S. § 955(E), shall be released during the licensed wrecker service's regular business hours to the owner or owner's representative, upon showing of proof as described in these rules. A licensed wrecker service shall not remove personal property from a stored vehicle unless there is a written company policy or procedure, on file with the Department, for the intended safekeeping of any personal property removed from a vehicle. Personal property may not be removed from vehicles with law enforcement investigative holds for evidence or vehicles with biohazards. Personal property stored at the licensed wrecker service's place of business office or storage lot must be stored securely or with an attendant on duty twenty-four (24) hours per day. Personal property removed by the licensed wrecker service from the vehicle shall be released to the owner, or owner's representative, upon showing of proof as described in these rules.

## **595:25-5-20. Exceptions to vehicle release rules [NEW]**

In the event a law enforcement officer determines a need exists to preserve the secured status of an impounded or stored vehicle, the law enforcement officer may direct the licensed wrecker service to place a hold thereon, which shall be honored in accordance with the procedures in these rules. A licensed wrecker service may not release a vehicle under the following circumstances without confirmation from the law enforcement agency ordering the impoundment of the vehicle

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or the district attorney in the county in which the vehicle was impounded that the following restrictions are no longer applicable to the stored vehicle.

- (1) The vehicle is subject to forfeiture proceedings under the Controlled Dangerous Substances Act.
- (2) The vehicle has been used in the commission of a felony offense and a search warrant has been issued or the law enforcement agency is seeking a search warrant.
- (3) Evidentiary purposes in investigations of fatality and great bodily injury collisions.

## **595:25-5-21. Release of stored vehicles [NEW]**

Upon payment of the reasonable cost of removal, and storage of a stored vehicle, whether stored at the request of law enforcement or a private property owner and recorded by the wrecker or towing service as provided in OAC 595:25-5-5(b), the vehicle shall be released to:

- (1) the owner, upon presentation of any document from the following categories:

- (A) Proof of ownership:

- (i) A valid certificate of title, to show proof of purchase and ownership to include tribal and other state titles; or
    - (ii) Registration Receipt (Digital or Electronic verification shall be accepted); or
    - (iii) Title properly assigned by the seller, dated, notarized (if required on title) and the owner's name filled out on the title; or
    - (iv) Written verification from a local law enforcement agency as to the identity of the owner; or
    - (v) Pre-registration information from Service Oklahoma,
    - (vi) Other appropriate documentation, sufficient to the licensed wrecker service, to establish ownership.

- (B) Proof of identification:

- (i) Oklahoma driver license; or
    - (ii) Oklahoma identification card; or
    - (iii) Other state driver license; or
    - (iv) Other state or federally issued photo identification; or
    - (v) Foreign driver license; or
    - (vi) Other documentation sufficient to establish identity as determined by the licensed wrecker service or the Department.

- (C) Proof of Insurance:

- (i) Unexpired insurance verification form containing the VIN of the vehicle being released; or
    - (ii) Unexpired insurance policy containing the VIN of the vehicle being released; or
    - (iii) Valid affidavit of non-use and vehicle cannot be driven from the facility.

- (D) Proof of Registration:

- (i) Valid, unexpired registration plate displayed on the vehicle; or
    - (ii) Proof of registration provided by Service Oklahoma; or
    - (iii) Proof of registration and payment of all applicable fees from Service Oklahoma, in the event the vehicle was not properly registered at the time of storage.

- (2) a person representing the owner, upon presentation of a notarized letter from the owner permitting said person to act on behalf of the owner, with year, make, model, and VIN of the vehicle being released along with documentation establishing proof of ownership, proof of identity, and proof of insurance.

- (3) a lienholder or a duly authorized agent of a lien holder, upon presentation of proof of being a lien holder under 47 O.S. § 904.1, hold harmless letter, and, when applicable, a notarized letter from the lien holder permitting said person to act on behalf of the lien holder. All documents presented shall include the year, make, model and VIN of the vehicle being released; or

- (4) a representative of the insurer accepting liability for or purchasing a motor vehicle as provided in 47 O.S. §§ 904, 953.1, or 953.2, upon presentation of a hold harmless letter, and a letter from the insurer authorizing said person to act on behalf of the insurer that includes the year, make, model and VIN of the vehicle being released.

- (5) in the event the owner is incapacitated or deceased, a legal representative or family member within the first or second degree of consanguinity or affinity upon presentation of a notarized affidavit describing the relationship between the legal representative or family member and the owner.

- (6) Any individual to whom a court of competent jurisdiction has ordered the vehicle to be released, in compliance with the terms of the court order.

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## **595:25-5-22. Release of stored vehicle to another licensed wrecker service [NEW]**

When a licensed wrecker service is to lawfully obtain a vehicle from another licensed wrecker service which originally towed the vehicle, the original licensed wrecker service shall:

- (1) allow the other licensed wrecker service to enter its premises and remove the vehicle upon presentation of a Driver Card, or
- (2) tow the vehicle to a mutually agreeable site to transfer the vehicle to the requesting licensed wrecker service.

## **595:25-5-23. Insurance requirements [NEW]**

(a) Each licensed wrecker service from the time of movement of or otherwise making contact with any vehicle to be towed, may be liable for injury to persons, damage to property, fire, or theft resulting from the licensed wrecker service's negligent acts.

(b) A licensed wrecker service shall notify the Department of any change of insurance status during the licensing period, including but not limited to:

- (1) Cancellation.
- (2) Change of insurer.
- (3) Changes of limits or covered activities.

(A) The Proof of Insurance shall show the make, year, and vehicle identification number for each approved wrecker vehicle.

(B) The insurance policy shall be in effect for the entire licensing period and shall insure against loss of life, bodily injury, and property damage in the following amounts:

### (i) Class G or Class AA.

(I) Bodily Injury and Property Damage of not less than One Hundred Thousand Dollars (\$100,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the approved wrecker vehicle and/or as a result of the on-hook vehicle causing bodily injury and/or property damage.

(II) Garage keeper's liability insurance or storage location insurance of not less than Fifty Thousand Dollars (\$50,000.00) with a deductible no greater than five thousand dollars (\$5,000.00) for Class AA-TS or Class AA-TM storage and ten thousand dollars (\$10,000.00) for Class AA-TL storage, which must include comprehensive perils to the towed vehicle while being stored by the licensed wrecker service. Any G Class licensed wrecker service not operating a storage facility shall be exempt from the provisions of this subparagraph.

(III) On-Hook or In-Tow liability insurance of not less than Fifty Thousand Dollars (\$50,000.00) with a deductible no greater than five thousand dollars (\$5,000.00) that must include comprehensive perils and collision to the towed vehicle while it is being towed by the licensed wrecker service.

### (ii) Class AA-TM.

(I) Bodily injury and property damage of not less than Two Hundred Thousand Dollars (\$200,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the approved wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage.

(II) Garage keeper's liability insurance or storage location insurance of not less than One Hundred Thousand Dollars (\$100,000.00) with a deductible no greater than five thousand dollars (\$5,000.00), which must include comprehensive perils to the towed vehicle while being stored by the licensed wrecker service.

(III) On-Hook or In-Tow liability insurance of not less than One Hundred Thousand Dollars (\$100,000.00) with a deductible no greater than five thousand dollars (\$5,000.00) that must include comprehensive perils and collision to the towed vehicle while it is being towed by the licensed wrecker service.

### (iii) Class AA-TL.

(I) Bodily injury and property damage of not less than less than three hundred thousand dollars (\$300,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the approved wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage.

(II) Garage keeper's liability insurance or storage location insurance of not less than one hundred fifty thousand dollars (\$150,000.00) with a deductible no greater than five thousand dollars (\$5,000.00), which must include comprehensive perils to the towed vehicle while being stored by the licensed wrecker service.

(III) On-Hook or In-Tow liability insurance of not less than one hundred fifty thousand dollars (\$150,000.00) with a deductible no greater than five thousand dollars (\$5,000.00) that must include comprehensive perils and collision to the towed vehicle while it is being towed by the licensed wrecker service.

(c) Any final judgment rendered by a court of competent jurisdiction against a licensed wrecker service or an owner or employee thereof, arising out of any services provided by the licensed wrecker service or any of its owners or employees, including the towing or storage of towed vehicles, must be satisfied within thirty (30) days. If such judgment is not timely satisfied, the wrecker service license shall be revoked and such revocation shall remain in effect until the judgment is satisfied. Provided, however, a release or written agreement signed by the judgment creditor and approved by the Department shall reinstate the wrecker service license. Provided, if the judgment is covered by insurance up to the amount and to the extent required in the rules, this Subsection shall not apply.

(d) Insurance information. The licensed wrecker service shall provide contact and other pertinent information regarding the insurance company and policy covering the licensed wrecker service to any person who might be eligible to file a claim against the applicable insurance policy.

(e) A notice from the insurance company to the Department of insurance cancellation for non-payment of the premium shall be sufficient reason for suspension of the wrecker service license. The suspension can be remedied only when the licensed wrecker service can demonstrate compliance with this Section.

### SUBCHAPTER 7. CLASS AA OPERATORS [REVOKED]

#### 595:25-7-2. Release and holding of vehicle [REVOKED]

**(a) Release.** The Class AA wrecker operator shall at all times have a capable person available to release impounded or stored vehicle within one (1) hour. As per 47 O.S. § 955, any vehicle impounded by law enforcement shall not be released to the owner until that owner provides proof of valid insurance or an affidavit of nonuse on the roadway. In the event an insurer or a representative of the insurer who has accepted liability for the vehicle requests the release, no proof of valid insurance or affidavit of nonuse on the roadway shall be required.

**(b) Exceptions to release of impounded or stored vehicles:**

(1) Officers may have a legitimate need and reason to preserve the secured status of an impounded or stored vehicle, including but not limited to:

(A) Failure to pay taxes due the State;

(B) Forfeiture proceedings under the Controlled Dangerous Substances Act [63 O.S., § 2-506];

(C) Evidentiary proceedings;

(D) Failure to provide proof of insurance

(E) The vehicle has been used in the commission of a felony offense. [47 O.S., § 955(A)(6)]

(2) In the event an officer determines a need exists to preserve the secured status of an impounded or stored vehicle, the officer may direct the operator to place a hold thereon, which the operator shall honor, subject to the following procedures:

(3) If the hold is because taxes due the State have not been paid, the operator shall not release the vehicle until the owner, or another person as described in OAC 595:25-5-3(13), has furnished proof from the Oklahoma Tax Commission or a motor license agent to the operator that the vehicle has been duly registered and the license fee has been paid before the vehicle may be released to the owner. Inquiry regarding this law may be made to the Oklahoma Tax Commission.

(4) If the stated reason for the hold is a forfeiture proceeding under the Uniform Controlled Dangerous Substance Act, the operator may not release the vehicle unless authorization is received either from the District Attorney's Office of the county from which the vehicle was impounded or from the impounding officer:

(A) If, after the expiration of seventy-two (72) hours from the time of impoundment (excluding Saturday, Sunday and legal holidays), the operator has not received either the court case number under which a forfeiture proceeding has been accepted and filed or a release of the hold from the impounding officer, the operator shall contact the law enforcement agency storing the vehicle, between 7:00 a.m. and 12:00 noon following such seventy-two (72) hours period, advising the ranking supervisor on duty or dispatcher of the following information:

(i) That the vehicle is being held for the filing of forfeiture proceedings;

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- (ii) That no court case number of forfeiture proceedings has been received;
- (iii) Description of vehicle, including tag and vehicle identification number;
- (iv) Vehicle owner, if known;
- (vi) County from which the vehicle was impounded;
- (vii) Name of impounding officer;
- (viii) Name and telephone number of operator submitting the above information.

(B) The supervisor may direct the impounding officer to verify the decision of the District Attorney and to notify the operator:

- (i) Of the forfeiture proceedings style and case number; or
- (ii) That the hold is canceled because the District Attorney has declined forfeiture proceedings and therefore, the vehicle may then be released in accordance with (a) and (b) of this Section.

(C) Any vehicle seized or stored for forfeiture proceedings under the Uniform Controlled Dangerous Substance Act is considered to be in the custody of the District Attorney of the county where the property was seized [63 O.S., § 2-506 (K)] and therefore the operator may contact that office regarding any matter relating to such vehicle, in addition to the foregoing procedure.

(5) If the hold is for evidentiary proceedings or for any stated reason other than taxes or forfeiture described above, or if the officer fails to state a reason, then the hold shall expire forty-eight (48) hours from the time of impoundment (if not released earlier by the officer), and the operator shall not honor the hold beyond the forty-eight (48) hour period without express direction of the law enforcement agency storing said vehicle. The vehicle may then be released in accordance with the provisions of this Chapter.

(c) **Court orders regarding impounded or stored vehicles.** If any rule provided, herein conflicts with a court order served upon the operator relating to impoundments, release, storage or other matter relating to the wrecker service, the court order shall take precedence.

(d) **Release to another wrecker service.** When a wrecker service is to lawfully obtain a vehicle from another wrecker service which originally towed the vehicle, the original wrecker service shall:

- (1) allow the other wrecker service to enter its premises and remove the vehicle, or
- (2) if the original wrecker service does not allow the other licensed wrecker services or registered owner or agent on its premises to make the tow, the original wrecker service shall properly tow the vehicle to a mutually agreeable site in order to transfer the vehicle to the requesting wrecker service.

## SUBCHAPTER 9. OKLAHOMA HIGHWAY PATROL ROTATION LOG - ADDITIONAL REQUIREMENTS WRECKER ROTATION [AMENDED]

### 595:25-9-1. Oklahoma Highway Patrol Rotation Log [REVOKED]

(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 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 (c) 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 specified on the request. Both the Troop Commander of the Troop 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 wrecker service business location within ten (10) road miles of a gate entry to the turnpike. The wrecker service must be capable of responding promptly to the scene, opening at least one lane promptly, and clearing the incident site within the shortest time possible. To accommodate these requirements, calls will be assigned to the wrecker service nearest in time or distance to the incident.

(e) **Geographical Areas of Rotation.** [47 O.S. § 72-955 (C)]

- (1) The Commissioner's designee the Wrecker Services Division shall be responsible for establishing geographical areas of rotation within the Troop to which wrecker services on the Troop's Rotation Log will be assigned 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 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 at any time and for just cause, but shall notify each wrecker service affected of such modifications as soon as practicable.

(5) The Commissioner's designee may extend any geographical area of rotation by a reasonable radius beyond the boundaries of the Troop to include on the rotation log of the Troop:

- (A) Which is located outside of but in proximity to the boundary of the Troop, and
- (B) Upon receiving notification from the Department of the approval of the wrecker service for placement on the rotation log for the Troop 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.

(f) **Forms.** A request for placement on any rotation log shall be filed by the wrecker service with the Department 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 on whose Rotation Log the wrecker service has been assigned, and
- (2) The Wrecker Services Division of the Department.

(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.

### 595:25-9-2. Operator requirements [REVOKED]

— Operators on the Rotation Log shall comply with the following:

- (1) When more than one (1) vehicle is towed on one (1) call, each tow shall be counted as another call to that operator.
- (2) When an operator receives a request for services from the Oklahoma Highway Patrol and no services are rendered, the operator shall not lose position on the Rotation Log.
- (3) If an operator has received a request for services, but does not respond to the scene within a reasonable length of time, including but not limited to such factors as distance from the scene, weather, and nature of the collision or traffic tie-up, the Oklahoma Highway Patrol may request the services of the next operator on the Rotation Log. Under these circumstances, the operator who receives the first request shall lose position on the Rotation Log.
- (4) When an emergency condition exists, the Oklahoma Highway Patrol reserves the right to request the services of any appropriately equipped and licensed wrecker service best able to handle the emergency and can reach the scene in the shortest time, regardless of the operator's position on the Rotation Log. Said call shall count as a call on the Rotation Log.
- (5) Only one (1) wrecker service shall be approved for Highway Patrol rotation at any one place of business and/or storage facility, unless otherwise approved by the Commissioner.
- (6) Wrecker services shall respond to Highway Patrol requests only in a wrecker vehicle licensed to the requested wrecker service, unless otherwise approved by the Commissioner.
- (7) Every wrecker service on the Highway Patrol Rotation Log shall maintain twenty-four (24) hour service.

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- (8) A wrecker service called from the Highway Patrol Rotation Log shall not accept a request for services unless the operator has a vehicle immediately available to perform the requested service.
- (9) Each operator shall require each driver responding to a request to maintain the appropriate driver license for the type vehicle being operated.
- (10) Each operator shall require each driver to obey in good faith the rules of the road.
- (11) Each operator shall prohibit any known thief or felon from loitering, visiting, or otherwise being on the premises of the place of business or any storage facility of the wrecker service.
- (12) Every operator shall accept each Oklahoma Highway Patrol call unless there exists a valid reason for refusal. Upon acceptance of a call an operator shall advise dispatch of their current location and estimated time of arrival.
- (13) Each operator shall provide service for a minimum of seventy-five (75%) percent of the requests made by the Highway Patrol to be computed on a quarterly basis. Failure to meet this standard for any reason shall be grounds for removal from the Oklahoma Highway Patrol Rotation Log.
- (14) Any Class AA wrecker operator who uses an answering service as a means of dispatch and who fails to properly respond in a timely manner, as determined by the Commissioner's designee of the Wrecker Services Division, to a rotation call request may have the Class AA license revoked for failure to properly respond to rotation call requests. The operator shall not be licensed as a Class AA wrecker service while utilizing the same answering service as a means of dispatch.
- (15) Persons responding to calls must be able to speak and understand the English language.
- (16) A wrecker operator shall respond to law enforcement agencies' wrecker service requests with a wrecker vehicle and operator capable of efficiently uprighting an overturned vehicle, pulling or winching a vehicle back onto the roadway, lifting a vehicle off a victim, or assisting with opening a vehicle to extricate a victim. In addition, the wrecker vehicle shall be equipped to remove a disabled vehicle without inflicting further damage to the disabled vehicle.
- (17) If two or more vehicles are involved in a collision and two or more wrecker services are called the following shall apply:
- (A) The first wrecker service arriving at the scene will tow the vehicle causing the greatest traffic hazard, which shall be determined by the investigating officer.
  - (B) If a requested wrecker service is first on scene, said wrecker service will assist in removing the vehicle causing the traffic hazard from roadway, then will proceed to pick up the vehicle it has been requested to tow.
- (18) Any wrecker service having a wrecker vehicle with major or critical mechanical failure or failing to meet equipment requirements, which does not have another wrecker vehicle of the same classification approved for rotation, shall become temporarily unavailable for rotation until the wrecker vehicle has been approved to return to service or a new wrecker vehicle of the same classification has been inspected, if necessary, and approved by the Department.
- (19) A wrecker service shall become temporarily unavailable for rotation if there is no approved Certificate of Insurance (WA) filing on file with the Department for the wrecker service or wrecker vehicles approved for rotation.
- (20) Any wrecker service with a wrecker vehicle displaying an expired tag, which does not have another wrecker vehicle of the same classification approved for rotation, shall become temporarily unavailable for rotation until the wrecker license plate has been renewed and is properly displayed on the wrecker vehicle.
- (21) When a request for service has been cancelled by Oklahoma Highway Patrol dispatch, the operator shall not continue to the scene of the requested service. The operator shall not lose its position on the rotation log.

## 595:25-9-3. Rotation calls for truck wreckers (Class AA-TL) [REVOKED]

- (a) Rules governing the rotation calls for Class AA-TL truck wrecker operators shall be the same as the rules governing the rotation calls for all other Class AA wrecker operators, except that in the case of truck wreckers the involved Trooper and/or the dispatcher shall have and be free to exercise his or her discretion as provided for in this section. If, in the judgment of any involved trooper and/or dispatcher, a Class AA-TL truck wrecker operator within a service area is needed because of an emergency situation, such wrecker service may be called without regard to position on the truck wrecker log except in relation to other operators also meeting the additional Class AA qualities in the service area.
- (b) The large trucks and operators shall be capable and expected
- (1) to clear a lane of traffic within one (1) hour upon arrival on the scene unless an extreme circumstance exist, using Traffic Incident Management (TIM) standards for the safety of the public and responders;

- (2) have recovery and remediation resources immediately available to assist in clearing the scene as safely and as quickly as possible; and
- (3) shall coordinate and participate in the recovery, towing and cleanup. Participation does not include only traffic management.

### **595:25-9-4. Oklahoma Highway Patrol wrecker rotation - general [NEW]**

The Oklahoma Highway Patrol shall maintain a Class AA-TS Wrecker Rotation, a Class AA-TM Wrecker Rotation, and a Class AA-TL Wrecker Rotation. Each Wrecker Rotation will consist of licensed wrecker services approved to perform nonconsensual tows at the request of the Oklahoma Highway Patrol. In the event of a traffic incident requiring a nonconsensual tow, a licensed wrecker service placed on an OHP wrecker rotation will be contacted in the order of its position on the applicable rotation. Nothing in these rules prohibits the Oklahoma Highway Patrol from utilizing any licensed wrecker service without regard to the OHP Wrecker Rotation in support of the needs of the Department.

### **595:25-9-5. Oklahoma Highway Patrol wrecker rotation - placement and removal [NEW]**

Any Class AA-TS, Class AA-TM, or Class AA-TL licensed wrecker service may request to be included on an OHP Wrecker Rotation in accordance with the following:

- (1) The request must be submitted to the Department in writing in a form and format determined by the Department.
- (2) The place of business and storage facility of the licensed wrecker service must be within the geographical boundaries of the assigned wrecker rotation.
- (3) A licensed wrecker service may only occupy one position on an applicable wrecker rotation.
- (4) The licensed wrecker service must have the capacity to provide daily around the clock service.
- (5) A licensed wrecker service may request in writing to be removed permanently or temporarily from an OHP wrecker rotation. Temporary removals may be for no less than five (5) days, unless otherwise authorized by the Commissioner's Designee.

### **595:25-9-6. Oklahoma Highway Patrol wrecker rotation - process [NEW]**

- (a) When more than one (1) casualty is towed by the same licensed wrecker service from the scene of a traffic incident it shall be counted on the OHP wrecker rotation as a single call to the licensed wrecker service.
- (b) A licensed wrecker service that receives a request for services from the Oklahoma Highway Patrol but, through no fault of the licensed wrecker service, no services are provided, the licensed wrecker service will not be rotated from its position on the OHP wrecker rotation until it responds to a subsequent call for service.
- (c) A licensed wrecker service that, after receiving a call for service, fails to arrive at the scene of the traffic incident within a reasonable time, in the opinion of the OHP personnel on scene, or indicates it is unavailable in a reasonable time, shall be rotated from its position to the bottom of the applicable OHP wrecker rotation. The next licensed wrecker service on the OHP wrecker rotation will then be contacted. The first licensed wrecker service will be notified as soon as practicable of the situation.
- (d) When a licensed wrecker service receives an off-rotation call for service, it shall be rotated from its current position to the bottom of the applicable OHP wrecker rotation.
- (e) A licensed wrecker service that refuses a call for service shall be rotated from its current position to the bottom of the applicable OHP Wrecker Rotation.
- (f) A licensed wrecker service shall notify the Department personnel making the call for service of its current location and estimated time of arrival to the scene of the traffic incident.
- (g) Authorized wrecker vehicle operators responding to OHP wrecker rotation calls must be able to speak and understand the English language.

### **595:25-9-7. Oklahoma Highway Patrol wrecker rotation - special situations [NEW]**

- (a) Due to special situations such as, but not limited to, a pending fatal collision, asset forfeiture, or criminal investigation, law enforcement officers or agencies may select licensed wrecker services with indoor storage facilities without regard to rotation. The facility must meet the stated specifications of the investigating officer and the licensed wrecker service must comply with any special instructions related to the storage.
- (b) When two (2) or more licensed wrecker services are dispatched to a traffic incident the following procedures shall apply:
  - (1) The first licensed wrecker service arriving at the scene will tow the vehicle causing the greatest traffic hazard, which shall be determined by the law enforcement officer on scene.

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(2) In the event the owner or authorized agent of one of the casualties has requested a specific licensed wrecker service, and that licensed wrecker service arrives on scene before any other licensed wrecker services, it shall be required to assist removing vehicles presenting a traffic obstruction prior to recovering and/or towing the casualty it has been requested to recover and/or tow.

(c) Notify the Department by email of the make, model, GVWR, and VIN of any approved wrecker vehicle which is disposed of permanently or temporarily unavailable. When a licensed wrecker service has only one approved wrecker vehicle and the approved wrecker vehicle becomes unavailable by reason of mechanical failure or failure to meet the applicable wrecker vehicle requirements, the licensed wrecker service shall be removed from the applicable OHP wrecker rotation, unless and until a wrecker vehicle license is issued for a replacement wrecker vehicle. The affected approved wrecker vehicle must be reinspected prior to the licensed wrecker service being placed back on the applicable OHP wrecker rotation.

(d) When a request for service has been cancelled by the Oklahoma Highway Patrol, the licensed wrecker service shall not continue to the scene of the traffic incident. The licensed wrecker service shall not lose its position on the rotation log.

## **595:25-9-8. Oklahoma Highway Patrol wrecker rotation - minimum response requirements [NEW]**

(a) Each quarter the Department will compute the percentage of calls made to licensed wrecker services for which the Communications Division got no response, or the licensed wrecker service indicated it was unavailable. Licensed wrecker services must comply with the following minimum response requirements:

(1) For licensed wrecker services receiving more than twelve (12) calls per quarter, a seventy-five percent (75%) response rate is required.

(2) For licensed wrecker services receiving more than four (4) but less than twelve (12) calls per quarter, a fifty percent (50%) response rate is required.

(b) Failure to meet the response requirements will subject the licensed wrecker service to administrative action as defined by these rules. The Department will consider repeated failures to comply with response requirements occurring within one (1) year to be grounds for progressive administrative action. The Commissioner's Designee may exempt specific OHP wrecker service rotations from the minimum response requirements for specific time periods as a result of increased demand due to inclement weather or other catastrophic conditions.

## **595:25-9-9. Oklahoma Highway Patrol wrecker rotation - geographic boundaires [NEW]**

In accordance with 47 O.S. § 955(C), the Commissioner's Designee will establish the geographic boundaries of each OHP wrecker rotation in conjunction with the affected Troop Commander and Communications Supervisor. The Commissioner's Designee is authorized to alter the geographic boundaries of any OHP wrecker rotation, permanently or temporarily, in support of the needs of the Department. Affected licensed wrecker services will be notified as soon as practicable of any changes to the OHP wrecker rotation. In determining the geographic boundaries, the Commissioner's Designee will consider information including, but not limited to:

(1) The number of licensed wrecker services;

(2) The distance between licensed wrecker services;

(3) The estimated response time of licensed wrecker services;

(4) The economic impact on owners, insurers, and lienholders;

(5) The economic impact on licensed wrecker services;

(6) Any other information deemed relevant by the Commissioner's Designee.

## **SUBCHAPTER 11. DENIAL, SUSPENSION, REVOCATION OR CANCELLATION OF LICENSE; DENIAL OR REMOVAL OF CLASS AA OPERATORS FROM ROTATION LOG OF THE OKLAHOMA HIGHWAY PATROL [REVOKED]**

### **595:25-11-1. Failure to qualify [REVOKED]**

~~— The Department may deny or cancel the license, and/or remove from the Rotation Log, as applicable, any operator who fails to qualify therefore as provided in the rules of this Chapter and the laws of 47 O.S.~~

### **595:25-11-2. Violation of rules [REVOKED]**

~~(a) The Department may deny, suspend, cancel, or revoke the license, and/or remove from the Rotation Log any operator who has committed a violation of any applicable laws of the State of Oklahoma, any applicable rules of the Department of Public Safety, and any applicable rules and orders of the Corporation Commission.~~

(b) The Department may consider the following factors when determining the sanction for a violation as described in this section:

- (1) The severity of the alleged violation;
- (2) The Wrecker Service's history of compliance or non-compliance;
- (3) The Wrecker Service's demonstrated willingness and ability to avoid future violations.

(c) If the Commissioner, upon review of a report of the Commissioner's Designee related to a violation as described in this section determines the public health, safety, or welfare requires emergency action, summary suspension of the Wrecker Service license may be ordered pending a hearing. A hearing will be scheduled within three (3) business days of the date of the order of summary suspension.

### 595:25-11-3. Procedure [REVOKED]

— In the event the Department has determined that a license should be denied, suspended, revoked, or canceled, or that an operator should be denied or removed from the Rotation Log for any reason, or both, the following procedures shall apply in accordance with the Administrative Procedures Act, 75 O.S. § 309, et seq. This section does not apply to summary suspensions:

- (1) The Department shall send by first-class mail Notice of Department Action containing all information required by 75 O.S. § 309, et seq., to the concerned applicant or operator at the last known address as reflected by the records of the Department.
- (2) The notice shall provide the effective date of the Department action as determined by the Commissioner or Commissioner's Designee, based upon the seriousness of the infraction. When an applicant or operator requests a hearing in writing with the Wrecker Services Division, the Department action may be suspended until a hearing is held. Such request for hearing shall be timely when filed prior to the effective date of the Department Action.
- (3) If a timely hearing is requested, the hearing shall be scheduled within forty-five (45) days from the date the Department receives the request.
- (4) The Department hearing officer shall be designated by the Commissioner, and each party shall be afforded an opportunity to be heard and to present evidence.
- (5) The hearing officer shall render a decision based upon the law and the evidence presented and shall enter an appropriate final order regarding the matter. Each party shall be promptly notified either personally or by mail.
- (6) Unless the hearing officer timely receives a written request for a rehearing, reopening or reconsideration of the decision as provided by the Administrative Procedures Act, the final order will become effective ten (10) days after the entry of the decision.
- (7) If an applicant operator fails to appear at the scheduled hearing without good cause, the hearing officer shall record the nonappearance and enter a final order reflecting the effective date prescribed in (2) of this Subsection, in lieu of the decision and final order as prescribed in (5) and (6) of this Subsection. Each party shall be promptly notified thereof either personally or by mail.
- (8) If the Department representative fails to appear without good cause, the hearing officer shall record the nonappearance and enter a final order of dismissal of the Department Actions. The order of dismissal shall be without prejudice if the basis for the action constitutes noncompliance or a continuing violation of these rules. Each party shall be promptly notified thereof either personally or by mail.
- (9) Where a timely written request for a rehearing, reopening or reconsideration of the case is received, the Department Action shall be stayed until ten (10) days after an order is issued concerning the request for rehearing, reopening or reconsideration of the case.
- (10) Notwithstanding (2) through (9) of this Subsection, Department Action shall become effective immediately where:
  - (A) An original application for a license or placement on the Rotation Log is denied for failure to qualify under this Chapter.
  - (B) The Department finds that the health, safety, or welfare of the public imperatively requires such action and finding to that effect is incorporated in its order, pursuant to the Administrative Procedures Act, 75 O.S. § 314(c).
- (11) Where the Department has determined that a minor disqualification and/or violation exists which may be readily rectified by the applicant or operator, the Department of Public Safety may informally notify such party by mail or telephone of such minor disqualification or violation, with a request for compliance with a specified period of time. If such party fails to rectify the minor disqualification or violation, the Department may proceed according to other provisions of this Subchapter.

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(12) If the applicant or operator is organized as a corporation, a limited liability company, or a partnership, it must be represented by an attorney through all stages of the proceeding. *See Massongill v. McDevitt*, 1989 OK CIV APP 82, *Allen v. City of Chickasha*, 2009 OK CIV APP 52, *Cf. Rowland v. Calif. Men's Colony*, 506 U.S. 194, 202-203 (1993).

## **SUBCHAPTER 13. TRAINING AND EDUCATION [NEW]**

### **595:25-13-1. Continuing education requirements [NEW]**

In addition to the initial training requirements, each authorized wrecker vehicle operator must annually complete four (4) hours of Department approved continuing education. All training providers and training curriculum must be approved by the Department. Any training provider shall request approval of specific training curriculum, or approval as a training provider, in writing to the Department before providing the training.

### **595:25-13-2. Approved training [NEW]**

Providers of training must notify the Department ten (10) business days prior to the scheduled training. Continuing education will not be awarded for training when the Department is not properly notified. The Department reserves the right to overtly or covertly observe the provision of any training activities.

(1) Approved training, as determined by the Department, shall:

- (A) Contribute to the improved safety of wrecker operations, or
- (B) Contribute to the improved efficiency of wrecker operations, or
- (C) Update licensees on emerging trends, technology, or tools available to the wrecker industry.

(2) Approved curriculum, as determined by the Department, shall:

- (A) Be a nationally accredited or recognized provider of wrecker training, or
- (B) Be a recognized wrecker industry association capable of providing training statewide.
- (C) Be created by the Department.

(3) Approved trainers, as determined by the Department, shall:

- (A) Demonstrate the experience and education necessary to provide instruction in relevant topics to the wrecker industry, and
- (B) Have a demonstrated history of substantial compliance with the rules of the Department regarding the provision of wrecker services.

## **SUBCHAPTER 15. WRECKER VEHICLES [NEW]**

### **595:25-15-1. Classes of wrecker vehicles [NEW]**

(a) Class AA-TS: Any wrecker vehicle equipped in accordance with these rules and having a GVWR of not less than nine thousand (9,000) pounds.

(b) Class AA-TM: Any wrecker vehicle equipped in accordance with these rules and having a GVWR of not less than twenty-four thousand (24,000) pounds. Additionally, Class AA-TM rollback wrecker vehicles shall have a minimum deck weight rating of twelve thousand (12,000) pounds.

(c) Class AA-TL: Any wrecker vehicle equipped in accordance with these rules and having a GVWR of not less than forty-four thousand (44,000) pounds.

(d) Class G (General): All other wrecker vehicles as defined by 47 O.S. § 951, et. seq., provided a Class G wrecker may also be considered a wrecker support vehicle for the purposes of 47 O.S. § 12-218.1. Provided however, that a Class G wrecker that only performs repossessions may be granted exemptions from specific rules of this Chapter as determined by the Department.

### **595:25-15-2. Licensed wrecker vehicle requirements [NEW]**

(a) The wrecker service license number along with the name of the licensed wrecker service shall be conspicuously displayed and vertically centered on each side of every wrecker vehicle used by the licensed wrecker service. All wrecker vehicles will display an AA or G designation at the end of the wrecker service license number. Example: DPS 12345W AA or DPS 12345W G. The wrecker service license number and business name shall be at least three inches (3") in height. The font shall be legible. The lettering shall be in a color that will contrast with the color of the wrecker vehicle. The signage required by this paragraph shall be permanent in nature and shall not contain any misleading or false information. The wrecker vehicle shall display only one licensed wrecker service name. Upon request, the Commissioner's designee, may approve the use of a temporary magnetic sign for a period of thirty (30) days.

(b) All approved wrecker vehicles, regardless of Class will be equipped with the following:

- (1) One (1) ten pound, Class B or C, fire extinguisher or equivalent.
- (2) At least one (1) amber rotating or flashing light, mounted as high as practicable on the vehicle and visible from 360 degrees or on a light bar, and approved by an officer of the Department. In addition to the required amber rotating light, the wrecker may be equipped with a red or blue flashing light, or a combination of red and blue flashing lights, for use only at the scene of an emergency [47 O.S. § 12-218.1]; provided, on any wrecker vehicle approved after July 15, 2005, the red or blue light, or the combination of red and blue flashing lights, shall be on a separate switch from the amber light.
- (3) Two (2) chains of sufficient grade to assist in securing the towed vehicle.
- (4) One (1) push-type broom, suitable for clearing debris from the road.
- (5) One (1) shovel, suitable for clearing debris from the road.
- (6) One (1) set of tire chains, mud and snow tires or other device to assist wrecker to maintain traction in mud, snow, or ice.
- (7) Warning devices, applicable to trucks as required in 47 O.S. § 12-407, capable of protecting the scene of a collision by day or night.
- (8) Wreckers must be equipped to operate a towed vehicle's stop, turn and clearance lights (if applicable), or be equipped with a light bar or other lighting equipment to comply with lighting requirements for vehicles. When used, the light bar or tow lights shall be affixed securely to the towed vehicle to assure a minimum of movement while traveling on the highway and to prevent any damage to the towed vehicle.
- (9) Four (4) safety chains or wheel straps of sufficient capacity to keep the towed vehicle attached to the wrecker in the event of disengagement.

(c) Each licensed Class AA wrecker vehicle must also meet the following requirements or be equipped with:

- (1) Two (2) scotch blocks, or similar devices, capable of adding stability to the wrecker during winching. Scotch blocks shall be constructed of steel plate with a chain or cable of sufficient grade and quality to attach to the frame or body of the wrecker. Hydraulic stabilizing equipment shall be approved. (NOTE: Roll-back wrecker vehicles are exempt from this requirement.)
- (2) Dollies for the purpose of providing a method of towing a disabled vehicle which is otherwise incapable of being towed safely on either axle. (NOTE: Roll-back wrecker vehicles are exempt from this requirement.)
- (3) One (1) axe.
- (4) One (1) pry-bar or wrecking bar.
- (5) One (1) sling and stay-bar, wheel lift device, or other type of device capable of safely loading and protecting the disabled vehicle while being towed.
- (6) At least one (1) set of dual rear wheels for stability in towing another vehicle.
- (7) A winch or winches permanently mounted at the rear of the vehicle with a minimum factory rated capacity of eight thousand pounds (8,000 lbs.) and equipped with a cable to be compatible with manufacturer's specifications and be of sufficient length based on the design of the wrecker vehicle.
- (8) An adequate supply of an absorbent capable of absorbing liquid spills from vehicles (not including cargo spills); provided, the wrecker service or wrecker operator shall not be required to pick up or dispose of the used absorbent.
- (9) One (1) hydraulic bottleneck jack or floor jack with a minimum two and a half ton rating.
- (10) First Aid kit.
- (11) Thirty-three (33) gallon minimum trash bags or two (2) five (5) gallon buckets
- (12) Flashlight.
- (13) Wire/Cable cutter pliers (8").
- (14) Jumper cables or Jumper Box.
- (15) Safety glasses.
- (16) Three (3) traffic cones, or similar MUTCD compliant device, retroreflective, predominately orange, twenty-eight inches (28") in height
- (17) Adjustable pliers
- (18) Rubber and/or work gloves.

(d) Each Class AA-TM wrecker (medium truck wrecker) must also meet the following requirements or be equipped with:

- (1) Factory or certified installed full air brakes with a full tractor package (hand control, in line foot valve, air hoses and trailer emergency valve) capable of releasing the air brakes on a tractor-trailer and capable of operating the brakes of the towed vehicle with the same application as the towing vehicle.
- (2) Air-activated spring parking brake.

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- (3) Wrecker body and equipment shall be compatible with the chassis GVWR in size and shall be suitable by design to operate under emergency conditions.
- (4) Vehicle body must be capable of safely anchoring scotch blocks.
- (5) Vehicle must be designed to adequately anchor snatch blocks.
- (6) A winch or winches permanently mounted at the rear of the vehicle with a minimum factory rated capacity of thirty thousand pounds (30,000 lbs.) and be equipped with a cable to be compatible with manufacturer's specifications and be of sufficient length based on the design of the wrecker vehicle.
- (7) A boom or booms compatible with winch rating.
- (8) A minimum of two (2) snatch blocks compatible with winch cable size and cable rating.
- (9) One (1) sling and stay-bar, wheel lift device, or other type of device capable of safely loading and protecting the disabled vehicle while being towed.
- (e) Each Class AA-TL wrecker (large truck wrecker) must also meet the following requirements or be equipped with:
  - (1) Factory-installed or certified installed full air brakes with a full tractor package (hand control, in-line foot valve, air hoses, and trailer emergency valve) capable of releasing the air brakes on a tractor-trailer and capable of operating the brakes of the towed vehicle with the same application as the wrecker.
  - (2) Air-activated spring parking brake.
  - (3) Minimum front axle and suspension weight rating of twelve thousand pounds (12,000 lbs.).
  - (4) Minimum rear axle and suspension combination weight rating of thirty-two thousand pounds (32,000 lbs.).
  - (5) Be equipped with full-driven tandem axle (NOTE: A drag axle or pusher axle is not acceptable).
  - (6) Chassis must have a minimum wheel base of 280 (two hundred and eighty) inches. 200 inches will be allowed on vehicles previously licensed if they have a hydraulic wheel lift, spades and an additional operator.
  - (7) The wrecker vehicle body and equipment shall be compatible with chassis GVWR and size and shall be suitable by design to operate under emergency conditions.
  - (8) The wrecker vehicle body must be capable of safely anchoring scotch blocks.
  - (9) The wrecker vehicle body must be designed to adequately anchor snatch blocks.
  - (10) Winches must be maintained with at least 75% capacity of the manufacturers recommended length of wire or synthetic rope. Must have at least two (2) winches with a minimum combined capacity of forty thousand (40,000) pounds.
  - (11) A factory built or certified elevating and telescoping recovery boom with a twenty-five (25) ton minimum weight rating.
  - (12) A factory built or certified hydraulic telescoping wheel lift.
  - (13) Two (2) or more air hoses 3/8", with combined minimum length of one hundred feet (100').
  - (14) Eight (8) cage bolts
  - (15) Two (2) air outlets for emergency and service line activation
  - (16) Metric and standard end wrench sets
  - (17) Metric and standard 1/2" drive socket set and ratchet
  - (18) Hydraulic or pneumatic jack with a ten (10) ton minimum rating
  - (19) Ten (10) gallons of absorbent material
  - (20) 2.5 lb. Sledge/shop hammer
  - (21) Two (2) pairs of locking pliers
  - (22) Four (4) axle covers
  - (23) Five (5) traffic cones that are retroreflective, predominately orange, twenty-eight inches (28") in height
  - (24) Saddle tank fluid mitigation compound
  - (25) Minimum of 4 (four) snatch blocks that are recommended for the size of wire rope contained on the winches.
  - (26) Minimum of sixty feet (60') of one-half inch (1/2") Grade 80 recovery chain with hooks.

## **SUBCHAPTER 17. ADMINISTRATION [NEW]**

### **595:25-17-1. Required records [NEW]**

Each licensed wrecker service shall maintain in a form and format determined by the Department and submit completed records to the Department, when required, the following records:

- (1) Thirty Day Storage Report: Pursuant to 47 O.S. § 4-105, and 47 O.S. § 964 the report of any vehicle stored by the licensed wrecker services for greater than thirty (30) days.



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(2) Junk Vehicle Storage Report: The report of any Junk Vehicle as defined by 47 O.S. § 1105(A)(6), stored by the licensed wrecker services for greater than five (5) days. Provided the Junk Vehicle Storage Report may be submitted to the Department within thirty-five (35) days as provided by 47 O.S. § 4-105.

(3) Towing Services Report Form: Each licensed wrecker service shall record all services performed in pulling or towing vehicles impounded for law enforcement or at the request of private property owners.

### **595:25-17-2. Initial business, wrecker vehicle, and storage facility inspections [NEW]**

(a) The Department shall inspect every place of business and every storage facility listed in the application packet prior to approving an application packet for a licensed wrecker service in accordance with the following:

(1) Inspection of any place of business and any storage facility is required at the time of application and upon the change of address of either the place of business or storage facility.

(2) In the event any inspected facility does not pass the initial facilities inspection the Department will issue a corrective action plan to the applicant or licensed wrecker service.

(b) The Department shall inspect every wrecker vehicle prior to its use for providing services to the public in accordance with the following:

(1) Inspection is required for wrecker vehicles included in the original application packet or wrecker vehicles added by a licensed wrecker service.

(2) The Department will issue a compliance report or corrective action plan upon completion of the inspection. The compliance report is required to obtain a wrecker vehicle tag from Service Oklahoma.

(3) The compliance report for an approved wrecker vehicle will be annotated "Approved pending wrecker vehicle tag or for sixty (60) days, whichever is sooner".

(4) In the event a wrecker vehicle does not pass the initial wrecker vehicle inspection the Department will issue a corrective action plan to the applicant or licensed wrecker service.

(5) If the wrecker vehicle inspector determines a condition noted on the inspection of an approved wrecker vehicle or approved storage location is an imminent risk to public safety, immediate administrative action may be ordered.

### **595:25-17-3. Supplemental wrecker vehicle and storage facility inspections [NEW]**

The Department shall annually inspect previously approved wrecker vehicles, approved places of business, and approved storage facilities in accordance with the following:

(1) The Department will annually determine which licensed wrecker services will be inspected the following calendar year.

(2) No licensed wrecker service shall have less than thirty (30) days' notice of the inspection(s). Notice of the following year's inspections will be sent upon receipt of the renewal application packet and inspections may commence on January 1, the following calendar year. The inspections referenced in this section must be completed by October 1 of the applicable calendar year.

(3) In his or her discretion, the assigned wrecker services inspector will choose which approved wrecker vehicles to inspect at the time of the inspection. Provided, this paragraph does not prohibit a wrecker services inspector from inspecting all approved wrecker vehicles, licensed storage facilities, or licensed places of business.

(4) In the event an approved wrecker vehicle, approved storage facility, or approved place of business does not pass inspection, the Department will issue a corrective action plan to the licensed wrecker service.

(5) Failure to complete the corrective action plan in the time allotted will subject the licensed wrecker service to further administrative action in accordance with these rules.

(6) Nothing in this rule shall be construed to prevent an inspection of a place of business, storage location, or wrecker vehicle for the purpose of investigating a possible violation of the rules of this Chapter.

### **595:25-17-4. Transfer of ownership [NEW]**

Any transfer of ownership due to sale, merger, dissolution, or any other reason shall reserve the licensed wrecker service trade name for a period of ninety (90) days, during which time the successor owner may apply for a wrecker license using the same trade name or another trade name. However, the successor may not operate as a licensed wrecker service until the application packet has been accepted and approved by the Department. For the purposes of this section, transfer of ownership means a complete replacement of all business owners, and does not include the separation of one joint owner, leaving the remaining owner or owners intact.

### **595:25-17-5. Administrative action by the Department [NEW]**

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(a) The Department may deny issuing a driver card or a wrecker service license, and/or disapprove requests to be included on the OHP wrecker rotation, as applicable, to any wrecker service or applicant that fails to qualify therefore as provided in the rules of this chapter and the laws of title 47 of the Oklahoma statutes.

(b) The Department may deny, suspend, cancel, or revoke a driver card or wrecker service license, and/or remove from the rotation log any licensed wrecker service that has committed a violation of any applicable laws of the State of Oklahoma, any applicable rules of the Department of Public Safety, or any applicable rules and orders of the Corporation Commission.

(c) The Department may consider the following factors when determining the sanction for a violation as described in this section:

- (1) the severity of the alleged violation,
- (2) the license wrecker vehicle operator's or licensed wrecker service's history of compliance or non-compliance,
- (3) the license wrecker vehicle operator's or licensed wrecker service's demonstrated willingness and ability to avoid future violations.

(d) The Department will issue a corrective action plan when a driver card or wrecker service license is denied, suspended, canceled, revoked, or a licensed wrecker service is removed from the OHP rotation. Compliance with the corrective action plan is a prerequisite to the lifting of the denial, suspension, cancellation, or removal from the OHP rotation.

(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.

(f) If the Commissioner or the Commissioner's Designee determines a violation as described in this section endangers the public health, safety, or welfare and requires emergency action, summary suspension of the wrecker vehicle operator or wrecker service license may be ordered pending a hearing. A hearing will be scheduled within three (3) business days of the date of the order of summary suspension.

*[OAR Docket #25-471; filed 6-4-25]*

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## TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 35. ENFORCEMENT OF OKLAHOMA MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS TRANSPORTATION ACT

*[OAR Docket #25-472]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

595:35-1-5. Applicability [AMENDED]

### **AUTHORITY:**

Commissioner of Public Safety; 47 O.S. § 2-108

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

October 20, 2024

### **COMMENT PERIOD:**

November 15, 2024 through December 16, 2024

### **PUBLIC HEARING:**

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### **ADOPTION:**

January 30, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 30, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1034

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

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# Permanent Final Adoptions

**EFFECTIVE:**

July 11, 2025

**SUPERSEDED EMERGENCY ACTIONS:****SUPERSEDED RULES:**

N/A

**GUBERNATORIAL APPROVAL:**

N/A

**REGISTER PUBLICATION:**

N/A

**DOCKET NUMBER:**

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**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

A Commercial Motor Vehicle (CMV) operating in intrastate commerce is not subject to the federal requirements of interstate commerce. The 2024 permanent rule amendment unintentionally subjected intrastate CMVs to the federal requirements of interstate CMVs.

**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 JULY 11, 2025:**

**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) ~~Except as provided by 47 O.S. § 230-15, the~~ 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 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;~~

(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.

(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.

*[OAR Docket #25-472; filed 6-4-25]*

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## TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 75. MOTORCYCLE RIDER SAFETY SAFETY EDUCATION AND TRAINING [NEW]

[OAR Docket #25-473]

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

- 595:75-1-1. Purpose [NEW]
- 595:75-1-2. Definitions [NEW]
- 595:75-1-3. Approved Commercial Motorcycle Schools [NEW]
- 595:75-1-4. Term of ~~Approval~~approval – Commercial Motorcycle Schools [NEW]
- 595:75-1-5. Application ~~Requirements~~requirements – Commercial Motorcycle Schools [NEW]
- 595:75-1-6. Insurance [NEW]
- 595:75-1-7. Approved Commercial Motorcycle Instructors [NEW]
- 595:75-1-8. Term of Approval – Commercial Motorcycle Instructors [NEW]
- 595:75-1-9. Application Requirements – Commercial Motorcycle Instructors [NEW]
- 595:75-1-10. Range requirements [NEW]
- 595:75-1-11. Motorcycle requirements [NEW]
- 595:75-1-12. Motorcycle inspections [NEW]
- 595:75-1-13. Classroom requirements [NEW]
- 595:75-1-14. Safety [NEW]
- 595:75-1-15. Personal protective equipment [NEW]
- 595:75-1-16. Prescribed course of study [NEW]
- 595:75-1-17. Required reports [NEW]
- 595:75-1-18. Recordkeeping requirements [NEW]
- 595:75-1-19. Advertising [NEW]
- 595:75-1-20. Professionalism [NEW]
- 595:75-1-21. Commissioner's designee [NEW]
- 595:75-1-22. Review of license and school [NEW]
- 595:75-1-23. Grounds for ~~Disapproval~~disapproval of a Commercial Motorcycle School [NEW]
- 595:75-1-24. Grounds for ~~Disapproval~~disapproval of a Commercial Motorcycle Instructor [NEW]
- 595:75-1-25. Administrative ~~Action~~action by the Department [NEW]

### **AUTHORITY:**

Department of Public Safety; 47 O.S. § 40-121

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

October 20, 2024

### **COMMENT PERIOD:**

November 15, 2024 through December 16, 2024

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December 17, 2024

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January 30, 2025

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### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

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May 28, 2025

### **EFFECTIVE:**

July 11, 2025

### **SUPERSEDED EMERGENCY ACTIONS:**

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# Permanent Final Adoptions

**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 are being promulgated to effectuate the provisions of 47 O.S. § 40-121, et seq. The Department is required to adopt "guidelines and standards for courses of instruction, as established and approved by the Commissioner and which are taught by certified instructors, as prescribed by the Commissioner.

**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 JULY 11, 2025:**

**595:75-1-1. Purpose [NEW]**

It is the policy of the State of Oklahoma, expressed by the Oklahoma Legislature that motorcycle safety and education be regulated to promote consistent, quality instruction for novice and advanced motorcyclists. The Department is tasked, through the Motorcycle Safety and Education Advisory Committee, with adopting uniform standards and criteria to promote motorcycle safety. The rules in this Chapter are promulgated for this purpose.

**595:75-1-2. Definitions [NEW]**

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

"Commercial Motorcycle Instructor" means an individual certified as a RiderCoach<sup>SM</sup> by the Motorcycle Safety Foundation and who has been approved by the Department to provide instruction in this State.

"Commercial Motorcycle School" means a business enterprise conducted by an individual, partnership, corporation, or other legal entity for the education and training of motorcycle drivers.

"Commissioner" means the Commissioner of Public Safety.

"Commissioner's designee" means the individual appointed by the Commissioner to administer the rules of this Chapter.

"Department" means the Department of Public Safety.

"Incident" means any injury, any potential injury, or any property damage to any participant, any bystander, or any vehicle that occurs during approved motorcycle training.

"MSF" means the Motorcycle Safety Foundation.

"RERP" means the MSF's Rider Education Recognition Program.

"School Number" means the unique number assigned to an approved Commercial Motorcycle School by the Department. Each approved location shall be assigned a different school number.

"T-CLOCS" means the pre-ride inspection procedure established by MSF to ensure motorcycles are in proper working order prior to operation.

**595:75-1-3. Approved Commercial Motorcycle Schools [NEW]**

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The Department will maintain a list of approved Commercial Motorcycle Schools in accordance with the provisions of this Chapter. Each approved Commercial Motorcycle School location will be assigned a School Number. Commercial Motorcycle Schools licensed by Service Oklahoma on the effective date of these rules shall be deemed initially approved by the Department. Commercial Motorcycle Schools requesting approval after the effective date of these rules, including renewals, must request approval as prescribed by these rules in the form and format designated by the Department and meet all requirements for Commercial Motorcycle Schools set forth in this Chapter.

## **595:75-1-4. Term of Approvalapproval – Commercial Motorcycle Schools [NEW]**

The Department's initial approval of Commercial Motorcycle Schools previously licensed by Service Oklahoma shall be valid until renewal is required. Commercial Motorcycle Schools approved after the effective date of these rules shall be approved for a term of one (1) year.

## **595:75-1-5. Application Requirementsrequirements – Commercial Motorcycle Schools [NEW]**

All completed applications for approval shall be submitted in the form and format prescribed by the Department. Each place of business or location shall require separate approval. Incomplete or inaccurate applications will not be approved by the Department. Each application shall be accompanied by:

- (1) The current MSF curriculum being used by the Commercial Motorcycle School;
- (2) A copy of the Commercial Motorcycle School's MSF RERP agreement;
- (3) A copy of the MSF RiderCoach<sup>SM</sup> certificate(s) of all individuals providing motorcycle instruction. A Commercial Motorcycle School must have at least one (1) approved Commercial Motorcycle Instructor;
- (4) A fee schedule reflecting all fees potentially charged by the Commercial Motorcycle School;
- (5) Declaration page(s) of a policy of insurance through MSF or from a company licensed to do business in this State reflecting coverages in the types and amounts required by the RERP Agreement;
- (6) Copy of all student contracts/agreements.

## **595:75-1-6. Insurance [NEW]**

- (a) Commercial Motorcycle Schools shall provide adequate insurance for students, motorcycles, and RiderCoaches<sup>SM</sup> either by independently obtaining insurance or by becoming an additional insured under MSF's insurance policy. The insurance coverage must meet or exceed the requirements set out in the Commercial Motorcycle School's RERP Agreement.
- (b) The Commercial Motorcycle School shall send a current copy of the declaration page(s) upon renewal of any insurance required by these rules.
- (c) In the event the insurance coverage is canceled, the Commercial Motorcycle School shall immediately notify the Department. Instruction will be suspended immediately and will not commence until proper verification of insurance is provided.

## **595:75-1-7. Approved Commercial Motorcycle Instructors [NEW]**

The Department will maintain a list of approved Commercial Motorcycle Instructors in accordance with the provisions of this Chapter. Commercial Motorcycle Instructors licensed by Service Oklahoma on the effective date of these rules shall be deemed initially approved by the Department. Commercial Motorcycle Schools requesting approval after the effective date of these rules, including renewals, must request approval as prescribed by these rules in the form and format designated by the Department and meet all requirements for Instructors set forth in this Chapter. To be approved as a Commercial Motorcycle Instructor, the applicant must establish:

- (1) current employment by an approved Commercial Motorcycle School;
- (2) a valid and unexpired Oklahoma driver license at the time of original or renewal application;
- (3) attainment of at least twenty-one (21) years of age;
- (4) a high school diploma or general education diploma, or transcript evidencing completion of high school or general education diploma requirements.

## **595:75-1-8. Term of Approval – Commercial Motorcycle Instructors [NEW]**

The Department's initial approval of Commercial Motorcycle Instructors previously licensed by Service Oklahoma shall be valid until renewal is required. Commercial Motorcycle Instructors approved after the effective date of these rules shall be approved for a term of one (1) year.

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## **595:75-1-9. Application Requirements – Commercial Motorcycle Instructors [NEW]**

All completed applications for approval shall be submitted in the form and format prescribed by the Department. The Commercial Motorcycle Instructor shall submit a separate application for each Commercial Motorcycle School employing the Commercial Motorcycle Instructor. Incomplete or inaccurate applications will not be approved by the Department.

Each application shall be accompanied by:

- (1) The current MSF RiderCoach<sup>SM</sup> certificate in the applicant's name;
- (2) A nationwide criminal history records check of the applicant performed within sixty (60) days immediately preceding the submission of the application;
- (3) The motor vehicle record of the applicant issued by Service Oklahoma within sixty (60) days immediately preceding the submission of the application.

## **595:75-1-10. Range requirements [NEW]**

(a) The Commercial Motorcycle School shall use only MSF-recognized training sites ("Ranges"), which are recognized for use by MSF (affiliated with the Commercial Motorcycle School's RERP Agreement), and kept active and in good standing with MSF, to conduct training using MSF Curricula.

(b) The Commercial Motorcycle School shall ensure its Range site is equipped with a basic first aid kit and an operational telephone.

(c) The motorcycle range must adhere to standards related to participant safety and have equipment to ensure safe instruction.

(d) The motorcycle range should be maintained and be free from all obstacles/potential obstacles or problematic surface conditions and there must be a minimum 20 foot (20') paved buffer from any obstacles.

(e) The motorcycle range must be free from pedestrian, animal, or vehicle traffic. The pavement needs to be kept suitable for riding maneuvers such as sharp turns, braking and safe vehicle travel.

(f) The surface must provide good traction and there must not be any obstacles that present an unsafe environment.

(g) Motorcycle ranges must be correctly laid out to meet curriculum and safety standards. The surface and markings need to be maintained for proper instruction and safety.

(h) Restroom facilities with locking doors. Portable restroom facilities are acceptable for ranges.

## **595:75-1-11. Motorcycle requirements [NEW]**

Motorcycles used for instruction must be properly maintained in safe operating conditions. Regular maintenance intervals should be followed as recommended by the manufacturer.

## **595:75-1-12. Motorcycle inspections [NEW]**

Inspections should occur regularly in accordance with the current T-CLOCS pre-ride inspection procedure established by MSF. The inspections required by this rule must be conducted and recorded to ensure the motorcycles are in proper operating condition.

## **595:75-1-13. Classroom requirements [NEW]**

Commercial Motorcycle Schools shall:

(1) Have at least one (1) permanent classroom. During instruction, each classroom shall be used exclusively for motorcycle safety instruction. A classroom shall not be located in:

- (A) a residence or residential facility or complex,
- (B) a motor vehicle, or converted motor vehicle, or
- (C) any facility which has a bar, lounge, or other business which sells alcohol for public consumption on the premises.

(2) Display its current and valid Commercial Motorcycle School Approval Certificate in the principal place of business when classes are in session. A copy of the Commercial Motorcycle School's and RiderCoach's<sup>SM</sup> Certificate of Approval shall be made available for inspection to students, prospective students, and the parents of minor students or prospective students.

(3) Comply with all local municipal ordinances.

(4) Provide at least one (1) fully-plumbed restroom facility including a toilet and sink, capable of being locked from the inside. The restroom shall be located in the same building as the classroom.

(5) Have adequate room for classroom equipment. Tables and chairs will be provided for the number of students enrolled in the class being taught at the time.

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(6) When moving locations, the school shall be responsible for notifying the Department, in the form and format prescribed by the Department, no later than two (2) weeks prior to the relocation. The Department shall schedule an inspection of the new location. Use of the new facility will not be allowed until the inspection is completed and the new location certified.

## **595:75-1-14. Safety [NEW]**

The Commercial Motorcycle School shall take reasonable measures and precautions to ensure the safety of all students and RiderCoaches<sup>SM</sup>.

## **595:75-1-15. Personal protective equipment [NEW]**

The Commercial Motorcycle School shall ensure all students and RiderCoaches<sup>SM</sup> wear adequate personal protective equipment when riding during the course, to include, at minimum:

- (1) a DOT/SNELL/ECE-compliant helmet, and proper eye protection;
- (2) sturdy over-the-ankle footwear;
- (3) long-sleeved shirt or jacket;
- (4) long non-flare denim pants or material of equivalent or better durability; and
- (5) full-fingered gloves, preferably leather.

## **595:75-1-16. Prescribed course of study [NEW]**

The most recent version of the MSF Curriculum is hereby adopted by reference, and it shall be the only course of instruction used by Commercial Motorcycle Schools and motorcycle RiderCoach<sup>SM</sup>/instructors approved by the Department.

## **595:75-1-17. Required reports [NEW]**

(a) Upon completion of the motorcycle course, the Commercial Motorcycle School shall submit a roster containing the full legal name, date of birth, driver's license number, test scores, and the MSF card number of each student who successfully completed the motorcycle course to the Department.

(b) A Commercial Motorcycle School shall report to the Department any incident during training as soon as practicable after the incident. A copy of the MSF incident report is sufficient to satisfy the requirements of this rule.

## **595:75-1-18. Recordkeeping requirements [NEW]**

The Commercial Motorcycle School shall keep in a format that is accessible and capable of retrieval and review by the Department, the following records:

- (1) Class rosters for each class conducted by the Commercial Motorcycle School;
- (2) MSF RiderCoach<sup>SM</sup> certificates for each employed Commercial Motorcycle Instructor;
- (3) The completed application for the current approval period and all required attachments;
- (4) Preventative maintenance, inspection, and repair records for all motorcycles employed in student training;
- (5) The MSF RERP agreement in effect for the applicable Commercial Motorcycle School;
- (6) Correspondence with the Department relating to administrative action by the Department, including but not limited to pending and completed corrective action plans; and,
- (7) Reports of any incidents occurring during training.

## **595:75-1-19. Advertising [NEW]**

(a) No Commercial Motorcycle School shall use or conduct any business under any name other than its fully approved name.

(b) A sign reading "This school is approved by the Department of Public Safety" or similar language may be displayed on the school premises.

(c) The school may place language such as "This school is approved by the Department of Public Safety" in any advertisements and publications of the school. However, a school may not use advertisement or publicity that states or implies the school is specifically or uniquely recognized, recommended, or endorsed, or directly supervised by the Department of Public Safety.



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(d) No fraudulent or deceptive statements shall be used on any sign or in advertisement, whether written or oral. If a promotion or fee incentive is used for an applicant, the school shall attach a copy of the promotion or fee incentive to the contract.

(e) No Commercial Motorcycle School shall advertise, by any means, or otherwise state or imply that a driver license or permit is guaranteed or assured to any student or individual who will take or complete any instruction offered by the school.

## **595:75-1-20. Professionalism [NEW]**

Approved Commercial Motorcycle Schools and approved Commercial Motorcycle Instructors shall maintain professionalism at all times, including but not limited to:

- (1) Maintaining respectful communications in their interactions with customers and personnel of the Department.
- (2) Avoiding discrimination against customers on the basis of race, sex, national origin, or ethnicity.

## **595:75-1-21. Commissioner's designee [NEW]**

The Commissioner may designate a representative to administer the provisions of this Chapter.

## **595:75-1-22. Review of license and school [NEW]**

Periodic review of all approved Commercial Motorcycle Schools and Commercial Motorcycle Instructors will be conducted by the Department to determine continued compliance with the rules of this Chapter. Failure to respond to Departmental communication requesting such a review may result in removal from the list of approved Commercial Motorcycle Schools. Failure to remain in compliance may result in removal from the list of approved Commercial Motorcycle Schools. An employee of the Department may conduct covert and overt observation of classroom and range instruction as it is being administered for the purpose of auditing compliance with the rules of this Chapter.

## **595:75-1-23. Grounds for ~~Disapproval~~disapproval of a Commercial Motorcycle School [NEW]**

The Department may deny an application for approval, or revoke the approval, of a Commercial Motorcycle School for:

- (1) A violation of the rules of this Chapter;
- (2) Failure to maintain an MSF RERP Agreement;
- (3) Falsification of any statement on an application, report, or communication with the Department. For purposes of this rule, omission of relevant facts is considered falsification;
- (4) Failure to maintain, or any lapse in, insurance coverage required by this Chapter;
- (5) A pattern of safety violations or incidents.

## **595:75-1-24. Grounds for ~~Disapproval~~disapproval of a Commercial Motorcycle Instructor [NEW]**

The Department may deny an application for approval, or revoke the approval, of a Commercial Motorcycle Instructor for:

- (1) A violation of the rules of this Chapter;
- (2) Falsification of any statement on an application, report, or communication with the Department. For purposes of this rule, omission of relevant facts is considered falsification;
- (3) Failing to maintain a valid Oklahoma driver license for the type of vehicle used for instruction. An applicant or previously approved Commercial Motorcycle Instructor is not eligible for subsequent approval until a period of twelve (12) months have elapsed after reinstatement of the driver license. Provided, however, an applicant or previously approved Commercial Motorcycle Instructor may be immediately eligible for approval if the driver license was revoked, suspended, or canceled for non-driving related reasons;
- (4) Not being employed by an approved Commercial Motorcycle School;
- (5) Accumulating more than five (5) points on the driving record of the Commercial Motorcycle Instructor, as reflected by the records of Service Oklahoma;
- (6) A pending conviction or deferred sentence, including probation or supervised release, for the following:
  - (A) An offense deemed a violent crime pursuant to 21 O.S. §571;
  - (B) Human trafficking pursuant to 21 O.S. §748, et. seq.;
  - (C) Robbery pursuant to 21 O.S. §791, et. seq.;
  - (D) Burglary pursuant to 21 O.S. §1431, et. seq.;
  - (E) Embezzlement pursuant to 21 O.S. §1451, et. seq.;
  - (F) Larceny pursuant to 21 O.S. §1701, et. seq.;

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- (G) A misdemeanor conviction for an alcohol or drug violation while operating a motor vehicle, until twelve (12) months have elapsed from completion of the sentence.
- (7) Inactivation, suspension, or cancellation of the RiderCoachSM certification.

## **595:75-1-25. Administrative Action by the Department [NEW]**

- (a) Failure to qualify - The Department may deny a request for approval or revoke the approval, as applicable of any Commercial Motorcycle School or Commercial Motorcycle Instructor failing to qualify therefore as provided in the rules of this Chapter.
- (b) The Department may deny, suspend, cancel, or revoke the approval of a Commercial Motorcycle School or Commercial Motorcycle Instructor for the violation of any applicable rules of the Department. The Department may consider the following factors when determining the sanction for a violation as described in this section:
- (1) The severity of the alleged violation;
  - (2) The Commercial Motorcycle School's or Commercial Motorcycle Instructor's history of compliance or non-compliance;
  - (3) The Commercial Motorcycle School's or Commercial Motorcycle Instructor's demonstrated willingness and ability to avoid future violations.
- (c) The Department will issue a corrective action plan when approval of a Commercial Motorcycle School or Commercial Motorcycle Instructor is denied, suspended, canceled, or revoked. Compliance with the corrective action plan is a prerequisite to the lifting of the denial, suspension, cancellation, or removal.
- (d) If the Commissioner or the Commissioner's Designee determines a violation as described in this section endangers the public health, safety, or welfare and requires emergency action, summary suspension of the approval of the Commercial Motorcycle School or Commercial Motorcycle Instructor may be ordered pending a hearing. A hearing will be scheduled within three (3) business days of the date of the order of summary suspension.
- (e) All other individual proceedings are governed by 595 O.A.C. §1-3-3. When the applicant or Commercial Motorcycle School is organized as a corporation, a limited liability company, or a partnership, it must be represented by an attorney through all stages of the proceeding. See *Massongill v. McDevitt*, 1989 OK CIV APP 82, *Allen v. City of Chickasha*, 2009 OK CIV APP 52, Cf. *Rowland v. Calif. Men's Colony*, 506 U.S. 194, 202-203 (1993).

*[OAR Docket #25-473; filed 6-4-25]*

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## **TITLE 600. REAL ESTATE APPRAISER BOARD CHAPTER 10. LICENSURE AND CERTIFICATION REQUIREMENTS**

*[OAR Docket #25-446]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

600:10-1-6. Experience prerequisite [AMENDED]

600:10-1-12. Inactive status - annual fee payment [AMENDED]

### **AUTHORITY:**

Real Estate Appraiser Board; 59 O.S., § 858-829

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 7, 2024

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N/A

**GIST/ANALYSIS:**

Updates language outlining the process for those who completed their experience hours through a virtual program. It also adds language related to inactive status for appraiser licenses and certificates when annual or renewal fees are not paid.

**CONTACT PERSON:**

Ashley Scott, 405.521.6616

**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 JULY 11, 2025:**

**600:10-1-6. Experience prerequisite [AMENDED]**

(a) An original certification as a State Licensed Appraiser, State Certified Residential Appraiser or State Certified General Appraiser shall not be issued to any person who does not possess the minimum experience criteria set forth by the Appraiser Qualifications Board of the Appraisal Foundation provided any state licensed appraiser who becomes state licensed prior to July 1, 2001, shall not be required to attain the minimum requirements of experience promulgated by the Appraiser Qualifications Board to maintain certification as a state licensed appraiser.

(b) Applications for certification as a State Licensed Appraiser or State Certified Residential Appraiser must be accompanied by a One Hundred Fifty Dollar (\$150.00) non-refundable application fee. Applications for certification as a State Certified General Appraiser must be accompanied by a Two Hundred Twenty Five Dollar (\$225.00) non-refundable application fee.

(c) Pursuant to the provisions of 59 O.S. 4003 A, upon presentation of satisfactory evidence that an applicant for initial licensure or certification is a low-income individual, the Board shall grant a one-time one-year waiver of any fees associated with such licensure or certification. For purposes of the section, "low-income individual" means an individual who is enrolled in a state or federal public assistance program, including, but not limited to, the Temporary Assistance for Needy Families, Medicaid or the Supplemental Nutrition Assistance Program, or whose household adjusted gross income is below one hundred forty percent (140%) of the federal poverty line or a higher threshold to be set by the executive branch department that oversees business regulation.

(d) Pursuant to the provisions of 59 O.S.4100, the application fee will be waived for all active-duty military personnel and their spouse for the first period of issuance of a resident license, reciprocal license or temporary permit.

(e) Experience credit shall be allowed in accordance with the guidelines set forth by the Appraiser Qualification Criteria promulgated by the Appraiser Qualifications Board of the Appraisal Foundation.

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(f) Applicants for the State Licensed, State Certified Residential, or State Certified General classifications shall submit, in addition to the approved application form, properly completed experience log forms according to the basic form approved by the Board or a course completion certificate indicating successful completion of a Practical Applications of Real Estate Appraisal Course (PAREA) from a provider approved or certified under the requirements of the Appraiser Qualifications Board of the Appraisal Foundation. Additionally, applicants for either the State Licensed, State Certified Residential, or State Certified General classifications shall submit the following upon request by the Board; Copies of written real estate appraisal work product or work files.

(g) The requirements of USPAP shall not apply to the Board, its agents, committee members, and staff when conducting an appraisal review for purposes of confirming an applicant's experience under this administrative regulation.

## **600:10-1-12. Inactive status - annual fee payment [AMENDED]**

(a) If an appraiser does not pay his annual fee or renewal fee and registry fee to retain the license or certification on an annual basis or prior to the expiration date the appraiser's license or certification will automatically move to an inactive status no longer wishes to pay the annual fee payment and registry fee to retain the license or certification, prior to the expiration date printed on the certificate, the appraiser must notify the Board in writing that they wish for their license to be placed in an inactive status.

(b) If an appraiser wishes to reinstate an inactive or surrendered credential, the appraiser may do so by applying for reinstatement, remitting any required fees, and complying with any applicable continuing education requirements as set forth in 600:10-1-14.

*[OAR Docket #25-446; filed 6-2-25]*

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## **TITLE 600. REAL ESTATE APPRAISER BOARD CHAPTER 15. DISCIPLINARY PROCEDURES**

*[OAR Docket #25-447]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

600:15-1-2. Definitions [AMENDED]

### **AUTHORITY:**

Real Estate Appraiser Board; 59 O.S., § 858-829

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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**GIST/ANALYSIS:**

Removes conflicting definitions from rules.

**CONTACT PERSON:**

Ashley Scott, 405.521.6616

**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 JULY 11, 2025:**

**600:15-1-2. Definitions [AMENDED]**

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

**"Act"** means the Oklahoma Certified Real Estate Appraisers Act, cited as 59 Oklahoma Statutes, Sections 858-700 et seq.

~~**"Administrator"** means the Commissioner of the State Insurance Department.~~

**"Board"** means the Oklahoma Real Estate Appraiser Board.

**"Certified Real Estate Appraiser"** means those persons meeting the requirements for certification as set forth in the Oklahoma Certified Real Estate Appraisers Act.

**"Clear and convincing evidence"** means that considering all the evidence in the case, the proposition in question is highly probable and free from serious doubt.

**"Department"** means the State Insurance Department.

~~**"Director"** means the person designated by the Administrator as Director of the Real Estate Appraiser Division of the Oklahoma Insurance Department.~~

**"Geographic area"** means the county of an individual appraiser as determined by the mailing address most recently reported to the Board.

**"Hearing Panel"** means the three-member panel selected by the Board to conduct a disciplinary hearing. Hearing Panel is selected from the Standards and Disciplinary Procedures Committee.

**"Licensed Real Estate Appraiser"** means those persons meeting the requirements for licensure as set forth in the Oklahoma Certified Real Estate Appraisers Act.

**"Person"** means an individual, company, association, organization, society, partnership, trust, corporation or estate.

**"Probable Cause Committee"** will be Board selected and will be comprised of four (4) members: a current member of the Board, and three (3) members selected by the Board from past members of the Board and the members of the Standards and Disciplinary Procedures Committee. Provided, at all times, at least two (2) members of the Committee shall be certified appraisers, of the two (2) certified appraisers, at least one (1) shall be a certified general appraiser. Provided further, that members shall be selected from four (4) different geographic areas.

**"Respondent"** means a Trainee, State Licensed, Certified Residential, or Certified General Real Estate Appraiser against whom a complaint has been received and not been finally resolved.

**"Trainee Appraiser"** means those persons meeting the requirements for licensure as a Trainee Appraiser as set forth in the Oklahoma Certified Real Estate Appraisers Act.

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"Uniform standards" means the Uniform Standards of Professional Appraisal Practice, as authorized by the Appraisal Subcommittee pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which are the standards rules that meet the minimum requirements adopted by the Appraisal Foundation, and which are incorporated by reference.

*[OAR Docket #25-447; filed 6-2-25]*

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## **TITLE 605. OKLAHOMA REAL ESTATE COMMISSION CHAPTER 10. REQUIREMENTS, STANDARDS, AND PROCEDURES**

*[OAR Docket #25-450]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 3. Education and Examination Requirements

605:10-3-6. Continuing education requirement [AMENDED]

605:10-3-7. Provisional sales associate post-license education requirement [AMENDED]

Subchapter 9. Broker's Operational Procedures

605:10-9-8. Branch office closing instructions [AMENDED]

Subchapter 13. Trust Account Procedures

605:10-13-1. Duty to account; broker [AMENDED]

Subchapter 15. Disclosures, Brokerage Services and Statute of Frauds

605:10-15-2. Broker Relationships [AMENDED]

Subchapter 17. Causes for Investigation; Hearing Process; Prohibited Acts; Discipline

605:10-17-2. Complaint procedures [AMENDED]

605:10-17-4. Prohibited dealings [AMENDED]

### **AUTHORITY:**

Oklahoma Real Estate Commission; 59 O.S., § 858-208.

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**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The amendments to Chapter 10: (1) clarify continuing education requirements, (2) remove unnecessary language regarding submission processes for continuing education completion, (3) clarify the process for closing a branch office, (4) clarify trust account compliance standards and document availability for inspection, (5) remove unnecessary language related to brokerage service agreements and redundant language regarding disclosure for psychological factors, (6) clarifies the complaint notification process, and (7) defines familial relationship for necessary disclosures.

**CONTACT PERSON:**

Bailey Crotty, Deputy Director, Oklahoma Real Estate Commission 1915 N Stiles Ave Suite 200, Oklahoma City, OK 73105, 405-522-8561, [bailey@orec.ok.gov](mailto:bailey@orec.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 NOVEMBER 1, 2025:**

## SUBCHAPTER 3. EDUCATION AND EXAMINATION REQUIREMENTS

### **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.

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(3) Any offering in real estate, or directly related area, not accepted in paragraphs (1) or (2) of this subsection, which the Commission determines to be in compliance with 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 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) Licensee responsible for notification to Commission.** Each licensee shall ultimately be responsible for furnishing evidence of successfully 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 thirty (30) clock hours of continuing education offerings acceptable by the Commission. As evidence of 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.

**(h) Attendance and successful completion required for credit.** To complete any offering, a person must physically be present in-class during all of the in-class offering time and successfully complete all course requirements.

**(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.

**(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.

**(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 the exception of those exempt as set out in Title 59, 858-307.2, shall provide evidence of completion of thirty (30) clock hours of Commission approved subject matter, or its equivalent, as determined by the Commission. Such hours shall 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 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) 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; except for required Contracts education.



(4) All Brokers shall be required to successfully complete the Broker in Charge course consisting of fifteen (15) clock hours, or its equivalent, as approved by the Commission. In addition, to satisfy the continuing education requirement of thirty (30) clock hours, all Brokers shall complete at least six (6) hours of Contracts and Forms education. The remaining nine (9) clock hours of required education may consist of elective subject matter as approved by the Commission.

(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;
- (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) **Requirements.** 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.

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(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, not accepted in paragraph (A) of this subsection, which can be determined by the Commission to be in compliance with 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 successfully 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 credit.** To complete any 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 9. BROKER'S OPERATIONAL PROCEDURES

### 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~~ Destroy 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 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 disbursement 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 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 deposited 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.

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(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. All records relating to the broker's trust accounts, including bookkeeping system data, shall be made available for inspection by the Commission or its authorized representatives.

(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:

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- (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 disbursement 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 disbursement 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

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## 605:10-15-2. Broker Relationships [AMENDED]

(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.

~~(b) **Validity of a brokerage service agreement.** A brokerage service agreement shall remain in full force and effect until the agreement expires or is otherwise terminated by an agreement of the parties.~~

~~(c)~~(b) **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.

~~(d)~~(c) **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.

## SUBCHAPTER 17. CAUSES FOR INVESTIGATION; HEARING PROCESS; PROHIBITED ACTS; DISCIPLINE

## 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.

(b) **Complaint notification; required response.** When a complaint has been filed ~~opened by the Investigations Department pursuant to the Code~~, the licensee or unlicensed person ~~pursuant to the Code~~ shall be immediately notified within a reasonable time 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](mailto: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) **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) **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.

## 605:10-17-4. 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.

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- (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 themselves 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 broker as defined in the rules, but is intentionally acting in the capacity of a broker or branch 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. For purposes of this section, "immediate family relationship" means a licensee's: Spouse, Children, Grandchildren, Parents, Grandparents, Brothers, and Sisters, including step, half or in-law relationships named herein.
- (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 #25-450; filed 6-2-25]*

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## TITLE 610. STATE REGENTS FOR HIGHER EDUCATION CHAPTER 15. EDUCATIONAL OUTREACH

*[OAR Docket #25-518]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. Use of Towers, Facilities and Communications Services

610:15-1-1. Purpose [AMENDED]

610:15-1-2. Towers and facilities use [AMENDED]

610:15-1-3. ~~Communications~~ Internet and technology services use [AMENDED]

### **AUTHORITY:**

Oklahoma State Regents for Higher Education; 70 O.S. § 3206

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

October 23, 2023

### **COMMENT PERIOD:**

November 15, 2023 through December 15, 2023

### **PUBLIC HEARING:**

N/A

### **ADOPTION:**

September 5, 2024

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

September 5, 2024

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by SJR 22

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

July 11, 2025

### **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:**

OneNet is the comprehensive digital communications initiative of the Oklahoma State Regents for Higher Education and Oklahoma's research and education network. In 1992, OneNet was created with \$14 million from a \$350 million statewide capital bond issue approved by voters. OneNet was developed as a division of the Oklahoma State Regents for Higher Education (OSRHE) and became fully operational in 1996. OneNet serves research and educational entities, governmental and tribal agencies, political subdivisions, eligible healthcare providers, and telecommunications providers



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consistent with the policies and procedures established by OneNet. The amended rules update the types of organizations that OneNet can serve, identifies OneNet as the comprehensive digital communications entity operated by OSRHE, updates technology terminology, updates a reference to infrastructure engineering staff and removes references to OneNet as a telecommunications network. The purpose of the updates to the types of organizations OneNet can serve is to provide greater clarity and make regulatory language consistent with OneNet's current practices.

## CONTACT PERSON:

Taylor Dearborn, tdearborn@osrhe.edu, 655 Research Parkway Suite 200, Oklahoma City, OK 73104

**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 JULY 11, 2025:**

## SUBCHAPTER 1. USE OF TOWERS, FACILITIES AND COMMUNICATIONS SERVICES

### 610:15-1-1. Purpose [AMENDED]

~~The Oklahoma State Regents for Higher Education will make available the use of towers and facilities of OneNet, the State of Oklahoma's official telecommunications and information network, to educational entities, governmental agencies, and commercial businesses; provided, however, the proposed use does must not interfere with the normal maintenance and operations of OneNet. Each request to utilize the internet and technology services or towers and facilities standard industry engineering requirements and state and federal laws and regulations. OneNet is the comprehensive digital communications entity operated by the Oklahoma State Regents for Higher Education. The purpose of OneNet is to meet the mission critical technology needs of Oklahoma's education, research, healthcare and government institutions.~~

### 610:15-1-2. Towers and facilities use [AMENDED]

- (a) All proposed tower and facility installations shall be in accordance with ~~good engineering practices~~ state and federal laws and regulations and shall be subject to the approval of the OneNet engineering staff. Requests for installation of microwave antennas on the OneNet towers shall be approved only after a tower wind load study is performed by an approved and qualified registered professional engineer. Costs of the study are to be paid for by the proposed user. Any structural modifications required to the tower resulting from the proposed antenna installation will be at the expense of the proposer. Generally, 2-way radio antenna installations will not require a tower analysis to be performed; however, it shall be at the discretion of the ETN infrastructure engineering staff as to whether or not an analysis is required.
- (b) The Oklahoma State Regents for Higher Education will develop a schedule of monthly rates for the use of OneNet's towers and facilities.
- (c) The Chancellor or the Chancellor's designee may waive any or all monthly rates specified in the rate schedule if use of OneNet's towers and facilities is determined to be in the best interest of the State.
- (d) The State Regents reserve the right to change the rates or cancel service with a 90-day advance notice to the user.

### 610:15-1-3. ~~Communications~~Internet and technology services use [AMENDED]

- (a) The Oklahoma State Regents for Higher Education ~~will~~ shall make OneNet's ~~voice, data and video communications internet and technology services~~ and infrastructure available to ~~educational entities, governmental agencies and commercial businesses~~ research and educational entities, governmental and tribal agencies, political subdivisions, eligible healthcare providers, and telecommunications providers consistent with the policies and procedures established by OneNet; provided, however, that the ~~The proposed use does~~ shall not interfere with the normal maintenance and operation of OneNet. Each request to utilize the ~~voice, data and/or video communications~~ internet and technology services of OneNet will be reviewed on an individual basis to ensure it is consistent with state and federal laws and regulations. The State Regents will develop a schedule of rates to be utilized for the services provided and shall have the ability to offer discounted rates on a case-by-case basis if it is determined to be in the best interest of the State.
- (b) For the purposes of this section, "eligible healthcare providers" include, but are not limited to:

- (1) post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools;
- (2) community health centers or health centers providing health care to migrants;
- (3) local health departments or agencies;
- (4) community mental health centers;
- (5) not-for-profit hospitals;

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(6) rural health clinics; and

(7) consortia of health care providers consisting of one or more entities falling into the first six categories.

(b)(c). The State Regents reserve the right to change the rates or cancel service with a 90-day advance notice to the user.

*[OAR Docket #25-518; filed 6-6-25]*

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## TITLE 610. STATE REGENTS FOR HIGHER EDUCATION CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS

*[OAR Docket #25-513]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 23. Oklahoma Higher Learning Access Program

610:25-23-2. Eligibility of participants [AMENDED]

610:25-23-3. Applications [AMENDED]

610:25-23-4. Program requirements [AMENDED]

610:25-23-5. Securing Program benefits [AMENDED]

### **AUTHORITY:**

Oklahoma State Regents for Higher Education; 75 O.S. § 253, 70 O.S. §§ 2603 and 2605, and 70 O.S. § 3206.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

September 6, 2024

### **COMMENT PERIOD:**

October 1, 2024 through November 1, 2024

### **PUBLIC HEARING:**

N/A

### **ADOPTION:**

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### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

December 6, 2024

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by SJR 22

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

July 11, 2025

### **SUPERSEDED EMERGENCY ACTIONS:**

### **SUPERSEDED RULES:**

N/A

### **GUBERNATORIAL APPROVAL:**

N/A

### **REGISTER PUBLICATION:**

N/A

### **DOCKET NUMBER:**

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### **INCORPORATIONS BY REFERENCE:**

### **INCORPORATED STANDARDS:**

N/A

### **INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Oklahoma's Promise was created in 1992. Students must enroll in the program in the 8th, 9th, 10th or 11th grade. The program requires students to complete a college preparatory curriculum, achieve at least a 2.50 GPA in the required curriculum and a 2.50 GPA overall, attend school regularly, and refrain from drug abuse or delinquent acts. Students completing the requirements qualify for an award equal to public college tuition. As originally created in 1992, participation was limited to students from families with an income of \$24,000 or less at the time of application in the 9th or 10th grade. In 1999, the family income limit was increased to \$32,000 and the application period was expanded into the 8th grade. One year later, in 2000, the income limit was further increased to \$50,000. The income limit remained at \$50,000 until 2017 when the Legislature increased the limit to \$55,000 beginning with the 2017-2018 school year. The 2017 legislation also included a further increase of the income limit to \$60,000 beginning in 2021-2022. In 2021, the Legislature acted to further expand the application period to the 11th grade, effective beginning in 2021-2022. The 2022 Legislature again modified the income limit by establishing three income eligibility levels based on the number of dependent children in the family that became effective in the 2022-2023 school year. • \$60,000 per year for parents who have one or two dependent children; • \$70,000 per year for parents who have three or four dependent children; or • \$80,000 per year for parents who have five or more dependent children. From 2012-2013 to 2017-2018, Oklahoma's Promise college students were subject to a second income limit of \$100,000 checked once at the time the student started college. Beginning in 2018-2019, the second income limit is checked each year the student is enrolled in college. The proposed Oklahoma's Promise changes are intended to support the State Regents' goal to increase the number of college graduates in Oklahoma and to comply with changes in law. These proposed emergency and permanent rules are necessary to comply with the changes to 70 O.S. §§ 2603 and 2605 made by Senate Bills 1302 and 1328. Both bills became effective July 1, 2024.

**CONTACT PERSON:**

Taylor Dearborn, tdearborn@osrhe.edu, 655 Research Parkway Suite 200, Oklahoma City, OK 73104

**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 JULY 11, 2025:**

## **SUBCHAPTER 23. OKLAHOMA HIGHER LEARNING ACCESS PROGRAM**

### **610:25-23-2. Eligibility of participants [AMENDED]**

Eligibility to participate in the program must be established by both the student and his/her parent(s), custodial parent(s), or guardian(s). Students enrolled in the eighth, ninth, tenth, or eleventh grade at a public or private school and whose parents' income meets the financial need criteria are eligible to apply to become a program participant. Students educated by other means who are between the ages of thirteen (13) and sixteen (16) are eligible to apply to become a program participant. A student who was placed in the custody of the Department of Human Services at any time during the eighth, ninth, tenth, or eleventh grades may be eligible to enroll in the program until no later than the student's official date of high school graduation. Eligibility requirements to participate in the program include the following:

- (1) The student must be a resident of the state of Oklahoma or be enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of Title 70 of the Oklahoma Statutes; and
- (2) The student's parent(s), custodial parent(s), or guardian(s) must establish financial need.
  - (A) Beginning in the 2022-2023 school year, the federal adjusted gross income of the student's parent(s) shall not exceed the following amounts at the time the student applies for participation in the program:
    - (i) \$60,000 per year for parents who have one or two dependent children,
    - (ii) \$70,000 per year for parents who have three or four dependent children, or
    - (iii) \$80,000 per year for parents who have five or more dependent children.
  - (B) A student who was adopted while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, shall not be subject to the determination of financial qualification at the time the student applies for participation in the program.

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(C) A student who was placed in the custody of the Department of Human Services at any time during the eighth, ninth, tenth, or eleventh grades who enrolls in the program no later than the student's official date of high school graduation shall not be found to be in the financial need for purposes of the Oklahoma Higher Learning Access Program if the federal adjusted gross income of the student exceeds Sixty Thousand Dollars (\$60,000.00) per year at the time the student applies for participation in the program.

~~(C)~~(D) Parents of students making application to the program must use one of the following options to establish financial need eligibility:

(i) Documentation of their most recent calendar (tax) year income. Parents of eleventh-grade applicants may use the calendar (tax) year income that coincides with the spring semester of the eleventh grade if the application is submitted by the required deadline; or

(ii) Documentation of current yearly income from an officially approved application for free or reduced price school meals or other state or federal means-tested programs as determined by the State Regents. The State Regents may limit use of this option to pilot projects as determined by the State Regents. If requested by the State Regents, parents may be required to provide additional documentation of income.

(iii) The Oklahoma State Regents for Higher Education shall review the determination of financial need eligibility of the student as set forth in section (2)(A) above if the income from taxable and nontaxable sources of the student's parent(s) includes income received from nontaxable military benefits or income received from the federal Social Security Administration due to the death or disability of the student's parent(s). If the income of the student's parent(s), excluding income received from nontaxable military benefits or income received from the federal Social Security Administration due to the death or disability of the student's parent(s), does not exceed the limitations set forth in section (2)(A) above, the student shall be determined to have met the financial need eligibility [70 O.S. § 2605(D)(7)]

~~(D)~~(E) For students that are subject to court-ordered joint custody arrangements, the OSRHE shall use guidelines consistent with regulations for federal Title IV student financial aid programs to determine which parent(s) shall meet the financial need criteria.

## 610:25-23-3. Applications [AMENDED]

(a) Students and their parent(s), custodial parent(s), or guardian(s) must complete fully an application form provided by the Oklahoma State Regents for Higher Education (OSRHE). If a student's legal custody is the subject of an active legal proceeding, the student may submit an application without the information of their parent(s), custodial parent(s), or guardian(s). The application will be treated as an incomplete application per section (h) below until the student's legal custody is determined.

(b) The application shall include either:

- (1) an agreement form upon which the school site contact person (see rule 610:25-23-8 for policies related to the contact person) shall certify that the student meets the financial need criteria and which verifies that the student and his/her parent(s), custodial parent(s), or guardian(s) agree to the program's requirements. The agreement form shall be retained in the student's permanent record and a copy forwarded to the OSRHE. A copy of the agreement form must be received by the OSRHE for the student to be considered enrolled in the program; or
- (2) an agreement form submitted directly to the OSRHE by the student and their parent(s), custodial parent(s), or guardian(s), which shall be processed and verified by the OSRHE.

(c) Students participating in the Oklahoma Higher Learning Access Program shall provide their social security number, or their student identification number used by their local school, to the OSRHE. The OSRHE shall keep the numbers confidential and use them only for administrative purposes.

(d) Any falsified or incomplete information on the application forms may result in the student's disqualification from the program.

(e) Applications will be accepted throughout the school year.

(f) Contact persons should forward copies of agreement forms to the OSRHE monthly, but not later than June 30 of each school year.

(g) Persons applying directly to the OSRHE must complete all fields of the application, sign virtual or physical submit agreement forms, and submit the finished application to the OSRHE no later than June 30. If June 30 is not a business day, agreement forms shall be submitted no later than the first business day thereafter. Applications mailed to the OSRHE must be postmarked by June 30, or the next business day if applicable, to be considered timely submitted to the OSRHE.

(h) Applicants ~~submitting incomplete applications~~ shall be provided an opportunity to provide the required supporting and verifying income documentation to complete their application. Applicants must submit ~~this~~ the required documentation no later than December 31 immediately prior to the student's graduation from high school. Exceptions to the December 31 submission date may be approved by the Chancellor for extraordinary circumstances. An application that remains incomplete after the student's official date of high school graduation will not be accepted.

## **610:25-23-4. Program requirements [AMENDED]**

(a) Students shall agree to abide by the following provisions throughout the remainder of their school years or educational program:

- (1) Attend school regularly and to do homework regularly, meaning the student was in attendance at least eighty percent (80%) of each school year, excluding absences excused by the school;
- (2) Refrain from substance abuse, meaning the student was not adjudicated delinquent as a juvenile nor convicted of a crime as an adult by a court of law for an offense involving a controlled dangerous substance, as defined by 63 O.S. § 2-101(8);
- (3) Refrain from commission of crimes or delinquent acts, meaning the student was not adjudicated delinquent as a juvenile nor convicted of a crime as an adult by a court of law;
- (4) Have school work and school records reviewed by mentors designated pursuant to the program;
- (5) Provide information requested by the Oklahoma State Regents for Higher Education [OSRHE] or the State Board of Education; and
- (6) Participate in program activities. [70 O.S. § 2605]

(b) The student's parent(s), custodial parent(s), or guardian(s) shall witness the student's agreement and further agree to:

- (1) Assist the student in achieving compliance with the agreements;
- (2) Confer, when requested to do so, with the school contact person, other school personnel, and program mentors;
- (3) Provide information requested by the OSRHE or the State Board of Education; and
- (4) Assist the student in completing forms and reports required for program participation, making application to institutions and schools of higher learning, and filing applications for student grants and scholarships. [70 O.S. § 2605]

(c) Students must complete the curricular requirements for admission to an institution within The Oklahoma State System of Higher Education, herein referred to as the "college admissions curriculum", following 17-unit core curriculum with a and attain a minimum 2.50 grade-point-average (GPA) on a 4.00 grading scale; in this curriculum, by the time they graduate from high school. The courses required for college admission shall be provided for in the Oklahoma State Regents for Higher Education Policy and Procedures Manual. Any change by the OSRHE to the college admissions curriculum shall also apply to the Oklahoma's Promise curricular requirements. For the purpose of calculating the required ~~core curriculum~~ college admissions curriculum GPA, ~~core~~ courses in English, lab science, mathematics, and history and citizenship skills, ~~foreign or non-English language, computer technology, or "additional" subject areas~~ must be transcribed with a letter grade that has a corresponding numerical value. If the school district assigns a course a grade of "pass" without a numerical value, the OSRHE will assign a letter grade of "D" or the lowest passing grade that the high school assigns to courses. ~~If the required one unit, year, or set of competencies in fine arts (music, art, or drama) or speech is fulfilled on a pass/fail or competency basis, the course(s) will be accepted and excluded from the required core curriculum GPA calculation.~~ The Chancellor may approve exceptions to the grading policy for pass/fail courses for extraordinary circumstances.

- (1) Four units, or years, of English (grammar, composition, literature; ~~should include an integrated writing component~~);
- (2) Three units, or years, of lab science (biology, chemistry, physics, or any lab science certified by the school district; general science with or without a lab may not be used to meet this requirement);
- (3) Three units, or years, of mathematics (Algebra I, Algebra II, geometry, trigonometry, math analysis, pre-calculus, statistics and probability [must have completed geometry and Algebra II], calculus, Advanced Placement Statistics);
- (4) Three units, or years of history and citizenship skills (1 unit of American history and 2 units from the subjects of history, economics, geography, government and/or non-Western culture);
- (5) Two units, or years, of a foreign or non-English language (both units, or years, of the same language), or Two units, or years, of computer technology (courses in programming, hardware, and business computer applications such as word processing, databases, spreadsheets and graphics will qualify; keyboarding and typing classes do not qualify);

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~~(6) One additional unit, or year, of subjects listed above, or any Advanced Placement course, psychology, sociology, or any concurrent liberal arts and sciences course at a State System institution that is not being used to fulfill any curricular requirement previously listed;~~

~~(7) One unit, year, or set of competencies of fine arts (music, art, or drama) or speech.~~

(d) The program curricular requirements for English, science, mathematics, history and citizenship skills are identical with the curricular requirements for college admission set by the OSRHE. Any change by the OSRHE to the curricular requirements for college admission shall also apply to the program curricular requirements. Students seeking admission to a technology center school overseen by the State Board of Career and Technology Education located within this state and accredited pursuant to Section 4103 of Title 70 of the Oklahoma Statutes must complete either:

(1) the college admissions curriculum; or

(2) all requirements of the high school "core curriculum" adopted by the State Board of Education. However, if the core curriculum does not fulfill the requirements of the college admissions curriculum, then the scholarship shall not be transferable to an institution within The Oklahoma State System of Higher Education.

(e) Advanced students who complete ~~core~~ courses in earlier grades will not be required to take additional courses for purposes of the requirements of this program. Such courses must be awarded high school credit and appear on the high school transcript.

~~(f) Strict parameters regulate the substitution of applied courses (OSRHE policy on Institutional Admission and Retention);~~

~~(g)~~(f). Exceptions to the Oklahoma's Promise required ~~core~~ high school curriculum will be considered according to the following:

(1) Students attending schools, or homeschool students participating in other educational programs, which do not offer all the core curriculum courses will be allowed to satisfy the requirements subject to the following provisions:

(A) ~~Core curriculum~~ Curriculum requirements which are also required for ~~regular college~~ admission to an institution within The Oklahoma State System of Higher Education (OSRHE policy on Institutional Admission and Retention) will be subject to the OSRHE Policy on Remediation and Removal of High School Curricular Deficiencies.

(B) Any other ~~core~~ Oklahoma's Promise high school curriculum requirements must be satisfied during the first twenty-four (24) hours of college coursework. Any exceptions to the twenty-four (24) hour limitation must be requested in writing and shall be subject to approval by the Chancellor.

~~(2) Students who have documented proficiency in a non-English language equivalent to at least two (2) units of high school study may be exempted from the requirement of two (2) units of a foreign or non-English language.~~

~~(3)~~(2). Any other requests for exceptions to the college admissions ~~core~~ curriculum requirement must be submitted in writing to the Chancellor. Upon approval of the exception, the student may be eligible for program benefits; provided, such approval may require the satisfaction of any college admissions ~~core~~ curriculum requirements omitted in high school or other educational program.

~~(h)~~(g). Students must attain a minimum 2.50 cumulative GPA on a 4.00 grading scale for all work attempted in grades nine through twelve.

~~(i)~~(h). Homeschool students and students graduating from a high school not accredited by the State Board of Education must achieve a composite score of 22 or higher on the ACT test or the equivalent SAT test score. Only ACT scores reported by ACT for tests administered prior to the student's high school graduation will be considered. Beginning September 1, 2020, all test scores reported by ACT, including "superscores" as defined by ACT, will be considered. Scores from ACT residual tests will not be considered except under extraordinary circumstances as determined and approved by the Chancellor. SAT test scores will be considered in a manner comparable to ACT test scores.

## 610:25-23-5. Securing Program benefits [AMENDED]

(a) To qualify for the program benefits for the first semester or other academic unit of postsecondary enrollment, the participant must:

(1) Be a resident of this state both at the time of application to the program and at the time the student graduates from high school, or have been enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of Title 70 of the Oklahoma Statutes.

(2) Have graduated within the previous three (3) calendar years from a high school or other educational program if homeschooled. The Oklahoma State Regents for Higher Education (OSRHE) may award benefits for a student's first semester or other academic unit of postsecondary enrollment taken more than three (3) calendar years after the student graduates from high school, or other educational program if homeschooled, if the student

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is a member of the Armed Forces of the United States, the Reserve Corps of the Armed Forces of the United States, or the Oklahoma National Guard, and is ordered to active duty or active duty for special work or training and due to the duty commitment the student is unable to enroll prior to the end of the three-year period. Such three-year period shall be extended by the length of the term of duty.

(3) Have a record of satisfactory compliance with the agreements and program requirements described in 610:25-23-4. Students failing to comply with the agreement and program requirements shall not be eligible for awards. Compliance shall be verified by the local contact person upon a form provided by the OSRHE. Final verification of compliance shall be determined by the OSRHE. A copy of the student's final high school transcript shall be submitted by the local contact person with the student's verification form.

(4) Have satisfied admission standards as established by the OSRHE for first-time-entering students for the appropriate type of institution (OSRHE policy on Institutional Admission and Retention) or, if attending a private institution, satisfy the admission standards determined by the private institution; provided, that no student participating in the program shall be admitted into an institution of higher education by special admission standards.

(5) Have secured admission to, and enrolled in, an institution which is a member of The Oklahoma State System of Higher Education, a postsecondary career technology program that meets the requirements to be eligible for federal student financial aid and is offered by a technology center school supervised by the State Board of Career and Technology Education, or a private institution of higher learning located within this state and accredited pursuant to Section 4103 of Title 70 of the Oklahoma Statutes.

(6) Be a United States citizen or lawfully present in the United States. ~~This provision shall not apply to any student that was enrolled in the program prior to the end of 2006-2007 school year.~~

(b) ~~For students receiving the program benefit award for the first time in 2012-2013 through 2017-2018, at the time the student begins postsecondary education and prior to receiving any program benefit award, the federal adjusted gross income of the student's parent(s) shall not exceed \$100,000 per year. Beginning with the 2018-2019 academic year, prior to receiving any Oklahoma Higher Learning Access Program benefit award for any year during which the student is enrolled in an eligible institution, the federal adjusted gross income of the student's parent(s) shall not exceed \$100,000 per year. The determination of financial qualification as set forth in this paragraph shall be based on the income of the student, not the income of the parent(s), if the student:~~

(1) is determined to be independent of the student's parents for federal financial aid purposes,

(2) was in the permanent custody of the Department of Human Services at the time the student enrolled in the program, ~~or~~

(3) was placed in the custody of the Department of Human Services at any time during the eighth, ninth, tenth, or eleventh grades and enrolled in the program no later than the student's official date of high school graduation, or

~~(3)(4)~~ (4) was in the court-ordered custody of a federally-recognized Indian tribe, as defined by the federal Indian Child Welfare Act, at the time the student enrolled in the program.

(c) A student who was adopted while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, shall be subject to the following financial qualification at the time the student begins postsecondary education and prior to receiving any program benefit award:

(1) For a student adopted between birth and twelve (12) years of age, the federal adjusted gross income of the student's parent(s) may not exceed \$150,000 per year.

(2) For a student adopted between thirteen (13) and seventeen (17) years of age, the federal adjusted gross income of the student's parent(s) may not exceed \$200,000 per year.

(3) If the student is determined to be independent of the student's parents for federal financial aid purposes, the determination of financial qualification shall be based on the income of the student, not the income of the parent(s).

(d) Award recipients shall apply for financial aid at the institution in which they enroll.

(e) Beginning in 2018-2019 and thereafter, all students eligible to receive the program benefit award must complete an application for federal student financial aid (Free Application for Federal Student Aid or FAFSA) each year the student is enrolled in postsecondary education. Students not eligible to complete the FAFSA may be provided an alternate method by the OSRHE. Income information submitted through the FAFSA shall be used to determine compliance with the income limits described in sections (b) and (c) above. Any falsified or incomplete information submitted by the student or parent(s) may result in the student's disqualification from the program.

(f) Any person incarcerated in a state, federal, or private correctional facility shall not be eligible to receive program benefits.

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*[OAR Docket #25-513; filed 6-6-25]*

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## TITLE 610. STATE REGENTS FOR HIGHER EDUCATION CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS

*[OAR Docket #25-516]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 7. Oklahoma Tuition Aid Grant Program

610:25-7-6. Eligibility; amount of grant; application procedures and deadlines; disbursement of funds [AMENDED]

### **AUTHORITY:**

Oklahoma State Regents for Higher Education; 70 O.S. § 626.6, 70 O.S. § 626.7, and 70 O.S. § 3206

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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### **INCORPORATING RULES:**

N/A

### **AVAILABILITY:**

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# Permanent Final Adoptions

The proposed Oklahoma Tuition Aid Grant (OTAG) changes are intended to support the State Regents' goal to increase the number of college graduates in Oklahoma and to comply with changes in law. These proposed rules are necessary to comply with the changes to 70 O.S. § 626.6 made by SB 11 and changes to 70 O.S. § 626.7 made by SB 1624. Both bills became effective July 1, 2024. These rules also address the federal FAFSA Simplification Act requirements for the 2024-25 award year. The proposed rule revisions address the following three issues: adjusting to match the new Free Application for Federal Student Aid (FAFSA) reporting language for student income verification, expanding eligibility to incarcerated students to align with Senate Bill 11, and to expand eligibility to students with intellectual disabilities enrolled in a Comprehensive Transition Program (CTP) approved by the United States Department of Education. Language Alignment with the FAFSA Simplification Act To align with the FAFSA Simplification Act requirements for the 2024-25 award year, income will be verified using the Student Aid Index (SAI) instead of Expected Family Contribution (EFC). The SAI continues to use the same financial information from the FAFSA as the EFC did but calculates a different index number. The index was created to more accurately reflect a family's financial situation and need for financial aid. Expanding Eligibility to Incarcerated Students In the 2024 legislative session Senate Bill 11 passed almost unanimously out of both the House and the Senate and was signed into law on May 23, 2024. The bill allows an incarcerated individual who is enrolled in a Prison Education Program (PEP) and is within five (5) years of being released to be eligible for OTAG. However, incarcerated individuals enrolled in virtual learning programs are ineligible. Expanding Eligibility to Individuals with Intellectual Disabilities Enrolled in CTP Programs In the 2024 legislative session Senate Bill 1624 passed almost unanimously out of both the House and the Senate and was signed into law on April 30, 2024. The bill allows a student with an intellectual disability who is enrolled in a CTP program approved by the United States Department of Education to be eligible for OTAG.

## 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 JULY 11, 2025:**

## SUBCHAPTER 7. OKLAHOMA TUITION AID GRANT PROGRAM

### **610:25-7-6. Eligibility; amount of grant; application procedures and deadlines; disbursement of funds [AMENDED]**

(a) *A college tuition aid grant may be awarded annually to each eligible, qualified full-time or part-time undergraduate or graduate student enrolled in a curriculum leading to a degree or certificate in an institution of collegiate grade or postsecondary institution providing a program of training to prepare students for employment in a recognized occupation in Oklahoma approved or accredited by the Oklahoma State Regents for Higher Education or appropriate postsecondary agency. Eligible programs of training shall include comprehensive transition and postsecondary programs approved by the United States Department of Education. College tuition aid grants shall be awarded in accordance with the following* [70 O.S. § 626.7]:

#### (1) Eligibility.

(A) Each full-time or part-time resident student's financial eligibility will be based on their Expected Family Contribution (EFC) calculated for federal Title IV student financial aid eligibility. A resident student is one who meets the current Policy on Residence Status of Enrolled Students in the Oklahoma State System of Higher Education.

(B) *The Oklahoma State Regents for Higher Education shall determine by rules and regulations the maximum number of semesters a student may be eligible for grants.* [70 O.S. § 626.7] An otherwise eligible undergraduate student can continue to receive awards as long as they are eligible for funding from the federal Pell grant program. Graduate students can receive a maximum of eight full-time disbursements.

(C) *No student shall be eligible for grants unless ~~he~~ the student maintains such minimum standards of academic performance as are required by the institution in which the student is enrolled.* [70 O.S. § 626.7] The minimum standards of academic performance shall be those required by the institution for federal Title IV financial aid recipients.

(D) *Students who are incarcerated in a state, federal, or private correctional facility and enrolled in a program structured primarily for virtual learning are not eligible to receive tuition aid grants. However, students who are incarcerated that are enrolled in programs with primarily learning environments may be eligible if the individual is within five (5) years from being released from incarceration.*

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Incarceration will be defined in accordance with the current definition for federal Pell grant eligibility.

(E) Students must be enrolled in a postsecondary institution eligible to participate in the federal Title IV student financial aid programs.

(F) Students must meet all general eligibility requirements for recipients of federal Title IV student financial aid. The school of attendance will report each student's completed application status through a reporting system provided by the Oklahoma State Regents for Higher Education.

(G) *In the event a student for any reason ceases to continue to be enrolled during the course of an academic year, the student shall cease to be eligible for tuition aid.* [70 O.S. § 626.7]

(2) Amount of grant.

(A) *The amount of tuition aid grant to any student under ~~this act~~ [70 O.S. § 626.1 et seq.] the Oklahoma Higher Education Tuition Aid Act for any semester shall represent a percentage not greater than seventy-five percent (75%) of the tuition and enrollment fees normally charged to residents of ~~the State of Oklahoma~~ this state by the institution of attendance.* [70 O.S. § 626.7]

(B) *The percentage of aid awarded shall be based on a need analysis system that is consistent with federal student financial aid regulations.* [70 O.S. § 626.7]

(C) *The Oklahoma State Regents for Higher Education shall determine by rules the annual maximum award based on an annual assessment of funds availability.* [70 O.S. § 626.7]

(D) The minimum amount of grant to be awarded is \$200 per academic year or \$100 per semester or other enrollment period.

(E) The award must be included in the student's financial aid package managed by the institution. If the inclusion of the tuition aid grant award results in the student receiving more financial assistance than is needed to meet their cost of education as determined by the institution, the institution will resolve the over-award in accordance with federal Title IV student financial aid regulations. The institution may reduce or revoke the award if necessary to resolve the over-award.

(3) *Application procedures and deadlines. The Oklahoma State Regents for Higher Education may adopt rules and regulations, prescribe and provide appropriate forms for application and employ such persons, contract for such services and make such additional expenditures as may be necessary or appropriate for effectuating the provisions of this act.* [70 O.S. § ~~626.7~~626.8]

(A) Students will apply for tuition aid grant award consideration by completing the federal student financial aid application. A separate application may be provided for students eligible for state financial aid under 70 O.S. § 3242. The Oklahoma State Regents for Higher Education will receive application data from the federal Title IV student financial aid application system for those students who indicate their legal state of residence is Oklahoma. Applications with at least one eligible Oklahoma institution selected by the student will be processed for tuition aid grant award consideration.

(B) If necessary, the application receipt deadline will be reflected in the application document provided annually by the federal Title IV student financial aid application system.

(4) Disbursement of funds.

(A) Funds will be disbursed to students after the institution confirms enrollment status and eligibility in each semester or other enrollment period.

(B) Funds for eligible students will be delivered to the institution for disbursement to students in accordance with the institution's student financial aid disbursement policies.

(b) The Oklahoma State Regents for Higher Education are hereby authorized to determine priorities for participation in this tuition aid program based on factors including, but not limited to, full-time or part-time enrollment status, undergraduate or graduate enrollment status, unmet financial need, continuous enrollment, nearness to completion of a degree or certificate, state employment needs, eligibility for other state or institutional student financial aid and available state funding. [70 O.S. § 626.8]

[OAR Docket #25-516; filed 6-6-25]

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## TITLE 610. STATE REGENTS FOR HIGHER EDUCATION CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS

[OAR Docket #25-504]

### RULEMAKING ACTION:

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# Permanent Final Adoptions

PERMANENT final adoption

**RULES:**

Subchapter 43. Oklahoma Access and Achievement Program [NEW]

610:25-43-1. Purpose [NEW]

610:25-43-2. Definitions [NEW]

610:25-43-3. Eligibility Requirements [NEW]

610:25-43-4. Financial Need [NEW]

610:25-43-5. Criteria for Continued Eligibility [NEW]

610:25-43-6. Payments of awards; policies and limitations [NEW]

610:25-43-7. Applications [NEW]

610:25-43-8. Authorized Institutional Representative and Administrative Responsibilities [NEW]

**AUTHORITY:**

Oklahoma State Regents for Higher Education; 70 O.S. § 2501 and 70 O.S. § 3206.

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During the 2024 session, the Oklahoma Legislature approved HB 3792 (now 70 O.S. § 2501) creating the Oklahoma Access and Achievement Program. The bill authorizes educational benefits to Oklahoma residents with intellectual disabilities enrolled in comprehensive transition and postsecondary (CTP) programs approved by the U.S. Department of Education in the amount equivalent to resident tuition at institutions in the Oklahoma State System of Higher Education and Oklahoma Career Technology Education institutions. Funding for the program will come from the Oklahoma Higher Learning Access Trust Fund funds. HB 3792 also outlines eligibility requirements for the program which include family

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income limits for students applying to the program, creating levels of income eligibility based on whether the student was adopted while in permanent custody of Oklahoma Human Services (OKDHS), court-ordered custody of a licensed private child-placing agency, or federally recognized Indian tribe and based on the age of the student if adopted. Students are eligible for the scholarship if they are within six (6) years of high school graduation, are enrolled in a state-system or career technology CTP program, and the student's parent(s) federal adjusted gross income does not exceed: • \$100,000 per year for parents who did not adopt; • \$150,000 per year for parents who adopted the student between the ages of birth and twelve (12) years old while in the permanent custody of OKDHS, court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe. • \$200,000 per year for parents who adopted the student between the ages of thirteen (13) and seventeen (17) years old while in the permanent custody of OKDHS, court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe. To maintain eligibility in the program students must maintain satisfactory academic progress and they have five (5) years of eligibility beginning their first semester at a postsecondary institution.

## 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 JULY 11, 2025:**

## **SUBCHAPTER 43. OKLAHOMA ACCESS AND ACHIEVEMENT PROGRAM [NEW]**

### **610:25-43-1. Purpose [NEW]**

The Oklahoma Access and Achievement Program, created by the Oklahoma Access and Achievement Act passed in 2024 (70 O.S. § 2501 et seq.), is designed to provide an award to eligible students with intellectual disabilities who are pursuing studies in Oklahoma at a comprehensive transition and postsecondary (CTP) program.

### **610:25-43-2. Definitions [NEW]**

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

"CTP program" means a degree, certificate, or nondegree program that:

- (A) is offered by an institution of higher education or a technology center school;
- (B) is delivered to students physically attending the institution of higher education or technology center school;
- (C) is designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an institution of higher education or technology center school to prepare for gainful employment;
- (D) includes an advising and curriculum structure;
- (E) requires students with intellectual disabilities to participate on not less than a half-time basis as determined by the institution of higher education or technology center school, with participation focusing on academic components and occurring through one or more of the following activities:
  - (1) regular enrollment in credit-bearing courses with nondisabled students offered by the institution of higher education or technology center school,
  - (2) auditing or participating in courses with nondisabled students offered by the institution of higher education or technology center school for which the student does not receive regular academic credit,
  - (3) enrollment in noncredit-bearing, nondegree courses with nondisabled students, or
  - (4) participation in internships or work-based training in settings with nondisabled persons;
- (F) requires students with intellectual disabilities to be socially and academically integrated with nondisabled students to the maximum extent possible; and
- (G) is approved by the United States Department of Education pursuant to Public Law 110-315, the Higher Education Opportunity Act, as amended.

"Eligible student" means a student with an intellectual disability who is eligible for the scholarship program.

"FAFSA" means Free Application for Federal Student Aid.

"OSRHE" means the Oklahoma State Regents for Higher Education.

"SAP" means satisfactory academic progress.

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"State educational institution" means an institution of higher education or technology center school in Oklahoma supported wholly or in part by direct legislative appropriations that provides a CTP program.

"Student with an intellectual disability" means a student:

- (A) with a cognitive impairment, characterized by significant limitations in intellectual and cognitive functioning and adaptive behavior as expressed in conceptual, social, and practical adaptive skills, and
- (B) who is currently or was formerly eligible for a free appropriate public education under the Individuals with Disabilities Education Act (IDEA), including a student who was determined eligible for special education or related services under IDEA but attended a private school or was educated pursuant to the other means of education exception provided for in 70 O.S. § 10-105(A).

## **610:25-43-3. Eligibility Requirements [NEW]**

(a) A student with an intellectual disability shall be eligible to participate in the Oklahoma Access and Achievement Program if the student:

- (1) Is a resident of the State of Oklahoma or enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in 70 O.S. § 5-117.1;
- (2) Is a United States citizen or lawfully present in the United States;
- (3) Has graduated within the previous six (6) years from a public high school accredited by the State Board of Education or a private school, or has satisfactorily completed, within the previous six (6) years, an educational program that was provided through means other than a public or private school;
- (4) Has secured admission to and enrolled in a CTP program at a state educational institution that meets the requirements to be eligible for federal student financial aid; and
- (5) Has established financial need according to 610:25-43-4.

(b) A student with an intellectual disability and the student's parent(s), custodial parent(s), or guardian(s) shall:

- (1) Provide information requested by OSRHE and the institution in which the student is enrolled; and
- (2) Assist the student in completing forms and reports required for program participation, making application to institutions and schools of higher learning, and filing applications for student grants and scholarships.

## **610:25-43-4. Financial Need [NEW]**

(a) Prior to receiving any Oklahoma Access and Achievement Program benefit award for any year during which the student with an intellectual disability is enrolled in a state educational institution, the federal adjusted gross income of the student's parent(s) or legal guardian(s) shall not exceed \$100,000 per year. The determination of financial qualification as set forth in this subsection shall be based on the income of the student, not the income of the parent(s) or legal guardian(s), if the student is determined to be independent of the student's parent(s) or legal guardian(s) for federal financial aid purposes.

(b) A student with an intellectual disability who was adopted while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, shall be subject to the following financial qualifications prior to receiving any program benefit award:

- (1) For a student adopted between birth and twelve (12) years of age, the federal adjusted gross income of the student's parent(s) may not exceed \$150,000 per year;
- (2) For a student adopted between thirteen (13) and seventeen (17) years of age, the federal adjusted gross income of the student's parent(s) may not exceed \$200,000 per year; or
- (3) If the student is determined to be independent of the student's parents for federal financial aid purposes, the determination of financial qualification shall be based on the income of the student, not the income of the parent(s).

(c) Eligible students shall apply for financial aid at the state educational institution in which they enroll.

(d) Eligible students must complete the FAFSA each year the student is enrolled in postsecondary education. Eligible students not eligible to complete the FAFSA may be provided an alternate method by OSRHE. Income information submitted through the FAFSA shall be used to determine compliance with the income limits described in this section. Any falsified or incomplete information submitted by the student or parent(s) may result in the student's disqualification from the program;

## **610:25-43-5. Criteria for Continued Eligibility [NEW]**

To retain eligibility in the Oklahoma Access and Achievement Program, the student with an intellectual disability shall:

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- (1) Meet the requirements for retention and completion as established by the state educational institution where the student is enrolled;
- (2) Meet SAP standards as required by the CTP program criteria. This requirement will apply to all Oklahoma Access and Achievement Program participants whether or not they are receiving federal student financial aid. Any Oklahoma Access and Achievement Program participant that is ineligible to receive federal financial aid due to failure to meet SAP standards will also be ineligible to receive the Oklahoma Access and Achievement Program award; and
- (3) Refrain from conduct that leads to expulsion or suspension of more than one semester from a state educational institution. A student who violates the provisions of this paragraph shall permanently lose eligibility for scholarship program benefits.

## **610:25-43-6. Payments of awards; policies and limitations [NEW]**

- (a) Subject to the availability of funds, eligible students enrolled at an institution in The Oklahoma State System of Higher Education shall have an award equivalent to their undergraduate resident nonguaranteed tuition paid to the institution on the student's behalf by an allocation from the Oklahoma Higher Learning Access Trust Fund.
- (b) Subject to the availability of funds, eligible students enrolled in a technology center school CTP program that meets the requirements to be eligible for federal student financial aid and is offered by a technology center school supervised by the State Board of Career and Technology Education shall have an award equivalent to tuition paid, to the school or institution on the student's behalf by an allocation from the Oklahoma Higher Learning Access Trust Fund.
- (c) Funds shall be transferred by OSRHE from the Oklahoma Higher Learning Access Trust Fund to the state educational institution in which the eligible student is enrolled. No funds shall be paid directly to the student.
- (d) Payment will not be allowed for courses or other postsecondary units taken more than five (5) years after the eligible student's first semester of postsecondary enrollment.
- (e) Students will be eligible for the benefits outlined in this policy for five (5) years after the eligible student's first semester of postsecondary enrollment. OSRHE may award the Oklahoma Access and Achievement Program benefits for courses or other postsecondary units taken more than five (5) years after the student's first semester of postsecondary enrollment only in hardship circumstances; provided, however, no Oklahoma Access and Achievement Program participant may receive benefits beyond a cumulative time period of five (5) years. Hardship circumstances may include, but are not limited to, sickness, injury, required military service, or service required by the student's religious or cultural traditions.
- (f) There will be no limit to the number of awards in any year other than the amount of funds available for the scholarship program and the number of eligible student applicants. If sufficient funds are not available to provide awards for all eligible applicants, OSRHE shall make awards on the basis of need. Provided, OSRHE may take into consideration other grants and scholarships received by an eligible student applicant when making awards.
- (g) Students who have previously received Oklahoma Access and Achievement Program awards and who have continued at all times to fulfill the requirements for eligibility to receive such awards shall have priority for continued financial support by this program over students applying for an initial award.

## **610:25-43-7. Applications [NEW]**

- (a) Students and their parent(s), custodial parent(s), or legal guardian(s) must complete fully an application form provided by the state educational institution in which they plan to enroll. If a student's legal custody is the subject of an active legal proceeding, the student may submit an application without the information of their parent(s), custodial parent(s), or legal guardian(s).
- (b) State educational institutions shall develop, maintain, and provide an Oklahoma Access and Achievement Program application for eligible students and submit information for new students each semester. The institution's application process must minimally determine the student's financial eligibility, including indication of adoption status, as determined pursuant to 610:25-43-4.
- (c) Any falsified or incomplete information on the application forms may result in the student's disqualification from the Oklahoma Access and Achievement Program.
- (d) Applications may be accepted throughout the year.

## **610:25-43-8. Authorized Institutional Representative and Administrative Responsibilities [NEW]**

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(a) Each state educational institution's financial aid officer will work with the program administrator to certify the eligibility of Oklahoma Access and Achievement Program applicants, verify enrollment, receive and disburse funds, and perform such other duties as may be necessary for the proper administration of Oklahoma Access and Achievement Program scholarships.

(b) OSRHE shall:

- (1) work with the state educational institution's representatives to coordinate tracking of program records for students participating in the program;
- (2) coordinate and develop policies and procedures to implement the Oklahoma Access and Achievement Act; and
- (3) administer the Oklahoma Higher Learning Access Trust Fund.

*[OAR Docket #25-504; filed 6-6-25]*

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## TITLE 655. SECRETARY OF STATE CHAPTER 10. ADMINISTRATIVE RULES ON RULEMAKING

*[OAR Docket #25-381]*

### **RULEMAKING ACTION:**

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### **RULES:**

Subchapter 1. General Provisions

655:10-1-2. Definitions [AMENDED]

655:10-1-8. Forms and instructions [AMENDED]

Subchapter 3. Codification of Rules

Part 1. INTRODUCTORY PROVISIONS

655:10-3-1. Function; scope [AMENDED]

655:10-3-3. Rulemaking after publication of first OAC [AMENDED]

Part 3. CODE STRUCTURE

655:10-3-10. Six major OAC divisions [AMENDED]

Part 5. CODE NUMBERING, HEADINGS, AND TAGLINES

655:10-3-24.1. Appendix letters and headings [AMENDED]

Part 7. REGULATORY TEXT

655:10-3-35. Placement of Sections and Section text [AMENDED]

655:10-3-37. Graphics and appendices [AMENDED]

Subchapter 5. Rule Drafting Requirements

655:10-5-2. Identifying new rules [AMENDED]

655:10-5-3. Identifying amendatory language in rules [AMENDED]

655:10-5-4. Identifying revoked rules [AMENDED]

655:10-5-6. Superseded emergency actions; expired emergency rules [AMENDED]

655:10-5-8. Renumbering Sections and Appendices within a Chapter [AMENDED]

655:10-5-10. Use of definitions [AMENDED]

655:10-5-17. Agency Notes [AMENDED]

Subchapter 7. Preparation of Documents

Part 1. GENERAL PROVISIONS

655:10-7-1. Types of documents; inclusion in Code; excluded documents [AMENDED]

655:10-7-2. Typing and word processing requirements [AMENDED]

655:10-7-3. Document headings [AMENDED]

655:10-7-4. Page numbering [AMENDED]

655:10-7-6. Transmittal sheet; liaison verification [AMENDED]

Part 3. RULE DOCUMENTS

655:10-7-10. Types of rules and rule documents; rule document components; transmittal sheets [AMENDED]

655:10-7-11. Preamble for permanent, emergency, and preemptive rule documents [AMENDED]

655:10-7-11.1. Preamble for expedited rule repeal documents [REVOKED]

655:10-7-12. Summaries of lengthy rules [REVOKED]

# Permanent Final Adoptions

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655:10-7-13. Enacting clause [AMENDED]

655:10-7-14. Regulatory text [AMENDED]

655:10-7-15. Supplemental information [AMENDED]

655:10-7-16. Attestations [AMENDED]

## Part 5. NOTICE DOCUMENTS

655:10-7-25. Notice document types; transmittal sheet [AMENDED]

655:10-7-26. Notices of rulemaking intent [AMENDED]

655:10-7-26.1. Notices of expedited repeal request [REVOKED]

655:10-7-27. Notices of cancelled hearing and/or comment period [AMENDED]

655:10-7-28. Notices of continued hearing and/or comment period [AMENDED]

655:10-7-29. Statements of submission of adopted rules to Governor and Legislature [AMENDED]

655:10-7-32. Notices of legislative disapproval [AMENDED]

655:10-7-33. Notices of withdrawn rules [AMENDED]

655:10-7-35. Notices of errors in published documents [AMENDED]

## Part 9. DOCUMENT SCOPE

655:10-7-51. Rule document scope, limitations [AMENDED]

655:10-7-52. Notice document scope, limitations [AMENDED]

### Subchapter 9. Submission of Documents

655:10-9-1. Electronic copies and submissions; special treatment of rule documents [AMENDED]

655:10-9-3. Filing and acceptance deadlines [AMENDED]

655:10-9-5. Acknowledgement of receipt [AMENDED]

### Subchapter 11. Review of Documents

655:10-11-1. Review of Register submissions [AMENDED]

655:10-11-3. Acknowledgement of acceptance [AMENDED]

### Subchapter 13. Correction of Errors

655:10-13-2. Errors prior to Register publication [AMENDED]

655:10-13-3. Errors after Register publication [AMENDED]

### Subchapter 15. The Oklahoma Register

655:10-15-5. Register contents [AMENDED]

655:10-15-9. Unpublished material [AMENDED]

655:10-15-10. Editor's Notes [AMENDED]

655:10-15-11. Proof of publication [AMENDED]

### Subchapter 17. The Oklahoma Administrative Code

655:10-17-6. Source notes [AMENDED]

### Subchapter 19. Public Inspection and Copies of Documents

655:10-19-1. Public access to documents and publications [AMENDED]

## **AUTHORITY:**

Oklahoma Secretary of State; 75 O.S., § 251(A)(2)

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Subchapter 1. General Provisions

655:10-1-2. Definitions [AMENDED]

Subchapter 3. Codification of Rules

Part 1. INTRODUCTORY PROVISIONS

655:10-3-1. Function; scope [AMENDED]

Part 3. CODE STRUCTURE

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655:10-7-27. Notices of cancelled hearing or comment period [AMENDED]

655:10-7-28. Notices of continued hearing or comment period [AMENDED]

655:10-7-29. Statements of submission of adopted rules to Governor and Legislature [AMENDED]

655:10-7-32. Notices of legislative disapproval [AMENDED]

655:10-7-33. Notices of withdrawn rules [AMENDED]

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655:10-7-51. Rule document scope, limitations [AMENDED]

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655:10-9-1. Electronic copies and submissions; special treatment of rule documents [AMENDED]

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655:10-9-5. Acknowledgement of receipt [AMENDED]

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655:10-11-1. Review of Register submissions [AMENDED]

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Subchapter 13. Correction of Errors

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655:10-13-3. Errors after Register publication [AMENDED]

Subchapter 15. The Oklahoma Register

655:10-15-5. Register contents [AMENDED]

655:10-15-9. Unpublished material [AMENDED]

655:10-15-11. Proof of publication [AMENDED]

Subchapter 17. The Oklahoma Administrative Code

655:10-17-6. Source notes [AMENDED]

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Revisions to the Secretary of State's Administrative Rules on Rulemaking (ARR) [OAC 655:10] are proposed to supersede effective emergency rules and to implement and reflect statutory revisions to the Administrative Procedures Act (APA) enacted in SB 515 (2023) and HB 1297 (2024). The proposed revisions also address administrative rules filing procedures, following the launch of rules.ok.gov. Agency documents submitted for publication in the Oklahoma Register now occur via web submission, eliminating requirements for paper or email filings.

## **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 JULY 11, 2025:**

## **SUBCHAPTER 1. GENERAL PROVISIONS**

### **655:10-1-2. Definitions [AMENDED]**

In addition to terms defined in 75 O.S., Section 250.3, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**APA**" means the Administrative Procedures Act, 75 O.S., Sections 250 et seq.

"**ARR**" means the Administrative Rules on Rulemaking, OAC 655:10.

"**Adopted rule**" means *a proposed emergency [or preemptive] rule which has been approved by the agency but has not been approved or disapproved by the Governor . . . , or a proposed permanent rule that has been approved by the agency and has not been disapproved by the Governor pursuant to [75 O.S., Section 303(A)(6)], but has not been finally approved or disapproved by the Legislature or the Governor [75:250.3(2)].* [See also definitions of "proposed rule" and "Governor's declaration" in this Section].

"**Agency**" means *any constitutionally or statutorily created state board, bureau, commission, office, authority, public trust in which the state is a beneficiary, or interstate commission [75:250.3(3)] with authority for rulemaking.* Except, "agency" does not include *the Legislature or any branch, committee or officer thereof, and . . . the courts [75:250.3(3)].* [See also definition of "rulemaking entity" in this Section]

"**Amendment**" means a revision which adds, modifies, or deletes characters, numbers, letters, words, phrases, sentences, spaces, or punctuation in an existing section.

"**Appendix**" means a division of the OAC which contains one or more "graphics" (as defined in this Section). Appendices are placed at the end of a Chapter. [See 655:10-3-37]

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**"Attestation"** means certification by an agency as to the correctness of copies of any rule . . . and that such rules were made and adopted if the rules are emergency [or preemptive] rules or finally adopted if the rules are permanent rules in substantial compliance with the Administrative Procedures Act [75:254]. [See 655:10-7-16 (relating to attestations)]

**"Chapter"** means a division of the OAC which designates a broad area of regulatory control within an agency's Title. [See also 655:10-3-22 (relating to Chapter numbers and headings)]

**"Code"** means the publication authorized in 75 O.S., Section 256 and known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S., Section 256(A)(1)(a) and maintained in the OAR. [See also definition of "OAC" in this Section]

**"Codification date"** means the date a rule was accepted for inclusion in the first official compilation of codified rules authorized by 75 O.S., Section 256(A)(1)(a); except, the date of codification for subsequently promulgated new rules is the effective date of the permanent rulemaking action which establishes the rules.

**"Docket number"** means the identification number assigned to a document upon its receipt in the OAR. [See 655:10-15-4 (relating to docket numbers)]

**"Document"** means the total body of information required by the APA and ARR to be electronically submitted via rules.ok.gov for each rulemaking action, Governor's declaration, or executive order to be published in the Register. [See also Part 9 of Subchapter 7 of this Chapter (relating to scope of a document)]

**"Document heading"** means the two-part heading ~~required~~ at the beginning of each notice document or rule document submitted to the OAR. [See 655:10-7-3 (relating to document headings)]

**"Emergency rule"** means a "rule," as defined in the APA, which must be approved by the Governor under the special provisions of 75 O.S., Section 253 prior to promulgation of the rule.

**"Enacting clause"** means the portion of a rule document which proclaims the agency's rulemaking action and introduces the finally adopted (if permanent) or adopted (if emergency or preemptive) regulatory text. [See 655:10-7-13 (relating to enacting clauses)]

**"Existing rule"** means an effective rule.

~~————~~ **"Expedited repeal"** means ~~the procedure utilized by a rule-making agency as specified in 75 O.S., Section 303a [75:250.6(6)]~~ to revoke a rule under the expedited repeal provisions of the APA. [See also 655:10-7-11.1 (relating to expedited rule repeal documents) and 655:10-7-26.1 (relating to notices of expedited repeal requests)]

~~————~~ **"Final legislative adoption"** or **"final legislative approval"** means approval by the Legislature of a request for expedited repeal of rules, as set forth in 75 O.S., Section 303a. These two terms are used in 75 O.S., Section 303a(C) to describe the same legislative action. [See also definitions of **"legislative adoption"** and **"legislative approval"** in this Section].

**"Finally adopted"** or **"final adoption"** means the approval of a proposed permanent rule upon the occurrence of one of the following:

- (A) legislative approval of the rule by joint resolution, provided that the resolution has either been approved by the Governor pursuant to OKLA. Const. Art. 6, Section 11 or the Governor's veto has been overridden by the Legislature. [75:250.3(7)(5)(a)]
- (B) gubernatorial veto of a joint resolution disapproving the rule, provided that the veto has not been overridden by the Legislature. [75:250.3(7)(5)(d)]
- (C) gubernatorial approval of the rule by Governor's declaration [see definition of "Governor's declaration" in this Section and 75:250.3(7)(5)(b)].

**"Governor's declaration"** means an action the Governor may take to declare the approval and final adoption, or disapproval, of proposed permanent rules that were:

- (A) submitted to the Legislature and Governor on or before April 1 and not subject to a joint resolution passed by Legislature and signed by the Governor prior to sine die adjournment [75:303.8(C)]; or
- (B) approved by the Legislature in a joint resolution, but the joint resolution has been found by the Governor to have a technical legal defect [75:308.3(C)]. [See also definition of "Technical legal defect" in this Section]

**"Graphics"** means tabular material (tables), forms, illustrations, diagrams, maps, charts, graphs, figures, or other pictorial material published in a compressed image format. [See 655:10-3-37 (relating to graphics and appendices)]

~~————~~ **"Joint committee"** means the Joint Committee on Administrative Rules, as created by 75 O.S., Section 307.1, for year-round joint review of proposed rules by the Oklahoma House of Representatives and the Oklahoma Senate. [75:307.1]

~~————~~ **"Legislative adoption"** or **"legislative approval"** means approval by the Legislature of a request for expedited repeal of rules, as set forth in 75 O.S., Section 303a. These two terms are used in 75 O.S., Section 303a(C) to describe the same legislative action. [See also definitions of **"final legislative adoption"** and **"final legislative approval"** in this Section].

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**"Notice document"** means a "document," as defined in this Section, which contains one of the following notices:

- (A) Notice of rulemaking intent [75:303(A),(B),(C)].
- (B) Notice of cancelled hearing and/or comment period [655:10-7-27].
- (C) Notice of continued hearing and/or comment period [655:10-7-28].
- (D) Statement of submission of permanent rules to Governor and Legislature [75:303.1(C)].
- (E) Notice of legislative disapproval of rules [75:308(C) and 655:10-7-32].
- (F) Notice of withdrawn rules [75:308(F) and 655:10-7-33].
- (G) Notice of error in published document [655:10-7-35].
- ~~(H) Notice of expedited repeal request [655:10-7-26.1].~~

**"OAC"** means the publication authorized by 75 O.S., Section 256 and known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S., Section 256(A)(1)(a) and maintained in the OAR. [See also definition of "Code" in this Section]

**"OAC number"** means a Title, Chapter, Subchapter, Part, or Section number, or Appendix letter designation.

**"OAR"** means the Office of Administrative Rules. [See also definition of "Office of Administrative Rules" in this Section]

**"Office of Administrative Rules"** means the office, created pursuant to 75 O.S., Section 250.9 within the Office of the Secretary of State, with the *primary responsibility for publishing "The Oklahoma Register" and the "Oklahoma Administrative Code" and otherwise implementing the provisions of Article I of the Administrative Procedures Act* [75:250.9]. [See also definition of "OAR" in this Section]

**"Paragraph"** means the second level of subdivision in a Section; a paragraph is a subdivision of a subsection in a Section. [See 655:10-3-25 (relating to Section subdivisions)]

**"Part"** means a division of the OAC which contains a group of Sections related to the same subject within a Subchapter. [See also 655:10-3-23 (relating to Part numbers and headings)]

**"Permanent rule"** means a "rule," as defined in the APA, which must be reviewed by the Governor and the agency's Cabinet Secretary prior to adoption pursuant to 75 O.S., Section 303(6), and finally adopted pursuant to 75 O.S., Sections 250.3~~(7)(5)~~ and 308(E) prior to promulgation of the rule. [See also 655:10-7-10 (relating to types of rules)]

**"Preamble"** means the portion of a rule document that summarizes the rule(s) and the history of the rulemaking action, cites legal authority, and functions as a preface to the rule(s). [See 655:10-7-11 (relating to preambles)]

**"Preemptive rule"** means a "rule," as defined in the APA, which is adopted by the Commission for Human Services and which must be approved by the Governor under the special provisions of 75 O.S., Section 250.6 prior to promulgation of the rule.

**"Proposed rule"** means an emergency or preemptive rule prior to approval by the Governor, or a proposed permanent rule prior to final adoption as defined in 75 O.S., Section 250.3~~(7)(5)~~ and this section; ~~or an expedited rule repeal prior to approval by the Legislature as set forth in 75 O.S., Section 303a.~~

**"Register"** means the publication authorized in 75 O.S., Section 255 and known as The Oklahoma Register, successor publication to The Oklahoma Gazette.

**"Regulatory text"** means the language of any "rule," as defined in 75 O.S., Section 250.3~~(19)~~(17) and this Section; any text, including graphics, which requires promulgation.

~~**"Repeal"** means "revoke," as used in this Chapter and as defined in this Section. The term "repeal" is used in 75 O.S., Section 303a to describe an "expedited repeal" of rules; however, the term "revoke" is used in the Register and Code publications to describe the repeal of a rule, including the expedited repeal of a rule.~~

**"Revocation" or "revoke"** means the repeal of an existing rule (i.e., Section or Appendix) in its entirety. ~~[See also definition of "repeal" in this Section.]~~

**"Rule"** means a Section or Appendix [see also definition of "rule" in 75 O.S., Section 250.3~~(19)~~(17)].

**"Rule document"** means a "document," as defined in this Section, which contains new rules or amendments to or revocations of existing rules adopted by emergency or preemptive action or finally adopted by permanent action; ~~or expedited repeals that have received final legislative approval [see definition of "final legislative adoption" or "final legislative approval" in this Section].~~

**"Rulemaking action"** means any procedure, act, or occurrence, except executive orders, which must be announced in or published in the Register or Code under APA or ARR provisions, including:

- (A) Notice of rulemaking intent [75:303(A),(B),(C)].
- ~~(B) Notice of expedited repeal request [75:303a]~~
- ~~(B)(C)~~ Notice of cancelled hearing and/or comment period [655:10-7-27].
- ~~(C)(D)~~ Notice of continued hearing and/or comment period [655:10-7-28].
- ~~(D)(E)~~ Final adoption of a permanent rule(s) [75:250.3(7), 75:308(E), and 75:308.3(C)].
- ~~(F) Final legislative adoption of an expedited rule repeal [75:303a].~~

(E)(G) Promulgation of an emergency rule(s) [75:253].

(E)(H) Promulgation by the Commission for Human Services of a preemptive rule(s) [75:250.6].

(G)(H) Submission of an adopted permanent rule(s) ~~to Governor, Legislature, and Joint Committee on Administrative Rules~~ Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and chief legislative officer of each chamber [75:303.1(A)].

(H)(H) Disapproval of a rule(s) by the Legislature [75:308 (B) and 75:308.3(B)].

(I)(K) Withdrawal of a proposed rule from the rulemaking process [75:308(F), 75:253(K), and 655:10-7-33].

(J)(E) Notice of error in a published document [655:10-7-35].

(K)(M) Governor's declaration [75:308.3(C)].

**"Rulemaking entity"** means the board, commission, officer, or other person or entity legally authorized to adopt and promulgate "rules," as defined in 75 O.S., Section 250.3(19)(17).

**"Section"** means a "rule," as defined in 75 O.S., Section 250.3(19)(17); a division of the OAC which contains an agency statement(s) about a specific regulatory topic within a Chapter, Subchapter, or Part. [See 655:10-3-24 (relating to Section numbers and taglines)]

**"Section subdivision"** means any one of five possible levels into which a Section may be separated. A maximum of five levels of Section subdivisions may be used in a Section [see 655:10-3-25 (relating to Section subdivisions)]:

(A) Subsections

(B) Paragraphs

(C) Subparagraphs

(D) Units

(E) Subunits

**"Section text"** means the "regulatory text" (as defined in this Section) which follows the Section number and tagline in a Section.

**"Source note"** means the record of rulemaking history which follows a Section, an Appendix, or a Subchapter or Chapter table of contents in the Code. Source notes track the administrative history of a rule. [See 655:10-17-6 (relating to Chapter, Subchapter, and Section/Appendix source notes)]

**"Strikeout"** means a solid, horizontal line through deleted regulatory text.

**"Subchapter"** means a division of the OAC which contains a group of Sections related to the same general subject area within a Chapter. [See 655:10-3-23 (relating to Subchapter numbers and headings)]

**"Subparagraph"** means the third level of subdivision within a Section; a subparagraph is a subdivision of a paragraph in a Section. [See 655:10-3-25 (relating to Section subdivisions)]

**"Subsection"** means the first level of subdivision in a Section. [See 655:10-3-25 (relating to Section subdivisions)]

**"Subunit"** means the fifth level of subdivision within a Section; a subunit is a subdivision of a unit in a Section; it is the smallest possible subdivision of a Section. [See 655:10-3-25 (relating to Section subdivisions)]

**"Technical legal defect"** means *an error* [in a joint resolution approving and/or disapproving proposed permanent rules, as set forth in 75 O.S., Section 308.3(C)] *that would otherwise invalidate an action by a court of law* [75:250.3(23)]

**"Title"** means the broadest division of the OAC; a Title contains the rules of one agency. [See 655:10-3-21 (relating to Title numbers and headings)]

**"Unit"** means the fourth level of subdivision within a Section; a unit is a subdivision of a subparagraph in a Section. [See 655:10-3-25 (relating to Section subdivisions)]

**"Working day"** means any day except Saturday, Sunday, or a legal holiday for state employees as proclaimed by the Governor.

## 655:10-1-8. Forms and instructions [AMENDED]

The following forms or instructions related to this Chapter have been issued by the Secretary of State for use by agencies and may be obtained ~~by contacting the OAR~~ via [rules.ok.gov/quicklinks](https://rules.ok.gov/quicklinks):

(1) Checklists for Oklahoma's Rulemaking Process;

(2) Examples of Document Formats;

(3) Register Publication Dates and Filing Deadlines;

(4) ~~Typing Requirements and Restrictions;~~ Important Dates and Deadlines for Permanent Rulemaking Actions;

(5) Oklahoma's PERMANENT Rulemaking Process - An Overview for Regulatory Agencies; and

(6) Oklahoma's EMERGENCY Rulemaking Process - An Overview for Regulatory Agencies.

## SUBCHAPTER 3. CODIFICATION OF RULES

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## PART 1. INTRODUCTORY PROVISIONS

### 655:10-3-1. Function; scope [AMENDED]

(a) This Subchapter describes the codification scheme for inclusion of rules in the Oklahoma Administrative Code ~~and its supplements~~. Inclusion of a rule in the OAC requires prior publication in the Register as a finally adopted permanent rule or an adopted preemptive rule that has been approved by the Governor, ~~or an expedited rule repeal that has been approved by the Legislature~~. Emergency rules are not added to the OAC ~~or its supplements~~. However, emergency rules are published in the Register. They are part of the history of a Section or Appendix as referenced in Section/Appendix source notes in the OAC, and must be prepared pursuant to the codification scheme.

(b) Unless otherwise specifically noted, the rules of this Subchapter apply to permanent, emergency, and preemptive rules; ~~and to expedited rule repeals~~.

### 655:10-3-3. Rulemaking after publication of first OAC [AMENDED]

After publication of the first OAC, any rulemaking actions undertaken by an agency shall be prepared as additions, revocations, or amendments to the OAC, as follows:

(1) **Amendments; revocations.** All amendments or revocations shall bear the proper OAC numbers and shall amend or revoke OAC text. The OAR shall not accept for Register or Code publication an amendment to or revocation of any rule unless the regulatory text being amended or revoked:

(A) appears in the most recent published Code ~~or Code supplement~~, or

(B) appears as finally adopted regulatory text in an issue of the Register published after the closing date for publication in the most recent published Code, ~~or Code supplement, or~~

~~(C) appears as an expedited rule repeal in an issue of the Register published after the closing date for publication in the most recent published Code or Code supplement.~~

(2) **New rules.** Prior to the adoption of a new Chapter, the agency shall contact the OAR for assignment of a new Chapter number pursuant to 655:10-3-22. If the agency proposes a new Subchapter, Part, Section, or Appendix, the agency shall assign the new OAC number or numbers pursuant to 655:10-3-23 through 655:10-3-24.1 and proceed with the rulemaking process. The OAR may not accept a new rule for Register or Code publication unless the rule is prepared pursuant to the requirements of this Subchapter and Subchapters 5 and 7 of this Chapter.

## PART 3. CODE STRUCTURE

### 655:10-3-10. Six major OAC divisions [AMENDED]

The Code is organized into the following six major divisions:

(1) **Titles.** Each Title identifies an administrative agency, except for Title 1 which includes executive orders.

(2) **Chapters.** Each Chapter identifies a major area of regulatory control within an agency's authority. Each Chapter identifies a group of Sections which are:

(A) related to the same major agency program or legally-designated regulatory power;

(B) dependent on a common set of definitions; or

(C) independent of another Chapter in meaning or effect.

(3) **Subchapters.** Each Subchapter identifies a group of Sections related to the same general subject within a Chapter. The use of Subchapters is optional.

(4) **Parts.** Each Part identifies a group of Sections related to the same subject within a Subchapter. The use of Parts is optional.

(5) **Sections.** Each Section identifies a specific agency statement within a Chapter, Subchapter, or Part. Each Section is considered to be a single "rule." [See Part 5 of this Subchapter (relating to Code numbering, headings, and taglines)]

(6) **Appendices.** Each Appendix identifies a graphic in compressed image format (JPG), as defined in 655:10-1-2, which the agency considers to be regulatory text (i.e., text requiring promulgation). Each Appendix is considered to be a single "rule."

## PART 5. CODE NUMBERING, HEADINGS, AND TAGLINES

## 655:10-3-24.1. Appendix letters and headings [AMENDED]

- (a) **Appendix letters.** Appendices within a Chapter are designated using capital letters, beginning with the letter "A." Appendices include graphics in compressed image format (JPG), (i.e., tabular materials (tables), forms, illustrations, diagrams, maps, charts, graphs, figures, and other pictorial material) that the agency considers to be regulatory text (requiring promulgation). [See also 655:10-3-37 (relating to graphics and appendices)].
- (b) **Appendix headings.** Each Appendix must have a brief heading which reflects its subject matter. If the graphic itself has a heading, both the graphic heading and the Appendix heading must be included, even if they are identical.
- (c) **Format.** Appendix letters and headings are formatted in regulatory text as follows:
- (1) The word APPENDIX is followed by a space, the Appendix designation (A, B, C, etc.), a period, two spaces, and the Appendix heading as described in (b) of this Section. This information is typed in uppercase letters, bolded, and centered.
  - (2) No punctuation follows the Appendix heading.
  - (3) The following is an example of an Appendix letter and heading: **APPENDIX S. RESTRICTED AREAS FOR APPLICATION OF HORMONE-TYPE PESTICIDES**
- (d) **Location; Appendix text.**
- (1) All Appendices within a Chapter are placed at the end of the Chapter. ~~Each Appendix begins on a new page.~~
  - (2) The text of an Appendix begins approximately two spaces below the Appendix heading. If the graphic itself has a heading, that heading is part of the Appendix text.
- (e) **Assignment.** Appendix letters and headings are assigned by the adopting agency and reviewed by the OAR prior to publication in the Register and Code.

## PART 7. REGULATORY TEXT

## 655:10-3-35. Placement of Sections and Section text [AMENDED]

- (a) **Placement of Sections.** In a rule document (emergency, permanent, or preemptive, ~~or expedited repeat~~), affected Sections (i.e., Sections that are being added or revised in some way) follow the enacting clause [see 655:10-7-14 (relating to regulatory text)]. ~~Sections should be separated by one or two blank lines.~~
- (b) **Placement of Section text.** The text of a Section, referred to as "Section text," begins on the first line below the Section number and tagline, as follows:
- (1) **No subdivisions used.** If the Section contains no subdivisions, the first line of text is tabbed ~~approximately 1 1/4 inch~~, and the second and succeeding lines of text begin at the left margin.
  - (2) **Subdivisions used.**
    - (A) **"Implied (a)" used.** If the Section begins with an "implied (a)" [see 655:10-3-26], the first line of text is tabbed ~~approximately 1 1/4 inch~~, and the second and succeeding lines of text begin at the left margin. Subdivisions of the "implied (a)" are formatted pursuant to 655:10-3-25.
    - (B) **Subsections used.** If the Section is divided into subsections, the first line of text begins with the subsection designation [i.e., (a)] at the left margin. The text of the subsection begins approximately two spaces following its tagline, if used, or approximately two spaces following its letter designation, if a tagline is not used. For formatting subsequent subsections [i.e., (b), (c), etc.)] and further subdivisions, see 655:10-3-25.

## 655:10-3-37. Graphics and appendices [AMENDED]

- (a) **"Graphics" defined; graphics as regulatory text.** Graphics are tabular materials (tables), forms, illustrations, diagrams, maps, charts, graphs, figures, and other pictorial material in compressed image format (JPG). Unless labeled as supplemental information in a rule document, graphics are considered regulatory text.
- (b) **Use limited.** A graphic should be used only when an agency deems it absolutely necessary. Rules must be in narrative form whenever possible.
- (c) **Reproducing colors; size.**
- (1) Colors may not be used in graphics, as colors cannot be reproduced in the Register or Code.
  - (2) The area of text for graphics in Appendices may not exceed 7½ inches by 10 inches. ~~If an agency cannot comply, by reduction or other means, the agency must contact the OAR. Exceptions to this paragraph will be made only at the discretion of the OAR.~~
- (d) **Location.**
- (1) **Graphics in appendices.** When an agency finds that use of a graphic is absolutely necessary and that the regulatory text cannot be stated in narrative form, the agency must:

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(A) place the graphic in an Appendix, except as allowed in (2) of this subsection. Appendices are prepared pursuant to 655:10-3-24.1 and added, amended, or revoked pursuant to (e) of this Section; and (B) cite the Appendix in the text of at least one applicable Section (e.g., "as set forth in Appendix A of this Chapter").

## (2) Graphics within Sections.

~~(A) **Restrictions.** A graphic should rarely~~never~~ be included within a Section, as described in this subparagraph.~~

~~(i) A graphic may be included within a Section only if:~~

~~(I) the agency determines that use of the graphic is absolutely necessary and that the regulatory text cannot be stated in narrative form;~~

~~(II) the agency determines that placement of the graphic in an Appendix would be inappropriate;~~

~~(III) the graphic can be easily typed within the text margins of the Section; and~~

~~(IV) the graphic's contents consist only of words, numbers, or other characters that can be typed; and~~

~~(V) the graphic can be easily amended using strikeouts and underscoring.~~

~~(ii) If any one of the characteristics described in (i)(I) through (V) of this subparagraph does not apply to a graphic, the graphic must be:~~

~~(I) placed at the end of the Chapter and prepared as an Appendix, as described in (1) of this subsection; or~~

~~(II) expressed in a narrative style, within the usual subdivision numbering scheme of a Section.~~

~~(iii) When a graphic is included within a Section, the graphic must be preceded by appropriate introductory language which explains its function and contents (e.g., "The following table sets forth the requirements for ...").~~

~~(B) **Format.** A graphic typed within a Section may not be numbered in any manner; however, the graphic may have a heading.~~

(e) **Amending, revoking, adding, deleting graphics and Appendices.** When amending, revoking, adding, or deleting graphics or Appendices, the agency shall identify the changes pursuant to the following:

### (1) Amending graphics and Appendices.

~~(A) **Graphics in Sections.** When amending a graphic within a Section, the agency shall indicate the changes with strikeouts and underscoring.~~

~~(B) **Appendices.** When amending an Appendix, the agency shall amend the Appendix by revoking and reenacting~~amending~~ the Appendix as set forth in 655:10-5-3(a)(2).~~

### (2) Adding, deleting, and revoking graphics and Appendices.

~~(A) **Graphics in Sections:**~~

~~(i) **Adding graphics in Sections.** When adding a graphic within a Section, the agency shall underscore the text of the graphic.~~

~~(ii) **Deleting graphics in Sections.** When deleting a graphic within a Section, the agency shall strikeout the text of the graphic.~~

~~(B) **Appendices:**~~

~~(A)(i) **Adding graphics and Appendices.**~~

~~(i)(I) **Adding graphics to existing Appendices.** When adding~~uploading~~ a new graphic to an existing Appendix, the agency shall select the [AMENDED] status in the drafting editor~~amend the Appendix by revoking and reenacting the Appendix as set forth in 655:10-5-3(a)(2). The text of the Appendix is not underscored or stricken.~~~~

~~(ii)(II) **Adding Appendices.** When adding an a~~a~~ graphic to a new Appendix, the agency shall type the words~~select the [NEW] status in the drafting editor~~approximately two spaces after the centered Appendix heading. The text of the Appendix is not underscored. [See also 655:10-5-2(a)(2) (relating to new Appendices)]~~

~~(B)(ii) **Deleting graphics in Appendices; revoking Appendices.**~~

~~(i)(I) **Deleting graphics in existing Appendices.** When deleting a graphic in an existing Appendix, the agency shall select the [AMENDED] status in the drafting editor~~amend the Appendix by revoking and reenacting the Appendix as set forth in 655:10-5-3(a)(2). The text of the Appendix is not underscored or stricken.~~~~



~~(ii)(H)~~ **Revoking Appendices.** When revoking an Appendix, the agency ~~shall type the word~~ shall select the [REVOKED] status in the drafting editor ~~approximately two spaces after the~~ centered Appendix heading. The text of the revoked Appendix is not stricken. [See also 655:10-5-4(a)(2) (relating to revoked Appendices)]

(f) ~~Renumbering or reserving~~ **Reserving Appendices.** Appendices may be ~~renumbered as set forth in 655:10-5-8 or~~ reserved as set forth in 655:10-3-29.

## SUBCHAPTER 5. RULE DRAFTING REQUIREMENTS

### 655:10-5-2. Identifying new rules [AMENDED]

(a) **New Sections and Appendices.** When preparing new Sections or Appendices, agencies shall identify the new Sections and Appendices as follows:

(1) **New Sections.** Underscore the text of a new Section and select the [NEW] status in the drafting editor; ~~including the Section number and tagline.~~

(2) **New Appendices.** Select the [NEW] status in the drafting editor and upload each image in compressed image format (JPG). Type the word [NEW] approximately two spaces following the centered Appendix heading (e.g., APPENDIX K. ZONING DISTRICTS [NEW]). ~~Begin the contents of the Appendix approximately two single spaces below the heading. Do not underscore. Begin each new Appendix on a new page.~~

(b) **New Parts, Subchapters, Chapters.** ~~When preparing new Parts, Subchapters, and Chapters, agencies shall underscore the centered Part, Subchapter, or Chapter number and heading. Agencies shall select the [NEW] status in the drafting editor for each new Part, Subchapter, and Chapter headings.~~ Sections within the new Part, Subchapter, or Chapter are prepared pursuant to (a)(1) of this Section. Appendices within a new Chapter are prepared pursuant to (a)(2) of this Section.

### 655:10-5-3. Identifying amendatory language in rules [AMENDED]

(a) **Amended Sections and Appendices.** When preparing amendatory language in rules, agencies shall identify the amendatory language as follows:

(1) **Amended Sections.**

(A) Prepare amendatory language in Sections, ~~including Section taglines,~~ as follows:

(i) Underscore new language.

(ii) Strikeout existing language and spaces that are being deleted [see 655:10-1-2 (definition of "strikeout")].

(iii) If replacing deleted text with new text, type new language following the language which it replaces.

(iv) Do not strikeout part of a word or number. Strikeout the entire word or number being replaced, and type and underscore the complete new word(s) or number(s). For example, to change the word "requirements" to "requirement," strikeout the word "requirements" and underscore the word "requirement."

(B) If amending and renumbering a Section, prepare the text pursuant to 655:10-5-8.

~~(C) If amending Section taglines, update taglines in description field of drafting editor.~~

(2) **Amended Appendices ~~(revocation and reenactment)~~.**

(A) Amend Appendices by revoking and reenacting. ~~To revoke and reenact~~ amend an Appendix, ~~revoked~~ delete the existing Appendix image(s) and ~~simultaneously reenact~~ upload the new Appendix image(s) (on the same regulatory topic) that completely replaces the ~~revoked~~ previous Appendix image(s), as follows:

~~(A)(i)~~ Identify the ~~revoked~~ amended Appendix by typing the word ~~selecting the~~ [REVOKED] [AMENDED] status in the drafting editor ~~approximately two spaces following the centered Appendix heading (e.g., APPENDIX K. ZONING DISTRICTS [REVOKED] [AMENDED]).~~ ~~Do not include the text of the revoked Appendix.~~

~~(B)(ii)~~ Following the information in (A)(2) of this paragraph, identify the reenacted Appendix by typing the word [NEW] approximately two spaces following the centered Appendix heading (e.g., APPENDIX K. ZONING DISTRICTS [NEW]). ~~Begin~~ begin the contents of the Appendix by uploading in the Appendix image(s) in the drafting editor. ~~approximately two spaces below the heading.~~

(B) If amending and renumbering reserving an Appendix, prepare pursuant to 655:10-5-8.

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(b) **Amended Part, Subchapter, Chapter headings.** When amending the heading of a Part, Subchapter, or Chapter, agencies should update headings in description field of drafting editor~~use strikeouts and underscoring, as described in (a) (1)(A) and (B) of this Section to identify changes to the existing heading.~~

## 655:10-5-4. Identifying revoked rules [AMENDED]

(a) **Revoked Sections and Appendices.** When preparing revoked Sections or Appendices, agencies shall identify the revoked Sections and Appendices as follows:

(1) **Revoked Sections.**

(A) ~~TypeSelect the word~~[REVOKED] status in the drafting editor~~approximately two spaces following the Section number and tagline. Do not strikeout the number and tagline.~~

(B) Include the full text of the Section and strikeout the text.

(2) **Revoked Appendices.**

(A) ~~TypeSelect the word~~[REVOKED] status in the drafting editor~~approximately two spaces after the Appendix heading. Do not strikeout the Appendix letter and heading.~~

(B) ~~Begin the contents of the Appendix approximately two spaces below the heading. Do not strikeout the contents of the Appendix.~~

(C) ~~Begin each revoked Appendix on a new page.~~

(b) **Revoked Parts, Subchapters, Chapters.** When preparing revoked Parts, Subchapters, and Chapters (i.e., the revocation of all Sections in the Part or Subchapter or all Sections and Appendices in the Chapter), agencies shall ~~type the centered Part, Subchapter, or Chapter number and heading, followed by the word~~ select the [REVOKED] status in the drafting editor, and then followed by the revoked Sections in that Part, Subchapter, or Chapter. The revoked Sections and Appendices are prepared pursuant to (a) of this Section.

## 655:10-5-6. Superseded emergency actions; expired emergency rules [AMENDED]

(a) **Text affected.**

(1) **Superseded amendments.** When an emergency amendment is superseded by a permanent action;~~or another emergency action, or an expedited repeal~~ which affects the same Section or Appendix, the later action must be prepared as an amendment to or revocation of the last promulgated permanent text in that Section or Appendix (i.e., prior to any emergency action). The previous emergency action is superseded by the later action upon the effectiveness of the later action.

(2) **Superseded new Section/Appendix.** When an emergency enactment of a new Section or Appendix is superseded by a permanent enactment of the Section/Appendix, or another emergency enactment of the Section/Appendix, each action must be prepared as the enactment of new language. Although the agency may alter the language of the earlier emergency action, the agency does not identify changes (through the use of strikeouts and underscoring) to the earlier emergency rule text. Emergency rule text is never amended, but is superseded by later rulemaking actions. The earlier emergency rule is superseded upon the effectiveness of the later rule.

(3) **Superseded revocations.** When an emergency revocation is superseded by a permanent or emergency revocation ~~or an expedited repeal~~ of the same Section or Appendix, the later revocation must be prepared as a revocation of the last promulgated permanent text of that Section or Appendix.

(b) **Expiration date of superseding emergency actions.** When an emergency action is superseded by another emergency action or actions, the expiration date of the later action(s) must retain the same expiration date as the first emergency action [see 75:253(H)].

(c) **Preamble statement.** When the rules in a rule document will supersede existing emergency rules, the agency shall identify the superseded emergency rules under the heading **SUPERSEDED EMERGENCY ACTIONS** in the preamble [see 655:10-7-11(b)(15)] and 655:10-7-11.1(c)(3)(H)] of the rule document.

(d) **Expired emergency actions.** Agencies must notify the OAR in writing when an emergency action on a Section or Appendix expires without being superseded by a permanent or preemptive action. Agencies should notify the OAR upon the expiration of the emergency rule. The OAR will document the existence and expiration of the emergency language ~~in the next available annual supplement~~ by publishing a source note that cross references to the Register publication of the emergency action.

## 655:10-5-8. Renumbering Sections and Appendices within a Chapter [AMENDED]

(a) **"Renumbering" defined; restrictions.** ~~\_\_\_\_\_ "Renumber" means to move a Section to an UNUSED Section number within the same Chapter or to move an Appendix to an UNUSED Appendix letter within the same Chapter.~~

(1) When moving Sections and Appendices within a Chapter, the number newly-assigned to the Section or Appendix must be an unused Section number or Appendix letter. Other forms of renumbering are not allowed and are unnecessary pursuant to the following:

(A) When a Section or Appendix is revoked, renumbering of the subsequent Sections or Appendices is not allowed and is unnecessary because the number and source note of the revoked Section or Appendix remain in the Code and the number/letter is not used again except pursuant to 655:10-3-30.

(B) When a Section or Appendix is added between two existing Sections or Appendices, renumbering of the subsequent Sections or Appendices is not allowed and is unnecessary because the new Section or Appendix is numbered/lettered pursuant to the decimal point system in 655:10-3-28.

(2) If a Section or Appendix is moved to another Chapter, it must be revoked in one rulemaking action and adopted as a new Section or Appendix in another rulemaking action.

**(b) Renumbering procedure, format.** When preparing renumbered Sections or Appendices within a Chapter, agencies shall prepare the renumbering as follows:

**(1) Renumbered without amendment.** When a Section or Appendix is renumbered with no other changes to the Section or Appendix:

(A) The number and tagline of the Section being renumbered, or the letter and heading of the Appendix being relettered, are retained in correct numerical/alphabetical order within the text of the Chapter. The capitalized phrase "[RENUMBERED TO (new Section or Appendix)]" follows the tagline or heading. The text of the Section being renumbered is stricken. The contents of the Appendix being renumbered is not stricken; and

(B) The newly-numbered Section or Appendix appears in correct numerical/alphabetical order within the Chapter. The Section number and tagline are underscored; the text of the Section is underscored. The Appendix letter and heading and the Appendix contents are not underscored; however, the word [NEW] is typed after the Appendix letter and heading.

**(2) Amended and renumbered.** When a Section or Appendix is renumbered, in addition to being amended:

(A) The number and tagline of the Section being renumbered, or the letter and heading of the Appendix being relettered, are retained in correct numerical/alphabetical order within the text of the Chapter. The capitalized phrase "[AMENDED AND RENUMBERED TO (new Section or Appendix)]" follows the tagline or heading. The text of the Section being renumbered is stricken. The contents of the Appendix being renumbered is not stricken; and

(B) The newly-numbered Section or Appendix appears in its correct numerical/alphabetical order within the Chapter. The Section number and tagline, or Appendix letter and heading, are underscored. The text of the Section is underscored. The contents of the Appendix is not underscored; however, the word [NEW] is typed after the Appendix letter and heading.

## 655:10-5-10. Use of definitions [AMENDED]

**(a) Use and placement.**

**(1) Definitions Sections vs Section definitions.** If definitions are included in rules, they shall be placed as follows:

(A) **Definitions Sections.** If the definitions apply to a Chapter, Subchapter, or Part, they are placed in a Section called "Definitions" near the beginning of the Chapter, Subchapter, or Part to which they apply.

(B) **Section definitions.** If the definitions apply to a single Section, they are placed near the beginning of the Section to which they apply.

**(2) Use in text required.** A definition should not be included unless the term being defined is used at least once in the remaining regulatory text of the applicable Chapter, Subchapter, Part, or Section.

**(b) Substantive provisions prohibited.** Substantive provisions may not be included in a definition. For example, the second sentence of the following definition contains substantive regulatory provisions and should not be included in the definition: "**Alcoholic beverage**" means beer, wine, or liquor. An owner of a business establishment serving alcoholic beverages shall obtain a license.

**(c) Format of definitions Sections; introductory language.** This subsection applies only to definitions Sections, as described in (a)(1)(A) of this Section. This subsection does not apply to Section definitions, as described in (a)(1)(B) of this Section.

(1) Begin each definitions Section with the following language: "The following words and terms, when used in this (Chapter, Subchapter, Part), shall have the following meaning, unless the context clearly indicates otherwise:". If necessary, the introductory language may be supplemented with additional information such as "In addition to terms defined in xxxx, the following ...."

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- (2) List definitions in alphabetical order. Do not number or otherwise designate definitions.
  - (3) ~~Indent~~Tab the first line of each definition ~~approximately 1/4 inch~~; do not ~~indent~~tab succeeding lines of the definition (i.e., begin the lines at the left margin).
  - (4) Enclose the defined word or term in quotation marks, followed by the word "means"; bold the defined word/term and the quotes. Do not use parentheses.
  - (5) Capitalize the first letter of the first word of the defined word or term; type subsequent words in a defined term in lowercase letters unless the word itself is a proper noun or its use otherwise requires capitalization.
  - (6) End each definition with a period.
  - (7) Begin enumerations within a definition at the subparagraph level [i.e., (A), (B), (C), etc.].
- (d) **Format of Section definitions.** Section definitions (i.e., definitions that apply only to the Section in which they appear, as described in (a)(1)(B) of this Section) are designated using the numbering scheme established for Section subdivisions [see 655:10-3-25] and are formatted accordingly.

## 655:10-5-17. Agency Notes [AMENDED]

- (a) **Not regulatory text.** Agency Notes are not considered regulatory text.
- (b) **Applicability.** Agencies shall use an Agency Note only when it is necessary for the agency to include, apart from the regulatory text, any of the following:
- (1) A reference to any rule requiring a new or revised form [75:251(B)(2)(e)] as a result of the rulemaking action.
  - (2) A reference to any rearranging or relocation of a rule, to ensure that required strikeouts and underscoring do not mislead the reader. For example, an Agency Note may be used to alert the reader that text being deleted or revoked in a Section has been added to another existing Section, or is being deleted because it already exists in another Section.
  - (3) Any other information which the agency finds necessary, with the following restrictions:
    - (A) An agency may not include such information in an Agency Note unless specifically reviewed and approved by the OAR.
    - (B) Agency Notes are used to clarify or identify something unique or unusual about a specific rulemaking ACTION rather than the rule itself. As such, Agency Notes are rarely transferred to the Code after Register publication. If a rule needs to be clarified, such clarification should be promulgated in the rule itself. An Agency Note should not be used to footnote or annotate a rule. It should not be used for cross referencing or "see also" cites, or for citing to federal or other laws.
- (c) **Location.** ~~Agencies may type Agency Notes following~~Agencies shall follow a specific Section ~~or Appendix~~ or ~~following~~following the last Section ~~or Appendix~~ in the rule document. ~~Agencies may not type Agency Notes within a Section or Appendix.~~
- (d) **Format.** Agencies shall prepare Agency Notes ~~in the following format: for review and inclusion by the OAR.~~
- (1) ~~Beginning at the left margin and two single spaces below the last line of the Section or Appendix;~~  
~~type "Agency Note:", followed by the necessary information;~~
  - (2) ~~When an Agency Note is followed by the text of another Section, the agency shall begin the text of the next Section two single spaces below the Agency Note.~~

## SUBCHAPTER 7. PREPARATION OF DOCUMENTS

### PART 1. GENERAL PROVISIONS

#### 655:10-7-1. Types of documents; inclusion in Code; excluded documents [AMENDED]

- (a) **Rulemaking documents.** Notice and rule documents published in the Register are legal instruments through which a rulemaking entity revises its existing rules, or enacts new rules.
- (1) **Notice documents.** Notice documents announce an agency's intention to adopt rules or the agency's compliance with certain other steps in the rulemaking process. Notice documents are published in the Register but are not included in the Code. [See Part 5 of this Subchapter (relating to notice documents)]
  - (2) **Rule documents.** Rule documents announce final adoption of permanent rules [75:250.3(7)(5); 75:308.1(A)]; or adoption of emergency or preemptive rules [75:253; 75:250.6]; ~~or legislative adoption of expedited repeals of rules [75:303a].~~ [See also Part 3 of this Subchapter (relating to rule documents)]
    - (A) **Permanent, preemptive rules; ~~expedited repeals.~~** Inclusion of a rule in the Code requires prior publication in a rule document in the Register as a finally adopted permanent rule or as an adopted preemptive rule that has been approved by the Governor ~~or as an expedited repeal that has been approved by the Legislature.~~

- (B) **Emergency rules.** Emergency rules are published in the Register but are not included in the Code.
- (b) **Miscellaneous documents, including executive orders and gubernatorial declarations.** In addition to rulemaking documents, executive orders, gubernatorial declarations as described in 75 O.S., Section 308.3, and other miscellaneous documents expressly required by law [see (c) of this section] are published in the Register. Executive orders are published in both the Register and the Code.
- (c) **Excluded documents.** Notices or other documents which are not expressly required by law to be published in the Register or the Code shall not be published in the Register or the Code.

## 655:10-7-2. Typing and word processing requirements [AMENDED]

When preparing rules and documents that will be submitted to the OAR for publication in the Register, agencies shall comply with each of the following typing requirements and restrictions:

### (1) Requirements.

- (A) Use word processing software that is ~~approved~~provided by the OAR ~~in the drafting editor as compatible with the software used for processing documents into the OAR's databases. If an agency does not know if its software meets this requirement, the agency must contact the Office of Administrative Rules. [See also 655:10-9-1 (relating to electronic copies)]~~
- (B) Set paper size at 8½ by 11 inches. Use plain white medium bond paper.
- (C) Set the page settings for printing on one side of the page only.
- (D) Set left, right, and top margins at one inch. Set bottom margin at .5 inch (to allow for page numbering, as described in 655:10-7-4).
- (E) Set the font size to 11 or 12.
- (F)(B). Type in the conventional uppercase and lowercase format (not all capital letters or "small caps"); ~~unless otherwise specifically required in this Chapter (e.g., centered Title, Chapter, Subchapter, Part headings are typed in uppercase letters).~~
- (G) Set the line spacing to one.
- (H) Fasten the document together with a paper clip.

### (2) Restrictions.

- (A) Underscoring is reserved for the purpose of showing new language in rules. Do not underscore letters, numbers, words, or symbols except as expressly reserved by this subparagraph. [See also 655:10-5-2 and 655:10-5-3 (relating to identifying language in new and amended rules)] For example, when typing the title of a book or other publication which is traditionally underscored, use some method other than underscoring or italicization to identify the title, such as capitalization or quotation marks.
- (B) Strikeouts are reserved for the purpose of showing deleted or revoked language in existing rules. Do not strikeout letters, numbers, words, or symbols except as expressly reserved by this subparagraph. [See also 655:10-5-3 and 655:10-5-4 (relating to identifying language in amended and revoked rules)]
- (C) Italics may not be used in rules except to identify language quoted from statutes, constitution, or other legal instruments. Do not italicize letters, numbers, words, or symbols except as expressly reserved by this subparagraph. [See also 655:10-5-12 (relating to quoting from legal instruments)]
- (D) Do not use letterhead stationery.
- (E) Do not fold any pages of the document.
- (F) Do not staple any pages of the document.
- (G) Do not bind the document together in any manner other than by paper clip.
- (H) Do not punch holes in any pages of the document.
- (I) Do not use carbon paper.
- (J) Do not handwrite any portion of the document except:
- (i) the signature or signatures and date required on attestations;
  - (ii) the signature and date required on a transmittal sheet [see 655:10-7-6]; and
  - (iii) the signatures and any other necessary handwriting on the Governor's approval of emergency or preemptive rules, a resolution by the Legislature disapproving rules, or an executive order.
- (K)(D). Do not turn on line hyphenation. Do not force hyphenation to phonetically split words at the ends of lines.

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~~(L)~~(E). Do not use tables or columns within the text of a Section ~~unless absolutely necessary~~ [see 655:10-3-37 (relating to graphics in rules)]. Do not use tables or columns in preambles or notice documents. The format of tables and columns is not retained (except in scanned images in Appendices) when a document is ~~moved to the database and~~ published in the Register and Code.

~~(M)~~(E). Do not center text within Sections, preambles, or notice documents. The centering is not retained (except in Appendices) when a document is ~~moved to the database and~~ published in the Register and Code.

~~(N)~~(G). When using a fraction, formula, or equation (except in scanned images in Appendices), do not use underscoring for a division line. The underscoring will be lost when amendatory language is removed from Sections. Instead, use the division sign ( $\div$ ), the words "divided by," or a slash. For example:

- (i)  $[(y - .8) + (z - 1.2)] \div (y + z)$
- (ii)  $[(y - .8) + (z - 1.2)]$  divided by  $(y + z)$
- (iii)  $[(y - .8) + (z - 1.2)] / (y + z)$

~~(O)~~(H). Do not draw boxes around, or lines above, below, or around text (except if needed in Appendices images).

~~(P)~~(I). Do not use unusual word processing features, such as small caps, styles, hard back tabs, index codes, etc. (except if needed in Appendices images).

~~(Q)~~(J). Do not change font size (except superscript and subscript) or font style (except italics and bold) in a document. Font changes, other than those in Appendices, ~~which are scanned,~~ are not retained when ~~the document is moved to the database and~~ published in the Register and Code.

~~(R)~~(K). Do not add extra horizontal spacing (blank lines), except in Appendices Appendix images or as otherwise specifically required in this Chapter. If used (other than in Appendices), the extra spacing will not be retained when the document is moved to and published in the Register and Code.

~~(S)~~(L). Do not use dot leaders, ~~(except if needed in Appendices).~~ ~~If used (other than in scanned Appendices), the dot leaders will not be retained when moved to and published in the Register and Code.~~

~~(T)~~(M). Do not include extraneous information, such as information sometimes added to identify the electronic location of the document (e.g., file name, path, date, drafter's initials, etc.)

## 655:10-7-3. Document headings [AMENDED]

~~Begin each~~Each rule document and notice document begins with a document heading, ~~prepared~~ as follows:

(1) **Format.** Document headings must be:

- (A) centered,
- (B) bolded, and
- (C) typed in uppercase letters.

(2) **Contents.** Document headings must include two components, ~~prepared~~ as follows:

(A) **Identification of Title.** ~~On the first line, type the~~The word TITLE, followed by a space, the Title number, a period, two spaces, and the Title's heading in uppercase letters. If more than one line is needed for the Title, center all lines, with no hard returns between the lines.

(B) **Identification of Chapter.** ~~On the line below the Title designation, type the~~The word CHAPTER, followed by a space, the Chapter number, a period, two spaces, and the Chapter's heading in uppercase letters. If more than one line is needed for the Chapter, center all lines, with no hard returns between the lines.

## 655:10-7-4. Page numbering [AMENDED]

All pages of a document submitted to the OAR, except attestations in a rule document and transmittal sheets, shall be numbered consecutively upon publication in the Register, with page numbers centered in the bottom margin.

## 655:10-7-6. Transmittal sheet; liaison verification [AMENDED]

(a) **Use; format.**

- (1) A transmittal sheet ~~must accompany~~must be uploaded in Portable Document Format (PDF) with each document submitted to the OAR and each emergency rule document submitted to the Governor and the Legislature. The transmittal sheet is not published.

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(2) The transmittal sheet must include the headings and information described in (b) of this Section, formatted pursuant to the following:

- (A) Begin each heading at the left margin.
- (B) Begin the contents required for each heading on the first line below the heading.
- (C) Tab the first line of the contents, but do not tab subsequent lines of the contents.

(b) **Content.** The transmittal sheet must be prepared pursuant to the style required in (a)(2) of this Section and must include the following headings and information:

(1) **Name of agency.** Under the bolded heading "**NAME OF AGENCY:**", type the name exactly as it appears in the agency's assigned Title heading in the OAC.

(2) **Type of document.** Under the bolded heading "**TYPE OF DOCUMENT:**", identify the type of document by typing one of the following:

- (A) Final adoption of permanent rules.
- ~~(B) Final legislative adoption of expedited repeals.~~
- ~~(B) Adoption of permanent rules.~~
- ~~(C)(C)~~ Adoption of emergency rules.
- ~~(D)(D)~~ Adoption of preemptive rules.
- ~~(E)(E)~~ Notice of rulemaking intent.
- ~~(F) Notice of expedited repeal request.~~
- ~~(G)(F)~~ Notice of cancelled hearing and/or comment period.
- ~~(H)(G)~~ Notice of continued hearing and/or comment period.
- ~~(I)(H)~~ Statement of submission to Governor and Legislature.
- ~~(J)(I)~~ Notice of legislative disapproval.
- ~~(K)(J)~~ Notice of withdrawn rules.
- ~~(L)(K)~~ Notice of errors in published document.

(3) **Liaison verification.** Under the bolded heading "**LIAISON VERIFICATION:**", include the following signed statement: "I verify that I have reviewed the attached document and that it substantially conforms to filing and format requirements of the APA and the rules of the Secretary of State. Additional information may be obtained by contacting me at (telephone number)." The statement must be followed by the liaison's signature, typed name, and job title, and the date the liaison signs the verification.

## PART 3. RULE DOCUMENTS

### 655:10-7-10. Types of rules and rule documents; rule document components; transmittal sheets [AMENDED]

(a) **Types of rules and rule documents.** A rule document contains either permanent, emergency, or preemptive rules; ~~or expedited repeals of rules.~~

- (1) A permanent rule document contains finally adopted permanent rules.
- (2) An emergency rule document contains adopted emergency rules.
- (3) A preemptive rule document contains adopted preemptive rules.
- ~~(4) An expedited rule repeal document contains rules that meet the criteria and have been approved by the Legislature for repeal through the expedited process set forth in 75 O.S., Section 303a.~~

(b) **Rule document components.** A rule document consists of the following components, in the following order:

- (1) Document heading [see 655:10-7-3].
- (2) Preamble [see 655:10-7-11 and 655:10-7-11.1].
- ~~(3) Summary of the rules (if rules are too lengthy to publish in the Register) [see 655:10-7-12].~~
- ~~(3)(4)~~ Enacting clause [see 655:10-7-13].
- ~~(4)(5)~~ Regulatory text [see 655:10-7-14].
- ~~(5)(6)~~ Supplemental information (if applicable) [see 655:10-7-15].
- ~~(6)(7)~~ Attestation [see 655:10-7-16].

(c) **Rule document scope.** See 655:10-7-51 for information about the scope of a rule document.

(d) **Transmittal sheet.** Each rule document submitted to the OAR shall be accompanied by a transmittal sheet prepared pursuant to 655:10-7-6.

### 655:10-7-11. Preamble for permanent, emergency, and preemptive rule documents [AMENDED]

(a) **Use; location; format.**

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(1) **Use; exception.** ~~With the exception of expedited rule repeal documents [see 655:10-7-11.1], each~~ Each rule document submitted for Register publication, and each emergency or preemptive rule document submitted to the Governor and the Legislature (and later submission to the OAR for Register publication), must begin with a document heading [see 655:10-7-3], followed by a preamble prepared pursuant to this Section.

(2) **Location.** The preamble begins two single spaces below the document heading [see 655:10-7-3]. The preamble is followed by the enacting clause [see 655:10-7-13], ~~or the summary if the text of the rules exceeds 75 pages [see 655:10-7-12].~~

(3) **Format:**

(A) ~~The preamble must be single-spaced.~~

(B) ~~The preamble must include the headings and information required in (b) of this Section, formatted pursuant to the following:~~

(i) ~~Begin each heading and subheading at the left margin.~~

(ii) ~~Begin the contents required for each heading and subheading on the first line below the heading or subheading.~~

(iii) ~~Tab the first line of the contents, but do not tab subsequent lines of the contents; except, when listing rules under the heading RULES [see (b)(2) of this Section], begin each rule number on a separate tabbed line under the heading.~~

(b) **Content.** ~~The preamble must be prepared in the style described in (a)(3) of this Section and must contain the following headings and information:~~

(1) **Rulemaking action.** Under the bolded heading "RULEMAKING ACTION:", typeselect one of the following:

(A) If permanent rules, typeselect "PERMANENT final adoption."

(B) If emergency rules, typeselect "EMERGENCY adoption."

(C) If preemptive rules, typeselect "PREEMPTIVE adoption."

(2) **Rules.** Under the bolded heading "RULES:", ~~identify~~ adopted rules (if emergency or preemptive) or finally adopted rules (if permanent) will auto-populate upon agency selection of format approved draft. ~~pursuant to the following:~~

(A) **Less than 30 Sections/Appendices affected.** ~~If less than 30 Sections and/or Appendices are added, amended, revoked, renumbered, and/or reserved:~~

(i) ~~cite each Section and Appendix, followed by the word [NEW], [AMENDED], [REVOKED], [RENUMBERED], [AMENDED AND RENUMBERED], or [RESERVED]. If consecutive Sections or Appendices are added, amended, revoked, renumbered, or reserved, they may be grouped together (e.g., 10:10-1-5 through 10:10-1-9 [AMENDED], 10:10-1-10 and 10:10-1-11 [REVOKED], 10:10-1-15 through 10:10-1-17 [NEW], Appendix C through Appendix G [NEW]), and~~

(ii) ~~include all applicable Subchapter and Part numbers and headings, and add [NEW] or [REVOKED] following the headings of Subchapter and Parts that are added or revoked. If a heading is being amended, identify the changes using strikeouts and underscoring as described in 655:10-5-3(b).~~

(B) **30 or more Sections/Appendices affected.** ~~If 30 or more Sections and/or Appendices are added, amended, revoked, renumbered, and/or reserved:~~

(i) ~~cite the Chapter number and heading, rather than citing each Section and Appendix, and:~~

(ii) ~~identify whether the Chapter itself is new, amended, or revoked, as follows:~~

(I) **New Chapter.** ~~If the Chapter is a new Chapter, add the word [NEW] following the Chapter number and heading.~~

(II) **Revoked Chapter.** ~~If the entire Chapter is revoked (i.e., every Section and Appendix in the Chapter, except those previously reserved, renumbered, or revoked, is being revoked), add the word [REVOKED] following the Chapter number and heading.~~

(III) **Amended Chapter.** ~~If an existing Chapter is amended (i.e., Sections/Appendices are added, amended, revoked, renumbered, and/or reserved), add the word [AMENDED] following the Chapter number and heading. If the Chapter heading is being amended, identify the changes using strikeouts and underscoring as described in 655:10-5-3(b).~~

(3) **Authority.** Under the bolded heading "AUTHORITY:"

(A) identify the rulemaking entity, as defined in 655:10-1-2, and



(B) cite the statute or other legal instrument which authorizes the promulgation of rules for this area of control, or the statute or other legal instrument which authorizes the rules. Do not cite APA statutes which authorize rulemaking procedures except when promulgating "required rules" pursuant to 655:10-5-7.

**(4) Submission of proposed rules to Governor and Cabinet Secretary.**

(A) **Permanent rules.** If the rules are permanent rules, under the bolded heading "**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**", cite/select the date the proposed rules were submitted to the Governor and the agency's Cabinet Secretary for review, as required by 75 O.S., Section 303(A)(6).

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, ~~do not include this heading or the information described in this paragraph~~ is not included.

**(5) Comment period.** Under the bolded heading "**COMMENT PERIOD:**", cite/select one of the following:

(A) **Permanent rules.** If the rules are permanent rules, cite/select the beginning date and ending date of the comment period announced in the published Notice of Rulemaking Intent.

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules AND if a comment period was announced in a published Notice of Rulemaking Intent, cite/select the beginning date and ending date of the comment period. ~~Do not include this heading or this information~~ Select "No" if no comment period was held or announced in the Register for the emergency or preemptive rules.

**(6) Public hearing.** Under the bolded heading "**PUBLIC HEARING:**", cite/select one of the following:

(A) **Permanent rules.** If the rules are permanent rules, cite/choose one of the following:

(i) Select "Yes" and select the date of the public hearing, if one was announced in a published Notice of Rulemaking Intent, or

(ii) ~~"None held or requested"~~ Select "N/A" if a public hearing was not scheduled and not demanded pursuant to 75 O.S., Section 303(C).

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules AND if a public hearing was announced in a published Notice of Rulemaking Intent, cite/select "Yes" and select the date of the public hearing. ~~Do not include this heading or this information~~ Select "No" if no public hearing was held or announced in the Register for the emergency or preemptive rules.

**(7) Adoption.** Under the bolded heading "**ADOPTION:**", cite/select the date the rules were adopted by the rulemaking entity.

**(8) Submission of adopted rules to Governor and Legislature.**

(A) **Permanent rules.** If the rules are permanent rules, under the bolded heading "**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**", cite/select the date the adopted permanent rules were submitted to the Governor, Speaker of the House of Representatives, President Pro Tempore of the Senate, and Joint Committee chief legislative officer of each chamber pursuant to 75 O.S., Section 303.1(A).

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, ~~do not include the heading or information described in this paragraph~~ are not included.

**(9) Legislative approval.**

(A) **Permanent rules.** If the rules are permanent rules AND if the rules were approved by a joint resolution AND if the resolution was either approved by the Governor pursuant to OKLA. Const. Art. 6, Section 11 or the Governor's veto was overridden by the Legislature, under the bolded heading "**LEGISLATIVE APPROVAL:**", type "Approved [effective date of joint resolution approving the permanent rule(s)] by [number of joint resolution]." The effective date is the day the resolution was either approved by the Governor pursuant to OKLA. Const. Art. 6, Section 11 or the Governor's veto was overridden by the Legislature.

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, ~~do not include the heading or the information described in this paragraph~~ are not included.

**(10) Legislative disapproval.**

(A) **Permanent rules.** If the rules are permanent rules AND the rules were disapproved by a joint resolution AND the resolution was either approved by the Governor pursuant to OKLA. Const. Art. 6, Section 11 or the Governor's veto was overridden by the Legislature, under the bolded heading "**LEGISLATIVE DISAPPROVAL:**", type "Disapproved [effective date of joint resolution disapproving the permanent rule(s)] by [number of joint resolution]." The effective date is the day the resolution was approved by the Governor or the Governor's veto was overridden by the Legislature.

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(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, ~~do not include the heading or the information described in this paragraph~~ are not included.

(11) **Approval by Governor's declaration.**

(A) **Permanent rules.** Under the bolded heading "**APPROVED BY GOVERNOR'S DECLARATION:**", type "Approved by Governor's declaration on (date of Governor's declaration)" if the rules are permanent rules AND the rules were:

(i) filed with the Legislature on or before ~~April 1~~ the date established in 75 O.S., § 308(A)(1) AND the rules were not subject to a joint resolution passed by both houses of the Legislature and signed by the Governor AND the rules were approved by a Governor's Declaration [75:308.3(C)], or

(ii) filed with the Legislature on or before ~~April 1~~ the date established in 75 O.S., § 308(A)(1) AND the rules were approved by a Governor's declaration AFTER being approved by a joint resolution that was found by the Governor to have a technical legal defect preventing approval of administrative rules intended to be approved by the Legislature [75:308.3(C)].

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, ~~do not include the heading or the information described in this paragraph~~ are not included.

(12) **Final adoption.**

(A) **Permanent rules.** If the rules are permanent rules, under the bolded heading "**FINAL ADOPTION:**", ~~cite~~ select the date of final adoption. The final adoption date is the date that one of the following occurs:

(i) the date the Governor approves a joint resolution approving the rules, or the date the Governor's veto of the resolution is overridden by the Legislature [see OKLA. Const. Art. 6, Section 11 (relating to gubernatorial actions on legislation)];

(ii) the date the Governor vetoes a joint resolution disapproving the rules, provided the veto is not overridden by the Legislature; or

(iii) the date the rules are approved by a Governor's declaration as described in (11)(A) of this subsection. [See also definition of "final adoption" in 655:10-1-2 and 75:250.3(7)]

(B) **Emergency, preemptive rules.** If the rules are emergency or preemptive rules, ~~do not include the heading or information described in this paragraph~~ are not included.

(13) **Effective.** Under the bolded heading "**EFFECTIVE:**", ~~cite~~ select one of the following:

(A) **Permanent rules.** If the rules are permanent, ~~cite~~ select an effective date that is at least ten days after the date the rules will be published in the Register [see 655:10-9-3 (relating to Register publication dates and filing deadlines)]. ~~Do not cite "ten days after publication in the Register."~~

(B) **Emergency rules.** If the rules are emergency, ~~cite~~ select one of the following:

(i) **Effective immediately upon Governor's approval.** If the emergency rules will be effective immediately upon approval by the Governor, ~~type~~ select "Immediately upon Governor's approval";

(ii) **Contingent effective date.** If the emergency rules will be effective on a specific date that falls within the Governor's 45 calendar-day review period, but is contingent upon whether or not the Governor has already approved the rules, ~~type~~ select "~~Immediately upon Governor's approval or (specific date), whichever is later~~ Contingent Effective Date" and ~~select the~~ select the specific effective date; or

(iii) **Later effective date.** If the emergency rules will be effective on a specific date that follows the completion of the Governor's 45 calendar-day review period, ~~type~~ select "Later Effective Date" and ~~select the~~ select the specific effective date [see 75:253(F)(1)].

(C) **Preemptive rules.** If the rules are preemptive, ~~cite~~ select one of the following:

(i) **Effective immediately upon Governor's approval.** If the preemptive rules will be effective immediately upon approval by the Governor, ~~type~~ select "Immediately upon Governor's approval";

(ii) **Contingent effective date.** If the preemptive rules will be effective on a specific date that falls within the Governor's 28 calendar-day review period, but is contingent upon whether or not the Governor has already approved the rules, ~~type~~ select "~~Immediately upon Governor's approval or (specific date), whichever is later~~ Contingent Effect Date" and ~~select the~~ select the specific effective date; or

(iii) **Later effective date.** If the preemptive rules will be effective on a specific date that follows the completion of the Governor's 28 calendar-day review period, type~~select~~ "Later Effective Date" and select the specific effective date [see 75:250.6(B)(6)].

**(14) Expiration.**

(A) **Emergency rules.** If the rules are emergency rules, under the bolded heading "EXPIRATION:", cite~~type~~ one of the following:

(i) **Latest possible expiration date.**

(I) **Effective on or before first day of session.** If the emergency rules will be in effect on the first day of the session and therefore will be null and void on September 15 immediately following sine die adjournment of the Legislature [75:253(H)(3)(a)], type "Effective through September 14, (same year), unless superseded by another rule or disapproved by the Legislature."

(II) **Effective after first day of session.** If the emergency rules will become effective after the first day of the session and therefore will not be null and void until September 15 following sine die adjournment of the next legislative session, type "Effective through September 14, (next year), unless superseded by another rule or disapproved by the Legislature."

(ii) **Earlier expiration date.** If the emergency rules will expire on a date that is earlier than the latest possible expiration date for the rules, as described in (i)(I) and (II) of this subparagraph, type "Expires (date), unless superseded by another rule or disapproved by the Legislature."

(B) **Permanent, preemptive rules.** If the rules are permanent or preemptive rules, do not include the heading or information described in (A) of this paragraph are not included.

**(15) Superseded emergency actions; expired emergency rules.**

(A) **Superseded emergency actions.** Under the bolded heading "SUPERSEDED EMERGENCY ACTIONS:", cite~~select~~ one of the following:

(i) **Rules that do NOT supersede emergency rules.** If the rules are permanent, emergency, or preemptive rules and do not supersede any emergency rules, type "n/a." select "No."

(ii) **Rules that DO supersede emergency rules.** If the rules are permanent, emergency, or preemptive rules and do supersede an emergency action, select "Yes" and include the information in (I) through (IV) of this unit. If more than one emergency action is being superseded, repeat (I) through (IV) for each action.

(I) **Superseded rules.** Under the bolded subheading "Superseded rules:", identify the superseded emergency rules by citing each Section and Appendix being superseded, followed by the word [NEW], [AMENDED], [REVOKED], [RENUMBERED], [AMENDED AND RENUMBERED], or [RESERVED], to identify the emergency status of the Section or Appendix being superseded.

(II) **Gubernatorial approval.** Under the bolded subheading "Gubernatorial approval:", cite~~type~~ the date the superseded emergency rules were approved by the Governor.

(III) **Register publication.** Under the bolded subheading "Register publication:", include the full citation to the Register publication of the superseded emergency rules. [see 655:10-15-6 (relating to citing the Register)]

(IV) **Docket number.** Under the bolded subheading "Docket number:", cite~~type~~ the docket number assigned to the rule document which contains the superseded emergency rule(s).

(B) **Expired emergency rules.** If a Section or Appendix was added, revoked, amended, reserved, or renumbered by emergency rulemaking and will not be superseded by a permanent or preemptive action prior to its expiration, the agency must notify the OAR pursuant to 655:10-5-6(d).

**(16) Incorporations by reference.** Under the bolded heading "INCORPORATIONS BY REFERENCE:", cite~~select~~ one of the following:

(A) **Rules that do NOT incorporate by reference.** If the rules do not incorporate any standards or rules by reference, type~~select~~ "N/A." [See 75:251(D) and 655:10-5-15 relating to incorporations by reference]

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(B) **Rules that DO incorporate by reference.** If the rules incorporate by reference the published standards or rules of nationally recognized organizations and technical societies, other state agencies, or federal agencies pursuant to 75 O.S., Section 251(D) and 655:10-5-15, select "Yes" and include the information in (i) through (iii) of this subparagraph.

(i) **Incorporated standards.** Under the bolded subheading "Incorporated standards:", identify the incorporated standards by the proper title, edition, volume number, date, etc.

(ii) **Incorporating rules.** Under the bolded subheading "Incorporating rules:", identify the Section(s) or Appendix(ces) which incorporates the standards by reference.

(iii) **Availability.** Under the bolded subheading "Availability:", cite the hours when and the place where the standards are readily available to the public for examination at the administrative offices of the agency [75:251(D)].

(17) **Finding of emergency.**

(A) **Emergency rules.** If the rules are emergency rules, under the bolded heading "**FINDING OF EMERGENCY:**", include *substantial evidence that the rule is necessary as an emergency measure* [75:253(A)(1)], based on criteria set out in 75 O.S., Section 253(A).

(B) **Permanent, preemptive rules.** If the rules are permanent or preemptive rules, do not include the heading or information described in this paragraph are not included.

(18) **Gist/Analysis.** Under the bolded heading "**GIST/ANALYSIS:**", *prepare, in plain language, a statement of the gist of the rules and an analysis of new or amended rules* [75:251(B)(2)(f)]. *The analysis shall include but not be limited to:*

(A) *a reference to any statute that the rule interprets, any related statute or any related rule* [75:251(B)(2)(f)], and

(B) *a reference to any rule requiring a new or revised form* [75:251(B)(2)(e)].

(19) **Contact person.** Under the bolded heading "**CONTACT PERSON:**", include the name and phone number of a contact person for information regarding the rulemaking action. Additional contact information, such as email address or fax number, may also be included under this heading.

(20) **Additional information.** Under the bolded heading "**ADDITIONAL INFORMATION:**", cite any additional information determined by the agency to be pertinent. The use of this category is optional.

## 655:10-7-11.1. Preamble for expedited rule repeal documents [REVOKED]

(a) **Use.** Upon *final legislative adoption* [75:303a] of a proposed expedited repeal of rules, the agency must file a document, as set forth in this Section, with the OAR for publication in the Register.

(b) **Document heading.** The expedited rule repeal document must begin with a document heading, as set forth in 655:10-7-3.

(c) **Content of preamble.** The document heading must be followed by a preamble prepared pursuant to this Section:

(1) **Location.** The preamble begins two single spaces below the document heading. The preamble is followed by the enacting clause [see 655:10-7-13], or the summary if the text of the rules exceeds 75 pages [see 655:10-7-12].

(2) **Format.**

(A) The preamble must be single-spaced.

(B) The preamble must include the headings and information required in (b) of this Section, formatted pursuant to the following:

(i) Begin each heading and subheading at the left margin.

(ii) Begin the contents required for each heading and subheading on the first line below the heading or subheading.

(iii) Tab the first line of the contents, but do not tab subsequent lines of the contents; except, when listing rules under the heading **REPEALED RULES** [see (c)(3)(B) of this Section], begin each rule number on a separate tabbed line under the heading.

(3) **Content.** The preamble must be prepared in the style described in (c)(2) of this Section and must contain the following headings and information:

(A) **Rulemaking action.** Under the bolded heading "**RULEMAKING ACTION:**", type "EXPEDITED rule repeals."

(B) **Repealed rules.** Under the bolded heading "**REPEALED RULES:**", identify repealed rules pursuant to the following:

(i) **Less than 30 Sections/Appendices affected.** If less than 30 Sections and/or Appendices are repealed:

(I) cite each Section and Appendix, followed by the word [REVOKED]. If consecutive Sections or Appendices are repealed, they may be grouped together (e.g., 10:10-1-5 through 10:10-1-9 [REVOKED]; 10:10-1-15 through 10:10-1-17 [REVOKED]; Appendix C through Appendix G [REVOKED]), and  
(II) include all applicable Subchapter and Part numbers and headings, and add [REVOKED] following the Subchapter and Part headings if all the Sections in that Subchapter or Part are being repealed.

(ii) **30 or more Sections/Appendices affected.** If 30 or more Sections and/or Appendices are repealed:

(I) cite the Chapter number and heading, rather than citing each Section and Appendix, and:

(II) identify whether the entire Chapter is repealed (i.e., every Section and Appendix in the Chapter, except those previously reserved, renumbered, or revoked, is being repealed), and add the word [REVOKED] following the Chapter number and heading.

(C) **Authority.** Under the bolded heading "**AUTHORITY:**",

(i) identify the rulemaking entity, as defined in 655:10-1-2, and

(ii) cite "75 O.S., Section 303a," which is the statute that sets out the criteria allowing for the expedited repeal of rules.

(D) **Comment period.** Under the bolded heading "**COMMENT PERIOD:**", cite the beginning date and ending date of the comment period announced in the published Notice of Expedited Repeal Request [see 655:10-7-26.1].

(E) **Submission of proposed repeals to Legislature.** Under the bolded heading "**SUBMISSION OF PROPOSED REPEALS TO LEGISLATURE:**", cite the date the Notice of Expedited Repeal Request was submitted to the Speaker of the House of Representatives, President Pro Tempore of the Senate, and Joint Committee pursuant to 75 O.S., Section 303a.

(F) **Legislative adoption.** Under the bolded heading "**LEGISLATIVE ADOPTION:**", type "Approved [effective date of joint resolution approving the expedited repeal of the rules] by [number of joint resolution]." The effective date of the resolution is the date the resolution was either approved by the Governor pursuant to OKLA. Const. Art. 6, Section 11 or the Governor's veto was overridden by the Legislature.

(G) **Effective.** Under the bolded heading "**EFFECTIVE:**", cite the specific effective date of the expedited repeals. The effective date may not be earlier than the effective date of the resolution approving the expedited repeal of the rules, as identified in (F) of this paragraph.

(H) **Superseded emergency actions.** Under the bolded heading "**SUPERSEDED EMERGENCY ACTIONS:**", cite one of the following:

(i) **Rules that do NOT supersede emergency rules.** If the expedited repeals do not supersede emergency rules that are in effect on the effective date of the expedited rule repeals, as cited in (c)(3)(G) of this section, type "n/a."

(ii) **Rules that DO supersede emergency rules.** If the rules do supersede emergency rules that are in effect on the effective date of the expedited rule repeals, as cited in (c)(3)(G) of this section, include the information in (I) through (IV) of this unit. If more than one emergency action is being superseded, repeat (I) through (IV) for each action:

(I) **Superseded rules.** Under the bolded subheading "Superseded rules:", identify the superseded emergency rules by citing each Section and Appendix being superseded, followed by the word [NEW], [AMENDED], [REVOKED], [RENUMBERED], [AMENDED AND RENUMBERED], or [RESERVED], to identify the emergency status of the Section or Appendix being superseded.

(II) **Gubernatorial approval.** Under the bolded subheading "Gubernatorial approval:", cite the date the superseded emergency rules were approved by the Governor.

(III) **Register publication.** Under the bolded subheading "Register publication:", include the full citation to the Register publication of the superseded emergency rules. [see 655:10-15-6 (relating to citing the Register)]

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(IV) **Docket number.** Under the bolded subheading "Docket number:", cite the docket number assigned to the rule document which contains the superseded emergency rule(s):

(f) **Gist/analysis.** Under the bolded heading "**GIST/ANALYSIS:**", *prepare, in plain language, a statement of the gist of the [rule repeals] and an analysis of the rule repeals.* [75:251(B)(2)(f)]

(j) **Contact person.** Under the bolded heading "**CONTACT PERSON:**", include the name, email address, and phone number of a contact person for information regarding the expedited repeals.

(K) **Additional information.** Under the bolded heading "**ADDITIONAL INFORMATION:**", cite any additional information determined by the agency to be pertinent. The use of this category is optional:

## 655:10-7-12. Summaries of lengthy rules [REVOKED]

When the regulatory text in a rule document exceeds 75 pages in length, the regulatory text is not published in the Register, but is maintained in the official files. When the text exceeds 75 pages, the agency shall also submit a summary as required by 75 O.S., Section 255(B). Only the document heading, preamble, and summary are published. The summary must immediately follow the preamble and precede the enacting clause, as follows:

(1) Beginning at the left margin two single spaces below the preamble, type the following: DUE TO EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT (agency name and location) AND AT THE SECRETARY OF STATE'S OFFICE OF ADMINISTRATIVE RULES. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 75 O.S., SECTION 255(B):

(2) Beginning two lines below the statement required in (1) of this subsection, summarize the new, amended, or revoked rule(s) and *state where the full text of the rule may be obtained* [75:255(B)] by interested parties:

## 655:10-7-13. Enacting clause [AMENDED]

The enacting clause for permanent, emergency, and preemptive rule documents auto-populates based on the the following: Beginning two single spaces below the preamble [see 655:10-7-11], or the summary as set forth in 655:10-7-12 (if the text of the rules won't be published in the Register due to length), type an enacting clause pursuant to this Section. Type the enacting clause in uppercase letters beginning at the left margin:

(1) **Permanent rules.** If the rules are permanent rules, type the following enacting clause is included: 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 (date selected by agency):

(2) **Emergency rules.** If the rules are emergency rules, type select one of the following enacting clauses:

(A) **Effective upon Governor's approval.** If the effective date ~~cited~~ selected by the agency in the preamble of the emergency rule document is "Immediately upon Governor's approval" [as described in 655:10-7-11(b)(13)(B)(i)], type the following enacting clause is included: PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

(B) **Contingent effective date.** If the effective date ~~cited~~ selected by the agency in the preamble of the emergency rule document is "~~Immediately upon Governor's approval or (date), whichever is later~~ Contingent Effective Date" [as described in 655:10-7-11(b)(13)(B)(ii)], type the following enacting clause is included: PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR (date selected by agency), WHICHEVER IS LATER:

(C) **Later effective date.** If the effective date ~~cited~~ selected by the agency in the preamble of the emergency rule document is a specific date that follows the completion of the Governor's review period [as described in 655:10-7-11(b)(13)(B)(iii)], type the following enacting clause is included: PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F), WITH A LATER EFFECTIVE DATE OF (date selected by agency):

(3) **Preemptive rules.** If the rules are preemptive rules, type select one of the following enacting clauses:

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(A) **Effective upon Governor's approval.** If the effective date ~~cited~~selected by the agency in the preamble of the preemptive rule document is "Immediately upon Governor's approval" [as described in 655:10-7-11(b)(13)(C)(i)], ~~type~~ the following enacting clause is included: PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING PREEMPTIVE RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 250.6(B)(6):

(B) **Contingent effective date.** If the effective date ~~cited~~selected by the agency in the preamble of the preemptive rule document is "~~Immediately upon Governor's approval or (date), whichever is later~~Contingent Effective Date" [as described in 655:10-7-11(b)(13)(C)(ii)], ~~type~~ the following enacting clause is included: PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING PREEMPTIVE RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 250.6(B)(6), AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR (date selected by agency), WHICHEVER IS LATER:

(C) **Later effective date.** If the effective date ~~cited~~selected by the agency in the preamble of the preemptive rule document is a specific date that follows the completion of the Governor's review period [as described in 655:10-7-11(b)(13)(B)(iii)], ~~type~~ the following enacting clause is included: PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING PREEMPTIVE RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 250.6(B)(6), WITH A LATER EFFECTIVE DATE OF (date selected by agency):

~~(4) Expedited rule repeals. If the rules are expedited repeals, type the following enacting clause: PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE REPEALED UNDER THE EXPEDITED REPEAL PROVISIONS SET FORTH IN 75 O.S., SECTION 303a, WITH AN EFFECTIVE DATE OF (date):~~

## 655:10-7-14. Regulatory text [AMENDED]

Beginning ~~two single spaces~~ below the enacting clause described in 655:10-7-13, ~~include~~ the text of the adopted Sections and Appendices (if emergency or preemptive), the finally adopted Sections and Appendices (if permanent), ~~or the revoked Sections and Appendices (if expedited repeals),~~ are auto-populated from the selected, agency draft, including any applicable Subchapter and Part numbers and headings. ~~Identify all~~ All revisions and additions to the text are displayed with strikeouts and underscoring, as required by 75:251(B)(2)(c) and 655:10-5-2 through 655:10-5-4.

## 655:10-7-15. Supplemental information [AMENDED]

~~(a) Use; publication.~~ Supplemental information in a rule document may only contain, when applicable, brief notes, illustrations, findings of facts, and references to digests of Supreme Court cases, other court decisions, or Attorney General's opinions, and other explanatory material [75:251(B)(2)(g)]. The text of supplemental information is not considered regulatory text. Supplemental information is not published but is maintained in the official Register/Code files.

~~(b) Location; heading.~~ Agencies shall ~~begin~~prepare supplemental information and submit supplemental information to the OAR to be maintained in the official Register/Code files on a separate sheet of paper in the rule document. Supplemental information shall follow the regulatory text [see 655:10-7-14] and precede the attestation [see 655:10-7-16]. Agencies shall type a heading on the first page of the supplemental information, as follows:

~~(1) Type "SUPPLEMENTAL INFORMATION" centered on a line approximately one inch from the top of the page.~~

~~(2) Beginning two single spaces below the information required in (1) of this subsection, type a centered, single-spaced heading which is identical to the document heading [see 655:10-7-3].~~

## 655:10-7-16. Attestations [AMENDED]

(a) **Use.** Agencies shall ~~include~~upload in Portable Document Formant (PDF) an attestation ~~in~~with each rule document submitted to the OAR for Register publication, and in each emergency and preemptive rule document submitted to the Governor and the Legislature (and subsequently to the OAR for Register publication). Such attestation shall be prepared as set forth in this Section and 75 O.S., Section 254. The attestation is not published in the Register or the Code, but is maintained with the official rule document in the official files.

(b) **Location.** Prepare the attestation on a separate page in the document. ~~The attestation follows regulatory text [see 655:10-7-14], or supplemental information if applicable [see 655:10-7-15].~~

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(c) **Original signature.** The attestation in permanent rule documents ~~submitted to the OAR~~ must contain an original or electronic signature of an authorized attestation officer [see 655:10-1-6 (relating to agency representatives)]. Attestations in emergency and preemptive rule documents submitted to the OAR may be an electronic copy of the signed attestation previously filed with the Governor and Legislature for review.

(d) **Authorized signatures.** Pursuant to 655:10-1-6, the rulemaking entity must report to the OAR the name of each person who is authorized by the rulemaking entity to sign attestations for rules. The OAR will not accept a rule document for publication unless the name or names of the person or persons signing the attestation have been reported in writing to the OAR pursuant to this subsection and 655:10-1-6(d).

(e) **Contents.** Attestations for rule documents must be worded as follows, and contain an authorized signature:

(1) **Permanent, emergency, preemptive rules.**

(A) **First paragraph.** The language of the first paragraph must read: (I, We), the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of (amendments to, additions to, revoked, new) (Chapter number), (Chapter heading) which (was, were) (adopted, considered finally adopted) by (title of rulemaking entity) on (date) under (emergency, preemptive, permanent) rulemaking provisions of the Administrative Procedures Act, 75 O.S., Sections 250 et seq.

(B) **Second paragraph.** The language of the second paragraph must read: (I, We), the undersigned, do hereby attest that such (rule, rules) (was, were) (adopted, finally adopted) in substantial compliance with the Administrative Procedures Act.

~~(2) **Expedited repeals.** The language of the attestation for expedited rule repeals must read as follows: (I, We), the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of the expedited repeal of (a rule, rules) in (Chapter number), (Chapter heading) of Title (Title number), which (was, were) adopted by the Legislature on (date) under the expedited repeal procedures set forth in 75 O.S., Section 303a.~~

~~(3) (2) **Authorized signature.** The attestation must be signed by an attestation officer [see 655:10-1-6]. The signature is followed by the typed name and title of the attestation officer, and the date the attestation is signed.~~

## PART 5. NOTICE DOCUMENTS

### 655:10-7-25. Notice document types; transmittal sheet [AMENDED]

(a) **Types of notices.** Notice documents announce various types of rulemaking actions, as follows:

(1) Notice of rulemaking intent.

~~(2) Notice of expedited repeal request.~~

~~(3) (2) Notice of cancelled hearing and/or comment period.~~

~~(4) (3) Notice of continued hearing and/or comment period.~~

~~(5) (4) Statement of submission of permanent rules to Governor and Legislature.~~

~~(6) (5) Notice of legislative disapproval of rules.~~

~~(7) (6) Notice of withdrawn rules.~~

~~(8) (7) Notice of error in published document.~~

(b) **Transmittal sheet.** Each notice document submitted to the OAR shall be accompanied by a transmittal sheet prepared pursuant to 655:10-7-6.

### 655:10-7-26. Notices of rulemaking intent [AMENDED]

(a) ~~Use. See 655:10-7-26.1 and 75 O.S., Section 303a for separate requirements for Notices of Expedited Repeal Requests.~~

(1) **Permanent rules.** Prior to adoption of a permanent rule, the agency must publish in the Register a notice describing the intended rulemaking action. The notice of rulemaking intent must be prepared pursuant to this Section. The agency must allow a minimum 30-day comment period following publication of the notice before adopting the rules. [75:303(A)-(C)]

(2) **Emergency and preemptive rules.** Although an agency is not required to publish a notice of rulemaking intent prior to adoption of an emergency or preemptive rule, the agency may publish a notice of rulemaking intent that announces a full or abbreviated comment period and/or a hearing. If the agency elects to publish a notice of rulemaking intent, the notice must be prepared pursuant to this Section. [75:253(J) and 75:250.6(D)]

(b) **Format; document heading.** The notice of rulemaking intent begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (c) of this Section, formatted pursuant to the following:

(1) Begin each heading at the left margin.

(2) Begin the contents required for each heading on the first line below the heading.



(3) Tab the first line of the contents, but do not tab subsequent lines of the contents; except, when listing rules under the heading **PROPOSED RULES** [see (c)(2) of this Section], begin each rule number on a separate tabbed line under the heading.

~~(b)(c)~~ **Content.** A notice of rulemaking intent must be prepared pursuant to the style required in (b) of this Section and must contain the following headings and information:

(1) **Rulemaking action.** Under the bolded heading "**RULEMAKING ACTION:**", typeselect one of the following:

- (A) If permanent rulemaking is proposed, typeselect "Notice of proposed PERMANENT rulemaking."
- (B) If emergency rulemaking is proposed, typeselect "Notice of proposed EMERGENCY rulemaking."
- (C) If preemptive rulemaking is proposed, typeselect "Notice of proposed PREEMPTIVE rulemaking."
- ~~(D) If permanent and emergency rulemaking are simultaneously proposed (i.e., the agency is announcing a comment period/hearing to consider adopting the proposed rules as both permanent and emergency rules), type "Notice of proposed PERMANENT and EMERGENCY rulemaking."~~

(2) **Proposed rules.** Under the bolded heading "**PROPOSED RULES:**", ~~identify the proposed rulemaking action is auto-populated upon selection of agency draft. It is the agency's responsibility to determine how specific its identification of the proposed rules should be. However, the agency must comply with the following:~~

- ~~(A) If the agency elects not to identify each affected Section and Appendix, the agency must at a minimum identify whether the Chapter itself is being added, amended, or revoked by typing the Chapter number and name followed by [NEW], [AMENDED], or [REVOKED].~~
- ~~(B) If the agency elects to identify each affected Section, Appendix, Part, and Subchapter, the agency must identify whether the Sections, Appendices, Parts, and/or Subchapters are [NEW], [AMENDED], [REVOKED], [RESERVED], [RENUMBERED], or [AMENDED AND RENUMBERED]. If headings or taglines are included, identify any proposed amendments to a heading or tagline through the use of strikeouts and underscoring. [See also 655:10-7-11(b)(2) (relating to identifying rules in preambles)]~~

(3) **Summary.** Under the bolded heading "**SUMMARY:**", explain the proposed action by including, at a minimum, the following statutory requirements:

- (A) *in simple language, a brief summary of the rule[s].* [75:303(B)(1)]
- (B) *the proposed action[s] being taken.* [75:303(B)(2)]
- (C) *the circumstances which created the need for the rule[s].* [75:303(B)(3)]
- (D) *the intended effect of the rule[s].* [75:303(B)(5)].

(4) **Authority.** Under the bolded heading "**AUTHORITY:**":

- (A) identify the rulemaking entity, as defined in 655:10-1-2, and
- (B) cite the *specific legal authority, including statutory citations, authorizing the proposed rule* [75:303(B)(4)]. The "specific legal authority" is the statute or other legal instrument which authorizes the promulgation of rules for this area of control, or the statute or other legal instrument which authorizes the rules. Do not cite APA statutes which authorize rulemaking procedures except when promulgating "required rules" pursuant to 655:10-5-7.

(5) **Comment period.** Under the bolded heading "**COMMENT PERIOD:**", citetype the time when, the place where, and the manner in which interested persons may *submit data, views or arguments, orally or in writing* [75:303(A)(2)]. The agency must allow a minimum 30-day comment period from the date the notice will be published in the Register.

(6) **Public hearing.** Under the bolded heading "**PUBLIC HEARING:**", citetype one of the following:

- (A) If the agency schedules a hearing, citetype the date, time and place of such hearing, and *the manner in which interested persons may present their views* [75:303(B)(7)]. The hearing *may not be held earlier than thirty (30) days after notice of the hearing is published* [75:303(C)(2)] in the Register.
- (B) If the agency does not schedule a hearing, citetype *the time when, the place where, and the manner in which persons may demand a hearing* [75:303(B)(9)]. The agency must allow a minimum of 30 days from the date the NRI is published for persons to demand a hearing. [75:303(C)(1)]

(7) **Requests for comments from business entities.** Under the bolded heading "**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES,**" identify whether any of the proposed rules affect business entities, as follows:

- (A) *If the agency determines that the rule[s] affects business entities, include a request that such entities provide the agency, within the comment period, in dollar amounts if possible, the increase in the level of direct costs . . . and indirect costs . . . , or other costs expected to be incurred by a particular entity due to compliance with the proposed rule[s]* [75:303(B)(6)]; or

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- (B) If the agency determines that the rule(s) does not affect business entities, as described in (A) of this paragraph and in 75 O.S., Section 303(B)(6), type "n/a."
- (8) **Copies of proposed rules.** Under the bolded heading "**COPIES OF PROPOSED RULES:**", ~~cite type~~ *where copies of the proposed rules may be obtained for review by the public* [75:303(B)(10)]. Other information about the proposed rules, such as copying charges, may also be included.
- (9) **Rule impact statement.** Under the bolded heading "**RULE IMPACT STATEMENT:**":
- (A) state if *the agency intends to issue a rule impact statement ... and where copies of such impact statement may be obtained for review by the public* [75:303(B)(8)]. Do not include the rule impact statement itself. The rule impact statement must be issued *prior to or within fifteen (15) days after the date of publication of the notice of proposed rule adoption* (i.e., the Notice of Rulemaking Intent) [75:303(D)(1)]. See 75 O.S., Section 303(D)(2) for required contents of a rule impact statement.
- (B) If the agency has received a waiver in writing from the Governor pursuant to 75 O.S., Section 303(D)(3), ~~cite type~~ "Waived by Governor on (date)."
- (10) **Contact person.** Under the bolded heading "**CONTACT PERSON:**", include the name and phone number of a contact person for information regarding the proposed rulemaking.
- ~~(11) **Additional information.** Under the bolded heading "**ADDITIONAL INFORMATION:**", cite any additional information determined by the agency to be pertinent to the notice. The use of this category is optional.~~

## 655:10-7-26.1. Notices of expedited repeal request [REVOKED]

- (a) **Use.** When an agency initiates a request for expedited rule repeal, the agency shall submit a notice of expedited repeal request pursuant to this Section and 75 O.S., Section 303a.
- (b) **Format; document heading.** The notice of expedited repeal request begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (c) of this Section, formatted pursuant to the following:
- (1) Begin each heading at the left margin.
- (2) Begin the contents required for each heading on the first line below the heading.
- (3) Tab the first line of the contents, but do not tab subsequent lines of the contents; except, when listing rules under the heading **EXPEDITED REPEALS REQUESTED** [see (c)(2) of this Section], begin each rule number on a separate tabbed line under the heading.
- (c) **Content.** A notice of expedited repeal request must be prepared pursuant to the style required in (b) of this Section and must contain the following headings and information:
- (1) **Rulemaking action.** Under the bolded heading "**RULEMAKING ACTION:**", type the following. Notice of EXPEDITED repeal request:
- (2) **Rules for expedited repeal.** Under the bolded heading "**EXPEDITED REPEALS REQUESTED:**", identify the rules submitted for expedited repeal as described in 655:10-7-11(b)(2).
- (3) **Summary.** Under the bolded heading "**SUMMARY:**", explain the proposed action by including, at a minimum, a summary of the requested expedited repeals, including a statement indicating the repeal request complies with, and meets the criteria set out in, 75 O.S., Section 303a.
- (4) **Authority.** Under the bolded heading "**AUTHORITY:**":
- (A) identify the rulemaking entity, as defined in 655:10-1-2, and
- (B) cite "75 O.S., Section 303a," the statute that sets out the criteria allowing for the expedited repeal of rules.
- (5) **Comment period.** Under the bolded heading "**COMMENT PERIOD:**", cite the time when, the place where, and the manner in which interested persons may submit comments. The agency must allow a minimum 10-day comment period from the date the notice will be published in the Register [75:303a(B)(4)].
- (6) **Copies of proposed repeals.** Under the bolded heading "**COPIES OF PROPOSED RULE REPEALS:**", cite where copies of the proposed rule repeals may be obtained for review by the public. Other information about the proposed rules, such as copying charges, may also be included.
- (7) **Contact person.** Under the bolded heading "**CONTACT PERSON:**", include the name and phone number of a contact person for information regarding the proposed rulemaking.
- (8) **Additional information.** Under the bolded heading "**ADDITIONAL INFORMATION:**", cite any additional information determined by the agency to be pertinent to the notice. The use of this category is optional.

## 655:10-7-27. Notices of cancelled hearing and/or comment period [AMENDED]

(a) **Use.** When an agency cancels a hearing or comment period announced in a Notice of Rulemaking Intent ~~or Notice of Expedited Repeal Request~~, the agency shall submit a Notice of Cancelled Hearing and/or Comment Period pursuant to this Section. [See also 655:10-7-52 (relating to notice document scope)]

(b) **Publication:**

(1) When the Notice of Cancelled Hearing or Comment Period is received by the OAR prior to the filing deadline for the Register issue in which the Notice of Rulemaking Intent or Notice of Expedited Repeal Request will be published, the Notice of Rulemaking Intent or Notice of Expedited Repeal Request is not published and the Notice of Cancelled Hearing or Comment Period is not published. Both notices are maintained in the official files.

(2) When the Notice of Cancelled Hearing or Comment Period is received by the OAR after the filing deadline for the Register issue in which the Notice of Rulemaking Intent or Notice of Expedited Repeal Request will be published, the cancellation notice is published in the next possible issue of the Register.

(c) **Format; document heading.** The Notice of Cancelled Hearing or Comment Period begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (d) of this Section, formatted pursuant to the following:

(1) Begin each heading at the left margin.

(2) Begin the contents required for each heading on the first line below the heading.

(3) Tab the first line of the contents, but do not tab subsequent lines of the contents; except, when listing rules under the heading **PROPOSED RULES** [see (d)(2) of this Section], begin each rule number on a separate tabbed line under the heading.

(b)(d) **Content.** A Notice of Cancelled Hearing and/or Comment Period must be prepared pursuant to the style required in (c) of this Section and must contain the following headings and information:

(1) **Rulemaking action.** Under the bolded heading "**RULEMAKING ACTION:**", type the following: select "Cancelled (comment period; and/or public hearing; ~~comment period and public hearing~~) relating to a proposed (PERMANENT; or EMERGENCY; ~~PERMANENT/EMERGENCY, EXPEDITED REPEAL~~) rulemaking action."

(2) **Proposed rules/expedited repeals.** Under the bolded heading "**PROPOSED RULES:**", type the same information included under the heading "**PROPOSED RULES**" in the Notice of Rulemaking Intent [see 655:10-7-26(c)(2)] is auto-populated upon selection of agency drafter ~~under the heading~~ "**EXPEDITED REPEALS REQUESTED**" in the Notice of Expedited Repeal Request [see 655:10-7-26.1(c)(2)].

(3) **Register publication of Notice.** Under the bolded heading "**REGISTER PUBLICATION OF NOTICE:**", type the following: "The (Notice of Rulemaking Intent; ~~Notice of Expedited Repeal Request~~) for this action was published at (Register cite)." [See 655:10-15-6 (relating to citing the Register)]

(4) **Cancelled comment period.** Under the bolded heading "**CANCELLED COMMENT PERIOD:**" (if cancelling a comment period), select "Yes" and cite ~~select~~ the beginning date and ending date of the cancelled comment period. Do not include this heading or this information unless a comment period is being cancelled.

(5) **Cancelled public hearing.** Under the bolded heading "**CANCELLED PUBLIC HEARING:**" (if cancelling a public hearing), select "Yes" and cite ~~type~~ the date, time and place of the cancelled public hearing. Do not include this heading or this information unless a public hearing is being cancelled.

(6) **Additional information.** Under the bolded heading "**ADDITIONAL INFORMATION:**", cite ~~type~~ any additional information determined by the agency to be pertinent to the notice. The use of this category is optional.

## 655:10-7-28. Notices of continued hearing and/or comment period [AMENDED]

(a) **Use.** If an agency continues a hearing or comment period announced in a published Notice of Rulemaking Intent ~~or Notice of Expedited Repeal Request~~, the agency may submit a Notice of Continued Hearing and/or Comment Period to the OAR. [See also 655:10-7-52 (relating to notice document scope)]

(b) **Publication.** If the hearing or comment period is continued to a date which is earlier than five days after the expected publication date of the Notice of Continued Hearing or Comment Period, the Notice of Continued Hearing or Comment Period is not published, but is maintained in the official Register files.

(c) **Format; document heading.** The Notice of Continued Hearing or Comment Period begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (d) of this Section, formatted pursuant to the following:

(1) Begin each heading and subheading at the left margin.

(2) Begin the contents required for each heading and subheading on the first line below the heading or subheading.

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(3) Tab the first line of the contents, but do not tab subsequent lines of the contents; except, when listing rules under the heading **PROPOSED RULES** or **EXPEDITED REPEALS REQUESTED** [see (d)(2) of this Section], begin each rule number on a separate tabbed line under the heading:

~~(b)(d)~~ **Content.** A Notice of Continued Hearing and/or Comment Period must be prepared pursuant to the style required in ~~(c)~~ of this Section and must contain the following headings and information:

(1) **Rulemaking action.** Under the bolded heading "**RULEMAKING ACTION:**", ~~type the following:~~ select "Continued (comment period; and/or public hearing; ~~comment period and public hearing~~) relating to a proposed (PERMANENT; or EMERGENCY; ~~PERMANENT/EMERGENCY, EXPEDITED REPEAL~~) rulemaking action."

(2) **Proposed rules/expedited repeals.** Under the bolded heading "**PROPOSED RULES:**", ~~type the same information included under the heading "PROPOSED RULES" in the Notice of Rulemaking Intent [see 655:10-7-26(c)(2)]~~ is auto-populated upon selection of agency drafter under the heading "EXPEDITED REPEALS REQUESTED" in the Notice of Expedited Repeal Request [see 655:10-7-26.1(c)(2)].

(3) **Register publication of Notice.** Under the bolded heading "**REGISTER PUBLICATION OF NOTICE:**", type the following: "The (Notice of Rulemaking Intent; ~~Notice of Expedited Repeal Request~~) for this action was published at (Register cite)." [See 655:10-15-6 (relating to citing the Register)]

(4) **Continued comment period.**

(A) Under the bolded heading "**CONTINUED COMMENT PERIOD:**" select "Yes" (if continuing a comment period); and include the following:

(A)(i) **Original comment period.** Under the bolded subheading "Original comment period:", ~~cite~~ select the beginning and ending dates of the original comment period.

(B)(ii) **Continued to.** Under the bolded subheading "Continued to:", ~~cite the time when, the place where, and the manner in which interested persons may submit data, views or arguments, orally or in writing [75:303(A)(2)] for the comment period which continues the original comment period.~~

(B) ~~Do not include this heading or this information unless a comment period is being continued.~~ select the ending date of the continued comment period.

(5) **Continued public hearing.**

(A) Under the bolded heading "**CONTINUED PUBLIC HEARING:**", select "Yes" (if continuing a public hearing); and include the following:

(A)(i) **Original public hearing.** Under the bolded subheading "Original public hearing:", ~~cite~~ select the date, time, and place of the original public hearing.

(B)(ii) **Continued to.** Under the bolded subheading "Continued to:", ~~cite~~ select the date, time, and place of the hearing which continues the original public hearing.

(B) ~~Do not include this heading or this information unless a public hearing is being continued.~~

(6) **Requests for comments from business entities.**

(A) ~~Permanent, emergency, or preemptive rules.~~ Under the bolded heading "**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES,**" identify whether any of the proposed rules affect business entities, as follows:

(A)(i) If the agency determines that the rule[s] affects business entities, include a request that such entities provide the agency, within the comment period, in dollar amounts if possible, the increase in the level of direct costs . . . and indirect costs . . . , or other costs expected to be incurred by a particular entity due to compliance with the proposed rule[s] [75:303(B)(6)]; or

(B)(ii) If the agency determines that the rule(s) does not affect business entities, as described in (i) of this subparagraph and in 75 O.S., Section 303(B)(6), type "n/a."

(B) ~~Expedited repeals.~~ ~~Do not include this heading or this information if continuing a comment period or an optional public hearing for a request for the expedited repeal of rules.~~

(7) **Copies of proposed rules.** Under the bolded heading "**COPIES OF PROPOSED RULES:**", ~~cite~~ type where copies of the proposed rules may be obtained for review by the public [75:303(B)(9)].

(8) **Rule impact statement.**

(A) ~~Permanent, emergency, or preemptive rules.~~ Under the bolded heading "**RULE IMPACT STATEMENT:**", state if the agency has issued or *intends to issue a rule impact statement . . . and where copies of such impact statement may be obtained for review by the public [75:303(B)(8)].*

(B) ~~Expedited repeals.~~ ~~Do not include this heading or this information if continuing a comment period or an optional public hearing for the expedited repeal of rules.~~

(9) **Additional information.** Under the bolded heading "ADDITIONAL INFORMATION:", ~~cite~~type any additional information determined by the agency to be pertinent to the notice. The use of this category is optional.

## 655:10-7-29. Statements of submission of adopted rules to Governor and Legislature [AMENDED]

(a) **Use.** This Section does not apply to emergency rules; ~~or~~ preemptive rules; ~~or requests for expedited rule repeals.~~ Within 10 days after adoption of permanent rules, the agency must submit the rules to the Governor and the Legislature, pursuant to 75 O.S., Section 303.1. Upon submission of the rules, the agency *shall also submit to the Office of Administrative Rules for publication in The Oklahoma Register, a statement that the adopted rules have been submitted to the Governor and the Legislature* [75:303.1(C)]. [See also 655:10-7-52 (relating to notice document scope)] As required by 74 O.S., Section 464, agencies must submit the rules to the Governor and Legislature via the State Online Filing System; provided, [i]f for any reason the person required to file such document determines that it cannot be filed electronically, the person shall file a printed copy in lieu of such electronic filing and shall include an explanation of the reason that the document could not be filed electronically [74:464].

(b) ~~Format; document heading.~~ The Statement of Submission of adopted permanent rules to Governor and Legislature begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (c) of this Section, formatted pursuant to the following:

(1) Begin each heading at the left margin.

(2) Begin the contents required for each heading on the first line below the heading.

(3) Tab the first line of the contents, but do not tab subsequent lines of the contents; except, when listing rules under the heading **RULES** [see (c)(2) of this Section], begin each rule number on a separate tabbed line under the heading.

(b)(c) **Content.** A Statement of Submission ~~must be prepared pursuant to the style required in (b) of this Section and must~~ contain the following headings and information:

(1) **Rulemaking action.** Under the bolded heading "RULEMAKING ACTION:", ~~type~~select the following:  
"Submission to Governor and Legislature."

(2) **Rules.** Under the bolded heading "RULES:", ~~identify~~ the submitted rules, as described in 655:10-7-11(b)(2), are auto-populated upon selection of agency draft.

(3) **Submitted to Governor and Legislature.** Under the bolded heading "SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:", ~~cite~~select the date the rules were submitted to the Governor and Legislature.

## 655:10-7-32. Notices of legislative disapproval [AMENDED]

(a) **Use.** The agency must submit notice of legislative disapproval of rules to the OAR for publication in the Register if:

(1) a permanent rule is disapproved by joint resolution of the Legislature pursuant to 75 O.S., Section 308(B) and (C) AND the resolution is either approved by the Governor pursuant to OKLA. Const. Art. 6, Section 11 or the Governor's veto is overridden by the Legislature;

(2) a proposed or promulgated emergency rule is disapproved by joint resolution of the Legislature pursuant to 75 O.S., Section 253(H)(2)(a), and the resolution is either approved by the Governor pursuant to OKLA. Const. Art. 6, Section 11 or the Governor's veto is overridden by the Legislature; or

(3) ~~a proposed expedited repeal of rules is disapproved by joint resolution of the Legislature pursuant to 75 O.S., Section 308(B) and (C), and the resolution is either approved by the Governor pursuant to OKLA. Const. Art. 6, Section 11 or the Governor's veto is overridden by the Legislature.~~

(b) ~~Format; document heading.~~ The Notice of Legislative Disapproval of Rules begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (c) of this Section, formatted pursuant to the following:

(1) Begin each heading and subheading at the left margin.

(2) Begin the contents required for each heading and subheading on the first line below the heading ~~or~~ subheading.

(3) Tab the first line of the contents, but do not tab subsequent lines of the contents; except, when listing rules under the heading **RULES** ~~or EXPEDITED REPEALS REQUESTED~~ [see (c)(2) of this Section], begin each rule number on a separate tabbed line under the heading.

(b)(c) **Content.** A Notice of Legislative Disapproval of Rules ~~must be prepared pursuant to the style required in (b) of this Section and must~~ contain the following headings and information:

(1) **Rulemaking action.** Under the bolded heading "RULEMAKING ACTION:", ~~type~~select one of the following:

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(A) If the disapproved rules are permanent, typeselect "Legislative disapproval of PERMANENT rules."

(B) If the disapproved rules are emergency, typeselect "Legislative disapproval of EMERGENCY rules."

(C) If the disapproved rules are preemptive, typeselect "Legislative disapproval of PREEMPTIVE rules."

~~(D) If the disapproved rules are expedited repeals, type "Legislative disapproval of EXPEDITED REPEAL of rules."~~

(2) **Rules.** Under the bolded heading "**RULES:**" ~~or "**EXPEDITED REPEALS REQUESTED:**"~~, identify the disapproved rules as described in 655:10-7-11(b)(2) or 655:10-7-11.1(c)(3)(B).

(3) **Legislative disapproval.** Under the bolded heading "**LEGISLATIVE DISAPPROVAL:**", type "(These rules were, This rule was) disapproved by the Legislature in (number of joint resolution), effective (date)." The effective date is the date the resolution disapproving rules was approved by the Governor pursuant to OKLA. Const. Art. 6, Section 11, or the date the Governor's veto was overridden by the Legislature.

(4) **Emergency rules terminated.** Under the bolded heading "**EMERGENCY RULES TERMINATED:**", type the following if the disapproved rules are permanent or preemptive rules which are based on effective emergency rules [75:253(H)(2)(c)]: "The following emergency rules are also terminated by this disapproval:"select "Yes" and include the following.

(A) **Rules.** Under the bolded subheading "**Rules:**", identify each emergency rule terminated as a result of the disapproval.

(B) **Gubernatorial approval.** Under the bolded subheading "**Gubernatorial approval:**", citeselect the date or dates of emergency approval by the Governor.

(C) **Register publication.** Under the bolded subheading "**Register publication:**", type the docket number and the full citation to the Register publication of the emergency rules. [see 655:10-15-4 (relating to docket number) and 655:10-15-6 (relating to citing the Register)]

## 655:10-7-33. Notices of withdrawn rules [AMENDED]

(a) **Withdrawal of permanent rules.** As set forth in 75 O.S., Section 308(F), an agency may withdraw a permanent rule prior to its final adoption, as defined in 75 O.S., Sections 250.3(7) and OAC 655:10-1-2. When an agency withdraws a permanent rule after its adoption but prior to its final adoption, the agency must submit a Notice of Withdrawn Rules pursuant to this Section, except as provided in (d) of this section.

(b) **Withdrawal of emergency rules.** An agency may withdraw an emergency rule prior to its approval by the Governor pursuant to 75 O.S., Section 253(K). When an agency withdraws an emergency rule after its submission to the Governor but prior to its approval by the Governor, the agency must submit a Notice of Withdrawn Rules pursuant to this Section, except as provided in ~~(d)~~(c) of this section.

~~(1) If the agency published a Notice of Rulemaking Intent for the withdrawn emergency rule, the OAR will publish the Notice of Withdrawn Rules in the Register.~~

~~(2) If the agency did not publish a Notice of Rulemaking Intent for the withdrawn emergency rule, the OAR will not publish the Notice of Withdrawn Rules, but will retain the Notice in the official files.~~

(c) **Withdrawal of expedited repeal.** As set forth in 75 O.S., Section 303a(C), an agency may withdraw an expedited repeal request "prior to final legislative adoption." When an agency withdraws an expedited repeal request prior to its final legislative adoption, the agency must submit a Notice of Withdrawn Rules pursuant to this Section. [See also 75:303a and 655:10-7-26.1]

~~(c)~~(d) **Filing exception for "resubmitted rules."**

(1) **Criteria for "resubmitted rules."** When an agency discovers an error in a filing that has been submitted to the Governor and Legislature via the State Online Filing System ("**System**")rules.ok.gov, the System allows the agency to "resubmit" that filing, but only if:

(A) the agency resubmits the filing within 10 calendar days after the rules were adopted, ~~and~~

(B) the agency first withdraws the original submission in the System. The System requires a Notice of Withdrawn Rules to be prepared pursuant to this section. The agency may include information under the heading "**ADDITIONAL INFORMATION:**", as described in (f)(3)(A)(iv) of this section, to explain that the rules, although withdrawn, are being resubmitted.

(2) **Filing with OAR not required.** When an agency ~~withdraws and resubmits~~ a filing on the Systemrules.ok.gov within 10 days after the rules were adopted, as described in (1)(A) of this subsection, the agency should not submit a copy of the Notice of Withdrawn Rules ~~required by (1)(B) of this subsection to the OAR.~~ If submitted, the OAR will not publish the Notice of Withdrawn Rules, ~~but will retain the Notice in the~~

official files.

(c) **Format; document heading.** The Notice of Withdrawn Rules begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (f) of this Section, formatted pursuant to the following:

(1) Begin each heading and subheading at the left margin:

(2) Begin the contents required for each heading and subheading on the first line below the heading or subheading:

(3) Tab the first line of the contents, but do not tab subsequent lines of the contents; except, when listing rules under the heading **WITHDRAWN RULES** [see (f)(2) of this Section], begin each rule number on a separate tabbed line under the heading:

(d)(f) **Content.** A Notice of Withdrawn Rules must be prepared pursuant to the style required in (c) of this Section and must contain the following headings and information:

(1) **Rulemaking action.** Under the bolded heading "**RULEMAKING ACTION:**", typeselect one of the following:

(A) If the withdrawn rules are permanent, typeselect "Withdrawal of PERMANENT rulemaking."

(B) If the withdrawn rules are emergency, typeselect "Withdrawal of EMERGENCY rulemaking."

(C) If the withdrawn rules are expedited repeals, type "Withdrawal of EXPEDITED repeal request."

(2) **Withdrawn rules.** Under the bolded heading "**WITHDRAWN RULES:**", identify the withdrawn rules as described in 655:10-7-11(b)(2).

(3) **Dates.** Under the bolded heading "**DATES:**", identifyselect any of the following dates which apply to the rulemaking action prior to withdrawal.

(A) **Withdrawal of permanent/emergency rules.** If the agency is withdrawing proposed permanent or emergency rules, use the following format:

(A)(i) **Adoption.** Under the bolded subheading "Adoption:", citeselect the date the rules were adopted.

(B)(ii) **Submission of adopted rules to Governor and Legislature.** Include this subheading and information if rules are withdrawn after submission of the adopted rules to the Governor and Legislature. Under the bolded subheading "Submission of adopted rules to Governor and Legislature:", citeselect the date the rules were submitted to the Governor and Legislature.

(C)(iii) **Withdrawn.** Under the bolded subheading "Withdrawn:", citeselect the date the rules were withdrawn from the rulemaking process. This date is the date withdrawal notice is given to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Joint Committee.

(D)(iv) **Additional information.** Under the bolded heading "ADDITIONAL INFORMATION:", citetype any additional information determined by the agency to be pertinent. The use of this category is optional.

(B) **Withdrawal of expedited repeal request.** If the agency is withdrawing an expedited repeal request, use the following format:

(i) **Submission of expedited repeal request to Legislature.** Include this subheading and information if the expedited repeal request is being withdrawn after submission of the request to the Legislature and "prior to final legislative adoption" [75:303a(C)]. Under the bolded subheading "Submission of expedited repeal request to Legislature:", cite the date the repeal request was submitted to the Legislature.

(ii) **Withdrawn.** Under the bolded subheading "Withdrawn:", cite the date the expedited repeal request was withdrawn from the expedited repeal process. This withdrawal date is the date the withdrawal notice is given to the Speaker of the House of Representatives, President Pro Tempore of the Senate, and Joint Committee.

(iii) **Additional information.** Under the bolded heading "ADDITIONAL INFORMATION:", cite any additional information determined by the agency to be pertinent. The use of this category is optional.

## 655:10-7-35. Notices of errors in published documents [AMENDED]

(a) **Use.** When an agency discovers certain errors in certain documents, as specified in 655:10-13-3, after publication of such documents in the Register, the agency may submit to the OAR a Notice of Error in Published Document prepared pursuant to this Section. [See also 655:10-7-52 (relating to notice document scope)]

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~~(b) **Format; document heading.** The Notice of Error in Published Document begins with the document heading required in 655:10-7-3. Beginning two single spaces below the document heading, include the headings and information described in (c) of this Section, formatted pursuant to the following:~~

- ~~(1) Begin each heading and subheading at the left margin.~~
- ~~(2) Begin the contents required for each heading and subheading on the first line below the heading or subheading.~~
- ~~(3) Tab the first line of the contents, but do not tab subsequent lines of the contents;~~

~~(b)(c) **Content.** A Notice of Error in Published Document must be prepared pursuant to the style required in (b) of this Section and must contain the following headings and information:~~

- ~~(1) **Action.** Under the bolded heading "**ACTION:**", ~~type~~select "Notice of error in published document."~~
- ~~(2) **Document corrected.** Under the bolded heading "**DOCUMENT CORRECTED:**", ~~identify~~select the document being corrected as follows:~~

~~(A) **Document type.** Under the bolded subheading "**Document type:**", identify the type of document corrected by typing one of the following:~~

- ~~(i) Permanent rule document (preamble).~~
- ~~(ii) Expedited rule repeal document (preamble)~~
- ~~(iii)(ii) Permanent rule document (enacting clause).~~
- ~~(iv) Expedited rule repeal document (enacting clause):~~
- ~~(v)(iii) Notice of Rulemaking Intent. [See restrictions in 655:10-13-3]~~
- ~~(vi) Notice of Expedited Repeal Request. [See restrictions in 655:10-13-3]~~
- ~~(vii)(iv) Notice of Cancelled Comment Period/Hearing. [See restrictions in 655:10-13-3]~~
- ~~(viii)(v) Notice of Continued Comment Period/Hearing. [See restrictions in 655:10-13-3]~~
- ~~(ix)(vi) Statement of Submission to Governor and Legislature.~~
- ~~(x)(vii) Notice of Legislative Disapproval of Rules.~~
- ~~(xi)(viii) Notice of Withdrawn Rules.~~

~~(B) **Rules.** Under the bolded subheading "**Rules:**", ~~identify~~type the rules affected pursuant to 655:10-7-11(b)(2), or 655:10-7-11.1(c)(3)(B) if applicable.~~

~~(C) **Register publication.** Under the bolded heading "**Register publication:**", include the full citation to the Register publication of the document being corrected. [see 655:10-15-6 (relating to citing the Register)]~~

~~(D) **Docket number.** Under the bolded heading "**Docket number:**", ~~cite~~type the docket number assigned by the OAR to the document being corrected.~~

- ~~(3) **Corrections.** Under the bolded heading "**CORRECTIONS:**", explain each correction by clearly ~~citing~~typing the information being corrected, followed by the information as it should be stated. For example, "Information cited under the heading ADOPTION was incorrect and should read as follows: October 1, 1989."~~

## PART 9. DOCUMENT SCOPE

### 655:10-7-51. Rule document scope, limitations [AMENDED]

~~(a) **Multiple Sections/Appendices in one Chapter.** An agency may combine, in one rule document, all new, amended, revoked, reserved, and renumbered Sections and Appendices in the same Chapter when the Sections and Appendices are:~~

- ~~(1) finally adopted on the same date if the rules are permanent rules, or~~
- ~~(2) adopted on the same date if the rules are emergency or preemptive rules, or~~
- ~~(3) approved by the Legislature in the same joint resolution if the rules are expedited repeals, as set forth in 75 O.S., Section 303a.~~

~~(b) **Restrictions.** An agency may not combine, in one rule document, any of the following:~~

- ~~(1) Sections or Appendices from different Chapters.~~
- ~~(2) Permanent rules that are finally adopted on different dates.~~
- ~~(3) Emergency or preemptive rules that are adopted on different dates.~~
- ~~(4) Expedited rule repeals that are approved by the Legislature in different joint resolutions.~~

### 655:10-7-52. Notice document scope, limitations [AMENDED]

~~(a) **Multiple Sections/Appendices in one Chapter.** An agency may announce, in one notice document, rulemaking actions occurring on the same date if the affected Sections or Appendices are part of the same Chapter, unless otherwise restricted pursuant to this Section.~~



**(b) Restrictions.**

**(1) Notices of rulemaking intent; continued or cancelled comment periods/hearings.**

(A) Agencies may not announce, in one notice of rulemaking intent, ~~notice of expedited repeal request, notice of continued hearing or comment period, or notice of cancelled hearing or comment period,~~ proposed rules that are in different Chapters.

(B) Agencies may announce more than one comment period or more than one hearing in a single notice of rulemaking intent, ~~notice of expedited repeal request,~~ notice of continued hearing or comment period, or notice of cancelled hearing or comment period only when **each** comment period or hearing applies to all proposed rules.

**(2) ~~Notices of expedited repeal requests.~~**

~~(A) Agencies may not announce, in one notice of expedited repeal request, the proposed repeal of rules that are in different Chapters.~~

~~(B) Agencies may announce more than one comment period in a single notice of expedited repeal request, only when **each** comment period applies to all proposed repeals.~~

~~(3)~~**(2). Statements of submission.** Agencies may announce submissions of more than one Section or Appendix in a single Statement of Submission to Governor and Legislature only when the rules are:

(A) submitted to the Governor on the same date,

(B) submitted to the Legislature on the same date, and

(C) in the same Chapter.

~~(4)~~**(3). Notices of legislative disapproval.** Agencies may announce legislative disapproval of more than one Section or Appendix in a single Notice of Legislative Disapproval of Rules only when the rules are:

(A) disapproved on the same date, and

(B) in the same Chapter.

~~(5)~~**(4). Notices of withdrawn permanent and emergency rules.** Agencies may announce withdrawal of more than one Section or Appendix in a single Notice of Withdrawn Rules for proposed permanent or preemptive rules only when the rules are:

(A) adopted on the same date,

(B) submitted to the Governor on the same date,

(C) submitted to the Legislature on the same date,

(D) withdrawn on the same date, and

(E) in the same Chapter.

**(A) Permanent and emergency rules.** Agencies may announce withdrawal of more than one Section or Appendix in a single Notice of Withdrawn Rules for proposed permanent or preemptive rules only when the rules are:

(i) adopted on the same date;

(ii) submitted to the Governor on the same date;

(iii) submitted to the Legislature on the same date;

(iv) withdrawn on the same date, and

(v) in the same Chapter.

**(B) Expedited rule repeals.** Agency may announce withdrawal of more than one Section or Appendix in a single Notice of Withdrawn Rules for proposed expedited repeals only when the rules are:

(i) submitted to the Legislature on the same date;

(ii) withdrawn on the same date, and

(iii) in the same Chapter.

~~(6)~~**(5). Notices of errors.** Agencies may report, in a single Notice of Errors in Published Document, more than one error only when the errors occurred in the same published document.

## SUBCHAPTER 9. SUBMISSION OF DOCUMENTS

### 655:10-9-1. Electronic copies and submissions; special treatment of rule documents [AMENDED]

(a) **Electronic preparation of documents.** All documents must be prepared using word processing software provided by the OAR, as required by 655:10-7-2(1)(A).

(b) **Submission of documents.** When submitting a document to the OAR for publication in the Register, agencies shall submit the document as set forth in this subsection. [See also (c) of this Section for special treatment of rule documents and 655:10-7-10 for rule document components.]

**(1) Electronic copies.**

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## (A) Rule documents.

(i) **Permanent rules.** Within 30 calendar days after final adoption of permanent rules, submit an electronic copy of the permanent rule document to the OAR [via rules.ok.gov](http://rules.ok.gov). [See also (c) of this Section]

(ii) **Emergency rules.** Upon approval by the Governor of emergency rules, submit an electronic copy of the emergency rule document and the Governor's approval to the OAR [via rules.ok.gov](http://rules.ok.gov). [See also (c) of this Section]

(iii) **Preemptive rules.** Upon approval by the Governor of preemptive rules, submit an electronic copy of the preemptive rule document and the Governor's approval to the OAR [via rules.ok.gov](http://rules.ok.gov) [75:250.6(B)(3)]. [See also (c) of this Section]

~~(iv) **Expedited rule repeals.** Upon approval by the Legislature of expedited rule repeals, submit an electronic copy of the expedited rule repeal document to the OAR. [See also (c)(3) of this Section]~~

(B) **Notice documents.** Submit an electronic copy of notice documents to the OAR [via rules.ok.gov](http://rules.ok.gov). [75:303(B)].

(2) **Electronic submission.** Submit documents ~~electronically~~ in electronic format, as required by this Section; ~~via [rules.ok.gov](http://rules.ok.gov) email, or by web submission if available.~~

(3) **Inaccessible records.** If the OAR is unable to access a document (e.g., due to a faulty, corrupt, or incompatible file), the OAR will notify the agency as soon as possible. The agency must resubmit the file electronically in a format that is accessible by the OAR.

## (c) Special treatment of rule documents.

(1) **Emergency and preemptive rules.** Upon approval by the Governor of an emergency or preemptive rule document, the agency shall submit the rule document in electronic form [via rules.ok.gov](http://rules.ok.gov) to the OAR, as set forth in this Section, and pursuant to the following:

~~(A) Submit an electronic copy of the entire rule document.~~ The rule document submitted must include any corrections needed to bring the document into substantial compliance with this Chapter, including any that were identified by the OAR in its review of the document during the Governor's review period [75:253(C)(2) and 250.6(B)(2)].

~~(B) Submit an electronic copy of the Governor's approval.~~

~~(C) Submit the electronic copy of the red-marked pages or format-approved pages that was returned to the agency by the OAR after reviewing the rules during the Governor's review period.~~

(2) **Permanent rules.** Within 30 calendar days after final adoption of permanent rules, the agency must submit a permanent rule document to the OAR [75:308.1] in electronic form [via rules.ok.gov](http://rules.ok.gov), as set forth in (b) of this Section. The rules included in the permanent rule document must include any corrections necessary to bring the rules into substantial compliance with this Chapter, including any that were reported to the agency by the OAR at earlier stages of the rulemaking process, and pursuant to the following:

~~(A) Submit an electronic copy of the entire rule document.~~ The rules included in the permanent rule document must include any corrections necessary to bring the rules into substantial compliance with this Chapter, including any that were reported to the agency by the OAR at earlier stages of the rulemaking process.

~~(B) Submit the electronic copy of the red-marked pages or format-approved pages that was returned to the agency by the OAR after reviewing the rules during the Legislature's review period.~~

(3) **Expedited rule repeals.** Upon approval by the Legislature of a request for expedited repeal of rules, the agency must submit an expedited rule repeal document to the OAR in electronic form, as set forth in (b) of this Section.

## 655:10-9-3. Filing and acceptance deadlines [AMENDED]

(a) **Publication in first issue of month.** If a document is to be included in an issue of the Register published on the first working day of the month, the document must be submitted to the OAR by the 8<sup>th</sup> day of the preceding month, and accepted by the OAR by the first working day preceding the 16th day of the preceding month. [See also (c) of this Section (relating to submission deadlines that fall on weekends or holidays)]

(b) **Publication in second issue of month.** If a document is to be included in an issue of the Register published on the first working day following the 14th day of the month, the document must be submitted to the OAR by the 25<sup>th</sup> day of the preceding month, and accepted by the OAR by the first working day preceding the 2nd day of the same month. [See (c) of this Section (relating to submission deadlines that fall on weekends or holidays)]

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# Permanent Final Adoptions

(a) **Permanent rule documents.** For permanent rule documents submitted to the OAR, the following shall apply [see also (c) of this Section (relating to submission deadlines that fall on weekends or holidays)]:

- (1) **Publication in mid-May issue.** If submitted to the OAR by April 15 and accepted by the OAR by the first working day following April 30, the permanent rule document will be published in the Register on the first working day following May 14.
- (2) **Publication in first issue in June.** If submitted to the OAR by from April 16 through May 1 and accepted by the OAR by the first working day following May 14, the permanent rule document will be published in the Register on the first working day following May 31.
- (3) **Publication in mid-June issue.** If submitted to the OAR from May 2 through May 15 and accepted by the OAR by the first working day following May 31, the permanent rule document will be published in the Register on the first working day following June 14.
- (4) **Publication in first issue in July.** If submitted to the OAR from May 16 through May 25 and accepted by the OAR by the first working day following June 14, the permanent rule document will be published in the Register on the first working day following June 30.
- (5) **Publication in mid-July issue.** If submitted to OAR from May 26 through June 1 and accepted by the OAR by the first working day following June 30, the permanent rule document will be published in the Register on the first working day following July 14.
- (6) **Publication in first issue in August.** If submitted to the OAR from June 2 through June 8 and accepted by the OAR by the first working day following July 14, the permanent rule document will be published in the Register on the first working day following July 31.
- (7) **Publication in mid-August issue.** If submitted to the OAR from June 9 through June 15 and accepted by the OAR by the first working day following July 31, the permanent rule document will be published in the Register on the first working day following August 14.
- (8) **Publication in first issue in September.** If submitted to the OAR from June 16 through August 8 and accepted by the OAR by the August 15 deadline for publication in that year's code edition or supplement [75:256(B)(1)], the permanent rule document will be published in the Register on the first working day following August 31.

(b) **All other documents.** For all documents other than permanent rule documents, the following shall apply:

- (1) **Publication in first issue of month.** If a document, other than a permanent rule document, is to be included in an issue of the Register published on the first working day of the month, the document must be submitted to the OAR by the 8<sup>th</sup> day of the preceding month, and accepted by the OAR by the first working day preceding the 16th day of the preceding month. [See also (c) of this Section (relating to submission deadlines that fall on weekends or holidays)]
- (2) **Publication in second issue of month.** If a document, other than a permanent rule document, is to be included in an issue of the Register published on the first working day following the 14th day of the month, the document must be submitted to the OAR by the 25<sup>th</sup> day of the preceding month, and accepted by the OAR by the first working day preceding the 2nd day of the same month. [See also (c) of this Section (relating to submission deadlines that fall on weekends or holidays)]

(c) **Submission deadlines that fall on weekend/holiday.** When a submission deadline described in (a) and (b) of this section falls on a weekend or holiday, the agency must submit the document by the first working day preceding that day.

(d) **Schedule of publication date and deadlines.** The Secretary of State issues a schedule of Register publication dates and corresponding submission and acceptance deadlines prior to the beginning of each new volume of the Register, and publishes the schedule on the OAR's website [see 655:10-15-1(c)].

## 655:10-9-5. Acknowledgement of receipt [AMENDED]

Upon receipt of a filing, the OAR will note the date of receipt and the docket number on the electronic document and will return the copy to the agency via email the agency confirming the date of receipt and the docket number. or by web transmission if available.

## SUBCHAPTER 11. REVIEW OF DOCUMENTS

### 655:10-11-1. Review of Register submissions [AMENDED]

(a) **OAR's review.** Upon receipt of a document for Register publication, the OAR shall review the document to determine if the document complies with requirements of this Chapter.

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(1) **Acceptance of documents; Register publication.** If a document is accepted by the OAR, the document will be published in the next possible issue of the Register, based on the Register publication dates and filing and acceptance deadlines set forth in 655:10-9-3 and the schedule issued by the Secretary of State prior to the beginning of each new Register volume as set forth in 655:10-15-1(c) and 655:10-15-2.

(2) **Rejection of documents.** The OAR may *refuse to accept for publication any document that does not substantially conform to the promulgated rules of the Secretary* [75:251(C)]. If a document is rejected, the OAR shall provide the agency with a written explanation for the rejection. The agency may modify the document and submit another document with a new received date.

(3) **Acceptance limited.** Acceptance of a document pursuant to this Section indicates only that the document is in the ~~physical~~ form specified by ARR. Acceptance by the OAR does not validate the accuracy of the information supplied by the agency and does not validate compliance with the APA or with any other statutory requirements. This compliance is the responsibility of each agency.

(b) **Failure to comply.** *Upon failure of an agency to comply with the provisions of Sections 251 through 256 of this Title [Title 75], ... the Secretary shall forward a written notice of the failure to comply to the chief administrative officer of the agency. The notice shall state a reasonable time, not to exceed thirty (30) calendar days, in which the agency shall fully comply. Further failure to comply shall be reported in writing to the Speaker of the House ..., the President Pro Tempore ..., the Governor, and the Attorney General. Upon such notification, the Attorney General shall immediately seek agency compliance and, if required, to institute mandamus proceedings to secure compliance of said agency.* [75:252(B)]

## 655:10-11-3. Acknowledgement of acceptance [AMENDED]

After review and acceptance by the OAR, the OAR will ~~acknowledge acceptance of a document by noting email the date of acceptance and the docket number on the document and returning it to the agency via email, or by web transmission if available.~~

## SUBCHAPTER 13. CORRECTION OF ERRORS

### 655:10-13-2. Errors prior to Register publication [AMENDED]

In the event an agency discovers an error in a document after submission to the OAR but prior to its publication in the Register, the agency may contact the OAR for a determination as to whether the OAR is able to accept the corrections, based on the following:

(1) **Timeliness.** The timeliness of the agency's request to correct an error(s) in a document filed with the OAR but not yet published will determine the OAR's ability to accept corrections on any document filed. This determination will be based on how far the OAR has progressed in its processing of that document at the time the request is received, as well as the impact a correction would have on the OAR's ability to complete the production and distribution of the applicable Register issue by the publication date.

(2) **Qualifying errors.** If the OAR determines the corrections to be timely, as described in (1) of this Section, the OAR will use the following additional criteria to determine if the errors may be corrected:

(A) **Notice documents.** Errors discovered in notice documents may be corrected prior to publication.

(B) **Permanent rule documents.** Errors discovered in permanent rule documents may be corrected prior to publication, unless the correction would cause a conflict with the following statutory provisions:

(i) [T]he text of the rule submitted for publication shall be the same as the text of the rule that has been finally adopted [75:308.1(B)], and

(ii) The agency may change the format of . . . rules . . . to comply with the standard provisions established by the Secretary . . . so long as there is no substantive change to the rule [75 O.S., Section 251(B)(2)(i)].

(C) **Emergency rule documents.** Emergency rule documents may not be corrected after approval by the Governor; except, the agency may change the format to comply with the ARR, as described in 75 O.S., Section 251(B)(2)(i). If these errors are discovered after the agency has filed the emergency rule document with the OAR [see 655:10-9-1(c)(1) (relating to filing emergency rule documents)] but prior to publication, the agency may correct these errors.

(D) **Preemptive rule documents.** Preemptive rule documents may not be corrected after approval by the Governor; except, the agency may change the format to comply with the ARR, as described in 75 O.S., Section 251(B)(2)(i), before filing the preemptive rule document with the OAR. If these errors are discovered after the agency has submitted a preemptive rule document to the OAR [see 655:10-9-1(c)

(1) (relating to filing preemptive rule documents)] but prior to publication, the agency may correct the errors.

~~(E) Expedited rule repeal documents.~~ Expedited rule repeal documents may not be corrected after final legislative adoption; except, the agency may change the format to comply with the ARR before filing the expedited rule repeal document with the OAR [see 655:10-9-1(c)(3) (relating to filing expedited rule repeal documents)]. If these errors are discovered after the agency has submitted the expedited rule repeal document to the OAR but prior to publication, the agency may correct the errors.

## 655:10-13-3. Errors after Register publication [AMENDED]

### (a) Rule documents.

#### (1) Permanent rule documents ~~and expedited rule repeal documents.~~

(A) **Regulatory text.** In the event an agency discovers an error in regulatory text in a permanent rule document ~~or expedited rule repeal document~~ after publication in the Register, the agency may correct the error through rulemaking procedures only.

#### (B) **Other than regulatory text.**

(i) **Published pages.** When an agency discovers an error in the preamble (except effective date) or enacting clause (except effective date) in a permanent rule document ~~or expedited rule repeal document~~ after publication in the Register, the agency may submit a Notice of Error in Published Document pursuant to 655:10-7-35.

(ii) **Non-published pages.** When an agency discovers an error in the unpublished attestation or supplemental information pages of a permanent rule document ~~or expedited rule repeal document~~ after publication in the Register, the agency may submit the corrected page or pages to the OAR. Upon review and acceptance of the corrected pages, the OAR will add the corrected pages to the official files.

(2) **Emergency and preemptive rule documents.** Emergency and preemptive rule documents may not be corrected by an agency after publication in the Register.

### (b) Notice documents.

(1) **Corrections allowed.** When an agency discovers an error in one of the following types of notice documents after publication in the Register, the agency may correct such error by submitting a Notice of Error in Published Document [see 655:10-7-35]:

(A) Statement of Submission to Governor and Legislature.

(B) Notice of Legislative Disapproval of Rules.

(C) Notice of Withdrawn Rules.

(2) **Corrections not allowed.** When an agency discovers an error in a notice document which announces an action affecting the public's direct participation in the rulemaking process (as identified in (A) through ~~(D)~~(C) of this paragraph), the agency may not correct the notice document after publication in the Register. The agency may submit a new notice document and, if applicable, publish a Notice of Cancelled Hearing or Comment Period; however, the new document acquires a new "publication date" for purposes of compliance with APA time restrictions (e.g., minimum 30-day comment period). Notice documents which may not be corrected with a Notice of Error in Published Document include the following:

(A) Notice of Rulemaking Intent.

~~(B) Notice of Expedited Rule Repeal Request.~~

~~(C)~~(B). Notice of Cancelled Hearing and/or Comment Period.

~~(D)~~(C). Notice of Continued Hearing and/or Comment Period.

## SUBCHAPTER 15. THE OKLAHOMA REGISTER

## 655:10-15-5. Register contents [AMENDED]

### (a) Register categories.

(1) Documents published in the Register are arranged by document type, as follows:

(A) Notices of Rulemaking Intent.

~~(B) Notices of Expedited Repeal Requests.~~

~~(C)~~(B). Cancelled Hearings and/or Comment Periods.

~~(D)~~(C). Continued Hearings and/or Comment Periods

~~(E)~~(D). Submissions for Review.

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- ~~(F)~~(E). Legislative Disapprovals.
- ~~(G)~~(E). Withdrawn Rules.
- ~~(H)~~(G). Governor's Declarations.
- ~~(I)~~(H). Emergency Adoptions.
- ~~(J)~~(I). Preemptive Adoptions.
- ~~(K)~~(J). Permanent Final Adoptions.
- ~~(L)~~ Expedited Rule Repeals.
- ~~(M)~~(K). Executive Orders.
- ~~(N)~~(L). Errors in Published Documents.
- ~~(O)~~(M). Editor's Notices.
- ~~(P)~~(N). Miscellaneous.

(2) Within each category listed in (1)(A) through ~~(G)~~(E), ~~(H)~~(H) through ~~(I)~~(J), and ~~(N)~~(L) of this subsection, documents are arranged by Title and Chapter number.

(b) **Table of contents.** Each issue of the Register contains an agency/action/subject index arranged alphabetically by agency, as well as a table of contents arranged by Register category, as set out in (a)(1) of this Section. Each agency's listing in the agency/action/subject index also identifies the types of rulemaking actions published for the agency in that issue, as well as the Chapter numbers affected by each of those rulemaking actions.

(c) **Rules Affected Index.** Each issue of the Register published after publication of the first Code contains a Rules Affected Index that identifies each Section and Appendix that is being promulgated (added, amended, revoked, renumbered, or reserved) in that issue, as well as each Section and Appendix that was promulgated in previous issues of that volume of the Register [see 655:10-15-2 regarding Register volumes].

(d) **Other user aids.** At its discretion, the OAR may publish additional user and finding aids in the Register.

## 655:10-15-9. Unpublished material [AMENDED]

(a) ~~Lengthy rules; standards~~ **Standards adopted by reference.** ~~When regulatory text in a rule document, as submitted by the agency, exceeds 75 pages in length, the regulatory text is not published in the Register but is maintained in the official files [see 655:10-7-12 (relating to lengthy rule documents)]. Upon request, one copy of the regulatory text not published due to excessive length is available at no charge to paid Register subscribers; except, standards adopted by reference [75:251(D)] are not available from the OAR. Standards adopted by reference are not filed with the OAR and *shall be readily available to the public for examination at the administrative offices of the agency* [75:251 (D)].~~

(b) **Proposed rules.** Proposed rules are not published in the Register or Code.

(c) **Transmittal sheet.** The transmittal sheet required for all documents submitted to the OAR is not published in the Register or Code.

(d) **Attestation.** The attestation submitted ~~in~~with a rule document is not published in the Register or Code, but is maintained in the official files.

(e) **Supplemental information.** Supplemental information submitted pursuant to 655:10-7-15 is not published in the Register or Code, but is maintained in the official files.

## 655:10-15-10. Editor's Notes [AMENDED]

(a) Editor's Notes may be used only by the OAR.

(b) Editor's Notes are used for informational purposes and to aid the reader and are not part of the text of a rule. Editor's Notes do not alter or amend the text of any rule.

(c) Editor's Notes may appear as notes to a specific document or to a specific rule, or in the Editor's Notices section of the Register, or in the Code.

(d) Editor's Notes may be used by the OAR, at its discretion, to identify numbering and procedural discrepancies, relevant legislative or gubernatorial actions, or other unusual circumstances related to a rule or rulemaking action. Editor's Notes may be used by the OAR to inform the reader of possible errors, other than spelling errors, in the Code [75:256(D)].

## 655:10-15-11. Proof of publication [AMENDED]

Upon publication of a rule document in the Register, the OAR shall ~~send~~email proof of publication to the agency's liaison officer. [75:254(B)]

## SUBCHAPTER 17. THE OKLAHOMA ADMINISTRATIVE CODE

## 655:10-17-6. Source notes [AMENDED]

(a) **Responsibility for preparation of source notes.**

- (1) Source notes are prepared by the issuing agency for rules promulgated before January 1, 1997.
- (2) Source notes are prepared by the OAR for rules promulgated on or after January 1, 1997.

(b) **Chapter source notes.** Chapter source notes are used in the Code as follows:

- (1) A Chapter source note identifies the date of the Chapter's codification. The date of codification is the date the Chapter was accepted for inclusion in the first official compilation of codified rules authorized by 75 O.S., Section 256(A)(1)(a); except, the date of codification for subsequently promulgated new Chapters is the effective date of the permanent or preemptive rulemaking which establishes the new Chapter.
- (2) Chapter source notes are supplemental references which are required for codification and the convenience of the reader. They are not rules and do not have the force of law.
- (3) The following is an example of a Chapter source note: [**Source:** Codified 2-11-91]

(c) **Subchapter source notes.** Subchapter source notes are used in the Code as follows:

- (1) Each new Subchapter which is added after its Chapter's codification date, as defined in (b)(1) of this Section, includes a source note which identifies the date of the Subchapter's codification. The date of the new Subchapter's codification is the effective date of the permanent or preemptive rulemaking which establishes the new Subchapter.
- (2) Subchapter source notes are supplemental references which are required for codification and the convenience of the reader. They are not rules and do not have the force of law.
- (3) The following is an example of a Subchapter source note: [**Source:** Codified 2-11-91]

(d) **Section source notes; Appendix source notes.**

- (1) **Use.** Section and Appendix source notes are used in the Code as follows:

- (A) Section and Appendix source notes provide an administrative history of rulemaking actions on that Section or Appendix, subsequent to its codification.

- (B) Section and Appendix source notes are supplemental references which are required for codification and the convenience of the reader. They are not rules and do not have the force of law.

- ~~(C) The following is an example of a Section source note: [**Source:** Amended at 9 Ok Reg 1034, eff 5-25-92 (emergency); Amended at 9 Ok Reg 1555, eff 7-11-92].~~

- (2) **Source note entries.** Each entry in a Section or Appendix source note describes a rulemaking action on that Section or Appendix, including a citation to the actions Register publication [see 655:10-15-6 (relating to Register citations)], and the effective date of the action.

- (A) **Types of entries.**

- (i) **New Section/Appendix.** The source note entry for an action which adds a new Section or Appendix appears in the Code as follows: "Added at (cite to Register publication), eff (effective date)."

- (ii) **Revoked Section/Appendix.** The source note entry for an action which revokes a Section or Appendix appears in the Code as follows: "Revoked at (cite to Register publication), eff (effective date)."

- (iii) **Amended Section.** The source note entry for an action which amends a Section appears in the Code as follows: "Amended at (cite to Register publication), eff (effective date)."

- (iv) **Amended Appendix (revoked and reenacted).** The source note entry for an action which amends an Appendix through revocation and reenactment appears in the Code as follows: "Revoked and reenacted at (cite to Register publication), eff (effective date)."

- (v) **Renumbered Section/Appendix.** The source note entries for an action which renumbers a Section or Appendix, with no amendments to the Section or Appendix, appear in the Code as follows:

- (I) For the prior Section or Appendix: "Renumbered to (new Section or Appendix number) at (cite to Register publication), eff (effective date)."

- (II) For the newly-numbered Section or Appendix: "Renumbered from (prior Section or Appendix number) at (cite to Register publication), eff (effective date)."

- (vi) **Amended and renumbered Section/Appendix.** The source note entries for an action which renumbers AND amends a Section or Appendix appear in the Code as follows:

- (I) For the prior Section or Appendix: "Amended and renumbered to (new Section or Appendix number) at (cite to Register publication), eff (effective date)."

- (II) For the newly-numbered Section: "Amended and renumbered from (prior Section number) at (cite to Register publication), eff (effective date)."

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(vii) **Reserved Section/Appendix.** The source note entry for an action which reserves a Section or Appendix appears in the Code as follows: "Reserved at (cite to Register publication), eff (effective date)."

(viii) **Expired Section/Appendix.** The source note entry for an emergency action on a Section or Appendix which expires without being superseded by another action appears in the Code as set forth in (B)(ii) of this paragraph.

(ix) **Special circumstances.** The OAR may use alternate wording for source note entries which are needed to describe special or unusual circumstances.

**(B) Prior emergency actions.**

(i) **Superseded emergency actions.** If emergency amendments to or revocations of a Section or Appendix are promulgated between permanent rulemaking actions on the Section or Appendix, or if the Section or Appendix is a new permanent Section or Appendix which was preceded by emergency promulgation as a new Section/Appendix, the source note includes an entry for each emergency action. The entry is prepared pursuant to (A) of this paragraph, but is followed by the word "(emergency)." ~~For an example of an emergency source note entry, see (1)(C) of this subsection.~~

(ii) **Expired emergency actions.** If an emergency action on a Section or Appendix is allowed to expire without being superseded by a permanent rulemaking action, the source note entry is prepared as set forth in (i) of this subparagraph, except that the effective date is followed by the word "through" and the expiration date of the emergency action. ~~For example: Added at 9 Ok Reg 221, eff 8-21-91 through 7-14-92 (emergency).~~

**(C) Chronological order.** Source note entries in a Section or Appendix source note are listed in chronological order by effective date.

## SUBCHAPTER 19. PUBLIC INSPECTION AND COPIES OF DOCUMENTS

### 655:10-19-1. Public access to documents and publications [AMENDED]

**(a) Secretary's responsibility.**

(1) Documents accepted by the OAR, as well as the OAR's publications, are available for public inspection, and copying and certification as set forth in 655:10-19-2 and 655:10-19-3, in the Secretary of State's Office of Administrative Rules, between 8:00 a.m. and 5:00 p.m. Monday through Friday, excluding holidays. If records are stored off-site or have been transferred to the Oklahoma Department of Libraries, availability of these records will depend on accessibility to the off-site locations.

~~(2) Copies of Register documents that have not yet been published in the Register can be copied, but only if clearly marked by the OAR with the following: "Unofficial --- Not yet published."~~

~~(2)(3)~~ Documents and publications may not be borrowed or removed from the Office of Administrative Rules. Documents may be photocopied, and publications may be photocopied or purchased, as set forth in this Subchapter, 655:10-15-7, and 655:10-17-4.

**(b) Issuing agency's responsibility.** *The agency submitting the rules shall make such rules available to the public in accordance with the Open Records Act [75:254(B)]; however, copies must be clearly identified as "unofficial."*

**(c) County clerks' responsibility.** Copies of the Register are *sent to those county clerks who request it [75:255(A)(2)].* ~~In addition, every county clerk in the state of Oklahoma is entitled to receive, at no cost, one copy of the printed volumes of the Code and the supplements thereto [75:257.1(B)(1)(a)].~~ Each year, the Secretary of State announces the availability of that year's Code or Supplement to the county clerks. Each county clerk may either:

(1) ~~receive~~purchase the printed product, or the ~~CD~~electronic product in lieu of the printed product, and make the publication available to the public during the county clerk's business hours, or

(2) waive his/her right to ~~receive~~ that year's publication.

**(d) Depository libraries.** Copies of the published Code ~~and each annual Supplement~~, and copies of each issue of the Register, are deposited with the Oklahoma Publications Clearinghouse for distribution to each Oklahoma Government Publications Depository Library. [75:257.1(B)(2)]

**(e) Open Records Act.** The OAR shall make its records available for public inspection and copying pursuant to the Open Records Act, 51:24A.1 et seq. [75:256.3].

*[OAR Docket #25-381; filed 5-28-25]*

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## TITLE 660. DEPARTMENT OF SECURITIES CHAPTER 2. ORGANIZATION AND PROCEDURES OF DEPARTMENT OF SECURITIES

[OAR Docket #25-488]

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 9. Individual Proceeding Practices and Procedures

660:2-9-1. Hearings in general [AMENDED]

660:2-9-2. Initiation of individual proceedings [AMENDED]

660:2-9-3. Prehearing proceedings and processes [AMENDED]

Subchapter 11. Procedures for Inspecting and/or Copying Public Records

660:2-11-1. Purpose [AMENDED]

660:2-11-2. Definitions [AMENDED]

660:2-11-3. Record custodians [AMENDED]

660:2-11-5. Procedures for inspection of records [AMENDED]

660:2-11-6. Procedures for copying records [AMENDED]

Subchapter 13. Declaratory Rulings and Interpretive Opinions

660:2-13-1. ~~Opinions~~ Interpretative opinions, no-action letters, and discretionary orders of exemption [AMENDED]

### **AUTHORITY:**

Administrator, Oklahoma Department of Securities; 71 O.S. §§1-605, 1-608

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 22, 2024

### **COMMENT PERIOD:**

December 16, 2024 through January 16, 2025

### **PUBLIC HEARING:**

January 23, 2025

### **ADOPTION:**

January 27, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 27, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by SJR 21

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

August 15, 2025

### **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

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## AVAILABILITY:

N/A

## GIST/ANALYSIS:

The proposed rule amendments specify the applicable statutory provisions for summary orders that are not subject to the general hearing procedures; provide that the Administrator may enter an agreed scheduling order in addition to setting the hearing date or denying the hearing; amend the description of records that a records custodian is responsible for; update the process for the public to request inspection or copying of records; clarify the process for requesting interpretive opinions, no-action letters and discretionary orders of exemption; correct or remove statutory cites and terminology; and correct scrivener and numbering errors.

## 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, 2025:**

## SUBCHAPTER 9. INDIVIDUAL PROCEEDING PRACTICES AND PROCEDURES

### 660:2-9-1. Hearings in general [AMENDED]

(a) **Authority.** Prior to the issuance of a final order in an individual proceeding, all parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall be in writing and advise the parties of their right to a hearing and their obligation to file an answer, the time period within which a hearing must be requested, and the effect of a failure to file an answer and to request a hearing.

(b) **Public hearing.** All hearings shall be open to the public but may not be recorded by the public or any respondent by any electronic means.

(c) **Hearings on summary orders.** The provisions of this Subchapter shall not apply to proceedings for summary orders issued pursuant to Sections 1-411(F) and 1-604(A) of the Securities Act, Section 814(D) of the Business Opportunity Act, and Section 660 of the Land Sales Code.

### 660:2-9-2. Initiation of individual proceedings [AMENDED]

(a) **Request for hearing and answer.** The person to whom the notice of opportunity for hearing is addressed shall file with the Administrator a written answer within the time specified in the notice. The answer shall indicate whether the party requests a hearing and shall specifically admit or deny each allegation of the Department or state that the party does not have, and is unable to obtain, sufficient information to admit or deny each allegation. When a person intends in good faith to deny only a part of an allegation, the party shall specify so much of it as is true and shall deny only the remainder. A statement of a lack of information shall have the effect of a denial. Any allegation not denied shall be deemed admitted. Failure of a party to file an answer in compliance with this subsection shall result in the issuance of a final order against that party.

(b) **Setting or denial of hearing.** Upon receipt of a written request for a hearing, the Administrator shall either promptly schedule a hearing, ~~or shall issue a written order denying a hearing, or, if agreed by the parties, enter a scheduling order.~~

(c) **Time of notice.** Notice of all hearings shall be served by regular first class mail or by personal delivery within a time reasonable in light of the circumstances, in advance of the hearing, but not less than forty-five (45) days in advance thereof, to all parties. For good cause shown, any hearing may be rescheduled, provided all persons entitled to notice of such hearing are promptly advised thereof.

(d) **Content of notice.** The notice of hearing shall contain the following information:

- (1) the date, time, place, and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a short plain statement of the matters asserted; and
- (4) a reference to the particular sections of the statutes and rules involved.

(e) **Appointment of hearing officer.** The Administrator may delegate authority to a Hearing Officer to conduct an individual proceeding and prepare a proposed order for submission to the Administrator whenever deemed appropriate under the circumstances. The Administrator shall enter into a written contract with each Hearing Officer appointed; which shall govern the terms of appointment.

(f) **Authority of presiding officer.** The Administrator, or the Hearing Officer, shall have the authority to do all things necessary and appropriate to conduct the individual proceeding. The duties of the Administrator, or the Hearing Officer, include, but are not limited to, the following:

- (1) ~~Administering~~administering oaths and affirmations;
- (2) ~~Issuing~~issuing subpoenas authorized by law and quashing or modifying any such subpoena;
- (3) ~~Receiving~~receiving relevant evidence and ruling upon the admission of evidence and offers of proof;
- (4) ~~Regulating~~regulating the course of a proceeding and the conduct of the parties and their counsel;
- (5) ~~Holding~~holding prehearing and other conferences and requiring the attendance at any such conference of any party;
- (6) ~~Recusing~~recusing himself upon a motion of a party based on reasonable grounds, or upon his own motion;
- (7) ~~Considering~~considering and ruling upon all procedural and other motions, subject to any limitations otherwise specified;
- (8) ~~Requiring~~requiring the filing of briefs, if so desired; and
- (9) ~~Requiring~~requiring the filing of proposed findings of fact and conclusions of law.

(g) **Submission of case on documentary record.** The Administrator, or the Hearing Officer, may elect not to hold a hearing if all parties agree to submit the case on the documentary record and waive their right to appear.

### 660:2-9-3. Prehearing proceedings and processes [AMENDED]

(a) **Scheduling.** As soon as is practicable after a hearing has been scheduled, the Administrator or the Hearing Officer shall enter a scheduling order that is intended to expedite the disposition of the action and ensure the fair, orderly, and efficient conduct of the proceedings. The parties shall confer in person or by telephone and attempt to prepare a single agreed scheduling order to submit to the Administrator or the Hearing Officer. The agreed, proposed scheduling order shall be submitted to the Administrator or the Hearing Officer no later than fifteen (15) days after the hearing has been scheduled. If the parties are unable to agree to a single scheduling order, the parties shall each submit, no later than twenty (20) days after the hearing has been scheduled, a proposed scheduling order to the Administrator or the Hearing Officer, who shall issue an appropriate scheduling order or, prior to issuing such order, hold a scheduling conference in person or by telephone. The scheduling order shall establish at least the following:

- (1) a schedule of discovery;
- (2) any limitations to be placed on discovery;
- (3) a preliminary list identifying all witnesses, documents and exhibits intended to be utilized at the hearing;
- (4) identification of any expert witness intended to be called;
- (5) the date for exchanging the documents and exhibits intended to be utilized at the hearing and the final list identifying all witnesses intended to be called at the hearing; and
- (6) such other matters as may aid in the disposition of the matter.

(b) **Discovery.**

- (1) Discovery may be obtained by one or more of the following methods:

(A) A party may serve a written request on any other party requiring the party to produce, within fifteen (15) days, for inspection and copying, any documents or tangible items that are in the possession, custody, or control of the party and relevant to the subject matter of the individual proceeding and are not privileged. The number of requests to produce or permit inspection shall not exceed thirty (30) in number except by agreement of the party being required to produce or by order of the Administrator or Hearing Officer. All documents will be produced at the offices of the Department or at such other place as the parties may agree in writing.

(B) A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters relating to facts, the application of law to fact, or opinions about either; and the genuineness of any documents described in the request. Copies of documents shall be served with the request to admit unless they have been or are otherwise furnished or made available for inspection and copying. The number of requests to admit for each party shall not exceed thirty (30) in number except by agreement of the party being required to respond or by order of the Administrator or the Hearing Officer. Each matter upon which an admission is requested shall be separately stated. The matter is admitted unless, within fifteen (15) days after service of the request, or within such shorter or longer time as the Administrator or the Hearing Officer may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter and signed by the party. If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify the answer or

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deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny. The grounds for an objection must be stated. A party may not object solely on the ground that the request presents a genuine issue for trial.

(C) A party may take the testimony of a witness by deposition at the expense of that party. A party desiring a transcript must make appropriate arrangements with the reporter or transcriber to order and pay for it. A party desiring to take the deposition of another party, or an employee thereof, shall serve written notice to the witness, or his counsel. The notice shall state the time and place for taking the deposition and shall be served at least three (3) days before the person is required to appear. A party desiring to take the deposition of a non-party witness shall serve the witness with a subpoena in accordance with 660:2-9-4. A copy of the notice or subpoena shall be served on all other parties to the proceeding by means specified in paragraph (h) below. Unless otherwise agreed by the parties or ordered by the Administrator or Hearing Officer, a deposition under this provision shall not last more than six (6) hours, exclusive of breaks, and shall be taken only between the hours of 8:00 a.m. and 5:00 p.m. on a day other than a Saturday or Sunday and on a day other than a legal holiday.

(2) A party who has responded to a request for production or request to admit must supplement or correct its response:

(A) in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing; or

(B) as ordered by the Administrator, or the Hearing Officer.

(3) In addition to limitations on discovery set forth in a scheduling order or any law, regulation, or rule, discovery does not include:

(A) ~~Non-public~~non-public information or documents from the personnel file of any Department employee;

(B) ~~Non-public~~non-public information or documents relating to any investigation conducted by the Department against unrelated parties;

(C) ~~Non-public~~non-public information or documents ~~relation~~relating to any action brought by the Department against unrelated parties;

(D) ~~Information~~information or documents ~~relation~~relating to any examination conducted by the Department of unrelated parties;

(D) ~~Information~~information or documents ~~relations~~relating to any license applications or determinations made by the Department of unrelated parties; or

(F) ~~Depositions~~depositions of Department personnel.

## (c) Motions in general.

(1) Unless otherwise permitted by these rules or by the Administrator or the Hearing Officer motions and responses thereto shall be served on all parties and shall:

(A) be made in writing and shall not exceed twenty (20) pages;

(B) state concisely the questions(s) to be determined;

(C) state with particularity the grounds therefore and the relief or order sought; and

(D) be accompanied by a concise brief or a list of authorities upon which movant relies.

(2) A response to a written motion shall be filed within fifteen (15) days after receipt of the motion but no later than one day prior to the date and time of the hearing. A response to a written motion shall not exceed twenty (20) pages. A reply to a response to a written motion may be filed within five (5) days after receipt of the response but no later than the date and time of the hearing. A reply to a response to a written motion shall not exceed five (5) pages.

(3) The Administrator or the Hearing Officer may allow oral argument if it appears necessary to the Administrator or the Hearing Officer for a fuller understanding of the issues presented.

(4) The filing or pendency of a motion does not alter or extend any time period prescribed by this Subchapter or by an order of the Administrator or the Hearing Officer.

(d) **Motions for summary decision.** A party may move for summary decision as to any substantive issue in the case. The Administrator or the Hearing Officer may issue a summary decision if he finds that there is no genuine issue as to any material fact and that the moving party is entitled to prevail as a matter of law.

(e) **Prehearing conference.**

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(1) Upon the request of a party or when the Administrator or the Hearing Officer believes it necessary or appropriate, a prehearing conference shall be held, as close to the time of hearing as is reasonable under the circumstances, to address the following matters:

- (A) simplification of issues;
- (B) the final list of witnesses and exhibits to be utilized at the hearing;
- (C) admissions and stipulations of fact;
- (D) stipulations regarding admission and authenticity of documents;
- (E) requests for official notice;
- (F) discovery disputes;
- (G) pending motions; and
- (H) other matters that will promote the orderly and prompt conduct of the hearing.

(2) At the conclusion of the prehearing conference, a ruling or order shall be entered reciting the action taken. The order shall control the subsequent course of the proceeding unless modified by a subsequent order. The order shall be modified only to prevent manifest injustice.

**(f) Failure to participate, appear, comply, or cooperate.** A party's failure to participate in good faith in the preparation of a scheduling order or prehearing conference order; failure to comply with a scheduling order or prehearing conference order; failure to comply with or cooperate in discovery; or failure to appear at, substantially prepare for, or participate in good faith in, any hearing or conference, may result in any of the following sanctions:

- (1) striking of any pleading in whole or in part;
- (2) an order prohibiting a party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;
- (3) an order directing that designated facts be taken as established for purposes of the proceeding;
- (4) staying the proceeding;
- (5) default ~~judgment~~decision; or
- (6) such other order as the Administrator, or the Hearing Officer, may deem just and appropriate.

**(g) Post prehearing conference.** If additional exhibits are discovered after the prehearing conference order is issued or after the date final documents and exhibits are exchanged, the party intending to use them shall immediately notify all other parties and furnish copies of the additional exhibits to such parties. If additional witnesses are discovered, all other parties shall be notified immediately and furnished the nature of the testimony along with the names and addresses of the witnesses. These additional exhibits or the testimony of the additional witnesses shall not be admitted at the hearing without the agreement of all parties or without a showing to the Administrator or the Hearing Officer that manifest injustice would be created if the exhibit or witness testimony were not permitted.

**(h) Service and filing of papers.** Service of papers upon a party shall be made by personal delivery, regular first-class mail, facsimile transmission or electronic mail. All papers required to be served by a party shall be filed with the Administrator in accordance with the scheduling order. When a Hearing Officer is appointed, a person making a filing with the Administrator shall promptly provide to the Hearing Officer a copy of such filing. Papers filed with the Administrator shall be accompanied by a certificate stating the name of the person or persons served, the date of service, the method of service and the mailing address, facsimile telephone number or electronic mail address to which service was made, if not made in person.

**(i) Signature and certification.** Every filing of a party represented by counsel shall be signed by at least one counsel of record and shall state counsel's name, bar number, address, email address, and telephone number. A party who is not represented by counsel shall sign the filing and state the party's name, residential address, email address, and telephone number on every filing. If a filing is not signed, the Administrator or the Hearing Officer shall strike the filing, unless it is signed promptly after the omission is called to the attention of the party making the filing. The signature of counsel or a party shall constitute a certification that:

- (1) the person signing the filing has read the filing; and
- (2) to the best of his knowledge, information, and belief, formed after reasonable inquiry, the filing is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and the filing is not made for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of adjudication; and
- ~~(3) if a filing is not signed, the Administrator or the Hearing Officer shall strike the filing, unless it is signed promptly after the omission is called to the attention of the party making the filing.~~

**(j) Computation of time.** A paper is filed when it is received by the Administrator. Unless otherwise specifically provided by this Subchapter, computation of any time period prescribed by this Subchapter, or by an order of the Administrator or the Hearing Officer begins with the first day following the act or event that initiates the time period. The last day of the time period so computed is included unless it is a Saturday, Sunday, state holiday, or any other day when the Department's

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office is not open for public business, in which event the period runs until the end of the next business day. If a notice or other filing is served by mail and the party served is entitled or required to take some action within a prescribed time period after service, the date of mailing is the date of service, and three (3) days shall be added to the prescribed time period.

## SUBCHAPTER 11. PROCEDURES FOR INSPECTING AND/OR COPYING PUBLIC RECORDS

### 660:2-11-1. Purpose [AMENDED]

The provisions of this Subchapter set forth the procedures of the Department for public inspection and/or copying of the public records of the Department. Such procedures are established for purposes of complying with the provisions of the Open Records Act as defined in 660:2-11-2 and Section 302 of the Oklahoma Administrative Procedures Act (75 O.S., §302). Nothing herein is intended to derogate from or be in conflict with the provisions of the Open Records Act. To the extent any provision of this Subchapter is found to be in conflict with any provision of the Open Records Act, the provisions of the Open Records Act shall govern.

### 660:2-11-2. Definitions [AMENDED]

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

"Open Records Act" means the Oklahoma Open Records Act, 51 O.S., Sections ~~24A~~24A.1, et seq.

### 660:2-11-3. Record custodians [AMENDED]

(a) **Authority of record custodians.** The persons designated below serve as Record Custodians for purposes of the Open Records Act and are hereby charged with responsibility for compliance with that Act pursuant to the procedures set forth in this Section and elsewhere in this Subchapter.

(b) **Appointment of record custodians.** The following officials of the Department are hereby appointed as Record Custodians for the designated records and as such shall have all the powers and duties set forth in this Subchapter and in the Open Records Act:

- (1) Administrator - all records of the Department
- (2) Deputy Administrator - all records of the Department
- (3) Director of Enforcement - all enforcement records of the Department
- (4) Director of Corporate Finance - all product securities, business opportunities, and subdivided land registration and exemption records of the Department
- (5) Director of Professional Registrations and Compliance -all registration of securities professionals and examination records of the Department.

(c) **Substitute record custodians.** Each of the Record Custodians appointed in subsection (b) of this Section is hereby authorized to designate any other employee of the Department to serve as Record Custodian in the place of the designated Record Custodian. Such substitute Record Custodian will have the same duties and powers as the Record Custodian set forth above and wherever the term "Record Custodian" is used herein, it includes any such substitute Record Custodian. Whenever a Record Custodian appoints another person as a substitute Record Custodian, he or she is to give notice to the Administrator of such designation and the Administrator will maintain a register of all such designations.

(d) **Duties.** All Record Custodians will protect the public records of the Department from damage and disorganization; prevent excessive disruption of the essential functions of the Department; provide assistance and information upon request; ensure efficient and timely action and response to all applications for inspection and/or copying of public records; and carry out the procedures adopted by this Department for inspecting and/or copying public records.

(e) **Direction of requests to custodians.** All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Open Records Act are to address their requests to the Record Custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.

### 660:2-11-5. Procedures for inspection of records [AMENDED]

(a) **Requests for inspection.** To inspect a public record in the possession of the Department, the person requesting the record shall ~~execute a Form OAD-25 - REQUEST FOR RECORD INSPECTION~~make a request in writing or on a form designated by the Administrator and deliver it to the Record Custodian responsible for the requested record designated in 660:2-11-3. All requests shall state whether the request is for a commercial purpose. All record inspection ~~forms~~requests must be completed by the person requesting the record and signed by the individual making the request. The Record Custodian may demand reasonable identification of any person requesting a record.

(b) **Place of inspection.** All inspections of public records shall be performed in the offices of the Department under the supervision of the Record Custodian or a designee.

(c) **Identification of records.** A written request for inspection of a record shall reasonably describe the record sought by name or title, date, and subject matter. In instances where the person requesting the record cannot provide sufficient information to identify a record, the Record Custodian shall assist in making such identification.

(d) **Delay or denial of requests for inspection.** If the record requested is not available for inspection at the time requested, the Record Custodian shall, no later than seven (7) business days prior to the requested record inspection date, notify the person requesting the record:

(1) that the record will be available for inspection at a later time by returning Form OAD 26 - RECORD INSPECTION DELAY NOTICE; or

(2) that the record will not be available for inspection, by returning to the person requesting the record a copy of Form OAD 27 - RECORD INSPECTION DENIAL.

### 660:2-11-6. Procedures for copying records [AMENDED]

(a) **Requests for copies.** To obtain a copy of a public record in the possession of the Department, the person requesting the copy shall ~~execute a Form OAD 28 - REQUEST FOR RECORD COPY~~ make a request in writing or on a form designated by the Administrator and deliver it to the Record Custodian responsible for the requested record designated in 660:2-11-3; except that no form shall be required for requests made for records which have been reproduced for free public distribution. All requests shall state whether the request is for a commercial purpose. ~~Such~~ Each request shall be accompanied by the fees set forth in Section 1-612 of the Securities Act. All record ~~copy forms~~ copying requests must be completed by the person requesting the record and signed by the individual making the request. The Record Custodian, or a designee, may demand reasonable identification of any person requesting a record.

(b) **Responsibility for making copies.** ~~All copies of public records shall be performed by the~~ The Record Custodian or a designee shall make copies of the public records in the offices of the Department except where the Record Custodian or a designee determines that the size or the volume of records to be copied warrants sending the ~~record~~ records outside the Department for copying, in which event the copies shall be made at a place selected by the Record Custodian or a designee and under the supervision of the Record Custodian or a designee.

(c) **Identification of records.** A ~~written~~ request for copies of a record shall reasonably describe the record sought, by name or title, date, and subject matter. In instances where the person requesting the copies cannot provide sufficient information to identify a record, the Record Custodian or a designee shall assist in making such identification.

(d) **Delay or denial of requests for copies.** If the record requested is not available for copying at the time requested, the Record Custodian or a designee shall, no later than seven (7) business days prior to the requested copy date, notify the person requesting the copies:

(1) that the record will be available for copying at a later time by returning Form OAD 29 - RECORD COPY DELAY NOTICE; or

(2) that the record will not be available for copying, by returning to the person requesting the record a copy of Form OAD 30 - RECORD COPY DENIAL.

## SUBCHAPTER 13. DECLARATORY RULINGS AND INTERPRETIVE OPINIONS

### 660:2-13-1. ~~Opinions~~ Interpretative opinions, no-action letters, and discretionary orders of exemption [AMENDED]

The Administrator and/or Commission may honor requests from interested persons for interpretive opinions and as to the applicability of any rule or order, if it be shown that an actual case, controversy or issue is in contemplation and that unreasonable hardship, loss or delay would result if the matter were not determined in advance. The Administrator in his discretion may honor requests from interested persons for formal interpretive opinions relating to a specific factual circumstance and no-action positions, including consideration of waivers, where appropriate and in the public interest, on the basis of facts stated and submitted in writing, with respect to the provisions of the Securities Act or any rule or statement of policy adopted thereunder, provided such requests satisfy and conform to the following requirements:

(1) Such requests shall be in writing and shall include or be accompanied by all information and material required by any statute, rule, or statement of policy under which an exception or exemption may be claimed, including but not limited to, copies of prospectuses or offering circulars if applicable or appropriate;

(2) The request letter shall include the name of the entity for whom the request is being made and the specific subsection of the particular statute or the particular rule or statement of policy to which the letter pertains shall be indicated in the upper right-hand corner of the letter.

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(3) The letter should contain a brief narrative of the fact situation and should set out all of the facts necessary to reach a conclusion in the matter; however, such narratives should be concise and to the point.

(4) The names of the company or companies, organization or organizations, and all other persons involved should be stated and should relate and be limited to a particular factual circumstance. Letters relating to unnamed companies, organizations, or persons or to hypothetical situations will not warrant a formal response.

(5) Every such request shall include or be accompanied by a signed opinion of legal counsel which briefly and concisely states counsel's understanding, counsel's opinion in the matter, which may be expressed tentatively or conditioned upon concurrence by the Administrator, and the basis for such opinion.

(6) Each request for a no-action position and/or interpretive opinion letter shall be accompanied by payment of a fee in the amount specified in Section 1-612 of the Securities Act.

## **(a) Definitions.**

(1) **"Discretionary order of exemption"** means an order entered at the discretion of the Administrator wherein the Administrator agrees to waive a requirement of the Securities Act, Business Opportunity Act, or Land Sales Act, or a rule or order thereunder, or to grant a discretionary exemption under the Securities Act, Business Opportunity Act, or Land Sales Act where the waiver or exemption is appropriate and in the public interest.

(2) **"Interpretative opinion"** means a letter that states a conclusion regarding the applicability of a relevant provision of law to a situation presented. An interpretive opinion represents a judgment based solely on the fact situation as described by the applicant and an analysis of existing law and judicial, legislative, and administrative history.

(3) **"No-action letter"** means a letter by which a person is advised that a transaction carried out under a set of assumed facts will not result in a recommendation by Department staff that an enforcement action be taken. An interpretive opinion may include an assurance of "no-action;" however, a no-action letter does not necessarily include any interpretation of law.

**(b) Criteria for eligibility.** The Administrator may honor requests from interested persons for interpretive opinions, no-action letters, and discretionary orders of exemption, if it be shown that an actual case, controversy, or issue is in contemplation and that unreasonable hardship, loss, or delay would result if the matter were not determined in advance. An application for an interpretive opinion, no-action letter, or discretionary order shall not:

(1) involve a hypothetical situation, a past transaction, or an issue that is currently subject to or in preparation for litigation;

(2) involve a matter that the applicant knows or should know is currently under investigation or subject to a regulatory action; or

(3) relate to an interpretation of anti-fraud provisions.

**(c) Application process.** Each request for an interpretive opinion, no-action letter, or discretionary order of exemption shall include the following:

(1) a letter that complies with the requirements set forth in (d) of this Section;

(2) any other documentation, supplemental forms, and information as the Administrator may deem necessary including, but not limited to, a signed opinion of legal counsel that briefly and succinctly states counsel's understanding of the matter at issue; counsel's opinion in the matter, which may be expressed tentatively or conditioned upon concurrence by the Administrator; and counsel's basis for such opinion; and

(3) the fee required by Section 1-612(A)(12) or (13) of the Securities Act.

**(d) Content of request letter.** The request letter required by (c)(1) of this Section shall:

(1) succinctly present the issue to be considered and provide a thorough recitation of all material facts. The request may present multiple legal issues if they are related to one transaction or set of facts, but the request should be narrowly tailored to resolve specific issues and not attempt to discuss every possible situation.

(2) contain the applicant's reasoning and legal analysis, including references to applicable law and previous interpretative opinions, no-action letters, or discretionary orders of exemption that support the interpretation or relief requested. The applicant should also include a discussion of law and previous interpretative opinions, no-action letters, or discretionary orders of exemption that are in opposition to the applicant's interpretation or relief requested and set forth the applicant's reasoning and legal analysis distinguishing them from the facts and issues presented in the request. Law, interpretative opinions, and no-action letters from other jurisdictions are not binding on the Administrator.

(3) identify the persons or entities that are the subject of the request or will rely upon the response.

(4) identify in the heading the citation to the particular statute or the particular rule or statement of policy to which the letter pertains.



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(5) include a representation that any proposed transaction has not yet been consummated, that the matter is not currently subject to or in preparation for litigation, and that the applicant is not aware of any regulatory investigation involving the matter.

(6) disclose whether any of the persons who are the subject of the request or will rely upon the response, or any of the persons' predecessors, affiliates, directors, officers, general partners, beneficial owners of 10 percent or more of any class of its equity securities, any promoter presently connected with the persons in any capacity, any underwriter to be involved in a transaction described in the request, or any partner, director or officer of the underwriter:

(A) within the last five years, has filed a registration statement that is the subject of a currently effective registration stop order entered by any state securities administrator or the SEC;

(B) within the last five years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security, or involving fraud or deceit;

(C) is currently subject to any state or federal administrative enforcement order or judgment, entered within the last five years, finding fraud or deceit in connection with the purchase or sale of any security; or

(D) is currently subject to any order, judgment, or decree of any court of competent jurisdiction, entered within the last five years, temporarily, preliminarily, or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.

(7) disclose whether the applicant has communicated with any other state securities administrator or the SEC concerning the transaction or subject matter of the request and, if so, include any requests that have been filed with any such jurisdictions and any response received from such jurisdictions.

*[OAR Docket #25-488; filed 6-5-25]*

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## TITLE 660. DEPARTMENT OF SECURITIES CHAPTER 6. FORMS

*[OAR Docket #25-489]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 3. Forms for General Purposes

660:6-3-1. Forms to inspect or copy records [AMENDED]

Subchapter 5. Forms Used Under the Securities Act

660:6-5-1. Forms for registration or exemption of securities [AMENDED]

660:6-5-2. Forms for securities industry registration [AMENDED]

660:6-5-3. Form to file a notice of financial exploitation [NEW]

Subchapter 9. Forms Used Under the Land Sales Act

660:6-9-2. Forms for licensing of agents [REVOKED]

### **AUTHORITY:**

Administrator, Oklahoma Department of Securities; 71 O.S. §§1-605, 1-608

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 22, 2024

### **COMMENT PERIOD:**

December 16, 2024 through January 16, 2025

### **PUBLIC HEARING:**

January 23, 2025

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January 27, 2025

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 27, 2025

### **LEGISLATIVE APPROVAL:**

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Approved May 28, 2025, by SJR 21

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

August 15, 2025

**SUPERSEDED EMERGENCY ACTIONS:**

**SUPERSEDED RULES:**

N/A

**GUBERNATORIAL APPROVAL:**

N/A

**REGISTER PUBLICATION:**

N/A

**DOCKET NUMBER:**

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed new rule, rule amendments, and revocation update the descriptions of forms used by the Department and delete references to forms no longer used.

**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, 2025:**

## SUBCHAPTER 3. FORMS FOR GENERAL PURPOSES

### 660:6-3-1. Forms to inspect or copy records [AMENDED]

(a) **Forms.** The following forms are ~~required to obtain~~ used in connection with requesting inspection or copying of records of the Department under the Open Records Act:

- (1) ~~OAD-25~~ -- Request for Record Inspection
- (2) ~~OAD-26~~ -- Record Inspection Delay Notice
- (3) ~~OAD-27~~ -- Record Inspection Denial
- (4) ~~OAD-28~~ -- Request for Record Copy
- (5) ~~OAD-29~~ -- Record Copy Delay Notice
- (6) ~~OAD-30~~ -- Record Copy Denial

(b) **Obtaining forms.** The referenced forms are available on the Department's website at <http://www.securities.ok.gov/>.

## SUBCHAPTER 5. FORMS USED UNDER THE SECURITIES ACT

### 660:6-5-1. Forms for registration or exemption of securities [AMENDED]

(a) **Forms.** The following is a list of forms accepted by the Department in connection with the registration or exemption of securities under the Securities Act:

- (1) U-1 -- Uniform Application to Register Securities
- (2) U-2 -- Uniform Consent to Service of Process

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- (3) U-2A -- Uniform Form of Corporate Resolution
- (4) U-7 -- Small Company Offering Registration Form
- (5) NF -- Uniform Investment Company Notice Filing
- (6) Form D -- Notice of Exempt Offering of Securities
- (7) NASAA Model Accredited Investor Exemption Notice of Transaction Form
- (8) Oklahoma Accredited Investor Exemption Supplemental Information Form
- (9) ~~Oklahoma Notice of Regulation A Tier 2 Offering Form (or equivalent uniform form)~~ NASAA Uniform Notice Filing of Regulation A – Tier 2 Offering
- ~~(10) Part 1 of Federal Form 1-A~~

(b) **Obtaining forms.** The referenced forms are available on the Department's website at <http://www.securities.ok.gov/>.

## 660:6-5-2. Forms for securities industry registration [AMENDED]

(a) **Forms.** The following is a list of forms used by the Department in connection with registering persons as broker-dealers, agents, non-FINRA principals, issuer agents, investment advisers or investment adviser representatives, under the Securities Act:

- (1) BD -- Uniform Application for Broker-Dealer Registration
- (2) BDW -- Uniform Request for Broker-Dealer Withdrawal
- (3) ADV -- Uniform Application for Investment Adviser Registration and Report by Exempt Reporting Advisers
- (4) ADV-W -- Uniform Application for Investment Adviser Withdrawal
- (5) U-2 -- Uniform Consent to Service of Process
- (6) U-2A -- Uniform Form of Corporate Resolution
- (7) U4 -- Uniform Application for Securities Industry Registration or Transfer
- (8) U5 -- Uniform Termination Notice for Securities Industry Registration
- (9) ~~U10 -- Uniform Examination Request for Non-FINRA Candidates~~ Form BR – Uniform Branch Office Registration Form
- (10) ~~ØBD-001 --~~ Applicant Management Certification for Non-FINRA Principals
- (11) ~~ØBD-008 --~~ Application for Renewal of Non-FINRA Broker-Dealer Registration
- (12) ~~ØBD-016 --~~ Application for Renewal of Non-FINRA Broker-Dealer Principal Registration
- (13) ~~ØBD-018 --~~ Applicant/Management Certification for Issuer Agents
- (14) ~~ØBD-019 --~~ Application for Renewal of Non-FINRA Broker-Dealer Agent Registration
- ~~(15) Personal Financial Statement~~

(b) **Obtaining forms.** The referenced forms are available on the Department's website at <http://www.securities.ok.gov/>.

## 660:6-5-3. Form to file a notice of financial exploitation [NEW]

(a) **Forms.** The following form is used to file a notice of financial exploitation of a vulnerable adult as required by 660:11-15-2: Financial Exploitation Form.

(b) **Obtaining forms.** The referenced form is available on the Department's website at <http://www.securities.ok.gov/>.

## SUBCHAPTER 9. FORMS USED UNDER THE LAND SALES ACT

### 660:6-9-2. Forms for licensing of agents [REVOKED]

(a) **Forms.** The following is a list of forms required by the Department in connection with the licensing of agents under the Land Sales Act: ~~LRF-632 – Application for License for Subdivided Land Sales Agent~~

(b) **Obtaining form.** The form listed in Subsection (a) may be obtained from the Department.

*[OAR Docket #25-489; filed 6-5-25]*

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## TITLE 660. DEPARTMENT OF SECURITIES CHAPTER 11. OKLAHOMA UNIFORM SECURITIES ACT OF 2004

*[OAR Docket #25-491]*

### RULEMAKING ACTION:

PERMANENT final adoption

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## RULES:

- Subchapter 1. General Provisions
- 660:11-1-3. Definitions [AMENDED]
- Subchapter 3. Investment Certificate Issuers
- Part 3. REPORTING AND ACCOUNTING REQUIREMENTS
- 660:11-3-21. Loans [AMENDED]
- Part 5. MISCELLANEOUS PROVISIONS
- 660:11-3-31. Qualifications of conservator or liquidator [AMENDED]
- 660:11-3-32. Acknowledgment [AMENDED]
- 660:11-3-33. Examination standards [AMENDED]
- Subchapter 5. Broker-Dealers and Agents
- Part 1. GENERAL PROVISIONS
- 660:11-5-2. Definitions [AMENDED]
- Part 3. LICENSING PROCEDURES
- 660:11-5-11. Initial registration [AMENDED]
- 660:11-5-13. Agent transfer [AMENDED]
- 660:11-5-14. Broker-dealer and agent termination [AMENDED]
- 660:11-5-16. Examination requirements for agents and for principals of non-FINRA member broker-dealers [AMENDED]
- 660:11-5-17. Net capital for broker-dealers [AMENDED]
- 660:11-5-20. ~~Cross-border licensing~~ Canadian broker-dealer exemption [AMENDED]
- 660:11-5-21. Supplemental disclosures [AMENDED]
- 660:11-5-22. Private offering issuer agent exemption [AMENDED]
- 660:11-5-23. Coordinated limited offering issuer agent exemption [AMENDED]
- 660:11-5-24. Oklahoma Accredited Investor issuer agent exemption [AMENDED]
- 660:11-5-25. Registration relief for military service members and their spouses [AMENDED]
- 660:11-5-26. Merger and acquisition broker exemption [AMENDED]
- Part 5. REPORTING REQUIREMENTS
- 660:11-5-31. Post-registration reporting requirements [AMENDED]
- Part 7. RECORD KEEPING AND ETHICAL STANDARDS
- 660:11-5-41. Books and records requirements for broker-dealers [AMENDED]
- 660:11-5-42. Dishonest and unethical practices of broker-dealers and agents [AMENDED]
- 660:11-5-43. Examination of broker-dealers [AMENDED]
- 660:11-5-45. Financial statements for non-FINRA broker-dealers [AMENDED]
- Subchapter 7. Investment Advisers and Investment Adviser Representatives
- Part 1. GENERAL PROVISIONS
- 660:11-7-2. Definitions [AMENDED]
- Part 3. LICENSING PROCEDURES
- 660:11-7-11. Initial registration [AMENDED]
- 660:11-7-13. Examination requirements for investment adviser representatives [AMENDED]
- 660:11-7-14. Investment adviser and investment adviser representative termination [AMENDED]
- 660:11-7-16. Solicitor exemption [AMENDED]
- 660:11-7-17. Registration exemption for investment advisers to qualifying private funds. [AMENDED]
- 660:11-7-18. Oil and gas professional exclusion [AMENDED]
- 660:11-7-19. Registration relief for military service members and their spouses [AMENDED]
- 660:11-7-20. Supplemental disclosures [AMENDED]
- 660:11-7-22. Municipal advisor exemption [AMENDED]
- Part 5. REPORTING REQUIREMENTS
- 660:11-7-31. Post-registration reporting requirements [AMENDED]
- Part 7. RECORD KEEPING AND ETHICAL STANDARDS
- 660:11-7-41. Record keeping requirements [AMENDED]
- 660:11-7-42. Dishonest and unethical practices of investment advisers and investment adviser representatives [AMENDED]
- 660:11-7-43. Disclosure requirements [AMENDED]
- 660:11-7-45. Examination of investment advisers [AMENDED]
- 660:11-7-46. Written policies and procedures [AMENDED]

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660:11-7-48. Custody requirements for investment advisers [AMENDED]  
660:11-7-49. Investment adviser representative continuing education requirements [AMENDED]  
Subchapter 9. Registration of Securities  
Part 3. REGISTRATION PROCEDURES  
660:11-9-12. Content of registration statement [AMENDED]  
660:11-9-13. Amendments to registration statements [AMENDED]  
660:11-9-14. Financial statements [AMENDED]  
660:11-9-16. Abandoned filings [AMENDED]  
Part 5. GUIDELINES AND POLICIES APPLICABLE TO OFFERINGS OF REGISTERED SECURITIES  
660:11-9-31. Prospectus delivery requirement [AMENDED]  
660:11-9-34. Application of NASAA Statements of Policy and guidelines [AMENDED]  
660:11-9-36. Promoters' and organizers' equity contributions [AMENDED]  
Part 7. REPORTING REQUIREMENTS  
660:11-9-51. Registration renewal and sales reporting requirements [AMENDED]  
660:11-9-53. Special examinations of registrations [AMENDED]  
Subchapter 11. Exemptions From Securities Registration  
Part 1. GENERAL PROVISIONS  
660:11-11-1. Definitions [AMENDED]  
660:11-11-3. Number of purchasers [AMENDED]  
660:11-11-4. Integration of offerings [AMENDED]  
660:11-11-5. Application of NASAA Statements of Policy and guidelines [AMENDED]  
660:11-11-6. Abandoned filings [NEW]  
Part 3. EXEMPT SECURITIES  
660:11-11-21. Not for profit debt securities notice filing [AMENDED]  
Part 5. EXEMPT TRANSACTIONS  
660:11-11-40. Manual exemption [AMENDED]  
660:11-11-42. Existing ~~securities~~security holders exemption [AMENDED]  
660:11-11-43. Coordinated limited offering exemption [AMENDED]  
660:11-11-52. Oklahoma accredited investor exemption [AMENDED]  
660:11-11-53. Exemptions for offers but not sales [AMENDED]  
660:11-11-54. Intrastate offering exemption [AMENDED]  
Part 7. FEDERAL COVERED SECURITIES  
660:11-11-60. Investment company notices [AMENDED]  
660:11-11-61. Regulation D Rule 506 federal covered security notice filing [AMENDED]  
660:11-11-62. Regulation A Tier 2 federal covered security notice filing [AMENDED]  
Subchapter 13. Sales Literature  
660:11-13-3. Filing requirements [AMENDED]  
660:11-13-4. Content [AMENDED]  
Subchapter 15. Miscellaneous Provisions  
660:11-15-1. General rules for presentation of financial statements [AMENDED]

## **AUTHORITY:**

Administrator, Oklahoma Department of Securities; 71 O.S. §§1-605, 1-608

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 22, 2024

## **COMMENT PERIOD:**

December 16, 2024 through January 16, 2025

## **PUBLIC HEARING:**

January 23, 2025

## **ADOPTION:**

January 27, 2025

## **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 27, 2025

## **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by SJR 21

## **LEGISLATIVE DISAPPROVAL:**

N/A

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## APPROVED BY GOVERNORS DECLARATION:

N/A

## FINAL ADOPTION:

May 28, 2025

## EFFECTIVE:

August 15, 2025

## SUPERSEDED EMERGENCY ACTIONS:

## SUPERSEDED RULES:

N/A

## GUBERNATORIAL APPROVAL:

N/A

## REGISTER PUBLICATION:

N/A

## DOCKET NUMBER:

N/A

## INCORPORATIONS BY REFERENCE:

## INCORPORATED STANDARDS:

17 C.F.R. §240.17a-3 as effective April 6, 2020 17 C.F.R. §240.17a-4 as effective August 2, 2024 17 C.F.R. §240.15c3-1 as effective October 21, 2019 17 C.F.R. §275.206(4)-1 as effective April 15, 2022 17 C.F.R. §230.255) as effective March 15, 2021 17 C.F.R. §230.254) as effective June 19, 2015 17 C.F.R. §230.502(b)(2) as effective March 15, 2021 17 C.F.R. §275.206(4)-1) as effective April 15, 2022

## INCORPORATING RULES:

660:11-5-41. Books and records requirements for broker-dealers

660:11-5-45. Financial statements for non-FINRA broker-dealers

660:11-7-42. Dishonest and unethical practices of investment advisers and investment adviser representatives

660:11-11-53. Exemptions for offers but not sales

660:11-13-4. Content

## 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, Suite 400, Oklahoma City, Oklahoma, 73102.

## GIST/ANALYSIS:

The proposed new rule and rule amendments clarify registration and termination notice requirements for broker-dealers; require broker-dealers to register persons acting as supervisors; clarify the terms to qualify for the exemption of registration for Canadian broker-dealers and agents and the requirement to amend any filings that materially change; promote uniformity by conforming the merger and acquisition broker exemption to federal law and a NASAA model rule; clarify the registration requirements of a sole proprietor investment adviser and provide for a fee waiver; amend acceptable designations that may qualify an investment adviser representative in lieu of examinations; promote uniformity by conforming the registration exemption for investment advisers to qualifying private funds to federal law and a NASAA model rule; clarify that investment advisers who are exempt from the requirement to send an annual privacy notice to their clients are not required to under Oklahoma law; clarify how registration and exemption filings will be deemed abandoned; describe time of payment for the statutorily authorized fee for late Regulation D filings; remove prohibitions against the use of testimonials, third-party ratings, and past performance advertising in investment adviser sales literature; correct and standardize 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, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 660:11-1-3. Definitions [AMENDED]

Unless the context otherwise requires, or unless defined in this section or in 660:11-5-2, terms used in this chapter, if defined in the Securities Act, shall have the meaning as defined in the Securities Act. The following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

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**"Administrator"** means the Administrator of the Department.

**"Advisers Act"** means the Investment Advisers Act of 1940.

**"Authorized to do business in Oklahoma"** means authorized to do business in Oklahoma pursuant to the Oklahoma Uniform Securities Act of 2004.

**"Audited financial statements"** means "Certified financial statements."

**"Certified financial statements"** means financial statements prepared in accordance with generally accepted accounting principles and examined by independent accountants in accordance with generally accepted auditing standards, accompanied by an opinion as described in 660:11-15-1.

**"CFR"** means the Code of Federal Regulations.

**"CRD"** means the NASAA/FINRA Central Registration Depository system or WEBCRD.

**"CFR"** means the Code of Federal Regulations.

**"Certified financial statements"** means financial statements prepared in accordance with generally accepted accounting principles and examined by independent accountants in accordance with generally accepted auditing standards, accompanied by an opinion as described in 660:11-15-1.

**"Commission"** means the Oklahoma Securities Commission.

**"Date of filing"** means the date on which a proper registration statement is filed for purposes of determining the dates of the statements of financial condition to be filed with a registration statement. If amendments to a registration statement are necessary to comply fully with the registration requirements, "date of filing" means the date on which the last amendment is filed.

**"Department"** means the Oklahoma Department of Securities.

**"FDIC"** means the Federal Deposit Insurance Corporation.

**"FINRA"** means the Financial Industry Regulatory Authority, Inc., ~~the successor to the NASD~~ the self-regulatory organization for broker-dealers and agents of broker-dealers that is registered as a national securities association with the SEC under Section 15A of the 1934 Act [15 U.S.C. §78o].

**"FINRA member"** means any broker-dealer that is a member of FINRA. "FINRA member" may also include any broker-dealer registered under the 1934 Act that has access to and the ability to make filings through the CRD.

**"Financial statements"** means, but is not limited to, the statement of financial condition, statement of income, and statement of changes in stockholders' or owners' equity, as well as all related footnotes and supporting schedules applicable thereto, prepared in accordance with generally accepted accounting principles.

**"Form ADV"** means the current Uniform Application for Investment Adviser Registration and Report by Exempt Reporting Advisers as issued by the SEC.

**"Form ADV-W"** means the current Notice of Withdrawal from Registration as issued by the SEC.

**"Form BD"** means the current Uniform Application for Broker-Dealer Registration as issued by FINRA.

**"Form BDW"** means the current Uniform Request for Broker-Dealer Withdrawal as issued by FINRA.

**"Form BR"** means the Uniform Branch Office Registration Form.

**"Form U4"** means the current Uniform Application for Securities Industry Registration or Transfer as issued by FINRA.

**"Form U5"** means the Uniform Termination Notice for Securities Industry Registration as issued by FINRA.

**"IARD"** means the FINRA-operated Investment Adviser Registration Depository.

**"Independent accountants"** means independent certified public accountants. The concept of independence shall be that promulgated by the American Institute of Certified Public Accountants.

**"Institutional account"** means the account of:

- (A) a bank, savings and loan association, insurance company or registered investment company;
- (B) an investment adviser registered under the Securities Act, with another state securities commission (or any agency or office performing like functions), or with the SEC under Section 203 of the Advisers Act [15 U.S.C. §80b-3]; or
- (C) any other person (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least \$50 million.

**"NASAA"** means the North American Securities Administrators Association.

**"NASD"** means the National Association of Securities Dealers, Inc.

**"NASDR"** means the National Association of Securities Dealers Regulation, Inc.

**"1933 Act"** means the Securities Act of 1933.

**"1934 Act"** means the Securities Exchange Act of 1934.

**"1940 Act"** means the Investment Company Act of 1940.

**"Predecessor of an issuer"** means:

- (A) a person the major portion of whose assets have been acquired directly or indirectly by the issuer, or

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(B) a person from which the issuer acquired directly or indirectly the major portion of its assets.

**"Promotional or development stage company"** means an issuer:

(A) that is not listed, or authorized for listing, on the New York Stock Exchange, the American Stock Exchange, the NASDAQ Global Market, or a securities exchange that the SEC determines under Section 18(b)(1) of the ~~1933~~ 1933 Act [15 U.S.C. §77r] has substantially similar listing standards;

(B) that has had annual net earnings for each of the last two (2) consecutive fiscal years before the public offering that have been less than five percent (5%) of the aggregate public offering; or

(C) that has had average, annual net earnings for the last five (5) fiscal years before the public offering that have been less than five percent (5%) of the aggregate public offering.

**"Promptly"** means not later than thirty (30) days.

**"Prospectus"** means a prospectus in a form and containing such information as may be required by the Administrator, including a prospectus filed under the 1933 Act or an offering circular used in connection with an exempt security or transaction regardless of the designation of the document (i.e., prospectus, offering circular, memorandum, etc.).

**"Registration statement"** means an application for registration of securities under Sections 1-303 and 1-304 of the Securities Act and all documents and exhibits related thereto, including a Prospectus.

**"SEC"** means the United States Securities and Exchange Commission.

**"Securities Act"** means the most recent codification of the Oklahoma Uniform Securities Act of 2004 in Title 71 of the Oklahoma Statutes.

**"SIPC"** means the Securities Investor Protection Corporation.

## SUBCHAPTER 3. INVESTMENT CERTIFICATE ISSUERS

### PART 3. REPORTING AND ACCOUNTING REQUIREMENTS

#### 660:11-3-21. Loans [AMENDED]

(a) ~~Classifications.~~ **Classifications.** Each investment certificate issuer shall observe the following prescribed classification standards of loans:

(1) Loss - all, or a portion, of the loan considered uncollectible or worthless.

(2) Doubtful - all, or a portion, of the loan the ultimate collection of which is doubtful and in which a substantial loss is probable, but not as yet definitely ascertainable in amount.

(3) Substandard - all, or a portion, of the loan not classified as doubtful or loss and which involves more than normal risk due to the financial condition or unfavorable record of the borrower, insufficiency of security, or other factors.

(4) Special mention - loans not warranting classification as substandard, doubtful, or loss but which are of an unusual nature carrying more than the usual risk, and should have the careful attention of management.

(b) **Appraisals.** Each investment certificate issuer shall perform an in-house appraisal or obtain an appraisal by a licensed independent appraiser of collateral at the time of the origination of each loan. Said appraisal shall be updated by a licensed independent appraiser upon the Administrator's written request upon a change in the economic or market conditions or if the loan becomes nonperforming.

(c) **Aging schedules.**

(1) The provisions of this subsection shall apply to determining the age of loans. Loans shall be aged on the basis of contract terms in effect at the close of business each month. Account balances not in current status shall be classified in the following categories (assuming monthly payments):

(A) One installment or a portion in excess of 5% of an installment due and unpaid 0 to 30 days past due.

(B) Two installments or one and a portion in excess of 5% of an installment due and unpaid 31 to 60 days past due.

(C) Three installments or two and a portion in excess of 5% of an installment due and unpaid 61 to 90 days past due.

(D) Four installments or three and a portion in excess of 5% of an installment due and unpaid over 90 days past due.



(2) Amortizing real estate loans are to be reported as past due when the borrower is in arrears two or more monthly payments. Such obligations with payments scheduled other than monthly are to be reported as past due when one scheduled payment is due and unpaid for 30 days or more.

(3) Single payment and demand notes providing for the payment of interest at stated intervals are to be reported as past due after one interest payment is due and unpaid for 30 days or more.

(4) Single payment notes providing for the payment of interest at maturity are to be reported as past due after maturity if interest or principal remains unpaid for 30 days or more.

(d) **Interest.** Loans are to be reported as being in nonaccrual status if:

(1) said loans are maintained on a cash basis because of deterioration in the financial position of the borrower;

(2) payment in full of interest or principal is not expected; or

(3) principal or interest has been in default for a period of 90 days or more unless the obligation is both well secured and in the process of collection. A debt is "well secured" if it is secured (1) by collateral in the form of liens on or pledges of real or personal property, including securities, that have a realizable value sufficient to discharge the debt in full, or (2) by the guaranty of a financially responsible party. A debt is "in the process of collection" if collection of the debt is proceeding in due course either through legal action, including judgment enforcement procedures, or, in appropriate circumstances, through collection efforts not involving legal action which are reasonably expected to result in repayment of the debt or in its restoration to a current status.

(e) **Charge-offs.** Each investment certificate issuer shall charge-off the whole or any part of a loan at such times that said loan is classified by the Administrator as "loss" as defined in (a) above.

## PART 5. MISCELLANEOUS PROVISIONS

### 660:11-3-31. Qualifications of conservator or liquidator [AMENDED]

A conservator or liquidator, who may be the Administrator ~~of the Department~~, a member of ~~his~~ the Administrator's staff, or an independent party, appointed under Section ~~1-308.1-2-1-308(D)(2)~~ of the Securities Act, shall be of legal age, of good moral character, a resident of the state of Oklahoma, and competent to perform the duties of conservator or liquidator.

### 660:11-3-32. Acknowledgment [AMENDED]

The purpose of Section ~~1-308.1-308(C)~~ of the Securities Act is to aid investment certificate issuers in applying for insurance by the FDIC. The prior issuance and continued effectiveness of a registration order shall constitute the written acknowledgment addressed by Section ~~1-308.1-308(C)~~ of the Securities Act. A formal acknowledgment for purposes of seeking insurance by the FDIC will be issued by the Administrator upon receipt of a written request therefor. Said request shall be accompanied by a copy of the application filed or to be filed with the FDIC. Upon obtaining membership in the FDIC, an investment certificate issuer shall not be subject to the prospectus preparation and delivery requirements set forth in Section ~~1-304.1-304(E)~~ of the Securities Act.

### 660:11-3-33. Examination standards [AMENDED]

Examinations made by the Administrator or designated members of ~~his~~ the Administrator's staff may be performed in reliance upon the American Institute of Certified Public Accountants industry audit guides for financial institutions and federal regulatory guidelines for financial institutions.

## 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 a branch office as defined in FINRA Rule 3110. ~~any location where one or more associated persons of a 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:~~

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- (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 broker-dealer's electronic system;
  - (vii) All orders are entered through the designated branch office or an electronic system established by the 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 broker-dealer; and
  - (ix) A list of the residence locations is maintained by the 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 broker-dealer complies with the provisions of subparagraphs (B)(i) through (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 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;

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- (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 [26 U.S.C. §§401 and 403(a)] and individual retirement plans pursuant to Section 408 of that code [26 U.S.C. §408], tax sheltered annuities pursuant to the provisions of Section 403(b) of the Internal Revenue Code [26 U.S.C. §403(b)] 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 [15 U.S.C. §77c].

**"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 ~~1-102:191-102(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 [15 U.S.C. §78c].

**"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 1-102(32) of the Securities Act 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:

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(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~~ means 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

### 660:11-5-11. Initial registration [AMENDED]

(a) **Broker-dealer.** Each broker-dealer applying for initial registration pursuant to Section 1-406 of the Securities Act:

(1) who is contemporaneously applying for FINRA membership or who is a FINRA member:

(A) shall file with the CRD:

(i) a completed Form BD, including Schedules A-E; and

(ii) the filing fee specified in Section 1-612 of the Securities Act;

(B) shall provide proof of registration with FINRA and with the jurisdiction where the broker-dealer's principal office is located; and

~~(C) shall file with the Department, within 60 days of becoming registered, a list of the addresses, telephone numbers and resident agents of all nonbranch sales offices located within the state of Oklahoma;~~

(C) shall provide an application for registration as an agent as set forth in (b)(1) of this Section for each principal who directly supervises, or will directly supervise, any agent registered under the Securities Act; and

(D) any additional documentation, supplemental forms, and information as the Administrator may deem necessary.

(2) who is not a current FINRA member shall file with the Department:

(A) a completed Form BD, including Schedules A-E;

(B) the filing fee specified in Section 1-612 of the Securities Act;

(C) financial statements as required by 660:11-5-45, or if the broker-dealer has not commenced operating, an engagement letter with an accounting firm to prepare the audited financial statements required by 660:11-5-31;

~~(D) documentation of compliance with the minimum capital requirement set forth in Section 1-406.E1-406(E) of the Securities Act and 660:11-5-17;~~

(E) designation, qualification and registration of a principal as defined in 660:11-5-2 pursuant to (c) of this Section;

(F) an application for registration as an agent as set forth in (b)(1) of this Section for each principal who directly supervises, or will directly supervise, any agent registered under the Securities Act;

~~(G)~~ (H) a list of the addresses, telephone numbers and resident agents of all nonbranch sales offices located within the state of Oklahoma;

~~(H)~~ (I) a copy of the written supervisory procedures of the broker-dealer; and

~~(I)~~ (J) any additional documentation, supplemental forms and information as the Administrator may deem necessary.

**(b) Broker-dealer agent.**

(1) **Required documents.** Each broker-dealer agent applying for initial registration pursuant to Section 1-406 of the Securities Act shall file:

- (A) a completed Form U4;
- (B) the filing fee specified in Section 1-612 of the Securities Act;
- (C) proof of successful completion of the applicable examinations specified in 660:11-5-16;
- (D) proof of applicant's approved status of registration or licensure in a jurisdiction in which he has an office of employment when such registration is required; and
- (E) any additional documentation, supplemental forms and information as the Administrator may deem necessary.

(2) **Where to file.** An agent applying for registration with a FINRA member shall file the documentation required by (1)(A) through (C) of this subsection with the CRD and shall file any additional documentation with the Department. Agents applying for registration with a non-FINRA broker-dealer shall file the required documentation with the Department.

**(c) Broker-dealer principal.**

(1) **Required documents.** Each person applying for initial registration under the Securities Act as a principal of a broker-dealer who is not a member of FINRA shall file with the Department:

- (A) a completed Form U4;
- (B) a \$50.00 filing fee;
- (C) proof of successful completion of the applicable examinations specified in 660:11-5-16; and
- (D) any additional documentation, supplemental forms and information as the Administrator may deem necessary.

(2) **Effect of Registration registration.** Registration under the Securities Act as a principal of broker-dealer shall constitute registration as an agent.

**(d) Issuer agent.** Agents of issuers applying for initial registration in the state of Oklahoma pursuant to Section 1-406 of the Securities Act shall file the following with the Department:

- (1) a completed Form U4;
- (2) the fee specified in Section 1-612 of the Securities Act;
- (3) proof of successful completion of the applicable examinations specified in 660:11-5-16;
- (4) an executed Applicant/Management Certification Form; and
- (5) any additional documentation, supplemental forms and information as the Administrator may deem necessary.

**(e) Requirement for continued registration.** 660:11-5-42, adopted pursuant to Sections ~~1-411-D-131-411(D)(13)~~ and ~~1-605-A-2-1-605(A)(2)~~ of the Securities Act, sets forth the standards of ethical practices for broker-dealers and their agents. Paragraph (22) of ~~said rule~~ 660:11-5-42 requires that each broker-dealer establish, maintain and enforce written procedures that will enable it to supervise properly the activities of each registered agent to assure compliance with applicable securities laws, rules, regulations and statements of policy. Therefore, the initial and continued registration of a broker-dealer:

- (1) that is a FINRA member, is conditioned upon registration under the Securities Act of all principals directly supervising an agent registered under the Securities Act.
- (2) that is not a FINRA member, is conditioned upon the designation, qualification and registration of a principal who shall be responsible for the supervision of all agents of the broker-dealer who are registered under the Securities Act. If the originally designated principal ceases to be the broker-dealer's principal, the broker-dealer must promptly update Form BD to identify a qualified principal. A broker-dealer applicant or registrant may apply for registration of more than one person as a principal of said broker-dealer.

**(f) Notice of termination of incomplete applications.**

(1) FINRA and non-FINRA broker-dealers. The Administrator may send notice to an applicant for broker-dealer registration with respect to any incomplete application in which the applicant has taken no action for the 60 days immediately prior to the sending of such notice. The notice will advise such applicant that the incomplete application will be terminated 30 days from the date of sending such notice unless on or before the termination date the applicant responds in writing to the Administrator showing good cause why the application should remain in a pending status. If the applicant does not request in writing that or show good cause why in the Administrator's discretion the applications should remain in a pending status, the Administrator may terminate the pending application.

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(2) **Agents.** The Administrator may send notice to the associated firm of an applicant for agent registration with respect to any incomplete application in which the applicant has taken no action for the 60 days immediately prior to the sending of such notice. The notice will advise such applicant that the incomplete application will be terminated 30 days from the date of sending such notice unless on or before the termination date the applicant responds in writing to the Administrator showing good cause why the application should remain in a pending status. If the applicant does not request in writing that or show good cause why in the Administrator's discretion the application should remain in a pending status, the Administrator may terminate the pending application.

## **660:11-5-13. Agent transfer [AMENDED]**

An agent who wishes to terminate his employment with one registered broker-dealer and thereafter commence employment with another broker-dealer may do so without causing a suspension in the agent's registration if all of the following conditions are met:

- (1) Both the terminating and employing broker-dealers are members of ~~the Financial Industry Regulatory Authority, Inc. FINRA.~~
- (2) The transfer is effected in accordance with the terms and conditions of the NASAA/FINRA Central Registration Depository Temporary Agent Transfer Program.
- (3) The employing broker-dealer has executed and filed an "Undertaking for Participation in the NASAA/FINRA Central Registration Depository TAT Program."
- (4) The employing broker-dealer currently is not subject to an order of the Administrator which would otherwise make this section unavailable.

## **660:11-5-14. Broker-dealer and agent termination [AMENDED]**

(a) **Filing requirement.** Notice of termination of registration shall be promptly given:

- (1) on behalf of a broker-dealer by filing a Form BDW. The Form BDW of a FINRA-member broker-dealer shall be filed with the CRD. The Form BDW of a non-FINRA member broker-dealer terminating registration shall be filed with the Department.
- (2) on behalf of an agent by filing a Form U5. The Form U5 for an agent terminating registration with a FINRA member broker-dealer shall be filed with the CRD. The Form U5 for an agent terminating registration with a non-FINRA broker-dealer shall be filed with the Department.

(b) **Responsibility for filing on behalf of an agent.** A completed Form U5 signed by the broker-dealer or the issuer will be accepted as fulfilling the statutory requirements of both the broker-dealer or issuer and the agent. Upon verification that the Form U5 has not been filed by the broker-dealer or issuer, the agent shall notify the Department in writing of said termination.

(c) **Amendments.** If the information contained in a Form BDW or Form U5 becomes inaccurate or incomplete, the broker-dealer, issuer, or agent shall promptly file a correcting amendment after learning of the facts or circumstances giving rise to the amendment.

(d) **Effect of failure to file.** In the event of termination, the filing of a future application for registration shall not be considered complete until a termination notice is filed.

## **660:11-5-16. Examination requirements for agents and for principals of non-FINRA member broker-dealers [AMENDED]**

(a) **Examination requirements.** Proof of compliance with the examination requirements of this Section is prerequisite to a complete filing for registration under the Securities Act.

(b) **Examinations for agents of a broker-dealer.** 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 categories for which they are qualified by examination, unless waived, as set forth on the Form U4.

(d) **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) the Series 63 or the Series 66; and
- (2) the Series 7/General Securities Representative Examination (Series 7).

(e) **Examinations for principals of non-FINRA member broker-dealers.** Each applicant for registration as a principal of a non-FINRA member broker-dealer, 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) **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 of (b)(1) of 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~~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.

### **660:11-5-17. Net capital for broker-dealers [AMENDED]**

(a) **General requirement.** All broker-dealers registered under the Securities Act shall at all times have and maintain net capital of no less than the highest minimum requirement applicable to each broker-dealer as established by the SEC in Rule 15c3-1 under the 1934 Act ~~17 CFR 240.15c3-1~~ [17 C.F.R. §240.15c3-1].

(b) **Calculation of "net capital."** As used in this subchapter, net capital shall mean the net worth of a broker-dealer calculated according to the formula established by the SEC.

### **660:11-5-20. ~~Cross-border licensing~~Canadian broker-dealer exemption [AMENDED]**

(a) **Exemption.** —By authority delegated to the Administrator in Section ~~401.B.1.b.1-401(D)~~ of the Securities Act, a Canadian broker-dealer meeting all of the following conditions is determined to be exempt from the registration requirement in Section ~~401.A.1-401(A)~~ of the Securities Act:

- (1) The broker-dealer is domiciled in Canada, does not have an office or other physical presence in the United States, and is not an office or branch of a broker-dealer domiciled in the United States.
- (2) The broker-dealer is registered with or a member of a Canadian self-regulatory organization, stock exchange, or the Bureau des Services Financiers and maintains that registration or membership in good standing.
- (3) The broker-dealer and its agents effect transactions in securities with or for, or induce or attempt to induce the purchase or sale of any security by:
  - (A) an individual from Canada that temporarily resides or is temporarily present in this state and with whom the broker-dealer had a bona fide broker-dealer-customer relationship before the individual entered the United States; or
  - (B) an individual present in this state whose transactions relate to a self-directed, tax advantaged Canadian retirement plan of which the individual is the holder or contributor.
- (4) The broker-dealer prominently discloses in writing to its clients in this state that the broker-dealer and its agents are not subject to the full regulatory requirement of the Securities Act.
- (5) Neither the broker-dealer nor its agents disclaim the applicability of Canadian law or jurisdiction to any transaction conducted pursuant to this exemption.
- (6) The broker-dealer and its agents comply with the antifraud provisions of the Securities Act and of federal securities laws.
- (7) Prior to or contemporaneously with the first transaction in Oklahoma, the broker-dealer must file the following with the Administrator:

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(A) a consent to service of process on Form U-2 in a manner that effectively appoints the Administrator as agent for service of process; and

(B) a notice of claim of exemption in the form of a cover letter that provides the location of the broker-dealer's home office, identifies a contact person, specifies the jurisdictions in Canada in which the broker-dealer is registered, and specifies the self-regulatory organization or stock exchange to which the broker-dealer belongs.

~~(8) Any Canadian broker-dealer or agent relying on this exemption shall, upon written request, furnish the Department any information relative to a transaction covered by this Section that the Administrator deems relevant.~~

(b) **Response to requests of Administrator.** Any Canadian broker-dealer or agent relying on this exemption shall, upon written request, furnish the Department any information relative to a transaction covered by this Section that the Administrator deems relevant.

(c) **Supplemental filings.** If a Canadian broker-dealer has previously filed a notice of claim of exemption, the broker-dealer must promptly notify the Administrator if there is any material change in the information on file with the Administrator. This includes, but is not limited to, any change with respect to the broker-dealer's eligibility for the exemption. An annual filing is not otherwise required to maintain the exemption.

## **660:11-5-21. Supplemental disclosures [AMENDED]**

Every broker-dealer and agent registered under the Securities Act must keep their application current at all times by promptly filing amendments supplementing their application after learning of the facts and circumstances giving rise to the amendments as required by Section ~~1-406.B~~1-406(B) of the Securities Act.

## **660:11-5-22. Private offering issuer agent exemption [AMENDED]**

By authority delegated to the Administrator in Section ~~1-402.B.91-402(B)~~91-402(B)(9) of the Securities Act, an individual meeting all of the following conditions is determined to be exempt from the registration requirement of Section 1-402 of the Securities Act:

- (1) The subject offering is conducted in a manner to be exempt pursuant to Section ~~1-202.141-202(14)~~ of the Securities Act.
- (2) The individual represents the issuer in functioning as an agent in the subject offering.
- (3) The individual is not compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities.
- (4) Such individual has not within the past five (5) years been subject to the following in connection with a violation of a state or federal securities law or regulation: an order denying, suspending or revoking registration or a cease and desist order of the Administrator; any similar order, judgment, or decree by another state securities agency, the SEC, or any self-regulatory securities organization; or an order of any court of competent jurisdiction temporarily, preliminarily or permanently enjoining such person.
- (5) The exemption is only available with respect to transactions in the subject offering. However, the individual is not prohibited from qualifying for this exemption with respect to any other offering so long as all requirements are satisfied.

## **660:11-5-23. Coordinated limited offering issuer agent exemption [AMENDED]**

By authority delegated to the Administrator in Section ~~1-402.B.91-402(B)~~91-402(B)(9) of the Securities Act, an individual meeting all of the following conditions is determined to be exempt from the registration requirement of Section 1-402 of the Securities Act:

- (1) The subject offering is conducted in a manner to be exempt pursuant to 660:11-11-43.
- (2) The individual represents the issuer in functioning as an agent in the subject offering.
- (3) The individual is not compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities.
- (4) Such individual has not within the past five (5) years been subject to the following in connection with a violation of a state or federal securities law or regulation: an order denying, suspending or revoking registration or a cease and desist order of the Administrator; any similar order, judgment, or decree by another state securities agency, the SEC, or any self-regulatory securities organization; or an order of any court of competent jurisdiction temporarily, preliminarily or permanently enjoining such person.



(5) The exemption is only available with respect to transactions in the subject offering. However, the individual is not prohibited from qualifying for this exemption with respect to any other offering so long as all requirements are satisfied.

### **660:11-5-24. Oklahoma Accredited Investor issuer agent exemption [AMENDED]**

By authority delegated to the Administrator in Section ~~1-402.B.91-402(B)(2)~~ of the Securities Act, an individual meeting all of the following conditions is determined to be exempt from the registration requirements of Section 1-402 of the Securities Act:

- (1) The subject offering is conducted in a manner to be exempt pursuant to 660:11-11-52.
- (2) The individual represents the issuer in functioning as an agent in the subject offering.
- (3) The individual is not compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities.
- (4) Such individual has not within the past five (5) years been subject to the following in connection with a violation of a state or federal securities law or regulation: an order denying, suspending or revoking registration or a cease and desist order of the Administrator; any similar order, judgment, or decree by another state securities agency, the SEC, or any self-regulatory securities organization; or an order of any court of competent jurisdiction temporarily, preliminarily or permanently enjoining such person.
- (5) The exemption is only available with respect to transactions in the subject offering. However, the individual is not prohibited from qualifying for this exemption with respect to any other offering so long as all requirements are satisfied.

### **660:11-5-25. Registration relief for military service members and their spouses [AMENDED]**

(a) **Definitions.** For purposes of this Section:

- (1) **"Military Service Member"** means any member of the Armed Forces or Reserves of the United States, National Guard of any state, the Military Reserves of any state, or the Naval Militias of any state.
- (2) **"Military Spouse"** means an individual who is the current spouse of a Military Service Member who is on active duty in this state or claims residency in this state for the six months prior to assignment to active duty or during the period of active duty

(b) **Initial registration of a military service member.**

- (1) The Administrator shall consider the equivalent education, training, and experience completed by an applicant while the applicant was a member of the United States Armed Forces or Reserves, National Guard of any state, the Military Reserves of any state, or the Naval militias of any state, and apply it in the manner most favorable toward satisfying the qualification for registration.
- (2) A Military Service Member, who meets the following requirements, may apply to the Administrator for expedited review for registration under the Securities Act. An applicant shall:
  - (A) Submit a complete application for registration on the forms prescribed by the Administrator;
  - (B) Notify the Administrator in writing that the Military Service Member is seeking expedited review of the application;
  - (C) Submit the filing fee specified in Section 1-612 of the Securities Act except as provided in (4) of this subsection;
  - (D) Submit evidence of passing scores on examinations equivalent to those required by 660:11-5-16; and
  - (E) Provide any other documentation as required by the Administrator.
- (3) No applicant for registration under this Section shall be qualified for expedited review if the applicant is or has been the subject of disqualifying disciplinary action as set forth in Section ~~1-411.D1-411(D)~~ of the Securities Act or has been discharged for cause from a broker-dealer or investment adviser.
- (4) A Military Service Member who makes an initial application within one year of completion of military service may request a waiver of the initial filing fee specified in Section 1-612 of the Securities Act. An applicant shall, upon application, notify the Administrator in writing that the Military Service Member is seeking waiver of the initial filing fee.

(c) **Status of a military service member.**

- (1) **Inactive status of currently registered agents.**
  - (A) If a registered agent of a broker-dealer or issuer volunteers for or is called into active duty as a Military Service Member, the agent shall be deemed to be on inactive status upon prompt notification to the Administrator, in writing, of the individual's activation into military duty. That individual will be deemed to be reactivated upon the agent's return to active association with the broker-dealer or issuer.

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Such agent shall remain eligible to receive transaction-related compensation, including continuing commissions. The associated broker-dealer or issuer also may allow such agent to enter into an arrangement with another registered agent of the broker-dealer or issuer to take over and service the agent's accounts and to share transaction-related compensation based upon the business generated by such accounts. However, because such agents are deemed to be inactive, they may not perform any of the functions and responsibilities performed by a registered agent.

(B) A registered agent who is deemed to be on inactive status under (A) of this paragraph shall not be required to pay the fee specified in Section 1-612 of the Securities Act during the time of that agent's inactive status and for one year thereafter.

(C) The relief provided under this paragraph shall be available only to a registered agent who is deemed to be on inactive status under (A) of this paragraph during the period that such agent remains registered with the broker-dealer or issuer with which the agent was registered at the beginning of active duty, regardless of whether the agent returns to active association with another broker-dealer or issuer upon completion of the agent's active duty.

(D) The relief provided under this paragraph shall be available only to an individual registered as an agent under the Securities Act and only with respect to the period specified in connection with that individual's service on active military duty. Further, the broker-dealer or issuer with whom such agent is registered shall promptly notify the Administrator, in writing, of such agent's return to active association with the broker-dealer or issuer.

## **(2) Inactive status of sole proprietorships.**

(A) If a broker-dealer that is a sole proprietor temporarily closes his or her business by reason of volunteering for or being called into active military duty, the broker-dealer shall be deemed to be on inactive status upon prompt notification to the Administrator, in writing, of the individual's activation into active military duty.

(B) A sole proprietor Military Service Member deemed to be on inactive status as set forth in this paragraph shall not be required to pay the fee as specified in Section 1-612 of the Act during the pendency of such inactive status and for one year thereafter.

(C) The relief described in this paragraph shall be provided only to a sole proprietor Military Service Member and only with respect to the period specified in connection with that individual's service on active military duty. Further, the sole proprietor shall promptly notify the Administrator, in writing, of his or her return to active participation in the investment banking or securities business. The sole proprietor must promptly file an updated Form ~~U-4~~U4.

## **(3) Status of formerly registered agents.**

(A) If an agent who was formerly registered with a broker-dealer or issuer volunteers for or is called into active military duty at any time after the date the individual ceased to be registered with a broker-dealer or issuer but during the period of validity of the individual's prior examination scores as set forth in ~~660:11-5-16~~ ("examination scores validity periods"), the Administrator shall extend the period of validity of the individual's scores by the individual's period of active military service; provided, the validity of the scores will continue for no less than one (1) year following the individual's completion of active military service.

(B) If an individual deemed to be on inactive status as an agent while serving as a Military Service Member ceases to be registered with a broker-dealer or issuer, the Administrator shall extend the individual's examination scores validity periods by the remaining period of the individual's active military service.

(C) An individual applying to become registered with a broker-dealer or issuer within one (1) year following the completion of the individual's active military service shall not be required to pay the fee specified in Section 1-612 of the Securities Act; provided the fee relief in this subparagraph shall only apply to the individual's first application for registration during such period.

## **(d) Initial registration of a military spouse.**

(1) A Military Spouse who meets the following requirements may apply to the Administrator for expedited review for registration under the Securities Act. An applicant shall:

(A) Submit a complete application for registration on the forms prescribed by the Administrator;

(B) Notify the Administrator in writing that the Military Spouse is seeking expedited review of the application;

(C) Submit evidence of passing scores on examinations equivalent to those required by 660:11-5-16;

(D) Submit the filing fee specified in Section 1-612 of the Securities Act; and

- (E) Provide any other documentation as required by the Administrator.
- (2) This subsection does not apply if the applicant is or has been the subject of disqualifying disciplinary action as set forth in Section ~~1-411-D~~ 1-411(D) of the Securities Act or has been discharged for cause from a broker-dealer or investment adviser.
- (3) This subsection does not apply to a Military Spouse who does not claim residence in the state of Oklahoma.

## 660:11-5-26. Merger and acquisition broker exemption [AMENDED]

(a) **Definitions.** For purposes of this Section:

(1) **"Business combination related shell company"** means a shell company that is formed by an entity that is not a shell company:

(A) solely for the purpose of changing the corporate domicile of that entity solely within the United States; or

(B) solely for the purpose of completing a business combination transaction as defined under Rule 165(f) of the 1933 Act [17 C.F.R. §230.165(f)] among one or more entities other than the company itself, none of which is a shell company.

(2) **"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, upon completion of a transaction, the buyer or group of buyers:

(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 2025 percent or more of a class of voting securities or the power to sell or direct the sale of 2025 percent or more of a class of voting securities; or

(C) (B) in the case of a partnership or limited liability company, has the right to receive upon dissolution, or has contributed, 2025 percent or more of the capital.

(3) **"Eligible privately held company"** means a privately held company meeting that meets 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. 78f, [15 U.S.C. §78f] 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) [15 U.S.C. §78o(d)]; and

(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.

(4) **"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 if the broker-dealer reasonably believes that:

(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,

(i) 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

(ii) 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 with the assets of the eligible privately held company, including without limitation, for example, by:

(I) electing executive officers;

(II) approving the annual budget;

(III) serving as an executive or other executive manager; or

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(IV) carrying out such other activities as the Administrator may, by rule, determine to be in the public interest; 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 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; 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)(5).~~ **"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. 78f, 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)(B)~~ 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.**

(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:

(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

(B) multiplying such dollar amount by the quotient obtained under (A).

(2) Each dollar amount determined under (i) of this subsection shall be rounded to the nearest multiple of \$100,000.

~~(c)(b).~~ **Exemption.** Except as provided in ~~(d) and (c)(c) and (d)~~ of this Section, a Merger and Acquisition Broker shall be exempt from registration as a broker-dealer under ~~this Section 1-401 of the Securities Act.~~

~~(d)(c).~~ **Excluded Activities**~~activities.~~ A ~~merger and acquisition broker~~ Merger and Acquisition Broker is not exempt from registration under ~~this paragraph (b) of this Section~~ if such ~~broker-dealer~~ broker 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. 78f~~ 15 U.S.C. §78f 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)~~ 15 U.S.C. §78o(d).

(3) Engages on behalf of any party in a transaction involving a public-shell company other than a business combination related shell company.

(4) Directly, or indirectly through any of its affiliates, provides financing related to the transfer of ownership of an eligible privately held company.

(5) Assists any party to obtain financing from an unaffiliated third party without:

(A) complying with all other applicable laws in connection with such assistance, including, if applicable, Regulation T of the Federal Reserve Board [12 C.F.R. §220.1 through §220.132]; and

(B) disclosing any compensation in writing to the party.

(6) Represents both the buyer and the seller in the same transaction without providing clear written disclosure as to the parties the broker represents and obtaining written consent from both parties to the joint representation.

(7) Facilitates a transaction with a group of buyers formed with the assistance of the Merger and Acquisition Broker to acquire the eligible privately held company.

(8) Engages in a transaction involving the transfer of ownership of an eligible privately held company to a passive buyer or group of passive buyers.

(9) Binds a party to a transfer of ownership of an eligible privately held company.

**(c) 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 (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).

**(d) Disqualifications.** A merger and acquisition broker is not exempt from registration under (b) of this Section if such broker (and if and as applicable, including any officer, director, member, manager, partner, or employee of such broker):

(1) has been barred from association with a broker or dealer by the Administrator, any State, or any self-regulatory organization; or

(2) is suspended from association with a broker or dealer.

**(e) Rules of construction.** Nothing in this paragraph shall be construed to limit any other authority of the Administrator to exempt any person, or any class of persons, from any provision of the Securities Act, or from any provision of any rule or regulation thereunder.

**(f) Inflation adjustment.**

(1) In General. 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)(3)(B) shall be adjusted by:

(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

(B) multiplying such dollar amount by the quotient obtained under (A).

(2) Rounding. Each dollar amount determined under (1) of this subsection shall be rounded to the nearest multiple of \$100,000.

### PART 5. REPORTING REQUIREMENTS

#### 660:11-5-31. Post-registration reporting requirements [AMENDED]

**(a) Filing requirement.** Pursuant to Section ~~1-410(B)~~ 410(B) of the Securities Act, all broker-dealers registered under Section 1-406 of the Securities Act who are not FINRA members must make post-registration filings with the Department. The Department will not accept incomplete or piecemeal filings. Failure to file a complete report when due may result in the suspension or revocation of registration.

**(b) Report content.** Such registered broker-dealers shall make one (1) post-registration filing each fiscal year. Said filing shall contain audited financial statements as of the broker-dealer's fiscal year end and the report filing fee specified in Section 1-612 of the Securities Act.

**(c) Report filing dates.** Post-registration filings become due on the last day of the fiscal period to which they apply; however, a grace period is provided before a filing becomes delinquent. The filing must be made by the last day of the fourth month following the close of the registrant's fiscal year.

### PART 7. RECORD KEEPING AND ETHICAL STANDARDS

#### 660:11-5-41. Books and records requirements for broker-dealers [AMENDED]

17 CFR §240.17a-3 (2013) and 17 CFR §240.17a-4 (2014), books and records rules established by the SEC under the 1934 Act, are hereby incorporated by reference as if fully set forth into this Chapter. Every broker-dealer registered or required to be registered under the Securities Act shall make and keep true, accurate, and current the books and records as required by the SEC under Rule 17a-3 of the 1934 Act [17 C.F.R. §240.17a-3] as effective April 6, 2020, and Rule 17a-4 of the 1934 Act [17 C.F.R. §240.17a-4] as effective August 2, 2024).

#### 660:11-5-42. Dishonest and unethical practices of broker-dealers and agents [AMENDED]

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(a) **Purpose.** This Section is intended to set forth the standards of ethical practices for broker-dealers and agents. Any noncompliance with the standards of ethical practices specified in this section will constitute unethical practices in the securities business as the same is set forth in Section ~~1-411-D-13~~ 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 broker-dealers, and their agents, in connection with their activities in this state shall be just, reasonable and not unfairly discriminatory.

(b) **Standards.**

(1) A broker-dealer and its agents, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade. A broker-dealer and its agents shall not violate any federal securities statute or rule or any rule of a national securities exchange or national securities association of which it is a member with respect to any customer, transaction or business effected in this state.

(2) Recommendations

(A) A broker-dealer and its agents shall have reasonable grounds for believing that a recommended transaction or investment strategy involving a security or securities is suitable for such customer based upon the customer's investment profile. A customer's investment profile includes, but is not limited to, the customer'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 customer or known to the broker-dealer or agent.

(B) A broker-dealer and its agents fulfill the customer-specific suitability obligation for an institutional account, as defined in 660:11-1-3, if (i) the broker-dealer or agent has a reasonable basis to believe that the institutional customer 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 customer affirmatively indicates that it is exercising independent judgment in evaluating the broker-dealer or agent's recommendations. Where an institutional customer 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.

(3) Charges, if any, for services performed, including miscellaneous services such as collection of monies due for principal, dividends, or interest, exchange or transfer of securities, appraisals, safekeeping or custody of securities, and other services, shall be reasonable and not unfairly discriminatory between customers.

(4) In "over-the-counter" transactions, whether in "listed" or "unlisted" securities, if any broker-dealer or agent of a broker-dealer buys for their own account from their customer, or sells for their own account to their customer, they shall buy or sell at a price which is fair, taking into consideration all relevant circumstances, including market conditions with respect to such security at the time of the transaction, the expense involved, and the fact that they are entitled to a profit; and if they act as agent for their customer in any such transaction, they shall not charge their customer more than a fair commission or service charge, taking into consideration all relevant circumstances including market conditions with respect to such security at the time of the transaction, the expense of executing the order and the value of any service they may have rendered by reason of their experience in and knowledge of such security and the market therefor.

(5) No broker-dealer or agent of a broker-dealer shall publish or circulate, or cause to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security. If nominal quotations are used or given, they shall be clearly stated or indicated to be only nominal quotations.

(6) No broker-dealer or agent of a broker-dealer shall make an offer to buy from or sell to any person any security at a stated price unless such broker-dealer or agent is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell.

(7) A broker-dealer, when a member of a selling syndicate or a selling group, shall purchase securities taken in trade at a fair market price at the time of purchase, or shall act as agent in the sale of such securities.

(8) A broker-dealer who in the capacity of paying agent, transfer agent, trustee, or any other similar capacity, has received information as to the ownership of securities, shall under no circumstances make use of such information for the purpose of soliciting purchases, sales or exchanges except at the request and on behalf of the issuer.

(9) No broker-dealer or agent of a broker-dealer shall, directly or indirectly, give, permit to be given, or offer to give, anything of value to any person for the purpose of influencing or rewarding the action of such person in connection with the publication or circulation in any newspaper, investment service, or similar publication, of any matter which has, or is intended to have, an effect upon the market price of any security, provided that this rule shall not be construed to apply to matter which is clearly distinguishable as paid advertising.

(10) A broker-dealer at or before the completion of each transaction with a customer shall give or send to each customer written notification disclosing:

- (A) whether such broker-dealer is acting as a broker for such customer and some other person; and
- (B) in any case in which such broker-dealer is acting as a broker for such customer or for both such customer and some other person, either the name of the person from whom the security was purchased or to whom it was sold for such customer and the date and the time when such transaction took place or the fact that such information will be furnished upon the request of such customer, and the source and amount of any commission or other remuneration received or to be received by such broker-dealer in connection with the transaction.

(11) A broker-dealer or agent of a broker-dealer controlled by, controlling, or under common control with, the issuer of any security, shall, before entering into any contract with or for a customer for the purchase or sale of such security, disclose to such customer the existence of such control, and if such disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction.

(12) A broker-dealer or agent of a broker-dealer who is acting as a broker for a customer or for both such customer and some other person, or a broker-dealer who is acting as a dealer and who receives or has promise of receiving a fee from a customer for advising such customer with respect to securities, shall, at or before the completion of any transaction for or with such customer in any security in the primary or secondary distribution of which such broker-dealer is participating or is otherwise financially interested, give such customer written notification of the existence of such participation or interest.

(13) The following standards shall apply to discretionary accounts:

(A) No broker-dealer or agent of a broker-dealer shall effect with or for any customer's account in respect to which such broker-dealer or agent or employee is vested with any discretionary power any transactions of purchase or sale which are excessive in size or frequency in view of the financial resources of such customer and character of such account.

(B) No broker-dealer or agent of a broker-dealer shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the broker-dealer, as evidenced in writing by the broker-dealer or the partner, officer, or manager duly designated by the broker-dealer, in accordance with (22) of this subsection.

(C) The broker-dealer or the person duly designated shall approve promptly, in writing, each discretionary order entered and shall review all discretionary accounts at frequent intervals in order to detect and prevent transactions which are excessive in size or frequency in view of the financial resources of the customer and the character of the account.

(D) This section shall not apply to:

- (i) discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite amount of a specified security shall be executed, except that the authority to exercise time and price discretion will be considered to be in effect only until the end of the business day on which the customer granted such discretions, absent a specific, written contrary indication signed and dated by the customer. This limitation shall not apply to time and price discretions exercised in an institutional account, as defined in 660:11-1-3, pursuant to valid Good-Till-Cancelled instructions issued on a "not-held" basis. Any exercise of time and price discretion must be reflected on the order ticket;
- (ii) bulk exchange at net asset value of money market mutual funds ("funds") utilizing negative response letters provided:

(I) ~~The~~the bulk exchange is limited to situations involving mergers and acquisitions of funds, changes of clearing members, and exchanges of funds used in sweep accounts;

(II) ~~The~~the negative response letter contains a tabular comparison of the nature and amount of the fees charged by each fund;

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(III) ~~The~~the negative response letter contains a comparative description of the investment objectives of each fund and a prospectus of the fund to be purchased; and;

(IV) ~~The~~the negative response feature will not be activated until at least 30 days after the date on which the letter was mailed.

(14) A broker-dealer or agent of a broker-dealer who is participating or who is otherwise financially interested in the primary or secondary distribution of any security which is not admitted to trading on a national securities exchange, shall make no representation that such security is being offered to a customer "at the market" or at a price related to the market price unless such broker-dealer or agent knows or has reasonable grounds to believe that a market for such security exists other than that made, created, or controlled by such broker-dealer or agent, or by any person for whom he is acting or with whom he is associated in such distribution, or any person controlled by, controlling or under common control with such broker-dealer or agent.

(15) No broker-dealer or agent of a broker-dealer shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device, practice, plan, program, design, or contrivance.

(16) The following standards shall apply to the use of customer funds:

(A) No broker-dealer or person associated with a broker-dealer shall make improper use of a customer's securities or funds.

(B) No broker-dealer or agent of a broker-dealer shall lend, either to themselves or to others, securities carried for the account of any customer, unless such broker-dealer or agent shall first have obtained from the customer a separate written authorization permitting the lending of securities thus carried by such broker-dealer or agent; and, regardless of any agreement between the broker-dealer or agent and a customer authorizing the former to lend or pledge such securities, no broker-dealer or agent shall lend or pledge more of such securities than is fair and reasonable in view of the indebtedness of the customer, except such lending as may be specifically authorized under (C) of this paragraph.

(C) No broker-dealer or agent of a broker-dealer shall lend securities carried for the account of any customer which have been fully paid for or which are in excess of the amount which may be loaned in view of the indebtedness of the customer, unless such broker-dealer or agent shall first have obtained from such customer a separate written authorization designating the particular securities to be loaned.

(D) No broker-dealer or agent of a broker-dealer shall hold securities carried for the account of any customer which have been fully paid for or which are in excess of the amount which may be pledged in view of the indebtedness of the customer, unless such securities are segregated and identified by a method which clearly indicates the interest of such customer in those securities.

(E) No broker-dealer or agent of a broker-dealer shall guarantee a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer or agent with or for such customer.

(F) No broker-dealer or agent of a broker-dealer shall share directly or indirectly in the profits or losses in any account of a customer carried by the broker-dealer or agent or any other broker-dealer or agent, unless such broker-dealer or agent obtains written authorization from the broker-dealer carrying the account; and, a broker-dealer or agent shall share in the profits or losses in any account of such customer only in direct proportion to the financial contributions made to such account by the broker-dealer or agent. Exempt from the direct proportionate share limitation are accounts of the immediate family of such broker-dealer or agent. For purposes of this section, the term "immediate family" shall include parents, mother-in-law or father-in-law, husband or wife, children or any relative to whose support the broker-dealer or agent otherwise contributes directly or indirectly.

(17) The following standards shall apply to customer credit:

(A) No broker-dealer or agent of a broker-dealer shall take or carry any account or make a transaction for any customer under any arrangement which contemplates or provides for the purchase of any security for the account of the customer or for the sale of any security to the customer where payment for the security is to be made to the broker-dealer by the customer over a period of time in installments or by a series of partial payments, unless:

(i) in the event such broker-dealer acts as an agent or broker in such transaction, it shall immediately, in the regular course of its business, make an actual purchase of the security for the account of the customer, and shall immediately, in the regular course of its business, take possession or control of such security and shall maintain possession or control thereof so long as it remains under obligation to delivery of the security to the customer;



- (ii) in the event such broker-dealer acts as a principal in any such transaction, it shall, at the time of such transaction own such security and shall maintain possession or control thereof so long as it remains under obligation to deliver the security to the customer; and
- (iii) the provisions of Regulation T of the Federal Reserve Board, if applicable to such broker-dealer, are satisfied.

(B) No broker-dealer, whether acting as a principal or agent, shall, in connection with any transaction referred to in this Standard, make any agreement with its customer under which such broker-dealer shall be allowed to pledge or hypothecate any security involved in such transaction for any amount in excess of the indebtedness of the customer to such broker-dealer.

(18) The following standards shall apply to books and records:

(A) Each broker-dealer shall keep and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws, rules, regulations, and statements of policy promulgated by the Administrator and/or the Commission under the Securities Act.

(B) Each broker-dealer shall keep and preserve in each office of supervisory jurisdiction, as defined in 660:11-5-2, either a separate file of all written complaints of customers and action taken by the broker-dealer, if any, or a separate record of such complaints and clear reference to the files containing the correspondence connected with such complaints as maintained in such office.

(19) A broker-dealer shall make available to inspection by any bona fide regular customer, upon request, the information relative to such broker-dealer's financial condition as disclosed in its most recent balance sheet prepared either in accordance with such broker-dealer's usual practice or as required by the state or federal securities laws, or any rule or regulation promulgated thereunder.

(20) No broker-dealer or agent of a broker-dealer shall offer any security or confirm any purchase or sale of any security, from or to any person not actually engaged in the investment banking or securities business at any price which shows a concession, discount, or other allowance, but shall offer such security and confirm such purchase or sale at a net dollar or basis price.

(21) Selling concessions, discounts, or other allowances, as such, shall be allowed only as consideration for services rendered in distribution and in no event shall be allowed to anyone other than a broker-dealer registered under the Securities Act actually engaged in the investment banking or securities business; provided however, that nothing in this standard shall prevent any broker-dealer from selling any security owned by him to any person at any net price which may be fixed by him unless prevented therefrom by agreement.

(22) The following standards shall apply to supervisory procedures:

(A) Each broker-dealer shall establish, maintain and enforce written procedures which will enable it to supervise properly the activities of each registered agent and associated person to assure compliance with applicable securities laws, rules, regulations and statements of policy promulgated by the Administrator and/or the Commission under the Securities Act.

(B) Final responsibility for proper supervision shall rest with the broker-dealer, the principal(s) of the broker-dealer registered in accordance with 660:11-5-11, and the principal(s) of the broker-dealer in each OSJ, including the main office, and the registered representatives in each non-OSJ branch office designated by the broker-dealer to carry out the supervisory responsibilities assigned to that office by the broker-dealer pursuant to the rules and regulations of FINRA. A copy of the written supervisory procedures shall be kept in each office of supervisory jurisdiction and each non-OSJ branch office.

(C) Each broker-dealer shall be responsible for keeping and preserving appropriate records for carrying out such broker-dealer's supervisory procedures. Each broker-dealer shall review and endorse in writing, on an internal record, all transactions and all correspondence of its registered agents pertaining to the solicitation or execution of any securities transaction.

(D) Each broker-dealer shall review the activities of each office, which shall include the periodic examination of customer accounts to detect and prevent irregularities or abuses and conduct at least an annual inspection of each office of supervisory jurisdiction.

(E) Each broker-dealer shall have the responsibility and duty to ascertain by investigation the good character, business repute, qualifications and experience of any person prior to making such a certification in the application of such person for registration under the Securities Act.

(23) The following standards shall apply to financial information:

(A) Each broker-dealer offering or selling securities not listed on a registered national securities exchange recognized by the Administrator shall have and furnish to customers, on request, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, prepared in accordance with

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generally accepted accounting principles, the names of the issuer's proprietors, partners or officers, the nature of the enterprise of the issuer and any other available information reasonably necessary for evaluating the desirability or the lack of desirability of investing in the securities of the issuer.

(B) Each broker-dealer who, in computation of net capital includes securities not listed on a registered national securities exchange recognized by the Administrator shall also have the information provided for in (A) of this paragraph available and shall, upon request, furnish same to the Department.

(C) All transactions in such securities described in (A) and (B) of this paragraph shall comply with the provisions of Section 1-301 of the Securities Act.

(D) The provisions of (A) of this paragraph shall not be required in unsolicited transactions, except when numerous unsolicited transactions in a particular security are occurring, it shall be the duty and responsibility of the broker-dealer to make reasonable effort to secure and provide to customers upon their written request the information required by the provisions of (A) of this paragraph. Nothing contained in this Section shall be construed to limit the powers of the Administrator under Section 1-204 of the Securities Act.

(24) The following standards shall apply when a broker-dealer shares an office with an independent investment adviser that has an investment adviser representative who regularly conducts business in the office and is not registered as an agent of the broker-dealer.

(A) The broker-dealer and the independent investment adviser shall reduce any agreement between them to writing.

(B) The broker-dealer shall take appropriate measures, including, but not limited to, adequate disclosures to eliminate the appearance of an agency relationship between the broker-dealer and the independent investment adviser when one does not otherwise exist.

(C) The broker-dealer shall comply with all applicable Oklahoma and federal laws requiring the safeguarding of customer data from disclosure to the independent investment adviser and investment adviser representative.

(25) No broker-dealer or agent shall engage in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of any of its customers.

(26) No broker-dealer or agent shall execute a transaction on behalf of a customer without authorization to do so.

(27) No broker-dealer or agent shall enter any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account.

(28) No broker-dealer or agent shall enter into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit.

(29) No broker-dealer or agent shall fail to furnish to a customer purchasing securities in an offering, no later than the due date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and an additional document, which together include all information set forth in the final prospectus.

(30) No broker-dealer or agent shall use any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material, or presentation based on conjecture, unfounded or unrealistic claims or assertions in any brochure, flyer, or display by words, pictures, graphs, or otherwise designed to supplement, detract from, supersede, or defeat the purpose or effect of any prospectus or disclosure.

(31) No broker-dealer or agent shall fail to make a bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member.

(32) No broker-dealer or 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.

(33) No broker-dealer or agent shall execute securities transactions not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction.

(34) No broker-dealer or agent shall establish or maintain an account containing fictitious information in order to execute transactions which would otherwise be prohibited.

(35) No broker-dealer or agent shall divide or otherwise split the agent's commissions, profits, or other compensation from the purchase or sale of securities with any person not also registered as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control.

~~(36) No broker-dealer or agent shall fail to pay and fully satisfy any final judgment or arbitration award, resulting from an investment-related, customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to 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.~~

~~(37) No broker-dealer or agent shall attempt to avoid payment of, or fail to pay and fully satisfy, any final judgment or arbitration award resulting from an investment-related, customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to 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.~~

~~(38)~~(37) No broker-dealer or agent shall fail to pay and fully satisfy any fine, civil penalty, order of restitution, order of disgorgement, or similar monetary payment obligation imposed upon the broker-dealer or agent by the Securities and Exchange Commission, the securities or other financial services regulator of any state or province, or any self-regulatory organization.

## **660:11-5-43. Examination of broker-dealers [AMENDED]**

(a) **Periodic examinations.** The business and records of each broker-dealer registered under the Securities Act may be periodically examined by the Administrator and/or person(s) designated by ~~him~~the Administrator at such times and in such scope as the Administrator determines prudent and necessary for the protection of the public. A report of each such examination shall be prepared.

(b) **Department access.** Each broker-dealer scheduled for examination shall provide the personnel of the Department access to business books, documents, and other records. Each broker-dealer shall provide personnel with office space and facilities to conduct on-site examinations, and assistance in the physical inspection of assets and confirmation of liabilities. Failure of any applicant or registrant to provide such access shall constitute a violation of this section and shall be a basis for denial, suspension or revocation of the registration or application for registration.

## **660:11-5-45. Financial statements for non-FINRA broker-dealers [AMENDED]**

(a) **Required financial statements.** Applications for registration for non-FINRA member broker-dealers shall contain audited financial statements for the applicant as of the end of its last fiscal year. Applicants that have commenced operating, but have been in operation for less than twelve (12) months shall submit an unaudited statement of financial condition as of a date within ninety (90) days of the date of the filing of the application and an unaudited statement of income for the period beginning from the date of inception through the date as of which the statement of financial condition is prepared.

(b) **Net capital computation.** Financial statements submitted by or on behalf of a broker-dealer shall include a statement of net capital for the broker-dealer and a schedule presenting a computation of net capital as of each statement of financial condition date. The computation of net capital shall be calculated according to the formula established by the SEC in Rule 15c3-1 under the 1934 Act ~~17 CFR 240.15c3-1~~[17 C.F.R. §240.15c3-1] as effective October 21, 2019.

(c) **Waiver.** The Administrator in the Administrator's discretion may waive any of the requirements of this section 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 reasons therefor.

## **SUBCHAPTER 7. INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES**

### **PART 1. GENERAL PROVISIONS**

#### **660:11-7-2. 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:

"Access person" means:

(A) any of the investment adviser's supervised persons:

- (i) who has access to the non-public information regarding any client's purchase or sale of securities, or non-public information regarding the portfolio holdings of any reportable fund, or
- (ii) who is involved in making securities recommendations to clients or who has access to such recommendations that are non-public.

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(B) if providing investment advice is the investment adviser's primary business, all of its directors, officers, and partners are presumed to be access persons.

**"Advisory affiliate"** means an advisory affiliate as defined by the Glossary of Terms for the Form ADV.

**"Beneficial ownership"** means ownership that meets the requirements of section 16 of the 1934 Act (~~15 U.S.C. 78p~~) [15 U.S.C. §78p] and the rules and regulations thereunder including Rule 16a-1 under the 1934 Act ~~17 C.F.R. 240.16a-1~~ [17 C.F.R. §240.16a-1]. Any report required by Rule 204A-1(b) of the Advisers Act ~~17 C.F.R. 275.204A-1(b)~~ [17 C.F.R. §275.204A-1(b)] may contain a statement that the report will not be construed as an admission that the person making the report has any direct or indirect beneficial ownership in the security to which the report relates.

**"Chief compliance officer"** means a supervised person with the authority and resources to develop and enforce an investment adviser's policies and procedures. The individual designated to serve as chief compliance officer must be registered in the chief compliance officer's home state as an investment adviser representative of the investment adviser and must have the background and skills appropriate for fulfilling the responsibilities of the position.

**"Fund"** means an investment company registered under the Investment Company Act of 1940.

**"IARD"** means the FINRA-operated Investment Adviser Registration Depository.

**"Impersonal advisory services"** means investment advisory services provided solely:

(A) by means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts;

(B) through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or

(C) any combination of the foregoing services.

**"Initial public offering"** means an offering of securities under the 1933 Act (~~15 U.S.C. 77a~~) [15 U.S.C. §77a], the issuer of which, immediately before the registration, was not subject to the reporting requirements of sections 13 or 15(d) of the 1934 Act (~~15 U.S.C. 78m or 78o(d)~~) [15 U.S.C. §78m or §78o(d)].

**"Investment company contract"** means a contract with an investment company registered under the 1940 Act that meets the requirements of Section 15(c) of that Act [15 U.S.C. §80a-15].

**"Limited offering"** means an offering that is exempt from registration under section ~~4(2)4(a)(2)~~ or section ~~4(5)4(a)(5)~~ of the 1933 Act (~~15 U.S.C. 77d(2) or 77(d)(5)~~) [15 U.S.C. 77d(a)(2) or 77d(a)(5)] or sections Rules 504, 505, or 506 of Regulation D of the Securities Act of 1933 ~~Act (17 C.F.R. 230.504, 230.505, or 230.506)~~ [17 C.F.R. §230.504 or §230.506].

**"Non-related person"** means not a "Related person" as defined by the Glossary of Terms for the Form ADV.

**"Office"** means any location where an investment adviser and/or one or more of its investment adviser representatives provides investment advisory services, solicits, meets with, or otherwise communicates with clients or holds the location out to the general public as a place at which an investment adviser and/or one or more of its investment adviser representatives provides investment advisory services, solicits, meets with, or otherwise communicates with clients.

**"Reportable security"** means a security as defined in section 202(a)(18) of the 1933 Act (~~15 U.S.C. 80b-2(a)(18)~~), except that it does not include:

(A) direct obligations of the government of the United States;

(B) banker's acceptances, bank certificates of deposit, commercial paper and high-quality short-term debt instruments, including repurchase agreements;

(C) shares issued by money market funds;

(D) shares issued by open-end funds other than reportable funds; and

(E) shares issued by unit investment trusts that are invested exclusively in one or more open-end funds, none of which are reportable funds.

**"Solicitor"** means any person who, directly or indirectly, solicits any client for, or refers any client to, an investment adviser.

**"Supervised person"** means any partner, officer, director (or other person occupying a similar status or performing similar functions), or employee of an investment adviser, or other person who provides investment advice on behalf of the investment adviser and is subject to the supervision and control of the investment adviser. The definition includes investment adviser representatives, employees, independent contractors, or other associated persons and supervised personnel, or other persons acting on behalf of the investment adviser.

## PART 3. LICENSING PROCEDURES

### 660:11-7-11. Initial registration [AMENDED]

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(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 ~~F and H~~ 1 and 2 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 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;
- (3) if a natural person, must have ~~passed the applicable examinations specified in 660:11-7-13~~ filed a Form U4 to apply for registration as an investment adviser representative under the Securities Act and have completed the necessary registration and examination requirements. The filing fee specified in Section 1-612 of the Securities Act for investment adviser representative registration will be waived for a natural person who is registered as an investment adviser. The investment adviser shall not commence operations in this state until the natural person's registration as an investment adviser representative has been approved; 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~~ U4;
  - (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.

(c) **Notice of termination of incomplete applications.**

- (1) **Investment advisers.** The Administrator may send notice to an applicant for investment adviser registration with respect to any incomplete application in which the applicant has taken no action for the 60 days immediately prior to the sending of such notice. The notice will advise such applicant that the incomplete application will be terminated 30 days from the date of sending such notice unless on or before the termination date the applicant responds in writing to the Administrator showing good cause why the application should remain in a pending status. If the applicant does not request in writing that or show good cause why in the Administrator's discretion the applications should remain in a pending status, the Administrator may terminate the pending application.
- (2) **Investment adviser representatives.** The Administrator may send notice to the associated firm of an applicant for investment adviser representative registration with respect to any incomplete application in which the applicant has taken no action for the 60 days immediately prior to the sending of such notice. The notice will advise such applicant that the incomplete application will be terminated 30 days from the date of sending such notice unless on or before the termination date the applicant responds in writing to the Administrator showing good cause why the application should remain in a pending status. If the applicant does not request in writing that or show good cause why in the Administrator's discretion the application should remain in a pending status, the Administrator may terminate the pending application.

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## **660:11-7-13. Examination requirements for investment adviser representatives [AMENDED]**

(a) **Examination 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 (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; or
- (5) ~~Chartered Investment Counselor ("CIC") awarded by the Investment Adviser Association; or~~ Certified Investment Management Analyst ("CIMA") awarded by the Investment & Wealth Institute.
- (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 ~~effectiveness~~ effectiveness 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 [15 U.S.C. §78c(a)(39)] 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) of this paragraph 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) of this paragraph.
- (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.

## **660:11-7-14. Investment adviser and investment adviser representative termination [AMENDED]**

- (a) **Filing requirement.** Notice of termination of registration shall be promptly given;
- (1) on behalf of an investment adviser by filing a Form ADV-W. The Form ADV-W shall be filed with the IARD; and
  - (2) on behalf of an investment adviser representative by filing a completed Form U5. The Form U5 shall be filed with ~~IARD~~ or CRD.
- (b) **Responsibility for filing on behalf of the investment adviser representative.** A completed Form U5 signed by the investment adviser will be accepted as fulfilling the statutory requirements of both the investment adviser and the investment adviser representative. Upon verification that the Form U5 has not been filed by the investment adviser, the investment adviser representative shall notify the Department in writing of the termination.
- (c) **Amendments.** If the information contained in a Form ADV-W or Form U5 becomes inaccurate or incomplete, the investment adviser shall promptly file a correcting amendment after learning of the facts and circumstance giving rise to the amendment.
- (d) **Effect of failure to file.** In the event of termination, the filing of a future application for registration shall not be considered complete until a termination notice is filed.

## **660:11-7-16. Solicitor exemption [AMENDED]**

By authority delegated to the Administrator in Section ~~1-404.B.21-404(B)(2)~~ of the Securities Act, an individual whose only activity on behalf of an investment adviser is to solicit clients for same is exempt from the requirement to register as an investment adviser representative of such investment adviser if the individual is separately registered as an investment adviser representative of another investment adviser or is individually registered as an investment adviser.

## **660:11-7-17. Registration exemption for investment advisers to qualifying private funds. [AMENDED]**

- (a) **Definitions.** For purposes of this regulation, the following definitions shall apply:
- (1) **"Private fund"** means an issuer that would be an investment company, as defined in section 3 of the 1940 Act, but for section 3(c)(1) or 3(c)(7) of the 1940 Act, as provided in Section 202(a)(29) of the Advisers Act. **"3(c)(1) fund"** means a qualifying private fund that is eligible for the exclusion from the definition of an investment company under section 3(c)(1) of the 1940 Act, [15 U.S.C. §80a-3(c)(1)].
  - (2) **"Private fund adviser"** means an investment adviser who provides advice solely to one or more qualifying private funds and has assets under management in the United States of less than \$150,000,000.
  - (3) **"Qualifying private fund"** means a private fund that meets the definition of a qualifying private fund in SEC Rule 203(m)-1, 17 C.F.R. 275.203(m)-1 under the Advisers Act [17 C.F.R. §275.203(m)-1]. ~~The term may include an issuer that may be treated as a private fund for purposes of the exemption provided by SEC Rule 203(m)-1, 17 C.F.R. 275.203(m)-1.~~
  - (4) **"Value of primary residence"** means the fair market value of a person's primary residence, subtracted by the amount of debt secured by the property up to its fair market value.
  - (5) **"Venture capital fund"** means a private fund that meets the definition of a venture capital fund in Rule 203(l)-1 under the Advisers Act, [17 C.F.R. §275.203(l)-1].

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**(b) Exemption for private fund advisers.** ~~A private fund adviser shall be exempt from the registration requirements of Section 1-403 if the private fund adviser satisfies each of the following conditions: Subject to the additional requirements of (c) of this Section, a private fund adviser shall be exempt from the registration requirements of Section 1-403 of the Securities Act if the private fund adviser satisfies each of the following conditions:~~

- ~~(1) neither the private fund adviser nor any of its advisory affiliates are subject to a disqualification as described in Rule 262 of SEC Regulation A, 17 C.F.R. § 230.262;~~
- ~~(2) the private fund adviser files with the state as a notice each report and amendment thereto that an exempt reporting adviser is required to file with the Securities and Exchange Commission pursuant to SEC Rule 204-4, 17 C.F.R. § 275.204-4, and~~
- ~~(3) the private fund adviser pays the fees specified in Section 1-612.A.5:~~
  - ~~(1) neither the private fund adviser nor any of its advisory affiliates are subject to an event that would disqualify an issuer under Rule 506(d)(1) of Regulation D of the 1934 Act [17 C.F.R. §230.506(d)(1)];~~
  - ~~(2) the private fund adviser files with the state each report and amendment thereto that an exempt reporting adviser is required to file with the SEC pursuant to Rule 204-4 of the Advisers Act [17 C.F.R. §275.204-4]; and~~
  - ~~(3) the private fund adviser pays the fees specified in 1-612 of the Securities Act.~~

**(c) Additional requirements for private fund advisers to certain 3(c)(1) funds.** In order to qualify for the exemption described in (b) of this Section, a private fund adviser who advises at least one (3)(c)(1) fund that is not a venture capital fund shall, in addition to satisfying each of the conditions specified in (b)(1) through (b)(3) of this Section, comply with the following requirements:

- (1) The private fund adviser shall advise only those 3(c)(1) funds (other than venture capital funds) whose outstanding securities (other than short-term paper) are beneficially owned entirely by persons who, after deducting the value of the primary residence from the person's net worth, would each meet the definition of a qualified client in Rule 205-3 of the Advisers Act, [17 C.F.R. §275.205-3], at the time the securities are purchased from the issuer;
- (2) At the time of purchase, the private fund adviser shall disclose the following in writing to each beneficial owner of a 3(c)(1) fund that is not a venture capital fund:
  - (A) all services, if any, to be provided to individual beneficial owners;
  - (B) all duties, if any, the investment adviser owes to the beneficial owners; and
  - (C) any other material information affecting the rights or responsibilities of the beneficial owners.
- (3) The private fund adviser shall obtain on an annual basis audited financial statements of each 3(c)(1) fund that is not a venture capital fund and shall deliver a copy of such audited financial statements to each beneficial owner of the fund.

**(~~c~~)(d) Federal covered investment advisers.** ~~If a private fund adviser is registered with the Securities and Exchange Commission~~SEC, the adviser shall not be eligible for this exemption and shall comply with the state notice filing requirements applicable to federal covered investment advisers in Section 1-405 of the Securities Act.

**(~~d~~)(e) Investment adviser representatives.** ~~A person is exempt from the registration requirements of Section 1-404 of the Securities Act if he or she is employed by or associated with an investment adviser that is exempt from registration in this state pursuant to this rule and does not otherwise act as an investment adviser representative.~~

**(~~e~~)(f) Electronic filing.** ~~The report filings described in paragraph (b)(2) above shall be made electronically through the IARD. A report shall be deemed filed when the report and the fee required by Section 1-612.A.5~~1-612(A)(5) of the Securities Act are filed and accepted by the IARD on the state's behalf.

**(g) Transition.** An investment adviser who becomes ineligible for the exemption provided by this Section must comply with all applicable laws and rules requiring registration or notice filing within ninety (90) days from the date the investment adviser's eligibility for this exemption ceases.

**(h) Waiver Authority with Respect to Statutory Disqualification.** Paragraph (b)(1) of this Section shall not apply upon a showing of good cause and without prejudice to any other action of the Administrator, if the Administrator determines that it is not necessary under the circumstances that an exemption be denied.

**(i) Grandfathering for investment advisers to 3(c)(1) funds with non-qualified clients.** An investment adviser to a 3(c)(1) fund (other than a venture capital fund) that has one or more beneficial owners who are not qualified clients as described in (c)(1) of this Section is eligible for the exemption contained in (b) of this Section if the following conditions are satisfied:

- (1) the subject fund existed prior to the effective date of this Section;
- (2) as of the effective date of this Section, the subject fund ceases to accept beneficial owners who are not qualified clients, as described in (c)(1) of this Section;
- (3) the investment adviser discloses in writing the information described in (c)(2) of this Section to all beneficial owners of the fund; and



(4) as of the effective date of this Section, the investment adviser delivers audited financial statements as required by (c)(3) of this Section.

## **660:11-7-18. Oil and gas professional exclusion [AMENDED]**

By authority delegated to the Administrator in Section ~~1-102.17(f)~~ 1-102(17)(f) of the Securities Act, the following persons shall be excluded from the definition of "investment adviser" only when giving advice, analyses, interpretations or reports that relate to interests in oil, gas, or other mineral leases: a professional geologist, professional engineer or professional geophysicist and professional petroleum landman who is engaged in the business of exploring for and/or producing oil and gas or other valuable minerals as an ongoing business.

## **660:11-7-19. Registration relief for military service members and their spouses [AMENDED]**

(a) **Definitions.** For purposes of this Section:

- (1) **"Military Service Member"** means any member of the Armed Forces or Reserves of the United States, National Guard of any state, the Military Reserves of any state, or the Naval Militias of any state.
- (2) **"Military Spouse"** means an individual who is the current spouse of a Military Service Member who is on active duty in this state or claims residency in this state for the six months prior to assignment to active duty or during the period of active duty.

(b) **Initial registration of a military service member.**

- (1) The Administrator shall consider the equivalent education, training, and experience completed by an applicant while the applicant was a member of the United States Armed Forces or Reserves, National Guard of any state, the Military Reserves of any state, or the Naval militias of any state, and apply it in the manner most favorable toward satisfying the qualification for registration.
- (2) A Military Service Member, who meets the following requirements, may apply to the Administrator for expedited review for registration under the Securities Act. An applicant shall:
  - (A) ~~Submit~~ submit a complete application for registration on the forms prescribed by the Administrator;
  - (B) ~~Notify~~ notify the Administrator in writing that the Military Service Member is seeking expedited review of the application;
  - (C) ~~Submit~~ submit the filing fee specified in Section 1-612 of the Securities Act except as provided in (4) of this subsection;
  - (D) ~~Submit~~ submit evidence of passing scores on examinations equivalent to those required by 660:11-7-13; and
  - (E) ~~Provide~~ provide any other documentation as required by the Administrator.
- (3) No applicant for registration under this Section shall be qualified for expedited review if the applicant is or has been the subject of disqualifying disciplinary action as set forth in Section ~~1-411-D~~ 1-411(D) of the Securities Act or has been discharged for cause from a broker-dealer or investment adviser.
- (4) A Military Service Member who makes an initial application within one year of completion of military service may request a waiver of the initial filing fee specified in Section 1-612 of the Securities Act. An applicant shall, upon application, notify the Administrator in writing that the Military Service Member is seeking waiver of the initial filing fee.

(c) **Status of a military service member.**

(1) **Inactive status of currently registered investment adviser representatives.**

- (A) If a registered investment adviser representative of an investment adviser volunteers for or is called into active duty as a Military Service Member, the investment adviser representative shall be deemed to be on inactive status upon prompt notification to the Administrator, in writing, of the individual's activation into active military duty. That individual will be deemed reactivated upon the investment adviser representative's return to active association with the investment adviser. The associated investment adviser also may allow such investment adviser representative to enter into an arrangement with another registered investment adviser representative of the investment adviser to take over and service the investment adviser representative's accounts and to share compensation based upon the business generated by such accounts. However, because such investment adviser representatives are deemed inactive, they may not perform any of the functions and responsibilities performed by a registered investment adviser representative.
- (B) A registered investment adviser representative who is deemed to be on inactive status under this paragraph shall not be required to pay the fee specified in Section 1-612 of the Securities Act during the time of that investment adviser representative's inactive status and for one year thereafter.

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(C) The relief provided under this paragraph shall be available only to a registered investment adviser representative who is deemed to be on inactive status under (A) of this paragraph during the period that such investment adviser representative remains registered with the investment adviser with which the investment adviser representative was registered at the beginning of active duty, regardless of whether the investment adviser representative returns to active association with another investment adviser upon completion of the investment adviser representative's active duty.

(D) The relief provided under this paragraph shall be available only to an individual registered as an investment adviser representative under the Securities Act and only with respect to the period specified in connection with that investment adviser representative's service on active military duty. Further, the investment adviser with whom such investment adviser representative is registered shall promptly notify the Administrator, in writing, of such investment adviser representative's return to active association with the investment adviser.

## **(2) Inactive status of sole proprietorships.**

(A) If an investment adviser that is a sole proprietor temporarily closes his or her business by reason of volunteering for or being called into active military duty, the investment adviser shall be deemed to be on inactive status upon prompt notification to the Administrator, in writing, of the individual's activation into active military duty.

(B) A sole proprietor Military Service Member deemed to be on inactive status as set forth in this paragraph shall be relieved of any other filing requirements under this subchapter during the pendency of the individual's inactive status.

(C) A sole proprietor Military Service Member deemed to be on inactive status as set forth in this paragraph shall not be required to pay the fee as specified in Section 1-612 of the Securities Act during the pendency of such inactive status and for one year thereafter.

(D) The relief described in this paragraph shall be provided only to a sole proprietor Military Service Member and only with respect to the period specified in connection with his or her service on active military duty. Further, the sole proprietor shall promptly notify the Administrator, in writing, of his or her return to active participation in the investment banking or securities business. The sole proprietor must promptly file an updated Form ADV and Form ~~U-4~~U4.

## **(3) Status of formerly registered investment adviser representatives.**

(A) If an individual who was formerly registered as an investment adviser representative volunteers for or is called into active military duty at any time within two years after the date the individual ceased to be registered with an investment adviser, but during the period of validity of the individual's prior examination scores as set forth in ~~660:11-7-13~~ 660:11-7-13 ("examination scores validity periods"), the Administrator shall extend the period of validity of the individual's scores by the individual's period of active military service; provided, the validity of the scores will continue for no less than one (1) year following the individual's completion of active military service.

(B) If an individual deemed to be on inactive status as an investment adviser representative while serving as a Military Service Member ceases to be registered with an investment adviser, the Administrator shall extend the individual's examination scores validity periods by the remaining period of the individual's active military service.

(C) An individual applying to become associated with an investment adviser within one (1) year following the completion of the individual's active military service shall not be required to pay the fee specified in Section 1-612 of the Securities Act; provided the fee relief in this subparagraph shall only apply to the individual's first application for registration during such period.

## **(d) Initial registration of a military spouse.**

(1) A Military Spouse who meets the following requirements may apply to the Administrator for expedited review for registration under the Securities Act. An applicant shall:

(A) ~~Submit~~submit a complete application for registration on the forms prescribed by the Administrator;

(B) ~~Notify~~notify the Administrator in writing that the Military Spouse is seeking expedited review of the application;

(C) ~~Submit~~submit evidence of passing scores on examinations equivalent to those required by 660:11-7-13;

(D) ~~Submit~~submit the filing fee specified in Section 1-612 of the Securities Act; and

(E) ~~Provide~~provide any other documentation as required by the Administrator.

- (2) This subsection does not apply if the applicant is or has been the subject of disqualifying disciplinary action as set forth in Section ~~1-411-D~~1-411(D) of the Securities Act or has been discharged for cause from a broker-dealer or investment adviser.
- (3) This subsection does not apply to a Military Spouse who does not claim residence in the state of Oklahoma.

### 660:11-7-20. Supplemental disclosures [AMENDED]

Every investment adviser and investment adviser representative registered under the Securities Act must keep their application current at all times by promptly filing amendments supplementing their application after learning of the facts or circumstances giving rise to the amendment as required by Section ~~1-406-B~~1-406(B) of the Securities Act.

### 660:11-7-22. Municipal advisor exemption [AMENDED]

(a) Definitions. For purposes of this Section:

- (1) "**MSRB**" means the Municipal Securities Rulemaking Board, a self-regulatory organization created by Section 15B of the 1934 Act [15 U.S.C. §78o-4] to regulate municipal securities brokers, municipal securities dealers, municipal advisors, and persons associated with a municipal advisor and their activities subject to SEC oversight.
- (2) "**Municipal advisor**"
- (A) means a person (who is not a municipal entity or an employee of a municipal entity) that
    - (i) provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities as defined in 660:11-5-2, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues; or
    - (ii) undertakes a solicitation of a municipal entity;
  - (B) includes financial advisors, guaranteed investment contract brokers, third-party marketers, placement agents, solicitors, finders, and swap advisors.
- (3) "**Municipal advisor representative**" means any natural person associated with a municipal advisor who engages in municipal advisory activities on a municipal advisor's behalf.
- (4) "**Municipal financial product**" means municipal derivatives, guaranteed investment contracts, and investment strategies.

(b) **Municipal advisor exemption.** By authority delegated to the Administrator in Section ~~1-403-B~~1-403(B)(4) of the Securities Act, a municipal advisor who meets the following requirements shall be exempt from the investment adviser registration requirement in Section ~~1-403-A~~1-403(A) of the Securities Act:

- (1) the municipal advisor is registered with the SEC as required in ~~(a)(1)(B)~~ Section 15B(a)(1)(B) of the 1934 Act ~~of 15 U.S. Code §78o-4~~ [15 U.S.C. §78o-4(a)(1)(B)] by completing and filing Form MA (~~17 CFR 249.1300~~) [17 C.F.R. §249.1300] with the SEC in accordance with the instruction in the Form, along with any and all amendments as required by Rule 15Ba1-5 under the 1934 Act ~~17 CFR 240.15Ba1-5~~ [17 C.F.R. §15Ba1-5]; and
- (2) the municipal advisor is registered with the MSRB as required by MSRB Rule A-12.

(c) **Municipal advisor representative exemption.** By authority delegated to the Administrator in Section ~~1-404-B~~1-404(B)(2) of the Securities Act, a municipal advisor representative who meets the following requirements shall be exempt from the investment adviser registration requirement in Section ~~1-404-A~~1-404(A) of the Securities Act:

- (1) the municipal advisor representative has qualified in accordance with the rules of the MSRB; and
- (2) the municipal advisor has completed and filed a current Form MA-I (~~17 CFR 249.1310~~) [17 C.F.R. §249.1300] with the SEC in accordance with the instructions in the Form, along with any and all amendments as required by ~~17 CFR 240.15Ba1-5~~ Rule 15Ba1-5 under the 1934 Act [17 C.F.R. §15Ba1-5], for each individual representative employed or associated with the firm and engaged in municipal advisory activities on the firm's behalf.

## 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.

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(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)(C) to the Department each year within 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~~ 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

### 660:11-7-41. Record keeping requirements [AMENDED]

(a) **General requirements.** Every investment adviser registered or required to be registered under the Securities Act shall make and keep true, accurate and current the following books and records:

(1) A journal or journals, including cash receipts and disbursements, records, and any other records of original entry forming the basis of entries in any ledger.

(2) General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts. In no event shall the general ledger be posted less than once a month.

(3) A record of each order given by the investment adviser for the purchase or sale of any security, of any instruction received by the investment adviser from the client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. The record shall show the terms and conditions of the order, instruction, modification or cancellation; shall identify the person connected with the investment adviser who recommended the transaction to the client and the person who placed the order; and shall show the account for which entered, the date of entry, and the bank or broker-dealer by or through whom executed where appropriate. Orders entered pursuant to the exercise of discretionary power shall be so designated.

(4) All check books, bank statements, canceled checks and cash reconciliations of the investment adviser.

(5) All bills or statements (or copies thereof), paid or unpaid, relating to the business of the investment adviser as such.

(6) All trial balances, financial statements prepared in accordance with generally accepted accounting principles with documentation to support the ownership of assets, and internal audit working papers relating to the business of such investment adviser. The trial balance shall be prepared no later than fifteen (15) business days after the end of the accounting period. The financial statements shall include a balance sheet prepared in accordance with generally accepted accounting principles, an income statement, a cash flow statement, and a net worth computation.

(7) Originals of all written communications received and copies of all written communications sent by the investment adviser relating to the business of the investment adviser, including, but not limited to:

(A) any recommendation made or proposed to be made and any advice given or proposed to be given,

(B) any receipt, disbursement or delivery of funds or securities, or

(C) the placing or execution of any order to purchase or sell any security; provided, however:

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- (i) that the investment adviser shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment adviser, and
  - (ii) that if the investment adviser sends any notice, circular or other advertisement offering any report, analysis, publication or other investment advisory service to 2 or more persons, the investment adviser shall not be required to keep a record of the names and addresses of the persons to whom it was sent; except that if the notice, circular or advertisement is distributed to persons named on any list, the investment adviser shall retain with the copy of the notice, circular or advertisement a memorandum describing the list and the source thereof.
- (8) A list or other record identifying all accounts in which the investment adviser is vested with any discretionary power with respect to the funds, securities or transactions of any client.
- (9) A copy of all powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment adviser.
- (10) A copy of all agreements entered into by the investment adviser with any client and all other agreements relating to the business of the investment adviser as such, including agreements which set forth the fees to be charged, the manner of computation and method of payment.
- (11) A file containing a copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication, including any communication by electronic media, that the investment adviser circulates or distributes, directly or indirectly, to 2 or more persons (other than persons connected with the investment adviser), and if the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication, including any communication by electronic media, recommends the purchase or sale of a specific security and does not state the reasons for the recommendation, a memorandum of the investment adviser indicating the reasons for the recommendation.
- (12) When providing investment advice is the primary business of the investment adviser.
  - (A) A record of every transaction in a security in which the investment adviser or any advisory representative (as defined in (B) of this paragraph) of the investment adviser has, or by reason of any transaction acquires, any direct or indirect beneficial ownership, except (i) transactions effected in any account over which neither the investment adviser nor the advisory representative of the investment adviser has any direct or indirect influence or control, and (ii) transactions in securities which are direct obligations of the United States. The record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker-dealer or bank with or through whom the transaction was effected. The record may also contain a statement declaring that the reporting or recording of any transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded no later than ten (10) days after the end of the calendar quarter in which the transaction was effected.
  - (B) For purposes of this paragraph, the following definitions will apply:
    - (i) The term "advisory representative" shall mean any partner, officer or director of the investment adviser; any employee who participates in any way in the determination of which recommendations shall be made; any employee who, in connection with his duties, obtains any information concerning which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons who obtain information concerning securities recommendations being made by the investment adviser prior to the effective dissemination of the recommendations or of the information concerning the recommendations:
      - (I) any person in a control relationship to the investment adviser,
      - (II) any affiliated person of a controlling person, and
      - (III) any affiliated person of an affiliated person.
    - (ii) "Control" shall mean the power to exercise a controlling influence over the management or policies of a company. Any person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the voting securities of a company shall be presumed to control such company.
- (13) When providing investment advice is not the primary business of the investment adviser:

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(A) Notwithstanding the provisions of (12) of this subsection, where the investment adviser is primarily engaged in a business or businesses other than advising investment advisory clients, a record must be maintained of every transaction in a security in which the investment adviser or any advisory representative (as defined in (C) of this paragraph) of the investment adviser has, or by reason of any transaction acquires, any direct or indirect beneficial ownership, except:

- (i) transactions effected in any account over which neither the investment adviser nor any advisory representative of the investment adviser has any direct or indirect influence or control; and
- (ii) transactions in securities which are direct obligations of the United States.

(B) Each record required by (A) of this paragraph shall state the title and amount of the security involved; the date and nature of the transaction (i.e. purchase, sale, or other acquisition or disposition); the price at which it was effected; and the name of the broker-dealer or bank with or through whom the transaction was effected. The record may also contain a statement declaring that the reporting or recording of any transaction shall not be construed as an admission that the investment adviser or advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.

(C) For purposes of this paragraph, the following definitions will apply:

(i) The term "advisory representative", when used in connection with a company primarily engaged in a business or businesses other than advising investment advisory clients, shall mean any partner, officer, director or employee of the investment adviser who participates in any way in the determination of which recommendations shall be made, or whose functions or duties relate to the determination of which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons who obtain information concerning securities recommendations being made by the investment adviser prior to the effective dissemination of such recommendations or of the information concerning the recommendations:

- (I) any person in a control relationship to the investment adviser,
- (II) any affiliated person of a controlling person, and
- (III) any affiliated person of an affiliated person.

(ii) "Control" shall mean the power to exercise a controlling influence over the management or policies of a company. Any person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the voting securities of a company shall be presumed to control such company.

(iii) An investment adviser is "primarily engaged in a business or businesses other than advising investment advisory clients" when, for each of its most recent three fiscal years or for the period of time since organization, whichever is lesser, the investment adviser derived from such other business or businesses, on an unconsolidated basis, more than 50% of:

- (I) its total sales and revenues, and
- (II) its income (or loss) before income taxes and extraordinary items

(14) A copy of each brochure and brochure supplement and each amendment or revision, given or sent to any client or prospective client of the investment adviser in accordance with the provisions of Section ~~1-410.F1-~~ 410(F) of the Securities Act, and a record of the dates that each brochure and brochure supplement, and each amendment or revision, was given, or offered to be given, to any client or prospective client who subsequently becomes a client.

(15) For each client that was obtained by the adviser by means of a solicitor to whom a cash fee was paid by the adviser:

- (A) evidence of a written agreement to which the adviser is a party related to the payment of such fee;
- (B) a signed and dated acknowledgment of receipt from the client evidencing the client's receipt of the investment adviser's disclosure statement and a written disclosure statement of the solicitor; and
- (C) a copy of the solicitor's written disclosure statement. The written agreement, acknowledgement, and solicitor disclosure statement will be considered to be in compliance with this paragraph if such documents are in compliance with Rule ~~275.206(4)-3~~ 206(4)-1 under the Advisers Act [~~17 C.F.R. §275.206(4)-1~~] of the Advisers Act of 1940.

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(16) All accounts, books, internal working papers, and any other records or documents that are necessary to form the basis for or demonstrate the calculation of the performance or rate of return of all managed accounts or securities recommendations in any notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including, but not limited to, electronic media that the investment adviser circulates or distributes, directly or indirectly, to two or more persons (other than persons connected with the investment adviser); provided, however, that, with respect to the performance of managed accounts, the retention of all account statements, if they reflect all debits, credits, and other transactions in a client's account for the period of the statement, and all worksheets necessary to demonstrate the calculation of the performance or rate of return of all managed accounts shall be deemed to satisfy the requirements of this paragraph.

(17) A file containing a copy of all written communications received or sent regarding any litigation involving the investment adviser or any investment adviser representative or employee, and regarding any written customer or client complaint.

(18) Recommendations.

(A) Written information about each investment advisory client that is the basis for making any recommendation or providing any investment advice to such client.

(B) A record evidencing that the account record of each client consisting of the information described in (A) of this paragraph has been furnished by the investment adviser to the client within thirty days of the signing of an investment advisory contract, and thereafter at intervals no greater than thirty-six months. The account record shall include or be accompanied by prominent statements that the client should mark any corrections and return the account record to the adviser and that the client should notify the advisor of any changes to information contained in the account record as they occur in the future.

(19) A file containing a copy of each document (other than any notices of general dissemination) that was filed with or received from any state or federal agency or self-regulatory organization and that pertains to the registrant or its investment adviser representatives, which file should contain, but is not limited to, all applications, amendments, renewal filings, and correspondence.

(20) Copies, with original signatures of the investment adviser's appropriate signatory and the investment adviser representative, of each initial Form ~~U-4~~U4 and each amendment to Disclosure Reporting Pages (DRPs ~~U-4~~U4) must be retained by the investment adviser (filing on behalf of the investment adviser representative) and must be made available for inspection upon regulatory request.

(21) Where the adviser inadvertently held or obtained a client's securities or funds and returned them to the client within three business days or has forwarded third party checks drawn by clients and made payable to third parties within three business days of receipt, the adviser shall keep a ledger or other listing of all securities or funds held or obtained including the following information:

(A) issuer;

(B) type of security and series;

(C) date of issue;

(D) for debt instruments, the denomination, interest rate and maturity date;

(E) certificate number, including alphabetical prefix or suffix;

(F) name in which registered;

(G) date received by the adviser;

(H) date sent to client or sender;

(I) form of delivery to client or sender, or copy of the form of delivery to client or sender; and

(J) mail confirmation number, if applicable, or confirmation by client or sender of the fund's or security's return.

(22) If an investment adviser obtains possession of securities that are acquired from the issuer in a transaction or chain of transactions not involving any public offering that comply with the exception from custody in (c)(2) of 660:11-7-48, the adviser shall keep the following records:

(A) a record showing the issuer or current transfer agent's name, address, phone number and other applicable contact information pertaining to the party responsible for recording client interests in the securities; and

(B) a copy of any legend, shareholder agreement or other agreement showing that those securities are transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

(23) A copy of the investment adviser's written policies and procedures required by 660:11-7-46. In addition to the investment adviser's recordkeeping requirements under subsections (e) and (g) of this Section, the investment adviser shall maintain:

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(A) ~~Aa~~ current copy of these policies and procedures either in hard copy in a separate location or stored on electronic storage media that is separate from and not dependent on access to the investment adviser's computers or a network;

(B) ~~Atall~~ records documenting the investment adviser's compliance with 660:11-7-46, including, but not limited to, evidence of the annual review of the policies and procedures; and

(C) ~~Aa~~ record of any violation of 660:11-7-46 and of any action taken as a result of the violation.

(24) Copies of the brochures required by 660:11-7-43 including a list of all clients or prospective clients to whom the brochures were provided and the date the brochures were provided.

## (b) Special requirements due to type of custody.

(1) **Custody as defined in 660:11-7-48.** If an investment adviser has custody, as that term is defined in 660:11-7-48, the records required to be made and kept under (a) of this Section shall include:

(A) a copy of any and all documents executed by the client (including a limited power of attorney) under which the adviser is authorized or permitted to withdraw a client's funds or securities maintained with a custodian upon the adviser's instruction to the custodian.

(B) a journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for all accounts and all other debits and credits to the accounts.

(C) a separate ledger account for each client showing all purchases, sales, receipts and deliveries of securities, the date and price of each purchase and sale, and all debits and credits.

(D) copies of confirmations of all transactions effected by or for the account of any client.

(E) a record for each security in which any client has a position, which record shall show the name of each client having any interest in each security, the amount or interest of each client, and the location of each security.

(F) a copy of each of the client's quarterly account statements, as generated and delivered by the qualified custodian. If the adviser also generates a statement that is delivered to the client, the adviser shall also maintain copies of such statements along with the date such statements were sent to the clients.

(G) if applicable to the adviser's situation, a copy of the special examination report verifying the completion of the examination by an independent certified public accountant and describing the nature and extent of the examination.

(H) a record of any finding by the independent certified public accountant of any material discrepancies found during the examination.

(I) if applicable, evidence of the client's designation of an independent representative.

(2) **Adviser to pooled investment vehicle.** If an investment adviser has custody because it advises a pooled investment vehicle, the adviser shall also keep the following records:

(A) true, accurate and current account statements;

(B) ~~When~~when the exception set forth in (c)(4) of 660:11-7-48 applies, the records required to be made and kept shall include:

(i) the date(s) of the audit;

(ii) a copy of the audited financial statements; and

(iii) evidence of the mailing of the audited financial to all limited partners, members or other beneficial owners within 120 days of the end of its fiscal year.

(C) ~~When~~when the description set forth in (b)(5) of 660:11-7-48 applies to an investment adviser, the investment adviser is required to make and keep records to include:

(i) a copy of the written agreement with the independent party reviewing all fees and expenses, indicating the responsibilities of the independent third party.

(ii) copies of all invoices and receipts showing approval by the independent party for payment through the qualified custodian.

(c) **Managed accounts.** Every investment adviser subject to (b) of this Section who renders any investment supervisory or management service to any client shall, with respect to the portfolio being supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment adviser, make and keep true, accurate and current:

(1) Records showing separately for each client the securities purchased and sold, and the date, amount and price of each purchase and sale.

(2) For each security in which any client has a current position, information from which the investment adviser can promptly furnish the name of each security held by the client, and the current amount or interest of the client.



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(d) **Client identity.** Any books or records required by this Section may be maintained by the investment adviser in such manner that the identity of any client to whom the investment adviser renders investment supervisory services is indicated by numerical or alphabetical code or some similar designation.

(e) **Records retention.** Every investment adviser subject to (a) of this Section shall preserve the following records in the manner prescribed:

(1) All books and records required to be made under the provisions of (a) to (c), inclusive, of this Section (except for books and records required to be made under the provisions of (a)(11) and (a)(16) of this Section), shall be maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on record, the first two years in the principal office of the investment adviser.

(2) Partnership articles and any amendments, articles of incorporation, charters, minute books, and stock certificate books of the investment adviser and of any predecessor, shall be maintained in the principal office of the investment adviser and preserved until at least three years after termination of the enterprise.

(3) Books and records required to be made under the provisions of (a)(11) and (a)(16) of this Section shall be maintained and preserved in an easily accessible place for a period of not less than five years, the first two years in the principal office of the investment adviser, from the end of the fiscal year during which the investment adviser last published or otherwise disseminated, directly or indirectly, the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including by electronic media.

(4) Notwithstanding other record preservation requirements of this Section, the following records or copies shall be required to be maintained at the business location of the investment adviser from which the customer or client is being provided or has been provided with investment advisory services: (A) records required to be preserved under (a)(3), (a)(7)-(10), (a)(14)-(15), ~~(a)(17)-(19)~~, (a)(17)-(18), (a)(23)-(24), (b) and (c) inclusive, of this Section, and (B) the records or copies required under the provision of (a)(11) and (a)(16) of this Section which records or related records identify the name of the investment adviser representative providing investment advice from that business location, or which identify the business locations' physical address, mailing address, electronic mailing address, or telephone number. The records will be maintained for the applicable period described in this Subsection.

(f) **Ceasing business.** An investment adviser subject to (a) of this Section, before ceasing to conduct or discontinuing business as an investment adviser, shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this Section for the remainder of the period specified in this Section, and shall notify the Administrator in writing of the exact address where the books and records will be maintained during the period.

(g) **Format and storage of records.**

(1) The records required to be maintained and preserved may be immediately produced or reproduced, and maintained and preserved as the records are kept in their regular form for the required time, by an investment adviser on:

(A) paper or hard copy form; or

(B) micrographic media, including microfilm, microfiche, or any similar medium; or

(C) electronic storage media, including any digital storage medium or system that meets the terms of this section.

(2) The investment adviser must:

(A) arrange and index the records in a way that permits easy location, access, and retrieval of any particular record;

(B) provide promptly any of the following that the Administrator or his representatives may request:

- (i) a legible, true, and complete copy of the record in the medium and format in which it is stored;

- (ii) a legible, true, and complete printout of the record; and

- (iii) means to access, view, and print the records; and

(C) separately store, for the time required for preservation of the original record, a duplicate copy of the record on any medium allowed by this section.

(3) In the case of records created or maintained on electronic storage media, the investment adviser must establish and maintain procedures:

(A) to maintain and preserve the records, so as to reasonably safeguard them from loss, alteration, or destruction;

(B) to limit access to the records to properly authorized personnel and the Administrator and his representatives; and

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(C) to reasonably ensure that any reproduction of a non-electronic original record on electronic storage media is complete, true, and legible when retrieved.

(h) **Investment supervisory services.** For purposes of this Section, "investment supervisory services" means the giving of continuous advice as to the investment of funds on the basis of the individual needs of each client; and "discretionary power" shall not include discretion as to the price at which or the time when a transaction is or is to be effected, if, before the order is given by the investment adviser, the client has directed or approved the purchase or sale of a definite amount of the particular security.

(i) **Compliance with federal law.** Any book or other record made, kept, maintained and preserved in compliance with Rules 17a-3 [~~17 C.F.R. 240.17a-3~~] and 17a-4 [~~17 C.F.R. 240.17a-4~~] under the 1934 Act [~~17 C.F.R. §§240.17a-3 and 17a-4~~], which is substantially the same as the book or other record required to be made, kept, maintained and preserved under this Section, shall be deemed to be made, kept, maintained and preserved in compliance with this Section.

(j) **Compliance with other state requirements.** Every investment adviser registered or required to be registered under the Securities Act that has its principal place of business in a state other than Oklahoma shall be exempt from the requirements of this section, provided the investment adviser is licensed in the state in which it maintains its principal place of business and is in compliance with that state's books and records requirements.

## 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~~) [~~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-131-411(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.

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- (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 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 that~~ does not comply with Rule 206(4)-1 under the ~~Investment Advisers Act of 1940~~ [17 C.F.R. §275.206(4)-1] as effective ~~March 5, 2021~~ April 15, 2022.
- (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 prior written 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

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- (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

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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, or 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 investment adviser or investment adviser representative complies with the terms of the alternative payment arrangements.

~~(26)~~ (25) 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.

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(a) **Disclosure delivery requirement.** In furtherance of compliance with the standards of ethical practices specified in 660:11-7-42, every investment adviser, registered or required to be registered under the Securities Act shall, in accordance with the provisions of this Section, furnish each advisory client and prospective advisory client with:

- (1) a brochure that contains all information required by Part 2A of Form ADV;
- (2) a Part 2B brochure supplement for each individual
  - (A) providing investment advice and having direct contact with clients in this state; or
  - (B) exercising discretion over assets of clients in this state, even if no direct contact is involved;
- (3) a Part 2A Appendix 1 wrap fee brochure if the investment adviser sponsors or participates in wrap fee accounts;
- (4) a summary of material changes, if any, which may be included in Form ADV Part 2 or given as a separate document; and
- (5) such other information as the Administrator may require.

(b) **Brochure compliance with Form ADV.** Any brochure or brochure supplement required by (a) of this Section must comply with the language, organizational format, and filing requirements specified in the Instructions to Form ADV, Part 2, except that a change in an advisory fee constitutes a material change that triggers the need to file an amendment to the Form ADV Part 2A.

(c) **Delivery.**

- (1) **Initial delivery.** An investment adviser shall deliver the documents required by (a) of this Section to an advisory client or prospective advisory client:
  - (A) not less than 48 hours prior to entering into any written investment advisory contract with such client or prospective client, or
  - (B) at the time of entering into any such contract, if the advisory client has a right to terminate the contract without penalty within five business days after entering into the contract.
- (2) **Annual delivery.** An investment adviser, except as provided in (3) of this subsection, must:
  - (A) Deliver within 120 days of the end of its fiscal year free copies of any updated brochure and brochure supplement that include or are accompanied by a summary of material changes; or
  - (B) Deliver a summary of material changes that includes an offer to provide a copy of any updated brochure and brochure supplement and information on how the client may obtain a copy of such documents. Should a client request a copy of any updated brochures or brochure supplements under this subsection, the requested documents must be mailed or delivered within seven (7) days of the receipt of the request.
- (3) **Exceptions.** Delivery of any documents required by (1) and (2) of this subsection need not be made to:
  - (A) a client who is an officer, employee or other person related to the adviser that would be a qualified client of the adviser under Rule 205-3(d)(1)(iii) of the Advisers Act ~~17 CFR § 275.205-3(d)(1)(iii)~~ 17 C.F.R. § 275.205-3(d)(1)(iii);
  - (B) clients who receive only impersonal advice and who pay less than \$500 in fees per year;
  - (C) an investment company registered under the 1940 Act; or
  - (D) a business development company as defined in the 1940 Act and whose advisory contract meets the requirements of section 15(c) of that Act [15 U.S.C. § 80a-15(c)].
- (4) **Electronic delivery.** Delivery of any brochure and brochure supplement may be made electronically if the investment adviser:
  - (A) in the case of an initial delivery to a potential client, obtains a verification that readable copies of the documents were received by the client;
  - (B) in the case of other than initial deliveries, obtains each client's prior consent to provide the documents electronically;
  - (C) prepares the electronically delivered documents in the format prescribed in (a) of this Section and instructions to Form ADV Part 2;
  - (D) delivers the documents in a format that can be retained by the client in either electronic or paper form; and
  - (E) establishes procedures to supervise personnel transmitting the brochure and any supplements and prevents violations of this Section.

(d) **Other disclosures.** Nothing in this Section shall relieve any investment adviser from any obligation pursuant to any provision of the Securities Act or the rules thereunder or other federal or state law to disclose any information to its advisory clients or prospective advisory clients not specifically required by this Section.

(e) **"Entering into" exclusion.** For purposes of this Section, "entering into" does not include an extension or renewal without material change of any investment advisory contract which is in effect immediately prior to such extension or renewal.

### **660:11-7-45. Examination of investment advisers [AMENDED]**

(a) **Periodic examinations.** The business and records of each investment adviser registered under the Securities Act may be periodically examined by the Administrator and/or person(s) designated by ~~him~~the Administrator at such times and in such scope as the Administrator determines prudent and necessary for the protection of the public. A report of each such examination shall be prepared.

(b) **Department access.** Each investment adviser scheduled for examination shall provide the personnel of the Department access to business books, documents, and other records. Each investment adviser shall provide personnel with office space and facilities to conduct on-site examinations, and assistance in the physical inspection of assets and confirmation of liabilities. Failure of any applicant or registrant to provide such access shall constitute a violation of this section and shall be a basis for denial, suspension or revocation of the registration or application for registration.

### **660:11-7-46. Written policies and procedures [AMENDED]**

(a) **Required written policies and procedures.** It is unlawful for an investment adviser registered or required to be registered under section 1-403 of the Securities Act to provide investment advice to clients unless the investment adviser establishes, maintains, and enforces written policies and procedures tailored to the investment adviser's business model, taking into account the size of the firm, type(s) of services provided, and the number of locations of the investment adviser. The written policies and procedures must provide for at least the following:

(1) **Compliance Policies and Procedures.** The investment adviser must establish, maintain, and enforce written compliance policies and procedures reasonably designed to prevent violations by the investment adviser of the Act and the rules that the Administrator has adopted under the Act;

(2) **Supervisory Policies and Procedures.** The investment adviser must establish, maintain, and enforce written supervisory policies and procedures reasonably designed to prevent violations by the investment adviser's supervised persons of the Act and the rules that the Administrator has adopted under the Act. The following standards shall apply to supervisory procedures:

(A) Regardless of its size or complexity, every investment adviser registered or required to be registered under the Securities Act must adopt and implement supervisory procedures that are tailored specifically to their business and must address the activities of all its investment adviser representatives and associated persons. Supervisory procedures must be in writing and must be reasonably designed to achieve compliance with applicable securities laws and the rules adopted under the Securities Act. Ultimate responsibility for supervision rests with the investment adviser.

(B) Written supervisory procedures must identify who has supervisory responsibilities, 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.

(C) All written supervisory procedures should 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.

(3) **Proxy Voting.**

(A) If the investment adviser has the authority to vote client securities, the investment adviser must:

- (i) establish, maintain, and enforce written proxy voting policies and procedures that are reasonably designed to ensure that the investment adviser votes client securities in the best interest of clients, to include how the investment adviser addresses material conflicts that may arise between its interests and those of the investment adviser's clients;
- (ii) disclose to clients how they may obtain information from the investment adviser about how it voted with respect to their securities; and
- (iii) describe to clients the investment adviser's proxy voting policies and procedures and, upon request, furnish a copy of the policies and procedures to the requesting client.

(B) If the investment adviser does not have the authority to vote client securities, then disclose to clients that it does not have such authority.

(4) **Physical security and cybersecurity policies and procedures.** Every investment adviser registered or required to be registered shall establish, implement, update, and enforce written physical security and cybersecurity policies and procedures reasonably designed to ensure the confidentiality, integrity, and availability of physical and electronic records and information. The policies and procedures must be tailored to the investment

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adviser's business model, taking into account the size of the firm, type(s) of services provided, and the number of locations of the investment adviser.

(A) The physical security and cybersecurity policies and procedures must:

- (i) Protect against reasonably anticipated threats or hazards to the security or integrity of client records and information;
- (ii) Ensure that the investment adviser safeguards confidential client records and information; and
- (iii) Protect any records and information the release of which could result in harm or inconvenience to any client.

(B) The physical security and cybersecurity policies and procedures must cover at least five functions:

- (i) **Identify.** Develop the organizational understanding to manage information security risk to systems, assets, data, and capabilities;
- (ii) **Protect.** Develop and implement the appropriate safeguards to ensure delivery of critical infrastructure services;
- (iii) **Detect.** Develop and implement the appropriate activities to identify the occurrence of an information security event;
- (iv) **Respond.** Develop and implement the appropriate activities to take action regarding a detected information and security event; and
- (v) **Recover.** Develop and implement the appropriate activities to maintain plans for resilience and to restore any capabilities or services that are impaired due to an information security event.

(C) The investment adviser must review, no less frequently than annually, and modify, as needed, these policies and procedures to ensure the adequacy of the security measures and the effectiveness of their implementation.

(5) **Privacy policy.** The investment adviser must deliver upon the investment adviser's engagement by a client, and on an annual basis thereafter, a privacy policy to each client that is reasonably designed to prevent the misuse of material, non-public information by the investment adviser or any person associated with the investment adviser, and to aid in the client's understanding of how the investment adviser collects and shares, to the extent permitted by state and federal law, non-public personal information. The investment adviser must promptly update and deliver to each client an amended privacy policy if any of the information in the policy becomes inaccurate. If the investment adviser is excepted from the annual privacy notice requirement under the Gramm-Leach-Bliley Act, the investment adviser is not required to deliver its privacy policy on an annual basis.

(6) **Code of Ethics.**

(A) The investment adviser must establish, maintain, and enforce a written code of ethics that, at a minimum, includes:

- (i) A standard (or standards) of business conduct that the investment adviser requires of its supervised persons, which must reflect the investment adviser's fiduciary obligations and those of its supervised persons;
- (ii) Provisions requiring the investment adviser's supervised persons to comply with applicable State and Federal securities laws;
- (iii) Provisions requiring all of the investment adviser's access persons to report, and the investment adviser to review, their personal securities transactions and holdings periodically as provided below;
- (iv) Provisions requiring supervised persons to report any violations of the investment adviser's code of ethics promptly to its chief compliance officer or, provided the investment adviser's chief compliance officer also receives reports of all violations, to other persons designated in the investment adviser's code of ethics; and
- (v) Provisions requiring the investment adviser to provide each of its supervised persons with a copy of the investment adviser's code of ethics and any amendments, and requiring the investment adviser's supervised persons to provide it with a written acknowledgment of their receipt of the code and any amendments.

(B) **Reporting Requirements.**

- (i) **Holdings reports.** The code of ethics must require the investment adviser's access persons to submit to its chief compliance officer or other persons designated in the investment adviser's code of ethics a report of the access person's current securities holdings that meets the following requirements:



(I) **Content of holdings reports.** Each holdings report must contain, at a minimum, the title and type of security, and as applicable the exchange ticker symbol or CUSIP number, number of shares, and principal amount of each reportable security in which the access person has any direct or indirect beneficial ownership; the name of any broker, dealer, or bank with which the access person maintains an account in which any securities are held for the access person's direct or indirect benefit; and the date the access person submits the report.

(II) **Timing of holdings reports.** The investment adviser's access persons must each submit a holdings report no later than 10 days after the person becomes an access person, and the information must be current as of a date no more than 45 days prior to the date the person becomes an access person and at least once each 12-month period thereafter on a date selected by the investment adviser, and the information must be current as of a date no more than 45 days prior to the date the report was submitted.

(ii) **Transaction reports.** The code of ethics must require access persons to submit to the investment adviser's chief compliance officer or other persons designated in the investment adviser's code of ethics quarterly securities transactions reports that meet the following requirements:

(I) **Content of transaction reports.** Each transaction report must contain, at a minimum, the following information about each transaction involving a reportable security in which the access person had, or as a result of the transaction acquired, any direct or indirect beneficial ownership: the date of the transaction, the title, and as applicable the exchange ticker symbol or CUSIP number, interest rate and maturity date, number of shares, and principal amount of each reportable security involved; the nature of the transaction (i.e., purchase, sale or any other type of acquisition or disposition); the price of the security at which the transaction was effected; the name of the broker, dealer, or bank with or through which the transaction was effected; and the date the access person submits the report.

(II) **Timing of transaction reports.** Each access person must submit a transaction report no later than 30 days after the end of each calendar quarter, which report must cover, at a minimum, all transactions during the quarter.

(iii) **Exceptions from reporting requirements.** The investment adviser's code of ethics need not require an access person to submit:

(I) any report with respect to securities held in accounts over which the access person had no direct or indirect influence or control;

(II) a transaction report with respect to transactions effected pursuant to an automatic investment plan in which regular periodic purchases or withdrawals are made automatically in or from investment accounts in accordance with a predetermined schedule and allocation, including a dividend reinvestment plan;

(III) a transaction report if the report would duplicate information contained in broker trade confirmations or account statements that the investment adviser holds in its records so long as the investment adviser receives the confirmations or statements no later than 30 days after the end of the applicable calendar quarter.

(iv) **Pre-approval of certain investments.** The investment adviser's code of ethics must require its access persons to obtain the investment adviser's approval before they directly or indirectly acquire beneficial ownership in any security in an initial public offering or in a limited offering.

(v) **Small advisers.** If the investment adviser has only one access person, it is not required to submit reports to itself or to obtain its own approval for investments in any security in an initial public offering or in a limited offering, if the investment adviser maintains records of all of its holdings and transactions that this section would otherwise require the investment adviser to report.

(7) **Material Non-Public Information Policy and Procedures.** The investment adviser must establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material, non-public information by the investment adviser or any person associated with the investment adviser.

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(8) **Business continuity and succession plan.** The investment adviser shall establish, maintain, and enforce written policies and procedures relating to a business continuity and succession plan that includes at least the following:

- (A) the protection, backup, and recovery of books and records.
- (B) alternate means of communications with clients; key personnel; employees; vendors; service providers, including third-party custodians; and regulators, including, but not limited to, providing notice of a significant business interruption or the death or unavailability of key personnel or other disruptions or cessation of business activities.
- (C) office relocation in the event of temporary or permanent loss of a principal place of business.
- (D) assignment of duties of qualified responsible persons in the event of the death or unavailability of key personnel.
- (E) otherwise minimizing service disruptions and client harm that could result from a sudden significant business interruption.

(b) **Annual review.** The investment adviser must review, no less frequently than annually, the adequacy of the policies and procedures established pursuant to this Section and the effectiveness of their implementation.

(c) **Chief Compliance Officer.** The investment adviser must designate a supervised person as the chief compliance officer responsible for administering the investment adviser's policies and procedures.

## 660:11-7-48. Custody requirements for investment advisers [AMENDED]

(a) **Definitions.** For purposes of this Section:

(1) **"Control"** means the power, directly or indirectly, to direct the management or policies of a person whether through ownership of securities, by contract, or otherwise. Control includes:

- (A) Each of the investment adviser's officers, partners, or directors exercising executive responsibility (or persons having similar status or functions) is presumed to control the investment adviser;
- (B) A person is presumed to control a corporation if the person:
  - (i) directly or indirectly has the right to vote twenty-five (25) percent or more of a class of the corporation's voting securities; or
  - (ii) has the power to sell or direct the sale of twenty-five (25) percent or more of a class of the corporation's voting securities;
- (C) A person is presumed to control a partnership if the person has the right to receive upon dissolution, or has contributed, twenty-five (25) percent or more of the capital of the partnership;
- (D) A person is presumed to control a limited liability company if the person:
  - (i) directly or indirectly has the right to vote twenty-five (25) percent or more of a class of the interests of the limited liability company;
  - (ii) has the right to receive upon dissolution, or has contributed, twenty-five (25) percent or more of the capital of the limited liability company;
  - (iii) is an elected manager of the limited liability company; or
- (E) A person is presumed to control a trust if the person is a trustee or managing agent of the trust.

(2) **"Custody"** means holding, directly or indirectly, client funds or securities, or having any authority to obtain possession of them. The investment adviser has custody if a related person holds, directly or indirectly, client funds or securities, or has any authority to obtain possession of them, in connection with advisory services the investment adviser provides to clients.

(A) Custody includes:

- (i) possession of client funds or securities unless the investment adviser receives them inadvertently and returns them to the sender within three (3) business days of receiving them and the investment adviser maintains the records required under 660:11-7-41(a)(24);
- (ii) any arrangement (including a general power of attorney) under which an investment adviser is authorized or permitted to withdraw client funds or securities maintained with a custodian upon the investment adviser's instruction to the custodian; and
- (iii) any capacity (such as general partner of a limited partnership, managing member of a limited liability company or a comparable position for another type of pooled investment vehicle, or trustee of a trust) that gives the investment adviser or its supervised person legal ownership of or access to client funds or securities.

(B) Receipt of checks drawn by clients and made payable to unrelated third parties will not meet the definition of custody if forwarded to the third party within three (3) business days of receipt and the investment adviser maintains the records required under 660:11-7-41(a)(24).

(3) **"Independent certified public accountant"** means a certified public accountant that meets the standards of independence described in rule 2-01(b) and (c) of Regulation S-X under the 1933 Act ~~[17 C.F.R. 210.2-01(b) and (c)]~~ [17 C.F.R. §210.2-01(b) and (c)].

(4) **"Independent party"** means a person that:

- (A) is engaged by the investment adviser to act as a gatekeeper for the payment of fees, expenses and capital withdrawals from the pooled investment;
- (B) does not control and is not controlled by and is not under common control with the investment adviser; and
- (C) does not have, and has not had within the past two years, a material business relationship with the investment adviser.
- (D) shall not negotiate or agree to have material business relations or commonly controlled relations with an investment adviser for a period of two years after serving as the person engaged in an independent party agreement.

(5) **"Independent representative"** means a person who:

- (A) acts as agent for an advisory client, including in the case of a pooled investment vehicle, for limited partners of a limited partnership, members of a limited liability company, or other beneficial owners of another type of pooled investment vehicle and by law or contract is obliged to act in the best interest of the advisory client or the limited partners, members, or other beneficial owners;
- (B) does not control, is not controlled by, and is not under common control with the investment adviser; and
- (C) does not have, and has not had within the past two years, a material business relationship with the investment adviser.

(6) **"Qualified custodian"** means the following:

- (A) ~~A~~ bank or savings association that has deposits insured by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act;
- (B) ~~A~~ broker-dealer registered in this jurisdiction and with the SEC holding the client assets in customer accounts;
- (C) ~~A~~ registered futures commission merchant registered under Section 6f(a) of the Commodity Exchange Act [7 U.S.C. §6f(a)], holding the client assets in customer accounts, but only with respect to clients' funds and security futures, or other securities incidental to transactions in contracts for the purchase or sale of a commodity for future delivery and options thereon; ~~and/or~~
- (D) ~~A~~ foreign financial institution that customarily holds financial assets for its customers, provided that the foreign financial institution keeps the advisory clients' assets in customer accounts segregated from its proprietary assets.

(7) **"Related person"** means any person, directly or indirectly, controlling or controlled by the investment adviser, and any person that is under common control with the investment adviser.

(b) **Safekeeping required.** It is unlawful and deemed to be a fraudulent, deceptive, or manipulative act, practice, or course of business for an investment adviser, registered or required to be registered, to have custody of client funds or securities unless:

(1) **Notice to Administrator.** The investment adviser notifies the Administrator promptly in writing that the investment adviser has or may have custody. Such notification is required to be given on Form ADV.

(2) **Qualified custodian.** A qualified custodian maintains those funds and securities:

- (A) in a separate account for each client under that client's name; or
- (B) in accounts that contain only the investment adviser's clients' funds and securities, under the investment adviser's name as agent or trustee for the clients, or, in the case of a pooled investment vehicle that the investment adviser manages, in the name of the pooled investment vehicle.

(3) **Notice to clients.** If an investment adviser opens an account with a qualified custodian on its client's behalf, under the client's name, under the name of the investment adviser as agent, or under the name of a pooled investment vehicle, the investment adviser must notify the client in writing of the qualified custodian's name, address, and the manner in which the funds or securities are maintained, promptly when the account is opened and following any changes to this information. If the investment adviser sends account statements to a client to which the investment adviser is required to provide this notice, the investment adviser must include in the notification provided to that client and in any subsequent account statement the investment adviser sends that client a statement urging the client to compare the account statements from the custodian with those from the investment adviser.

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(4) **Account statements.** The investment adviser has a reasonable basis, after due inquiry, for believing that the qualified custodian sends an account statement, at least quarterly, to each client for which it maintains funds or securities, identifying the amount of funds and of each security in the account at the end of the period and setting forth all transactions in the account during that period.

(5) **Special rule for limited partnerships and limited liability companies.** If the investment adviser or a related person is a general partner of a limited partnership (or managing member of a limited liability company, or holds a comparable position for another type of pooled investment vehicle),

(A) the account statements required under (4) of this subsection must be sent to each limited partner (or member or other beneficial owner), and

(B) the investment adviser must:

(i) enter into a written agreement with an independent party who is obliged to act in the best interest of the limited partners, members, or other beneficial owners to review all fees, expenses, and capital withdrawals from the pooled accounts;

(ii) send all invoices or receipts to the independent party, detailing the amount of the fee, expenses, or capital withdrawal and the method of calculation such that the independent party can:

(I) determine that the payment is in accordance with the pooled investment vehicle standards (generally the partnership agreement or membership agreement) and

(II) forward, to the qualified custodian, approval for payment of the invoice with a copy to the investment adviser.

(6) **Independent verification.** The client funds and securities of which the investment adviser has custody are verified by actual examination at least once during each calendar year, by an independent certified public accountant, pursuant to a written agreement between the investment adviser and the independent certified public accountant, at a time that is chosen by the independent certified public accountant without prior notice or announcement to the investment adviser and that is irregular from year to year. The written agreement must provide for the first examination to occur within six months of becoming subject to this paragraph, except that, if the investment adviser maintains client funds or securities pursuant to this Section as a qualified custodian, the agreement must provide for the first examination to occur no later than six months after obtaining the internal control report. The written agreement must require the independent certified public accountant to:

(A) file a certificate on Form ADV-E with the Administrator within 120 days of the time chosen by the independent certified public accountant in this paragraph, stating that it has examined the funds and securities and describing the nature and extent of the examination;

(B) notify the Administrator within one business day of the finding of any material discrepancies during the course of the examination, by means of a facsimile transmission or electronic mail, followed by first class mail, directed to the attention of the Administrator; and

(C) file within four (4) business days of the resignation or dismissal from, or other termination of, the engagement, or removing itself or being removed from consideration for being reappointed, Form ADV-E accompanied by a statement that includes:

(i) the date of such resignation, dismissal, removal, or other termination, and the name, address, and contact information of the independent certified public accountant; and

(ii) an explanation of any problems relating to examination scope or procedure that contributed to such resignation, dismissal, removal, or other termination.

(7) **Investment advisers acting as qualified custodians.** If the investment adviser maintains, or if the investment adviser has custody because a related person maintains, client funds or securities pursuant to this Section as a qualified custodian in connection with advisory services the investment adviser provides to clients, the investment adviser must obtain, or receive from its related person, within six months of becoming subject to this paragraph and thereafter no less frequently than once each calendar year a written internal control report prepared by an independent certified public accountant:

(A) The internal control report must include an opinion of an independent certified public accountant as to whether controls have been placed in operation as of a specific date, and are suitably designed and are operating effectively to meet control objectives relating to custodial services, including the safeguarding of funds and securities held by either the investment adviser or a related person on behalf of the investment adviser's clients, during the year; and

(B) The independent certified public accountant must verify that the funds and securities are reconciled to a custodian other than the investment adviser or the investment adviser's related person.

(8) **Independent representatives.** A client may designate an independent representative to receive, on his behalf, notices and account statements as required under (3) and (4) of this subsection.

(c) **Exceptions.**

(1) **Shares of mutual funds.** With respect to shares of an open-end company as defined in Section 5(a)(1) of the 1940 Act [~~15 U.S.C. 80a-5(a)(1)~~][15 U.S.C. §80a05(a)(1)] ("mutual fund"), the investment adviser may use the mutual fund's transfer agent in lieu of a qualified custodian for purposes of complying with (b) of this Section.

(2) **Certain privately offered securities.**

(A) The investment adviser is not required to comply with (b)(2) of this Section with respect to securities that are:

- (i) acquired from the issuer in a transaction or chain of transactions not involving any public offering;
- (ii) uncertificated, and ownership thereof is recorded only on books of the issuer or its transfer agent in the name of the client; and
- (iii) transferable only with prior consent of the issuer or holders of the outstanding securities of the issuer.

(B) Notwithstanding (A) of this paragraph, the provisions of this paragraph are available with respect to securities held for the account of a limited partnership (or limited liability company, or other type of pooled investment vehicle) only if the limited partnership is audited and the audited financial statements are distributed as described in (4) of this subsection, and the investment adviser notifies the Administrator in writing that the investment adviser intends to provide audited financial statements as described in (4) of this subsection. Such notification is required to be given on Form ADV.

(3) **Fee deduction.** Notwithstanding (b)(6) of this Section, an investment adviser is not required to obtain an independent verification of client funds and securities maintained by a qualified custodian if all of the following are met:

(A) The investment adviser has custody of the funds and securities solely as a consequence of its authority to make withdrawals from client accounts to pay its advisory fee;

(B) The investment adviser has written authorization from the client to deduct advisory fees from the account held with the qualified custodian;

(C) Each time a fee is directly deducted from a client account, the investment adviser concurrently:

- (i) sends the independent party designated pursuant to (b)(5)(B)(i) of this Section an invoice or statement of the amount of the fee to be deducted from the client's account; and
- (ii) sends the client an invoice or statement itemizing the fee. Itemization includes the formula used to calculate the fee, the amount of assets under management the fee is based on, and the time period covered by the fee.

(D) The investment adviser notifies the Administrator in writing that the investment adviser intends to use the safeguards provided in this paragraph. Such notification is required to be given on Form ADV.

(4) **Limited partnerships subject to annual audit.** An investment adviser is not required to comply with (b)(3) and (b)(4) of this Section and shall be deemed to have complied with (b)(6) of this Section with respect to the account of a limited partnership (or limited liability company, or another type of pooled investment vehicle) if each of the following conditions are met:

(A) The adviser sends to all limited partners (or members or other beneficial owners) at least quarterly, a statement showing:

- (i) the total amount of all additions to and withdrawals from the fund as a whole as well as the opening and closing value of the fund at the end of the quarter based on the custodian's records;
- (ii) a listing of all long and short positions on the closing date of the statement in accordance with FASB Rule ASC 946-210-50; and
- (iii) the total amount of additions to and withdrawals from the fund by the investor as well as the total value of the investor's interest in the fund at the end of the quarter.

(B) At least annually the fund is subject to an audit and distributes its audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners (or members or other beneficial owners) within 120 days of the end of its fiscal year;

(C) The audit is performed by an independent certified public accountant;

(D) Upon liquidation, the adviser distributes the fund's final audited financial statements prepared in accordance with generally accepted accounting principles to all limited partners (or members or other beneficial owners) and the Administrator promptly after the completion of such audit;

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(E) The written agreement with the independent certified public accountant must require the independent certified public accountant to, upon resignation or dismissal from, or other termination of, the engagement, or upon removing itself or being removed from consideration for being reappointed, notify the Administrator within four business days accompanied by a statement that includes:

- (i) The date of such resignation, dismissal, removal, or other termination, and the name, address, and contact information of the independent certified public accountant; and
- (ii) An explanation of any problems relating to audit scope or procedure that contributed to such resignation, dismissal, removal, or other termination.

(F) The investment adviser must also notify the Administrator in writing that the investment adviser intends to employ the use of the statement delivery and audit safeguards described in this paragraph. Such notification is required to be given on Form ADV.

(5) **Registered investment companies.** The investment adviser is not required to comply with this Section with respect to the account of an investment company registered under the 1940 Act [~~15 U.S.C. 80a-1 to 80a-64~~][15 U.S.C. §80a-1 to 80a-64].

(6) **Delivery to Related Persons.** Sending an account statement under (b)(5) of this Section or distributing audited financial statements under (4) of this subsection shall not satisfy the requirements of this Section if such account statements or financial statements are sent solely to limited partners (or members or other beneficial owners) that themselves are limited partnerships (or limited liability companies, or another type of pooled investment vehicle) and are related persons of the investment adviser.

## **660:11-7-49. Investment adviser representative continuing education requirements [AMENDED]**

(a) **Definitions.** For purposes of this Section, the following terms mean:

- (1) **"Approved IAR Continuing Education Content"** means the materials, written, oral, or otherwise that have been approved by NASAA or its designee and which make up the educational program provided to an investment adviser representative under this Section.
- (2) **"Authorized provider"** means a person that NASAA or its designee has authorized to provide continuing education content required by this Section.
- (3) **"Credit"** means a unit that has been designated by NASAA or its designee as at least 50 minutes of educational instruction.
- (4) **"Home state"** means the state in which the investment adviser representative has its principal office and place of business.
- (5) **"IAR Ethics and Professional Responsibility Content"** means Approved IAR Continuing Education Content that addresses an investment adviser representative's ethical and regulatory obligations.
- (6) **"IAR Products and Practice Content"** means Approved IAR Continuing Education Content that addresses an investment adviser representative's continuing skills and knowledge regarding financial products, investment features, and practices in the investment advisory industry.
- (7) **"Investment adviser representative"** means an individual who meets the definition of "investment adviser representative" under the Securities Act and an individual who meets the definition of "investment adviser representative" under Rule 203A-3 of the Advisers Act ~~17 CFR 275.203A-3~~ [17 C.F.R. §275.203A-3].
- (8) **"Reporting period"** means the calendar year. An investment adviser representative's initial reporting period commences the first day of the first full reporting period after the individual is registered or required to be registered under the Securities Act.

(b) **IAR continuing education.** Every investment adviser representative registered under the Securities Act must complete a total of twelve (12) credits of continuing education requirements each reporting period as follows:

- (1) **IAR Ethics and Professional Responsibility requirement.** An investment adviser representative must complete six (6) credits of IAR Ethics and Professional Responsibility Content offered by an authorized provider, with at least three (3) credits covering the topic of ethics; and
- (2) **IAR Products and Practice requirement.** An investment adviser representative must complete six (6) credits of IAR Products and Practice Content offered by an authorized provider.

(c) **Agent of FINRA-registered broker-dealer compliance.** An investment adviser representative who is also registered as an agent of a FINRA member broker-dealer and who complies with FINRA's continuing education requirements is considered to be in compliance with ~~subsection (b)(2) of this Section~~ for each applicable reporting period so long as FINRA continuing education content meets all of the following baseline criteria:

- (1) The continuing education content focuses on compliance, regulatory, ethical, and sales practices standards.

(2) The continuing education content is derived from state and federal investment advisory statutes, rules and regulations, securities industry rules and regulations, and accepted standards and practices in the financial services industry.

(3) The continuing education content requires that its participants demonstrate proficiency in the subject matter of the educational materials.

(d) **Credentialing organization continuing education compliance.** Credits of continuing education completed by an investment adviser representative who holds certifications determined by the Administrator to be acceptable in lieu of required examinations comply with ~~subsection~~(b) of this Section provided all of the following are true:

(1) The investment adviser representative completes the credits of continuing education as a condition of maintaining the credential for the relevant reporting period.

(2) The credits of continuing education completed during the relevant Reporting Period by the investment adviser representative are mandatory to maintain the credential.

(3) The continuing education content provided by the credentialing organization during the relevant reporting period is Approved IAR Continuing Education Content.

(e) **IAR continuing education reporting.** Every investment adviser representative is responsible for ensuring that the authorized provider reports the investment adviser representative's completion of the applicable IAR continuing education requirements.

(f) **No carry-forward.** An investment adviser representative who completes credits of continuing education in excess of the amount required for the reporting period may not carry forward excess credits to a subsequent reporting period.

(g) **Failure to complete or report.** An investment adviser representative who fails to comply with this Section by the end of a reporting period will renew under the Securities Act as "CE Inactive" at the close of the calendar year until the investment adviser representative completes and reports all required IAR continuing education credits for all reporting periods as required by this Section. An investment adviser representative who is "CE-Inactive" at the close of the next calendar year is not eligible for investment adviser representative registration or renewal of an investment adviser representative registration.

(h) **Discretionary waiver by the Administrator.** The Administrator may, in the Administrator's discretion, waive any requirements of this Section.

(i) **Home state.** An investment adviser representative registered or required to be registered in this state who is registered as an investment adviser representative in the individual's home state is considered to be in compliance with this rule provided that both of the following are true:

(1) The investment adviser representative's home state has continuing education requirements that are at least as stringent as the requirements of this Section.

(2) The investment adviser representative is in compliance with the home state's investment adviser representative continuing education requirements.

(j) **Unregistered periods.** An investment adviser representative who was previously registered under the Securities Act and became unregistered for non-compliance with this Section must complete the continuing education requirements required by this Section for all reporting periods that occurred between the time that the investment adviser representative became unregistered and when the person applies to become registered again under the Securities Act unless the investment adviser representative takes and passes the required examinations or receives an examination waiver under 660:11-7-13 in connection with the subsequent application for registration.

### SUBCHAPTER 9. REGISTRATION OF SECURITIES

#### PART 3. REGISTRATION PROCEDURES

##### **660:11-9-12. Content of registration statement [AMENDED]**

In addition to the other requirements set forth in the Securities Act and the rules and regulations promulgated thereunder, a registration statement filed under the provisions of Sections 1-303 and 1-304 of the Securities Act shall contain the information that would be required in a registration statement filed with the SEC under Section 5 of the 1933 Act [~~15 U.S.C. §77e~~], ~~as amended~~. Except for offerings attempting to register by use of the Form U-7, the registration statement shall be on the form that the issuer would be entitled to use if filing under the 1933 Act and in accordance with the specified instructions of said form.

##### **660:11-9-13. Amendments to registration statements [AMENDED]**

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(a) **Requirement to amend.** A correcting amendment to an effective Registration Statement shall be prepared and submitted to the Department any time that the information contained therein becomes inaccurate or incomplete in any material respect. The responsibility for identifying and reporting a material change lies with the registrant. Any of the following changes are likely to be the basis for filing a correcting amendment; however, the following is not intended to be a comprehensive listing of specific events or conditions which might give rise to such a filing:

- (1) changes in officers, directors and other management personnel identified in the Registration Statement, including those persons who would have been identified in the Registration Statement had the change occurred prior to making the initial filing;
- (2) a change of 10% or more in the equity ownership of the issuer by persons identified in the Registration Statement as principal security holders or by persons who would have been so described had the change occurred prior to making the initial filing;
- (3) changes in the issuer's aims, objectives, business enterprise, operations or activities;
- (4) a change in any designated Use of Proceeds item;
- (5) impairment of the issuer's assets, the issuer's insolvency or the filing of a petition for bankruptcy by or for the issuer;
- (6) management's intention to dispose of a significant portion of an issuer's assets, or the actual occurrence of such disposal;
- (7) changes in the compensation arrangements described in the Registration Statement for promoters, general partners or sponsors of the issuer, including controlling persons of such promoters, general partners or sponsors, who are identified in the Registration Statement, or who would have been so identified had a change occurred prior to making the initial filing;
- (8) changes in underwriting terms;
- (9) any agreement in principle to enter into a business combination;
- (10) changes in the industry, the economy, or in laws or regulations governing the industry, if disclosures in the Registration Statement are affected by the changes or if the condition resulting from such changes would have resulted in a disclosure requirement had the changes occurred prior to making the initial filing.

(b) **Time of filing and undertaking.**

(1) Every Registration Statement shall contain an undertaking by the applicant to file correcting amendments to the Registration Statement whenever the information in the Registration Statement becomes inaccurate or incomplete in any material respect by the earlier of:

(A) two business days after filing such amendment with the SEC, or

(B) fifteen business days following the event giving rise to the amendment.

(2) If not registered with the SEC, registrants shall file an amended Registration Statement if required within fifteen (15) business days following the event giving rise to the amendment, and in no event, not less often than annually as a part of the Annual Report required by 660:11-9-51.

(c) **Contents of filing.** Each filing of a correcting amendment to a Registration Statement shall contain a copy of each item of the Registration Statement which has been changed, with all changes clearly marked. To be complete, a filing of a correcting amendment to the Registration Statement shall contain a report of material changes setting forth a summary of each material change and indicating the location of such change in the documents filed. Neither the Administrator nor any member of his staff shall be held to have taken notice of any item of material change not summarized in such a report.

(d) **Effect of failure to amend.** Solicitation of prospective investors through utilization of a Prospectus containing information which is inaccurate or incomplete in any material respect is a violation of Section 1-501 of the Securities Act and constitutes a basis for suspending or revoking the effectiveness of a Registration Statement under Section ~~1-306-A-7-a1-306(A)(7)(a)~~ of the Securities Act. Failure to report to the Department and disclose to prospective investors a material change that occurs after the effective date of a Registration Statement and prior to the sale of a security is a violation of Section 1-501 of the Securities Act and a basis for the suspension or revocation of the registration under Section ~~1-306-A-7-a1-306(A)(7)(a)~~ of the Securities Act. Nothing in this section shall be construed to require any open-end investment company registered under the 1940 Act and the Securities Act to disclose fluctuations in its investment portfolio.

## 660:11-9-14. Financial statements [AMENDED]

(a) **Section 1-304 filings.** Except for applications made on the Form U-7, registration statements filed pursuant to Section 1-304 of the Securities Act shall contain ~~Audited Financial Statements~~ audited financial statements of the issuer for its last two (2) fiscal years. Registration statements filed with applications made on the Form U-7 shall contain the financial statements specified in the instructions to the Form U-7.



- (b) **Unaudited interim financial statements.** If the ~~Audited Financial Statements~~audited financial statements or unaudited ~~Financial Statements~~financial statements required in (a) of this section are not current to within four (4) months of the ~~Date of Filing~~date of filing of the registration statement, additional unaudited ~~Financial Statements~~financial statements as of the issuer's last fiscal quarter or any later date designated by the Administrator shall be included.
- (c) **Multiple financial statements.** If more than one balance sheet or more than one statement of income is required to be filed pursuant to (a) of this section, the statement shall be in comparative columnar form, the date or periods applicable to each column shall be clearly shown, and columns relating to unaudited ~~Financial Statements~~financial statements shall be clearly designated "Unaudited."
- (d) **Acquisitions.** If any part of the proceeds of the offering is to be applied to the purchase of any business, the same ~~Financial Statements~~financial statements required in (a) of this section shall be filed for the business to be acquired. When appropriate for full and fair disclosure, the Administrator may require pro forma combined ~~Financial Statements~~financial statements.
- (e) **Application of Regulation S-X.** As to definitions, qualifications of accountants, content of accountant's certificates, requirements for consolidated or combined statements, and actual form and content of ~~Financial Statements~~financial statements, the Administrator shall apply Regulation S-X ~~of the SEC (17 C.F.R. Part 210)~~under the 1933 Act [17 C.F.R. §210.1-01 et seq.] in its most currently amended form as of the date of the filing of the application to all ~~Financial Statements~~financial statements filed with the Department in connection with the registration of securities.
- (f) **Financial statements incorporated by reference.** Where ~~Financial Statements~~financial statements in a prospectus are incorporated by reference from another document, the Administrator may require that such other document be filed with the Department and be delivered to investors with the prospectus.
- (g) **Application of antifraud provisions.** Any ~~Financial Statement~~financial statement distributed in connection with the offer or sale of securities under the Securities Act shall be subject to the provisions of Section 1-501 of the Securities Act. Any ~~Financial Statement~~financial statement filed with the Department shall be subject to the provisions of Section 1-505 of the Securities Act.

### 660:11-9-16. Abandoned filings [AMENDED]

An application for registration of securities pursuant to Sections 1-303 or 1-304 of the Securities Act shall be deemed abandoned if such registration is not effective in the state of Oklahoma within one year from the date of receipt by the Department of the initial filing of the application for registration unless the Administrator for good cause grants an extension in writing. Once deemed abandoned, the original application shall not be reinstated. ~~A new application including the registration statement, appropriate exhibits and filing fees shall be required. New requests shall include the refiling of all documents and the payment of all fees as required by the Securities Act and/or Rules.~~

## PART 5. GUIDELINES AND POLICIES APPLICABLE TO OFFERINGS OF REGISTERED SECURITIES

### 660:11-9-31. Prospectus delivery requirement [AMENDED]

No offer or sale of any security registered under the Securities Act may be made unless concurrent with the initial solicitation or immediately thereafter there is furnished to the prospective purchaser, a prospectus, in such form and containing such information as may be required pursuant to the Securities Act or the rules and regulations promulgated thereunder or by order of the Administrator, which prospectus has been previously filed with and approved by the Administrator for use; provided, no prospectus shall be required in connection with offers or sales of securities or transactions exempted by Sections 1-201 through 1-203 of the Securities Act, except as may be specifically required by such Act or the rules and regulations promulgated thereunder or by order of the Administrator. In addition, after the effective date of the registration statement in the state of Oklahoma, all broker-dealers and agents effecting transactions in the securities registered under the Securities Act shall be required to deliver a prospectus prior to or concurrently with any transaction in said securities for the same time periods specified in Section 4(a)(3) of the 1933 Act [15 U.S.C. §77d(a)(3)] and Rule 174 ~~adopted by the SEC under the 1933 Act (17 CFR § 230.174)~~[17 C.F.R. §230.174] in its most currently amended form as of the date of the filing of the application. Nothing in this rule obviates the need for registrants to comply with the provisions of Section 1-501 of the Securities Act.

### 660:11-9-34. Application of NASAA Statements of Policy and guidelines [AMENDED]

(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, to a registration of securities pursuant to the Securities Act.

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(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.

## 660:11-9-36. Promoters' and organizers' equity contributions [AMENDED]

(a) **Requirement.** Where an issuer is a promotional or development stage company as defined in 660:11-11-1, the ratio of equity investment by promoters or insiders must be determined as reasonable and equitable in light of the facts and circumstances presented in each particular case. Cases where the fair value of such equity investment is less than 10% of the total offering are discouraged, and in such instances, the proponents of the registration shall have the burden of establishing that the offering is being made without unfair or unreasonable amounts of promoters' profits or participation, as provided in Section ~~1-306.A.7.b~~ 1-306(A)(7)(b) of the Securities Act.

(b) **Presumption.** In those instances where only 5% or more has been contributed by promoters or organizers, but where they have entered into bona fide and binding subscription contracts exercisable within one year with the new enterprises for capital stock representing the difference between the amount contributed and 10%, then the burden of proof will be deemed to have been satisfied.

(c) **Determination of equity investment.** The fair value of equity investment shall be deemed to mean the total of all sums conveyed to the issuer in the form of paid-in or contributed cash or other assets with an established or determinable value. In those cases where the issuer has experienced losses from operations, the fair value of equity investment shall be the net worth of the issuer as of the date of the proposed offering determined in accordance with generally accepted accounting principles.

(d) **Burden of proof.** The burden of justifying as equitable the quantity of promotional securities to be issued for assets so conveyed, and of establishing reasonable or market value of said assets, shall rest with the applicant.

## PART 7. REPORTING REQUIREMENTS

### 660:11-9-51. Registration renewal and sales reporting requirements [AMENDED]

(a) **Registration renewal.** Pursuant to Section ~~1-305.H~~ 1-305(H) of the Securities Act, every registration statement ordered effective is effective for one (1) year after its effective date, and certain registration statements may be effective for any longer period during which the security is being offered. Registration statements, the effectiveness of which is to continue beyond one (1) year from their effective date, must have their effectiveness renewed annually. A renewal of the effectiveness of a registration statement may be obtained by submitting a registration renewal report to keep the information contained in the registration statement reasonably current and by paying appropriate fees.

(1) **Time of filing.** Each registration renewal report shall be submitted no more than thirty (30) days before or thirty (30) days after each anniversary of the registration effective date.

(2) **Content.** Each registration renewal report submitted shall contain:

(A) a written summary of any substantive changes in the registration statement since the later of the date of registration or the latest filing of a registration renewal report; and

(B) a copy of the latest post-effective amendment to the registration statement as filed with the SEC that has been marked for changes from the prior version of the registration statement as filed with the SEC; or, if not registered with the SEC, the proposed amendment to the registration statement that has been marked for changes from the prior version of the registration statement as filed with the Department.

(3) **Examination of report.** The Department shall conduct a special examination of each registration renewal report filed. The purpose for such special examination shall be to evaluate the reported changes in the registration statement and to determine whether the registration should continue. The examination report shall consist of notification to the registrant of the status of the registration.

(4) **Fee.** Each registration renewal report filed shall include the examination fee set forth in Section ~~1-612.B1-~~612(B) of the Securities Act.

(b) **Sales reporting.** Pursuant to Section ~~1-305.11-305(I)~~ of the Securities Act, and so long as a registration statement is effective, the Administrator may require the applicant, the issuer, or the broker-dealer to file reports not more often than quarterly to disclose the progress of the offering. Unless the Administrator requires more frequent sales reporting by request as to a specific registered security, a person who has filed a registration statement that has been ordered effective shall file one (1) registration sales report to disclose the progress of the offering for the initial one (1) year period of effectiveness and for each one (1) year renewal period of effectiveness thereafter.

(1) **Time of filing.** Each registration sales report shall be submitted no later than thirty (30) days after each anniversary of the effective date of the registration, or no later than thirty (30) days after the termination of the offering, whichever is earlier.

(2) **Content.** Each registration sales report submitted shall contain:

(A) the file number of the registration of securities to which the registration sales report relates;

(B) a statement as to whether the offering has been completed; and

(C) the dollar amount of each class of securities sold in the state for the entire one (1) year period of the registration, or from the beginning of the one (1) year period of registration through the completion of the offering, as applicable, in substantially the following form: Balance unsold at beginning of period \$ ADD: Additional authorizations LESS: Amount sold during period Balance unsold at end of period \$

(3) **Fee.** Each registration sales report filed shall include the issuer sales report fee as required in Section 1-612 of the Securities Act.

(c) **Piecemeal filings.** Any report required under this section is not considered filed if it is incomplete. Piecemeal filings shall not be accepted.

## 660:11-9-53. Special examinations of registrations [AMENDED]

(a) **Examination of application.** The Department shall conduct a special examination of each application for registration under Sections 1-303 and 1-304 of the Securities Act to determine the adequacy of disclosure and to fulfill the Department's obligations under Section 1-306 of the Securities Act. This examination shall be based upon material contained in the Registration Statement and any other documentation which the applicant may be required to submit. Each application for registration shall be accompanied by the examination fee set forth in Section ~~1-612.B1-612(B)~~ of the Securities Act. The examination report shall consist of the Department's written comments regarding the filing.

(b) **On-site examinations of issuers.** The business and records of issuers registered pursuant to Sections 1-303 and 1-304 of the Securities Act may be subject to periodic on-site examinations by the Administrator, and/or ~~his~~the Administrator's designee, at such times as he determines necessary for the protection of the public. The Division of ~~Registrations~~Corporate Finance shall prepare a special report of every such examination.

(c) **Department access.** Each issuer scheduled for examination shall provide the personnel of the Department access to business books, documents, and other records. Each issuer shall provide personnel with office space and facilities to conduct on-site examinations, and assistance in the physical inspection of assets and confirmation of liabilities. Failure of any applicant or registrant to comply with any provision hereof shall constitute a violation of this section and shall be a basis for denial, suspension or revocation of the registration or application for registration.

## SUBCHAPTER 11. EXEMPTIONS FROM SECURITIES REGISTRATION

### PART 1. GENERAL PROVISIONS

#### 660:11-11-1. Definitions [AMENDED]

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

"**Affiliate**" means a person who, directly or indirectly, controls, is controlled by, or is under common control with a person as defined in this Section.

"**Associate**" means, when used to indicate a relationship with a person, includes:

(A) corporations, legal entities, other than the issuer or majority-owned subsidiaries of the issuer, of which a person is an officer, director, partner, or a direct or indirect, legal or beneficial owner of five percent (5%) or more of any class of equity securities.

(B) trusts or other estates in which a person has a substantial beneficial interest or for which a person serves as a trustee or in a similar capacity; and

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(C) a person's spouse and relatives, by blood or by marriage, if that person is a promoter of the issuer, its subsidiaries, its affiliates, or its parent.

**"Class"** means the lowest level of subdivision of the securities offered by an issuer.

**"Control"** means the power to direct or influence the direction of the management or policies of a person, directly or indirectly, through the ownership of voting securities, by contract or otherwise. A presumption of control exists for any person who:

(A) is a director, general partner, member, manager, or officer exercising executive responsibility or has similar status or functions;

(B) has the right to vote twenty percent (20%) or more of a class of voting securities; or

(C) in the case of a partnership or limited liability company, has contributed or has the right to receive upon dissolution twenty percent (20%) or more of the capital.

**"Enterprise"** means a corporation, general partnership, limited partnership, joint venture and any other formal or informal entity, association or arrangement (other than a sponsor) in which the investors' rights, interests or participation constitute "securities" as defined by Section 1-102 of the Securities Act.

**"Equity securities"** means, including, but not limited to shares of common stock or similar securities, convertible securities, warrants, and options or rights that may be converted into or exercised to purchase shares of common stock or similar securities.

**"Net earnings"** means the issuer's after-tax earnings, excluding extraordinary and nonrecurring items, determined in accordance with generally accepted accounting principles.

**"Person"** means an individual, corporation, business trust, estate, trust, partnership, limited liability company, limited liability partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality; public corporation; or any legal or commercial entity.

**"Promoter"** means:

(A) a person, including, but not limited to, who:

(i) alone or in conjunction with one or more persons, directly, or indirectly, took the initiative in founding or organizing the issuer or controls the issuer;

(ii) directly, or indirectly, receives, as consideration for property or for services rendered, five percent (5%) or more of any class of the issuer's equity securities or five percent (5%) or more of the proceeds from the sale of any class of the issuer's equity securities.

(iii) is an officer or director for the issuer;

(iv) legally or beneficially owns, directly or indirectly, five percent (5%) or more of any class of the issuer's equity securities; or

(v) is an affiliate or an associate of a person specified in i through iv of this subparagraph.

(B) A promoter does not include

(i) a person who receives securities or proceeds solely as underwriting compensation unless that person otherwise comes with the terms;

(ii) an unaffiliated institutional investor, who purchased the issuer's equity securities more than one year prior to the filing date of the issuer's registration statement; or

(iii) at the Administrator's discretion, an unaffiliated institutional investor, who purchased the issuer's securities on an arm's-length basis within one year prior to the filing date of the issuer's registration statement.

**"Promotional shares"** means equity securities that:

(A) A promotional or development stage company has issued within five (5) years before the filing of the registration statement or will issue to its promoters for cash or other consideration, including services rendered, patents, copyrights, and other intangibles; or

(B) An issuer that is not a promotional or development stage company has issued within three (3) years before the filing of the registration statement or will issue to promoters for cash or other consideration, including services rendered, patents, copyrights, and other intangibles.

**"Sponsor"** means any natural person, corporation, general partnership, limited partnership, joint venture or other entity which is directly or indirectly instrumental in organizing an enterprise or which will manage or participate in the management of an enterprise.

**"Unaffiliated institutional investor"** means the following investors if not affiliated with the issuer:

(A) an institutional investor as defined in 1-102(13) of the Securities Act; and

(B) a business development company as defined in Section 2(a)(48) of the 1940 Act. [15 U.S.C. §80a-2(a)(48)].

### 660:11-11-3. Number of purchasers [AMENDED]

(a) **Exclusions.** For purposes of computing the number of persons to whom sales of the issuer's securities are made pursuant to Sections ~~1-202.14 and 1-202.16~~ 1-202(14) and (16) of the Securities Act, sales to the following purchasers shall be excluded:

- (1) any relative, spouse or relative of the spouse of a purchaser who has the same principal residence as such purchaser;
- (2) any trust or estate in which a purchaser and any of the persons related to him as specified in (1) ~~of this subsection~~ or (3) of this subsection collectively have more than 50% of the beneficial interest (excluding contingent interests);
- (3) any corporation or other organization of which a purchaser and any of the persons related to him as specified in (1) or (2) of this subsection collectively are beneficial owners of more than 50 percent of the equity securities (excluding directors' qualifying shares) or equity interests.

(b) **Entities as purchasers.** A corporation, partnership, or other entity shall be counted as one purchaser. If, however, that entity is organized for the specific purpose of acquiring the securities offered and is not an accredited investor as defined in Section 501 of Regulation D under the 1933 Act [17 C.F.R. §230.501], then, each beneficial owner of equity interests or equity securities in such entity shall count as a separate purchaser.

(c) **Sales to certain clients or customers.** Sales to clients of an investment adviser, customers of a broker or dealer, a trust administered solely by a bank trust department or persons with similar relationships, shall be considered as separate sales for purposes of this section regardless of the amount of discretion given to the investment adviser, broker or dealer, bank trust department, or other persons to act on behalf of the client, customer or trust.

(d) **Joint or common ownership.** A sale to persons who acquire the securities as joint tenants, or as tenants in common, shall be counted as sales to each tenant unless otherwise covered by the rules of attribution provided by this section.

### 660:11-11-4. Integration of offerings [AMENDED]

(a) **General.** An offering made by an issuer attempting to rely on the exemptions from registration provided by Sections ~~1-202.14~~ 1-202(14) of the Securities Act and/or 660:11-11-43 must be separate and distinct from any other offering. Offers and sales of an offering will be deemed integrated with offers and sales of another offering when a review of the integration factors provided by (b) of this section indicates that the offers and sales are part of a larger offering. Integration may occur between two (2) claimed exempt offerings as well as between a claimed exempt offering and a registered offering.

(b) **Factors.** The following five (5) factors are deemed relevant to a determination as to whether or not two (2) different offerings are in fact integrated and thus part of a larger offering:

- (1) the different offerings are part of single plan of financing;
- (2) the offerings involve the issuance of the same class of security;
- (3) the offerings are made at or about the same time;
- (4) the same type of consideration is to be received;
- (5) the offerings are made for the same general purpose.

(c) **Case by case determination.** Determination as to whether or not integration has occurred between two offerings shall be made on a case by case basis. The presence of all the integration factors shall not be required to establish the integration of two (2) offerings.

### 660:11-11-5. Application of NASAA Statements of Policy and guidelines [AMENDED]

(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 exemption.

(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 notice of exemption and shall indicate the reasons why the requirement is not necessary under the circumstances

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described in the ~~registration statement~~ notice of exemption.

## **660:11-11-6. Abandoned filings [NEW]**

A request for exemption under Sections 1-201, 1-202, or 1-203 of the Securities Act shall be deemed abandoned if such request is not effective in the state of Oklahoma within one year from the date of receipt by the Department of the initial filing of the request for exemption, unless the Administrator for good cause grants an extension in writing. Once deemed abandoned, the original request shall not be reinstated. New requests shall include the refiling of all documents and the payment of all fees as required by the Securities Act and/or Rules.

## **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~~ 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) **Waiver.** The Administrator may waive any term or condition set forth in this Section.

## **PART 5. EXEMPT TRANSACTIONS**

### **660:11-11-40. Manual exemption [AMENDED]**

(a) **Recognized securities manuals.** The publications recognized by the Administrator for purposes of the exemption from registration set forth in Section ~~1-202.2-d~~ 1-202(2)(d) of the Securities Act are as follows:

- (1) Best's Insurance Reports, Life-Health
- (2) Mergent's Industrial Manual
- (3) Mergent's International Manual
- (4) OTC Markets Group Inc. with respect to securities included in the OTCQX and OTCQB markets.

(b) **Additional requirements.** To be eligible for the exemption from registration provided by Section ~~1-202.2-d~~ 1-202(2)(d) of the Securities Act, the following additional conditions must be met:

(1) All information specified as required to be contained in the recognized securities manuals pursuant to Section ~~1-202.2-d~~ 1-202(2)(d) of the Securities Act must be given to the purchaser with the confirmation by providing the purchaser with a copy of either:

- (A) the information contained in the manual listing; or
- (B) the information maintained by the broker-dealer effecting the transaction that is required to be kept by such broker-dealer pursuant to the requirements of SEC-Rule 15c2-11 ~~promulgated under the provisions of the 1934 Act~~ [17 C.F.R. §240.15c2-11].

(2) The information required under (1) of this subsection must be reasonably current in all material respects. The time for determining whether the information is current is at the date of the particular sale not the date the manual listing is published. For purposes of this paragraph, the term "reasonably current" has the meaning set forth in SEC-Rule 15c2-11 ~~under the 1934 Act~~ [17 C.F.R. §240.15c2-11].

- (3) The financial statements of the issuer required pursuant to Section ~~1-202.2-1-202(2)(d)~~ of the Securities Act must be audited by an independent public accountant in accordance with generally accepted auditing standards, presenting fairly, in all material respects, the financial condition of the issuer; provided, if the issuer is an entity formed and operating under the laws of a foreign jurisdiction, the financial statements are to be audited in accordance with the auditing standards applicable in its jurisdiction of formation and operation.
- (4) The issuer of the security, including any predecessors, has either:
- (A) been in continuous business or operations for at least two (2) years, unless the issuer is an insurance company in which event it has been in business for at least five (5) years; or
  - (B) had a class of equity securities registered under Section 1-301 of the Securities Act within the past five (5) years.
  - (C) As used in this paragraph, "business or operations" means actual activities related to its current business or operations and does not include an issuer merely holding funds or assets for future use.
- (5) Sales must be made by a broker-dealer, either as principal or agent, who is registered under the provisions of Section 1-401 of the Securities Act.
- (6) The securities must be offered or sold at a price reasonably related to the current market price of such securities.
- (7) The securities must be issued and outstanding. The exemption is not available for issuer transactions. For purposes of this paragraph, "issuer" includes all officers, directors and controlling (5% or more) shareholders of the issuer.
- (8) The security does not constitute the whole or any part of an unsold allotment to, or subscription or participation by, the broker-dealer as an underwriter of the security.

**(c) Restriction for promotional or development stage companies.** This exemption may not be used to evade the registration requirements of Section 1-301 of the Securities Act. Accordingly, transactions in reliance on this exemption for the securities of an issuer which is a promotional or development stage company as defined in 660:11-11-1, involving securities that have not been registered for offer or sale in the state of Oklahoma and which securities would not have met the requirements for registration set forth in Sections 1-303 or 1-304 of the Securities Act and the rules promulgated thereunder, had the securities been filed for registration pursuant to such sections of the Securities Act, may be deemed to have violated this requirement unless proven otherwise.

**(d) Exemption.** The requirements of (b)(1) of this Section do not apply to the sale of the securities of an issuer who has net tangible assets in excess of \$10,000,000.00 (U.S.) as determined by its most recent audited financial statements. For foreign issuers, the net tangible asset value may be determined by applying the exchange rate in effect as of the date of the financial statement relied upon unless there has been a material change in such exchange rate after the date of the financial statement that would reduce by greater than 20% the value in U.S. dollars. In that event, the exchange rate applied should be the rate effective as of the last day of the preceding month. Nothing in this ~~Section~~ releases the broker-dealer effecting the transaction from its obligation to maintain the information required by ~~SEC~~ Rule 15c2-11 under the 1934 Act [17 C.F.R. §240.15c2-11] and to deliver any such information to any person involved in a transaction effected in the security, upon request by such person.

### **660:11-11-42. Existing securitiessecurity holders exemption [AMENDED]**

**(a) Terms of the exemption.** Under the authority of Section ~~1-202.151-202(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 ~~1-202.151-202(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.

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(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 ~~1-202.151-202(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 ~~1-202.151-202(15)~~ of the Securities Act would not be available in connection with transactions to such security holders. For purposes of this 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.

## 660:11-11-43. Coordinated limited offering exemption [AMENDED]

### (a) Preliminary notes.

(1) Nothing in this exemption is intended to or should be construed as in any way relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of the Securities Act.

(2) In view of the objective of this Section and the purposes and policies underlying the Securities Act, the exemption is not available to any issuer with respect to any transaction which, although in technical compliance with this Section, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in this Section.

(3) Nothing in this Section is intended to relieve registered broker-dealers or agents from the due diligence, suitability, or know your customer standards or any other requirements of law otherwise applicable to such registered persons.

(b) **Terms of the exemption.** By authority delegated to the Administrator in Section 1-203 of the Securities Act, the following transactions are determined to be classes of transactions for which registration is not necessary or appropriate for the protection of investors and are exempt from Sections 1-301 and 1-504 of the Securities Act: any offer or sale of securities exempted from Section 5 of the 1933 Act (15 U.S.C. § 77e) pursuant to Section 4(a)(5) [15 U.S.C. § 77d(a)(5)] thereof; or any offer or sale of securities offered or sold in compliance with the 1933 Act, under SEC Rule 504 of Regulation D, Rule 504 under the 1933 Act [17 C.F.R. § 230.504][17 C.F.R. § 230.504], including any offer or sale made exempt by application of SEC Rule 508(a) of Regulation D under the 1933 Act, Rule 508(a) [17 C.F.R. § 230.508(a)][17 C.F.R. § 230.508(a)]; provided the following further conditions and limitations are satisfied:

- (1) offering expenses do not exceed those allowed for securities registered pursuant to the provisions of this title;
- (2) no general advertising or general solicitation is used; and
- (3) the issuer files with the Administrator no later than fifteen (15) days after the first sale of securities subject to the Securities Act one(1) signed copy of the notice of sales on Form D as most recently filed with the SEC. Such filing shall also include the following:

(A) an undertaking by the issuer to furnish to the Administrator, upon written request, the information furnished by the issuer to offerees;

(B) unless otherwise available, a consent to service of process on Form U-2 and (if applicable) Form U-2A; and

(C) the notice of exemption fee required by Section ~~1-612.A.121-612(A)(12)~~ of the Securities Act.

(c) **Substantial compliance.** A failure to comply with a term, condition or requirement of (b)(3) of this Section will not result in the loss of the exemption from the requirements of Section 1-301 of the Securities Act for any offer or sale to a particular individual or entity if the person relying on the exemption shows:

- (1) the failure to comply did not pertain to a term, condition or requirement directly intended to protect that particular individual or entity;
- (2) the failure to comply was insignificant with respect to the offering as a whole; and
- (3) a good faith and reasonable attempt was made to comply with all applicable terms, conditions and requirements of (b)(3) of this Section.

(d) **Action by Administrator.** Where an exemption is established only through reliance upon (c) of this Section, the failure to comply shall nonetheless be actionable by the Administrator under the Securities Act.

(e) **Reliance on other exemptions.** Transactions that are exempt under this Section may not be combined with offers and sales exempt under any other rule or any section of the Securities Act; however, nothing in this limitation shall act as an election. Should for any reason the offer and sale fail to comply with all of the conditions of this exemption, the issuer may claim the availability of any other applicable exemption.

(f) **Waiver of terms.** The Administrator may, by rule or order, increase the number of purchasers or waive any other conditions of this exemption.



(g) **Title.** The exemption authorized by this section shall be known and may be cited as the "Oklahoma Coordinated Limited Offering Exemption".

## 660:11-11-52. Oklahoma accredited investor exemption [AMENDED]

Under the authority of Section 1-203 of the Securities Act, transactions meeting the following conditions are exempt from Sections 1-301 and 1-504 of the Securities Act:

(1) **Sales only to accredited investors.** Sales of securities shall be made only to persons who are or the issuer reasonably believes are accredited investors. For purposes of this Section, an "accredited investor" is a person who meets the definition set forth in Rule 501(a) of Regulation D under the 1933 Act ~~17 CFR § 230.501(a)~~ [17 C.F.R. 230.501(a)].

(2) **Investment intent.** The issuer reasonably believes that all purchasers are purchasing for investment and not with the view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within 12 months of sale shall be presumed to be with a view to distribution and not for investment, except a resale pursuant to a registration statement effective under Sections 1-303 or 1-304 of the Securities Act or to an accredited investor pursuant to an exemption from securities registration under the Securities Act.

(3) **When exemption is unavailable.**

(A) The exemption is not available to a promotional or development stage company that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.

(B) The exemption is not available to an issuer if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, beneficial owners of 10% or more of any class of its equity securities, any promoters of the issuer presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director or officer of such underwriter:

- (i) within the last five years, has filed a registration statement that is the subject of a currently effective registration stop order entered by any state securities administrator or the SEC;
- (ii) within the last five years, has been convicted of any criminal offense in connection with the offer, purchase or sale of any security, or involving fraud or deceit;
- (iii) is currently subject to any state or federal administrative enforcement order or judgment, entered within the last five years, finding fraud or deceit in connection with the purchase or sale of any security; or
- (iv) is currently subject to any order, judgment or decree of any court of competent jurisdiction, entered within the last five years, temporarily, preliminarily or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.

(C) Subparagraph (3)(B) of this Section shall not apply if:

- (i) the party subject to the disqualification is licensed or registered to conduct securities related business in the state in which the order, judgment or decree creating the disqualification was entered against such party;
- (ii) before the first offer under this exemption, the state securities administrator, or the court or regulatory authority that entered the order, judgment, or decree, waives the disqualification; or
- (iii) the issuer establishes that it did not know and in the exercise of reasonable care, based on a factual inquiry, could not have known that a disqualification existed under this paragraph.

(4) **General announcement.**

(A) A general announcement of the proposed offering may be made by any means.

(B) The general announcement shall include only the following information, unless additional information is specifically permitted by the Administrator:

- (i) ~~The~~the name, address, and telephone number of the issuer of the securities;
- (ii) ~~The~~the name, a brief description and price (if known) of any security to be issued;
- (iii) ~~A~~a brief description of the business of the issuer in 25 words or less;
- (iv) ~~The~~the type, number and aggregate amount of securities being offered;
- (v) ~~The~~the name, address and telephone number of the person to contact for additional information; and
- (vi) ~~A~~a statement that:

(I) sales will only be made to accredited investors;

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- (II) no money or other consideration is being solicited or will be accepted by way of this general announcement; and
- (III) the securities have not been registered with or approved by any state securities agency or the SEC and are being offered and sold pursuant to an exemption from registration.

(5) **Additional information.** The issuer, in connection with an offer, may provide information in addition to the general announcement under (4) of this Section, if such information:

- (A) is delivered through an electronic database that is restricted to persons who have been prequalified as accredited investors; or
- (B) is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor.

(6) **Telephone or electronic solicitation.**

- (A) No telephone or electronic solicitation shall be permitted unless prior to placing the telephone or electronic solicitation, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor.
- (B) Dissemination of the general announcement of the proposed offering to persons who are not accredited investors shall not disqualify the issuer from claiming the exemption under this order.

(7) **Notice filing.** The issuer shall file a notice of the transaction with the Department within 15 days after the first sale of securities subject to the Act. The notice must include the following: an executed copy of the NASAA Model Accredited Investor Exemption Uniform Notice of Transaction; the Oklahoma Accredited Investor Exemption Supplemental Information Form; a consent to service of process on Form U-2 and (if applicable) Form U-2A; a copy of the general announcement; and a fee as set forth in Section 1-612 of the Securities Act.

(8) **Disqualifying provision.** Failure to comply with (7) of this ~~section~~Section shall not result in the loss of availability of the subject exemption unless the issuer, any of its predecessors or affiliates have been subject to a cease and desist order of the Administrator or any order, judgment, or decree by another state securities agency, the SEC or any court of competent jurisdiction temporarily, preliminarily or permanently enjoining such person for failure to comply with a notice filing requirement for a comparable exemption. This provision shall not apply if the Administrator determines, upon a showing of good cause, that it is not necessary under the circumstances that the exemption be denied. Requests for waivers of the disqualifying provision of this subsection shall be in writing setting forth the reasons therefor.

## 660:11-11-53. Exemptions for offers but not sales [AMENDED]

~~Terms of the exemption.~~ By authority delegated to the Administrator in Sections ~~1-202.181-202(18)~~ and 1-203 of the Securities Act, the following transactions are determined to be classes of transactions for which registration is not necessary or appropriate for the protection of investors and are exempt from Sections 1-301 and 1-504 of the Securities Act: an offer to sell, but not a sale, of a security exempt from registration under the 1933 Act if:

- (1) a registration statement has been filed under ~~this act~~the Securities Act, but is not effective,
- (2) the offeror is not aware of a stop order that has been issued by the Administrator under this act and does not know of an audit, inspection, or proceeding by the Department that may culminate in a stop order ~~is by the offeror to be pending~~; and
- (3) the offer consists only of:
  - (A) publication or distribution of a solicitation of interest document that complies with the requirements of Rule 255 of Regulation A under the 1933 Act 17 CFR § 230.555[17 C.F.R. §230.255] as effective March 15, 2021 and any subsequent oral communications with prospective investors and other broadcasts, also permitted by said section;
  - (B) a preliminary offering circular that complies with the requirements of Rule 254 of Regulation A under the 1933 Act 17 CFR § 230.254[17 C.F.R. §230.254] as effective June 19, 2015; or
  - (C) an offering document that contains the information required to be furnished in Rule 502(b)(2) of Regulation D under the 1933 Act 17 CFR § 230.502(b)(2)[17 C.F.R. §230.502(b)(2)] as effective March 15, 2021.

## 660:11-11-54. Intrastate offering exemption [AMENDED]

(a) **Terms of the Exemption.** Under the authority of Section ~~1-202.251-202(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 ~~1-202.251-202(25)~~ of the Securities Act.

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(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 remuneration 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 1933 Act (~~17 C.F.R. 230.501~~)[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.

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(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 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) **Waiver.** The Administrator may waive any term or condition set forth in this Section.

## PART 7. FEDERAL COVERED SECURITIES

### 660:11-11-60. Investment company notices [AMENDED]

- (a) **Notice requirement.** Pursuant to Section ~~1-302.A~~ 1-302(A) of the Securities Act, prior to the offer in this state of a Class of security of an investment company that is registered, or that has filed a registration statement, under the ~~Investment Company Act of 1940 Act~~, that is not otherwise exempt under Sections 1-201 through 1-203 of the Securities Act, the issuer must file a notice with the Administrator relating to such Class of security.
- (b) **Content of notice.** Each required notice shall include the following:
- (1) a properly completed Form NF;
  - (2) a consent to service of process on Form U-2 and (if applicable) Form U-2A; and
  - (3) the filing fee set forth in Section ~~1-612.C~~ 1-612(C) of the Securities Act.
- (c) **Other documents.** Documents other than those required in (b) of this ~~section~~ Section, unless specifically requested by the Department, should not be filed with the Department. Documents that should be filed with the Department only if specifically requested include, but are not limited to, registration statements, prospectuses, amendments, statements of additional information, quarterly reports, annual reports, and sales literature.
- (d) **Renewal of notice.** The effectiveness of a notice required pursuant to (a) of this ~~section~~ Section may be renewed each year for an additional one (1) year period of effectiveness by filing on or before the expiration of the effectiveness of such notice:
- (1) a properly completed Form NF clearly indicating the state file number of the Notice to be renewed; and
  - (2) the filing fee required by Section ~~1-612.C~~ 1-612(C) of the Securities Act.

### 660:11-11-61. Regulation D Rule 506 federal covered security notice filing [AMENDED]

- (a) **Notice requirement.** Issuers offering a security in this state in reliance upon Section ~~1-301.1~~ 1-301(1) of the Securities Act by reason of compliance with ~~Regulation D, Rule 506, adopted by the SEC, Rule 506 of Regulation D under the 1933 Act [17 C.F.R. §230.506]~~ shall be required to file a notice with the Administrator pursuant to the authority of Section ~~1-302.C.1~~ 1-302(C)(1) of the Securities Act if a sale of a security subject to the Securities Act occurs as a result of such offering. Such notice shall be filed no later than fifteen (15) days after the first sale of a security subject to the Securities Act for which a notice is required.
- (b) **Content of notice filing.** Each required notice shall include the following:
- (1) one copy of the notice of sales on Form D as most recently filed with the SEC;
  - (2) the notice filing fee required by Section ~~1-612.A.19~~ 1-612(A)(19) of the Securities Act.
- (c) **Late filing fee.** An issuer who files their Form D more than 15 days after the first sale of a security for which a notice is required is delinquent and shall pay the late filing fee required by Section 1-612(A)(20) of the Securities Act. Such fee shall be paid at the time of making the late notice filing.

### 660:11-11-62. Regulation A Tier 2 federal covered security notice filing [AMENDED]

- (a) **Notice requirement.** Issuers offering a security in this state in reliance upon Section ~~1-301.1~~ 1-301(1) of the Securities Act by reason of compliance with Tier 2 as provided for in Regulation A under the 1933 Act [17 C.F.R. §230.251 through §230.263], ~~adopted by the SEC,~~ shall be required to file a notice with the Administrator pursuant to ~~the authority of~~ Section ~~1-302.C.2~~ 1-302(C)(2) of the Securities Act. Such notice shall be filed prior to the first offer of securities in this state that is subsequent to qualification of the offering statement by the SEC.
- (b) **Content of notice.** Each required notice shall include the following:
- (1) ~~a copy of Part I of Federal Form 1-A in conjunction with a completed Oklahoma Notice of Regulation A- Tier 2 Offering form (or equivalent uniform form); a completed NASAA Uniform Notice Filing of Regulation A- Tier 2 Offering~~ or copies of all documents filed with the SEC;
  - (2) a consent to service of process (if such is not included in the submitted Notice form); and,
  - (3) the notice filing fee required by Section ~~1-612.A.19~~ 1-612(A)(19) of the Securities Act.

## SUBCHAPTER 13. SALES LITERATURE

### 660:11-13-3. Filing requirements [AMENDED]

- (a) **Requirement of filing.** Section 1-504 of the Securities Act requires a filing of all sales literature for review and response by the Administrator before use or distribution in Oklahoma. A complete filing consists of:
- (1) the sales literature package,
  - (2) the fee specified in Section 1-612 of the Securities Act, and
  - (3) a representation:

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(A) by the applicant, issuer or broker-dealer, that reads substantially as follows: "I -----hereby attest and affirm that the enclosed sales literature or advertising package contains no false or misleading statements or misrepresentations of material facts, and that all information set forth therein is in conformity with the Company's most recently amended registration statement as filed with the Oklahoma Department of Securities on or about-----"; or

(B) by the applicant, broker-dealer or investment adviser, that reads substantially as follows: "I -----hereby attest and affirm that the enclosed sales literature or advertising package contains no false or misleading statements or misrepresentations of material facts, and that all information set forth therein is in conformity with the provider's current information on file with the Oklahoma Department of Securities."

(b) **Exclusions.** The following types of sales literature are excluded from the filing requirements set forth in this Section:

- (1) ~~Sales~~sales literature which does nothing more than identify a broker-dealer and offer a specific security at a stated price;
- (2) ~~Internal~~internal communications that are not distributed to the public;
- (3) ~~Prospectuses~~prospectuses, preliminary prospectuses, prospectus supplements and offering circulars which have been filed with the Department as part of a registration statement, including a final printed copy if clearly identified as such;
- (4) ~~Sales~~sales literature solely related to the name of an entity and its personnel, location, ownership, offices, business structure, lines of business, officers or partners, or contact information;
- (5) ~~Sales~~sales literature that does not relate to securities, securities markets, the economy, or the qualifications or performance of an entity or its personnel; and
- (6) ~~Sales~~sales literature as defined in 660:11-13-2 that is subject to the regulation of FINRA or the SEC and in compliance with the pertinent regulatory requirements.

(c) **Piecemeal filings.** The Department will only review sales literature packages that are complete filings. Piecemeal filings may result in the disapproval of any materials thus submitted.

## 660:11-13-4. Content [AMENDED]

(a) **Application of antifraud provisions.** Sales literature used in any manner in connection with the offer and sale of securities or the offer of brokerage or advisory services is subject to the provisions of Section 1-501 and/or 1-502 of the Securities Act, whether or not such sales literature is required to be filed pursuant to Section 1-504 of the Securities Act or 660:11-13-3. Further, sales literature filed with the Department is subject to the provisions of Sections 1-501 and/or 1-502 and 1-505 of the Securities Act. Sales literature should be prepared accordingly and should not contain any ambiguity, exaggeration or other misstatement or omission of material fact, which might confuse or mislead an investor.

(b) **Prohibited disclosures.**

(1) Unless stating that the Commission, Administrator or Department has not approved the merits of the securities offering or the sales literature, no sales literature shall contain a reference to the Commission or the Department unless such reference is specifically required in a Departmental Prospectus Guide or requested by the Administrator.

(2) An investment adviser is prohibited from publishing, circulating or distributing any sales literature that does not comply with Rule 206(4)-1 under the Advisers Act [17 C.F.R. §275.206(4)-1] as effective April 15, 2022.\*

(A) refers, directly or indirectly, to any testimonial concerning the investment adviser or any advice, analysis, report, or other service rendered by such investment adviser to include the use of any certifications, accreditations, or ratings issued by a third party unless

(i) the Administrator has determined that such certifications, accreditations, or ratings are acceptable in lieu of the examinations in 660:11-7-13; or

(ii) the sales literature simultaneously and prominently includes the standards the entity employs in issuing same;

(B) refers to past specific recommendations of the investment adviser that were or would have been profitable unless the investment adviser provides:

(i) all past recommendations made during the immediately preceding period of not less than one year;

(ii) additional information sufficient for a reader to evaluate the adviser's performance to include, but not be limited to, the name of each such security recommended, the date and nature of each such recommendation (e.g., whether to buy, sell or hold), the market price at that time, the price at which the recommendation was to be acted upon, and the market price of each such security as of the most recent practicable date, and

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- (iii) a disclaimer to the effect that past performance does not guarantee future success;
- (C) represents that any graph, chart, formula or other device offered can in and of itself be used to make trading decisions without prominently disclosing in the advertisement any limitations or difficulties in its use; or
- (D) contains any statement to the effect that any report, analysis, or service is free unless such report, analysis or other service actually is or will be furnished entirely free and without any condition or obligation, directly or indirectly.

## SUBCHAPTER 15. MISCELLANEOUS PROVISIONS

### 660:11-15-1. General rules for presentation of financial statements [AMENDED]

(a) **Asset values.** The following rules shall apply in presenting asset values in all ~~Financial Statements~~financial statements filed with the Department:

- (1) A unilateral "write-up" of assets above historical cost is not considered in accordance with generally accepted accounting principles. ~~Financial Statements~~statements containing a "write-up" of assets to appraisal values (irrespective of the soundness of the appraisal) shall not be accepted.
- (2) A registrant acquiring assets in an "arms-length" transaction, solely or partly for its own capital stock, should record the transaction in its ~~Financial Statements~~financial statements at either:
- (A) the fair market value of the shares of stock given in consideration, or
- (B) the fair market value of the asset so acquired.
- (C) The amount selected should be one that has the preponderance of evidence substantiating its selection.
- (3) Where a parent company (one owning more than 50% of other companies) or a subsidiary company or an affiliated company is the registrant, consolidated or combined ~~Financial Statements~~financial statements shall be submitted. The consolidated statements must conform to generally accepted accounting principles and result in the elimination of "write-ups" or appraisal amounts not represented by "arms-length" transactions.
- (4) Where the "promoters" of a registrant have transferred assets to the registrant solely or partly for capital stock, the tests referred to in (1), (2) and (3) of this subsection must be applied so as to result in either no "write-up" or one not greater than would have resulted from a transaction carried out at "arms-length." The registrant shall make full disclosure of all pertinent facts and substantiate the values used in its ~~Financial Statements~~financial statements if not representing "historical cost" of acquisition from third parties.

(b) **Opinion of independent accountants.** Audited ~~Financial Statements~~financial statements shall be accompanied by an opinion of the ~~Independent Accountant~~independent accountant. The opinion letter shall be dated, shall be manually signed, shall identify without detailed enumeration the ~~Financial Statements~~financial statements covered by the opinion, shall state that the examination was conducted in accordance with generally accepted auditing standards and shall express the ~~Independent Accountant's~~independent accountant's opinion as to the fairness or unfairness of the ~~Financial Statements~~financial statements in accordance with generally accepted accounting principles or his inability to express such an opinion.

*[OAR Docket #25-491; filed 6-5-25]*

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## TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #25-435]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 3. Public Policy

Part 13. OTHER POLICY PROVISIONS

710:1-3-80. Procedures for partial release of tax warrant or lien [AMENDED]

710:1-3-84. Procedures for notice of excess proceeds from county property tax resale [NEW]

Subchapter 5. Practice and Procedure

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## Part 3. DESCRIPTION OF ADMINISTRATIVE REVIEW AND HEARINGS

710:1-5-10.1. Protests / Demands for hearing [AMENDED]

## Part 5. ADMINISTRATIVE PROCEEDINGS RELATED TO TAX PROTESTS

710:1-5-31. Administrative law judge to hear case [REVOKED]

710:1-5-31.1. Jurisdiction and authority of Administrative Law Judge [NEW]

710:1-5-34. Rules of evidence [AMENDED]

710:1-5-39. The Record; Findings, conclusions and recommendations [AMENDED]

710:1-5-41. Decision and order of the Oklahoma Tax Commission [AMENDED]

### **AUTHORITY:**

68 O.S. § 203, 75 O.S. § 302; Oklahoma Tax Commission

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2024

### **COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

### **PUBLIC HEARING:**

January 2, 2025

### **ADOPTION:**

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### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 16, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by Senate Joint Resolution 21

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N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

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### **SUPERSEDED RULES:**

N/A

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### **INCORPORATED STANDARDS:**

N/A

### **INCORPORATING RULES:**

N/A

### **AVAILABILITY:**

N/A

### **GIST/ANALYSIS:**

Section 710:1-3-80 is amended to add a circumstance for issuing a partial release and allows Commission discretion on granting partial releases. Section 710:1-3-84 is a proposed new section to clarify statutory language (68 O.S. § 3131) and outlines the procedures for notification of excess tax resale proceeds to the Tax Commission (OTC) by county treasurers. The section specifies the information the treasurers must provide to the OTC, and the process to remit payment of excess proceeds to OTC. Section 710:1-5-10.1 is amended to add back in a sentence that was unintentionally removed. Section 710:1-5-31 is revoked, and in its place, Section 710:1-5-31.1 is a proposed new section that outlines the jurisdiction and authority of Administrative Law Judges (ALJ); it separates the language into sections, clarifies ALJ authority, and requirements for recusal. Section 710:1-5-34 is amended to outline procedures for Certification of Evidentiary Issues to allow for brief in support, time for reply, and procedural parameters. Section 710:1-5-39 is amended to specify what is



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included in the record; requires issuing Findings, Conclusions, and Recommendations within a reasonable time; and allows for status conferences. Section 710:1-5-41 is amended to clarify allowable Commission actions with respect to recommendations of the ALJ.

## CONTACT PERSON:

Corey Jager, Agency Liaison, Tax Policy Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma 73194; Telephone number: (405) 521-4155; Email: corey.jager@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 JULY 15, 2025:**

## SUBCHAPTER 3. PUBLIC POLICY

### PART 13. OTHER POLICY PROVISIONS

#### **710:1-3-80. Procedures for partial release of tax warrant or lien [AMENDED]**

(a) Partial release of a tax warrant or lien may be issued for adequate consideration under the following circumstances:

- (1) Where there is a short sale and the lien of an outstanding 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 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 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 against a particular parcel of realty;
- (5) Where the applicant is not the taxpayer named in the 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 to the applicant without properly extinguishing the tax warrant;
- (6) Where there exists no likelihood of collection or enforceability of a tax warrant against a particular parcel of realty because the applicant does not have enough equity in the property to satisfy the tax warrant in full;
- (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 would result in an undue expense or hardship on the requesting party; ~~or~~
- (9) Where the applicant is the taxpayer named in the tax warrant and is selling a parcel encumbered by the tax lien.

(b) For purposes of this Section, under the situations described in (a) of this Section, **"adequate consideration"** for a 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%)~~ 10% of the tax warrant inclusive of interest ~~and penalty, penalties, and fees,~~ provided such an amount is not less than ~~Five Hundred Dollars (\$500.00)~~ \$500.
- (2) In a situation described in (a)(4) of this Section, payment of the principal tax liability and filing fees on the tax warrant, provided such an amount is not less than ~~Five Hundred Dollars (\$500.00)~~ \$500.
- (3) In a situation described in (a)(5) ~~or~~, (a)(6), or (a)(9) of this Section, payment of all the net proceeds from the sale up to the amount needed to satisfy the tax warrant inclusive of interest, penalties, and fees; or 10% of the tax warrant, whichever is more, provided such amount is not less than \$500.
- (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%)~~ 10% of the tax warrant amount inclusive of both interest ~~and penalty, penalties, and fees,~~ is to be made, provided such amount is not less than ~~Five Hundred Dollars (\$500.00)~~ \$500.

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(5) Pursuant to 68 O.S. Section 214, a 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.

(6) In any case where the Commission shall determine that the amount prescribed by (1) through (5) of this subsection shall be excessive or inadequate, or in a situation described in (a)(8) or (a)(9) of this Section, then adequate consideration shall be such amount as the Commission shall ~~prescribe~~ determine to be a reasonable offer.

## **710:1-3-84. Procedures for notice of excess proceeds from county property tax resale [NEW]**

(a) Pursuant to 68 O.S. § 3131, when any tract or lot of land is resold by a county for more than the taxes, penalties, interest and cost due thereon, the county treasurer shall notify the Oklahoma Tax Commission within thirty (30) days after the resale. The notification shall be filed electronically in a form prescribed by the Tax Commission and shall contain all information necessary to determine whether a tax lien exists on the subject property, including:

(1) County of property resale;

(2) Tax warrant number;

(3) Taxpayer information as listed on the tax warrant, including name and the last four digits of taxpayer social security number;

(4) Name of individual who owned the property prior to sale;

(5) Full property street address; and

(6) Amount of excess proceeds from property tax resale.

(b) Within sixty (60) days of receipt of the notification outlined in (a), the Oklahoma Tax Commission shall provide notice to the county treasurer of any outstanding tax liabilities, including tax, penalty and interest, attached to each tract or lot of land, regardless of whether a tax warrant has been filed. If any outstanding liabilities exist, the Oklahoma Tax Commission shall include a payment voucher for the county to reference or include when remitting payment. The county treasurer shall remit payment to the Tax Commission in the amount of the outstanding tax liabilities or the excess proceeds, whichever is less, and shall associate all payments to a corresponding payment voucher.

## **SUBCHAPTER 5. PRACTICE AND PROCEDURE**

### **PART 3. DESCRIPTION OF ADMINISTRATIVE REVIEW AND HEARINGS**

#### **710:1-5-10.1. Protests / Demands for hearing [AMENDED]**

(a) A protest is described as a formal, written challenge to a proposed tax assessment or to the denial of a claim for refund of taxes paid. 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~~ should 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~~ the address indicated in the letter, 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~~ should 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~~ the address indicated in the letter, 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.

### PART 5. ADMINISTRATIVE PROCEEDINGS RELATED TO TAX PROTESTS

#### **710:1-5-31. Administrative law judge to hear case [REVOKED]**

~~Hearings will be conducted by an Administrative Law Judge, who must be a licensed attorney at law, who has been appointed by the Oklahoma Tax Commission. The Administrative Law Judge shall have authority to conduct hearings, to examine witnesses, to rule upon motions, to rule upon the admissibility of evidence, to continue or recess any hearing, to control the record, and to make recommendations to the Oklahoma Tax Commission. If for any reason an Administrative Law Judge cannot continue on a case, the Commissioners shall designate another Administrative Law Judge with the above qualifications, who will become familiar with the record and perform any function remaining to be performed without the necessity of repeating any previous proceedings.~~

#### **710:1-5-31.1. Jurisdiction and authority of Administrative Law Judge [NEW]**

(a) **Hearing by Administrative Law Judge.** Administrative proceedings filed pursuant to Subchapter 5 of this Chapter shall be heard by an Administrative Law Judge.

(b) **Appointment.** Administrative Law Judges shall be appointed by the Commission and shall be:

- (1) A licensed attorney in the State of Oklahoma and maintain said licensure throughout the appointment; and
- (2) Bound by the Code of Judicial Conduct set forth in 5 O.S. § Appendix 4.

(c) **Authority.** The authority of an Administrative Law Judge derives only from the Administrative rules as promulgated by the Commission, unless otherwise specified by statute. Administrative Law Judges have the authority under these Rules to:

- (1) Conduct hearings;
- (2) Examine witnesses;
- (3) Issue subpoenas pursuant to *OAC* 710: 1-5-33(1)(a);
- (4) Rule upon motions;
- (5) Rule upon admissibility of evidence;
- (6) Continue or recess any hearing;
- (7) Control the record;
- (8) Make findings, conclusions, and recommendations to the Commission; and
- (9) Any other authority specifically delegated by the Commission.

(d) **Recusal.** If an Administrative Law Judge cannot continue on a case for any reason, including conflicts of interests, another Administrative Law Judge shall be designated. The newly designated Administrative Law Judge shall:

- (1) Become familiar with the record;
- (2) Continue with the matter where the prior Administrative Law Judge ceased presiding over the case; and
- (3) Perform all necessary actions to proceed efficiently in issuing findings, conclusions, and recommendations to the Commission.

#### **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 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 of 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.

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(b) **Certification of evidentiary issues.** A party to the proceedings who objects to ~~a~~an evidentiary 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:~~

(1) The party requesting Certification of the Issue shall file an Application for Certification of the Issue with the Commission along with a brief in support of the Application. The Application for Certification of the Issue shall be served on the opposing party as well as the Administrative Law Judge who issued the contested ruling.

(2) The opposing party may reply to the Application for Certification of the Issue within fifteen (15) days after mailing of the Application.

(3) The matter shall be stayed with the Administrative Law Judge, pending the decision on the Application by the Commission.

(4) The burden to show the ruling made by the Administrative Law Judge is contrary to law or rule is upon the party seeking the Certification of the Issue.

(5) Upon submission of the briefs or at the conclusion of the hearing, if so ordered, the Commission shall determine whether the Administrative Law Judge erred in making the ruling that led to the certification. After the determination is made, the stay will be lifted and the matter will be remanded to the Administrative Law Judge for further proceedings.

## **710:1-5-39. The Record; Findings, conclusions and recommendations [AMENDED]**

(a) **Record.** The Administrative Law Judge shall control the record. The initial record shall only consist of submissions made by the taxpayer(s) or authorized representatives of the taxpayer(s) and the General Counsel's Office. When forwarding a new protest to the Administrative Law Judge's Office, the division shall only forward the proposed assessment letter or refund denial letter and the protest of demand for hearing filed by the taxpayer or authorized representative. At the conclusion of the evidence, the Administrative Law Judge shall document in writing that the record is closed and submitted for decision. The final record shall consist of the following:

(1) All evidence admitted, including oral testimony;

(2) Pleadings and other documents filed by the Parties;

(3) Matters taken under Official Notice;

(4) Rulings made by the Administrative Law Judge during the pendency of the action;

(5) Recordings of oral hearings; and

(6) Nothing in this rule shall preclude a party from submitting an offer of proof.

(b) **Issuance.** When the record in an administrative proceeding is closed and submitted, the Administrative Law Judge ~~will~~shall issue Findings, Conclusions and Recommendations (FCRs) within a reasonable time to the Tax Commission for its consideration. The Office of the Administrative Law Judges shall send copies of the FCRs to the parties. The Findings, Conclusions and Recommendations with FCRs shall include:

(1) ~~a~~A statement of facts;;

(2) ~~the~~The issues and contentions;;

(3) ~~conclusions~~Conclusions based on the findings of fact and applicable law;; and

(4) A recommendation to the Tax Commission. ~~The parties to the proceeding will be mailed copies of the Administrative Law Judge's Findings, Conclusions and Recommendations.~~

~~(b)-(c)~~ **No appeal.** No appeal may be based upon the Findings, Conclusions and Recommendations issued by the Administrative Law Judge, since only the Tax Commission may issue the final order from which an appeal may be brought.

## **710:1-5-41. Decision and order of the Oklahoma Tax Commission [AMENDED]**

The Tax Commission will issue a written order in each case whether or not application for oral argument is made. The Tax Commission may, in its discretion, vacate, modify, remand, or affirm, in part or whole, the recommendations of the Administrative Law Judge.

*[OAR Docket #25-435; filed 6-2-25]*

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## **TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 20. ALCOHOL AND MIXED BEVERAGES**

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# Permanent Final Adoptions

*[OAR Docket #25-437]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 5. Mixed Beverages

710:20-5-1. Procedures for payment of gross receipts tax on mixed beverage, caterer, hotel beverage, beer and wine, mixed beverage/caterer combination, public event, and special event license holders; definitions [AMENDED]

710:20-5-9. Commission may require security from vendor [AMENDED]

**AUTHORITY:**

68 O.S. § 203, 37A O.S. § 5-124; Oklahoma Tax Commission

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 5, 2024

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N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Proposed amendments to Chapter 20 have been made to implement recent legislation. Section 710:20-5-1 is amended to update the definition of “mixed beverages” to align with changes in statute, pursuant to SB 809 (2024). Amendments in section 710:20-5-9 implement HB 3352 (2024) by outlining procedures to receive an alcohol bond exemption following 10 years of “tax compliance”.

**CONTACT PERSON:**

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Telephone number: (405) 521-4155; Email: corey.jager@tax.ok.gov

# Permanent Final Adoptions

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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 JULY 15, 2025:

## SUBCHAPTER 5. MIXED BEVERAGES

### 710:20-5-1. Procedures for payment of gross receipts tax on mixed beverage, caterer, hotel beverage, beer and wine, mixed beverage/caterer combination, public event, and special event license holders; definitions [AMENDED]

(a) **General provisions.** Pursuant to the authority and power granted to the Oklahoma Tax Commission, the excise tax imposed upon the total gross receipts of a holder of a mixed beverage, caterer, hotel beverage, beer and wine, mixed beverage/caterer combination, public event, or special event license issued by the ABLE Commission, shall be paid through monthly tax reporting procedures as established by rules of this Commission, and shall be implemented, administered and enforced in accordance with said rules. [See: 37A O.S. § 5-105]

(b) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Alcoholic beverage"** means alcohol, spirits, beer, and wine, as those terms are defined in Section 1-103 of Title 37A of the Oklahoma Statutes and also includes every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by human beings.

(2) **"Mixed beverages"** means one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage, beer and wine, caterer, public event, charitable event or special event license; provided, that a beer, cider, or wine mixed with ingredients nonalcoholic in nature including, but not limited to, water, juice, sugar, fruits, or vegetables and sold by a small brewer, brewpub, small farm winery, or winemaker, shall not be considered a mixed beverage so long as such small brewer, brewpub, small farm winery, or winemaker does not also hold an on-premises beer and wine, mixed beverage, caterer, public event, or special event license, if permitted by law. [See: 37A O.S. § 1-103(34)(39)]

### 710:20-5-9. Commission may require security from vendor [AMENDED]

(a) **General provisions.** To assure payment of any mixed beverage tax due, the Commission shall require that sufficient security be deposited with the Commission. Security may be in the form of:

- (1) A corporate surety bond, furnished by a surety licensed to do business in Oklahoma;
- (2) A certificate of deposit issued by a bank or financial institution, issued to the "taxpayer **OR** the Oklahoma Tax Commission";
- (3) Cash; or,
- (4) Any other form agreed upon by the Commission and person liable for remitting the tax.

(b) **Amount of required bond.** The amount of the bond shall not be less than an amount equal to the average estimated quarterly gross receipts tax liability and not greater than an amount equal to three times the average estimated quarterly gross receipts tax liability.

(c) **Minimum bond.** The minimum bond required for a new permit holder shall not be less than One Thousand Five Hundred Dollars (\$1,500.00).

(d) **Forfeiture or cancellation of bond.** The forfeiture or cancellation of such bond or security shall result in the automatic revocation of the mixed beverage tax permit issued pursuant to provisions of the Oklahoma Alcoholic Beverage Control Act.

(e) **Bond exemption.** Any holder of a mixed beverage tax permit issued pursuant to the provisions of the Oklahoma Alcoholic Beverage Control Act shall be exempt from the bond requirement if the permit holder has held the permit for 10 consecutive years while being tax compliant for the same 10 consecutive years.

(1) A permit holder will be deemed to be "tax compliant" or in "tax compliance" for purposes of the bond exemption if the permit holder has filed all required tax returns and paid in full all taxes due by the required due dates, including any valid extensions. A permit holder will not be considered in tax compliance if they have been granted a penalty and interest waiver at any time during the relevant time period.

(2) The Audit Services Division of the Oklahoma Tax Commission is responsible for making the determination that a permit holder meets the requirements to be exempt from the bond requirement.

(3) As of November 1, 2024, the bond exemption will apply to those permit holders that have been in tax compliance for a period of 10 consecutive years.

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(4) To request a bond exemption, release, and refund of an existing bond, the permit holder must submit a letter, either uploaded to OkTAP or mailed to Oklahoma Tax Commission, Business Tax Services, Oklahoma City, OK 73194, with the following information:

(A) An explanation of the permit holder's qualification with this Section; and

(B) A copy of a completed Form BT-191 Change of Officer, Member, or Partner, for verification purposes.

(5) Before granting a bond exemption and releasing a bond, the permit holder's accounts will be reviewed for tax compliance. Additional information from the taxpayer may be requested if necessary.

(6) If a permit holder that has been granted a bond exemption becomes delinquent at any time, on any account, the bond exemption will immediately terminate. The permit holder will be notified by letter and will be required to furnish the Tax Commission with a bond as originally required within 30 days of notification. Failure to furnish a bond as required will result in the automatic revocation of the mixed beverage tax permit.

*[OAR Docket #25-437; filed 6-2-25]*

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## TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 25. COIN OPERATED VENDING DEVICES

*[OAR Docket #25-440]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

710:25-1-2. Annual vending device fee in lieu of sales tax; exclusions [AMENDED]

### **AUTHORITY:**

68 O.S. §§ 203, 1509.1; Oklahoma Tax Commission

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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### INCORPORATING RULES:

N/A

### AVAILABILITY:

N/A

### GIST/ANALYSIS:

Amendments to section 710:25-1-2 add tobacco/cigarette vending machines to the list of devices not subject to the annual vending device fee.

### 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 JULY 15, 2025:**

#### **710:25-1-2. Annual vending device fee in lieu of sales tax; exclusions [AMENDED]**

(a) **General provisions.** The annual fee paid for vending, music, amusement, and bulk-vending devices shall be in lieu of sales tax. An annual decal is required, depending on the type of device.

(b) **Exclusions.** Devices which are not subject to the fee or decal requirement include:

(1) Machines not used for the purpose of vending tangible personal property or for playing music or for amusement. and

(2) Beginning November 1, 2021, devices that dispense tangible personal property or provide amusement where payment is made solely through the use of a credit or debit card or other electronic or digital payment process. The gross receipts associated with described sales made from these devices are subject to sales tax.

(c) **Examples of devices excluded.** Examples of devices to which the levy does not apply are:

(1) Pay telephones;

(2) Newspaper vending machines;

(3) Parking meters;

(4) Gas and electric meters; ~~and~~

(5) Devices which vend only postage stamps; and

(6) Devices that dispense cigarettes and tobacco products.

(d) **Scope of listed exclusions.** The list of examples set out in (c) of this Section is intended to be illustrative only and not all-inclusive.

*[OAR Docket #25-440; filed 6-3-25]*

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## **TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 45. GROSS PRODUCTION**

*[OAR Docket #25-441]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 5. Required Returns and Reports

710:45-5-1. Monthly production reports [AMENDED]

Subchapter 9. Exemptions and Exclusions

Part 17. ECONOMICALLY AT-RISK LEASES

710:45-9-81. Definitions [AMENDED]

710:45-9-81.1. Determination of average production volume and monthly average price of oil and gas [AMENDED]

710:45-9-83. Certification [AMENDED]

Part 21. MARKETING COSTS DEDUCTION



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# Permanent Final Adoptions

710:45-9-102. Qualifying criteria [AMENDED]

**AUTHORITY:**

68 O.S. §§ 203, 1001, 1001.3a, 1001.4, 1013; Oklahoma Tax Commission

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**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Amendments to Chapter 45 largely seek to clarify reporting requirements and requirements to apply for incentives. Section 710:45-5-1 is amended to propose reporting units for volume for all product codes, including natural gas liquids. Amendments to section 710:45-9-81 add to definitions for clarification purposes. Section 710:45-9-81.1 is amended to provide examples for price calculations. Section 710:45-9-83 is amended to clarify procedures for applications for incentives. Amendments to section 710:45-9-102 specify the documentation requirements for marketing cost deductions that must be submitted at time of application.

**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 JULY 15, 2025:**

## SUBCHAPTER 5. REQUIRED RETURNS AND REPORTS

# Permanent Final Adoptions

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## 710:45-5-1. Monthly production reports [AMENDED]

(a) **Minimum requirements of monthly production report.** All producers or purchasers of asphalt or ores bearing lead, zinc, jack, or copper or petroleum oil, mineral oil, other crude oil, condensate, reclaimed oil, gas, natural gas, casinghead gas, or liquid hydrocarbons from oil or gas produced in this state shall report volume and value of such production monthly on OTC Form 341 or any other form as may be prescribed and required by the Oklahoma Tax Commission. Each monthly report shall include the following information:

- (1) Tax Commission assigned purchaser reporting number;
- (2) Tax Commission assigned producer reporting number;
- (3) Tax Commission assigned production unit number, subnumber, and merge number for each lease from which production is reported;
- (4) Assigned product code number for the product reported;
- (5) Gross volume of the product reported from each lease from which production is reported;:
  - (A) Crude oil and reclaimed oil are reported to the nearest hundredth barrel on a per barrel measurement of forty-two (42) U.S. gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit.
  - (B) Natural gas is reported to the nearest thousand cubic feet (MCF) at the standard pressure base of fourteen and sixty-five hundredths (14.65) pounds per square inch absolute at the standard temperature base of sixty (60) degrees Fahrenheit.
  - (C) Natural gas liquids are reported to the nearest gallon.
- (6) Total value of the product reported from each lease from which production is reported; and, the gross production tax, the petroleum excise tax, Oklahoma energy resource board fee, and sustaining energy resources fee;
- (7) Taxpayer identification number, social security number (SSN), or, if applicable, the federal employer identification number (FEI);
- (8) The month and year the product reported was sold;
- (9) The Tax Commission assigned tax remitter reporting number.

(b) **Reports must be filed electronically.** OTC Forms 341 and 323-A must be filed electronically in the format prescribed by the Tax Commission.

## SUBCHAPTER 9. EXEMPTIONS AND EXCLUSIONS

### 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.

**"Calendar year"** means January 1 through December 31.

**"Economically at-risk oil 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~~ production year with an average production volume per well of ten (10) barrels or less 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~~ production year with an average production volume per lease of sixty (60) MCF or less 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.

**"Production year"** means the calendar year in which the active production days occur.

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## 710:45-9-81.1. Determination of average production volume and monthly average price of oil and gas [AMENDED]

(a) Average production volume shall be determined based upon the lease classification, wherein only the primary product shall be used to determine the average production volume. For example, an oil lease that produced 2,789 barrels over 342 active production days during the calendar year would have an average volume of 8.16 barrels per day. For example:

(1) An oil lease that produced 2,789 barrels over 342 active production days during the calendar year would have an average volume of 8.15 barrels per day.

(2) A gas lease that produced 13,481 MCF with a btu rate of 1.076 over 281 active production days during the calendar year would have an average volume of 51.62 MMBtu per day.

(b) Monthly average price of oil shall be determined by taking the gross value of oil produced during the calendar year divided by the gross volume of oil produced from the lease, based on a per-barrel measurement of forty-two (42) U.S. gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit.

(c) Monthly average price of gas shall be determined by taking the gross value of natural gas produced during the calendar year divided by the gross volume of natural gas produced based on a measurement of one million (1,000,000) British thermal units (MMBtu).

## 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 at the time of submission:

(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~~ Accountants Societies (COPAS) for the overhead expense; and

(5) Copies of the daily production reports for the calendar year applied; and

(6) A Percent of Proceeds (POP) statement is required to support ratios when MMBtu to MCF is not 1:1.

(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). Should a JOA for the lease not exist, documentation is required to support the costs used to calculate the overhead deduction claimed and the method used to allocate the amount back to the production unit number. For purposes of this calculation, depreciation, depletion, and intangible drilling costs shall **not** be included.

(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.

(f) **Denial of application.** Failure to submit all required information at the time of application may result in a denial of the application.

(g) **Burden of proof.** The burden of establishing the right to, and the validity of, a credit or refund is on the claimant.

## PART 21. MARKETING COSTS DEDUCTION

### 710:45-9-102. Qualifying criteria [AMENDED]

Qualified deductions of marketing costs shall comply with the provisions of (1) through ~~(4)~~(5) of this Subsection. The marketing cost deduction may be disallowed by the Tax Commission for failure to submit supporting documentation sufficient ~~documentation to support to validate~~ the deduction at the time of application.

(1) Marketing costs shall not include any costs incurred in the production of gas, oil or condensate or in the separation therefrom of any product subject to gross production tax.

(2) Taxes shall be computed on gross proceeds, including tax reimbursement, less the cost of gathering, compressing, and treating the gas sold.

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- (3) Documents required to be submitted with the application for refund shall include all of the following:
- (A) A notarized affidavit stating the costs requested as deductions to the gross proceeds are for marketing expenses and not for production of the lease.
  - (B) An electronic spreadsheet of the operator's claimed marketing expenses allowed by Appendix A.
  - (C) Supporting documentation for the remitter's previously claimed marketing cost deductions, including:
    - (i) Check stubs; and
    - (ii) Settlement statements.
  - (D) Supporting documentation for operator's marketing cost deductions. If invoices are used as documentation, ~~invoices~~ invoices for all costs claimed shall be made available upon request and must clearly indicate the facility incurring the cost and include a detailed description of the cost. If the invoice does not specify the cost was incurred on allowable marketing equipment, a job/work ticket must accompany the invoice describing the work that was done. Journal entries are not eligible as documentation of support for services provided by third parties.
  - (E) Electronic spreadsheet documenting the operator's pumper and compressor expenses allocated by production unit number.
  - (F) Electronic depreciation schedules:
    - ~~(4)(i)~~ (i) Any claimed depreciable equipment must be supported by documentation showing the original depreciable value. If the depreciable equipment was purchased, the original invoice is required. If the depreciable equipment was obtained through an acquisition of wells, documents from the acquisition indicating how the value of the depreciable equipment was determined must be provided.
    - (ii) Depreciation schedule allocating the equipment cost over the life of equipment by production unit number.
    - (iii) Allocation schedule of depreciation for equipment used for multiple production unit numbers.
- (4) The Tax Commission may require additional information, including, but not limited to, copies of the operator's federal income tax return, joint interest billings, or other documentation regarding lease production or expenses.
- (5) The burden of establishing the right to, and the validity of, a credit or refund is on the claimant.

*[OAR Docket #25-441; filed 6-3-25]*

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## TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 50. INCOME

*[OAR Docket #25-443]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

710:50-1-7. ~~Copying fees~~ Requests for Copies of Income Tax Returns [AMENDED]

Subchapter 3. Returns and Reports

Part 5. FILING STATUS; ELECTIONS; ACCOUNTING PERIODS AND METHODS

710:50-3-47. Pass-Through Entity Tax Equity Act of 2019 [AMENDED]

Subchapter 11. Intercept of Refunds

710:50-11-5. Refunds shall be intercepted [AMENDED]

Subchapter 15. Oklahoma Taxable Income

Part 3. EXEMPTIONS

710:50-15-36. Parental Choice Tax Credit payments [NEW]

Part 5. OTHER ADJUSTMENTS TO INCOME

710:50-15-52. Out-of-state income [AMENDED]

710:50-15-62. Agricultural commodity processing facility income/investment exclusion [AMENDED]

Part 7. CREDITS AGAINST TAX

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710:50-15-81. Credit for qualified clean-burning motor vehicle fuel property [AMENDED]

710:50-15-109. Credit for qualified employers and employees of the aerospace sector [AMENDED]

710:50-15-118. Credit for nonrecurring adoption expenses [AMENDED]

710:50-15-119. Parental Choice Tax Credit [REVOKED]

Part 9. OKLAHOMA PARENTAL CHOICE TAX CREDIT [NEW]

710:50-15-170. Purpose [NEW]

710:50-15-171. Definitions [NEW]

710:50-15-172. Private school tax credit [NEW]

710:50-15-173. Homeschool tax credit [NEW]

710:50-15-174. Credit for students attending an accredited private school exclusively serving students experiencing homelessness [NEW]

710:50-15-175. Credit for students attending an accredited private school primarily serving financially disadvantaged students [NEW]

Subchapter 19. Oklahoma Taxable Income for Partnerships

710:50-19-4. Partnerships that make an election under the Pass-Through Entity Tax Equity Act of 2019 [AMENDED]

Subchapter 21. Oklahoma Taxable Income for Subchapter "S" Corporations

710:50-21-4. S Corporations that make an election under the Pass-Through Entity Tax Equity Act of 2019 [AMENDED]

### **AUTHORITY:**

68 O.S. §§ 203, 2357.22, 2357.601; 70 O.S. § 28-102; Oklahoma Tax Commission

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January 16, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by Senate Joint Resolution 21

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

July 15, 2025

### **SUPERSEDED EMERGENCY ACTIONS:**

### **SUPERSEDED RULES:**

Subchapter 15. Oklahoma Taxable Income

Part 7. CREDITS AGAINST TAX

710:50-15-119. Parental Choice Tax Credit [REVOKED]

Part 9. OKLAHOMA PARENTAL CHOICE TAX CREDIT [NEW]

710:50-15-170. Purpose [NEW]

710:50-15-171. Definitions [NEW]

710:50-15-172. Private school tax credit [NEW]

710:50-15-173. Homeschool tax credit [NEW]

710:50-15-174. Credit for students attending an accredited private school exclusively serving students experiencing homelessness [NEW]

710:50-15-175. Credit for students attending an accredited private school primarily serving financially disadvantaged students [NEW]

### **GUBERNATORIAL APPROVAL:**

October 10, 2024

### **REGISTER PUBLICATION:**

# Permanent Final Adoptions

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The Oklahoma Register, Volume 42, Number 5; November 15, 2024

**DOCKET NUMBER:**

#24-1093

**INCORPORATIONS BY REFERENCE:**

**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Several proposed amendments to the existing rules have been made to implement recent legislation. The proposed amendment to Section 710:50-1-7 increases the charge for copying income tax returns. This increase is intended to cover the expenses associated with locating, printing, and mailing these documents. The proposed amendments to Sections 710:50-3-47, 710:50-19-4 and 710:50-21-4 correct internal cross references and implement the provisions of HB 3559 which relates to the pass-through entity tax election. Beginning in tax year 2024, a qualifying entity may make the election on their Oklahoma income tax return. [68:2355.1P-4] The proposed amendment to Section 710:50-15-52 clarifies current law that out-of-state income includes income from real or tangible personal property or business income outside of Oklahoma. [68:2358(A)(4)] The proposed amendment to Section 710:50-15-62 updates the corporate income tax rate, which was reduced to 4% beginning with tax year 2022. [68:2355(E)] The proposed amendment to Section 710:50-15-81 implements the provisions of HB 3051, relating to the income tax credit for investments in qualified clean burning motor vehicle fuel property, which provides for a reallocation of tax credits if one or two of the categories hit the \$10 million cap and clarifies the treatment of leased equipment, and clarifies the maximum amount of the credit is based on the weight of the vehicle. [68 O.S. § 2357.22] The proposed amendment to Section 710:50-15-109 implements the provisions of HB 4072, relating to the income tax credit for qualified employers and employees of the aerospace sector, amending the definitions of "aerospace sector" and "qualified employee", and providing that a qualified employee may claim the credit for five nonconsecutive tax years. [68:2357.301,2357.304] The proposed amendment to Section 710:50-15-118, relating to the income tax credit for nonrecurring adoption expenses, clarifies the amount of the credit is 10% of nonrecurring adoption expenses, not to exceed \$2,000 (\$4,000 for a married filing joint return) per calendar year. [68:2357.601] The proposed promulgation of new Section 710:50-15-34, new Part 9 in Subchapter 15, amendment to Section 710:50-11-5, and revocation of Section 710:50-15-119, relating to the Oklahoma Parental Choice Tax Credit, implement the provisions of HB 3388 which amended definitions and qualifications, exempted the payments from offset, realigned the private school credit caps to a fiscal year, and timelines for implementation. [68:205.2(F), 70:28-101] Other sections may be amended to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update or correct citations, update contact information, and ensure accurate internal cross-references, which do not change the interpretation or intent of the rules.

**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 JULY 15, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### **710:50-1-7. Copying feesRequests for Copies of Income Tax Returns [AMENDED]**

~~(a) Copies of returns will cost the following:~~ To obtain a copy of a previously filed Oklahoma income tax return, submit Form 599 to: Oklahoma Tax Commission Oklahoma City, OK 73194. Include the following information:

- ~~(1) One or two years - \$2.00~~ Tax year(s) requested;
- ~~(2) Three years - \$2.75~~ Social Security Number (SSN) or Employer Identification Number (EIN);
- ~~(3) Four years - \$3.50~~ For joint income tax returns, provide both SSNs or EINs.
- ~~(4) Five years - \$4.25~~

~~(b) Copies of additional returns will cost 25 cents per item.~~ The copying fees are \$5.00 per copy for each Oklahoma return. The fee for mailing by certified mail is \$7.00. Full payment, made payable to the Oklahoma Tax Commission, must be included with the request. Enter the SSN or EIN and "Form 599 Request" on the check or money order.

~~(c) Remittance shall be made payable to the Oklahoma Tax Commission.~~

## SUBCHAPTER 3. RETURNS AND REPORTS

### PART 5. FILING STATUS; ELECTIONS; ACCOUNTING PERIODS AND METHODS

#### **710:50-3-47. Pass-Through Entity Tax Equity Act of 2019 [AMENDED]**

- (a) An entity that is required to file either an Oklahoma partnership income tax return or an Oklahoma Subchapter S corporate income tax return may elect to pay income tax at the entity level, effective for tax year 2019 and subsequent tax years ~~by filing a pass-through entity (PTE) election.~~ [(68 O.S. § 2355.IP-1 et seq.)]
- (b) The election to pay income tax at the entity level may be made either by filing OTC Form 586 as a stand-alone form or by filing OTC Form 586 with the pass-through entity's (PTE) income tax return. The Tax Commission will send an acknowledgement letter to each PTE that files a pass-through entity election. Each electing PTE must provide its shareholders, partners, or members, with a copy of the Tax Commission acknowledgement letter.
- (1) **Election made by filing OTC Form 586 as a stand-alone form.** A PTE election may be made by a qualifying PTE at any time during the preceding tax year or two (2) months and fifteen (15) days after the beginning of the current tax year by filing OTC Form 586 ~~The Oklahoma Tax Commission shall send an acknowledgement letter to each PTE that files a pass-through entity election. Each electing PTE shall provide its shareholders, partners or members, with a copy of the Oklahoma Tax Commission acknowledgement letter and advise the shareholder, partner or member of the requirement to attach a copy of the Oklahoma Tax Commission acknowledgement letter to the Oklahoma income tax return of the partner, shareholder or member.~~ as a stand-alone form. Each year, the shareholder, partner, or member of the electing PTE must include a copy of the Tax Commission acknowledgement letter with the Oklahoma income tax return of the shareholder, partner or member.
- (2) **Election made on the qualifying PTE's Oklahoma income tax return.** Beginning with tax year 2024, an election may be made by a qualifying PTE on the Oklahoma income tax return of the qualifying PTE prior to but not later than the due date of the applicable income tax return, including any extension. Each qualifying PTE making the election on their Oklahoma income tax return must include OTC Form 586 with the return. For the tax year the election is made, the shareholder, partner or member of the electing PTE must include a copy of OTC Form 586 of the electing PTE which has been signed by a partner, member, or corporate officer who is authorized to sign and file the electing PTE income tax return. Returns of shareholders, partners or members filed in subsequent years must include a copy of the Tax Commission acknowledgement letter.
- (c) For income distributed to estates, trusts or individuals, electing entities are taxed at the highest marginal individual income tax rate. For income distributed to corporations, electing entities are taxed at the corporate income tax rate. [68 O.S. § 2355]
- (d) Oklahoma income or losses the electing PTE included in computing its tax will not be used to calculate the Oklahoma taxable income of the partners, members or shareholders of the electing entity.
- (e) For tax years beginning on or after January 1, 2020, estimated tax payments shall be required of an electing PTE as provided in ~~68 O.S. § 2385.9.~~ O.S. § 2385.9.
- (f) A PTE election is binding until revoked by the electing PTE or by the Oklahoma Tax Commission.
- (1) An electing PTE may revoke the election by filing OTC Form 586. The effective date of a PTE's revocation of an election made within two (2) months and fifteen (15) days of the electing PTE's taxable year shall be the first day of such taxable year. If the revocation is made after this time period, the revocation is effective on the first day of the following taxable year.
- (2) If the amount of tax required to be paid by an electing PTE is not paid when due, the Oklahoma Tax Commission may, in its discretion, revoke the PTE's election effective for the first year for which the tax is not paid.

## SUBCHAPTER 11. INTERCEPT OF REFUNDS

#### **710:50-11-5. Refunds shall be intercepted [AMENDED]**

- (a) ~~—~~ Prior to payment of any refund, the Tax Commission shall deduct from any state refund due to a taxpayer the amount of delinquent state tax, penalty, and interest thereon, which the taxpayer owes pursuant to any state tax law. [See: 68 O.S. § 205.2(F)]

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(b) Property tax relief payments [68 O.S. § 2906], sales tax relief payments [68 O.S. § 5011], and Parental Choice Tax Credit payments [70 O.S. § 28-101] are not subject to the provisions of this Subchapter.

## SUBCHAPTER 15. OKLAHOMA TAXABLE INCOME

### PART 3. EXEMPTIONS

#### **710:50-15-36. Parental Choice Tax Credit payments [NEW]**

For tax year 2024 and subsequent tax years, tax credit payments received pursuant to the Oklahoma Parental Choice Tax Credit Act are exempt from Oklahoma taxable income. (70 O.S. § 28-101).

### PART 5. OTHER ADJUSTMENTS TO INCOME

#### **710:50-15-52. Out-of-state income [AMENDED]**

- (a) For residents, "**out-of-state income**" consists of income from real or tangible personal property or business income ~~in another state outside the State of Oklahoma~~. Any amount deducted must be substantiated with the appropriate Federal schedule which sets out the Oklahoma portion.
- (b) Losses sustained from property owned or from a business located outside the State of Oklahoma must be added to Federal adjusted gross income to arrive at Oklahoma adjusted gross income.
- (c) Out-of-State ~~state~~ income is limited to the net income from real or tangible personal property or net business income ~~in another state outside the State of Oklahoma~~. [See: 68 O.S. § 2358(A)(4)]

#### **710:50-15-62. Agricultural commodity processing facility income/investment exclusion [AMENDED]**

(a) **General provisions.** Owners of agricultural commodity processing facilities may exclude from Oklahoma ~~Taxable Income taxable income~~, or in the case of individuals, from Oklahoma ~~Adjusted Gross Income adjusted gross income~~, a portion of their investment costs in any new or expanded agricultural commodity processing facility located in this state.

(1) **For investments made on or after January 1, 1997, but before December 31, 1998.** Owners of agricultural commodity processing facilities may exclude fifteen percent (15%), of their investment cost in a new or expanded agricultural commodity processing facility located in Oklahoma.

(2) **For investments made on or after January 1, 1999.** If the exclusion for investment in agricultural processing facilities results in the reduction in total Oklahoma ~~Income Tax income tax~~ in excess of ~~one million dollars (\$1,000,000.00)~~ \$1,000,000 in any previous calendar year, the percentage of investment subject to exclusion will be adjusted. The adjusted percentage allowable will be determined by dividing ~~\$1,000,000.00~~ \$1,000,000 by ~~six~~ four percent (4%), then further dividing the result by the total previous year's investment subject to exclusion.

(b) **Definitions.** For purposes of this Section, the following words and terms, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Agricultural commodities"** means a farm or ranch product, including but not limited to, wheat, corn, soybeans, cotton, timber, cattle, hogs, sheep, horses, poultry, animals of the families bovidae, cervidae, and antilocapridae, or birds of the ratite group, produced in farming or ranching operations, or a product of such crop or livestock in its unmanufactured state, such as ginned cotton, wool-dip, maple syrup, milk, and eggs, or any other commodity listed under any Industry Group Number under Major Group 20, Division D, of the Standard Industrial Classification Manual.

(2) **"Agricultural commodity processing facility"** means building, structures, fixtures and improvements used or operated primarily for the processing or production of marketable products from agricultural commodities. Effective November 1, 2000, the term shall also mean a dairy operation that requires a depreciable investment of at least ~~Two Hundred Fifty Thousand Dollars (\$250,000.00)~~ \$250,000 and which produces milk from dairy cows. The term does not include a facility that provides only, and nothing more than, storage, cleaning, drying or transportation of agricultural commodities. [See: 68 O.S. § 2358(A)(6)(a)]

(3) **"Facility"** means each part of the facility which is used in a process primarily for:

(A) The processing of agricultural commodities, including receiving or storing agricultural commodities, or, effective November 1, 2000, the production of milk at a dairy operation, [See: 68 O.S. § 2358(A)(6)(b)]

(B) Transporting the agricultural commodities or product before, during or after the processing, or

(C) Packaging or otherwise preparing the product for sale or shipment.



(c) **Qualification.** In order to qualify for the exclusion, the agricultural commodity processing facility must be operated primarily for the processing or production of agricultural commodities to marketable products.

(d) **Limitations.** This exclusion from income is to be taken in the taxable year when the investment is made. For purposes of this exclusion, the investment is deemed to be made when the property is placed in service. Under no circumstances shall this exclusion from income lower claimant's Oklahoma Taxable Income below zero. In the event the exclusion does exceed income, any unused portion may be carried forward for a period not to exceed six (6) years from the initial year of qualification. If the exclusion from income amount is determined based on the percentage allowable but not used, the amount shall not change based on subsequent change in percentage allowable to be excluded. In no event will the exclusion percentage exceed fifteen percent (15%).

(e) **Information return required.** Owners who intend to claim the exclusion for investment costs described in this Section must file, on a form prescribed by the Tax Commission, an information return, reporting the amount of qualified property placed in service during the preceding calendar year. The information return must be submitted by January 31.

## PART 7. CREDITS AGAINST TAX

### 710:50-15-81. Credit for qualified clean-burning motor vehicle fuel property [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) "**Motor vehicle**" means *a motor vehicle originally designed by the manufacturer to operate lawfully and principally on streets and highways*. [See: 68 O.S. § 2357.22(C)] "Vehicle" shall not mean conveyor belts, forklifts, riding mowers, tractors, or other similar items.

(2) "**Qualified clean-burning motor vehicle fuel property**" means as defined in Section 2357.22(B) of Title 68 of the Oklahoma Statutes.

(b) **General provisions.** For tax years 2028 and before, there shall be allowed a one-time nonrefundable income tax credit for investments in qualified clean-burning motor vehicle fuel property placed in service on or after January 1, 1991, or with respect to a hydrogen fuel cell, on or after July 1, 2023. ~~An entity that converts property to qualified clean-burning motor vehicle fuel property may lease such property and retain the right to claim the credit.~~ Property on which the credit has previously been claimed is ineligible for the credit.

(c) **Leased property and equipment.** ~~An entity that converts property to qualified clean-burning motor vehicle fuel property may lease such property and retain the right to claim the credit. An entity that invests in and owns equipment that qualifies as qualified clean-burning motor vehicle fuel property may claim the credit even if a different entity owns the remainder of the motor vehicle property and leases the conversion equipment from the owner of the equipment. As used herein, a "different entity" includes, but is not limited to, the United States government, the State of Oklahoma, and any political subdivision of this state.~~

(d) **Amount of credit.**

(1) **Motor vehicle credit.**

~~(A)~~ For the qualified clean-burning motor vehicle fuel property defined in 68 O.S. ~~Supp. 2022~~, § 2357.22 (B)(1), (2) or (5), the maximum amount of the credit shall be as follows based upon gross vehicle weight of the qualified vehicle:

~~(A)~~ (i) For vehicles up to or below 6,000 pounds, the credit shall be a maximum amount of ~~\$5,500.00~~, \$5,500;

~~(B)~~ (ii) For vehicles between 6,001 pounds to 10,000 pounds, the credit shall be a maximum amount of ~~\$9,000.00~~, \$9,000;

~~(C)~~ (iii) For vehicles of 10,001 pounds, but not in excess of 26,500 pounds, the credit shall be a maximum amount of ~~\$26,000.00~~, \$26,000; and

~~(D)~~ (iv) For vehicles equal to or in excess of 26,501 pounds, the credit shall be a maximum amount of ~~\$100,000.00~~ \$100,000.

~~(2)~~ (B) For qualified clean-burning motor vehicle fuel property defined in 68 O.S. ~~Supp. 2022~~, § 2357.22(B)(3)(1), the amount of the credit is limited to the lesser of the cost of the conversion equipment installed, which includes parts and installation service, or the amount in subparagraph (A) of this paragraph.

(C) For qualified clean-burning motor vehicle fuel property defined in 68 O.S. § 2357.22(B)(2) and (5), the amount of the credit is:

(i) Limited to the lesser of the portion of the basis of the motor vehicle that is attributable to the storage of such fuel, the delivery to the engine of such fuel, and the exhaust of gases from combustion of such fuel, or the amount in subparagraph (A) of this paragraph; or

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(ii) The lesser of 10% of the cost of the motor vehicle or \$1,500.

## (2) **Infrastructure credit.**

(A) For qualified clean-burning motor vehicle fuel property defined in 68 O.S. § 2357.22(B)(3), a per-location credit of 45% of the cost of the qualified clean-burning motor vehicle fuel property.

~~(B)~~ (B) For qualified clean-burning motor vehicle fuel property defined in 68 O.S. ~~Supp. 2022~~, § 2357.22(B)(4), a per-location credit of the lesser of 50% of the cost of the qualified clean-burning motor vehicle fuel property or ~~\$2,500.00~~ \$2,500.

~~(d)~~ (e) **Carryforward.** Any credit claimed, but not used, may be carried over, in order, to each of the five (5) subsequent taxable years.

~~(e)~~ (f) **Limitations of eligibility.** No qualified establishment, nor its contractors or subcontractors, that has received or is receiving an incentive payment pursuant to Section 3601 et seq. of the Oklahoma Statutes, (Oklahoma Quality Jobs Program Act), or Section 3901 et seq. of the Oklahoma Statutes, (Small Employer Quality Jobs Incentive Act), shall be eligible to receive the credit for qualified clean-burning motor vehicle fuel property provided by 68 O.S. § 2357.22, in connection with the activity and establishment for which incentive payments have been; or are being received. [See: 68 O.S. §§ 3607, 3909]

~~(f)~~ (g) **Sunset date.** This credit will only be available through tax years beginning before December 31, 2028.

## ~~(g)~~ (h) **Tax credit limitation.**

(1) For tax years 2020 through 2022, the total amount of credits used to offset tax shall be adjusted annually to limit the annual amount of credits to ~~Twenty Million Dollars (\$20,000,000.00)~~ \$20,000,000.

(2) For tax years 2023 through 2028, the total amount of credits used to offset tax shall be adjusted annually to limit the annual amount of credits to:

(A) ~~Ten Million Dollars (\$10,000,000.00)~~ \$10,000,000 for qualified clean burning fuel property propelled by compressed natural gas, liquefied natural gas, or liquefied petroleum gas, property related to the delivery of compressed natural gas, liquefied natural gas or liquefied petroleum gas, and property directly related to the compression and delivery of natural gas;

(B) ~~Ten Million Dollars (\$10,000,000.00)~~ \$10,000,000 for property originally equipped so that the vehicle may be propelled by a hydrogen fuel cell electric fueling system and property directly related to the delivery of hydrogen; and

(C) ~~Ten Million Dollars (\$10,000,000.00)~~ \$10,000,000 for property which is a metered-for-fee, public access recharging system for motor vehicles propelled in whole or in part by electricity.

(D) Beginning with tax year 2024, if one of the tax credit pools listed in paragraph (2) of this subsection is not fully utilized for the applicable tax year, the remaining balance of that pool shall be allocated to each of the two remaining tax credit pools in equal amounts. If two of the tax credit pools listed in paragraph (2) are not fully utilized for the applicable tax year, the remaining balances in both pools shall be added together and the sum of those amounts shall be allocated to the remaining tax credit pool.

(3) The Tax Commission shall annually calculate and publish by the first day of the affected taxable year a percentage by which the credits shall be reduced so the total amount of credits used to offset tax does not exceed each of the limits provided in subsection ~~(g)~~ (h). Provided, no credit shall be reduced unless the total amount of credits used to offset tax exceeds \$30,000,000.

(A) If the total amount of credits used to offset tax from all three tax credit pools exceeds \$30,000,000 and the remaining balance of one pool is allocated to the remaining tax credit pools, the Tax Commission shall calculate the percentage adjustments as follows:

(i) There shall be no percentage adjustment for the tax credit pool from which the remaining balance was allocated to the other two pools.

(ii) The formula to be used for the other two pools shall be \$10,000,000 plus the amount allocated from the other pool divided by the credits claimed in the second preceding year from the respective pool.

(iii) For example, assume that \$4,000,000 from Pool C is allocated in equal amounts to Pool A and Pool B:

(I) For Pool A, \$12,000,000 shall be divided by the credits claimed in the second preceding year from Pool A.

(II) For Pool B, \$12,000,000 shall be divided by the credits claimed in the second preceding year from Pool B.

(III) As the credits claimed from Pool C did not exceed \$10,000,000, no calculation formula is needed.

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(B) If the total amount of credits used to offset tax from all three tax credit pools exceeds \$30,000,000 and the remaining balances of two pools are allocated to the remaining tax credit pool, the Tax Commission shall calculate the percentage adjustments as follows:

(i) There shall be no percentage adjustment for the two tax credit pools from which the remaining balances were allocated to the remaining pool.

(ii) The formula to be used for the remaining pool shall be \$10,000,000 plus the amount allocated from the other pools divided by the credits claimed in the second preceding year from the remaining pool.

(iii) For example, assume that \$4,000,000 from Pool B and \$4,000,000 from Pool C are allocated to Pool A:

(I) For Pool A, \$18,000,000 shall be divided by the credits claimed in the second preceding year from Pool A.

(II) As the credits claimed from Pool B did not exceed \$10,000,000, no calculation formula is needed.

(III) As the credits claimed from Pool C did not exceed \$10,000,000, no calculation formula is needed.

(C) If the total amount of credits used to offset tax from all three tax credit pools exceeds \$30,000,000 and the amount of credits used to offset tax in each individual pool exceeds \$10,000,000, the Tax Commission shall calculate the percentage adjustments as follows:

(i) For Pool A, \$10,000,000 shall be divided by the credits claimed in the second preceding year from Pool A.

(ii) For Pool B, \$10,000,000 shall be divided by the credits claimed in the second preceding year from Pool B.

(iii) For Pool C, \$10,000,000 shall be divided by the credits claimed in the second preceding year from Pool C.

### **710:50-15-109. Credit for qualified employers and employees of the aerospace sector [AMENDED]**

(a) **General provisions.** For tax years beginning after December 31, 2008 and before January 1, 2026, three (3) credits are allowed against the tax imposed by Section 2355 of Title 68 for the employment of qualified employees in the aerospace sector. The three (3) credits are as follows:

- (1) Credit for qualified employers for tuition reimbursement to qualified employees.
- (2) Credit for qualified employers for compensation paid to qualified employees.
- (3) Credit for qualified employees.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Qualified employee".**

(A) Any person, regardless of the date of hire by the qualified employer, who is newly employed by or contracting with a qualified employer in Oklahoma on or after January 1, 2009.

(B) A person who has been either:

- (i) Awarded an undergraduate or graduate degree from a qualified program by an institution, or
- (ii) Licensed as a Professional Engineer by the State Board of Licensure for Professional Engineers and Land Surveyors pursuant to Section 475.15 of Title 59 of the Oklahoma Statutes and employed as a qualified employee in the aerospace sector by a qualified employer on or after November 1, 2021.

(C) Qualified employee does not include a person employed in the aerospace sector in this state immediately preceding employment or contracting with a qualified employer, unless,

- (i) The employee was employed in the aerospace sector, but not as a full-time engineer, prior to being awarded a degree, or
- (ii) The employee has been awarded a degree and is employed by a professional staffing company and assigned to work in the aerospace sector in Oklahoma; or
- (iii) The employee previously qualified and claimed the credit and becomes employed by a different qualified employer on or after January 1, 2024, or
- (iv) The employee claimed the credit for the first time in tax year 2024, or any subsequent tax year, and becomes employed by a different qualified employer in any subsequent tax year.

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(2) **"Qualified program"** is any program that awards undergraduate or graduate degrees and has been accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology (ABET). Effective November 1, 2021, a qualified program includes both undergraduate and graduate programs of the same discipline of engineering at an institution if either program is ABET accredited.

(3) **"Aerospace sector", "compensation", "institution", "qualified employer" and "tuition"** shall be defined as in Section 2357.301 of Title 68 of the Oklahoma Statutes.

**(c) Credit for tuition reimbursement.**

(1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes based on the amount of tuition reimbursed to a qualified employee. This credit is effective for taxable years beginning after December 31, 2008.

(2) The credit for tuition reimbursement may only be claimed if the qualified employee has been awarded an undergraduate or graduate degree within one (1) year of starting employment with the qualified employer. The undergraduate or graduate degree must be from a qualified program.

(3) The credit for tuition reimbursement is equal to fifty percent (50%) of the tuition reimbursed to a qualified employee and may be claimed for the first through fourth years of employment with the qualified employer. The credit is only allowed to be claimed in the tax year that the tuition was reimbursed to the qualified employee and may not exceed in any taxable year fifty percent (50%) of the average annual amount paid by a qualified employee for enrollment and instruction in a qualified program at a public institution in Oklahoma.

(4) The credit for tuition reimbursement may not be used to reduce the tax liability of the qualified employer to less than zero (0), is not transferable and may not be carried over.

(5) The credit for tuition reimbursement may not be claimed after the fourth year of employment of the qualified employee.

**(d) Credit for compensation paid.**

(1) Qualified employers are allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for compensation paid to a qualified employee. This credit is effective for taxable years beginning after December 31, 2008.

(2) The credit for compensation paid equals:

(A) Ten percent (10%) of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located in this state.

(B) Five percent (5%) of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located outside this state.

(3) The credit for compensation paid cannot exceed ~~Twelve Thousand Five Hundred Dollars (\$12,500.00)~~ \$12,500 for each qualified employee annually.

(4) The credit for compensation paid may not be used to reduce the tax liability of the qualified employer to less than zero (0), is not transferable and may not be carried over.

(5) The credit for compensation paid may not be claimed after the fifth year of employment.

**(e) Credit for qualified employees.**

(1) For taxable years beginning after December 31, 2008, a qualified employee shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes of up to ~~Five Thousand Dollars (\$5,000.00)~~ \$5,000 per tax year for a period of time not to exceed five (5) years during the lifetime of the qualified employee. This credit may be claimed in nonconsecutive tax years.

(2) The credit authorized by this section shall not be used to reduce the tax liability of the taxpayer to less than zero (0).

(3) Any credit claimed, but not used, may be carried over, in order, to each of the five (5) subsequent taxable years.

**710:50-15-118. Credit for nonrecurring adoption expenses [AMENDED]**

(a) **General provisions.** In taxable years beginning after December 31, 2022, an income tax credit equal to 10% of nonrecurring adoption expenses is allowed to resident individual taxpayers ~~for nonrecurring adoption expenses~~, not to exceed \$2,000 (\$4,000 for a married filing joint return) per calendar year, paid in connection with the adoption of a minor, or proposed adoption of a minor which did not result in a decreed adoption.

(b) **Allowable expenses.** For purposes of this Section "nonrecurring adoption expenses" means and includes:

- (1) Adoption fees;
- (2) Court costs;
- (3) Medical expenses;
- (4) Attorney fees;

(5) Expenses directly related to the legal process of the adoption of a child and are not reimbursed by other sources, to include, but not limited to costs related to:

- (A) The adoption study;
- (B) Health and psychological examinations;
- (C) Transportation and reasonable costs of food and lodging for the child or adoptive parents which are incurred to complete the adoption process. Transportation expense by either commercial or private means may be claimed based upon actual unreimbursed costs incurred, or in the case of travel by private means, the mileage rate allowed pursuant to the Internal Revenue Code for determining business travel expense may be elected.

(6) Costs associated with physical remodeling, renovation, or alteration of the adoptive parents' home or property, if incurred in conjunction with the adoption of a special needs child, as authorized by the court.

(c) **"Nonrecurring adoption expenses"** shall not mean or include:

- (1) Costs reimbursed by other sources.
- (2) Attorney fees incurred from and after the commencement of an action involving a contest of an adoption.
- (3) Costs associated with physical remodeling, renovation, or alteration of the adoptive parent's home or property, with the exception noted in (b)(6) of this Section.

(d) **Verification.** A schedule describing the expenses claimed must be enclosed and filed with the claimant's tax return. Receipts supporting the claimed expenses are not required to be submitted with the tax return and descriptive schedule; but must be retained and be available upon request by the Tax Commission.

### 710:50-15-119. Parental Choice Tax Credit [REVOKED]

(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 12<sup>th</sup> 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

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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(f).

## (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:

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- (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.

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(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 is 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.

## **PART 9. OKLAHOMA PARENTAL CHOICE TAX CREDIT [NEW]**

### **710:50-15-170. Purpose [NEW]**



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The provisions of this Part have been promulgated to implement and administer the Oklahoma Parental Choice Tax Credit Program authorized by 70 O.S. § 28-100, et seq.

## **710:50-15-171. Definitions [NEW]**

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

"Accredited private school" means a private school in Oklahoma accredited by the State Board of Education or another accrediting association.

"Curriculum" means a complete course of study for a particular content area or grade level. [70 O.S. § 28-101(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 in this state. [70 O.S. § 28-101(4)]

"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 (beginning at age 4) through 12<sup>th</sup> grade. Eligible student shall include:

(A) A student who is enrolled in and attends or is expected to enroll in and attend an accredited private school.

(B) A student who is educated pursuant to the other means of education exception provided for in 70 O.S. § 10-105(A), (hereafter referred to as "homeschool").

(C) A student who attends an accredited private school that exclusively serves students experiencing homelessness.

(D) A student who attends an accredited private school that primarily serves financially disadvantaged students.

"Fiscal year" means the 12-month period from July 1 through June 30.

"Homeschool" means the full-time education of a student in the home, but does not include:

(A) Education of a student in the home who is enrolled in a virtual charter school or virtual private school.

(B) Tutoring or supplemental education of a student in the home who is also enrolled in public or private school.

(C) Periods when the student is on break from a public or private school, such as during summer.

"Homeschool tax credit" means credits authorized pursuant to 70 O.S. § 28-101(C)(2).

"Oklahoma taxpayer" means:

(A) Any person, resident or non-resident, owing or liable to pay any Oklahoma tax;

(B) Any person, resident or non-resident, required to file a report, a return, or remit any tax required by the provisions of any Oklahoma tax law; or

(C) Any person, resident or non-resident, 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]

"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 and time.

"Private school tax credit" means credits authorized pursuant to 70 O.S. § 28-101(C)(1).

"School year" means two semesters, fall and spring, during which schools are in session and students are attending classes. The school year occurs within the fiscal year.

"Second preceding tax year" means the tax year occurring two taxable years prior to the year for which the tax credit application is submitted. For example, tax credit applications submitted in 2025 for the 2025/2026 school year will utilize the federal adjusted gross income (AGI) from the 2023 income tax return.

"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 have been legally terminated.

"Tax year" means the 12-month period from January 1 through December 31.

"Warrant" means an order for payment directing the State Treasurer to disburse funds to a designated payee. A warrant operates like a paper check.

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## **710:50-15-172. Private school tax credit [NEW]**

**(a) General provisions.** For tax year 2024, and fiscal year ending June 30, 2026, and subsequent fiscal years ending June 30, an income tax credit is allowed for qualified expenses paid for an eligible student to attend an accredited private school.

**(b) Qualified expenses.** Qualified expenses for the private school tax credit include tuition and fees at an accredited private school. Fees may, but are not limited to, 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. Qualified expenses for the private school tax credit do not include tuition and fees paid with a scholarship or otherwise reduced or discounted by the school.

**(c) Amount of credit.** For an eligible student who attends or will attend an accredited private school, the credit amount is equal to the amount of tuition and fees charged to or will be paid by the taxpayer for attending the accredited private school for the full school year, as stated on the enrollment verification form, subject to the following limitations:

- (1) The maximum credit amount allowed is \$7,500 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year does not exceed \$75,000;
- (2) The maximum credit amount allowed is \$7,000 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than \$75,000 but does not exceed \$150,000;
- (3) The maximum credit amount allowed is \$6,500 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than \$150,000 but does not exceed \$225,000;
- (4) The maximum credit amount allowed is \$6,000 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than \$225,000 but does not exceed \$250,000; or
- (5) The maximum credit amount allowed is \$5,000 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than \$250,000.
- (6) The maximum credit amount allowed is \$7,500 for taxpayers who receive income-based government benefits, including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or SoonerCare/SoonerSelect, as of the date of the tax credit application.

**(d) Annual cap and limitation of credit.**

(1) The total amount of private school tax credits authorized by 70 O.S. § 28-101(C)(1) is subject to the following caps:

- (A) For tax year 2024, the total amount of credits shall not exceed \$150,000,000.
- (B) For the period of January 1, 2025, through June 30, 2025, the total amount of credits shall not exceed \$100,000,000.
- (C) For fiscal year ending June 30, 2026, and subsequent fiscal years ending June 30, the total amount of credits shall not exceed \$250,000,000.

(2) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(I).

**(e) Claiming the private school tax credit.**

(1) **Application.** If an Oklahoma taxpayer incurs or will incur a qualified expense on behalf of an eligible student during the school year, the taxpayer may be eligible to claim the private school tax credit. To apply for the credit, the taxpayer shall complete and submit an online application for each eligible student and include the following documentation and information with the application:

- (A) The name, address, and social security number or individual taxpayer identification number (ITIN) of the taxpayer.
- (B) The name, address, date of birth, and social security number or ITIN of the eligible student.
- (C) If the taxpayer is not the parent or legal guardian of the eligible student, the taxpayer shall provide a signed parental consent form to allow the taxpayer to apply for the credit on behalf of the eligible student.
- (D) Income verification of the parents or legal guardian of the eligible student, according to one of the following:
  - (i) Verification of federal AGI for the second preceding tax year of the parents or legal guardians of the eligible student, which may include providing copies of the applicable Oklahoma income tax return(s) or federal income tax return(s). If, at the time of submission of the tax credit application, the taxpayer has not filed the second preceding years' tax return, but had a filing requirement, and therefore AGI cannot be verified, the tax credit application will be denied and must be resubmitted once the second preceding tax year return is filed and

received by the Oklahoma Tax Commission. The resubmission date and time of a complete application will determine the applicant's place in line.

(ii) If the parents or legal guardians had no tax filing requirement for the second preceding tax year, the taxpayer shall attest within the application they did not have a tax filing requirement.

(iii) If a taxpayer is a recipient of income-based government benefits including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or SoonerCare/SoonerSelect, the taxpayer shall not be required to provide additional income verification. The taxpayer must attach documentation that shows he or she is a current recipient of the above-listed government benefits at the time of the tax credit application. Failure to attach the required documentation, without any other income verification documentation, may result in denial of the application. The resubmission date and time of a complete application will determine the applicant's place in line.

(E) An enrollment verification form 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 school year during which the qualified expenses will be paid;

(iii) The name and address of the private school;

(iv) The name and telephone number of a contact person(s) with the private school; and

(v) The amount of qualified tuition and fees to be charged the taxpayer for the eligible student during the school year, less any scholarship or tuition and fees discounted or otherwise reduced by the school.

(2) **Review and submission.** The applicant is responsible for reviewing the information contained within the enrollment verification form and verifying its accuracy. Once the enrollment verification form is submitted with an application, the information included within the enrollment verification form cannot be changed. In order to adjust any information after an application has been submitted, a taxpayer must withdraw their application, request a new enrollment verification form from the private school, and submit a new application. The date and time of the new application will be used to determine applicant's place in line for the credit.

(3) **Application period opening date.** Beginning with the 2025-2026 school year and subsequent school years, the application period will open on February 15, at 9:00 a.m. (CST), prior to the beginning of the applicable school year. To ensure payment of the credit by August 30, processable applications must be submitted no later July 15. If February 15 falls on a Saturday, Sunday or official State of Oklahoma holiday, the application process will open on the next day that is not a Saturday, Sunday or official State of Oklahoma holiday.

(4) **Priority consideration.** For any eligible student whose parents or legal guardians have a combined federal AGI that does not exceed \$150,000, processable applications must be submitted to the Tax Commission on or before the sixtieth (60<sup>th</sup>) calendar day following the opening of the application period to receive priority consideration as authorized by 70 O.S. § 28-101(E). Priority will be given to eligible students of taxpayers who received the credit in the prior year and whose parents or legal guardians have a combined federal AGI that does not exceed \$150,000. 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.

(5) **Notification of approval or denial.** Notification of tax credit approval will be sent to the applicant by email once a determination has been made that the application is complete and qualifies for the credit. For those applications that are denied, a letter will be mailed to the applicant, stating the reason for denial.

(6) **Application for review hearing.** If a taxpayer's application for the credit is denied, the taxpayer may request a hearing by filing OTC Form L-26, Application for Commission Hearing pursuant to the provisions of 68 O.S. § 207(c).

(A) The following supporting information and documentation must be included with the request:

(i) A description of the tax credit applied for and the amount in controversy;

(ii) A clear explanation of the alleged error(s) committed by the Tax Commission;

(iii) The legal authority the taxpayer intends to rely upon at hearing;

(iv) A statement of the relief requested; and

(v) A list of witnesses, including names and addresses, and the request to subpoena witnesses if so desired.

(B) The application for hearing and supporting documentation may be submitted either online or by mail to the address indicated on the form.

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(C) The application for hearing and documentation will be reviewed. If the matter cannot be resolved without a hearing, the application for hearing will be forwarded to the Oklahoma Tax Commission's Office of the Administrative Law Judges and set for hearing pursuant to the rules set forth in OAC 710:1-5-21 through 710:1-5-49.

(7) **Installment payments.** For eligible students enrolled in a full school year, the credit will be paid in two installments, one per school semester. Each payment will be no more than half of the total approved credit. For processible applications filed on or before July 15, payments will be issued no later than August 30 and January 15.

(A) Payments of the credit will 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 may collect the check from the school or may choose to use all or part of the tax credit to pay their student's tuition and fees.

(B) In the event funds have to be recaptured, the taxpayer is responsible for repayment.

(8) **Spring 2025 credit payment.** A taxpayer who applied for and received a private school tax credit in tax year 2024 is not required to reapply for a credit payable for the period of January 1, 2025, through June 30, 2025. The amount of the credit payable for the spring 2025 semester will be the amount of the 2024 fall semester installment payment.

(9) **Reconciliation.** No later than June 15 of each year, each participating private school shall provide reconciliation information to confirm student enrollment and tuition for each semester. For the reconciliation due no later than June 15, 2025, the participating private school shall provide student enrollment and tuition information for the spring 2025 semester. For all subsequent reconciliations, beginning June 15, 2026, the participating private school shall provide student enrollment and tuition information for the fall and spring semester of the just completed school year.

(A) Reconciliation information must be provided electronically.

(B) Participating private schools shall verify the following information:

- (i) The name and address of the private school;
- (ii) The total number of instructional days per semester;
- (iii) The total number of instructional days the eligible student was enrolled in the private school each semester;
- (iv) The amount of tuition paid on behalf of the eligible student for the applicable year (the initial amount of tuition and fees, less any scholarship or discount);
- (v) The name, grade level, address, and date of birth of the eligible student; and
- (vi) Any other information requested by the Tax Commission.

(10) **No carryover.** The credit can be claimed only for the school year for which the qualified expenses are incurred. Where qualified expenses are incurred in excess of the allowable credit for any given year, the excess of qualified expenses shall not be used in claiming the credit for any other year.

(11) **AGI determination.** The total federal AGI of an eligible student's parents or legal guardians shall be determined as follows:

(A) If the eligible student's parents or legal guardians have an income tax filing status of "married, filing jointly", the federal AGI reported on the parents' or legal guardians' second preceding year tax return will be used.

(B) If the eligible student's parents or legal guardians have an income tax filing status of "married, filing separately", the parents' or legal guardians' federal AGI reported on each tax return for the second preceding tax year will be added together to determine the federal AGI.

(12) **School registration.** Each accredited private school that intends to issue enrollment verification forms for the Oklahoma Parental Choice Tax Credit Program, shall annually complete an online registration with the Tax Commission. Registration shall include the following information:

- (A) Name, address, phone number, FEIN, and website of the private school;
- (B) Primary and secondary contact information for the private school, including proof of employment;
- (C) Proof of accreditation from the State Board of Education or another accrediting association; and
- (D) Other school identification information as requested by the Tax Commission.

(13) **Notification of non-use.** Taxpayers that claimed the credit shall notify the Tax Commission electronically no later than thirty (30) days after the date on which the eligible student:

- (A) Enrolls in a public school, including an open-enrollment charter school;
- (B) Enrolls in a nonaccredited private school;
- (C) Is no longer enrolled in an accredited private school;

- (D) Graduates from high school; or
- (E) Is no longer utilizing private school tax credits for any reason.
- (14) **Recapture.** The Tax Commission shall recapture private school tax credits if:
  - (A) The credit was claimed for expenditures that were not qualified expenses;
  - (B) 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
  - (C) Taxpayer fails to comply with the applicable Oklahoma statutes and regulations.

### **710:50-15-173. Homeschool tax credit [NEW]**

- (a) **General provisions.** Beginning with tax year 2024, an income tax credit is allowed for qualified expenses paid by an Oklahoma taxpayer for the homeschool education of an eligible student. The amount of the credit is 100% of qualified expenses, not to exceed \$1,000 per eligible student per calendar year.
- (b) **Claiming the credit.**
  - (1) The homeschool tax credit may be claimed on the applicable tax year's Oklahoma income tax return and must include legible copies of receipts of eligible expenses.
  - (2) The credit can be claimed only for the tax year the qualified expenses are 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.
  - (3) The credit cannot be claimed for eligible homeschool expenses incurred during any semester when the student was enrolled in a public or private school.
  - (4) The credit cannot be claimed for expenses incurred during summer or winter breaks between semesters when the student is enrolled in a public or private school.
- (c) **Qualified homeschool expenses.**
  - (1) Qualified expenses for the homeschool tax credit include the following expenditures:
    - (A) Tuition and fees for nonpublic learning programs, which may be online or in-person.
    - (B) Academic tutoring services, which are provided by an individual or a private academic tutoring facility.
    - (C) Textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provide. Instructional materials mean all materials that are designed for use by students and their teachers as a learning resource and help students to acquire facts, skills, or opinions or to develop cognitive processes.
    - (D) Costs or fees for nationally standardized assessments including, but not limited to college admission assessments and advanced placement examinations, as well as the tuition and fees for tutoring or preparatory courses for the assessments or examinations.
  - (2) Qualified expenses for the homeschool credit do not include internet access, laptops, computers, tablets, screens, or any other device that provides internet access or is required to make use of instructional materials, tutoring, or learning programs.
  - (3) Each eligible homeschool expense can be claimed only once, even if a taxpayer is claiming the credit for multiple students. For example, the parent of two homeschool students may claim only once the cost of an online learning program subscription even though both students have access to the subscription.
- (d) **Annual cap and limitation of credit.** For tax year 2025, and subsequent tax years, the total amount of credits shall not exceed \$5,000,000 annually. The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(J).
- (e) **Recapture.** The Tax Commission will recapture credits if an audit shows the credits were not claimed for a qualified homeschool expense, the student was enrolled in public or private school for two semesters in that year, or the taxpayer fails to comply with the applicable statutes and regulations.

### **710:50-15-174. Credit for students attending an accredited private school exclusively serving students experiencing homelessness [NEW]**

- (a) **General provisions.** Beginning with the 2024-2025 school year, an Oklahoma taxpayer may claim an income tax credit for an eligible student who attends an accredited private school in Oklahoma that exclusively serves students experiencing homelessness.
- (b) **Claiming the credit.** To apply for the credit, the taxpayer shall complete and submit an application for each eligible student and include the following documentation and information with the application:
  - (1) The name, address, and social security number or ITIN of the taxpayer.
  - (2) The name, address, date of birth, and social security number or ITIN of the eligible student.

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(3) If the taxpayer is not the parent or legal guardian of the eligible student, the taxpayer shall provide a signed parent consent form to allow the taxpayer to apply for the credit on behalf of the eligible student.

(4) Documentation from the school that specifies the amount of the cost to educate the eligible student at the private school for the school year for which the application is submitted.

**(c) Amount of the credit.**

(1) The amount of the credit for students attending an accredited private school in Oklahoma that exclusively serves students experiencing homelessness shall be \$7,500 or the amount of the cost to educate the eligible student at the private school per school year, whichever is less.

(2) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(J).

**(d) Payment of the credit.**

(1) For eligible students enrolled in a full school year, the credit will be paid in two installments, one per school semester. Each payment will be no more than half of the total approved credit. For processible applications filed on or before July 15, payments will be issued no later than August 30 and January 15.

(2) Payments will be issued 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.

**(e) Notification.** Notification of approval will be sent to the applicant by email once a determination has been made that the taxpayer qualifies for the credit. If the application is denied, a letter will also be sent to the applicant, stating the reason for denial and how to dispute the determination.

**(f) Denial of application.** If a taxpayer's application for the credit is denied, the taxpayer may request a hearing by filing OTC Form L-26, Application for Commission Hearing pursuant to the provisions of 68 O.S. § 207(c). The application for hearing and supporting documentation may be submitted either online or by mail to the address indicated on the form.

(1) The following information and documentation must be included with the request:

(A) A description of the tax credit applied for and the amount in controversy;

(B) A clear explanation of the alleged error(s) committed by the Tax Commission;

(C) The legal authority the taxpayer intends to rely upon at hearing;

(D) A statement of the relief requested; and

(E) A list of witnesses, including names and addresses, and the request to subpoena witnesses if so desired.

(2) The application for hearing and documentation will be reviewed. If the matter cannot be resolved without a hearing, the application for hearing will be forwarded to the Oklahoma Tax Commission's Office of the Administrative Law Judges and set for hearing pursuant to the rules set forth in OAC 710:1-5-21 through 710:1-5-49.

**(g) School registration.** Each participating accredited private school that exclusively serves students experiencing homelessness shall annually complete an online registration with the Tax Commission. Registration shall include the following information:

(1) Name, address, phone number, FEIN, and website of the private school;

(2) Primary and secondary contact information for the private school, including proof of employment;

(3) Proof of accreditation from the State Board of Education or another accrediting association; and

(4) Attestation from the principal or head of the private school that the private school exclusively serves students experiencing homelessness;

(5) The amount of the cost to educate an eligible student at the private school; and

(6) Other school identification information as requested by the Tax Commission.

**(h) Annual verification.** No later than June 15 of each year, each participating private school shall provide reconciliation information to confirm student enrollment for each semester. For the reconciliation due no later than June 15, 2025, the participating private school shall provide student enrollment information for the spring 2025 semester. For all subsequent reconciliations, beginning June 15, 2026, the participating private school shall provide student enrollment information for the fall and spring semester of the just completed school year:

(1) The name and address of the private school;

(2) The total number of instructional days per semester;

(3) The total number of instructional days the eligible student was enrolled in the private school each semester;

(4) The name, grade level, address, and date of birth of the eligible student; and

(5) Any other information requested by the Tax Commission.

**(i) Recapture.** The Tax Commission shall recapture tax credits from the taxpayer if:

(1) The taxpayer has claimed an eligible student who did not or no longer attends the accredited private school that exclusively serves students experiencing homelessness;

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(2) The private school no longer qualifies as a private school that exclusively serves students experiencing homelessness; or

(3) The taxpayer fails to comply with the applicable statutes and regulations.

(j) **Notification of non-use.** Taxpayers claiming the credit shall notify the Tax Commission electronically no later than thirty (30) days after the date on which the eligible student no longer attends the accredited private school that exclusively serves students experiencing homelessness.

### **710:50-15-175. Credit for students attending an accredited private school primarily serving financially disadvantaged students [NEW]**

(a) **General provisions.** Beginning with the 2024-2025 school year, an income tax credit is allowed for an eligible student who attends an accredited private school in Oklahoma that primarily serves financially disadvantaged students.

(b) **Claiming the credit.** To apply for the credit, the taxpayer shall complete and submit an application for each eligible student and include the following documentation and information with the application:

(1) The name, address, and social security number or individual taxpayer identification number (ITIN) of the taxpayer.

(2) The name, address, date of birth, and social security number or ITIN of the eligible student.

(3) If the taxpayer is not the parent or legal guardian of the eligible student, the taxpayer shall provide a signed parent consent form to allow the taxpayer to apply for the credit on behalf of the eligible student.

(4) Documentation from the school that specifies the amount of the cost to educate the eligible student at the private school for the school year for which the application is submitted.

(c) **Amount of the credit.**

(1) The amount of the credit for students attending an accredited private school in Oklahoma that primarily serves financially disadvantaged students shall be \$7,500 or the amount of the cost to educate the eligible student at the private school per school year, whichever is less.

(2) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(J).

(d) **Payment of the credit.**

(1) For eligible students enrolled in a full school year, the credit will be paid in two installments, one per school semester. Each payment will be no more than half of the total approved credit. For processible applications filed on or before July 15, payments will be issued no later than August 30 and January 15.

(2) Payments 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.

(e) **Notification.** Notification of approval will be sent to the applicant by email once a determination has been made that the taxpayer qualifies for the credit. If the application is denied, a letter will also be sent to the applicant, stating the reason for denial and how to dispute the determination.

(f) **Denial of application.** If a taxpayer's application for the credit is denied, the taxpayer may request a hearing by filing OTC Form L-26, Application for Commission Hearing pursuant to the provisions of 68 O.S. § 207(c). The application for hearing and supporting documentation may be submitted either online or by mail to the address indicated on the form.

(1) The following information and documentation must be included with the request:

(A) A description of the tax credit applied for and the amount in controversy;

(B) A clear explanation of the alleged error(s) committed by the Tax Commission;

(C) The legal authority the taxpayer intends to rely upon at hearing;

(D) A statement of the relief requested; and

(E) A list of witnesses, including names and addresses, and the request to subpoena witnesses if so desired.

(2) The application for hearing and documentation will be reviewed. If the matter cannot be resolved without a hearing, the application for hearing will be forwarded to the Oklahoma Tax Commission's Office of the Administrative Law Judges and set for hearing pursuant to the rules set forth in OAC 710:1-5-21 through 710:1-5-49.

(g) **School registration.** Each participating accredited private school that primarily serves financially disadvantaged students shall annually complete an online registration with the Tax Commission. Registration shall include the following information:

(1) Name, address, phone number, FEIN, and website of the private school;

(2) Primary and secondary contact information for the private school, including proof of employment;

(3) Proof of accreditation from the State Board of Education or another accrediting association; and

(4) Attestation from the principal or head of the private school that 90% of the private school's admissions are based on enrolling students whose gross family income is 250% of the federal poverty threshold or below;

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(5) The amount of the cost to educate an eligible student at the private school; and

(6) Other school identification information as requested by the Tax Commission.

(h) **Annual verification.** No later than June 15 of each year, each participating private school shall provide reconciliation information to confirm student enrollment for each semester. For the reconciliation due no later than June 15, 2025, the participating private school shall provide student enrollment information for the spring 2025 semester. For all subsequent reconciliations, beginning June 15, 2026, the participating private school shall provide student enrollment information for the fall and spring semester of the just completed school year:

(1) The name and address of the private school;

(2) The total number of instructional days per semester;

(3) The total number of instructional days the eligible student was enrolled in the private school each semester;

(4) The name, grade level, address, and date of birth of the eligible student; and

(5) Any other information requested by the Tax Commission.

(i) **Recapture.** The Tax Commission shall recapture tax credits from the taxpayer if:

(1) The taxpayer has claimed an eligible student who no longer attends the accredited private school that primarily serves financially disadvantaged students;

(2) The private school no longer qualifies as a private school that primarily serves financially disadvantaged students; or

(3) Taxpayer fails to comply with the applicable statutes and regulations.

(j) **Notification of non-use.** Taxpayers claiming the credit shall notify the Tax Commission electronically no later than thirty (30) days after the date on which the eligible student no longer attends the accredited private school that primarily serves financially disadvantaged students.

## SUBCHAPTER 19. OKLAHOMA TAXABLE INCOME FOR PARTNERSHIPS

### 710:50-19-4. Partnerships that make an election under the Pass-Through Entity Tax Equity Act of 2019

[AMENDED]

Pursuant to the Pass-Through Entity Tax Equity Act of 2019 (68 O.S. §§ 2355.1P-1 et seq.), a partnership may elect to pay income tax at the entity level, effective for tax year 2019 and subsequent tax years. The Oklahoma income, gains, losses or deductions of a partnership that is an electing pass-through entity shall not be used to calculate the Oklahoma taxable income of the partners, members or shareholders. [See: ~~710:50-3-49~~710:50-3-47]

## SUBCHAPTER 21. OKLAHOMA TAXABLE INCOME FOR SUBCHAPTER "S" CORPORATIONS

### 710:50-21-4. S Corporations that make an election under the Pass-Through Entity Tax Equity Act of 2019

[AMENDED]

Pursuant to the Pass-Through Entity Tax Equity Act of 2019 (68 O.S. §§ 2355.1P-1 et seq.), a Subchapter S Corporation may elect to pay income tax at the entity level, effective for tax year 2019 and subsequent tax years. The Oklahoma income, gains, losses or deductions of a Subchapter S Corporation that is an electing pass-through entity shall not be used to calculate the Oklahoma taxable income of the partners, members or shareholders. [See: ~~710:50-3-49~~710:50-3-47]

*[OAR Docket #25-443; filed 6-3-25]*

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## TITLE 710. OKLAHOMA TAX COMMISSION

### CHAPTER 55. MOTOR FUEL

*[OAR Docket #25-505]*

#### RULEMAKING ACTION:

PERMANENT final adoption

#### RULES:

Subchapter 4. Motor Fuel Tax

Part 3. EXEMPTIONS AND REFUNDS

710:55-4-114. Procedure for perfecting and claiming exemption for sales to certain exempt entities [AMENDED]



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# Permanent Final Adoptions

Subchapter 7. Special Fuels Tax

710:55-7-2. Requirements to obtain special fuel user license [AMENDED]

**AUTHORITY:**

68 O.S. § 203; Oklahoma Tax Commission

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 5, 2024

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Amendments to Section 710:55-4-114 add a motor fuel tax exemption for ambulance districts pursuant to the changes passed in HB 3031 (2024). Section 710:55-7-2 is amended to update the name of the respective division.

**CONTACT PERSON:**

Corey Jager, Agency Liaison, Tax Policy Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma 73194; Telephone number: (405) 521-4155; Email: corey.jager@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 JULY 15, 2025:**

## SUBCHAPTER 4. MOTOR FUEL TAX

### PART 3. EXEMPTIONS AND REFUNDS

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## 710:55-4-114. Procedure for perfecting and claiming exemption for sales to certain exempt entities [AMENDED]

(a) **Exempt entities.** An exemption may be claimed for motor fuel:

- (1) Sold to the United States or any agency or instrumentality thereof;
- (2) Used solely and exclusively in district-owned public school vehicles or FFA and 4-H Club trucks for the purpose of legally transporting public school children;
- (3) Purchased by any school district for use exclusively in school buses leased or hired for the purpose of legally transporting public school children, or in the operation of vehicles used in driver training;
- (4) Used solely and exclusively as fuel to propel motor vehicles on the public roads and highways of this state, when leased or owned and being operated for the sole benefit of a county, city, town, a volunteer fire department with a state certification and rating, rural electric cooperatives, rural water and sewer districts, rural ambulance service districts, ambulance districts established under Section 9C of Article X of the Oklahoma Constitution, or federally recognized Indian tribes; or
- (5) Used by the Oklahoma Space Industry Development Authority or any spaceport user, as defined in 68 O.S. § 500.10(17).

(b) **Perfection by ultimate vendor.** The exemption for sales of motor fuel for use by the exempt entities described in subsection (a) shall be perfected by the ultimate vendor, by obtaining an exemption certificate signed by the purchasing entity. Upon obtaining the certificate, the ultimate vendor shall complete the sale to the purchasing entity without requiring payment of the motor fuel tax. Upon completion of the sale, the ultimate vendor shall execute an ultimate vendor certificate (on forms provided by the Commission) to its supplier. The ultimate vendor certificate shall include the identity of the purchasing entity.

(c) **Supplier to claim credit.** The supplier shall be eligible to claim a credit against the tax liability on the ensuing monthly report of the supplier after having made reasonable commercial inquiry into the accuracy of the information in the certificate. For purposes of this Section, "**reasonable commercial inquiry**" means that the supplier shall verify:

- (1) That the ultimate vendor certificate is completed in its entirety, including the identity of the purchasing entity; and
- (2) That the purchasing entity is exempt from the payment of motor fuel tax pursuant to paragraphs 5, 6, 7, or 17 of Section 500.10 of Title 68 of the Oklahoma Statutes.

## SUBCHAPTER 7. SPECIAL FUELS TAX

### 710:55-7-2. Requirements to obtain special fuel user license [AMENDED]

In addition to the application required to be filed with the Oklahoma Tax Commission, the applicant for a special fuel user license must file a **bond or other acceptable security**, with the Tax Commission. [See: 68 O.S. §709(a)]

- (1) The bond shall be made payable to the State of Oklahoma.
- (2) A **bond or other acceptable security** shall be required for each application for license. The bond will not be in excess of Twenty-five Thousand (\$25,000) Dollars.
- (3) The amount of the bond required shall be:
  - (A) One Thousand (\$1,000) Dollars, in relation to a special fuel user's license; One Thousand (\$1,000) Dollars in relation to a special fuel dealer's license; **or**,
  - (B) Three (3) times the monthly tax liability (or estimated monthly tax liability in the case of a new applicant) if the taxpayer is on a monthly reporting basis.
- (4) The amount of the bond required under 68 O.S. §709(b) and (3) of this subsection shall be determined by the Motor Fuel Section of the ~~Motor Vehicle Division~~ Business Tax Division of the Oklahoma Tax Commission. The amount of the bond may be increased or reduced at any time.
- (5) Bonds to be given shall be continuous, rather than on an annual basis.

*[OAR Docket #25-505; filed 6-6-25]*

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## TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 65. SALES AND USE TAX

*[OAR Docket #25-506]*

### RULEMAKING ACTION:

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# Permanent Final Adoptions

PERMANENT final adoption

## **RULES:**

Subchapter 1. General Provisions

710:65-1-2. Definitions [AMENDED]

710:65-1-7. Consumer/user defined; specific applications [AMENDED]

710:65-1-8. Established place of business; maintaining a place of business [AMENDED]

710:65-1-9. Gross receipts, gross proceeds, and sales price [AMENDED]

710:65-1-11. Rentals and leases of tangible personal property [AMENDED]

Subchapter 3. Reports and Returns; Payments and Penalties; Records

Part 1. GENERAL PROVISIONS

710:65-3-1. Reports, payments, and penalties [AMENDED]

Subchapter 9. Permits

710:65-9-8. Special event permits and reporting [AMENDED]

Subchapter 11. Credits and Refunds

710:65-11-1. Sales tax credits and refunds [AMENDED]

Subchapter 13. Sales and Use Tax Exemptions

Part 29. MANUFACTURING

710:65-13-150.1. Manufacturing exemption; taxable and exempt transactions [AMENDED]

710:65-13-159. Exemption for commercial mining of digital assets in a colocation facility [NEW]

Part 31. MEDICINE, MEDICAL APPLIANCES, AND HEALTH CARE ENTITIES AND ACTIVITIES

710:65-13-169. Definitions [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 57. FOOD AND FOOD INGREDIENTS [NEW]

710:65-13-570. Definitions [NEW]

710:65-13-571. Food and food ingredients [NEW]

710:65-13-572. Prepared food [NEW]

710:65-13-573. Prepared Food Sales Percentage (PFS%) [NEW]

710:65-13-574. Exclusions from prepared food [NEW]

710:65-13-575. Claims for refund of state sales tax paid on food and food ingredient purchases [NEW]

Subchapter 19. Specific Applications and Examples

Part 5. "C"

710:65-19-40. Caterers [AMENDED]

710:65-19-52. Computers and related systems; "hardware" and "software" defined [AMENDED]

Part 7. "D"

710:65-19-72. Deposits, core charges and trade-ins [AMENDED]

Part 11. "F"

710:65-19-109. Food; vendors of meals and prepared food [AMENDED]

710:65-19-110. Food; eating and drinking establishments [AMENDED]

Part 25. "M"

710:65-19-212. Milk and dairy processors [AMENDED]

Subchapter 21. Use Tax

710:65-21-2. Definitions [AMENDED]

## **AUTHORITY:**

68 O.S. §§ 203, 1357, 1357.11, 1359.1, 1364; Oklahoma Tax Commission

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 5, 2024

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January 10, 2025

## **LEGISLATIVE APPROVAL:**

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## **LEGISLATIVE DISAPPROVAL:**

N/A

## **APPROVED BY GOVERNORS DECLARATION:**

N/A

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May 28, 2025

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July 15, 2025

## **SUPERSEDED EMERGENCY ACTIONS:**

## **SUPERSEDED RULES:**

Subchapter 11. Credits and Refunds

710:65-11-1. Sales tax credits and refunds [AMENDED]

Subchapter 13. Sales and Use Tax Exemptions

Part 57. FOOD AND FOOD INGREDIENTS

710:65-13-570. Definitions [NEW]

710:65-13-571. Food and food ingredients [NEW]

710:65-13-572. Prepared food [NEW]

710:65-13-573. Prepared Food Sales Percentage (PFS%) [NEW]

710:65-13-574. Exclusions from prepared food [NEW]

710:65-13-575. Claims for refund of state sales tax paid on food and food ingredient purchases [NEW]

Subchapter 19. Specific Applications and Examples

Part 5. "C"

710:65-19-40. Caterers [AMENDED]

Part 11. "F"

710:65-19-109. Food; vendors of meals and prepared food [AMENDED]

710:65-19-110. Food; eating and drinking establishments [AMENDED]

Part 25. "M"

710:65-19-212. Milk and dairy processors [AMENDED]

## **GOVERNATORIAL APPROVAL:**

July 15, 2024

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The Oklahoma Register, Volume 41, Number 23; August 15, 2024

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OAR Docket #24-597

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## **INCORPORATED STANDARDS:**

N/A

## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

Several proposed amendments to the existing rules have been made to implement recent legislation. Section 710:65-1-7 is amended to add two new exemptions pursuant to SB 1445, as passed in the 2nd session of the 59th Legislature (2024). Pursuant to SB 1438 (2024), 710:65-1-11 is amended to add an exemption for a heavy equipment rental fee. Section 710:65-3-1 is amended to outline procedures for the suspension or revocation of sales tax accounts reporting zero business activity for twelve consecutive months. The proposed new section 710:65-13-159 outlines the application process and requirements for a new sales tax exemption for commercial mining of digital assets in a colocation facility pursuant to HB 1600 (2024). Section 710:65-13-275 is amended to align with a statutory change pursuant to SB 1252 (2024). The proposed amendments to Sections 710:65-11-1, 710:65-19-40, 710:65-19-109, 710:65-19-110, 710:65-19-212, and new Part 57. Food and Food Ingredients under Subchapter 13. Sales and Use Tax Exemptions implement the provisions of House Bill 1955 and Senate Bill 1283 (2024), which enacted a reduced state sales tax rate of zero percent (0%) on food and food ingredients beginning August 29, 2024. The rules provide definitions, outline procedures for determining the

taxability of products, and provide clarification on the application of existing rules with respect to the reduced state sales tax rate. Other sections may be amended to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update or correct citations, update contact information, and ensure accurate internal cross-references, which do not change the interpretation or intent of the rules.

## CONTACT PERSON:

Corey Jager, Agency Liaison, Tax Policy Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma 73194;  
Telephone number: (405) 521-4155; Email: corey.jager@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 JULY 15, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 710:65-1-2. Definitions [AMENDED]

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

**"Business"** means any activity with the potential to generate a profit even if the business actually operates at a loss. This category also includes non-profit, religious and other organizations and persons who are otherwise exempt when they are conducting activities for a profit in competition with other businesses.

**"Bundled Transaction"** means the retail sale of two or more products, except real property and services to real property, where the products are otherwise distinct and identifiable, and the products are sold for one nonitemized price. A **"bundled transaction"** does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction. As used in this paragraph:

(A) **"distinct and identifiable products"** does not include:

- (i) packaging such as containers, boxes, sacks, bags, and bottles, or other materials such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof, including but not limited to, grocery sacks, shoeboxes, dry cleaning garment bags and express delivery envelopes and boxes;
- (ii) a product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge, or
- (iii) items included in the definition of gross receipts or sales price, pursuant to this Section.

(B) **"one nonitemized price"** does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form including, but not limited to an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list.

(C) A transaction that otherwise meets the definition of a **bundled transaction** shall not be considered a **bundled transaction** if it is:

- (i) the retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service;
- (ii) the retail sale of services where one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service;
- (iii) a transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis. For purposes of this Section, "de minimis" means the seller's purchase price or sales price of taxable products is ten percent (10%) or less of the total purchase price or sales price of the bundled products. Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis. Sellers may not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis; or
- (iv) the retail sale of exempt tangible personal property and taxable tangible personal property where:

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(I) the transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-the-counter drugs, prosthetic devices or medical supplies, and

(II) the seller's purchase price or sales price of the taxable tangible personal property is fifty percent (50%) or less of the total purchase price or sales price of the bundled tangible personal property. Sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the fifty percent (50%) determination for a transaction.

**"Consumer"** or **"user"** means a person to whom a taxable sale of tangible personal property is made or for whom a taxable service is performed.

**"Consideration"** means and includes, but is not limited to:

(A) The price arrived at between purchaser and vendor.

(B) Any additional bona fide charges added to or included in such price for preparation, fabrication, alteration, modification, finishing, completion, delivery, or other services performed in respect to or labor charges for work done with respect to such property prior to transfer.

(C) No deduction from gross receipts is permitted for services performed or work done on behalf of the vendor prior to transfer of such tangible personal property. [See: 68 O.S. § ~~1352~~(12)1352]

**"Delivery charges"** means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. **"Delivery charges"** does not include charges for the delivery of **"direct mail"** if the charges are separately-stated on an invoice or similar billing document given to the purchaser.

**"Gross receipts", "gross proceeds", or "sales price"** means the total amount of consideration including cash, credit, property, and services, for which personal property or services are sold, leased, or rented; valued in money, whether received in money or otherwise, without any deduction for the following:

(A) The seller's cost of the property sold;

(B) The cost of materials used, labor, or service cost;

(C) Interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(D) Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(E) Delivery charges and installation charges, unless separately stated on the invoice, billing, or similar document given to the purchaser; or,

(F) Credit for any trade-in.

**"Gross receipts", "gross proceeds", or "sales price"** shall not include:

(A) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(B) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; or

(C) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser. [68 O.S. § ~~1352~~(12)1352]

**"Gross receipts", "gross proceeds", or "sales price"** shall include consideration received by the seller from third parties if:

(A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(B) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(D) One of the following criteria is met:

(i) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

(ii) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount; provided, a "preferred customer" card that is available to any patron does not constitute membership in such a group; or

(iii) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

**"Lease" or "rental"** means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

(A) **"Lease" or "rental"** does not include:

- (i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
- (ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of One Hundred Dollars or one (1) percent of the total required payments; or
- (iii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this unit, an operator must do more than maintain, inspect, or set-up the tangible personal property.

(B) **"Lease" or "rental"** does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined by 26 U.S.C. § 7701(h)(1).

(C) This definition shall be used for sales and use tax purposes if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the Oklahoma Uniform Commercial Code (12A O.S. § 1-101 et seq.), or other provisions of federal, state, or local law.

**"Retail sale"** means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

**"Sale"** means *the transfer of either title or possession of tangible personal property for a valuable consideration regardless of the manner, method, instrumentality, or device by which the transfer is accomplished in this state.* [68 O.S. § 1352] All consideration received for the sale is included in gross receipts subject to tax.

(A) **"Sale"** does include but is not limited to:

- (i) The exchange, barter, lease, or rental of tangible personal property resulting in the transfer of the title to or possession of the property;
- (ii) The disposition for consumption or use in any business or by any person of all goods, wares, merchandise, or property which has been purchased for resale, manufacturing, or further processing;
- (iii) The sale, gift, exchange, or other disposition of admission, dues, or fees to clubs, places of amusement or recreational or athletic events or for the privilege of having access to or the use of amusement, recreational, athletic or entertainment facilities;
- (iv) The furnishing or rendering of services taxable under the Oklahoma Sales Tax Code; and
- (v) Any use of motor fuel or diesel fuel by a supplier, as defined in Section 500.3 of this title, upon which sales tax has not previously been paid, for purposes other than to propel motor vehicles over the public highways of this state. Motor fuel or diesel fuel purchased outside the state and used for purposes other than to propel motor vehicles over the public highways of this state shall not constitute a sale within the meaning of this paragraph.

(B) **"Sale"** does not include sale and leaseback.

**"Sales tax"** means all applicable state, city and county sales tax.

**"Sales value"** means:

(A) In the case of a manufacturer, the sum of the manufacturer's cost of raw materials and the proportionate share of both the cost of machinery and equipment used and the cost of items consumed in the direct process of the manufacturing of the product, all of which were purchased exempt from sales tax for use in the process of manufacturing; or

(B) In the case of a person holding a mixed beverage tax permit or other permit issued in accordance with 37A O.S. § 5-107, the total retail sales price for sales of alcoholic beverages only, calculated pursuant to *OAC 710:20-5-4*; or

(C) In the case of sales of prepared food, the sales value of a free, reduced price, or complimentary meal is presumed to be the greater of the consideration received for the meal, if any, or the cost paid by the vendor of the food for the food items included in the free, reduced price, or complimentary meal; or

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(D) In the case where an inventory of goods, originally purchased exempt for resale, is being held for rental or leasing purposes, the regular rental charges which would be charged to the vendor's best customer, if the goods are to be returned to inventory. Where the goods are not to be returned to inventory held for rental or leasing purposes, the lesser of the original purchase price of the goods, or the current market price will be presumed to be the sales value; or

(E) Otherwise, "**sales value**" means the larger of either the vendor's cost at the time the exempt purchase of goods was made, or the price at which it would be sold to the vendor's best customer in the ordinary course of business.

"**Tangible personal property**" means *personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses*. For purposes of the Oklahoma Sales Tax Code, "**tangible personal property**" includes electricity, water, gas, steam and prewritten computer software. [68 O.S. § ~~1352(24)~~1352] The term does not include real property, such as land and buildings, tangible personal property that loses its identity when it becomes an integral and inseparable part of the realty, or tangible personal property which is removable only with substantial damage to the premises. Property severed from real estate becomes tangible personal property. "**Tangible personal property**" does not include intangible personal property constituting mere rights of action and having no intrinsic value, such as contracts, deeds, mortgages, stocks, bonds, certificates of deposit, or uncanceled United States postage or revenue stamps sold for postage or revenue purposes. [See: 68 O.S. § 1352; 68 O.S. § 1354; See Also: 60 O.S. §§ 7, 8]

"**Tax**" means all state, applicable city and applicable county tax.

"**Use tax**" means all applicable state and city use tax.

"**User**" or "**consumer**" means a person to whom a taxable sale of tangible personal property is made or for whom a taxable service is performed.

## 710:65-1-7. Consumer/user defined; specific applications [AMENDED]

"**Consumer**" or "**user**" means a person to whom a taxable sale of tangible personal property is made or for whom a taxable service is performed.

(1) **Hospitals, sanitariums, nursing homes and emergency medical care.** Hospitals and sanitariums are primarily engaged in the business of selling services, and for the purposes of the Sales Tax Code are considered to be the consumers or users of all tangible personal property and services used in the operation of the institution. Thus, the gross proceeds derived from sales of tangible personal property and certain services to such institutions are subject to tax. This paragraph applies to all hospitals, sanitariums and nursing homes, including those owned or operated by churches, fraternities, cooperatives, or any other organization, except those operated by the Federal Government, the State, or a political subdivision thereof.

(2) **Withdrawals from stock.** If any business purchases tangible personal property for resale, manufacturing or further processing and that business withdraws tangible personal property, either from its inventory or after such inventory has been manufactured or processed for its own use or consumption, that business has made a taxable sale and the value of the property withdrawn is taxable at its "**sales value**", as defined in *OAC 710:65-1-2*. The business withdrawing tangible personal property from inventory should include the "**sales value**" of such property in gross receipts or gross proceeds on its sales tax report for the month the property was withdrawn.

(3) **Contractors.** Contractors are consumers or users, and must pay sales tax on all taxable services and tangible personal property, including materials, supplies, and equipment, purchased to develop and improve real property. Examples of contractors subject to this paragraph are: painting contractors, road contractors, grading and excavating contractors, electrical contractors, plumbing contractors, and other persons engaged in a contractual arrangement to make improvements on real property. A person working for a salary or wage is not considered a contractor. The Sales Tax Code limits the ability of contractors to make purchases exempt from sales tax based on the exempt status of another entity to the following situations: [See: 710:65-7-6 and 710:65-7-13]

(A) A contractor who has a public contract, or a subcontractor to that public contract, with an Oklahoma municipality, county, public school district, city-county library system, an institution of the Oklahoma System of Higher Education, a rural water district, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, the City of Tulsa-Rogers County Port Authority, the Broken Bow Economic Development Authority, the Muskogee City-County Port Authority, the Oklahoma Ordnance Works Authority, the Durant Industrial Authority, the Ardmore Development Authority, the Oklahoma Department of Veterans Affairs, the Central Oklahoma Master Conservancy District, Arbuckle Master Conservancy District, Fort Cobb Master Conservancy District, Foss Reservoir Master Conservancy District, Mountain Park Master Conservancy District, Waurika Lake Master Conservancy District or the Office of Management and Enterprise Services only



when carrying out a public construction contract on behalf of the Oklahoma Department of Veterans Affairs, the Oklahoma State University Medical Authority and Trust, the Oklahoma State University Veterinary Medicine Authority and Trust, and effective July 1, 2022, the University Hospitals Trust may make purchases of tangible personal property or services, which are necessary for carrying out the public contract, exempt from sales tax.

(B) A contractor who has entered into a contract with a private institution of higher education or with a private elementary or secondary institution, may make purchases of tangible personal property or services, including materials, supplies and equipment used in the construction of buildings owned and used by the institution for educational purposes exempt from sales tax.

(C) A contractor who has contracted with an agricultural permit holder to construct a facility which will be used directly in the production of any livestock, including facilities used in the production and storage of feed for livestock owned by the agricultural permit holder, may make purchases of materials, supplies and equipment necessary to fulfill the contract, exempt from sales tax.

(D) A contractor may make purchases of materials, supplies and equipment necessary to fulfill a contract, exempt from sales tax, for use on campus construction projects for the benefit of institutions of the Oklahoma State System of Higher Education or private institutions of higher education accredited by the Oklahoma State Regents for Higher Education. The projects must be financed by or through the use of nonprofit entities which are exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

(E) A contractor may make purchases of machinery, equipment, fuels, and chemicals or other materials, exempt from sales tax, which will be incorporated into and directly used or consumed in the process of treatment of hazardous waste, pursuant to *OAC 710:65-13-80*. Contractors claiming exemption for purchases to be used to remediate hazardous wastes should obtain a letter certifying the exemption status from the Tax Commission by following the procedures set out in 710:65-13-80, and provide a copy of the letter to vendors, pursuant to subsection (f) of that rule.

(F) A contractor, or a subcontractor to such contractor, with whom a church has duly entered into a construction contract may make purchases of tangible personal property or services exempt from sales tax which are necessary for carrying out such construction contract.

(G) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property which is to be *consumed or incorporated in the construction or expansion of a facility for a corporation organized under Section 437 et seq. of Title 18 of the Oklahoma Statutes as a rural electric cooperative* exempt from sales tax.

(H) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property or services pursuant to a contractual relationship with a child care center, qualified for exemption pursuant 68 O.S. § 1356(69), for construction and improvement of buildings and other structures owned by the child care center and operated for educational purposes exempt from sales tax.

(I) A contractor, or a subcontractor to such contractor, may make purchases of tangible personal property or services exempt from sales tax pursuant to a contractual relationship with a manufacturer for the construction and improvement of manufacturing goods, wares, merchandise, property, machinery and equipment for use in a manufacturing operation classified under NAICS No. 324110 (Petroleum Refineries).

(4) **Repairmen.** Repairmen are persons engaged in the business of repairing tangible personal property. Parts incidental to the repair service which are consumed/used in making repairs are taxable to the repairman as a consumer/user. [See: 68 O.S. § 1352]

### 710:65-1-8. Established place of business; maintaining a place of business [AMENDED]

#### (a) "Established place of business" defined.

(1) An "established place of business" means a location at which:

(A) Any person regularly engages in, conducts, or operates a business:

(i) in a continuous manner,

(ii) for any length of time,

(iii) that is open to the public during hours customary for the type of business; and

(B) Merchandise for resale is maintained, and not exempted by law from attachment, execution, or other species of forced sale barring any satisfaction of any delinquent sales tax liability.

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(2) A location used in conducting a hobby is not considered an **"established place of business"** even though occasional taxable sales are made from the location; i.e., a garage set up as a wood working shop. The occasional sales are taxable and are to be reported by the seller on a sales tax report as casual sales.

(b) **"Maintaining a place of business" defined.** **"Maintaining a place of business in this state"** means and shall be presumed to include:

(1) Utilizing or maintaining in this state, directly or through subsidiary the operations outlined in (A) through (E) of this paragraph whether owned or operated by the vendor or any other person, other than a common carrier acting in its capacity as such.

(A) an office (to include a home office),

(B) a distribution house,

(C) a sales house (such as a shop or store),

(D) a warehouse (could be in a home's garage), or

(E) any other physical place of business (a hot dog stand on wheels, a barbecue wagon parked on the roadside, or an ice cream truck traveling a route); or

(2) Having agents operating in this state such as salesmen, brokers, or wholesale buyers;

(A) Whether the place of business, or agent is within this state temporarily (traveling salesman, buyers for out-of-state firms) or permanently (shop or store in a mall); or

(B) Whether the person is authorized to do business within this state. Example: A broker, who is self-employed, operates his business from an office he has established in a spare bedroom of his home in this state. He does not have an "established place of business" but he does "maintain a place of business in this state." [See: 68 O.S. §§ ~~1352(10), (13)~~ 1352; 1401(10)]

(3) The presence of any person, other than a common carrier acting in its capacity as such, that has substantial nexus in this state and that:

(A) sells a similar line of products as the vendor and does so under the same or a similar business name,  
(B) uses trademarks, service marks or trade names in this state that are the same or substantially similar to those used by the vendor,

(C) delivers, installs, assembles or performs maintenance services for the vendor,

(D) facilitates the vendor's delivery of property to customers in the state by allowing the vendor's customers to pick up property sold by the vendor at an office, distribution facility, warehouse, storage place or similar place of business maintained by the person in this state, or

(E) conducts any other activities in this state that are significantly associated with the vendor's ability to establish and maintain a market in this state for the vendor's sale.

(4) The presumptions in paragraphs (1) and (2) of subsection (b) may be rebutted by demonstrating that the person's activities in this state are not significantly associated with the vendor's ability to establish and maintain a market in this state for the vendor's sales.

## 710:65-1-9. Gross receipts, gross proceeds, and sales price [AMENDED]

(a) **General provisions.** The gross proceeds, gross receipts, or sales price reported by the taxpayer must include the total receipts from all sources, including cash from sales, charge sales, credits, services, and property other than cash accepted as consideration. Sales tax reports are to be filed on an accrual accounting basis. Sales tax should be reported and remitted for the month that the sale is made regardless of whether payment is received, charged, deferred, or otherwise to be made in the future, and regardless of the time or manner of payment.

(b) **Scope of "gross receipts", "gross proceeds", or "sales price".** *"Gross receipts", "gross proceeds", or "sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:*

(1) *The seller's cost of the property sold;*

(2) *The cost of materials used, labor, or service cost;*

(3) *Interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;*

(4) *Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;*

(5) *Delivery charges and installation charges, unless separately-stated on the invoice, billing, or similar document given to the purchaser; and,*

(6) *Credit for any trade-in.* [68 O.S. § 1352]

(c) **Excluded items and transactions.** *"gross receipts", "gross proceeds", or "sales price" shall not include:*

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- (1) *Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;*
- (2) *Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately-stated on the invoice, bill of sale, or similar document given to the purchaser; and,*
- (3) *Any taxes legally imposed directly on the consumer that are separately-stated on the invoice, bill of sale, or similar document given to the purchaser.* [68 O.S. § ~~1352(12)~~1352]

(d) **"Gross receipts", "gross proceeds", or "sales price"** shall include consideration received by the seller from third parties if:

- (1) *The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;*
- (2) *The seller has an obligation to pass the price reduction or discount through to the purchaser;*
- (3) *The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and*
- (4) *One of the following criteria is met:*
  - (A) *The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;*
  - (B) *The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount; provided, a "preferred customer" card that is available to any patron does not constitute membership in such a group; or*
  - (C) *The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.* [68 O.S. § 1352]

(e) **Examples and illustrations.** Examples and illustrations of common situations and transactions are set out in this subsection, with information as to how gross receipts, gross proceeds, or sales price should be determined in each instance:

- (1) **Trade-ins.** The value of trade-ins accepted by a taxpayer in lieu of money or other consideration may not be deducted from the gross proceeds.
- (2) **Sales value.** The gross proceeds must also include the sales value, as defined in *OAC 710:65-1-2*, of any goods, wares, merchandise or property withdrawn or used from the established place of business or from the stock in trade.
- (3) **Charge accounts.** Sales tax applies to credit sales at the time the sale is made, regardless of the time or manner in which payment is to be made. Sales tax is due upon transfer of title or possession regardless of method or time of payment.
- (4) **Conditional sales.** The tax applies to conditional sales of tangible personal property and taxable services. The gross proceeds reported by the taxpayer must include all conditional sales made during the month for which the report is filed.
- (5) **Coupons.** The procedure regarding the use of coupons used to purchase tangible personal property will be as follows:
  - (A) If the coupon is redeemable by a manufacturer or another third party, the original price of the item, before the allowance offered by the coupon, is subject to tax.
  - (B) If the coupon offering a reduced price is issued by the retailer, it is a method of promotion and the reduced price is subject to tax.
  - (C) The purchase of the right to receive specific manufacturer's coupons, which coupons can then be redeemed at a retailer when purchasing the item(s) described in the coupon, is not subject to sales tax.

### **710:65-1-11. Rentals and leases of tangible personal property [AMENDED]**

- (a) **Rental or lease of tangible personal property taxable.** The gross receipts or gross proceeds derived from the rental or lease of tangible personal property are subject to sales tax.
- (b) **"Rental" or "lease" defined.** "Lease" or "rental", as used in this Section, shall have the same meaning as set out in 710:65-1-2.
- (c) **Computation of the tax.** The tax shall be computed on the gross amount without any allowance for service, laundering, cleaning, maintenance, insurance, property taxes, etc., whether paid by the lessor or lessee. However, if the rental or lease charge is based on the retail value of the property at the time of entering the lease agreement and the life expectancy of the property, and the rental charge is separately stated from the service in the bill or invoice delivered to the

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lessee, tax shall be due only on the rental amount.

(d) **Taxability of vendor payments for insurance and property taxes.** The tax must be computed on the gross amounts of any charges billed to the purchaser to reimburse the vendor for insurance premiums or for property taxes paid.

However, recovery fees on the rental charge from any item of heavy equipment property rental as provided in 68 O.S. § 2807.11 are exempt from sales tax pursuant to 68 O.S. § 1357.

(e) **Taxability of charges for damage waivers.** An optional charge for a damage waiver or a similar instrument that acts as a waiver of the lessor's right to collect from the lessee for any damage to the property is not considered part of the gross lease or rental charge, if separately stated.

(f) **Payment of tax by a contractor or lessor on equipment subsequently leased or rented.** Payment of a sales or use tax by a contractor or other lessor on equipment purchased for his/her own use and so used does not exempt subsequent rentals or leasing of the equipment from the sales tax.

(g) **Furnishing equipment with an operator.** The furnishing for a charge of equipment with an operator shall be considered a service and not subject to sales tax. Persons purchasing equipment for the purpose of furnishing said equipment with an operator must pay sales or use tax at the time the equipment is purchased.

(h) **Purchases by a vendor for renting or leasing.** Purchases by a vendor of tangible personal property for purposes of renting or leasing same are exempt from sales tax. If such equipment purchased exempt from taxation is rented with an operator or the vendor uses such equipment to perform a service, but the equipment remains in the rental inventory, the vendor should pay sales tax on the "sales value", pursuant to *OAC* 710:65-1-2.

(i) **Purchases of repair parts.** Purchases of repair parts made by a vendor who is engaged in renting or leasing tangible personal property, where the parts are to be incorporated into the tangible personal property subsequently rented or leased, are considered purchases for resale and may be purchased exempt from sales tax. Items such as oil, filters, and the like, which are purchased by the lessor, and are incorporated into the property transferred to the lessee, whether as part of the rental or lease agreement, or as separately billed items, are also included in the exemption described in this subsection.

(j) **Time of incidence of tax on leases.**

(1) A lease of tangible personal property is a series of transactions in time units defined by the agreement of the parties. Gross receipts generated therefrom are taxable at the rate in effect at the time the payment must be or is made. The initial obligation to pay becomes fixed upon the transfer of possession of the tangible personal property unless the agreement specifically sets forth another time. Subsequent obligations to pay become fixed either by the terms of the agreement, trade practices of the lessor, or practice in a course of dealing.

(2) A lease of tangible personal property normally imposes upon the lessee multiple obligations. Each of these obligations may be treated separately by the agreement. The incidence of taxation upon each payment under the agreement will be determined by the obligation for which payment is made and the time at which such obligation to pay in fact arose.

(3) Some obligations to pay arise by the execution of an agreement while other obligations arise by reason of the voluntary activities of the parties during the term of the agreement. For example, the lease of an automobile for a fixed period of months may give rise to an unconditional obligation to pay a minimum monthly amount and an additional obligation to pay for all miles driven in excess of a specified amount. [See: 68 O.S. §§1352, 1354]

## SUBCHAPTER 3. REPORTS AND RETURNS; PAYMENTS AND PENALTIES; RECORDS

### PART 1. GENERAL PROVISIONS

#### 710:65-3-1. Reports, payments, and penalties [AMENDED]

(a) **Monthly reporting.** Every vendor, except as noted in (b), (c) and (d) of this Section, shall file with the Commission on or before the 20th day of each month, a report on forms to be obtained from the Commission, covering sales for the previous calendar month.

(b) **Semiannual reporting.** Any vendor who is classified as a Group Three vendor or whose total tax liability for any one (1) month does not exceed Fifty Dollars (\$50.00) must notify the Commission of its intent to file a semiannual return and remittance in lieu of a monthly return and remittance, provided the vendor qualifies.

(1) **Qualification.** To qualify, the vendor must substantiate that the vendor is in business making sales incidental to that business, or is seasonal or transient, or makes sales through peddlers, solicitors or other salesmen without an established place of business. Otherwise, to qualify, filing records will have to substantiate the fact that the vendor's sales tax liability, for

the past six (6) consecutive months immediately preceding the date of the application, has not exceeded Fifty Dollars (\$50.00) in any one month. Requests to file semiannually should be directed to the Registration Section of the Business Tax Services Division, Oklahoma Tax Commission, P.O. Box 269057, Oklahoma City, Oklahoma 73194 or by FAX at (405) 521-3826.

(2) **Commencement of semiannual reporting.** It should be clearly understood that semiannual filing should not be commenced until the Commission notifies taxpayer, in writing, that Commission records have been amended to reflect semiannual filing status. Failure to follow this procedure may result in taxpayer receiving assessments, adjustments, etc. for the months of February through June and August through December.

(3) **Semiannual reporting due dates.** When the application for semiannual filing has been approved, returns shall be filed on or before the 20th day of January and July of each year for the preceding six (6) months' period.

(4) **Revocation of authorization.**

(A) Conditions that could cause revocation of the authorization to report semiannually are:

- (i) In the event that the vendor filing the return on a semiannual basis becomes delinquent in either the filing of the return or the payment of the taxes due thereon, or
- (ii) In the event that the liability of a vendor, who has been authorized to file returns and to make payments on a semiannual basis, exceeds Fifty Dollars (\$50.00) in sales tax for any one month, or
- (iii) In the event that the Commission determines that any semiannual filing or return or any payment of tax due thereon would unduly jeopardize the proper administration of the Oklahoma Sales Tax Law.

(B) If the Commission decides it is necessary to revoke the authorization to file semiannually in relation to any of the conditions in (A) of this paragraph, the taxpayer will be required to file returns and to pay the tax due on a monthly basis.

(c) **Semimonthly electronic reporting.** Persons owing an average of Two Thousand Five Hundred Dollars (\$2,500.00) or more, per month, in total sales taxes for the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:

(1) For sales from the first (1st) day through the fifteenth (15th) day of each month, the tax shall be due and payable on the twentieth (20th) day of the month, and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the requirements of this paragraph if, on or before the twentieth (20th) day of each month, the taxpayer paid at least ninety (90) percent of the liability for that fifteen-day period, or at least fifty (50) percent of the liability incurred during the immediate preceding calendar year for the same month; and

(2) *For sales from the sixteenth (16th) day through the end of each month, the tax shall be due and payable on the twentieth (20th) day of the following month, and remitted to the Tax Commission by electronic funds transfer; [See: 68 O.S. § 1365(D)(2)]*

(d) **Electronic reporting.** Beginning June 1, 2007, all new sales tax registrants required to report and remit sales tax shall file their monthly sales tax report in accordance with the Tax Commission's electronic funds transfer and electronic data interchange program unless the vendor receives an exception to the electronic filing requirement pursuant to OAC 710:65-3-4(c).

(e) **Electronic reporting; due dates; delinquency dates.** Persons required to remit the tax due pursuant to subsection (c) and (d) shall file a monthly sales tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth (20th) day of the month following that in which the sales occurred. Taxes not paid on or before the due dates specified in subsection (c)

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shall be delinquent from such dates.

(f) **Payment.** Remittances covering the sales tax liability reported shall accompany the sales tax return. Sales taxes will be considered delinquent and interest as provided by law will be charged, if payment is not received or postmarked by the date the return is due.

(g) **Interest.** Interest at the rate provided by law 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 tax at the statutory rate from the date the tax is delinquent until paid.

(h) **Audit; refund/credit for overpayment; assessment inclusive of interest due.** When, in the course of an audit, it is found that the tax being audited was overpaid for any period included in the audit, and the taxpayer has not filed a verified claim for refund of the overpayment, the overpayment may be allowed as a credit against the total liability established during the audit. The overpayment shall be applied to the liability as of the date of the overpayment. Whenever an assessment is made for any delinquent tax, the amount of interest due thereon at the time the assessment is made shall be included in the assessment.

(i) **Liability for tax, penalty, interest; interest computation.** Any taxpayer responsible for the payment of any tax levied by any state tax law shall be liable for payment of interest at the rate set by statute on any amount of tax not paid before it becomes delinquent. Interest shall be computed for each day of delinquency from the date the tax becomes delinquent until it is paid.

(j) **Penalty for failure to file and remit.** Penalties - A vendor who fails to file a return and remit the full amount of the tax within fifteen (15) days after the tax is due shall be subject to a penalty of ten (10) percent of the amount of tax due.

(k) **Penalty for failure or refusal to file after demand.** In the case of failure or refusal to file within ten (10) days after written demand has been served upon the taxpayer by the Commission, a penalty of twenty-five (25) percent may be assessed and collected.

(l) **Penalty for fraud.** If any portion of the deficiency is due to fraud with intent to evade tax, a penalty of fifty (50) percent shall be added, collected, and paid.

(m) **Waiver of penalty; interest.** At the discretion of the 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. §§ 217, 1365, 1405]

(n) **Zero business activity reports for twelve consecutive months.** In the event that the reports filed pursuant to (a) indicate that there is no business activity for twelve consecutive months, the Oklahoma Tax Commission may initiate a hearing to revoke or suspend the sales tax permit pursuant to the procedure set forth in OAC 710:1-5-100. As used in this section, "no business activity" means zero ("0") dollars in "total sales" reported on OTC Form STS-200002-C.

(1) The burden to prove the necessity of keeping the permit until expiration is upon the permit holder.

(2) Nothing prevents the Oklahoma Tax Commission from initiating a subsequent hearing to revoke or suspend the sales tax permit of a permit holder who has already gone through the revocation process, regardless of the outcome, if subsequently filed reports indicate a second twelve-month period of no business activity.

## SUBCHAPTER 9. PERMITS

### 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)~~1352]

(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 [tax.ok.gov](http://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.

(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.

(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,

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(3)

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.

(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 (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.

(i) **Denial of limitation.** Requests submitted pursuant to (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 (j) of this Section.

(j) **Vendor reporting and remitting pursuant to subsection (h).** A special event vendor who has participated in a special event approved under subsection (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.

(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 11. CREDITS AND REFUNDS

### 710:65-11-1. Sales tax credits and refunds [AMENDED]

(a) Credits, other than for bad debts discussed below, may not be taken on the sales tax reporting form until or unless a valid letter of credit has been received from the Commission. The burden of establishing the right to, and the validity of, a credit or refund is on the vendor or purchaser claiming the credit or refund.

(b) ~~Credit/refund~~ Except for refund requests for state sales tax paid on the purchase of food and food ingredients, ~~credit/refund~~ requests submitted by a vendor shall include the information set out in paragraphs (1) through (8) of this subsection (if applicable). The application for credit may be obtained from the Oklahoma Tax Commission, 300 N. Broadway Ave, Oklahoma City, OK 73102, or online at [www.tax.ok.gov](http://www.tax.ok.gov).

- (1) A written detailed explanation of why the credit/refund is due. (Include exemption numbers and/or an explanation on exempt customers.)
- (2) Amended reports detailing the correct figures that should have been reported. (A worksheet may be used in lieu of an amended report for each month involving an extended period.)
- (3) Copies or a list of the sales tax reports on which the sales were originally reported.
- (4) Copies of cancelled checks used to remit the tax paid.
- (5) Copies of the original invoices on which the tax was originally charged. If the number of invoices exceeds twenty-five (25), the invoices must be accompanied by an electronic spreadsheet of the invoices associated with the refund claim that relates back to the tax amount requested on the application for credit. The required fields should accurately list the customer 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.
- (6) Copies of the credit invoices or checks showing the tax collected or charged in error has been refunded to your customer.
- (7) A recap of the credit/refunds by tax type, tax period, and taxing jurisdiction.
- (8) Other documentation which may be pertinent to the requested credit/refund.

(c) Credit/refund requests submitted by a purchaser shall include the information set out in paragraphs (1) through (5) of this subsection (if applicable). The application for credit may be obtained from the Oklahoma Tax Commission, 300 N. Broadway Ave, Oklahoma City, OK 73102, or online at [www.tax.ok.gov](http://www.tax.ok.gov).

- (1) The name, address, 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 credit/refund is due. Such explanation must contain sufficient factual information about the transaction and reason why the transaction is not subject to tax. (Include exemption number, if applicable)



- (3) Copies of the original invoices included in the refund 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 refund 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 refund claim, for example: executed contracts, shipping documents or bills of lading, or documentation reflecting usage of tangible personal property, if not evident from the invoice description.
- (5) If the amount of the credit/refund request exceeds \$10,000.00, 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,
  - (C) The date on which the tax was remitted to the Tax Commission, and
  - (D) A statement that the vendor has not, and will not, refund the tax to the purchaser.

(d) Requests for a refund of state sales tax paid on the purchase of food and food ingredients shall be submitted pursuant to the provisions of Section 710:65-13-575.

### SUBCHAPTER 13. SALES AND USE TAX EXEMPTIONS

#### PART 29. MANUFACTURING

##### **710:65-13-150.1. Manufacturing exemption; taxable and exempt transactions [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) **"Administration"** means activities performed in the areas of general management, communications, security, employee training, personnel administration, including time-keeping, general accounting and purchasing, employee benefit activities and employee recognition, legal services, public relations, and the establishment, maintenance, billing and collection of accounts.
- (2) **"Distribution"** means those activities involved in the movement of manufactured items by vehicles, aircraft, watercraft, railroads or pipelines from a manufacturing site to a customer's location.
- (3) **"Incidental use"** means that the property or service is used infrequently or for a minor portion of the total time it is used.
- (4) **"Manufacturing"** means *and includes the activity of converting or conditioning tangible personal property by changing the form, composition, or quality of character of some existing material or materials, including natural resources, by procedures commonly regarded by the average person as manufacturing, compounding, processing or assembling, into a material or materials with a different form or use. "Manufacturing" does not include extractive industrial activities such as mining, quarrying, logging, and drilling for oil, gas and water, nor oil and gas field processes, such as natural pressure reduction, mechanical separation, heating, cooling, dehydration and compression.* [68 O.S. § ~~1352(14)~~1352]
- (5) **"Manufacturing operation"** means *the designing, manufacturing, compounding, processing, assembling, warehousing, or preparing of articles for sale as tangible personal property. A manufacturing operation begins at the point where the materials enter the manufacturing site and ends at the point where a finished product leaves the manufacturing site. "Manufacturing operation" does not include administration, sales, distribution, transportation, site construction, or site maintenance. Extractive activities and field processes shall not be deemed to be a part of a manufacturing operation even when performed by a person otherwise engaged in manufacturing.* [68 O.S. § ~~1352(15)~~1352]
- (6) **"Manufacturing site"** means *a location where a manufacturing operation is conducted, including a location consisting of one or more buildings or structures in an area owned, leased, or controlled by a manufacturer.* [68 O.S. § ~~1352(16)~~1352] It is not required that the building or structures owned, leased, or controlled by a manufacturer be located on a single tract of land or on contiguous tracts of land.
- (7) **"Predominant or predominantly"** means the most frequent or for the most part.

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(8) **"Sales"** means the activities involved in selling a manufacturer's goods to others, and includes advertising or marketing, printing, preparation, and distribution of catalogs and flyers, and product exhibition and promotion.

(9) **"Site construction"** means the construction of buildings and other structures and improvements to real property. The term includes land preparation, new construction, reconstruction, remodeling, renovation, repair, upgrading and making alterations and additions to the real property, whether the work is done by the manufacturer or by other firms.

(10) **"Site maintenance"** means the provision of facilities support services as defined in the North American Industry Classification System, Code 561210. **"Site maintenance"** does not include items used in the manufacturing operation, as defined in this Section, or in waste disposal activities resulting from the manufacturing operations.

(11) **"Transportation"** means to move or carry tangible personal property to a manufacturing site, prior to the time it enters into the manufacturing process, and to move or carry, tangible personal property from a manufacturing site, after such property leaves the manufacturing operation. The term "transportation" includes the purchase, maintenance, repair, overhaul, rebuilding, storage and operation of vehicles and transportation equipment.

(b) **Activities included in manufacturing operations.** Purchases by a manufacturer of tangible personal property or services for use in a manufacturing operation are exempt from sales and use taxes in Oklahoma. Operations performed by a sub-contractor to the manufacturer may also qualify as a manufacturing operation if the contractor is performing sub-assembly work leading to completion of the finished product. Activities included in a manufacturing operation include the following:

(1) **Product development.** Examples of property used in product development include raw materials, machinery, and equipment utilized in designing and making prototypes.

(2) **Production.** Production includes those processes and activities consisting of manufacturing, compounding, processing, assembling, or preparing of articles for sale as tangible personal property.

(A) **Production supplies.** Examples of production supplies include items used in the production process, such as:

(i) Raw materials.

(ii) Coal, fuel, oil, electricity, natural gas, artificial gas, steam and refrigeration, when used in the production process or when used to generate power or to create or maintain a temperature necessary for the production process.

(iii) Miscellaneous supplies that are consumed in the production process, such as lubricating oils and greases used on machinery and equipment.

(B) **Manufacturing supplies.** Examples of manufacturing supplies include items used to service and operate manufacturing equipment, such as:

(i) Work clothing, such as coveralls and uniforms; safety goggles; face masks; helmets, gloves, aprons, shoe and sleeve protectors.

(ii) Static mats.

(iii) Surge protectors.

(C) **Manufacturing tools.** Manufacturing tools eligible for exemption when purchased for use in a manufacturing operation are those tools used in the manufacturing process, such as:

(i) Scales to measure raw materials.

(ii) Knives, staple guns, tape guns.

(iii) Hand tools used on the product or in the maintenance of exempt machinery.

(D) **Manufacturing equipment and machinery.** Examples of manufacturing equipment and machinery eligible for exemption when purchased by a manufacturer include:

(i) Manufacturing equipment, machinery, and associated repair or replacement parts.

(ii) Dust collector equipment.

(iii) Paint booths.

(iv) Conveyors.

(v) Forklifts.

(3) **Testing or quality control.** Equipment and supplies used in testing or quality control, or both, may qualify for the exemption when purchased by a manufacturer for use in a manufacturing operation.

(4) **Production waste disposal.** Equipment and supplies purchased by a manufacturer to be used in production waste disposal at a manufacturing site may qualify for the exemption.

(5) **Warehousing supplies and equipment.** Examples of warehousing supplies and equipment eligible for exemption when purchased by a manufacturer include:

- (A) Flow racks.
- (B) Tables.
- (C) Storage units.
- (D) Wrapping, packing, or packaging supplies, used to further the sale of a product.
- (E) Labels and label-makers.
- (F) Inventory control items.
- (6) **Shipping.** Examples of shipping supplies eligible for exemption when purchased by a manufacturer include:
  - (A) Boxes, scales, inserts.
  - (B) Tape dispensers.
- (c) **Non-exempt uses.** The following items and uses will result in the taxability of the transaction:
  - (1) Items purchased for use, or manufactured and withdrawn from inventory and used, in the areas of administration, distribution, sales, site construction, site maintenance, or transportation, are subject to sales tax if the items are purchased or withdrawn from an inventory in Oklahoma. If tangible personal property is purchased or withdrawn from inventory outside Oklahoma, to be used in Oklahoma for these non-exempt purposes, it is subject to use tax. The amount of tax due is computed based upon the "sales value," of the goods withdrawn, as defined in *OAC 710:65-1-2*.
  - (2) *Goods, wares, merchandise, property, machinery and equipment, used in a non-manufacturing activity or process as set forth in ~~paragraph 13 of~~ Section 1352 of Title 68 of the Oklahoma Statutes shall not be eligible for the exemption described in this Section by virtue of the activity or process being performed in conjunction with or integrated into a manufacturing operation.* [68 O.S. ~~Supp-2003~~, § 1359(1)]
- (d) **Predominant use.** Incidental use of otherwise qualifying items or machinery **predominantly** used in the manufacturing operation will not result in disqualification:
  - (1) Where an item is predominantly used in the manufacturing operation, any non-exempt use will be considered incidental, and will not disqualify the item from the exemption.
  - (2) Where electricity or natural gas is metered through a single meter, and the predominant use is in the manufacturing operation, any remaining usage will be considered incidental, and will be exempt.
- (e) **Applicability of examples.** Items enumerated in (b) and (c) of this Section are examples and illustrations only, and are not intended to be exclusive or exhaustive.

## **710:65-13-159. Exemption for commercial mining of digital assets in a colocation facility** [NEW]

**(a) Qualification.** Beginning on November 1, 2024 and ending on December 31, 2029, sales of machinery and equipment, including but not limited to, servers and computers, racks, power distribution units, cabling, switchgear, transformers, substations, software, and network equipment, and electricity for use by a qualified entity engaged in commercial mining of digital assets purposes in a colocation facility that has entered into a "load reduction agreement" are exempt from sales tax.

**(b) Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) "Blockchain technology" means shared or distributed data structures or digital ledgers governed by consensus protocols and maintained by peer-to-peer networks that store digital transactions; and verify and secure transactions cryptographically. [68 O.S. § 1359]
- (2) "Colocation facility" means a facility or facilities located in this state that are utilized in the commercial mining of digital assets or in hosting persons engaged in the commercial mining of digital assets through utilization of the facility's infrastructure, including servers and network hardware powered by internet bandwidth, electricity, and other services generally required for such mining operations. Provided, no facility shall qualify as a "colocation facility" unless the facility has entered into a load reduction agreement. [68 O.S. § 1359]
- (3) "Commercial mining of digital assets" means the process through which blockchain technology is used to mine digital assets at a colocation facility. [68 O.S. § 1359]
- (4) "Digital Assets" means a type of virtual currency that utilizes blockchain technology and that can be digitally traded between users, or can be converted or exchanged for legal tender. [68 O.S. § 1359]
- (5) "Load reduction agreement" means an agreement between the customer and the local electric cooperative municipality, electric utility, or market operator to temporarily reduce or curtail the customer's use of electric power in order to respond to inclement weather or other adverse conditions. [68 O.S. § 1359]
- (6) "Mine" or "Mining" means the process through which blockchain transactions are verified and accepted by adding the transactions to a blockchain ledger, which involves solving complex and mathematical cryptographic problems associated with a block containing transaction data. [68 O.S. § 1359]

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(c) **Limitations.** The exemption is limited to eligible, properly documented transactions. Only sales of tangible personal property and 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) **Purchases by contractors.** Purchases of tangible 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 organizations engaged in commercial mining of digital assets exempt from sales tax.

(e) **Application process.** Application for an exemption permit is made by submitting for each location a Form 13-16-A to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194. Form 13-16-A is contained in Packet E, available online at [www.tax.ok.gov](http://www.tax.ok.gov), and must be submitted with all information and supporting documentation for each location application:

(1) The name, address, and federal employer's identification number of the applicant company and the name and title of the person authorized to sign for the applicant;

(2) A complete description of the commercial mining of digital assets that will take place within the establishment;

(3) Physical address of the location of the colocation facility;

(4) Copy of an executed load reduction agreement(s) specific to the location of the colocation facility referenced in the application;

(5) The signature of a person authorized to bind the applicant, signed under penalty of perjury before a notary; and

(6) Such additional information as the Commission may require to confirm eligibility.

(f) **Review and determination.** Upon receipt of the application, the Business Tax Services Division of the Tax Commission will review and make a determination as to the applicant's eligibility for an exemption permit. Upon approval, an exemption permit will be issued to the applicant.

(g) **Denial of permit; cancellation, suspension, or revocation of permit.** The exemption permit may be denied, cancelled, suspended, or revoked by the Commission for non-compliance with the provisions of this Section, with applicable Oklahoma tax statutes, or for other good cause shown. Proceedings related to the cancellation or refusal to issue a permit pursuant to this Section shall be governed by 710:1-5-100 and 710:1-5-21 through 710:1-5-49 of the permanent rules of the Commission.

(h) **Burden of proof.** The burden of establishing the right to retain the exemption permit is on the applicant.

## PART 31. MEDICINE, MEDICAL APPLIANCES, AND HEALTH CARE ENTITIES AND ACTIVITIES

### 710:65-13-169. Definitions [AMENDED]

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

**"Drug"** means a compound, substance or preparation, and any component of a compound, substance or preparation:

(A) *Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them;*

(B) *Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or,*

(C) *Intended to affect the structure or any function of the body.* [68 O.S. § ~~1352(8)~~1352]

**"Durable medical equipment"** means equipment, including repair and replacement parts for same, which is used in the home; can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. **"Durable medical equipment"** does not include "mobility enhancing equipment". [68 O.S. §) 1357.6(E)]

**"Medical appliance, device, or equipment"** includes corrective eyeglasses, hearing aids, contact lenses, prosthetic devices, durable medical equipment, and mobility-enhancing equipment.

**"Mobility-enhancing equipment"** means equipment, including repair and replacement parts for same, which:

(A) *Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;*

(B) *Is not generally used by persons with normal mobility; and,*

(C) *Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.*

**"Mobility-enhancing equipment"** does not include "durable medical equipment" as defined in this Section. [68 O.S. Supp. 2003; § 1357.6(E)]

**"Over-the-counter drug"** means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R., Section 201.66. The over-the-counter-drug label includes:

- (A) A "Drug Facts" panel, or
- (B) A statement of the "active ingredient(s)" with a list of those ingredients contained in the compound, substance or preparation. [68 O.S. § ~~1352(17)~~1352]

**"Practitioner"** means a physician, osteopathic physician, allopathic physician, surgeon, podiatrist, chiropractor, optometrist, pharmacist, psychologist, ophthalmologist, nurse practitioner, clinical nurse specialist, audiologist or hearing aid dealer or fitter who is licensed by the state as required by law.

**"Prescription"** means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed "practitioner", as defined by 68 O.S. § 1357.6. [68 O.S. § ~~1352(19)~~1352]

**"Prosthetic device"** means a replacement, corrective or supportive device, including repair and replacement parts for same, worn on or in the body to:

- (A) Artificially replace a missing portion of the body;
- (B) Prevent or correct physical deformity or malfunction; or,
- (C) Support a weak or deformed portion of the body.

**"Prosthetic device"** shall not include corrective eyeglasses, contact lenses, or hearing aids. [68 O.S. §§ 1357(22), 1357.6(D)]

### 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 or the Oklahoma 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~~421.
- (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.

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**(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](http://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 57. FOOD AND FOOD INGREDIENTS [NEW]**

### **710:65-13-570. Definitions [NEW]**

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

"Bottled water" means water that is placed in a safety sealed container or package for human consumption. Bottled water is calorie-free and does not contain sweeteners or other additives except that it may contain:

(A) Antimicrobial agents;

(B) Fluoride;

(C) Carbonation;

(D) Vitamins, minerals, and electrolytes;

(E) Oxygen;

(F) Preservatives; and

(G) Only those flavors, extracts, or essences derived from a spice or fruit. [68 O.S. § 1352(1)].

**"Candy"** means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include any preparation containing flour or requiring refrigeration. [68 O.S. § 1352(5)]

**"Dietary supplements"** means any product, other than tobacco which is, required to be labeled pursuant to 21 C.F.R. Section 101.36 as a dietary supplement and are intended to supplement the diet. Dietary supplements are ingested in tablet, capsule, powder, softgel, gelcap, or liquid form. If not intended for ingestion in such form, they are not represented as conventional food and are not meant to be the sole item of a meal or of the diet. Dietary supplements contain one or more of the following dietary ingredients:

(A) a vitamin;

(B) a mineral;

(C) an herb or other botanical;

(D) an amino acid;

(E) a dietary substance to supplement the diet by increasing the total dietary intake; or

(F) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in subparagraphs (A) through (E) of this paragraph. [68 O.S. § 1352(11)].

**"Eating utensil"** means a useful tool or instrument used in the consumption of food. Eating utensils does not include material that is used solely to package and transport food. The term includes, but is not limited to:

(A) Bowls

(B) Chopsticks

(C) Cups

(D) Forks

(E) Glasses

(F) Knives

(G) Napkins

(H) Plates

(I) Skewers inserted into food and handed to the customer

(J) Spoons

(K) Straws

**"Food and food ingredients"** means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients shall include bottled water, candy, and soft drinks. Food and food ingredients shall not include:

(A) Alcoholic beverages;

(B) Dietary supplements;

(C) Marijuana, usable marijuana, or marijuana-infused products;

(D) Over-the-counter medications with a drug facts box or active ingredients labeling;

(E) Prepared food; or

(F) Tobacco. [68 O.S. § 1352(16)]

**"Food sold with eating utensils provided by the seller"** means food sold with eating utensils provided by the seller who meets the following requirements:

(A) For a seller with a prepared food sales percentage (PFS%) of greater than 75%, the seller makes eating utensils available to purchasers or, if a food item is bottled water, candy, or soft drinks, the seller gives or hands the eating utensils to purchasers or makes plates, bowls, glasses, or cups that are necessary for the purchaser to receive the food available to purchasers. If a food item has four or more servings packaged as one food item sold for a single price, the seller must give or hand eating utensils to the purchaser. Serving sizes must be determined based on a label on an item sold, or if no label is available, then a seller shall determine the reasonable number of servings in an item, or

(B) For a seller with a PFS% of 75% or less, the seller's business practice is to give or hand eating utensils to purchasers. Eating utensils necessary for the purchaser to receive the food, such as bowls and cups, need only be made available to purchasers. [68 O.S. § 1352(17)]

**"Food sold with eating utensils provided by the seller"** does not include food items that have a utensil placed in a package with the food items by a food manufacturer. [68 O.S. § 1352(17)]

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**"Prepared food" means:**

- (A) Food sold in a heated state or that is heated by the seller;
- (B) Two or more food ingredients mixed or combined by the seller for sale as a single item; or
- (C) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws, but does not include a container or packaging used to transport the food; and
- (D) Prepared food shall not include [68 O.S. § 1352(17)]:
  - (i) Food sold by food manufacturer, except for bakeries and tortilla manufacturers (NAICS subsector 3118);
  - (ii) Food sold in an unheated state by weight or volume as a single item; and
  - (iii) Food sold that ordinarily requires additional cooking, not including just reheating, by the consumer prior to consumption. [68 O.S. § 1352(25)]

**"Soft drinks" means any nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks shall not include beverages that contain:**

- (A) Milk or milk products;
- (B) Soy, rice, oat, or similar milk substitutes; or
- (C) Greater than 50% of vegetable or fruit juice by volume. [68 O.S. § 1352(31)]

## **710:65-13-571. Food and food ingredients [NEW]**

- (a) Effective August 29, 2024, the gross receipts or gross proceeds derived from the sale of food and food ingredients are subject to the state sales and use tax rate of 0%, except as otherwise provided in subsection (b).
- (b) The gross receipts or gross proceeds derived from the sale of prepared food, alcoholic beverages, and dietary supplements are taxed at the state sales and use tax rate of 4.5%.
- (c) The sale of food and food ingredients remains subject to any applicable municipal and county sales and use taxes.

## **710:65-13-572. Prepared food [NEW]**

Prepared food is food generally intended for immediate consumption and is prepared to a point generally accepted as ready to be eaten without further preparation. Food which meets any of the criteria of paragraphs (1), (2) or (3) of this subsection is prepared food and taxed at the state sales tax rate of 4.5%.

(1) **Food and food ingredients sold in a heated state or that is heated by the seller.** Food that was heated by the seller at any time before the sale, is fully taxable as prepared food even if it is in an unheated state at the time of the sale. Heating includes baking, braising, boiling, broiling, dehydrating, frying, microwaving, roasting, simmering, smoking, steaming, or other forms of warming or cooking. The heating may occur at premises other than the sales location. Food heated by the customer, not the seller, on the seller's premises is not food sold in a heated state.

(2) **Two or more food ingredients mixed or combined by the seller for sale as a single item.** Prepared foods include foods made or combined by the seller. A seller who mixes or combines two or more foods or food ingredients and sells the mixture or combination as a single item, is selling prepared food. For example, meals, salads, sandwiches, baked goods, and ice cream sundaes that are made by the seller are prepared food and are taxed at the state sales tax rate of 4.5% and any applicable municipal and county sales taxes.

(3) **Food sold with eating utensils provided by the seller.** Food is considered to be sold with an eating utensil provided by the seller when the food is intended for consumption with the utensil provided. A customer's choice not to use a provided utensil does not affect whether an item is prepared food.

(A) For a seller with a PFS% of greater than 75% calculated pursuant to Section 710:65-13-573, food is sold with eating utensils provided by the seller if:

- (i) The seller physically gives or hands the utensils to the purchaser or makes the utensils available to its customers by way of self-service station or other central location on the premises;
- (ii) A food item has four or more servings packaged as one food item sold for a single price and the seller physically gives or hands the eating utensils to purchasers. To determine the number of servings in the food item, use the information on the product label. If there is no product label, the seller can make a reasonable determination as to the number of servings in the food item. If the transaction is for less than four servings, or the seller does not maintain adequate records of these sales, these food sales are taxed at the state sales tax rate of 4.5%.



(B) For a seller with a PFS% of 75% or less, food is sold with eating utensils provided by the seller if the seller's business practice is to physically give or hand eating utensils to purchasers, except that plates, bowls, glasses and cups necessary for the purchaser to receive the food need only be made available to purchasers.

(C) Food is not sold with eating utensils provided by the seller if the food items have a utensil placed in a package with the food items by a person other than the seller, and that other person is a food manufacturer (NAICS sector 311). For any packager with any other NAICS classification code, the seller is considered to have provided the eating utensil.

### **710:65-13-573. Prepared Food Sales Percentage (PFS%) [NEW]**

(a) General provisions. All sellers with prepared food sales greater than 75% of their total food sales and utensils are made available by way of a self-serve station or otherwise, are required to collect state sales tax on all food sales, unless the item meets the serving-size exception in subsection (c). Examples of sellers that usually exceed the 75% rule include, but are not limited to:

- (1) Cafes
- (2) Restaurants
- (3) Fast food restaurants
- (4) Food court restaurants
- (5) Diners
- (6) Delicatessens
- (7) Food trucks
- (8) Concession stands
- (9) Cafeterias
- (10) Coffee shops
- (11) Sports/entertainment arena sellers
- (12) Hot dog stands
- (13) Juice bars
- (14) Popcorn/Kettle corn sellers
- (15) Sandwich shops
- (16) Ice cream shops
- (17) Sushi bars
- (18) Taverns, bars, and grills
- (19) Donut shops

(b) Calculation of PFS%. All sellers that primarily sell prepared food and food sold with eating utensils provided by the seller shall annually calculate their PFS%.

(1) If a seller has a PFS% of greater than 75%, food and food ingredients, bottled water, candy, and soft drinks are taxed at the state sales tax rate of 4.5%.

(2) If a seller has a PFS% of 75% or less, food and food ingredients, bottled water, candy, and soft drinks are subject to the state sales tax rate of 0%. All sales of prepared food are taxed at the state sales tax rate of 4.5%.

(3) The 75% test is determined in the following manner:

(A) The numerator is the total sales of prepared food as defined in Section 710:65-13-570.

(B) The denominator is the total sales of food, food ingredients, prepared food, bottled water, candy, and soft drinks.

(C) Exclude sales of alcoholic beverages, tobacco, motor vehicle fuels, and all other non-food sales from both the numerator and the denominator.

(4) On or before January 31 of each calendar year, sellers must calculate a PFS% using data from the prior year to calculate the PFS% for the current year. Sellers with multiple locations will only calculate one PFS%. New businesses shall make a good faith estimate of a PFS% for the first year. The good-faith estimate shall be reviewed after three months and adjusted, if appropriate.

(5) The Tax Commission may request documentation from sellers to substantiate the PFS% calculation.

(c) Exception to the 75% rule. Even if more than 75% of the sales of food by the seller are sales of prepared food, sales of food or food ingredients are subject to the state sales tax rate of 0% if:

- (1) The food item contains four or more servings packaged as one item for a single price;
- (2) The food item has not been made or heated by the seller; and

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(3) Eating utensils are made available to the buyer. However, if the seller's customary practice is to physically hand or otherwise deliver a utensil to the customer as part of the sales transaction, the food item is taxed at the state sales tax rate of 4.5%.

(d) **Serving size determination.** To determine the number of servings in the food item, use the information on the product label. If there is no product label, the seller can make a reasonable determination as to the number of servings in the food item. If the transaction is for less than four servings, or the seller does not maintain adequate records of these sales, these food sales are taxed at the state sales tax rate of 4.5%.

## **710:65-13-574. Exclusions from prepared food [NEW]**

There are some items of prepared food that are exceptions to the rule and are not taxed as prepared food.

(1) Food that contains raw eggs, fish, meat, or poultry products that require cooking after the sale to prevent food-borne illnesses and food the customer generally cooks or heats after the sale. Food that would be fully taxable prepared food because two or more ingredients were mixed or combined by the seller, or because the food was at some time heated by the seller, is not taxable when additional cooking is required (as opposed to just reheating) by the customer prior to eating.

(2) Food that is only cut, repackaged, or pasteurized by the seller. For example, meat from a deli counter that is sliced and wrapped for a customer, or fruit sliced by the seller and packaged into containers or onto platters for sale.

(3) Food sold in an unheated state by weight or volume as a single item and eating utensils are not provided by the seller.

(4) Food sold by food manufacturers.

(5) Food that ordinarily requires additional cooking to finish the product to its desired final condition. Food that would be fully taxable prepared food because two or more ingredients were mixed or combined by the seller, or because the food was at some time heated by the seller, are subject to the state sales tax rate of 0% when additional cooking is required (as opposed to just reheating) by the customer prior to eating. For example, at a specialty store, a customer purchases a take-and-bake pizza. If eating utensils are not provided by the specialty store, the take-and-bake pizza is not taxed as prepared food.

## **710:65-13-575. Claims for refund of state sales tax paid on food and food ingredient purchases [NEW]**

Claims for refund of the state portion of sales tax on food and food ingredients shall be submitted using Form 13-9-G. The following information and documentation must be included in order for the claim to be considered.

(1) The name, address, telephone number of the person claiming a refund;

(2) The name, address, telephone number of the vendor;

(3) A written, detailed explanation of why the credit/refund is due;

(4) A copy of the invoice or receipt that clearly identifies the items as qualifying for the state sales tax rate of 0% and shows the incorrect rate was charged on those specific items to qualify for a refund; and

(5) Proof of payment, such as copies of cancelled checks, bank statements or credit card receipts. If payment was made in cash, that shall be corroborated by the receipt. If the description on the invoice or receipt does not contain enough information to make a determination, the claim for refund shall be denied.

## **SUBCHAPTER 19. SPECIFIC APPLICATIONS AND EXAMPLES**

### **PART 5. "C"**

## **710:65-19-40. Caterers [AMENDED]**

(a) The term "**caterer**" means a person engaged in the business of preparing or serving meals, food, and drinks, without regard to whether the service is at the caterer's place of business, the customer's location, or some other location, usually for a specified price for a specific menu or offering, but not off a menu to the public. The term does not include wait persons hired directly by a caterer's customer, whether hired by the hour, by the day, or for the event.

(b) Sales tax must be collected, reported and remitted on all charges made by caterers for serving meals, food, and drinks, inclusive of charges for food, the use of dishes, silverware, glasses, chairs, tables, etc., used in connection with serving meals, and for the labor of serving the meals. Sales tax must be collected, reported and remitted on charges made by caterers for the rental of dishes, silverware, glasses, etc., even though no food is provided or served by the caterers in connection with such rental.

(c) The gross receipts or gross proceeds derived from the sale of catered foods or beverages are taxed at the state sales and use tax rate of 4.5% and any applicable municipal and county sales taxes.

## 710:65-19-52. Computers and related systems; "hardware" and "software" defined [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) **"Computer"** means *an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.* [68 O.S. § ~~1352(4)~~1352]
- (2) **"Computer hardware"** means the machine and all of its components and accessories that make up the physical computer assembly.
- (3) **"Computer software"** means *a set of coded instructions designed to cause a "computer" or automatic data processing equipment to perform a task.* [68 O.S. § ~~1352(5)~~1352]
- (4) **"Computer software maintenance contract"** means a contract that obligates a vendor of computer software to provide a customer with future updates or upgrades to computer software, support services with respect to computer software or both.
- (5) **"Electronic"** means *relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.* [68 O.S. § ~~1352(9)~~1352]
- (6) **"Load and leave"** means delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.
- (7) **"Prewritten computer software"** means *"computer software", including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser.* [68 O.S. § ~~1352(20)~~1352]
- (8) **"Mandatory computer software maintenance contract"** means a computer software maintenance contract that the customer is obligated by contract to purchase as a condition to the retail sale of computer software.
- (9) **"Optional computer maintenance contract"** means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(b) **Sale or rental of a computer.** The sale of a computer and its related components is subject to sales or use tax. The rental of a computer and its related components, including terminal equipment (hardware) is subject to sales tax.

(c) **Sale of prewritten computer software.** The sale of prewritten computer software delivered in a tangible media format is taxable. Prewritten computer software delivered by means of "load and leave" is also taxable.

(d) **Maintenance contract sold with prewritten computer software.** The taxability of a maintenance contract sold with prewritten computer software delivered in a tangible media format depends on whether the maintenance contract is mandatory or optional.

- (1) If the contract is mandatory, the entire sale price, including the charge for the contract, is subject to tax.
- (2) The charge for an optional contract shall be subject to taxation:
  - (A) If it provides **only** upgrades or updates which include prewritten computer software delivered in a tangible media format; or,
  - (B) If it provides both upgrades or updates and support services, and the fee for the support services is not stated separately.
- (3) If the contract is optional and provides only maintenance agreement support services, the contract is not taxable.

(e) **Written training materials.** Written training materials are taxable, although the training services themselves are not.

(f) **Modifications to prewritten computer software.** Modifications to "prewritten computer software" do not result in the production of custom computer software. *Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten software; provided, however, that where there is a reasonable, separately-stated charge or an invoice or other statement of the price is given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.* [68 O.S. § ~~1352(20)~~1352]

(g) **Custom computer software.** For purposes of this Section, the term "custom computer software" means a program prepared to the special order of a customer. The sale of a custom computer program is a service transaction, and therefore, is not subject to tax. In addition, charges for maintenance are not taxable.

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(h) **Software purchased with computer.** The charge for prewritten computer software purchased with a computer is subject to tax. If a computer is bought with custom software and the charge for the software is not separately stated, the entire purchase price is subject to tax. In addition, the entire charge is subject to tax if modifications are required and the charge for the modifications is not separately stated and records do not adequately document the extent of the modifications.

## PART 7. "D"

### **710:65-19-72. Deposits, core charges and trade-ins [AMENDED]**

(a) A core deposit is the amount required by the seller to insure that the buyer of a rebuilt item will exchange or trade-in his old rebuildable item. No deduction from the gross proceeds of a sale is permitted for any credit allowed by the seller for the value of a core charge, deposit or a trade-in in exchange or part payment and the tax applies to the full selling price.

(b) The retail sale of used tangible personal property which has been acquired by the seller by purchase is taxable upon the full selling price. When an article acquired by the taxpayer by trade-in is subsequently resold, this sale also is taxable on the full selling price. If an article purchased or acquired in trade is salvaged or 'cannibalized' for parts, the sale or use of such parts is considered to be taxable. If the parts are used by the vendor to satisfy an extended warranty agreement, if there is no charge to the customer for the parts, the vendor shall report the cost of the parts on a withdrawal basis and pay sales tax on such cost.

(c) Examples of taxable transactions are as follows:

(1) John Doe needs to replace his battery. He drives to Lefty's Auto Supply and purchases a new battery. Lefty's Auto Supply charges thirty dollars (\$30.00) for the battery and allows him five dollars (\$5.00) exchange. Sales Tax is due on the full thirty dollars (\$30.00).

(2) A piano is sold at retail for one thousand dollars (\$1,000.00). The purchaser pays six hundred dollars (\$600.00) in cash and is allowed a four hundred dollar (\$400.00) trade-in. The selling price, upon which the sales tax must be collected and the amount to be reported as gross proceeds is one thousand dollars (\$1,000.00). If the trade-in is later sold for five hundred dollars (\$500.00), the sales tax must also be collected on the five hundred dollars (\$500.00). [See: 68 O.S. § ~~1352~~(12)1352]

## PART 11. "F"

### **710:65-19-109. Food; vendors of meals and prepared food [AMENDED]**

(a) Vendors engaged in the business of selling meals and prepared food to purchasers must collect, report and remit sales tax on their receipts from such sales. It is immaterial that no profit is realized from the operation of any such business if the vendor is engaged in business. It is also immaterial that the class of purchasers may be a limited one, such as the employees of a particular employer who operates a cafeteria or other dining facilities for the benefit of his employees.

(b) Meals provided to employees at no cost or at a reduced cost are subject to sales tax. The "gross receipts" or "gross proceeds" in the case of a meal sold to an employee at a reduced price is the amount received for that meal from the employee in the form of cash, check or credit card chit. Each person required to make a sales tax report shall include in the gross proceeds the sales value of all tangible personal property which has been purchased for resale and has been withdrawn from stock in trade for use or consumption. Meals provided to employees free of charge are withdrawals from inventory used or consumed by the employer and sales tax is due on the sales value. "Sales value" in the case of meals is the cost of materials withdrawn from inventory to provide such meals.

(c) Complimentary meals provided free of charge to customers are subject to sales tax. Each person required to make a sales tax report shall include in the gross proceeds the sales value of all tangible personal property which has been purchased for resale and has been withdrawn from stock in trade for use or consumption and shall pay tax on such sales value. Meals provided to customers free of charge are withdrawals from inventory used or consumed by the employer and sales tax is due on the sales value.

(d) Meals served free of any actual charge or cost to an employee or customer constitute a withdrawal from inventory of items purchased free of sales tax and such withdrawals are subject to sales tax. For purposes of calculating sales tax liability, the sales value of free or complimentary meals is presumed to be the greater of any consideration received, or the cost or price paid by the vendor/taxpayer for the food items included in the free or complimentary meal served, pursuant to OAC 710:65-1-2.

(e) When an establishment provides a second meal in place of the first meal which was discarded because it did not meet the customer's specification, only one sale has been made and sales tax is levied only on the replacement meal. If, rather than discarding the first meal, the establishment serves the meal to another customer or employee, two sales have been made and sales tax is levied on both meals.

(f) Meals provided to customers at a reduced cost (i.e., discount or advertised special) are taxable. The "gross receipts" or "gross proceeds" in the case of a meal sold to a customer at a reduced price is the amount received for that meal from the customer in the form of cash, check or credit card chit less any amount designated by the customer as voluntary tip(s).

(g) In cases where two items are provided by a restaurant, club or similar establishment (i.e., buy one, get one free or two for one sale), the "gross receipts" or "gross proceeds" derived from the sale of two items for the price of one is the total amount of cash, check or credit card chit received less any amount designated by the customer as voluntary tip(s).

### **710:65-19-110. Food; eating and drinking establishments [AMENDED]**

(a) The sale of meals, or prepared food, or non-alcoholic or alcoholic beverages is subject to sales tax, and any person or establishment making such sales will be considered a vendor and will be required to hold a valid sales tax permit. Such person or establishment will then be required to charge, collect, and remit the appropriate sales tax to the Commission based on the total gross receipts, or for the sale of alcoholic beverages, based on the total retail value, as set out in 37A O.S. §5-105.

(b) Fund raising meals or non-alcoholic beverages sold in excess of the regular selling price are subject to sales tax on the gross receipts. Fund raising sales of alcoholic beverages are subject to sales tax on the total retail value, as prescribed by 37A O.S. § 5-105.

(c) The vendor of meals or beverages cannot buy exempt any tangible personal property consumed in the operation of his business, including fixtures, linens or silverware. Paper napkins, paper cups, disposable utensils, disposable hot containers and other one-way carry-out materials may be purchased exempt as purchases for resale.

(d) Meals or non-alcoholic beverages provided to employees or customers at no cost, if no valuable consideration is received or indicated in vendor's records, are not subject to sales tax on gross receipts, but sales tax is due from the vendor, as a consumer user, on the "sales value" of the meal or the beverage as that term is defined in *OAC* 710:65-1-2.

(e) Sales tax is due on the total retail value of all alcoholic beverages, including alcoholic beverages provided to employees or customers at no cost or at a reduced cost, pursuant to 37A O.S. § 5-105.

## **PART 25. "M"**

### **710:65-19-212. Milk and dairy processors [AMENDED]**

(a) The sale of all tangible personal property consumed or used directly in production of dairy products prior to shipment from the place of production is not taxable.

(b) Sales of tangible personal property consumed or used in the receiving, storage, transportation, or delivery of milk are taxable. Transportation of milk from the place where it is produced, as well as the receiving and storage of the milk at the processing plant, is taxable. Processing includes all necessary operations performed on the milk prior to shipment from the plant. Sales of tools and equipment used directly in the processing of milk or milk products, and lubricants and other materials consumed or used in the maintenance of that equipment, are not taxable. Sales of tangible personal property consumed or used in the construction, alteration, repair, or improvement of buildings and grounds are taxable.

(c) Sales of equipment used or consumed in the delivery of milk and milk products are taxable, including trucks, cases, crates, etc., and property used for the maintenance and operation of that equipment.

(d) Sales of milk bottles and milk cans to dairies for use in processing milk for sale at retail by others, together with washing machines for the same and cleaning compounds used in connection therewith by such processors, are not subject to tax. Sale of milk bottle crates or cases for transportation, receiving, storage, or delivery are subject to tax. Sales of milk cans to farmers for use in cooling milk prior to shipment to dairies are not taxable.

(e) ~~Dairy~~ Prior to August 29, 2024, dairy products sold by vendors to consumers for home preparation of meals are subject to sales tax. On or after August 29, 2024, dairy products sold by vendors to consumers for home preparation of meals are subject to the state sales and use tax rate of 0%. (See: 710:65-13-571).

## **SUBCHAPTER 21. USE TAX**

### **710:65-21-2. Definitions [AMENDED]**

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

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**"Manufacturing operation"** means *the designing, manufacturing, compounding, processing, assembling, warehousing, or preparing of articles for sale as tangible personal property. A manufacturing operation begins at the point where the materials enter the manufacturing site and ends at the point where a finished product leaves the manufacturing site. "Manufacturing operation" does not include administration, sales, distribution, transportation, site construction, or site maintenance.* [68 O.S. § ~~1352~~(15)1352]

**"Person"** means any individual, partnership, association, or corporation.

**"Purchase price"** has the same meaning as "gross receipts", as set out in 710:65-1-9.

**"Sale"** means the transfer of either title or possession of tangible personal property for a valuable consideration. The term "sale" includes the exchange, barter, lease, or rental of tangible personal property.

**"Use tax"** means an excise tax charged on the sale of tangible personal property purchased from outside Oklahoma and brought into the state for consumption or use. [See: 68 O.S. § 1401]

[OAR Docket #25-506; filed 6-6-25]

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## TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 70. TOBACCO, TOBACCO PRODUCTS, AND CIGARETTES

[OAR Docket #25-508]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 2. Cigarette Stamp Tax

Part 1. General Provisions

710:70-2-2. Definitions [AMENDED]

710:70-2-9.1. Vehicle and Vending Machine Cigarette Licenses [AMENDED]

Subchapter 5. Excise on Tobacco Products

710:70-5-14. Wholesale, retail, and distributing agent licenses required [AMENDED]

Subchapter 10. TOBACCO INDUSTRY ADVISORY COMMITTEE [NEW]

710:70-10-1. Purpose [NEW]

710:70-10-2. Members [NEW]

710:70-10-3. Meetings [NEW]

710:70-10-4. Officers [NEW]

### AUTHORITY:

68 O.S. §§ 203, 304, 322, 345, 400.1, 415, 420; Oklahoma Tax Commission

### SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Amendments to Chapter 70 add licensing procedures for tobacco vending machines. Section 710:70-2-2 adds definitions for “place of business” and “vending machine”. Section 710:70-2-9.1 adds processes for licensing of tobacco vending machines. Section 710:70-5-14 clarifies vending machines constitute place of business. The proposed new subchapter 10 outlines specifications of the Tobacco Industry Advisory Committee. The new subchapter describes membership, meetings, and officers of the statutory Tobacco Industry Advisory Committee. [68 O.S. § 400.1]

**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 JULY 15, 2025:**

## SUBCHAPTER 2. CIGARETTE STAMP TAX

### PART 1. GENERAL PROVISIONS

**710:70-2-2. Definitions [AMENDED]**

The following words and terms shall have the following meaning unless the context clearly indicates otherwise:

**"Cigarette"** means *all rolled tobacco or any substitute therefor, wrapped in paper or any substitute therefor and weighing not to exceed three (3) pounds per thousand cigarettes.* [68 O.S. § 301(†)]

**"Delivery sale"** means:

(A) Any sale of cigarettes to a consumer in Oklahoma where either:

(i) The purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, by use of the mails, or by any other delivery service, including the Internet or other online service; or,

(ii) The cigarettes are delivered by use of the mails or other delivery service.

(B) *A sale of cigarettes which satisfies the criteria in subparagraph (A) of this paragraph shall be a "delivery sale" regardless of whether the seller is located within or outside of Oklahoma.* [68 O.S. § 301(13)]

**"Delivery sale"** ~~shall include~~ means *any sale of cigarettes to an individual in Oklahoma and shall be treated as a sale to a consumer unless such individual is licensed as a distributor or retailer of cigarettes by the Tax Commission; but shall not include a sale of cigarettes, not for personal consumption, to a person who is a wholesale dealer or a retail dealer.* [68 O.S. § 301(13)]

**"Place of business"** means places where orders of cigarettes are received or where cigarettes are sold.

**"Vending machine"** means and includes any coin operating machine, contrivance, or device, by means of which cigarettes are sold or dispensed in their original container. [68 O.S. § 301]

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## **710:70-2-9.1. Vehicle and Vending Machine Cigarette Licenses [AMENDED]**

(a) Vehicles and vending machines from which cigarettes are sold constitute a "place of business" and are required to be permitted. If the vehicle or vending machine is owned or operated by a place of business for which the regular Two Hundred Fifty Dollar (\$250.00) fee has been paid, or if the owner or operator has obtained a retail or wholesale cigarette license, the fee for the vehicle or vending machine is to be \$10.00 and the expiration date of the vehicle or vending machine license permit is to be the expiration date of the permit issued to the other place of business.

(b) A separate cigarette license permit must be obtained for each vehicle or vending machine. If a vending machine sells both cigarette and tobacco products, only one license is necessary as long as both license types are listed. A copy of the license must be displayed on the inside of the glass, visible from the outside. The physical location address of the vending machine must be provided on the application, and if the vending machine location changes before the license expires, the new address must be provided to the Tax Commission using Form BT-115-C.

## **SUBCHAPTER 5. EXCISE ON TOBACCO PRODUCTS**

### **710:70-5-14. Wholesale, retail, and distributing agent licenses required [AMENDED]**

(a) Effective January 1, 2010, every dealer or wholesaler of tobacco products must annually obtain a license from the Tax Commission.

(b) The license fee shall not be paid if the applicant has paid the fee for a cigarette wholesaler license to the Tax Commission.

(c) A retailer of tobacco products must obtain a retail tobacco license prior to purchasing or selling tobacco products after January 1, 2010.

(d) Effective January 1, 2010, retailers of tobacco products shall purchase tobacco products only from a supplier who holds a current tobacco wholesaler license.

(e) Effective January 1, 2010, wholesalers of tobacco products are prohibited from purchasing tobacco products from a person required to obtain an Oklahoma license. A wholesaler shall sell only to a retailer holding an Oklahoma tobacco retailer license.

(f) A licensed retailer is prohibited from selling tobacco products to another licensed tobacco products retailer unless the purpose of the sale is to move inventory between stores which are owned by the same legal entity.

(g) Vending machines from which tobacco is sold constitute a "place of business" and are required to be permitted in the same manner as vending machines from which cigarettes are sold, as set forth in OAC 710:70-2-9.1. If a vending machine sells both cigarette and tobacco products, only one license is necessary as long as both license types are listed. A copy of the license must be displayed on the inside of the glass, visible from the outside.

## **SUBCHAPTER 10. TOBACCO INDUSTRY ADVISORY COMMITTEE [NEW]**

### **710:70-10-1. Purpose [NEW]**

The Tobacco Industry Advisory Committee is a statutorily created Committee made up of licensed wholesalers and retailers who may represent the entity related to tobacco products enforcement concerns and suggestions.

### **710:70-10-2. Members [NEW]**

The five (5) members of the Tobacco Industry Advisory Committee are as follows:

- (1) Two licensed wholesalers who are appointed by the Governor;
- (2) One licensed retailer appointed by the Speaker of the Oklahoma House of Representatives;
- (3) One licensed retailer appointed by the President Pro Tempore of the Oklahoma Senate;
- (4) One licensed wholesaler appointed by the four members appointed by the Governor and Legislature.

### **710:70-10-3. Meetings [NEW]**

(a) The Tobacco Industry Advisory Committee shall meet at least quarterly at the offices of the Oklahoma Tax Commission.

(b) An agenda shall be distributed to the members prior to the meeting. Any member may suggest items to be included on the agenda for discussion.

(c) Written minutes of each meeting shall be recorded and distributed to the members following the meeting.

(d) A quorum shall consist of three (3) members of the Commission. A quorum is required to record a do pass on any vote taken during a meeting.

(e) The members shall not receive reimbursement for travel or per diem related to Committee membership.



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## **710:70-10-4. Officers [NEW]**

(a) The Tobacco Industry Advisory Committee shall annually elect from the membership a Chairman and a Vice-Chairman.

(b) Officers shall be elected at the first meeting of each fiscal year. In the event a position becomes vacant, a replacement shall be elected to complete the term at the next meeting of the Committee.

(c) The Chairman shall preside over the meetings.

(d) The Vice-Chairman shall assume the duties of the Chairman in the event the Chairman is absent or unavailable.

*[OAR Docket #25-508; filed 6-6-25]*

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## **TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 85. VARIOUS TAX INCENTIVES**

*[OAR Docket #25-601]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 13. ~~OKLAHOMA FIVE MAJOR SPORTS LEAGUES REBATE PROGRAM~~Oklahoma Five Major Sports Leagues Rebate Program [NEW]

710:85-13-1. Purpose [NEW]

710:85-13-2. Definitions [NEW]

710:85-13-3. Audits; auditors [NEW]

710:85-13-4. Qualified establishments are employers [NEW]

710:85-13-5. Procedure for filing claim, verification, payment, protest [NEW]

710:85-13-6. Limitation on incentive payments [NEW]

710:85-13-7. Incentive payments unavailable to delinquent tax reporters/remitters [NEW]

710:85-13-8. Cessation, suspension, resumption and repayment of incentive payments [NEW]

710:85-13-9. Qualified establishment may protest suspension of incentive payments [NEW]

### **AUTHORITY:**

68 O.S. §§ 203, 3951; Oklahoma Tax Commission

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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INCORPORATING RULES:

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N/A

GIST/ANALYSIS:

The proposed new Subchapter 13 of Chapter 85 implements a new law creating a tax incentive. The new subchapter outlines the procedures to apply for and receive incentives for the Major League Sports Rebate Program. [68 O.S. §§ 3951 et seq.]

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 JULY 15, 2025:**

## **SUBCHAPTER 13. ~~OKLAHOMA FIVE MAJOR SPORTS LEAGUES REBATE PROGRAM~~OKLAHOMA FIVE MAJOR SPORTS LEAGUES REBATE PROGRAM [NEW]**

### **710:85-13-1. Purpose [NEW]**

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, allocation, and payment of certain tax incentives pursuant to the Oklahoma Five Major Sports Leagues Rebate Program Act. [68 O.S. §§ 3951 et seq.]

### **710:85-13-2. Definitions [NEW]**

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

"Commission" means the Oklahoma Tax Commission.

"Department" means the Oklahoma Department of Commerce.

"Estimated net direct state benefits" means the calculation by the Department of the tax revenues projected to accrue to the state less the costs projected to accrue to the state. [See: 68 O.S. § 3603]

"Gross payroll" means wages subject to Oklahoma income tax, as defined in 68 O.S. § 2385.1, for sports-league jobs.

"Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross payroll, as set forth in 68 O.S. § 3603. This computation is conducted by the Department and provided to the Commission.

"Sports-league jobs" means full-time-equivalent employment in Oklahoma of employees of a qualified establishment or who are employed by an employment agency or similar entity other than the qualified establishment and who are leased or otherwise provided under contract to the qualified establishment if the job otherwise qualifies as a sports-league job. Sports-league jobs shall not include compensation paid for an athletic contest if the compensation is paid by an entity that does not have its principal place of business in Oklahoma or that does not own real or personal property having a market value of at least \$1,000,000 located in Oklahoma, and the employees or independent contractors of such entity are compensated to compete against the employees or independent contractors of a qualified establishment.

"Start date" means the date on which an establishment may begin accruing benefits, and which date shall be determined by the Department. [See: 68 O.S. § 3603]

"Qualified establishment" means an establishment or entity for which the Commission has been notified of an approved application for incentive payments pursuant to the Oklahoma Five Major Sports Leagues Rebate Program Act by the Department.

## **710:85-13-3. Audits; auditors [NEW]**

**(a) Reports subject to audit.** The quarterly claims filed by the qualified establishment pursuant to the requirements of the Oklahoma Five Major Sports Leagues Rebate Program Act and the rules promulgated thereunder shall be accepted, as filed, by the Commission and are subject to audit.

**(b) Examination by agent of the Commission.** Any representative of the Commission holding a certificate of authority may examine and audit the place of business, the tangible personal property, equipment and facilities, and the books, records, papers, vouchers, accounts and documents of any qualified establishment. [See: 68 O.S. § 206]

**(c) Duty to comply and cooperate with examination.** It shall be the duty of every qualified establishment and every director, officer, or employee of every qualified establishment to exhibit to the Commission, or to the employees or agents of such Commission, the items mentioned in subsection (b) of this Section.

## **710:85-13-4. Qualified establishments are employers [NEW]**

Qualified establishments are employers for purposes of Oklahoma income tax withholding taxes. [See: 68 O.S. §§ 2385.1 et seq.; OAC 710:90-1-1 through 710:90-7-2]

## **710:85-13-5. Procedure for filing claim, verification, payment, protest [NEW]**

**(a) Contents of claim.** As soon as practicable after the end of the first complete calendar quarter following the start date, the qualified establishment shall file a claim for payment with the Commission. The claim, on forms prescribed by the Commission, shall include:

- (1) Name of qualified establishment;
- (2) Identification number of qualified establishment;
- (3) Period for which claim is filed;
- (4) Actual number of sports-league jobs during period of claim;
- (5) Actual gross payroll of sports-league jobs during period of claim;
- (6) Net benefit rate; and
- (7) Amount claimed for period.

### **(b) Forfeiture conditions.**

- (1) If a qualified establishment fails to file any claims within one (1) year of the start date, the Commission shall dismiss the qualified establishment from the Oklahoma Five Major Sports Leagues Rebate Program (Program).
- (2) If a qualified establishment files at least one claim but then fails to file another claim within two (2) years of its most recent claim, the Commission may, after consulting with the Department, dismiss the qualified establishment from the Program.
- (3) Dismissal from the Program results in forfeiting the right to receive rebate payments based on that contract.

**(c) Verification of claim.** The Commission shall verify the actual gross payroll utilizing information available to the Commission from all resources. All qualified establishments are required to retain documentation to verify the sports-league jobs and rebate amounts claimed. Documents retained shall include all employee names, social security numbers, original hire dates, termination dates, individual wages drawn for each month, and copies of claim forms for the duration of the contract. These records shall be retained for a minimum of three (3) years after the final rebate payment is received by the qualified establishment. In the event the Commission is unable to verify the gross payroll, the Commission may request additional information or documentation from the qualified establishment or may request the qualified establishment revise its claim to match the amount verified by the Commission. If the qualified establishment fails to provide additional information or revise its claim within thirty (30) days of the Commission's request, the Commission may adjust the claim accordingly.

**(d) Payment of claim.** Except as provided in OAC 710:85-13-7, a qualified establishment whose claim has been approved by the Commission shall receive a warrant in an amount not to exceed the net benefit rate multiplied by the actual verified gross payroll for sports-league jobs for the calendar quarter for which the claim is filed.

**(e) Amount of claim.** The amount of payment shall be equal to the net benefit rate multiplied by the actual gross payroll of sports-league jobs for a calendar quarter as verified by the Oklahoma Employment Security Commission. However, the total yearly (or four (4) consecutive quarters) rebate payments shall not cumulatively exceed \$10,000,000 in any single year for the entire contract.

**(f) Procedure when claim cannot be verified or is revised.** The following shall apply when a claim cannot be verified or is revised by the Commission.

- (1) The qualified establishment may, within sixty (60) days after the mailing of notification of action by the Commission, file with the Commission a protest under oath, signed by an officer/member or a duly authorized representative or agent of the qualified establishment setting out:

- (A) A statement of each error alleged to have been committed by the Commission that is protested;

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- (B) A statement of the qualified establishment's disagreement with such action; and
- (C) Supporting documentation relied on by the qualified establishment in support of its claim.
- (2) If the qualified establishment fails to file a written protest within the sixty (60) days, then the action of the Commission shall become final and no appeal will be entertained.
- (3) A protest to the action of the Commission filed by a qualified establishment shall be governed by OAC 710:1-5-21 through 710:1-5-49.

## **710:85-13-6. Limitation on incentive payments [NEW]**

- (a) **Ceiling for total payments limited to "estimated net direct state benefits."** No claim for an incentive payment shall be honored if the amount of the payment combined with all other incentive payments previously made to the qualified establishment on the contract will exceed the "estimated net direct state benefits" established by the Department.
- (b) **Quality Jobs.** Entities that have contracts for the Quality Jobs Incentive Program are not eligible for the Program until the Quality Jobs Incentive Program contract expires.

## **710:85-13-7. Incentive payments unavailable to delinquent tax reporters/remitters [NEW]**

No incentive payment will be made to any qualified establishment that is delinquent in the filing of any state tax return or report or that has an established liability for any state tax until the delinquent report(s) and/or return(s) is filed and established liability paid in full.

## **710:85-13-8. Cessation, suspension, resumption and repayment of incentive payments [NEW]**

- (a) **Rebate payments will not be made if:**
  - (1) The actual verified gross payroll of the qualified establishment for four (4) consecutive calendar quarters does not equal or exceed \$10,000,000 within three (3) years of the start date; or
  - (2) The actual verified gross payroll of the qualified establishment does not equal or exceed the applicable amount specified in 68 O.S. § 3604, in any quarter of the contract period after three (3) years from the start date.
- (b) A qualified establishment whose incentive payments have ceased under paragraph (a)(1) of this Section will be dismissed from the Program and may not make a new or renewal application for rebate payments to the Department until twelve (12) months from the last day of the last month of the three-year period the actual verified gross payroll was not achieved.
- (c) A qualified establishment whose incentive payments have ceased under paragraph (a)(2) of this Section may not receive any further incentive payments unless and until actual verified gross payroll equals or exceeds the applicable amount specified in 68 O.S. § 3604.
- (d) A qualified establishment shall be required to repay all rebate payments received if the qualified establishment is determined by the Commission to no longer have business operations in Oklahoma within three (3) years from the beginning of the calendar quarter for which the first rebate payment claim is filed. At a minimum, a qualified establishment with its business operations in Oklahoma will be performing its regularly scheduled home games in this State.

## **710:85-13-9. Qualified establishment may protest suspension of incentive payments [NEW]**

The following procedures shall apply if the Commission ceases or suspends a qualified establishment's incentive payment(s):

- (1) **Filing a protest.** The qualified establishment may, within sixty (60) days after the mailing of notification of action by the Commission, file with the Commission a protest under oath, signed by an officer/member or a duly authorized representative or agent of the qualified establishment setting out:
  - (A) A statement of each error alleged to have been committed by the Commission that is protested;
  - (B) A statement of the qualified establishment's disagreement with such action; and
  - (C) Supporting documentation relied on by the qualified establishment in support of its claim.
- (2) **Result of failure to file protest.** If the qualified establishment fails to file a written protest within the sixty (60) days, then the action of the Commission shall become final and no appeal will be entertained.
- (3) **Rules of procedure to govern.** A protest to the action of the Commission filed by a qualified establishment shall be governed by OAC 710:1-5-21 through 710:1-5-49.

*[OAR Docket #25-601; filed 6-6-25]*

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## TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY

[OAR Docket #25-509]

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PERMANENT final adoption

**RULES:**

Subchapter 21. Quality Events

710:95-21-4. ~~Quality event approval and application requirements~~ Application for Quality Event recognition

[AMENDED]

710:95-21-6. Determination of eligible local support amounts [AMENDED]

**AUTHORITY:**

68 O.S. §§ 203, 4309; Oklahoma Tax Commission

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 5, 2024

**COMMENT PERIOD:**

December 2, 2024 through January 2, 2025

**PUBLIC HEARING:**

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**ADOPTION:**

January 7, 2025

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January 10, 2025

**LEGISLATIVE APPROVAL:**

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**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

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**EFFECTIVE:**

July 15, 2025

**SUPERSEDED EMERGENCY ACTIONS:**

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N/A

**GUBERNATORIAL APPROVAL:**

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N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Amendments to Chapter 95 update procedures for the Quality Events Program. Section 710:95-21-4 is amended to clarify the application process for the Quality Events program. Amendments to 710:95-21-6 clarify the process for submission of supporting documentation for quality events.

**CONTACT PERSON:**

# Permanent Final Adoptions

Corey Jager, Agency Liaison, Tax Policy Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma 73194;  
Telephone number: (405) 521-4155; Email: corey.jager@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 JULY 15, 2025:

## SUBCHAPTER 21. QUALITY EVENTS

### 710:95-21-4. ~~Quality event approval and application requirements~~ Application for Quality Event recognition [AMENDED]

(a) ~~Application for approval~~ recognition. Within sixty (60) days of the adoption date of the ordinance or resolution designating a quality event, which must be adopted not later than thirty (30) days prior to the initial date of the designated quality event, the host community must submit ~~a written~~ an electronic application request for requesting recognition as a quality event to the ~~Tax Policy Division, Oklahoma Tax Commission Oklahoma City, Oklahoma 73194. The postmark date of the written request for recognition as a quality event is deemed to be its date of delivery. The date the complete application, including all documents listed in subsection (b), is received by the Tax Commission is deemed the date of the application. The burden shall be on the applicant to ensure all application documents are received by the Tax Commission within the designated timeframe.~~

(b) Application requirements. The application for recognition must be submitted electronically to qualityevents@tax.ok.gov, and include the following:

- (1) Application Form. A completed Form TP-10, which is available online at [tax.ok.gov](http://tax.ok.gov);
- (2) Ordinance or resolution. A copy of the ordinance or resolution designating the quality event;
- ~~(2)~~(3) Economic impact study. The economic study must include the following information:
  - (A) A description and, if applicable, history of the quality event.
  - (B) Information regarding the site selection process for the quality event.
  - (C) An estimate of the expenses anticipated to be incurred in connection with hosting the quality event which specifically categorizes the type of expenses, such as advertising, anticipated to be incurred along with the estimated costs associated therewith.
  - (D) An estimate of the total gross sales made by vendors during any period of time during which no quality event activity occurs.
  - (E) A detailed estimate of the anticipated increase in sales tax revenue directly attributable to the quality event.
  - (F) The general economic impact likely to occur as a result of the preparation for, occurrence of and activity occurring in connection with the dissolution of, a quality event; and,
- ~~(3)~~(4) Event history. The event history must include the following information:
  - (A) *Historical information on the event including past locations of the event,*
  - (B) *A description of previous attempts by the host community to secure the event,*
  - (C) *Information regarding attempts by other communities to recruit the event, and*
  - (D) *If applicable, the competitive bidding process for securing the event by the host community.* [68 O.S. § 4303]

(c) Ineligibility for quality event recognition. The Tax Commission shall not consider any application for quality event recognition which is not submitted within the statutory timeframe outlined in this Section.

### 710:95-21-6. Determination of eligible local support amounts [AMENDED]

(a) Outline and required documentation. Within one hundred and twenty (120) days from the conclusion of the quality event the host community must submit ~~to the Tax Policy Division, at Oklahoma Tax Commission, Oklahoma City, Oklahoma 73194~~ electronically to qualityevents@tax.ok.gov, supporting billing or contractual obligations to pay and payment information detailing the total amount of eligible local support amounts for purposes of determining the amount of incremental state sales tax revenue that may be paid to the host community in which a quality event occurred. Acceptable "payment information" shall include a receipt of payment issued by the recipient, copy of payment instrument, credit card statement, or bank statement evidencing payment of eligible local support. The burden shall be on the applicant to ensure all documentation is received by the Tax Commission within the designated timeframe.

(b) Payment verification. The Commission must verify the amount of eligible local support amounts prior to making any payment to the host community.

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*[OAR Docket #25-509; filed 6-6-25]*

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## **TITLE 712. OKLAHOMA COMMISSION FOR TEACHER PREPARATION CHAPTER 1. ADMINISTRATIVE OPERATIONS [REVOKED]**

*[OAR Docket #25-433]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

712:1-1-1. Purpose [REVOKED]

712:1-1-2. Definitions [REVOKED]

712:1-1-3. Commission members, officers and personnel [REVOKED]

712:1-1-4. Official office [REVOKED]

712:1-1-5. Commission meeting; quorum [REVOKED]

712:1-1-6. Executive sessions [REVOKED]

712:1-1-6.1. Special meetings [REVOKED]

712:1-1-7. Notice of meetings [REVOKED]

712:1-1-8. Agenda items [REVOKED]

712:1-1-9. Powers and duties of the Commission [REVOKED]

712:1-1-10. Legal counsel [REVOKED]

712:1-1-11. Powers and duties of the Executive Director [REVOKED]

712:1-1-12. Functions of the Administrative Committee of the Oklahoma Commission for Teacher Preparation [REVOKED]

712:1-1-12.1. Employment of Commission personnel [REVOKED]

712:1-1-13. Availability of records and manner of obtaining information [REVOKED]

712:1-1-14. Rule making [REVOKED]

### **AUTHORITY:**

Commission of Educational Quality and Accountability; 70 O.S. § 3-116 through § 3-117, Oklahoma Teacher Preparation Act, 70 O.S. § 6-180, et seq., Education Leadership Oklahoma Act, 70 O.S. § 3-204 et seq.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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January 30, 2025

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N/A

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July 11, 2025

### **SUPERSEDED EMERGENCY ACTIONS:**

### **SUPERSEDED RULES:**

N/A

### **GUBERNATORIAL APPROVAL:**

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N/A

## REGISTER PUBLICATION:

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## INCORPORATED STANDARDS:

N/A

## INCORPORATING RULES:

N/A

## AVAILABILITY:

N/A

## GIST/ANALYSIS:

The proposed rule changes to OAC 712 Ch 1 revoke the entirety of OAC Title 712 Ch 1 as these rules were promulgated by the former Oklahoma Commission for Teacher Preparation which has since been replaced by the Commission of Educational Quality and Accountability ("CEQA").

## CONTACT PERSON:

Rusty Faircloth, Deputy Director, Office of Educational Quality and Accountability, 5400 N Grand Blvd, Ste. 200, Oklahoma City, OK 73112, (405) 522-2187, [Rusty.Faircloth@oeqa.ok.gov](mailto:Rusty.Faircloth@oeqa.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(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 11, 2025:**

### 712:1-1-1. Purpose [REVOKED]

—The purpose of this chapter is to outline the administrative rules for the Oklahoma Commission for Teacher Preparation. The general purpose of the Oklahoma Commission for Teacher Preparation (hereinafter referred to as the Commission) is prescribed by the Legislature and the Commission acts as the agency in the exercise of the policy powers of the State of Oklahoma, for the purpose of establishing a competency-based teacher preparation and assessment system by July 1, 1997.

### 712:1-1-2. Definitions [REVOKED]

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

—"Commission" means the Oklahoma Commission for Teacher Preparation.

—"Executive Director" means the Executive Director of the Oklahoma Commission for Teacher Preparation.

### 712:1-1-3. Commission members, officers and personnel [REVOKED]

(a) Members. The Oklahoma Commission for Teacher Preparation (hereinafter referred to as the Commission) is an administrative body composed of twenty-four (24) members, of whom 20 shall be voting members and four shall be ex officio, non-voting members. The twenty voting members shall serve staggered terms of three (3) years and shall be appointed as follows:

(1) The Speaker of the House of Representatives shall appoint:

- (A) one public school teacher who is an employee of an Oklahoma public school district;
- (B) one lay person who has at least one child who is a student in an elementary or secondary public school in this state;
- (C) one member of the Oklahoma State Regents for Higher Education;
- (D) one member who is a principal of an Oklahoma elementary public school and;
- (E) one lay person who has demonstrated long-term commitment to education.

(2) The President Pro Tempore of the Senate shall appoint:

- (A) one public school teacher who is an employee of an Oklahoma public school district;
- (B) one member of the State Board of Education;
- (C) one lay person who has had some educational employment experience;
- (D) one member who is a public school superintendent of an Oklahoma public school district and;
- (E) one lay person who has demonstrated long-term commitment to education. [70:6-199(A)(2)]



(3) The Governor shall appoint:

- (A) one member from a private Oklahoma institution of higher education who is a dean or director of an approved teacher education program;
- (B) one member of the Oklahoma State Regents for Higher Education;
- (C) one member of the State Board of Education;
- (D) one teacher from an area Career and technical school district;
- (E) one member from an institution of higher education in the Oklahoma State System of Higher Education who is on the arts and science faculty;
- (F) one member from an institution of higher education in the Oklahoma System of Higher Education who is on the teacher education faculty;
- (G) two public school teachers who are employees of an Oklahoma public school district and;
- (H) two lay persons who have demonstrated long-term commitment to continued improvement of education. [70:6-199(A)(3)]

(4) Ex officio, non-voting members shall include:

- (A) the State Superintendent of Public Instruction or designee;
- (B) the Chancellor of Higher Education or designee;
- (C) the Director of the State Department of Career and Technology Education or designee, and;
- (D) the Secretary of Education or designee. [70:6-199(A)(4)]

(b) Officers. At the first ensuing meeting of each fiscal year, the Commission shall select one of the members to serve as chair and another member to serve as vice-chair.

(c) Executive Director. The Commission shall appoint an Executive Director and appropriate additional personnel to assist the Commission in the performance of its duties.

## 712:1-1-4. Official office [REVOKED]

—— The Office of the Oklahoma Commission for Teacher Preparation is 1141 North Lincoln, Oklahoma City, Oklahoma 73104. The telephone number is (405) 521-3189, and the telecopier is (405) 521-6442. The office hours are from 8:30 a.m. to 5:00 p.m. Central Time, Monday through Friday, except legal holidays.

## 712:1-1-5. Commission meeting; quorum [REVOKED]

—— The Commission shall hold at least six (6) regular monthly meetings each calendar year at a time and place as shall be designated by the Commission. A majority of the voting members (11) of the Commission shall be present at the meeting to constitute a quorum. [70:6-199(B)(2)]

## 712:1-1-6. Executive sessions [REVOKED]

—— The Commission may hold executive sessions at such sessions as is permitted by the Oklahoma Open Meeting Act.

### 712:1-1-6.1. Special meetings [REVOKED]

—— Special meetings may be called by the chair or by seven (7) or more members of the Commission by delivery of written notice to each member of the Commission with not less than forty-eight (48) hours notice. A majority of the voting members shall be present at the meeting to constitute a quorum of the Commission. [70:6-199(B)(2)]

## 712:1-1-7. Notice of meetings [REVOKED]

—— Notice of regular and special meetings will be given in accordance with the provisions of the Oklahoma Open Meetings Act, *supra*.

## 712:1-1-8. Agenda items [REVOKED]

—— The Executive Director, in conjunction with the chair and administrative committee, shall prepare an agenda on behalf of the Oklahoma Commission for Teacher Preparation for each meeting of the Commission. The agenda is filed and posted in accordance with the Oklahoma Open Meeting Act, *supra*.

## 712:1-1-9. Powers and duties of the Commission [REVOKED]

—— The Commission shall have the following powers and duties, which shall include, but not necessarily be limited to:

- (1) reviewing and assessing approved, accredited and new programs of teacher education at both public and private colleges and universities;

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- (2) recommending to the Governor and Legislature changes in teacher education program accreditation and the state teacher and administrator assessment program;
- (3) administering the state competency-based assessment program for teachers and administrators;
- (4) establishing rules and regulations related to the development, implementation and administration of the competency-based teacher and administrator assessment program;
- (5) recommending to the Oklahoma State Board of Education rules for adoption in the areas of teacher licensure and certification, residency and professional development;
- (6) adopting the tests which comprise the competency examination including tests for general education, professional education and various subject areas;
- (7) promulgating rules and procedures to guarantee the confidentiality of competency examinations;
- (8) administering the Teacher's Curriculum Examination Revolving Fund, as of July 1, 1997, following all State of Oklahoma fiscal laws;
- (9) using state appropriations, and loans and grants, for the intent and the purposes of the Commission as defined by its statutory authority;
- (10) reviewing and adopting rules, regulations and procedures to carry out the intent and purposes of the Commission as defined by its statutory authority;
- (11) conducting studies, research, surveys relating to the professional development of teachers and principals;
- (12) employing the Executive Director of the Commission and approving the creation of staff positions and accompanying rates of compensation;
- (13) entering into agreements or contracts for services with other state agencies as may be appropriate to carry out the intent and purposes of the Commission as defined by its statutory authority;
- (14) establishing appropriate subcommittees, task forces, or working groups to carry out the intent and purposes of the Commission as defined by its statutory authority.

## 712:1-1-10. Legal counsel [REVOKED]

—The Attorney General of the State of Oklahoma shall serve as legal counsel for the Oklahoma Commission for Teacher Preparation and shall assist the Commission in its performance of the powers and duties delineated to it by statutory authority.

## 712:1-1-11. Powers and duties of the Executive Director [REVOKED]

—The Executive Director of the Oklahoma Commission for Teacher Preparation shall have the following powers and duties, which shall include, but not necessarily be limited to:

- (1) Acting as the chief administrative officer for purposes of carrying out the Commission's statutory authority;
- (2) Formulating and recommending rules and regulations for approval or rejection by the Commission which shall be consistent with the Commission's statutory authority;
- (3) Establishing and maintaining a central repository on information regarding availability, acquisition and disposition of all federal funds, state appropriations, and other grants related to the assessment of teachers and administrators and approval of teacher education programs;
- (4) Establishing and maintaining a central repository for all duly adopted rules and regulations, minutes, and reports;
- (5) Acting as an agent for the Commission in all matters relating to teacher preparation or the professional development of teachers and administrators as delineated by the Commission's statutory authority;
- (6) Employing, demoting, or dismissing personnel and making specific assignments of duties for positions and at rates of compensation approved by the Commission to the extent that funds are available.

## 712:1-1-12. Functions of the Administrative Committee of the Oklahoma Commission for Teacher Preparation [REVOKED]

(a) To facilitate the Oklahoma Commission for Teacher Preparation's work, an administrative committee is created. The function of that committee is to:

- (1) coordinate the work of the various Commission subcommittees created for purposes of carrying out the intent and purposes of the Commission as defined by its statutory authority;
- (2) review claims for expenditures submitted by the Executive Director;
- (3) review, revise, approve or reject any proposed legislation, rules, technical or procedural recommendations, policies, procedures or reports submitted by the Executive Director to the entire Commission for approval or rejection;

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(4) review, revise, approve, or reject personnel recommendations submitted by the Executive Director to be presented to the entire Commission for approval or rejection;

(5) employ the Commission Executive Director, pending approval of entire Commission.

(b) The Administrative Committee created in (a) of this section shall be chaired by the Chair of the Commission. Members of the Administrative Committee shall be the Chair and Vice-Chair of the Commission and those members serving as chairs of the various committees created by the Commission. At no time will the Administrative Committee consist of more than seven members. A quorum shall comprise the majority of the members of the Administrative Committee. Recommendations to the entire Commission shall require approval of a majority of the members of the Administrative Committee.

## 712:1-1-12.1. Employment of Commission personnel [REVOKED]

(a) Executive Director. The Administrative Committee shall have the authority to employ the Commission Executive Director, pending approval of the entire Commission.

(b) Support and/or administrative personnel. The Executive director shall have the authority to employ support personnel and/or administrative personnel for positions approved by the Commission. All salaries and compensations shall be set within the budgetary guidelines approved by the Commission.

(c) Professional personnel. The Commission Chair shall appoint a committee to assist the Executive Director in screening and interviewing candidates for all professional staff positions. The Chair of the committee most aligned with the position being filled shall serve on the screening committee along with two Commission members not serving on the Administrative Committee. The screening committee will recommend to the Executive Director a minimum of two and no more than three candidates who fulfill the requirements of the position. The Executive Director will recommend one of the mutually agreed upon candidates to the Commission for approval.

(d) In the event that a personnel change must occur in a time frame not conducive to a regularly scheduled Commission meeting, said candidate may be hired on a contingency basis until such time as the Commission shall grant final approval.

## 712:1-1-13. Availability of records and manner of obtaining information [REVOKED]

— All files, records, minutes, proceedings, rules, documents, decisions, opinions, written statements of policy, and written materials of any other nature required by law to be maintained by this Commission are available for public inspection in the Office of the Executive Director of the Oklahoma Commission for Teacher Preparation. Any persons desiring any information concerning the Commission, its policies and procedures or any pertinent information concerning said organization may make submissions or request the Commission, either in person or by mail by directing such submission or request to the office of the Executive Director of the Oklahoma Commission for Teacher Preparation. Copies of said materials may be provided at the discretion of the Executive Director and to the extent funds allow.

## 712:1-1-14. Rule making [REVOKED]

— Except as provided, the rules governing the rule making powers of the Commission shall be the same as those found in the Administrative Procedures Act (75 O.S. Sections 250 et seq.).

*[OAR Docket #25-433; filed 5-30-25]*

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## TITLE 712. OKLAHOMA COMMISSION FOR TEACHER PREPARATION CHAPTER 10. TEACHER PREPARATION PROGRAM ACCREDITATION [REVOKED]

*[OAR Docket #25-434]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 5. Teacher Preparation Program Accreditation [REVOKED]

712:10-5-1. Teacher Preparation Program Accreditation And Review Process [REVOKED]

712:10-5-2. Structure of Accreditation Committees [REVOKED]

712:10-5-3. Specific State Standards For Program Accreditation [REVOKED]

712:10-5-4. Standards for Oklahoma Teacher Education Programs [REVOKED]

Subchapter 7. Teacher Preparation Teacher Assessment [REVOKED]

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712:10-7-1. Teacher assessment regulations [REVOKED]  
712:10-7-3. Alternative testing arrangements [REVOKED]  
Subchapter 9. Professional Development Institutes [REVOKED]  
712:10-9-1. Professional Development [REVOKED]  
Subchapter 11. Education Leadership Oklahoma [REVOKED]  
712:10-11-1. Education Leadership Oklahoma regulations [REVOKED]  
Appendix A. Competency Exam Requirements by Certification Areas [REVOKED]

## **AUTHORITY:**

Commission of Educational Quality and Accountability; 70 O.S. § 3-116 through § 3-117, Oklahoma Teacher Preparation Act, 70 O.S. § 6-180, et seq., Education Leadership Oklahoma Act, 70 O.S. § 3-204 et seq.

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 23, 2024

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January 17, 2025

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## **LEGISLATIVE DISAPPROVAL:**

N/A

## **APPROVED BY GOVERNORS DECLARATION:**

N/A

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N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

The proposed rule changes to OAC 712 Ch 10 revoke the entirety of OAC Title 712 Ch 1 as these rules were promulgated by the former Oklahoma Commission for Teacher Preparation which has since been replaced by the Commission of Educational Quality and Accountability (“CEQA”).

## **CONTACT PERSON:**

Rusty Faircloth, Deputy Director, Office of Educational Quality and Accountability, 5400 N Grand Blvd, Ste. 200, Oklahoma City, OK 73112, (405) 522-2187, [Rusty.Faircloth@oeqa.ok.gov](mailto:Rusty.Faircloth@oeqa.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(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 11, 2025:

## SUBCHAPTER 5. TEACHER PREPARATION PROGRAM ACCREDITATION [REVOKED]

### 712:10-5-1. Teacher Preparation Program Accreditation And Review Process [REVOKED]

- (a) Oklahoma teacher education institutions function under an 'accreditation program' system which requires the evaluation of teacher education units and programs on a periodic basis.
- (b) Beginning July 1, 1997 institutions which have no accredited teacher education program and which desire to initiate a certificate program shall follow the format outlined herein based on Standards for Oklahoma Accredited Teacher Education Programs and Institutional Plan (see 712:10-5-3). Institutional plans are defined as plans developed and prepared utilizing input from education stakeholders (teacher preparation faculty, arts and science faculty, teacher candidates, teachers, administrators, business and community leaders, and parents) which follow the general guidelines and standards for pre-service teacher preparation programs outlined in sections 712:10-5-3. On July 1, 1997 the Oklahoma Commission for Teacher Preparation, hereafter referred to as the Commission, shall assume responsibility for accrediting all teacher education programs in Oklahoma's public and private institutions of higher education.
- (c) The program accreditation system shall be a multifaceted system based on:
- (1) A competency-based teacher preparation program built around the Standards for Oklahoma Accredited Teacher Education Programs and State Department of Education Competencies, herein after referred to as SDE;
  - (2) Institution plans as outlined in the Standards for Oklahoma Accredited Teacher Education Programs and Institution Plan Format;
  - (3) On-site accreditation review team visits to the campuses of the institutions of higher education;
  - (4) Analysis of data related to student success rates on the general education, professional education, and subject matter assessments;
  - (5) Analysis of student satisfaction data;
  - (6) Analysis of student/teacher candidate portfolios.
- (d) Beginning January 1, 1997 all institutions of higher education with teacher education programs must submit an initial institutional plan outlining how the institution will respond to those standards identified in the Oklahoma Standards for Accredited Teacher Education Programs and Initial Institution Plan (See 712:10-5-3, and OS 70 sections 6-199 through 6-202.)
- (1) All initial plans will be reviewed by the Program Accreditation Committee, hereafter referred to as the PAC and recommendations for accreditation for seven years, accreditation for two years with a focused visit, accreditation for two years with a full visit, defer decision or denial of accreditation will be forwarded to the Commission within sixty days of submission.
  - (2) All PAC members and a minimum of ten prospective members will receive performance training on how to evaluate the initial plans. Only those members demonstrating proficiency in evaluation will be allowed to evaluate the plans.
  - (3) The performance-based training will be conducted by the National Council for Accreditation of Teacher Education, hereinafter referred to as NCATE and/or their designee.
  - (4) Any Commission member or Commission appointee who is involved in any evaluation and/or accreditation decision related to any teacher education unit and/or program must complete the performance-based training related to the review and accreditation of teacher education units and/or programs prior to voting and/or participating on any accreditation decisions.
  - (5) Prior to being accredited each institution must meet the NCATE preconditions for accreditation and all requirements of the OCTP, and/or receive the approval of the OSRIE when applicable, and provide required documentation for each precondition:
    - (A) The institution is an equal opportunity employer and does not discriminate on the basis of race, sex, color, religion, age, or handicap (consistent with Section 702 of Title VII of the Civil Rights Act of 1964, which deals with exemptions for religious corporations, with respect to employment of individuals with specific religious convictions);
    - (B) A copy of the institution's official action pledging compliance with nondiscriminatory law and practice;

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(c) Beginning July 1, 1997 the Commission will become a performance-based partner with the Oklahoma State Regents for Higher Education (State Regents) and NCATE. All teacher education programs shall be expected to meet all NCATE unit and program standards, SDE competencies, as well as all additional standards established by the Oklahoma Commission for Teacher Preparation:

(1) **Application form.** The application form containing the required information will be completed by the director of teacher education at the institution seeking Commission accreditation for the teacher education certificate programs.

(2) **Institutional plan.** The institutional plan shall be utilized by the Commission for program accreditation, State Regents program review, and NCATE accreditation. An institutional plan addressing the standards as outlined in the Oklahoma Commission for Teacher Preparation Standards for Oklahoma Accredited Teacher Education Programs and Institution Plan and criteria established in these rules and as stipulated in OS 70 sections 6-180 through 202 will be sent to the Commission office along with the application form according to the established timeline.

(3) **Records to be kept on file at the institution.** The following items and records shall be kept on file at the institution with the director/dean of teacher education:

(A) Copy of the institution plan;

(B) Copy of annual report to the Commission;

(C) Syllabi for courses in the areas of specialization, general education, and professional education will be kept on file with the institution; and

(D) Full faculty resumes will be on file for review. All levels of teaching personnel will be indicated.

(E) Copies of program review reports.

(F) Candidate CEOE scores.

(4) **Timelines for evaluation process:**

(A) The Oklahoma Commission for Teacher Preparation personnel will establish an accreditation visit schedule in collaboration with the State Regents, NCATE and the institution dean/director of teacher education.

(B) Upon approval by the governing board of the institution, two copies of the institution report and supporting materials including the college catalog shall be sent to the Commission office 75 days prior to the accreditation visit. Upon receiving the names and addresses of the visiting accreditation review team, the institution shall send copies of all documentation to the members of the visiting accreditation review team.

(C) The visiting committee selection process shall be completed a minimum sixty (60) days prior to the accreditation visit.

(D) The on-site accreditation evaluation will be conducted over a three to five day period.

(E) After finalizing the team draft report which results from the accreditation visit, and within fourteen days of the accreditation visit, the team chair shall send the draft report to team members and Commission professional personnel for editing.

(F) Within twenty-one days of the visit the team members and the Commission office shall return their comments and recommendations on the report to the team chair. The chair makes corrections to the report, as appropriate, and sends a copy to the unit head at the institution for factual corrections.

(G) Within twenty-eight days of the visit but not less than five days of the receipt of the report, the unit head sends factual corrections in writing to the team chair. The chair makes changes at his/her discretion, finalizes the report and sends one copy to the Commission office. The report shall be in the format determined by the Commission.

(H) The Commission staff will copy the report with a cover that includes the name of the institution, its location, and the date of the visit.

(I) Utilizing the procedures outlined in 712:10-5-1(c)(8) the Commission will make a final decision regarding the accreditation of the institution's certificate program(s). That decision will be based on the findings and recommendations of the Commission Program Accreditation Committee and any additional information which may be presented by the institution under review.

(J) All certification program reviews must be submitted to NCATE or to the Commission no later than 12 months prior to the first accreditation visit and according to the established NCATE/OCTP timeline prior to a continuing accreditation visit.

**(5) Selection of accreditation review team.** Selection of the accreditation review team will be coordinated by the Commission staff as soon as possible after the visitation dates are set. All accreditation review team members shall be determined within sixty (60) days prior to the accreditation review team visit. Selection of the accreditation review team shall be based on the following:

(A) All team members must have been trained by NCATE staff and/or their designee in the application of NCATE standards and on the process for evaluating programs for the Commission;

(B) Accreditation team for first accreditation. The membership of a first accreditation review team shall be as follows:

(i) Three to six representatives from the NCATE Board of Examiners (for NCATE accredited institutions);

(ii) State representatives appointed by the Commission including:

(I) One pre-K-12 classroom teacher;

(II) One representative from higher education who is a member of a teacher education unit. For accreditation of private institutions the representative shall be from a private institution; for public institutions this representative shall be from a public institution;

(III) One representative from the Commission;

(IV) One additional at-large member;

(iii) For any institution requesting accreditation of a career technology program(s) an additional accreditation review team member may be recommended by the State Director of Career and Technology Education;

(iv) Special Circumstances:

(I) For accreditation review teams requiring fewer members the Executive Director of the Commission shall collaborate with the Program Accreditation Committee, the director of teacher education at the institution being accredited, and NCATE and Commission staff to determine the team composition;

(v) The Commission will determine observers from representatives of the Oklahoma State Regents for Higher Education, State Department of Education, State Department for Career and Technology Education, professional organizations, and the community-at-large:

(I) Observers shall be actively involved in the data collection process, participate in the accreditation review team meetings, and assist the accreditation review team to understand state nuances. They may assist, but shall not be required to write any sections of the team report. They shall not be a voting member of the team;

(II) Observers are expected to participate in the entire visit and all assigned meetings and activities;

(III) The chair of the accreditation review team has the authority to dismiss any observer from the accreditation visit who does not participate in the entire site review and assigned activities;

(C) Accreditation team for continuing accreditation. The membership of a continuing accreditation review team shall be as follows:

(i) NCATE representatives as determined by NCATE (for NCATE accredited institutions);

(ii) State representatives which will number one less than the NCATE representatives;

(iii) The Executive Director for the Commission for Teacher Preparation or his/her designee shall collaborate with the director of teacher education at the institution being reviewed; NCATE, and with the PAC and Commission staff to determine the state committee representation;

(iv) The Commission will determine observers from representatives of the Oklahoma State Regents for Higher Education, State Department of Education, and the community-at-large. If a Career and Technology program is offered at the institution the State Director of Career and Technology Education shall nominate a team member for any institution requesting accreditation of career and technology program(s);

(v) Observers shall be actively involved in the data collection process, participate in the accreditation review team meetings, and assist the accreditation review team with understanding state nuances. They may assist but shall not be required to write any sections of the team report. They shall not be a voting member of the team.

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- (vi) Observers are expected to participate in the entire visit and all assigned meetings and activities;
- (vii) The chair of the accreditation review team has the authority to dismiss any observer from the accreditation visit who does not participate in the entire site review and assigned activities;
- (D) Accreditation teams for non-NCATE accredited institutions shall be composed of state representatives;
- (E) The Executive Director for the Commission for Teacher Preparation or his/her designee shall collaborate with the director of teacher education at the institution requesting state accreditation; NCATE, the State Regents, PAC and Commission staff to determine the team representation.
- (6) Logistics of the accreditation visit:**
  - (A) Each institution shall arrange through the Commission for a pre-visit with the chair of the accreditation review team. The pre-visit should be conducted a minimum of sixty (60) days prior to the team visit. The team chair must have received the institutional report prior to the pre-visit.
  - (B) If it is to be a joint NCATE and Commission visit, the state chair, the NCATE chair and the Commission staff member responsible for program accreditation shall be included in the pre-visit. Logistical arrangements shall be finalized during the pre-visit.
  - (C) For state accreditation only, the state chair and the Commission staff member responsible for program accreditation shall be included in the pre-visit. Logistical arrangements shall be finalized during the pre-visit.
  - (D) A visitation schedule will be prepared and distributed approximately four weeks prior to the scheduled visit. The schedule will be developed cooperatively by the director of teacher education and the Commission staff in cooperation with the team chair(s).
  - (E) The following stakeholders may be interviewed during the accreditation visit:
    - (i) Key faculty from the teacher education and the arts and sciences units;
    - (ii) Administrators from the university teacher education and the arts and sciences units;
    - (iii) Other individuals identified by the institution;
    - (iv) Students (both in organized group settings and in informal settings such as in hallways; student lounges, student union, etc.);
    - (v) Field supervisors and cooperating teachers of student teaching and internships;
    - (vi) Practitioners from area schools including, but not limited to, principals, school personnel directors, and teachers; and
    - (vii) Recent graduates.
  - (F) The individuals to be interviewed should be representative of the student body being served, and consideration shall be made relative to ethnicity, gender, age and individuals with disabilities.
  - (G) The visitation schedule shall include:
    - (i) Dates of the accreditation visit;
    - (ii) Name, location, telephone number of lodging where reservations have been made for committee members;
    - (iii) Location of visiting team headquarters on the campus of the institution being evaluated;
    - (iv) Meeting time and place for team organizational meeting;
    - (v) Meeting time and place for formal team interviews with constituencies listed in 712:10-5-1(c)(6)(E);
    - (vi) Meeting time and place for team to complete writing assignments;
    - (vii) Meeting time and place for team to present the exit report; and
    - (viii) Fax, telephone, and e-mail addresses of members of the unit.
  - (H) The completed accreditation review team report will be presented to the PAC, NCATE (as applicable), and the Commission.
  - (I) Visiting team members will be reimbursed for expenses incurred according to state guidelines. Reimbursement forms must be completed by team members on the last day of the visit.
- (7) Preparation of the team report.** The accreditation review team work will culminate in preparation of a report outlining the findings of the team. Individual writing assignments will be completed prior to the conclusion of the visit. The report will reflect the team consensus on the review:
  - (A) The accreditation review team report is to be based on the following:
    - (i) Validating and supporting documents, through interviews with students, faculty members, administrators, and school personnel;
    - (ii) Validating the institutional report by visiting facilities and reviewing documents; and



(iii) Specific guidelines and competencies for accredited teacher education programs.

(B) At the exit report, representatives of the accreditation review team will present a summary of its evaluation of the program. The summary will include findings for each standard and state requirement including areas for improvement.

(C) The completed reports will be due to the NCATE and Commission office 52 days after the accreditation review team on-site visit; and

(D) The recommendation of the accreditation review team regarding the program will be made to the PAC and the Oklahoma Commission for Teacher Preparation within 90 days after having received the rejoinder [see 712:10-5-1(c)(8)(B)(iv)] and the response to the rejoinder from the team chairs. For NCATE accredited institutions, final accreditation decisions will be made after the NCATE Unit Accreditation Board has forwarded its accreditation decision to the Commission.

**(8) Recommendation process:**

(A) An electronic copy of the final draft of the accreditation review team report will be forwarded to the Commission personnel and to each of the accreditation review team members who will be given the opportunity to suggest corrections in their respective assignment areas. Additionally, the director of teacher education will be given the opportunity to offer input regarding corrections in factual information.

(B) The head of the unit, in consultation with the chief executive officer of the institution, is required to acknowledge receipt of the report and is given the opportunity to prepare a rejoinder to the accreditation review team report. The unit can file the rejoinder and supplemental materials pertinent to the facts and conclusions found in the report of the accreditation review team.

(i) The institutional rejoinder to the accreditation review team report is a vital part of the evidence that the PAC considers as it makes its determination regarding first and continuing accreditation. The PAC considers the first/continuing accreditation report, accreditation review team report and the institutional rejoinder as it prepares its recommendations for the Program Accreditation Committee and subsequently to the full Commission. The PAC may affirm the accreditation review team citations in areas for improvement or modify them based on evidence provided in the institutional rejoinder or to bring consistency to its decisions across institutions.

(ii) The purpose of the rejoinder is to clarify information presented in the accreditation review team report and to correct any factual errors in the report. If the judgments of the accreditation review team are being disputed by the unit, the rejoinder must indicate the grounds for such a stance and the available documentation to support it. This information should be summarized, cited, and included in an appendix as appropriate. The rejoinder should be concise, to the point, and complete.

(iii) The following conditions must be adhered to as the institutional rejoinder is prepared by the unit:

(I) All evidence must describe what existed at the time of the accreditation visit. Changes made by the unit after the visit cannot be considered by the PAC in its deliberations. Changes after the visit should be reported to the Commission for Teacher Preparation as part of the unit's annual report;

(II) All evidence must relate directly to NCATE standards, state requirements, and all procedures that applied at the time of the accreditation visit;

(III) The rejoinder must be factual in nature. All inaccurate information in the accreditation report should be corrected and appropriate documentation submitted with the rejoinder; and

(IV) When the unit does not respond, in writing, to the unmet standards and areas for improvement in the accreditation report, the PAC assumes that the unit concurs with the accreditation review team citation and decision.

(iv) The institutional rejoinder should contain the following:

(f) Letter from the unit head to the Commission Executive Director acknowledging the receipt of the accreditation report;

(ff) Responses to the areas for improvement. If there is evidence that an area for improvement does not exist, the appropriate documentation should be appended;

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(III) Perceptions of procedural concerns, if any, regarding the accreditation review team review or process that might have prejudiced the accreditation review team judgments; and

(IV) Appendices that contain information to support any requests for reconsideration of the accreditation review team judgments. If the data were included in the institutional report and not given adequate consideration by the accreditation review team, the appropriate pages should be cited/reproduced; if the reference exceeds three pages in the institutional report, the page numbers should be cited and not duplicated.

(v) The institutional rejoinder must be submitted to the Oklahoma Commission for Teacher Preparation within 30 days of the receipt of the accreditation review team report. When accreditation review team reports are sent to an institution during semester breaks, additional time to prepare the rejoinder will be considered. Additional time beyond the date indicated in the transmittal letter must be approved by the Commission Executive Director.

(C) Final action on the reports and institutional accreditation will proceed according to Section 712:10-5-1(c).

(D) Final action by the Commission may include the following actions:

(i) First and Continuing Accreditation for seven years:

(I) First Accreditation or Continuing Accreditation for seven years is granted to the education unit and program(s) if the Commission finds that standards have been adequately addressed to merit accreditation. This accreditation decision indicates that the unit meets each of the six NCATE standards for unit accreditation. Areas for improvement may be cited, indicating problems warranting the institution's attention. In its annual report the institution will be expected to address progress on the areas for improvement cited in the Commission accreditation report. When the Commission has determined that an education unit is not making progress toward the removal of the areas for improvements cited during their visit, the institution will be notified that the unit will be required to submit a plan and timeline for addressing the areas for improvement. If at the end of six (6) months the Commission determines the education unit has not submitted sufficient data documenting adequate progress toward the removal of the areas for improvement, a state-level Focus Visit will be warranted within 18 months. After such Focus Visit the Commission will have the option of granting continuing accreditation or revoking accreditation. This progress will be reviewed, annually, by the PAC. First accreditation is retroactive to the semester in which the accreditation visit occurred.

(ii) Accreditation for two years with a focused visit:

(I) This accreditation decision indicates that the unit has not met one or more of the standards. When the PAC renders this decision, the unit has or maintains its accredited status, but must satisfy provisions by meeting previously unmet standard(s) within an established time period.

(II) If Accreditation for two years with a focused visit is granted, the PAC will require a focused visit on the unmet standard(s) within two years of the semester of the accreditation decision. After a focused visit, the PAC will (1) grant accreditation or (2) revoke accreditation.

(III) If accreditation is granted, the next on-site visit is scheduled for seven years following the semester in which the accreditation visit preceding the focused visit occurred.

(iii) Accreditation for two years with a full visit:

(I) This accreditation decision indicates that the unit has not met one or more of the NCATE standards, and serious problems exist across standards. When the PAC renders this decision, the unit has or maintains its accredited status, but must satisfy conditions by meeting the previously unmet standard(s) within an established time period.

(II) If accreditation for two years with a full visit is granted, the PAC will require a full visit on the unmet standard(s) within two years of the accreditation decision. After a full visit, the PAC will (1) continue accreditation or (2) revoke accreditation.

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- (II) If accreditation is granted, the next on-site visit is scheduled for seven years following the semester in which the continuing accreditation visit occurred.
- (iv) **Defer Decision**
- (I) The UAB or PAC/Commission will make this decision if the BOE team recommended that any standard(s) was met for which the UAB or PAC/Commission did not accept the team's recommendation.
- (II) A supplemental rejoinder related to the new unmet standard(s) may be submitted for review by the UAB or PAC/Commission. The supplemental rejoinder must be based on evidence available at the time of the visit. The institution will be required to submit said documentation to the UAB or PAC/Commission as applicable.
- (III) For NCATE/State institutions, the PAC/Commission will defer decision until the next NCATE UAB meeting. For State only institutions, the PAC/Commission will defer decision for no more than sixty (60) days.
- (IV) If the standard(s) continues to be unmet after the supplemental rejoinder, accreditation will be granted for 18 months with either a focused or full visit.
- (v) **Denial of accreditation (First):**
- (I) Denial of accreditation is rendered when the PAC finds that the professional education unit and/or programs have severe and/or numerous areas for improvement that limits its capacity to offer quality programs.
- (II) All students who have been admitted to the program must be notified by mail, within 30 days of receipt of the PAC/Commission decision, as to the denial of program accreditation of the unit and programs.
- (III) Institutions that are denied accreditation may recommend candidates for certification for one year from the end of the semester in which accreditation is denied.
- (vi) **Revocation of accreditation (Continuing):**
- (I) Revocation of accreditation terminates current accreditation after a two-year visit if the PAC/Commission finds that critical areas for improvement are not corrected. Accreditation will be terminated at the end of the semester in which the PAC/Commission revokes accreditation.
- (II) All students who have been admitted to the program must be notified by mail, within 30 days of receipt of the PAC/Commission decision, as to the revocation of accreditation of the unit and programs.
- (III) Institutions that lose their accreditation may recommend candidates for certification for one year from the end of the semester in which accreditation is revoked.
- (IV) An on-site interim accreditation visit may be requested by the Appeals Board, hereinafter referred to as AB, acting on behalf of the Commission Administrative Committee. This visit would result from the committee's determination that compelling reasons exist to authorize reexamination of the accreditation of an institution's professional education unit and/or programs. If the AB determines that a complaint received by the committee needs to be investigated, the committee will authorize an interim accreditation review team visit to the campus. The interim accreditation review team will consist of one member from the first or continuing accreditation review team and the remainder of the members will be appointed by the PAC following the guidelines outlined in 712-10-5(c)(5).
- (V) The interim accreditation review team will prepare a report for the PAC. At the next PAC meeting following such a visit, the PAC will recommend the institution's accreditation status to the Commission.
- (VI) The Commission may revoke accreditation if the unit and/or program(s) (a) no longer meets the Standards for Oklahoma Accredited Teacher Education Programs; (b) fails to submit annual reports and other documents required for accreditation; (c) misrepresents its accreditation status to the public; (d) fails to meet timelines of conditional or probationary accreditation or (e) fails over a three-year period to meet and maintain teacher candidate performance standards on the competency-based assessments as established by the Commission

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(VII) All accreditation decisions shall be reported annually in the Commission annual report to the Education Oversight Board and all entities as outlined in OS 70 section 6-186.

(VIII) In the event that accreditation is denied or revoked, an institution may reapply for first accreditation following a three-year waiting period. Before a first visit may occur, a minimum of three years must have lapsed since accreditation was denied. Reapplication shall occur based on the Standards for Oklahoma Accredited Teacher Education Programs and Institutional Plan (Sec 712:10-5-3). All procedures for first accreditation will be followed during the reapplication process.

## **(9) Appeals Board:**

(A) For NCATE accredited units the AB shall consider the recommendations of the NCATE appeals board for unit accreditation;

(B) For appeals related to program(s) and non-NCATE accredited institutions the following procedures shall be followed:

(C) Membership of Commission Appeals Board shall be:

(i) Commission chair. The Commission Chair shall be the Chair of the Appeals Board;

(ii) Chair of Program Accreditation Committee;

(iii) Program subject matter and/or standards expert(s). If the appeal is related to a specific program, the program expert shall be in the area(s) being appealed;

(iv) One PK-12 school classroom teacher;

(v) One member from the NCATE Board of Examiners (when applicable);

(vi) One teacher educator; and

(vii) One representative from the arts and sciences faculty or from school administration.

(D) The appeals board shall serve an initial term of two years, with the exception of the Commission Chair, Chair of the Program Accreditation Committee, and the program expert(s). The program subject matter expert(s) shall be appointed by the Commission Chair and serve on the AB only when an appeal is related to a program(s) appeal.

## **(10) Conditions for appeals:**

(A) Any institution that is the object of an adverse decision, as determined by one of the Commission teacher education program review committees and/or unit accrediting committees, may appeal that decision to the Commission Appeals Board:

(B) An adverse decision is defined as the denial or revocation of program(s) or unit accreditation.

(C) An institution may also appeal, in writing, accreditation for two years with a focused visit, accreditation for two years with a full visit, and defer decision accreditation decisions. A adverse decision may be appealed only on the following grounds:

(i) Stated procedures were not followed;

(ii) Evidence favorable to the institution was provided to the accreditation review team but was not considered;

(iii) Evidence was presented to the appropriate board in the form of a rejoinder or stipulation response but was not considered;

(iv) If a college or university believes that one or more of these conditions was a factor in its accreditation, the only available means of redress is through the appeals process; or

(v) There was a lack of the full number of team members due to last minute emergencies; however, that factor alone is not sufficient to uphold an appeal:

(I) The institution must convincingly demonstrate that this fact made a difference in the accreditation decision.

(II) The institution shall prove actual prejudice to it and that the prejudice changed the accreditation decision.

(III) The fact that the institution did not recommend canceling the visit would be evidence that it, at least before the visit, believed that the assembled team would be sufficient to conduct a fair and complete visit.

(D) The findings and recommendations of the AB are received by the full Commission at its first meeting following the meeting of the AB:

(E) Subsequent actions shall be based on grounds upheld by the full Commission and may include, but are not limited to:

(i) Assigning another accreditation review team to revisit an institution;

(ii) Reinstating accreditation or

(iii) Upholding the initial recommendation for denial or revocation of accreditation.

(F) The status of the appellant at the time of the visit remains unchanged until the appeals process has been exhausted.

**(11) Process for appeal.** The following provisions govern the appellate process:

(A) Within 15 days of receiving notice of the adverse decision, an institution electing to appeal an adverse decision of the Commission must present the Commission Executive Director and the board or committee which issued the adverse decision written notification of its intention to appeal.

(B) No later than 30 days from the date that it submits its notification, the institution must submit a brief to the Executive Director which sets forth the specifics of its appeal and includes full documentation.

(C) The Commission Chair shall convene the AB within 30 days after an appeal brief has been filed. The AB will hear and act on the appeal within this time frame.

(D) The appellant shall have the right to present a 30-minute oral argument on its brief. The appellant shall also have the right to be represented by counsel during the appeal, but may not call witnesses or introduce new evidence on its own behalf.

(E) If the decision appealed is accreditation for two years with a focus visit, accreditation for two years with a full visit or defer decision the appellant's right to appeal is limited to the submission of written documentation.

(F) In the case of an accreditation decision review, the AB has the right to seek clarification of the accreditation review team report from the state team chair, and clarification of the PAC's deliberations from the chair of the PAC.

(G) In the case of an accreditation decision review, all evidence presented in the appellant's brief and considered by the AB must be confined to conditions existing at the time of the accreditation review team visit as cited in the final report, or in the case of a petition for stipulation removal, to conditions existing at the time the petition for stipulation removal was submitted.

**(12) Cost of review.**

(A) If the appeal leads to an affirmation of the Commission's original decision, the appellant will be liable for the expenses of the AB, the second accreditation review team visit, and all expenses related to the review. All expenses will be reimbursed according to state travel reimbursement guidelines.

(B) If the AB finds in favor of the institution, the Commission will be liable for expenses of the AB and second accreditation review team. All expenses will be reimbursed according to state travel reimbursement guidelines.

(C) Access to Documents. In cases of accreditation decision review, team chairs and the PAC chair serving as witnesses to hearings of the AB will be provided copies of pertinent action letters and reports. Appellant petitions of appeals are provided to all witnesses.

**(13) Continuing accreditation procedures.** Seven-year continuing accreditation shall follow the same basic format as the NCATE Continuing Accreditation procedures. The accreditation review team will review such things as faculty qualifications and loads, financial support of the unit, follow-up procedures, clinical and field experiences, the residency program, faculty development procedures, and annual candidate assessment data.

**(14) Distribution of findings.**

(A) The accreditation review team chair shall assure delivery of the final draft of its report to the Commission office.

(B) The Commission will coordinate with NCATE (for NCATE accredited institutions) for distribution of reports to other team members.

(C) After the institution has received the reports, it has 30 days to submit a rejoinder to the Commission according to procedures outlined in 712:10-5-1(c)(8)(B).

(D) When the entire process has been completed the Commission will distribute the findings to all interested stakeholders, including the State Department of Education and the Regents for Higher Education.

## **712:10-5-2. Structure of Accreditation Committees [REVOKED]**

(a) A Program Accreditation Committee (PAC) of the Oklahoma Commission for Teacher Preparation carries out the responsibilities for overseeing the accreditation or continuing accreditation of institution teacher education programs. Committee members shall be selected by the Oklahoma Commission for Teacher Preparation and approved by Commission membership to serve on such a committee. Except for the Commission Executive Director and program(s)

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subject matter experts, the initial term of membership shall be two years:

(1) Members shall have completed training related to state and NCATE accreditation and any other training deemed appropriate by the Commission;

(2) Membership shall be comprised of:

(A) A minimum of three Commission members who are not members of either an Accreditation Team or the Appeals Board;

(i) The Commission chair shall appoint PAC Chair(s) from the Commission members appointed to the PAC;

(B) Two pre-K-12 classroom teachers;

(C) The PAC chair(s) shall serve on the Commission Administrative Committee;

(D) Two teacher educators whose institutions will not be reviewed during the two-year term of appointment;

(E) One PK-12 public school administrator nominated by the State Superintendent of Public Instruction;

(F) One superintendent from an area vocational school shall be nominated by the State Director of Career and Technology Education;

(G) Two arts and science faculty; one from a four year institution and one from a community college shall be nominated by the Chancellor for Higher Education; and

(H) The Commission Director of Program Accreditation shall serve in an advisory capacity;

(3) A minimum of two PAC members may be reappointed to additional terms to allow for continuity;

(4) Discretion and ethical judgment shall be used in making recommendations;

(5) Meeting dates shall be established in compliance with the following criteria:

(A) The PAC shall schedule a minimum of four meeting dates per academic year

(B) Other meetings shall be held as needed;

(C) Institutions with proposed units and programs for evaluation shall be notified of meeting dates four weeks in advance. Representatives from the institution(s) are encouraged to attend the meetings;

(6) Responsibilities and authority of the PAC shall be:

(A) Recognizing the status of all programs at each institution annually;

(B) Reviewing the Accreditation Team Report, reviewing the NCATE Unit Accreditation Board recommendations and recommending program accreditation status to the Commission;

(C) Following all procedures outlined in 712:10-5-1(c);

(D) Recommending to the Commission changes in administrative rules, regulations, policies and procedures;

(E) Ensuring training for all accreditation review team members and PAC members;

(F) Carrying out a systematic review and development of the standards by which programs are approved;

(G) Monitoring the performance of accreditation review team members; and

(H) Recommending training needs for accreditation review team members, institution faculty members, and PAC members.

(b) The Program Review Advisory Board (PRAB) shall provide consultation related to program reviews. The PRAB shall make final reviews on all program reports and make recommendations on program status for all non-NCATE institutions and for program areas not associated with an NCATE-recognized learned society. Program reviews will take place in conjunction with the college's/university's accreditation cycle, occurring according to the established NCATE/or OCTP timeline as applicable:

(1) Members of the Program Review Advisory Board (PRAB) shall be approved by the Program Accreditation Committee;

(2) The Program Review Advisory Board (PRAB) members shall serve an initial term of two years;

(3) Two or more of the Program Review Advisory Board (PRAB) members may be reappointed to additional terms to allow for continuity;

(4) Members shall have completed training on the program review process;

(5) Discretion and ethical judgment shall be used in making recommendations;

(6) The Program Review Advisory Board (PRAB) shall be comprised of trained reviewers in specific subject areas from the following groups:

(A) Practicing PK-12 classroom teachers

(B) Practicing PK-12 administrators

(C) Higher education faculty members

(c) The Commission Director of Program Accreditation or designee shall chair the Program Review Advisory Board (PRAB) committee.

### 712:10-5-3. Specific State Standards For Program Accreditation [REVOKED]

(a) The following standards apply to both undergraduate and graduate programs. The governance and administration of the total teacher education program standard is based on the premise that there must be a recognizable and functioning governance entity within the institution's administrative structure which has responsibility for designing, approving and continuously evaluating and developing teacher education programs. This governing unit may be a council, committee, department, school, college, or any other recognizable entity, which includes the administration of teacher education as one of its functions:

(1) The governing unit membership and responsibilities include the following:

(A) Membership on the teacher education governing unit shall be defined by written policy to include:

- (i) A majority of the members who have a minimum of three years teaching experience in public schools;
- (ii) A majority of the members in the governance unit who are currently teacher education faculty members;
- (iii) Some faculty members who shall represent the arts and sciences;
- (iv) A designated director of teacher education defined as the institution's official representative for teacher education. The authority and responsibilities of this individual shall be clearly defined in written policies; and
- (v) A clearly defined process whereby faculty members and administrators become members and the terms of office.

(B) The responsibilities of the teacher education governing unit shall be defined by written policy to include:

- (i) Responsibilities of the officers of the unit;
- (ii) Responsibilities of the unit's standing committees; and
- (iii) Responsibilities in the following areas as they are related to teacher education:
  - (I) Admission/retention in teacher education;
  - (II) Field experience and student teaching (admission and placement);
  - (III) Development of courses and program curricula; and program review, evaluation and planning.

(C) Program review, evaluation and revision responsibilities include:

- (i) The governance unit shall conduct at least one systematic review, evaluation, and when appropriate, revision of all teacher education programs within each accreditation period;
- (ii) Periodic program reviews and revisions shall be based on, but not limited to, stated goals and objectives; and
- (iii) The process for conducting program review, evaluation, and revision shall include, but not be limited to, participation by the following:
  - (I) Teacher education faculty and arts and science faculty;
  - (II) Graduates of the programs;
  - (III) Students currently in the program;
  - (IV) Teachers and administrators from the public schools;
  - (V) Parents of PK-12 students and business and community leaders who are actively involved in assisting PK-12 schools.

(D) Documentation related to the budget-making process and level of financial support shall include the following:

- (i) A clearly defined budget-making process for all teacher education programs; and
- (ii) An analysis showing that the institution's financial support for programs in teacher education are maintained at a level appropriate for a professional preparation program.

(b) Teacher education faculty standards are to be consistent with accreditation standards.

(c) Candidate-related standards are to be consistent with accreditation standards.

(d) Program decisions of the professional education unit are to be guided by a conceptual framework, which establishes the shared vision for the preparation of teacher candidates:

(1) The conceptual framework must include the following structural elements: The mission of the institution and the teacher preparation program;

(A) The program's philosophy, purposes, professional commitments and dispositions;

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- (B) A knowledge base that provides the foundation for the framework;
  - (C) Performance expectations for candidates that align with professional, state and institutional standards; and
  - (D) A system by which candidate performance is regularly assessed.
- (2) A description of the conceptual framework shall be submitted along with the institution's preconditions report by any institution seeking first accreditation.
- (3) A description of the conceptual framework shall be included in all institutional reports submitted prior to first and continuing accreditation visits.
- (e) The following guidelines are to be used to collect and maintain data on each institution's teacher preparation program:
- (1) The institution shall establish a process which seeks information and program input from teacher preparation faculty; faculty from arts and sciences and other programs and disciplines which are appropriate; candidates within the teacher education program; teachers, administrators, parents, guardians or custodians of students; and business and community leaders.
  - (2) The institution shall establish procedures to inform the public regarding the teacher education program and to solicit and receive public input.
  - (3) The institutional plan shall be accessible to any interested party under the Oklahoma Open Records Act.
  - (4) The submitted institutional plan must be approved by the institution's governing board.
  - (5) Annual reviews and reports indicating program changes.
- (f) The following policies, procedures and guidelines are used to direct the content and candidates' experiences of each institution's teacher preparation program:
- (1) Programs require teacher candidates to have speaking and listening skills at a novice high level in a language other than English.
  - (2) General studies requirements for candidates include the arts, communication, history, literature, mathematics, philosophy, sciences, English, government, and the social sciences.
  - (3) Programs establish cohort or colleague groups within the institution to assist teacher candidates in achieving competencies, better adapting to the school environment and furthering professional growth.
  - (4) Candidates complete a well-planned sequence of courses and/or experiences in pedagogical studies that ensures student competency in the Oklahoma State Department of Education Full Subject Matter Competencies for Teacher Licensure and Certification.
  - (5) The guidelines and standards for program reviews representing specialty organizations and national learned society standards are used in developing programs in each content area.
  - (6) Secondary and elementary/secondary teacher candidates have undergraduate majors or their equivalents, in a subject area.
  - (7) Teacher candidates in early childhood, elementary, and special education have subject area concentrations, which allow qualification as a generalist. To qualify as a generalist, candidates must document competency in mathematics, science, language arts, and social studies as identified in the NCATE professional learned societies' standards and State Department of Education Full Subject Matter Competencies for early childhood, elementary and special education.
  - (8) Teacher candidate coursework includes the study of substance abuse symptoms identification and prevention; mental illness symptoms identification and mental health issues; classroom management skills; and classroom safety and discipline issues.
  - (9) Effective September 1, 2015 Teacher candidates must have a minimum of 60 hours of diverse field experiences prior to their student teaching experience.
  - (10) Teacher candidates are provided with advisement services to assist them in taking course work designed to maximize their opportunities for certification and employment. At a minimum, teacher candidates are provided information on the latest supply and demand information concerning teacher employment, state salary structure, and teaching shortage areas.
  - (11) Substantive collaboration and classroom interaction with students accompanies theoretical curriculum, thus allowing teacher candidates the opportunity to apply theory to actual classroom situations.
  - (12) Instruction integrates pedagogical competencies or skills with experiences in the school setting.
  - (13) Teacher candidates are provided with opportunities to have parental, family and community involvement within their pre-service programs.
  - (14) The unit establishes and publishes a set of criteria/competencies for exit from each professional education program. These criteria/competencies reflect the Oklahoma Department of Education General Teacher Competencies and/or subject matter competencies outlined in the NCATE national (professional) learned societies' standards.



(15) The unit establishes and publishes the criteria/competencies for exit and satisfactory completion of the residency program adhering to all rules and regulations established by the Oklahoma State Department of Education.

(16) A candidate's mastery of a program's stated exit criteria or competencies is assessed through the use of multiple sources of data such as culminating experience, portfolios, interviews, videotaped and observed performance in schools, standardized tests and course grades.

(17) Effective September 1, 2015 mentor teachers are required to have minimum of three years of teaching experience in the area in which they are certified.

(g) The following guidelines are to be used to facilitate the professional development of faculty:

(1) Teacher education faculty continue their professional development during their tenure at an institution of higher education to ensure that the future teachers of Oklahoma are taught by professional educators fully trained in their areas of expertise. Professional development for teacher educators and arts and sciences faculty should be focused on the faculty members' ability to model such effective teaching strategies as inquiry, group discussions and collaborative learning.

(h) The following policies are to be used to evaluate individual program areas at each institution:

(1) The institution shall submit program reviews for each required program area based upon the guidelines and accreditation schedule of the Commission:

(2) Following the completion of each program evaluation, the institution will receive written notification of each program's status. Recognition decisions will include the following categories: recognized, recognized with conditions, recognized with probation, further development required, and not recognized:

(3) If the program is recognized, it will retain its status through the semester and year of the institution's next accreditation visit. To retain recognition, another program report must be submitted before that review:

(4) If the program is recognized with conditions, a report addressing the conditions to recognition must be submitted within 18 months of the date of the status report. The report must address the conditions specified by the reviewers. Once acceptable data has been submitted, the condition(s) will be removed. If the program does not submit acceptable information within the designated timeframe, the decision reverts to "not recognized."

(5) If the program decision is recognized with probation or further development required, a revised report addressing the issues identified by the reviewers must be submitted within 12 months, or the unit may submit a new program report for recognition within 12 months. If the revised report adequately addresses the concerns cited by reviewers, the program decision will be changed to "recognized" or "recognized with conditions." If the program is unsuccessful after two attempts, the program status will be changed to "not recognized."

(6) A program can receive a decision of "not recognized" only after two submissions are unsuccessful in reaching either "recognized" or "recognized with conditions." If the program is not recognized, a revised report addressing unmet standards may be submitted within 12 months of the date of the recognition report. [This report will be sent to the original team if possible.] If the program does not receive a recognized decision within 12 months, admission of new candidates will not be allowed. The unit may elect to submit a new program report for recognition within 12 months. [This report will be sent to a new team of reviewers].

(7) Programs which are required to submit through NCATE and receive an initial decision of "recognized with probation" or "further development required" may apply to OCTP for state recognition and thus recommend teacher candidates for certification under the following conditions:

(A) The program must have an aggregated pass rate of all candidates on the Oklahoma Subject Area Test (OSAT) of 80% or more over a three-year period. An application for program recognition must be submitted to OCTP containing basic program information as well as current recognition status and future submission deadlines; however an additional review will not be required:

(B) Institutions must submit a revised program report according to applicable NCATE/SPA or OCTP guidelines as appropriate addressing concerns cited in the review. If the revised report is not recognized, the unit must submit additional revised reports according to guidelines. The unit must exhaust all available NCATE options for revision:

(C) Programs which do not meet the required 80% pass rate on the OSAT may apply to OCTP for state recognition only after the unit has exhausted all available NCATE options for revision. The application for state recognition must address concerns cited by reviewers in the final report.

(D) Programs receiving state recognition under these conditions will maintain recognition until the submission period prior to the unit's next scheduled accreditation visit, at which time the unit will be expected to submit a program review to NCATE or OCTP, as appropriate:

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- (8) Units may receive conditional approval for new programs. These programs must undergo reviews as outlined in the New Certification Program Procedures for Established Units guidelines before receiving full recognition. Recognition will be retained through the semester and year of the unit's next accreditation visit.
- (9) Programs that do not comply with the procedures detailed in items (h)3-7 will no longer be eligible to recommend candidates for licensure and certification.
- (10) An institution with a non-compliant program may apply to the PAC for a waiver if there is evidence that the non-compliant status of a program is due to transitioning national standards.

## 712:10-5-4. Standards for Oklahoma Teacher Education Programs [REVOKED]

(a) The following standards as defined by the National Council for Accreditation of Teacher Education shall apply to undergraduate and graduate programs:

- (1) Standard One: Candidate Knowledge, Skills and Dispositions:
  - (A) Candidates preparing to work in schools as teachers or other professional school personnel know and demonstrate the content, pedagogical, and professional knowledge, skills, and dispositions necessary to help all students learn. Assessments indicate that candidates meet professional, state, and institutional standards.
  - (B) Elements for Standard One include content, pedagogical and professional knowledge; dispositions for all candidates; and student learning for all candidates.
- (2) Standard Two: Assessment System and Unit Evaluation:
  - (A) The unit has an assessment system that collects and analyzes data on the qualifications of applicants, the performance of candidates and graduates, and unit operations to evaluate and improve the unit and its programs.
  - (B) Elements of Standard Two include data collection, analysis, and evaluation; and use of data for program improvement.
- (3) Standard Three: Field Experiences and Clinical Practice:
  - (A) The unit and its school partners design, implement, and evaluate field experiences and clinical practice so that teacher candidates and other school personnel develop and demonstrate the knowledge, skills, and dispositions necessary to help all students learn.
  - (B) Elements of Standard Three include collaboration between the unit and school partner; design, implementation, and evaluation of field experiences and clinical practice; and candidates' demonstrations of the knowledge, skills and dispositions necessary for student learning.
- (4) Standard Four: Diversity:
  - (A) The unit designs, implements, and evaluates curriculum and experiences for candidates to acquire and apply the knowledge, skills and dispositions necessary to help all students learn. These experiences include working with diverse higher education and school faculty, diverse candidates, and diverse students in P-12 schools.
  - (B) Elements of Standard Four include design, implementation, and evaluation of candidate experiences relevant to diversity.
- (5) Standard Five: Faculty Qualifications, Performance, and Development:
  - (A) Faculty are qualified and model best professional practices in scholarship, service and teaching, including the assessment of their own effectiveness as related to candidate performance; they also collaborate with colleagues in the disciplines and schools. The unit systematically evaluates faculty performance and facilitates professional development.
  - (B) Elements of Standard Five include hiring of qualified faculty, modeling of best professional practices, ongoing evaluation and professional development and collaboration.
- (6) Standard Six: Unit Governance and Resources:
  - (A) The unit has the leadership, authority, budget, personnel, facilities, and resources, including information technology resources, for the preparation of candidates to meet professional, state and institutional standards.
  - (B) Elements of Standard Six include evidence of leadership within the unit and across the institution; the unit budget, personnel and other resources.

### (b) Teacher candidate portfolios:

- (1) Institutions shall require all initial and advanced certification program(s) students to develop a portfolio following the guidelines outlined in this section.

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(2) A portfolio is a documented profile of an individual's accomplishments, learning, and strengths related to the competencies, state and national standards, and outcomes established by the Commission, State Regents, SDE and institution:

(3) The portfolio, for purposes related to institutional accreditation is a unit of measure which presents evidence that the institution is providing initial, on-going, and focused opportunities and avenues which lead to student achievement of competencies, state and national standards and outcomes determined by the Commission, Regents, SDE and institution:

(4) Institutions will provide for review during each regularly scheduled accreditation visit:

(A) The unit's portfolio handbook containing a written philosophy related to portfolio development and assessment which is consistent with the institution's and unit's mission and conceptual framework, as well as written policies, criteria, and institutional rubric(s) related to the assessment of the portfolio as a whole or individual artifacts contained in the portfolios for all individuals enrolled in initial and advanced programs:

(B) Two representative candidate portfolios for each program offered. OCTP will randomly select one candidate portfolio in each program area and the second will be selected by the unit. Portfolios should represent candidates at the final transition point:

(C) In addition, annual reports must include any revision in the institution's portfolio process:

(5) Institution's pre-service and/or advanced portfolio process:

(A) The teacher education unit and programs shall:

(i) Require the portfolio development process to begin with enrollment into the professional education course work;

(ii) Have a written portfolio handbook(s) containing a written philosophy related to portfolio development and assessment which is consistent with the institutions and unit's mission and conceptual framework(s);

(iii) Have written policies, criteria, and institutional rubrics related to the portfolio assessment(s) of individual(s) enrolled in initial and advanced certification programs:

(c) **Annual report.** Each Oklahoma teacher preparation unit shall submit an annual report to the Oklahoma Commission for Teacher Preparation. This report will satisfy the requirements for the Commission for Teacher Preparation, State Regents for Higher Education, State Department of Education, and NCATE/AACTE. The following information will be included in the report:

(1) Changes that occurred in implementation of the standards outlined in the Institution Plan as a result of local and statewide evaluations/assessments, public hearings or other reasons;

(2) Progress made in addressing the areas for improvement, if any, identified by the most recent on-site visit by the on-site accreditation review team;

(3) Quantitative data related to the unit's programs as required in the AACTE/NCATE Annual Report. These data shall reflect information pertaining to supply and demand for teacher candidates;

(4) Program changes being implemented for OCTP and NCATE continued accreditation;

(5) Report on resources devoted to technology;

(6) Report on professional development activities of faculty;

(7) Report on the number of hours each faculty member taught or were in direct contact with students in public schools;

(8) Report on the number of graduate students admitted conditionally and the success rates;

(9) Report on the results of the assessment of teaching skills in the area of reading instruction as administered to candidates in elementary, early childhood education, and special education:

(10) Report on the participation in the alternative placement programs offered by the institution:

(11) Report on the procedures used to inform the public regarding the institution's teacher education program and the manner through which public input is solicited and received:

(12) Annually, the OCTP shall provide feedback to any institution if their annual report indicates that progress is not being made in addressing areas for improvement:

(13) Complete copies of the annual reports for public institutions will be distributed to OSRHE and summary data for all institutions will be distributed to constituents based on reporting requirements outlined in 70 O.S., Section 6-186:

(14) OCTP will produce a report describing the accreditation status of each institution. This report will devote a section to each institution separately and include a summary of NCATE and OCTP review findings:

### SUBCHAPTER 7. TEACHER PREPARATION TEACHER ASSESSMENT [REVOKED]

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## 712:10-7-1. Teacher assessment regulations [REVOKED]

### (a) **Examinees-initial licensure and certification:**

- (1) Any individual who applies for a teaching license/certification must successfully complete the competency examination as defined by the Oklahoma Commission for Teacher Preparation. (70 O.S. 1998 Supp., 6-182(14). The competency examination is made up of three components: The Oklahoma General Education Test (OGET); the Oklahoma Subject Area Test (OSAT) and the Oklahoma Professional Teaching Exam (OPTE).
- (2) See Appendix A for competency exam requirements by certification area and test codes.

### (b) **Examinees - additional certification:**

- (1) Individuals wishing to add a certification area to an existing teaching credential must successfully complete the Oklahoma Subject Area Test for the field of the desired certification.
- (2) Individuals wishing to add a teaching certification area to an existing license or standard certificate in Speech Language Pathologist, School Nurse, School Psychometrist and/or School Psychologist must successfully complete the Oklahoma Subject Area Test and the Oklahoma Professional Teaching Exam for the field of the desired certification.
- (3) See Appendix A for competency exam requirements by certification area and test codes

### (c) **Examinees - alternative placement program:**

- (1) Individuals seeking a teaching license via the Alternative Placement Program must successfully complete the Oklahoma General Education Test and the Oklahoma Subject Area Test. A licensed teacher via the Alternative Placement Program seeking a standard certificate must successfully complete the Oklahoma Professional Teaching Exam.
- (2) See Appendix A for competency exam requirements by certification area and test codes.

(d) **Examinees-out of state certification.** Individuals seeking an Oklahoma license/certification who are certified educators in another state (s) shall meet the same assessment requirements as all other individuals seeking initial licensure/certification. Individuals having successfully completed comparable examination(s), as determined by OCTP, shall be exempt from the corresponding part(s) of Oklahoma's assessment requirement.

### (e) **Examinees - testing conditions and requirements compliance:**

- (1) If an examinee fails to comply with the conditions and requirements specified or referenced in the Certification Examinations for Oklahoma Educators Test Registration Bulletin, including the *Conditions of Test Participation*, or take any prohibited actions, the test results may be voided, no refund will be issued, no portion of the testing fee can be applied toward the cost of any future test administrations and/or the examinee's registration may be cancelled.
- (2) If an examinee's test score is found to be unverifiable by either the testing company or the Oklahoma Commission for Teacher Preparation (OCTP), the examinee will be allowed one (1) retake under controlled conditions at no cost to the examinee.

## 712:10-7-3. Alternative testing arrangements [REVOKED]

### (a) **Alternative testing arrangements - religious practices:**

- (1) Alternative test dates may be arranged for individuals whose religious practices do not allow them to take tests on Saturday.
- (2) Alternative test dates will be available at a minimum of two test sites per test administration.
- (3) Individuals wishing to request an alternative test date due to religious convictions must submit the following to National Evaluation Systems no later than the regular registration deadline for the test administration desired:
  - (A) A completed registration form with proper payment
  - (B) A completed form requesting an alternative test date
  - (C) A letter from a member of the clergy, on that individual's professional letterhead, attesting to the religious convictions of the examinee requesting accommodation.

### (b) **Alternative testing arrangements - accommodation of the basis of disability:**

- (1) Alternative testing arrangements may be made for individuals with either temporary or permanent physical disability, illness, or injury.
- (2) Standard accommodations may be requested by individuals with a disability and can be accommodated at all test sites. Standard accommodations include the following:
  - (A) Special seating
  - (B) Wheelchair access
  - (C) Frequent breaks
  - (D) Use of a magnifying glass, colored overlays, or a ruler

- (E) Use of a pen for written assignment
- (3) Standard accommodations may be requested by submitting the following to National Evaluation Systems no later than the regular registration deadline for the test administration desired:
  - (A) A completed registration form with proper payment.
  - (B) A completed form requesting alternative testing arrangements indicating the nature of the request.
- (c) **Alternative testing arrangements – non-standard accommodation on the basis of a physical disability.**
  - (1) Non-standard alternative testing arrangements may be made for individuals with a temporary or permanent disability, illness, or injury.
  - (2) Individuals requesting alternative testing arrangements on the basis of a physical disability must submit the following to National Evaluation Systems no later than the regular registration deadline for the test administration desired:
    - (A) A completed registration form with proper payment
    - (B) A completed form requesting alternative testing arrangements identifying the disability and the specific arrangements requested.
    - (C) A statement by a licensed professional, on that person's professional letterhead, whose credentials are appropriate to diagnose the disability. Statements must include the disability for which accommodation is being sought as well as recommended administration modifications.
- (d) **Alternative testing arrangements – non-standard accommodation on the basis of cognitive or emotional disability.**
  - (1) Non-standard alternative testing arrangements may be made for individuals with temporary or permanent cognitive or emotional disability, illness, or injury.
  - (2) Individuals requesting non-standard alternative testing arrangements on the basis of cognitive or emotional disability must submit the following to National Evaluation Systems no later than the regular registration deadline for the test administration desired:
    - (A) A completed registration form with proper payment
    - (B) A completed form requesting alternative testing arrangements identifying the disability and the alternative arrangements requested.
    - (C) A statement by a licensed professional, on that person's professional letterhead, whose license or credentials are appropriate to diagnose the disability. The statement must include the disability for which accommodations are being requested, along with supporting documentation, and recommended test administration modifications.

## SUBCHAPTER 9. PROFESSIONAL DEVELOPMENT INSTITUTES [REVOKED]

### 712:10-9-1. Professional Development [REVOKED]

- (a) **Professional Development.** Professional Development programs should focus on instructional improvement and learning consistent with local control and state goals. It should include, but not be limited to, coaching, mentoring, collaborative work with peers, grade level teams and departmental work, subject area discussions, development of assessments, effective integration of instructional technology into the curriculum and analysis of student learning.
- (b) **Professional Development Institute.** Professional Development Institutes (PDIs) are continuing education experiences that are a minimum of thirty (30) clock hours. The institutes shall be competency-based, emphasize effective learning practices, require collaboration among participants, and require each participant to prepare a work product which can be utilized in the classroom by the participant.
  - (1) The Professional Development Institute should:
    - (A) Improve instructional effectiveness of teachers and administrators;
    - (B) Positively impact student learning;
    - (C) Improve the school/work environment by encouraging mentoring, collaboration, and teacher involvement in significant decision-making;
    - (D) Provide an effective professional development that will enhance subject matter knowledge and pedagogical skill of all teachers and administrators;
    - (E) Include an assessment component that assures maximum accountability for the PDI contractors;
    - (F) Support an environment which allows greater interaction and collaboration among teachers, administrators, and the community-at-large; and
    - (G) Be scientifically research-based;
  - (2) Professional development institutes administered by the Commission shall:

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- (A) Be chosen through a competitive bid process in accordance with the procedures established by the Oklahoma Division of Central Services;
- (B) Be reviewed by the Commission Professional Development Committee;
- (C) Be reviewed by other constituencies as determined by the Commission Professional Development Committee;
- (D) Be subject to peer review.

(3) Invitations to Bid related to specific PDIs are open to any public or private entity for funding consideration and will be subject to peer review as determined by the Commission.

(c) Inner City Schools Rescue Program. The purpose of this program is to recruit and train licensed or certified teachers to work in inner city schools that are on the school improvement list or where 95 percent of the students are eligible for free and reduced lunch:

- (1) The Oklahoma Commission for Teacher Preparation will:
  - (A) Identify schools that meet the criteria;
  - (B) Provide professional development and support for teachers for the purpose of recruiting and retention in inner city schools;
  - (C) Inform teachers and administrators across the state of professional development opportunities, grants, and potential partnerships;
  - (D) Determine a selection criteria and process for participants;
  - (E) Oversee the applicant review committee.

## SUBCHAPTER 11. EDUCATION LEADERSHIP OKLAHOMA [REVOKED]

### 712:10-11-1. Education Leadership Oklahoma regulations [REVOKED]

#### (a) Selection of scholarship recipients:

- (1) Applicant can be funded for only one Education Leadership Oklahoma (ELO) scholarship to attain National Board Certification:
- (2) Applicant must currently be a, full-time, Oklahoma public school classroom teacher with special consideration given to teachers who work in inner city schools as defined by law.
- (3) OCTP shall develop the ELO application and any associated deadlines. The application will seek information in the form of short answer questions and essay.
- (4) OCTP shall designate the place and time for ELO applications to be read and scored by the Application Review Committee..
- (5) The Application Review Committee shall review and score applications to award scholarships
  - (A) The Application Review Committee will consist of thirteen National Board Certified Teachers.
  - (B) Each Application Review Committee member may choose National Board Certified Teachers, as needed, to assist in reading and scoring ELO applications.
  - (C) Each Application Review Committee member including National Board Certified Teachers will be trained to read and score applications.
  - (D) The Application Review Committee members shall serve a term of no more than five years.
  - (E) If an Application Review Committee member resigns before the end of his/her term, the agency responsible for that nomination will submit a nomination of a person to replace that member.
  - (F) The Application Review Committee may consider one or more of the following:
    - (i) Knowledge of NBPTS process
    - (ii) Inclusion of the five core propositions within the essay question
    - (iii) Degree to which the applicant's essay conveys his/her application of the five core propositions
    - (iv) Demonstration of community involvement
    - (v) Demonstration of parental involvement
    - (vi) Demonstration of educational achievement
    - (vii) Conveyance of commitment to rigorous process
    - (viii) Provision of quality writing which is clear and sufficiently elaborated
    - (ix) Demonstration of knowledge, ability, and leadership
    - (x) Confirmation of completing the Take One process
    - (xi) Verification of percentage of free/reduced lunch
  - (G) ELO candidates shall be selected based on scores determined within the application process:
    - (i) Applicants will be ranked from highest to lowest based on the application scores.

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- (ii) Special consideration will be given to teachers who work in inner-city schools (as defined by law);
- (iii) In case of a tie score, the locale (under-represented areas of the state) may be considered for candidate selection;
- (iv) Candidates must attend required Summer Professional Development Institute

**(b) Selection and Utilization of Alternates:**

- (1) Alternate must currently be a full-time, Oklahoma Public School classroom teacher.
- (2) Alternates shall be ranked from highest to lowest based on the application scores.
- (3) Alternates not selected during the year may reapply for candidacy the following year.

**(c) Payment and reimbursement of assessment fees:**

- (1) OCTP shall make assessment fee payments in full NBPTS for each scholarship candidate, upon signing a contract.
- (2) Should a candidate be unable to complete the process by the National Board deadline, the following shall apply:
  - (A) If the candidate withdraws by the National Board deadline and OCTP can recover partial amount of the application fee, the candidate may pay the amount not recovered and will then be considered in the next applicant pool;
  - (B) If the candidate does not withdraw or submit a portfolio by the National Board deadlines, he/she will be responsible to OCTP for the reimbursement of the assessment fee
- (3) OCTP shall reimburse candidates who pay the National Board assessment fee if they are a full-time public school classroom teacher in the year they certify.
- (4) OCTP will fund a maximum of two retakes to candidates that bank scores with the NBPTS provided funding is available.

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## APPENDIX A. COMPETENCY EXAM REQUIREMENTS BY CERTIFICATION AREAS [REVOKED]

Figure 1

Subject Area and Grade Level	Test Codes		
	OGET	OSAT	OPTE
<b>Advanced Mathematics</b>			
6-12	74	11	72 or 76
<b>Agricultural Education</b>			
6-12	74	42	72 or 76
<b>Art</b>			
PK-3	74	2	70
1-8	74	2	71
6-12	74	2	72
PK-12	74	2	73 or 75 or 76
<b>Biological Sciences</b>			
6-12	74	10	72 or 76
<b>Blind/Visual Impairment</b>			
PK-3	74	28	70
1-8	74	28	71
6-12	74	28	72
PK-12	74	28	73 or 75 or 76
<b>Business Education</b>			
6-12	74	40	72 or 76
<b>Chemistry</b>			
6-12	74	4	72 or 76
<b>Cherokee</b>			
PK-12	74	79	73 or 75 or 76
<b>Chinese</b>			
PK-12	74	80	73 or 75 or 76
<b>Computer Science</b>			
PK-12	74	81	73 or 75 or 76
<b>Dance</b>			
PK-12	74	78	73 or 75 or 76
<b>Deaf/Hard of Hearing</b>			
PK-3	74	28	70
1-8	74	28	71
6-12	74	28	72
PK-12	74	28	73 or 75 or 76
<b>Driver/Safety Education</b>			
6-12	74	36	72 or 76
<b>Early Childhood Education</b>			
PK-3	74	05	70 or 75
<b>Earth Science</b>			
6-12	74	08	72 or 76

Figure 2



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<b>Elementary Education</b>			
1-8	74	06 or 50 & 51	71 or 75
<b>English</b>			
6-12	74	07	72 or 76
<b>English as a Second Language</b>			
PK-12	74	77	73 or 75 or 76
<b>Family/Consumer Science</b>			
6-12	74	09	72 or 76
<b>French</b>			
PK-3	74	20	70
1-8	74	20	71
6-12	74	20	72
PK-12	74	20	73 or 75 or 76
<b>German</b>			
PK-3	74	21	70
1-8	74	21	71
6-12	74	21	72
PK-12	74	21	73 or 75 or 76
<b>Instrumental Music</b>			
PK-3	74	01	70
1-8	74	01	71
6-12	74	01	72
PK-12	74	01	73 or 75 or 76
<b>Intermediate Mathematics</b>			
6-12	74	25	72 or 76
<b>Journalism</b>			
6-12	74	37	72 or 76
<b>Latin</b>			
PK-3	74	23	70
1-8	74	23	71
6-12	74	23	72
PK-12	74	23	73 or 75 or 76
<b>Marketing Education</b>			
6-12	74	41	72 or 76
<b>Middle Level English</b>			
5-8	74	24	71 or 72 or 75 or 76
<b>Middle Level Math</b>			
5-8	74	25	71 or 72 or 75 or 76
<b>Middle Level Science</b>			
5-8	74	26	71 or 72 or

Figure 3

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			75 or 76
<b>Middle Level Social Studies</b>			
5-8	74	27	71 or 72 or 75 or 76
<b>Mild-Moderate Disabilities</b>			
PK-3	74	29	70
1-8	74	29	71
6-12	74	29	72
PK-12	74	29	73 or 75 or 76
<b>Physical Education/Health/Safety</b>			
PK-3	74	12	70
1-8	74	12	71
6-12	74	12	72
PK-12	74	12	73 or 75 or 76
<b>Physical Science</b>			
6-12	74	13	72 or 76
<b>Physics</b>			
6-12	74	14	72 or 76
<b>Psychology/Sociology</b>			
6-12	74	32	72 or 76
<b>Russian</b>			
PK-3	74	22	70
1-8	74	22	71
6-12	74	22	72
PK-12	74	22	73 or 75 or 76
<b>Severe-Profound/Multiple Disabilities</b>			
PK-3	74	31	70
1-8	74	31	71
6-12	74	31	72
PK-12	74	31	73 or 75 or 76
<b>Spanish</b>			
PK-3	74	19	70
1-8	74	19	71
6-12	74	19	72
PK-12	74	19	73 or 75 or 76
<b>Speech/Drama/Debate</b>			
6-12	74	16	72 or 76
<b>Technology Education</b>			
6-12	74	43	72 or 76
<b>US History/US Govt/OK Hist/Econ</b>			
6-12	74	17	72 or 76
<b>Vocal Music</b>			
PK-3	74	03	70
1-8	74	03	71

Figure 4

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6-12	74	03	72
PK-12	74	03	73 or 75 or 76
Vocational Business Education			
6-12	74	40	72 or 76
Vocational Family and Consumer Sciences			
6-12	74	09	72 or 76
World History/Geography			
6-12	74	17	72 or 76
<b>Advanced Certification Areas (without a current teacher certificate)</b>	<b>OGET</b>	<b>OSAT</b>	<b>OPTE</b>
Library-Media Specialist	74	38	73 or 75 or 76
Psychometrist	74	34	73 or 75 or 76
Reading Specialist	74	15	73 or 75 or 76
School Counselor***	74	39	73 or 75 or 76
School Psychologist**	74	33	73 or 75 or 76
Speech-Language Pathologist*		35	
<b>Advanced Certification Areas (with a current teacher certificate)</b>			
Library-Media Specialist		38	
Psychometrist		34	
Reading Specialist		15	
School Counselor***		39	
School Psychologist**		33	
Speech-Language Pathologist*		35	
<b>Administrator Certification Areas</b>			
Elementary Principal		44 and 45	
Middle Level Principal		44 and 46	
Secondary Principal		44 and 47	
Superintendent		48	

\*Candidates seeking a Certificate of Clinical Competence (CCC) who have successfully completed the Praxis exam for Speech Pathology are exempt from Oklahoma assessment requirements.

\*\*Candidates seeking National School Psychologists Certification (NSPC) who have successfully completed the Praxis exam for School Psychologist are exempt from Oklahoma assessment requirements.

\*\*\*Candidates with the Nationally Certified School Counselor (NCSC) credential are exempt from Oklahoma assessment requirements.

Figure 5

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## TEST CODES

Test (OSAT)	Test Code
Advanced Mathematics	11
Agricultural Education	42
Art	02
Biological Sciences	10
Blind/Visual Impairment	28
Business Education	40
Chemistry	04
Cherokee	79
Chinese	80
Computer Science	81
Dance	78
Deaf/Hard of Hearing	30
Driver/Safety Education	36
Early Childhood Education	05
Earth Science	08
Elementary Education	06 or
Subtest – Red/Lang Arts/Soc Studies (50)	50 & 51
Subtest – Math/Science/Health/Fine Arts (51)	
English	07
English as a Second Language	77
Family and Consumer Sciences	09
French	20
German	21
Instrumental/General Music	01
Journalism	37
Latin	23
Marketing Education	41
Middle Level English	24
Middle Level/Intermediate Mathematics	25
Middle Level Science	26
Middle Level Social Studies	27
Mild-Moderate Disabilities	29
Physical Education/Health/Safety	12
Physical Science	13
Physics	14
Psychology/Sociology	32
Russian	22

Figure 6

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Severe-Profound/Multiple Disabilities	31
Spanish	19
Speech/Drama/Debate	16
Superintendent	48
Technology Education	43
US History/OK History/Government/Economics	17
Vocal/General Music	03
Vocational Business Education	40
Vocational Family and Consumer Sciences	09
World History/Geography	18
<b><i>Test (OSAT – Advanced Programs)</i></b>	<b><i>Test Code</i></b>
Library-Media Specialist	38
Psychometrist	34
Reading Specialist	15
School Counselor	39
School Psychologist	33
Speech-Language Pathologist	35
<b><i>Test (OSAT-Administrator)</i></b>	<b><i>Test Code</i></b>
Principal Common Core	44
Elementary Principal Specialty Test	45
Middle Level Principal Specialty Test	46
Secondary Principal Specialty Test	47
Superintendent	48
<b><i>Test (OGET)</i></b>	<b><i>Test Code</i></b>
Oklahoma General Education Test	74
<b><i>Test (OPTE)</i></b>	<b><i>Test Code</i></b>
OPTE: Early Childhood (PK-3)	70
OPTE: Elementary/Middle Level (1-8 or 5-8)	71
OPTE: Middle Level/Secondary (6-12 or 5-8)	72
OPTE: PK-12	73
OPTE: PK-8	75
OPTE: 6-12	76

[OAR Docket #25-434; filed 5-30-25]

### TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 30. DIVISION OF STATE PARKS

# Permanent Final Adoptions

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*[OAR Docket #25-378]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 4. Public Use and Recreation

725:30-4-23. Public assemblies, meetings and distribution of printed material [AMENDED]

Subchapter 16. Permits

725:30-16-3. Types of Permits [AMENDED]

Appendix B. Fees for State Park Permits [NEW]

**AUTHORITY:**

Oklahoma Tourism and Recreation Department; 74 O.S. §§ 2204 and 2220.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 22, 2024

**COMMENT PERIOD:**

December 16, 2024 through January 16, 2025

**PUBLIC HEARING:**

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January 31, 2025

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**REGISTER PUBLICATION:**

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The rules change the approving authority/personnel of assemblies, meetings, gatherings, and distribution of materials in park areas from the park manager to the Director of State Parks. The rules update the types of activities and events that fall within pre-established permit types issued by the Division of State Parks and create a new permit fee schedule for permits issued by the Department.

**CONTACT PERSON:**

Matt Stewart (918) 344-7380

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# Permanent Final Adoptions

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 JULY 11, 2025:

## SUBCHAPTER 4. PUBLIC USE AND RECREATION

### 725:30-4-23. Public assemblies, meetings and distribution of printed material [AMENDED]

Public assemblies, meetings, gatherings, rallies, demonstrations, the distribution of printed materials and other expressions of views are allowed within park areas, provided a Permit therefore has been issued by the ~~Manager~~ Director.

## SUBCHAPTER 16. PERMITS

### 725:30-16-3. Types of Permits [AMENDED]

(a) The Department may grant and impose charges for any and all Permits. Charges for Permits shall be in accordance with ~~the charges schedule approved by the Executive Director~~ Appendix B of this Chapter. There are three types of Permits which may be issued by the Department:

(1) Use Permits. Use Permits may be issued by the Manager for specific short-term activities ~~for that are private and closed to the public including, but not limited to,~~ the following:

- (A) ~~Primitive Camping~~ Scientific Research and / or collection of Specimens
- (B) Hunting, when such hunts have been approved in accordance with OAC 725:30-4-2
- (C) Activities requiring a permit on the National Scenic Recreation Area
- (D) ~~Renting or staying in campsite or RV site for more than fourteen (14) days on state owned property~~ Drone usage (private)
- (E) Private event at a non-rentable structure or location
- (F) Private fishing group
- (G) Recreational use of privately owned golf cart

(2) Event Permit. Event Permits may be issued by the Director for specific short-term events or activities that are either private events or public events that are free for the public to attend including, but not limited to, the following:

- (A) ~~Scientific Research and/or collection of Specimens~~ Vendors attending events open to the public hosted by the Department
- (B) Events open to the public such as concerts, workshops, and the like that are free to the public
- (C) ~~For the use~~ Use of aircraft in areas outside of established airports or private use of helicopters
- (D) All events which involve fireworks
- (E) ~~Metal detecting~~
- (F) ~~Drone usage~~

(3) Commercial Permits. Commercial Permits may ~~require organizers or vendors of organizer to report sales and a percentage of sales for the issuance of Permits~~ be issued by the Director for short-term business operations or events or activities that are open to the public and require a fee to attend including, but not limited to, the following listed below. A commercial permittee shall report all sales of commercial permittee and/or vendors associated with the event and remit a percentage of those sales as set forth in Appendix B. Such terms and conditions shall be communicated to the organizer prior to issuance of a Commercial Permit. Commercial Permits may be issued by the Director for:

- (A) Ticketed events which are open to the general public to purchase
- (B) Events in which the organizer is requesting sites to resell
- (C) Short-term business operations of Concession-like businesses that may not exceed four (4) months in duration
- (D) Commercial filming
- (E) Events in which third-party vendors will sell goods or services to the public
- (F) Tournaments of any kind (races, fishing tournaments, etc.)
- (G) ATV/UTV rallies and gatherings

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(H) Any events which result in overflow parking areas or require or result in parking on the shoulders of roadways within the park or highways. All such events that will allow for parking of vehicles on the shoulders of roadways outside of the park will be contingent upon the organizer receiving proper approvals from the appropriate jurisdictions.



## APPENDIX B. FEES FOR STATE PARK PERMITS [NEW]

Permit Type	Fee
Commercial Permit	10% of gross receipts
Event Permit	\$50
Use Permit	\$25

*[OAR Docket #25-378; filed 5-29-25]*

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**TITLE 730. DEPARTMENT OF TRANSPORTATION**

# Permanent Final Adoptions

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## CHAPTER 10. DEPARTMENT PROGRAMS

*[OAR Docket #25-394]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 25. Oklahoma Port Infrastructure Revolving Fund [NEW]

730:10-25-1. Purpose and Authority [NEW]

730:10-25-2. Financing [NEW]

730:10-25-3. Administration [NEW]

730:10-25-4. Qualified Projects [NEW]

### **AUTHORITY:**

Oklahoma Department of Transportation; 82 O.S. § 1141; 69 O.S. §§ 301,303,304; 75 O.S. §§ 302,309, et seq.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

September 25, 2024

### **COMMENT PERIOD:**

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### **PUBLIC HEARING:**

N/A

### **ADOPTION:**

December 3, 2024

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### **LEGISLATIVE APPROVAL:**

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### **LEGISLATIVE DISAPPROVAL:**

N/A

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### **INCORPORATED STANDARDS:**

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### **INCORPORATING RULES:**

N/A

### **AVAILABILITY:**

N/A

### **GIST/ANALYSIS:**

Pursuant to statute, the Oklahoma Port Infrastructure Revolving Fund (OPIRF) added a Grant, Loan, and Emergency program to be administered by the Oklahoma Department of Transportation (ODOT). The law also mandated that ODOT would promulgate administrative rules to administer the programs.

### **CONTACT PERSON:**

Vicki Weiss (405)521-2630

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# Permanent Final Adoptions

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 JULY 11, 2025:

## SUBCHAPTER 25. OKLAHOMA PORT INFRASTRUCTURE REVOLVING FUND [NEW]

### 730:10-25-1. Purpose and Authority [NEW]

The purpose of the Oklahoma Port Infrastructure Revolving Fund (OPIRF) is an emergency, grant, and loan program to fund qualified projects as provided under 82 O.S. § 1141. A qualified project is one that enhances the safe and efficient operation of the commercial waterway systems of this state; or repairs, improves, or constructs waterway or industrial park infrastructure located at or within waterway ports of this state that are determined to provide a public benefit.

### 730:10-25-2. Financing [NEW]

OPIRF provides three types of funding options: Grant, Loan, or Emergency.

- (1) Grants may be awarded at an amount not to exceed 20% of the funds available in the OPIRF. The OPIRF will Grant no more than 80% of the project costs.
- (2) Loans may be awarded at an amount not to exceed 35% of the funds available in the OPIRF. The OPIRF will finance no more than 80% of the project cost. The interest rate on a secured loan will be equal to the yield on U.S. Treasury securities of comparable maturity on the date of execution of the credit agreement, plus a 1% ODOT administrative fee. Interest begins to accrue on OPIRF proceeds immediately upon disbursement of funds. Failure to make timely payments may result in late fees and/or default of the loan.
- (3) At the start of each calendar year, 10% of the funds available shall be reserved for emergency repairs to ports or waterways infrastructure. Emergency funds shall be released only when authorized by the Transportation Commission.

### 730:10-25-3. Administration [NEW]

The Multi-Modal & Planning (MM&P) Division of the Oklahoma Department of Transportation is responsible for administering the OPIRF. The MM&P Division will review applications received and determine if the project is qualified for the OPIRF. When projects involve work within the MKARNS Ordinary High-Water Mark (OHWM), ODOT will consult with the United States Army Corps of Engineers and all Indian tribes with an ownership interest in the riverbed of the Arkansas River that may be affected, for environmental and permitting requirements. Applications for qualified projects will be reviewed by MM&P Division. Qualified projects will be presented to the Waterways Advisory Board (WAB) to be scored based off criteria recommended by the WAB including but not limited to based on the public benefit, the associated funding commitment from other sources, and the ability for the project to be permitted and constructed within an acceptable time frame. The WAB will then recommend to the MM&P Division which applications be submitted to the Transportation Commission for approval.

### 730:10-25-4. Qualified Projects [NEW]

A project, regardless of which port it affects, must enhance the safe and efficient operation of the waterway system. The intended impact under this statutory qualification should not provide a competitive advantage to an individual port or restrict free and fair competition amongst waterway carriers.

*[OAR Docket #25-394; filed 5-29-25]*

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## TITLE 730. DEPARTMENT OF TRANSPORTATION CHAPTER 25. HIGHWAY CONTRACTORS

*[OAR Docket #25-396]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

# Permanent Final Adoptions

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Subchapter 7. Settlement of Disputes

730:25-7-2. Settlement of disputes arising during performance of construction or maintenance contracts; mediation and binding arbitration [AMENDED]

**AUTHORITY:**

Oklahoma Department of Transportation; 69 O.S. §§ 301, 303, 304; 75 O.S. §§ 302, 309 et seq.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed amendments to this section would allow more levels of involvement in the claims process. More levels of involvement offer more opportunities to settle disputes and minimize the need for arbitration and legal action.

**CONTACT PERSON:**

Vicki Weiss, (405)521-2630

**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 JULY 11, 2025:**

## SUBCHAPTER 7. SETTLEMENT OF DISPUTES

**730:25-7-2. Settlement of disputes arising during performance of construction or maintenance contracts; mediation and binding arbitration [AMENDED]**

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The Department shall develop and implement a binding procedure for the settlement of Contractor claims which may arise in the course of the performance of construction or maintenance contracts.

(1) **Procedure development.** The procedure developed by the Department shall generally provide the following:

(A) The Contractor shall provide a written notice of the claim to the Resident Engineer/~~Division Engineer~~ prior to the beginning of work upon which the claim will be based.

(B) Submission by the Contractor to the Resident Engineer/~~Division Engineer~~ of detailed information concerning the work performed and each element of additional compensation requested.

(C) A time limit, from the receipt of all the Contractor's supporting information, in which the Department shall make a written response to the Contractor's claim.

(D) Appeal by the Contractor from the decision of the Resident Engineer/~~Division Engineer~~ to the Division Engineer. The Division Engineer's decision must be recommended to and approved by the Director of Operations ~~Director or Assistant Director of Operations of the Department.~~

(E) Provisions for the mediation of the Contractor's claim if the Contractor is dissatisfied with the final decision of the Director or Assistant Director of Operations. The mediation shall be performed under the auspices of the American Arbitration Association or other independent dispute resolution organization.

(F) Upon mutual consent of the Department and the contractor and upon order of the District Court in Oklahoma County, disputes arising from construction or maintenance contracts and relating to work performed or conditions under which work was performed under the contract may be referred to binding arbitration which shall be performed under the auspices of the American Arbitration Association or other independent dispute resolution organization.

(2) **Implementation.** The Department will present its proposed procedure for settlement of contractor claims to the Commission for approval. The approved procedure shall thereafter be incorporated in each proposal for construction or maintenance contracts advertised by the Department.

(3) **Procedure review.** The Department shall periodically review the procedure set forth in this section with highway construction industry and propose recommended changes to the Commission to insure the fair and efficient handling of Contractor claims.

*[OAR Docket #25-396; filed 5-29-25]*

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## TITLE 730. DEPARTMENT OF TRANSPORTATION CHAPTER 30. HIGHWAY DESIGN

*[OAR Docket #25-398]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Appendix C. Schedule of Annual License Fees [NEW]

### **AUTHORITY:**

Oklahoma Department of Transportation; 69 O.S. §§ 301, 303, 304; 75 O.S., §§ 302, 309, et seq.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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**INCORPORATING RULES:**

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**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed rule reestablishes the annual licensing fee schedule for bridge license agreements, referenced in chapter 30.

**CONTACT PERSON:**

Vicki Weiss, (405) 521-2630

**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 JULY 11, 2025:**

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## APPENDIX C. SCHEDULE OF ANNUAL LICENSE FEES [NEW]

Utility Line Category	Basis of Fee	Fee*
TV Cable	Per cable, 1" or less diameter	\$200.00
	Per cable, over 1" in diameter	\$300.00
Electric	Per Conduit, Voltage: 0 V through 3,300 V	\$100.00
	Per Conduit, Voltage: Over 3,300V through 13,800V	\$200.00
	Per Conduit, Voltage: Over 13,800V through 33,000V	\$300.00
	Per Conduit, Voltage: Over 33,000V	\$400.00
Petroleum Gas Products	Nominal Pipe Diameter in Inches	\$50.00 x Pipe Diameter (\$100.00 minimum)
Petroleum Fluid Products	Nominal Pipe Diameter in Inches	\$50.00 x Pipe Diameter (\$200.00 minimum)
Water Lines	Nominal Pipe Diameter in Inches	\$50.00 x Pipe Diameter - \$100.00 (\$100.00 minimum)

\*Double Fees (amounts, rates, minimums) for Bridges over 300' in length

[OAR Docket #25-398; filed 5-29-25]

### TITLE 730. DEPARTMENT OF TRANSPORTATION CHAPTER 35. MAINTENANCE AND CONTROL OF STATE HIGHWAY SYSTEM

[OAR Docket #25-403]

#### RULEMAKING ACTION:

PERMANENT final adoption

#### RULES:

Subchapter 1. Maintenance

730:35-1-11. Department maintenance within municipalities [AMENDED]

#### AUTHORITY:

Oklahoma Department of Transportation; 69 O.S. §§ 301, 301, 304; 75 O.S. §§ 302, 309 et seq.

#### SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 25, 2024

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# Permanent Final Adoptions

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**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

In 2023, ODOT amended the language in Title 730 to handle traffic signals and lighting maintenance when necessary. This section modifies language to conform with this change and make it consistent.

**CONTACT PERSON:**

Vicki Weiss, (405)521-2630

**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 JULY 11, 2025:**

## SUBCHAPTER 1. MAINTENANCE

### **730:35-1-11. Department maintenance within municipalities [AMENDED]**

(a) **Discretionary funding.** The Commission shall, except as provided by law, exercise sole discretion in the expenditure of State Transportation funds for work involving Department personnel, equipment or material on roads, streets or other locations in municipalities. Such cases may include but are not strictly limited to the following:

- (1) Maintenance, construction or other improvement of designated portions of the state highway system.
- (2) Right-of-way or other properties owned or under jurisdiction of the Department.
- (3) Maintenance, construction or other improvement of the principal access roads or streets providing connections from the designated state highway system to state institutions, as provided in 730:35-1-6.
- (4) Construction or improvement of industrial access, airport access, lake access, or state park roads, when such facilities are part of an approved industrial access, lake access, or state park road program.

(b) **Routine maintenance.** The following shall govern routine maintenance on the state highway system including frontage roads, local roads, public roads and interchange-collector-distributor roads thereto, within the corporate limits of cities and towns.

- (1) The Department shall maintain, or pay the cost of maintaining, any municipal streets where such streets are a continuation of the State or Federal highway system as follows:

(A) The Department shall maintain the area of the roadway pavement and pavement structure between the gutter lines excluding curbs and sidewalks, and, if no curb exists, only that portion of the roadway pavement and pavement structure between the outer edge of the shoulder lines, excluding any underground utilities and appurtenances. The Department shall not perform maintenance on or pay the



cost of accident or spill clean-up, sweeping, mowing the right-of-way, drainage systems, and facilities including inlets, curbs, sidewalks, and driveways; ~~electronic traffic control devices or highway system lights~~. In areas where cities or towns have annexed additional rural lands into the corporate limits, the Department may choose to continue turf management prior to the development of such lands.

(B) The Department shall maintain or pay for the cost of installation, repair and maintenance of signs and lane markings.

(C) The Department may participate in or pay the cost of lighting and electronic traffic control devices. The maintenance of such equipment shall be the responsibility of the cities and towns, unless otherwise specified by formal written agreement.

(D) The Department may maintain, or participate in the cost of constructing or improving any safety appurtenances.

(E) The cities and towns shall maintain that portion of the rights-of-way beyond the gutter or shoulder lines, including storm sewers and inlets as well as all other underground facilities.

(F) The cities and towns shall maintain any public roads as defined in 730:35-1-2 within their corporate limits.

(2) Maintenance of the designated Interstate Routes which are a part of the National Highway System, urban freeways with fully controlled access, together with all frontage roads, local roads, public roads and interchange-collector-distributor roads thereto, within the limits of the cities and towns which are a part of the state highway system shall be as follows:

(A) The Department shall maintain the highway, interchange ramps, interchange-collector-distributor roads, and that portion of the frontage roads or local roads between the nearest edge of the first crossroad or street and the ramp from the mainline connecting to the frontage road or local road. This maintenance shall include all signs, pavement markings, and other traffic control devices; ~~except for traffic signals and lighting~~.

(B) Cities and towns shall maintain only that area of the right-of-way occupied by a frontage road or local road between the control of access line and the right-of-way line, and that portion of frontage roads or local roads that is not considered a part of an interchange ramp.

(C) The Department shall maintain all interchange and cross-over bridge structures, exclusive of the surface and/or deck as provided in 730:35-1-5.

(D) The cities and towns shall maintain all streets connecting to the highway or Department maintained frontage road, including all signs, pavement markings and traffic control devices along the cross streets, except as noted in 730:35-1-11(b)(2)(A).

(E) Cities and towns shall maintain any Public Roads as defined in 730:35-1-2 within their corporate limits.

**(c) Maintenance agreements.** In all cases, the Department will obtain written maintenance agreements from the governing bodies of such cities and towns. These maintenance agreements shall incorporate the foregoing provisions and such other provisions to which the parties agree delineating maintenance responsibilities. Where written agreements concerning maintenance responsibilities within cities and towns have heretofore been obtained, they are hereby approved if reasonably conforming to the provisions of this section. The provisions of this subchapter are supplemental to such maintenance agreements and shall be used to carry into effect the overall policy of the Commission. Where maintenance agreements cannot be obtained, the provisions of this subchapter and State law shall govern in determining maintenance responsibilities.

(1) The Department will not participate in the improvement or maintenance of campus streets or parking areas at the various state college and university campuses.

(2) Any other uses of funds, personnel or equipment under the jurisdiction of the Commission in municipalities, except in instances of legislative mandate, shall be considered contrary to established policies of the Commission.

(3) The Department shall control, by means of a permit system, driveway entrances and exits on the state highway system, but may delegate this responsibility to a city or town. Before permanent authority is delegated, the city or town involved must enact an ordinance adopting the policy of the Commission on driveway regulations for Oklahoma highways.

(4) The Department shall control, by means of a permit system, the installation of landscaping within the rights-of-way on the state highway system. Modification of right-of-way on controlled access facilities is considered to be a landscape improvement and will be considered for approval in accordance with the Commission policy on fencing for controlled access highways.

# Permanent Final Adoptions

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*[OAR Docket #25-403; filed 5-29-25]*

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## **TITLE 730. DEPARTMENT OF TRANSPORTATION CHAPTER 50. SIZE AND WEIGHT PERMITS**

*[OAR Docket #25-404]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 5. Size and Weight Permit Load

730:50-5-17. Certification of operators of escort vehicles for hire [AMENDED]

### **AUTHORITY:**

Oklahoma Department of Transportation; 69 O.S. §§ 301, 303, 304; 75 O.S. §§ 302, 309, et seq.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

September 25, 2024

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December 12, 2024

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Approved May 28, 2025, by SJR18

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

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May 28, 2025

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### **SUPERSEDED RULES:**

N/A

### **GUBERNATORIAL APPROVAL:**

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### **REGISTER PUBLICATION:**

N/A

### **DOCKET NUMBER:**

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### **INCORPORATED STANDARDS:**

N/A

### **INCORPORATING RULES:**

N/A

### **AVAILABILITY:**

N/A

### **GIST/ANALYSIS:**

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# Permanent Final Adoptions

The University of Oklahoma College of Engineering, Architecture, and Technology (CEAT) is collaborating with the Oklahoma Department of Transportation (ODOT) to incorporate the materials testing and certification, LTAP, TTAP, and the Pilot Escort Certifications of ODOT within the Professional Development of the CEAT. The proposed rules allow for this partnership.

**CONTACT PERSON:**

Vicki Weiss, (405)521-2630

**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 JULY 11, 2025:**

## SUBCHAPTER 5. SIZE AND WEIGHT PERMIT LOAD

### **730:50-5-17. Certification of operators of escort vehicles for hire [AMENDED]**

(a) **Requirements.** Every person who drives an escort vehicle for hire to escort a permitted over-dimensional load or vehicle in this state must be certified by the Department of Transportation. To be certified, the person must meet the following requirements:

- (1) Be at least eighteen (18) years of age.
- (2) Possess a valid driver license from the state or jurisdiction in which the person is a resident.
- (3) Submit an application for certification to the Size and Weight Permit Division of the Department of Transportation on the form provided by the Department of Transportation. The application must contain all required information including a driving record issued within the immediately preceding thirty (30) days.
- (4) Attend a course in escort vehicle certification, as prescribed by the Department of Transportation, and successfully pass the escort vehicle certification examination.

(b) **Course and examination.** The course will be taught by the Oklahoma State University ~~Center for Local Government Technology~~ College of Engineering, Architecture and Technology (CEAT). Courses will be taught at locations throughout the state. Class size shall be determined by ~~the Oklahoma State University Center for Local Government Technology CEAT~~. Locations, times, and enrollment information are available by calling (405) 744-6049, or online at [clgt.okstate.edu](http://clgt.okstate.edu).

(c) **Certification.** The Department of Transportation will grant a certification card to any person who completes an escort vehicle course prescribed by the Department of Transportation, passes the escort vehicle certification examination with a score of seventy-five percent (75%) or higher, and satisfies all other requirements.

- (1) The term of the certification shall be for a maximum period of five (5) years, subject to subsection (d), and shall expire automatically five (5) years after the date of issuance. Upon expiration of the certification, the operator must again comply with the requirements in (a)(1), (a)(2), (a)(3), and (a)(4) of this Section before the Department of Transportation will issue a new certificate.
- (2) Operators must notify the Department of Transportation, Size and Weight Permit Division in writing within thirty (30) days of any change of address or name.

(d) **Denial or withdrawal of certification.** The following circumstances shall result in denial or withdrawal of certification:

- (1) Failure to satisfy the requirements of or failure to give required or correct information on the application for certification as an escort vehicle operator, or the commission of any fraud in making the application.
- (2) Violation of rules established by the certifying state.
- (3) Suspension, revocation, cancellation, or denial of the driver license of the certified operator. The certified operator shall notify the Department of Transportation, Size and Weight Permit Division, within five (5) days of any such suspension, revocation, cancellation, or denial, and shall provide the Division a copy of the Order from the Department of Public Safety documenting the suspension, revocation, cancellation, or denial of the driver license.

(e) **Hearing.** Any party aggrieved by the denial or withdrawal of certification under this Section may request a hearing, in writing, with the Department of Transportation by sending the hearing request to the Office of General Counsel, 200 N.E. 21st, Oklahoma City, OK 73105.

(f) **Certification by other states.** An escort vehicle operator shall possess an Oklahoma certification, unless the escort vehicle operator is a resident of a state other than Oklahoma which has a reciprocal agreement with Oklahoma recognizing escort vehicle operator certifications issued by that state [47 O.S., §14-120.1(E)] and is in possession of a current escort vehicle operator certification issued by that state. Under all circumstances, an escort vehicle operator who is an Oklahoma resident shall have an Oklahoma certification.

# Permanent Final Adoptions

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*[OAR Docket #25-404; filed 5-29-25]*

## **TITLE 765. OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING COMMISSION CHAPTER 4. GENERAL LICENSING PROVISIONS**

*[OAR Docket #25-395]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

765:4-1-4. Criminal Record Report [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:**

October 22, 2024

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November 15, 2024 through December 16, 2024

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January 14, 2025

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January 28, 2025

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January 16, 2025

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Approved May 28, 2025, by SJR 21

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

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May 28, 2025

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July 11, 2025

### **SUPERSEDED EMERGENCY ACTIONS:**

### **SUPERSEDED RULES:**

N/A

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### **INCORPORATED STANDARDS:**

N/A

### **INCORPORATING RULES:**

N/A

### **AVAILABILITY:**

N/A

### **GIST/ANALYSIS:**

Removing language to clarify the rule to include all applicant types.

### **CONTACT PERSON:**

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# Permanent Final Adoptions

Brian Wilson, Executive Director, Used Motor Vehicle, Dismantler and Manufactured Housing Commission, 421 N.W. 13th Street, Suite 330, Oklahoma City, OK 73103, 405-521-3600, [brian.wilson@oumvdmh.ok.gov](mailto:brian.wilson@oumvdmh.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 JULY 11, 2025:**

**765:4-1-4. Criminal Record Report [AMENDED]**

Every applicant for a license to be issued by the Commission shall be required to submit a current report from the Oklahoma State Bureau of Investigation (OSBI Report) which indicates whether the applicant has been charged or convicted of a felony. The report shall include information showing whether any of the charges or convictions were violent or sex offender felonies. An applicant who has a felony conviction in another state or in federal court within the last twenty (20) years shall submit a copy of the Judgement and Sentence for such conviction.

*[OAR Docket #25-395; filed 5-29-25]*

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**TITLE 765. OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING COMMISSION  
CHAPTER 13. TEMPORARY LICENSE PLATES**

*[OAR Docket #25-399]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 3. Design

765:13-3-1. Purpose [AMENDED]

765:13-3-2. Form and substance of the temporary license plate [AMENDED]

765:13-3-3. Content of the temporary license plate [AMENDED]

765:13-3-4. Location of the temporary license plate [AMENDED]

765:13-3-5. ~~Records~~Requirement [AMENDED]

765:13-3-6. Pre-registration by dealer [NEW]

765:13-3-7. Records [NEW]

**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:**

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May 28, 2025

**EFFECTIVE:**

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July 11, 2025

## **SUPERSEDED EMERGENCY ACTIONS:**

### **SUPERSEDED RULES:**

Subchapter 3. Design

765:13-3-1. Purpose [AMENDED]

765:13-3-2. Form and substance of the temporary license plate [AMENDED]

765:13-3-3. Content of the temporary license plate [AMENDED]

765:13-3-4. Location of the temporary license plate [AMENDED]

765:13-3-5. Records Requirement [AMENDED]

765:13-3-6. Pre-registration by dealer [NEW]

765:13-3-7. Records [NEW]

### **GUBERNATORIAL APPROVAL:**

August 16, 2024

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42 Ok Reg 141

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24-938

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### **INCORPORATED STANDARDS:**

N/A

### **INCORPORATING RULES:**

N/A

### **AVAILABILITY:**

N/A

### **GIST/ANALYSIS:**

The Rule Amendments make the Emergency Rules permanent to conform to SB 2035 by modifying the current temporary license plate to make them readable for the Oklahoma Turnpike Authority and requiring dealers to submit preregistration documentation to Service Oklahoma on motor vehicles sold

### **CONTACT PERSON:**

Brian Wilson, Executive Director, Used Motor Vehicle and Parts Commission, 421 N.W. 13th Street, Suite 330, Oklahoma City, OK 73103, 405-521-3600, brian.wilson@oumvdmhc.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 JULY 11, 2025:**

## **SUBCHAPTER 3. DESIGN**

### **765:13-3-1. Purpose [AMENDED]**

The rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et. seq., and 47 O. S., Section 1137.1, and 47 O.S. Section 1137.4 ~~as amended~~. This chapter will provide a description of the design and use of the temporary license plate for used motor vehicle sales.

### **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~~ 12 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 ten-mil 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 ~~two (2) months~~ (10) days.

(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]**

## Permanent Final Adoptions

(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~~expiration of the temporary license plate. The blocks shall be of a size of at least 1 3/4 inches in height and 1 1/2 1/4 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 1 inch in width. Preprinted below the two blocks on the left shall be the words "~~SOLD~~EXPIRATION MONTH"; below the middle two blocks shall be the words "~~SOLD~~EXPIRATION DAY"; and below the two blocks on the right shall be "~~SOLD~~EXPIRATION 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, and license number, the word "Oklahoma" ~~or "Okla"~~ and the words "~~2 Month~~10 Day 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 a preprinted unique sequential identifier number of no fewer than six digits which shall have a sequential three-character prefix, unique to the individual authorized temporary license plate vendor, followed by a five-digit tag number ~~approximately no less than 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 identifier 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~~identified temporary license plate with a unique identifier 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.

### 765:13-3-4. Location of the temporary license plate [AMENDED]

Upon the sale of a used motor vehicle, the temporary license plate shall be placed on the vehicle at the location provided for the permanent license plate and shall be securely fastened on all four sides.

### 765:13-3-5. Records Requirement [AMENDED]

The dealer shall maintain a record of temporary license plates issued. The record shall include the unique sequential number, the date issued, the name of the purchaser and the year, make, model and vehicle identification number of the vehicle for which the temporary license plate was issued. The record shall be available to Commission and law enforcement personnel upon request. Failure to maintain a record of temporary license plates issued and/or failure to account for temporary license plates shall subject the dealer to a fine not to exceed One Thousand Dollars (\$1,000.00) per violation and/or suspension or revocation of the dealer's license. Temporary license plates shall be purchased through a registered authorized temporary license plate vendor.

### 765:13-3-6. Pre-registration by dealer [NEW]

Pre-registration documentation identifying the motor vehicle subject to the sale or transfer, purchaser information, and any associated state-issued license plate on the vehicle must be submitted to Service Oklahoma or a licensed operator within two (2) business days of the sale or transfer of the motor vehicle. A licensed used motor vehicle dealer may submit pre-registration documentation:

- (1) to Service Oklahoma or a licensed operator directly via a method provided for by Service Oklahoma; or
- (2) to a registered authorized temporary license plate vendor; provided all Oklahoma Used Motor Vehicle, Dismantler and Manufactured Housing Commission rules and Service Oklahoma data submission protocols are followed.

### 765:13-3-7. Records [NEW]

The dealer shall maintain a record of temporary license plates issued. The record shall include the unique sequential number, the date issued, the name of the purchaser and the year, make, model and vehicle identification number of the vehicle for which the temporary license plate was issued. The record shall be available to Commission and law enforcement personnel upon request. Failure to maintain a record of temporary license plates issued and/or failure to account for temporary license plates shall subject the dealer to a fine not to exceed One Thousand Dollars (\$1,000.00) per violation and/or suspension or revocation of the dealer's license.

# Permanent Final Adoptions

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*[OAR Docket #25-399; filed 5-29-25]*

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING  
COMMISSION  
CHAPTER 14. AUTHORIZED TEMPORARY LICENSE PLATE VENDORS [NEW]**

*[OAR Docket #25-405]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. Registration Qualifications, Procedures and Fees [NEW]

765:14-1-1. Purpose [NEW]

765:14-1-2. Scope [NEW]

765:14-1-3. Fees [NEW]

765:14-1-4. Place of business [NEW]

765:14-1-5. Applicant [NEW]

765:14-1-6. Bonds and insurance [NEW]

765:14-1-7. Issuance of registration [NEW]

765:14-1-8. Renewal of registration [NEW]

765:14-1-9. Changes [NEW]

Subchapter 3. Operation [NEW]

765:14-3-1. Services [NEW]

765:14-3-2. Records [NEW]

765:14-3-3. Prohibited Acts [NEW]

Subchapter 5. Software and Security [NEW]

765:14-5-1. Software [NEW]

765:14-5-2. Security [NEW]

Subchapter 7. Assessment of fine or denial, suspension, or revocation of registration [NEW]

765:14-7-1. Grounds [NEW]

765:14-7-2. Prohibition [NEW]

**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:**

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N/A

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**SUPERSEDED EMERGENCY ACTIONS:****SUPERSEDED RULES:**

Subchapter 1. Registration Qualifications, Procedures and Fees [NEW]

765:14-1-1 [NEW]

765:14-1-2 [NEW]

765:14-1-3 [NEW]

765:14-1-4 [NEW]

765:14-1-5 [NEW]

765:14-1-6 [NEW]

765:14-1-7 [NEW]

765:14-1-8 [NEW]

765:14-1-9 [NEW]

Subchapter 3. Operation [NEW]

765:14-3-1 [NEW]

765:14-3-2 [NEW]

765:14-3-3 [NEW]

Subchapter 5. Software and Security [NEW]

765:14-5-1 [NEW]

765:14-5-2 [NEW]

Subchapter 7. Assessment of fine or denial, suspension, or revocation of registration [NEW]

765:14-7-2 [NEW]

**GOVERNMENTAL APPROVAL:**

August 16, 2024

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42 Ok Reg 143

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N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The Rule Amendments change the present Rules to conform to SB 2035 by creating requirements, qualifications, and procedures for Authorized Temporary License Plate Vendors.

**CONTACT PERSON:**

Brian Wilson, Executive Director, Used Motor Vehicle Dismantler, and Manufactured Housing Commission  
Commission, 421 N.W. 13th Street, Suite 330, Oklahoma City, OK 73103, 405-521-3600,  
brian.wilson@oumvdhmc.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 JULY 11, 2025:**

**SUBCHAPTER 1. REGISTRATION QUALIFICATIONS, PROCEDURES AND FEES [NEW]**

**765:14-1-1. Purpose [NEW]**

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S. Section 250 et seq., 47 O.S. Section 1137.1 and 47 O.S. Section 1137.4. This Chapter will provide a description of the qualifications for obtaining an authorized temporary license plate vendor registration, restrictions to prevent illegal duplication and use of temporary license plates, operations under the registration, and the grounds and procedures for denial, suspension, or revocation of an authorized temporary license plate vendors registration or imposition of a fine.

# Permanent Final Adoptions

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## **765:14-1-2. Scope [NEW]**

(a) Dealers licensed by the Oklahoma New Motor Vehicle Commission who are registered as an authorized temporary license plate vendor are not subject to the rules of this Chapter but are subject to rules promulgated by the Oklahoma New Motor Vehicle Commission for authorized temporary license plate vendors.

(b) Dealers licensed by the Oklahoma Used Motor Vehicle, Dismantler and Manufactured Housing Commission may not be registered as authorized temporary license plate vendors.

## **765:14-1-3. Fees [NEW]**

The fees required for an initial application, and renewal, and additional location for an authorized temporary license plate vendor registration are recited in 47 O.S. Section 1137.4. A fee will be returned to the applicant in the event the registration applied for is denied.

## **765:14-1-4. Place of business [NEW]**

An applicant must have an established place of business. An established place of business means a location which includes at a minimum:

- (1) an office for conducting business where the books, records and files are kept,
- (2) an office which is a building or is a separate room within a building on the premises devoted to the operation of the authorized temporary tag vendor that is considered a permanent structure with access to a restroom. Such place of business shall not include an occupied residence and shall not include the use of tents, temporary stands, or other temporary office facilities.
- (3) place of business shall meet all zoning, occupancy, and other requirements of the appropriate local government.
- (4) a business telephone, listed with directory assistance and usable at the place of business. Said telephone may include a cellular or digital telephone listed and usable at the place of business.

## **765:14-1-5. Applicant [NEW]**

(a) **Information required.** An applicant shall provide sufficient information on the application or otherwise to enable the Commission to determine whether the applicant should be granted a registration. The information shall include, but not limited to:

- (1) Information relating to the applicant's financial standing,
- (2) Information relating to the applicant's business integrity, the applicant's experience in the same or similar businesses, and his business history,
- (3) Whether the applicant will be engaged in the pursuit, avocation, or business for which a registration is applied,
- (4) Whether the applicant will devote full or part time to the business,
- (5) Whether the applicant is able to properly conduct the business for which the registration is applied, and
- (6) Any other pertinent information consistent with the safeguarding of the public interest and welfare.

(b) **Application required.** Applications for registration shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to such applicants. The applications shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant for the registration.

## **765:14-1-6. Bonds and insurance [NEW]**

(a) **Vendor's bond.** Each applicant for an authorized temporary license plate vendor, for the purpose of conducting a business to issue a temporary license plate shall file with the Commission a good and sufficient bond in the amount required by law. The bond shall be approved as to form by the Attorney General. The bond form shall contain provisions relating to the bond amount, parties responsible for payment of bond claims, parties who may make claims on bonds and priorities of claimants, if applicable.

(b) **Liability insurance.** Each applicant for a temporary license plate vendor shall be required to furnish and in the event a registration is issued, keep in force, a minimum of One Million Dollars (\$1,000,000) commercial liability insurance coverage. The insurance as required by this section shall be maintained throughout the period of licensure. Should the insurance be cancelled or expire for any reason, the registration shall be revoked as of the date of cancellation or expiration unless new insurance is furnished prior to such date.

## **765:14-1-7. Issuance of registration [NEW]**

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# Permanent Final Adoptions

- (a) **Name.** An authorized temporary license plate vendor registration will be issued in the legal name of the individual proprietorship, partnership, corporation, limited liability company or other legal entity, as identified on the application for registration.
- (b) **Certificate.** An authorized temporary license plate vendor registration consisting of a signed certificate bearing the official seal of the Commission and specifying the name and location of the place of business and assigned registration number, is to be posted in a conspicuous place in the vendor's place or places of business. The authorized temporary license plate vendor registration number will be prefixed with a unique sequential three-character prefix, followed by a five-digit number and then the current year of license.
- (c) **Beginning business.** No applicant for an authorized temporary license plate vendor registration can conduct business in the State of Oklahoma until such time as the Commission has issued the registration.

## **765:14-1-8. Renewal of registration [NEW]**

All bonds, licenses, and registrations issued under the provisions of the Commission's statutory authority shall expire on the 31st day of December each year, following the date of issue and shall be nontransferable. All applications for renewal should be submitted by the 1st day of November each year, and registrations shall be issued by January 10th of the following year. If application has not been made for renewal of registration, such registration shall expire on December 31st, and it shall be illegal for any person to represent himself and act as a vendor thereafter.

## **765:14-1-9. Changes [NEW]**

- (a) **Ownership.** A change of ownership, including a change in a primary stockholder in the case of a corporation, or membership in the case of a limited liability company, shall require a new application and approval by the Commission before the business may begin operation.
- (b) **Notification.** A change of ownership or any other change, such as change of name or address, which makes Commission records no longer accurate must be reported to the Commission immediately in writing on forms prescribed by the Commission for approval by the Commission. The vendor must meet all the requirements as prescribed for registration. The Commission may revoke or suspend a registration after it has been granted for change of condition resulting in failure to maintain the qualifications for registration. Failure to complete the requirements for registration at the new location within thirty (30) days shall result in suspension of the vendor's license until the registration requirements are met.

## **SUBCHAPTER 3. OPERATION [NEW]**

### **765:14-3-1. Services [NEW]**

- (a) **Issuance of pre-printed temporary license plates.** Authorized temporary license plate vendors shall verify the used motor vehicle dealer's license is in an active status with the Commission before issuing temporary license plates to the dealer. In the event a dealer's license becomes inactive during licensure period, pre-printed temporary license plates cannot not be issued to the dealer until dealer's license is active.
- (b) **Electronic issuance of temporary license plates.** Authorized temporary license plate vendors that provide an electronic method for issuance of temporary license plates shall verify with the Commission the used motor vehicle dealer's license is active prior to granting system access to the dealer. In the event the dealer becomes inactive status during a licensure period, the dealer's access must be suspended or terminated until the dealer's license is active.
- (c) **Electronic submission of information.** Authorized temporary license plate vendors may provide a method for dealers to electronically enter required purchaser information for each vehicle purchase and electronically submit such required purchaser information to Service Oklahoma. Such information must be submitted in a manner that protects and meets security requirements promulgated by the Commission and Service Oklahoma every twenty-four (24) hours in a format that is readily accessible by Service Oklahoma.

### **765:14-3-2. Records [NEW]**

- (a) Each authorized temporary license plate vendor shall keep records for a period of five (5) years from the date of transaction (or as required by any other federal, state, or local regulations). If it is determined that a registrant has knowingly provided false or misleading information when requested to provide records or failed to keep records as required by this Chapter, the registrant may be subjected to any appropriate sanction authorized by rule or statute.
- (b) Records shall include but not be limited to terms of use agreement, system access authorization, logs, dealer information, vehicle purchaser information.

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## **765:14-3-3. Prohibited Acts [NEW]**

An authorized temporary license plate vendor shall not:

- (1) Sell, print, or provide temporary license plate(s) to an unlicensed individual,
- (2) Use, sell, or share licensed dealer information or vehicle purchaser information with any unauthorized individual, legal entity or third party,
- (3) Mail or deliver tags to a location other than the licensed used motor vehicle dealer location, or
- (4) Print tags duplicating sequential numbers.

## **SUBCHAPTER 5. SOFTWARE AND SECURITY [NEW]**

### **765:14-5-1. Software [NEW]**

Software requirements. Software must meet format requirements approved by the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission and Service Oklahoma.

### **765:14-5-2. Security [NEW]**

#### **(a) Security requirements.**

- (1) All information submitted during online transaction are sent via encrypted network protocols.
- (2) Access must require HTTPS connection.
- (3) Must require two factor authentication.
- (4) Set minimum password security requirements:
  - (A) Passwords will be required to be a minimum of 8 characters long, containing at least one (1) numeric character,
  - (B) Passwords will expire in a maximum of 90 days,
  - (C) Passwords will be deactivated if not used for a period of 60 days, and
  - (D) Passwords for a given user should not be reused in a 12-month period.
- (5) Firewall must be implemented permitting access only to the minimum required ports,
- (6) Detection and prevention controls to protect against malicious software,
- (7) All data transferred between databases is done via secure network protocols to ensure that only authorized users can access the network, and no one can intercept data.
- (8) Data must be stored and served in a secured data center.
- (9) Audit logs recording exceptions and other security-relevant events must be produced and kept for an agreed period to assist in future investigations and access control monitoring. Audit logs should include:
  - (A) user IDs,
  - (B) dates and times for log-on and log-off,
  - (C) terminal identity or location, if possible,
  - (D) records of successful and rejected system access attempts, and
  - (E) records of successful and rejected data and other resource access attempts.

(b) Back-up copies of essential business information and software must be taken regularly. Back-up media should be regularly tested to ensure that they can be relied upon for emergency use when necessary.

(c) In the event that physical media containing any data is disposed of the data must be wiped or otherwise destroyed following DoD or NIST standards. Data includes but is not limited to any database data, log files, code or configuration, including backup media. If using a cloud or other third-party provider for data storage, the vendor must verify that the provider has a data security and media destruction policy.

(d) In the event of a breach of data, the vendor must notify the Commission within 24 hours and must be able to disable access within 24 hours. The vendor must also notify the client dealership or dealerships within 24 hours of the data breach so that they may be able to determine the nature and extent of the breach and comply with all notification requirements provided for in Oklahoma and Federal law.

## **SUBCHAPTER 7. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION [NEW]**

### **765:14-7-1. Grounds [NEW]**

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- (a) The Commission may deny an application for a registration, or revoke or suspend a registration after it has been granted in 47 O.S. Sections 1137.4 and this Chapter; for violation of any statute or regulation relating to the issuance of a temporary license plate vendor; or if it is determined that the registration is being or has been issued for the benefit of a person who would not or could not qualify for the registration in his or her own right.
- (b) The Commission may in addition to any other sanction or penalty assessed, impose a fine as authorized by law.

## **765:14-7-2. Prohibition [NEW]**

A person whose registration has been revoked or denied or whose registration was surrendered in lieu of revocation or under circumstances such that said registration could have been revoked, shall not have a financial interest of any kind in an authorized temporary license plate vendor business, nor shall that person participate in any way, including in an advisory position, in the operation of an authorized temporary license plate vendor.

*[OAR Docket #25-405; filed 5-29-25]*

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## **TITLE 765. OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING COMMISSION**

### **CHAPTER 37. MANUFACTURED HOME INSTALLERS**

*[OAR Docket #25-407]*

#### **RULEMAKING ACTION:**

PERMANENT final adoption

#### **RULES:**

Subchapter 7. Installation Standards

765:37-7-1. Acceptable procedure [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:**

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N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Removing outdated language

**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 JULY 11, 2025:**

## SUBCHAPTER 7. INSTALLATION STANDARDS

**765:37-7-1. Acceptable procedure [AMENDED]**

(a) Any new manufactured home stored at any location or in the possession of any entity (retailer, installer, distributor or manufacturer) for more than thirty (30) days must be supported in accordance with the manufacturer's installation instructions.

(b) All new manufactured homes to be installed in the State of Oklahoma shall be installed, including site preparation, according to HUD's Manufactured Home Model Installation Standards (24 CFR Part 3285) or DAPIA approved manufacturer installation instructions.

(c) Any previously occupied manufactured home to be installed in the state of Oklahoma may be installed according to the installation standards set forth in the manufacturer's installation manual or according to the installation standards set forth hereinafter (generic set) or an approved plan by a professional engineer or registered architect.

(d) Use of an installer not licensed at the time of the installation by the Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission for the installation of any new or previously occupied manufactured home shall be deemed an unacceptable procedure and shall subject any dealer contracting with said unlicensed installer to any liabilities and penalties attributable to such unlicensed activity.

(e) In determining the applicable frost line for permanently installed manufactured homes, the installer shall refer to the manufacturer's installation instructions, or the local authority having jurisdiction (LAHJ).

~~(e) In determining the applicable frost line for permanently installed manufactured homes, the installer shall use the ANSI 225.1 map. A frost line of three inches (3") is presumed in McCurtain County. A frost line of three to six inches (3-6") is presumed in Bryan, Choctaw, Atoka, Pushmataha, Latimer, LeFlore, Haskell and Sequoyah Counties. A frost line of ten to fifteen inches (10-15") is presumed in Woods, Major, Garfield, Alfalfa and Grant Counties. A frost line of six to ten inches (6-10") is presumed in all the remaining counties of the state. An installer may rely on verifiable local standards in determining the frost line in any specific location. When the frost line depth is not available from the local authority having jurisdiction, a registered professional engineer, registered architect or registered geologist must be consulted to determine the required frost line depth.~~

*[OAR Docket #25-407; filed 5-29-25]*

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## **TITLE 765. OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING COMMISSION**

### **CHAPTER 38. MANUFACTURED HOME SALESPERSON**

*[OAR Docket #25-408]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. Registration Qualifications, Procedures and Fees  
765:38-1-4. Issuance of certificate of registration [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

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N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The rule amendment adds a temporary certificate of registration for manufactured home salespersons.

**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 JULY 11, 2025:**

**SUBCHAPTER 1. REGISTRATION QUALIFICATIONS, PROCEDURES AND FEES**

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## 765:38-1-4. Issuance of certificate of registration [AMENDED]

(a) **Prerequisite.** A certificate of registration for a manufactured home salesperson will not be issued, renewed, or endorsed until the employing dealer is licensed and has certified that the applicant for said certificate is in his employ. Dealers' payrolls and other evidence will be checked to ascertain that all salespersons for such dealers are registered. The dealer shall pay for the certificate of registration, but may do so on a reimbursable basis, or any other plan satisfactory to its dealership organization. All salesperson's certificates of registration will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain certificates have done so.

### (b) **Temporary certificate of registration.**

(1) A temporary salesperson's certificate of registration, salesperson's renewal, or reissue of a salesperson's certificate shall be deemed to have been issued when the appropriate application and fee have been properly addressed and mailed to the Commission, except as follows:

(A) in the case of incomplete application,

(B) in the case of proper fee not being submitted,

(C) in the case of applicant's having been previously denied a license or certificate of registration with this Commission, or

(D) in the case of applicant's having been convicted of a crime that substantially relates to the occupation of a manufactured home dealer and poses a reasonable threat to public safety, committed any unlawful act which resulted in revocation of similar license in another state, or committed a fraudulent act in selling or purchasing manufactured homes in such a manner as to cause injury to the public.

(2) All temporary salesperson certificate of registration applications shall be submitted for approval to issue a permanent certificate of registration at the first monthly Commission meeting following receipt of a completed application.

~~(b)~~(c). **Permanent certificate of registration.** A permanent salesperson's certificate of registration shall be issued after approval of the applicant by the Commission. A salesperson's certificate shall consist of an identification card bearing the name, name of employer, address, signature of the Executive Director, the dealer's license number. The card shall be carried upon his person at all times when acting as a manufactured home salesperson at licensee location.

*[OAR Docket #25-408; filed 5-29-25]*

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## TITLE 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS CHAPTER 10. ~~CENTERHOME~~ DIVISION PROGRAM [AMENDED]

*[OAR Docket #25-464]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 3. Maintenance Charges, Patient Funds and Assets

770:10-3-1. Care and maintenance charges [AMENDED]

### **AUTHORITY:**

72 O.S., Section 63.3; Oklahoma Veterans Commission

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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Subchapter 3. Maintenance Charges, Patient Funds and Assets  
770:10-3-1. Care and maintenance charges [AMENDED]

**GUBERNATORIAL APPROVAL:**

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N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed amendments in 770:10-3-1 would amend the reference(s) to “Center” or “Centers” within the rule to the correct reference(s) of “Home” or “Homes”, as well as to amend how care and maintenance charges begin and cease for residents at the Oklahoma Veterans Homes in paragraphs (d), (e), and (i). The amendments would add death as a provision to cease care and maintenance charges on the day the resident expires. The amendments will also update how residents at the Oklahoma Veterans Homes are billed for care and maintenance charges; that maintenance charge rates will be adjusted annually on December 1 of each year; and, add that all annual cost-of-living adjustments from federal benefit or grant programs will now become part of the calculations included in the rate calculation. The proposed amendments will align with practices that are the most mission effective and cost effective for the Oklahoma Department of Veterans Affairs (ODVA) and the State of Oklahoma.

**CONTACT PERSON:**

Lisa Acevedo, 2132 NE 36th St. Oklahoma City, OK 73111. (405) 522-8075 or lisa.acevedo@odva.ok.gov. For legal questions, contact John M. Settle, General Counsel, Oklahoma Department of Veterans Affairs, (405) 523-4002, John.Settle@odva.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 JULY 11, 2025:**

## SUBCHAPTER 3. MAINTENANCE CHARGES, PATIENT FUNDS AND ASSETS

### **770:10-3-1. Care and maintenance charges [AMENDED]**

- (a) Residents of all Oklahoma Veterans ~~Centers~~Homes shall be assessed a care and maintenance charge based upon the level of care and treatment provided to them and grant assistance or other payments received on the resident's behalf.
- (b) The claim of the State for such care and ~~maintenance~~treatment shall constitute a valid indebtedness against any such resident and his estate and shall not be barred by any statute of limitations. At the death of the resident, this claim shall be allowed and paid as other lawful claims against the estate. Failure to pay care and maintenance charges assessed is basis for discharge.
- (c) Nursing care shall include room and board in the nursing care of the Veterans ~~Center~~Home and the full range of medical and nursing services offered in-house at the ~~Center~~Home. Medical and nursing services shall minimally include: staff physician services, nursing care, all required medications and their administration, all necessary x-ray and laboratory services which are performed in-house by the ~~Center~~Home and all required therapy services performed in-house by the

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~~CenterHome~~ . Nursing care does not include those medical or other services not included above which a resident requires or receives outside those provided within and by the ~~CenterHome~~, personal discretionary use items such as tobacco or the purchase of street clothes. Services provided by and through contractors or other third parties may be excluded as not performed by the ~~CenterHome~~ regardless of the location of services.

(d) Care and maintenance charges begin on the day of admission and cease on the day of discharge or death. Care and maintenance charges for partial months of residency are pro-rated, ~~except in the event of a resident's expiration at the Center~~. If the resident expires at the ~~CenterHome~~, the care and maintenance charge will end ~~ends~~ on the first day of the month in on ~~on~~ which ~~an~~ the Oklahoma Veterans ~~CenterHome~~ resident expires.

(e) Care and maintenance charges:

(1) ~~Are~~ are due and payable on the first of each month for services received in the preceding month, for all veterans who have been Oklahoma Veterans Homes residents prior to September 1, 2025. Absent exigent circumstances as approved by the Central Office, electronic payment shall be required to satisfy monthly care and maintenance charges.

(2) Are due and payable in advance, on the day of admission, on a prorata basis for the month of admission, and continuing in advance, on the first day of each month thereafter during the veteran's Oklahoma Veterans Home residency, for all veterans who become Oklahoma Veterans Homes residents on or after September 1, 2025.

(3) Absent exigent circumstances as approved by the Central Office, electronic payment shall be required to satisfy monthly care and maintenance charges.

(f) Payments by debit card, credit card, and other means of electronic funds transfer shall be subject to the following terms:

(1) **"Nationally recognized"** credit card means any instrument or device, whether known as a credit card, credit plate, charge plate, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in lieu of a check, as defined by 12A Oklahoma Statute § 3-104(f), in obtaining goods, services or anything else of value or for the use of the cardholder in obtaining such goods, services, or anything else of value on credit and which, in either case, is accepted by over one thousand merchants in this state. The Oklahoma Department of Veterans Affairs shall determine which nationally recognized credit cards will be accepted for any payments due and owing to the Department.

(2) Implementation of payment by nationally recognized credit card and other means of electronic funds transfer will be phased in over a period of time as determined by the Department.

(3) The Oklahoma Department of Veterans Affairs will verify that sufficient credit is available before acceptance of credit card to insure that no loss of state revenue will occur by the use of such card.

(A) If a person is at a designated receiving point and credit is not available, the person then has the opportunity to pay by other methods accepted by the Department.

(B) If a person mails in the credit card information and credit is not available, the transaction will re-processed in accordance with any authorization executed by the cardholder. Until payment is completed, the transaction will be classified as one with no remittance and a bill will be forthcoming.

(4) The Oklahoma Department of Veterans Affairs may add an amount up to that equal to the amount of the processing, service, or convenience charges incurred, not to exceed four percent (4%) of the amount of such payment as a service charge for the acceptance of such nationally recognized card.

(5) Persons wishing to pay by credit card must be willing to submit normally required credit card information to the Department. This includes, but is not limited to: card type (VISA, etc.), card number, card expiration date, card holder name as shown, and three digit verification, security, or personal identification number (PIN). The Department assumes no liability for unauthorized use of this information.

(6) **"Electronic funds transfer"** means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

(7) **"Electronic terminal"** means an electronic device, other than a telephone operated by a person, through which a person may initiate an electronic funds transfer.

(8) **"Financial institution"** means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an account belonging to another person.

(9) **"State"** means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

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(g) Care and maintenance charges shall be computed to maximize pensions, compensation, and aid and attendance benefits from the United States Department of Veterans Affairs and any other federal or state assistance or payments to which the resident is entitled. Existing and prospective residents shall make application for all available benefits and assistance from federal and state government sources. Failure to do so shall result in denial of admission, discharge, or assessment of the monthly care and maintenance charge as the full cost of care, less per diem payments received from the United States Department of Veterans Affairs.

(h) Each resident shall be expected to pay each month from his or her assets, resources, or income, amounts billed for care and maintenance by an Oklahoma Veterans ~~Center~~Home. A resident shall apply for assistance or benefits through Medicaid, if his or her available resources are insufficient to pay the entire cost of care or maintenance on a current basis, and the ~~Center~~Home is eligible for Medicaid reimbursements.

(i) The full cost of care cited in establishment of the maintenance charge may be:

(1) a uniform rate for two or more Oklahoma Veterans ~~Centers~~Homes, which does not exceed the average cost of care across all Oklahoma Veterans ~~Centers~~Homes, or

(2) a ~~Center~~Home specific rate that is calculated for a particular ~~Center~~Home by using financial data for the cost of care at that Oklahoma Veterans ~~Center~~Home

(3) the Calculated rates described in (1) and (2) above will be adjusted annually on December 1 of each year, to include the annual cost of living adjustment (COLA) as announced by any federal benefit programs or grants including but not limited to Social Security and Veterans Affairs.

(j) Effective on and after the date of certification of an Oklahoma Veterans ~~Center~~Home to receive Medicaid payments, the maintenance charge assessed to each newly admitted or re-admitted resident to a Medicaid certified ~~Center~~Home shall be calculated based on the full cost of care, less per diem payments received from the United States Department of Veterans Affairs. ~~Care and maintenance~~Maintenance charges may be assessed based on a daily or monthly rate. Further adjustments to ~~care and maintenance~~ charges may be made to conform to requirements for receipt of payments of per diem from the United States Department of Veterans Affairs, Medicare payments, or Medicaid payments.

(k) Monthly ~~care and~~ maintenance charges for a resident whose most recent admission occurs prior to September 14, 2018 shall be calculated as follows:

(1) Computation of monthly maintenance charges shall be based on countable income, provided that the ~~care and~~ maintenance charge shall not exceed the full cost of care minus any per diem payment received from the United States Department of Veterans Affairs.

(A) The charge for nursing care to residents who contribute to the support of legal dependents shall be fifty percent (50%) of countable income subject to reduction for health insurance premiums and irrevocable burial policy premiums paid or payable. Notwithstanding any other language under this rule, a resident shall retain not less than \$150.00 per month of total monthly income which may be allocated from the income counted as available to the resident and need not be charged against the income allocated to the non-resident spouse.

(B) The charge for nursing care to residents who do not contribute to the support of legal dependents shall be eighty-five percent (85%) of countable income subject to reduction for health insurance premiums and irrevocable burial policy premiums paid or payable. Notwithstanding any other language under this rule, a resident shall retain not less than \$150.00 per month of total monthly income.

(C) When two residents are married and both reside at a Veterans ~~Center~~Home, the maintenance charge for each will be assessed at 50% of the combined countable income subject to reduction for health insurance premiums and irrevocable burial policy premiums paid or payable. Notwithstanding any other language under this rule, when two residents are married to each other and both reside at the ~~Center~~Home, each may retain not less than \$150.00 per month of total monthly income.

(2) When the care and maintenance charge assessed any resident does not result in compliance with all statutory requirements, the percentage of charge against income will be increased or decreased accordingly for compliance.

(l) Monthly ~~care and~~ maintenance charges for a resident whose most recent admission occurs on or after September 14, 2018 but prior to the date of certification of the ~~Center~~Home to receive Medicaid payments shall be calculated as follows:

(1) Except as specifically authorized herein, the monthly maintenance charge for residents of the Oklahoma Veterans ~~Centers~~Home shall be the full cost of care, less per diem payments received from the United States Department of Veterans Affairs.

(2) Residents awarded pension as defined by 38 CFR with aid and attendance pursuant to 38 CFR §3.352 from the United States Department of Veterans Affairs shall pay a monthly ~~care and~~ maintenance charge that is the least of:

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- (A) Full cost of care, less per diem payments received from the United States Department of Veterans Affairs; or
  - (B) Eighty-five (85%) percent of countable income subject to reduction for health insurance premiums and irrevocable burial policy premium paid upon substantiation of coverage in force and premiums payable. Notwithstanding any other language under this rule, a resident shall retain not less than \$150.00 per month of total monthly income; or
  - (C) If contributing to support for legal dependents, fifty percent (50%) of countable income subject to reduction for health insurance premiums and irrevocable burial policy premiums or payable. Notwithstanding any other language under this rule, a resident shall retain not less than \$150.00 per month of total monthly income which may be allocated from the income counted as available to the resident and need not be charged against the income allocated to the non-resident spouse.
- (3) Admission of a surviving spouse, widow, widower, or a Veteran that does not meet the United States Department of Veterans Affairs criteria as serving during a period of war as referenced in 38 U.S.C., Section 1521, may be conditioned upon ability to pay.
- (4) When the care and maintenance charge assessed any resident does not result in compliance with all statutory requirements, the percentage of charge against income will be increased or decreased accordingly for compliance.
- (m) The following shall govern evaluation of countable income under paragraphs (k) and (l), above:
- (1) Income will be rounded to the nearest whole dollar when computing care and maintenance charges.
  - (2) Countable income shall include income of the resident, plus that of resident's legal dependents (if any) in the following categories:
    - (A) Gross income, as defined by 26 U.S.C. §61,
    - (B) Income earned internationally for the accounting period evaluated, whether or not reportable for income tax purposes.
    - (C) To the extent not included in subparagraph (m)(2)(A), all compensation, disability, and other amounts payable from private, state or federal benefit programs or grants, including but not limited to social security, department of agriculture, veterans affairs, or Native American tribes or related entities.
    - (D) Attributable aid and attendance, which shall consist of the difference between a partial award of aid and attendance and the maximum aid and attendance awardable through the United States Department of Veterans Affairs.
    - (E) Payments in compensation or reimbursement to or on behalf of a resident as the insured under long-term care insurance policies.
  - (3) Income or benefits paid shall be included without reduction for offsets, recoupment, judgments, past overpayments, debt repayment, automatic deductions, or withholding.
  - (4) Countable income shall exclude income earned by active employment of a working spouse or other legal dependent.
- (n) The following are applicable only to calculation of maintenance charges under paragraphs (k) and (l) above:
- (1) Dependents, for purposes of this rule and subsequent chapters, shall be legal spouse and minor children under the age of eighteen (18) or disabled children who became disabled prior to their eighteenth birthday or legal children through the age of twenty-one (21) years who are enrolled in school full-time.
  - (2) Health insurance premiums shall include premiums paid for general health, hospitalization, dental, vision, and prescription coverages for the resident, including but not limited to Medicare supplements. Health insurance premiums shall also include one half (1/2) of premiums paid for the same coverages if the resident and one or more other family members share benefits as co-insureds on joint or family coverage. Copays or deductibles shall not be considered premiums paid.
  - (3) Irrevocable burial policy premiums, as used in this rule, shall include premiums paid for irrevocable burial policies that provide for the funeral, burial, or final disposition of a resident with a death benefit not to exceed Ten Thousand Dollars (\$10,000.00).
  - (4) The reduction in care and maintenance charges for health insurance premiums and irrevocable burial policy premiums, when applicable, shall not be available retroactively, and shall apply prospectively from the date of receipt of documentation substantiating insurance coverage and premiums payable. Annual documentation substantiating coverage and premiums shall be required and if not furnished reductions may be discontinued until such time as documentation is received.

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(o) Any resident, his/her guardian, spouse, or legally appointed agent, who knowingly withholds or falsifies income, expense, or resource data or who withholds payment of assessed care and maintenance charges may subject the resident to discharge and forfeiture of state or federal benefits and may subject the resident, or other parties responsible, to legal action related to the recovery of valid indebtedness to the State of Oklahoma. Failure to timely or accurately report income or misrepresentation of income may also result in one or more of the following: assessment of care and maintenance charges at the full cost of care, loss of full or partial benefit from state or federal sources, recoupment actions, or offset against future benefits.

(p) Residents on leave from a CenterHome for outside hospitalization or medical care shall not be charged for care and maintenance after their fourth (4th) day of absence. Residents may be discharged during absences for hospitalization and readmitted in accordance with applicable regulatory priorities, in accordance with agency policy after exhaustion of days authorized for payment of per diem by the United States Department of Veterans Affairs.

(q) Residents on leave from a CenterHome for personal reasons of their own volition shall continue to be charged for care and maintenance for such period of their leave that their bed is being held open for them. Charges billable under this paragraph shall not be constrained by the income limitations on care and maintenance charges set forth in paragraphs (k) and (l) above. In the event that a resident incurs voluntary absences that exceed annual therapy days authorized for payment of per diem by the United States Department of Veterans Affairs, the CenterHome shall:

(1) Reflect any and all loss of per diem payments by billing the resident in the amount of the forfeited per diem on the resident's monthly statement, or

(2) Discharge and re-admit the resident in accordance with the Center'sHome's admission priorities, including but not limited to classification as discharge against medical advice, if applicable.

(r) Any resident of an Oklahoma Veterans CenterHome or his/her guardian may seek a reduction or waiver of care and maintenance charges for (1) financial hardship resulting from unreimbursed unusual medical expenses of the veteran resident, spouse or legal dependents or (2) financial hardship on residents with dependent children. Requests for reduction or waiver of care and maintenance charges for other reasons will not be considered. Dependents, for purposes of this section, shall be defined as set forth in subparagraph (n)(1), above. The procedure and process for the filing and adjudication of appeals for reduction or waiver of care and maintenance charges is as follows:

(1) The request for reduction or waiver shall be made in writing to the Administrator of the CenterHome where the veteran is a resident, by the veteran, a responsible family member of the veteran, and/or the veteran's guardian.

(2) The appealing party shall complete the appropriate Department forms, supply the CenterHome Administrator with pertinent financial data and shall sign said form attesting to the accuracy of the information recorded thereon.

(3) The Administrator shall submit a letter to the Executive Director of the Oklahoma Department of Veterans Affairs notifying him or her of the appeal request and stating the Administrator's recommendation in the matter. Additionally, the Administrator shall attach copies of all information which describe the appealing party's financial status.

(4) The Executive Director will determine whether the appeals requests are in conformity with policy for presentation to the Oklahoma Veterans Commission and shall make a recommendation on the appeal request and forward the request to the Commission.

(5) The Commission shall consider all appeals information as presented by the Executive Director and then shall render a decision on said appeals by a majority vote.

(6) The Executive Director shall notify the appealing parties of the Commission's decisions on their appeals through the appropriate CenterHome Administrator within five (5) working days following the Commission action, along with any appeal procedures.

(7) Adverse decisions may be appealed to an independent Administrative Hearing Officer with the Oklahoma Department of Health. The decision of the Administrative Hearing Officer will be final.

*[OAR Docket #25-464; filed 6-3-25]*

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### TITLE 777. STATEWIDE CHARTER SCHOOL BOARD CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #25-507]*

#### RULEMAKING ACTION:

# Permanent Final Adoptions

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PERMANENT final adoption

## **RULES:**

Subchapter 1. General Provisions

777:1-1-1. Purpose [AMENDED]

777:1-1-4. Organization [AMENDED]

777:1-1-5. Time computation [AMENDED]

777:1-1-6. Records requests [AMENDED]

777:1-1-9. Individual proceedings [AMENDED]

## **AUTHORITY:**

Statewide Charter School Board; 70 O.S.Supp.2024, § 3-132.1(I)(4)

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November 25, 2024

## **COMMENT PERIOD:**

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N/A

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## **SUPERSEDED RULES:**

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N/A

## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

This Chapter contains rules and regulations of general applicability to the administrative operations, formal proceedings, and informal proceedings of the Statewide Virtual Charter School Board.

## **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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 777:1-1-1. Purpose [AMENDED]

This Chapter contains rules and regulations of general applicability to the administrative operations, formal proceedings, and informal proceedings of the Statewide ~~Virtual~~ Charter School Board.

### 777:1-1-4. Organization [AMENDED]

(a) **Objectives.** As the sole entity authorized to sponsor statewide ~~virtual~~ charter school ~~programs and may authorize charter schools~~ in this state in accordance with the provisions of the Oklahoma Charter Schools Act, the Statewide ~~Virtual~~ Charter School Board shall be charged with establishing any rules, policies, and procedures necessary to regulate operation of statewide virtual charter schools and to ensure that free appropriate public education and related services are provided to ~~statewide virtual charter school and virtual charter school~~ students ~~enrolled in statewide virtual charter schools~~ in a manner that is safe, consistent, effective, and appropriate.

(b) **Staff.** Subject to the availability of funding, the Statewide ~~Virtual~~ Charter School Board may maintain such staff as is authorized by law and as necessary to fulfill the duties set forth by Oklahoma statutes and regulations.

(c) **Hours of operation.** The official hours of operation of the principal office of the Statewide ~~Virtual~~ Charter School Board shall be the same as the hours of operation of the State Department of Education, and shall exclude Saturdays, Sundays, and legal holidays.

### 777:1-1-5. Time computation [AMENDED]

Any period of time prescribed by this Title shall be calculated in accordance with the following provisions:

- (1) The day of the act or event from which the designated period of time begins to run shall not be included.
- (2) The last day of the period so computed shall be included, unless:
  - (A) The last day falls on a Saturday, a Sunday, or a legal holiday as defined by the Oklahoma Statutes, 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; or
  - (B) The last day falls on any other day when the administrative office of the Statewide ~~Virtual~~ Charter School Board does not remain open for public business until 4:30 p.m., in which event the period runs until the end of the next day when the receiving office does remain open for public business until 4:30 p.m.

### 777:1-1-6. Records requests [AMENDED]

(a) **Custodian of records.** The Statewide ~~Virtual~~ Charter School Board may designate a records custodian. In absence of a records custodian designated by the Statewide ~~Virtual~~ Charter School Board, the records custodian of the Statewide ~~Virtual~~ Charter School Board shall be deemed to be the Statewide ~~Virtual~~ Charter School Board.

(b) **Procedure for records requests.** Any individual or group seeking access to public records maintained by the Statewide ~~Virtual~~ Charter School Board (the "Requester") shall submit a written request to the Statewide ~~Virtual~~ Charter School Board records custodian, by fax, email, regular mail or in person. A form is available on the Board's website. In addition, all records requests must comply with the Open Records Act at 51 O.S. § 24A.1 et seq. and all of the following provisions:

- (1) All records requests must include:
  - (A) Identification and contact information of the individual and/or entity making the request;
  - (B) A description of the records requested with sufficient detail necessary to enable the records custodian to reasonably identify whether records responsive to the request exist; and
  - (C) If the Requester claims the public interest exemption from search fees in accordance with the provisions of (d) of this Section, all information necessary for the records custodian to determine the applicability of the exemption.
- (2) Within a prompt and reasonable time of the date of receipt of the request, the records custodian shall review the request, seek any additional information from the Requester necessary to clarify the request, and shall ascertain whether any records responsive to the request exist.
- (3) In addition, the records custodian shall promptly notify the Requester if records responsive to the request exist and whether the search will incur any fees and costs pursuant to 51 O.S. § 24A.5.

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(4) If the Requester fails to furnish additional information reasonably necessary to identify the records sought or otherwise enable agency personnel to accurately process the request, or if fees and costs have not been paid, any further processing of the request may be suspended by the records custodian. A request that remains suspended for a period of forty-five (45) calendar days or more shall be deemed abandoned.

(c) **Fees for record searches and copies of records.** Fees and costs associated with record searches and providing copies of records shall be determined in accordance with the following procedures:

(1) **Fees to recover reasonable and direct costs of record searches.** Requests for individual records of persons that are either solely for commercial purposes or requests that cause an excessive disruption of the essential functions of the agency are subject to fees for recovery of the reasonable, direct costs of record searches. However, requesters shall be exempted from search fees when the release of the requested records is in the public interest, including, but not limited to, release of records in response to requests from:

- (A) News media;
- (B) Scholars;
- (C) Authors; and
- (D) Taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

(2) **Fees to recover reasonable and direct costs of record copies.** Requests for records are subject to fees for recovery of the reasonable, direct costs of copying records and/or certification of each individual copy of a record.

(A) For purposes of this paragraph, "copying" of a record may include costs of:

- (i) Mechanical reproduction of a paper ("hard copy") record; or
- (ii) Conversion of a record into an electronic format (e.g., pdf).

(B) In no instance shall the fees per page fee for copying and/or certification of individual copies of documents exceed the amount set forth in 51 O.S. § 25A.5(3).

(C) The Board is authorized to periodically review and adjust the rates that will be charged for providing copies of records in accordance with the law. Those rates will include costs for record copies, document searches and transcript rates. The rates will be posted at principal office of the Statewide ~~Virtual~~ Charter School Board and filed with the county clerk as required by law.

(D) All fees and/or costs shall be paid by the requester prior to delivery of the response to the request. All fees must be paid by check or money order. No cash will be accepted.

## 777:1-1-9. Individual proceedings [AMENDED]

(a) **Definitions.** The following words and terms, when used in this subchapter, shall have the following meaning:

- (1) "Board" shall mean the Statewide ~~Virtual~~ Charter School Board.
- (2) "Individual proceeding" shall have the meaning set forth in the Administrative Procedures Act at 75 O.S. § 250.3.

(b) **Computation of time.** Any period of time prescribed pursuant to the provision of this rule shall be computed in accordance with the provisions of the Administrative Procedures Act at 70 O.S. § 250.8.

(c) **Petitions.** An individual proceeding shall be initiated by filing a petition with the Statewide ~~Virtual~~ Charter School Board. The petition shall meet all of the following requirements:

(1) The Petition must include:

- (A) A statement of the legal authority and jurisdiction under which the petitioner seeks to initiate the proceeding and the hearing is to be held;
- (B) A reference to each particular statute and/or rule involved;
- (C) A short and plain statement of the allegations asserted; and
- (D) A statement or description of the request for the relief petitioner seeks from the Board.

(2) The Petition must clearly identify the petitioner(s) and be signed by the petitioner or counsel for the petitioner.

(d) **Informal disposition.** Nothing in this Section shall prevent informal disposition of a petition from being made by stipulation, agreed settlement, consent order, or default, unless otherwise precluded by law. In the event of an informal disposition of a petition, written notice signed by each party or counsel representatives shall be delivered to the Statewide ~~Virtual~~ Charter School Board prior to the time of the scheduled hearing.

(e) **Right to counsel.** All parties to an individual proceeding shall have the right to representation by legal counsel in accordance with the provisions of 75 O.S. § 310. The Board may be represented by its own counsel, or, if deemed necessary by the Chairperson of the Board, a request may be made of the Attorney General to provide Board Advisor counsel to assist the Board in ruling on motions, questions of admissibility of evidence, competency of witnesses, and any



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other questions of law. In the event that counsel is not requested from the Attorney General, the Chairperson of the Board or a hearing officer appointed by the Board will rule on motions, the evidence, competency of the witnesses and other questions of law.

(f) **Legal counsel.** In accordance with 74 O.S. § 20i (2014), the Chairperson of the Board may request a private attorney on behalf of the Statewide ~~Virtual~~ Charter School Board and contract for legal representation.

(g) **Entry of appearance.** All parties or attorneys representing parties in an individual proceeding shall file an entry of appearance. The entry of appearance shall constitute the address of record for the party at which all documents in the individual proceedings will be served. The entry of appearance shall meet all of the following requirements:

- (1) The case caption of the individual proceeding;
- (2) The name and signature of the party or parties entering an appearance in the individual proceeding; and
- (3) The mailing address, telephone, fax number and e-mail address of the party or parties entering an appearance in the individual proceeding or, if represented by counsel:
  - (A) The name and signature of the attorney or attorneys entering an appearance in the individual proceeding on behalf of the party or parties;
  - (B) The name of the law firm of the attorney(s), if any; and
  - (C) The Oklahoma Bar Association number of the attorney(s).

(h) **Motions.** All requests for action in an individual proceeding before the Board or hearing officer shall be made in the form of a motion. Motions shall be filed with the Board, and shall comply with all of the following requirements:

- (1) The motion must clearly and specifically state:
  - (A) The facts upon which the request is based;
  - (B) All legal grounds in support of the request; and
  - (C) The action or relief sought.
- (2) The motion must be signed by the movant or counsel for the movant;
- (3) The motion must include the name and contact information of record of the movant or counsel for the movant; and
- (4) The motion must be timely served upon all parties to the proceeding and shall include a certificate of service that complies with the provisions of (h)(3) of this Section.
- (5) If the non-moving party wishes to file a response to a motion, the response must be filed with the Board ten (10) business days from the date of service and served on the opposing party.

(i) **Service.** Methods of service and proof of service of any notice, pleading, order, or other document required by this Section shall comply with the following provisions:

- (1) **Methods of service.** Service of any notice, pleading, or order required by this Section shall be made by one of the following methods:
  - (A) By personal delivery, served by a person licensed to make service of process in civil cases;
  - (B) By certified mail with delivery shown by return receipt. Service by certified mail shall be effective on the date of receipt or, if refused, on the date refusal by the Respondent. Acceptance or refusal by any officer of a business or an authorized agent for a business shall constitute acceptance or refusal by the party addressed;
  - (C) By publication if it is shown that service cannot be made by any other means despite the exercise of due diligence; or
  - (D) Any other method authorized by 12 O.S. § 2005(B).

(2) **Proof of service.** Proof of service of any petition to initiate an individual proceeding shall be filed with the Statewide Virtual Charter School Board. Acknowledgment in writing of the document by the recipient, or appearance by the recipient at a hearing without objection to service, shall be considered proof of service.

(3) **Certificates of service.** All documents filed with the Statewide ~~Virtual~~ Charter School Board in a pending individual proceeding and all documents requiring service in accordance with the provisions of this Section shall include a Certificate of Service that meets all of the following requirements:

- (A) The Certificate of Service shall state "I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, a copy of the foregoing document was mailed, postage prepaid, to:" and shall identify the name and address of all parties to whom the document was served.
- (B) The Certificate of Service shall be signed by the party or counsel for the party charged with service of the document.

(j) **Formal hearing procedures.** A hearing on a petition shall be conducted by the Chairman of the Board or the hearing officer in accordance with 75 O.S. § 310 and the following procedures:

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(1) **Date of hearing.** When a petition is filed, the Board shall promptly set the petition for hearing. Notice of the hearing shall comply with the requirements of 75 O.S. § 309. At the hearing, the Board may choose to consider evidence and arguments in support of or in opposition to the petition, the Board may set the matter for further hearing.

(2) **Appointment of a hearing officer.** The Chairman of the Board shall preside over any hearing conducted in an individual proceeding in accordance with the provisions of this Section. Alternatively, the Board, at its discretion, may utilize a hearing officer to conduct the hearing. If utilized, the hearing officer shall be appointed by the Chairperson of the Board upon a vote of the majority of the members of the Board.

(3) **Continuances.** Any party to the proceeding may request a continuance of the scheduled hearing in accordance with the following provisions:

(A) A party may request to continue a hearing scheduled in an individual proceeding by filing a motion for continuance with the Board. The motion for continuance shall meet all of the following requirements:

- (i) The motion shall comply with all of the requirements of (g) of this Section; and
- (ii) The motion shall be filed at least fifteen (15) business days prior to the scheduled hearing date, provided that this time requirement may be waived by the Board or hearing officer for good cause shown by the movant.

(B) The Board may continue a scheduled hearing by submitting written notification to all parties via certified mail, return receipt requested, or by electronic mail at least five (5) business days prior to the date of the scheduled hearing, provided that the time requirement may be waived by the Board or the hearing officer for good cause shown by the Board or counsel for the Board.

(C) If a motion for continuance is unopposed and the Board finds good cause for granting the motion, counsel for the Board shall prepare and sign a continuance order. The continuance order shall be filed with the Board and served in accordance with the requirements of (h) of this Section.

(D) If a motion for continuance is opposed, the non-moving party shall file a response motion opposing the continuance stating all factual and legal grounds for denial of the motion. The Board or the hearing officer shall issue an order concerning the motion as soon as possible prior to the hearing. The order shall be filed with the Board, and copies of the order served in accordance with the provisions of (h) of this Section and by email if possible.

(4) **Discovery and subpoenas.** The Board or the hearing officer may require parties to an individual proceeding to attend discovery when necessary and appropriate for prompt adjudication of an individual proceeding conducted in accordance with the provisions of this Section. Discovery shall be conducted in accordance with 75 O.S. § 315 and the following provisions:

(A) **Depositions.** The parties, upon notice may take depositions of witnesses in the same manner prescribed for depositions in civil actions in the district courts of the State of Oklahoma. The depositions may be admitted into evidence by the Board or the hearing officer in the same manner as other evidence. Costs of depositions shall be borne by the deposing party.

(B) **Subpoenas.** Subpoenas for the attendance of a witness or for production of evidence may be issued in accordance with the following provisions:

(i) **Issuance of a subpoena.** The Chairman of the Board or the hearing officer may direct the Board to issue a subpoena upon the motion of a party. The signature of the Executive Director shall be sufficient authentication for issuance of any subpoena. A motion for issuance of a subpoena shall comply with the provisions of (g) of this Section and shall be filed with sufficient time to permit service of the subpoena at least five (5) business days prior to the hearing at which the attendance of the witness or ten (10) business days prior to the date production of records is required.

(ii) **Objections to subpoenas.** Any party to the proceeding may oppose the issuance of a subpoena by filing a response to the motion for issuance within five (5) business days of receipt of service of the motion for subpoena. The Board may deny the issuance of a subpoena if, in its discretion, the request for subpoena is not necessary and proper for purposes of the individual proceeding.

(iii) **Service of a subpoena.** Subpoenas shall be served as set forth in (i)(1)(A) or (i)(1)(B).

(iv) **Quashing a subpoena.** Any party or the recipient of the subpoena may move to quash a subpoena or subpoenas duces tecum issued in accordance with the provisions of this Section, provided that, prior to quashing a subpoena or subpoenas duces tecum the agency shall give notice to all parties. A subpoena or subpoenas duces tecum may not be quashed if any party

objects.

(v) **Enforcement of subpoenas.** Upon the failure of any person to obey a subpoena, or upon the refusal of any witness to be sworn or make an affirmation or to answer a question put to her or him in the course of any individual proceeding, the Board shall consider the issue of enforcement of the subpoena as soon as convenient. By resolution, the Board may direct initiation of appropriate judicial proceedings necessary to enforce the subpoena or grant a party's motion for the party to seek compliance with the subpoena from the district court. Meanwhile, the hearing or other matters shall proceed, so far as is possible, but the Board or the hearing officer, at its discretion at any time may order a stay or continuance of the proceedings for such time as may be necessary to secure a final ruling in the compliance proceedings.

(vi) **Costs of issuance and service of subpoenas.** The costs covering the issuance and service of subpoenas and all witness fees incurred on behalf of a party to the proceedings, other than the Board, shall be borne by the party on whose behalf they are incurred, provided that the Board in its final order may tax such costs to another party if justice so requires.

(j) **Disqualification of a Board member or hearing officer.** A Board member or hearing officer shall withdraw from any individual proceeding in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification on the ground of his or her inability to give a fair and impartial hearing by filing an affidavit promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the Board, or if it affects a member of the Board, by the remaining members thereof, if a quorum. Upon the entry of an order of disqualification affecting a hearing officer, the Board shall either assign a replacement hearing officer, or conduct the hearing itself. Upon the entry of an order of disqualification affecting a Board member, the Governor immediately shall appoint a member pro tempore to sit in place of the disqualified member in that proceeding.

(k) **Presentation and consideration of evidence.** Presentation and consideration of evidence shall be conducted in accordance with the following procedures:

(1) **Witness and exhibit lists.** The parties to the hearing shall exchange witness and exhibit lists no later than five (5) business days prior to the hearing, or within a different time by agreement of the parties.

(2) **Admissibility and consideration of evidence.** The Board or hearing officer may determine the order in which evidence shall be received and presented. Admission and consideration of evidence in an individual proceeding conducted in accordance with the provisions of this Section shall be conducted in accordance with the Administrative Procedures Act at 75 O.S. §§ 309 through 326 and the following provisions:

(A) **Official notice.** The Board or hearing officer may take notice of judicially cognizable facts or of generally recognized technical or scientific facts within the specialized knowledge of the Statewide Virtual Charter School Board. The Board or hearing officer shall give notice to all parties, prior to, or at the hearing, of any facts of which it proposes to take official notice. Any party or her/his attorney may request that official notice be taken of any fact qualified for such notice by the statutes of this state. If such official notice is taken, it shall be stated in the record, and all parties shall have opportunity to contest and give evidence in rebuttal or derogation of the official notice.

(B) **Exclusion of witnesses.** A party may request the exclusion of witnesses to the extent and for the purposes stated in 12 O.S. § 2615. Exclusion of a witness shall not be considered a violation of the Oklahoma Open Meeting Act.

(C) **Testimony of witnesses.** All testimony of witnesses presented by parties shall be made under oath or affirmation. A party may conduct cross-examination of witnesses called by other parties. Witnesses may also be questioned by the Board or the hearing officer.

(D) **Objections to evidence.** Objections to evidence may be made and shall be included in the record of the proceedings.

(E) **Documentary evidence and authentication.** Documentary evidence may be received in the form of copies or excerpts. Parties may challenge the authenticity of any copies. Any part of the evidence may be received in written form, when a hearing will be expedited and the interests of the parties will not be prejudiced.

(l) **Order of procedure.** The order of procedure at the hearing shall be as follows:

(1) Opening statements by legal counsel of both parties;

(2) Presentation of evidence by both parties followed by cross-examination of witnesses, and questions by State Board members or the hearing officer;

(3) Closing arguments by legal counsel of both parties; and

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(4) Submission of case to the Board or the hearing officer for decision.

(m) **Dismissal of an action.** Upon a hearing, if the petitioner fails to show a prima facie case for lack of sufficient evidence, the Board may dismiss the petition upon grounds of failure to prove sufficient facts in support of the petition or upon the recommendation of the hearing officer on the same grounds. If the petitioner fails to appear at the scheduled hearing without prior notification to the Statewide Virtual Charter School Board within the time frame to request a stay or continuance set forth in (i) of this Section and without a demonstration of good cause, or fails to prove the allegations by clear and convincing evidence, the petition shall be dismissed.

(n) **Decisions.** After the conclusion of the hearing, a decision will be rendered on the petition.

(1) If the Board presided over the hearing, deliberations may be held in executive session pursuant to the provisions of the Open Meeting Act set forth at 25 O.S. § 307. After deliberations, the decision of the Board shall be announced in open session. Within a reasonable amount of time, the Board shall render a Final Order containing findings of fact and conclusions of law. All findings of fact made by the Board shall be based exclusively on the evidence presented during the course of the hearing or previously filed briefs, (made a part of the record), and of the testimony of witnesses taken under oath.

(2) If a hearing officer presided over the hearing, the hearing officer may allow the parties to prepare and submit proposed findings of fact and conclusions of law within a reasonable period of time following the hearing. Then, as expeditiously as possible, the hearing officer shall prepare proposed findings of fact and conclusions of law and submit them to the Board. After the parties have been given notice and an opportunity to file exceptions, present briefs and oral arguments to the proposed findings of fact and conclusions of law, the Board may take action to accept, reject, or modify the proposed Findings and Conclusions of the hearing officer for the final order.

(o) **Final order.** As the final determination of the matter, the final order shall constitute the final agency order and shall comply with the requirements set forth at 75 O.S. § 312. If no motion for rehearing, reopening or reconsideration of the order is filed in accordance with (r) of this Section, the final agency order shall represent the exhaustion of all administrative remedies. All final orders in an individual proceeding shall be in writing and made a part of the record. Final orders are to be issued and signed by the Chairperson of the Board for transmission to the parties by the Board. Within five (5) business days of the date of issuance of the final order, parties shall be notified of a final order either personally or by certified mail, return receipt requested. Upon request, a copy of the order shall be delivered or mailed to each party and the party's attorney of record, if any.

(p) **Communication with parties.** Unless required for the disposition of ex parte matters authorized by law, the Chairperson and the members of the Board, or the hearing officer if applicable, shall not communicate, directly or indirectly, in connection with any issue of fact, with any party, nor, in connection with any issue of law, with any party or his or her representative except upon notice and opportunity for all parties to participate. The Chairperson and members of the Board or their employees may communicate with one another in compliance with the Open Meeting Act and have the aid and advice of one or more personal assistants. Advice may also be secured from the Attorney General's office.

(q) **Record of hearing.** The record of the hearing shall be set forth in such form and detail as the Chairperson or the Board may direct.

(1) In accordance with the requirements of 75 O.S. § 309, the record shall include:

- (A) All pleadings, motions, and intermediate rulings;
- (B) Evidence received or considered during the individual proceeding;
- (C) A statement of matters officially noticed;
- (D) Questions and offers of proof, objections, and rulings thereon;
- (E) Proposed findings and exceptions;
- (F) Any decision, opinion, or report by the Board or a hearing officer presiding at the hearing; and
- (G) All other evidence or data submitted to the Board or hearing officer in connection with their consideration of the case.

(2) The Board shall ensure that all proceedings, except for executive sessions, are electronically recorded. The recording shall be made and maintained in accordance with the requirements of 75 O.S. § 309, and a copy shall be provided to any party to the proceeding upon request. The Board may, but is not required to direct the recording of a proceeding to be fully transcribed and have a copy of the transcript placed on file in the Board's office. Parties to the proceeding may have the proceedings transcribed by a court reporter at their own expense.

(r) **Rehearing, reopening or reconsideration of an order.** The ruling shall become final unless, within ten (10) calendar days of entry of the order of declaratory ruling, the petitioner files a written request for a reconsideration of the petition with the Board stating all grounds upon which the petitioner seeks reconsideration of the Board's ruling. A petition for rehearing, reopening, or reconsideration of an agency order issued pursuant to the provisions of this Section shall comply with the following procedures:

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- (1) A petition for rehearing, reopening or reconsideration of a final order must be filed with the Board within ten (10) calendar days from the entry of the order. It must be signed by the party or his or her attorney, and must set forth with particularity the statutory grounds upon which it is based. However, a petition based upon fraud practiced by the prevailing party or upon procurement of the orders by perjured testimony or fictitious evidence may be filed at any time. All petitions for rehearing, reopening, or reconsideration will be considered and ruled upon as soon as the convenient conduct of the Board's business will permit.
- (2) A petition for a rehearing, reopening, or reconsideration shall set forth the grounds for the request. The grounds for such a petition shall be either:
- (A) Newly discovered or newly available evidence, relevant to the issues;
  - (B) Need for additional evidence adequately to develop the facts essential to proper decision;
  - (C) Probable error committed by the Agency in the proceeding or in its decision such as would be grounds for reversal on judicial review of the order;
  - (D) Need for further consideration of the issues and the evidence in the public interest; or
  - (E) A showing that issues not previously considered ought to be examined in order to properly dispose of the matter. The grounds justifying the rehearing shall be set forth by the Statewide Virtual Charter School Board which grants the order, or in the petition of the individual making the request for the hearing.
- (3) It is the burden of the party requesting a rehearing to notify the opposing party of the appeal.
- (4) Upon receipt of a written request for reconsideration in accordance with this subsection, the request shall be set on the agenda for consideration by the Statewide Virtual Charter School Board at the next available regular meeting or at a subsequent regular or special meeting. Rehearing, reopening, or reconsideration of the matter may be heard by the Statewide Virtual Charter School Board or may be referred to a hearing officer. The hearing must be confined to those grounds on which the recourse was granted.
- (s) **Judicial review.** Any person or party aggrieved or adversely affected by a final order in an individual proceeding, after the exhaustion of administrative remedies, is entitled to certain judicial review in accordance with the provisions of the Oklahoma Administrative Procedures Act, and the procedures set forth therein shall govern appeals.

*[OAR Docket #25-507; filed 6-6-25]*

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## TITLE 777. STATEWIDE CHARTER SCHOOL BOARD CHAPTER 10. STATEWIDE ~~VIRTUAL~~ CHARTER SCHOOLS [AMENDED]

*[OAR Docket #25-510]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. General Provisions

777:10-1-2. Definitions [AMENDED]

777:10-1-3. School establishment requirements [AMENDED]

777:10-1-4. Educational Management Organizations [AMENDED]

Subchapter 3. Statewide Charter School and Virtual Charter School Sponsorship [AMENDED]

777:10-3-1. Purpose [AMENDED]

777:10-3-3. Applications to sponsor ~~statewide virtual charter schools; renewal and termination of contracts for sponsorship of statewide charter schools and virtual charter schools; renewal and termination of contracts for sponsorship of charter schools and~~ virtual charter schools [AMENDED]

777:10-3-4. Oversight and evaluation of ~~virtual charter schools by the Statewide Virtual charter schools and virtual charter schools by the Statewide~~ Charter School Board [AMENDED]

777:10-3-5. Full-time ~~virtual charter schools - succession of contractual rights and reversion of property to Statewide Virtual charter schools - succession of contractual rights and reversion of property to Statewide~~ Charter School Board [AMENDED]

Subchapter 5. Statewide Virtual Charter School Facilities

777:10-5-3. Statewide virtual charter school sites [AMENDED]

### **AUTHORITY:**

Statewide Charter School Board; 70 O.S.Supp.2024, § 3-132.1(I)(4) and 3-145.8(D).

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**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 25, 2024

**COMMENT PERIOD:**

December 16, 2024 through January 21, 2025

**PUBLIC HEARING:**

January 21, 2025

**ADOPTION:**

January 21, 2025

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 29, 2025

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by SJR22

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

July 11, 2025

**SUPERSEDED EMERGENCY ACTIONS:****SUPERSEDED RULES:**

N/A

**GUBERNATORIAL APPROVAL:**

N/A

**REGISTER PUBLICATION:**

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**DOCKET NUMBER:**

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**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The Oklahoma Statewide Charter School Board proposes these emergency rules to fulfill the requirements of the Board under the Oklahoma Charter Schools Act, 70 O.S.Supp.2023, §§ 3-130–3-167. The emergency rules add, amend, and modify definitions pertaining to charter schools, virtual charter schools, sites, and remove references to the board's now-abolished predecessor, the Statewide Virtual Charter School Board, to ensure that rule language refers to the Statewide Charter School Board. The emergency rules include language to allow the board read-only access to data from charter and virtual charter schools sponsored by the board. The emergency rules also require schools to provide online access and recording for public viewing of the governing board's meetings. The rules further streamline the application for new sponsorship process, including requirements that (1) ensure a representative for the prospective school participates in training related to the application process, and (2) a capacity interview of the leadership team and governing board of a prospective school are competent. The rules also streamline factors for reviewing applications for new charter or virtual charter schools. The formatting of renewals will also be streamlined. The rules add requirements on those charter schools seeking renewal of their charter but transferring sponsorship from an authorized sponsor to the board. The rules also amend the oversight and evaluation for charter and virtual charter schools and how performance will be measured. Finally, the rules amend data required to be submitted to the board on an annual basis.

**CONTACT PERSON:**

Amy Gibson, 405-522-8849, Amy.Gibson@scsb.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 JULY 11, 2025:

## SUBCHAPTER 1. GENERAL PROVISIONS

### 777:10-1-2. Definitions [AMENDED]

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

**"Charter school"** means any school sponsored by the Statewide Charter School Board in accordance with the requirements of the Oklahoma Charter Schools Act for the purpose of providing full-time public school courses of instruction for pre-kindergarten through twelfth (12th) grade students whose legal residence is located within the boundaries of the school district.

**"Charter school site" or "school site" or "statewide-virtual charter school site"** means the physical location of any facility or structure, leased or owned by the school, other than the legal residence of a student or the parent/legal guardian of a student, for use by a statewide charter school or virtual charter school to provide face-to-face or virtual instruction to students enrolled in the statewide charter school or virtual charter school per 70 O.S. § 3-132.2(c)(1-2).

**"Educational Management Organization" or "EMO"** means a for-profit or nonprofit organization that receives public funds to provide administration and management services for a charter school, ~~statewide-virtual charter school~~, or traditional public school.

**"Face-to-face instruction"** means any in-person tutoring, educational instruction, or any other activity provided by the ~~statewide charter school or virtual charter school~~ to an enrolled student for which the student's physical presence and/or participation is used by the charter school or virtual charter school to earn credit for a virtual course, meet the instructional requirements of 70 O.S. § 1-111 and/or be counted toward the student's compulsory attendance requirements set forth at Art. 13, § 4 of the Oklahoma Constitution, 70 O.S. § 10-105, and/or accompanying regulations of the State Department of Education relating to student attendance.

**"OCAS"** means the Oklahoma Cost Accounting System.

**"SCSB" or "Board"** means the Statewide Charter School Board.

**"Statewide virtual charter school"** means any charter school sponsored by the Statewide ~~Virtual~~ Charter School Board in accordance with the requirements of the Oklahoma Charter Schools Act for the purpose of providing full-time virtual public school courses of instruction for Pre-K through twelfth (12th) grade students whose legal residence is located within the State of Oklahoma.

~~**"SVCSB" or "Board"** means the Statewide Virtual Charter School Board.~~

~~**"OCAS"** means the Oklahoma Cost Accounting System.~~

### 777:10-1-3. School establishment requirements [AMENDED]

(a) **Information Technology Systems and Facilities.** By July 1 of the first year of operation, the school shall have in place the following:

- (1) Purchased and implemented a state-approved school finance system; Every approved statewide charter school or virtual charter school must utilize a state-approved school finance system aligned with the Oklahoma Cost Accounting System (OCAS). The school must notify the ~~Statewide Virtual Charter School Board~~ of the name of the system being utilized by July 1 prior to the start of school.
- (2) Purchased and implemented a state-approved student information system; Every approved statewide charter school or virtual charter school must utilize a state-approved student information system. The school must notify the ~~Statewide Virtual Charter School Board~~ of the name of the system being utilized by July 1 prior to the start of school.
- (3) Established secure connectivity to state reporting systems; Every approved statewide charter school or virtual charter school must verify connections to state-reporting systems that meet federal and state requirements for student data, student privacy, and applicable laws and statutes. The school must notify the ~~Statewide Virtual Charter School Board~~ of the name of the system being utilized by July 1 prior to the start of school.
- (4) Secured and ~~occupy~~occupied a public school administration facility located within the boundaries of the State of Oklahoma. Every approved statewide charter school or virtual charter school must have a public site that allows the public to have access to the main office of the school. The school must notify the ~~State Virtual Charter School Board~~ of the location, address, contact information of the facility by July 1 prior to the start of the school,

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and during the year if the location of the site changes. ~~Notification to the Statewide Virtual Charter School Board shall be through the online information gathering system set forth in 777:10-3-4.~~

(b) Authorizer Access to Information and Reporting Systems. The charter school or virtual charter school shall grant the Statewide Charter School Board read-only access to all state and school reporting systems, including, but not limited to, Single-Sign On, OCAS, the student information system, and the WAVE.

~~(b)(c)~~ Governing Boards.

(1) ~~All~~ Charter schools and virtual charter schools authorized by the Statewide ~~Virtual~~ Charter School Board shall be governed by a board ~~whose~~ with a majority of members ~~are~~ separate and distinct from any/all other school governing boards.

(2) Any board member serving on two (2) governing boards shall abstain from voting on shared services between the charter school or virtual charter school and any other school on which they serve as a board member.

(3) School governing boards are required to have a minimum of (5) members, at least one (1) of which shall be a parent, grandparent, or guardian of currently or previously enrolled student(s).

(4) School governing board by-laws shall include specific terms of service for board members and methods for selections and re-appointment ~~(if applicable)~~.

(5) Charter schools and virtual charter schools authorized by the Statewide Charter School Board shall provide online access and recording for public viewing of all governing board meetings.

## 777:10-1-4. Educational Management Organizations [AMENDED]

Any charter school or virtual charter school that contracts with or otherwise utilizes an educational management organization shall abide by the following:

(1) The relationship of the charter school and an educational management organization is that of a customer and vendor. As such, the charter school or virtual charter school and the educational management organization shall be separate entities in all aspects.

(2) The name of the educational management organization shall not be the same or similar to the name of the charter school.

~~(3) Charter school and governing body email addresses shall not be connected to the same web domain as the educational management organization or have the same email addresses as the educational management organization.~~

~~(4)~~ (3) All funds utilized to operate the charter school or virtual charter school, including, but not limited to, paying ~~charter school~~ employees, providing curriculum, technology, supplies, and/or extra-curricular activities to students shall be maintained in public charter school accounts and controlled by charter school employees.

~~(5)~~ (4) All payments to educational management organizations shall be supported by documentation on file including, but not limited to, purchase orders, invoices, OCAS coding details, staff approvals, and board approvals. Prior to payments from the school to educational management organizations, all funds shall be maintained in public school accounts, subject to open records requests and audits.

~~(6)~~ (5) All products and services provided as well as all management fees charged by the educational management organization shall be specifically listed and explained in the management contract. Any amendments to the contract shall be provided to the sponsor within five (5) business days of approval by the school's governing body.

~~(7)~~ (6) School governing boards shall evaluate their educational management organization annually and submit the evaluation to the ~~SVCSB~~ SCSB.

~~(8)~~ (7) An owner of an educational management organization shall not serve as superintendent of the charter school or virtual charter school.

## SUBCHAPTER 3. ~~STATEWIDE~~ CHARTER SCHOOL AND VIRTUAL CHARTER SCHOOL SPONSORSHIP [AMENDED]

### 777:10-3-1. Purpose [AMENDED]

The rules in this subchapter set forth procedures for authorization and sponsorship of ~~statewide~~ charter schools or virtual charter schools and requirements for contracts for sponsorship of ~~statewide~~ charter schools or virtual charter schools, including procedures for renewal and termination of contracts for sponsorship of charter schools and statewide virtual charter schools.



**777:10-3-3. Applications to sponsor statewide virtual charter schools; renewal and termination of contracts for sponsorship of statewide charter schools and virtual charter schools; renewal and termination of contracts for sponsorship of charter schools and virtual charter schools [AMENDED]**

(a) **Sponsorship application cycle and timelines.** To ensure that timely processing, review, and consideration of applications for sponsorship occurs within the time periods specified by 70 O.S. § 3-134, and to ensure that the application process is completed with sufficient time for new schools to comply with all statutory reporting requirements for the beginning of the next school year, (e.g., statutory state finance reporting deadlines for state aid purposes) the timeline for the application cycle for the following school year is as follows:

- (1) Completion of charter school training required by 70 O.S. § 3-134(A) prior to submission of letter of intent to submit an application;
- (2) Submission of a full application for statewide virtual charter school sponsorship in January, eighteen (18) months prior to the first year of proposed operation;
- (3) Public presentation of application/proposal for sponsorship at the next regularly scheduled Statewide Virtual Charter School Board meeting;
- (4) Review of application and recommendation by a team of experts in education;
- (5) Statewide Virtual Charter School Board decision on application for sponsorship at a subsequent Board meeting;
- (6) Submission of an amended application within thirty (30) calendar days of receipt of notification of rejection;
- (7) Board decision on amended application, if applicable, within thirty (30) calendar days of receipt of amended application; and
- (8) Negotiation and execution of a contract for sponsorship.

(b) **Sponsorship application requirements.** In addition to meeting the requirements of 70 O.S. § 3-134, new applications to the Statewide Virtual Charter School Board for sponsorship of a statewide virtual charter school must include the following information in the sponsorship proposal:

(1) For initial consideration for sponsorship, every applicant shall submit a set of policies and procedures governing administration and operation of the proposed statewide virtual charter school. The policies and procedures governing administration and operation of the proposed statewide virtual charter school shall be incorporated into the terms of the contract of the virtual charter school, and shall include, but are not limited to, all of the following subject areas:

(A) Each of the following provisions required by 70 O.S. § 3-135:

- (i) A description of the charter school program offered by the school which complies with the purposes outlined in 70 O.S. § 3-136;
- (ii) Student admission and enrollment policies and procedures;
- (iii) Management and administration of the charter school;
- (iv) Requirements and procedures for program and financial audits;
- (v) All of the requirements set forth in 70 O.S. § 3-136, including, but not limited to, compliance with all regulations of the State Department of Education pertaining to health, safety, civil rights, and insurance and financial reporting and auditing requirements;
- (vi) Assumption of liability by the charter school; and
- (vii) Employment rights and personnel policies of the school required to be included in employee contracts pursuant to 70 O.S. § 3-135(B);

(B) Duties and responsibilities of the charter school governing body;

(C) Student grade placement, promotion, retention, and graduation requirements;

(D) Use and maintenance of charter school property and facilities, including:

- (i) Virtual provider technology protocols that ensure conformity to the Rehabilitation Act of 1973 Sections 504 and 508 provisions for electronic and information technology, W3C's Web Content Accessibility guidelines, and Oklahoma's Information Technology Accessibility Standards to include minimum and recommended specifications for hardware, software, operating system, and Internet service, course delivery, and technical support;
- (ii) Facility safety and emergency and crisis management;
- (iii) School calendar, sample daily schedule as applicable to online learning at proposed school, school instructional hours, school holidays, dismissals and closures, attendance requirements;

(E) Contracts with prospective contractors, including, but not limited to, any educational management organization, in which all products and services as well as all management fees are specifically listed and explained; and

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(F) Any other topics deemed necessary by the Statewide Virtual Charter School Board to assess the applicant's capability to administer and operate the charter school in compliance with all applicable provisions of federal and state laws and regulations to which charter schools are required to comply.

(2) Each applicant shall:

(A) Articulate the vision and purpose of the school;

(B) Articulate the mission of the school, specifying how the school will embrace and accomplish its vision and purpose;

(C) Describe the key design elements and performance indicators of the school program that align with and support the school's mission and will be implemented to ensure student success;

(D) Describe how the school will ensure education access and equity for all eligible students;

(E) Describe how the governing body and governing documents ensure that a functioning organization with competent governance will be sustained, including:

(i) lines of authority;

(ii) leadership roles and responsibilities;

(iii) proposed governing by-laws;

(iv) meeting schedules for governing body;

(v) a list of advisory bodies;

(vi) external organizations applicable to school management;

(vii) make-up of governing body, including proof of Oklahoma residency for a majority of Board members;

(viii) start-up plan including a detailed listing and reporting frequency of academic, operational, and financial measures;

(ix) recruitment, hiring and personnel policies; professional and staff development and training, technology capacity, system accessibility, student records and data management; student recruitment policies and procedures; admission and enrollment policies and procedures (including minimum and maximum enrollment for each contract year and proposed school calendar and sample daily schedule); promotion and graduation policies and procedures; attendance policies and procedures; student conduct and discipline plan; school safety and emergency response plan; parent and family education and engagement plan;

(x) school effectiveness measurement criteria; and

(xi) location and description of school facilities;

(F) Describe how the governing body will ensure a sound and stable financial condition for the school, including:

(i) description of the roles and responsibilities of the treasurer and financial officers, and how each has demonstrated experience in school finance or the equivalent thereof;

(ii) financial policies, including financial controls, and compliance with audit requirements;

(iii) financial plan for the first five years of operation including, but not limited to, any financial support from a third-party including loans, deficit protection, and other financial leverage;

(iv) start-up and five-year budgets and cash flow projections. The documents provided must account for the school's anticipated enrollment, as well as, a budget if the school only realizes a portion of the school's anticipated enrollment;

(v) anticipated fundraising plan, if applicable;

(vi) insurance coverage/plan; and

(vii) verifiable proof of secured funds for each source of revenue, and documentation to support any agreement, donation, or loan that supports the budget.

(G) Describe how the governing body will ensure the delivery of a high-quality education program that meets academic performance for grade level and subject matter growth and proficiency, graduation, and college career readiness, including, but not limited to:

(i) grade levels served;

(ii) plan for program delivery and program evaluation;

(iii) curriculum and instructional model, including learning environment, curriculum overview, curriculum materials, instructional strategies, equipment and technology requirements, alignment with Oklahoma academic standards, which must include historical data and evaluation of the selected curriculum and instructional model, accreditations earned, and NCAA course certification status;

- (iv) student assessment, including plan to measure and report student progress, and benchmarks for student learning, district/school assessments, Oklahoma School Testing Program;
  - (v) plan for support structures (e.g. online tutoring, home mentors, and technical support services in place 24x7) in addition to teacher support;
  - (vi) plan for support of diverse learners, (students at-risk for poor learning outcomes, academically behind learners, English Language Learners (ELL), and other students identified through testing and assessments requiring targeted remediation, intervention, and/or support);
  - (vii) co-curricular and extracurricular activities;
  - (viii) student performance; and
  - (ix) school culture.
- (H) Include a concise plan that details expected school growth and how the school will evolve to meet the needs of school growth.
- (I) Demonstrate the applicant's experience in pre-kindergarten through 12<sup>th</sup> grade school operation.
- (3) Each applicant shall provide documentation of its school's ability to meet each of the following requirements specific to the virtual delivery of education services:
- (A) That each statewide virtual charter school is adequately prepared to deliver services to all enrolled students on the school's first day of operation and for all required instructional hours for every school year through a stable virtual platform;
  - (B) That each statewide virtual charter school has consistent lawful procedures in place governing admission, transfers, enrollment, and withdrawal of students;
  - (C) That each statewide virtual charter school has consistent lawful procedures in place governing admission, child find responsibilities, evaluation, and re-evaluation of students with disabilities, as well as applicable procedural safeguards and policies and procedures to ensure provision of free appropriate online and other educational and related services, supplementary aids and services, modifications, accommodations, supports for personnel, and other technical supports provided in the least restrictive environment to students with disabilities and/or other special needs in compliance with applicable federal and state laws and regulations, including:
    - (i) Students who require or may require individualized education programs pursuant to the Individuals with Disabilities Education Act (IDEA); and
    - (ii) Students who require or may require accommodations, regular or special education and related aids, or other services under a plan developed in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act;
  - (D) That each statewide virtual charter school has consistent procedures in place governing the admission, identification, evaluation, re-evaluation, parental notification, and provision of educational programs and services in compliance with applicable federal and state laws and regulations to students with special needs or unique abilities, including, but not limited to:
    - (i) Students who are English Language Learners/Limited English Proficient and who require services as necessary to overcome language barriers and ensure that they can participate meaningfully in the district's education programs; and
    - (ii) Students who meet the definition of "gifted and talented children" set forth in 70 O.S. § 1210.301;
  - (E) That each statewide virtual charter school complies with state and federal law in protection and handling of student records and data, including, but not limited to, protocols for secure storage and transmission of student records and data, parent/legal guardian access to student records and data and privacy of student records and data in compliance with all provisions of the Family Education Rights and Privacy Act of 1974 (FERPA) and the Individuals with Disabilities Education Act (IDEA), and ensures student records and data are exclusively the property of the school and the state of Oklahoma;
  - (F) That each statewide virtual charter school has consistent procedures and technology in place necessary to monitor and report student attendance, student participation in online school activities, and any necessary instruction in accordance with the requirements of state law;
  - (G) That each statewide virtual charter school has fair and consistent procedures in place to implement necessary and appropriate practices to promote and enforce student discipline that include sufficient due process protections for students facing accusations of conduct which may result in suspension and/or expulsion of a student;

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(H) That each statewide virtual charter school has consistent procedures and technology in place to ensure delivery of services and that each virtual charter school provider has an adequate plan in place for communicating emergency procedures to students in the event of technical failures of equipment and/or loss of connectivity;

(I) That each statewide virtual charter school has consistent procedures and technology in place to ensure consistent and adequate communication with parents/guardians of students and provide student progress and academic reports to parents/guardians of students; and

(J) That each statewide virtual charter school has provided a full description and explanation of the grade levels in which the provider intends to provide instruction and, for each charter school that offers secondary level coursework for grades nine (9) through twelve (12), whether the charter school will offer coursework as necessary to comply with the graduation requirements of 70 O.S. § 11-103.6 and accompanying regulations.

(4) Each applicant shall provide a written plan for compliance with all state and federal financial recording and reporting requirements for state and federal funds that are applicable to public school districts, including, but not limited to, compliance with:

(A) The School District Transparency Act at 70 O.S. § 5-135.4 et seq.;

(B) The Oklahoma Public School Audit Law at 70 O.S. § 22-101 et seq.;

(C) Annual itemized expenditure budget and request for appropriated funds and estimate of revenues required by 70 O.S. § 5-128.1; and

(D) Statutes and regulations pertaining to the Oklahoma Cost Accounting System (OCAS).

(5) Each application shall include a contact name, mailing address of record, phone number, and email address of the governing body at which all written notices required by 70 O.S. § 3-134 shall be served. In the event that a change in contact information occurs during the application process, the governing body shall provide the Board with updated contact information in writing within five (5) business days of the date that the change occurs.

**(c) Filing, review, approval, and denial of charter school applications for sponsorship.** All applications for sponsorship shall be submitted by the governing body of the prospective charter school to the Statewide Virtual Charter School Board by filing an original and ten (10) copies, as well as an electronic version of the application with the Statewide Virtual Charter School Board. Upon receipt of an application for sponsorship, the Board shall stamp the application to record the date of receipt, and shall promptly submit written confirmation of the receipt of the application to the contact name and address of record of the governing body listed on the application.

**(1) Application format:**

(A) The text and attachments shall use standard one-inch margins, be clearly paginated, and use a readable font not smaller in type than 11 point.

(B) A cover page shall be labeled *Application for Initial Authorization* and include the following information:

(i) Name of proposed school;

(ii) Address of proposed school;

(iii) Contact information: name, title, phone, email address;

(iv) Application submission date; and

(v) Name of applicant(s) and requested sponsor.

(C) A cover letter not to exceed two (2) pages shall provide a brief overview of the proposed school.

(D) A clearly labeled table of contents shall be included setting forth all major sections (Foundation for the School Charter, Organizational Capacity, Financial Management, Education Program and Performance, Growth Plan), appendices, and page numbers.

(E) Tables, graphs, and other data provided in the application shall be clearly presented and explained and shall be relevant to the text.

(F) The application shall include signed and notarized statements from the Head of the School and the governing body members, as applicable, showing their agreement to fully comply as an Oklahoma public charter school with all statute, regulations, and requirements of the United States of America, State of Oklahoma, Statewide Virtual Charter School Board, and Oklahoma Department of Education. Specifically cite agreement to abide by the Oklahoma Open Meeting Act and the Oklahoma Open Records Act, and to guarantee access to education and equity for all eligible students regardless of their race, ethnicity, economic status, academic ability, or other factors as established by law. In addition, the head of school and governing body members, as applicable, will guarantee to establish the components necessary to begin school operations in the State of Oklahoma on July 1 of the first year, including a

public administration facility, state-approved school financial system, state-approved student information system, and secured applicable connections to state reporting systems.

(G) The application shall include documentation of applicant's completion of charter school training.

**(2) Initial review and recommendation.** Prior to consideration of the application by the Statewide Virtual Charter School Board, a review panel may be formed by the Executive Director for the purpose of developing a recommendation on the application to the Board for consideration. The panel, chaired by the Executive Director, may include representatives with expertise in the area of accountability, online education, school governance, accreditation, education services, technology, school finance, federal programs, education law, curriculum, instruction, special education, and student information.

**(3) Application review and criteria.** In reviewing an application for sponsorship of a statewide virtual charter school, the Statewide Virtual Charter School Board shall determine whether the applicant's proposal for sponsorship complies with the provisions of 70 O.S. § 3-134 and other applicable provisions of the Oklahoma Charter Schools Act. In addition, the Board may consider any other factors demonstrating the applicant's capacity to successfully comply with the goals set forth in its vision and mission statements and applicable state, federal, tribal, and/or local statutes and regulations. Such factors may include, but are not limited to the following:

(A) Whether the applicant can demonstrate previous experience in operation of one or more successful virtual charter schools;

(i) If the applicant cannot demonstrate previous experience in operation of one or more successful virtual charter schools, whether applicant has sufficient resources in place to ensure compliance with applicable state, federal, tribal, and/or local statutes and regulations;

(ii) If the applicant can demonstrate previous experience in operation of one or more successful virtual charter schools, whether applicant has a history of non-compliance with applicable state, federal, tribal, and/or local statutes and regulations either in the State of Oklahoma or in other jurisdictions;

(B) Whether the applicant has provided evidence demonstrating financial stability in the pre-launch and operational years of the proposed school;

(C) Whether the criteria designed to measure the effectiveness of the charter school proposed by the applicant is reasonably calculated to provide accurate benchmarks for evaluation of teacher effectiveness and student learning; and

(D) Whether the charter school has adequate human resources, facilities, systems, and structures in place as necessary to evaluate the needs of and provide effective services to students with disabilities, English Language Learners, and gifted and talented students.

**(4) Acceptance or denial of sponsorship applications.** The Statewide Virtual Charter School Board shall review and consider the application in accordance with the timeline established pursuant to (a) of this Section; provided that a final decision on the application shall be made no later than ninety (90) calendar days from the date of receipt of the application by the Statewide Virtual Charter School Board. The Board shall promptly submit written notification of the decision of the Board, including reasons for rejection of the application, if applicable, to the applicant via certified mail, return receipt requested, to the address of record of the governing body designated on the application.

**(5) Reconsideration of sponsorship applications.** In the event of a denial of an application for sponsorship, the applicant may submit a revised application for reconsideration in accordance with the following procedures:

(A) The revised application for reconsideration shall be filed with the Board within thirty (30) calendar days after the date of receiving notification of the rejection. The revised application shall meet all of the application requirements set forth in this Section. In the event that delivery of written notification required by paragraph two (2) of this subsection is refused by the applicant or returned as undeliverable due to the applicant's failure to update the contact of record in accordance with the requirements of (b) (4) of this Section, the date of receipt of notification of the rejection shall be considered the date of the meeting at which the Board took action on the proposed application.

(B) Within five (5) business days of the date of receipt of the application for reconsideration, the Board shall promptly set the application for consideration at a meeting of the Board and submit notification of the date, time, and place of the meeting to the applicant to the contact of record. The meeting to consider the application shall occur within thirty (30) calendar days of the date of receipt of the application.

(C) The Statewide Virtual Charter School Board shall take action to accept or reject the revised application within thirty (30) calendar days of its receipt by the Board.

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(6) **Appeal of denial of sponsorship applications.** The procedures for filing appeals to the State Board of Education shall be governed by 70 O.S. § 3-145.3 and the policies and rules adopted by the State Board of Education, with a copy of the appeal mailed to the Statewide Virtual Charter School Board.

(d) **Requirements of the sponsorship contract.** Contracts for sponsorship between the Statewide Virtual Charter School Board and the governing body of a statewide virtual charter school shall include terms that meet all of the following requirements:

(1) The contract shall incorporate the provisions of the charter of the school in accordance with the requirements of 70 O.S. § 3-135, and the charter shall comply with the provisions of 70 O.S. § 3-136.

(2) The contract shall contain terms addressing all of the requirements set forth in 70 O.S. § 3-135.

(3) The contract shall contain terms setting forth measurable goals and objectives for student performance.

(4) The contract shall contain terms specifying standards for fiscal accounting and management that ensure the compliance of the charter school with all applicable provisions of state and federal statutes and regulations pertaining to requests for appropriations and recording and reporting receipt and expenditures of public funds, including, but not limited to:

(A) Terms providing that the charter school shall conduct annual financial audits in accordance with the requirements of the Oklahoma Public School Audit Law;

(B) Terms providing that the charter school shall comply with all State Department of Education deadlines necessary for budgeting, calculation of appropriations, and/or disbursements of state aid; and/or federal aid;

(C) Terms providing that the charter school shall comply with all deadlines for recording and reporting of state aid revenue and expenditures;

(D) Terms providing that the charter school shall comply with all requirements of the Oklahoma Cost Accounting System (OCAS);

(E) Terms providing that the charter school shall comply with all provisions of the School District Transparency Act at 70 O.S. § 5-135.4 et seq;

(F) Terms providing that the charter school will provide any and all records of the school including, but not limited to, financial records upon request by the sponsor;

(G) Terms providing that the charter school will provide any and all school records including, but not limited to, financial records of educational management organization upon request by the sponsor;

(H) Terms providing that the charter school shall comply with Constitutional appropriation requirements, including but not limited to, including a non-appropriation clause in multi-year contracts with vendors conditioning such agreements upon continued legislative appropriations;

(I) Terms providing that the school is subject to requests for audit by the State Auditor's office;

(J) Terms providing that the charter school and its governing board shall be subject to the same conflict of interest requirements as members of local school boards including, but not limited to, Sections 5-113 and 5-124 of Title 70 of the Oklahoma Statutes. No governing board member, school staff member, or contractor/vendor shall receive pecuniary gain, incidentally or otherwise, from the earnings of the educational management organization or school.

(5) The policies and procedures governing administration and operation of the statewide virtual charter school shall be incorporated into the terms of the contract.

(6) The term of the initial contract shall be effective for five (5) years from the first day of operation in accordance with the provisions of 70 O.S. § 3-137.

(7) The term of the contract shall designate at least one contact name and address of record of the governing body of the charter school to which all notices required by the terms of the contract and/or this Section shall be served, including the name, title, mailing address, email address, and phone number of all individual(s) authorized to receive service of notices required by this Section and pursuant to the terms of the contract.

(8) The contract shall contain any other terms necessary to ensure compliance with applicable provisions of state and/or federal law.

(e) **Renewals of contracts for sponsorship of statewide virtual charter schools.** Renewal of a contract with a statewide virtual charter school sponsored by the Statewide Virtual Charter School Board shall be conducted in accordance with the requirements of the Oklahoma Charter Schools Act:

(1) **Requests for renewal of contract for sponsorship.** Requests for renewal of the contract for sponsorship shall be submitted by the governing body of the charter school in accordance with the following procedures:

(A) At least one (1) year prior to expiration of the initial contract term, but no earlier than eighteen (18) months prior to the date of expiration of the contract, the governing body of the charter school may submit a proposal for renewal of the contract to the Statewide Virtual Charter School Board by filing an original and seven (7) copies, as well as an electronic version of the proposal with the Board.

(B) The Board shall schedule the request for renewal as an item on the agenda for the next regular meeting of the Board, or at a subsequent meeting if the proposal for renewal is not received until after the agenda for the next meeting has already been set. The Board shall timely submit written notice of the date, time, and location of the meeting at which the proposal for renewal will be considered and/or heard by regular mail to the governing body of the charter school at the address of record set forth in the sponsorship contract. In addition, the Board may send a courtesy copy of the notice by facsimile, and/or email. If the Board will act on the proposal for renewal at a subsequent meeting of the Board, similar notice of such meeting shall be sent to the governing body of the charter school.

(C) The Board shall review the proposal for renewal and take action on the request for renewal no later than eight (8) months prior to the date of expiration of the contract.

(D) The Board may base its decision to deny the charter school governing body's request for renewal upon any of the grounds for nonrenewal or termination set forth in 70 O.S. § 3-137 and/or (f)(1) of this Section.

**(2) Format for renewal application.** The renewal application shall include:

(A) Text and attachments using standard one-inch margins, clearly paginated, and using a readable font not smaller in type than 11 point.

(B) A cover page labeled *Application for Reauthorization*, including the following information:

- (i) Name of school;
- (ii) Address of school;
- (iii) Contact information: name, title, phone, email address;
- (iv) Date application approved by governing body, and
- (v) Application submission date.

(C) A cover letter no more than two (2) pages in length providing a brief overview of the school's mission, key school design elements, performance indicators and related data, and major challenges and accomplishments over the term of the current contract.

(D) A clearly labeled table of contents setting forth all major sections, appendices, and page numbers.

(E) Clearly labeled attachments provided in the appendix.

(F) Clearly labeled tables, graphs, and other data provided in this application in addition to an explanation of their relevance to the text.

(G) A signed and notarized statement from the Head of the School and the governing body members, as applicable, showing their consideration and approval of the reauthorization application and their agreement to fully comply, as an Oklahoma public charter school with all statute, regulations, and requirements of the United States of America, State of Oklahoma, Statewide Virtual Charter School Board, and Oklahoma Department of Education. Specifically cite agreement to abide by the Oklahoma Open Meeting Act and the Oklahoma Open Records Act, and to guarantee access to education and equity for all eligible students regardless of their race, ethnicity, economic status, academic ability, or other factors.

(H) A single page entitled *Introduction to the School* containing, at a minimum, the following list of information:

- (i) Name of school;
- (ii) Location of school;
- (iii) Year opened;
- (iv) Year renewed, if applicable;
- (v) Maximum enrollment;
- (vi) Current enrollment;
- (vii) Grade span;
- (viii) Most recent accountability report information from the State of Oklahoma;
- (ix) Attendance rate;
- (x) Graduation rate;
- (xi) Recurrent enrollment;
- (xii) Dropout rate;
- (xiii) Percentage of at-risk students enrolled; and

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(xiv) Any other information the school deems necessary to include.

**(3) Information in renewal request:**

(A) In addition to the information found in the performance report, and the school's response to the performance report, if any, this reauthorization application is the school's opportunity to address each of the following components highlighting what the school believes is most important in each area:

- (i) Faithfulness to the foundation of the charter;
- (ii) Organizational capacity;
- (iii) Financial management;
- (iv) Education program and performance;
- (v) Strategic planning; and
- (vi) Corrective Action Plan (if required);

(B) Appendices. Provide documents and related information for the term of the contract beyond those provided in the performance report and response, including examples of community and parent support of the school.

**(4) Performance report and site visit.** The sponsor of the school will issue a school performance report in accordance with State statute. The school shall have forty-five (45) calendar days to respond to the performance report and submit any corrections or clarifications for the report. In evaluating a school's renewal request, the Board may consider the performance report, results of a site visit, and evidence provided in the school's presentation to the Board.

**(5) Notice of intent of non-renewal of contract for sponsorship.** Notwithstanding the provisions of paragraph one (1) of this subsection, the Statewide Virtual Charter School Board may elect to not renew a contract for sponsorship in accordance with the following procedures:

(A) No later than eight (8) months prior to the date of expiration of the contract. The Statewide Virtual Charter School Board shall submit written notice of its intent of non-renewal via certified mail, return receipt requested to the governing body of the charter school at the address of record set forth in the contract. The notice shall include:

- (i) A statement of any and all factual and legal grounds upon which the Board's intent to non-renew the contract is based; and
- (ii) A statement of the date, time, and location of the meeting at which the Board intends to take action on the proposed non-renewal, which shall be held no earlier than thirty (30) calendar days from the date of the notice of intent to non-renew the contract is sent to the charter school.

(B) The Board may base its decision to non-renew the contract for sponsorship upon any of the grounds for nonrenewal or termination set forth in 70 O.S. § 3-137 and/or (f)(1) of this Section.

(C) The procedures for filing appeals to the State Board of Education shall be governed by 70 O.S. § 3-145.3 and the policies and rules adopted by the State Board of Education, with a copy of the appeal mailed to the Statewide Virtual Charter School Board.

**(f) Terminations of contracts for sponsorship of statewide virtual charter schools.** The Statewide Virtual Charter School Board may terminate the contract with a statewide virtual charter school in accordance with the following procedures:

**(1) Grounds for termination of a contract for sponsorship:** At any time during the term of the contract, the Statewide Virtual Charter School Board may terminate the contract on one or more of the following grounds:

- (A) Failure to meet the requirements for student performance set forth in the terms of the contract;
- (B) Failure to meet the standards of fiscal accounting and management set forth in the terms of the contract;
- (C) Violations of applicable state, federal, tribal, or local laws, statutes, and/or regulations;
- (D) Other good cause as established by the Board, which may include, but shall not be limited to:
  - (i) Failure by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors to meet reporting deadlines necessary for compliance with state or federal statutes or regulations;
  - (ii) Failure by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors to accurately report student enrollment counts;
  - (iii) Failure by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors to accurately report and/or classify student accountability data;



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(iv) Identification and/or designation of the charter school by the State Board of Education as consistently in need of improvement in accordance with subsection (g)(6) of Section 1003 of Title I of the Elementary and Secondary Education Act of 1965 (ESEA), pursuant to 70 O.S. § 1210.544;

(v) Any material breach of the terms set forth in the contract for sponsorship; and

(vi) Any action or failure to act by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors that presents or results in an immediate and serious danger to the health, safety, and welfare of its students.

**(2) Notice of intent to terminate contract.** At least ninety (90) calendar days prior to termination of a contract for sponsorship of a statewide virtual charter school, the Statewide Virtual Charter School Board shall submit written notice of its intent to terminate the contract via certified mail, return receipt requested to the governing board of the charter school at the address of record set forth in the contract. The notice shall include:

(A) A statement of any and all factual and legal grounds upon which the Board's intent to terminate the contract is based;

(B) A statement of the date, time, and location of the meeting at which the Board intends to take final action on the proposed termination, which shall be held no earlier than forty-five (45) calendar days from the date the notice of intent to terminate is mailed to the charter school; and

(C) A statement that the governing board of the school may request a hearing before the Board to present evidence in opposition to the proposed termination by delivering a written request to the Board within fourteen (14) calendar days of receipt of notice of the intent to terminate the contract that includes:

(i) A response to the factual and legal grounds for termination set forth in the notice; and

(ii) A summary of evidence that the school intends to submit in support of its response.

(D) Within ten (10) calendar days of the date of receipt of the request for hearing, the Board shall schedule a hearing and submit written notice of the date, time, and location of the hearing by regular mail to the charter school's address of record set forth in the sponsorship contract. The Board may send a courtesy copy of the notice by facsimile, and/or email.

**(3) Hearing on termination.** In the event that a hearing is requested pursuant to the provisions of (2)(C) of this subsection, the Board shall promptly schedule a hearing at which the statewide virtual charter school may present argument and/or evidence in opposition to the proposed termination. The Board shall prescribe the time allotted for oral argument and presentation of evidence. Upon completion of the hearing, the Board may consider the merits of the argument and presentation of evidence and take action on the proposed termination, or it may schedule action on the proposed termination for a subsequent board meeting to provide the board with further opportunity for deliberation.

**(4) Appeals of termination.** The procedures for filing appeals to the State Board of Education shall be governed by 70 O.S. § 3-145.3 and the policies and rules adopted by the State Board of Education, with a copy of the appeal mailed to the Statewide Virtual Charter School Board.

**(g) Negotiation and execution of contracts for sponsorship.** To facilitate and/or expedite negotiations for new contracts for sponsorship, the Statewide Virtual Charter School Board may adopt a model contract for sponsorship of a statewide virtual charter school for use by the Board and potential statewide virtual charter schools sponsored by the Board. Adoption of a model contract shall not prohibit the Board from further negotiation of contract terms or addition of terms to the contract for sponsorship prior to execution of the contract so long as such terms are in compliance with applicable state, federal, local, and/or tribal law and the provisions of this Section.

**(h) Execution of the contract.** The final contract for sponsorship shall not be executed until approved by the Statewide Virtual Charter School Board at a regular or special meeting. The Board may delegate authority to the Chairman to execute the approved contract for sponsorship on behalf of the Board.

**(a) Sponsorship application cycle and timelines.** To ensure that timely processing, review, and consideration of initial applications for sponsorship occurs within the time periods specified by 70 O.S. § 3-134, and to ensure that the application process is completed with sufficient time for new schools to organize and comply with all statutory reporting requirements for the beginning of the initial school year, the timeline for the application cycle for the following school year is as follows:

(1) Completion of charter school training required by 70 O.S. § 3-134(A) prior to submission of letter of intent to submit an application;

(2) Charter school training must be completed by an individual directly associated with the applicant and within the last three (3) years;

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- (3) A letter of intent to submit an application for sponsorship must be provided to the Board. Upon receipt of the letter of intent, guidance for application submission will be provided;
- (4) An application for sponsorship shall be submitted at least eighteen (18) months but not more than twenty-four (24) months prior to July of the expected school opening year;
- (5) A public presentation of the application for sponsorship will be conducted at the next subsequent Board meeting;
- (6) A review of the application will consider all aspects of the application process including, but not limited to, the written application, supporting documents, presentation, and capacity interview;
- (7) The Board will render a decision on the application for sponsorship at a subsequent Board meeting;
- (8) If approved, negotiation and execution of a contract for sponsorship will begin;
- (9) If rejected, the applicant may submit an amended application within thirty (30) calendar days of receipt of notification of rejection;
- (10) A Board decision on amended application, if applicable, will be rendered within thirty (30) calendar days of receipt of the amended application;
- (11) If approved, negotiation and execution of a contract for sponsorship will begin; and
- (12) If rejected, the application may proceed according to statute.

**(b) Initial application requirements for sponsorship.** In addition to meeting the requirements of title 70, section 3-134 of the Oklahoma Statutes and any requirements imposed by the authorizer, applications for sponsorship of a charter school or virtual charter school submitted to the Board must include the following information:

- (1) For initial consideration for sponsorship, the applicant must provide information and documents related to the organizational, academic, and financial capacity of the charter school or virtual charter school. If approved, the application shall be incorporated into the terms of the contract for sponsorship;
- (2) Proposed School Information:
  - (A) Name of proposed school,
  - (B) Name of applicant,
  - (C) Name of contact, contact's title, address, email, and phone number,
  - (D) The grade level(s) to be served,
  - (E) Proposed minimum and maximum enrollment for each year for the duration of a five-year contract term, and
  - (F) Date the application was approved by the proposed school's governing board;
- (3) A cover letter not to exceed three (3) pages that includes an overview of the proposed school and community it would serve;
- (4) Vision and mission statements and related information;
- (5) Completed charter school training information;
- (6) Academic Program:
  - (A) The proposed school's instructional design including the type of learning environment that will be created, class size and structure, curriculum overview, and teaching methods,
  - (B) The plan for using internal and external assessments to measure and report student achievement including how the proposed school will use formative and summative assessments to measure program effectiveness,
  - (C) The plan for identifying and successfully serving students with disabilities, students who are English language learners, students who are academically behind, and students who are gifted and/or talented,
  - (D) The policies that will determine the requirements for student grade placement, promotion, and retention,
  - (E) For high schools, graduation requirements and highlight any expectations that will go above or beyond the state requirements,
  - (F) The plan for offering co-curricular and extracurricular programs and how the offered programs will be funded and delivered; and
  - (G) Curriculum guides for each core academic area aligned with the Oklahoma Academic Standards or in the absence of curriculum guides, submit a narrative detailing the curriculum development process and timeline to achieve this goal prior to the school opening;
- (7) Financial Capacity:
  - (A) A narrative describing how financial decisions will be made which support the school's vision and mission and the academic program,

- (B) A financial plan for the first five (5) years of operation and a description of the treasurer, encumbrance clerk, and other financial officers or persons who have primary responsibility for the finances of the proposed school, including a description of financial controls and audit requirements,
- (C) Evidence of anticipated fundraising contributions, if applicable,
- (D) Plans to acquire start-up funding through agreements, donations, loans, and/or long-term debt,
- (E) A description of the insurance coverage the proposed school will obtain,
- (F) Start-up and five-year budgets with clearly stated assumptions,
- (G) Start-up and first-year cash-flow projections with clearly stated assumptions,
- (H) Any proposed contract between the proposed school's governing board and an educational management organization, and
- (I) Verifiable proof of secured funds for each source of revenue and documentation to support any agreement, donation, loan, or long-term debt that supports the budget;

**(8) Organizational Capacity:**

- (A) A narrative describing the proposed school's governing board's capacity to achieve this expectation,
- (B) The proposed school's plans for providing transportation, food service, and all other significant operational or ancillary services,
- (C) The leadership and teacher employment and hiring policies expected for the proposed school,
- (D) Any partnerships or contractual partnerships into which the proposed school plans to enter,
- (E) The proposed school's facilities plan including backup or contingency plans if appropriate,
- (F) The plans and timelines for student recruitment and enrollment including lottery procedures,
- (G) A description of parent expectations and the plan for parental involvement,
- (H) A detailed school start-up plan that identifies tasks, timelines, and responsible individuals,
- (I) An organization chart that clearly presents the organizational structure of the proposed school including lines of authority and any external organizations expected to play a role in managing the proposed school and including a description of the roles and responsibilities of each entity,
- (J) Roster of governing board members and contact information,
- (K) Proposed governing board's bylaws,
- (L) Signed and notarized Statement of Assurance from each governing board member demonstrating agreement to fully comply as an Oklahoma public charter school or virtual charter school with all statutes, regulations, and requirements of the United States of America, State of Oklahoma, Statewide Charter School Board, and Department of Education, citing agreement to abide by the Oklahoma Open Meeting Act and the Oklahoma Open Records Act, guaranteeing access to education and equity for all eligible students regardless of race, ethnicity, economic status, academic ability or other factors as established by law, acknowledging the performance criteria designed to measure the effectiveness of the proposed school, guaranteeing to meet no fewer than ten (10) months of the year in the state; and guaranteeing to establish the components necessary to begin school operations in the State of Oklahoma on July 1 of the first year, including a public administration facility, state-approved school financial system, state-approved student information system, and secured applicable connections to state reporting systems,
- (M) Proposed Educational Management Organization Contract, if applicable,
- (N) Proposed school calendar,
- (O) Sample daily schedule including bell schedule, class size, instructional staff to student ratio, subjects (and average time on task), recess/free time, and meals and for high schools including access to advanced placement, dual enrollment, and career and technical education, and
- (P) Proposed discipline policy, including special education students.

**(c) Initial application submission, review process, criteria, acceptance or denial, reconsideration, and or appeal.**

- (1) Submission.** All applications for sponsorship shall be submitted by the governing board of the prospective charter school or virtual charter school to the SCSB.
- (2) Application review criteria.** In reviewing an application for sponsorship of a charter school or virtual charter school, the SCSB shall determine whether the applicant's proposal for sponsorship complies with the provisions of the Oklahoma Charter School's Act and the SCSB's administrative rules in title 777 of the Oklahoma Administrative Code. Additionally, the Board may consider other factors demonstrating the applicant's capacity to successfully comply with the goals set forth in its vision and mission statements and applicable state, federal, tribal, and/or local statutes and regulations. Such factors may include, but are not limited to the following:
  - (A) Demonstrating experience in operation of one or more successful charter school(s) or virtual charter school(s),

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(B) Providing evidence demonstrating financial stability in the pre-launch and operational years of the proposed school;

(C) Providing the criteria designed to measure the effectiveness of the charter school proposed by the applicant is reasonably calculated to provide accurate benchmarks for evaluation of teacher effectiveness and student learning, and

(D) Providing adequate human resources, facilities, systems, and structures in place as necessary to evaluate the needs of and provide effective services to all students including those with disabilities, English Language Learners, and gifted and talented students.

**(d) Application for renewal of contracts for sponsorship of charter schools or virtual charter schools.** Renewal of a contract for sponsorship by the Board shall be conducted in accordance with the requirements of the Oklahoma Charter Schools Act.

**(1) Application requests for renewal of contract for sponsorship.** Requests for renewal of the contract for sponsorship shall be submitted by the governing board of the charter school or virtual charter school in accordance with the following procedures:

(A) At least one (1) year prior to expiration of the initial contract term but no earlier than eighteen (18) months prior to the date of expiration, the governing board of the charter school or virtual charter school board must submit a letter of intent to apply for renewal of the charter contract. Upon receipt of the letter of intent, guidance for application submission will be provided.

(B) The Board shall schedule the request at a subsequent meeting. The Board shall timely submit notice of the date, time, and location of the meeting at which the proposal for renewal will be considered.

(C) The Board shall review the proposal and take action on the request of renewal no later than eight (8) months prior to the date of expiration of the contract.

(D) The Board will issue a school performance report in accordance with State statute. The school shall have forty-five (45) calendar days to respond to the performance report and submit any correspondence or clarifications for the report. In evaluating a school's renewal request, the Board may consider the application, performance report, results of a site visit, and evidence provided in the school's presentation to the Board.

(E) The Board may accept or reject the application, may request the applicant consider application revisions, or may proceed with renewal with conditions.

(F) The SCSB may base its decision to deny the school governing board's request for renewal upon any grounds for nonrenewal or termination set forth in title 70, section 3-137 of the Oklahoma Statutes.

**(2) Format for application for renewal.** The renewal application shall include the following:

(A) School information:

(i) Name of school,

(ii) School phone number,

(iii) Address of school,

(iv) School website address,

(v) Contact information: name, title, phone number, and email address,

(vi) Governing board president contact information: name, phone number, and email address,

(vii) Names of other governing board members,

(viii) Current authorizer,

(ix) Grade level(s) served,

(x) Current enrollment,

(xi) Year school was established,

(xii) Year school was last renewed, and

(xiii) Date application for renewal was approved by the governing board in an open meeting;

(B) A cover letter no more than three (3) pages providing a brief overview of the school's vision and mission, school performance, and major accomplishments and challenges;

(C) A narrative that describes improvements currently undertaken or planned for the school;

(D) A narrative describing the school's detailed plan for the next charter contract term for the school, including how the plan is aligned to its vision and mission;

(E) The school's current strategic plan; and

(F) A signed and notarized statement from the Head of School and all governing board members demonstrating their consideration and approval of the renewal and reauthorization application and agreement to fully comply as an Oklahoma public charter school with all statutes, regulations, and requirements of the United States of America, State of Oklahoma, the Board, the Oklahoma Department

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of Education, and agree to abide by the Oklahoma Open Meeting Act and the Oklahoma Open Records Act, and to guarantee access to education and equity for all eligible students regardless of their race, ethnicity, economic status, academic ability, or other factors.

**(3) Additional information required for charter schools or virtual charter schools sponsored by an Oklahoma authorizer other than the Board seeking renewal from the Board.**

- (A) Current charter contract;
- (B) Annual Performance Frameworks and Performance Report for the school's current charter contract term;
- (C) Organizational Chart;
- (D) Current enrollment by grade level;
- (E) Percentage of returning students in the current school year;
- (F) Oklahoma School Testing Program (OSTP) data for the past two (2) years;
- (G) School Report Cards for the past two (2) years;
- (H) Annual financial audits and related documents for the past two (2) years;
- (I) Current school budget including a year-to-date comparison of budgeted versus actual revenues and expenditures;
- (J) Loan and long-term debt documents;
- (K) Quarterly financial statements for the past four (4) quarters;
- (L) Current statement of financial position (balance sheet) with assets, liabilities, and fund balances;
- (M) Current Oklahoma State Department of Education accreditation status including all applicable documents;
- (N) All shared services agreements; and
- (O) Educational Management Organization contract, if applicable.

**(4) Performance report and site visit.** The Board will issue a school performance report in accordance with State statute. The school shall have forty-five (45) calendar days to respond to the performance report and submit any corrections or clarifications for the report. In evaluating a school's renewal request, the Board may consider the application, performance report, results of a site visit, and evidence provided in the school's presentation to the Board.

**(5) Notice of intent of non-renewal of contract for sponsorship.** The Board may elect to not renew a contract for sponsorship in accordance with the following procedures:

- (A) No later than eight (8) months prior to the date of expiration of the contract. The Board shall submit written notice of its intent of non-renewal via certified mail, return receipt requested to the governing body of the charter school at the address of record set forth in the contract. The notice shall include:
  - (i) A statement of any and all factual and legal grounds upon which the Board's intent to non-renew the contract is based, and
  - (ii) A statement of the date, time, and location of the meeting at which the Board intends to take action on the proposed non-renewal, which shall be held no earlier than thirty (30) calendar days from the date of the notice of intent to non-renew the contract is sent to the charter school.
- (B) The Board may base its decision to non-renew the contract for sponsorship upon any of the grounds for nonrenewal or termination set forth in 70 O.S. § 3-137 and/or this Section.
- (C) If the Board denies a request for renewal, the charter school or virtual charter school may proceed as provided for in the Oklahoma Charter Schools Act.

**(e) Termination of contracts for sponsorship of charter schools and virtual charter schools.** The Board may terminate a contract with a charter school or virtual charter school in accordance with the following procedures:

- (1) Grounds for termination of a contract for sponsorship. At any time during the term of the contract, the Board may terminate the contract for one or more of the following grounds:
  - (A) Failure to meet the requirements for student performance set forth in the terms of the contract;
  - (B) Failure to meet the standards of fiscal accounting and management set forth in the terms of the contract;
  - (C) Violations of applicable state, federal, tribal, or local laws, statutes, and/or regulations; and
  - (D) Other good cause as established by the Board, which may include but shall not be limited to:
    - (i) Failure by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors to meet reporting deadlines necessary for compliance with state or federal statutes or regulations,

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- (ii) Failure by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors to accurately report student enrollment counts,
  - (iii) Failure by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors to accurately report and/or classify student accountability data,
  - (iv) Identification and/or designation of the charter school by the State Board of Education as consistently in need of improvement in accordance with subsection (g)(6) of Section 1003 of Title I of the Elementary and Secondary Education Act of 1965 (ESEA), pursuant to 70 O.S. § 1210.544,
  - (v) Any material breach of the terms set forth in the contract for sponsorship, and
  - (vi) Any action or failure to act by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors that presents or results in an immediate and serious danger to the health, safety, and welfare of its students.
- (2) Notice of intent to terminate contract. At least ninety (90) calendar days prior to termination of a contract for sponsorship of a charter school or virtual charter school, the Board shall submit written notice of its intent to terminate the contract via certified mail, return receipt requested to the governing board of the charter school at the address of record set forth in the contract for sponsorship. The notice shall include:
  - (A) A statement of any and all factual and legal grounds upon which the Board's intent to terminate the contract is based,
  - (B) A statement of the date, time, and location of the meeting at which the Board intends to take final action on the proposed termination, which shall be held no earlier than forty-five (45) calendar days from the date that the notice of intent to terminate is mailed to the charter school, and
  - (C) A statement that the governing board of the school may request a hearing before the Board to present oral argument and evidence in opposition to the proposed termination by delivering a written request to the Board within fourteen (14) calendar days of receipt of notice of the intent to terminate the contract that includes:
    - (i) A response to the factual and legal grounds for termination set forth in the notice; and
    - (ii) A summary of evidence that the school intends to submit in support of its response.
  - (D) Within ten (10) calendar days of the date of receipt of the request for hearing, the Board shall schedule a hearing and submit written notice of the date, time, and location of the hearing by regular mail to the charter school's address of record set forth in the contract for sponsorship. The Board may send a courtesy copy of the notice by facsimile, and/or email.
- (3) **Hearing on termination.** In the event that a hearing is requested, the Board shall promptly schedule a hearing at which the charter school or virtual charter school may present argument and evidence in opposition to the proposed termination. The Board shall prescribe the time allotted for oral argument and presentation of evidence. Upon completion of the hearing, the Board may consider the merits of the argument and presentation of evidence and take action on the proposed termination, or it may schedule action on the proposed termination at a subsequent board meeting to provide the board with further opportunity for deliberation.
- (4) **Appeal of termination.** The procedures for filing appeals may be made in accordance with the Oklahoma Charter Schools Act.
- (f) **Negotiation and execution of contracts for sponsorship.** To facilitate and/or expedite negotiations for new contracts for sponsorship, the Board may adopt a model contract for sponsorship of a charter school or virtual charter school for use by the Board and potential charter schools or virtual charter schools sponsored by the Board. Adoption of a model contract shall not prohibit the Board from further negotiation of contract terms or addition of terms to the contract for sponsorship prior to execution of the contract so long as such terms are in compliance with applicable state, federal, local, and/or tribal law and the provisions of this Section.
- (g) **Execution of the contract.** The final contract for sponsorship shall not be executed until approved by the Board at a meeting. The Board may delegate authority to the Chairman to execute the approved contract for sponsorship on behalf of the Board.

## **777:10-3-4. Oversight and evaluation of virtual charter schools by the Statewide Virtual charter schools and virtual charter schools by the Statewide Charter School Board [AMENDED]**

- (a) **Tiered school oversight process.** The performance framework sets forth the performance indicators for authorization of virtual charter schools in the State. Schools shall meet or show evidence of significant progress toward meeting the required standard accountability indicators as a condition of continued authorization.

(1) The Statewide Virtual Charter School Board provides a tiered school oversight process that includes a system of monitoring and oversight functions to ensure the school's compliance with all applicable laws, regulations, rules, and terms of the charter contract.

(2) The tiered school oversight process shall provide for review, notices, warnings, probation, and closure of schools that fail to meet the standard accountability indicators. If a school does not take action to comply, the Statewide Virtual Charter School Board may proceed with steps at an appropriate level of concern.

(3) The tiered school oversight process is designed to allow the Statewide Virtual Charter School Board to take appropriate action at any level based on each unique situation that may be identified through the performance framework or identified through another process.

(A) The Statewide Virtual Charter School Board shall perform an annual review and evaluation of the performance of all virtual charter schools. The performance framework includes the indicators assessed and required in statute, rules, and the charter contract. The performance framework is presented annually to the Statewide Virtual Charter School Board and the school's governing board in an open meeting. These indicators may identify potential concerns for further review and research.

(B) Using the results of the performance framework, Statewide Virtual Charter School Board staff reviews and research identified potential concerns to determine the nature and severity of the concern and possible corrective actions. The school is expected to take action to remedy identified deficiency(ies).

(C) Unresolved deficiency(ies) identified in the review and research stage of the tiered school oversight process will generate a notice of concern, issued by Statewide Virtual Charter School Board staff and sent to members of the Statewide Virtual Charter School Board and the school's governing board. Terms and timeline to resolve deficiency(ies) will be included in the notice of concern. The Statewide Virtual Charter School Board may offer support and resources.

(D) A formal warning action to address unresolved deficiency(ies) or other serious concern(s) may be taken by the Statewide Virtual Charter School Board in an open meeting. The warning shall include deficiency(ies), terms and timeline for resolution and requires the school to take action. Support and resources may be made available and/or required.

(E) Probation is a formal action taken by the Statewide Virtual Charter School Board in an open meeting and as a final opportunity for a school to resolve a deficiency(ies). A final plan from the virtual charter school is required.

(F) Closure is a formal action taken by the Statewide Virtual Charter School Board in open meeting on school who fails to resolve a deficiency(ies). It is a final action and requires the Statewide Virtual Charter School Board and the school's governing board to follow the Closure Plan.

**(b) Oversight and annual performance review.** The Statewide Virtual Charter School Board will provide ongoing oversight of the charter schools through data and evidence collection, site visits, attendance of governing board meetings, compliance checks, and school performance reviews. At the end of each year, schools will be subject to an annual performance review consisting of a compilation of performance ratings and findings based on the performance framework standards. Results will be shared with key stakeholders. The charter school will have forty-five (45) calendar to respond to the annual performance review in writing and such response will become part of the public record.

**(c) Performance framework.** The performance framework for designated virtual charter schools establishes accountability criteria and assesses schools in the areas of academic, financial, and organizational capacities.

(1) Oklahoma performance measures will be used to assess the school's academic performance, including overall achievement, overall growth, subgroup achievement, subgroup growth, and post-secondary readiness. Academic performance accountability indicators and measurements in each category and grade level are listed below. Subgroup measures will only be applicable if the school has a minimum of ten (10) students in the subgroup.

(A) Are students achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

(i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or

(ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(B) Are students achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):

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- (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (C) Are students enrolled in the school for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):
  - (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (D) Are students enrolled in the school for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
  - (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (E) Are students enrolled in the school for four (4) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):
  - (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (F) Are students enrolled in the school for four (4) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
  - (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (G) Are students in the special education subgroup achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):
  - (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (H) Are students in the special education subgroup achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
  - (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.



(I) Are students in the special education subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(J) Are students in the special education subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):

- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(K) Are students in the special education subgroup enrolled for four (4) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school of the charter contract term.

(L) Are students in the special education subgroup enrolled for four (4) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):

- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(M) Are students in the economically disadvantaged subgroup achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(N) Are students in the economically disadvantaged subgroup achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):

- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(O) Are students in the economically disadvantaged subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

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- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (P) Are students in the economically disadvantaged subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (Q) Are students in the economically disadvantaged subgroup enrolled for four (4) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (R) Are students in the economically disadvantaged subgroup enrolled for four (4) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (S) Based on state expectations for student graduation within four years, does the school meet the expectations for student graduation? Meets standard accountability indicator(s):
- (i) The school's most recent graduation rate is equal to or greater than the most recent graduation rate for the State of Oklahoma; or
  - (ii) The school's most recent graduation rate as reported by the State Department of Education; increased twenty percent (20%) or more of the difference between the graduation rate of the baseline year and 100% over the past two (2) years.
- (T) Based on the extended-year adjusted graduation rate, does the school meet the expectations for student graduation? Meets standard accountability indicator(s): Evidence supports a majority of extended-year students graduating.
- (U) Did the school meet the expectation for graduating eligible seniors (students within six (6) credits of graduation) during the most recent year? Meets standard accountability indicator(s): The percent of eligible seniors, students within six (6) credits of graduation, enrolled on the first day of the school year and graduating in the current school year is equal to or greater than the current graduation rate for the State of Oklahoma.
- (V) Do the school's students demonstrate College and Career Readiness? Meets standard accountability indicator(s):
- (i) College:
    - (I) Achieved minimum required test score for entry without taking remediation:
      - a. High School Transcript of a 2.0 (C average) or higher; or
      - b. American College Testing (ACT); or
      - c. Scholastic Aptitude Test (SAT); or

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d. Other recognized college entrance exams such as Accuplacer or the Classical Learning Test; and

(H) Acceptance to a college or university; and

(HH) Successful completion and submission of a college FAFSA form.

(ii) Career:

(I) Accepted to the Military; or

(H) Evidence of sustainable employment; or

(HH) Completed an authorizer or state approved Career and Technical Education Certificate.

(W) Is the school's college remediation rate equal to or less than the state remediation rate? Meets standard accountability indicator(s): The three-year average remediation rate of high school graduating classes indicates the school's college remediation rate is equal to or less than the state remediation rate.

(2) Oklahoma performance measures will be used to assess the school's fiscal viability, including audit findings, quarterly financials, regulatory reporting, and compliance with all applicable statutes, laws and regulations. Financial performance accountability indicators and measurements in each category are listed below:

(A) Did the school's most recent annual financial statement audit have findings? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material noncompliance, or known fraud on the school's most recent independent financial audit.

(B) Did the most recent annual report on internal control over financial reporting disclose any significant or material deficiencies? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material weaknesses or instances of noncompliance on the most recent annual report on internal control over financial reporting.

(C) Did the school consistently submit appropriate quarterly financial reports to the Statewide Virtual Charter School Board over the most recent year? Meets standard accountability indicator(s): Appropriate reports were submitted in the Oklahoma Cost Accounting System (OCAS) format, verified by the school treasurer, on time, and indicating financial stability of the school.

(D) Was the school subject to an audit by the State Auditor and Inspector and, if so, were there any findings? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material noncompliance or known fraud on the school's most recent audit by the State Auditor and Inspector.

(E) Did the school consistently meet financial reporting expectations over the most recent year, as required by the State Department of Education and confirmed by the Office of Financial Accounting, and Oklahoma Cost Accounting System (OCAS)? Meets standard accountability indicator(s): The State Department of Education confirms financial reporting expectations were fulfilled over the most recent year.

(F) Was the school's most recent fiscal year OCAS data submitted to the State Department of Education, properly certified by the school leader, and accepted by the State Department of Education? Meets standard accountability indicator(s): The school submitted OCAS data for the most recent fiscal year to the State Department of Education, certified by the school leader, and accepted State Department of Education.

(G) Did the school submit timely the most recent annual financial statement audit to the State Department of Education? Meets standard accountability indicator(s): The school submitted timely the most recent financial statement audit to the State Department of Education.

(H) Did the State Department of Education require a corrective action plan as part of their follow-up to the financial statement audit submission? Meets standard accountability indicator(s): No corrective action plan was required in the response from the State Department of Education to the most recently submitted annual financial statement audit.

(I) If a corrective action plan was required by the State Department of Education, did the plan sufficiently address the issues and was the plan accepted by the State Department of Education? Meets standard accountability indicator(s): The corrective action plan required by the State Department of Education sufficiently addressed the issues and was accepted by the State Department of Education.

(J) If a corrective action plan was required by the State Department of Education for the prior fiscal year, can it be confirmed that the corrective action measures were followed in the most recent fiscal year? Meets standard accountability indicator(s): The corrective action plan required by the State Department of Education for the prior fiscal year was followed by the school in the most recent fiscal year.

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(K) Did the school have a negative fund balance at the end of the most recent fiscal year? Meets standard accountability indicator(s): The school did not have a negative general fund balance as of the end of the prior fiscal year.

(L) Did the Days Cash on Hand ratio fall below thirty (30) days during the fiscal year? Meets standard accountability indicator(s): Evidence supports that the school maintained a Days Cash on Hand ratio of thirty (30) days or more at the end of each fiscal quarter.

(M) Did the school fail to pay any commitments, warrants, or debts? Meets standard accountability indicator(s): Evidence supports the school paid all commitments, warrants, and debts.

(N) Did the school maintain a fund balance of greater than ten percent (10%) of the prior fiscal year's total expenditures? Meets standard accountability indicator(s): Evidence supports that the school maintained a fund balance greater than ten percent (10%) of the prior fiscal year's total expenditures measured at the end of each fiscal quarter.

(O) Is the school's enrollment (average daily membership) for the first nine (9) weeks greater than or equal to eighty-five percent (85%) of last year's enrollment? Meets standard accountability indicator(s): The first quarter statistical report indicates enrollment did not decline by more than fifteen percent (15%) in comparison to the end of year enrollment from the prior year.

(P) Does the school's governing board review periodic financial statements including a statement of financial position (balance sheet), statement of activities (income statement), and statement of cash flows? Meets standard accountability indicator(s): Evidence supports that the governing board reviews the school's periodic financial statements at the public governing board meetings.

(Q) Does the school's governing board review and approve changes to the budget as significant changes to revenues and expenditures occur? Meets standard accountability indicator(s): Evidence supports that the school's governing board reviews and approves changes to the budget at the public governing board meetings throughout the year as revenues and expenditures change significantly.

(R) Does the school's governing board review financial forecasting models prior to annual budget adoption? Meets standard accountability indicator(s): Evidence supports that the school's governing board participates in annual review of financial forecasting prior to budget adoption during a public governing board meeting.

(S) Does the school's governing board review the audited financial statements and address all findings? Meets standard accountability indicator(s): Evidence supports that the school's governing board reviews the audited financial statements and addresses all findings in a public governing board meeting.

(3) Oklahoma performance measures will be used to assess the school's organizational performance including organizational structure, governance, record of compliance, attendance, recurrent enrollment, accreditation, and student support. Organizational performance accountability indicators and measurements in each category are listed below:

(A) Is the school faithful to its mission and implementing key design elements and performance metrics within the approved charter contract? Meets standard accountability indicator(s): Evidence supports faithfulness to the school's mission and implementation of key design elements of school.

(B) Does the school follow appropriate procedures to ensure all students have equitable access to services and opportunities for success? Meets standard accountability indicator(s): Data confirms appropriate procedures to ensure student access and equity.

(C) Does the school have approved and appropriate policies and procedures that ensure student and staff safety and success, and does the school communicate those policies and procedures to students/families and staff? Meets standard accountability indicator(s): Evidence supports approved and appropriate policies and procedures are implemented and communicated.

(D) Does the school adhere to applicable state and federal laws and regulations? Meets standard accountability indicator(s): Evidence supports the school adheres to state and federal laws and regulations.

(E) Does the school adhere to the terms of the charter contract? Meets standard accountability indicator(s): Evidence supports the school adheres to the charter contract.

(F) Does a stable governing board exist? Meets standard accountability indicator(s): Evidence supports history of board stability exists.

(G) Does the governing board recruit, select, orient, and train members with skills and expertise to enable them to govern the school appropriately? Meets standard accountability indicator(s): Board agendas and minutes document board member activities.

(H) Does the charter school comply with the Open Meeting Act and Open Records Act? Meets standard accountability indicator(s): Evidence supports the charter school consistently complies with requirements of the Open Meeting Act and Open Records Act.

(I) Does the charter school provide transparency through Statewide Virtual Charter School Board access to school records? Meets standard accountability indicator(s): The charter school has provided the Statewide Virtual Charter School Board with all requested school records.

(J) Does the educational management organization provide transparency through Statewide Virtual Charter School Board access to school records? Meets standard accountability indicator(s): The educational management organization has provided the Statewide Virtual Charter School Board with all requested school records.

(K) Did the school consistently meet the reporting expectations as required by the State Department of Education? Meets standard accountability indicator(s): The State Department of Education confirms reporting expectations fulfilled.

(L) Did the school consistently meet the reporting expectations as required by the Statewide Virtual Charter School Board? Meets standard accountability indicator(s): Reporting expectations fulfilled as required - ninety percent (90%) or above in both on-time and accuracy categories.

(M) Does the school website meet the standards for transparency and documentation as mandated by the Oklahoma School District Transparency Act and requested by the Statewide Virtual Charter School Board? Meets standard accountability indicator(s): The school has consistently met requirements for school website as mandated by the Oklahoma School District Transparency Act and requested by the Statewide Virtual Charter School Board.

(N) Did the school receive accreditation from the State Department of Education? Meets standard accountability indicator(s): The school received accreditation with no deficiencies noted from the State Department of Education.

(O) Does the school meet the expectations for student attendance? Meets standard accountability indicator(s): Evidence supports the school met State expectations for student attendance.

(P) Does recurrent enrollment of students meet expectations? Meets standard accountability indicator(s): The school's student recurrent enrollment rate meets the expectations indicated by the methodology used for public schools in Oklahoma.

(Q) Does the school provide support structures for students and families that are accessible twenty-four (24) hours per day and seven (7) days per week, such as teacher support, individualized learning plans, guidance/counseling program, online tutoring, and technical support? Meets standard accountability indicator(s): Students and families have access to multiple support structures twenty-four (24) hours per day and seven (7) days per week.

(R) Does the school and governing board engage in strategic planning that results in establishment of school goals and verifiable school improvement? Meets standard accountability indicator(s): Evidence supports that the school and governing board engage in strategic planning resulting in establishment of school goals and verifiable school improvement.

(4) A Performance Framework Index will be calculated based on the following categories:

(A) Academic (A) Calculation = (Score) \* (Weight) = A with a weight of 40%.

(B) Financial (F) Calculation = (Score) \* (Weight) = F with a weight of 35%.

(C) Organizational (O) Calculation = (Score) \* (Weight) = O with a weight of 25%.

(D) As set forth in 70 O.S. § 3-137, Performance Framework scores will guide reauthorization procedures:

(i) A Performance Framework Index (PFI) score of 75% or higher calculated over the course of the charter contract term will result in renewal of authorization for a five (5) year term should the governing board of the charter school choose to submit a letter requesting reauthorization.

(ii) A Performance Framework Index (PFI) score of 60-74% or higher calculated over the course of the charter contract term is expected. However, an application for renewal of authorization is required for consideration by the Statewide Virtual Charter School Board.

(iii) A Performance Framework Index (PFI) score of less than 60% calculated over the course of the charter contract term places the charter school at risk of non-approval of the renewal for authorization. An application for reauthorization is required for consideration by the Statewide Virtual Charter School Board.

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(E) In the event data is not available, the Statewide Virtual Charter School Board will designate corresponding score with "Not Applicable".

**(d) Performance framework for designated alternative education sites.** The performance framework for designated virtual charter school alternative education sites establishes accountability criteria and assesses schools in the areas of academic, financial, and organizational capacities. Designated alternative education sites are those that conform to the program requirements set forth in 70 O.S. § 1210-568 and are designated as alternative education sites by the State Board of Education:

(1) Oklahoma performance measures will be used to assess the school's academic performance, including overall achievement, overall growth, subgroup achievement, subgroup growth, and post-secondary readiness. Academic performance accountability indicators and measurements in each category and grade level are listed below. Subgroup measures will only be applicable if the school has a minimum of ten (10) students in the sub-group:

(A) Are students achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

(i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(B) Are students achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):

(i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(C) Are students enrolled in the school for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

(i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(D) Are students enrolled in the school for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):

(i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(E) Are students enrolled in the school for three (3) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

- (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (F) Are students enrolled in the school for three (3) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (G) Are students in the special education subgroup achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):
- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (H) Are students in the special education subgroup achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (I) Are students in the special education subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):
- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (J) Are students in the special education subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the

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OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(K) Are students in the special education subgroup enrolled for three (3) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

(i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(L) Are students in the special education subgroup enrolled for three (3) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):

(i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(M) Are students in the economically disadvantaged subgroup achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

(i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(N) Are students in the economically disadvantaged subgroup achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):

(i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(O) Are students in the economically disadvantaged subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

(i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or



- (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (P) Are students in the economically disadvantaged subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (Q) Are students in the economically disadvantaged subgroup enrolled for three (3) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (R) Are students in the economically disadvantaged subgroup enrolled for three (3) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (S) Based on the extended-year adjusted graduation rate, does the school meet the expectations for student graduation? Meets standard accountability indicator(s): Evidence supports a majority of extended-year students graduating.
- (T) Did the school meet the expectation for graduating eligible seniors (students within six (6) credits of graduation) during the most recent year? Meets standard accountability indicator(s): The percent of eligible seniors, students within six (6) credits of graduation, enrolled on the first day of the school year and graduating in the current school year is equal to or greater than the current graduation rate for the State of Oklahoma.
- (U) Do the school's students demonstrate College and Career Readiness? Meets standard accountability indicator(s):
- (i) College:
    - (I) Achieved minimum required test score for entry without taking remediation:
      - a. High School Transcript of a 2.0 (C average) or higher; or
      - b. American College Testing (ACT); or
      - c. Scholastic Aptitude Test (SAT); or
      - d. Other recognized college entrance exams such as Accuplacer or the Classical Learning Test; and
    - (II) Acceptance to a college or university; and
    - (III) Successful completion and submission of a college FAFSA form.
  - (ii) Career:

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- (I) Accepted to the Military; or
- (II) Evidence of sustainable employment; or
- (III) Completed an authorizer or state approved Career and Technical Education Certificate.

(V) Are students completing courses required for grade advancement each year? Meets standard accountability indicator(s): The percentage of students earning at least six (6) credits per year is equal to or greater than forty percent (40%).

(W) Are students benefiting from postsecondary and workforce readiness activities, testing, and enrollment? Meets standard accountability indicator(s): Evidence supports that the percent of students participating in one or more postsecondary and/or workforce readiness activity, testing, and/or enrollment is equal to or greater than forty percent (40%).

(X) Are students demonstrating growth on nationally recognized social emotional standards? Meets standard accountability indicator(s): Evidence supports that the percent of students demonstrating growth on nationally recognized social emotional standards is equal to or greater than forty percent (40%).

(Y) Are students attending individual, small group, and/or guidance counseling sessions? Meets standard accountability indicator(s): Evidence supports that the percent of students participating in counseling session is equal to or greater than forty percent (40%).

(Z) Are students participating in displaying, creating, and/or publishing art opportunities? Meets standard accountability indicator(s): Evidence supports that the percent of students participating, creating, and/or publishing art opportunities is equal to or greater than forty percent (40%).

(AA) Are students participating in extracurricular activities, work study, and/or service learning? Meets standard accountability indicator(s): Evidence supports that the percent of students participating in extracurricular activities, work study, and/or service learning is equal to or greater than forty percent (40%).

(BB) Are students completing required individual career academic plan (ICAP) activities? Meets standard accountability indicator(s): Evidence supports that the percent of students completing requires ICAP activities is equal to or greater than forty percent (40%).

(CC) Are students participating in life skill activities that extend beyond the curriculum, put relevant life skills into practice, and promote healthy living? Meets standard accountability indicator(s): Evidence supports that the percent of students participating in life skills activities is equal to or greater than forty percent (40%).

(2) Oklahoma performance measures will be used to assess the school's fiscal viability, audit findings, financials, regulatory reporting, and compliance with all applicable statutes, laws and regulations. Financial performance accountability indicators and measurements in each category are listed below:

(A) Did the school's most recent annual financial statement audit have findings? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material noncompliance, or known fraud on the school's most recent independent financial audit.

(B) Did the most recent annual report on internal control over financial reporting disclose any significant or material deficiencies? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material weaknesses or instances of noncompliance on the most recent annual report on internal control over financial reporting.

(C) Did the school consistently submit appropriate quarterly financial reports to the Statewide Virtual Charter School Board over the most recent year? Meets standard accountability indicator(s): Appropriate reports were submitted in the Oklahoma Cost Accounting System (OCAS) format, verified by the school treasurer, on time, and indicating financial stability of the school.

(D) Was the school subject to an audit by the State Auditor and Inspector and, if so, were there any findings? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material noncompliance or known fraud on the school's most recent audit by the State Auditor and Inspector.

(E) Did the school consistently meet financial reporting expectations over the most recent year, as required by the State Department of Education and confirmed by the Office of Financial Accounting, and Oklahoma Cost Accounting System (OCAS), Audits? Meets standard accountability indicator(s): The State Department of Education confirms financial reporting expectations were fulfilled over the most recent year.

(F) Was the school's most recent fiscal year OCAS data submitted to the State Department of Education, properly certified by the school leader, and accepted by the State Department of Education? Meets standard accountability indicator(s): The school submitted OCAS data for the most recent fiscal year to the State Department of Education, certified by the school leader, and accepted State Department of Education.

(G) Did the school submit timely the most recent annual financial statement audit to the State Department of Education? Meets standard accountability indicator(s): The school submitted timely the most recent financial statement audit to the State Department of Education.

(H) Did the State Department of Education require a corrective action plan as part of their follow-up to the financial statement audit submission? Meets standard accountability indicator(s): No corrective action plan was required in the response from the State Department of Education to the most recently submitted annual financial statement audit.

(I) If a corrective action plan was required by the State Department of Education, did the plan sufficiently address the issues and was the plan accepted by the State Department of Education? Meets standard accountability indicator(s): The corrective action plan required by the State Department of Education sufficiently addressed the issues and was accepted by the State Department of Education.

(J) If a corrective action plan was required by the State Department of Education for the prior fiscal year, can it be confirmed that the corrective action measures were followed in the most recent fiscal year? Meets standard accountability indicator(s): The corrective action plan required by the State Department of Education for the prior fiscal year was followed by the school in the most recent fiscal year.

(K) Did the school have a negative fund balance at the end of the most recent fiscal year? Meets standard accountability indicator(s): The school did not have a negative general fund balance as of the end of the prior fiscal year.

(L) Did the Days Cash on Hand ratio fall below thirty (30) days during the fiscal year? Meets standard accountability indicator(s): Evidence supports that the school maintained a Days Cash on Hand ratio of thirty (30) days or more at the end of each fiscal quarter.

(M) Did the school fail to pay any commitments, warrants, or debts? Meets standard accountability indicator(s): Evidence supports the school paid all commitments, warrants, and debts.

(N) Did the school maintain a fund balance of greater than ten percent (10%) of the prior fiscal year's total expenditures? Meets standard accountability indicator(s): Evidence supports that the school maintained a fund balance greater than ten percent (10%) of the prior fiscal year's total expenditures measured at the end of each fiscal quarter.

(O) Is the school's enrollment (average daily membership) for the first nine (9) weeks greater than or equal to eighty-five percent (85%) of last year's enrollment? Meets standard accountability indicator(s): The first quarter statistical report indicates enrollment did not decline by more than fifteen percent (15%) in comparison to the end of year enrollment from the prior year.

(P) Does the school's governing board review periodic financial statements including a statement of financial position (balance sheet), statement of activities (income statement), and statement of cash flows? Meets standard accountability indicator(s): Evidence supports that the governing board reviews the school's periodic financial statements at the public governing board meetings.

(Q) Does the school's governing board review and approve changes to the budget as significant changes to revenues and expenditures occur? Meets standard accountability indicator(s): Evidence supports that the school's governing board reviews and approves changes to the budget at the public governing board meetings throughout the year as revenues and expenditures change significantly.

(R) Does the school's governing board review financial forecasting models prior to annual budget adoption? Meets standard accountability indicator(s): Evidence supports that the school's governing board participates in annual review of financial forecasting prior to budget adoption during a public governing board meeting.

(S) Does the school's governing board review the audited financial statements and address all findings? Meets standard accountability indicator(s): Evidence supports that the school's governing board reviews the audited financial statements and addresses all findings in a public governing board meeting.

(3) Oklahoma performance measures will be used to assess the school's organizational performance including organizational structure, governance, record of compliance, attendance, recurrent enrollment, accreditation, and student support. Organizational performance accountability indicators and measurements in each category are listed below:

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- (A) Is the school faithful to its mission and implementing key design elements and performance metrics within the approved charter contract? Meets standard accountability indicator(s): Evidence supports faithfulness to the school's mission and implementation of key design elements of school.
- (B) Does the school follow appropriate procedures to ensure all students have equitable access to services and opportunities for success? Meets standard accountability indicator(s): Data confirms appropriate procedures to ensure student access and equity. Examples of data include, but not limited to, an equity committee; an equity audit of policies, procedures, culture, instruction, professional learning; and stakeholder perceptions and goals related to equity, inclusion, anti-racism, and identity safety; and an equity plan and policies.
- (C) Does the school have approved and appropriate policies and procedures that ensure student and staff safety and success, and does the school communicate those policies and procedures to students/families and staff? Meets standard accountability indicator(s): Evidence supports approved and appropriate policies and procedures are implemented and communicated.
- (D) Does the school adhere to applicable state and federal laws and regulations? Meets standard accountability indicator(s): Evidence supports the school adheres to state and federal laws and regulations.
- (E) Does the school adhere to the terms of the charter contract? Meets standard accountability indicator(s): Evidence supports the school adheres to the charter contract.
- (F) Does a stable governing board exist? Meets standard accountability indicator(s): Evidence supports history of board stability exists.
- (G) Does the governing board recruit, select, orient, and train members with skills and expertise to enable them to govern the school appropriately? Meets standard accountability indicator(s): Board agendas and minutes document board member activities.
- (H) Does the charter school comply with the Open Meeting Act and Open Records Act? Meets standard accountability indicator(s): Evidence supports the charter school consistently complies with requirements of the Open Meeting Act and Open Records Act.
- (I) Does the charter school provide transparency through Statewide Virtual Charter School Board access to school records? Meets standard accountability indicator(s): The charter school has provided the Statewide Virtual Charter School Board with all requested school records.
- (J) Does the educational management organization provide transparency through Statewide Virtual Charter School Board access to school records? Meets standard accountability indicator(s): The educational management organization has provided the Statewide Virtual Charter School Board with all requested school records.
- (K) Did the school consistently meet the reporting expectations as required by the State Department of Education? Meets standard accountability indicator(s): The State Department of Education confirms reporting expectations fulfilled.
- (L) Did the school consistently meet the reporting expectations as required by the Statewide Virtual Charter School Board? Meets standard accountability indicator(s): Reporting expectations fulfilled as required - ninety percent (90%) or above in both on-time and accuracy categories.
- (M) Does the school website meet the standards for transparency and documentation as mandated by the Oklahoma School District Transparency Act and requested by the Statewide Virtual Charter School Board? Meets standard accountability indicator(s): The school has consistently met requirements for school website as mandated by the Oklahoma School District Transparency Act and requested by the Statewide Virtual Charter School Board.
- (N) Did the school receive accreditation from the State Department of Education? Meets standard accountability indicator(s): The school received accreditation with no deficiencies noted from the State Department of Education.
- (O) Does the school meet the expectations for student attendance? Meets standard accountability indicator(s): Evidence supports the school met State expectations for student attendance.
- (P) Does recurrent enrollment of students meet expectations? Meets standard accountability indicator(s): The school's student recurrent enrollment rate meets the expectations indicated by the methodology used for public schools in Oklahoma.
- (Q) Does the school provide support structures for students and families that are accessible twenty-four (24) hours per day and seven (7) days per week, such as teacher support, individualized learning plans, guidance/counseling program, online tutoring, and technical support? Meets standard accountability indicator(s): Students and families have access to multiple support structures twenty-four (24) hours per

day and seven (7) days per week:

(R) Does the school and governing board engage in strategic planning that results in establishment of school goals and verifiable school improvement? Meets standard accountability indicator(s). Evidence supports that the school and governing board engage in strategic planning resulting in establishment of school goals and verifiable school improvement.

(4) A Performance Framework Index will be calculated based on the following categories:

(A) Academic (A) Calculation = (Score) \* (Weight) = A with a weight of 40%.

(B) Financial (F) Calculation = (Score) \* (Weight) = F with a weight of 35%.

(C) Organizational (O) Calculation = (Score) \* (Weight) = O with a weight of 25%.

(D) According to 70 O.S. § 3-137, Performance Framework scores will guide reauthorization procedures:

(i) A Performance Framework Index (PFI) score of 75% or higher calculated over the course of the charter contract term will result in renewal of authorization for a five (5) year term should the governing board of the charter school choose to submit a letter requesting reauthorization.

(ii) A Performance Framework Index (PFI) score of 60-74% or higher calculated over the course of the charter contract term is expected. However, an application for renewal of authorization is required for consideration by the Statewide Virtual Charter School Board.

(iii) A Performance Framework Index (PFI) score of less than 60% calculated over the course of the charter contract term places the charter school at risk of non-approval of the renewal for authorization. An application for reauthorization is required for consideration by the Statewide Virtual Charter School Board.

(E) In the event data is not available, the Statewide Virtual Charter School Board will designate corresponding score with "Not Applicable".

**(c) Submission of school data.** To aid the Statewide Virtual Charter School Board in assessing whether the schools are meeting the expectations of the performance framework, schools are required to submit school data to the Statewide Virtual Charter School Board through an online data collection system:

(1) Schools must submit the requested documentation according to the instructions for the submission by the due date indicated in the online data collection system:

(A) Current charter contract and any amendments;

(B) Management contracts;

(C) Lease/purchase agreements;

(D) Annual budget;

(E) Audit documents (audit, response, corrective action);

(F) School performance review report response;

(G) Annual report on school's mission and key design elements and performance indicator data;

(H) College and career readiness report, including, but not limited to, individual career academic plans, college preparation coursework, college remediation data, dual (concurrent) college enrollment;

military service commitments, internships, and industry certification and career technology programs;

(I) Annual evaluation of each educational management organization providing services to the governing body or school;

(J) Senior graduation report;

(K) Current inventory report;

(L) Quarterly financial statements;

(M) Handbooks (student family handbook, employee handbook, other handbooks);

(N) School calendar;

(O) Student support documentation;

(P) Internal assessment plan;

(Q) School policies including, but not limited to, attendance, employment, enrollment/lottery, finance and procurement, code of ethics, and conflict of interest;

(R) Current governing board rosters, including personal contact information;

(S) Insurance verification;

(T) Enrollment counts (August 1 for year one (1) schools; first day of school, monthly, and final for all schools);

(U) Surety bond verification;

(V) Accreditation application and status;

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- (W) First Quarter Statistical Report summary;
- (X) Board meeting calendar;
- (Y) Board meeting agendas and all supporting board meeting documents submitted prior to the board meeting;
- (Z) Board meeting approved minutes;
- (AA) Final state aid and federal allocations;
- (BB) Revenue and Expenditure Report;
- (CC) Four (4) year cohort and extended-year graduation rate documents;
- (DD) Annual Statistical Report summary;
- (EE) Strategic planning documents;
- (FF) Oklahoma School Testing Program (OSTP) documentation;
- (GG) Child counts;
- (HH) Enrollment file;
- (H) Estimate of Needs (if applicable);
- (JJ) Supplemental Estimate of Needs (if applicable);
- (KK) School, governing board, and/or educational management organization litigation documents;
- (LL) State accountability report;
- (MM) School organizational chart;
- (NN) End of fiscal year student exit status report;
- (OO) Current by-laws;
- (PP) Final Employee Compensation Report;
- (QQ) College remediation data;
- (RR) School District Budgeting Act (SDBA) Budget Summary and Budget Message (if applicable);
- (SS) SDBA public hearing documentation and published notice (if applicable);
- (TT) Shared Services Agreements (if applicable);
- (UU) Monthly and all other state aid funding reports;
- (VV) Final OSTP Participation Report;
- (WW) ACT Profile Report; and
- (XX) Plan for Improvement (if applicable);

(2) In the event submission through the online system is not possible, the school must hand-deliver hard-copy documentation to the office of the Statewide Virtual Charter School Board by the due date.

(3) Failure to submit the documentation is grounds for termination of the contract if not cured within thirty (30) calendar days of the deadline.

(4) Receipt of document submissions does not necessarily indicate approval of the content of the data.

**(f) School website compliance.** In order to aid in transparency, charter schools sponsored by the Statewide Virtual Charter School Board will be subject to website compliance checks at any time. Each school shall maintain a website in compliance with 70 O.S. § 5-135.4 and 74 O.S. § 24-3106.2 with the following information available:

- (1) Governing board members (board member information, and office held if any);
- (2) Schedule of governing board meetings as submitted to the Oklahoma County Clerk;
- (3) Board meeting agendas;
- (4) Board meeting approved minutes;
- (5) School accountability reports;
- (6) Financial documents or a link to the Oklahoma Cost Accounting System (OCAS), in compliance with Oklahoma statute;
- (7) Total compensation package of the superintendent;
- (8) Virtual charter school Attendance Policy, in compliance with Oklahoma statute;
- (9) Most recent audit in compliance with Oklahoma statute; and
- (10) Enrollment capacity

**(g) School orientation.** Each statewide virtual charter school shall develop a student orientation that must be completed by each student prior to final enrollment in the school. The school shall maintain a record of completion of orientation by each student. The orientation shall contain, at a minimum, the following components:

- (1) Enrollment requirements;
- (2) Daily schedule and work expectations;
- (3) School policies, including student engagement and attendance requirements;
- (4) Student and Family Handbooks;

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- (5) Communication streams (website, school and teacher connection, school administration and governing board contact);
- (6) Academic expectations;
- (7) Assessment requirements;
- (8) Social expectations;
- (9) Technology management;
- (10) Academic program management;
- (11) Student support programs and services; and
- (12) Programs specific to the school.

(h) **Annual audits.** The virtual charter schools shall change audit firms, at a minimum, every three (3) years to ensure annual audits are completed by at least two (2) different firms over the term of the charter contract. If the term of the charter contract is less than five (5) years, the school shall change audit firms at least every two (2) years, or otherwise, to ensure annual audits are completed by two (2) different firms over the term of the charter contract.

(i) **Compliance audits.** In addition to the annual financial audits, the virtual charter schools authorized by the SVCSB shall be subject to compliance audits conducted by the SVCSB at any time during the charter contract term.

(a) **Tiered school oversight process.** The performance framework sets forth the performance indicators for authorization of charter schools and virtual charter schools in the State. Schools shall meet or show evidence of significant progress toward meeting the required standard accountability indicators as a condition of continued authorization.

(1) The Board provides a tiered school oversight process that includes a system of monitoring and oversight functions to ensure the school's compliance with all applicable laws, regulations, rules, and terms of the charter contract.

(2) The tiered school oversight process shall provide for review, notices, warnings, probation, and closure of schools that fail to meet the standard accountability indicators. If a school does not take action to comply, the Board may proceed with steps at an appropriate level of concern.

(3) The tiered school oversight process is designed to allow the Board to take appropriate action at any level based on each unique situation that may be identified through the performance framework or identified through another process.

(A) The Board shall perform an annual review and evaluation of the performance of charter schools and virtual charter schools. The performance framework includes the indicators assessed and required in statute, rules, and the charter contract. The performance framework is presented annually to the Statewide Charter School Board and the school's governing board in an open meeting. These indicators may identify potential concerns for further review and research.

(B) Using the results of the performance framework, SCSB staff reviews and researches identified potential concerns to determine the nature and severity of the concern and possible corrective actions. The school is expected to take action to remedy identified deficiency(ies).

(C) Unresolved deficiency(ies) identified in the review and research stage of the tiered school oversight process will generate a notice of concern, issued by the Statewide Charter School Board staff and sent to members of the Statewide Charter School Board and the school's governing board. Terms and timeline to resolve deficiency(ies) will be included in the notice of concern. The Statewide Charter School Board may offer support and resources.

(D) A formal warning action to address unresolved deficiency(ies) or other serious concern(s) may be taken by the Statewide Charter School Board in an open meeting. The warning shall include deficiency(ies), terms and timeline for resolution and requires the school to take action. Support and resources may be made available and/or required.

(E) Probation is a formal action taken by the Board in an open meeting and as a final opportunity for a school to resolve a deficiency(ies). A final plan from the charter school or virtual charter school is required.

(F) Closure is a formal action taken by the Board in open meeting on a school who fails to resolve a deficiency(ies). It is a final action and requires the SCSB's and the school's governing board to follow the closure plan.

(b) **Oversight and annual performance review.** The Board will provide ongoing oversight of the charter schools and virtual charter schools through data and evidence collection, site visits, classroom observations, audits, attendance of governing board meetings, compliance checks, and school performance reviews. Schools will be subject to an annual performance review of the immediately preceding school year. The review will consist of a compilation of performance ratings and findings based on the performance framework standards. Results will be shared with key stakeholders. The

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charter school or virtual charter school will have forty-five (45) calendar days to respond to the annual performance review in writing and such response will become part of the public record.

(c) **Performance framework.** The performance framework for designated charter schools and virtual charter schools establishes accountability criteria and assesses schools in the areas of academic, financial, and organizational capacities.

(1) Oklahoma performance measures will be used to assess the school's academic performance, including overall achievement, overall growth, subgroup achievement, subgroup growth, and post-secondary readiness. Academic performance accountability indicators and measurements are listed below. Sub-group measures will only be applicable if the school has a minimum of ten (10) students in the sub-group.

(A) Are students achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):

- (i) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the level of proficiency of the district within the geographic boundary of the charter school; or
- (iii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(B) Are students achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):

- (i) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the level of proficiency of the district within the geographic boundary of the charter school; or
- (iii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(C) Are students enrolled in the school for three (3) or more consecutive academic years achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):

- (i) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the level of proficiency of the district within the geographic boundary of the charter school; or
- (iii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(D) Are students enrolled in the school for three (3) or more consecutive academic years achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):

- (i) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the level of proficiency of the district within the geographic boundary of the charter school; or
- (iii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(E) Are students in the special education subgroup achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):

- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessment is equal to or above the state level of proficiency; or



- (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the level of proficiency of the district within the geographic boundary of the charter school; or
  - (iii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (F) Are students in the special education subgroup achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):
  - (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessment is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the level of proficiency of the district within the geographic boundary of the charter school; or
  - (iii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (G) Are students in the special education subgroup enrolled for three (3) or more consecutive academic years achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):
  - (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessment is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the level of proficiency of the district within the geographic boundary of the charter school; or
  - (iii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (H) Are students in the special education subgroup enrolled for three (3) or more consecutive academic years achieving proficiency on statement assessments in mathematics? Meet standard accountability indicator(s):
  - (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessment is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the level of proficiency of the district within the geographic boundary of the charter school; or
  - (iii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (I) Are students in the economically disadvantaged subgroup achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):
  - (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessment is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the economically disadvantaged education subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the level of proficiency of the district within the geographic boundary of the charter school; or
  - (iii) The percentage of students in the economically disadvantaged education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (J) Are students in the economically disadvantaged subgroup achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):

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- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessment is equal to or above the state level of proficiency; or
- (ii) The percentage of students in the economically disadvantaged education subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the level of proficiency of the district within the geographic boundary of the charter school; or
- (iii) The percentage of students in the economically disadvantaged education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(K) Are students in the economically disadvantaged subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in reading/English language arts?

Meets standard accountability indicator(s):

- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessment is equal to or above the state level of proficiency; or
- (ii) The percentage of students in the economically disadvantaged education subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the level of proficiency of the district within the geographic boundary of the charter school; or
- (iii) The percentage of students in the economically disadvantaged education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(L) Are students in the economically disadvantaged subgroup enrolled for three (3) or more consecutive academic years achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):

- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessment is equal to or above the state level of proficiency; or
- (ii) The percentage of students in the economically disadvantaged education subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the level of proficiency of the district within the geographic boundary of the charter school; or
- (iii) The percentage of students in the economically disadvantaged education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(M) Are students in the English language learner subgroup achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):

- (i) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the state level of proficiency of the district within the geographic boundary of the charter school; or
- (iii) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(N) Are students in the English language learner subgroup achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):

- (i) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the state level of proficiency of the district within the geographic boundary of the charter school; or
- (iii) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(O) Are students in the English language learner subgroup enrolled for three (3) or more consecutive academic years achieving proficiency on statewide assessments in reading/English language arts?

Meets standard accountability indicator(s):

(i) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the state level of proficiency; or

(ii) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the state level of proficiency of the district within the geographic boundary of the charter school; or

(iii) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(P) Are students in the English language learner subgroup enrolled for three (3) or more consecutive academic years achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):

(i) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the state level of proficiency; or

(ii) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the state level of proficiency of the district within the geographic boundary of the charter school; or

(iii) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(Q) Are students achieving growth on research-based nationally-normed internal assessments in reading/English language arts? Meets standard accountability indicator(s):

(i) The percentage of students in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or

(ii) The percentage of students achieving growth at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.

(R) Are students achieving growth on research-based nationally-normed internal assessments in mathematics? Meets standard accountability indicator(s):

(i) The percentage of students in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or

(ii) The percentage of students achieving growth at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.

(S) Are students in the special education subgroup achieving growth on research-based nationally-normed internal assessments in reading/English language arts? Meets standard accountability indicator(s):

(i) The percentage of students in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or

(ii) The percentage of students in the special education subgroup achieving growth at each grade level on research-based nationally-normed internal assessments is improved by (5%) or greater compared to the prior school year of the charter contract term.

(T) Are students in the special education subgroup achieving growth on research-based nationally-normed internal assessments in mathematics? Meets standard accountability indicator(s):

(i) The percentage of students in the special education subgroup in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or

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- (ii) The percentage of students in the special education subgroup achieving growth at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.
- (U) Are students in the economically disadvantaged subgroup achieving growth on research-based nationally-normed internal assessments in reading/English language arts? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or
- (ii) The percentage of students in the economically disadvantaged subgroup achieving growth at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.
- (V) Are students in the economically disadvantaged subgroup achieving growth on research-based nationally-normed internal assessments in mathematics? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or
- (ii) The percentage of students in the economically disadvantaged subgroup achieving growth or above at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.
- (W) Are students in the English language learner subgroup achieving growth on research-based nationally-normed internal assessments in reading/English language arts? Meets standard accountability indicator(s):
- (i) The percentage of students in the English language learner subgroup in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or
- (ii) The percentage of students in the English language learner subgroup achieving growth at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.
- (X) Are students in the English language learner subgroup achieving growth on research-based nationally-normed internal assessments in mathematics? Meets standard accountability indicator(s):
- (i) The percentage of students in the English language learner subgroup in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or
- (ii) The percentage of students in the English learner language subgroup achieving growth or above at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.
- (Y) Based on state expectations for student graduation within four years, does the school meet the expectations for student graduation? Meets standard accountability indicator(s):
- (i) The school's most recent graduation rate is equal to or greater than the most recent graduation rate for the State of Oklahoma;
- (ii) The school's most recent graduation rate is equal to or greater than the most recent graduation rate for the district within the geographic boundary of the charter school;
- (iii) The school's most recent graduation rate as reported by the State Department of Education, increased twenty percent (20%) or more of the difference between the graduation rate from the baseline year; or
- (iv) The school's most recent graduation rate increased five percent (5%) or greater compared to the prior school year of the current contract term.

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(Z) Based on the extended-year adjusted graduation rate, does the school meet the expectations for student graduation? Meets standard accountability indicator(s): Evidence supports a majority of extended-year students graduating.

(AA) Did the school meet the expectation for graduating eligible seniors (students within six (6) credits of graduation) during the most recent year? Meets standard accountability indicator(s):

(i) The percent of eligible seniors, students within six (6) credits of graduation, enrolled on the first day of the school year and graduating in the current school year is equal to or greater than the current graduation rate for the State of Oklahoma; or

(ii) The percent of eligible seniors, students within six (6) credits of graduation, enrolled on the first day of the school year and graduating in the current school year is equal to or greater than the current graduation rate for the district within the geographic boundary of the charter school.

(BB) Do the school's students demonstrate College and Career Readiness? Meets standard accountability indicator(s):

(i) College: Achieved minimum required test score for entry without taking remediation:

(I) High School Transcript of a 2.0 (C average) or higher; or

(II) American College Testing (ACT); or

(III) Scholastic Aptitude Test (SAT); or

(IV) Other recognized college entrance exams such as Accuplacer or the Classical Learning Test; and

(V) College Board Advanced Placement exam score(s) of 3 or greater; or

(ii) Acceptance to a college or university; or successful completion and submission of a college FAFSA form; and

(iii) Career

(I) Accepted to the Military; or

(II) Evidence of sustainable employment; or

(III) Completed an authorizer or state approved Career and Technical Education Certificate.

(2) Oklahoma performance measures will be used to assess the school's fiscal viability. Financial performance accountability indicators and measurements in each category are listed below.

(A) Did the school's annual financial statement audit have findings? Meets standard accountability indicator(s): There were no instances of significant deficiencies, material noncompliance, or known fraud identified on the school's independent financial audit.

(B) Was the auditor's opinion on the school's annual financial statement audit modified or qualified? Meets standard accountability indicator(s): The audit opinion on the school's annual financial statement audit was unmodified/unqualified.

(C) Did the auditor's opinion letter contain a paragraph indicating any exception to the financial statements being presented fairly on the annual financial statement audit? Meets standard accountability indicator(s): The auditor's opinion letter did not contain a paragraph indicating any exception to the financial statements being presented fairly on the annual financial statement audit.

(D) Did the annual financial auditor issue a disclaimer of opinion on the annual financial statement audit? Meets standard accountability indicator: The auditor did not issue a disclaimer of opinion on the annual financial statement audit.

(E) Did the annual report on internal control over financial reporting disclose any material weakness(es) or significant deficiency? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material weaknesses, or noncompliance on the annual report on internal control over financial reporting.

(F) Did the school consistently submit appropriate quarterly financial reports to the Statewide Virtual Charter School Board Meets standard accountability indicator(s): Appropriate reports were submitted in the Oklahoma Cost Accounting System (OCAS) format, verified by the school treasurer, on time, and indicating financial stability of the school.

(G) Was the school subject to an audit by the State Auditor and Inspector and, if so, were there any findings? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material noncompliance, or known fraud on the school's audit by the State Auditor and Inspector.

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(H) Did the school consistently meet financial reporting expectations as required by the State Department of Education and confirmed by the Office of Financial Accounting, Oklahoma Cost Accounting System (OCAS), and/or Single- Sign-On? Meets standards accountability indicator(s): Evidence confirms financial reporting expectations were fulfilled.

(I) Was the school's OCAS data submitted to the State Department of Education, properly certified by the school leader, and accepted by the State Department of Education? Meets standard accountability indicator(s): Evidence confirms that the school submitted OCAS data to the State Department of Education, certified by the school leader, and accepted State Department of Education.

(J) Did the school timely submit the annual financial statement audit to the State Department of Education? Meets standard accountability indicator(s): Evidence confirms that the school timely submitted the annual financial statement audit to the State Department of Education.

(K) Did the State Department of Education require a corrective action plan as part of their follow-up to the annual financial statement audit submission? Meet standard accountability indicator(s): No corrective action plan was required by the State Department of Education in the response to the school.

(L) If a corrective action plan was required by the State Department of Education, did the plan sufficiently address the issues and was the plan accepted by the State Department of Education? Meets standard accountability indicator(s): The corrective action plan required by the State Department of Education sufficiently addressed the issues and was accepted by the State Department of Education.

(M) If a corrective action plan was required by the State Department of Education for the prior fiscal year, can it be confirmed that the corrective action measures were followed in the most recent fiscal year? Meets standard accountability indicator(s): The corrective action plan required by the State Department of Education for the prior fiscal year was followed by the school in the most recent fiscal year.

(N) Did the school have a negative general fund balance at the end of the most recent fiscal year? Meets standard accountability indicator(s): The school did not have a negative general fund balance at the end of the prior fiscal year.

(O) Did the Days Cash on Hand ratio fall below thirty (30) days during the fiscal year? Meets standard accountability indicator(s): Evidence supports that the school maintained a Days Cash on Hand ratio of thirty (30) days or more at the end of each fiscal quarter.

(P) Did the school fail to pay any commitments, warrants, or debts? Meets standard accountability indicator(s): Evidence supports the school paid all commitments, warrants, and debts.

(Q) Did the school maintain a general fund balance of greater than ten percent (10%) of the prior fiscal year's total expenditures? Meets standard accountability indicator(s): Evidence supports that the school maintained a general fund balance greater than ten percent (10%) of the prior fiscal year's total expenditures measured at the end of each fiscal quarter.

(R) Did the school maintain positive fund balances in all other fund types? Meets standard accountability indicator(s): Evidence supports that the school maintained a positive fund balance in all fund types.

(S) Is the school's enrollment (average daily membership) for the first nine (9) weeks greater than or equal to eighty-five percent (85%) of last year's enrollment? Meets standard accountability indicator(s): The first quarter statistical report indicates enrollment did not decline by more than fifteen percent (15%) in comparison to the end-of-year enrollment documented by the annual statistical report.

(T) Does the school's governing board review periodic financial statements including a statement of financial position (balance sheet), statement of activities (income statement), and statement of cash flows? Meets standard accountability indicator(s): Evidence supports that the governing board reviews the school's periodic financial statements at the public governing board meetings.

(U) Does the school's governing board review and approve changes to the budget as significant changes to revenues and expenditures occur? Meets standard accountability indicator(s): Evidence supports that the school's governing board reviews and approves changes to the budget at the public governing board meetings throughout the year as revenues and expenditures change significantly.

(V) Does the school's governing board review financial forecasting models prior to annual budget adoption? Meets standard accountability indicator(s): Evidence supports that the school's governing board participates in annual review of financial forecasting prior to budget adoption during a public governing board meeting.

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(W) Does the school's governing board review the audited financial statements and address all findings? Meets standard accountability indicator(s): Evidence supports that the school's governing board reviews the audited financial statements and addresses all findings in a public governing board meeting.

(X) Does the school properly report its facilities' carrying values and applicable depreciation on its annual financial statements? Meets standard accountability indicator(s): The annual financial statements indicate proper values for facilities are represented.

(Y) Does the school maintain documentation of property and facility leases and purchases at fair market value? Meets standard accountability indicator(s): The school maintains documentation of leases and purchases at fair market value.

(3) Oklahoma performance measures will be used to assess the school's organizational performance including organizational structure, governance, record of compliance, attendance, recurrent enrollment, accreditation, and student support. Organizational performance accountability indicators and measurements in each category are listed below.

(A) Do the school's decisions align with its vision and mission? Meets standard accountability indicator(s): Evidence supports the school's decisions align with its vision and mission.

(B) Does the school follow appropriate procedures to ensure all students have equitable access to services and opportunities for success? Meets standard accountability indicator(s): Data confirms appropriate procedures to ensure student access and equity.

(C) Does the school have approved and appropriate policies and procedures that ensure student and staff safety and success, and does the school communicate those policies and procedures to students/families and staff? Meets standard accountability indicator(s): Evidence supports approved and appropriate policies and procedures are implemented and communicated.

(D) Does the school adhere to applicable laws and regulations? Meets standard accountability indicator(s): Evidence supports the school adheres to laws and regulations.

(E) Does the school adhere to the terms of the charter contract? Meets standard accountability indicator(s): Evidence supports the school adheres to the charter contract.

(E) Does a stable governing board exist? Meets standard accountability indicator(s): Evidence supports history of board stability exists.

(G) Does the governing board recruit, select, orient, and train members with skills and expertise to enable them to govern the school appropriately? Meets standard accountability indicator(s): Board agendas, and minutes, training records, and other documents support board member activities.

(H) Does the charter school comply with the Open Meeting Act and Open Records Act? Meets standard accountability indicator(s): Evidence supports the charter school consistently complies with requirements of the Open Meeting Act and Open Records Act.

(I) Does the charter school provide transparency through Statewide Charter School Board access to school records? Meets standard accountability indicator(s): The charter school has provided the Statewide Charter School Board with all requested school records.

(J) Does the educational management organization provide transparency through Statewide Charter School Board access to school records? Meets standard accountability indicator(s): The educational management organization has provided the Statewide Charter School Board with all requested school records.

(K) Did the school consistently meet the reporting expectations as required by the State Department of Education? Meets standard accountability indicator(s): Evidence The State Department of Education confirms reporting expectations were fulfilled.

(L) Did the school consistently meet the reporting expectations as required by the Statewide Charter School Board? Meets standard accountability indicator(s): The school reported and submitted documentation on time on-time and accurately.

(M) Did the school receive accreditation from the State Department of Education? Meets standard accountability indicator(s): The school received accreditation with no unresolved deficiencies following Tiered School Oversight Tier II Investigation (777:10-3-4. Oversight and evaluation of charter schools and virtual charter schools as noted from the Statewide Charter School Board).

(N) Does the school meet the expectations for student attendance? Meets standard accountability indicator(s): Evidence supports the school met State expectations for student attendance.

(i) For charter schools, the attendance rate reported by the State Department of Education is equal or greater than the attendance rate of the local school district in which the charter school is located; or

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(ii) For virtual charter schools, the attendance rate reported by the State Department of Education is equal or greater than the attendance rate reported by the attendance rate for the state of Oklahoma; or

(iii) The school's attendance rate reported by the State Department of Education increased five percent (5%) or greater compared to the prior year.

(Q) Does recurrent enrollment of students meet expectations? Meets standard accountability indicator(s): The school's student recurrent enrollment rate meets the expectations indicated by the methodology used for public schools in Oklahoma.

(P) Does the school provide support structures for students and families that are accessible such as teacher support, individualized learning plans, individualized career academic planning (ICAP), guidance/counseling program, online tutoring, and technical support? Meets standard accountability indicator(s): Students and families have access to multiple support structures.

(Q) Does the school and governing board engage in strategic planning that results in establishment of school goals and verifiable school improvement? Meets standard accountability indicator(s): Evidence supports that the school and governing board engage in strategic planning resulting in establishment of school goals and verifiable school improvement.

(4) Performance Framework Index will be calculated based on the following categories:

(A) Academic (A) Calculation - (Score) \* (Weight) = A with a weight of 40%.

(B) Financial (F) Calculation - (Score) \* (Weight) = F with a weight of 35%.

(C) Organizational (O) Calculation - (Score) \* (Weight) = O with a weight of 25%.

(D) As set forth in 70 O.S. § 3-137, Performance Framework scores will guide reauthorization procedures.

(i) A Performance Framework Index (PFI) score of 75% or higher calculated over the course of the charter contract term will result in renewal of authorization for a five (5) year term should the governing board of the charter school choose to submit a letter requesting reauthorization.

(ii) A Performance Framework Index (PFI) score of 60-74% or higher calculated over the course of the charter contract term is expected. However, an application for renewal of authorization is required for consideration by the Statewide Virtual Charter School Board.

(iii) A Performance Framework Index (PFI) score of less than 60% calculated over the course of the charter contract term places the charter school at risk of non-approval of the renewal for authorization. An application for reauthorization is required for consideration by the Statewide Charter School Board.

(E) In the event data is not available, the Statewide Charter School Board will designate corresponding score with "Not Available." In the event data is not applicable, the Statewide Charter School Board will designate corresponding score with "Not Applicable."

(d) Performance framework for designated alternative education sites. The performance framework for charter school and virtual charter school alternative education sites establishes accountability criteria and assesses schools in the areas of academic, financial, and organizational capacities. Designated alternative education sites are those that conform to the program requirements set forth in 70 O.S. § 1210-568 and are designated as alternative education sites by the State Board of Education.

(1) Oklahoma performance measures will be used to assess the school's academic performance, including overall achievement, overall growth, subgroup achievement, subgroup growth, and post-secondary readiness. Academic performance accountability indicators and measurements in each category and grade level are listed below. Sub-group measures will only be applicable if the school has a minimum of ten (10) students in the sub-group.

(A) Are students achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):

(i) The OSTP score of all schools designed as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(B) Are students achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):



- (i) The OSTP score of all schools designed as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (C) Are students enrolled in the school for two (2) or more consecutive academic years achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):
  - (i) The OSTP score of all schools designed as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (D) Are students enrolled in the school for two (2) or more consecutive academic years achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):
  - (i) The OSTP score of all schools designed as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (E) Are students in the special education subgroup achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):
  - (i) The OSTP score of all schools designed as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (F) Are students in the special education subgroup achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):
  - (i) The OSTP score of all schools designed as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (G) Are students in the special education subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):
  - (i) The OSTP score of all schools designed as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

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(H) Are students in the special education subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):

(i) The OSTP score of all schools designed as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(I) Are students in the economically disadvantaged subgroup achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):

(i) The OSTP score of all schools designed as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(J) Are students in the economically disadvantaged subgroup achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):

(i) The OSTP score of all schools designed as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(K) Are students in the economically disadvantaged subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):

(i) The OSTP score of all schools designed as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(L) Are students in the economically disadvantaged subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):

(i) The OSTP score of all schools designed as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

(ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(M) Are students in the English language learner subgroup achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):

(i) The OSTP score of all schools designated as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

- (ii) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (N) Are students in the English language learner subgroup achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):
- (i) The OSTP score of all schools designated as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
- (ii) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (O) Are students in the English language learner subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in reading/English language arts? Meets standard accountability indicator(s):
- (i) The OSTP score of all schools designated as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
- (ii) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (P) Are students in the English language learner subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in mathematics? Meets standard accountability indicator(s):
- (i) The OSTP score of all schools designated as alternative education sites will be averaged to determine the baseline percentage for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
- (ii) The percentage of students in the English language learner subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (Q) Are students achieving growth on research-based nationally-normed internal assessments in reading/English language arts? Meets standard accountability indicator(s):
- (i) The percentage of students in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given at each grade level; on or before September 15th of each year; or
- (ii) The percentage of students achieving growth at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.
- (R) Are students achieving growth on research-based nationally-normed internal assessments in mathematics? Meets standard accountability indicator(s):
- (i) The percentage of students in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or
- (i) The percentage of students achieving growth at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.
- (S) Are students in the special education subgroup achieving growth on research-based nationally-normed internal assessments in reading/English language arts? Meets standard accountability indicator(s):
- (i) The percentage of students in the special education subgroup in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or

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- (ii) The percentage of students in the special education subgroup achieving growth at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.
- (T) Are students in the special education subgroup achieving growth on research-based nationally-normed internal assessments in mathematics? Meets standard accountability indicator(s):
- (i) The percentage of students in the special education subgroup in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or
- (ii) The percentage of students in the special education subgroup achieving growth at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.
- (U) Are students in the economically disadvantaged subgroup achieving growth on research-based nationally-normed internal assessments in reading/English language arts? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or
- (ii) The percentage of students in the economically disadvantaged subgroup achieving growth at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.
- (V) Are students in the economically disadvantaged subgroup achieving growth on research-based nationally-normed internal assessments in mathematics? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or
- (ii) The percentage of students in the economically disadvantaged subgroup achieving growth or above at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.
- (W) Are students in the English language learner subgroup achieving growth on research-based nationally-normed internal assessments in reading/English language arts? Meets standard accountability indicator(s):
- (i) The percentage of students in the English language learner subgroup in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or
- (ii) The percentage of students in the English language learner subgroup achieving growth at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.
- (X) Are students in the English language learner subgroup achieving growth on research-based nationally-normed internal assessments in mathematics? Meets standard accountability indicator(s):
- (i) The percentage of students in the English language learner subgroup in state-mandated assessment grade levels achieving proficiency or greater as determined by the assessment on the end-of-year assessment given in May each year as compared to the initial assessment given on or before September 15th of each year; or
- (ii) The percentage of students in the English language learner subgroup achieving growth or above at each grade level on research-based nationally-normed internal assessment is improved by five percent (5%) or greater compared to the prior school year of the charter contract term.
- (Y) Based on state expectations for student graduation within four years, does the school meet the expectations for student graduation? Meets standard accountability indicator(s):
- (i) The school's most recent graduation rate is equal to or greater than the most recent graduation rate for the State of Oklahoma; or

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- (ii) The school's most recent graduation rate is equal to or greater than the most recent graduation rate for Oklahoma alternative schools;
  - (iii) The school's most recent graduation rate as reported by the State Department of Education, increased twenty percent (20%) or more from the baseline year; or
  - (iv) The school's most recent graduation rate increased five percent 5% or greater compared to the prior school year or the current contract term.
- (Z) Based on the extended-year adjusted graduation rate, does the school meet the expectations for student graduation? Meets standard accountability indicator(s): Evidence supports a majority of extended-year students graduating.
- (AA) Did the school meet the expectation for graduating eligible seniors (students within six (6) credits of graduation) during the most recent year? Meets standard accountability indicator(s):
  - (i) The percent of eligible seniors, students within six (6) credits of graduation, enrolled on the first day of the school year and graduating in the current school year is equal to or greater than the current graduation rate for the State of Oklahoma; or
  - (ii) The current graduation rate of alternative schools in Oklahoma; or
  - (iii) The percent of eligible seniors, students within six (6) credits of graduation, enrolled on the first day of the school year and graduating in the current school year is equal to or greater than the current graduation rate for the district within the geographic boundary of the charter school.
- (BB) Do the school's students demonstrate College and Career Readiness? Meets standard accountability indicator(s):
  - (i) College: Achieved minimum required test score for entry without taking remediation:
    - (I) High School Transcript of a 2.0 (C average) or higher; or
    - (II) American College Testing (ACT); or
    - (III) Scholastic Aptitude Test (SAT); or
    - (IV) Other recognized college entrance exams such as Accuplacer or the Classical Learning Test; and
    - (V) College Board Advanced Placement exam score(s) of 3 or greater; and
  - (ii) Acceptance to a college or university or successful completion and submission of a college FAFSA form; and
  - (iii) Career:
    - (I) Accepted to the Military; or
    - (II) Evidence of sustainable employment; or
    - (III) Completed an authorizer or state approved Career and Technical Education Certificate.
- (CC) Are students completing courses required for grade advancement each year? Meets standard accountability indicator(s): The percentage of students earning at least six (6) credits per year is equal to or greater than forty percent (40%).
- (DD) Are students benefiting from postsecondary and workforce readiness activities, testing, and enrollment? Meets standard accountability indicator(s): Evidence supports that the percent of students participating in one or more postsecondary and/or workforce readiness activity, testing, and/or enrollment is equal to or greater than forty percent (40%).
- (EE) Are students demonstrating growth on nationally recognized social emotional standards? Meets standard accountability indicator(s): Evidence supports that the percent of students demonstrating growth on nationally recognized social emotional standards is equal to or greater than forty percent (40%).
- (FF) Are students attending individual, small group, and/or guidance counseling sessions? Meets standard accountability indicator(s): Evidence supports that the percent of students participating in counseling session is equal to or greater than forty percent (40%).
- (GG) Are students participating in displaying, creating, and/or publishing art opportunities? Meets standard accountability indicator(s): Evidence supports that the percent of students participating, creating, and/or publishing art opportunities is equal to or greater than forty percent (40%).
- (HH) Are students participating in extracurricular activities, work study, and/or service learning? Meets standard accountability indicator(s): Evidence supports that the percent of students participating in extracurricular activities, work study, and/or service learning is equal to or greater than forty percent (40%).

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- (II) Are students completing required individual career academic plan activities? Meets standard accountability indicator(s): Evidence supports that the percent of students completing requires individual career academic plan ICAP activities is equal to or greater than forty percent (40%).
- (JJ) Are students participating in life skill activities that extend beyond the curriculum, put relevant life skills into practice, and promote healthy living? Meets standard accountability indicator(s): Evidence supports that the percent of students participating in life skills activities is equal to or greater than forty percent (40%).
- (2) Oklahoma performance measures will be used to assess the school's fiscal viability. Financial performance accountability indicators and measurements in each category are listed below.
- (A) Did the school's most recent annual financial statement audit have findings? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material noncompliance, or known fraud on the school's most recent independent financial audit.
- (B) Was the auditor's opinion on the school's annual financial statement audit modified or qualified? Meets standard accountability indicator(s): The audit opinion on the school's annual financial statement audit was unmodified/unqualified.
- (C) Did the auditor's opinion letter contain a paragraph indicating any exception to the financial statements being presented fairly on the annual financial statement audit? Meets standard accountability indicator(s): The auditor's opinion letter did not contain a paragraph indicating any exception to the financial statements being presented fairly on the annual financial statement audit.
- (D) Did the annual financial auditor issue a disclaimer of opinion on the annual financial statement audit? Meets standard accountability indicators: The auditor did not issue a disclaimer of opinion on the annual financial statement audit.
- (E) Did the annual report on internal control over financial reporting disclose any material weakness(es) or significant deficiencies? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material weaknesses or noncompliance on the annual report on internal control over financial reporting.
- (F) Did the school consistently submit appropriate quarterly financial reports to the Board? Meets standard accountability indicator(s): Appropriate reports were submitted in the Oklahoma Cost Accounting System (OCAS) format, verified by the school treasurer, on time, and indicating financial stability of the school.
- (G) Was the school subject to an audit by the State Auditor and Inspector and, if so, were there any findings? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material noncompliance, or known fraud on the school's most recent audit by the State Auditor and Inspector.
- (H) Did the school consistently meet financial reporting expectations as required by the State Department of Education and confirmed by the Office of Financial Accounting, Oklahoma Cost Accounting System (OCAS), and/or Single-Sign-On? Meets standard accountability indicator(s): Evidence confirms financial reporting expectations were fulfilled.
- (I) Was the school's most recent fiscal year OCAS data submitted to the State Department of Education, properly certified by the school leader, and accepted by the State Department of Education? Meets standard accountability indicator(s): Evidence confirms the school submitted OCAS to the State Department of Education, certified by the school leader, and accepted by the State Department of Education.
- (J) Did the school submit timely the annual financial statement audit to the State Department of Education? Meets standard accountability indicator(s): The school submitted timely the annual financial statement audit to the State Department of Education.
- (K) Did the State Department of Education require a corrective action plan as part of their follow-up to the annual financial statement audit submission? Meets standard accountability indicator(s): No corrective action plan was required by the State Department of Education in the response to the school.
- (L) If a corrective action plan was required by the State Department of Education, did the plan sufficiently address the issues and was the plan accepted? Meets standard accountability indicator(s): The corrective action plan required by the State Department of Education sufficiently addressed the issues and was accepted.

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(M) If a corrective action plan was required by the State Department of Education for the prior fiscal year, can it be confirmed that the corrective action measures were followed? Meets standard accountability indicator(s): The corrective action plan required by the State Department of Education for the prior fiscal year was followed by the school.

(N) Did the school have a negative fund balance at the end of the fiscal year? Meets standard accountability indicator(s): The school did not have a negative general fund balance as of the end of the fiscal year.

(O) Did the Days Cash on Hand ratio fall below thirty (30) days during the fiscal year? Meets standard accountability indicator(s): Evidence supports that the school maintained a Days Cash on Hand ratio of thirty (30) days or more at the end of each fiscal quarter.

(P) Did the school fail to pay any commitments, warrants, or debts? Meets standard accountability indicator(s): Evidence supports the school paid all commitments, warrants, and debts.

(Q) Did the school maintain a fund balance of greater than ten percent (10%) of the prior fiscal year's total expenditures? Meets standard accountability indicator(s): Evidence supports that the school maintained a fund balance greater than ten percent (10%) of the prior fiscal year's total expenditures measured at the end of each fiscal quarter.

(R) Did the school maintain positive fund balances in all other fund types? Meets standard accountability indicator(s): Evidence supports that the school maintained a positive fund balance in all fund types.

(S) Is the school's enrollment (average daily membership) for the first nine (9) weeks greater than or equal to eighty-five percent (85%) of last year's enrollment? Meets standard accountability indicator(s): The first quarter statistical report indicates enrollment did not decline by more than fifteen percent (15%) in comparison to the end of year enrollment documented by the annual statistical report.

(T) Does the school's governing board review periodic financial statements including a statement of financial position (balance sheet), statement of activities (income statement), and statement of cash flows? Meets standard accountability indicator(s): Evidence supports that the governing board reviews the school's periodic financial statements at the public governing board meetings.

(U) Does the school's governing board review and approve changes to the budget as significant changes to revenues and expenditures occur? Meets standard accountability indicator(s): Evidence supports that the school's governing board reviews and approves changes to the budget at the public governing board meetings throughout the year as revenues and expenditures change significantly.

(V) Does the school's governing board review financial forecasting models prior to annual budget adoption? Meets standard accountability indicator(s): Evidence supports that the school's governing board participates in annual review of financial forecasting prior to budget adoption during a public governing board meeting.

(W) Does the school's governing board review the audited financial statements and address all findings? Meets standard accountability indicator(s): Evidence supports that the school's governing board reviews the audited financial statements and addresses all findings in a public governing board meeting.

(X) Does the school properly report their facilities' carrying values and applicable depreciation on their annual financial statements? Meets standard accountability indicator(s): The annual financial statements indicate proper values for facilities are represented.

(Y) Does the school maintain documentation of property and facilities leases and purchases at fair market value? Meets standard accountability indicator(s): The school maintains documentation of leases and purchases at fair market value.

(3) Oklahoma performance measures will be used to assess the school's organizational performance including organizational structure, governance, record of compliance, attendance, recurrent enrollment, accreditation, and student support. Organizational performance accountability indicators and measurements in each category are listed below.

(A) Do the school's decisions align with its vision and mission? Meets standard accountability indicator(s): Evidence supports the school's decisions align with its vision and mission.

(B) Does the school follow appropriate procedures to ensure all students have equitable access to services and opportunities for success? Meets standard accountability indicator(s): Data confirms appropriate procedures to ensure student access and equity.

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(C) Does the school have approved and appropriate policies and procedures that ensure student and staff safety and success, and does the school communicate those policies and procedures to students/families and staff? Meets standard accountability indicator(s): Evidence supports approved and appropriate policies and procedures are implemented and communicated.

(D) Does the school adhere to applicable state and federal laws and regulations? Meets standard accountability indicator(s): Evidence supports the school adheres to state and federal laws and regulations.

(E) Does the school adhere to the terms of the charter contract? Meets standard accountability indicator(s): Evidence supports the school adheres to the charter contract.

(F) Does a stable governing board exist? Meets standard accountability indicator(s): Evidence supports history of board stability exists.

(G) Does the governing board recruit, select, orient, and train members with skills and expertise to enable them to govern the school appropriately? Meets standard accountability indicator(s): Board agendas, minutes, training records, and other documents support board member activities.

(H) Does the charter school comply with the Open Meeting Act and Open Records Act? Meets standard accountability indicator(s): Evidence supports the charter school consistently complies with requirements of the Open Meeting Act and Open Records Act.

(I) Does the charter school provide transparency through SCSB access to school records? Meets standard accountability indicator(s): The charter school has provided the Board with all requested school records.

(J) Does the educational management organization provide transparency through SCSB access to school records? Meets standard accountability indicator(s): The educational management organization has provided Board with all requested school records.

(K) Did the school consistently meet the reporting expectations as required by the State Department of Education? Meets standard accountability indicator(s): Evidence confirms reporting expectations were fulfilled.

(L) Did the school consistently meet the reporting expectations as required by the Statewide Charter School Board? Meets standard accountability indicator(s): The school reported and submitted documentation on time and accurately.

(M) Did the school receive accreditation from the State Department of Education? Meets standard accountability indicator(s): The school received accreditation with no unresolved deficiencies following Tiered School Oversight Tier II Investigation (777:10-3-4. Oversight and evaluation of charter schools and virtual charter schools noted from the Statewide Charter School Board).

(N) Does the school meet the expectations for student attendance? Meets standard accountability indicator(s):

(i) For charter schools, the attendance rate reported by the State Department of Education is equal or greater than the attendance rate of the local school district in which the charter school is located; or

(ii) For virtual charter schools, the attendance rate reported by the State Department of Education is equal or greater than the attendance rate reported by the attendance rate for the state of Oklahoma; or

(iii) The school's attendance rate reported by the State Department of Education increased five percent (5%) or greater compared to the prior year.

(O) Does recurrent enrollment of students meet expectations? Meets standard accountability indicator(s): The school's student recurrent enrollment rate meets the expectations indicated by the methodology used for public schools in Oklahoma.

(P) Does the school provide support structures for students, such as teacher support, individualized learning plans, individualized career academic planning, guidance/counseling program, online tutoring, and technical support? Meets standard accountability indicator(s): Students have access to multiple support structures.

(Q) Does the school and governing board engage in strategic planning that results in establishment of school goals and verifiable school improvement? Meets standard accountability indicator(s): Evidence supports that the school and governing board engage in strategic planning resulting in establishment of school goals and verifiable school improvement.

(4) A Performance Framework Index will be calculated based on the following categories:

(A) Academic (A) Calculation - (Score) \* (Weight) = A with a weight of 40%.



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(B) Financial (F) Calculation - (Score) \* (Weight) = F with a weight of 35%.

(C) Organizational (O) Calculation - (Score) \* (Weight) = O with a weight of 25%.

(D) According to title 70, section 3-137 of the Oklahoma Statutes, Performance Framework scores will guide reauthorization procedures.

(i) A Performance Framework Index (PFI) score of 75% or higher calculated over the course of the charter contract term will result in renewal of authorization for a five (5) year term should the governing board of the charter school choose to submit a letter requesting reauthorization.

(ii) A Performance Framework Index (PFI) score of 60-74% or higher calculated over the course of the charter contract term is expected. However, an application for renewal of authorization is required for consideration by the Statewide Charter School Board.

(iii) A Performance Framework Index (PFI) score of less than 60% calculated over the course of the charter contract term places the charter school at risk of non- approval of the renewal for authorization. An application for reauthorization is required for consideration by the Statewide Charter School Board.

(E) In the event data is not available, the Statewide Charter School Board will designate corresponding score with "Not Available." In the event data is not applicable, the Statewide Charter School Board will designate corresponding score with "Not Applicable."

(e) **Submission of school data.** The Board will obtain documentation and evidence to assess whether the schools are meeting the expectations of the performance framework. In addition to site visits and read-only access to reporting systems, schools are required to submit annual school data to the Board through an online data collection system.

(1) Schools must submit the requested documentation according to the instructions for the submission by the due date indicated in the online data collection system:

(A) Educational Management contracts and amendments;

(B) Lease/purchase agreements;

(C) Annual budget;

(D) Audit documents (audit, response, corrective action);

(E) Annual evaluation of educational management organization(s) contracted with the governing body or school;

(F) Current inventory report;

(G) Quarterly financial statements;

(H) School calendar;

(I) Internal assessment plan;

(J) Current governing board rosters, including personal contact information;

(K) Enrollment counts;

(L) Accreditation documents including application, checklist, responses, and status letter;

(M) Annual and First Quarter Statistical Report summaries;

(N) Board meeting calendar;

(O) Board meeting agendas and all supporting board meeting documents submitted prior to the board meeting;

(P) Four (4) year cohort and extended-year graduation rate documents;

(Q) Estimate of Needs and Supplemental Estimate of Needs (if applicable);

(R) School, governing board, and/or educational management organization litigation documents;

(S) School organizational chart;

(T) School District Budgeting Act (SDBA) Budget Summary, public hearing documentation, published notice, and Budget Message (if applicable);

(U) Shared Services Agreements (if applicable);

(V) Other school documents as needed for effective school oversight.

(2) In the event submission through the online system is not possible, the school must hand-deliver documentation to the Board by the due date.

(3) Failure to submit the documentation is grounds for termination of the contract if not cured within thirty (30) calendar days of the deadline.

(4) Receipt of document submissions does not necessarily indicate approval of the content of the data.

(f) **School website compliance.** In order to aid in transparency, charter schools and virtual charter schools sponsored by the Statewide Charter School Board will be subject to website compliance checks at any time. Each school shall maintain a website in compliance with 70 O.S. § 5-135.4 and 74 O.S. § 24-3106.2 with the following information available:

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- (1) Governing board members (board member information, and office held if any);
- (2) Schedule of governing board meetings as submitted to the school district's County Clerk;
- (3) Board meeting agendas;
- (4) Board meeting approved minutes;
- (5) School accountability reports;
- (6) Financial documents or a link to the Oklahoma Cost Accounting System (OCAS), in compliance with Oklahoma statute;
- (7) Total compensation package of the superintendent;
- (8) Attendance Policy, in compliance with Oklahoma law;
- (9) Most recent audit in compliance with Oklahoma law; and
- (10) Enrollment capacity.

(g) **School orientation.** Each charter school or virtual charter school shall develop a student orientation program that must be completed by each student prior to final enrollment in the school. The school shall maintain a record of completion of orientation by each student. The orientation shall contain, at a minimum, the following components:

- (1) Enrollment requirements;
- (2) Daily schedule and work expectations;
- (3) School policies, including student engagement and attendance requirements;
- (4) Student and Family Handbooks;
- (5) Communication streams (website, school and teacher connection, school administration and governing board contact);
- (6) Academic expectations;
- (7) Assessment requirements;
- (8) Social expectations;
- (9) Technology management;
- (10) Academic program management;
- (11) Student support programs and services; and
- (12) Programs specific to the school.

(h) **Annual audits.** Charter schools and virtual charter schools shall change audit firms, at a minimum, every five (5) years.

(i) **Compliance audits.** In addition to the annual financial audits, the charter schools and virtual charter schools authorized by the Board shall be subject to compliance audits conducted by the Board at any time during the charter contract term.

## **777:10-3-5. Full-time virtual charter schools - succession of contractual rights and reversion of property to Statewide Virtual charter schools - succession of contractual rights and reversion of property to Statewide Charter School Board [AMENDED]**

(a) **School Closure Process.** Final school closure determination may be made as the result of voluntary or involuntary school closure decisions. This includes a decision of the charter school governing board to close the school, nonrenewal of a charter contract, or termination of a charter contract. In the event of a voluntary closure by the school, the final closure determination occurs as of the date the charter school governing board votes to close the school. In the event of an involuntary closure of the school, the final closure determination occurs as of the date the final order is issued by the ~~SVCSB~~Board. Once a final closure determination is made the ~~SVCSB~~Board will appoint a Closing Officer to provide oversight of school closure. Oversight responsibilities include management of the operational process of charter school closure and ensured continuation of appropriate educational services and transfer process for students and families, and ensure the governing board of the charter school continues to meet as necessary to take actions needed to wind down school operations, manage school finances, allocate resources and facilitate all aspects of closure. Under the oversight and with the support of the Closing Officer, the charter school is responsible for completing the tasks required for the closing of the school in a legal and orderly manner while continuing to operate the school and provide academic and other services to students and families. With the exception of the cost of the ~~SVCSB~~ Closing Officer, all expenses of school closure will be provided for through charter school funds. These include, but are not limited to, the expense of contracted expertise such as accountants and auditor, general supplies and postage, and auction costs. The following School Closure Protocol will be implemented ten (10) business days after the final order is issued, and may be stayed by the ~~Statewide Virtual Charter School Board~~ in the event of a request for reconsideration or rehearing:

- (1) Within fourteen (14) calendar days:
  - (A) The Closing Officer meets with the school's Chief Administrative officer and the Governing Board President to provide information regarding the school closure process and expectations.

- (B) A special meeting of the charter school governing board will be called for to establish a Transition Team composed of school staff, applicant staff, and others designated by the applicant who will attend to the tasks and responsibilities of school closure on behalf of the school.
- (C) The SVCSBBBoard issues a media release appropriate for public notification of charter school closure.
- (D) A temporary hold will be placed on all state and federal funding.
- (E) Notification of school closure determination is submitted to the Oklahoma State Department of Education (OSDE) including name of school, date of action, effective date of closure, criteria for closure determination, closure process information, and location of student and personnel records. Request name and contact information for OSDE representative for communication purposes and for assistance with closure. Similar notification also sent to the Oklahoma Teachers Retirement System (if applicable), State Treasurer, and State Auditor.
- (F) Notification is made to parents of enrolled students regarding school closure determination including name of school, date of action, effective date of closure, and expected future communication to parents.
- (G) Notification to school staff regarding school closure determination including name of school, date of action, effective date of closure, and expected future communication to school staff.
- (2) Once a Transition Team is established, the following should occur within thirty (30) days:
- (A) The Closing Officer and Transition Team will establish a written student transfer plan including the steps required for the transfer of students and student records and the security of those records.
- (B) The Closing Officer and Transition Team will contact Oklahoma school districts regarding charter school closure.
- (C) The Closing Officer and Transition Team will establish a written plan for ongoing communication with families. This plan will include communication through closure process and a final report of school closure to charter school families. A list of all students/families will be generated and maintained to include student name, parent name, address, telephone, email, grade level, and school district of residence.
- (D) The Closing Officer and Transition Team will establish a written plan for ongoing communication with staff. This plan will include the initial communication of school closure, follow-up communication as needed, and a final report of school closure to charter school staff. A list of all staff will be created to include name, position, address, telephone, email. Notification includes information regarding closure determination, closure date, personnel records, and benefits.
- (E) The Closing Officer and Transition Team will secure all financial and personnel records. In addition, Closing Officer and Transition Team will identify all agencies, employees, insurers, contractors, creditors, debtors, grantors, and management organizations. The ~~statewide charter school or virtual charter school~~ shall provide the ~~Statewide Virtual Charter School Board~~ with executed copies of all of the following documents:
- (i) A detailed list of all real and/or personal property and other assets procured by the charter school during the term of the contract that includes identification of all sources of funds used to procure the property. All items procured all or in part with state, local or federal funds shall be clearly identified.
  - (ii) Title documents, deeds, and/or leases for all real or personal property or other assets procured all or in part with state or federal funds.
  - (iii) Copies of all executory contracts to which the charter school or its governing body is a party.
  - (iv) All documentation relating to debt, liabilities, encumbrances, or other obligations incurred by the charter school and/or the governing body of the charter school during the term of the sponsorship contract.
  - (v) The Closing Officer and Transition Team Chair will ensure a complete financial accounting. A financial plan for school closure will be established. The Closing Officer may include other financial experts on behalf of the SVCSBBBoard to assist with the process. Financial Plan must ensure only essential invoices and regular salaries paid, all vendor refunds received, and the immediate collection of all credit cards and closing of accounts.
  - (vi) All assets will be inventoried. Inventory shall include name of asset, quantity, estimated value, and location of property. Assets include, but are not limited to, property, furnishings, technology, books, supplies, and equipment.

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(vii) All assets will be confirmed by the Closing Officer and Transition Team. Within forty-five (45) business days of a final closure determination date, the charter school assets may be liquidated and funds used to satisfy remaining school debt. Otherwise the sponsor may dispose of remaining school property as deemed appropriate and retaining any remaining funds.

(3) Prior to final closeout, the charter school shall complete all federal, state, and local obligations on behalf of school employees as governed by Federal and State Statute and regulations; including, but not limited to, the following:

(A) File all final federal, state, and local employer payroll tax returns and issue final W-2s and Form 1099s by the statutory deadlines.

(B) File the Federal Notice of Discontinuance with the Department of Treasury.

(C) Make final federal tax payments.

(D) File the final withholding tax return.

(E) File the final return with the IRS.

(F) Complete all tax requirements of the State of Oklahoma.

(G) Provide employees with notices and pamphlets required under applicable state and federal law.

(4) Within thirty (30) business days of school closure, all school records, including, but not limited to, student, personnel and financial records are received and secured by the ~~SVCSB~~Board or the State Department of Education (SDE).

(5) Within forty-five (45) business days of school closure, a final school closure audit will be conducted and provided to the ~~SVCSB~~Board. A copy of the audit will be presented to the State Superintendent of Public Instruction, and all fiscal balances of the charter school will be retained by the charter school authorizer.

(6) The ~~Statewide Virtual Charter School~~ Board shall have forty-five (45) calendar days after the date of delivery of all of the documents set forth in (3) of this subsection to request any additional documentation from the charter school the Board deems necessary to determine the assets and liabilities of the ~~statewide virtual~~ charter school.

(7) The Closing Officer will report school closure progress to the ~~SVCSB~~Board at each regular meeting through the school closing transition period.

(8) Upon completion of school closure, a final report from the Closing Officer will be presented to the ~~Statewide Virtual Charter School~~ Board.

(9) All personal property of the charter school reverting to the ~~Statewide Virtual Charter School~~ Board in accordance with the provisions of 70 O.S. 3-136 and this Section shall be delivered to the Board no later than sixty (60) calendar days after the School Closure Date in the manner and to the location(s) directed by the Board.

(10) The Chairman of the ~~Statewide Virtual Charter School~~ Board is authorized to execute conveyances and documents on behalf of the Board as necessary to fulfill the requirements of this subsection.

**(b) School district contracts for sponsorship of full-time virtual charter schools.** In accordance with the provisions of 70 O.S. 3-145.5, the following provisions shall apply to school district contracts for sponsorship of charter schools who provide full-time virtual education: Contracts for sponsorship of a full-time virtual charter school. Beginning July 1, 2014, no school district shall:

(1) Offer full-time virtual education to any student whose legal residence, as determined in accordance with the provisions of 70 O.S. § 1-113, is located outside of the boundaries of the school district; or

(2) Enter a contract to provide full-time virtual education to any student whose legal residence, as determined in accordance with the provisions of 70 O.S. § 1-113, is located outside of the boundaries of the school district.

**(c) Termination or nonrenewal for good cause.** Failure by any charter school to comply with the provisions of this Section shall constitute good cause for:

(1) Termination or nonrenewal of a contract for sponsorship with the ~~Statewide Virtual Charter School~~ Board; and/or

(2) Denial of any application for sponsorship subsequently submitted by the charter school and/or authorized representatives of the charter school, including, but not limited to, the governing body of a charter school.

## SUBCHAPTER 5. STATEWIDE VIRTUAL CHARTER SCHOOL FACILITIES

### 777:10-5-3. Statewide virtual charter school sites [AMENDED]

**Face-to-face instruction.** No statewide virtual charter school or employee of the statewide virtual charter school shall provide face-to-face instruction to any ~~charter school~~ student unless the instruction occurs at:

(1) The legal residence of a student or the parent/legal guardian of a student;

(2) A site as defined in 777:10-1-2; or

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(3) A public facility that complies with all federal and state statutes and regulations governing health and safety that are applicable to public school facilities-

*[OAR Docket #25-510; filed 6-6-25]*

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## TITLE 777. STATEWIDE CHARTER SCHOOL BOARD CHAPTER 15. HORIZON: DIGITALLY ENHANCED CAMPUS

*[OAR Docket #25-511]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. Oklahoma Supplemental Online Course Certification

777:15-1-1. Purpose [AMENDED]

777:15-1-2. Definitions [AMENDED]

777:15-1-3. Application for course certification [AMENDED]

777:15-1-5. Course review requirements [AMENDED]

777:15-1-6. Course review and certification process [AMENDED]

777:15-1-7. Certified courses remaining in good standing [AMENDED]

777:15-1-8. Process for course certification renewal [AMENDED]

777:15-1-9. SVCSB responsibilities [AMENDED]

Subchapter 3. Horizon Online Learning Platform and Courses

777:15-3-1. Purpose [AMENDED]

777:15-3-2. Online courses [AMENDED]

### **AUTHORITY:**

Statewide Charter School Board; 70 O.S.Supp.2024, § 3-132.1(I)(4) and 3-145.8(D)

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 25, 2024

### **COMMENT PERIOD:**

December 16, 2024 through January 21, 2025

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January 21, 2025

### **ADOPTION:**

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### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 29, 2025

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by SJR22

### **LEGISLATIVE DISAPPROVAL:**

N/A

### **APPROVED BY GOVERNORS DECLARATION:**

N/A

### **FINAL ADOPTION:**

May 28, 2025

### **EFFECTIVE:**

July 11, 2025

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### **SUPERSEDED RULES:**

N/A

### **GUBERNATORIAL APPROVAL:**

N/A

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N/A

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N/A

## INCORPORATIONS BY REFERENCE:

## INCORPORATED STANDARDS:

N/A

## INCORPORATING RULES:

N/A

## AVAILABILITY:

N/A

## GIST/ANALYSIS:

The Oklahoma Statewide Charter School Board proposes these emergency rules to fulfill the requirements of the Board under the Oklahoma Charter Schools Act, 70 O.S.Supp.2023, §§ 3-130–3-167. The emergency rules remove references the board's now-abolished predecessor, the Statewide Virtual Charter School Board, and ensure that the rule language refers to the Statewide Charter School Board.

## CONTACT PERSON:

Amy Gibson, 405-522-8849, Amy.Gibson@scsb.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 JULY 11, 2025:**

### SUBCHAPTER 1. OKLAHOMA SUPPLEMENTAL ONLINE COURSE CERTIFICATION

#### 777:15-1-1. Purpose [AMENDED]

The Statewide ~~Virtual~~ Charter School Board (~~SVCSB~~)(SCSB) makes publicly available a list of supplemental online courses which it has reviewed and/or certified to ensure that the courses are high quality options and are aligned with the subject matter standards approved by the State of Oklahoma. In conjunction with the Office of Management and Enterprise Services (OMES), the ~~SVCSB~~SCSB negotiates with online course providers to offer a state rate price to school districts for supplemental online courses. These rules have been adopted for the purpose of implementing policy and procedures pursuant to Oklahoma Statute Title 70, Section 3-145.3.

#### 777:15-1-2. Definitions [AMENDED]

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

"**Course provider**" means an entity that meets eligibility requirements and provides an online course to Oklahoma school districts.

"**Course review**" means the process conducted by content and pedagogical experts to ensure courses recommended for certification by the ~~SVCSB~~SCSB meet the established standards.

"**Oklahoma Online Course Catalog**" means a publicly available listing of courses certified (or pending review) by the ~~SVCSB~~SCSB available through approved Course Providers.

"**Online course**" means an educational course in which instruction and content are delivered primarily over the Internet. A student and teacher are in different locations for a majority of the student's instructional period, most instructional activities take place in an online environment, the online instructional activities are integral to the academic program, consistent communication between a student and a teacher and among students is emphasized, and a student is not required to be located on the physical premises of a public school district. An online course is the equivalent of what would typically be taught in one semester.

"**Receiver district**" means an Oklahoma public school district that has students enrolled in the district who take one or more online courses.

"**Receiver district ally**" means an individual(s) in the receiving district who monitors student progress in the Horizon Online Platform and serves as a liaison between Horizon faculty and staff, the student, and other stakeholders, including parents.

#### 777:15-1-3. Application for course certification [AMENDED]

(a) To have a course(s) listed in the Oklahoma Online Course Catalog (OCCC), Course Providers must first be approved as vendors through the Oklahoma Management and Enterprise System (OMES) and enter into a contract with the state.

(b) Once the online provider is registered as a state vendor, OMES and the ~~SVCSB~~SCSB will negotiate and enter into a contract with the approved vendor to provide online courses at a state rate.

### **777:15-1-5. Course review requirements [AMENDED]**

(a) Online Course Providers must supply the following to have courses listed in the OOC:

- (1) The name of the institution or organization providing the online content;
- (2) Course title and subject code (using appropriate course title and subject code as established by the Oklahoma State Department of Education's approved Subject Codes for the appropriate academic year);
- (3) Brief course description;
- (4) Grade level(s);
- (5) Subject area;
- (6) Unit(s) of credit;
- (7) Course cost;
- (8) Course designations (e.g., dual-credit, AP, NCAA-eligible, Quality Matters certified);
- (9) Course prerequisites; and
- (10) Instructor credential and qualifications.

(b) At the time of the course review, guest access to the course will be required for the reviewers. If substantive changes are made to a course since its last certification, it must be submitted for review regardless of its current status in the review cycle. Substantive changes would include altering the intended course outcomes, significantly changing instructional strategies or assessment protocols used in the course as a whole, or any revision that impacts standards alignment. Only courses certified (or pending review) by the Statewide ~~Virtual~~ Charter School Board will be accepted into the Oklahoma Online Course Catalog.

(c) Course Providers whose courses have undergone review and approval by a recognized third-party entity must provide the results of those reviews. Depending on the results of the external review, a course may be recommended for state certification with no additional review or with a modified review process (e.g., review only for alignment to state standards).

(d) Course Providers of Advanced Placement (AP) courses must provide the results of their College Board AP Course Audit and Authorization. No other course evaluation will be conducted for AP Courses. If a course is authorized by the College Board as an AP course, it is automatically listed as "state-certified" in the Oklahoma Online Course Catalog. Online Providers must provide evidence annually of AP Authorization Renewal.

### **777:15-1-6. Course review and certification process [AMENDED]**

(a) All approved vendors will have the online courses they submitted published in the Oklahoma Online Course Catalog and reviewed according to the schedule adopted by the ~~SVCSB~~SCSB.

(b) Course reviews will be conducted by content experts and pedagogical experts selected by the ~~SVCSB~~SCSB. Courses will be evaluated using rubrics to determine alignment with the current academic standards approved by the State of Oklahoma (or nationally/ internationally accepted content standards set for courses whose content is not included in state standards) and national standards for quality in online course design. Course Providers whose courses have undergone review and approval by a recognized third-party entity must provide the results of those reviews. Depending on the results of the external review, a course may be recommended for state certification with no additional review or with a modified review process (e.g., review only for alignment to state standards). Online Course Providers of Advanced Placement (AP) courses must provide the results of the AP Course Audit and Authorization. No other course evaluation will be conducted for AP Courses. Online Providers must provide evidence annually of AP Authorization Renewal.

(c) If results of the initial review suggest that a course will not be recommended for certification, the Course Provider will be contacted with the review results and will have fifteen (15) calendar days to revise material or provide additional information pertinent to the review. These revisions will be examined by the course reviewers and, if appropriate, the rubric scores will be modified. Once the course review is complete, results of the evaluation will be presented to the Statewide ~~Virtual~~ Charter School Board (~~SVCSB~~)(SCSB). The ~~SVCSB~~SCSB will consider the evidence and vote whether to certify or not certify the course. The decision will be made on a simple majority vote. If the ~~SVCSB~~SCSB votes to not certify a course, the course will be removed from the Oklahoma Online Course Catalog and the Course Provider will be notified of the reasons the course was not certified. The Course Provider may revise the course and resubmit for additional Course Review and certification consideration. Resubmitted courses will be reviewed after all submitted courses have undergone an initial review. Courses approved will be certified for a five-year period. After which, Course Providers must apply for renewal. Certified courses will be identified as such and have their course review ratings published in the Oklahoma Online Course Catalog. Courses pending review will be identified as such in the Oklahoma Online Course Catalog.

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## 777:15-1-7. Certified courses remaining in good standing [AMENDED]

(a) To remain in good standing and have a course(s) continuously listed in the Oklahoma Online Course Catalog through the entirety of the approval period, Course Providers agree to:

- (1) Maintain their vendor status.
- (2) Notify the SVCSBSCSB of any additions, deletions or changes to certified courses.
- (3) Serve all enrolled students, regardless of number enrolled in a section so that Receiver Districts have reliable course options for students.
- (4) Provide online instructors who are 1) certified in Oklahoma or another state to teach in the content area of the course offered; or 2) a faculty member at an accredited institution of higher education, possessing the specific content expertise necessary to teach the course. Additionally, the Course Provider shall supply certification or applicable credentialing documentation to the SVCSBSCSB as part of the course review process and within ten (10) working days upon the hire of any new instructors for any certified course. The Course Provider shall be responsible for such obligation regardless of whether instructors are employees of the Course Provider, independent contractors, or employees of a third-party course vendor. Course Providers shall take all steps necessary to verify the qualifications of non-employee instructors.
- (5) Notify SVCSBSCSB in writing within ten (10) working days if for any reason an online instructor no longer meets the requirements to teach a course offered. The name and credentials of the replacement instructor must also be provided at that time.
- (6) Refer only to courses currently certified and listed in the Oklahoma Online Course Catalog as "Statewide ~~Virtual~~ Charter School Board approved."
- (7) Own, secure, and/or maintain licensure and copyright for all courses offered in the Oklahoma Online Course Catalog.
- (8) Course Providers of Advanced Placement (AP) courses must provide evidence annually of AP Authorization Renewal.
- (9) Refrain from significantly modifying or changing courses without prior notice and approval from the SVCSBSCSB. Course Providers shall provide written notice of any planned modification in sufficient detail for SVCSBSCSB Course Reviewers to determine whether the course continues to satisfy all requirements. Failure to obtain written approval may result in removal of the course from the approved catalog.
- (10) Ensure that each certified course is maintained throughout the duration that the course is offered and continues to meet the current academic standards approved by the State of Oklahoma; national standards for quality in online course design; and Oklahoma's Information Technology Accessibility Standards.
- (11) Employ the appropriate course title and subject code as established by the Oklahoma State Department of Education's approved Subject Codes for the appropriate academic year for the purpose of data collection.
- (12) Report aggregate student success data to the SVCSBSCSB in the requested format and by the timeline set. The SVCSBSCSB does not collect individual student information. By August 1 of each year, the Course Provider will report the following aggregate student success data to the SVCSBSCSB:

- (A) Total number of unique Oklahoma students;
- (B) Total number of courses taken by Oklahoma students;
- (C) Number of students in each course (both overall number and Oklahoma students); and
- (D) Successful completion rate (number and percent) of each course (i.e., X#/60% of students enrolled in X successfully completed the course). Include both overall rates and Oklahoma-specific rates.

(b) Course providers will be notified if a course(s) is found to be noncompliant and will have fifteen (15) business days after notification to bring the course(s) into compliance. If the course(s) is still noncompliant at the end of this period, the course certification will be revoked and the course will be removed from the Oklahoma Online Course Catalog.

## 777:15-1-8. Process for course certification renewal [AMENDED]

Courses that remain in good standing are certified for a period of five years. Course Providers may apply for renewal of their course certification six months prior to the completion of the course approval period. Course Providers will notify the SVCSBSCSB of their intent to apply for renewal by submitting all documents listed in the Course Review Requirements. Course Providers who have maintained their "good standing" status throughout the course approval period will have their courses reviewed and considered for certification following a similar procedure as their initial Course Review and Certification Process. Aggregate student success data will be considered in renewal decisions. Additionally, the SVCSBSCSB may survey districts to collect satisfaction data and those data may also be considered in renewal decisions. Course Providers who have not maintained a "good standing" status must provide documentation explaining the lapse in "good standing" status and the protocols that are in place to prevent such a lapse in the future.



## 777:15-1-9. SVCSB responsibilities [AMENDED]

The ~~SVCSB~~SCSB shall:

- (1) Ensure that all courses listed in the Oklahoma Online Course Catalog are reviewed according to the stated requirements.
- (2) Notify the Course Providers of changes in current academic standards approved by the State of Oklahoma; national standards for quality in online course design; and Oklahoma's Information Technology Accessibility Standards, or other standards that prompt the need for course revisions. Such notification is a courtesy and does not negate the responsibility of the Course Providers to maintain currency with regard to these standards.
- (3) Maintain accurate information in the Oklahoma Online Course Catalog.

## SUBCHAPTER 3. HORIZON ONLINE LEARNING PLATFORM AND COURSES

### 777:15-3-1. Purpose [AMENDED]

The Statewide ~~Virtual~~ Charter School Board shall manage the Horizon: Digitally Enhanced Campus (Horizon) online learning platform to provide high quality online learning opportunities for Oklahoma students that are aligned with the subject matter standards adopted by the State Board of Education pursuant to Section 11-103.6 of Title 70 of the Oklahoma Statutes. The Board shall implement online courses, with an emphasis on science, technology, engineering, and ~~math~~ (STEM) courses, foreign language courses and advanced placement courses. The online platform shall be available to all Oklahoma school districts.

### 777:15-3-2. Online courses [AMENDED]

- (a) Courses made available through the Horizon online learning platform may include, but not be limited to the following:
  - (1) Online courses developed by the Statewide ~~Virtual~~ Charter School Board;
  - (2) Online courses developed by Oklahoma public school districts;
  - (3) Courses provided by online vendors; and
  - (4) Concurrent enrollment courses provided through partnerships with Oklahoma institutions of higher education.
- (b) Courses made available through Horizon: Digitally Enhanced Campus have the following criteria:
  - (1) Courses made available through Horizon: Digitally Enhanced Campus shall be published in the Oklahoma Online Course Catalog (OCC) as defined in 70 O.S. § 3-145.3;
  - (2) Courses made available through Horizon: Digitally Enhanced Campus shall be reviewed to ensure quality and alignment to adopted state standards as defined in 70 O.S. § 3-145.3;
  - (3) Unless otherwise noted at the time of enrollment, all curricular materials (i.e., textbooks are embedded within the online course; and
  - (4) Courses will explicitly state communication protocols to include:
    - (A) How to contact the instructor via phone, email, or online messaging tools;
    - (B) How to contact technical support via email, or online messaging tools;
    - (C) How to contact Horizon administration via phone or email;
    - (D) Expectations for student communication beyond asynchronous participation (e.g., periodic video sessions, attendance at virtual office hours).

[OAR Docket #25-511; filed 6-6-25]

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## TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION

### CHAPTER 10. ADMINISTRATION AND SUPERVISION

[OAR Docket #25-465]

#### RULEMAKING ACTION:

PERMANENT final adoption

#### RULES:

Subchapter 3. State Technical Assistance, Supervision, and Services

780:10-3-2. Career guidance and counseling, career information, disability services, integrated academics, innovation support services, essential skills and career development [AMENDED]

780:10-3-3. Instructional materials development and dissemination [AMENDED]

# Permanent Final Adoptions

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**AUTHORITY:**

Oklahoma State Board of Career and Technology Education; 70 O.S. 2021, § 14-103, §14-104, § 14-103.2, as amended.

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N/A

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N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

The proposed rule amendment to Subchapter 3 updates the GI Bill language to align with 72 O.S. § 302, as amended, removes specifics about shipping Curriculum and Instructional Material Center (CIMC) charges and returns, updates payment methods for CIMC and CareerTech Testing Center (CTTC), and adds clarification that a student's eligibility for free assessments is determined by CTTC policy. Chapter 10, subchapter 3, sections 2 and 3, also includes clean-up language revisions for consistency.

**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 JULY 11, 2025:**

## **SUBCHAPTER 3. STATE TECHNICAL ASSISTANCE, SUPERVISION, AND SERVICES**

**780:10-3-2. Career guidance and counseling, career information, disability services, integrated academics, innovation support services, essential skills and career development [AMENDED]**

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- (a) **Career guidance to technology centers.** The Department shall provide coordination and leadership for career guidance and counseling to technology centers and other entities whose primary purpose is the delivery of career guidance and counseling. Technology center districts shall have an identifiable guidance program in place, implemented and administered by an adequate number of credentialed staff and coordinated by staff with experience in delivering or supervising student services that addresses the career development needs of all students. Technology centers shall provide all students with information and advisement about career and educational options, administer assessment instruments such as interest inventories, aptitude tests, and achievement tests or acquire the results of such assessments prior to enrollment to provide career guidance, and provide support for students to help them be successful in their career pathway.
- (b) **Career Information.** The Department shall provide technical assistance to schools, institutions, and agencies for career development software and career information materials.
- (c) **Financial Aid Services.** The Department shall represent the Oklahoma career and technical education system by performing a liaison function with the Federal Student Aid Office (FSA) of the US Department of Education. As such, the Department will determine the in-service needs of technology center financial aid personnel and arrange for knowledgeable individuals, from FSA or other professional organizations, to conduct workshops and training sessions. The purpose of these in-service opportunities is to strengthen financial aid programs at technology centers ensuring adherence to current state and federal regulations governing the administration of financial aid programs. The Oklahoma Department of Career and Technology Education shall collect relevant statistical data related to financial aid activities at technology centers and report this information where appropriate. ~~The Oklahoma Department of Career and Technology Education shall also administer the Oklahoma GI Bill program that provides tuition assistance to qualified Vietnam-era veterans; as provided for in the Oklahoma G.I. Bill, 70 O.S. Section 301, et. seq.~~
- (d) **Disabilities services.** The Department shall coordinate and provide technical assistance to assure appropriate services and accessibility for individuals with disabilities and other members of special populations enrolled in CareerTech instruction at technology centers and at local education agencies. The Department will also provide guidance and assistance for the field to assist students with transition from high school to a technology center as well as transition from technology centers to postsecondary education and/or work.
- (e) **Integrated academics and essential skills.** The Department shall coordinate developmental activities and provide technical assistance to technology centers, comprehensive school programs and skills centers for education enhancement, career assessment, and employability skills development.

### 780:10-3-3. Instructional materials development and dissemination [AMENDED]

- (a) **Purpose.** The Curriculum and Instructional Materials Center (CIMC) and the CareerTech Testing Center (CTTC) shall develop and distribute instructional materials and assessments in print and digital formats.
- (b) **Product pricing.** Prices for assessments and study guides shall be determined using pricing formulas established ~~or adopted~~ by the CTTC. Print products and online courses shall be determined using pricing formulas established or adopted by the CIMC. ~~Prices will be the same for both Oklahoma and non-Oklahoma customers, with the exception of assessments.~~ Assessments shall be provided free of charge to all eligible Oklahoma CareerTech students as determine by the CTTC. ~~The End User License Agreement describes bulk seat purchases of CIMC online courses.~~
- (c) **Order processing.** Orders for assessments and study guides shall be made using the CTTC online catalog or by contacting the designated CTTC customer service staff by phone. Print products and online courses shall be made by using the online catalog or by transmitting a completed order form by email or fax, or by contacting the designated CIMC customer service staff by phone.
- (1) **Required order information.** Orders shall include the following basic information to be processed, regardless of order method:
- (A) Product ID#
  - (B) Title/Description
  - (C) Quantity ordered
  - (D) Item price
  - (E) Additional information may be required to process/deliver orders for web-based products (i.e. assessments online courses).
- (2) **Shipping charges.** Shipping charges shall apply to all products that are not web-based. ~~Domestic shipping charges are 10% for orders up to \$200 and 8% for orders over \$200. International shipping charges are 20% of the value of products ordered.~~ A minimum shipping and handling charge shall be established by the CIMC and applied to all orders.
- (3) **Sales tax.** Sales tax shall be charges on all products sold for personal use and to non-governmental entities except for assessments.

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(4) **Payments.** Payment for products shall be made at the time of purchase. Acceptable methods of payment are purchase order, check, and credit card (VISA, MasterCard, or Discover). ~~Checks for print products or online course orders must be made payable to CIMC. Checks for online assessments or study guides must be made payable to CTEC.~~ Payment for international orders must be remitted in U.S. dollars drawn on a U.S. bank or world money order.

(5) **Returns, restocking fee and refunds.** Unless otherwise provided specified below, all returns must be preauthorized by contacting CIMC Customer Service at (800) 654-4502. ~~No returns will be authorized after 30 days from the date of invoice (90 days for Oklahoma customers). Unless a backorder is pending, refunds on authorized returns will be issued within 120 days of the original date of invoice.~~

(A) **Printed materials.** . No returns for print on demand materials. Printed materials must be returned in its original form and in salable condition. A restocking fee ~~of 20% of the returned product value~~ will be applied to all returns. All returns must include the packing slip and/or invoice number.

(B) **Multimedia products.** Multimedia products (videos, DVDs, software) cannot be returned.

(C) **Online courses.** The End User License Agreement describes the refund policy that applies to CIMC online courses.

(D) **Assessments.** Assessments may not be returned for refund. All testing credits expire on June 30<sup>th</sup> of the academic year issued.

(6) **Shipping address.** Returned materials must be shipped to the following address: CIMC/Instructional Materials Warehouse, Oklahoma Department of Career & Technology Education, 1201 N. Western Road, Stillwater, OK 74075-2723.

**(d) Defective or damaged materials.**

(1) **Defective materials.** The CIMC must receive notification of print materials shipped in defective condition within five (5) days of customer's receipt of the materials. Credit for materials in defective condition shall be 100% of invoice price or free product replacement, as appropriate.

(2) **Damage In-Transit.** The CIMC is not responsible for damage to CIMC products incurred in transit. In such event, the customer must follow the carrier's claims process.

*[OAR Docket #25-465; filed 6-4-25]*

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## TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 15. TECHNOLOGY CENTERS

*[OAR Docket #25-466]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 3. Technology Centers Education

780:15-3-6. Technology center students [AMENDED]

**AUTHORITY:**

Oklahoma State Board of Career and Technology Education; 70 O.S. 2021, § 14-103, §14-104, § 14-103.2, as amended.

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N/A

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N/A

**GIST/ANALYSIS:**

The proposed rule amendment to Subchapter 3 corrects language regarding technology center reporting. The current rule states the system used by high school programs (CESI) and it has been corrected to reflect the instructional framework utilized by technology centers. Chapter 15, subchapter 3, section 6 also includes clean up edits and language revisions for consistency.

**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 JULY 11, 2025:**

## SUBCHAPTER 3. TECHNOLOGY CENTERS EDUCATION

**780:15-3-6. Technology center students [AMENDED]****(a) Student eligibility.**

(1) **High school students.** For students currently enrolled in high school, the technology center is an extension of the student's high school and shall be subject to the regulations thereof. The student's home high school shall transcript the units of instruction earned by high school students attending the technology center. High school students who successfully complete their career plans of study shall be awarded a competency/completion certificate by the technology center. ~~The technology center is a separate entity in that it also serves adult students.~~

(2) **Enrollment procedures.** High school students shall meet the enrollment criteria established by the technology center for the specific program plan of study in which they wish to enroll, regardless of lawful immigration status. All high school students shall be enrolled through a cooperative effort of the sending comprehensive high school and the technology center, except in cases where the student's parent or guardian has provided sufficient evidence that he/she is participating in a home-schooled education plan in accordance with 70 O.S. §10-105, as amended.

(3) **Approval to withdraw and withdrawal procedures.** Students from a sending comprehensive school who wish to withdraw from a technology center must have approval of both the technology center and the comprehensive school. Specific procedures for withdrawal are established cooperatively by the technology center and the sending comprehensive school.

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(4) **Student discipline.** High school students' discipline and control shall be a cooperative effort between the comprehensive school and the technology center. Each institution shall enforce rules and regulations in accordance with their board-approved policies. Both institutions shall recognize the students' rights to "due process."

(A) **Qualified Students with Disabilities under IDEA.** Discipline for students with disabilities who have an IEP shall be in accordance with current federal and state ~~legislation and rule of law.~~

(B) **Qualified Students with Disabilities under Section 504/ADA.** Qualified students with disabilities under Section 504 of the Rehabilitation Act of 1973 as amended or the Americans with Disabilities Act of 1990 as amended who are disabled by drug addiction or alcoholism may be disciplined to the same extent as other students. However, a student who is disabled by some other condition in addition to drug addiction or alcoholism must be evaluated and afforded due process prior to disciplinary action that would constitute a significant change in placement. Denial of access, and/or a significant change in placement, should not occur when there is a definable relationship between the misconduct and the disability. The student's 504/ADA team should meet and make this determination. There is no requirement in Section 504 or the ADA for the continuation of educational services following the expulsion of a student for behavior unrelated to the student's disability.

(5) **Certified coursework.** Units of coursework earned by a student in a technology center in Oklahoma shall be certified by the technology center to the sending school in which the student is regularly enrolled. These units of coursework shall be counted toward meeting local and state requirements for graduation. The technology center is an extension of the sending school curriculum and shall be subject to the regulations thereof. Program definitions are as follows:

(A) **Occupational programs.** Must lead to an occupational outcome meeting the criteria approved for accreditation through the U.S. Department of Education and the ~~ODE~~OCDE Department.

(i) **Full Time Enrollment.** Must be approved through the appropriate ~~ODE~~OCDE Department occupational division to meet the state program standards.

(ii) **Secondary Course.** A course tied to an occupational outcome that meets a minimum of 120 hours. The course may be tied to Oklahoma's Promise and/or academic credits but are not a portion of the same full-time program. Scheduling and ~~CES~~Instructional framework reports are required to be submitted to ~~ODE~~the Department for each course.

(B) **Pre-Occupational.** Enrollments that provide engagement and exposure to careers but do not result in an industry credential or are under the minimum hour requirements of occupational programs.

(6) **Hours of attendance.** High school students may attend a technology center up to one-half day pursuing a high school diploma or high school equivalency and up to one-half day completing a CareerTech program in the technology center. The students are counted as attending a full day at the sending school.

(7) **Secondary Students.** Programs in the technology centers may be offered to secondary students. Students who are on an ~~Individualized Education Program~~IEP may attend a technology center up to four years.

(8) **Postsecondary/adult students.** The technology center functions as a separate postsecondary-level educational institution for adult students who are beyond the age of compulsory school attendance and/or are not enrolled in high school. Postsecondary/adult students may attend courses at the technology center which may be held any time during the day or night on or off campus. Postsecondary/adult students are subject to the policies and procedures established for adult students by the technology center and shall be afforded all benefits and services for which they qualify, regardless of lawful immigration status. Units of coursework completed at a technology center by a postsecondary/adult student are transcribed by the technology center as postsecondary level credit. Postsecondary/adult students who successfully complete their plan of study shall be awarded a competency/completion certification by the technology center. Units of instruction and/or credits earned by postsecondary/adult students may also be applied toward a college degree, in accordance with the cooperative agreements and cooperative alliance agreements developed by each technology center with a higher education institution.

(9) **Residency.** Students that meet the residency requirements of 70 O.S. Section 1-113, as amended, shall have the same opportunity to access technology center courses, regardless of lawful immigration status, as any other in-district student. These students may enroll in an appropriate program following the same admission and enrollment procedures as other students.

(10) **Cooperative Alliances Between Higher Education Institutions and Technology Centers.**

(A) **Purpose.** The purpose of Cooperative Alliances is to expand student access to Oklahoma's educational opportunities with resource-sharing partnerships between institutions of the State System and CareerTech technology centers for the benefit of Oklahoma citizens, business, industry, and students. Cooperative Alliances are student-centered partnerships organized to encourage and facilitate progress toward college graduation and designed to ensure that students obtain the technical and academic skills that will allow them to succeed in today's dynamic knowledge-based, technology-driven global economy.

(B) **Formation and Operation.** Cooperative Alliances may be formed and operated between Oklahoma technology center school district(s), and public colleges or universities that offer the Associate in Applied Science (AAS) degree.

**(b) Tuition.**

(1) **Resident high school students.** High school students who are residents of the technology center district attend on a tuition-free basis, regardless of lawful immigration status.

(2) **Tuition charge.** Technology centers are authorized to charge tuition to postsecondary students. Amounts charged by a technology center district for tuition are subject to the approval of the State Board.

(3) **Out of District Tuition.** Technology center districts shall charge a tuition to any secondary student who does not reside in the technology center district. The fee for tuition shall be not less than twice the amount of the local cost of providing instruction and services for the student. The State Board may waive this requirement in situations where the technology center district has shown evidence that such requirement will be detrimental to the mission of the local technology center district. Reciprocity agreements to benefit in-district students may be made between technology centers and approved by the Oklahoma Department of Career and Technology Education.

**(c) Transportation.**

(1) **Responsibility.** The technology center is responsible for providing transportation of daytime secondary students to and from in-district, sending schools for those students who are enrolled in a three-period block of instruction. Transportation for students requesting alternative schedules shall be determined by an agreement between the comprehensive school and the technology center.

(2) **Operation under Oklahoma school laws.** All technology centers owning or leasing and operating school buses that transport students to and from points being served by the technology center shall operate under the current school laws of Oklahoma.

(3) **Adult transportation.** Upon approval of the technology center board of education, postsecondary students enrolled in a technology center may be transported, as space is available, on established bus routes and related auxiliary activities.

(d) **Student accounting.** Student Accounting information shall be submitted to the Information Management Division as outlined in OAC 780:10-7-2.

*[OAR Docket #25-466; filed 6-4-25]*

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## TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 20. PROGRAMS AND SERVICES

*[OAR Docket #25-467]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions

780:20-1-4. Competitive Grants for Dropout Recovery Programs grants for dropout recovery programs [NEW]

Subchapter 3. Secondary, Full-Time and Short-Term Adult CareerTech Programs

780:20-3-1. Administration and supervision [AMENDED]

780:20-3-2. Programs: admissions, operations, enrollment, and length [AMENDED]

780:20-3-3. Materials and facilities [AMENDED]

780:20-3-5. Career and Technology Student Organizations [AMENDED]

**AUTHORITY:**

Oklahoma State Board of Career and Technology Education; 70 O.S. 2021, § 14-103, 14-103.1, § 14-104, as amended.

# Permanent Final Adoptions

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## GIST/ANALYSIS:

The proposed rule amendments to Subchapter 3 include new rules for administering Dropout Recovery Grants, language resulting from House Bill 2672 to support new graduation requirements, updated Agricultural Education language to expand offerings set forth by House Bill 2321 for agriculture education, and define planning and supervisory periods. Amendments provide clarity on Business, Marketing and IT Education offerings and student organization requirements for divisions. Health Careers was changed to Health Science to align with the national association. Chapter 20, subchapter 1, section 4, subchapter 3, sections 1,2,3 and 5 also includes clean up edits and language revisions for consistency.

## 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 JULY 11, 2025:**

### SUBCHAPTER 1. GENERAL PROVISIONS

**780:20-1-4. Competitive Grants for Dropout Recovery Programs grants for dropout recovery programs [NEW]**



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(a) **Awarding Competitive Grants.** Pursuant to Section 14-103.1 of Title 70 of the Oklahoma Statutes, the State Board shall award one or more competitive grants for Dropout Recovery Programs (“Programs” or “Program”) to technology center school districts each fiscal year that have demonstrated the greatest need for dropout recovery prevention and recovery.

(b) **Applications.** When starting a new program, technology center school districts shall submit a completed application to the Department which shall include the following information:

- (1) Proof that the technology center school district does not already have an intensive dropout prevention program;
- (2) How the technology center school district will provide high school credential opportunities which will increase high school completion rates;
- (3) How the technology center school district will provide career strategies through a technical program or an employment component to enhance the potential for employment;
- (4) Current or future plans to work with agencies and entities that serve juvenile populations;
- (5) A detailed list of clear and measurable goals for the Program;
- (6) Proof that the technology center school district can either:
  - (A) Devote not less than four (4) hours and twelve (12) minutes per day to academic instruction for the locally approved 180-day calendar year, or
  - (B) Provide students in the Program at least 756 hours of academic instruction per school year;
- (7) A proposed annual budget for the Program;
- (8) Whether the Program will offer initial academic credit and/or credit recovery for academic courses;
- (9) An MOU between the sending school(s) and the technology center that includes the policies and procedures for the Program and requirements for students to receive credit; and
- (10) Any other information required by the Department.

(c) **Dropout Recovery Programs.** Once a competitive grant awarded, the technology center school district shall participate in an annual review to verify compliance with the following requirements:

- (1) **Advisory Committee.** The technology center school district shall utilize an advisory committee for planning and student success.
- (2) **Instructors.** The technology center school district shall hire certified instructors for the Program. Instructor certifications are not restricted to grade-specific or subject specific areas. The certified instructor should be able to demonstrate an ability to successfully work with at-risk students.
- (3) **Class Size; Ratios.** The technology center school district shall ensure class sizes and student-to-teacher ratios are conducive to effective and safe learning of at-risk students.
- (4) **Instruction.** The technology center school district shall incorporate structure, curriculum, interaction, and reinforcement strategies designed to provide effective individualized instruction.
- (5) **Individualized Credentialing Plan.** The technology center school district shall provide each student in the Program an individualized credentialing plan based on the student’s career goals and high school graduation requirements for each sending school district or preparation for high school equivalency.
- (6) **Counseling and Social Services; License Required.** The technology center school district shall offer counseling and social services to all students in the Program. Any person providing such services shall hold an active license as a counselor or mental health provider.
- (7) **Instruction Hours.** The technology center school district shall either:
  - (A) Devote not less than four (4) hours and twelve (12) minutes per day to academic instruction for the locally approved 180-day calendar year; or
  - (B) A school day may consist of less than four (4) hours and twelve (12) minutes per day to academic instruction, provided the students in the Program receive at least 756 hours of academic instruction per school year. The technology center school district that utilizes the total instruction hours option shall notify the Department.
- (8) **MOU.** The technology center shall enter into an MOU with their sending schools that includes the policies and procedures for the Program and requirements for the students to receive credit.

(d) **Financial Reporting.** Technology center school districts shall submit to the Department:

- (1) Quarterly invoices; and
- (2) By September 15 of each school year, a report of all revenue received and expended for students participating in the Program.

(e) **Failure to Comply.** Failure to comply with Program requirements shall:

- (1) Be cause for an audit of the Program; and

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(2) Be included in the consideration for the eligibility of a technology center school district to be awarded future competitive grants.

## SUBCHAPTER 3. SECONDARY, FULL-TIME AND SHORT-TERM ADULT CAREERTECH PROGRAMS

### 780:20-3-1. Administration and supervision [AMENDED]

(a) **Advisory committee.** Each approved CareerTech program must have an occupational advisory committee that is formally organized and meets at least once annually. The membership of the advisory committee must be diversified with the majority of membership representative of occupations for which the program is training.

(b) **Civil rights compliance.** In order to receive federal funds, local administrators must comply with all civil rights procedures and prohibitions that include, but are not limited to, the following:

(1) **Annual public notification.** All recipients offering CareerTech programs shall, at the beginning of the school year, advise parents, employees, students, and the general public that all occupational opportunities will be offered without regard to race, color, national origin, sex, age, or disability.

(2) **Employment.** Recipients offering CareerTech programs shall not engage in any employment practice that discriminates on the basis of race, color, national origin, sex, age, or disability.

(3) **Accommodations for individuals with disabilities.** Students with disabilities shall be placed in the regular educational environment of any ~~career and technology education~~ CareerTech program unless it can be demonstrated that the education of the individual with a disability, even with the use of support services, cannot be achieved satisfactorily.

(A) **Support services.** Support services are considered on a case-by-case basis and depend on the functional impact of the individual student's disability on learning and which laws to the student's education. Decisions on what type of support services are to be utilized are a team decision. The team is made up of persons knowledgeable of the student, their disability, the course requirement as well as the local policy and laws.

(B) **Individual needs.** When students with disabilities are enrolled in any ~~career and technology education~~ CareerTech program, evidence must exist as to how the student's individual needs are being met.

(C) **Participation in and review of IEP/504 Plans.** A representative of the area technology center shall be on the IEP/504 team when enrollment in a ~~career and technology education~~ CareerTech program is considered to be an appropriate part of the student's IEP/504 Plan. ~~Career and technology education CareerTech instructors~~, whether teaching in an area technology center or in a comprehensive school program, shall have access to a copy of the IEP/504 Plan before the identified student enters the program. ~~State accreditation standards: Part I, Standard III, Support Services, 210:35-11-51 (b); Guidance and counseling services; Part II, Standard III, Support Services, 210:35-13-74 (c);~~

(D) ~~Standard IV OAC 210:35-11-31.~~ **Program of studies.** Students who have IEP Individualized Education Programs may earn academic credit toward high school graduation for coursework completed in a CareerTech ~~career and technology education~~ program, provided that state and federal legislation and policies are followed and:

(i) The IEP team documents the specific competencies for the CareerTech ~~career and technology education~~ program which address the sets of competencies and/or Prior Academic skills required for the academic course and that the course is taught by a highly qualified teacher:

(ii) The IEP is developed with the full participation, as an IEP team member, of a representative from the technology center in which the student will be enrolled:

(iii) The specific course for which the student will receive credit is documented through individualized education program for the student; and,

(iv) The high school and the IEP team monitor the student's progress to assure both the high school and the technology center are meeting the provisions of the IEP, ~~[34CFR300.347]~~.

(E) **Adult 504 Plans.** Students who have provided appropriate documentation of a disability, who have been determined under Section 504 of the Rehabilitation Act or the Americans with Disabilities Act as a qualified individual with a disability in relation to the CareerTech ~~career and technology education~~ program, and who require necessary accommodations in order to participate in and benefit from career and technology education will have an accommodation plan in place. This plan will be developed by a group of persons knowledgeable about the student, including the student, and will specify the agreed

upon services necessary for the student to participate in and benefit from career and technology education.

(F) **Staff Development.** Regular staff development shall include instruction in maintaining confidentiality, modifying instruction, and reviewing and interpreting special needs documents.

(4) **Apprenticeship.** Agreements entered into for the provision or support of apprenticeship training shall not discriminate on the basis of race, color, national origin, sex, age, or disability, and should so state.

(5) **Comparable facilities.**

(A) **Facilities.** Changing rooms, showers, and other facilities provided for CareerTech students of one sex shall be comparable to those provided to CareerTech students of the other sex.

(B) **Nondiscrimination.** CareerTech facilities may not be located, constructed, modified, or renovated in a manner that creates, maintains, or increases student segregation on the basis of race, color, national origin, sex, age, or disability.

(6) **Financial assistance.** Financial assistance in the form of loans, grants, scholarships, special funds, subsidies, compensation for work, or prizes shall be provided to CareerTech students without regard to race, color, national origin, sex, age, or disability, except where necessary to overcome the effects of past discrimination.

(7) **Printed materials.** Counseling and other printed materials shall be provided to CareerTech students for program selection recruitment, career/employment selection, and promotional activities without regard to race, color, national origin, sex, age, or disability.

(8) **Work-site learning.**

(A) **Nondiscrimination.** Work-site learning opportunities shall be made available to CareerTech students without regard to race, color, national origin, sex, age, or disability.

(B) **Nondiscrimination on the job.** All written agreements between school and employer must contain an assurance from the employer that students will be accepted and assigned to jobs and otherwise treated without regard to race, color, national origin, sex, age, or disability.

(c) **Local administration supervision.** The school administration shall provide program supervision and coordinate the CareerTech program activities as an integral part of the overall educational program in the school.

(d) **Local teacher supervision.** Each CareerTech teacher shall be responsible for providing appropriate activities that will contribute to the development of each CareerTech student according to the student's occupational objective and for conducting and reporting student follow-up upon exit from or completion of the program.

(e) **Cooperative programs.**

(1) **Cooperative education.** The cooperative method of education is a joint effort between the school system and business and industry.

(2) **Supervision of students.** Schools offering cooperative CareerTech programs shall provide adequate time for teacher-coordinators to supervise and coordinate the activities of student learners. Adequate time shall be determined by applying the following formula:

(A) 0-25 cooperative students - 1 period (hour) per day

(B) 26-50 cooperative students - 2 consecutive periods (hours) per day

(3) **Exemption of planning period.** The one-hour planning period shall not be considered coordination time.

(4) **Responsibilities of the teacher-coordinator.**

(A) **Responsibilities.** The teacher-coordinator shall have the responsibility of coordinating classroom instruction, on-the-job activities or hands-on experience, and placement of students.

(B) **Training station visits.** The teacher-coordinator shall make a minimum of one (1) on-site visit per grading period to each training station employing cooperative CareerTech students. The purpose of these visits shall be to document and coordinate the learning experiences of the students. Training station visits shall be documented and put on file in the teacher's classroom.

(C) **Student files.** A "Memorandum of Training" and a training plan shall be on file for each cooperative student, and a copy shall be sent to the employer and parents.

(D) **Employer evaluation.** Each employer shall complete a written evaluation of the student's progress at least one time per grading period, and a copy of this evaluation shall be on file in the teacher's office. Employers are also required to have proof of age on file and a work permit if the employee is under 18 years of age.

(5) **Scholastic credit.**

(A) **Credit for on-the-job training/internship.** Additional units of credit may be added to the unit(s) earned in the classroom for being employed in an occupationally appropriate training station during the school year by applying the following:

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- (i) an average of 10 periods (hours) per week for a minimum of 30 weeks of on-the-job training under the supervision of a teacher-coordinator = 1 unit;
- (ii) an average of 20 periods (hours) per week for a minimum of 30 weeks on-the-job training under the supervision of a teacher-coordinator = 2 units;
- (iii) in the case of block schedules, where a student completes the requirements for a unit of class work in one semester, a student could also earn an additional ½ unit for 10 hours per week for 15 weeks of on-the-job training under the supervision of a teacher-coordinator, or
- (iv) a student could earn an additional 1 unit for 20 hours per week for 15 weeks of on-the-job training under the supervision of a teacher-coordinator.
- (v) Employers or their representatives shall complete a written evaluation of the cooperative students worksite performance for each grading period. The teacher is responsible for converting the employer's evaluation into the appropriate letter grade for the student's on-the-job grade. Not to be confused with the pass/fail or satisfactory/unsatisfactory grade sometimes given to students participating in a work release program.

(B) **Documentation of work hours.** Teachers must maintain, in the school files, documentation of the number of hours each cooperative student works.

(C) **Extra assignments.** If extenuating circumstances exist, and the student is not employed, the teacher must document extra assignments equal to one hour of classroom instruction per day for every hour under the required 10 hours per week of employment.

(D) **School release time.** A student who is employed in accordance to 5(A) above and is receiving credit for a supervised cooperative work experience may be released up to two hours per day from the normal six-hour school day.

(E) **Classroom credit only.** If the teacher cannot document extra assignments and/or hours worked, the student shall receive only credit for the classroom activities.

(f) **Records and reports.** Each local education agency or eligible recipient shall submit student accounting and other required reports on the specified due date.

(g) **Maintenance of confidential records.** Each technology center shall develop and implement a local policy regarding the confidentiality of all personally identifiable information and education records. This policy shall meet the requirements of the Individuals with Disabilities Act (IDEA) ~~CFR 300.560-300.574~~ and the Family Educational Rights and Privacy Act (FERPA) ~~34 CFR 99.1-99.67~~ concerning collection, storage, disclosure, and destruction of confidential student records.

(h) **Career guidance and counseling for secondary and full time programs.** Technology centers shall have an identifiable guidance program in place that addresses the career development needs of all students. Technology centers shall provide all students with information and advisement about career and educational options, administer assessment instruments such as interest inventories, aptitude tests, and achievement tests or acquire the results of such assessments to provide guidance in program selection and placement, and provide support for students to help them be successful in their career pathway. This includes but is not limited to:

- (1) All students in accredited program have individual career academic plans developed and updated to identify and document career and academic services, as well as technical and academic courses to help maximize career success and employability.
- (2) All students are enrolled or placed in a technology center program on the basis of their documented interest and ability to benefit from training, work history, IEP provisions, accommodation plans, and/or their individual career academic plans developed at the sending school or on cooperation with other agencies.
- (3) The technology center guidance and counseling staff coordinates all services with guidance and counseling staff from sending schools, higher education institutions and other agencies through regularly planned informational meetings and/or correspondence.
- (4) Counselors shall be appropriately certified and credentialed for the grade levels to which they are assigned. School counselors shall hold a valid Oklahoma School Counselor Certificate appropriate to grade levels to which they are assigned. ~~(State accreditation standards: 210.35-9-45)~~ The title of counselor should only be applied to those staff with appropriate certifications and/or credentialing.
- (5) Each technology center guidance and counseling program should have an advisory committee that is formally organized and meets at least annually. The membership of the advisory committee must be diversified with representation from a variety of stakeholders.

(i) **Math Credit for Certain Career and Technology Education Classes.** After July 1, 2018 and to fully implement the provisions of SB 1370 (2018), for students on the CORE curriculum only, acceptance and successful completion of one (1) year of a full-time, three-hour career and technology program leading to an industry credential/certificate or college credit shall count as one math unit for high school graduation under the provisions of 70 O.S. 2011, Section 11-103.6 (D), as

amended. ~~The provisions of this rule shall be limited to accepted industry credentials/certificates that are industry-endorsed or industry-aligned. The Department shall compile a list of State Board approved three-hour, full time postsecondary career and technology programs that satisfies a math unit toward CORE graduation from a public high school accredited by the State Board of Education as authorized by 70 O.S. Section 11-103.6(D)(2). The Oklahoma Department of Career and Technology Education shall compile a list of accepted industry credentials/certificates and present the list to the State Board of Career and Technology Education for its review. The list of accepted industry credentials/certificates shall be reviewed annually by the State Board of Career and Technology Education.~~

(j) **Graduation Credits for Certain Career and Technology Education Classes.** The Department shall compile a list of State Board approved three-hour, full time postsecondary career and technology programs that count as units toward graduation from a public high school accredited by the State Board of Education as authorized by 70 O.S. Section 11-103.6.

### **780:20-3-2. Programs: admissions, operations, enrollment, and length [AMENDED]**

(a) **Nondiscrimination; admission guidelines.** Students shall be provided access to CareerTech programs and facilities without regard to race, color, national origin, sex, or disability.

(1) **Agricultural Education.** Agricultural Education programs are designed for junior high and high school grades eight through twelve and shall be provided by comprehensive school districts. Technology center school districts shall be prohibited from operating Agricultural Education programs or FFA chapters in any location. Each student enrolled in an agricultural education program shall participate in a supervised agricultural experience project. For each agricultural education program which is funded by the Oklahoma Department of Career and Technology Education, the local school district shall provide transportation services, for the agricultural education program and FFA program related duties and activities. (FFA is an integral part of the agricultural education program.)

(2) **Business, Marketing and Information Technology Education.** Business, Marketing and Information Technology Education programs are designed to prepare students in grades 6 through 12 and adults for pathways to careers in business, marketing and information technology.

(3) **Family and Consumer Sciences Education.**

(A) **Comprehensive Family and Consumer Sciences Education.** Family and Consumer Sciences programs are designed for students grades 6 through 12 to experience hands-on experiential and problem based learning to explore opportunities for careers, post-secondary transitions and pathways in family and consumer sciences related areas.

(B) **Occupational Family and Consumer Sciences Education.** Occupational Family and Consumer Sciences programs are designed to prepare students in grades 11 and 12 and/or adults for careers in specific family and consumer sciences occupations. Approved CTE program teacher contracts will align to school district contract dates.

(4) **Health Careers Education.**

(A) **CareerTech health careers.** Health Careers Education programs are designed to prepare middle school students, high school students and adults for employment in a health career of their choice.

(B) **Requirements for applicants.** Applicants for admission to Health Careers Education programs must meet requirements as set by the individual program, state statutes, and any other requirements of the appropriate licensing or accrediting agency.

(5) **Science Technology Engineering and Mathematics (STEM).**

(A) Science Technology Engineering and Mathematics programs are designed to prepare students grades 5-12 for hands-on and problem-based curriculum that allows students to explore opportunities for careers, post-secondary transitions and pathways in Science, Technology, Engineering and Mathematics (STEM).

(B) Science Technology Engineering and Mathematics academy programs in technology centers are designed for grades ten through twelve. If required by 70 O.S. 11-103.6, the program shall obtain approval from the State Department of Education.

(C) An Active Technology Student Association (TSA)/CTSO is an integral part of the STEM education program. An active TSA chapter includes but is not limited to the elections of an officer team, a program of work that is planned and executed yearly by the TSA chapter, chapter students attend TSA Fall Leadership Conference, and chapter students compete in TSA competitive events at the TSA State Leadership Conference. Full-time STEM instructors shall have no other extracurricular duties or responsibilities other than those required through the TSA student organization and normal school supervisory duties.

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(6) **Trade and Industrial Education/TechConnect.** Trade and Industrial Education/TechConnect programs in comprehensive schools are designed for students in grades 6 through 10 for hands-on experience and problem-based learning that allows students to explore opportunities for careers, post-secondary transitions and pathways in Trade and Industrial Education. The state program administrator must approve exceptions. Trade and Industrial Education programs in technology centers are designed for students in grades 11 and 12 and/or adults. In technology center programs, tenth-grade students, or over-age students in a grade lower than the eleventh, may be enrolled upon approval of the sending school.

**(b) Program operations.**

(1) **Recommendation for program approval.** The appropriate CareerTech program manager shall recommend approval of a program when criteria for the approval of new programs are met, and funds are available.

(2) **Program composition.** Programs shall offer hands-on experience or supervised occupational experiences in the laboratory or clinical setting as well as classroom instruction to provide opportunities for students to achieve career objectives.

(3) **Course titles.** CareerTech course offerings must be in agreement with the course titles listed in the current **Standards for Accreditation of Oklahoma Schools**, published by the State Department of Education. These same course titles (or abbreviated titles) should be the class titles entered on the student's transcript.

(4) **Units of credit.** The units of credit shall be determined by the number of periods the student is in class plus on-the-job training, clinical training, or internship served. (Refer to the **Standards for Accreditation of Oklahoma Schools**.)

(5) **Full-time programs.** A full-time program in a comprehensive school shall consist of five CareerTech instruction class periods and one planning period for a six-period day, and six CareerTech instruction class periods and one planning period for a seven-period day. Exceptions to this rule shall include the following:

(A) **Two planning periods.** Teachers who supervise students' agricultural experience programs shall have a minimum of two periods to plan, supervise, and coordinate the activities of student learners (~~see 780:20-3-1(c) and 780:20-3-2(b)(7)(A))~~). For schools on non-traditional schedules, teachers shall have the equivalent of a minimum of 90 minutes per day for planning and supervision of students. It is recommended that the last hour of the school day be utilized as the supervisory period ~~one of the planning periods~~. Schools offering Agricultural Education courses the final period of the day must provide a written explanation to the program administrator.

(B) **Teaching of related courses.** Full-time program teachers of Marketing Education, Career Transitions Education, Science Technology Engineering and Mathematics, and TechConnect may be allowed to teach one related course, subject to the approval of the appropriate ODCTE state program manager.

(C) **Trade and Industrial Education/TechConnect.** Two three-hour block courses shall constitute a full-time program in Trade and Industrial Education in a Technology Center.

(D) **Health Science Careers Education.** Teachers of Health Science Careers may be allowed to teach one or two related courses with at least one conference period (if the school is on a standard six or seven-period teaching day), subject to the approval of the Health Science ~~Careers~~ Education program administrator.

(E) **Science Technology Engineering and Mathematics.** Teachers of Science Technology Engineering and Mathematics may be allowed to teach one related course, subject to approval of the STEM division program manager.

(6) **Adult Training and Development.** Adult Training and Development (short-term adult) programs in comprehensive schools may be organized under the supervision of the CareerTech teacher and must be occupationally specific. These programs are organized on request or as the need indicates. They may vary in length.

**(7) Program operations by occupational division.**

**(A) Agricultural Education.**

(i) **Secondary programs.** The agricultural education instructor is a full-time, 12-month employee and shall teach only approved agricultural education courses. Agricultural education instructor shall have no other extra curricular duties or responsibilities other than those required through the FFA student organization and normal school supervisory duties. Coaching, administration, or other similar full-time duties will not be approved. In the case of a non-funded agriculture education program, the program must follow state policy and guidelines to remain in good standing and be able to utilize the CareerTech student organization, FFA.

- (ii) **Summer program.** The agricultural education instructor shall formulate a summer program of work and a calendar of activities, which are to be submitted to the local education agency at the completion of the school year.
- (iii) **Activities.** Summer activities shall include supervision of students' activities; educational field days and tours; in-service and professional development activities; and, working with adults, agricultural organizations, and industries.
- (iv) **Summer leave.** Agricultural Education teachers are entitled to two weeks of summer leave. In lieu of these two weeks of vacation, three weeks each year may be allowed for professional improvement. Summer leave should be coordinated with the local administration. If there is a question in regard to summer leave, the program administrator should be contacted for approval.
- (v) **Full-time adult programs.** Full-time adult Agricultural Business Management programs vary in length and are designated for and intended to meet the needs of adults engaged in agriculture and agricultural business operations.

**(B) Business, Marketing and Information Technology Education.**

- (i) **Full-time programs in comprehensive schools.** A full-time program in comprehensive school shall consist of five instructional class periods (five credits) and one planning period for a six-period day or six instructional class periods (six credits) and one planning period for a seven-period day that is offered to students in grades 6 through 12. Block schedules, including trimesters, will be approved if they provide one full unit/credit per course and offer a full schedule of approved courses with one planning period. Instructors shall teach only approved business, marketing and information technology education courses that are aligned with an approved occupational outcome. State-approved syllabi identify the required length of courses - one-half or full unit of credit. All comprehensive programs are required to participate in the student organization that aligns with their approved program area (BPA – Business and IT programs; DECA – Marketing) and meet the minimum requirements associated with these student organizations as determined by the state program administrator. ~~Business, Marketing and Information Technology Education instructors shall have no other extracurricular duties or responsibilities other than those required through the BPA or DECA student organizations and normal school supervisory duties.~~
- (ii) **Full-time programs in technology centers.** A full-time program in a technology center shall consist of instruction for students in grades 10-12 and adults, have an occupational outcome, and include a work-based learning component.
- (iii) **Technology/equipment.** Business, Marketing and Information Technology Education programs shall provide technology that is appropriate for the defined occupational objectives and is reflective of a modern business environment. A written program plan integrating curriculum, training materials, and technology shall be maintained to guide program development and maintain relevance to the marketplace.
- (iv) **Part-time comprehensive school programs.** Comprehensive school Business, Marketing and Information Technology Education programs that are less than full-time will be funded as a half-time program and will be approved by permission of the state program administrator. A part-time program shall include a minimum of three approved business, marketing or information technology education courses with one planning period.
- (v) **Unfunded programs.** Non-funded Business, Marketing and Information Technology Education programs must follow state policies and guidelines and maintain an active BPA or DECA student organization chapter in order to remain in good standing.

**(C) Comprehensive Family and Consumer Sciences Education.**

- (i) **Full-time programs.** A full-time program shall consist of only approved family and consumer sciences classes with one planning period in the daily schedule. ~~Family and consumer sciences instructors shall have no other extra-curricular duties or responsibilities other than those required through the FCCLA student organization and normal school supervisory duties.~~ Each single teacher program shall offer at least two complete programs of study in a three-year period. A multi-teacher district shall offer one more program of study than the number of teachers per building. Coaching, administration, or other similar full-time duties must be approved by the state program manager in writing prior to implementation.

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(ii) **Part-time programs.** Programs that are less than full-time will be funded as a half-time program and will be approved only through permission of the program administrator. A part-time program shall include a minimum of two approved family and consumer sciences classes and a conference period for a six period day and three approved family and consumer sciences classes and a conference period for a seven or eight period day.

(iii) **Unfunded programs.** In the case of an approved unfunded family and consumer sciences program, the program must follow state policy and guidelines and maintain an active Family, Career and Community Leaders of America chapter to remain in good standing.~~to remain in good standing. Only approved programs shall have a Family, Career and Community Leaders of America chapter.~~

**(D) Occupational Family and Consumer Sciences Education.**

(i) **Full-time occupational programs in comprehensive schools.** A full-time occupational family and consumer sciences education program in the comprehensive school will include two or more classes, two to three periods in length for 11th- and 12th-grade students.

(ii) **Full-time occupational programs in technology centers.** A full-time occupational family and consumer sciences education program in a technology center will include two classes, three periods in length for 11th- and 12th-grade students and adults.

(iii) **Length; order.** Two years of occupational training may be offered.

**(E) Health Science Careers Education.**

(i) **Comprehensive Schools.** High schools vary in length and may be offered in one, two or three blocks of time.

(ii) **Technology Centers.** Programs vary in length and in hours per day according to accrediting bodies and program requirements. Secondary programs in technology centers may be one or two academic years in length and vary in hours per day.

(iii) **Unfunded programs.** Non-funded Health Science programs must follow state policies and guidelines and maintain an active health HOSA student organization chapter to remain in good standing.

**(F) Science, Technology, Engineering and Mathematics (STEM).**

(i) **Full-time program.** In a six-period day, instructor shall teach five approved CareerTech STEM courses and/or one approved related course. In a seven-period day, instructor shall teach six approved CareerTech STEM courses and/or one approved related course. In an eight-period day, instructor shall teach seven approved CareerTech STEM courses and/or one approved related course. Block schedules, including trimesters, will be approved if they provide one full unit/credit per course and offer a full schedule of approved courses with one planning period.

(ii) **Part-time comprehensive school programs.** Comprehensive school CareerTech STEM education programs that are less than full-time will be funded as a half-time program and will be approved only through the permission of the state program manager. A part-time program shall include a minimum of three approved CareerTech STEM education 8000 level courses.

(iii) **Unfunded programs.** Non-funded Science, Technology, Engineering and Math Education programs must follow state policies and guidelines and maintain an active CareerTech student organization chapter in order to remain in good standing.

(iv) **Technology Center.** A full-time program shall consist of two three/four-hour block courses in STEM Education.

**(G) Trade and Industrial Education.** TechConnect (grades 6-10): The appropriate approved courses need to be taught from one of the following career pathways: Tech Connect Agriculture, Food and Natural Resources; Tech Connect Architecture & Construction; Tech Connect Arts; A/V Technology and Communications; Tech Connect Information Technology; Tech Connect Law, Public Safety and Security; Tech Connect Manufacturing; Tech Connect Transportation, Distribution and Logistics; Tech Connect Diversified Programs.

**(H) Integrated Academics.** Academics taught in the technology center shall be delivered in the context of the program in which each student is enrolled. If academic instruction is offered for credit through the sending school, it shall be structured so as to meet current ~~legislation and State Department of Education guidelines requirements.~~ Students must meet, within the structure of the academic class, the attendance requirements of their comprehensive schools in order to receive academic credit. ~~Further, the legislated limit of 10 days of absence from the academic class for school-related activities applies.~~



(c) **Enrollment for full-time programs.**

(1) **Guidelines compliance.** Program enrollments shall comply with the established guidelines of the appropriate occupational division. Exceptions must have written approval by the appropriate program manager prior to the second week of class. Consideration shall be given to the availability of work stations, clinical experiences and individual student needs.

(2) **Enrollments specific to occupational divisions and programs.**

(A) **Agricultural Education.**

(i) **Student enrollment limits.** If a department has adequate space, equipment, and laboratory sites, a maximum of 25 students may be enrolled in each agricultural education class with the exception of lab classes, such as Horticulture and Ag Mechanics, and they shall be limited to 15 per class. Exceptions to these numbers must have written approval by the appropriate program administrator.

(ii) **Maximum class enrollment.** The maximum enrollment in each agricultural mechanics and horticulture class shall be 15 students per class period.

(iii) **Course prerequisite.** Introduction to Agricultural Science is the prerequisite for all other agricultural education courses with the exception of eighth-grade Agricultural Orientation.

(iv) **Employment in Agribusiness.** The Agricultural Education course, Employment in Agribusiness, is considered a Cooperative Program in which students can earn scholastic credit if the course meets all requirements for cooperative programs listed under section (780:20-3-1 section c). It must be taught and supervised by the agricultural education instructor. ~~Note:~~ The work-site experience must be directly related to the curriculum offered in the program.

(B) **Business, Marketing and Information Technology Education.**

(i) **Programs in comprehensive schools.** Business, Marketing and Information Technology Education courses may enroll a maximum of 25 students at a ratio of one work station per student. A maximum of 25 students per teacher-coordinator shall be enrolled in a capstone course or internship course. Only two sections of internship will be allowed per program. Students enrolling in an internship program must have completed a minimum of 120 hours or be concurrently in an approved business, marketing, and information technology education program.

(ii) **Programs in technology centers.** Business, Marketing and Information Technology Education courses may enroll a maximum of 25 students at a ratio of one work station per student. Consideration should be given to the size of the facility and access to appropriate training stations.

(C) **Family and Consumer Sciences Education.**

(i) **Comprehensive Family and Consumer Sciences programs.** If a department has adequate space, equipment and laboratory sites, maximum enrollment for the following courses shall be:

(I) Non-laboratory courses-30 students

(II) Laboratory courses-24 students

(III) Work-based learning - The School and Community Partnership course is a work-based course in which students gain work-site experience and elective credit. The work-site experience must relate directly to an Oklahoma family and consumer sciences career cluster. Enrollment in this course is limited to 24 students. ~~Additional rules in 780:20-3-1(c) and (h) may apply.~~

(ii) **Occupational Family and Consumer Sciences Education.** A minimum of 10 and a maximum of 20 students shall be enrolled in each section of occupational family and consumer sciences education.

(D) **Health Science Careers Education.**

(i) **Comprehensive Schools.** A minimum of ten and a maximum of eighteen students, per instructor, shall be enrolled in each course/section of a comprehensive school health careers education program.

(ii) **Technology Centers.**

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(I) **Full time high school health ~~science~~~~careers~~ programs.** A minimum of ten and a maximum of eighteen students per instructor shall be enrolled in a Health ~~Science~~ ~~Careers~~ Education program. Those programs utilizing student-centered learning as the primary method of instruction shall have a maximum of fifteen students per instructor. Technology center program enrollment may also be limited by state and/or national accrediting bodies, by equipment, classroom and/or laboratory facilities and by clinical site availability. If the program is typically an adult program (such as LPN) then the enrollment shall be the same as the adult program.

(II) **Full-time adult-only health ~~science~~~~careers~~ programs.** A minimum of eight and a maximum of twelve students per instructor shall be enrolled in a full-time adult-only Health Careers Education program. Technology center program enrollment may also be limited by state and/or national accrediting bodies, by equipment, classroom and/or laboratory facilities and by clinical site availability.

(III) **Blended adult and high school health ~~science~~~~careers~~ programs.** A minimum of ten and a maximum of fifteen students per instructor shall be enrolled in a Health ~~Science~~ ~~Careers~~ Education Program.

(E) **Science, Technology, Engineering and Mathematics. Student Enrollment Limits.** The maximum enrollment for each period of a STEM program shall be 24 students. Consideration should be given to the size of the facility.

(F) **Trade and Industrial Education and TechConnect.**

(i) **Maximum enrollment.** The maximum enrollment for each Trade and Industrial Education, TechConnect program section shall be 20 students, with the exceptions of cosmetology, which may have a maximum of 22 students, and Industrial Cooperative Education (ICE) programs, which may have 50 students per career transitions teacher. Consideration should be given to the size of the facility.

(ii) **Alternate program enrollment.** The Trade and Industrial Education Division shall establish a reduced maximum enrollment for any program not meeting adequate size or layout of teaching facilities, number of training stations, appropriate quality and quantity of tools, and equipment and supplies. Individual student needs, student safety and supervision shall also be considered when determining maximum student enrollment.

(iii) **Inclusion of on-the-job students.** Students involved in on-the-job training shall be included in the maximum enrollment for the program unless each school has an on-the-job training coordinator.

(d) **Length of programs.** CareerTech programs shall be 10 or 12 calendar months as approved by the appropriate program manager. Exceptions must be approved by the Department.

## 780:20-3-3. Materials and facilities [AMENDED]

(a) **Materials.** CareerTech teachers in all CareerTech programs shall use instructional materials that align with state approved standards and competencies.

(b) **Equipment.**

(1) **Responsibility.** The local education agency is responsible for providing equipment and supplies to support the CareerTech program in order to assure quality training. Equipment must meet or exceed all appropriate safety standards.

(2) **Modern equipment.** Equipment shall be indicative of that currently used in business and industry and in conformity with modern technology.

(3) **Maintenance; replacement.** A policy for maintenance and replacement shall be developed by the local education agency.

(4) **Inventory of state-owned equipment.** It is the responsibility of the local education agency to provide appropriate maintenance and repair of state-owned equipment and to maintain an accurate accountability of state-owned equipment tagged in accordance with rule 780:10-9-2(c).

(c) **Facilities.**

(1) **CareerTech programs facilities.** The local education agency shall provide CareerTech programs with facilities to assure safe and orderly, quality instruction to meet each program's objectives. ~~The guidelines used shall be from the Oklahoma Department of Education "Planning for Education: Space Guidelines for Planning/Educational Facilities" booklet 70 O.S. 3-104.~~ The appropriate program manager shall be consulted regarding plans for new and remodeled facilities.

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(2) **Health Science Careers Education.** Clinical facilities shall be adequate in number and quality to provide the experiences necessary to meet the requirements of the respective accrediting agency and program requirements. Clinical facilities should have adequate staff to provide safe patient care and student should not be used as paid or unpaid facility staff during clinical hours unless part of a Work-Based Learning agreement.

### 780:20-3-5. Career and Technology Student Organizations [AMENDED]

(a) **Student organizations as an integral part of the CareerTech program.** The Oklahoma Department of Career and Technology Education is the responsible entity for governance and administration of the career and technology student organizations and therefore each CareerTech occupational division has the authority to develop and enforce policy of the student organizations consistent with CareerTech program design and operation. Each secondary All CareerTech program programs shall establish and maintain have an active and appropriate student organization as an integral part of its program, outlined and assessed by CareerTech occupational divisions. Full-time CareerTech instructors shall have no additional extracurricular duties or responsibilities that impede the ability to provide an active CareerTech student organization as determined by the Department.

(b) **Membership in appropriate organization.** Each student who participates in student organization activities shall be a member of the student organization designed for the occupational program in which the student is enrolled.

(c) **Organizations.** Career and technology student organizations shall include:

- (1) DECA (Business, Marketing and Information Technology Education)
- (2) BPA (Business, Marketing and Information Technology Education and STEM), Business Professionals of America.
- (3) FFA (Agricultural Education)
- (4) FCCLA (Family and Consumer Sciences Education), Family, Career and Community Leaders of America
- (5) HOSA (Health Careers Education and STEM)
- (6) TSA (STEM, Business Information Technology Education, Health Careers Education, Trade and Industrial Education), Technology Students Association
- (7) SkillsUSA (Trade and Industrial Education and STEM)

(d) **Accountability; loss of program funding.** The school and the career and technology student organization chapter will be held accountable for the actions of the student organization members and the advisor participating in any career and technology student organization activity. Failure to comply with the official rules of such activities may, after an opportunity to present reasons why said action should not occur, result in the loss of the state funding for that CareerTech program.

(e) **FFA Membership Eligibility.** Any student in Grades 8-12 must be regularly enrolled in a year long course of study in Agricultural Education at school in order to be eligible to participate in any FFA activity. For the purpose of this section; at school is defined as physically present and supervised in a classroom by a certified agricultural education instructor. Exceptions are granted to students who attend a school with block schedule and who, therefore, may have completed a year-long course of study in Agricultural Education in one semester. Annual local, state, and national FFA dues must also be paid in order to be eligible to participate in any FFA activity.

*[OAR Docket #25-467; filed 6-4-25]*

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## TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 5. FEES

*[OAR Docket #25-512]*

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

785:5-1-9. Dam safety and inspection fees [AMENDED]

785:5-1-21. Documentation reviews related water trapped in producing mines [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:

October 25, 2024

# Permanent Final Adoptions

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**COMMENT PERIOD:**

November 15, 2024 through December 17, 2024

**PUBLIC HEARING:**

December 17, 2024

**ADOPTION:**

January 21, 2025

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

January 28, 2025

**LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1033

**LEGISLATIVE DISAPPROVAL:**

N/A

**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

July 11, 2025

**SUPERSEDED EMERGENCY ACTIONS:****SUPERSEDED RULES:**

N/A

**GUBERNATORIAL APPROVAL:**

N/A

**REGISTER PUBLICATION:**

N/A

**DOCKET NUMBER:**

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**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

OAC 785:5-1-21(b) is amended to fix a scrivener's error in administrative code references for review fees accompanying annual pit mine reports. OAC 785:5-1-9 is amended to correct an error from last year's fee increase that made some smaller dam modification fees more expensive than the next tier of larger dams.

**CONTACT PERSON:**

Sara D. Gibson, General Counsel Oklahoma Water Resources Board 3800 North Classen Oklahoma City, Oklahoma 73118 Phone: (405) 530-8800 E-mail: 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 JULY 11, 2025:**

## 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~~\$199,999 or less estimated cost - \$1,000.00
- (2) ~~\$100,000~~\$200,000 through \$11,999,999 estimated cost - One-half of one percent (0.5%) of estimated cost; not to exceed \$6,000.00.
- (3) \$12,000.00 or greater estimated cost - Five hundredths of one percent (0.05%) of estimated cost.

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(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.

## **785:5-1-21. Documentation reviews related water trapped in producing mines [AMENDED]**

(a) Submittal of documentation requesting the Board's determination of whether a mine meets the requirements of OAC 785:30-15-3(b) (request for de minimis determination) shall be accompanied with a \$2,000.00 application fee. Thereafter, any of the Board's required submittals of de minimis documentation for the mine shall be accompanied with a \$250.00 application fee.

(b) A review fee of \$500.00 shall accompany all annual mine reports submitted to the Board as required by ~~785:30-15-3(2)~~ 785:30-15-3(c)(2) and ~~785:30-15-4(2) & (3)~~ 785:30-15-4(a)(2) & (3).

(c) Augmentation and Management Plans submitted to the Board in accordance with 785:30-15-6 shall be accompanied with a \$3,000.00 review fee.

*[OAR Docket #25-512; filed 6-6-25]*

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## **TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 20. APPROPRIATION AND USE OF STREAM WATER**

*[OAR Docket #25-514]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. General Provisions

785:20-1-3. Statutory provisions on violations and penalties [AMENDED]

Subchapter 3. Application Requirements and Processing

785:20-3-2. General application requirements [AMENDED]

785:20-3-9. Defective applications; when applications deemed withdrawn [AMENDED]

Subchapter 7. Permits

785:20-7-1. Classes of stream water permits [AMENDED]

Subchapter 9. Actions After Stream Water Right Obtained

785:20-9-5. Reports [AMENDED]

Appendix A. Application for a Permit to Use Surface or Stream Water [REVOKED]

### **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:**

October 25, 2024

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# Permanent Final Adoptions

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N/A

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**INCORPORATIONS BY REFERENCE:**

**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

OAC 785:20-1-3 is amended to add language authorizing the Executive Director of the OWRB to conform to state statute. OAC 785:20-3-2(a) is amended to strike out the water right application in the rule. This action would allow OWRB staff to make simplifications or enhancements to the application. Appendix A is proposed to be taken out of rule, allowing OWRB the flexibility to simplify the application or enhance as needed. OAC 785:20-3-9(d) is amended to provide six (6) months of application processing time that starts after the applicant is last instructed by the Board as opposed to when the Board is last contacted by the applicant. OAC 785:20-7-1(e)(1) is amended to add language clarifying that 90-day provisional temporary permits may be renewable for up to three (3) times for the oil and natural gas industry. OAC 785:20-9-5(a)(4) is an addition that provides water right holders an opportunity to explain any nonuse of stream water allocated by the permit and for the same to be taken before the Board for approval.

**CONTACT PERSON:**

Sara D. Gibson, General Counsel Oklahoma Water Resources Board 3800 North Classen Oklahoma City, Oklahoma 73118 Phone: (405) 530-8800 E-mail: 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 JULY 11, 2025:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### **785:20-1-3. Statutory provisions on violations and penalties [AMENDED]**

As provided by 82 O.S. 1981, §105.20, *the unauthorized use of water; the unauthorized transfer of a water right, the continued use of works which are unsafe after receiving notice to repair; the waste of water; the unauthorized severance of a water right from the land to which it is appurtenant, the refusal to change unsafe works when directed to do so, or the injury or obstruction of waterworks shall be a misdemeanor, and each day such violation continues shall be a separate violation. The Board shall have the right, in addition to filing criminal complaints and any other remedies provided, to bring an action in the district court of the county wherein such act or omission occurs to enjoin the same. The Board and its authorized agents shall have a reasonable right to go upon private property in the performance of its duties and shall have the duty to file complaints of violations. The Exexutive Director of the Oklahoma Water Resources Board*

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may issue administrative orders requiring the immediate cessation of water use when Board staff has a reasonable belief the use is unauthorized or continued use will damage rights of prior appropriators. Such administrative orders shall indicate the finding of imminent peril and shall specify the actions that are to be taken immediately. In addition, the orders shall specify a time and place for a hearing to be held after such actions are taken. [82:105.20]

## SUBCHAPTER 3. APPLICATION REQUIREMENTS AND PROCESSING

### 785:20-3-2. General application requirements [AMENDED]

(a) **Application form to be used.** The applicant shall complete all applications for a regular, term, seasonal or provisional temporary stream water permit on ~~the approved form~~ forms set out in Appendix A, or on an electronic or other form provided by the Board, and in the manner described by the form. The application form may be presented to the Board in person, by mail, e-mail, ~~readable facsimile transmittal~~, or through the Board's online application service. The filing fee must be submitted to the Board before application review and processing commences. With copies of the application form, the Board will provide copies of a sample plat on which information as required by the application form must be indicated.

(b) **Right of access to diversion point and to cross lands of another.** If at the time the application is filed, the applicant has evidence regarding right of access to the diversion point and authority to cross lands of another with pipelines or other appurtenances related to the use of the water, such evidence shall be submitted with the application.

### 785:20-3-9. Defective applications; when applications deemed withdrawn [AMENDED]

(a) Upon the filing of an application that *is defective as to form or unsatisfactory as to feasibility or safety of the plan or as to the showing of the ability of the applicant to carry the construction to completion, the Board shall advise the applicant of the correction, amendments, or changes required, and sixty (60) days from the date the Board so advises shall be allowed for the refiling thereof.* [82:105.10]

(b) *If refiled corrected as required within such time, the application shall, upon being accepted, take priority as of the date of its original filing, subject to compliance with further provisions of the law and the rules herein.* [82:105.10]

(c) Any corrected application filed after the time allowed in (a) of this Section *shall be treated in all respects as a new application on the date of its refiling* [82:105.10] and the original priority date of filing shall be lost.

(d) If an applicant does not correct an application or publish notice as instructed by the Board, and no further proceedings are initiated by the applicant for six months or more after ~~last contact with~~ instructed by the Board, the application shall be deemed withdrawn. The Board shall provide notice to the applicant that the application has been deemed withdrawn.

(e) *For applications that have been pending for more than three (3) years prior to June 5, 2000, the Board shall provide written notice to the applicant at the applicant's last-known address that the application shall be deemed withdrawn and the priority date based on the original filing date shall be lost unless the applicant provides notice of the application as instructed by the Board. The Board shall provide an opportunity for a hearing if requested in order for the applicant to show cause why:*

(1) *notice should not be published, and*

(2) *the application should not be deemed withdrawn and the priority date lost.*

(3) *Cause may be shown by substantial competent evidence that:*

(A) *the applicant has been diligently pursuing plans for the project for which the water is proposed to be used,*

(B) *construction of the project is still practical, and*

(C) *the applicant is still able to complete the project.*

(4) *If the Board receives no response to the notice, the application shall be deemed withdrawn and priority date lost.*

(f) For applications that the Board initially determines may remain pending pursuant to subsection (e) of this section, such applications *may remain pending for more than three (3) years and retain the priority date based on the original filing date or date of refiling in compliance with this Section if the applicant files a request to extend pending status of the application before the end of the first three-year period and each successive three-year period thereafter and the Board determines after notice and an opportunity for hearing that the application may remain pending. If a request to extend pending status is not filed in time and as required by Board rules, the application will be deemed withdrawn* [82 O.S. 105.10].

## SUBCHAPTER 7. PERMITS

### 785:20-7-1. Classes of stream water permits [AMENDED]

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- (a) **Regular permit.** A regular permit authorizes *the holder of such permit* to appropriate water on a year-round basis in an amount and from a source approved by the Board. [82:105.1(c)]
- (b) **Seasonal permit.** A seasonal permit authorizes *the holder of such permit* to divert available water for specified time periods during the calendar year [82:105.1(D)]
- (c) **Temporary permit.** A temporary permit authorizes *the appropriation of water in an amount and from a source approved by the Board* is valid for a time period not to exceed three (3) months, does not vest in the holder any permanent right, and may be canceled by the Board in accordance with its terms. [82:105.1(E)]
- (d) **Term permit.** A term permit authorizes *the appropriation of water in an amount and from a source approved by the Board* for a term of years which does not vest the holder with any permanent right and which expires upon expiration of the term permit. [82:105.1(F)]
- (e) **Provisional temporary permit.**
- (1) A provisional temporary permit *authorizes an appropriation of water in an amount and from a source approved by the ~~Board~~ Executive Director of the Oklahoma Water Resources Board.* [82:105.1(G)] A provisional temporary permit is granted by the Board's Executive Director for a period not to exceed *ninety (90) days, ~~is non-renewable,~~* does not vest in the holder any permanent right and is subject to cancellation... at any time [82:105.1(G)] within its term.; notwithstanding the foregoing, a provisional temporary permit may be renewed three (3) times only for the oil and natural gas industry except in a sole source aquifer [82:105.1(G)]. It is not necessary to hold a hearing, publish application data or notify adjacent downstream domestic or appropriative users prior to consideration of this type of permit. The permit may be issued summarily and immediately at the discretion of and upon administrative approval by the Executive Director.
  - (2) A provisional temporary permit may be issued only where the verified application and supporting materials filed therewith show:
    - (A) That the use will not interfere with domestic or prior appropriative users; and
    - (B) That economic hardship will occur if the permit is not granted; and
    - (C) That the applicant owns, leases or has the written consent of the respective landowners to use lands at the point of diversion or lands for placement of water lines or other appurtenances related to use of the water.
- (f) **Limited quantity permit.**
- (1) The Executive Director of the Board may administratively issue regular, seasonal, temporary or term permits to use 15 acre-feet or less of stream water in a calendar year or during its term if the term is less than one year [82:105.13].
  - (2) Notice of the application for such a permit shall be published by the applicant in a newspaper of general circulation one time only in the county of the point of diversion and in the adjacent downstream county, or as otherwise directed by the Board.
  - (3) Written comments about the application must be filed with the Board within ten (10) days after the date of publication or other notice provided.
  - (4) The permit may be issued or denied summarily and immediately after the ten (10) day period at the discretion of the Executive Director, provided that the Executive Director may require that a hearing on the application be held. After such hearing, the application shall be presented to the Board with proposed findings of fact and conclusions of law for consideration.
  - (5) Limited quantity permits cannot be combined to authorize the use of more than a total of 15 acre-feet per year.
- (g) **Priorities among classes.** In circumstances where there is less water actually available than that calculated for purposes of considering a regular permit application, regular permit holders shall have a better right over all other classes of permits. Among regular permit holders, priority in time, determined by date of filing an application as provided in these rules, shall give the better right. Among classes other than regular permit holders, priority in time, determined by date of filing an application as provided in these rules, shall give the better right.

## SUBCHAPTER 9. ACTIONS AFTER STREAM WATER RIGHT OBTAINED

### 785:20-9-5. Reports [AMENDED]

#### (a) Annual reports of water use.

- (1) Water use report forms will be mailed during January of each year to every holder of a valid water right. These reports must be completed and returned with the annual file maintenance fee to the Board within thirty (30) days of receipt thereof. This report shall become a part of each record of each stream water right holder. Willful failure to complete and return such report with the appropriate filing fee may be considered by the Board



as nonuse of water under a water right. In a review of the water use by the water right holder, the Board may adjust its records regarding nonuse after payment of all past accrued fees.

(2) Absent differing expressed direction of the water right holder, if two or more water rights are held by the same person for use of water from the same point of diversion, from the same source of supply and for the same purpose, the total amount used annually under all such water rights shall be recorded first under the water right with the oldest priority date until full use is made, then the next amounts shall be reported under the next oldest priority date, until all amounts are accounted for.

(3) Holders of water rights with multiple diversion points may be required to report use from each diversion point, if diversion points are in different stream segments, or diversion points are in both a stream and lake or pond, or other valid reasons as determined by the Board.

(4) When reporting annual water use, holders of a valid water right may make application on a form provided by the Board to excuse nonuse for the reporting year. If the Board approves the application for the excused nonuse, the time for putting the water authorized to beneficial use shall be tolled for the period of excused nonuse.

**(b) Reports by temporary, and term permit holders.** Upon the expiration of the period for which a temporary, or term permit was granted, the appropriator shall cease the taking of water and file a written report with the Board stating the amount of water used under the temporary, or term permit and the date of cessation.

**(c) Change of address.** It shall be the responsibility of the holder of a water right to provide the Board with a current mailing address for receipt of all correspondence dealing with the water right.

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## APPENDIX A. APPLICATION FOR A PERMIT TO USE SURFACE OR STREAM WATER [REVOKED]

Figure 1

OFFICE USE ONLY	
Application No. _____	
Type of Permit _____	
Stream System Code _____	
Reservoir Code _____	
Hydrologic Unit Code _____	

**Application for a Permit to Use Surface or Stream Water**  
**OKLAHOMA WATER RESOURCES BOARD**  
PLANNING & MANAGEMENT DIVISION  
3800 North Classen Blvd.  
Oklahoma City, OK 73118  
Phone: (405) 530-8800  
Fax: (405) 530-8900  
Website: [www.owrb.ok.gov](http://www.owrb.ok.gov)

APPLICATION FILING FEE	
Amount of Water Requested	Fee
0 – 320 acre-feet	\$ _____
321 – 640 acre-feet	\$ _____
641 – 1500 acre-feet	\$ _____
Over 1500 acre-feet	\$ _____
*Plus \$ _____ for each 500 acre-feet (or any increment thereof) over 1500 acre-feet. (Maximum Fee \$3,000.00)	

1. NAME & ADDRESS (Print the applicant's full name, as listed on the ownership documentation, and mailing address)

Applicant Name \_\_\_\_\_ Phone ( ) \_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Contact Name (if applicable) \_\_\_\_\_ Phone ( ) \_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

2. TYPE OF SURFACE WATER PERMIT REQUESTED (Check One)

☐ Regular Permit – authorizes diversion and use of water on a year-round basis  
☐ Seasonal Permit – authorizes diversion and use of water for specific time periods during a calendar year.  
☐ Term Permit – valid for a term of years and does not vest the holder with any permanent right.  
(Provide ending date for term permit: \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_)

3. PURPOSE(S) FOR WHICH WATER WILL BE USED (List the purposes for which the water will be used and the number of acre-feet for each purpose. Note: one acre-foot of water will cover one acre of land one foot deep and is equal to 325,851 gallons)

AMOUNT	PURPOSE	OFFICE USE ONLY SIC Codes
_____ acre-feet of water will be used for _____		
_____ acre-feet of water will be used for _____		

Total Amount Requested \_\_\_\_\_ acre-feet; Pumping Rate not to Exceed \_\_\_\_\_ gallons per minute

**Irrigation Only:** \_\_\_\_\_ acres will be irrigated. Proposed Crops \_\_\_\_\_

4. DIVERSION(S) OF WATER: Source, Location and Method of Diversion (For each diversion point, state the amount of water in acre-feet to be diverted annually and give the legal description to the nearest ten (10)-acre tract. Legal description of the diversion point must match the area drawn on the attached plat. If additional space is needed, list on a separate sheet of paper.)

Figure 2

Will the water be used as a non-consumptive use in a pond, lake or reservoir and will not be pumped or moved from one location to another? ☐ Yes ☐ No (If yes, use the location of the dam or spillway as the point of diversion below.)

\_\_\_\_\_ acre-feet of water will be diverted from: \_\_\_\_\_  
\_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of Section \_\_\_\_\_ Twp. \_\_\_\_\_ OS Rng. \_\_\_\_\_  
\_\_\_\_\_ ☐ EIM ☐ WIM ☐ ECM in \_\_\_\_\_ County

Source of Water: (Check one and provide the requested information showing the source of water to be diverted.)

☐ Direct Diversion from a Stream or River– Name of Stream: \_\_\_\_\_  
☐ Natural Resources Conservation Service Flood Control Site – N.R.C.S Site No. \_\_\_\_\_  
Watershed Name: \_\_\_\_\_  
☐ Reservoir or Pond – Name of Reservoir: \_\_\_\_\_  
River or Stream Name Reservoir is Located on: \_\_\_\_\_  
Reservoir is (Check one): ☐ Existing (Date Completed \_\_\_\_\_)  
☐ Under Construction ☐ Planned

Storage: \_\_\_\_\_ acre-feet; Average Depth: \_\_\_\_\_ feet; Surface Area: \_\_\_\_\_ acres  
Method of Diversion: (Check one and provide description of the system to be used)  
☐ Gravity: \_\_\_\_\_  
☐ Pump: \_\_\_\_\_

Do you own or lease the land on which the point of diversion will be located? ☐ Yes ☐ No (If available, attach a copy of the deed, lease agreement, etc. showing the right to use the point of diversion.)

Will water lines cross public right-of-ways or another landowner's property? ☐ Yes ☐ No (If yes and available, attach a copy of the easement.)  
(Note: If the deed, lease agreement, etc. and/or the easement is not submitted, the permit, if issued, will contain a condition requiring submittal of the information before water use begins.)

5. LEGAL DESCRIPTION OF AREA OF USE: (List the legal description of the area of use. Please do not use city lot and block numbers or metes and bounds. If additional space is needed, list on a separate sheet of paper. Legal description must be drawn on the attached plat and must match the area of use described below. Municipal and rural water entities refer to #6 below.)

\_\_\_\_\_ acres in \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of Section \_\_\_\_\_ Twp. \_\_\_\_\_  
\_\_\_\_\_ ☐ N ☐ EIM ☐ OWIM in \_\_\_\_\_  
\_\_\_\_\_ ☐ S Rng. ☐ ECM ☐ ECM County

\_\_\_\_\_ acres in \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of Section \_\_\_\_\_ Twp. \_\_\_\_\_  
\_\_\_\_\_ ☐ N ☐ EIM ☐ OWIM in \_\_\_\_\_  
\_\_\_\_\_ ☐ S Rng. ☐ ECM ☐ ECM County

\_\_\_\_\_ acres in \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of Section \_\_\_\_\_ Twp. \_\_\_\_\_  
\_\_\_\_\_ ☐ N ☐ EIM ☐ OWIM in \_\_\_\_\_  
\_\_\_\_\_ ☐ S Rng. ☐ ECM ☐ ECM County

FOR IRRIGATION ONLY: Do you own or lease the land to be irrigated? ☐ Yes ☐ No (If available, attach a copy of the deed or lease. If not available, the permit, if issued, will require that a deed or lease be submitted before water use begins.)

### 6. JUSTIFICATION OF PRESENT AND FUTURE NEED

**IRRIGATION:** Completion of #3 serves as justification of need for amounts requested for irrigation for common crops grown in Oklahoma. The Board will use appropriate publications and information the applicant submits in determining the amount of water needed.

**MUNICIPAL AND RURAL WATER ENTITIES:** Submit population projection figures and all other methodologies, calculations, and additional information used to determine amount of water requested. Submit a map of the service areas and the water line locations. The map must show points of reference or scale. A schedule of use based on population growth may also be submitted.

Figure 3

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**INDUSTRIAL, COMMERCIAL AND AGRICULTURE (NON-IRRIGATION):** Submit methodology, calculations, and additional information used to determine amount of water requested.

## 7. CITIZENSHIP AFFIDAVIT

Are you a citizen of the United States of America? ☐ Yes ☐ No

If no, are you a qualified alien under the federal Immigration and Nationality Act and lawfully present in the United States? ☐ Yes ☐ No. My A-number is \_\_\_\_\_ and a true and correct copy of my immigration document, including my date of birth, user case number, and immigration document type and its expiration date, must be attached.

(PLEASE NOTE: Each natural individual listed as an applicant must provide a citizenship affidavit. If the land is owned by more than one person, a copy of this page will need to be filled out, signed, notarized and filed with the completed application.)

## 8. SIGNATURES

Upon my oath or affirmation, I swear or affirm (1) that all information submitted to the Oklahoma Water Resources Board in connection with this application is true and accurate to the best of my knowledge; and (2) that I or the person or entity I represent will comply with all applicable laws and regulations contained in Chapter 20 of the Oklahoma Water Resources Board rules and all other applicable regulations of the State of Oklahoma or its agencies, and any lawful conditions imposed by the Oklahoma Water Resources Board, which apply or pertain to the use of fresh stream water.

SIGNATURE OF APPLICANT \_\_\_\_\_

PRINT NAME \_\_\_\_\_

TITLE ( IF APPLICABLE) \_\_\_\_\_

### NOTARY

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public

My commission expires: \_\_\_\_\_  
(SEAL)

## APPLICATION SUBMISSION AND PROCESSING

- To be deemed complete, the submitted application must:
- The appropriate filing fee;
  - The original application, typed or printed in ink, signed and notarized;
  - One copy of the plat(s) showing the information requested in items #4 and #5 above and as otherwise instructed on this form; and
  - If available, Deed(s), lease(s), and / or letter(s) of consent as required.

If you believe that within the first seven (7) years after issuance of your permit you will not be able to use the full amount of water applied for, please contact Board staff.

**Please note:** Any incomplete or unresponsive answers may cause a delay in the processing of your application. In addition, Oklahoma Administrative Code (OAC) 785-20-3-9 states: (a) "Upon filing of an application that is defective as to form or unsatisfactory as to feasibility or safety of the plan or as to the showing of the ability of the applicant to carry the construction to completion, the Board shall advise applicant of the correction, amendments, or changes required, and sixty (60) days from the date the Board so advises shall be allowed for the filing thereof. (82-105.10)" (b) "Any corrected application filed after the time allowed in (a) of this Section shall be treated in all respects as a new application on the date of its refiling (82-105.10) and the original priority date of filing shall be lost." (c) "If an application does not correct an application or publish notice as instructed by the Board, and no further proceedings are initiated by the applicant for six months or more after last contact with the Board, the application shall be deemed withdrawn. The Board shall provide notice to the applicant that the application has been deemed withdrawn."

Figure 4




**Oklahoma Water Resources Board  
STREAM WATER Application Plat**


Applicant Name \_\_\_\_\_ Application # \_\_\_\_\_

**Note: Drawings must match the legal descriptions provided in questions #4 and #5 in the application and one copy of the plat must be filed with the application.**

NW NW NW	NE NW NW	NW NE NW	NE NE NW	NW NW NE	NE NW NE	NW NE NE	NE NE NE
SW NW NW	SE NW NW	SW NE NW	SE NE NW	SW NW NE	SE NW NE	SW NE NE	SE NE NE
NW SW NW	NE SW NW	NW SE NW	NE SE NW	NW SW NE	NE SW NE	NW SE NE	NE SE NE
SW SW NW	SE SW NW	SW SE NW	SE SE NW	SW SW NE	SE SW NE	SW SE NE	SE SE NE
NW NW SW	NE NW SW	NW NE SW	NE NE SW	NW NW SE	NE NW SE	NW NE SE	NE NE SE
SW NW SW	SE NW SW	SW NE SW	SE NE SW	SW NW SE	SE NW SE	SW NE SE	SE NE SE
NW SW SW	NE SW SW	NW SE SW	NE SE SW	NW SW SE	NE SW SE	NW SE SE	NE SE SE
SW SW SW	SE SW SW	SW SE SW	SE SE SW	SW SW SE	SE SW SE	SW SE SE	SE SE SE

Section - Township - Range \_\_\_\_\_ County \_\_\_\_\_

Land Owned or Leased  Area of Use  Point of Diversion 



[OAR Docket #25-514; filed 6-6-25]

## TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 25. DAMS AND RESERVOIRS

[OAR Docket #25-515]

# Permanent Final Adoptions

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## **RULEMAKING ACTION:**

PERMANENT final adoption

## **RULES:**

Subchapter 3. Responsibility, Classification and Design Standards

785:25-3-6. Minimum spillways performance standards [AMENDED]

Subchapter 7. Post Approval Actions

785:25-7-8. Certificate of completion [AMENDED]

Subchapter 9. Actions After Construction

785:25-9-1. Inspections of dams [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:**

October 25, 2024

## **COMMENT PERIOD:**

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N/A

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## **INCORPORATED STANDARDS:**

N/A

## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

OAC 785:25-3-2 is amended for clarity and consistency. OAC 785:25-9-1 is to be amended for clarity. Subsection (c) would be given a more descriptive title. The minimum standards for dam inspections would have an additional requirement to assign a condition rating of all dam appurtenances in accordance with the Board's dam inspection guidelines.

## **CONTACT PERSON:**

Sara D. Gibson, General Counsel Oklahoma Water Resources Board 3800 North Classen Oklahoma City, Oklahoma  
73118 Phone: (405) 530-8800

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 JULY 11, 2025:

## SUBCHAPTER 3. RESPONSIBILITY, CLASSIFICATION AND DESIGN STANDARDS

### 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.** A dam 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:
  - (A) Small size - 25% PMF with one foot of freeboard.
  - (B) Intermediate size - 50% PMF with no minimum freeboard.
  - (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.

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(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.

## SUBCHAPTER 7. POST APPROVAL ACTIONS

### 785:25-7-8. Certificate of completion [AMENDED]

(a) **Issuance; revocation; amendments.** Certificates of completion shall be issued and may be revoked or amended as follows:

(1) Upon filing of notice of completion of works by the applicant, the Board shall, within sixty (60) days, inspect or cause the dam to be inspected. The Executive Director or their designee shall approve the issuance of a certificate of completion if, based on the certification from the engineer in the Notice of Completion, the dam or reservoir is safe to impound water within the limitations prescribed in the certificate. However, no certificate of completion shall be issued until receipt of fee for certificate and all invoiced filing and inspection fees.

(2) Every certificate of completion issued shall contain *the date of approval of plans and specifications for the dam, date construction was completed on said dam, and* [82:110.8] any such terms and conditions as the Board may prescribe. The Board may revoke any such certificate whenever it is determined that the dam constitutes a danger to life and property. Whenever such action is necessary to safeguard life and property, the terms and conditions of any such certificate may be amended and a new certificate issued containing the revised terms and conditions.

(3) *Certificates of completion of works from the . . . Board shall be required before any water may be impounded by a new dam or before water may be impounded at an elevation higher than that previously authorized by the Board at an existing dam which has been modified* [82:110.8]

(b) **Notice and action.** After the issuance of the certificate of completion, the Board shall provide notice to the owner, allowing opportunity for a hearing, prior to the issuance of any order revoking or modifying the previous Board certificate.

## SUBCHAPTER 9. ACTIONS AFTER CONSTRUCTION

### 785:25-9-1. Inspections of dams [AMENDED]

(a) **Oversight vested in Board.** Oversight of the maintenance and operation of constructed dams and reservoirs insofar as necessary to safeguard life and property from injury by reason of the failure thereof is vested in the Board.

(b) **Periodic inspections.** Except for low hazard potential dams, owners are required to have their dams inspected at their expense by qualified persons periodically according to a schedule prepared by the Board to meet the requirements of paragraphs (1) and (2) of this subsection. ~~Periodic inspections of dams shall be~~ Periodic inspections shall be conducted and the inspection report submitted to the Board by the end of the calendar year according to hazard potential classifications as follows:

- (1) High hazard. High hazard potential dams shall be inspected at least once ~~annually~~ each calendar year.
- (2) Significant hazard. Significant hazard shall be inspected at least once every three years.

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(3) Low hazard. Low hazard potential dams shall be inspected at least once every five years, which inspection shall be conducted by the owner and shall consist of a review of the hazard classification on forms provided by the Board.

(4) Significant or high hazard dams in an unsatisfactory or poor condition, described in Section 6 of the National Dam Safety Review Board's Guidelines for Updating the 2008 National Inventory of Dams (NID), April 2008, as determined by the Board shall be inspected by a registered Professional Engineer at the expense of the owner at least every six months until such time as the deficiencies have been corrected.

~~(5) Periodic inspections shall be conducted by the end of the calendar year indicated by the schedule above.~~

(c) **Expense of periodic inspections**~~Inspections by qualified persons.~~ Periodic inspections shall be at the owner's expense ~~(except~~Except for low hazard potential dams, periodic inspections) and shall be conducted by a Registered Professional Engineer hired by the owner, who is licensed in the state of Oklahoma, and shall have training and/or experience concerning the analysis, design, and/or construction of dams and reservoirs, or by an engineer of any United States governmental agency acting in his official capacity. Provided that inspections of low hazard classification dams may be conducted by persons who are not Registered Professional Engineers but who are trained in inspecting dams.

(d) **Unscheduled inspections.** Unscheduled (non-periodic) inspections such, as those conducted in response to complaints, after major heavy precipitation events, after earthquakes within 50 miles of a high or significant hazard potential dam that measure 5.0 or greater on the Richter magnitude scale, or in emergency situations, may be conducted by Board staff, or the Board may require the owner to conduct an unscheduled inspection at the owner's expense. No fee for such inspection shall be due, provided that a request for inspection by other parties shall be governed by 785:25-9-6.

(e) **United States dams not subject to inspection.** Any dam *constructed by the United States or its duly authorized agencies shall not be subject to inspection while under the supervision of officers or the United States.* [82:105.27]

(f) **Board to notify when inspection due; violation.** The Board shall notify persons shown by its records to own the dam of the date the periodic inspection of the dam is due. Failure to have the inspection completed shall constitute a violation of Board rules.

(g) **Minimum standards.**~~For each inspection completed~~Except for low hazard potential dams, qualified persons shall submit a written inspection report describing any dam safety deficiencies observed and outline remedial actions to be taken to address those deficiencies as follows:

(1) Engineering inspection reports shall be prepared for each inspection completed. The inspecting engineer shall record their findings of the inspection and submit a written inspection report to the Board not later than 30 days after the inspection.

(2) All inspections shall also include documentary digital photographs of the dam, auxiliary spillway, principal spillway inlet structure, principal spillway outlet, any other appurtenances, and any potential safety concerns. A condition rating of all appurtenances shall be assigned in the inspection report in accordance with Board dam inspection guidelines. When explanation is needed to identify or describe the safety concern, notes shall be included in the written report to provide this explanation. Photographs shall be attached to the completed inspection report.

(3) Inspection reports shall include a schedule of corrective actions to be taken to address dam safety deficiencies.

(4) Periodic inspection reports shall also include review of the Emergency Action Plan and of the operation and maintenance manual to assure they are still accurate and applicable, as well as any changes in downstream development or other conditions if applicable.

[OAR Docket #25-515; filed 6-6-25]

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### TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 30. TAKING AND USE OF GROUNDWATER

[OAR Docket #25-517]

#### RULEMAKING ACTION:

PERMANENT final adoption

#### RULES:

Subchapter 3. Permit Application Requirements and Processing

785:30-3-1. General application requirements [AMENDED]

785:30-3-3. Acceptance of application for filing; when applications deemed withdrawn [AMENDED]

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Subchapter 5. Groundwater Permits

785:30-5-4. Provisional temporary permits [AMENDED]

Subchapter 7. Amendments to Groundwater Rights

785:30-7-4. Adding or replacing a well for the purpose of exercising prior rights or existing permits [AMENDED]

785:30-7-8. Consolidation of permits [REVOKED]

Subchapter 13. Miscellaneous Provisions

785:30-13-5. Allocation of municipal water [AMENDED]

Appendix D. Identified Springs that Emanate From a Sensitive Sole Source Groundwater Basin [AMENDED]

## **AUTHORITY:**

Oklahoma Water Resources Board; 82 O.S. § 1085.2; 82 O.S. § 1020.1 et seq.

## **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

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## **INCORPORATED STANDARDS:**

N/A

## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

OAC 785:30-3-1(c)(1) strikes the language referring to the application being in Appendix A, since that appendix was previously removed from the rules. OAC 785:30-3-1(e) ties in directly to the Intent-to-Drill rules implemented in OAC 785:35 in FY23. OAC 785:30-3-3(b) provides six (6) months of application processing time that starts after the applicant is last instructed by the Board as opposed to when the Board is last contact by the applicant. OAC 785:30-5-4(a) adds language clarifying that 90-day provisional temporary permits may be renewable for the oil and natural gas industry. OAC 785:30-7-4(a)(2) removes the language referring to Appendix A, since that appendix was previously removed from the rules. OAC 785:30-7-4(b) removes language allowing a permit holder to drill a replacement well without notifying the OWRB. This language change is a result of the addition of an intent-to-drill process in FY23 requiring well drillers to notify the OWRB when a well requiring a water right is intended to be drilled. Language is added to emphasize the intent



of a replacement well is to service the same area of use as the well that is authorized on the permit. OAC 785:30-7-8 is revoked, which has allowed permit holders to report all their water use on one permit instead of the location where the water was withdrawn. OAC 785:30-13-5(c) takes out the 600-ft spacing requirement from municipal lands for drilling municipal wells as a result of a change in 82 O.S. 1981, §§1020.1 et seq. OAC 785:30 Appendix D adds and updates locations of springs in the Arbuckle-Simpson Groundwater Basin.

## **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 JULY 11, 2025:**

## **SUBCHAPTER 3. PERMIT APPLICATION REQUIREMENTS AND PROCESSING**

### **785:30-3-1. General application requirements [AMENDED]**

(a) **Application form to be used.** The applicant shall complete an application for a groundwater permit on an electronic or other form approved by the Board, copies of which are provided by the Board, and in the manner described by the form. The application form may be presented to the Board in person, by mail, by readable facsimile transmittal, or through the Board's online application service. With copies of the application form, the Board will provide copies of a sample plat on which information as required by the application form must be indicated. The Board may require that relevant portions of the approved form be completed for applications or petitions to amend an existing groundwater right.

(b) **Written permission of owner required if applicant does not own land.** Except as provided in 82 O.S., §1020.21, *no permit shall be issued to an applicant who is not the surface owner of the land on which the well is to be located, or hold a valid [82:1020.11(D)] right from such surface owner permitting withdrawal of water [82:1020.11(D)]*, provided that an owner (or lessee) of a mineral estate severed prior to May 28, 1985, shall not be required to get separate authorization from the surface estate owner, pursuant to the Oklahoma Supreme Court case of Unit Petroleum Co. v. Okla. Water Res. Board. A copy of the ownership documentation or written permission may be required as part of the application.

(c) **Existing and proposed well locations; potential well areas; maximum number of wells to be completed.**

(1) **Locations of existing wells.** The applicant may in the application form Appendix A furnished by the Board describe or show the actual location of existing wells by distances in feet from readily identifiable objects or monuments such as section lines or provide latitude/longitude coordinates of existing wells requested to be authorized.

(2) **Locations of proposed wells.** If specific information is known, for instances by test drilling, the actual locations of proposed wells may be shown in the application plat by distances in feet from readily identifiable objects or monuments such as section lines or by latitude/longitude coordinates.

(3) **Potential well areas.** If the applicant does not have specific information as to location of existing or proposed wells, the potential area or areas where such wells are located or may be drilled and completed on the dedicated lands must be indicated on the application plat. Unless specified well location information is provided, the potential well area information for proposed well locations as indicated on the plat will be used to determine the certified mail notice that the applicant must provide. To be authorized by the permit, specific location information about existing and proposed wells must be provided or the wells must be located in the potential well area or areas.

(4) **Maximum number of wells to be completed.** If the requested permit is issued, it will authorize a maximum number of existing wells and proposed wells to be drilled and completed.

(d) **Additional information.** In addition to the information specified in (a) and (b) of this Section and in the application form, the applicant may be required to submit additional information necessary for proper consideration of the application.

(e) **Authorization to drill groundwater wells.** Groundwater wells pursuant to this Chapter shall follow the requirements of 785:35-13

### **785:30-3-3. Acceptance of application for filing; when applications deemed withdrawn [AMENDED]**

(a) The date of receipt of an application in the office of the Board shall be endorsed thereon and the application noted in the records.

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(b) If an applicant does not correct an application or publish notice as instructed by the Board, and no further proceedings are initiated by the applicant for six months or more ~~after last contact with~~ after instructed by the Board, the application shall be deemed withdrawn. The Board shall provide notice to the applicant that the application has been deemed withdrawn.

## SUBCHAPTER 5. GROUNDWATER PERMITS

### 785:30-5-4. Provisional temporary permits [AMENDED]

(a) A provisional temporary permit ~~is a nonrenewable permit~~ may be renewed three (3) times for the oil and natural gas industry except in a sole source aquifer [82:1020.10] granted by and at the discretion of the Executive Director.

(b) The permit is only effective ~~for a period not to exceed ninety (90) days [82:1020.10]~~ and is subject to cancellation at any time during its term.

(c) No hearings are held, no application notice or data is published and no notice to surface estate owners is required on applications for this type of permit.

(d) The application may be approved and the permit may be issued summarily and immediately upon administrative approval where it appears from the verified application and supporting material filed therewith that the permit issuance conditions described in 82 O.S. 1981, §1020.9 and 1020.11(D) are satisfied and that well spacing distances, as specified in 785:30-3-6, and other conditions as may be required by the Board, are met.

(e) On applications in which the applicant is not the surface owner of the lands upon which the water well is to be located, the applicant must satisfy the requirements of 82 O.S. 1981, §1020.11(D) and 785:30-3-1(b).

(f) Provisional temporary permit holders are required to notify the Board in writing within thirty (30) days after the expiration of their permit as to the disposition of the well covered under the permit.

## SUBCHAPTER 7. AMENDMENTS TO GROUNDWATER RIGHTS

### 785:30-7-4. Adding or replacing a well for the purpose of exercising prior rights or existing permits [AMENDED]

#### (a) Additional wells.

(1) The holder of a permit or prior right may make a written petition to the Board for approval of an additional well(s) where such well(s) is or are necessary in order to withdraw the amount authorized by the existing permit. If ownership of the land, permit or prior right changes after the petition is filed, the petitioner must promptly notify the Board and notice of such change may be required.

(2) The petition shall be filed prior to drilling the well(s) on forms provided by the Board and shall be accompanied by a map or plat ~~(see APPENDIX A of this Chapter)~~. The additional well(s) must be located on lands dedicated to a permit to take and use groundwater from the same groundwater basin, be drilled and used to prevent waste and meet applicable well spacing requirements or location exceptions.

(3) The Executive Director shall approve the petition, provided:

(A) That the new well location meets established well spacing or is not closer than one-thousand three hundred twenty feet (1320') from lands owned by another if well spacing is not applicable; or

(B) That, if well spacing is not applicable, there is submitted a written statement from each surface estate owner owning land closer than one-thousand three hundred twenty feet (1320') from the well requested to be authorized, stating that he or she has no objection to the new well location.

(4) If one of the above enumerated conditions cannot be met, the permittee must give notice as set forth in 785:30-3-4 regarding each additional proposed well. If a protest is received, the Board shall schedule a hearing and notify the applicant and protestant of such hearing. Even if no protest is received, the petitioner shall be given opportunity for hearing if the petition cannot be recommended for approval to the Board.

#### (b) Replacement well.

(1) For well locations authorized by a permit or prior right, a replacement well may be drilled on lands relied on to establish the prior right or dedicated lands without prior approval from the Executive Director to service the same area of use as the well being replaced if the proposed replacement well will not be closer than meets established well spacing or will not be closer than one-thousand three hundred twenty feet (1320') from lands owned by another if well spacing is not applicable.

(2) For a well location authorized by permit or prior right where the proposed replacement well location is within one-thousand three hundred twenty feet (1,320') of lands owned by another, the replacement well may be drilled on lands relied on to establish the prior right or dedicated lands ~~without prior approval of the Executive Director~~, to service the same are of use as the well being replaced provided the replacement well is within two-

hundred fifty feet (250) of the well to be replaced.

(3) If paragraphs (1) or (2) of this subsection cannot be met, a petition for an additional well may be filed.

(c) **Location of wells identified.** A legal description or multi-purpose completion report such as that required by 785:35-5-3 showing the location of the well to the nearest ten (10) acre tract shall be submitted to the Board within sixty (60) days after completion of any additional or replacement well.

### **785:30-7-8. Consolidation of permits [REVOKED]**

~~(a) Permits to use groundwater can be consolidated for annual use reporting purposes only and under the following circumstances:~~

~~(1) The permittee files a written application to consolidate with proper fee;~~

~~(2) Consolidation will facilitate the reporting of groundwater use;~~

~~(3) The permits are of the same class and are held by the same owner;~~

~~(4) The lands dedicated to the permits overlie the same groundwater basin;~~

~~(5) The number of wells and withdrawal rate of the wells authorized under the permits will not be changed;~~

~~(6) The lands dedicated to the permits are within the same county.~~

~~(b) The Executive Director may approve the application to consolidate if the requirements of subsection (a) of this section are shown. A new permit number, designated with the year the application to consolidate was filed, shall be given to the consolidated permit.~~

## **SUBCHAPTER 13. MISCELLANEOUS PROVISIONS**

### **785:30-13-5. Allocation of municipal water [AMENDED]**

(a) Allocation of all municipal water from beneath lands which are either inside or outside the corporate municipal limits shall be governed by 82 O.S. 1981, §§1020.1 et seq., as amended.

(b) When a municipality elects to invoke the provisions of §1020.21 (allocation of water from beneath platted lands), its allocation shall be based upon the amount of acres dedicated to the application which are platted and subdivided into lots within the corporate municipal limits and which overlie the basin or subbasin

(c) The Board shall issue the permit if the following additional conditions can be met:

(1) The municipality shall make water reasonably accessible and available to residents on the platted lands dedicated to the application.

~~(2) The wells are or will be located not less than six hundred (600) feet within the municipal limits.~~

~~(3)(2) The wells are or will be on the platted land dedicated to the application, provided that the municipality demonstrates that it owns or otherwise has valid authority to place the wells on the land where the wells are or will be located.~~

(d) The requirements of this Section have no application to water allocated to municipalities from beneath unplatted lands either inside or outside the corporate municipal limits or the use of water from wells drilled by municipalities where groundwater rights were established under prior law unless the municipality elects to bring its use from such wells under provisions of 82 O.S. 1981, §§1020.1 et seq.

(e) A municipality may not allocate groundwater from beneath lands dedicated to a permit unless the municipality acquires ownership of that previously issued permit and changes the purpose of such permit to municipal use if necessary.

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## APPENDIX D. IDENTIFIED SPRINGS THAT EMANATE FROM A SENSITIVE SOLE SOURCE GROUNDWATER BASIN [AMENDED]

Table 1.

The following springs flow 50 or more gallons per minute, emanate from a Sensitive Sole Source Groundwater Basin, and are protected by the spacing provisions of Sections 785:30-3-6(c) of this Chapter.

Spring Name/Other ID	USGS Site ID	Latitude	Longitude	Legal Description
Anderson Spring	342718096380401	34.45496	-96.63432	NW NW SW Sec. 24 T01S R06EIM
Antelope Spring at Sulphur, OK	07329849	34.50444444	-96.9411111	NW NW NE Sec. 1 T01S R03EIM
Bilbo Spring	342732096400601	34.4589808	-96.6686163	NE SW NW Sec. 22 T01S R06EIM
Blue Hole Spring	342108096553801	34.3521	-96.92963	SE NW SW Sec. 30 T02S R04EIM
Boiling Spring	342819097123301	34.47203135	-97.2094644	SE SW NW Sec. 16 T01S R01EIM
Buck Irving Spring	342035096554101	34.34314776	-96.9283451	NW SE NW Sec. 31 T02S R04EIM
Buffalo Spring at Sulphur, OK	07329847	34.5027	-96.9393	SE NW NE Sec. 1 T01S R03EIM
Byrds Mill Spring nr Fittstown, OK	07334200	34.59453434	-96.6655632	SE SW SW Sec. 34 T02N R06EIM
Canyon Spring	343241096360201	34.54473886	-96.60082218	NE SE NE Sec. 19 T01N R07EIM
Chapman Spring	341927096541901	34.32446	-96.90536	NW NW SE Sec. 5 T03S R04EIM
Coffee Pot Spring	343114096332701	34.52064708	-96.5577813	SE SE SW Sec. 27 T01N R07EIM
Cold Spring	342253097165801	34.3814773	-97.2830754	SE NE SE Sec. 15 T02S R01WIM
Colvert Spring	342613096521101	34.43703557	-96.8700114	NE SW SE Sec. 27 T01S R04EIM
Colvert Spring	342613096514701	34.4370356	-96.8633445	NW SW SW Sec. 27 T01S R04EIM
Cummins Spring	342712096373701	34.45342537	-96.6272263	SE NE SW Sec. 24 T01S R06EIM
Daube Spring	341540096485101	34.2612051	-96.8144509	SW SE SE Sec. 30 T03S R05EIM
Deadmans Spring	342411096350101	34.4031200	-96.5838700	NW NW NW Sec. 9 T02S R07EIM
Desperado Spring	341958096354301	34.33304	-96.59525	SW SE SW Sec. 32 T02S R07EIM
Devils Bathtub Spring	342511097064501	34.4197000	-97.1120000	SW SE SE Sec. 32 T01S R02EIM
Diamond Spring	342414096364701	34.40387215	-96.61329907	NW NE NW Sec. 7 T02S R07EIM
Five Mile Spring	343247097181901	34.4811969	-97.3080775	NW SW SE Sec. 9 T01S R01WIM
Gray Spring	342342096464801	34.3948889	-96.7811111	SE NW SE Sec. 9 T02S R05EIM
Gregor Spring	342732096432201	34.4589807	-96.7230622	NW SW NW Sec. 19 T01S R06EIM
Inslee Spring	342726096380001	34.4573142	-96.633154	SE SW NW Sec. 24 T01S R06EIM
Lowrance Spring 2	342730096562701	34.45842354	-96.9411256	NW SW NE Sec. 24 T01S R03EIM
Lowrance Springs nr Drake, OK	07329880	34.4589	-96.9414	NW SW NE Sec. 24 T01S R03EIM
Pole Spring	342837097193301	34.47703024	-97.3261333	NW NW NE Sec. 17 T01S R01WIM
Rutherford Spring	342318096325401	34.38842597	-96.5486122	SW NW NW Sec. 14 T02S R07EIM
Seven Springs 2	342150096284002	34.36398146	-96.4780545	NW SW SW Sec. 21 T02S R08EIM
Shadowfax Spring	342732096395801	34.4589808	-96.666394	NW SE NW Sec. 22 T01S R06EIM
Sheep Creek Spring	343422096385101	34.572868	-96.647785	SW SE NW Sec. 11 T01N R06EIM
Smith Spring	342218096411301	34.3717595	-96.6872266	NW SW NW Sec. 21 T02S R06EIM
South Spring	342054096514501	34.34842584	-96.8627874	SW SW SW Sec. 26 T02S R04EIM
Three Springs	342147096393901	34.36314848	-96.6611147	NW SW SE Sec. 22 T02S R06EIM
Three Springs	342148096394001	34.36342625	-96.6613925	NW SW SE Sec. 22 T02S R06EIM
Tired Spring	341933096535201	34.32592599	-96.898066	SW SW NW Sec. 4 T03S R04EIM
Tisdell Spring	342732096402301	34.4589808	-96.6733387	NE SE NE Sec. 21 T01S R06EIM
Unnamed Spring	342724096400202	34.4567586	-96.6675052	SE SW NW Sec. 22 T01S R06EIM
Unnamed Spring	342712096374101	34.45296	-96.62846	SE NE SW Sec. 24 T01S R06EIM
Unnamed Spring	342254096425501	34.38238	-96.71595	NE NE SW Sec. 18 T02S R06EIM
Unnamed Spring	342757097195501	34.46591938	-97.3322444	NE SW SW Sec. 17 T01S R01WIM
Unnamed Spring	342517096453401	34.4203222	-96.7588889	SE SE SE Sec. 34 T01S R05EIM
Unnamed Spring	342537096454701	34.4265900	-96.7633406	NE NW SE Sec. 34 T01S R05EIM
Unnamed Spring	342247097143301	34.37981089	-97.2427967	NW SE SW Sec. 18 T02S R01EIM
Unnamed Spring	342335096462501	34.393148	-96.773896	NW SW SW Sec. 10 T02S R05EIM
Unnamed Spring	342908096373701	34.4573333	-96.6694444	SW SW NW Sec. 22 T01S R06EIM
Unnamed Spring	342428096444301	34.4078702	-96.7419508	NE SE SE Sec. 2 T02S R05EIM
Unnamed Spring	342727096401301	34.4575919	-96.6705608	SW SW NW Sec. 22 T01S R06EIM
Unnamed Spring	342231096300901	34.37537049	-96.5027775	NE NW NE Sec. 19 T02S R08EIM

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Unnamed Spring	342342097134701	34.39508844	-97.2300189	SW NW SW Sec. 8 T02S R01EIM
Unnamed Spring	342337097134801	34.39369958	-97.2302967	NW SW SW Sec. 8 T02S R01EIM
Unnamed Spring	343114096353101	34.5205000	-96.6077778	SW SW SE Sec. 30 T01N R07EIM
Unnamed Spring	342628097163001	34.4411981	-97.2752984	NE NE SW Sec. 26 T01S R01WIM
Unnamed Spring	343606096401301	34.6017564	-96.6705635	SE SE NE Sec. 33 T02N R06EIM
Unnamed Spring	342353097045501	34.39814549	-97.0822389	SE SE NW Sec. 10 T02S R02EIM
Unnamed Spring	342505097094401	34.4181442	-97.1625183	NE NE NE Sec. 2 T02S R01EIM
Unnamed Spring	342342097135501	34.3950884	-97.2322412	SE NE SE Sec. 7 T02S R01EIM
Unnamed Spring	342421097065401	34.40592276	-97.1152951	SW SW SE Sec. 5 T02S R02EIM
Unnamed Spring	342634097104401	34.4428657	-97.1791857	SE SE NE Sec. 27 T01S R01EIM
Unnamed Spring	342818097170501	34.47175286	-97.2850213	SW SE NE Sec. 15 T01S R01WIM
Unnamed Spring	342233096444501	34.3753333	-96.7469444	NE NW NE Sec. 23 T02S R05EIM
Unnamed Spring	341638096502301	34.2773159	-96.8400076	NW SE SW Sec. 24 T03S R04EIM
Unnamed Spring	341719096520801	34.28870449	-96.8691754	NE NW NE Sec. 22 T03S R04EIM
Unnamed Spring	342246097143601	34.3795331	-97.24363	NW SE SW Sec. 18 T02S R01EIM
Unnamed Spring	342634097160001	34.44286478	-97.2669649	SE SE NE Sec. 26 T01S R01WIM
Unnamed Spring	342639097160001	34.44425363	-97.2669649	NE SE NE Sec. 26 T01S R01WIM
Unnamed Spring	342738096401401	34.46064745	-96.6708386	SW NW NW Sec. 22 T01S R06EIM
Unnamed Spring	343007096581601	34.502	-96.9712	NW SE NE Sec. 03 T01S R03EIM
Unnamed Spring	342614097114001	34.437333	-97.194528	NW SW SW Sec. 27 T01S R01EIM
Unnamed Spring	342518097064501	34.421917	-97.112778	NE SW SE Sec. 32 T01S R02EIM
Unnamed Spring	343418096384201	34.57175	-96.645083	SE SE NW Sec. 11 T01N R06EIM
Viola Spring	342216096314001	34.37966	-96.52692	SW NE SW Sec. 13 T02S R07EIM
Washington Spring	342726096400601	34.45738889	-96.6694167	SW SW NW Sec. 22 T01S R06EIM
Webb Spring	341718096515802	34.2884267	-96.8663976	NW NE NE Sec. 22 T03S R04EIM
Williams Spring	342232096561901	34.37564716	-96.9389017	NE NW NE Sec. 24 T02S R03EIM
Willis Spring	342911096373701	34.4864806	-96.6272269	SE SE NW Sec. 12 T01S R06EIM
Wolf Spring	342116096394601	34.35453746	-96.663059	SE SE NW Sec. 27 T02S R06EIM

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Table 2.

The following springs flow 500 or more gallons per minute, emanate from a Sensitive Sole source Groundwater Basin, and are porotected by the spacing provisions of Sevction 785.30-3-6(c) of this Chapter.

Spring Name/Other ID	USGS Site ID	Latitude	Longitude	Legal Description
Antelope Spring at Sulphur, OK	07329849	34 50444444	-96 9411111	NW NW NE Sec. 1 T01S R03EIM
Bilbo Spring	342732096400601	34 4589808	-96 6686163	NE SW NW Sec. 22 T01S R06EIM
Blue Hole Spring	342108096553801	34 3521	-96 92963	SE NW SW Sec. 30 T02S R04EIM
Buck Irving Spring	342035096554101	34 34314776	-96 9283451	NW SE NW Sec. 31 T02S R04EIM
Byrds Mill Spring nr Fittstown, OK	07334200	34 59453434	-96 6655632	SE SW SW Sec. 34 T02N R06EIM
Cold Spring	342253097165801	34 3814773	-97 2830754	SE NE SE Sec. 15 T02S R01WIM
Colvert Spring	342613096521101	34 43703557	-96 8700114	NE SW SE Sec. 27 T01S R04EIM
Colvert Spring	342613096514701	34 4370356	-96 8633445	NW SW SW Sec. 27 T01S R04EIM
Cummins Spring	342712096373701	34 45342537	-96 6272263	SE NE SW Sec. 24 T01S R06EIM
Devils Bathtub Spring	342511097064501	34 4197000	-97 1120000	SW SE SE Sec. 32 T01S R02EIM
Gregor Spring	342732096432201	34 4589807	-96 7230622	NW SW NW Sec. 19 T01S R06EIM
Inslee Spring	342726096380001	34 4573142	-96 633154	SE SW NW Sec. 24 T01S R06EIM
Lowrance Springs nr Drake, OK	07329880	34 4569	-96 9414	NW SW NE Sec. 24 T01S R03EIM
Shadowfax Spring	342732096395801	34 4589808	-96 666394	NW SE NW Sec. 22 T01S R06EIM
Sheep Creek Spring	343422096385101	34 572866	-96 647765	SW SE NW Sec. 11 T01N R06EIM
Tisdell Spring	342732096402301	34 4589808	-96 6733387	NE SE NE Sec. 21 T01S R06EIM
Unnamed Spring	342712096374101	34 45296	-96 62846	SE NE SW Sec. 24 T01S R06EIM
Unnamed Spring	342254096425501	34 38238	-96 71595	NE NE SW Sec. 18 T02S R06EIM
Unnamed Spring	342757097195501	34 46591938	-97 3322444	NE SW SW Sec. 17 T01S R01WIM
Unnamed Spring	342517096453401	34 4203222	-96 7588889	SE SE SE Sec. 34 T01S R05EIM
Unnamed Spring	342537096454701	34 4265900	-96 7633406	NE NW SE Sec. 34 T01S R05EIM
Unnamed Spring	342247097143301	34 37981089	-97 2427967	NW SE SW Sec. 18 T02S R01EIM
Unnamed Spring	342738096401401	34 46064745	-96 6708386	SW NW NW Sec. 22 T01S R06EIM
Unnamed Spring	343418096384201	34 57175	-96 645083	SE SE NW Sec. 11 T01N R06EIM
Washington Spring	342726096400601	34 45738889	-96 6694167	SW SW NW Sec. 22 T01S R06EIM

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# Permanent Final Adoptions

*[OAR Docket #25-519]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 13. Authorization to Drill Groundwater Wells

785:35-13-1. Authorization to drill groundwater wells [AMENDED]

**AUTHORITY:**

Oklahoma Water Resources Board; 82.O.S. § 1085.2; 82 O.S. § 1020.16

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

October 25, 2024

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**INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Specifies the well construction categories requiring pre-authorization through a notice of intent-to-drill application. Specifically, test holes that will be cased will require pre-authorization.

**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 JULY 11, 2025:**

# Permanent Final Adoptions

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## SUBCHAPTER 13. AUTHORIZATION TO DRILL GROUNDWATER WELLS

### 785:35-13-1. Authorization to drill groundwater wells [AMENDED]

(a) Any person who intends to construct any new or replacement groundwater well(s) subject to the provisions of this Chapter shall, before commencing such activity, apply for authorization from the Board on forms provided by the Board, and receive approval from Board staff. Authorizations are not required for groundwater wells completed for domestic use, test holes that will not be cased, geotechnical borings, ~~or~~ heat exchange ~~well~~wells, monitoring wells, recharge wells, and temporary dewatering wells.

(b) Drilling authorizations will not be issued for construction of a well that requires another separate approval from the Board, such as a water right authorization, transfer, amendment or ~~injection~~recharge well authorization, until the other separate permitting requirements have been satisfied. A drilling authorization does not constitute a water right, injection well authorization, or other authorization that may be required.

(c) Any person who has failed or in the future fails to obtain an authorization as required by this section shall make application for a late authorization on forms provided by the Board. The late authorization application shall contain the same information as required by subsection (d). The application for a late authorization shall be accompanied by an additional fee payable to the Board. Failure to make an application for an intent to drill for a well requiring a water right shall be subject to administrative fines.

(d) The application shall be accompanied by a non-refundable fee payable to the Board and shall contain:

- (1) the name and post office address of the applicant or applicants,
- (2) the name and post address of the well owner,
- (3) the intended use,
- (4) the intended latitude/longitude location of the proposed groundwater well (within 10 feet),
- (5) the intended borehole diameter, casing diameter, casing type, estimated depth of well, and screened/perforated if known,
- (6) the estimated or desired capacity in gallons per minute,
- (7) the groundwater well identification number of the water well being replaced if applicable,
- (8) the water right application number if applicable, and
- (9) such other information as the Board requires.

(e) Applications for an authorization to drill a groundwater well will be given a timestamp upon their arrival at the Board offices and will be reviewed according to the time they were received. Applications meeting all the criteria set forth in this section shall be approved by Board staff and those failing to meet the criteria shall be denied or approved with conditions within five (5) business days of receipt by the Board. Expedited, same-day applications that meet the above criteria may be approved for an additional filing fee.

(f) If the application is incomplete or needs corrections, Board staff shall return the application to the applicant for any necessary corrections. Corrections must be made within sixty (60) days or the application will be cancelled. No refund of any application fees shall be made regardless of whether the application is approved, cancelled, or denied.

(g) An application for an authorization or late authorization for a groundwater well shall be denied only if Board staff finds:

- (1) Applications failing to meet the criteria set forth in Chapter 35,
- (2) That the location or operation of the proposed groundwater well would conflict with any regulations adopted by the Board or of other applicable laws of the State of Oklahoma,
- (3) The applicant refuses to agree to the conditions set forth in the approval,
- (4) That the application includes any intentionally misleading or falsified data.

(h) When an application for authorization to drill a groundwater well is approved the applicant shall commence construction of the water well as soon as possible after the date of approval. A drilling authorization may not be assigned from one owner to another or from one driller to another. For wells requiring a water right application, the applicant shall have one (1) year after the approval of the water right application by the Board to complete construction of the groundwater well. If the applicant fails to complete the well under the terms of the authorization, the Board will cancel the authorization. The applicant can request, in writing, a 1-year continuance of the authorization.

*[OAR Docket #25-519; filed 6-6-25]*

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## TITLE 785. OKLAHOMA WATER RESOURCES BOARD



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# Permanent Final Adoptions

## CHAPTER 50. FINANCIAL ASSISTANCE

*[OAR Docket #25-520]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 6. Water and Sewer Program Emergency Grants Requirements and Procedures

785:50-6-1. Approval criteria [AMENDED]

785:50-6-3. Emergency grant priority point system [AMENDED]

785:50-6-4. Disbursement of grant funds [AMENDED]

Subchapter 8. Rural Economic Action Plan (REAP) Grant Program Requirements and Procedures

785:50-8-2. Definitions [AMENDED]

785:50-8-3. Application review and disposition [AMENDED]

785:50-8-4. Applicable law; deadline for applications; eligible project costs [AMENDED]

785:50-8-5. REAP grant priority point system [AMENDED]

Subchapter 9. Clean Water State Revolving Fund Regulations

Part 3. GENERAL PROGRAM REQUIREMENTS

785:50-9-23. Clean Water SRF Project Priority System [AMENDED]

Subchapter 20. Safeguarding Tomorrow Revolving Loan Program Regulations [NEW]

785:50-20-1. General program description and procedures [NEW]

785:50-20-2. General approval standards and criteria [NEW]

785:50-20-3. Terms and conditions [NEW]

785:50-20-4. Disbursement of funds and conditions for disbursement [NEW]

### **AUTHORITY:**

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### **DOCKET NUMBER:**

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## INCORPORATED STANDARDS:

N/A

## INCORPORATING RULES:

N/A

## AVAILABILITY:

N/A

## GIST/ANALYSIS:

The changes to this rule are to make it more concise and easier for staff understanding and public understanding and perception. The current rules need correction as they have long had grammatical errors and were not presented in a manner that was easy to read and interpret. Also, this change adds points to the ranking of the REAP grant affording eligible entities the opportunity to increase their opportunity for receiving REAP grant funding. The changes also add a new financing program for hazard mitigation projects that will be implemented by Oklahoma Emergency Management.

## 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 JULY 11, 2025:**

## **SUBCHAPTER 6. WATER AND SEWER PROGRAM EMERGENCY GRANTS REQUIREMENTS AND PROCEDURES**

### **785:50-6-1. Approval criteria [AMENDED]**

(a) **General approval standards and criteria.** In the review and consideration of applications for financial assistance under the emergency grant program, the Board shall give consideration to the following general and non-exclusive criteria for application approval:

- (1) **Compliance with laws.** The application and proposed project must be found to be in compliance with all applicable and relevant federal, state and local laws and regulations, and applicant must possess all necessary and incidental legal rights and privileges necessary to project commencement and operation.
- (2) **Eligibility.** The applicant and proposed project must be determined to be eligible for the assistance sought.
- (3) **Local need, support and priority.** The project must be found to be needed in the area to be served and must be found to be sufficient, as proposed, to serve such needs. The Board shall additionally consider the project's relative benefit and priority in relation to the needs of other proposed projects and applicants.
- (4) **Availability of other assistance.** The Board shall consider the feasibility and availability of alternative sources of revenue which could be obtained and utilized by applicant for project financing.
- (5) **Economic feasibility.** The Board shall consider the overall apparent economic viability and feasibility of the project as a whole including proposed revenues from the project and the adequacy and reliability of estimated revenues necessary for loan repayment when indicated.
- (6) **Project feasibility.** The Board shall consider from the engineering data submitted and otherwise available documentation whether the proposed project appears to be feasible, and must determine as a prerequisite for approval and funding that it is cost effective.
- (7) **Statewide needs and public interest.** The Board shall give consideration to the relationship between the proposed project and the overall water resource development needs within the State of Oklahoma as well as to whether the proposed project, if constructed, will serve the public interest and welfare.
- (8) **Availability of funds.** The Board shall take into consideration the current and anticipated availability of ~~assistance~~ funds needed to provide the financial assistance requested.

### (b) **Criteria applicability.**

- (1) The general criteria set forth in (a) and (c) of this Section are intended to constitute and shall constitute general guidelines and standards for application review and consideration by the Board.
- (2) Such criteria shall not be deemed appropriate for strict application and interpretation nor shall such criteria be deemed exclusive.
- (3) In all instances, each individual application and project must be reviewed and considered on its own individual merits.
- (4) The criteria and standards set forth in (a) and (c) of this Section shall accordingly be interpreted and applied so as to allow sufficient flexibility in the ultimate exercise of Board's judgment and discretion.

(c) **Criteria for denying an application.** The Board may deny an application for an emergency grant for any of the following reasons:

- (1) The applicant or the entity which stands to receive the benefit of the financial assistance is not an eligible entity.
- (2) The applicant has had improper or unsound management in the past.
- (3) The project is not cost effective.
- (4) Any other reason based upon applicable law, applicable requirements of the pertinent bond resolution governing use of the bond proceeds, or the Board's judgment and discretion.

### **785:50-6-3. Emergency grant priority point system [AMENDED]**

#### **(a) Basis of priority system and formula.**

(1) **General description.** The priority system consists of a mathematical equation rating the applicants and the proposed project in accordance with the requirements of the statutes by means of a formula awarding points for each criteria used in the evaluation. The maximum point total under the system is one hundred twenty (120). The Board may consider each month, and in order from the highest rating, those applications awarded point ratings of 60 or more priority points. If the Board determines that the applicant with the highest point rating cannot promptly proceed with the project due to delays, including but not limited to those caused by legal problems, engineering problems, feasibility problems or availability of other funding sources, the Board may pass over consideration of such application then proceed to consider in order the next highest rated application.

Applications which are bypassed shall retain their ratings and thus remain eligible for further consideration.

Applications preliminarily determined by Board staff to have point ratings of 59 or fewer shall be deemed denied; provided, such applications may be reevaluated if the applicant submits additional information showing changed circumstances within 120 days after the date of staff's determination, and such information improves the applicant's preliminary point rating.

(2) **Statutory criteria.** The basis of the priority formula has been developed from the enacting legislation. The two primary statutory criteria are:

(A) The emergency situation of the applicant.

(B) Whether or not the applicant can reasonably finance the project without assistance from the state.

(3) **Total priority points.** Total priority points will be calculated and awarded for individual projects; therefore, eligible entities will be required to complete separate applications for each project for which grant funds are requested. Priority lists compiled and published by other Oklahoma State agencies and/or seniority dates of applications submitted shall be utilized to decide ties in point totals among applicants.

#### **(b) Priority formula for eligible entities other than school districts.**

(1) **Formula.** The following formula has been devised to rank grant applications:  $P E + W R + I + L + M H I + F P + A R + B P - A N$ , where:

(A) P = Priority ranking

(B) E = Emergency ranking

(C) W R = Water and sewer rate

(D) I = Indebtedness per customer

(E) L = Amount of local contribution toward project

(F) MHI = Median Household Income

(G) FP = Applicant's ability to finance project

(H) AR = Amount of grant requested

(I) BP = Benefit of project to other systems

(J) AN = Application number

(2) **Explanation.** Each of these criteria are explained below:

(A) **Emergency rankings (E).** Emergencies are ranked by severity with Category 1 being the most severe and Category 2 being the least severe. Points awarded range from a maximum of 50 points for Category 1 and a minimum of 40 points for Category 2. If an applicant requests funds to correct more than one emergency category need, only the amount of assistance needed to correct the most severe need will be considered in the calculation for the application ranking. The applicant will be informed that separate and additional applications must be filed for other needs and projects. An applicant who receives funding for a project under any of the listed emergencies may not reapply under the same emergency. The two (2) emergency ranking categories are as follows:

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(i) **Category 1.** Total loss of a water supply or sewage system or loss of a major component of a system due to a natural or unforeseen disaster which could not have been prevented by the exercise of reasonable care by the applicant. Examples of such disasters may include but are not necessarily limited to: tornado; flood; fire; severe weather; landslide; sudden loss of a water supply system; sudden collapse of a major structural portion of a system; signs of imminent failure of a public water supply lake dam, spillway or outlet structure such as settlement or slumping of the crest, excessive seepage, slides, cracks or sloughs along the upstream and downstream slopes of the dam. Also included under this category is the construction of a new water system to serve areas where residents are supplied by domestic sources or domestic systems whose quantity does not supply the basic needs of the residents. In such cases where new or extended systems are proposed, the Board shall consider and determine whether an adequate population density is available to utilize the proposed system. Notwithstanding any other provisions of this Chapter, if the density is preliminarily determined by Board staff to be inadequate for the applicant to feasibly provide operation and maintenance of the new or extended system, then the application will not be recommended for approval until the proper density, which will make the extension feasible, is achieved. Category 1 emergencies receive 50 points.

(ii) **Category 2.** Water or sewer emergencies which could not have been prevented by the exercise of reasonable care by the applicant and which cause immediate danger or an imminent health hazard to the community or other nearby citizens. Such emergencies may include but are not necessarily limited to: users or systems whose water supply is deemed to be dangerous or unhealthy; systems whose supply source becomes contaminated by man-made pollution caused by a person other than the applicant; overflow of raw sewage into homes or streets due to structural failure in the collection mains and/or structural, mechanical, or electrical failure at a lift station due to disasters which could not have been prevented by the exercise of reasonable care by the applicant, including but not limited to tornado, flooding, fire, or landslides; sewage treatment systems which discharge raw or inadequately treated sewage effluent whose quality and/or quantity causes an immediate and imminent health or safety danger to a public water supply due to a structural, mechanical or electrical failure of a process unit(s) caused by disasters which could not have been prevented by the exercise of reasonable care by the applicant, including but not limited to tornado, flooding, fire, or landslides. Also included under this category is the construction of a new water system to serve areas where residents are supplied by domestic sources or domestic systems whose quality is dangerous or unhealthy as a consequence of circumstances that could not have been prevented by the exercise of reasonable care by the applicant. In such cases where new or extended systems are proposed, the Board shall consider and determine whether an adequate population density is available to utilize the proposed system. Notwithstanding any other provision of this Chapter, if the density is preliminarily determined by Board staff to be inadequate for the applicant to feasibly provide operation and maintenance of the new or extended system, then the application will not be recommended for approval until the proper density, which will make the extension feasible, is achieved. Category 2 emergencies receive 40 points.

## **(B) Water and sewer rate structure (WR).**

(i) For systems providing water service only:

- (I) If the cost per 5000 gallons is \$50.00 or greater, the applicant ~~shall be given~~ receives 10 points.
- (II) If the cost per 5000 gallons is \$45.00 to \$49.99, the applicant ~~shall be given~~ receives 9 points.
- (III) If the cost per 5000 gallons is \$40.00 to \$44.99, the applicant ~~shall be given~~ receives 8 points.
- (IV) If the cost per 5000 gallons is \$35.00 to \$39.99, the applicant ~~shall be given~~ receives 7 points.
- (V) If the cost per 5000 gallons is \$30.00 to \$34.99, the applicant ~~shall be given~~ receives 6 points.
- (VI) If the cost per 5000 gallons is \$25.00 to \$29.99, the applicant ~~shall be given~~ receives 5 points.

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- (VII) If the cost per 5000 gallons is \$23.00 to \$24.99, the applicant ~~shall be given~~receives 4 points.
- (VIII) If the cost per 5000 gallons is \$21.00 to \$22.99, the applicant ~~shall be given~~receives 3 points.
- (IX) If the cost per 5000 gallons is \$19.00 to \$20.99, the applicant ~~shall be given~~receives 2 points.
- (X) If the cost per 5000 gallons is \$18.00 to \$18.99, the applicant ~~shall be given~~receives 1 point.
- (XI) If the cost per 5000 gallons is less than \$18.00, the applicant ~~shall be given~~receives 0 points.
- (ii) For systems providing water and sewer services:
- (I) If the cost per 5000 gallons is \$56.00 or greater, the applicant ~~shall be given~~receives 10 points.
- (II) If the cost per 5000 gallons is \$53.00 to \$55.99, the applicant ~~shall be given~~receives 9 points.
- (III) If the cost per 5000 gallons is \$49.00 to \$52.99, the applicant ~~shall be given~~receives 8 points.
- (IV) If the cost per 5000 gallons \$45.00 to \$48.99, the applicant ~~shall be given~~receives 7 points.
- (V) If the cost per 5000 gallons is \$41.00 to \$44.99, the applicant ~~shall be given~~receives 6 points.
- (VI) If the cost per 5000 is \$37.00 to \$40.99, the applicant ~~shall be given~~receives 5 points.
- (VII) If the cost per 5000 gallons is \$34.00 to \$36.99, the applicant ~~shall be given~~receives 4 points.
- (VIII) If the cost per 5000 gallons is \$32.00 to \$33.99, the applicant ~~shall be given~~receives 3 points.
- (IX) If the cost per 5000 gallons is \$31.00 to \$31.99, the applicant ~~shall be given~~receives 2 points.
- (X) If the cost per 5000 gallons is \$30.00 to \$30.99, the applicant ~~shall be given~~receives 1 point.
- (XI) If the cost per 5000 gallons is less than \$30.00, the applicant ~~shall be given~~receives 0 points.
- (iii) For systems providing sewer service only:
- (I) If the cost per connection per month is \$34.00 or greater, the applicant ~~shall be given~~receives 10 points.
- (II) If the cost of connection per month is \$32.00 to \$33.99, the applicant ~~shall be given~~receives 9 points.
- (III) If the cost of connection per month is \$30.00 to \$31.99, the applicant ~~shall be given~~receives 8 points.
- (IV) If the cost of connection per month is \$28.00 to \$29.99, the applicant ~~shall be given~~receives 7 points.
- (V) If the cost of connection per month is \$26.00 to \$27.99, the applicant ~~shall be given~~receives 6 points.
- (VI) If the cost of connection per month is \$24.00 to \$25.99, the applicant ~~shall be given~~receives 5 points.
- (VII) If the cost of connection per month is \$22.00 to \$23.99, the applicant ~~shall be given~~receives 4 points.
- (VIII) If the cost of connection per month is \$20.00 to \$21.99, the applicant ~~shall be given~~receives 3 points.
- (IX) If the cost of connection per month is \$18.00 to \$19.99, the applicant ~~shall be given~~receives 2 points.
- (X) If the cost of connection per month is \$16.00 to \$17.99, the applicant ~~shall be given~~receives 1 point.
- (XI) If the cost of connection per month is less than \$16.00, the applicant ~~shall be given~~receives 0 points.

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(iv) The Board will deduct 3 points from the total of the Water and Sewer Rate Structure ranking for any system which charges a flat water or sewer rate (unmetered) without regard to the amount of water or sewer used, and 2 points for a decreasing block rate which lowers the cost per 1000 gallons for customers using larger amounts of water. No points will be added or subtracted for systems using a fixed rate per 1,000 gallons above the minimum. Two points will be added for systems using an increasing block rate. Entities who dedicate sales tax for water and/or sewer improvements will be awarded 1 additional point. Under the category the maximum number of points is 13 and the minimum is -3 points.

**(C) Indebtedness per customer (I).** The indebtedness per customer ranking is calculated by taking the applicant's monthly requirements for debt service on debt incurred for water and/or sewer system purposes and dividing it by the number of customers served.

- (i) If the indebtedness per customer is \$20.00 or greater, the applicant ~~shall be given~~receives 10 points.
- (ii) If the indebtedness per customer is \$17.50 to \$19.99, the applicant ~~shall be given~~receives 9 points
- (iii) If the indebtedness per customer is \$16.00 to \$17.49, the applicant ~~shall be given~~receives 8 points.
- (iv) If the indebtedness per customer is \$14.50 to \$15.99, the applicant ~~shall be given~~receives 7 points.
- (v) If the indebtedness per customer is \$13.00 to \$14.49, the applicant ~~shall be given~~receives 6 points.
- (vi) If the indebtedness per customer is \$11.50 to \$12.99, the applicant ~~shall be given~~receives 5 points.
- (vii) If the indebtedness per customer is \$10.00 to \$11.49, the applicant ~~shall be given~~receives 4 points.
- (viii) If the indebtedness per customer is \$8.50 to \$9.99, the applicant ~~shall be given~~receives 3 points.
- (ix) If the indebtedness per customer is \$7.00 to \$8.49, the applicant ~~shall be given~~receives 2 points.
- (x) If the indebtedness per customer is \$5.50 to \$6.99, the applicant ~~shall be given~~receives 1 point.
- (xi) If the indebtedness per customer is less than \$5.50, the applicant ~~shall be given~~receives 0 points.

**(D) Local participation (I).**

(i) The Board will not approve nor fund any grant application unless the applicant contributes at least fifteen percent (15%) of the total cost of the proposed project.

(ii) The local participation ranking is based on the percent of the total project cost which is locally funded through cash contributions, or incurrence of additional debt through a loan. Grant funds received through other agencies will not be counted as local funding. Points awarded for participation are as follows:

- (I) If the percentage of the project cost locally funded is 90% or greater, the applicant shall be given 10 points.
- (II) If the percentage of the project cost locally funded is at least 80% but less than 90%, the applicant ~~shall be given~~receives 9 points.
- (III) If the percentage of the project cost locally funded is at least 70% but less than 80%, the applicant ~~shall be given~~receives 8 points.
- (IV) If the percentage of the project cost locally funded is at least 60% but less than 70%, the applicant ~~shall be given~~receives 7 points.
- (V) If the percentage of the project cost locally funded is at least 50% but less than 60%, the applicant ~~shall be given~~receives 6 points.
- (VI) If the percentage of the project cost locally funded is at least 40% but less than 50%, the applicant ~~shall be given~~receives 5 points.
- (VII) If the percentage of the project cost locally funded is at least 30% but less than 40%, the applicant ~~shall be given~~receives 4 points.
- (VIII) If the percentage of the project cost locally funded is at least 25% but less than 30%, the applicant ~~shall be given~~receives 3 points.

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(IX) If the percentage of the project cost locally funded is at least 20% but less than 25%, the applicant ~~shall be given~~receives 2 points.

(X) If the percentage of the project cost locally funded is at least 15% but less than 20%, the applicant ~~shall be given~~receives 1 point.

(XI) If the percentage of the project cost locally funded is less than 15%, the application shall not be approved nor funded.

(E) **Median Household Income (MHI).** The median household income is calculated according to the most current federal decennial census or American Community Survey data available.

(i) The county median figure for median household income will be used in cases where data for the applicant's service area is not available.

(ii) Points are awarded as follows:

(I) If the median household income is less than \$17,000, the applicant ~~shall be given~~receives 10 points.

(II) If the median household income is \$17,000 to \$20,999, the applicant ~~shall be given~~receives 9 points.

(III) If the median household income is \$21,000 to \$23,999, the applicant ~~shall be given~~receives 8 points.

(IV) If the median household income is \$24,000 to \$28,999, the applicant ~~shall be given~~receives 7 points.

(V) If the median household income is \$29,000 to \$31,999, the applicant ~~shall be given~~receives 6 points.

(VI) If the median household income is \$32,000 to \$36,999, the applicant ~~shall be given~~receives 5 points.

(VII) If the median household income is \$37,000 to \$39,999, the applicant ~~shall be given~~receives 4 points.

(VIII) If the median household income is \$40,000 to \$44,999, the applicant ~~shall be given~~receives 3 points.

(IX) If the median household income is \$45,000 to \$47,999, the applicant ~~shall be given~~receives 2 points.

(X) If the median household income is \$48,000 to \$51,999, the applicant ~~shall be given~~receives 1 point.

(XI) If the median household income is \$52,000 or greater, the applicant ~~shall be given~~receives 0 points.

(F) **Ability to finance project (FP).**

(i) The maximum points possible under this criterion for the ability of the applicant to finance the project without assistance from the state is 12.

(ii) The FP ranking gives a standardized account of the amount the existing water/sewer rates would have to be raised in order for the applicant to finance the project through a loan. A standard interest rate and term of 5% for 25 years is assumed. The cost per customer per month is calculated using the following formula: FP equals the product of AR multiplied by (0.0710), divided by the product of (12) multiplied by (C), where:

(I) FP = Estimate of the amount monthly water/sewer rates would have to be raised to finance the amount of grant request for the project.

(II) AR = Amount of grant request. For this calculation, the amount of available reserve not dedicated to the project will be deducted from the amount requested.

(III) (0.0710) = Annual rate factor for a 25 year loan at 5%

(IV) (12) = Number of months per year.

(V) (C) = Number of customers

(iii) In cases where the applicant's current revenues exceed expenses by a large margin, the Board will appropriately adjust the (AR) figure to accurately represent the applicant's ability to finance the project.

(iv) Points in the FP ranking are awarded as follows:

(I) If the ability to finance the project is \$10.00 or greater, the applicant ~~shall be given~~receives 12 points.

(II) If the ability to finance the project is \$8.00 to \$9.99, the applicant ~~shall be given~~receives 11 points.

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- (III) If the ability to finance the project is \$6.00 to \$7.99, the applicant ~~shall be given~~receives 10 points.
- (IV) If the ability to finance the project is \$5.00 to \$5.99, the applicant ~~shall be given~~receives 9 points.
- (V) If the ability to finance the project is \$4.00 to \$4.99, the applicant ~~shall be given~~receives 8 points.
- (VI) If the ability to finance the project is \$3.00 to \$3.99, the applicant ~~shall be given~~receives 7 points.
- (VII) If the ability to finance the project is \$2.00 to \$2.99, the applicant ~~shall be given~~receives 6 points.
- (VIII) If the ability to finance the project is \$1.75 to \$1.99, the applicant ~~shall be given~~receives 5 points.
- (IX) If the ability to finance the project is \$1.50 to \$1.74, the applicant ~~shall be given~~receives 4 points.
- (X) If the ability to finance the project is \$1.25 to \$1.49, the applicant ~~shall be given~~receives 3 points.
- (XI) If the ability to finance the project is \$1.00 to \$1.24, the applicant ~~shall be given~~receives 2 points.
- (XII) If the ability to finance the project is \$0.75 to \$0.99, the applicant ~~shall be given~~receives 1 point.
- (XIII) If the ability to finance the project is less than \$0.75, the applicant ~~shall be given~~receives 0 points.

**(G) Amount of grant requested (AR).**

(i) Points under this category for amount of grant requested are distributed as follows:

- (I) ~~If the grant amount requested is \$95,001 to \$100,000: -5, the applicant receives -5 points.~~
- (II) ~~If the grant amount requested is \$90,001 to \$95,000: -4, the applicant receives -4 points.~~
- (III) ~~If the grant amount request is \$85,001 to \$90,000: -3, the applicant receives -3 points.~~
- (IV) ~~If the grant smount requested is \$80,001 to \$85,000: -2, the applicant receives -2points.~~
- (V) ~~If the grant amount requested is \$75,001 to \$\$80,000: -1, the applicant receives -1 point.~~
- (VI) ~~If the grant amount requested is \$70,001 to \$75,000: 0, the applicant receives 0 points.~~
- (VII) ~~If the grant amount requested is \$65,001 to \$70,000: +1, the applicant receives 1 point.~~
- (VIII) ~~If the grant amount requested is \$60,001 to \$65,000: +2, the applicant receives 2 points.~~
- (IX) ~~If the grant amount requested is \$55,001 to \$60,000: +3, the applicant receives 3 points.~~
- (X) ~~If the grant amount requested is \$50,000 to \$55,000: +4, the applicant receives 4 points.~~
- (XI) ~~If the grant amount requested is \$45,001 to \$50,000: +5, the applicant receives 5 points.~~
- (XII) ~~If the grant amount requested is \$40,001 to \$45,000: +6the applicant receives 6 points.~~
- (XIII) ~~If the grant amount requested is \$35,001 to \$40,000: +7, the applicant receives 7 points.~~
- (XIV) ~~If the grant amount requested is \$30,001 to \$35,000: +8, the applicant received 8 points.~~
- (XV) ~~If the grant amount requested is \$25,001 to \$30,000: +9, the applicant receives 9 points.~~
- (XVI) ~~If the grant amount requested is \$25,000 or less: +10, the applicant receives 10 points.~~



(ii) If a project exceeds \$75,000 and the amount of funds needed over and above the OW RB grant request are being secured through a loan from OWRB, then there will be no deduction of points under this category.

(H) **Project benefit to other systems (BP).** If the applicant's project will benefit other adjacent systems as well as applicant's, or result in or lead to consolidation of systems, an additional five (5) priority points will be included in the total of priority points assigned to the application.

(I) **Number of grants.** Since it is anticipated that entities who have received emergency grants might submit additional grant applications for approval, points will be deducted from such applications according to the following schedule; provided, points shall not be deducted from such any emergency grant which was funded 10 or more years prior to the date of Board action on the pending application and which has been subjected to a Board audit:

(i) If the qualified entity has received one (1) prior grant = 5 reduction points, the application receives -5 points.

(ii) If the qualified entity has received two (2) prior grants = 8 reduction points, the application receives -8 points.

(iii) If the qualified entity has received three (3) prior grants = 10 reduction points, the application receives -10 points.

(iv) If the qualified entity has received four (4) prior grants = 12 reduction points, the application receives -12 points.

(v) If the qualified entity has received five (5) or more prior grants = 14 reduction points, the application receives -14 points.

**(c) Priority formula for school districts.**

(1) School districts, created under Article V of the 1971 School Code, 70 O.S. 1981, §5-101 et seq., are political subdivisions of the State, and therefore are eligible for financial assistance under the Board's program.

(2) In evaluating and prioritizing grant applications from school districts similar criteria to those applied to municipalities, towns and rural water districts will be utilized.

(3) In developing a priority formula for school district applicants, again, the two primary statutory criteria are:

(A) The emergency situation of the school district.

(B) Whether the school district can reasonably finance the emergency project without the Board's assistance.

(4) The emergency aspect of each project is ranked with a maximum of 50 points being given to the most serious situations and a minimum of 30 points to the least serious. The emergency categories and points given for each are the same as those listed in (b)(2) of this Section.

(5) The school district's financial situation is given a maximum of 66 points and is derived by analyzing the following:

(A) Local tax levies

(B) Bonded indebtedness

(C) Local contribution

(D) Median household income within the school district's geographical area

(E) Applicant's ability to finance project

(F) Amount of grant requested

(G) Application number

(6) Priority lists compiled and published by other Oklahoma state agencies shall be utilized to assess the seriousness of the emergency.

(7) Using the previously mentioned analysis, the following formula has been devised to rank school districts' grant applications:  $P = E + LT + BI + L + MHI + FP + AR - AN$ , where:

(A) P = Priority ranking total points

(B) E = Emergency ranking

(C) LT = Local tax levies

(D) BI - Bonded indebtedness

(E) L = School's contribution toward the project

(F) MHI = Median household income of population within a school district

(G) FP = Applicant's ability to finance project

(H) AR = Amount of grant requested

(I) AN = Application number

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(8) The criteria E, MHI, FP, AR and AN are the same as that set forth in (b) of this section. LT, BI and L are explained as follows:

(A) **Local tax levies (LT).** Points awarded under this category for local tax levies are based on the total amount of mills levied, as follows:

- (i) ~~95 to 100.00 mills = 13 points~~ If the mills are 95 to 100, the applicant receives 13 points.
- (ii) ~~90 to 94.99 mills = 11 points~~ If the mills are 90 to 94.99 the applicant receives 11 points.
- (iii) ~~85 to 89.99 mills = 10 points~~ If the mills are 85 to 89.99, the applicant receives 10 points.
- (iv) ~~80 to 84.99 mills = 8 points~~ If the mills are 80 to 84.99, the applicant receives 8 points.
- (v) ~~70 to 79.99 mills = 6 points~~ If the mills are 70 to 79.99, the applicant receives 6 points.
- (vi) ~~60 to 69.99 mills = 4 points~~ If the mills are 60 to 69.99, the applicant receives 4 points.
- (vii) ~~55 to 59.99 mills = 2 points~~ If the mills are 55 to 59.99, the applicant receives 2 points.
- (viii) ~~50 to 54.99 mills = 1 point~~ If the mills are 50 to 54.99, the applicant receives 1 point.
- (ix) ~~45 to 49.99 mills = 0 points~~ If the mills are 45 to 59.99, the applicant receives 0 points.
- (x) ~~40 to 44.99 mills = -1 points~~ If the mills are 40 to 44.99, the applicant receives -1 point.
- (xi) ~~Less than 40 mills = -2 points~~ If the mills are less than 40, the applicant receives -2 points.

(B) **Bonded indebtedness (BI).**

(i) Priority points for Bonded Indebtedness are as follows: ~~Percentage of Indebtedness Points~~

- (I) ~~95% to 100% of debt limitation = 10 points~~ If the percentage is 95% to 100%, the applicant receives 10 points
- (II) ~~90% to 94.99% of debt limitation = 8 points~~ If the percentage is 90% to 94.99%, the applicant receives 8 points.
- (III) ~~80% to 89.99% of debt limitation = 7 points~~ If the percentage is 80% to 89.99%, the applicant receives 7 points.
- (IV) ~~75% to 79.99% of debt limitation = 6 points~~ If the percentage is 75% to 79.99%, the applicant receives 6 points.
- (V) ~~70% to 74.99% of debt limitation = 5 points~~ If the percentage is 70% to 74.99%, the applicant receives 5 points.
- (VI) ~~65% to 69.99 of debt limitation = 4 points~~ If the percentage is 65% to 69.99%, the applicant receives 4 points
- (VII) ~~60% to 64.99% of debt limitation = 3 points~~ If the percentage is 60% to 64.99%, the applicant receives 3 points.
- (VIII) ~~55% to 59.99% of debt limitation = 2 points~~ If the percentage is 55% to 59.99%, the applicant receives 2 points.
- (IX) ~~50% to 54.99% of debt limitation = 1 point~~ If the percentage is 50% to 54.99%, the applicant receives 1 point.
- (X) ~~45% to 49.99% of debt limitation = 0 points~~ If the percentage is 45% to 44.99%, the applicant receives 0 points.
- (XI) ~~40% to 44.99% of debt limitation = -1 point~~ If the percentage is 40% to 44.99%, the applicant receives -1 point.
- (XII) ~~30% to 39.99% of debt limitation = -2 points~~ If the percentage is 30% to 39.99%, the applicant receives -2 points.
- (XIII) ~~Less than 30% of debt limitation = -3 points~~ If the percentage is less than 30%, the applicant receives -3 points.

(ii) A deduction of one (1) point from the indebtedness ranking total will be made for applicants with 75% of existing debts financed at rates of 5% or less, and one (1) point will be added if 75% of existing debts are financed at rates greater than 10%.

(C) **Local participation (L).**

(i) In order to achieve the maximum benefit from available grant funds, the Board will not approve nor fund any grant application unless the applicant contributes at least fifteen percent (15%) of the total cost of the proposed project.

(ii) The local participation ranking is based on the percent of the total project cost which is locally funded through cash contributions or incurrence of additional debt through a loan.

Points awarded are as follows:

- (I) If the percentage of the project cost locally funded is 90% or greater, the applicant ~~shall be given~~ receives 10 points.

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- (II) If the percentage of the project cost locally funded is at least 80% but less than 90%, the applicant ~~shall be given~~receives 9 points.
  - (III) If the percentage of the project cost locally funded at least 70% but less than 80%, the applicant ~~shall be given~~receives 8 points.
  - (IV) If the percentage of the project cost locally funded at least 60% but less than 70%, the applicant ~~shall be given~~receives 7 points.
  - (V) If the percentage of the project cost locally funded at least 50% but less than 60%, the applicant ~~shall be given~~receives 6 points.
  - (VI) If the percentage of the project cost locally funded is at least 50% but less than 60%, the applicant ~~shall be given~~receives 5 points.
  - (VII) If the percentage of the project cost locally funded is at least 40% but less than 50%, the applicant ~~shall be given~~receives 4 points.
  - (VIII) If the percentage of the project cost locally funded is at least 25% but less than 30%, the applicant ~~shall be given~~receives 3 points.
  - (IX) If the percentage of the project cost locally funded is at least 20% but less than 25%, the applicant ~~shall be given~~receives 2 points.
  - (X) If the percentage of the project cost locally funded is at least 15% but less than 20%, the applicant ~~shall be given~~receives 1 point.
  - (XI) If the percentage of the project cost locally funded is less than 15%, the application shall not be approved nor funded.
- (iii) Under the Ability to Finance Project (FP) category the Number of Customers (C) as previously discussed will be replaced by the Number of Families within a school district. Points awarded under the FP category are the same as discussed and shown in (b) of this Section.

### 785:50-6-4. Disbursement of grant funds [AMENDED]

- (a) Notwithstanding and in addition to the provisions set out in (a) of this Section, the following specific provisions shall apply in all instances of the disbursement of grant (financial assistance) funds under the Water and Sewer Financial Assistance Program.
- (b) Upon approval of a grant application, the Board shall furnish to the applicant a ~~letter~~ notice letter of grant approval and Board commitment. The notice and commitment 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.
- (c) Within ninety (90) days following the date of the letter notice of approval, the applicant shall file with the Board an acceptable bid, as required by the competitive bidding process, 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 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 merit.
- (d) For purposes of final disbursement of funds to the applicant, the grant amount initially approved may be lowered by the Board based on actual project costs.
- (e) As the Board may determine and 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 under the project circumstances presented. However, prior to the disbursement of any grant funds to the applicant, the applicant must:
- (1) Submit to the Board such evidence as the Board may require to establish that the emergency continues to exist; and
  - (2) Establish, in such manner as is acceptable to the Board or its staff, a special and separate federally insured ~~fund or account (within applicant's accounting system)~~ in and through which the grant proceeds shall be administered and accounted for by the applicant.
- (f) In all instances, the Board reserves the right to impose additional reasonable and necessary conditions or requirements for the disbursement of grant funds, all as may be deemed appropriate by the Board under the circumstances of the project for which grant assistance is made available.

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## SUBCHAPTER 8. RURAL ECONOMIC ACTION PLAN (REAP) GRANT PROGRAM REQUIREMENTS AND PROCEDURES

### 785:50-8-2. Definitions [AMENDED]

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

**"Applicant"** means a qualified entity which submits an application for a REAP grant on its own behalf, or for whom an application is submitted by a COG; a COG shall be deemed not to be an applicant.

**"COG"** means one of the following organizations:

- (A) Association of Central Oklahoma Governments (ACOG);
- (B) Association of South Central Oklahoma Governments (ASCOG);
- (C) Central Oklahoma Economic Development District (COEDD);
- (D) Eastern Oklahoma Economic Development District (EOEDD);
- (E) Grand Gateway Economic Development Association (GGEDA);
- (F) Indian Nations Council of Governments (INCOG);
- (G) Kiamichi Economic Development District (KEDD);
- (H) Northern Oklahoma Development Association (NODA);
- (I) Oklahoma Economic Development Association (OEDA);
- (J) Southern Oklahoma Development Association (SODA); and
- (K) South Western Oklahoma Development Authority (SWODA).

**"Customer"** means a single household or commercial unit, and does not mean any service unit which provides or enables utility service for more than one household, residence, or industry.

**"Project"** means, in addition to those purposes and works described in 785:50-3-1, *sewer line construction or repair and related storm or sanitary sewer [62:2003] works, water line construction or repair, water treatment, water acquisition, distribution or recovery and related [62:2003] works.*

**"Qualified entity"** means any eligible entity as defined in 785:50-3-2; provided, any city or town with a population of 7001 or more according to the Census Population shall not be a qualified entity.

### 785:50-8-3. Application review and disposition [AMENDED]

(a) **General procedures.** The general procedure to be followed in the financial assistance application, review and consideration process for financial assistance under the REAP grant program shall be as follows:

#### (1) **Pre-application ~~conference~~workshop.**

(A) While not specifically required, all potential applicants are encouraged to ~~initially contact the Board for purposes of making arrangements for participating~~ participate in a pre-application ~~conference~~workshop between Board staff, ~~potential applicant~~applicants (or representative), applicant's legal, financial and engineering advisors and such other persons whose attendance and participation may be deemed appropriate and beneficial. Applicants who attend the workshop shall receive additional points.

(B) At the pre-application ~~conference~~workshop, preliminary matters respecting the applicant, the proposed project and the application for assistance may be generally discussed in an effort to familiarize all concerned parties with the financial assistance program and applicable application requirements and procedures.

#### (2) **Application.**

(A) Applicant shall initiate application review and consideration by submission to the Board of applicant's application for financial assistance. An application may be submitted directly by the qualified entity or, at the qualified entity's discretion, may be submitted by a COG for the benefit or on behalf of a qualified entity. A COG may assist a qualified entity in filling out or filing an application, but a COG may not exercise any power of review, approval or disapproval over an application. All applications filed with any COG shall be submitted by the COG to the Board. If an application submitted by a COG is approved, the money shall be disbursed directly to the qualified entity.

(B) In all instances, applications must be ~~written and~~submitted in a form which meets the requirements of Subchapter 5.

(C) All applicants must have the verification form signed and notarized by the applicant representative, and must have a signature of an attorney representing applicant.

(3) **Submittal to Board.** Upon completion of staff review, the submitted application (with staff recommendations, if any) shall be placed upon the Board's agenda for the next regular (or special) Board meeting and shall be thereby submitted to the Board for action as described in (e) below.

(b) **General approval standards and criteria.** In the review and consideration of applications for financial assistance under the REAP grant program, the Board shall follow the priority point system set forth in 785:50-8-5. The Board shall also give consideration to the following general and non-exclusive criteria for application approval:

(1) **Compliance with laws.** The application and proposed project must be found to be in compliance with all applicable and relevant federal, state and local laws and regulations, and applicant must possess all necessary and incidental legal rights and privileges necessary to project commencement and operation.

(2) **Eligibility.** The applicant must be a qualified entity (or a COG applying on behalf of a qualified entity) and the proposed project must be for a qualified purpose as defined in 785:50-3-1 or 785:50-8-2.

(3) **Local need, support and priority.** The project must be found to be needed in the area to be served and must be found to be sufficient, as proposed, to serve such needs. The Board shall additionally consider the project's relative benefit and priority in relation to the needs of other proposed projects and applicants.

(4) **Availability of other assistance.** The Board shall consider the feasibility and availability of alternative sources of revenue which could be obtained and utilized by applicant for project financing.

(5) **Economic feasibility.** The Board shall consider the overall apparent economic viability and feasibility of the project as a whole.

(6) **Project feasibility.** The Board shall consider from the engineering data submitted and otherwise available whether the proposed project appears to be feasible, and must determine as a prerequisite to application approval and funding that the project is cost effective.

(7) **Statewide needs and public interest.** The Board shall give consideration to the relationship between the proposed project and the overall water resource development needs within the State of Oklahoma as well as to whether the proposed project, if constructed, will serve the public interest and welfare.

(8) **REAP grant amount; availability of funds.** In sizing a REAP grant, the Board shall take into consideration the current and anticipated availability of REAP program funds.

(9) **Conservation Measures.** The Board shall consider whether or not the applicant has taken all reasonable measures to limit waste and conserve water.

(c) **Criteria applicability.**

(1) The general criteria set forth in (b) and (d) of this Section are intended to constitute and shall constitute general guidelines and standards for application review and consideration by the Board.

(2) Such criteria shall not be deemed exclusive.

(3) In all instances, each individual application and project must be reviewed and considered on its own individual merits.

(4) The criteria and standards set forth in (b) and (d) of this Section shall accordingly be interpreted and applied so as to allow sufficient flexibility in the ultimate exercise of Board's judgment and discretion.

(d) **Criteria for denying an application.** The Board may deny an application for a REAP grant for any of the following reasons:

(1) The applicant or the entity which stands to receive the benefit of the grant assistance is not an eligible entity.

(2) Any other reason based upon applicable law or the Board's judgment and discretion.

(e) **Board action.**

(1) After reviewing and considering the submitted application, the Board may proceed to take one of the following alternative forms of Board action on the application:

(A) The Board may approve and grant the application as submitted, in whole or in part, and thereby authorize such further action as may be necessary to effectuate the disbursement of funds.

(B) The Board may retain the application under advisement for further consideration or continue hearing on same for later ruling and disposition, and, the Board may withhold ruling on the application pending further hearing and/or submission to the Board of such further or additional information as the Board may require for application consideration purposes.

(C) The Board may reject and deny the application, in whole or in part, based upon any criteria described in (d) of this Section which may be applicable.

(D) The Board may approve and grant the application, in whole or in part, such approval being conditioned and contingent upon the existence of adequate and available grant funds or conditioned and contingent upon receipt and approval by Board staff of any outstanding and necessary material, information, documents, verifications or other authorization.

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(2) Upon approval of an application, the Board may authorize the execution of all necessary grant documents and instruments by the Chairman of the Board, or other designated Board member, and may accordingly authorize and provide for disbursements and may authorize such further or additional action as may be necessary to complete and implement the approved transaction.

## **785:50-8-4. Applicable law; deadline for applications; eligible project costs [AMENDED]**

(a) The Board shall administer applications for REAP funds in accordance with any provisions of law applicable to such applications and REAP funds.

(b) To be considered for and receive funding from funds available for REAP in any given fiscal year, an application must be completed in accordance with the Board's rules and prescribed application form in all material respects with all attachments, and filed by the applicant and received by the Board on or before 5 p.m. the first business day of September of that fiscal year. However, if the deadline cannot be met due to circumstances beyond the applicant's control, the application may be accepted by the Board through the last business day of September with written proof of said circumstances. Any application not properly completed and filed shall not be considered for or funded from funds that may become available during that fiscal year. Furthermore, if no applications are received before the deadline from the area of a given COG, then the Board staff may extend the deadline for that COG through the first business day of November and contact an appropriate official for the COG and notify him or her of the available funds.

(c) A REAP grant application submitted for consideration in a prior fiscal year that was not approved for funding out of funds made available in that prior fiscal year shall expire and ~~be deemed denied unless the applicant files and the Board receives a timely written request to consider said application during the current fiscal year, together with updated application materials as may be reasonably required by the Board. To be timely, such request and updated application materials must be received by the board on or before the first business day of September, of the current fiscal year and cycled out.~~

(d) For purposes of evaluating, approving and funding an application for a REAP grant, categories of project costs which are eligible for assistance ~~shall including, in addition to those project costs described in 785:50-3-~~include engineering undertaking or work to conserve and develop surface or subsurface water resources or to control or develop sewage treatment facilities of the State for all useful and lawful purposes by the acquisition, improvement, extension or construction of dams, reservoirs, and other water storage projects, including, but not limited to underground storage projects, filtration and water treatment plants, including any system necessary to distribute water from storage or filtration plants to points of distribution, or from storage to filtration and treatment plants, facilities for distributing water therefrom to wholesale or retail purchasers, floodplain restoration, including but not limited to home relocations, bank stabilization, storm sewer and drainage improvements and any system necessary to improve or develop sewage treatment, collection or distribution capabilities of any area of the State. Such qualified projects are additionally understood to include financial assistance to acquire and own the lands required for the project, and to obtain the water supply and to construct appropriate treatment facilities as described in 785:50-3-1. Additionally, eligible expenses include:

- (1) Architecture and/or engineer fees related to the project. Provided, however, that in order for these costs to be eligible for award, applicants shall provide documentation that all construction funding is available. If construction funding is not available the request for these costs will be placed in a "pending" status until such time as the construction funding is available. If, however, an Engineering Report is a requirement of a Consent Order, an applicant under Consent Order may be awarded a grant to cover the engineering costs without construction funding being available.
- (2) Fees for soil testing.
- (3) Fees for surveying.
- (4) Payments to contractor(s) for construction of the improvements.
- (5) Legal fees and expenses of counsel for the applicant which are related to the project.
- (6) Services of full-time or part-time inspector.
- (7) Administrative expenses shall not be eligible project costs.

## **785:50-8-5. REAP grant priority point system [AMENDED]**

(a) **Basis of priority system and formula.**

(1) **General description.** The priority system consists of a mathematical equation rating the qualified entities and the proposed project in accordance with the requirements of state law by means of a formula awarding points for each criterion used in the evaluation. The maximum point total under the system is one hundred ~~twenty-five (125)~~ thirty (130). The Board may consider each month, and in order from the highest rating, those applications awarded point ratings of 40 or more priority points. If the Board determines that the qualified entity with the highest point rating cannot promptly proceed with the project due to delays, including but not limited to

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those caused by legal problems, engineering problems, feasibility problems or availability of other funding sources, the Board may pass over consideration of such application then proceed to consider in order the next highest rated application. Applications which are bypassed shall retain their ratings and thus remain eligible for further consideration. Applications preliminarily determined by Board staff to have point ratings of applicant submits additional information showing changed circumstances within 120 days after the date of staff's determination, and such information improves the applicant's preliminary point rating.

(2) **Statutory criteria.** The basis of the priority formula has been developed from the enacting legislation. The primary statutory criteria are:

(A) There shall be a higher priority for any city or town with a population less than one thousand seven hundred fifty (1,750) according to the Census Population than for any jurisdiction with a greater population; and rural water or sewer districts which have less than 525 non-pasture customers; and

(B) *Among other cities or towns, those municipalities having relatively weaker fiscal capacity shall have a priority for project funding in preference to other municipalities* [62:2003]. In order to give a priority evaluation to each applicant, the Board shall evaluate all applications according to the fiscal capacity criteria set forth in this Section.

(3) **Total priority points.** Total priority points will be calculated and awarded for individual projects. Therefore, qualified entities will be required to complete separate applications for each project for which grant funds are requested. Priority lists compiled and published by other Oklahoma State agencies and/or seniority dates of applications submitted shall be utilized to decide ties in point totals among qualified entities.

(b) **Priority formula for eligible entities other than school districts and counties.**

(1) **Formula.** The following formula has been devised to rank grant applications:  $T = P + WR + I + MHI + FP + N + AR + BP + PG + S + WA$ . Where:

(A) T = Total of priority points

(B) P = Population

(C) WR = Water and sewer rate structure

(D) I = Indebtedness per customer

(E) MHI = Median household income

(F) FP = Applicant's ability to finance project

(G) N = Need

(H) AR = Amount of grant requested

(I) BP = Project benefit to other systems

(J) PG = Previous grant assistance

(K) S = Sustainability

(L) WA = Workshop attended

(2) **Explanation.** Each of these criteria are explained below:

(A) **Population (P).** Municipalities which have a population of less than 1,750 according to the latest Census Population ~~shall be given~~ will receive 55 priority points. Rural water or sewer districts which have less than 525 non-pasture customers ~~shall be given~~ will receive 55 points.

(B) **Water and Sewer rate structure (WR).**

~~(i) For systems providing water service only, points are figured according to the same scale set forth in Section 50-7-5(b)(2)(B)(i)~~ For systems providing water service only.

~~(I) If the cost per 5000 gallons is \$50.00 or greater, the applicant receives 10 points.~~

~~(II) If the cost per 5000 gallons is \$45.00 to \$49.99, the applicant receives 9 points.~~

~~(III) If the cost per 5000 gallons is \$40.00 to \$44.99, the applicant receives 8 points.~~

~~(IV) If the cost per 5000 gallons is \$35.00 to \$39.99, the applicant receives 7 points.~~

~~(V) If the cost per 5000 gallons is \$30.00 to \$34.99, the applicant receives 6 points.~~

~~(VI) If the cost per 5000 gallons is \$25.00 to \$29.99, the applicant receives 5 points.~~

~~(VII) If the cost per 5000 gallons is \$23.00 to \$24.99, the applicant receives 4 points.~~

~~(VIII) If the cost per 5000 gallons is \$21.00 to \$22.99, the applicant receives 3 points.~~

~~(IX) If the cost per 5000 gallons is \$19.00 to \$20.99, the applicant receives 2 points.~~

~~(X) If the cost per 5000 gallons is \$18.00 to \$18.99, the applicant receives 1 point.~~

~~(XI) If the cost per 5000 gallons is less than \$18.00, the applicant receives 0 points.~~

~~(ii) For systems providing both water and sewer services, points are figured according to the same scale set forth in Section 50-7-5(b)(2)(B)(ii)~~ For systems providing water and sewer services;

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- (I) If the cost per 5000 gallons is \$56.00 or greater, the applicant receives 10 points.
  - (II) If the cost per 5000 gallons is \$53.00 to \$55.99, the applicant receives 9 points.
  - (III) If the cost per 5000 gallons is \$49.00 to \$52.99, the applicant receives 8 points.
  - (IV) If the cost per 5000 gallons is \$45.00 to \$48.99, the applicant receives 7 points.
  - (V) If the cost per 5000 gallons is \$41.00 o \$44.99, the applicant receives 6 points.
  - (VI) If the cost per 5000 gallons is \$37.00 to \$40.99, the applicant receives 5 points.
  - (VII) If the cost per 5000 gallons is \$34.00 to \$36.99, the applicant receives 4 points.
  - (VIII) If the cost per 5000 gallos is \$32.00 to \$33.99, the applicant receives 3 points.
  - (IX) If the cost per 5000 gallons is \$31.00 to \$31.99, the applicant receives 2 points.
  - (X) If the cost per 5000 gallons is \$30.00 to \$30.99, the applicant receives 1 point.
  - (XI) If the cost per 5000 gallons is less than \$30.00, the applicant receives 0 points.
- (iii) For systems providing sewer service only; ~~points are figured according to the same scale set forth in Section 50-7-5(b)(2)(B)(iii):~~

- (I) If he cost per connection per month is \$34.00 or greater, the applicant receives 10 points.
- (II) If the cost of connection per month is \$32.00 to \$33.99, the applicant receives 9 points.
- (III) If the cost of the connection per month is \$30.00 to \$31.99, the applicant receives 8 points.
- (IV) If the cost of connection per month is \$28.00 to \$29.99, the applicant receives 7 points.
- (V) If the cost of connection per month is \$26.00 to \$27.99, the applicant receives 6 points.
- (VI) If the cost of connection per month is \$24.00 to \$25.99, the applicant receives 5 points.
- (VII) If the cost per connection per month is \$22.00 to \$23.99, the applicant receives 4 points.
- (VIII) If the cost per connection per month is \$20.00 to \$21.99, the applicant receives 3 points.
- (IX) If the cost per connection per month is \$18.00 to \$19.99, the applicant receives 2 points.
- (X) If the cost per connection per month is \$16.00 to \$17.99, the applicant receives 1 point.
- (XI) If the cost per connection per month is less than \$16.00, the applicant receives 0 points.

(iv) The Board will deduct 3 points from the total of the Water and Sewer Rate Structure ranking for any system which charges a flat water rate or sewer rate (unmetered) without regard to the amount of water or sewer used, and 2 points for a decreasing block rate which lowers the cost per 1000 gallons for customers using larger amounts of water. No points will be added or subtracted for systems using a fixed rate per 1,000 gallons ~~rate~~ above the minimum. Two points will be added for systems using an increasing block rate. Entities who dedicate sales tax for water and/or sewer improvements will be awarded 1 additional point.

Under this category the maximum number of points is 13 and the minimum is -3 points.

**(C) Indebtedness per customer (I).** The indebtedness per customer ranking is calculated by taking the applicant's monthly requirements for debt service on debt incurred for water and/or sewer system purposes and dividing it by the number of customers served. When the applicant is a provider of wholesale water to other systems, the number of customers served is the sum total of the customers served by the systems to whom they sell water.

- ~~the applicant shall be given~~ the applicant receives 10 points.
- ~~the applicant shall be given~~ the applicant receives 9 points
- ~~the applicant shall be given~~ the applicant receives 8 points.
- ~~the applicant shall be given~~ the applicant receives 7 points.



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- (v) If the indebtedness per customer is \$13.00 to \$14.49, the applicant ~~shall be given~~receives 6 points.
- (vi) If the indebtedness per customer is \$11.50 to \$12.99, the applicant ~~shall be given~~receives 5 points.
- (vii) If the indebtedness per customer is \$10.00 to \$11.49, the applicant ~~shall be given~~receives 4 points.
- (vii) If the indebtedness per customer is \$8.50 to \$9.99, the applicant ~~shall be given~~receives 3 points.
- (ix) If the indebtedness per customer is \$7.00 to \$8.49, the applicant ~~shall be given~~receives 2 points.
- (x) If the indebtedness per customer is \$5.50 to \$6.99, the applicant ~~shall be given~~receives 1 point.
- (xi) If the indebtedness per customer is less than \$5.50, the applicant ~~shall be given~~receives 0 points.

(D) **Median household income (MHI).** The median household income is calculated according to the most current United States Decennial Census or American Community Survey data available.

(i) The county median figure for median household income will be used in cases where data for the applicant's service area is not available.

(ii) Points for this MHI criterion are awarded according to the ~~scale set forth in Section 50-7-5(b)(2)(E)(ii)~~decennial census or American Community Survey data available. Points are awarded as follows:

- (I) If the median household income is less than \$17,000, the applicant receives 10 points.
- (II) If the median household income is \$17,000 to \$20,999, the applicant receives 9 points.
- (III) If the median household income is \$21,000 to \$23,999, the applicant receives 8 points.
- (IV) If the median household income is \$24,000 to \$28,999, the applicant receives 7 points.
- (V) If the median household income is \$29,000 to \$31,999, the applicant receives 6 points.
- (VI) If the median household income is \$32,000 to \$36,999, the applicant receives 5 points.
- (VII) If the median household income is \$37,000 to \$39,999, the applicant receives 4 points.
- (VIII) If the median household income is \$40,000 to \$44,999, the applicant receives 3 points.
- (IX) If the median household income is \$45,000 to \$47,999, the applicant receives 2 points.
- (X) If the median household income if \$48,000 to \$51,999, the applicant receives 1 point.
- (XI) If the median household income is \$52,000 or greater, the applicant receives 0 points.

(E) **Ability to finance project (FP).**

(i) The maximum points possible under this criterion for the ability of the applicant to finance the project without assistance from the state is 12.

(ii) The FP ranking gives a standardized account of the amount the existing water/sewer rates would have to be raised in order for the applicant to finance the project through a loan. A standard interest rate and term of 5% for 25 years is assumed. The cost per customer per month is calculated using the following formula:  $FP = AR (0.0710)/(12)(C)$ , Where:

- (I) FP = Estimate of the amount monthly water/sewer rates would have to be raised to finance the amount of grant requested for the project.
- (II) AR = Amount of grant requested.
- (III) 0.0710 = Annual rate factor for a 25 year loan at 5%.
- (IV) 12 = Number of months per year.
- (V) C = Number of customers.

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(iii) In cases where the applicant's current revenues exceed expenses by a large margin, the Board will appropriately adjust the (AR) figure to accurately represent the applicant's ability to finance the project.

(iv) Points in the FP ranking, based upon the cost per customer per month calculated as set forth in (ii) of this subparagraph, are awarded as follows:

(I) If the FPability to finance the project is \$10.00 or greater, the applicant ~~shall be given~~receives 12 points.

(II) If the FPability to finance the project is \$8.00 to \$9.99, the applicant ~~shall be given~~receives 11 points.

(III) If the FPability to finance the project is \$6.00 to \$7.99, the applicant ~~shall be given~~receives 10 points.

(IV) If the FPability to finance the project is \$5.00 to \$5.99, the applicant ~~shall be given~~receives 9 points.

(V) If the FPability to finance the project is \$4.00 to \$4.99, the applicant ~~shall be given~~receives 8 points.

(VI) If the FPability to finance the project is \$3.00 to \$3.99, the applicant ~~shall be given~~receives 7 points.

(VII) If the FPability to finance the project is \$2.00 to \$2.99, the applicant ~~shall be given~~receives 6 points.

(VIII) If the FPability to finance the project is \$1.75 to \$1.99, the applicant ~~shall be given~~receives 5 points.

(IX) If the FPability to finance the project is \$1.50 to \$1.74, the applicant ~~shall be given~~receives 4 points.

(X) If the FPability to finance the project is \$1.25 to \$1.49, the applicant ~~shall be given~~receives 3 points.

(XI) If the FPability to finance the project is \$1.00 to \$1.24, the applicant ~~shall be given~~receives 2 points.

(XII) If the FPability to finance the project is \$0.75 to \$0.99, the applicant ~~shall be given~~receives 1 point.

(XIII) If the FPability to finance the project is less than \$0.75, the applicant ~~shall be given~~receives 0 points.

(F) **Need (N).** An applicant who is subject to an enforcement order issued by a governmental agency with environmental jurisdiction ~~shall be given~~receives 5 priority points for a proposed project which will remedy the violation out of which the order arose if the order specifies a project construction start date which is on or before June 30 of the Board's current fiscal year for funding REAP grants.

(G) **Amount of grant requested (AR).** Points under this category for amount of grant requested are determined as follows:

(i) If the ARgrant amount requested is \$140,001 to \$150,000, the applicant ~~shall be given~~receives -5 points.

(ii) If the ARgrant amount requested is \$130,001 to \$140,000, the applicant ~~shall be given~~receives -4 points.

(iii) If the ARgrant amount requested is \$120,001 to \$130,000, the applicant ~~shall be given~~receives -3 points.

(iv) If the ARgrant amount requested is \$110,001 to \$120,000, the applicant ~~shall be given~~receives -2 points.

(v) If the ARgrant amount requested is \$100,001 to \$110,000, the applicant ~~shall be given~~receives -1 point.

(vi) If the ARgrant amount requested is \$100,000, the applicant ~~shall be given~~receives 0 points.

(vii) If the ARgrant amount requested is \$80,000 to \$99,999, the applicant ~~shall be given~~receives 1 point.

(viii) If the ARgrant amount requested is \$60,000 to \$79,999, the applicant ~~shall be given~~receives 2 points.

(ix) If the ARgrant amount requested is \$40,000 to \$59,999, the applicant ~~shall be given~~receives 3 points.

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(x) If the ~~AR~~ grant amount requested is \$20,000 to \$39,999, the applicant ~~shall be given~~ receives 5 points.

(xi) Any portion of ~~an~~ AR grant amount requested that is more than \$150,000 shall be denied.

(H) **Project benefit to other systems (BP).** If the applicant's project will benefit other adjacent systems as well as applicant's or result in or lead to consolidation of systems, an additional five (5) priority points will be included in the total of priority points assigned to the application.

(I) **Previous grant assistance (PG).** No qualified entity shall receive more than \$150,000 in REAP grant assistance in any twelve (12) month period. For purposes of this subparagraph a political subdivision and all its public trusts and similar subordinate entities together shall be treated as one and the same qualified entity; provided, rural water or sewer districts shall not be construed to be subordinate entities of counties unless the effect would be to make multiple grants to substantially the same entity and/or service area. If a qualified entity has received one (1) or more REAP grants from the Board in the past, points shall be deducted from the application according to all of the following provisions that apply, provided points shall not be deducted from any such REAP grant which was funded 10 or more years prior to the date of Board action on the pending application, and has been subject to Board audit:

(i) If the qualified entity has received one (1) REAP grant in the preceding twelve (12) month period, the application ~~will be given~~ receives -8 points.

(ii) If the qualified entity has received more than one (1) REAP grant in the preceding twelve (12) month period, the application receives -10 points for each REAP grant received.

(iii) If the qualified entity has received one (1) REAP grant more than twelve (12) months in the past, the application ~~will be given~~ receives -5 points.

(iv) If the qualified entity has received two (2) REAP grants more than twelve (12) months in the past, the application receives -8 points.

(v) If the qualified entity has received three (3) REAP grants more than twelve (12) months in the past, the application ~~will be given~~ receives -10 points.

(vi) If the qualified entity has received four (4) REAP grants more than twelve (12) months in the past, application ~~will be given~~ receives -12 points.

(vii) If the qualified entity has received five (5) or more REAP grants more than twelve (12) months in the past, the application ~~will be given~~ receives -14 points.

(J) **Sustainability (S).** Points will be awarded for an applicant's sustainability and long range planning as follows:

(i) Have and have implemented a Fiscal Sustainability Plan that meets the requirements of the Board Staff ~~shall be awarded~~ the applicant receives 10 points

(ii) Have but have not implemented a Fiscal Sustainability Plan that meets the requirements of the Board Staff ~~shall be awarded~~ the applicant receives 6 points

(iii) Applicant is willing to develop and implement a Fiscal Sustainability Plan prior to funding that meets the requirements of the Board Staff ~~shall be awarded~~ receives 3 points.

(K) **Workshop attended (WA).** 5 points will be awarded to any applicant who attends, or has a representative attend the pre-application workshop presented by Board staff. Attendance will be verified during the course of the training.

### (c) Priority formula for school districts and counties.

(1) School districts created under Article V of the School Code, 70 O.S. 1991, §5-101 et seq., and counties are political subdivisions of the State, and therefore are eligible for financial assistance under the Board's REAP grant program.

(2) In evaluating and prioritizing grant applications from school districts and counties, similar criteria to those applied to municipalities and rural water districts will be utilized.

(3) In developing a priority formula for school district and county applicants, the primary criteria are average daily membership (for schools only), fiscal capacity, need, amount requested, and previous grant assistance.

(4) The following formula has been devised to rank REAP grant applications by counties and school districts:  $T = ADM + LT + BI + MHI + FP + N + AR + PG + WA$ , Where:

(A) T = Total of priority points

(B) ADM = Average daily membership

(C) Lt = Local tax levies

(D) BI = Bonded indebtedness

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(E) MHI = Median household income of population within the school district or area of county to be served

(F) FP = Applicant's ability to finance project

(G) N = Need

(H) AR = Amount of grant requested

(I) PG = Previous grant assistance

(J) WA = Workshop attended

(5) The criteria MHI, FP, N, AR and PG are the same as that set forth in (b) of this Section. The criteria ADM, LT and BI are explained as follows:

(A) **Average daily membership (ADM).** School districts with an average daily membership of less than 525 students ~~shall be given~~ will receive 55 priority points.

(B) **Local tax levies (LT).** Points awarded under this category for local tax levies are based on the total amount of mills levied, as follows:

- (i) If the mills are 95 to 100; the applicant ~~shall be given~~ receives 13 points.
- (ii) If the mills are 90 to 94.99, the applicant ~~shall be given~~ receives 11 points.
- (iii) If the mills are 85 to 89.99, the applicant ~~shall be given~~ receives 10 points.
- (iv) If the mills are 80 to 84.99, the applicant ~~shall be given~~ receives 8 points.
- (v) If the mills are 70 to 79.99, the applicant ~~shall be given~~ receives 6 points.
- (vi) If the mills are 60 to 69.99, the applicant ~~shall be given~~ receives 4 points.
- (vii) If the mills are 55 to 59.99, the applicant ~~shall be given~~ receives 2 points.
- (viii) If the mills are 50 to 54.99, the applicant ~~shall be given~~ receives 1 point.
- (ix) If the mills are 45 to 49.99, the applicant ~~shall be given~~ receives 0 points.
- (x) If the mills are 40 to 44.99, the applicant ~~shall be given~~ receives -1 point.
- (xi) If the mills are less than 40, the applicant ~~shall be given~~ receives -2 points.

(C) **Bonded indebtedness (BI).**

(i) Priority points for Bonded Indebtedness are as follows:

- (I) If the percentage is 95% to 100%, the applicant ~~shall be given~~ receives 10 points.
- (II) If the percentage is 90% to 94.99%, the applicant ~~shall be given~~ receives 8 points.
- (III) If the percentage is 80% to 89.99%, the applicant ~~shall be given~~ receives 7 points.
- (IV) If the percentage is 75% to 79.99%, the applicant ~~shall be given~~ receives 6 points.
- (V) If the percentage is 70% to 74.99%, the applicant ~~shall be given~~ receives 5 points.
- (VI) If the percentage is 65% to 69.99%, the applicant ~~shall be given~~ receives 4 points.
- (VII) If the percentage is 60% to 64.99%, the applicant ~~shall be given~~ receives 3 points.
- (VIII) If the percentage is 55% to 59.99%, the applicant ~~shall be given~~ receives 2 points.
- (IX) If the percentage is 50% to 54.99%, the applicant ~~shall be given~~ receives 1 point.
- (X) If the percentage is 45% to 49.99%, the applicant ~~shall be given~~ receives 0 points.
- (XI) If the percentage is 40% to 44.99%, the application ~~shall be given~~ receives -1 point.
- (XII) If the percentage is 30% to 39.99%, the applicant ~~shall be given~~ receives -2 points.
- (XIII) If the percentage is less than 30%, the applicant ~~shall be given~~ receives -3 points.

(ii) A deduction of one (1) point from the indebtedness ranking total will be made for applicants with 75% of existing debts financed at rates of 5% or less, and one (1) point will be added if 75% of existing debts are financed at rates greater than 10%.

## SUBCHAPTER 9. CLEAN WATER STATE REVOLVING FUND REGULATIONS

### PART 3. GENERAL PROGRAM REQUIREMENTS

## 785:50-9-23. Clean Water SRF Project Priority System [AMENDED]

(a) **Preparation.** The Board shall prepare and maintain a current Clean Water SRF Project Priority Listing of potential eligible projects in the order of priority.

(b) **Projects included.**

(1) **Fundable portion.** The fundable portion includes projects scheduled for financial assistance during the current fiscal year, and which are within the limits of currently available funds.

(2) **Planning portion.** The planning portion includes that portion of the priority list containing all of those projects outside the fundable portion of the list, and which are anticipated to receive financial assistance in future fiscal years. The planning portion may also include contingency projects which are scheduled for assistance during the current fiscal year, but for which adequate funds are not available to provide financial assistance. Contingency projects may receive assistance due to bypass provisions or due to additional funds becoming available.

(c) **Public participation.** Before the beginning of each fiscal year, the Board shall ensure that adequate public participation has taken place. A public meeting will be held to discuss the Clean Water SRF Project Priority List and any revisions that were made to the Clean Water SRF Project Priority System. The notice of public meeting shall precede the public meeting by 30 days and shall be published in a statewide publication. At this time, the Board shall circulate information about the Project Priority List including a description of each proposed project. Attendees of the public meeting will be allowed to express their views concerning the list and system.

(d) **Clean Water SRF Project Priority List.** A Clean Water SRF Project Priority List shall become effective and supersede all previous lists upon the beginning of the fiscal year for which it is designated. A Clean Water SRF Project Priority List, as updated during the funding year, shall remain effective until such time as it is superseded by a new list.

(e) **CWSRF Integrated Priority Rating System.** The Board will utilize an integrated priority ranking system to evaluate and rank proposed treatment works projects, ~~including treatment works, Brownfield activities, and stormwater activities;~~ based on the relative impact of the project in achieving the water quality objectives of the Clean Water Act. ~~This system consists of criteria integrating public health protection and Oklahoma's Water Quality Standards beneficial use maintenance and protection goals and Anti-degradation policy, including project type, water quality restoration, water quality protection, programmatic priorities, and readiness to proceed.~~

(1) **Project Type Factor.** The Project Type Factor provides a maximum of seventy (70) points for proposed water quality projects based on the following:

(A) Treatment works or water quality projects designed to effectively eliminate or reduce a documented source of human health threat and/or discharge permit limit violation within a watershed of a waterbody being utilized as a public water supply shall receive seventy (70) points.

(B) Treatment works or water quality projects designed to effectively eliminate or reduce a documented source of human health threat and/or discharge permit limit violation shall receive sixty (60) points.

(C) Treatment works or water quality projects designed to sustain compliance with or provide a degree of treatment beyond permit limits; increase capacity, reliability, or efficiency; reclaim/reuse wastewater; reduce a documented water quality threat, or otherwise maintain beneficial uses shall receive thirty (30) points.

(D) All other eligible treatment works or pollution control projects shall receive twenty (20) points.

(2)(1) **Water Quality Restoration Factor**~~Impacts.~~ The Water Quality Restoration Factor provides a maximum of twenty (20) points for proposed projects located on waterbodies which are not meeting the beneficial uses assigned to them in Oklahoma's Water Quality Standards and which are listed on Oklahoma's 303(d) list as threatened or impaired. The water quality restoration factor will be subject to change whenever the 303(d) List is revised. Water quality projects meeting the following criteria shall receive additional priority points: Points will be awarded if the project is protecting or improving a waterbody.

(A) A project located in a watershed listed as a "NPS Priority Watershed" in Oklahoma's Nonpoint Source Management Program shall receive an additional ten (10) points.

(B) A project listed on Oklahoma's 303(d) list of threatened or impaired stream segments shall receive an additional five (5) points.

(C) A project that implements the recommendations of a conservation plan, site-specific water quality remediation plan, TMDL, storm water management program, water audit or modified 208 water quality management plan, which has been approved by an agency of competent jurisdiction, in a sub-watershed where discharge or runoff from nonpoint sources are identified as causing, or significantly contributing to water quality degradation shall receive an additional five (5) points.

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**(3) Water Quality Protection Factor.** The Water Quality Protection Factor provides a maximum of ten (10) priority points to proposed water quality projects that provide maintenance of beneficial uses and protection for water bodies afforded special protection under OWQS. Projects shall receive ten (10) points for satisfying the following criteria:

(A) A water quality project located within the watershed of a stream segment or in a groundwater basin underlying a watershed of a stream segment (known as "Special Source" groundwater):

(i) listed in OWQS Appendix A. as an Outstanding Resources Water, High Quality Water, Sensitive Water Supply, Scenic River, Culturally Significant Water or Nutrient Limited Watershed;

(ii) listed in OWQS Appendix B. as "Areas with Waters of Recreational and/or Ecological Significance"; or

(iii) located in a delineated "source water protection area"; or

(B) A water quality project located in an area overlying a groundwater classified in OWQS with a vulnerability level of Very High, High, Moderate, or Nutrient Vulnerable.

**(4)(2) Programmatic Priority Factor.** The Programmatic Priority Factor provides a maximum of one hundred (100) priority bonus points to projects that address specific programmatic priorities set forth by the Environmental Protection Agency or Board and detailed in the Annual Intended Use Plan. Points will be awarded for affordability criteria, conservation and enforcement/compliance as defined in the states current IUP.

**(5)(3) Readiness to Proceed Factor.** The Readiness to Proceed Factor provides a maximum of four hundred (400) points. Points will be awarded depending on the documents submitted showing the relative "readiness to proceed" with a loan commitment among proposed projects.

(A) A project requesting to be considered for funding within the five-year planning period shall receive one hundred (100) points:

(B) In addition to a request for funding, a project for which preliminary planning documents have been submitted shall receive two hundred (200) points. Preliminary planning documents include a preliminary engineering report and a preliminary environmental information document, and must be submitted to the Board and to the Department or the Conservation Commission as appropriate:

(C) In addition to a request for funding and preliminary planning documents, a project for which a completed loan application has been submitted shall receive three hundred (300) points:

(D) In addition to a request for funding, preliminary planning documents, and a completed loan application, a project for which the appropriate technical plans and specifications necessary to implement the project have been approved by the Department or the Conservation Commission, as appropriate, shall receive four hundred (400) points:

## **(f) Management of the Project Priority List.**

(1) **Tie breaking procedure.** A tie breaking procedure shall be utilized when two or more projects have equal points under the Project Priority System and are in competition for funds. Projects will be ranked according to existing population. According to the most recent federal decennial census or American Community Survey data available, the project with the greatest existing population will receive the higher ranking.

(2) **Project bypass.** A project on the fundable portion of the list may be bypassed if it is determined that the project will not be ready to proceed during the funding year. This determination will be made on projects that are unable to meet the schedule established on the priority list. The applicant whose project is affected shall be given written notices that the project is to be bypassed. Projects that have been bypassed may be reinstated on the funded portion of the list if sufficient funds are available, and the project completes the necessary tasks to proceed. Funds which become available due to the utilization of these bypass procedures will be treated in the same manner as additional allotments.

(3) **Project Priority List update.** The priority list is continually reviewed and changes (i.e., loan award dates, estimated construction assistance amounts, project bypass, addition of new projects, etc.) may occur as necessary.

(4) **Additional allotments.** After defining the fundable portion of the Clean Water SRF Project Priority List, the Board may determine that it is necessary or desirable to obligate additional funds that are available and the list may be extended to include the next highest ranked project or projects on the planning portion of the list. Any sum made available to a state by reallocation or deobligation shall be treated in the same manner as the most recent allotment.

(5) **Project removal.** The Board may remove a project from the Clean Water SRF Project Priority List when the project has been funded, the project is found to be ineligible, it is indicated that the applicant does not intend to continue in the Clean Water State Revolving Loan Program, or the Board has determined that the applicant does not have financial, legal, or managerial capability to construct the project.

(6) **Amount of financial assistance.** The amount of financial assistance shall be the sum of the total eligible costs related to construction. The amount is contingent upon the availability of funds for this purpose. During each funding year, loans totaling twenty-five (25) percent of the funds available from the capitalization grant and state match for that year shall be provided to those eligible small municipalities with a population of 10,000 or less. However, if the state has not met the federal requirement of making binding commitments in an amount equal to one hundred and twenty (120) percent of each quarterly grant payment within one year of receipt of each quarterly payment, other eligible applicants may apply for a loan or an increase to an existing loan to utilize the small community set aside, if such actions will permit the state to comply with the federal binding commitment requirement.

(7) **Addition of new projects to the Clean Water SRF Project Priority List.**

(A) **General.** Prior to the placement of any new projects on the Clean Water SRF Project Priority List, the applicant must submit a request for such placement to the Board. The Programmatic Application must specify that the applicant intends to apply for financial assistance from the Clean Water SRF. The Board will evaluate the Programmatic Application. If it is indicated that a viable project could result which would be in conformance with Clean Water SRF requirements, the potential project will be added to the Clean Water SRF Priority List.

(B) **Brownfield Activities.** Requests received for Brownfield activity projects must satisfy the following requirements before they will be placed on the Clean Water SRF fundable portion of the project priority list:

- (i) Submit a certification from the Department that the project is a Brownfield project;
- (ii) Submit a certification from the Department that urban runoff from the project site potentially impacts water quality; and
- (iii) Submit project documents which determine the water quality benefits of the proposed project.

(C) **Nonpoint source and Watershed Management activities.** Requests received for nonpoint source and watershed management projects must satisfy the requirements of 82 O.S. §1085.58(G), as amended, before they will be placed on the Clean Water SRF fundable portion of the project priority list.

(8) **Categories of need.** All projects receiving financial assistance must fit into at least one of the categories of need listed in 785:50-9-21(a).

(A) A project may include all eligible categories of need.

(B) If a point source project consists of more than one category including a nonpoint source project, its project ranking calculation will be based on that category which will result in the greatest priority points.

(9) **Change of scope.** A change of scope, such as the addition of new construction items, will not be eligible after loan closing unless:

- (A) The change of scope is necessary to result in an operable treatment works due to an oversight and not to replace faulty construction or equipment already funded, or
- (B) The change of scope is necessary due to changes in Federal or State requirements.

### **SUBCHAPTER 20. SAFEGUARDING TOMORROW REVOLVING LOAN PROGRAM REGULATIONS [NEW]**

#### **785:50-20-1. General program description and procedures [NEW]**

##### **(a) Safeguarding Tomorrow Revolving Loan Program Description.**

(1) Pursuant to 82 O.S., §§1085.91 through 1085.96, an additional financial assistance program was created to be administered by the Board and Oklahoma Department of Emergency Management (Department) to implement provisions of the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act.

(2) Under Oklahoma's program, the Department is to generally carry out the role of prioritizing hazard mitigation projects and conducting technical analysis and review of eligible entities and hazard mitigation projects. The Board is to generally carry out the role of conducting financial evaluations and analyses of eligible entities, reviewing documents for loan closings, and managing and administering monies in the Hazard Mitigation Financial Assistance Program Fund to make monies available for financial assistance.

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(3) The Safeguarding Tomorrow Revolving Loan Program shall be administered as a separate program from the Board's previously existing Financial Assistance Programs. The rules in this Subchapter are intended to recognize the distinction between the programs where necessary.

(b) **General procedures.** The general procedures to be followed in the hazard mitigation project review and financial assistance application process for financial review under the program authorized in 82 O.S., §1085.91 through 1085.96 shall be as follows:

(1) The applicant shall follow the procedures, rules and regulations administered by the Oklahoma Department of Emergency Management, which shall include placement on the priority list of a eligible entities projects established by the Department and the filing of an application with the Board for hazard mitigation project review and financial assistance.

(2) The Board shall make an initial determination of whether an entity meets the legal and managerial criteria to receive funding.

(3) The Board shall prepare an initial financial review of the entity based on documents provided to the Board and proposed loan amount and interest rate for which the entity qualifies. Consultations among Board staff, the Department, and the applicant's representatives may be held where deemed appropriate and beneficial.

(4) The Board staff shall consider the initial financial review and application. It shall then forward its preliminary recommendation for approval or rejection of the loan application to the applicant, based on applicable criteria set forth in 785:50-20-2.

(A) If the recommendation is for rejection, the Board shall provide a written recommendation including the reasons for rejection. The entity may then be allowed to modify or supplement any documents in order to comply with the Board requirements and resubmit the same to the Board.

(B) If the Board recommends approval, it shall notify the applicant and the Department.

(5) After initial financial review approval by the Board, the Board shall follow its established procedures and rules to conduct an in-depth financial review and evaluation of the hazard mitigation project to determine whether it complies with applicable state and federal laws.

(6) After a secondary application and necessary documents are submitted to the Board, the matter will be reviewed by staff who may request additional information from the applicant or the Department and have further conferences as deemed necessary and beneficial to complete the financial review. The matter will then be placed on the Board's agenda for consideration. The Board may approve the application, reject the application, or request additional information.

(7) If the application and loan receives final approval, the Board, Department and applicant will coordinate the setting of the date, time and place for the closing of the loan.

(8) At the loan closing, the Department shall have authority to grant approval for disbursement of loan proceeds and to present the same.

(9) The Board shall administer the loans until paid by the recipient and a final accounting is completed.

### **785:50-20-2. General approval standards and criteria [NEW]**

(a) In the review and consideration for financial assistance under the Safeguarding Tomorrow Revolving Loan Program, the Board shall give consideration to the following general and non-exclusive criteria for application approval:

(1) **Compliance with laws.** The application and proposed hazard mitigation project must be found to be in compliance with all applicable and relevant federal, state and local laws and regulations, and applicant must possess all necessary and incidental legal rights and privileges necessary for project commencement and operation.

(2) **Eligibility.** The applicant and proposed hazard mitigation project must be determined to be eligible for the assistance sought.



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(3) **Economic feasibility.** The Board shall consider the overall apparent economic viability and feasibility of the hazard mitigation project as a whole including all revenues from the applicant and the adequacy and reliability of estimated revenues and other repayment sources necessary for loan repayment when indicated.

(4) **Availability of funds.** The Board shall take into consideration the current and anticipated availability of assistance funds needed to provide the financial assistance requested.

(b) The Board may deny an application for a loan from the Safeguarding Tomorrow Revolving Loan Program for any of the following reasons:

(1) The applicant or the entity which stands to receive the benefit of the financial assistance is not an eligible entity.

(2) The applicant does not have a demonstrated history of sound management.

(3) The applicant's financial condition is not sound enough to assure the Board that the loan would be satisfactorily repaid (including but not limited to circumstances such as inability to meet debt service, inability to meet any applicable rate covenant or additional indebtedness requirements, a substantial increase in operation and maintenance costs due to the proposed project, substantial revenue collection problems, substantial negative financial trends, a default or record of late payment(s) on previous indebtedness, etc.).

(4) The economic conditions pertinent for the applicant show negative trends (including but not limited to conditions such as substantial declines in sales tax revenues, population, per capita income, building permits, or water and/or sewer connections; a substantial increase in unemployment; or detrimental changes in the bases of ten largest customers or ten largest taxpayers).

(5) Any other reason based upon applicable law or the Board's judgment and discretion.

### **785:50-20-3. Terms and conditions [NEW]**

#### **(a) General limitations and conditions.**

(1) Under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act and 82 O.S. Section 1085.93, the Board is authorized to use the Safeguarding Tomorrow Revolving Loan Account for the following purposes:

(A) To make a loan to an eligible entity if:

(i) The hazard mitigation project and planning documents have been approved by the Department,

(ii) The loan is made at or below market interest rates, including interest-free loans, at terms consistent with the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act,

(iii) Principal and interest payments will begin not later than one year after completion of any hazard mitigation project, which completion date shall be determined by the Department, and all loans will be fully amortized consistent with the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act,

(iv) The Safeguarding Tomorrow Revolving Loan Fund will be credited with all payments of principal and interest on all loans,

(v) The applicant demonstrates to the satisfaction of the Board the financial, legal and managerial capability to assure sufficient revenues to pay debt service,

(vi) The recipient of the loan establishes a dedicated source of revenue or other repayment source for payment of debt service for the loan,

(vii) The recipient agrees to maintain financial records in accordance with governmental accounting standards, to conduct an annual audit of the financial records relating to the hazard mitigation project and to submit the audit report to the Board on a scheduled annual basis, and

(viii) The project is identified in the Department's current Intended Use Plan.

(B) As a source of revenue or security for the payment of principal of and interest on any investment certificate issued by the Board. The proceeds of the sale of such investment certificates shall be deposited in the Safeguarding Tomorrow Revolving Loan Fund in compliance with applicable bond resolutions or indentures authorizing the sale;

(C) To earn interest on accounts established under the Safeguarding Tomorrow Revolving Loan Fund;

(D) To administer the Safeguarding Tomorrow Revolving Loan Fund pursuant to the provisions of 82 O.S. §§1085.91 et seq.; and

(E) For such other purposes or in such other manner, as is determined by the Board to be an appropriate use of the Safeguarding Tomorrow Revolving Loan Fund and which has been specifically approved by the Federal Emergency Management Agency pursuant to the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act.

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(2) Financial assistance shall not be made from the Safeguarding Tomorrow Revolving Loan Fund until the conditions in (1) of this subsection are met.

(b) Evidence of indebtedness. The financial assistance loans contemplated within this subchapter shall be provided by the Board for approved hazard mitigation projects pursuant to such notes, bonds, revenue bonds or other appropriate form of evidence of indebtedness from the applicant as the Board may require.

(c) Criteria for determining interest rates.

(1) The interest rates on loans to be made from the Safeguarding Tomorrow Revolving Loan Fund shall be in accordance with federal requirements or at or below market rates for similar indebtedness by eligible entities and may vary among classes or categories of eligible entities based on a joint agreement entered into by and between the Board and Department.

(2) Such criteria of the joint agreement may incorporate applicable United States Federal Emergency Management Agency or successor agency guidelines for financial assistance.

(d) Loan repayments. Payment on loans shall be made to the Board as provided in the loan documents.

## **785:50-20-4. Disbursement of funds and conditions for disbursement [NEW]**

**Disbursement of funds and conditions for disbursement.** After an application for financial assistance under the program authorized by Sections 1085.91 through 96 of Title 82 of the Oklahoma Statutes has been approved by the Board, the following conditions and requirements shall be met prior to the releases and disbursement of any financial assistance funds:

(1) Final approval of disbursement of financial assistance proceeds is granted or waived by the Department.

(2) Applicant and Board, and all other necessary parties, shall have executed all necessary and incidental instruments and documents for loan closing, including but not limited to all mortgages, notes, financing statements and pledges of project security and revenues where appropriate.

(3) Recipient sends disbursement requests to Department, Department approves disbursement requests and forwards same to Board.

*[OAR Docket #25-520; filed 6-6-25]*

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## **TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 1. OPERATIONS AND PROCEDURES**

*[OAR Docket #25-449]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 13. Hunting and Fishing License Dealers

800:1-13-11. Wildlife Land Stamp, also known as Fishing and Hunting Legacy Permit [REVOKED]

### **AUTHORITY:**

Department of Wildlife Conservation Commission; Title 29 O.S., Section 3-103, 5-401; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma, and in response to SB941.

### **SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

September 5, 2024

### **COMMENT PERIOD:**

October 1, 2024 through November 8, 2024

### **PUBLIC HEARING:**

November 7, 2024

### **ADOPTION:**

December 3, 2024

### **SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

December 3, 2024

### **LEGISLATIVE APPROVAL:**

Approved May 28, 2025, by HJR 1033

### **LEGISLATIVE DISAPPROVAL:**

N/A

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**APPROVED BY GOVERNORS DECLARATION:**

N/A

**FINAL ADOPTION:**

May 28, 2025

**EFFECTIVE:**

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**SUPERSEDED EMERGENCY ACTIONS:****SUPERSEDED RULES:**

N/A

**GUBERNATORIAL APPROVAL:**

N/A

**REGISTER PUBLICATION:**

N/A

**DOCKET NUMBER:**

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**INCORPORATIONS BY REFERENCE:****INCORPORATED STANDARDS:**

N/A

**INCORPORATING RULES:**

N/A

**AVAILABILITY:**

N/A

**GIST/ANALYSIS:**

Deletes the section on Wildlife Land Stamp as it is no longer needed.

**CONTACT PERSON:**

Nels Rodefeld, 405-522-6279; Tammy St. Yves, 405-522-6279

**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 JULY 11, 2025:**

## SUBCHAPTER 13. HUNTING AND FISHING LICENSE DEALERS

**800:1-13-11. Wildlife Land Stamp, also known as Fishing and Hunting Legacy Permit [REVOKED]**

(a) The form and design applicable to annual hunting and fishing licenses shall apply to the Fishing and Hunting Legacy Permit. The manner of issuance applicable to all annual hunting and fishing licenses which includes the universal license form, the Department's Internet Point of Sale or Online Sales System, or phone sales will apply.

(b) The form and design of the lifetime Fishing and Hunting Legacy Permit or Wildlife Land Stamp shall be incorporated into the current design of the appropriate Oklahoma Lifetime License. The issuance shall be consistent with all current lifetime licenses. Each lifetime license sold on or after September 1, 2004 will include the appropriate Wildlife Land Stamp fee in the price of the license.

*[OAR Docket #25-449; filed 6-2-25]*

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## TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 25. WILDLIFE RULES

*[OAR Docket #25-448]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 5. Migratory Bird Hunting Season

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Part 1. DUCKS, MERGANSERS, COOTS, GEESE, MOURNING, WHITE-WINGED AND EURASIAN COLLARED DOVES, WOODCOCK, VIRGINIA AND SORA RAIL, COMMON MOORHEN, PURPLE GALLINULE, SNIPE AND SANDHILL

800:25-5-2.2. General provisions for migratory game birds [AMENDED]

Subchapter 7. General Hunting Seasons

Part 1. GENERAL PROVISIONS

800:25-7-3. General provisions [AMENDED]

Part 5. UPLAND GAME

800:25-7-19. Wild turkey - general provisions [AMENDED]

Part 15. FURBEARERS

800:25-7-60. General provisions for furbearers [AMENDED]

Subchapter 13. Commercial Hunt Areas

800:25-13-12. Five-Day Paper Hunting License [NEW]

## **AUTHORITY:**

Department of Wildlife Conservation Commission; Title 29 O.S., Section 3-103, 5-401, Article XXVI, Section 1 and 3 of the Constitution of Oklahoma, and in response to SB 941 and HB 3856

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N/A

## **APPROVED BY GOVERNORS DECLARATION:**

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July 11, 2025

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N/A

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N/A

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## **DOCKET NUMBER:**

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## **INCORPORATIONS BY REFERENCE:**

## **INCORPORATED STANDARDS:**

N/A

## **INCORPORATING RULES:**

N/A

## **AVAILABILITY:**

N/A

## **GIST/ANALYSIS:**

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These permanent rule changes are related to and a result of the passage of SB 941 and HB 3856. Deletes the section on Wildlife Land Stamp as it is no longer needed, modifies HIP requirements, add license requirements for youth hunters, adjust the license costs for turkey licenses, deletes special license requirements for furbearers, and allow the sales of five-day paper hunting licenses for winged upland game at licensed commercial hunt areas.

## 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 JULY 11, 2025:**

## SUBCHAPTER 5. MIGRATORY BIRD HUNTING SEASON

### PART 1. DUCKS, MERGANSERS, COOTS, GEESE, MOURNING, WHITE-WINGED AND EURASIAN COLLARED DOVES, WOODCOCK, VIRGINIA AND SORA RAIL, COMMON MOORHEN, PURPLE GALLINULE, SNIPE AND SANDHILL

#### 800:25-5-2.2. General provisions for migratory game birds [AMENDED]

The following provisions apply to the taking of migratory game birds:

- (1) **Hunting hours.** Unless otherwise provided, the hunting hours shall be one-half hour before official sunrise to official sunset.
- (2) **Legal means of taking.** The legal means of taking shall be shotgun (conventional or muzzleloading), bow and arrow or legal raptors and as otherwise provided. Shotguns must not be larger than 10 gauge. No rifles, pistols or shotgun slugs. Shotguns must be incapable of holding more than three (3) shells in the magazine and chamber combined. Specific limitations otherwise provided by law shall control over the general requirements of this section.
- (3) **Nontoxic shot requirements.** All waterfowl and coot hunting is restricted to use of federally approved nontoxic shot in all areas of the state.
- (4) **Hunting from boats.** No person may take migratory game birds from any motor-boat or sailboat unless the motor has been shut off and/or the sails furled and the boat has stopped.
- (5) **Baiting.** Migratory game birds may not be baited or taken on or over any baited areas.
- (6) **Retrieving responsibility.** All hunters are required to make a reasonable effort to retrieve any migratory game bird killed and include such birds in their daily bag limit.
- (7) **Hunting in two states.** A hunter who hunts in two states having separate daily bag limits, may not exceed the largest number of birds that can legally be taken in one of the states in which they take birds.
- (8) **Wildlife management areas.** All management areas are open to migratory game bird hunting during designated seasons unless otherwise closed to hunting during those seasons.
- (9) **National Migratory Bird Harvest Information Program requirements.** ~~Licensed~~ Those who are required to be licensed to hunt migratory bird hunters, including lifetime license holders who hunt migratory birds, will be required annually to obtain and complete a Migratory Bird Harvest Information Program (HIP) permit and have the permit in their possession while hunting migratory birds. HIP permit is required for all migratory bird and waterfowl hunters under age 64, including lifetime license holders. Youth under 18 not hunting waterfowl, but hunting other migratory birds, are exempt. Hunters under sixteen (16) years of age, senior citizens (age sixty-four (64) or older or those who turn sixty-four (64) during the calendar year in which they intend to hunt migratory birds) and landowners landowners hunting only on their own property are exempt from the requirements of the National Migratory Bird Harvest Information Program. HIP permits can be obtained at any hunting license dealer ~~as part of the Universal License form.~~ The effective dates that the HIP permits will be valid for any given migratory bird season will be from July 1 through June 30.

## SUBCHAPTER 7. GENERAL HUNTING SEASONS

### PART 1. GENERAL PROVISIONS

#### 800:25-7-3. General provisions [AMENDED]

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- (a) Any person hunting any wildlife in open areas during the youth deer gun, bear muzzleloader, deer muzzleloader, deer gun, holiday antlerless deer gun (in open zones), elk gun (in open counties) or September antelope gun (in open areas) seasons with a shotgun and rifled slug, or any rifle or handgun larger than a .22 caliber long rifle, must possess a valid bear, deer, elk, or antelope license, unless otherwise exempt. Any person hunting feral hogs in open areas during the deer gun, deer primitive, elk, bear or antelope season with a shotgun and rifled slug, or any rifle or handgun larger than a .22 caliber rimfire, must possess a filled or unfilled deer, elk, bear, or antelope license appropriate for that season unless otherwise exempt.
- (b) No person while in the field may possess or attempt to harvest any wildlife, except waterfowl and crane, with shotgun utilizing shot larger than #4 buckshot. Any person hunting any wildlife with an air powered arrow rifle during any open season when rifles are a legal means of take must possess a valid air powered arrow rifle permit.
- (c) Any person participating in primitive firearms season, deer gun seasons, elk season, antelope season and bear gun season must conspicuously wear both a head covering and an outer garment above the waistline, both totaling 500 square inches or more of clothing, both consisting of daylight fluorescent orange color totaling not less than 400 square inches [Title 29 O.S., Section 5-205, Part A]. All other hunters, except those hunting waterfowl, dove, crow or crane, or while hunting furbearing animals at night must wear either a head covering or upper garment of fluorescent orange clothing during the deer primitive firearms season, deer gun seasons, elk season, antelope season and bear primitive firearms season, or bear gun season in zones where these seasons are open.
- (d) For purposes of pheasant, turkey, deer, elk, bear and antelope regulations, 'final destination' shall be the hunter's residence or place of consumption.
- (e) No person may possess any game bird, animal or other wildlife, or portions thereof that have been taken by another person unless such game bird, animal or other wildlife, contain information giving the taker's name, customer identification number, date taken and the number and kind of game bird, animal or wildlife. In addition, information on deer, elk, antelope, bear and turkey must include the confirmation number as proof that the animal's harvest has been properly reported. The person's name and address receiving said wildlife must also appear on the written information.
- (f) No person shall concentrate, drive, molest, hunt, take, capture or kill; or attempt to take any wildlife by the aid of any fire or smoke whether man-made or natural.
- (g) No person may hunt, chase, capture, shoot at, wound or kill any moose or Rocky Mountain bighorn sheep, except as otherwise provided by statute or Commission rule.
- (h) Private landowner regulations regarding any items covered by these rules may be more restrictive, but not less restrictive than these rules.
- (i) Dogs may be used in taking all game species in these rules except bear, deer, elk, antelope and turkey. Exceptions to this rule would be the use of a leashed dog to track downed game after notification to the game warden of location and having no means of take on person while tracking.
- (j) Except as otherwise provided for by law or Commission rule, nothing shall prohibit the year-round pursuit of game, which may be lawfully hunted with the use of hunting dogs, for dog training or sport only. However, unless otherwise provided, no person in pursuit of game with hunting dogs outside of the regular harvest season shall have in their possession the means to harvest such game.
- (k) Harvest tagging of game - All persons taking a deer, elk, antelope, bear, or turkey must immediately secure their name, customer identification number, date and time of harvest to the carcass.
- (l) Harvest reporting of game - All deer, elk, antelope, bear, or turkey taken must be reported by the hunter to the Department within 24 hours of leaving the hunt area. Instructions for reporting of harvest will be provided in the Oklahoma Fishing and Hunting Regulations and on the Department's website. Once reported, a carcass tag or online confirmation number will be issued. This tag or confirmation number must remain with the carcass to its final destination or through processing and/or storage at a commercial processing or storage facility. Evidence of sex must remain naturally attached to the carcass until the harvest has been properly reported.
- (m) All resident and nonresident youth under 18 must have a youth super license to hunt deer, elk, pronghorn, bear, turkey, waterfowl, furbearers, and trapping. Youth hunters under the age of 18 hunting all other species not listed are exempt from the youth super license.

## PART 5. UPLAND GAME

### 800:25-7-19. Wild turkey - general provisions [AMENDED]

The following general provisions apply to the taking of turkey:

- (1) **Tom turkey description.** A tom turkey is any bearded turkey, regardless of sex.
- (2) **Hunting hours.** The hunting hours shall be one-half hour before sunrise to sunset.

- (3) **Baiting.** Turkeys may not be taken within 100 yards of any bait. "Bait" shall mean the placing, exposing, depositing, distributing or scattering of shelled, shucked or unshucked corn, wheat or other grain or other feed so as to constitute for such birds a lure, attraction or enticement to, on or over any area where hunters are attempting to take them. Nothing in this section shall prohibit the taking of wild turkey over standing crops, grain crops, properly shucked on the field where grown or grain found scattered solely as the result of normal agricultural operations.
- (4) **Roost shooting.** Roost shooting is prohibited.
- (5) **Decoys and recorded calls.** Hunting turkey with artificial decoys is permitted. Live decoys and recorded calls are prohibited.
- (6) **Evidence of Sex.** Beard or one foot must be naturally attached.
- (7) **Turkey License and Fee.** All persons hunting wild turkeys, unless otherwise exempt, must possess a turkey license. A separate turkey license is required for each bird hunted. Fee for turkey license will be ~~\$9.00 plus \$1.00 vendor fee~~, \$19.00 for residents and \$39.00 for non-residents, plus \$1.00 vendor fee for each license sold.

### PART 15. FURBEARERS

#### 800:25-7-60. General provisions for furbearers [AMENDED]

The following general provisions apply to the taking of furbearers:

- (1) **Sale of carcass.** The skinned carcass of any legal furbearer or predator may be sold, offered or displayed for sale or bartered at any time. The sale of scent glands from furbearers or predators is permitted.
- (2) **Bobcat and River Otter export tag.**
- (A) No bobcat or river otter pelt may be held in possession after 10 working days after the close of furbearer season by the taker or buyer, sold, purchased or bartered within Oklahoma, nor taken out of Oklahoma without having first affixed a permanent tag to the pelt. This tag shall serve as an export tag.
  - (B) The tag must be affixed by an authorized employee of the Oklahoma Department of Wildlife Conservation, a designated agent, or a private tagging station. Private tagging station may charge \$0.75 per tag fee.
  - (C) It is the responsibility of the possessor of the bobcat or river otter pelt, not the Department, to ensure that the pelt is legally tagged.
  - (D) No untagged bobcat or river otter harvested in another state may be possessed in Oklahoma.
- (3) **Possession of carcasses or hides.**
- (A) It shall be illegal to possess live animals, carcasses or raw furs of swift fox, ringtail, or spotted skunk, unless proven that each carcass or hide was taken legally outside of the State of Oklahoma.
  - (B) Proof of legality or origin for carcasses or green hides shall be a tag or other marking device attached to or imprinted on each and every hide in such a way that it cannot be removed intact. The tag or marking must be the official method used by the issuing agency. If any identification is not required by the issuing agency, a hunting or trapping license appropriate to the species taken is required as proof.
- (4) **Night hunting of coyotes.** It shall be unlawful to hunt, take or attempt to take coyotes within the period of dark to daylight with the aid of any artificial light and/or any sight dog. Persons hunting at night must first obtain permission from the County Game Warden. Anyone hunting at night must use a shotgun, utilizing size 6 shot or smaller.
- (5) **Special license requirement.** ~~A special Bobcat-Raccoon-River Otter-Gray/Red Fox License is required for all who take these species by any means. Holders of an Oklahoma Department of Wildlife Conservation lifetime hunting or lifetime combination license, senior citizen hunting or senior citizen combination license are exempt. No individual may purchase more than one special license. This license is valid through seasons currently in effect for bobcat, raccoon, river otter, gray fox and red fox. Said fee for Oklahoma resident is \$9.00 plus \$1.00 vendor fee, non-resident is \$50.00 plus \$1.00 vendor fee. Beginning July 1, 2024, a trapping license will be included in the privileges for resident annual, resident youth super, resident 3-year, disability license, non-resident annual, non-resident 5-day, non-resident youth super license, and non-resident 5-day youth super license.~~
- (6) **Intent to hold form requirement.** Any person who takes a pelt or pelts during the season shall have until the end of March to sell or dispose of the pelts or to provide written notification to the Department of Wildlife Conservation that the person intends to hold the pelts for later sale. Written notification shall be made on a form prescribed by the Department.
- (7) **Trap placement.** No trap so used may be set in paths, roads, or runways commonly used for recreational purposes by persons, domestic animals or dogs.

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(8) **Trap check requirement.** Any trap set for the purpose of catching any wildlife shall be tended once during each twenty-four (24) hour period. All traps shall bear the name, or customer identification number, of the owner of the traps, except for any traps set on property owned or leased by the owner of the traps. Any person violating this subsection shall, in addition to any criminal penalty, be civilly liable for all damages caused by such violation.

(9) **Posting of signage.** On any lands where smooth-jawed double-spring offset no less than 1/8 inch or smooth-jawed coil-spring offset no less than 1/8 inch traps are used, the posting of signs shall be required at all entrances from public roads and highways. The requirement to post signs shall not apply if the person is trapping on private property. Signs shall be no less than 5" by 8" and clearly state the word "TRAPS".

## SUBCHAPTER 13. COMMERCIAL HUNT AREAS

### **800:25-13-12. Five-Day Paper Hunting License [NEW]**

(a) Beginning November 1, 2024, the Department may provide a five-day paper hunting license for hunting upland winged game, excluding wild turkeys, at a licensed Commercial Hunt Area.

(b) The fee per license shall be \$5.00.

(c) Licenses will be sold in books of no fewer than ten (10) licenses to Commercial Hunt Area operators in a manner determined by the Department. License holder information is to be completed on each license as instructed and copies shall be returned to the Department prior to the renewal of the Commercial Hunt Area license.

*[OAR Docket #25-448; filed 6-2-25]*