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| Board of Regents of **WESTERN** Oklahoma State College | 790 |
| Oklahoma **WHEAT** Commission | 795 |
| Department of **WILDLIFE** Conservation | 800 |
| **WILL** Rogers and J.M. Davis Memorials Commission | 805 |

# Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

*For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.*

## TITLE 325. OKLAHOMA HORSE RACING COMMISSION
## CHAPTER 30. CLAIMING RACES

*[OAR Docket #03-783]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULE:**
325:30-1-5 [AMENDED]
**SUBMITTED TO GOVERNOR:**
April 23, 2003
**SUBMITTED TO HOUSE:**
April 23, 2003
**SUBMITTED TO SENATE:**
April 23, 2003

*[OAR Docket #03-783; filed 4-25-03]*

## TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
## CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #03-775]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions
650:1-1-1 [AMENDED]
650:1-1-1.1 [NEW]
650:1-1-2 [AMENDED]
650:1-1-3 [AMENDED]
650:1-1-4 [AMENDED]
650:1-1-5 [REVOKED]
650:1-1-6 [AMENDED]
Subchapter 3. Agency Administration
650:1-3-1 [AMENDED]
650:1-3-2 [AMENDED]
650:1-3-3 [AMENDED]
650:1-3-4 [AMENDED]
**SUBMITTED TO GOVERNOR:**
April 23, 2003
**SUBMITTED TO HOUSE:**
April 23, 2003
**SUBMITTED TO SENATE:**
April 23, 2003

*[OAR Docket #03-775; filed 4-25-03]*

## TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
## CHAPTER 10. APPLIED RESEARCH PROGRAM

*[OAR Docket #03-776]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
650:10-1-5 [AMENDED]
650:10-1-6 [AMENDED]
650:10-1-7 [AMENDED]
650:10-1-8 [AMENDED]
650:10-1-9 [AMENDED]
650:10-1-11 [AMENDED]
650:10-1-12 [AMENDED]
650:10-1-14 [AMENDED]
**SUBMITTED TO GOVERNOR:**
April 23, 2003
**SUBMITTED TO HOUSE:**
April 23, 2003
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April 23, 2003

*[OAR Docket #03-776; filed 4-25-03]*

## TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
## CHAPTER 15. CENTERS OF EXCELLENCE PROGRAM

*[OAR Docket #03-777]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
650:15-1-4 [AMENDED]
650:15-1-5 [AMENDED]
650:15-1-8 [AMENDED]
650:15-1-9 [AMENDED]
650:15-1-10 [AMENDED]

650:15-1-11 [AMENDED]
650:10-1-14 [AMENDED]
**SUBMITTED TO GOVERNOR:**
April 23, 2003
**SUBMITTED TO HOUSE:**
April 23, 2003
**SUBMITTED TO SENATE:**
April 23, 2003

*[OAR Docket #03-777; filed 4-25-03]*

## TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
## CHAPTER 20. OKLAHOMA HEALTH RESEARCH PROGRAM

*[OAR Docket #03-778]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
650:20-1-5 [AMENDED]
650:20-1-6 [AMENDED]
650:20-1-9 [AMENDED]
650:20-1-10 [AMENDED]
650:20-1-14 [AMENDED]
**SUBMITTED TO GOVERNOR:**
April 23, 2003
**SUBMITTED TO HOUSE:**
April 23, 2003
**SUBMITTED TO SENATE:**
April 23, 2003

*[OAR Docket #03-778; filed 4-25-03]*

## TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
## CHAPTER 25. MOST RESEARCH EQUIPMENT PROGRAM

*[OAR Docket #03-779]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
650:25-1-5 [AMENDED]
650:25-1-7 [AMENDED]
650:25-1-8 [AMENDED]
650:25-1-9 [AMENDED]
650:25-1-11 [AMENDED]
650:25-1-14 [AMENDED]
**SUBMITTED TO GOVERNOR:**
April 23, 2003
**SUBMITTED TO HOUSE:**
April 23, 2003
**SUBMITTED TO SENATE:**
April 23, 2003

*[OAR Docket #03-779; filed 4-25-03]*

## TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
## CHAPTER 30. SBIR PHASE I INCENTIVE FUNDING PROGRAM

*[OAR Docket #03-780]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
650:30-1-5 [AMENDED]
650:30-1-8 [AMENDED]
650:30-1-10 [AMENDED]
650:30-1-11 [AMENDED]
650:30-1-13 [AMENDED]
**SUBMITTED TO GOVERNOR:**
April 23, 2003
**SUBMITTED TO HOUSE:**
April 23, 2003
**SUBMITTED TO SENATE:**
April 23, 2003

*[OAR Docket #03-780; filed 4-25-03]*

## TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
## CHAPTER 35. SBIR MATCHING FUNDS PROGRAM

*[OAR Docket #03-781]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
650:35-1-5 [AMENDED]
650:35-1-8 [AMENDED]
650:35-1-10 [AMENDED]
**SUBMITTED TO GOVERNOR:**
April 23, 2003
**SUBMITTED TO HOUSE:**
April 23, 2003
**SUBMITTED TO SENATE:**
April 23, 2003

*[OAR Docket #03-781; filed 4-25-03]*

## TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
## CHAPTER 37. STTR PHASE I INCENTIVE FUNDING PROGRAM

*[OAR Docket #03-782]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
650:37-1-5 [AMENDED]
650:37-1-8 [AMENDED]
650:37-1-10 [AMENDED]
**SUBMITTED TO GOVERNOR:**
April 23, 2003
**SUBMITTED TO HOUSE:**
April 23, 2003
**SUBMITTED TO SENATE:**
April 23, 2003

*[OAR Docket #03-782; filed 4-25-03]*

# Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial approval for publication in the *Register.*

*For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.*

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

*[OAR Docket #03-872]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 1. General Provisions
10:15-1-1. [AMENDED]
10:15-1-2. [AMENDED]
Subchapter 3. Requirements To Practice Public Accountancy
10:15-3-1. [AMENDED]
10:15-3-2. [AMENDED]
10:15-3-3. [AMENDED]
10:15-3-4. [AMENDED]
Subchapter 7. Application To Take An Examination
10:15-7-2. [AMENDED]
Subchapter 20. Internet Practice Requirements [NEW]
10:15-20-1. [NEW]
Subchapter 21. Reciprocity
10:15-21-1. [AMENDED]
10:15-21-3. [AMENDED]
Subchapter 22. Substantial Equivalency [NEW]
10:15-22-1. [NEW]
Subchapter 23. Registration
10:15-23-1. [AMENDED]
10:15-23-2. [AMENDED]
Subchapter 25. Permits
10:15-25-2. [AMENDED]
10:15-25-3. [AMENDED]
10:15-25-4. [AMENDED]
10:15-25-5. [AMENDED]
Subchapter 27. Fees
10:15-27-6. [AMENDED]
10:15-27-7. [REVOKED]
10:15-27-7.1. [NEW]
10:15-27-8. [AMENDED]
10:15-27-11. [AMENDED]
Subchapter 29. Continuing Professional Education
10:15-29-1.1. [AMENDED]
10:15-29-3. [AMENDED]
10:15-29-4. [AMENDED]
10:15-29-5. [AMENDED]
10:15-29-6. [AMENDED]
10:15-29-7. [AMENDED]
10:15-29-9. [AMENDED]
Subchapter 31. Standards For Continuing Professional Education
10:15-31-1. [AMENDED]
10:15-31-2. [AMENDED]
10:15-31-3. [AMENDED]
10:15-31-4. [AMENDED]
10:15-31-5. [AMENDED]
10:15-31-6. [AMENDED]
Subchapter 32. Standards For Continuing Professional Education (CPE) Programs [NEW]
10:15-32-1. [NEW]
10:15-32-2. [NEW]
10:15-32-3. [NEW]
10:15-32-4. [NEW]
10:15-32-5. [NEW]
10:15-32-6. [NEW]
Subchapter 35. Reinstatement
10:15-35-1. [AMENDED]
10:15-32-2. [AMENDED]
10:15-35-4. [AMENDED]
Subchapter 37. Enforcement Procedures
10:15-37-1. [AMENDED]
10:15-37-10. [AMENDED]
10:15-37-11. [AMENDED]
Subchapter 39. Rules Of Professional Conduct
10:15-39-2. [REVOKED]
10:15-39-3. [AMENDED]
10:15-39-7. [AMENDED]
**GUBERNATORIAL APPROVAL:**
April 15, 2003

*[OAR Docket #03-872; filed 5-6-03]*

## TITLE 165. CORPORATION COMMISSION
## CHAPTER 10. OIL AND GAS CONSERVATION

*[OAR Docket #03-859]*

**RULEMAKINGACTION:**
Gubernatorial approval
**RULES:**
Subchapter 1. Administration
Part 1. General Provisions
165:10-1-4. Citation effective date [AMENDED]
165:10-1-7. Prescribed forms [AMENDED]
Subchapter 7. Pollution Abatement
Part 3. Storage And Disposal Of Fluids
165:10-7-32. Application to reclaim and/or recycle produced water for surface activities related to drilling,

completion, workover, and production operations from oil and gas well site [NEW]
Subchapter 21. Applications For Tax Exemptions
Part 6. Production Enhancement Projects
165:10-21-24. Refund procedure [AMENDED]
Part 7. Re-Establishment Of Production From An Inactive Well
165:10-21-38. Refund procedure [AMENDED]
Part 8. Deep Wells
165:10-21-45. General [AMENDED]
165:10-21-47.1. Refund procedure [AMENDED]
165:10-21-48. Audit requirements [REVOKED]
Part 9. New Discovery Wells
165:10-21-58. Refund procedure [AMENDED]
165:10-21-59. Audit requirements [REVOKED]
Part 11. Horizontally Drilled Producing Wells
165:10-21-65. General [AMENDED]
165:10-21-68. Refund procedure [AMENDED]
165:10-21-69. Time periods for exemption from gross production tax levied on horizontally drilled producing wells [NEW]
Part 13. Incremental Production From Enhanced Recovery Projects
165:10-21-76. Definitions [AMENDED]
165:10-21-78. Recovery of costs allowed as payback factors [AMENDED]
Part 14. Production Of Oil, Gas Or Oil And Gas From Any Well Located Within Boundaries Of A Three-Dimensional Seismic Shoot
165:10-21-82.2. Qualification procedure [AMENDED]
165:10-21-82.3. Refund procedure [AMENDED]
165:10-21-82.4. Time periods for exemption from gross production tax levied on oil, gas or oil and gas production from a well located within boundaries of three-dimensional seismic shoot [AMENDED]
Part 17. Sales Tax Exemption For Electricity And Associated Delivery And Transmission Services Sold For Operation Of Reservoir Dewatering Project And/Or Unit [NEW]
165:10-21-90. General [NEW]
165:10-21-91. Definitions [NEW]
165:10-21-92. Qualification procedure [NEW]
**GUBERNATORIAL APPROVAL:**
April 24, 2003

*[OAR Docket #03-859; filed 5-2-03]*

## TITLE 175. STATE BOARD OF COSMETOLOGY
## CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #03-822]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 1. General Provisions
175:1-1-2 [AMENDED]
Subchapter 3. Board Structure and Agency Administration
175:1-3-1 [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 17, 2003

*[OAR Docket #03-822; filed 4-30-03]*

## TITLE 175. STATE BOARD OF COSMETOLOGY
## CHAPTER 10. LICENSURE OF COSMETOLOGISTS, SCHOOLS AND RELATED ESTABLISHMENTS

*[OAR Docket #03-823]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 3. Licensure of Cosmetology Schools
Part 5. Equipment and Curriculum Requirements
175:10-3-34 [AMENDED]
175:10-3-37 [AMENDED]
175:10-3-40 [AMENDED]
175:10-3-41 [AMENDED]
175:10-3-42 [AMENDED]
175:10-3-43 [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 17, 2003

*[OAR Docket #03-823; filed 4-30-03]*

## TITLE 175. STATE BOARD OF COSMETOLOGY
## CHAPTER 10. LICENSURE OF COSMETOLOGISTS, SCHOOLS AND RELATED ESTABLISHMENTS

*[OAR Docket #03-824]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 3. Licensure of Cosmetology Schools
Part 7. General Operations and Licensing Requirements
175:10-3-56 [AMENDED]
175:10-3-60 [AMENDED]
175:10-3-61 [AMENDED]
175:10-3-64 [AMENDED]
175:10-3-69 [AMENDED]
175:10-3-70 [AMENDED]
175:10-3-71 [AMENDED]
175:10-3-76 [AMENDED]

**GUBERNATORIAL APPROVAL:**
March 17, 2003

*[OAR Docket #03-824; filed 4-30-03]*

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

*[OAR Docket #03-838]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 1. General Provisions [AMENDED]
Subchapter 7. Permits for Minor Facilities [AMENDED]
Subchapter 17. Incinerators [AMENDED]
Subchapter 31. Control of Emission of Sulfur Compounds [AMENDED]
Subchapter 35. Control of Emission of Carbon Monoxide [AMENDED]
Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]
Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [AMENDED]
**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-838; filed 5-1-03]*

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

*[OAR Docket #03-839]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 17. Incinerators [AMENDED]
**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-839; filed 5-1-03]*

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

*[OAR Docket #03-840]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 31. Control of Emission of Sulfur Compounds
Part 2. Ambient Air Concentration Limits or Impacts for New and Existing Equipment, Sources, or Facilities
252:100-31-7 [AMENDED]
Part 5. New Equipment Standards
252:100-31-26 [AMENDED]
**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-840; filed 5-1-03]*

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 205. HAZARDOUS WASTE MANAGEMENT

*[OAR Docket #03-841]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 3. Incorporation by Reference
252:205-3-1. [AMENDED]
252:205-3-2. [AMENDED]
252:205-3-3. [REVOKED]
**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-841; filed 5-1-03]*

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 410. RADIATION MANAGEMENT

*[OAR Docket #03-842]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 10. State Agreement Program
Part 101. State Agreement Program Fees
252:410-10-121 [NEW]
**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-842; filed 5-1-03]*

## TITLE 270. OKLAHOMA FIREFIGHTERS PENSION AND RETIREMENT SYSTEM CHAPTER 10. FIREFIGHTERS PENSION AND RETIREMENT PLAN

*[OAR Docket #03-873]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
270:10-1-8. [AMENDED]
270:10-1-9. [AMENDED]
270:10-1-10. [NEW]
**GUBERNATORIAL APPROVAL:**
April 29, 2003

*[OAR Docket #03-873; filed 5-6-03]*

## TITLE 365. INSURANCE DEPARTMENT CHAPTER 10. LIFE, ACCIDENT AND HEALTH

*[OAR Docket #03-832]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 5. Minimum Standards; Contract Guidelines
Part 13. Medicare Supplement Insurance Minimum Standards
365:10-5-127. Benefit Standards For Policies Or Certificates Issued Or Delivered On Or After July 1, 1992 [AMENDED]
365:10-5-128.1. Medicare Select Policies and Certificates [AMENDED]
365:10-5-129.1 Guaranteed Issue for Eligible Persons [AMENDED]
365:10-5-132. Filing and approval of policies and certificates and premium rates [AMENDED]
Subchapter 19. Health Insurance Purchasing Groups [NEW]
365:10-19-1. Definitions [NEW]
365:10-19-2. Applicability and scope [NEW]
365:10-19-3. Establishment of business [NEW]
365:10-19-4. Board of directors and plan of operations [NEW]
365:10-19-5. Requirement to insure all employees of the purchaser and new entrants [NEW]
365:10-19-6. Prohibited provisions and other requirements [NEW]
365:10-19-7. Filing requirements [NEW]
365:10-19-8. Annual reporting requirements [NEW]
Subchapter 21. Recognition Of The 2001 CSO Mortality Table For Use In Determining Minimum Reserve Liabilities And Nonforfeiture Benefits Regulation [NEW]
365:10-21-1. Authority [NEW]
365:10-21-2. Purpose [NEW]
365:10-21-3. Definitions [NEW]
365:10-21-4. 2001 CSO Mortality Table [NEW]
365:10-21-5. Conditions [NEW]
365:10-21-6. Applicability of the 2001 CSO Mortality Table to Oklahoma Valuation of Life Insurance Policies Regulation, O.A.C. 365:10-17-1, et seq. [NEW]
365:10-21-7. Gender-Blended Tables [NEW]
365:10-21-8. Separability [NEW]
365:10-21-9. Effective date [NEW]
365:10-Appendix Q. Medicare Supplement [REVOKED]
365:10-Appendix Q. Medicare Supplement [NEW]
365:10-Appendix S. Outline of Coverage Tables [REVOKED]
365:10-Appendix S. Outline of Coverage Tables [NEW]
365:10-Appendix V. Disclosure Statements [REVOKED]
365:10-Appendix V. Disclosure Statements [NEW]
**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-832; filed 5-2-03]*

## TITLE 365. INSURANCE DEPARTMENT CHAPTER 15. PROPERTY AND CASUALTY

*[OAR Docket #03-831]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 1. General Provisions
365:15-1-3. Property and casualty form filings [AMENDED]
**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-831; filed 5-2-03]*

## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #03-788]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
590:1-1-5. Retirement Coordinators [AMENDED]
590:1-1-6. Hearing procedures [AMENDED]

**GUBERNATORIAL APPROVAL:**
April 14, 2003

*[OAR Docket #03-788; filed 4-25-03]*

## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

*[OAR Docket #03-789]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 1. General Provisions
590:10-1-4. Health insurance contribution [AMENDED]
590:10-1-9. Receipt of documents [AMENDED]
590:10-1-11. De minimis provisions [AMENDED]
590:10-1-15. Hazardous Duty Members [NEW]
Subchapter 3. Credited Service
590:10-3-6. Full-time-equivalent employment [AMENDED]
590:10-3-10. Incentive credit [AMENDED]
Subchapter 7. Retirement Benefits
590:10-7-3. Longevity and other annual lump-sum payments [AMENDED]
590:10-7-9. Fractional year computations [AMENDED]
590:10-7-15. Post-retirement employment [AMENDED]
Subchapter 9. Survivors and Beneficiaries
590:10-9-3. Divorced spouse beneficiaries [AMENDED]
Subchapter 11. Transported and State Portable Service Credit
590:10-11-1. Transported service credit [AMENDED]
**GUBERNATORIAL APPROVAL:**
April 14, 2003

*[OAR Docket #03-789; filed 4-25-03]*

## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 15. UNIFORM RETIREMENT SYSTEM FOR JUSTICES AND JUDGES

*[OAR Docket #03-790]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
590:15-1-16. Longevity and other annual lump-sum payments [NEW]

**GUBERNATORIAL APPROVAL:**
April 14, 2003

*[OAR Docket #03-790; filed 4-25-03]*

## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 25. DEFERRED COMPENSATION

*[OAR Docket #03-791]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 1. General Provisions
590:25-1-3. Definitions [AMENDED]
Subchapter 3. Election to Defer Compensation
590:25-3-1. Election limits [AMENDED]
590:25-3-3. Discontinuation [AMENDED]
Subchapter 5. Assets, Credits, Accounts and Reports
590:25-5-1. Remittance [AMENDED]
590:25-5-8. Establishment of Accounts [AMENDED]
590:25-5-10. Valuation of Accounts [AMENDED]
Subchapter 9. Benefits
590:25-9-8. Death [AMENDED]
590:25-9-9. Designated beneficiary [AMENDED]
590:25-9-13. Plan-to-plan transfers [AMENDED]
590:25-9-16. Rollovers from other plans [AMENDED]
590:25-9-19. Transfers and rollover completion [NEW]
Subchapter 13. ~~Agents~~ Administration Functions of the Plan
590:25-13-1. Administrative staff [AMENDED]
590:25-13-2. Deferred Compensation Coordinator [AMENDED]
590:25-13-3. Completing forms
**GUBERNATORIAL APPROVAL:**
April 14, 2003

*[OAR Docket #03-791; filed 4-25-03]*

## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 30. QUALIFIED DOMESTIC RELATIONS ORDERS

*[OAR Docket #03-792]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
590:30-1-4. Contents of qualified domestic relations order [AMENDED]
590:30-1-5. Payment to alternate payee [AMENDED]

590:30-1-6. Termination of a qualified domestic relations order [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 14, 2003

*[OAR Docket #03-792; filed 4-25-03]*

## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 35. DEFERRED SAVINGS INCENTIVE PLAN

*[OAR Docket #03-793]*

**RULEMAKING ACTION:**

Gubernatorial approval

**RULES:**

Subchapter 5. Accounts

590:35-5-1. Establishment of Accounts [AMENDED]

590:35-5-3. Valuation of Accounts [AMENDED]

Subchapter 7. Contributions

590:35-7-3. Rollover contributions [AMENDED]

Subchapter 13. Benefits and Distributions

590:35-13-1. Commencement [AMENDED]

Subchapter 21. ~~Agents~~ Administration Functions of the Plan

590:35-21-1. Administrative staff [AMENDED]

590:35-21-3. Oklahoma State Employee Deferred Savings Incentive Plan Coordinator ("Coordinator") [AMENDED]

590:35-21-4. Completing forms [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 14, 2003

*[OAR Docket #03-793; filed 4-25-03]*

## TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #03-766]*

**RULEMAKING ACTION:**

Gubernatorial approval

**RULES:**

Subchapter 3. Administrative Components of the Department

612:1-3-3 The Division Administrators [AMENDED]

612:1-3-10 Final Signature Authority [AMENDED]

Subchapter 5. Program Divisions within the Department

612:1-5-2 Vocational Rehabilitation Services (DVR) [AMENDED]

612:1-5-3 Division of Visual Services (DVS) [AMENDED]

612:1-5-4.1 Management Services Division (MSD) [AMENDED]

Subchapter 7. Relationships with Department Established by Law

612:1-7-3 Relationships with state boards: ex officio representation from the Department [AMENDED]

Subchapter 11. Compliance with the Americans with Disabilities Act of 1990

Part 3. Reasonable Accommodation

612:1-11-16 Providing reasonable accommodation [AMENDED]

Subchapter 13. Civil Rights and Nondiscrimination on Basis of Race, Color, National Origin, Sex, Age or Disability

612:1-13-3 Administration of programs [AMENDED]

612:1-13-5 Awareness training [AMENDED]

612:1-13-6 Maintenance of racial and ethnic data [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 21, 2003

*[OAR Docket #03-766; filed 4-24-03]*

## TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 3. MANAGEMENT SERVICES DIVISION

*[OAR Docket #03-767]*

**RULEMAKING ACTION:**

Gubernatorial approval

**RULES:**

Subchapter 1. General Provisions

612:3-1-2 Definitions [AMENDED]

612:3-1-3 Functions of the division [AMENDED]

Subchapter 3. Human Resources Unit

Part 1. Overview of Human Resources Unit

612:3-3-2 Organization of the Human Resources Unit [REVOKED]

Subchapter 5. Policy Development and Program Standards

Part 3. Policy Development

612:3-5-16 State office memoranda [AMENDED]

**GUBERNATORIAL APPROVAL:**

April 21, 2003

*[OAR Docket #03-767; filed 4-24-03]*

## TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 10. ~~REHABILITATIVE~~VOCATIONAL REHABILITATION AND VISUAL SERVICES

*[OAR Docket #03-768]*

**RULEMAKING ACTION:**

Gubernatorial approval

**RULES:**

Subchapter 1. General Provisions
612:10-1-2 Definitions [AMENDED]
612:10-1-3 Basic philosophy of rehabilitation programs [AMENDED]
612:10-1-6 Due process [AMENDED]
612:10-1-7 Purchase of services and goods for individuals with disabilities [AMENDED]
Subchapter 3. Client Participation in Cost of Services
612:10-3-4 Services exempt from client participation in service costs [AMENDED]
612:10-3-5 Basic living requirements [AMENDED]
Subchapter 5. Guidelines for Evaluating the Limitations and Rehabilitation Needs of Certain Disability Groups
612:10-5-22 Size and obesity [AMENDED]
Subchapter 7. Vocational Rehabilitation and Visual Services
Part 1. Scope of ~~Rehabilitative~~Vocational Rehabilitation and Visual Services [AMENDED]
612:10-7-1 Overview of Vocational Rehabilitation and Visual Services [AMENDED]
612:10-7-5 Factors affecting eligibility [AMENDED]
612:10-7-6 Assessment for determining eligibility [AMENDED]
Part 3. Case Processing Requirements
612:10-7-33 Supervisory caseload reviews [AMENDED]
Part 5. Case Status and Classification System
612:10-7-50 Status 10 - accepted for services and IPE under development [AMENDED]
612:10-7-51 Status 12 - IPE completed but services not initiated [AMENDED]
612:10-7-54 Status 18 - training [AMENDED]
612:10-7-55 Status 20 - ready for employment [AMENDED]
612:10-7-56 Status 22 - in employment [AMENDED]
612:10-7-58 Status 26 - closed rehabilitated [AMENDED]
612:10-7-59 Status 28 - closed not rehabilitated, after IPE initiation (from statuses 14 - 24) [AMENDED]
Part 9. Actions Requiring Review and Approval
612:10-7-87 Actions requiring supervisor's approval [AMENDED]
Part 11. Physical and Mental Restoration Services
612:10-7-102 Dental services [AMENDED]
Part 15. Training
612:10-7-152 Payment of tuition and fees at colleges and universities [AMENDED]
612:10-7-157 Out-of-state training [AMENDED]
612:10-7-159 Privately owned business and trade schools [AMENDED]
612:10-7-160 Payment of tuition at privately owned business and trade schools [AMENDED]
612:10-7-162 Supplies and training tools for business, vocational and trade schools [AMENDED]
Part 17. Supported Employment Services
612:10-7-179 Overview of supported employment services [AMENDED]
612:10-7-180 Eligibility for the supported employment program [AMENDED]
612:10-7-182 Competitive work for supported employment clients [AMENDED]
612:10-7-183 Ongoing support services [AMENDED]
612:10-7-184 Extended services [AMENDED]
612:10-7-185 Provision of supported employment services [AMENDED]
Part 18. Employment and Retention Services [NEW]
612:10-7-186 Overview of employment and retention Services [NEW]
612:10-7-187 Eligibility for employment and retention Services [NEW]
612:10-7-188 Provision of employment and retention services [NEW]
Part 19. Special Services for Individuals Who are Blind, Deaf, or have other Severe Disabilities
612:10-7-205 Services to persons who are deaf-blind [AMENDED]
612:10-7-206 Rehabilitation technology and prescribed adaptive aids and devices [AMENDED]
Part 21. Purchase of Equipment, Occupational Licenses and Certificates
612:10-7-220 Purchase of special equipment for motor vehicles [AMENDED]
Part 23. Self-Employment Programs and other Services
612:10-7-232 Placement [AMENDED]
612:10-7-234 Computers and high tech electronic equipment [AMENDED]
Part 25. Transition from School to Work Program
612:10-7-244 Overview of transition from school to work services [AMENDED]
Subchapter 11. Independent Living Services
Part 3. ILRS Case Status Classification System
612:10-11-19 Status 02 - application [AMENDED]
Part 5. Provision of Services
612:10-11-38 Housing services [AMENDED]
612:10-11-50 Rehabilitation technology, sensory aids specialist, and adaptive aids [AMENDED]
Subchapter 13. Special Services for the Deaf and Hard of Hearing
Part 1. Service Programs
612:10-13-2 Interpreter services [AMENDED]
612:10-13-4 Special services and devices for individuals with hearing and speech impairments [AMENDED]

Subchapter 15. Transitional Living Center for the Deaf (TLC) [REVOKED]
612:10-15-1 Overview of Transitional Living Center Program [REVOKED]
612:10-15-2 Eligibility for TLC program [REVOKED]
612:10-15-3 Application and admission [REVOKED]
612:10-15-4 TLC services [REVOKED]
612:10-15-5 Client responsibility and discipline [REVOKED]
612:10-15-6 Independent living skills curriculum [REVOKED]

**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-768; filed 4-24-03]*

## TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 15. OKLAHOMA LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED (OLBPH)

*[OAR Docket #03-769]*

**RULEMAKING ACTION:**
Gubernatorial approval

**RULES:**
Subchapter 1. General Provisions
612:15-1-4 Appendices [REVOKED]
Subchapter 3. OLBPH Services
612:15-3-6 Descriptive video service [AMENDED]

**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-769; filed 4-24-03]*

## TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 20. SPECIAL SCHOOLS

*[OAR Docket #03-770]*

**RULEMAKING ACTION:**
Gubernatorial approval

**RULES:**
Subchapter 2. Contracted Instructional Personnel
612:20-2-13. ~~Grievance process~~ Dismissal/ Nonreemplayment Hearing [AMENDED]
612:20-2-17 Full-time administrators; Appeal of dismissal or nonreemployment [AMENDED]
Subchapter 3. General Operating Procedures for the Schools
Part 1. General Educational Policies
612:20-3-8 Elementary and Secondary Education Act [AMENDED]
Subchapter 5. Oklahoma School for the Blind (OSB/Parkview School) Admission Rules
612:20-5-7 Admissions process [AMENDED]
Subchapter 7. Oklahoma School for the Deaf (OSD) Admission Rules
612:20-7-8 Admissions process [AMENDED]

**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-770; filed 4-24-03]*

## TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 25. BUSINESS ENTERPRISE PROGRAM

*[OAR Docket #03-771]*

**RULEMAKING ACTION:**
Gubernatorial approval

**RULES:**
Subchapter 2. General Provisions
612:25-2-5 Definitions [AMENDED]
Subchapter 4. The State Licensing Agency
Part 1. Organization and General Operation Standards
612:25-4-2 SLA staff responsibilities [AMENDED]
Part 9. Assignment and Transfer of Licensed Managers
612:25-4-53 Promotion and transfer policy [AMENDED]
612:25-4-55 Qualifications [AMENDED]
612:25-4-59 Scoring [AMENDED]
Subchapter 6. Licensed Managers and Business Enterprise Operation
Part 3. Business Enterprises
612:25-6-21 Business expense [AMENDED]
Part 5. The Elected Committee of Licensed Managers
612:25-6-33 Organization and operation of the Elected Committee of Licensed Managers [AMENDED]

**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-771; filed 4-24-03]*

## TITLE 735. STATE TREASURER CHAPTER 80. UNCLAIMED PROPERTY ADMINISTRATION

*[OAR Docket #03-802]*

**RULEMAKING ACTION:**
Gubernatorial approval

**RULES:**
Subchapter 7. Claims Process
735:80-7-2 [AMENDED]

**GUBERNATORIAL APPROVAL:**
April 24, 2003

*[OAR Docket #03-802; filed 4-28-03]*

## TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 1. ORGANIZATION AND METHOD OF OPERATIONS

*[OAR Docket #03-795]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
765:1-1-1 [AMENDED]
765:1-1-2 [AMENDED]
765:1-1-2.1 [NEW]
765:1-1-9 [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 31, 2003

*[OAR Docket #03-795; filed 4-28-03]*

## TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 2. INFORMAL AND FORMAL PROCEDURES

*[OAR Docket #03-803]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 3. Formal Procedures
765:2-3-1 [AMENDED]
765:2-3-6 [AMENDED]
765:2-3-10 [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 31, 2003

*[OAR Docket #03-803; filed 4-28-03]*

## TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 10. USED MOTOR VEHICLE DEALERS

*[OAR Docket #03-804]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 1. Licensing Qualifications, Procedures and Fees
765:10-1-1 [AMENDED]
Subchapter 3. Operation
765:10-3-1 [AMENDED]
765:10-3-3 [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 31, 2003

*[OAR Docket #03-804; filed 4-28-03]*

## TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 15. USED MOTOR VEHICLE SALESMEN

*[OAR Docket #03-805]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 1. Licensing Qualifications, Procedures and Fees
765:15-1-3 [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 31, 2003

*[OAR Docket #03-805; filed 4-28-03]*

## TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 30. BUYER'S IDENTIFICATION CARDS

*[OAR Docket #03-806]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 7. Salvage Pools and Salvage Disposal Sales
765:30-7-1 [AMENDED]
765:30-7-2 [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 31, 2003

*[OAR Docket #03-806; filed 4-28-03]*

## TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 37. MANUFACTURED HOME INSTALLERS

*[OAR Docket #03-807]*

**RULEMAKING ACTION:**
Gubernatorial approval

**RULES:**
Subchapter 7. Installation Standards for Ground Sets
765:37-7-4 [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 31, 2003

*[OAR Docket #03-807; filed 4-28-03]*

## TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS CHAPTER 10. LICENSURE OF VETERINARIANS, VETERINARY TECHNICIANS AND ANIMAL EUTHANASIA TEHNICIANS

*[OAR Docket #03-869]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 1. General Provisions
775:10-1-1 [AMENDED]
Subchapter 3. Licensure of Veterinarians
775:10-3-5 [AMENDED]
775:10-3-12 [AMENDED]
Subchapter 5. Rules of Professional Conduct
775:10-5-30 [AMENDED]
Subchapter 7. Certification of Veterinary Technicians
775:10-7-1 [AMENDED]
775:10-7-2 [AMENDED]
775:10-7-4 [AMENDED]
775:10-7-6 [AMENDED]
775:10-7-8 [AMENDED]
775:10-7-9 [AMENDED]
775:10-7-10 [AMENDED]
Subchapter 8. Certification of Euthanasia Technicians
775:10-8-2 [AMENDED]
775:10-8-7 [AMENDED]
775:10-8-22 [AMENDED]
**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-869; filed 5-6-03]*

## TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS CHAPTER 25. RECORDKEEPING AND SUPERVISION REQUIREMENTS

*[OAR Docket #03-868]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
775:25-7-4 [AMENDED]
**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-868; filed 5-6-03]*

## TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 25. WILDLIFE RULES

*[OAR Docket #03-785]*

**RULEMAKING ACTION:**
Gubernatorial approval
**RULES:**
Subchapter 3. Hunting on Corps of Engineers Lands
800:25-3-1 [AMENDED]
800:25-3-2 [AMENDED]
800:25-3-3 [AMENDED]
800:25-3-5 [AMENDED]
800:25-3-6 [REVOKED]
Subchapter 7. General Hunting Seasons
Part 1. General Provisions
800:25-7-3 [AMENDED]
Part 13. Deer
800:25-7-51 [AMENDED]
800:25-7-52 [AMENDED]
800:25-7-53 [AMENDED]
800:25-7-55 [NEW]
Part 14. Elk
800:25-7-57 [AMENDED]
Part 18. Management of Private Lands
800:25-7-75 [AMENDED]
Part 19. Seasons on Areas Owned or Managed by the Oklahoma Department of Wildlife Conservation and U.S. Fish and Wildlife Service
800:25-7-86.1. [NEW]
800:25-7-103. [REVOKED]
800:25-7-104. [REVOKED]
800:25-7-105. [REVOKED]
800:25-7-105.1. [REVOKED]
800:25-7-105.2. [REVOKED]
800:25-7-142 [AMENDED]
Subchapter 9. Controlled Hunts
Part 1. Guidelines
800:25-9-3 [AMENDED]
800:25-9-5 [AMENDED]
Subchapter 24. Import of Cervids
800:25-24-1. [NEW]
800:25-24-2. [NEW]
800:25-24-3. [NEW]
Subchapter 26. Scientific Collectors Permit [NEW]
800:25-26-1 [NEW]
800:25-26-2 [NEW]
800:25-26-3 [NEW]
800:25-26-4 [NEW]

Subhchapter 29. Oklahoma Deer Management Assistance Program
800:25-29-2 [AMENDED]
800:25-29-3 [AMENDED]
Subchapter 30. Wildlife Depredation and Agricultural Crops
800:25-30-5 [AMENDED]
Subchapter 35. Private Lands Fish and Wildlife Habitat Conservation and Improvement ~~Program~~ Programs
800:25-35-1. [AMENDED]
800:25-35-2. [AMENDED]
800:25-35-3. [AMENDED]
800:25-35-4. [AMENDED]
800:25-35-5. [AMENDED]
800:25-35-6. [AMENDED]
800:25-35-7. [REVOKED]
800:25-35-8. [REVOKED]

**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-785; filed 4-25-03]*

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## TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
## CHAPTER 25. WILDLIFE RULES

*[OAR Docket #03-786]*

**RULEMAKING ACTION:**
Gubernatorial approval

**RULES:**
Subchapter 7. General Hunting Seasons
Part 19. Seasons on Areas Owned or Managed by the Oklahoma Department of Wildlife Conservation and U.S. Fish and Wildlife Service
800:25-7-81. Altus-Lugert WMA [AMENDED]
800:25-7-82. Atoka WMA [AMENDED]
800:25-7-82.1. Atoka PHA [AMENDED]
800:25-7-83. Beaver River WMA [AMENDED]
800:25- 7-84. Black Kettle WMA [AMENDED]
800:25-7-85. Blue River Hunt Area [AMENDED]
800:25-7-86. Broken Bow WMA [AMENDED]
800:25-7-88. Canton WMA [AMENDED]
800:25-7-90. Cherokee PHA [AMENDED]
800:25-7-92. Chickasaw NRA [AMENDED]
800:25-7-94. Copan WMA [AMENDED]
800:25-7-94.1. Cooper WMA [AMENDED]
800:25-7-94.4. Deep Fork NWR [AMENDED]
800:25-7-94.6. Dewey County WMA [AMENDED]
800:25-7-95. Ellis County WMA [AMENDED]
800:25-7-96. Eufaula WMA [AMENDED]
800:25-7-97. Fobb Bottom WMA [AMENDED]
800:25-7-98. Ft. Cobb WMA [AMENDED]
800:25-7-99. Fort Gibson PHA [AMENDED]
800:25-7-100. Fort Gibson WRP [AMENDED]
800:25-7-101. Fort Supply [AMENDED]
800:25-7-102. Gary Sherrer WMA [AMENDED]
800:25-7-102.1.1. Gist WMA [AMENDED]
800:25-7-102.2. Grassy Slough WMA [AMENDED]
800:25-7-105.5 Hackberry Flat WMA [AMENDED]
800:25-7-106. Heyburn WMA [AMENDED]
800:25-7-108. Hickory Creek WMA [AMENDED]
800:25-7-108.1. Honobia Creek WMA [AMENDED]
800:25-7-109. Hugo WMA [AMENDED]
800:25-7-110. Lyndol Fry WRP [AMENDED]
800:25-7-111. Hulah PHA [AMENDED]
800:25-7-112. Hulah WRP [AMENDED]
800:25-7-113. James Collins WMA [AMENDED]
800:25-7-114. John Dahl WMA [AMENDED]
800:25-7-115. Kaw WMA [AMENDED]
800:25-7-116. Keystone WMA [AMENDED]
800:25-7-117. Lexington WMA [AMENDED]
800:25-7-118. Little River NWR [AMENDED]
800:25-7-119. Lake Thunderbird State Park [AMENDED]
800:25-7-120 Love Valley WMA [AMENDED]
800:25-7-121. Major County WMA [AMENDED]
800:25-7-123. McClellan-Kerr WMA [AMENDED]
800:25-7-125. McGee Creek WMA [AMENDED]
800:25-7-126. Mountain Park WMA [AMENDED]
800:25-7-127. Okmulgee GMA [AMENDED]
800:25-7-128. Okmulgee PHA [AMEND]ED
800:25-7-129. Oologah WMA [AMENDED]
800:25-7-130. Optima WMA [AMENDED]
800:25-7-131. Optima WMA [AMENDED]
800:25-7-131.1. Osage WMA - Rock Creek Unit [AMENDED]
800:25-7-131.2. Osage WMA - Western Wall [AMENDED]
800:25-7-132. Ouachita WMA - LeFlore Unit [AMENDED]
800:25-7-133.1. Ouachita WMA - McCurtain Unit [AMENDED]
800:25-7-134. Packsaddle WMA [AMENDED]
800:25-7-135. Pine Creek WMA [AMENDED]
800:25-7-136. Pushmataha WMA [AMENDED]
800:25-7-136.1. Red Slough WMA [AMENDED]
800:25-7-136.2. Red Slough WRP [AMENDED]
800:25-7-137. Rita Blanca WMA [AMENDED]
800:25-7-138. Robbers Cave WMA [AMENDED]
800:25-7-140. Sandy Sanders WMA [AMENDED]
800:25-7-141. Schultz WMA [AMENDED]
800:25-7-143. Skiatook WMA [AMENDED]
800:25-7-144. Sparrowhawk WMA [AMENDED]
800:25-7-146. Spavinaw PHA [AMENDED]
800:25-7-147. Stringtown WMA [AMENDED]
800:25-7-148. Tenkiller WMA [AMENDED]
800:25-7-149. Texoma/Washita Arm WMA [AMENDED]
800:25-7-149.1. Three Rivers WMA [AMENDED]
800:25-7-152. Washita County WMA [AMENDED]
800:25-7-153. Washita NWR [AMENDED]
800:25-7-154. Waurika WMA [AMENDED]

800:25-7-154.2. Whitegrass Flats WMA [AMENDED]
800:25-7-155. Wister WMA [AMENDED]
800:25-7-156. Wister WRP [AMENDED]
800:25-7-157. Yourman WMA [AMENDED]

**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-786; filed 4-25-03]*

## TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
## CHAPTER 30. DEPARTMENT OF WILDLIFE LANDS MANAGEMENT

*[OAR Docket #03-784]*

**RULEMAKING ACTION:**
Gubernatorial approval

**RULES:**
Subchapter 1. Use of Department Managed Lands
800:30-1-2 [AMENDED]
800:30-1-4 [AMENDED]
800:30-1-5 [AMENDED]
800:30-1-20 [AMENDED]

**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-784; filed 4-25-03]*

## TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
## CHAPTER 30. DEPARTMENT OF WILDLIFE LANDS MANAGEMENT

*[OAR Docket #03-787]*

**RULEMAKING ACTION:**
Gubernatorial approval

**RULES:**
Subchapter1. Use of Department Managed Lands
800:30-1-7 [AMENDED]

**GUBERNATORIAL APPROVAL:**
April 21, 2003

*[OAR Docket #03-787; filed 4-25-03]*

# Gubernatorial Disapprovals

Upon notification of disapproval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial disapproval for publication in the *Register.*

*For additional information on gubernatorial disapprovals, see 75 O.S., Section 303.2*

## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

*[OAR Docket #03-772]*

**RULEMAKING ACTION:**

Gubernatorial disapproval

**RULES:**

Subchapter 1. General Provisions

590:10-1-7. ~~Non-state agency~~ Employer contributions [AMENDED]

**GUBERNATORIAL DISAPPROVAL:**

Failure of the Governor to approve the rule within 45 calendar days after submission resulted in disapproval on April 14, 2003.

*[OAR Docket #03-772; filed 4-24-03]*

## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

*[OAR Docket #03-773]*

**RULEMAKING ACTION:**

Gubernatorial disapproval

**RULES:**

Subchapter 1. General Provisions

590:10-1-14. Compensation for retirement purposes [NEW]

**GUBERNATORIAL DISAPPROVAL:**

Written disapproval received April 14, 2003

*[OAR Docket #03-773; filed 4-24-03]*

## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 15. UNIFORM RETIREMENT SYSTEM FOR JUSTICES AND JUDGES

*[OAR Docket #03-774]*

**RULEMAKING ACTION:**

Gubernatorial disapproval

**RULES:**

590:15-1-15. Compensation for retirement purposes [NEW]

**GUBERNATORIAL DISAPPROVAL:**

Written disapproval received April 14, 2003

*[OAR Docket #03-774; filed 4-24-03]*

# Withdrawn Rules

An agency may withdraw proposed PERMANENT rules prior to final adoption (approval by Governor/Legislature) by notifying the Governor and the Legislature and by publishing a notice in the *Register* of such a withdrawal.

An agency may withdraw proposed EMERGENCY rules prior to approval/disapproval by the Governor by notifying the Governor, the Legislature, and the Office of Administrative Rules. The withdrawal notice is not published in the *Register*, however, unless the agency published a Notice of Rulemaking Intent in the *Register* before adopting the EMERGENCY rules.

*For additional information on withdrawal of proposed rules, see 75 O.S., Section 308(F) and 253(K) and OAC 655:10-7-33.*

## TITLE 420. OKLAHOMA LIQUEFIED PETROLEUM GAS BOARD CHAPTER 10. LIQUEFIED PETROLEUM GAS ADMINISTRATION

*[OAR Docket #03-888]*

**RULEMAKING ACTION:**

Withdrawal of PERMANENT rulemaking.

**WITHDRAWN RULES:**

420:10-1-6. Application for certificate or permit [AMENDED]

**DATES:**

**Adoption:**

March 21, 2003

**Submitted to Governor:**

March 25, 2003

**Submitted to House:**

March 25, 2003

**Submitted to Senate:**

March 25, 2003

**Withdrawn:**

May 7, 2003

*[OAR Docket #03-888; filed 5-7-03]*

# Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] . . . . [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following 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 references 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.*

## TITLE 45. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION CHAPTER 10. PROVISIONS AND PENALTIES APPLICABLE TO ALL LICENSEES

*[OAR Docket #03-829]*

**RULEMAKING ACTION:**
EMERGENCY adoption
**RULES:**
Subchapter 3. Provisions Applicable to All Licensees
45:10-3-12. Restriction on delivery of alcoholic beverages [AMENDED]
**AUTHORITY:**
Alcoholic Beverage Laws Enforcement Commission, 37 O.S., Section 502 et seq.
**DATES:**
**Public Hearing:**
April 19, 2002
**Adoption:**
April 19, 2002
**Approved by Governor:**
June 7, 2002
**Effective:**
Immediately upon Governor's approval
**Expiration:**
Effective through July 14, 2003 unless superseded by another rule or disapproved by the Legislature.
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**FINDING OF EMERGENCY:**
The rule does not conform the Title 37 O.S., Section 537(D), which prohibits deliveries by wholesalers to package stores on certain days.
**ANALYSIS:**
The proposed rule prohibits acceptance of deliveries by package stores on certain days.
**CONTACT PERSON:**
Kurt Morgan (405) 521-3484

**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(D):**

### SUBCHAPTER 3. PROVISIONS APPLICABLE TO ALL LICENSEES

**45:10-3-12. Restriction on delivery of alcoholic beverages**

No ~~Retail, Mixed Beverage, Caterer or Special Event~~ Package Store licensee shall accept ~~the~~ delivery of ~~alcoholic beverages, beer, or brewed products at his licensed premises~~ spirits or wines on Saturday~~,~~ or Sunday, or ~~any day that they are required to be closed for holidays, elections or any days not designated to be opened in counties where the sale of alcoholic beverages by the individual drink for on-premises consumption has been approved~~ on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day.

*[OAR Docket #03-829; filed 4-30-03]*
*(format accepted 5-6-03)*

## TITLE 165. CORPORATION COMMISSION CHAPTER 10. OIL AND GAS CONSERVATION

*[OAR Docket #03-861]*

**RULEMAKING ACTION:**
EMERGENCY adoption
**RULES:**
Subchapter 1. Administration
Part 1. General Provisions
165:10-1-4. Citation effective date [AMENDED]
165:10-1-7. Prescribed forms [AMENDED]
Subchapter 7. Pollution Abatement
Part 3. Storage And Disposal Of Fluids
165:10-7-32. Application to reclaim and/or recycle produced water for surface activities related to drilling, completion, workover, and production operations from oil and gas well site [NEW]
Subchapter 21. Applications For Tax Exemptions
Part 6. Production Enhancement Projects
165:10-21-24. Refund procedure [AMENDED]
Part 7. Re-Establishment Of Production From An Inactive Well
165:10-21-38. Refund procedure [AMENDED]
Part 8. Deep Wells
165:10-21-45. General [AMENDED]
165:10-21-47.1. Refund procedure [AMENDED]
165:10-21-48. Audit requirements [REVOKED]
Part 9. New Discovery Wells
165:10-21-58. Refund procedure [AMENDED]
165:10-21-59. Audit requirements [REVOKED]
Part 11. Horizontally Drilled Producing Wells
165:10-21-65. General [AMENDED]
165:10-21-68. Refund procedure [AMENDED]

165:10-21-69. Time periods for exemption from gross production tax levied on horizontally drilled producing wells [NEW]
Part 13. Incremental Production From Enhanced Recovery Projects
165:10-21-76. Definitions [AMENDED]
165:10-21-78. Recovery of costs allowed as payback factors [AMENDED]
Part 14. Production Of Oil, Gas Or Oil And Gas From Any Well Located Within Boundaries Of A Three-Dimensional Seismic Shoot
165:10-21-82.2. Qualification procedure [AMENDED]
165:10-21-82.3. Refund procedure [AMENDED]
165:10-21-82.4. Time periods for exemption from gross production tax levied on oil, gas or oil and gas production from a well located within boundaries of three-dimensional seismic shoot [AMENDED]
Part 17. Sales Tax Exemption For Electricity And Associated Delivery And Transmission Services Sold For Operation Of Reservoir Dewatering Project And/Or Unit [NEW]
165:10-21-90. General [NEW]
165:10-21-91. Definitions [NEW]
165:10-21-92. Qualification procedure [NEW]

**AUTHORITY:**

Oklahoma Corporation Commission, 17 O.S. 2001 Section 52; 27A O.S. 2001 Section 1-3-101, 52 O.S. 2001 Section 139; 68 O.S., 2002 Supp., Sections 1001 and 1357. 68 O.S., 2002 Supp., Section 1357 has a duplicate version reported by the Oklahoma State Courts Network derived from the passage of S.B. 935 (2002). The historical note for the provision indicates that there were three bills from the 2002 Second Session of the 48th Legislature dealing with 68 O.S. Section 1357. S.B. 1282 (2002) first addressed 68 O.S. Section 1357 in 2002, and was then superseded by both S.B. 871 (2002) and S.B. 935 (2002). S.B. 871 was signed by the Governor and was effective according to its emergency clause on June 4, 2002. S.B. 935 was signed by the Governor and was effective according to its emergency clause on July 1, 2002. S.B. 871 contains the language establishing the sales tax exemption for electricity sold for the operation of reservoir dewatering projects and S.B. 935 does not contain this provision. There is a bill, S.B. 440, before the 2003 Session of the 49th Legislature to merge and repeal any duplicate versions of 68 O.S. Section 1357 so as to maintain the effectiveness of the sales tax provision addressed in S.B. 871.

**DATES:**

**Adoption:**

February 28, 2003

**Submitted to Governor:**

March 10, 2003

**Approved by Governor:**

April 24, 2003

**Effective:**

Immediately upon approval of the Governor.

**Expiration:**

Effective through July 14, 2003, unless superseded by another rule or disapproval by the Legislature.

**SUPERSEDED EMERGENCY ACTIONS:**

None

**INCORPORATIONS BY REFERENCE:**

None

**FINDING OF EMERGENCY:**

The adoption of S.B. 871, codified as 68 O.S., 2002 Supp., Section 1357, and S.B. 947, codified as 52 O.S., 2002 Supp., Section 1001, instituted several changes to existing rules and the need for new rules, which the Oklahoma Corporation Commission interpreted as necessitating the commencement of the instant rulemaking proceeding on an emergency basis to match the emergency clause of S.B. 947. S.B. 947 took effect on July 1, 2002. The emergency is created by the enactment of the legislation, which contained an emergency clause effective as stated above. Further, the Commission's waste disposal options rule, OAC 165:10-7-24, was amended effective July 1, 2002 to permit the reclaiming and/or recycling of produced water from oil and gas wells. No permitting procedure has existed for this option, even though it has been available since the date mentioned previously. Emergency approval of the permit rule for reclaiming and/or recycling of produced water will assist the oil and gas industry as well as landowners in Oklahoma, because it will encourage the recycling of produced water for certain well site operations where fresh or treatable water is often used. Encouraging the recycling of produced water will save other sources of fresh water for more appropriate beneficial uses. Therefore, an emergency is created by the need to have a permit process in effect for an existing disposal option. Lastly, S.B. 871's sales tax exemption for the sale of electricity to operate "reservoir dewatering projects" does not take effect until January 1, 2004; however, the emergency adoption of the rules covering this exemption will assist the oil and gas industry and the Oklahoma Tax Commission in their implementation of the exemption. The emergency is created by the need advance the rulemaking process for this exemption at the OTC.

**ANALYSIS:**

In the instant emergency amendment of OAC 165:10, the Oklahoma Corporation Commission ("Corporation Commission" or "Commission") amends OAC 165:10-1-4 to correct and update the effective dates of some of the past rulemakings for OAC 165:10. The Commission amends OAC 165:10-1-7 to update and add additional forms for the permitting of reclaiming and/or recycling of produced water (Form 1014D) and the application for certification of an area and reservoir as a reservoir dewatering project and/or unit pursuant to the sales tax exemption pertaining to electricity sales under S.B. 871 (Form 1535). The Commission promulgates OAC 165:10-7-32 to establish permitting procedures for disposal of produced water into conformance with the reclaiming and/or recycling option added to OAC 165: 10-7-24 through Cause RM No. 200200017. The Commission amends or promulgates new provisions in OAC 165:10, Subchapter 21, Tax Exemptions, in paragraphs OAC 165:10-21-24, 165:10-21-38, 165:10-21-45, 165:10-21-47.1, 165:10-21-58, 165:10-21-65, 165:10-21-68, 165:10-21-69, 165:10-21-76, 165:10-21-78, 165:10-21-82.2, 165:10-21-82.3, and 165:10-21-82.4. These amendments add reference to a new "deep well" gross production tax exemption for wells drilled below 17,500 feet, and alter the time frames of the "horizontal well" gross production tax exemptions to implement S.B. 947. Other amendments to the listed paragraphs accomplish certain housekeeping changes, to conform the Commission's Oil and Gas Conservation rules with equivalent provisions in the Oklahoma Tax Commission's rules. Likewise, OAC 165:10-21-48 and 165:10-21-59, and portions of OAC 165:10-21-47.1 and 165:10-21-58, are revoked to bring the Commission's rules in conformity with the equivalent Oklahoma Tax Commission rules, which were revoked in 2001. The Commission promulgates new rules in Chapter 10, Subchapter 21, numbered OAC 165:10-21-90 through 10-21-92, to implement S.B. 871, by providing an application and certification process for areas and reservoirs as a "reservoir dewatering project" and/or "reservoir dewatering unit" to qualify such operations for a sales tax exemption for sales of electricity and associated delivery and transmission services.

**CONTACT PERSON:**

Michael Decker, (405) 521-4258.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE IMMEDIATELY UPON APPROVAL OF THE GOVERNOR AS SET FORTH IN 75 O.S. 2001 SECTION 253(D):**

## SUBCHAPTER 1. ADMINISTRATION

## PART 1. GENERAL PROVISIONS

### 165:10-1-4. Citation effective date

(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
(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. 187373 - Effective 04-02-81
(71) Order No. 211505 - Effective 03-30-82
(72) Order No. 228675 - Effective 01-01-83
(73) Order No. 230515 - Effective 01-01-83
(74) Order No. 230781 - Effective 01-01-83
(75) Order No. 246797 - Effective 01-01-84
(76) Order No. 250273 - Effective 01-01-84
(77) Order No. 250466 - Effective 01-01-84
(78) Order No. 260734 - Effective 07-01-84
(79) Order No. 290210 - Effective 01-09-86
(80) Order No. 292212 - Effective 02-10-86
(81) Order No. 299185 - Effective 06-12-86
(82) Order No. 302126 - Effective 10-08-86
(83) Order No. 303650 - Effective 10-02-86
(84) Order No. 304257 - Effective 10-16-86
(85) Order No. 305211 - Effective 11-07-86
(86) Order No. 311872 - Effective 05-06-87
(87) Order No. 312391 - Effective 05-14-87
(88) Order No. 310755 - Effective 06-01-87
(89) Order No. 313445 - Effective 06-12-87
(90) Order No. 313446 - Effective 07-09-87
(91) Order No. 313660 - Effective 06-17-87
(92) Order No. 313932 - Effective 06-25-87
(93) Order No. 314001 - Effective 06-27-87
(94) Order No. 313446 - Effective 07-09-87
(95) Order No. 315275 - Effective 08-19-87
(96) Order No. 320171 - Effective 12-21-87
(97) Order No. 320741 - Effective 01-08-88
(98) Order No. 320742 - Effective 01-08-88
(99) Order No. 321123 - Effective 01-21-88
(100) Order No. 323847 - Effective 05-01-88
(101) Order No. 325144 - Effective 05-02-88
(102) Order No. 326275 - Effective 06-27-88
(103) Order No. 326343 - Effective 06-01-88
(104) Order No. 326344 - Effective 06-01-88
(105) Order No. 327514 - Effective 07-01-88
(106) Order No. 327515 - Effective 07-01-88
(107) Order No. 329661 - Effective 08-26-88
(108) Order No. 329662 - Effective 08-26-88
(109) Order No. 329663 - Effective 08-26-88
(110) Order No. 334130 - Effective 01-04-89
(111) Order No. 337475 - Effective 03-31-89
(112) Order No. 337476 - Effective 03-31-89
(113) Order No. 339860 - Effective 05-07-89
(114) Order No. 341102 - Effective 08-25-89
(115) Order No. 341103 - Effective 08-14-89
(116) Order No. 346071 - Effective 03-29-90
(117) Order No. 346107 - Effective 03-30-90
(118) Order No. 355458 - Effective 03-20-91
(119) Order No. 355461 - Effective 03-20-91
(120) Order No. 355463 - Effective 03-20-91
(121) Order No. 355471 - Effective 03-21-91
(122) Order No. 364365 - Effective 06-25-92
(123) Order No. 364382 - Effective 06-25-92

(124) Order No. 368011 - Effective 05-23-93
(125) Order No. 372796 - Effective 06-25-93
(126) Order No. 381632 - Effective 07-11-94
(127) Order No. 381755 - Effective 07-11-94
(128) Order No. 387223 - Effective 10-20-94
(129) RM No. 950000023 - Effective 07-01-96
(130) RM No. 950000024 - Effective 07-01-96
(131) RM No. 950000025 - Effective 07-11-96
(132) RM No. 960000008 - Effective 07-01-96
(133) RM No. 960000009 - Effective 07-01-96
(134) RM No. 960000018 - Effective 10-15-96
(135) RM No. 970000002 - Effective 07-01-97
(136) RM No. 970000011 - Effective 07-01-98
(137) RM No. 970000025 - Effective 07-11-98
(138) RM No. 980000013 - Effective 07-15-98
(139) RM No. 980000016 Emergency, - Effective 03-30-98
(140) RM No. 980000017 Emergency, - Effective 03-30-98
(141) RM No. 980000020 Emergency, - Effective 01-05-99
(142) RM No. 980000033 - Effective 07-01-99
(143) RM No. 980000034 - Effective 07-01-99
(144) RM No. 980000035 - Effective 07-01-99
(145) RM No. 990000010 - Emergency, - Effective 12-28-99
(146) RM No. 200000002 - Effective 07-01-00
(147) RM No. 200000009 - Emergency, - Effective 11-02-00
(148) RM No. 200000009 - Permanent, - Effective 05-11-01
(149) RM No. 200100005 - Effective 07-01-01
(150) RM No. 200100006 - Effective ~~07-01-02~~ 07-01-01
(151) RM No. 200100009 - Emergency, - Effective 01-14-02
(152) RM No. 200200017 - Effective 07-01-02

**165:10-1-7. Prescribed forms**

(a) Required Conservation Division forms may be submitted to the Commission on forms supplied by the Commission or on xerographic copies of Commission forms or by operator computer generated forms. Operator computer generated forms will be printed from Commission designed files made available to operators via the electronic Bulletin Board Service (BBS), Internet (World Wide Web) or magnetic disk. 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:

(1) **Form 1000 - Notice of Intention to Drill application:** Operator shall file Form 1000 before any oil, gas, injection, disposal, or service well is drilled, recompleted, or re-entered. 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. The Commission shall process the application and, if approved, return a computer-generated permit to the operator. The Commission shall mail a copy of the permit to drill or re-enter to the land owner(s). Upon approval, the operator will have six 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 written request 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]

(2) **Form 1000A - Request for Reserve Pit Requirements:** The operator shall file Form 1000A in duplicate for information before any noncommercial pit is constructed. The Commission shall indicate the necessary liner requirements, if any, and return to the operator. [Reference 165:10-7-16]

(3) **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]

(4) **Form 1000S - Application to Drill Seismograph and Stratigraphic Test Holes:** 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 plat of the project area. [Reference 165:10-7-31]

(5) **Form 1001 - Notification of Intention to Plug:** Operator shall file notice on Form 1001, in duplicate, five days prior to plugging operations and shall notify the appropriate Commission 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. The operator of each offset producing lease shall be notified prior to the plugging of any well other than a dry hole. [Reference 165:10-11-4, 165:10-11-5, and 165:10-11-6]

(6) **Form 1001A - Notification of Spudding of New Well:** Form 1001A is mailed to the operator with the intent to drill permit. Operator shall file with the Conservation Division within 14 days of spudding a new well or reentering a previously plugged well. [Reference 165:10-3-1]

(7) **Form 1002A - Well completion report:** Operator shall furnish a complete well record on Form 1002A within 30 days after completion of operations to drill, recomplete, 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 on a 24-hour basis both oil and gas. [Reference 165:10-3-25]

(A) **Oil well**: GOR less than 15,000:1

(B) **Gas well**: GOR 15,000:1 or more

(8) **Form 1002B - Confidential Filing of Electric Logs:** Operator shall file Form 1002B within 60 days of the running of the last formation evaluation type wire line log to hold logs confidential for one year period. Optional extension for six months may be requested by operator in writing to the Technical Department of the Conservation Division. [Reference 165:10-3-26]

(9) **Form 1002C - Cementing Report to accompany Well Completion Report:** Operator shall file Form 1002C with the Well Completion Report (Form 1002A) describing 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(h)]

(10) **Form 1003 - Plugging Record:** Operator will file Form 1003, in duplicate, within 30 days after plugging operations are completed. Both copies are to be mailed to the applicable Commission District Office. If a depleted producer, list OTC assigned county and lease number. [Reference 165:10-11-6 and 165:10-11-7]

(11) **Form 1003A - Notice of Temporary Exemption from Well Plugging:** Form 1003A shall be filed with the appropriate District Office. [Reference 165:10-11-3]

(12) **Form 1003C - Cementing Report to accompany Plugging Record:** operator shall file Form l003/1003C when well has been plugged. Form 1003/1003C shall be completed and signed by employees of both the operator and the cementing company. [Reference 165:10-11-6 and 165:10-11-7]

(13) **Form 1004 - Monthly Report of Unallocated Natural Gas Wells Production:** Each operator of the required meter under 165:10-17-5 shall make a monthly well on Form 1004 report with the Commission of all natural gas volumes transferred through the meter for the preceding month, by the last day of the month following such transfer. List formation name plus OTC assigned county and lease number. If more than one meter, the operator of each shall file this form. [Reference 165:10-1-47]

(14) **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]

(15) **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.

(16) **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, 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 165:10-1-12]

(17) **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, Form 1006 or 1006C. Operator must file an original copy on Form 1006A, which must be updated annually from the last filing date. [Reference 165:10-1-11]

(18) **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 (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]

(19) **Form 1006BR - Recycling, Reclaiming Operator's Agreement to Close the Reclaiming Facility:** Prior to operating a recycling or reclaiming facility the operator shall file an agreement to close the facility in compliance with OCC rules. This agreement must accompany the application for certification (Form 1020A). [Reference 165:10-8-1 and/or 165:10-8-2]

(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, Form 1006A or 1006. Operator must file the original copy with the bank seal affixed. A letter of credit must be valid for at least a one year period. [Reference 165:10-1-13]

(21) **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 1006B 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 1006S shall be filed with the bond. [Reference 165:10-11-6]

(22) **Form 1007A - IBM operator annual unallocated natural gas wells survey:** Annual Survey Form 1007A will be furnished to all operators at the end of each calendar year in duplicate. The form shall be updated by the operator as of December 31 notifying the Commission of any new wells, wells sold (to whom and address), or abandoned since the last 1007A was filed. Original only shall be forwarded to Conservation Division by February 15th for the previous year's activity. List OTC assigned county and lease number (if not imprinted). See 165:10-17-11 for production penalties on overproduced wells. [Reference 165:10-17-1 and 165:10-17-16]

(23) **Form 1008S - Operators agreement to plug seismic shot holes with 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 shall be duly registered with the Conservation Division on Form 1006SB. [Reference 165:10-11-6]

(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 165:10-15-5]

(25) **Form 1012 - Annual Fluid Injection Report:** Operators shall file Form 1012 by April 1 of each year covering the previous calendar year (January 1 through December 31) on all enhanced recovery projects, pressure maintenance projects, and salt water disposal wells (commercial disposal wells will report twice per year on January 31 and July 31 for the previous six months) for each UIC well. The completed form will list well identification including API number, the Commission order 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 dates. [Reference 165:10-5-7].

(26) **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 in 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 [Reference 165:10-15-1, 165:10-15-16, 165:10-15-17 and 165:10-15-18].

(27) **Form 1014 - Application for Permit to Use Earthen Pit:** The operator of a proposed off-site reserve pit, recycling/reuse pit, spill containment pit, or remediation pit must submit Form 1014 in duplicate to the appropriate District Office for approval before constructing or using the pit. [Reference 165:10-7-16]

(28) **Form 1014CS - Application for Commercial Soil Farming:** For a commercial soil farming site which has an order to operate, the operator shall submit a Form 1014CS to the Pollution Abatement Department for prior approval each time that soil farming is proposed to be done. The application must be processed within ten (10) days of submission. [Reference 165:10-9-2]

(29) **Form 1014D - Application for Surface Discharge:** Each application for surface discharge of produced water must be submitted to a Field Operations office on Form 1014D in quadruplicate. Applications will be processed within five working days. [Reference 165:10-7-17 or 165:10-7-32]

(30) **Form 1014HD - Application for Disposal of Hydrostatic Test Water:** Company wishing to discharge water as required by OAC 165:10-7-17, used to test a pipeline or tank, must submit a Form 1014HD to the Pollution Abatement Department for prior approval. [Reference 165:10-7-17]

(31) **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]

(32) **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]

(33) **Form 1014S - Application for Land Application:** Each application for land application of materials must be submitted to a Field Operations office on Form 1014S. An original and three copies are required. 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 working days of submission of all required or requested information. [Reference 165:10-7-19 and 165:10-7-26]

(34) **Form 1014W - Application for waste oil or drill cuttings use by County Commissioners:** Application to apply waste oil, waste oil residue, or freshwater drill cuttings must be made by any Board of County Commissioners on Form 1014W. An original and one copy are required to be submitted to the appropriate District Manager. [Reference 165:10-7-22 and 165:10-7-28]

(35) **Form 1014X - Application for waste oil or drill cuttings use by operators:** Application to apply waste oil, waste oil residue, or freshwater drill cuttings must be made by any operator on Form 1014X. An original and one copy are required to be submitted to the appropriate District Manager. [Reference 165:10-7-27 and 165:10-7-29]

(36) **Form 1015 - Application for Administrative Approval to Dispose of or Inject Water into Well(s):** Applicant shall file an original and six copies of application and one complete set of attachments to the Commission on Form 1015. Applicant will also furnish one copy of the application on Form 1015 to the landowner and a copy of the application to each operator of a producing leasehold within one-half (1/2) mile of the well location. Applicant will submit an affidavit of delivery or mailing not later than five days after the application is filed and shall file proof of publication in an Oklahoma City newspaper and a county newspaper in which the well is located. [Reference 165:10-5-5]

(37) **Form 1015SI - Application for Permit for Simultaneous Injection Well:** Operator shall file original and three copies 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 (1/2) mile of the proposed injection well. [Reference 165:10-5-15]

(38) **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 and three copies 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 land owner and the operator of any producing lease within 1/2 mile of the proposed well. [Reference 165:10-5-13]

(39) **Form 1015U - Unit-wide application for Injection:** Optionally, the operator can file a unit-wide application for injection (Form 1015U) that fulfills all the requirements of 165:5-7-27 (b) through (e). Upon review and approval, the operator receives a unit-wide order that allows the operator to file an individual well application (Form 1015) and if it fits the unit-wide criteria, the UIC order can be issued immediately without an additional area of review, notice, or protest period. [Reference 165:5-7-27]

(40) **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]

(41) **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]

(42) **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]

(43) **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 and/or 165:10-8-2]

(44) **Form 1021 - Application for Priority Hardship Classification:** The applicant shall file Form 1021 and the necessary attachments with the Technical 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]

(45) **Form 1021A - Application for limited deviation from the priority gas rules:** The applicant shall file Form 1021A and the necessary attachments with the Technical 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]

(46) **Form 1022 - Application to flare or vent gas:** Operator shall file one copy of Form 1022 to the Technical Department of the Conservation Division listing OTC assigned county lease number. [Reference 165:10-3-15]

(47) **Form 1022A - Application to operate vacuum pump:** Operator shall file one copy of Form 1022A with the required attachments to the Technical Department of the Conservation Division. No filing fee will be required for application to operate a vacuum pump. Notice requirements as set out in OAC 165:5-7-25 shall apply. [Reference 165:10-3-31]

(48) **Form 1023 - Application for multiple completion, multichoke assembly or commingle completion:** Operator will file the original and four copies 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]

(49) **Form 1024 - Packer setting affidavit:** Operator will submit Form 1024 as required. [Reference 165:10-3-35 and pertinent field rules]

(50) **Form 1025 - Packer leakage test:** Operator will submit Form 1025 as required. [Reference 165:10-3-35 and pertinent field rules]

(51) **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]

(52) **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]

(53) **Form 1029A - Production or potential test - oil only:** Operator of each newly completed 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.

(54) **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]

(55) **Form 1034 - Nominations and purchasers report:** [Reference 165:10-1-49]

(A) **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.

(B) **Gas:** Purchasers shall file their nominations by letter for wells in special allocated pools no later than one week prior to the market demand hearing.

(56) **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]

(57) **Form 1062 - Field Operations Inspection Report:** IN-HOUSE USE ONLY.

(58) **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]

(59) **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]

(60) **Form 1072 - Notice of (commencement) (termination) of injection:** Within 30 days of either the commencement or termination of injection Form 1072 must be filed. Failure to file Form 1072 within 18 months from the date of authorization results in termination of the Commission order. [Reference 165:10-5-7]

(61) **Form 1073 - Notice of transfer of well operatorship:** The new operator shall file Form 1073 to notify the Conservation Division of any change of operation or purchaser of any oil, gas injection, disposal, or enhanced recovery injection well within 30 days after transfer of the well. [Reference 165:10-5-10 and 165:10-1-15]

(62) **Form 1073I - Notice of transfer of well operatorship:** The new operator shall file Form 1073I to notify the Underground Injection Control Section of any change of operation of any injection, disposal, or enhanced recovery injection well within 30 days after transfer of the well. [Reference 165:10-5-10 and 165:10-1-15]

(63) **Form 1075 - Mechanical integrity pressure test:** A pressure or monitoring test must be performed on new and existing enhanced recovery 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]

(64) **Form 1081 - Mineral owners escrow account:** Operator shall file, in quadruplicate, Form 1081 annually on anniversary date of first pooling order issued after effective date of Senate Bill 299 (7-1-84) and shall include all applicable orders issued during the twelve-month reporting period. [Reference 165:10-25-1 through 165:10-25-10]

(65) **Form 1085 - Complaint report:** Form 1085 is used by Commission personnel to report violations of General Rules of the Commission 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]

(66) **Form 1139 - Application for gross production tax exemption:** Operators shall file one copy of Form 1139 with the required attachments to the Technical Department of the Conservation Division. [Reference 165:10-21-75 through 165:10-21-80]

(67) **Form 1534 - Application for tax rebate:** Operators shall file one original of Form 1534 with the required attachments to the Technical Department of the Conservation Division. To obtain the tax exemption of the gross production tax, the operator shall forward a copy of the Commission order to the Oklahoma Tax Commission, together with any other data required by that agency. [OTC Rule 10.030.03] [Reference 165:10-21-23, 165:10-21-37, 165:10-21-47, 165:10-21-57, 165:10-21-67 and 165:10-21-82.2]

(68) **Form 1535 - Application for classification of reservoir dewatering project for exemption of sales tax on electricity used for such operations:** Operators shall file one original of Form 1535 with the required attachments to the Technical 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, 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, 165:10-21-91 and 165:10-21-92]

## SUBCHAPTER 7. POLLUTION ABATEMENT

## PART 3. STORAGE AND DISPOSAL OF FLUIDS

**165:10-7-32. Application to reclaim and/or recycle produced water for surface activities related to drilling, completion, workover, and production operations from oil and gas wells**

(a) **Authority to reclaim and/or recycle produced water.** No person shall use produced water for any other purpose except as provided by this section. Any operator failing to obtain a permit may be fined up to $500.00.

(b) **Scope.** This Section shall cover the reclaiming and/or recycling of produced water from oil and gas wells for a single well location for the purpose of water supply for surface activities used for a specific permitted use. This does not include the use of produced water for down-hole operations referred to as weighted water under OAC 165:10-7-24(b)(2).

(c) **Quality of produced water.** For the purposes of this rule shall be limited to Total Dissolved Solids (TDS) content not to exceed 5,000 mg/l and oil and grease content not to exceed 1,000 mg/l.

(d) **Storage of produced water.** If the produced water is stored in tanks, the tanks shall be legibly marked "recycle" water.

(e) **Log of load tickets.** The operator shall maintain copies of the load tickets from wells that the produced water was obtained. Such copies shall be made available to the OCC Inspector upon request.

(f) **Notification to OCC District Office.** The Operator shall orally notify the District Office when produced water is to be initially hauled to the permitted facility.

(g) **Application for permit.**

(1) The operator of the well must apply for the permit for the reclamation of produced water.

(2) Required Application. Each application for the reclaiming and/or recycling of produced water shall be submitted to the Field Operations District office on Form 1014D.

(3) A copy of written notice to the surface owner that the applicant intends to use produced water as per 165:10-7-32 to a specific portion of their real property as designated by legal description. For purposes of notice, a written waiver from the surface owner may also be submitted.

## SUBCHAPTER 21. APPLICATIONS FOR TAX EXEMPTIONS

## PART 6. PRODUCTION ENHANCEMENT PROJECTS

**165:10-21-24. Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as production enhanced.

(2) A Copy of OCC Form 1534 submitted to the Corporation Commission.

(3) A properly completed OTC Form 328 Gross Production 841/495 Refund Report.

(4) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for qualifying wells.** Approval of a "Production Incentive" shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

## PART 7. RE-ESTABLISHMENT OF PRODUCTION FROM AN INACTIVE WELL

**165:10-21-38. Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as an inactive well for which production has been reestablished.

(2) A copy of OCC Form 1534 submitted to the Corporation Commission.

(3) A copy of an approved OTC Form 320C that shows the date of the re-establishment of production of oil and/or gas.

(4) A properly completed OTC Form 328 Gross Production 841/495 Refund Report.

(5) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for qualifying wells.** Approval of a "Reestablished Incentive" shall not

be time-barred by either the date of certification or the date of filing a claim for refund of gross production tax.

(c) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

## PART 8. DEEP WELLS

### 165:10-21-45. General

~~(a) Exemption from the levy of gross production tax on the production of gas, oil or gas and oil from wells spudded between July 1, 1994 and June 30, 1997, and drilled to a depth of fifteen thousand (15,000) feet or more shall be determined according to the provisions of this Part, which have been jointly adopted by the Oklahoma Corporation Commission and Oklahoma Tax Commission pursuant to 68 O.S. Section 1001(M)(1).~~

~~(b) Exemption from the levy of gross production tax on the production of gas, oil or gas and oil from wells spudded between July 1, 1997, and June 30, 2003, and drilled to a depth of twelve thousand five hundred (12,500) feet or more shall be determined according to the provisions of this Part, which have been jointly adopted by the Oklahoma Corporation Commission and Oklahoma Tax Commission, pursuant to 68 O.S. Section 1001(M)(1). Such exemption shall apply to gross production tax levied pursuant to 68 O.S. Section 1001(H) from the date of first sales for a period of twenty-eight (28) months.~~

~~(c) For purposes of qualifying for this exemption, "depth" means the length of the maximum continuous string of drill pipe utilized between the drill bit face and the drilling rig's kelly bushing.~~

(a) **General provisions.** Exemption from the levy of gross production tax on the production of gas, oil, or gas and oil from wells certified as being "Deep Wells" set out in 68 O.S. §1001(H) shall be determined according to the provisions of this Part, which have been jointly adopted by the Oklahoma Corporation Commission and the Oklahoma Tax Commission pursuant to 68 O.S. § 1001(M)(1).

(b) **Definitions.** For purposes of qualifying for the exemption, "**depth**" means the length of the maximum continuous string of drill pipe utilized between the drill bit face and the drilling rig's kelly bushing.

(c) **Exemption for wells spudded between July 1, 1994, and June 30, 2000, to a depth of fifteen thousand (15,000) feet or greater.** Deep wells spudded between July 1, 1994, and June 30, 2000, and drilled to a depth of fifteen thousand (15,000) feet or greater shall be exempt from the gross production tax, beginning from the date of first sale, for a period of twenty-eight (28) months.

(d) **Exemption for wells spudded between July 1, 1997, and June 30, 2003, to a depth of twelve thousand five hundred (12,500) feet.** Deep wells spudded between July 1, 1997, and June 30, 2003, and drilled to a depth of twelve thousand five hundred (12,500) feet or greater shall be exempt from the gross production tax, beginning from the date of first sale, for a period of twenty-eight (28) months.

(e) **Exemption for wells spudded between July 1, 2002, and June 30, 2003.** Deep wells spudded between July 1, 2002, and June 30, 2003, shall be eligible for an exemption from the gross production tax which shall begin from the date of first sale, and vary as to duration in relation to the depth of the well.

(1) **12,500 to 14,999 feet.** The duration of the exemption for wells drilled to this depth is twenty-eight (28) months.

(2) **15,000 to 17,499 feet.** The duration of the exemption for wells drilled to this depth is forty-eight (48) months.

(3) **17,500 feet or greater.** The duration of the exemption for wells drilled to this depth is sixty (60) months.

### 165:10-21-47.1. Refund procedure

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as a well spudded ~~between July 1, 1994 and June 30, 1997, and drilled to a measured depth of fifteen thousand (15,000) feet or greater.~~ within the applicable time periods and drilled to the prescribed depths provided in OAC 165:10-21-45.

(2) A copy of OCC Form 1534 submitted to the Corporation Commission.

(3) A copy of an approved OTC Form 320A that shows date of first sale of production.

~~(4)A notarized statement of the cost of drilling and completing the well.~~

(~~5~~4) A properly completed OTC Form 328 Gross Production 841/495 Refund Report.

(~~6~~5) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for qualifying wells.** Approval of a "Deep Well Incentive" shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

### 165:10-21-48. Audit requirements [REVOKED]

~~The deep well drilling and completion costs claimed shall be subject to verification through audit by the Oklahoma Tax Commission. Costs allowed in computing deep well payout shall include only the costs of drilling and completing the well and shall not include any cost incurred after the completion~~

~~date. Neither shall it include lease acquisition costs, tank batteries, meters, pipelines or other external equipment.~~

## PART 9. NEW DISCOVERY WELLS

**165:10-21-58. Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as a new discovery well spudded or re-entered between July 1, 1995 and June 30, 2003.

(2) A copy of OCC Form 1534 submitted to the Corporation Commission.

(3) A copy of an approved OTC Form 320A that shows date of first sale of production.

~~(4) A notarized statement of the cost of drilling and completing the well.~~

(~~5~~4) A properly completed OTC Form 328 Gross Production 841/495 Refund Report.

(~~6~~5) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for qualifying wells.** Approval of a "New Discovery Incentive" shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

**165:10-21-59. Audit requirements [REVOKED]**

~~The new discovery well drilling and completion costs claimed shall be subject to verification through audit by the Oklahoma Tax Commission. Costs allowed in computing new discovery well payout shall include only the costs of drilling and completing the well, or the costs of re-entry, and shall not include any cost incurred after the completion date for the drilling or re-entry. Neither shall it include lease acquisition costs, tank batteries, meters, pipelines or other external equipment.~~

## PART 11. HORIZONTALLY DRILLED PRODUCING WELLS

**165:10-21-65. General**

Exemption from the levy of Gross Production Tax on horizontally drilled producing wells set out in 68 O.S. § 1001(E) shall be determined according to the provisions of this Part, ~~6 of this Subchapter,~~ which have been jointly adopted by the Oklahoma Corporation Commission and the Oklahoma Tax Commission pursuant to law. [See: 68 O.S. §1001(M)(1)]

**165:10-21-68. Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Commission grants the application, the well operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as a horizontally drilled well.

(2) A copy of OCC Form 1534 submitted to the Corporation Commission.

(3) A copy of an approved OTC Form 320A that shows the date of initial production.

(4) A properly completed OTC Form 328 Gross Production 841/495 Refund Report.

(5) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for qualifying wells.** Approval of a "Horizontal Drilling Incentive" shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

**165:10-21-69. Time periods for exemption from gross production tax levied on horizontally drilled producing wells**

(a) **General provisions.** The exemption for horizontally drilled wells qualified pursuant to this Part shall be determined from the project beginning date until project payback is achieved, and are limited in duration to the time periods set out in this Section.

(b) **Twenty-four (24) month exemptions.** For production described in this subsection, duration of the exemption may not exceed a period of twenty-four (24) months commencing with the date of initial production from the horizontally drilled well.

(1) **Production prior to July 1, 1994.** Any incremental production which results from a horizontally drilled well producing prior to July 1, 1994.

(2) **Production prior to July 1, 2002, which commenced after July 1, 1995.** Any horizontally drilled well producing prior to July 1, 2002, which production commenced after July 1, 1995.

(c) **Forty-eight (48) month exemption.** For a horizontally drilled well producing prior to July 1, 2003, which production

commenced after July 1, 2002, the duration of the exemption may not exceed a period of forty-eight (48) months commencing with the date of initial production from the horizontally drilled well. [See: 68 O.S. Supp. 2002, Section 1001(E)(1)]

## PART 13. INCREMENTAL PRODUCTION FROM ENHANCED RECOVERY PROJECTS

### 165:10-21-76. Definitions

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

**"Base production amount"** means the average monthly amount of productions for the twelve (12) month period immediately prior to the project beginning date minus the monthly rate of production decline for the project or property for each month beginning one hundred eighty (180) days prior to the project beginning date.

**"Completion date"** means the date a well is first capable of being used for the injection of liquids, gases or other matter, or is capable of producing crude oil or other liquid hydrocarbons through permanent wellhead equipment.

**"Enhanced recovery project costs"** means the incremental project costs that are allowed as payback factors in determining the exemptions from the levy of gross production tax of project incremental production.

**"Existing tertiary recovery project"** means, for purposes of the exemption described in 68 O.S. Section 1001(D)(1), a tertiary recovery project whose beginning date is prior to October 16, 1987.

**"Incremental production"** means the amount of crude oil or other liquid hydrocarbons which are produced during an approved enhanced oil recovery operation and which are in excess of the base production amount of crude oil or other liquid hydrocarbons.

**"Incremental working interest revenue"** means the gross value of the incremental production, less the royalty interest therein.

**"Monthly rate of production decline"** means a rate equal to the average extrapolated monthly decline rate for the twelve (12) month period immediately prior to the project beginning date as determined by the Commission, based on the production history of the field, its current status, and sound reservoir engineering principles.

**"New enhanced recovery project"** means, for purposes of the exemption described in 68 O.S. Section 1001(D)(1), a secondary or tertiary recovery project whose beginning date is on or after October 16, 1987.

**"Project beginning date"** means the date on which the injection of liquids, gas or other matter begins on an enhanced recovery project.

**"Project payback or payout"** means that point at which the incremental working interest revenue from the enhanced recovery project equals the enhanced project costs.

**"Secondary recovery properties"** means secondary recovery properties approved or having an initial project beginning date on or after July 1, 2000 and before ~~July 1, 2003~~ July 1, 2002, such that any incremental production attributable to the working interest which results from such secondary recovery property shall be exempt from the gross production tax levied pursuant to 68 O.S. Section 1001 for a period not to exceed five (5) years from the initial project beginning date or for a period ending upon the termination of the secondary recovery process, whichever occurs first. [Applicant may omit payback report for such secondary recovery properties.]

### 165:10-21-78. Recovery of costs allowed as payback factors

(a) **Enhanced recovery project, project beginning date between October 17, 1987 and June 30, 1990.** For any enhanced recovery project with a project beginning date between October ~~16~~ 17, 1987, and June 30 1990, allowed enhanced recovery costs shall include only incremental capital costs and incremental operating expenses associated with enhanced recovery operations.

(b) **Enhanced recovery project, project beginning date between July 1, 1990 and June 30, 1993.** For any enhanced recovery project with a project beginning date between July 1, 1990, and June 30, 1993, allowable enhanced recovery project costs shall be limited to the incremental capital costs of project start up, including the cost of completing any well necessary to the project and of converting any existing well to handle secondary or tertiary injection of liquids, gas or other matter. With respect to completing or converting a well, no expenditure after completion or conversion for enhanced recovery purposes shall be included.

(c) **Secondary recovery project, project beginning date on or after July 1, 1993 and before July 1, 2000.** For any secondary recovery project with a project beginning date on or after July 1, 1993, and before July 1, 2000, allowed enhanced recovery project costs shall include only incremental capital costs and fifty percent (50%) of incremental operating expenses, provided however that the period for project payback shall not exceed a period of ten (10) years from the project beginning date.

(d) **Tertiary enhanced recovery project, project beginning date on or after July 1, 1993 and before July 1, 2003.** For any tertiary enhanced recovery project with a project beginning date on or after July 1, 1993, and before July 1, 2003, allowable enhanced recovery project costs shall include only incremental capital costs and incremental operating expenses, excluding administrative expenses. The capital expenses of pipelines constructed to transport carbon dioxide to a tertiary recovery project shall not be included in determining project payback. The period for project payback shall not exceed ten (10) years from the project beginning date.

(e) **Excluded costs.** The cost of tank batteries, meters, pipelines or other external equipment shall not be included in allowable enhanced recovery project costs. Allowable costs shall be determined using generally accepted accounting principles such as outlined in the "Council of Petroleum Accountants Society (COPAS) - Accounting Procedure Form for Joint Operations" and "COPAS Bulletin No. 16", or subsequent revisions thereto.

## PART 14. PRODUCTION OF OIL, GAS OR OIL AND GAS FROM ANY WELL LOCATED WITHIN BOUNDARIES OF A THREE-DIMENSIONAL SEISMIC SHOOT

**165:10-21-82.2. Qualification procedure**

(a) **Applicable wells.** The provisions of this Section establish criteria for determining if an operator producing oil, gas or oil and gas from a well, drilling of which is commenced on or after July 1, 2000, and prior to July 1, 2003, located within the boundaries of a three-dimensional seismic shoot and drilled based on three-dimensional seismic technology, has met the required conditions to qualify the production from such a well for the exemption from the Gross Production Tax. [See: 68 O.S. §1001(J)]

(b) **Application to Oklahoma Corporation Commission; determination; order.** An operator seeking an exemption of the gross production tax on production from a well located within the boundaries of a three-dimensional seismic shoot and drilled based on such technology, shall make application to the Oklahoma Corporation Commission on a Form 1534 for a determination that the well qualifies for such exemption, as provided in 68 O.S. 2000 Supp. §1001(J).

(1) If the application is administratively approved, an order of the Oklahoma Corporation Commission shall be issued.

(2) To obtain the tax exemption, the operator shall forward a copy of the Oklahoma Corporation Commission order to the Oklahoma Tax Commission, together with any other data required by that agency pursuant to OAC ~~165:10-21-88~~ 165:10-21-82.3.

(3) Any data, maps and other information submitted with the Form 1534 for determination that a well qualifies for the exemption provided in this paragraph shall be held as confidential information by the Conservation Division and/or Commission, and upon approval through issuance of a Commission order, shall be returned to the applicant or destroyed.

**165:10-21-82.3. Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Commission grants the application, the well operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) Corporation Commission order approving such application and containing a determination that the well meets the criteria of the statute insofar that its drilling was commenced on or after July 1, 2000, and prior to July 1, 2003, that it is located within the boundaries of a three-dimensional seismic shoot and was drilled based on such technology, and indicating whether the seismic shoot was shot either prior to or on or after July 1, 2000.

(2) A schedule of production, by month, of the gross amounts of oil, gas or oil and gas produced, and the gross values thereof, from the date of first sale until the date application is made to the Tax Commission.

(3) OTC Form 320A, 320C, and 320U, as are necessary, to set up the OTC Production Units, to request merge numbers, and to show the entity who will remit taxes.

(4) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for qualifying wells.** Approval of a "Three-Dimensional Incentive" shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

**165:10-21-82.4. Time periods for exemption from gross production tax levied on oil, gas or oil and gas production from a well located within boundaries of three-dimensional seismic shoot**

The exemption from gross production tax levied on oil, gas or oil and gas production from a well qualified pursuant to this Section shall be applied as follows:

(1) **Eighteen (18) month exemption.** For a well where the seismic shoot was ~~finished before~~ shot prior to July 1, 2000, the well shall be exempt from the gross production tax levied from the date of first sales for a period of eighteen (18) months.

(2) **Twenty-eight (28) month exemption.** For a well where the seismic shoot was ~~finished~~ shot on or after July 1, 2000, the well shall be exempt from the gross production tax levied from the date of first sales for a period of twenty-eight (28) months.

## PART 17. SALES TAX EXEMPTION FOR ELECTRICITY AND ASSOCIATED DELIVERY AND TRANSMISSION SERVICES SOLD FOR OPERATION OF RESERVOIR DEWATERING PROJECT AND/OR UNIT

**165:10-21-90. General**

(a) **Scope.** This Part deals with the classification by the Oklahoma Corporation Commission (Corporation Commission or Commission) of a reservoir dewatering project and/or unit for the purpose of an exemption, beginning January 1, 2004, from sales taxes levied on electricity and associated delivery and transmission services sold to an oil and gas operator for reservoir dewatering projects and associated operations commencing on or after July 1, 2003, as provided in 68 O.S. 2002 Supp., §1357(28).

(b) **Distinction from designation as reservoir dewatering oil spacing unit or other spacing application.** The classification of an area and reservoir(s) as a "reservoir dewatering project" and/or a "reservoir dewatering unit" pursuant to this Part shall be separate and distinct from the designation of a reservoir dewatering oil spacing unit for oil allowable purposes pursuant to OAC 165:10-15-18. Corporation Commission approval of an area and reservoir(s) for the instant sales tax exemption shall be made by application under this Part and not as a result of a spacing application filed for oil allowable purposes under OAC 165:10-15-1 and OAC 165:10-15-18, a spacing application filed for gas allowable purposes under OAC 165:10-17-2 through 10-17-16, a spacing application filed for horizontal drilling purposes under OAC 165:10-3-28, or any spacing application filed under OAC 165:10-1-22.

(c) **Reservoir dewatering projects for oil production.** Any reservoir that is the subject of an application pursuant to this Part, which produces predominantly oil, shall be evaluated to determine the initial water-to-oil ratio is equal to or greater than five-to-one (5-to-1).

(d) **Reservoir dewatering projects for gas production.** Any reservoir that is the subject of an application pursuant to this Part, which produces predominantly gas, shall be evaluated to determine the initial five-to-one (5-to-1) water-to-oil ratio using a gas conversion factor of one (1) barrel of oil converted to an MCF of natural gas based on an initial natural gas formation volume factor, BTU or price calculation or conversion accepted by the Conservation Division.

**165:10-21-91. Definitions**

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

**"Reservoir dewatering project"** means an oil or gas production project covering a specified area and reservoir(s), which utilizes water recovery and disposal technology to increase water production in the initial phase of reservoir development, with the primary purpose of increasing oil or gas production from the reservoir(s) as a result of the dewatering process. For the purpose of qualification for the sales tax exemption pursuant to this Part, the definition of reservoir dewatering project shall require the proof that the reservoir's initial water-to-oil ratio is greater than or equal to five-to-one (5-to-1), or is greater than or equal to the appropriate gas-to-water ratio calculated using the gas conversion factor outlined in OAC 165:10-21-90(d). This definition shall not include enhanced recovery projects or secondary recovery properties, which are subject to gross production tax exemptions pursuant to 68 O.S. Section 1001 and Part 13 of this Subchapter, OAC 165:10-21-75 through 10-21-80.

**"Reservoir dewatering unit"** means an area and reservoir(s) designated a "reservoir dewatering project" where a reservoir dewatering process is conducted as defined in this Part.

**165:10-21-92. Qualification procedure**

(a) **Applicable operations.** The provisions of this Section establish criteria for determining if an area and reservoir(s) can be classified a reservoir dewatering project and/or a reservoir dewatering unit, beginning January 1, 2004, for the purpose of an exemption from sales taxes levied on electricity and associated delivery and transmission services sold to an oil and gas operator for a reservoir dewatering project and associated operations commencing on or after July 1, 2003.

(b) **Application to the Oklahoma Corporation Commission.** An oil and gas operator seeking the classification of an area and reservoir(s) as a reservoir dewatering project and/or reservoir dewatering unit pursuant to this Part shall file an application with the Corporation Commission on a Form 1535 for a determination that the project and/or unit qualifies for the exemption, as provided in 68 O.S. 2002 Supp., §1357(28). The operator shall attach to the Form 1535 a copy of the following information:

(1) A production test or other appropriate data showing the initial water-to-oil ratio is greater than or equal to five-to-one (5-to-1) or is greater than or equal to the appropriate gas-to-water ratio calculated using the gas conversion factor outlined in OAC 165:10-21-90(d). For this purpose, a Corporation Commission Form 1013 may be filed with the sales tax exemption application to demonstrate the initial 5-to-1 water-to-oil ratio for the reservoir.

(2) Geological structure and isopach maps for the applicable reservoir showing its geological characteristics; and any additional engineering and geological data or information deemed necessary by the Conservation Division to evaluate the application.

(3) A schematic diagram of the electrical grid and dewatering and water disposal equipment associated with the reservoir dewatering project covered by the application.

(c) **Administrative approval, determination and order.**

(1) If the application is administratively approved, an order of the Oklahoma Corporation Commission shall be issued.

(2) To obtain the tax exemption, the operator should contact the Director's Office, Taxpayer Assistance Division, Oklahoma Tax Commission, 2501 N. Lincoln Blvd., Oklahoma City, OK 73194.

(3) Any data, maps and other information submitted with the Form 1535 for determination that an area and reservoir qualify for the exemption provided in this Part shall be held as confidential information by the Conservation Division and/or Corporation Commission, and upon approval through issuance of a Commission order, shall be returned to the applicant or destroyed.

*[OAR Docket #03-861; filed 5-2-03]*
*(format accepted 5-5-03)*

# Permanent Final Adoptions

An agency may promulgate rules on a permanent basis upon "final adoption" of the proposed new, amended, or revoked rules. "Final adoption" occurs upon approval by the Governor and the Legislature, or upon enactment of a joint resolution of approval by the Legislature. Before proposed permanent rules can be reviewed and approved/disapproved by the Governor and the Legislature, the agency must provide the public an opportunity for input by publishing a Notice of Rulemaking Intent in the *Register.*

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 references the *Register* publication of the permanent action.

*For additional information on the permanent rulemaking process, see 75 O.S., Sections 303, 303.1, 303.2, 308 and 308.1.*

## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #03-808]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Appendix A. Fine Matrix [NEW]
**AUTHORITY:**
Oklahoma State Board of Agriculture; 2 O.S. 2001 § 2-4(2), 2 O.S. 2001 § 2-18, and 2000 Okla. Sess. Laws § 116 of S.B. 1402
**DATES:**
**Comment period:**
January 16, 2003 through February 18, 2003
**Public hearing:**
February 18, 2003
**Adoption:**
February 19, 2003
**Submitted to Governor:**
February 26, 2003
**Submitted to House:**
February 26, 2003
**Submitted to Senate:**
February 26, 2003
**Gubernatorial approval:**
April 14, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on April 23, 2003
**Final adoption:**
April 23, 2003
**Effective:**
June 12, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The primary purpose of the proposed appendix is to create a guideline for the imposition of administrative penalties in relation to violations of a portion of the Oklahoma Agricultural Code and corresponding rules. The implementation of the fine matrix within this appendix will allow the Department of Agriculture, Food, and Forestry to assess penalties, for the referenced violations, within the parameters set by statute and to do so consistently on a case-by-case basis. In addition, Section 116, an un-codified section, of Senate Bill 1402 which was passed in 2000 requires that the Department promulgate rules establishing fees in order for the fee changes of 1999 to take effect.
**CONTACT PERSON:**
Janet Stewart, (405) 522-5803

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## APPENDIX A. FINE MATRIX [NEW]

**This Fine Matrix shall serve as the guideline for the assessment of administrative penalties for the following violations, and pursuant to 2 O.S. §2-18.**

**OKLAHOMA COMMERCIAL FEED LAW**

**Licensing Violations**

| | |
|---|---|
| 1. Failure to obtain a license<br>2 O.S. §8-41.4<br>35 O.A.C. §30-27-11 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 2. License fee received thirty (30) days or more after renewal date<br>2 O.S. §8.41.4 | Late Filing Fee of Fifty Dollars ($50.00) |

**Labeling Violations**

| | |
|---|---|
| 3. Failure to correctly label a commercial (branded) feed product<br>2 O.S. §8-41.5(1)<br>35 O.A.C. §30-27-2 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 4. Failure to correctly document or label customer formula feed<br>2 O.S. §8-41.5(3) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 5. Distributing a feed containing an animal drug, animal protein by product, or non-protein nitrogen without precautionary or warning statements for correct use<br>35 O.A.C. §30-27-3<br>35 O.A.C. §30-27-6<br>35 O.A.C. §30-27-7 | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $10,000 |
| 6. Failure to substantiate the safety or efficiency of a feed additive<br>35 O.A.C. §30-27-8 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

| | |
|---|---|
| **Adulterated or Misbranded** | |
| 7. The manufacture or distribution of any commercial feed that is adulterated or misbranded<br>2 O.S. §8-41.7(1) | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $10,000 |
| 8. The adulteration or misbranding of any commercial feed<br>2 O.S. §8-41.7(2) | First Violation - $100 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $3000 to $10,000 |
| **Order Violations** | |
| 9. Violation of a stop sale order<br>2 O.S. §8-41.12(A) | First Violation - $100 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| 10. Failure to comply with condemnation/confiscation order<br>2 O.S. §8-41.2(B) | First Violation - $100 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| **Record Keeping Violations** | |
| 11. Failure to keep tonnage record and/or provide an accurate report<br>2 O.S. §8-41.9(B)(2) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $2500 |
| **Fees** | |
| 12. Failure to pay inspection fee by due date<br>2 O.S. §8-41.9(B) | Penalty of 10% of Amount Due<br>(Minimum of $50.00) |
| 13. No remittance of deficiency inspection fee by audit<br>2 O.S. §8-41.9(D) | 10% of amount due, not less than $100<br>or more than $2000 |
| **Miscellaneous Violations** | |
| 14. Any other violation of the Oklahoma Commercial Feed Law not otherwise addressed | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

## OKLAHOMA SEED LAW

### Licensing Violations

| | |
|---|---|
| 1. Failure to obtain a license<br>2 O.S. §8-23(A)(1) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

### Labeling and Advertising Violations

| | |
|---|---|
| 2. Failure to provide a label<br>2 O.S. §8-22 | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $10,000 |
| 3. False or misleading label<br>2 O.S. §8-23(A)(3)<br>35 O.A.C. §30-25-2<br>35 O.A.C. §30-25-7 | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $10,000 |
| 4. False or misleading advertisement<br>2 O.S. §8-23(A)(4) | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $10,000 |
| 5. Selling seed labeled certified that is not in compliance<br>2 O.S. §8-23(B)(8) | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $10,000 |
| 6. Failure to provide a caution or warning statement<br>2 O.S. §8-23(A)(5) | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $10,000 |

### Standards Violations

| | |
|---|---|
| 7. Date of test exceeds standards<br>2 O.S. §8-23(A)(2)<br>35 O.A.C. §30-25-6 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 8. Fails to meet minimum standards for germination and purity<br>2 O.S. §8-23(B)(1)<br>35 O.A.C. §30-25-5 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

### Content Violations

| | |
|---|---|
| 9. Exceeds maximum for inert matter and weed seed<br>2 O.S. §8-23(B)(1)<br>35 O.A.C. §30-25-4 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

| | |
|---|---|
| 10. Selling seed that contains prohibited noxious weeds<br>2 O.S. §8-23(B)(2)<br>35 O.A.C. §30-25-4 | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $10,000 |
| 11. Selling seed that exceeds tolerance for restricted noxious weeds<br>2 O.S. §8-23(B)(2)<br>35 O.A.C. §30-25-4 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| **Order Violations** | |
| 12. Violation of Stop Sale Order<br>2 O.S. §8-23(B)(6) | First Violation - $100 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| 13. Failure to keep records<br>2 O.S. §8-23(B)(7) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $2500 |
| **Fees** | |
| 14. Failure to pay inspection fee by due date<br>2 O.S. §8-26(9) | 10% added to amount when paid, but not less than $10 |
| 15. Deficient inspection fees discovered by audit<br>2 O.S. §8-29(B) | 10% of amount due, not less than $100 or more than $2000 |
| **Miscellaneous Violations** | |
| 16. Any other violation of the Oklahoma Seed Law not otherwise addressed | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

**OKLAHOMA FERTILIZER LAW**

| | |
|---|---|
| **Licensing Violations** | |
| 1. Sale or distribution of fertilizer without a license<br>2 O.S. §8-77.5(B)<br>35 O.A.C. §30-29-51 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

| | |
|---|---|
| 2. Failure to obtain a license for each business location<br>2 O.S. §8-77.5(B) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| **Registration Violations** | |
| 3. Distribution of unregistered fertilizer<br>2 O.S. §8-77.5(D) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 4. Failure to register or guarantee plant nutrients<br>35 O.A.C. §30-29-22(a) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| **Label Violations** | |
| 5. Failure to provide a label<br>2 O.S. §8-77.6(A) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 6. Failure to provide an adequate label<br>2 O.S. §8-77.6(C)<br>35 O.A.C. §30-29-22(e) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 7. Failure to provide warning or caution statement when required<br>35 O.A.C. §30-29-22(c) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| **Inspection Fee and Report** | |
| 8. Failure to provide semiannual inspection fee report and pay inspection fee on time<br>2 O.S. §8-77.7(A) | 10% added to amount when paid, but not less than $50 |
| 9. Deficient inspection fees discovered as result of an audit<br>2 O.S. §8-77(F) | 10% of amount due, not less than $100 or more than $2500 |
| **Distribution Violations** | |
| 10. Distribution of misbranded or adulterated fertilizer<br>2 O.S. §8-77.12 | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $10,000 |

| | |
|---|---|
| 11. Distribution of nutrient deficient fertilizer<br>2 O.S. §8-77.10<br>35 O.A.C. §30-29-51(c) | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $10,000 |
| **Records and Reports** | |
| 12. Failure to keep adequate records<br>2 O.S. §8-77.7(H)<br>2 O.S. §8-77.8(C) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $2500 |
| 13. Failure to furnish distribution report<br>2 O.S. §8-77.8 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $2500 |
| **Pollution Prevention** | |
| 14. Discharge, release, place, or cause to be placed any fertilizer materials in a location where it is likely to cause contamination of any surface or ground water<br>2 O.S. §8-77.15<br>35 O.A.C. §30-29-34 | First Violation - $500 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| 15. Failure to properly report fertilizer discharge to Board<br>35 O.A.C. §30-29-22(l) | First Violation - $100 to $500<br>Second Violation - $500 to $1000<br>Subsequent Violations - $1000 to $2500 |
| 16. Failure to prepare discharge response plan<br>35 O.A.C. §30-29-22(m) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 17. Failure to have copy of response plan available<br>35 O.A.C. §30-29-22(n) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| **Miscellaneous Violations** | |
| 18. Failure to meet storage facility requirements<br>35 O.A.C. §30-29-31 through §30-29-32<br>35 O.A.C. §30-29-35 through §30-29-37 | First Violation - $100 to $500<br>Second Violation - $500 to $2500<br>Subsequent Violations - $2500 to $10,000 |

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| 19. Failure to employ a method to prevent backflow with sprinkler irrigation systems<br>35 O.A.C. §30-29-33 | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $7500 |
| 20. Failure to meet Anhydrous Ammonia requirements<br>35 O.A.C. §30-29-38 | First Violation - $100 to $500<br>Second Violation - $500 to $2500<br>Subsequent Violations - $2500 to $10,000 |
| 21. Any other violation of the Oklahoma Commercial Feed Law not otherwise addressed | First Violation - $100 to $500<br>Second Violation - $500 to $2500<br>Subsequent Violations - $2500 to $5000 |

**OKLAHOMA STANDARD WEIGHTS and MEASURES LAW**

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| 1. Failure to meet the requirements of Handbook 44 "Specifications, Tolerances, and Other Technical Requirements For Weighing and Measuring Devices"<br>2 O.S. §14-34 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 2. Failure to meet the requirements of the "Uniform Packaging And Labeling Regulation"<br>2 O.S. §14-35(2)<br>35 O.A.C. §10-9-1 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 3. Failure to repair a weighing and measuring device within the specified time<br>2 O.S. §14-35(2, 7) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 4. Failure to meet the requirements of Handbook 133 "Checking The Net Contents Of Packaged Goods"<br>2 O.S. §14-35(2, 8)<br>35 O.A.C. §10-11-1 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

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| 5. The average quantity of contents of packages in a lot, shipment, or delivery must equal or exceed the quantity printed on the label<br>2 O.S. §14-35(2, 8)<br>35 O.A.C §10.11.1 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 6. The variation of individual package contents from the labeled quantity must not be "unreasonably large." (Exceed the maximum allowed Variation (MAV) on individual packages in the lot)<br>2 O.S. §14-35(2, 8)<br>35 O.A.C. §10.11.1 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 7. Failure to meet the requirements of the "Uniform Regulations For The Method Of Sale Of Commodities"<br>2 O.S. §14-35(2-3)<br>35:10-13-1. | First Violation - $100 to $500<br>Second Violation - $500 to $2500<br>Subsequent Violations - $2500 to $10,000 |
| 8. Failure to meet the requirements of the "National Type Evaluation Program (NTEP)"<br>2 O.S. §14-35(2)<br>35 O.A.C. 10-15-1 thru 35 O.A.C. 10-15-4 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 9. Failure to meet the requirements of the "Uniform Open Dating Regulation"<br>2 O.S. §14-35(2- 3)<br>35 O.A.C. §10-17-1 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 10. Failure to meet the requirements of the "Examination Procedures For Price Verification"<br>2 O.S. §14-35(2)<br>35 O.A.C. §10-19-1 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

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| 11. Failure to meet accuracy requirements for the appropriate sample size in column 4, 98% accuracy with one overcharge and on undercharge item<br>2 O.S. §14-35(2)<br>35 O.A.C. 10-19-1 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 12. Sold, offered, or exposed for sale any item for less than the quantity represented or took more than the represented quantity when as buyer furnishes the weight or measure which determines the quantity<br>2 O.S. §14-38(1) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 13. Represented the price or quantity of any commodity or service sold, offered, exposed, or advertised for sale by weight, measure, or count in any manner calculated or intended to mislead or deceive a person<br>2 O.S. §14-38(2) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 14. Use, or have in possession for use in Commerce, any incorrect weight or measure<br>2 O.S. §14-42(1) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 15. Remove any tag, seal, or mark from any weight or measure without specific written authorization from the proper authority<br>2 O.S. §14-42(2) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 16. Hinder or obstruct any weights and measures official in performance of the duties of such official<br>2 O.S. §14-42(3) | First Violation - $100 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| **Miscellaneous Violations** | |
| 17. Any other violation of the Oklahoma Standard Weights and Measures Law not otherwise addressed | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

**OKLAHOMA SERVICE TECHNICIAN and SERVICE AGENCY LAW**

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| 1. Failure to renew service agency and service technician license within thirty (30) days from expiration<br>2 O.S. §14-63(E) | A penalty of twice the amount shall be charged for the renewal |
| 2. Failure to attach an approval seal approved by the Board that identifies the service agency, signed by the service technician<br>2 O.S. §14-65(3) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 3. Failure to meet the requirements of the Oklahoma Service Technician and Service Agency Act rules<br>2 O.S. §14-68<br>35 O.A.C. §10-5-1 thru 35 O.A.C. §10-5-6 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 4. Failure to correct work on each job which fails to meet the requirements and required testing procedures as Specified in Handbook 44<br>2 O.S. §14-69(1) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 5. Failure to complete the placing-in-service report in its Entirety and to report the accurate description of parts replaced, adjusted, or reconditioned and work performed<br>2 O.S. §14-69( 2) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 6. Failure to report in a contract or work agreement a written explanation of the actual repairs required to repair the weight or measure to meet the requirements<br>2 O.S. §14-69( 3) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

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| 7. Failure to furnish to the Board, upon request, duplicated copies of the service agency or any service technician weight or measure test report, or any other information required by the Board<br>§ 2-14-69. 4. | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 8. To test or place in service a weight or measure that does not meet the requirements for a commercial device as specified in Handbook 44 and the required testing procedures for the category of weight and measure<br>2 O.S. §14-69(5) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 9. Making a misrepresentation for the purpose of defrauding<br>2 O.S. §14-69(6) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 10. Operating as a service technician or service agency without a license<br>2 §14-69(7) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 11. Repairing a weight or measure unless the repairs involved causes the weight or measure to meet the requirements of the Oklahoma Service Technician and Service Agency Act for at least ninety (90) days after the repairs<br>2 O.S. §14-69(8) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 12. Failure to submit a placing-in-service report to the Board within five (5) calendar days after that repair, installation, or removal is performed<br>2 O.S. §14-69(9) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 13. Filing a false or fraudulent application to the Board<br>2 O.S. §14-69(10) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

**Miscellaneous Violations**

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| 14. Any other violation of the Oklahoma Service Technician and Service Agency Law not otherwise addressed | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

**OKLAHOMA COMBINED PESTICIDE LAW**

**Licensing Violations**

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| 1. Failed or refused to pay by the specified date any fees (or) penalties authorized under this act<br>2 O. S. §3-86(A)(8)<br>2 O. S. §3-86(C)(11) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 2. Act, operate, do business, or advertise:<br>a. In a category or under a name for which no license is held;<br>2 O. S. §3-86(A)(7)<br>b. Without a license;<br>2 O. S. §3-86(A)(13)<br>c. As a private applicator without a private applicator license.<br>2 O. S. §3-86(A)(15) | First Violation - $100 to $1500<br>Second Violation - $1500 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| 3. Made a false statement or representation in the application for issuance or renewal of a license<br>2 O. S. §3-86(A)(3)<br>2 O. S. §3-86(C)(10) | First Violation - $100 to $1500<br>Second Violation - $1500 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| 4. Employed or represented self as a certified applicator or service technician without having met the certification standards<br>2 O. S. §3-86(A)(14) | First Violation - $100 to $1500<br>Second Violation - $1500 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| 5. Failure to have a separate license and/or certified applicator at each business location<br>2 O. S. §3-82(A)(4) | First Violation - $100 to $1500<br>Second Violation - $1500 to $5000<br>Subsequent Violations - $5000 to $10,000 |

**General Contract Violations**

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| 6. Made misrepresentation for the purpose of defrauding<br>2 O. S. §3-86(A)(1) | First Violation - $500 to $1000<br>Second Violation - $1000 to $3000<br>Subsequent Violations - $3000 to $6000 |
| 7. Has not satisfactorily performed any contract into which such person shall have entered<br>2 O. S. §3-86(A)(1) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

**Structural Contract Violations**

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| 8. Failed to issue a contract<br>35 O.A.C. §30-17-20 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 9. For structural pest control operators - failure to include a statement, plat, or diagram showing all locations of visible termites and termite damaged materials which are observed<br>2 O.S. §3-81(11)<br>35 O.A.C. §30-17-20 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 10. For structural pest control operators - failure to show how the application was performed<br>35 O.A.C. §30-17-20<br>2 O.S. §3-81(11) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 11 Did not address minimum standards for termite work for existing structures<br>35 O.A.C. §30-17-20(2) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 12. Did not address minimum standards for pre-construction application<br>35 O.A.C. §30-17-20(2) | First Violation - $100 to $1500<br>Second Violation - $1500 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| 13. Did not explain in the contract any minimum standards which were not going to be met<br>2 O.S. §3-86(A)(9)<br>35 O.A.C. §30-17-20(2) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

**Identification of Equipment**

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| 14. Commercial applicator did not display the name and license number of the person or firm, to whom the license is issued, on vehicle(s)<br>35 O.A.C. §30-17-15 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 15. Aircraft used by person defined as a commercial applicator to apply pesticides was not identified by a decal provided by the Board bearing the "N" identification of the aircraft<br>35 O.A.C. §30-17-16 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 16. Failed to label, when required, a rodent control bait box<br>35 O.A.C. §30-17-26 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

**Record Keeping Violations**

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| 17. Failure to allow audit of the required records<br>2 O.S. §3-83 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $2500 |
| 18. Failure to maintain required records<br>2 O.S. §3-83<br>2 O.S. §3-86(A)(6) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $2500 |
| 19. Failure to furnish records within seven (7) working days of request<br>2 O. S. §3-83(A) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $2500 |

**Minimum Standards Violations (Termite)**

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| 20. Failed to meet minimum standards for termite work for existing structures<br>2 O.S. §3-86(A)(10)<br>35 O.A.C. §30-17-54 | First Violation - $100 to $500<br>Second Violation - $300 to $1000<br>Subsequent Violations - $750 to $2500 |

i. Access *35 O.A.C. §30-17-55*
ii. Debris and form boards *35 O.A.C. §30-17-56*
iii. Clearance under buildings *35 O.A.C. §30-17-57*
iv. Shelter tubes *35 O.A.C. §30-17-58*

v. Piers and stiff-legs *35 O.A.C. §30-17-59*
vi. Outside wood steps *35 O.A.C. §30-17-60*
vii. Dampness *35 O.A.C. §30-17-61*
viii. Replacements *35 O.A.C. §30-17-62*
ix. Skirting and latticework *35 O.A.C. §30-17-63*
x. Frame siding *35 O.A.C. §30-17-64*
xi. Stucco or similar type materials *35 O.A.C. §30-17-65*
xii. Ground treatment under buildings (crawl space) *35 O.A.C. 30-17-66*
xiii. Void treatment *35 O.A.C. 30-17-67*
1. Masonry veneer *35 O.A.C. §30-17-67(b)*
2. Concrete blocks *35 O.A.C. §30-17-67(c)*
3. Chimneys *35 O.A.C. §30-17-67(d)*
xiv. Ground treatment outside of building *35 O.A.C. §30-17-68*
xv . Concrete slabs *35 O.A.C. §30-17-69*

21. Failed to meet minimum standards for termite work for preconstruction (pretreats)

35 O.A.C. §30-17-73

First Violation - $100 to $1500
Second Violation - $1500 to $5000
Subsequent Violations - $5000 to $10,000

i. Main slab area *35 O.A.C. §30-17-73(b)*
ii. Adjacent slabs *35 O.A.C. §30-17-73(c)*
iii. Outside foundations *35 O.A.C. §30-17-73(d)*
iv. Crawl space *35 O.A.C. 30-17-73(e)*
v. Partial Pretreat *35 O.A.C. §30-17-73(f)*
vi. Form NPCA-99b *35 O.A.C. §30-17-73(g)*

22. Failed to correct substandard work within 20 days

2 O.S. §3-86(A)(17)

First Violation - $100 to $500
Second Violation - $300 to $1000
Subsequent Violations - $750 to $2500

23. Failed to meet minimum minimum standards for termite work for Spot/Partial Treatment

35 O.A.C. §30-17-70

First Violation - $100 to $500
Second Violation - $300 to $1000
Subsequent Violations - $750 to $2500

24. Failed to meet minimum standards for termite work for baits and bait stations

35 O.A.C. §30-17-75

First Violation - $100 to $500
Second Violation - $300 to $1000
Subsequent Violations - $750 to $2500

i. General *35 O.A.C. §30-17-75.1*
ii. Recordkeeping *35 O.A.C. §30-17-75.2*
iii. Manufactur's Label Instructions *35 O.A.C. §30-17-75.3*
iv. Replacements *35 O.A.C. §30-17-75.4*

**Minimum Standards Violations (Fumigation)**

25. Failed to meet minimum fumigation standards for structures

35 O.A.C. §30-17-76 through §30-17-86

First Violation - $100 to $500
Second Violation - $300 to $1000
Subsequent Violations - $750 to $2500

**Disposal Violations**

26. Failed to meet disposal standards of pesticides and/or pesticide containers

2 O.S. 3-86(A)(2)
2 O.S. 3-86(A)(18)
2 O.S. 3-86(C)(5)
35 O.A.C. §30-17-89 through §30-17-99

First Violation - $500 to $1000
Second Violation - $1000 to $5000
Subsequent Violations - $5000 to $10,000

**Wood Infestation Report**

27. Failure to show as a minimum, statements and certifications about the property as to the presence or absence of termites and any other wood destroying organism and the presence or absence of damage

2 O.S. §3-81(44)

First Violation - $100 to $500
Second Violation - $300 to $1000
Subsequent Violations - $750 to $2500

28. Issued an inaccurate wood infestation report

2 O.S. §3-86(A)(5)

First Violation - $100 to $500
Second Violation - $300 to $1000
Subsequent Violations - $750 to $2500

**Standards for Application**

29. Certified applicator was not accessible to the noncertified applicator at all times during the application by telephone or radio

2 O.S. §3-81(15)

First Violation - $100 to $500
Second Violation - $300 to $1000
Subsequent Violations - $750 to $2500

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| 30. Failed to have a certified applicator or service technician present at each job performed<br>35 O.A.C. §30-17-25 | First Violation - $100 to $500<br>Second Violation - $300 to $1000<br>Subsequent Violations - $1000 to $5000 |
| 31. Pesticide label was not attached to application container, or present in the vehicle used to transport the container<br>35 O.A.C. §30-17-26 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1500 |
| **Use/Misuse Violations** | |
| 32. Used methods or pesticides not suitable or safe for the purpose for which they shall have been employed<br>2 O.S. §3-86(A)(2) | First Violation - $100 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| 33. Used a pesticide in a manner inconsistent with its labeling<br>2 O.S. §3-86(A)(2)<br>2 O.S. §3-86(A)(18)<br>2 O.S. §3-86(C)(5) | First Violation - $100 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| 34. Failed to report accidental spill of a hazardous material (pesticide) into or on any land or water<br>35 O.A.C. §30-17-92 | First Violation - $100 to $500<br>Second Violation - $500 to $1000<br>Subsequent Violations - $1000 to $2500 |
| 35. Used a chemical not properly labeled as a pesticide and/or not registered with the Department<br>2 O.S. §3-82(J) | First Violation - $100 to $500<br>Second Violation - $500 to $1000<br>Subsequent Violations - $1000 to $2500 |
| 36. Certified applicator was not on site to use, or supervise use, of a pesticide when required by the label and/or labeling<br>35 O.A.C. §30-17-25 | First Violation - $100 to $500<br>Second Violation - $300 to $1000<br>Subsequent Violations - $1000 to $2500 |

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| 37. Used hormone type pesticides in a restricted area between the restricted dates without a "Special Permit," if applicable<br>35 O.A.C. §30-17-35 through §30-17-53<br>Note: Commercial applicators only - category 3 exempt | First Violation - $500 to $1000<br>Second Violation - $1000 to $3000<br>Subsequent Violations - $3000 to $6000 |
| 38. Employed a fluoroacetate compound without specific written authorization from the Board<br>35 O.A.C. §30-17-27 | First Violation - $500 to $1000<br>Second Violation - $1000 to $2500<br>Subsequent Violations - $2500 to $7500 |
| 39. Used a mistblower in violation of Oklahoma Pesticide Applicator Rules<br>35 O.A.C. §30-17-24 (e) | First Violation - $500 to $1000<br>Second Violation - $1000 to $3000<br>Subsequent Violations - $3000 to $6000 |
| 40. Failure to comply with the Worker Protection Standards 40 CFR 170<br>2 O.S. §3-86(A)(18) | First Violation - $100 to $1000<br>Second Violation - $500 to $3000<br>Subsequent Violations - $3000 to $10,000 |
| **Pesticide Sales Violations** | |
| 41. Sale of a pesticide or device which has not been registered<br>2 O.S. §3-86(C)(1) | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $2500 to $5000 |
| 42. Sale of a pesticide not in its original container<br>2 O.S. §3-86(C)(2) | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $7500 |
| 43. Sale of a pesticide not properly labeled.<br>2 O.S. §3-86(C)(3) | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $10,000 |
| 44. Sale of an adulterated or misbranded pesticide or device<br>2 O.S. §3-86(C)(4) | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $10,000 |
| 45. Sale of a pesticide in a manner inconsistent with its labeling<br>2 O.S. §3-86(C)(5) | First Violation - $100 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $10,000 |

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| 46. Sale of a pesticide that has been canceled or suspended<br>2 O.S. §3-86(C)(6) | First Violation - $250 to $2500<br>Second Violation - $750 to $5000<br>Subsequent Violations - $3000 to $7500 |
| 47. Sale of a pesticide without a valid dealer's permit<br>2 O.S. §3-86(C)(7) | First Violation - $100 to $500<br>Second Violation - $500 to $1000<br>Subsequent Violations - $1000 to $5000 |
| 48. Failure to keep accurate records concerning the sale of pesticides<br>2 O.S. §3-86(C)(8) | First Violation - $100 to $500<br>Second Violation - $500 to $1000<br>Subsequent Violations - $1000 to $5000 |
| 49. Failure to provide true and accurate records concerning the sale of pesticides<br>2 O.S. §3-86(C)(9) | First Violation - $100 to $500<br>Second Violation - $500 to $1000<br>Subsequent Violations - $1000 to $5000 |
| 50. Violation of Stop Sale/Service Order<br>2 O.S. §3-86(A)(19)<br>2 O.S. §3-86 (C)(12) | First Violation - $100 to $500<br>Second Violation - $500 to $1000<br>Subsequent Violations - $1000 to $2500 |
| **Miscellaneous Violations** | |
| 51. Failure to allow the Board to inspect any work or contracts<br>2 O.S. §3-85(A)(4) | First Violation - $100 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| 52. Failure to allow sampling of a pesticide<br>2 O.S. §3-85(A)(6) | First Violation - $100 to $500<br>Second Violation - $500 to $1000<br>Subsequent Violations - $1000 to $2500 |
| 53. Failed or refused to furnish to the Board, upon request, true information regarding methods, pesticides, safety measures used, work performed, or other information deemed essential by the Board<br>2 O.S. §3-86(A)(3) | First Violation - $100 to $500<br>Second Violation - $500 to $1000<br>Subsequent Violations - $1000 to $2500 |
| 54. Falsely stating that a person is employed by, or represents, another person<br>2 O.S. §3-86(A)(11) | First Violation - $100 to $500<br>Second Violation - $500 to $1000<br>Subsequent Violations - $1000 to $2500 |

| | |
|---|---|
| 55. Falsely state that methods were recommended by any branch of government<br>2 O.S. §3-86(A)(12) | First Violation - $100 to $500<br>Second Violation - $500 to $1000<br>Subsequent Violations - $1000 to $2500 |
| 56. Falsely stated specific work would be inspected by any branch of government<br>2 O.S. §3-86(A)(12) | First Violation - $250 to $1000<br>Second Violation - $1000 to $3000<br>Subsequent Violations - $3000 to $7500 |
| 57. Failed to use a method to prevent back flow during filling and mixing operations<br>35 O.A.C. §30-17-24(d) | First Violation - $250 to $1500<br>Second Violation - $750 to $3000<br>Subsequent Violations - $3000 to $7500 |
| 58. Any other violation of the Combined Pesticide Law/Rules not otherwise addressed | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

## OKLAHOMA HORTICULTURE LAW

**Licensing Violations**

| | |
|---|---|
| 1. Failure to obtain a license<br>2 O.S. §3-32.8(8) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 2. Misrepresenting or falsifying information on a license application<br>2 O.S. §3-32.8(7) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 3. Allowing a license to be used by any person other than the person to whom the license was issued<br>2 O.S. §3-32.8(9) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 4. Failure to provide the legal description of all growing locations of nursery stock or sod<br>2 O.S. §3-32.8(10) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

| | |
|---|---|
| 5. Made a false declaration of acreage<br>2 O.S. §3-32.8(1)(b) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| **Plant Health and Quality Violations** | |
| 6. Offering for sale nursery stock which is seriously or substantially devitalized<br>2 O.S. §3-32.8(1)(d) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 7. Selling, offering for sale, or distributing any nursery stock infected or infested with a plant pest<br>2 O.S. §3-32.8(4) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 8. Selling, offering for sale, or distributing nursery stock that is not healthy, sound, and capable of growth<br>2 O.S. §3-32.8(5) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 9. Misrepresenting the grade, character, variety, or quality of any nursery stock<br>2 O.S. §3-32.8(1)(a) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 10. Mislabeling nursery stock by using the wrong common name or botanical name<br>2 O.S. §3-32.8(14) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 11. Failure to carry out treatment or destruction of nursery stock as ordered by the Board<br>2 O.S. §3-32.8(6) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 12. Selling, moving, or distributing nursery stock or other material under quarantine<br>2 O.S. §3-32.8(13) | First Violation - $100 to $2500<br>Second Violation - $2500 to $7500<br>Subsequent Violations - $7500 to $10,000 |
| 13. Selling nursery stock restricted by a stop sale order<br>2 O.S. §3-32.8(12) | First Violation - $250 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |

| | |
|---|---|
| 14. Transporting any regulated article into the state from a quarantined area of any other state or country when the article has not been treated or handled as provided by the requirements of the quarantine<br>2 O.S. §3-32.8(15) | First Violation - $100 to $2500<br>Second Violation - $2500 to $7500<br>Subsequent Violations - $7500 to $10,000 |
| 15. Any other violation of the Oklahoma Horticulture Law not otherwise addressed | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

## OKLAHOMA AGRICULTURAL LIMING MATERIALS LAW

**Registration and Labeling Violations**

| | |
|---|---|
| 1. Failure to provide a Label<br>2 O.S. §8-80.3<br>35 O.A.C. §30-31-2(2) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 2. Providing misleading label or information<br>2 O.S. §8-80.3 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 3. Failure to identify adulterated product<br>2 O.S. §8-80.3 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 4. Failure to register a product<br>2 O.S. §8-80.3 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

**Product Violations**

| | |
|---|---|
| 5. Distribution of a toxic material<br>2 O.S. §8-80.5 | First Violation - $100 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| 6. Failure to pay deficiency penalty<br>2 O.S. §8-80.5 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 7. Violation of Stop Sale Order<br>2 O.S. §8-80.9 | First Violation - $100 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |

**License Violations**

| | |
|---|---|
| 8. Failure to obtain a license<br>2 O.S. §8-80.6 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

**Inspection Fee And Report**

| | |
|---|---|
| 9. Failure to provide semi-annual inspection fee report and pay inspection fee on time<br>2 O.S. §8-80.7 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 10. Deficient inspection fees discovered as result of an audit<br>2 O.S. §8-80.7 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

**Vendor Requirements**

| | |
|---|---|
| 11. Failure to purchase, haul, and spread only registered lime<br>35 O.A.C. §30-31-2(1) | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

**Miscellaneous Violations**

| | |
|---|---|
| 12. Any other violation of the Oklahoma Agricultural Liming Materials Act not otherwise addressed | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

**OKLAHOMA SOIL AMENDMENT LAW**

**Labeling Violations**

| | |
|---|---|
| 1. Failure to provide a Label<br>2 O.S. §8-85.4 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| 2. Failure to approve an ingredient before listing it on a label.<br>2 O.S. §8-85.4 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

| | |
|---|---|
| 3. Failure to provide proof of claims<br>2 O.S. §8-85.4 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| **Registration Violations** | |
| 4. Failure to register a product<br>2 O.S. §8-85.5 | $100 Late Fee |
| 5. Failure to provide a copy of all information promoting sales<br>2 O.S. §8-85.5 | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |
| **Stop Sale Order** | |
| 6. Violation of Stop Sale Order<br>2 O.S. §8-85.7 | First Violation - $100 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| **Miscellaneous Violations** | |
| 7. Any other violation of the Oklahoma Soil Amendment Act not otherwise addressed | First Violation - $100 to $500<br>Second Violation - $250 to $750<br>Subsequent Violations - $500 to $1000 |

**GENERAL VIOLATIONS OF THE OKLAHOMA AGRICULTURAL CODE**

| | |
|---|---|
| 1. Violation of Stop-Sale or Stop-Use Order<br>2 O.S. §2-4(8) | First Violation - $100 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |
| 2. Interfering with an authorized agent of the Board<br>2 O.S. §2-29 | First Violation - $100 to $1000<br>Second Violation - $1000 to $5000<br>Subsequent Violations - $5000 to $10,000 |

*[OAR Docket #03-808; filed 4-28-03]*

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

*[OAR Docket #03-813]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 3. Animal Health Reportable Diseases
35:15-3-1 [AMENDED]
35:15-3-2 [NEW]
35:15-3-3 [NEW]
**AUTHORITY:**
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2), 2-4(7), 2-4(17), 2-4(29), 6-2, and 6-124; 59 O.S. 2001 § 698.15
**DATES:**
**Comment period:**
January 16, 2003 through February 18, 2003
**Public hearing:**
February 18, 2003
**Adoption:**
February 19, 2003
**Submitted to Governor:**
February 26, 2003
**Submitted to House:**
February 26, 2003
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February 26, 2003
**Gubernatorial approval:**
April 14, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on April 23, 2003
**Final adoption:**
April 23, 2003
**Effective:**
June 12, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The purpose of the proposed rules is to clarify the information that must be reported by persons engaged in the practice of veterinary medicine to the State Veterinarian regarding contagious and infectious diseases. The proposed rules divide the contagious and infectious diseases into two (2) lists, the A List and the B List. The A List of diseases requires immediate notification to the State Veterinarian on the disease diagnosed, as well as, specific information on the owner and infected animal. The B List of diseases requires notification to the State Veterinarian on the disease, the species infected, as well as, the county where the infected animal resides.
**CONTACT PERSON:**
Dr. Burke Healey, (405) 522-6134

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### SUBCHAPTER 3. ANIMAL HEALTH REPORTABLE DISEASES

**35:15-3-1. ~~Contagious~~ Reportable contagious or infectious diseases of domestic animals ~~which are required to be reported to the Board of Agriculture~~**

Under provisions of Title 59, Oklahoma Statutes ~~1981~~, Section 698.15, the State Board of Agriculture ~~does hereby declare~~ declares and requires the following actions regarding contagious or infectious diseases of domestic animals ~~are required to be reported to the Board of Agriculture~~ by any person engaged in the practice of veterinary medicine:

(1) ~~Equine Infectious Anemia~~ List A diseases shall be immediately reported to the State Veterinarian.

(2) ~~Bovine Piroplasmosis~~ List B diseases shall be reported to the State Veterinarian for statistical reporting purposes.

(3) ~~Equine Piroplasmosis~~ Persons reporting List A diseases shall provide the following information:

(A) The name and address of the animal owner or person in possession.

(B) Identification information on the animal, including species.

(C) Specific location of the animal.

(D) Identification of the specific disease identified in the animal.

(4) ~~Scabies~~ Persons reporting List B diseases shall provide the following information:

(A) Animal species infected.

(B) Identification of the specific disease identified in the animal.

(C) The county in which the infected animal resides.

~~(5) Hog Cholera~~
~~(6) Acute Swine Erysipelas~~
~~(7) Tuberculosis~~
~~(8) Paratuberculosis~~
~~(9) Brucellosis~~
~~(10) Scrapie~~
~~(11) Blue Tongue in Sheep~~
~~(12) Anthrax~~
~~(13) Screwworms~~
~~(14) Psittacosis or Ornithosis~~
~~(15) Velogenic Viscerotropic Newcastle Disease (VVND)~~
~~(16) Salmonella Pullorum~~
~~(17) Salmonella Typhoid~~
~~(18) Pseudorabies~~
~~(19) Malignant Catarrhal Fever (MCF)~~
~~(20) Vesicular Diseases~~
~~(21) Contagious Equine Metritis (CEM)~~
~~(22) Avian Influenza~~
~~(23) Laryngotracheitis~~
~~(24) Equine Viral Arteritis (EVA)~~
~~(25) Paramyxovirus~~
~~(26) Avian Encephalomyelitis~~

**35:15-3-2. List A diseases**

(a) General diseases

(1) Rinderpest

(2) Peste des petitis ruminants
(3) Contagious bovine pleuropneumonia
(4) Lumpy skin disease
(5) Rift Valley fever

(b) Multiple species diseases
(1) Foot and mouth disease (FMD)
(2) FMD - Virus O
(3) FMD - Virus A
(4) FMD - Virus C
(5) FMD - Virus SAT 1
(6) FMD - Virus SAT 2
(7) FMD - Virus SAT 3
(8) FMD - Virus not typed
(9) Vesicular stomatitis (VS)
(10) VS - Virus Indiana
(11) VS - Virus New Jersey
(12) VS - Virus not typed
(13) Anthrax
(14) Aujeszky's disease (Pseudorabies)
(15) Heartwater
(16) Q Fever
(17) Screwworm (Cochliomyia hominivorax)
(18) Bovine tuberculosis (M. bovis)

(c) Cattle diseases
(1) Babesiosis
(2) Bovine brucellosis (B. abortus)
(3) Theileriasis
(4) Trypanosomiasis
(5) Bovine malignant catarrh
(6) Bovine spongiform encephalopathy (BSE)

(d) Sheep and goat diseases
(1) Sheep pox and goat pox
(2) Brucellosis ovis infection
(3) Caprine and ovine brucellosis (B. melitensis)
(4) Nairobi sheep disease
(5) Scrapie
(6) Maedi-Visna

(e) Horse diseases
(1) African horse sickness
(2) Contagious equine metritis
(3) Dourine
(4) Equine encephalomyelitis
(5) Equine infectious anemia (EIA)
(6) Equine piroplasmosis (Babesiosis)
(7) Japanese encephalitis
(8) Surra (T. evans)
(9) Venezuelan equine encephalomyelitis

(f) Swine diseases
(1) Swine vesicular disease
(2) African swine fever
(3) Hog cholera
(4) Porcine brucellosis (B. suis)

(g) Poultry diseases
(1) Fowl Plague
(2) Newcastle disease
(3) Mycoplasmosis (M. gallisepticum)
(4) Pullorum disease (S. pullorum)

(h) Cervidae diseases - Chronic wasting disease (CWD)

**35:15-3-3. List B diseases**

(a) Multiple species diseases
(1) Bluetongue
(2) Echinococcosis/Hydatitdosis
(3) Leptospirosis
(4) Rabies
(5) Paratuberculosis

(b) Cattle diseases
(1) Anaplasmosis
(2) Bovine genital campylobacteriosis
(3) Cysticercosis (C. bovis)
(4) Dermatophilosis
(5) Enzootic bovine leucosis
(6) Hemorrhagic septicemia
(7) Infectious bovine rhinotracheitis (IBR/IPV)
(8) Trichomoniasis

(c) Sheep and goat diseases
(1) Caprine arthritis/encephalitis
(2) Contagious agalactia
(3) Contagious caprine pleuropneumonia
(4) Enzootic abortion of ewes
(5) Pulmonary adenomatosis
(6) Salmonellosis (S. abortus ovis)

(d) Horse diseases
(1) Epizootic lymphangitis
(2) Equine influenza (Virus type A)
(3) Equine rhinopneumonitis
(4) Glanders
(5) Horse pox
(6) Infectious arteritis of horses
(7) Horse mange
(8) Salmonellosis (S. abortus equi)
(9) West Nile virus

(e) Swine diseases
(1) Atrophic rhinitis
(2) Cysticercosis (C. cellulosis)
(3) Transmissible gastroenteritis of pigs
(4) Trichinellosis
(5) Enterovirus encephalomyelitis
(6) Porcine reproductive and respiratory syndrome

(f) Poultry diseases
(1) Avian infectious bronchitis
(2) Avian infectious laryngotrachitis
(3) Avian tuberculosis
(4) Duck hepatitis
(5) Duck virus enteritis
(6) Fowl cholera
(7) Fowl pox
(8) Fowl typhoid (S. gallinarum)
(9) Infectious bursal disease (Gumboro disease)
(10) Marek's disease
(11) Psitticosis and Ornithosis

(g) Lagomorph diseases
(1) Myxomatosis
(2) Tularaemia
(3) Viral hemorrhagic disease of rabbits

(h) Fish diseases
(1) Viral hemorrhagic septicemia

(2) Spring viraemia of carp
(3) Infectious hematopoietic necrosis
(4) Herpesvirosis of salmonids
(5) Renibacterosis
(6) Herpesvirosis of ictalurids
(7) Epizootic haematopoietic necrosis
(8) Edwarsiellosis (E. ictaluri)
(i) Mollusc diseases
(1) Bonamiosis
(2) Haplosporidiosis
(3) Perkinsosis
(4) Marteiliosis
(5) Iridovirosis
(j) Bee diseases
(1) Acariasis of bees
(2) American foul brood
(3) European foul brood
(4) Nosemosis of bees
(5) Varroasis
(k) Other animal species diseases - Leishmaniasis

*[OAR Docket #03-813; filed 4-28-03]*

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

*[OAR Docket #03-817]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 9. Livestock Dealers and Livestock Special Sales
Part 3. Livestock Special Sales
35:15-9-11 [NEW]
**AUTHORITY:**
Article 6, Section 31, Constitution of the State of Oklahoma; Title 2, Oklahoma Statutes 2001, §§ 2-4(2),(16), & (20); 6-2; 9-142(3); and 9-147(A)(3); Oklahoma State Board of Agriculture
**DATES:**
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**Final adoption:**
April 23, 2003
**Effective:**
June 12, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The addition of 35:15-9-11 provides requirements for obtaining permits for swine special sales. These requirements are necessary to continue implementation of the swine disease prevention and eradication programs that are mandated by Oklahoma and federal laws.
**CONTACT PERSON:**
Dr. Burke Healey, (405) 522-6134

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### SUBCHAPTER 9. LIVESTOCK DEALERS AND LIVESTOCK SPECIAL SALES

### PART 3. LIVESTOCK SPECIAL SALES

**35:15-9-11. Swine Special Sales**
(a) If swine from Class I, Class II, or Class III states will be allowed to attend a sale, the fee for the Swine Special Sale Permit shall be Three Hundred Dollars ($300.00).
(b) If only swine from Class IV or Class V states will be allowed to attend a sale, no fee shall be required for the Swine Special Sale Permit.

*[OAR Docket #03-817; filed 4-28-03]*

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

*[OAR Docket #03-816]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 21. Swine Pseudorabies [REVOKED]
35:15-21-1 [REVOKED]
35:15-21-3 through 35:15-21-6 [REVOKED]
35:15-21-7.1 [REVOKED]
35:15-21-11 through 35:15-21-20 [REVOKED]
Subchapter 22. Swine Pseudorabies [NEW]
Part l. General Provisions [NEW]
35:15-22-1 [NEW]
Part 3. Requirements for Swine Entering Oklahoma [NEW]
35:15-22-31 through 35:15-22-35 [NEW]
Part 5. Requirements for a Qualified Pseudorabies Negative Herd [NEW]
35:15-22-51 through 35:15-22-53 [NEW]
Part 7. Requirements for Swine Exhibitions [NEW]
35:15-22-71 [NEW]
Part 9. Requirements for Approved Markets [NEW]
35:15-22-91 [NEW]
Part 11. Pseudorabies Testing, Vaccine, and Quarantine Procedures [NEW]
35:15-22-110 through 35:15-22-115 [NEW]
Part 13. Violations of Requirements for Testing or Movement of Swine Into or Within the State of Oklahoma [NEW]
35:15-22-131 [NEW]
35:15-22-132 [NEW]

**AUTHORITY:**
Article 6, Section 31, Constitution of the State of Oklahoma; Title 2, Oklahoma Statutes 2001, §§ 2-4(2), (7), & (29); 6-2; 6-124 et seq.; 6-150 et seq.; and Oklahoma State Board of Agriculture
**DATES:**
**Comment period:**
January 16, 2003 through February 18, 2003
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June 12, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The proposed rules revoke Subchapter 21 pertaining to swine pseudorabies and replace it with Subchapter 22. The new Subchapter updates many outdated rules to reflect current standards and federal recommendations for detecting, controlling, and eradicating swine pseudorabies. The new Subchapter also reorganizes the pseudorabies rules for increased readability. These changes are necessary for the continued growth and protection of the swine industry in Oklahoma.
**CONTACT PERSON:**
Dr. Burke Healey, (405) 522-6134

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 21. SWINE PSEUDORABIES [REVOKED]

### 35:15-21-1. Definitions [REVOKED]

~~The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise.~~

~~**"Approved market"** means any livestock market or stockyard which is specifically approved by the United States Department of Agriculture and licensed and approved as a livestock auction market by the Oklahoma Board of Agriculture to handle all classes of swine.~~

~~**"Approved slaughtering establishment"** means a slaughtering establishment operated under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) a State inspected slaughtering establishment, or other facility approved by the Board.~~

~~**"Approved veterinarian"** means a veterinarian approved by the Deputy Administrator of the Animal and Plant Health Inspection Service and the Oklahoma Board of Agriculture to perform functions required by cooperative State-Federal disease control and eradication programs.~~

~~**"Board"** means the Oklahoma Board of Agriculture, or its authorized agent.~~

~~**"Breeding herd"** means all sows and boars in a herd of swine six (6) months of age or older being kept for reproduction. Age determination will be by the professional judgement of an approved veterinarian.~~

~~**"Certificate of Veterinary Inspection"** means a legible certificate made on an official form provided by the state of origin or from the United States Department of Agriculture, issued by an accredited veterinarian and approved by the chief livestock official of the state of origin. The certificate shall contain the name and address of the consignor and consignee, age, sex, number, breed of livestock, and sufficient identifying marks or tags to positively identify said livestock, and shall also state any and all required laboratory test results. The certificate shall also contain a statement by the accredited veterinarian that such livestock are free from all contagious, infectious, or communicable diseases and do not originate from a district of quarantine, infestation or infection. A certificate of veterinary inspection shall be void thirty (30) days after the date of its issuance.~~

~~**"Commuter Herd"** means all swine under common ownership or supervision, that are located on one or more premise in two or more states and there is an interchange or interstate movement of animals between premises in those states as part of the normal feeding, breeding or growing operation without a change of ownership. A commuter herd agreement must be completed and approval of commuter herd status must be obtained from all Chief Animal Health Officials of states in which the herd resides.~~

~~**"Deputy Administrator"** means the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other Veterinary Services official to whom authority has been delegated or may be delegated to act in his stead.~~

~~**"Designated Epidemiologist"** means a state or federally employed veterinarian designated by the State animal health official to investigate and classify suspected pseudorabies in livestock.~~

~~**"Direct consignment"** means movement without unloading enroute and without contact with swine of lessor pseudorabies status, or without contact with infected or exposed livestock.~~

~~**"Exposed swine"** means any swine that have been in direct or indirect contact with an animal infected with pseudorabies, as determined by the epidemiologist, including all swine in a known infected herd.~~

~~**"Farm of origin"** means a farm where the swine were born, or on which they have resided for at least the previous 90 consecutive days.~~

~~**"Feeder pigs"** means swine intended to be fed to a finished slaughter weight and not intended for breeding.~~

~~**"Herd"** means any group of livestock maintained on common ground for any purpose, or two or more groups of livestock under common ownership or supervision, geographically separated, but which have an interchange or movement of animals.~~

~~**"Identification device"** means a metal or plastic tag which can be permanently attached to the animal's ear, and have imprinted on its surface a series of numbers providing unique identification of individual animal, or other methods approved by the Board.~~

~~**"Infected livestock"** means any livestock determined by the designated epidemiologist to be infected with pseudorabies by an official pseudorabies test, or diagnosed by a veterinarian as having pseudorabies.~~

~~**"Isolation"** means separation of swine by a physical barrier in such a manner that other swine do not have access to the isolated swine's body, excrement, or discharges; not allowing the isolated swine to share a building with a common ventilation system with other swine; and not allowing the isolated swine to be within a distance determined adequate by the epidemiologist of other swine if not sharing a building with a common ventilation system.~~

~~**"Known infected herd"** means any herd in which any livestock has been determined by the designated epidemiologist to be infected with pseudorabies by an official pseudorabies test or diagnosed by a veterinarian as having pseudorabies. A herd of livestock, other than swine, shall no longer be classified as a known infected herd after 10 days since the last clinical case of pseudorabies in the herd.~~

~~**"Livestock"** means swine, cattle, sheep or goats.~~

~~**"Official pseudorabies test"** means any test conducted on swine for the diagnosis of pseudorabies approved by the Deputy Administrator conducted in a laboratory approved by the Deputy Administrator as listed in a Veterinary Services Notice listing such laboratories.~~

~~**"Official pseudorabies vaccine"** means any pseudorabies virus vaccine produced under license from the Secretary of Agriculture under the Virus, Serum and Toxin Act of March 4, 1913, and any legislation amendatory thereof (2) U.S.C. 151 et seq.)~~

~~**"Official rendom sample test"** means (95/10) means a sampling procedure utilizing official pseudorabies serologic tests which provide a 95 percent probability of detecting infection in a herd in which at least 10 percent of the swine are seropositive for pseudorabies. Each segregated group of swine on an individual premise must be considered a separate herd and sampled as follows:~~

~~(A) Less than 100 head - test 25~~
~~(B) 100 - 200 head - test 27~~
~~(C) 201 - 999 head - test 28~~
~~(D) 1,000 and over - test 29~~

~~**"Official random sample test"** (95/5) means a sampling procedure utilizing official pseudorabies serologic tests which provide a 95 percent probability of detecting infection in a herd in which at least 5 percent of the swine are seropositive for pseudorabies. Each segregated group of swine on an individual premise must be considered a separate herd and sampled as follows:~~

~~(A) Less than 100 head - test 45~~
~~(B) 100 - 200 head - test 51~~
~~(C) 201 - 999 head - test 57~~
~~(D) 1,000 and over - test 59~~

~~**"Owner-shipper statement"** means a statement signed by the owner or shipper of swine which states:~~

~~(A) The number of swine to be moved;~~
~~(B) The points of origin and destination;~~
~~(C) The consignor and consignee; and~~
~~(D) Any additional information required by this Subchapter.~~

~~**"Permit"** means an official document issued for and obtained prior to the movement of pseudorabies infected, exposed or vaccinated swine under this Subchapter by a Veterinary Services representative, State representative, or an accredited veterinarian which states:~~

~~(A) The number of swine to be moved;~~
~~(B) the purpose for which the swine are to be moved;~~
~~(C) the points of origin and destination;~~
~~(D) the consignor and the consignee; and~~
~~(E) additional information required by this Subchapter. A "permit" shall also mean permission obtained from the Board or its authorized agent prior to moving certain livestock into the State of Oklahoma. A permit shall contain the name and address of the consignor and the consignee, and the number, age, sex, and breed of the livestock. A permit shall be void fifteen (15) days after the date of issuance.~~

~~**"Pseudorabies"** means the contagious, infectious, and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.~~

~~**"Pseudorabies monitored feeder pig herd"** means a swine herd that has been sampled and tested negative by an official pseudorabies serologic test during the last 12 months at the following rate:~~

~~(A) 10 head - test all~~
~~(B) 11-35 head - test 10~~
~~(C) 36 or more - test 30% or 30, whichever is less. Additional requirements listed under the National Pseudorabies Eradication Program Standards are hereby made a part of this Rule.~~

~~**"Quarantine feedlot"** means a confined area under official state quarantine and shall be approved by the State Animal Health Official. The quarantine feedlot shall be maintained for finish feeding of animals in drylot with no provisions for pasturing or grazing. There shall be no breeding swine allowed in the quarantine feedlot. No pregnant sows, bred gilts, or sows with pigs at side shall be eligible for placement in a quarantine feedlot. Boars shall not be maintained jointly with sows or gilts in the feedlot. All swine leaving a quarantine feedlot must go direct to an approved slaughter establishment, direct to another quarantine feedlot, or direct to an approved assembly point for sale to an approved slaughter establishment or quarantine feedlot. All movements of swine from a quarantine feedlot must be accompanied by an approved shipping permit~~

~~issued by an accredited veterinarian or a state or federal animal health official. Records of the origin and disposition of all swine handled by the feedlot must be on file and maintained for a 24-month period. These records must be available for inspection or copying by any state or federal animal health official during normal business hours.~~

~~**"Quarantined herd"** means a herd in which pseudorabies infected or exposed swine are bred, reared, or fed under the supervision and control of the State Animal Health Official.~~

~~**"Qualified pseudorabies negative herd"** means Qualified Pseudorabies Negative Herd status is attained by subjecting all swine over six (6) months of age to an official pseudorabies serologic test and finding all swine so tested negative. The herd must not have been a known infected herd within the past 30 days. A minimum of 90 percent of the swine in the herd must have been on the premises and a part of the herd for at least 90 days prior to the qualifying official pseudorabies serologic test or have entered directly from another Qualified Pseudorabies Negative Herd. Additional requirements listed under the National Pseudorabies Eradication Program Standards are hereby made a part of this Rule.~~

~~**"Slaughter swine"** means swine intended for, or consigned for slaughter. This shall include all swine, regardless of size or age which have not otherwise met the requirements to enter Oklahoma or to be released without restriction from approved livestock auction markets.~~

~~**"State animal health official"** means the state animal health official who is responsible for the livestock and poultry disease control and eradication programs in the official's state of residence or his/her designated agent.~~

**35:15-21-3. Requirements for breeding swine entering Oklahoma [REVOKED]**

~~All breeding swine entering Oklahoma from other states shall have:~~

~~(1) Telephone permit to enter the state, with the permit number to be recorded on an official certificate of veterinary inspection.~~

~~(2) A statement on the certificate of veterinary inspection from the issuing veterinarian that to the best of his/her knowledge pseudorabies has not existed in the herd of origin in the past six months, the animals to be imported have not been vaccinated for pseudorabies, and where applicable, that the animals to be imported are offspring from pseudorabies vaccinated sow herds. Offspring of pseudorabies vaccinated sows must be individually tested negative for pseudorabies utilizing the ELISA, latex agglutination or serum neutralization procedures.~~

~~(3) A negative test for pseudorabies within 30 days prior to entry, or originate from a qualified pseudorabies negative herd, or a Class IV or V state. The qualified herd number and date of last test shall be recorded on the certificate of inspection.~~

~~(4) To be quarantined upon arrival, held in isolation, and at owner's expense, have a negative test for pseudorabies at not less than 30 nor more than 60 days after arrival, or meet the requirements of 35:15-21-4 or 35:15-21-5.~~

~~(5) Breeding swine may also enter the state following the completion and approval of a commuter herd agreement, maintained compliance with the agreement and be accompanied by an owner-shipper statement.~~

**35:15-21-4. Swine intended to be added to a qualified pseudorabies negative herd directly from another qualified pseudorabies negative herd [REVOKED]**

~~Swine intended to be added to a qualified pseudorabies negative herd directly from another qualified pseudorabies negative herd may be added without isolation or testing, provided they are included as a part of the herd for the next testing requirements to maintain qualified pseudorabies negative status. Swine intended to be added to a qualified pseudorabies negative herd from another qualified pseudorabies negative herd, but with interim contact with swine other than those from a single qualified pseudorabies negative herd, shall be isolated until the swine have been found negative to an official pseudorabies serologic test, conducted not less than 30 days, nor more than 60 days after arrival. Additional requirements listed under the National Pseudorabies Eradication Program Standards are hereby made a part of this Rule.~~

**35:15-21-5. Developing a written agreement for random sampling [REVOKED]**

~~(a) A written agreement for a random sampling must be developed and approved by State Animal Health Officials utilizing official pseudorabies serologic tests which provide a 95 percent probability of detecting infection in a herd in which at least 10 percent of the swine are seropositive for pseudorabies. Each segregated group of swine on an individual premise or those originating from segregated individual sources must be considered a separate herd and individually sampled as follows:~~

~~(1) Less than 100 head - test 25~~

~~(2) 100 - 200 head - test 27~~

~~(3) 201 - 999 head - test 28~~

~~(4) 1,000 and over - test 29~~

~~(b) Isolation and testing as required by 35:15-21-3(4) may be exempted by this written statement.~~

~~(c) Producers who import swine into Oklahoma without a change in ownership may be exempted from the required permit and certificate of veterinary inspection of 35:15-21-3 and 35:15-21-11 provided there is a written agreement between the producer and the Oklahoma Department of Agriculture. This agreement shall require a monthly report of all swine entering and be submitted to the Department by the tenth (10th) of each month. This agreement shall further provide for acceptable surveillance testing for pseudorabies and indicate the premise of origin and destination.~~

**35:15-21-6. Requirements for all exhibition and prospective swine entering Oklahoma [REVOKED]**

~~All exhibition, and prospective exhibition swine entering Oklahoma from other states shall have:~~

~~(1) Telephone permit to enter the state, with the permit number to be recorded on an official certificate of veterinary inspection.~~

~~(2) A statement on the certificate of veterinary inspection from the issuing veterinarian that to the best of his/her knowledge pseudorabies has not existed in the herd of origin in the past six months, the animals to be imported have not been vaccinated for pseudorabies, and where applicable, that the animals to be imported are offspring from pseudorabies vaccinated sow herds. Offspring of pseudorabies vaccinated sows must be individually tested negative for pseudorabies utilizing the ELISA, latex agglutination or serum neutralization procedures.~~

~~(3) A negative test for pseudorabies within 30 days prior to entry, or originate from a Qualified Pseudorabies Negative Herd. The qualified herd number and date of last test shall be recorded on the certificate of inspection.~~

~~(4) To be quarantined upon arrival, held in isolation, and at owner's expense, have a negative test for pseudorabies at not less than 30 nor more than 60 days after arrival.~~

**35:15-21-7.1. Exhibition requirements for swine participating in Oklahoma swine shows [REVOKED]**

~~All Oklahoma origin swine, exhibited in the state of Oklahoma shall:~~

~~(1) Be individually identified with an identification device permanently affixed to the right ear, except breeding swine may be identified by ear notch.~~

~~(2) Be tested negative for pseudorabies.~~

~~(A) All market swine (barrows and gilts) to be tested after June 1 each year for fall exhibitions and after December 1 each year for Spring exhibitions. These tests are valid for the entire respective exhibition season unless in the opinion of the designated epidemiologist these animals are exposed to pseudorabies.~~

~~(B) All breeding swine (sows and boars) must be tested negative within 30 days prior to each exhibition.~~

~~(3) Present official verification of required test or evidence of Qualified Pseudorabies Negative herd status at each exhibition. This documentation must show corresponding individual animal identification.~~

~~(4) Owners and/or immediate family members of owners of Qualified Pseudorabies Negative herds may exhibit swine originating from their qualified herd without the required testing of 35:15-21-7(2) provided that required individual identification and evidence of Qualified Pseudorabies Negative status is presented at each exhibition.~~

~~(5) All swine, after being exhibited, shall be kept separate and apart from all non-exhibition swine until they are retested negative not less than thirty (30) days following exhibition, or be consigned to a quarantined feedlot, an approved slaughter establishment, or to an approved market for sale to slaughter or to a quarantined feedlot.~~

**35:15-21-11. Requirements for all feeding swine entering Oklahoma [REVOKED]**

~~All feeding swine entering Oklahoma from other states shall have:~~

~~(1) Telephone permit to enter the state, with the permit number to be recorded on an official certificate of veterinary inspection.~~

~~(2) A statement on the certificate of veterinary inspection from the issuing veterinarian that to the best of his/her knowledge pseudorabies has not existed in the herd of origin in the past six (6) months, the animals to be imported have not been vaccinated for pseudorabies, and where applicable, that the animals to be imported are offspring from pseudorabies vaccinated sow herds.~~

~~(3) Feeder pigs entering Oklahoma must also meet one of the following requirements:~~

~~(A) originate from a Qualified Pseudorabies Negative Herd;~~

~~(B) originate from a pseudorabies monitored herd;~~

~~(C) originate from a Class III, Class IV or Class V state;~~

~~(D) be tested negative for pseudorabies within 30 days prior to entry.~~

~~(4) Feeder pigs consigned to livestock market shall be individually identified by eartag. The record of such tags shall be maintained by the market operator. Such records will show the consignee's name, address and the premises of origin of the swine.~~

~~(5) Feeder pigs entering Oklahoma from infected or exposed herds must be consigned to an approved quarantine feedlot and accompanied by a permit for movement of restricted animals.~~

~~(6) Feeder swine may also enter the state following the completion and approval of a computer herd agreement, maintained compliance with the agreement and be accompanied by an owner-shipper statement.~~

**35:15-21-12. Shipping requirements [REVOKED]**

~~(a) All swine entering Oklahoma from an out of state approved livestock market to an approved Oklahoma livestock market must have a telephone permit to enter the state, with the permit number to be recorded on an official Certificate of Veterinary Inspection. An official certificate of veterinary inspection or permit shall not be required on any farm origin swine shipped directly, with no diversion enroute, to an approved market or slaughtering establishment operating under state or federal supervision, if a way bill, bill of lading, or an owner shipper certificate accompanies the shipment showing the consignor and the point of origin of the shipment, and the approved market or slaughtering establishment to which the livestock are shipped. Out-of-state farm origin swine must be identified as such immediately upon arrival by market management. Out-of-state swine, regardless of age or size, prior to release from a market shall meet import requirements of 35:15-21-3 or 35:15-21-11(3), or be shipped direct to slaughter. Out-of-state breeding swine shall be released under quarantine, and at owner's expense be tested for pseudorabies not less than thirty (30) days or more than sixty (60) days after the~~

~~release, unless released to an approved slaughter establishment or quarantine feedlot.~~

~~(b) Markets that have been approved to handle slaughter swine that originate out-of-state and are the final market prior to direct shipment to an approved slaughter facility must maintain separation of slaughter swine from feeding or breeding swine. Common use facilities (i.e., scales, loading chutes, etc.) Must be thoroughly cleaned prior to use by feeding or breeding swine.~~

~~(c) The result of an official pseudorabies serologic test on a mother of a nursing pig constitutes sufficient evidence of the pseudorabies disease status of the nursing pig to forego the test on such pig if accompanied by its dam.~~

**35:15-21-13. Official sample for pseudorabies testing [REVOKED]**

~~For Oklahoma origin swine only those blood samples obtained and submitted by State-Federal regulatory officials or an approved veterinarian, and on a form approved by the Board will be considered an official sample for pseudorabies testing. The cost of the blood sample collection and submission is to be borne by the herd owner. In the event funds are made available by The United States Department of Agriculture and/or The State Board of Agriculture for blood sample collection and submission and/or for laboratory fees, said funds may be used without interruption or change in any other program functions or policies.~~

**35:15-21-14. Pseudorabies vaccines and immunization [REVOKED]**

~~Pseudorabies vaccines or any product to immunize or increase resistance of swine to pseudorabies (Aujesky's disease) may be utilized only in accordance with the following conditions:~~

~~(1) To be administered by an Oklahoma licensed and accredited veterinarian after obtaining prior written permission from the Chief Animal Health Official.~~

~~(2) To be used in herds in which pseudorabies has been diagnosed and confirmed either serologically or by virus isolation or in herds at risk o being exposed to such an infected herd or if required for the purpose of interstate or international movement, with the approval of the designated epidemiologist.~~

~~(3) Pseudorabies vaccinated swine shall be identified by a round hole punch in the left ear not less than one-half (1/2) inch in diameter at the time of vaccination, or other such identification as approved by the Board. These swine shall be maintained under quarantine until consigned to an approved slaughter establishment.~~

~~(4) The veterinarian administering the vaccine shall report to the Chief Animal Health Official the following: name and address of the owner; producer and lot or serial number of the vaccine; and the number and description of swine vaccinated.~~

**35:15-21-15. Notification to Chief Animal Health Official of any swine pseudorabies vaccine shipped into or within Oklahoma [REVOKED]**

~~All producers or distributors of pseudorabies vaccine or products to immunize or increase resistance of swine to pseudorabies shall notify the Chief Animal Health Official monthly of any vaccine shipped into or within Oklahoma, including the name and address of the consignee. Such vaccine or product is to be shipped only to licensed accredited veterinarians or to distributors who sell only to licensed accredited veterinarians.~~

**35:15-21-16. Swine herds in which vaccine is used to be held under quarantine [REVOKED]**

~~Swine herds in which vaccine or any product to immunize or increase the resistance to pseudorabies is used shall be held under quarantine and unrestricted movement allowed only for unvaccinated animals held in isolation from vaccinated animals for a minimum of 30 days followed by a negative test of all isolated swine and a second negative test not less than 30 days after the first negative test.~~

**35:15-21-17. Requirements when animal tests positive [REVOKED]**

~~Any swine herd in Oklahoma which disclosed an animal showing a positive reaction to an official test for pseudorabies and is classified positive shall be quarantined until such time as the herd meets requirements for an infected herd as specified in 35:15-21-18.~~

**35:15-21-18. Requirements imposed for an infected herd [REVOKED]**

~~(a) All movement of swine from an infected herd shall be direct to slaughter with no diversion enroute and must be accompanied by an official permit for such movement.~~

~~(b) Swine held apart and in isolation from the remainder of the herd and which will be consigned direct to an approved slaughter establishment will not be required to have a negative test.~~

~~(c) The following requirements, either (1), (2) or (3) apply to infected herds:~~

~~(1) The owner or owner's authorized agent must sign an approved herd plan, within thirty (30) days of official notification of quarantine, or~~

~~(2) Remove all known reactors within fifteen (15) days of official classification by the designated epidemiologist; and~~

~~(A) have a negative test for pseudorabies of all swine at owner's expense not less than thirty (30) days after last known pseudorabies animal was removed from the herd; and~~

~~(B) a second negative test, at owner's expense, not less than thirty (30) days after the first negative test, will be required if the designated epidemiologist deems it necessary, or~~

~~(3) Total herd depopulation followed by approved disinfection of the premise and a period of 30 days during which time no swine are placed on the vacated premise.~~

**35:15-21-19. Qualified pseudorabies negative herds of swine [REVOKED]**

~~(a) The qualifying method for Qualified Pseudorabies Negative Herd status for swine will be achieved by having an official negative pseudorabies herd test on all animals in the herd over six (6) months of age.~~

~~(b) Each animal shall be permanently and individually identified. Identification of all additions shall be provided at each subsequent test.~~

~~(c) A minimum of 90 percent of the swine in the herd must have been on the premise and a part of the herd for at least 90 days prior to the qualifying official pseudorabies serologic test or have entered directly from another Qualified pseudorabies Negative herd.~~

~~(d) All additions to Qualified Pseudorabies Negative herds shall be one of the following:~~

~~(1) Natural herd increase; or~~

~~(2) Directly from another Qualified Pseudorabies Negative herd.~~

~~(3) All other swine intended to be added to a Qualified Pseudorabies Negative herd shall be isolated until the swine have been found negative to two official pseudorabies serologic tests, one conducted thirty (30) days or more after the swine have been placed in isolation, the second test being conducted thirty (30) days or more after the first test.~~

~~(e) Swine returned to the herd after contact with sine other than those from a single Qualified Pseudorabies Negative herd shall be isolated until the swine have been found negative to an official pseudorabies serologic test conducted thirty (30) days or more after the swine have been placed in isolation.~~

**35:15-21-20. Maintenance method for Qualified Pseudorabies Negative [REVOKED]**

~~(a) Qualified Pseudorabies Negative Herd status will be continuously maintained provided increments of not less than 25 percent of the breeding animals over six (6) months of age currently in the herd are tested negative every 80 to 105 days or by testing 10 percent of the breeding animals over six (6) months of age currently in the herd each month, and provided that all qualifying standards are maintained. No animal shall be tested twice in one (1) year to comply with the 25 percent requirements, or twice in 10 months to comply with the 10 percent requirement.~~

~~(b) If breeding animals of the herd are located on more than one premise or unit then percentage testing of the in herd breeding animals over six (6) months of age currently in the herd on each premise or unit shall be required to maintain Qualified Pseudorabies Negative Herd status.~~

## SUBCHAPTER 22. SWINE PSEUDORABIES

### PART 1. GENERAL PROVISIONS

**35:15-22-1. Definitions**

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise.

**"Accredited veterinarian"** means a veterinarian licensed by the Oklahoma Board of Veterinary Medical Examiners and approved by the Deputy Administrator of the United States Department of Agriculture ("USDA") to perform functions required for state or cooperative state and federal animal disease control and eradication programs.

**"Approved market"** means a stockyard, livestock market, or other premises approved by the State Board of Agriculture ("Board") where swine are assembled for sale.

**"Approved slaughtering establishment"** means a slaughtering **establishment** operated under the provisions of the Federal Meat Inspection Act (21 U.S.C. § 601 et seq.), a state-inspected slaughtering establishment, or any other facility approved by the Board.

**"Breeding swine"** means all swine six (6) months of age or older being kept for reproduction. An accredited veterinarian shall determine the age of the swine.

**"Certificate of veterinary inspection"** means an official document issued by an accredited veterinarian at the point of origin of a shipment of swine. It shall include the name and address of the consignor; the name and address of the consignee; the entry permit number, if applicable; the age, sex, number, and breed of the swine; sufficient identifying marks or tags to positively identify each pig; and the results of all required tests. It shall also include a record of a physical examination of the swine verifying that each pig is free from visible evidence of any contagious, infectious, or communicable diseases and that the swine do not originate from an area of quarantine, infestation, or infection. A certificate of veterinary inspection is valid for thirty (30) days after the date of issuance.

**"Commuter herd"** means two or more groups of swine under common ownership or supervision that are located on more than one premise in more than one state and that have an interchange or movement of swine between the premises in those states as part of the normal feeding, breeding, or growing operation without a change of ownership. A commuter herd agreement shall be completed and approved prior to any interchange or movement of swine between the states.

**"Commuter herd agreement"** means a written herd management and testing agreement made by the chief animal health officials of all states where the commuter herd resides and the herd owner. A commuter herd agreement shall be completed and approved prior to any interchange or movement of swine between the states.

**"Designated epidemiologist"** means an epidemiologist who has been designated to perform those functions necessary for the classification of livestock suspected to be infected with pseudorabies, based on an evaluation of test results and consideration of the animal and herd history, as well as other epidemiological factors. The State Veterinarian shall select the designated epidemiologist.

**"Direct consignment"** means the shipment of swine from the point of origin to the destination point without diversion of any type, unloading the swine enroute, or permitting contact with other animals, including other swine.

**"Entry permit"** means official permission from the State Veterinarian obtained prior to moving swine into Oklahoma. An entry permit shall be obtained by providing the State Veterinarian the following information: name and address of the consignor; name and address of the consignee; and the number, age, sex, and breed of the swine to be imported. An entry permit may be obtained by telephone and is valid for thirty (30) days after the date of issuance.

**"Exposed swine"** means swine that have been in contact with, associated with, or adjacent to any animal known to be pseudorabies positive.

**"Farm of origin"** means the farm where the swine were born or where the swine have resided for at least the previous ninety (90) consecutive days.

**"Feeder swine"** means swine intended to be fed to a finished slaughter weight and not intended for breeding or exhibition.

**"Herd"** means one or more swine maintained on common ground and includes all swine under common ownership or supervision that are geographically separated but have an interchange or movement of swine between the groups.

**"Identification device"** means a permanent ear tag or other method approved by the Oklahoma Department of Agriculture, Food, and Forestry ("Department") that provides unique identification for each animal.

**"Infected livestock"** means any livestock determined by the designated epidemiologist to be infected with pseudorabies using an official pseudorabies test or diagnosed as having pseudorabies by an accredited veterinarian.

**"Isolation"** means separation of swine by a physical barrier in such a manner that other swine do not have access to the isolated swine's body, excrement, or discharges. Swine kept in isolation shall not share a building with a common ventilation system with other swine and shall be kept at a distance to be determined by the designated epidemiologist from other swine.

**"Known infected herd"** means a herd in which an animal has been determined by the designated epidemiologist to be infected with pseudorabies using an official pseudorabies test or diagnosed as having pseudorabies by an accredited veterinarian. A herd of livestock, other than swine, shall no longer be classified as a known infected herd ten (10) days following the disposition of the last clinical case of pseudorabies in the herd.

**"Official pseudorabies test"** means a test approved by the USDA to be conducted on swine for the diagnosis of pseudorabies and performed in a laboratory as listed in a Veterinary Services Notice listing such laboratories. The G-1 deletion test is not approved by the Department as an official pseudorabies test for Oklahoma, except for use by the Oklahoma designated epidemiologist.

**"Official 95/10 random sample test"** means a sampling protocol utilizing official pseudorabies tests that provide a ninety-five (95) percent probability of detecting infection in a herd in which at least ten (10) percent of the swine are seropositive for pseudorabies. Each segregated group of swine must be considered a separate herd and sampled as follows:

(A) less than 100 head - test 25
(B) 100-200 head - test 27
(C) 201 - 999 head - test 28
(D) 1,000 head and over - test 29.

**"Owner-shipper statement"** means a statement signed by the owner or shipper of swine which includes the number of swine to be moved; the points of origin and destination; the names of the consignor and consignee; and any additional information required by this Subchapter.

**"Pseudorabies"** means the infectious and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.

**"Pseudorabies monitored herd"** means a swine herd that has negative test results from an official pseudorabies serologic test during the last twelve (12) months at the following rate:

(A) 10 head - test all
(B) 11-35 head - test 10
(C) 36 or more - test thirty (30) percent or thirty (30) swine, whichever is less.

**"Quarantine feedlot"** means a confined area under official state quarantine and approved by the State Veterinarian. The quarantine feedlot shall be maintained for feeding of swine in drylot with no provisions for pasturing or grazing. No breeding swine shall be allowed in a quarantine feedlot. No pregnant sows, bred gilts, or sows with pigs at side shall be eligible for placement in a quarantine feedlot. Boars shall not be maintained jointly with sows or gilts in the feedlot. All swine leaving a quarantine feedlot must go directly to an approved slaughter establishment, to another quarantine feedlot, or to an approved assembly point for sale to an approved slaughter establishment or quarantine feedlot. All movements of swine from a quarantine feedlot must be accompanied by an approved shipping permit issued by an accredited veterinarian or a state or federal animal health official. Records of the origin and disposition of all swine handled by the feedlot must be on file and maintained for a twenty-four (24) month period. These records must be available for inspection or copying by any state or federal animal health official during normal business hours.

**"Quarantined herd"** means a herd containing pseudorabies infected or exposed swine and quarantined by the State Veterinarian.

**"Qualified pseudorabies negative herd"** means a herd where all swine over six (6) months of age have been tested using an official pseudorabies test and all swine tested negative. The herd shall not have been a known infected herd within the past thirty (30) days. A minimum of ninety (90) percent of the swine in the herd shall have been on the premises and a part of the herd for at least ninety (90) days prior to the qualifying official pseudorabies tests or have entered directly from another qualified pseudorabies negative herd. All requirements in Part 5 of this Subchapter shall be met in order to maintain qualified pseudorabies negative status.

**"Shipping Permit"** means an official document issued by the State Veterinarian for the movement of pseudorabies infected, exposed, or vaccinated swine under this Subchapter.

The permit shall be obtained prior to any movement of the swine and shall include the number of swine to be moved; the purpose for moving the swine; the points of origin and destination; the names and addresses of the consignor and the consignee; and any additional information required by this Subchapter.

**"Slaughter swine"** means swine intended for or consigned directly to a slaughter establishment.

**"State animal health official"** means the state animal health official, or designee, who is responsible for the livestock and poultry disease control and eradication programs in the state.

**"State Veterinarian"** means the person appointed by the Board pursuant to Title 2 Oklahoma Statutes, Section 6-1, or the State Veterinarian's designee.

## PART 3. REQUIREMENTS FOR SWINE ENTERING OKLAHOMA

### 35:15-22-31. Entry requirements for breeding swine

(a) A person importing breeding swine into Oklahoma shall obtain an entry permit by calling the Animal Industry Services Division of the Oklahoma Department of Agriculture, Food, and Forestry ("Department").

(b) Breeding swine entering Oklahoma shall be accompanied by a certificate of veterinary inspection, containing the following information:

(1) the entry permit number;

(2) a statement from the issuing veterinarian that to the best of the veterinarian's knowledge pseudorabies has not existed in the herd of origin in the past six (6) months, the swine to be imported have not been vaccinated for pseudorabies, and if applicable, the swine to be imported are offspring of a pseudorabies vaccinated sow; and

(3) if applicable, the qualified pseudorabies herd number and date of last pseudorabies test.

(c) Breeding swine that are offspring of a pseudorabies vaccinated sow shall be accompanied with an individual negative pseudorabies test using an official pseudorabies test for Oklahoma.

(d) Breeding swine entering Oklahoma under a completed and approved commuter herd agreement pursuant to 35:15-22-35 are exempt from requirements (a) and (b) provided the swine are not changing ownership.

(e) Breeding swine entering Oklahoma shall either

(1) be accompanied with a negative official pseudorabies test performed within thirty (30) days prior to entry,

(2) originate from a qualified pseudorabies negative herd,

(3) originate from a Class IV or V state, or

(4) enter under a completed and approved commuter herd agreement provided that the swine are accompanied by an owner-shipper statement.

(f) For purposes of requirements (e)(2) and (e)(3), all breeding swine that are commingled with other swine shall assume the lowest status of the commingled swine.

(g) After entry into Oklahoma, the owner of the imported breeding swine shall comply with one of the following requirements:

(1) quarantine the swine upon arrival, hold the swine in isolation, and at the owner's expense, not less than thirty (30) but not more than sixty (60) days after arrival, obtain a post-entry negative official pseudorabies test. The owner is responsible for notifying the Department that the post-entry test has been completed;

(2) add the swine to a qualified pseudorabies negative herd according to the requirements of 35:15-22-52; or

(3) meet the commuter herd agreement requirements of 35:15-22-35.

### 35:15-22-32. Entry requirements for feeding swine

(a) A person importing feeding swine into Oklahoma shall obtain an entry permit by calling the Animal Industry Services Division of the Department.

(b) Feeding swine entering Oklahoma shall be accompanied by a certificate of veterinary inspection, containing the following information:

(1) the entry permit number;

(2) a statement from the issuing veterinarian that to the best of the veterinarian's knowledge pseudorabies has not existed in the herd of origin in the past six (6) months, the swine to be imported have not been vaccinated for pseudorabies, and if applicable, the swine to be imported are offspring of a pseudorabies vaccinated sow; and

(3) if applicable, the qualified herd number and date of last pseudorabies test.

(c) Feeding swine that are offspring of a pseudorabies vaccinated sow shall be accompanied with an individual negative pseudorabies test using an official pseudorabies test recognized by Oklahoma.

(d) Feeding swine entering Oklahoma under a completed and approved commuter herd agreement pursuant to 35:15-22-35 are exempt from requirements (a) and (b) provided the swine are not changing ownership.

(e) Feeding swine entering Oklahoma shall either:

(1) be accompanied with a negative official pseudorabies test performed within thirty (30) days prior to entry,

(2) originate from a qualified pseudorabies negative herd,

(3) originate from a Class III, IV, or V state,

(4) enter under a completed and approved commuter herd agreement provided that the swine are accompanied by an owner-shipper statement, or

(5) originate from a pseudorabies monitored herd.

(f) Swine from an infected or exposed herd shall not enter Oklahoma.

### 35:15-22-33. Entry requirements for exhibition and prospective exhibition swine

(a) A person importing exhibition or prospective exhibition swine into Oklahoma shall obtain an entry permit by calling the Animal Industry Services Division of the Department.

(b) Exhibition and prospective exhibition swine entering Oklahoma shall be accompanied by a certificate of veterinary inspection, containing the following information:

(1) the entry permit number,

(2) a statement from the issuing veterinarian that to the best of the veterinarian's knowledge pseudorabies has not existed in the herd of origin in the past six (6) months, the swine to be imported have not been vaccinated for pseudorabies, and if applicable, the swine to be imported are offspring of a pseudorabies vaccinated sow, and

(3) if applicable, the qualified herd number and date of last pseudorabies test.

(c) Exhibition and prospective exhibition swine that are offspring of a pseudorabies vaccinated sow shall be accompanied with an individual negative pseudorabies test using an official pseudorabies test recognized by Oklahoma.

(d) Exhibition and prospective exhibition swine entering Oklahoma shall either:

(1) be accompanied with a negative official pseudorabies test performed within thirty (30) days prior to entry, or

(2)originate from a qualified pseudorabies negative herd.

(e) After entry into Oklahoma, the owner of the imported exhibition or prospective exhibition swine shall quarantine the swine upon arrival, hold the swine in isolation, and at the owner's expense obtain, not less than thirty (30) but not more than sixty (60) days after arrival, a post-entry negative official pseudorabies test. The owner is responsible for notifying the Department that the post-entry test has been completed.

**35:15-22-34. Entry requirements for livestock market and slaughter swine**

(a) All swine from an out-of-state approved livestock market and consigned to an approved Oklahoma livestock market shall be accompanied by a certificate of veterinary inspection and an entry permit.

(b) All farm origin swine shipped directly, with no diversion enroute, to an approved market or slaughtering establishment operating under state or federal supervision shall be accompanied by one of the following:

(1) a certificate of veterinary inspection, or

(2) a way bill, bill of lading, or owner-shipper certificate that lists the consignor, the point of origin of the shipment, and the approved market or slaughtering establishment to which the swine are being shipped.

(c) For market swine only, the results from an official pseudorabies test on a nursing sow shall constitute evidence of the pseudorabies status of its nursing pigs, if the pigs accompany that sow.

**35:15-22-35. Commuter herd agreement requirements**

(a) Prior to becoming effective, a written commuter herd agreement shall be submitted for review and approval to the State Veterinarian.

(b) A written commuter herd agreement shall include the following:

(1) global positioning system (GPS) data for all premises covered by the agreement,

(2) the location of the premise of origin and destination for all swine imported into Oklahoma under the commuter herd agreement, and

(3) the acceptable surveillance and testing requirements as determined by the designated epidemiologist based on the status of the state of origin, history of the herd of origin, and the intended purpose of the swine entering Oklahoma.

(c) All pseudorabies testing done pursuant to a commuter herd agreement shall utilize an official 95/10 random sample test.

(d) By the tenth (10th) of each month, the producer shall submit a monthly report of all swine entering Okalahoma.

## PART 5. REQUIREMENTS FOR A QUALIFIED PSEUDORABIES NEGATIVE HERD

**35:15-22-51. Qualified pseudorabies negative herds of swine**

(a) A swine herd shall achieve qualified pseudorabies negative herd status by having an official negative pseudorabies test for all swine in the herd over six (6) months of age.

(b) Each pig shall be permanently and individually identified. Identification of all additions shall be provided at each subsequent test.

(c) A minimum of ninety (90) percent of the swine in the herd shall have been on the premise and a part of the herd for at least ninety (90) days prior to the qualifying official pseudorabies test or have entered directly from another qualified pseudorabies negative herd.

(d) All additions to a qualified pseudorabies negative herd shall be made according to 35:15-22-52.

(e) Swine returned to the herd after contact with swine other than those from a single qualified pseudorabies negative herd shall be isolated until the swine have been found negative to an official pseudorabies test, performed not less than thirty (30) days but not more than sixty (60) days after the swine were placed in isolation.

**35:15-22-52. Making additions to a qualified pseudorabies negative herd**

(a) Swine may be added to a qualified pseudorabies negative herd directly from another qualified pseudorabies negative herd without isolation or testing provided that the swine are tested during the next test required for maintaining qualified pseudorabies negative status.

(b) Swine intended to be added to a qualified pseudorabies negative herd from another qualified pseudorabies negative herd but with interim contact with swine other than those from a single qualified pseudorabies negative herd shall be isolated until the swine have been tested negative to an official pseudorabies test, performed not less than thirty (30) days but not more than sixty (60) days after arrival.

(c) Swine may be added to a qualified pseudorabies negative herd through natural increase.

(d) Swine from a herd of unknown status intended to be added to a qualified pseudorabies negative herd shall have a negative official pseudorabies test performed not more than thirty (30) days prior to movement and be isolated upon arrival to the premises until the swine have been found negative to an official pseudorabies test, performed not less than thirty (30) days but not more than sixty (60) days after movement.

**35:15-22-53. Maintenance method for qualified pseudorabies negative**

(a) Qualified pseudorabies negative herd status shall be maintained provided that twenty-five percent (25%) of the breeding swine over six (6) months of age in the herd test negative every eighty (80) to one hundred five (105) days or provided that ten percent (10%) of the breeding swine over six (6) months of age in the herd test negative every month. All qualifying standards listed in 35:15-22-51 and 35:15-22-52 shall also be maintained.

(b) No pig shall be tested twice in any one (1) year to comply with the twenty-five percent (25%) testing requirement or tested twice in ten (10) months to comply with the ten percent (10%) testing requirement.

(c) If a qualified pseudorabies negative herd consists of breeding swine that are located on more than one premise or unit, each group shall be considered a separate herd for the percentage testing required to maintain qualified pseudorabies negative status.

## PART 7. REQUIREMENTS FOR SWINE EXHIBITIONS

**35:15-22-71. Exhibition requirements**

(a) All Oklahoma origin swine shall have an identification device permanently affixed to the right ear and shall be accompanied with either a certificate of veterinary inspection or a copy of an official test chart for each exhibition. The certificate of veterinary inspection shall include either the negative results from an official pseudorabies test or the qualified pseudorabies negative herd number and show the corresponding identification device for each pig.

(b) All out-of-state swine shall have an identification device permanently affixed to the right ear and shall be accompanied with a certificate of veterinary inspection for each exhibition. The certificate of veterinary inspection shall include either the negative results from an official pseudorabies test or the qualified pseudorabies negative herd number and show the corresponding identification device for each pig.

(c) Testing requirements.

(1) Oklahoma origin breeding swine shall have a negative official pseudorabies test within thirty (30) days prior to each exhibition.

(2) Oklahoma origin market swine shall have a negative official pseudorabies test after June 1 each year for fall exhibitions and after December 1 each year for spring exhibitions. These tests are valid for the entire respective exhibition season, unless in the opinion of the designated epidemiologist the swine have been exposed to pseudorabies.

(3) Out of state swine shall have either a negative official pseudorabies test within thirty (30) days prior to each exhibition or shall have evidence that the swine are from a qualified pseudorabies negative herd and show the corresponding identification device for each pig.

(4) Owners or immediate family members of owners of a qualified pseudorabies negative herd may exhibit swine originating from the qualified herd without a negative official pseudorabies test as long as the swine are accompanied with evidence of the herd status at each exhibition. This documentation shall include the corresponding identification device for each pig entered in the exhibition.

(d) All swine, after being exhibited, shall be kept isolated from all non-exhibition swine until the swine are retested negative for pseudorabies not less than thirty (30) days but not more than sixty (60) days following the exhibition unless the swine are consigned to a quarantined feedlot, an approved slaughter establishment, or an approved market for sale to slaughter or to a quarantined feedlot.

## PART 9. REQUIREMENTS FOR APPROVED MARKETS

**35:15-22-91. Requirements for approved markets**

(a) Feeder swine consigned to an approved livestock market shall have an identification device for each pig. The market operator shall maintain a record of all identification devices, the consignee's name and address, and the premise of origin.

(b) The livestock market shall immediately identify all out-of-state farm origin swine.

(c) The livestock market shall not release any out-of-state swine unless the appropriate entry requirements from Part 3 of this Subchapter have been met or the swine are to be shipped directly from the market to an approved slaughter facility.

(d) Upon release from a livestock market, out-of-state breeding swine shall be quarantined until, at the owner's expense, the swine are tested negative for pseudorabies not less than thirty (30) or more than sixty (60) days after the release. The owner is responsible for notifying the Department that the pseudorabies test has been completed.

(e) Out-of-state breeding swine released from a livestock market directly to an approved slaughter establishment or a quarantine feedlot are exempt from (d) of this section.

(f) Any market that is approved to handle out-of-state slaughter swine and is the final market for these swine prior to release directly to an approved slaughter facility shall keep the slaughter swine separate from any feeding or breeding swine. Any facilities or equipment used for the out-of-state slaughter swine, including but not limited too, scales, loading chutes, etc., shall be thoroughly cleaned prior to use for any feeding or breeding swine.

## PART 11. PSEUDORABIES TESTING, VACCINE, AND QUARANTINE - PROCEDURES

**35:15-22-110. Official sample for pseudorabies testing**

(a) A blood sample obtained and submitted by a state or federal regulatory official or an accredited veterinarian shall be considered an official blood sample for pseudorabies testing of Oklahoma origin swine. No other blood samples submitted for testing shall be considered an official sample.

(b) Blood samples submitted for pseudorabies testing shall be accompanied with the form approved by the Board.

(c) The swine herd owner shall pay the cost of blood sample collection and submission. In the event funds are made available by the United State Department of Agriculture or the Board for blood sample collection or submission or for laboratory fees, these funds may be used without interruption or change in any other program functions or policies.

**35:15-22-111. Pseudorabies vaccines and immunization**

(a) Pseudorabies vaccines or any other product to immunize or increase resistance of swine to pseudorabies may be utilized only if all of the following conditions have been met:

(1) Prior written permission has been obtained from the State Veterinarian.

(2) The vaccine shall be administered by an accredited veterinarian.

(3) The vaccine is to be used in a herd in which pseudorabies has been diagnosed and confirmed serologically or by virus isolation, in a herd that is at risk of exposure to an infected herd, or in a herd that is required to be vaccinated for the purpose of interstate or international movement that has been approved by the designated epidemiologist.

(4) At the time of vaccination, the swine shall be identified with a round hole punch in the left ear not less than one-half (1/2) inch in diameter or with other identification approved by the Board.

(b) All pseudorabies vaccinated swine shall be quarantined until consigned to an approved slaughter establishment.

(c) A veterinarian who administers the pseudorabies vaccine shall report to the State Veterinarian the name and address of the herd owner, the name of the producer of the vaccine, the lot number or serial number of the vaccine, and the number and description of all swine vaccinated.

(d) The State Veterinarian may issue additional requirements for pseudorabies vaccine usage.

**35:15-22-112. Notification requirements regarding all swine pseudorabies vaccines**

(a) All producers or distributors of a pseudorabies vaccine or other product to immunize or increase resistance of swine to pseudorabies shall notify the State Veterinarian monthly if any vaccine has been shipped into Oklahoma and shall include the name and address of the consignee.

(b) Pseudorabies vaccine or other product to immunize or increase resistance of swine to pseudorabies shall only be shipped to an accredited veterinarian approved by the State Veterinarian or to a distributor that sells only to accredited veterinarians approved by the State Veterinarian.

**35:15-22-113. Quarantine requirements for vaccinated swine herds**

(a) All swine herds in which a pseudorabies vaccine or other product to immunize or increase the resistance to pseudorabies has been used shall be quarantined.

(b) Unvaccinated swine in a herd that contains other swine that have been vaccinated may be released from quarantine upon meeting the following conditions:

(1) The unvaccinated swine have been isolated from all vaccinated swine for a minimum of thirty (30) days.

(2) he swine have tested negative to an initial official pseudorabies test following the thirty (30) day isolation period.

(3) The swine have tested negative to a second official pseudorabies test not less than thirty (30) days following the initial test.

(4) The State Veterinarian has approved the release and movement of the unvaccinated swine.

**35:15-22-114. Requirements for swine tested positive for pseudorabies**

If any pig has a positive reaction to an official pseudorabies test, the entire herd of origin shall be classified as an infected herd and shall be quarantined until the requirements of 35:15-22-115 are met.

**35:15-22-115. Requirements for an infected herd**

(a) All swine from an infected herd shall only move directly to slaughter and shall be accompanied by an official shipping permit.

(b) The owner of an infected herd shall comply with the following conditions:

(1) As long as funds are available, depopulate the entire herd, disinfect the premise with methods approved by the State Veterinarian, and not repopulate the premise with swine for thirty (30) days following the completion of the disinfection procedures; or

(2) Within thirty (30) days following official notification of quarantine, sign a Herd Plan developed and approved by the State Veterinarian and follow the Herd Plan requirements for the disposition of the infected herd; or

(3) Within fifteen (15) days of official classification by the designated epidemiologist that the herd is infected, remove all known positive reactors, at the owner's expense obtain a negative result from an official pseudorabies test on all remaining swine not less than thirty (30) days after removal of the reactors, and at the owner's expense obtain a second negative result from an official pseudorabies test for all remaining swine not less than thirty (30) days after the first negative test.

## PART 13. VIOLATIONS OF REQUIREMENTS FOR TESTING OR MOVEMENT OF SWINE INTO OR WITHIN THE STATE OF OKLAHOMA

**35:15-22-131. Penalties and fines**

(a) Upon notice and a hearing pursuant to the Administrative Procedures Act, the Board may assess administrative penalties against any person in violation of these rules.

(b) Any person violating these rules may be civilly liable to the Board for any assessed fees and penalties.

(c) Each day of continuing violation and each pig shall be considered a separate violation.

*[OAR Docket #03-816; filed 4-28-03]*

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

*[OAR Docket #03-815]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 25. Meat Inspection
Part 1. General Provisions
35:15-25-1 [AMENDED]
35:15-25-3 [AMENDED]
**AUTHORITY:**
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2), 2-4(7), 2-4(22), 2-4(25), 2-4(29), and 6-181 et seq.
**DATES:**
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**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The amendments of these rules will update our incorporation by reference of federal meat inspection regulations to be current with Title 9 CFR as required to maintain the "at least equal to" federal requirement.
**CONTACT PERSON:**
Stan Stromberg, (405) 521-3741

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### SUBCHAPTER 25. MEAT INSPECTION

### PART 1. GENERAL PROVISIONS

**35:15-25-1. Incorporation by reference of federal meat inspection regulations**

The Mandatory Meat Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR) (~~2001~~ 2002 Revision), Parts 301 et seq.; 416 et seq.; 417 et seq.; 424 et seq.; 441 et seq.; and 500 et seq.; for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:15-25-3. Whenever an official mark, form, certificate or seal is designated by Federal regulations, the appropriate Oklahoma Department of Agriculture ~~(ODA)~~, Food, and Forestry (ODAFF) form, certificate or seal shall be substituted.

**35:15-25-3. Deleted regulations**

The following sections of the Federal regulations governing the mandatory meat inspection (9 CFR, ~~Part~~ Parts 301 et seq.; 416 et seq.; 417 et seq.; 424 et seq.; 441 et seq.; and 500 et seq.) (~~2001~~ 2002 Revision) of the USDA incorporated by reference under 35:15-25-1 are deleted and not rules of Oklahoma Department of Agriculture, Food, and Forestry: 302.2; 303.1(c); ~~304~~; 304.1; 304.2(a); 304.2(c); 305.2(b); ~~305.5;~~ 307.4; 307.5; 307.6; ~~308.9;~~ 316.12; 316.13(c); 317.5; 317.7; 317.9; 318.8; 318.12; 321; 322; 327; 329.6; 329.7; 329.8; 329.9; 331; 335; 351; 352; 354; 355; 362; 381; 390; 391; and 590.

*[OAR Docket #03-815; filed 4-28-03]*

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

*[OAR Docket #03-814]*

**RULEMAKING ACTION:**
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**RULES:**
Subchapter 47. Chronic Wasting Disease (CWD) in ~~Cervids~~Cervidae
Part 7. Interstate Movement Requirements
35:15-47-19 [NEW]
**AUTHORITY:**
Oklahoma State Board of Agriculture and the Oklahoma Agriculture Code; 2 O.S. 2001 § 2-4(2,7 and 17), 6-3, 6-124, 6-151, 6-153, and 6-291
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**Superseded rules:**
Subchapter 47. Chronic Wasting Disease (CWD) in ~~Cervids~~Cervidae
Part 7. Interstate Movement Requirements
35:15-47-19 [NEW]
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January 2, 2003
**Register publication:**
20 Ok Reg 373
**Docket number:**
03-46
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The proposed rule is necessary to update Oklahoma's Chronic Wasting Disease (CWD) rules regarding persons that unlawfully import cervidae into the state of Oklahoma. The rule provides specific and necessary options to persons that have unlawfully imported cervidae into the state, protects the industry, and details responsibilities if the unlawfully imported cervidae have or develop CWD. These rules are needed to address a current importation problem in the state and to promote the continued growth and economic development of the cervidae industry in Oklahoma.
**CONTACT PERSON:**
Dr. Burke Healey, (405) 522-6134

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 47. CHRONIC WASTING DISEASE (CWD) IN ~~CERVIDS~~CERVIDAE

## PART 7. INTERSTATE MOVEMENT REQUIREMENTS

**35:15-47-19. Disposition of cervidae unlawfully imported into the state**

(a) Any person importing cervidae into the state in violation of any importation requirements may be subject to a penalty and shall quarantine or remove the cervidae in one of the following manners:

(1) The person may return the cervidae to the state of origin. If the unlawfully imported cervidae came into contact with other captive cervidae, then the owner of the legal captive cervidae shall enroll the herd in the state CWD program for a minimum of five (5) years at their own expense.

(2) The person's premises and all cervidae on the premises may be placed under a state quarantine issued by the state veterinarian for five (5) years with mandatory participation in the state's CWD surveillance program at the person's expense. In the event CWD is detected, the person shall depopulate the herd through approved USDA standards and methods and shall not be eligible to receive indemnification from the state.

(3) The person may destroy the unlawfully imported cervidae on the premises by approved USDA standards and methods with CWD surveillance and testing of the imported cervidae and enroll any remaining cervidae that had contact with the destroyed cervidae in the state CWD program for a minimum of five (5) years at the person's own expense.

(b) In the event the unlawfully imported cervidae or any cervidae exposed to the unlawfully imported cervidae are destroyed or disposed by the state for any reason, the person responsible for the unlawful importation of the cervidae shall be responsible for full reimbursement to the state for all costs and expenses and in no case shall the person be eligible to receive indemnification from the state.

*[OAR Docket #03-814; filed 4-28-03]*

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# TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 20. FORESTRY

*[OAR Docket #03-809]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 17. Forest Resources Development Program [NEW]
Part 1. General Provisions [NEW]
35:20-17-1 through 35:20-17-3 [NEW]
Part 3. Cost-Share Program Guidelines [NEW]
35:20-17-7 through 35:20-17-23 [NEW]
**AUTHORITY:**
Oklahoma State Board of Agriculture; 2 O.S., Article 16, Section 16-10 through 16-13
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Subchapter 17. Forest Resources Development Program [NEW]
Part 1. General Provisions [NEW]
35:30-17-1 through 35:30-17-3 [NEW]
Part 3. Cost-Share Program Guidelines [NEW]
35:20-17-8 [NEW]

35:20-17-10 [NEW]
35:20-17-13 [NEW]
35:20-17-15 through 35:20-17-18 [NEW]
35:20-17-20 through 35:20-17-23 [NEW]

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**SUPERSEDED EMERGENCY ACTIONS:**

**Superseded rules:**
Subchapter 17. Forest Resources Development Program [NEW]
Part 3. Cost-Share Program Guidelines [NEW]
35:20-17-7 [NEW]
35:20-17-9 [NEW]
35:20-17-11 [NEW]
35:20-17-12 [NEW]
35:20-17-14 [NEW]
35:20-17-19 [NEW]

**Gubernatorial approval:**
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**Register publication:**
20 Ok Reg 785

**Docket number:**
03-474

**INCORPORATIONS BY REFERENCE:**
N/A

**ANALYSIS:**
The proposed new rules establish administrative policies and procedures for the operation of the Forest Resources Development program, a forestry cost-share program of the Forestry Services Division, Oklahoma Department of Agriculture, Food, and Forestry. The rules describe land and landowner eligibility, application procedures, basic program requirements and other aspects of program administration. The rules will govern administration of forestry cost-share funds, regardless of their source.

**CONTACT PERSON:**
Kurt Atkinson, (405) 522-6147

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 17. FOREST RESOURCES DEVELOPMENT PROGRAM

## PART 1. GENERAL PROVISIONS

### 35:20-17-1. Purpose

The rules of this subchapter are adopted for the purpose of administering Oklahoma's Forest Resources Development Program, a forestry cost-share program to help landowners implement forest resource management and conservation projects in Oklahoma, pursuant to Title 2, Sections 16-10 through 16-13 of the Oklahoma Statutes. The Forest Resources Development Program will be used to administer funding allocated to Oklahoma through the federal Forest Land Enhancement Program, and other funding for forestry cost-share programs from state appropriations, federal grants, private foundation grants, donations or similar sources.

### 35:20-17-2. Definitions

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

**"Advisory Committee"** or **"Committee"** means the group established by the Commissioner of Agriculture to assist with the program, and is equivalent to the State's Forest Stewardship Coordinating Committee, established pursuant to section 16 USC 2113 of the Cooperative Forestry Assistance Act as amended (16 U.S.C. 2101, et seq).

**"Applicant"** means the person who applies for cost-share assistance under the program.

**"Area Forester"** means the forester in charge of a designated Forestry Services Administrative Area who provides basic oversight of the cost-share program in their assigned area.

**"Cooperative Agreement"** means the written and signed contract and all other documents made a part of the contract incorporated by reference, and any written and signed amendments or addendums to the original contract, providing the terms of the contract under the Forest Resources Development Program between the Department and an approved applicant.

**"Cost-share"** means the payment that is used to offset part of the cost incurred by an approved applicant for implementation of an approved practice authorized under the program.

**"Eligible practices"** means the list of activities that may be approved for cost-sharing to meet the intent of the program, as approved by the Advisory Committee and included in the program guidelines.

**"Eligible purposes"** means the forest conservation and production benefits that will result from implementation of approved practices.

**"Forest Land Enhancement Program"** means the federal forestry cost-share program established by Title VIII of the Farm Security and Rural Investment Act of 2002 (PL 107-171).

**"Forester"** means the professional natural resources manager who provides information and technical assistance to program participants.

**"Forestry Services"** means the Forestry Division of the Oklahoma Department of Agriculture, Food, and Forestry.

**"Fund"** means the forestry cost-share revolving fund, authorized at O.S. Title 2, Article 16, Section 16-11.

**"Landowner"** means the owner of non-industrial private forest land or a leaseholder who controls the land for the minimum length of time for a practice to be established, excluding corporations whose stocks are publicly traded, owners principally engaged in the processing or manufacture of wood products, governmental entities and public utilities.

**"Management plan"** means the written plan prepared by a natural resources management professional and approved by the State Forester that describes projects and activities to be carried out by the landowner, consistent with the landowner's objectives.

**"Non-industrial private forestland"** means rural lands with existing tree cover, or which are suitable for growing trees, and are owned by any non-industrial private individual, group, association, corporation, Indian tribe, or other private legal entity so long as the individual, group, association, corporation,

tribe, or entity has definitive decision-making authority over the lands.

**"Practice"** means a prescribed forestry activity consistent with the management plan and implemented through the program that results in improved conditions on eligible private lands. A practice may consist of multiple activities.

**"Practice plan"** means the written document that contains site-specific technical recommendations on proper installation of requested practices.

**"Program"** means the Forest Resources Development Program.

**"Project"** means the purpose for which an applicant requests funding assistance under this program.

**"Slippage"** means the amount of cost-share funds turned back to the forestry cost-share fund as a result of cancellations or where actual costs are less than approved costs.

**35:20-17-3. Contingency**

Implementation of the forestry cost-share program is contingent upon funding being available to the Department for this purpose. Funding may come from any source that is designated for forestry cost-share assistance, including federal grants, state appropriations, donations from individuals or organizations, and any other source.

## PART 3. COST-SHARE PROGRAM GUIDELINES

**35:20-17-7. Eligibility for cost-share program**

(a) Any private individual, corporation, trust, joint venture, Native American Tribe, association or other legal entity shall be eligible for participation in the program, provided that they meet the program guidelines established and approved by the Department in consultation with the Advisory Committee.

(b) Any federal, state or local government agency or political subdivision, corporations with publicly traded stock, landowners engaged in the manufacture of wood products, public utilities, owners of less than 10 contiguous acres, and any landowner with joint ownership in an eligible tract of land where all joint owners or duly authorized agents do not sign the application shall not be eligible for participation in the program.

(c) Funding shall be available for practices on a statewide basis, unless restricted to certain counties or geographic areas by the Department in consultation with the Advisory Committee based upon the source of cost-share funding.

(d) The Department in consultation with the Advisory Committee will establish the minimum and maximum size ownerships for landowners to be eligible to participate in the program, and the minimum size tract where practices are to be installed under the program.

(e) The Department in consultation with the Advisory Committee may establish additional restrictions for participation in the program, based upon program funding sources and intent.

**35:20-17-8. Program announcements**

(a) Forestry Services shall notify potential applicants through direct mailings, news releases, personal contact and through other conservation agencies.

(b) A program announcement shall be published in the Oklahoma Register in accordance with the Administrative Procedures Act at least annually.

**35:20-17-9. Applications for cost-share funding**

(a) Forestry Services shall develop the forms and guidelines required for the cost-share program in consultation with the Advisory Committee.

(b) Any landowner desiring to participate in the program shall submit an application to the Department on a form supplied by the Department. Potential participants shall complete the application for cost-share funding according to the guidelines and shall send completed applications to the Area Forester responsible for the county in which the land where the practice is to be installed is located.

(c) Applications will be accepted on a continuous basis, unless otherwise established by the Department in consultation with the Advisory Committee.

**35:20-17-10. Management plan requirements**

Landowners shall obtain a written forest management plan that satisfies the program guidelines for the land where practices will be implemented prior to obtaining any cost-share funds.

**35:20-17-11. Cost-share practices and rates**

The Department with the consultation of the Advisory Committee shall establish the cost-share practices and rates that will be offered to landowners under the program and those practices and rates may vary, depending upon the source and expressed intent of cost-share funding. All approved practice descriptions, specifications and cost-share rates shall be made available to potential applicants in the program guidelines. The Advisory Committee shall review the cost-share rates annually and recommend adjustments to the Department as necessary.

**35:20-17-12. Maximum payment limitation and agreement period**

The maximum payment limitation for all program payments shall be established by the Department in consultation with the Advisory Committee, and will be based on the state fiscal year. The program shall only fund annual agreements, and shall not fund long-term, multi-year agreements.

**35:20-17-13. Relationship with other cost-share programs**

Cost-share funds shall not be approved if the applicant is already receiving cost-share funds during the state fiscal year on the same acres for the same or similar practices.

**35:20-17-14. Approval of cost-shares**

(a) Cost-share funding shall be allocated on a first-come first served basis, unless the Department in consultation with the Advisory Committee establishes an application rating system to fund projects with the highest priority or to meet specific objectives.

(b) In no case shall a cost-share rate be adjusted from the rate in effect when the application was approved.

(c) In the event funding is not immediately available, an application will be retained on file in the state office and reconsidered as new funding becomes available. At the end of twelve (12) months, and at least annually thereafter, landowners will be required to notify the state office in writing if they wish for their application to remain on file.

(d) Landowners shall obtain written approval prior to implementing cost-shared practices. Reimbursement shall not occur unless an approved cooperative agreement is on file with the Department prior to practice implementation.

**35:20-17-15. Practice expiration and extensions**

(a) A landowner shall complete implementation of the cost-share practices within 18 months of the date of approval.

(b) Forestry Services' State Office may approve an extension of up to six (6) months where circumstances beyond the landowner's control prevented practice completion in a timely manner. Under no circumstances shall cost-share funding be extended beyond this 12-month period.

**35:20-17-16. Changes to approved projects**

(a) Changes in approved practices or applications may be made, based upon the forester submitting an amended practice plan and application. The total dollar value of an approved application may be increased based upon the forester's needs determination and the availability of cost-share funding.

(b) Participants with a pending or an approved application may cancel their application at any time, provided they do so in writing to the Area Forester.

**35:20-17-17. Inspection of completed practices**

Prior to authorizing payment, foresters shall perform on-site inspections to verify that practice specifications and other terms of the cooperative agreement have been followed.

**35:20-17-18. Payment by the Department**

(a) The Department shall only make payment upon completion of the following:

(1) The landowner has completed the practices stated in the cooperative agreement to the Department's satisfaction.

(2) The landowner has complied with all terms of the agreement.

(3) The landowner has submitted paid invoices and other proof of cost for practices authorized in the agreement.

(b) The Department will not make partial payments.

**35:20-17-19. Practice maintenance requirement**

Landowners are generally required to maintain cost-share practices in accordance with the cooperative agreement for a period of ten (10) years following the date of performance certification. The Department in consultation with the Advisory Committee may establish a maintenance period of less than ten (10) years for certain practices or under certain conditions. Foresters will perform random spot checks of practices completed in prior years and notify Forestry Services' State Office of discrepancies.

**35:20-17-20. Refunds or recapture provisions**

Landowners shall refund to the Department all state costs in the cooperative agreement plus court costs and reasonable attorney fees under the following circumstances:

(1) The landowner fails to maintain cost-share practices for the required maintenance period.

(2) The landowner destroys the funded practices.

(3) The landowner sells or otherwise loses control of the property and the new owner does not agree to maintain the practices.

(4) Program violations or abuses occur.

**35:20-17-21. Appeals**

(a) Landowners who disagree with a forester's determination or who believe their treatment under the program has been unfair or feel they have been discriminated against may file an appeal. The landowner shall appeal in writing to the Area Forester who received the original application for funding.

(b) The Area Forester and forester involved in the case shall have 14 calendar days from the date the appeal is received to investigate and respond in writing to the landowner with a determination on the appeal. A landowner who is dissatisfied with this determination may file a second appeal in writing to the Area Forester.

(c) On receipt of the second appeal, the Area Forester will refer the case to Forestry Services' State Office for review, in consultation with the Advisory Committee as necessary. The State Office shall have up to 60 calendar days from the date the appeal is received by the State Office to investigate and respond to the landowner in writing with a determination. A landowner who is dissatisfied with the State Office determination may appeal in writing to the State Board of Agriculture, whose decision shall be final.

**35:20-17-22. Accounting and reporting**

(a) Forestry Services shall maintain a control ledger that includes data on approved landowners, approved cost-shares, actual cost-shares, practices installed, accomplishments and other information.

(b) Forestry Services shall develop quarterly status reports and annual accomplishment reports of program activities, and as otherwise requested by the Advisory Committee or Board.

**35:20-17-23. Equal opportunity provisions**

The program shall be developed, promoted and implemented in full compliance with state and federal laws governing discrimination and civil rights. Participants who believe they have been discriminated against may file an appeal.

*[OAR Docket #03-809; filed 4-28-03]*

## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

*[OAR Docket #03-810]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 17. Combined Pesticide
Part 22. Wood Infestation Reports [NEW]
35:30-17-100 through 35:30-17-107 [NEW]
**AUTHORITY:**
Oklahoma State Board of Agriculture and the Oklahoma Agriculture Code; 2 O.S. 2001 § 2-4(2 and 18), 3-81(43) and 3-86(A)(5)
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N/A
**ANALYSIS:**
The proposed rules are necessary to provide standards for individuals who prepare Wood Infestation Reports in the state of Oklahoma. The rules provide specific requirements for forms, inspections, and qualifications for performing inspections. These rules are necessary to protect purchasers of property who rely on the wood infestation report in making a decision to complete the purchase.
**CONTACT PERSON:**
Bill Taylor, (405) 522-6347

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### SUBCHAPTER 17. COMBINED PESTICIDE

### PART 22. WOOD INFESTATION REPORTS

**35:30-17-100. Compliance and violations**

(a) Any wood infestation report (WIR) issued that is not in compliance with these rules shall be inaccurate, misleading, or fraudulent.

(b) Any person who issues a WIR that fails to comply with the provisions of these rules shall be in violation for failure to perform work according to minimum standards.

**35:30-17-101. General requirements for WIRs**

(a) "Wood destroying organism" means any insects or organisms, other than termites, which damage or destroy wood or other cellulose materials, including but not limited to carpenter ants, carpenter bees, powder post beetles, and wood rot fungi. This term shall not include other fungi which inhabit but do not damage or destroy wood or other cellulose materials, health hazard molds, or stain fungi.

(b) WIRs shall be based on a thorough visual inspection and provide an accurate written disclosure of the presence or absence of termites and other wood destroying organisms and the presence or absence of damage caused by termites or other wood destroying organism.

(c) Evidence of wood rot fungi reported in the WIR shall be visible evidence of wood rot damage.

(d) Each WIR shall be made on a form prescribed by the Board.

(e) Copies of the WIR shall be provided to each of the following:

(1) The person purchasing the WIR.

(2) The files of the business responsible for the WIR.

**35:30-17-102. Uses of the WIR**

(a) A WIR used as a basis for recommendations for remedial treatment for termites or other wood destroying organisms shall disclose the following:

(1) Presence of live termites or other wood destroying organisms.

(2) Evidence of a previous infestation and no visible evidence of a treatment to address it.

(b) A WIR used as a basis for recommendation of preventive treatment for termites or other wood destroying organisms shall identify the presence of substantial conditions conducive to infestation by termites or other wood destroying organisms.

(c) The WIR shall include a statement indicating if the report is used as the basis for remedial or preventive treatment.

**35:30-17-103. Qualifications**

(a) Any person performing an inspection for a WIR shall be a certified applicator or a certified service technician.

(b) Any person issuing a WIR shall be a certified applicator, certified in structural pest control.

(c) The business responsible for the WIR shall have a current license in structural pest control.

**35:30-17-104. Minimum information required for a WIR**

(a) A WIR shall include, but not be limited to, the following:

(1) The address or location of the property inspected.

(2) The type of construction as determined by visual inspection, including, but not limited to, the following:

(A) Specify the type of stemwall, whether brick, concrete blocks, or any other type.

(B) Specify the type of floor, whether wood, concrete slab, or any other type.

(C) Specify any areas under the floor, whether a crawl space, basement, or any other area.

(D) Specify the type of exterior, whether wood, wood veneer, stucco, fiberboard, brick or stone, concrete block, aluminum or vinyl siding, or any other type, including combinations of types.

(E) Specify the type of piers, whether wood, concrete blocks, or any other type.

(3) A description of any inaccessible or visually obstructed areas.

(4) A description of any visible conditions conducive to termites or other wood destroying organisms, including wood to ground contact, remaining form boards, excessive moisture, debris under or around the structure, visible wood flooring over slab, stucco siding, crawl space clearance resulting in insufficient separation between soil and wood, expansion joints or cracks in slabs, decks in contact with the structure, dense foliage in contact with the structure, wood piles in contact with the structure, or any other condition.

(5) A description of visible evidence of termite activity, including live termites, termite tubes or frass, evidence of previous infestation or treatment, or winged adults.

(6) A description of visible evidence of termite damage.

(7) A description of visible evidence of damage or activity by other wood destroying organisms.

(8) If no visible evidence is present, the WIR shall so state.

(b) Each page of the WIR shall indicate the address or location of the property and the date of the inspection.

**35:30-17-105. WIR inspections**

(a) Areas to be inspected shall include, but not be limited to, the following:

(1) All structures on the property, unless specifically identified on the WIR.

(2) Areas around the plumbing in bathrooms, kitchens, laundry areas, or any other areas with plumbing.

(3) Window and door frames and sills.

(4) Baseboards, flooring, walls, and ceilings.

(5) Floored attics.

(6) Entrance steps and porches.

(7) Exteriors of slabs or foundations walls.

(8) Exteriors of all structures.

(9) Crawl spaces, including but not limited to, support piers or stiff legs, floor joists, sub floors, sill plates, or foundation walls.

(10) Fireplaces.

(b) Inaccessible areas are not required to be inspected for the WIR, and may include, but are not limited to, the following:

(1) Areas of attics with no flooring.

(2) Interiors of hollow walls, floors, or ceilings.

(3) Structural segments that cannot be accessed without defacing or tearing out lumber, masonry, or finished work, such as enclosed bay windows, buttresses, and other similar areas.

(4) Areas behind or beneath stoves, refrigerators, furniture, built in cabinets, insulation, or floor coverings.

(5) Areas where storage, locks, or other conditions render an inspection impracticable.

(6) Insufficient clearance for inspection of a crawl space.

(c) Any structures on the property not included in the inspection shall be identified on the WIR as not inspected.

(d) Any subsequent inspections shall be considered a follow up inspection.

**35:30-17-106. Posting of notice**

(a) Upon completion of an inspection for a WIR, the inspector shall post a durable sign adjacent to the water heater or electric breaker box, beneath the kitchen sink, or in the bath trap that includes the name and address of the inspector, the date of inspection, the purpose of the inspection, and a statement indicating the posted notice shall not be removed under penalty of law.

(b) Any person removing or defacing a posted inspection notice shall be in violation of this section.

(c) The sign shall have a minimum size of two (2) inches by four (4) inches and shall be self sticking.

**35:30-17-107. Forms**

(a) Form ODAFF-1 [Oklahoma Official Termite and Wood Destroying Organisms Report] and Form ODAFF-2 (Official WIR Follow-up) shall be the official and required forms for WIRs and are available for inspection or copies at the offices of the Plant Industry and Consumer Services Division, Oklahoma Department of Agriculture, Food, and Forestry.

(b) The official forms may be preprinted by a business, however no alterations or additions to the form shall occur, other than the following:

(1) Name of the business.

(2) Business structural pest control license number.

(3) Business address and telephone number.

(c) Additional documents or addenda shall be listed and attached to the WIR.

(d) Each official form including more than one page, whether printed on the front and back or on separate pages, shall include the total number of pages in the WIR and the page number of each individual page, i.e. "Page One of Three."

*[OAR Docket #03-810; filed 4-28-03]*

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

*[OAR Docket #03-811]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
35:35-1-2 [AMENDED]
35:35-1-3 [AMENDED]
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**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The primary purpose of the proposed amendments is to update citations to sections of FDA Regulations and sections of the Code of Federal Regulations that are incorporated by reference within these rules. The proposed amendments to these rules accomplish this goal by updating references to FDA rules and publications, as well as the actual Code of Federal Regulations. The remaining amendments are included for the sole purpose of "cleaning up" the language used in this subchapter in an effort to make the rules more readable and easier to understand.
**CONTACT PERSON:**
Frank Harris, (405) 522-6347

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 35:35-1-2. Incorporations by reference

(a) **Adopted references.**

(1) **PMO.** ~~"Part II,~~ Grade A Pasteurized Milk Ordinance with Administrative Procedures - ~~1993~~ 2001 Recommendations", including Appendices A through ~~L,~~ ~~N and O~~ P thereto, hereinafter referred to as the "PMO", consisting of pages ~~29~~ 1 through ~~321~~ 271 as published in the Grade A Pasteurized Milk Ordinance, ~~1993~~ 2001 Revisions, by the Department of Health and Human Services, Public Health Service/Food and Drug Administration, Washington, D.C., true and correct copies of which shall be maintained by the Commissioner of Agriculture and provided to the State Librarian and Archivist, IS HEREBY INCORPORATED BY REFERENCE.

(2) **DMO.** Supplement I to the Grade A Pasteurized Milk Ordinance, ~~1978~~ 1995 Recommendations, "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey", also known as the "DMO", as published in the Grade A Pasteurized Milk Ordinance, ~~1978~~ 2001 Recommendations, by the Department of Health and Human Services, Public Health Service/Food and Drug Administration, Washington, D.C., true and correct copies of which shall be maintained by the Commissioner of Agriculture and provided to the State Librarian and Archivist, IS HEREBY INCORPORATED BY REFERENCE.

~~(3) **Fabrication of Single Service Containers and Closures for Milk and Milk Products.** "Fabrication of Single Service Containers and Closures for Milk and Milk Products", 1991 Revision, as published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, true and correct copies of which shall be maintained by the Commissioner of Health and provided to the State Librarian and Archivist, IS HEREBY INCORPORATED BY REFERENCE.~~

(~~4~~3) **Code of Federal Regulations.** Where ~~reference~~ mention is made to any section or sections of the Code of Federal Regulations in either the PMO or DMO, ~~Section 1, "Definitions" (pages 29 through 31 of the PMO), then such reference shall mean those provisions which appear in Appendix L (pages 262 through 309 of the PMO) as amended (at 21 CFR 131.111, 112, 136, 138, 144, 146, 170, 200, 203 and 206) by 46 Federal Register Number 20, Friday, January 30, 1981, pages 9934 through 9940, which pages are hereby~~ that section or sections shall be incorporated by reference ~~and included within Appendix L.370~~. The Oklahoma State Board of Agriculture declares that, by incorporating the PMO by reference, it does not intend to create any inconsistency with the Oklahoma Milk and Milk Products Act, in the event there may be any inconsistency.

(b) **Exceptions.**

(1) Section 3, "Permits" (portions of pages ~~35~~ 6, ~~36~~ 7 and ~~37~~ 8 of the PMO), is not incorporated by reference.

(2) "Table 1" (page ~~48~~ 20 of the PMO) of Section 7 of the PMO is not incorporated by reference.

(3) Section 16, "Penalty" (page ~~120~~ 96 of the PMO) is not incorporated by reference.

(4) Section 17, "Repeal and Date of Effect" (page ~~120~~ 96 of the PMO), is not incorporated by reference.

(5) ~~Part III of Appendix B~~ Section 5, "~~Certification of~~ Certified Industry ~~Dairy Farm Inspectors~~ Inspection"

(pages ~~132~~ 12, 13 and ~~133~~ 14 of the PMO), is not incorporated by reference.

(6) Appendices E, "Examples of 3-out-of-5 Compliance Enforcement Procedures" (~~page~~ pages ~~183~~ 163 ~~through~~ and ~~185~~ 164 of the PMO,~~), J, "Sanitation Guidelines for the Manufacture of Single Service Containers for Milk and Milk Products" (page 255 of the PMO), and K, "Adoption by Reference Form of the Grade A Pasteurized Milk Ordinance" (page 257 and 258 of the PMO), are~~ is not incorporated by reference.

**35:35-1-3. Terms for interfacing with the PMO and the DMO**

For purposes of interfacing with the PMO and the DMO, the following terms apply:

(1) Entities designated by the symbol for footnote 1 in the introduction ~~for Part II~~ (page ~~29~~ iv of the PMO) is synonymous with the Oklahoma State Board of Agriculture. In Item ~~6p~~ 7r, "Toilet ~~Sewage Disposal Facilities~~" of Section 7 (~~page~~ pages ~~71~~ 29 and 30 of the PMO) is synonymous with the Oklahoma State Board of Health. The entities designated by the symbol for footnote 1 in Section 2, "Adulterated or Misbranded Milk or Milk Products" (page ~~35~~ 36 of the PMO), Section 3, "Permits" (page 35 of the PMO), Section 5, "Inspection of Dairy Farms and Milk Plants" (page ~~40~~ 10 of the PMO), and Section 11, "Milk and Milk Products Which May Be Sold" (page ~~116~~ 92 of the PMO) are synonymous with the State of Oklahoma.

(2) Ordinance is synonymous with these rules.

(3) Regulatory agency is synonymous with the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry.

*[OAR Docket #03-811; filed 4-28-03]*

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## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 50. AQUACULTURE

*[OAR Docket #03-812]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. Private Commercial Production [NEW]
Part 1. General Provisions [NEW]
35:50-1-1 [NEW]
35:50-1-2 [NEW]
Part 3. Licensing, Reporting, and Records [NEW]
35:50-1-30 through 35:50-1-38 [NEW]
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Oklahoma State Board of Agriculture; Senate Bill 920 passed the 48th Legislature, Second Session. New language to be codified in the Oklahoma Agriculture Code, 2 O.S. § 6-311 et seq. (2002)
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Part 1. General Provisions [NEW]
35:50-1-1 [NEW]
35:50-1-2 [NEW]
Part 3. Licensing, Reporting, and Records [NEW]
35:50-1-30 through 35:50-1-38 [NEW]
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N/A
**ANALYSIS:**
The purpose of the proposed rules is to meet the needs of the new program moved to this agency by Senate Bill 920 that became effective November 1, 2002. The rules lay out a framework for the initial and renewal of aquaculture licenses, expansion requirements, cost of aquatic culture decals, record keeping, technical services, complaints, inspections, annual reporting, and emergency notifications. This rule is needed to promote the continued growth and economic development of the aquaculture industry in Oklahoma.
**CONTACT PERSON:**
Dr. Burke Healey, (405) 522-6134

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### SUBCHAPTER 1. PRIVATE COMMERCIAL PRODUCTION

### PART 1. GENERAL PROVISIONS

**35:50-1-1. Purpose**

These rules shall regulate the private commercial production of fish, frogs, or other aquatic species within the state of Oklahoma. The rules provide requirements for licensing aquaculture facilities to operate within the state of Oklahoma. These rules specifically prohibit the importation or exportation of minnows and other fish species that are subject to the provisions of Sections 4-105, 4-115, and 7-602 of Title 29 of the Oklahoma Statutes.

**35:50-1-2. Definitions**

"**Aquaculture operation**" means a private commercial producer of catfish, minnows, fingerlings, fish, frogs, or other aquatic species.

"**Aquatic species**" means any species of finfish, mollusk, crustacean, or other aquatic invertebrates, amphibians, or reptiles.

"**BMP**" means Best Management Practices.

"**Fingerling**" means a sexually immature fish for a majority of fish species.

"**Operator**" means the individual who has responsibility for the day to day operations of the facility. The operator may also be the owner.

"**Owner**" means the individual who has financial responsibility for the aquaculture operation and whose name appears as owner on all legal documents.

## PART 3. LICENSING, REPORTING, AND RECORDS

**35:50-1-30. Initial licensing requirements**

Every aquaculture operation shall obtain a license and aquaculture hauling unit decals from the Department.

(1) A duplicate license may be issued at the cost of five dollars ($5.00) each.

(2) Licenses are non-transferable.

(3) A license may be revoked pursuant to Title 2, Section 6-316 F1-4.

(4) No license shall be issued prior to an initial inspection by the Department.

(5) Each hauling unit used for the transportation of live aquatic species shall be affixed with each of the following:

(A) No less than two (2) hauler decals.

(i) Each decal shall be replaced every eight (8) years and shall be available from the Department.

(ii) Each decal shall cost One Dollar and Seventy-Five Cents ($1.75).

(B) No less than two (2) date decals indicating the appropriate year.

(i) The date decals shall each be applied to a separate hauler decal.

(ii) Each date decal shall cost One Dollar and Twenty-Five Cents ($1.25) and shall be available from the Department.

(6) Prior to issuance of a license, an applicant shall provide the following to the Department:

(A) A license fee of ten dollars ($10.00).

(B) Proof of identification including the applicant's age or date of birth and current residency information.

(C) A list of all persons with control or decision-making authority at the aquaculture operation, including but not limited to owners, operators, and managers.

(D) If applicable, copies of any permits directly related to the aquaculture operation issued by the Oklahoma Department of Environmental Quality (including a copy of any BMP submitted to the Oklahoma Department of Environmental Quality), the Oklahoma Water Resources Board, and the Army Corps of Engineers.

(E) A map or aerial photograph showing the aquaculture operation including the facilities and property lines, and specifies the legal description of the property or Global Positioning System (GPS) coordinates.

(F) A catastrophic aquatic species die-off disposal plan that requires immediate notification to the Department and is approved by the Department for emergency purposes.

**35:50-1-31. Renewal licensing requirements**

Each aquaculture operation shall renew the license and aquaculture vehicle decals by January 15th of each year.

(1) The renewal application shall include the following:

(A) A renewal fee of ten dollars ($10.00). Any renewal fee received after the annual renewal deadline of January 15th shall be assessed a late fee of ten dollars ($10.00).

(B) A copy of any modifications, changes, updates, or renewals to the items listed in (6)(B) through (F) of Rule 35:50-1-30.

(C) An annual report.

(2) Each hauling unit used for the transportation of live aquatic species shall be affixed with each of the following:

(A) No less than two (2) hauler decals.

(i) Each decal shall be replaced every eight (8) years and shall be available from the Department.

(ii) Each decal shall cost One Dollar and Seventy-Five Cents ($1.75).

(B) No less than two (2) date decals indicating the appropriate year.

(i) The date decals shall each be applied to a separate hauler decal.

(ii) Each date decal shall cost One Dollar and Twenty-Five Cents ($1.25) and shall be available from the Department.

**35:50-1-32. Inspections**

The Department shall conduct at least one inspection every two (2) years of each licensed aquaculture operation.

**35:50-1-33. Annual report**

Each licensed aquaculture operation shall file an annual report by January 15th of each year.

(1) The aquaculture operation license shall not be issued or renewed without submission of the annual report.

(2) The annual report shall provide the following information for the 12 month period starting January 1st through December 31st of the same calendar year:

(A) A list of each type of aquatic species propagated and bought for resale.

(B) The total number or pounds of each aquatic species sold, further identified as fingerlings or adults.

(C) The total number of pond acres in production.

(D) The method of aquatic species propagation; i.e. ponds, cages, raceway, or other methods.
(E) A list of each water supply source including but not limited to runoff, well water, stream water, or other sources.

**35:50-1-34. Facility expansion requirements**
(a) The licensee shall notify the Department on a form provided by the Department of any expansion of an aquaculture operation.
(b) Every licensed aquaculture facility expanding after November 1, 2002, shall provide the following:
(1) A copy of the construction permit issued by the Army Corps of Engineers, if applicable.
(2) A copy of any modifications, changes, updates, or renewals of any permit issued by the Oklahoma Department of Environmental Quality, the operation's BMP, or the catastrophic aquatic species die-off disposal plan.

**35:50-1-35. Record keeping**
The following records shall be retained on site for three (3) years:
(1) Copies of each annual report.
(2) Copies of all construction permits issued by the Army Corps of Engineers, if applicable.
(3) All Aquaculture Operation Licenses issued by the Department.
(4) Copies of all permits and BMP's required by the Oklahoma Department of Environmental Quality, if applicable.
(5) Copies of inspection reports.
(6) Any laboratory analysis sheets pertaining to the health of the aquatic species.
(7) Any and all documents relating to diseased aquatic species and disposal of carcasses.

**35:50-1-36. Emergency notifications**
Licensed aquaculture operations shall immediately notify the Department of any abnormal disease outbreak, any catastrophic aquatic species die-off, or any unusual aquatic species mortalities.

**35:50-1-37. Technical services**
At the owner's request the Department may provide technical assistance recommendations to owners of licensed aquaculture operations at the rate of thirty dollars ($30.00) per hour. In addition, any costs for supplies, mileage, or other expenses shall be paid by the owner.

**35:50-1-38. Complaints**
The Department shall investigate all complaints made against an aquaculture operation to determine compliance with the statutes and rules of the state of Oklahoma. Any violations of state law may result in fines, revocation of the Aquaculture Operations License, or criminal prosecution.

*[OAR Docket #03-812; filed 4-28-03]*

## TITLE 45. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION CHAPTER 10. PROVISIONS AND PENALTIES APPLICABLE TO ALL LICENSEES

*[OAR Docket #03-830]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 3. Provisions Applicable to All Licensees
45:10-3-12. Restriction on delivery of alcohol beverages [AMENDED]
**AUTHORITY:**
Alcoholic Beverage Laws Enforcement Commission, 37 O.S., Section 502 et seq.
**DATES:**
**Comment period:**
December 2, 2002 through January 15, 2003
**Public hearing:**
January 17, 2003
**Adoption:**
January 17, 2003
**Submitted to Governor:**
January 23, 2003
**Submitted to House:**
January 23, 2003
**Submitted to Senate:**
January 23, 2003
**Gubernatorial approval:**
February 19, 2003
**Legislative approval:**
Failure to the Legislature to disapprove the rules resulted in approval on March 26, 2003
**Final adoption:**
March 26, 2003
**Effective:**
June 12, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
**Superseded rules:**
Subchapter 3. Provisions Applicable To All Licensees
45: 10-3-12. Restriction on delivery of alcohol beverages [AMENDED]
**Gubernatorial approval:**
June 7, 2002
**Register publication:**
20 Ok Reg 1479
**Docket number:**
03-829
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The proposed rule prohibits acceptance of deliveries by package stores on certain days.
**CONTACT PERSON:**
Kurt Morgan (405) 521-3484

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 3. PROVISIONS APPLICABLE TO ALL LICENSEES

### 45:10-3-12. Restriction on delivery of alcoholic beverages

No ~~Retail, Mixed Beverage, Caterer or Special Event~~ Package Store licensee shall accept ~~the~~ delivery of ~~alcoholic beverages, beer, or brewed products at his licensed premises~~ spirits or wines on Saturday~~,~~ or Sunday, or ~~any day that they are required to be closed for holidays, elections or any days not designated to be opened in counties where the sale of alcoholic beverages by the individual drink for on premises consumption has been approved~~ on New Year's Day, Memorial Day, the Fourth of July, Labor Day, Veterans Day, Thanksgiving Day or Christmas Day.

*[OAR Docket #03-830; filed 4-30-03]*

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# TITLE 165. CORPORATION COMMISSION CHAPTER 10. OIL AND GAS CONSERVATION

*[OAR Docket #03-860]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. Administration
Part 1. General Provisions
165:10-1-4. Citation effective date [AMENDED]
165:10-1-7. Prescribed forms [AMENDED]
Subchapter 7. Pollution Abatement
Part 3. Storage and Disposal of Fluids
165:10-7-32. Application to reclaim and/or recycle produced water for surface activities related to drilling, completion, workover, and production operations from oil and gas well site [NEW]
Subchapter 21. Applications for Tax Exemptions
Part 6. Production Enhancement Projects
165:10-21-24. Refund procedure [AMENDED]
Part 7. Re-Establishment of Production from an Inactive Well
165:10-21-38. Refund procedure [AMENDED]
Part 8. Deep Wells
165:10-21-45. General [AMENDED]
165:10-21-47.1. Refund procedure [AMENDED]
165:10-21-48. Audit requirements [REVOKED]
Part 9. New Discovery Wells
165:10-21-58. Refund procedure [AMENDED]
165:10-21-59. Audit requirements [REVOKED]
Part 11. Horizontally Drilled Producing Wells
165:10-21-65. General [AMENDED]
165:10-21-68. Refund procedure [AMENDED]
165:10-21-69. Time periods for exemption from gross production tax levied on horizontally drilled producing wells [NEW]
Part 13. Incremental Production from Enhanced Recovery Projects
165:10-21-76. Definitions [AMENDED]
165:10-21-78. Recovery of costs allowed as payback factors [AMENDED]
Part 14. Production of Oil, Gas or Oil and Gas from any Well Located Within Boundaries of a Three-Dimensional Seismic Shoot
165:10-21-82.2. Qualification procedure [AMENDED]
165:10-21-82.3. Refund procedure [AMENDED]
165:10-21-82.4. Time periods for exemption from gross production tax levied on oil, gas or oil and gas production from a well located within boundaries of three-dimensional seismic shoot [AMENDED]
Part 17. Sales Tax Exemption for Electricity and Associated Delivery and Transmission Services Sold for Operation of Reservoir Dewatering Project and/or Unit [NEW]
165:10-21-90. General [NEW]
165:10-21-91. Definitions [NEW]
165:10-21-92. Qualification procedure [NEW]
**AUTHORITY:**
Oklahoma Corporation Commission; 17 O.S., 2001 Supp., § 52; 27A O.S., 2001 Supp., § 1-3-101, 52 O.S., 2001 Supp., § 139; and 52 O.S., 2001 Supp., § 87.1.
**DATES:**
**Comment period:**
January 22, 2003 to February 28, 2003
**Public hearing:**
February 28, 2003
**Adoption:**
February 28, 2003
**Submitted to Governor:**
March 10, 2003
**Submitted to House:**
March 10, 2003
**Submitted to Senate:**
March 10, 2003
**Gubernatorial approval:**
March 24, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on May 2, 2003.
**Final adoption:**
May 2, 2003
**Effective:**
July 1, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
**Superseded rules:**
Subchapter 1. Administration
Part 1. General Provisions
165:10-1-4. Citation effective date [AMENDED]
165:10-1-7. Prescribed forms [AMENDED]
Subchapter 7. Pollution Abatement
Part 3. Storage and Disposal of Fluids
165:10-7-32. Application to reclaim and/or recycle produced water for surface activities related to drilling, completion, workover, and production operations from oil and gas well site [NEW]
Subchapter 21. Applications for Tax Exemptions
Part 6. Production Enhancement Projects
165:10-21-24. Refund procedure [AMENDED]
Part 7. Re-Establishment of Production from an Inactive Well
165:10-21-38. Refund procedure [AMENDED]
Part 8. Deep Wells
165:10-21-45. General [AMENDED]
165:10-21-47.1. Refund procedure [AMENDED]
165:10-21-48. Audit requirements [REVOKED]
Part 9. New Discovery Wells
165:10-21-58. Refund procedure [AMENDED]
165:10-21-59. Audit requirements [REVOKED]
Part 11. Horizontally Drilled Producing Wells
165:10-21-65. General [AMENDED]
165:10-21-68. Refund procedure [AMENDED]
165:10-21-69. Time periods for exemption from gross production tax levied on horizontally drilled producing wells [NEW]
Part 13. Incremental Production from Enhanced Recovery Projects
165:10-21-76. Definitions [AMENDED]
165:10-21-78. Recovery of costs allowed as payback factors [AMENDED]
Part 14. Production of Oil, Gas or Oil and Gas from any Well Located Within Boundaries of a Three-Dimensional Seismic Shoot
165:10-21-82.2. Qualification procedure [AMENDED]
165:10-21-82.3. Refund procedure [AMENDED]
165:10-21-82.4. Time periods for exemption from gross production tax levied on oil, gas or oil and gas production from a well located within boundaries of three-dimensional seismic shoot [AMENDED]
Part 17. Sales Tax Exemption for Electricity and Associated Delivery and Transmission Services Sold for Operation of Reservoir Dewatering Project and/or Unit [NEW]

165:10-21-90. General [NEW]
165:10-21-91. Definitions [NEW]
165:10-21-92. Qualification procedure [NEW]

**Gubernatorial approval:**
April 28, 2003

**Register publication:**
20 Ok Reg 1479

**Docket number:**
03-861

**INCORPORATIONS BY REFERENCE:**
None

**ANALYSIS:**
The Oklahoma Corporation Commission ("Corporation Commission" or "Commission") amends language in OAC 165:10 through this proceeding in the following manner: OAC 165:10-1-4 is amended to correct and update the effective dates of some of the past rulemakings for OAC 165:10. OAC 165:10-1-7 is amended to update and add additional forms for the permitting of reclaiming and/or recycling of produced water (Form 1014D) and the application for certification of an area and reservoir as a reservoir dewatering project and/or unit pursuant to the sales tax exemption pertaining to electricity sales under S.B. 871 (Form 1535). OAC 165:10-7-32 is promulgated to establish permitting procedures for disposal of produced water into conformance with the reclaiming and/or recycling option added to OAC 165:10-7-24 in a previous rulemaking. OAC 165:10, Subchapter 21, Tax Exemptions, is amended or new provisions are promulgated in paragraphs OAC 165:10-21-24, 165:10-21-38, 165:10-21-45, 165:10-21-47.1, 165:10-21-58, 165:10-21-65, 165:10-21-68, 165:10-21-69, 165:10-21-76, 165:10-21-78, 165:10-21-82.2, 165:10-21-82.3, and 165:10-21-82.4. These amendments add reference to a new "deep well" gross production tax exemption for wells drilled below 17,500 feet, and alter the time frames of the "horizontal well" gross production tax exemptions to implement S.B. 947. There are other amendments to the listed paragraphs to accomplish certain housekeeping changes. OAC 165:10-21-48 and 165:10-21-59 are revoked, and portions of OAC 165:10-21-47.1 and 165:10-21-58 are deleted, to bring the Commission's rules in conformity with equivalent Oklahoma Tax Commission rules, which revoked similar provisions in 2001. New rules in Chapter 10, Subchapter 21, numbered OAC 165:10-21-90 through 10-21-92, are promulgated to implement S.B. 871, by providing an application and certification process for areas and reservoirs as a "reservoir dewatering project" and/or "reservoir dewatering unit" to qualify such operations for a sales tax exemption for sales of electricity and associated delivery and transmission services.

**CONTACT PERSON:**
Michael Decker, (405) 521-4258

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

## SUBCHAPTER 1. ADMINISTRATION

## PART 1. GENERAL PROVISIONS

### 165:10-1-4. Citation effective date

(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
(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. 187373 - Effective 04-02-81
(71) Order No. 211505 - Effective 03-30-82
(72) Order No. 228675 - Effective 01-01-83
(73) Order No. 230515 - Effective 01-01-83
(74) Order No. 230781 - Effective 01-01-83
(75) Order No. 246797 - Effective 01-01-84
(76) Order No. 250273 - Effective 01-01-84
(77) Order No. 250466 - Effective 01-01-84
(78) Order No. 260734 - Effective 07-01-84
(79) Order No. 290210 - Effective 01-09-86
(80) Order No. 292212 - Effective 02-10-86
(81) Order No. 299185 - Effective 06-12-86
(82) Order No. 302126 - Effective 10-08-86
(83) Order No. 303650 - Effective 10-02-86
(84) Order No. 304257 - Effective 10-16-86
(85) Order No. 305211 - Effective 11-07-86
(86) Order No. 311872 - Effective 05-06-87
(87) Order No. 312391 - Effective 05-14-87
(88) Order No. 310755 - Effective 06-01-87
(89) Order No. 313445 - Effective 06-12-87
(90) Order No. 313446 - Effective 07-09-87
(91) Order No. 313660 - Effective 06-17-87
(92) Order No. 313932 - Effective 06-25-87
(93) Order No. 314001 - Effective 06-27-87
(94) Order No. 313446 - Effective 07-09-87
(95) Order No. 315275 - Effective 08-19-87
(96) Order No. 320171 - Effective 12-21-87
(97) Order No. 320741 - Effective 01-08-88
(98) Order No. 320742 - Effective 01-08-88
(99) Order No. 321123 - Effective 01-21-88
(100) Order No. 323847 - Effective 05-01-88
(101) Order No. 325144 - Effective 05-02-88
(102) Order No. 326275 - Effective 06-27-88
(103) Order No. 326343 - Effective 06-01-88
(104) Order No. 326344 - Effective 06-01-88
(105) Order No. 327514 - Effective 07-01-88
(106) Order No. 327515 - Effective 07-01-88
(107) Order No. 329661 - Effective 08-26-88
(108) Order No. 329662 - Effective 08-26-88
(109) Order No. 329663 - Effective 08-26-88
(110) Order No. 334130 - Effective 01-04-89
(111) Order No. 337475 - Effective 03-31-89
(112) Order No. 337476 - Effective 03-31-89
(113) Order No. 339860 - Effective 05-07-89
(114) Order No. 341102 - Effective 08-25-89
(115) Order No. 341103 - Effective 08-14-89
(116) Order No. 346071 - Effective 03-29-90
(117) Order No. 346107 - Effective 03-30-90
(118) Order No. 355458 - Effective 03-20-91
(119) Order No. 355461 - Effective 03-20-91
(120) Order No. 355463 - Effective 03-20-91
(121) Order No. 355471 - Effective 03-21-91
(122) Order No. 364365 - Effective 06-25-92
(123) Order No. 364382 - Effective 06-25-92
(124) Order No. 368011 - Effective 05-23-93
(125) Order No. 372796 - Effective 06-25-93
(126) Order No. 381632 - Effective 07-11-94
(127) Order No. 381755 - Effective 07-11-94
(128) Order No. 387223 - Effective 10-20-94
(129) RM No. 950000023 - Effective 07-01-96
(130) RM No. 950000024 - Effective 07-01-96
(131) RM No. 950000025 - Effective 07-11-96
(132) RM No. 960000008 - Effective 07-01-96
(133) RM No. 960000009 - Effective 07-01-96
(134) RM No. 960000018 - Effective 10-15-96
(135) RM No. 970000002 - Effective 07-01-97
(136) RM No. 970000011 - Effective 07-01-98
(137) RM No. 970000025 - Effective 07-11-98
(138) RM No. 980000013 - Effective 07-15-98
(139) RM No. 980000016 Emergency, - Effective 03-30-98
(140) RM No. 980000017 Emergency, - Effective 03-30-98
(141) RM No. 980000020 Emergency, - Effective 01-05-99
(142) RM No. 980000033 - Effective 07-01-99
(143) RM No. 980000034 - Effective 07-01-99
(144) RM No. 980000035 - Effective 07-01-99
(145) RM No. 990000010 - Emergency, - Effective 12-28-99
(146) RM No. 200000002 - Effective 07-01-00
(147) RM No. 200000009 - Emergency, - Effective 11-02-00
(148) RM No. 200000009 - Permanent, - Effective 05-11-01
(149) RM No. 200100005 - Effective 07-01-01
(150) RM No. 200100006 - Effective ~~07-01-02~~ 07-01-01
(151) RM No. 200100009 - Emergency, - Effective 01-14-02
(152) RM No. 200200017 - Effective 07-01-02

**165:10-1-7. Prescribed forms**

(a) Required Conservation Division forms may be submitted to the Commission on forms supplied by the Commission or on xerographic copies of Commission forms or by operator computer generated forms. Operator computer generated forms will be printed from Commission designed files made available to operators via the electronic Bulletin Board Service (BBS), Internet (World Wide Web) or magnetic disk. 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:

(1) **Form 1000 - Notice of Intention to Drill application:** Operator shall file Form 1000 before any oil, gas, injection, disposal, or service well is drilled, recompleted, or re-entered. 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. The Commission shall process the application and, if approved, return a computer-generated permit to the operator. The Commission shall mail a copy of the permit to drill or re-enter to the land owner(s). Upon approval, the operator will have six 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 written request 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]

(2) **Form 1000A - Request for Reserve Pit Requirements:** The operator shall file Form 1000A in duplicate for information before any noncommercial pit is constructed. The Commission shall indicate the necessary liner requirements, if any, and return to the operator. [Reference 165:10-7-16]

(3) **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]

(4) **Form 1000S - Application to Drill Seismograph and Stratigraphic Test Holes:** 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 plat of the project area. [Reference 165:10-7-31]

(5) **Form 1001 - Notification of Intention to Plug:** Operator shall file notice on Form 1001, in duplicate, five days prior to plugging operations and shall notify the appropriate Commission 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. The operator of each offset producing lease shall be notified prior to the plugging of any well other than a dry hole. [Reference 165:10-11-4, 165:10-11-5, and 165:10-11-6]

(6) **Form 1001A - Notification of Spudding of New Well:** Form 1001A is mailed to the operator with the intent to drill permit. Operator shall file with the Conservation Division within 14 days of spudding a new well or reentering a previously plugged well. [Reference 165:10-3-1]

(7) **Form 1002A - Well completion report:** Operator shall furnish a complete well record on Form 1002A within 30 days after completion of operations to drill, recomplete, 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 on a 24-hour basis both oil and gas. [Reference 165:10-3-25]

(A) **Oil well**: GOR less than 15,000:1

(B) **Gas well**: GOR 15,000:1 or more

(8) **Form 1002B - Confidential Filing of Electric Logs:** Operator shall file Form 1002B within 60 days of the running of the last formation evaluation type wire line log to hold logs confidential for one year period. Optional extension for six months may be requested by operator in writing to the Technical Department of the Conservation Division. [Reference 165:10-3-26]

(9) **Form 1002C - Cementing Report to accompany Well Completion Report:** Operator shall file Form 1002C with the Well Completion Report (Form 1002A) describing 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(h)]

(10) **Form 1003 - Plugging Record:** Operator will file Form 1003, in duplicate, within 30 days after plugging operations are completed. Both copies are to be mailed to the applicable Commission District Office. If a depleted producer, list OTC assigned county and lease number. [Reference 165:10-11-6 and 165:10-11-7]

(11) **Form 1003A - Notice of Temporary Exemption from Well Plugging:** Form 1003A shall be filed with the appropriate District Office. [Reference 165:10-11-3]

(12) **Form 1003C - Cementing Report to accompany Plugging Record:** operator shall file Form l003/1003C when well has been plugged. Form 1003/1003C shall be completed and signed by employees of both the operator and the cementing company. [Reference 165:10-11-6 and 165:10-11-7]

(13) **Form 1004 - Monthly Report of Unallocated Natural Gas Wells Production:** Each operator of the required meter under 165:10-17-5 shall make a monthly well on Form 1004 report with the Commission of all natural gas volumes transferred through the meter for the preceding month, by the last day of the month following such transfer. List formation name plus OTC assigned county and lease number. If more than one meter, the operator of each shall file this form. [Reference 165:10-1-47]

(14) **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]

(15) **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.

(16) **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, 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 165:10-1-12]

(17) **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, Form 1006 or 1006C. Operator must file an original copy on Form 1006A, which must be updated annually from the last filing date. [Reference 165:10-1-11]

(18) **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 (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]

(19) **Form 1006BR - Recycling, Reclaiming Operator's Agreement to Close the Reclaiming Facility:** Prior to operating a recycling or reclaiming facility the operator shall file an agreement to close the facility in compliance with OCC rules. This agreement must accompany the application for certification (Form 1020A). [Reference 165:10-8-1 and/or 165:10-8-2]

(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, Form 1006A or 1006. Operator must file the original copy with the bank seal affixed. A letter of credit must be valid for at least a one year period. [Reference 165:10-1-13]

(21) **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 1006B 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 1006S shall be filed with the bond. [Reference 165:10-11-6]

(22) **Form 1007A - IBM operator annual unallocated natural gas wells survey:** Annual Survey Form 1007A will be furnished to all operators at the end of each calendar year in duplicate. The form shall be updated by the operator as of December 31 notifying the Commission of any new wells, wells sold (to whom and address), or abandoned since the last 1007A was filed. Original only shall be forwarded to Conservation Division by February 15th for the previous year's activity. List OTC assigned county and lease number (if not imprinted). See 165:10-17-11 for production penalties on overproduced wells. [Reference 165:10-17-1 and 165:10-17-16]

(23) **Form 1008S - Operators agreement to plug seismic shot holes with 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 shall be duly registered with the Conservation Division on Form 1006SB. [Reference 165:10-11-6]

(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 165:10-15-5]

(25) **Form 1012 - Annual Fluid Injection Report:** Operators shall file Form 1012 by April 1 of each year covering the previous calendar year (January 1 through December 31) on all enhanced recovery projects, pressure maintenance projects, and salt water disposal wells (commercial disposal wells will report twice per year on January 31 and July 31 for the previous six months) for each UIC well. The completed form will list well identification including API number, the Commission order 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 dates. [Reference 165:10-5-7].

(26) **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 in 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 [Reference 165:10-15-1, 165:10-15-16, 165:10-15-17 and 165:10-15-18].

(27) **Form 1014 - Application for Permit to Use Earthen Pit:** The operator of a proposed off-site reserve

pit, recycling/reuse pit, spill containment pit, or remediation pit must submit Form 1014 in duplicate to the appropriate District Office for approval before constructing or using the pit. [Reference 165:10-7-16]

(28) **Form 1014CS - Application for Commercial Soil Farming:** For a commercial soil farming site which has an order to operate, the operator shall submit a Form 1014CS to the Pollution Abatement Department for prior approval each time that soil farming is proposed to be done. The application must be processed within ten (10) days of submission. [Reference 165:10-9-2]

(29) **Form 1014D - Application for Surface Discharge:** Each application for surface discharge of produced water must be submitted to a Field Operations office on Form 1014D in quadruplicate. Applications will be processed within five working days. [Reference 165:10-7-17 or 165:10-7-32]

(30) **Form 1014HD - Application for Disposal of Hydrostatic Test Water:** Company wishing to discharge water as required by OAC 165:10-7-17, used to test a pipeline or tank, must submit a Form 1014HD to the Pollution Abatement Department for prior approval. [Reference 165:10-7-17]

(31) **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]

(32) **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]

(33) **Form 1014S - Application for Land Application:** Each application for land application of materials must be submitted to a Field Operations office on Form 1014S. An original and three copies are required. 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 working days of submission of all required or requested information. [Reference 165:10-7-19 and 165:10-7-26]

(34) **Form 1014W - Application for waste oil or drill cuttings use by County Commissioners:** Application to apply waste oil, waste oil residue, or freshwater drill cuttings must be made by any Board of County Commissioners on Form 1014W. An original and one copy are required to be submitted to the appropriate District Manager. [Reference 165:10-7-22 and 165:10-7-28]

(35) **Form 1014X - Application for waste oil or drill cuttings use by operators:** Application to apply waste oil, waste oil residue, or freshwater drill cuttings must be made by any operator on Form 1014X. An original and one copy are required to be submitted to the appropriate District Manager. [Reference 165:10-7-27 and 165:10-7-29]

(36) **Form 1015 - Application for Administrative Approval to Dispose of or Inject Water into Well(s):** Applicant shall file an original and six copies of application and one complete set of attachments to the Commission on Form 1015. Applicant will also furnish one copy of the application on Form 1015 to the landowner and a copy of the application to each operator of a producing leasehold within one-half (1/2) mile of the well location. Applicant will submit an affidavit of delivery or mailing not later than five days after the application is filed and shall file proof of publication in an Oklahoma City newspaper and a county newspaper in which the well is located. [Reference 165:10-5-5]

(37) **Form 1015SI - Application for Permit for Simultaneous Injection Well:** Operator shall file original and three copies 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 (1/2) mile of the proposed injection well. [Reference 165:10-5-15]

(38) **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 and three copies 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 land owner and the operator of any producing lease within 1/2 mile of the proposed well. [Reference 165:10-5-13]

(39) **Form 1015U - Unit-wide application for Injection:** Optionally, the operator can file a unit-wide application for injection (Form 1015U) that fulfills all the requirements of 165:5-7-27 (b) through (e). Upon review and approval, the operator receives a unit-wide order that allows the operator to file an individual well application (Form 1015) and if it fits the unit-wide criteria, the UIC order can be issued immediately without an additional area of review, notice, or protest period. [Reference 165:5-7-27]

(40) **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]

(41) **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]

(42) **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]

(43) **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 and/or 165:10-8-2]

(44) **Form 1021 - Application for Priority Hardship Classification:** The applicant shall file Form 1021 and the necessary attachments with the Technical 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]

(45) **Form 1021A - Application for limited deviation from the priority gas rules:** The applicant shall file Form 1021A and the necessary attachments with the Technical 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]

(46) **Form 1022 - Application to flare or vent gas:** Operator shall file one copy of Form 1022 to the Technical Department of the Conservation Division listing OTC assigned county lease number. [Reference 165:10-3-15]

(47) **Form 1022A - Application to operate vacuum pump:** Operator shall file one copy of Form 1022A with the required attachments to the Technical Department of the Conservation Division. No filing fee will be required for application to operate a vacuum pump. Notice requirements as set out in OAC 165:5-7-25 shall apply. [Reference 165:10-3-31]

(48) **Form 1023 - Application for multiple completion, multichoke assembly or commingle completion:** Operator will file the original and four copies 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]

(49) **Form 1024 - Packer setting affidavit:** Operator will submit Form 1024 as required. [Reference 165:10-3-35 and pertinent field rules]

(50) **Form 1025 - Packer leakage test:** Operator will submit Form 1025 as required. [Reference 165:10-3-35 and pertinent field rules]

(51) **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]

(52) **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]

(53) **Form 1029A - Production or potential test - oil only:** Operator of each newly completed 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.

(54) **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]

(55) **Form 1034 - Nominations and purchasers report:** [Reference 165:10-1-49]

(A) **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.

(B) **Gas:** Purchasers shall file their nominations by letter for wells in special allocated pools no later than one week prior to the market demand hearing.

(56) **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]

(57) **Form 1062 - Field Operations Inspection Report:** IN-HOUSE USE ONLY.

(58) **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]

(59) **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]

(60) **Form 1072 - Notice of (commencement) (termination) of injection:** Within 30 days of either the commencement or termination of injection Form 1072 must be filed. Failure to file Form 1072 within 18 months

from the date of authorization results in termination of the Commission order. [Reference 165:10-5-7]

(61) **Form 1073 - Notice of transfer of well operatorship:** The new operator shall file Form 1073 to notify the Conservation Division of any change of operation or purchaser of any oil, gas injection, disposal, or enhanced recovery injection well within 30 days after transfer of the well. [Reference 165:10-5-10 and 165:10-1-15]

(62) **Form 1073I - Notice of transfer of well operatorship:** The new operator shall file Form 1073I to notify the Underground Injection Control Section of any change of operation of any injection, disposal, or enhanced recovery injection well within 30 days after transfer of the well. [Reference 165:10-5-10 and 165:10-1-15]

(63) **Form 1075 - Mechanical integrity pressure test:** A pressure or monitoring test must be performed on new and existing enhanced recovery 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]

(64) **Form 1081 - Mineral owners escrow account:** Operator shall file, in quadruplicate, Form 1081 annually on anniversary date of first pooling order issued after effective date of Senate Bill 299 (7-1-84) and shall include all applicable orders issued during the twelve-month reporting period. [Reference 165:10-25-1 through 165:10-25-10]

(65) **Form 1085 - Complaint report:** Form 1085 is used by Commission personnel to report violations of General Rules of the Commission 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]

(66) **Form 1139 - Application for gross production tax exemption:** Operators shall file one copy of Form 1139 with the required attachments to the Technical Department of the Conservation Division. [Reference 165:10-21-75 through 165:10-21-80]

(67) **Form 1534 - Application for tax rebate:** Operators shall file one original of Form 1534 with the required attachments to the Technical Department of the Conservation Division. To obtain the tax exemption of the gross production tax, the operator shall forward a copy of the Commission order to the Oklahoma Tax Commission, together with any other data required by that agency. [OTC Rule 10.030.03] [Reference 165:10-21-23, 165:10-21-37, 165:10-21-47, 165:10-21-57, 165:10-21-67 and 165:10-21-82.2]

(68) **Form 1535 - Application for classification of reservoir dewatering project for exemption of sales tax on electricity used for such operations:** Operators shall file one original of Form 1535 with the required attachments to the Technical 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, 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, 165:10-21-91 and 165:10-21-92]

## SUBCHAPTER 7. POLLUTION ABATEMENT

## PART 3. STORAGE AND DISPOSAL OF FLUIDS

**165:10-7-32. Application to reclaim and/or recycle produced water for surface activities related to drilling, completion, workover, and production operations from oil and gas wells**

(a) **Authority to reclaim and/or recycle produced water.** No person shall use produced water for any other purpose except as provided by this section. Any operator failing to obtain a permit may be fined up to $500.00.

(b) **Scope.** This Section shall cover the reclaiming and/or recycling of produced water from oil and gas wells for a single well location for the purpose of water supply for surface activities used for a specific permitted use. This does not include the use of produced water for down-hole operations referred to as weighted water under OAC 165:10-7-24(b)(2).

(c) **Quality of produced water.** For the purposes of this rule shall be limited to Total Dissolved Solids (TDS) content not to exceed 5,000 mg/l and oil and grease content not to exceed 1,000 mg/l.

(d) **Storage of produced water.** If the produced water is stored in tanks, the tanks shall be legibly marked "recycle" water.

(e) **Log of load tickets.** The operator shall maintain copies of the load tickets from wells that the produced water was obtained. Such copies shall be made available to the OCC Inspector upon request.

(f) **Notification to OCC District Office.** The Operator shall orally notify the District Office when produced water is to be initially hauled to the permitted facility.

(g) **Application for permit.**

(1) The operator of the well must apply for the permit for the reclamation of produced water.

(2) Required Application. Each application for the reclaiming and/or recycling of produced water shall be submitted to the Field Operations District office on Form 1014D.

(3) A copy of written notice to the surface owner that the applicant intends to use produced water as per 165:10-7-32 to a specific portion of their real property as designated by legal description. For purposes of notice, a written waiver from the surface owner may also be submitted.

## SUBCHAPTER 21. APPLICATIONS FOR TAX EXEMPTIONS

## PART 6. PRODUCTION ENHANCEMENT PROJECTS

**165:10-21-24. Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as production enhanced.

(2) A Copy of OCC Form 1534 submitted to the Corporation Commission.

(3) A properly completed OTC Form 328 Gross Production 841/495 Refund Report.

(4) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for qualifying wells.** Approval of a "Production Incentive" shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

## PART 7. RE-ESTABLISHMENT OF PRODUCTION FROM AN INACTIVE WELL

**165:10-21-38. Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as an inactive well for which production has been reestablished.

(2) A copy of OCC Form 1534 submitted to the Corporation Commission.

(3) A copy of an approved OTC Form 320C that shows the date of the re-establishment of production of oil and/or gas.

(4) A properly completed OTC Form 328 Gross Production 841/495 Refund Report.

(5) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for qualifying wells.** Approval of a "Reestablished Incentive" shall not be time-barred by either the date of certification or the date of filing a claim for refund of gross production tax.

(c) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

## PART 8. DEEP WELLS

**165:10-21-45. General**

~~(a) Exemption from the levy of gross production tax on the production of gas, oil or gas and oil from wells spudded between July 1, 1994 and June 30, 1997, and drilled to a depth of fifteen thousand (15,000) feet or more shall be determined according to the provisions of this Part, which have been jointly adopted by the Oklahoma Corporation Commission and Oklahoma Tax Commission pursuant to 68 O.S. Section 1001(M)(1).~~

~~(b) Exemption from the levy of gross production tax on the production of gas, oil or gas and oil from wells spudded between July 1, 1997, and June 30, 2003, and drilled to a depth of twelve thousand five hundred (12,500) feet or more shall be determined according to the provisions of this Part, which have been jointly adopted by the Oklahoma Corporation Commission and Oklahoma Tax Commission, pursuant to 68 O.S. Section 1001(M)(1). Such exemption shall apply to gross production tax levied pursuant to 68 O.S. Section 1001(H) from the date of first sales for a period of twenty-eight (28) months.~~

~~(c) For purposes of qualifying for this exemption, "depth" means the length of the maximum continuous string of drill pipe utilized between the drill bit face and the drilling rig's kelly bushing.~~

(a) **General provisions.** Exemption from the levy of gross production tax on the production of gas, oil, or gas and oil from wells certified as being "Deep Wells" set out in 68 O.S. §1001(H) shall be determined according to the provisions of this Part, which have been jointly adopted by the Oklahoma Corporation Commission and the Oklahoma Tax Commission pursuant to 68 O.S. § 1001(M)(1).

(b) **Definitions.** For purposes of qualifying for the exemption, "**depth**" means the length of the maximum continuous string of drill pipe utilized between the drill bit face and the drilling rig's kelly bushing.

(c) **Exemption for wells spudded between July 1, 1994, and June 30, 2000, to a depth of fifteen thousand (15,000) feet or greater.** Deep wells spudded between July 1, 1994, and June 30, 2000, and drilled to a depth of fifteen thousand (15,000) feet or greater shall be exempt from the gross production tax, beginning from the date of first sale, for a period of twenty-eight (28) months.

(d) **Exemption for wells spudded between July 1, 1997, and June 30, 2003, to a depth of twelve thousand five hundred (12,500) feet.** Deep wells spudded between July 1, 1997, and June 30, 2003, and drilled to a depth of twelve thousand

five hundred (12,500) feet or greater shall be exempt from the gross production tax, beginning from the date of first sale, for a period of twenty-eight (28) months.

(e) **Exemption for wells spudded between July 1, 2002, and June 30, 2003.** Deep wells spudded between July 1, 2002, and June 30, 2003, shall be eligible for an exemption from the gross production tax which shall begin from the date of first sale, and vary as to duration in relation to the depth of the well.

(1) **12,500 to 14,999 feet.** The duration of the exemption for wells drilled to this depth is twenty-eight (28) months.

(2) **15,000 to 17,499 feet.** The duration of the exemption for wells drilled to this depth is forty-eight (48) months.

(3) **17,500 feet or greater.** The duration of the exemption for wells drilled to this depth is sixty (60) months.

**165:10-21-47.1. Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as a well spudded ~~between July 1, 1994 and June 30, 1997, and drilled to a measured depth of fifteen thousand (15,000) feet or greater.~~ within the applicable time periods and drilled to the prescribed depths provided in OAC 165:10-21-45.

(2) A copy of OCC Form 1534 submitted to the Corporation Commission.

(3) A copy of an approved OTC Form 320A that shows date of first sale of production.

~~(4) A notarized statement of the cost of drilling and completing the well.~~

(~~5~~4) A properly completed OTC Form 328 Gross Production 841/495 Refund Report.

(~~6~~5) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for qualifying wells.** Approval of a "Deep Well Incentive" shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

**165:10-21-48. Audit requirements [REVOKED]**

~~The deep well drilling and completion costs claimed shall be subject to verification through audit by the Oklahoma Tax Commission. Costs allowed in computing deep well payout shall include only the costs of drilling and completing the well and shall not include any cost incurred after the completion date. Neither shall it include lease acquisition costs, tank batteries, meters, pipelines or other external equipment.~~

## PART 9. NEW DISCOVERY WELLS

**165:10-21-58. Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Oklahoma Corporation Commission grants the application, the operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as a new discovery well spudded or re-entered between July 1, 1995 and June 30, 2003.

(2) A copy of OCC Form 1534 submitted to the Corporation Commission.

(3) A copy of an approved OTC Form 320A that shows date of first sale of production.

~~(4) A notarized statement of the cost of drilling and completing the well.~~

(~~5~~4) A properly completed OTC Form 328 Gross Production 841/495 Refund Report.

(~~6~~5) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for qualifying wells.** Approval of a "New Discovery Incentive" shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

**165:10-21-59. Audit requirements [REVOKED]**

~~The new discovery well drilling and completion costs claimed shall be subject to verification through audit by the Oklahoma Tax Commission. Costs allowed in computing new discovery well payout shall include only the costs of drilling and completing the well, or the costs of re-entry, and shall not include any cost incurred after the completion date for the drilling or re-entry. Neither shall it include lease acquisition costs, tank batteries, meters, pipelines or other external equipment.~~

## PART 11. HORIZONTALLY DRILLED PRODUCING WELLS

**165:10-21-65. General**

Exemption from the levy of Gross Production Tax on horizontally drilled producing wells set out in 68 O.S. § 1001(E) shall be determined according to the provisions of this Part, ~~6 of this Subchapter,~~ which have been jointly adopted by the Oklahoma Corporation Commission and the Oklahoma Tax Commission pursuant to law. [See: 68 O.S. §1001(M)(1)]

**165:10-21-68. Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Commission grants the application, the well operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) A Corporation Commission order certifying the well as a horizontally drilled well.

(2) A copy of OCC Form 1534 submitted to the Corporation Commission.

(3) A copy of an approved OTC Form 320A that shows the date of initial production.

(4) A properly completed OTC Form 328 Gross Production 841/495 Refund Report.

(5) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for qualifying wells.** Approval of a "Horizontal Drilling Incentive" shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

**165:10-21-69. Time periods for exemption from gross production tax levied on horizontally drilled producing wells**

(a) **General provisions.** The exemption for horizontally drilled wells qualified pursuant to this Part shall be determined from the project beginning date until project payback is achieved, and are limited in duration to the time periods set out in this Section.

(b) **Twenty-four (24) month exemptions.** For production described in this subsection, duration of the exemption may not exceed a period of twenty-four (24) months commencing with the date of initial production from the horizontally drilled well.

(1) **Production prior to July 1, 1994.** Any incremental production which results from a horizontally drilled well producing prior to July 1, 1994.

(2) **Production prior to July 1, 2002, which commenced after July 1, 1995.** Any horizontally drilled well producing prior to July 1, 2002, which production commenced after July 1, 1995.

(c) **Forty-eight (48) month exemption.** For a horizontally drilled well producing prior to July 1, 2003, which production commenced after July 1, 2002, the duration of the exemption may not exceed a period of forty-eight (48) months commencing with the date of initial production from the horizontally drilled well. [See: 68 O.S. Supp. 2002, Section 1001(E)(1)]

## PART 13. INCREMENTAL PRODUCTION FROM ENHANCED RECOVERY PROJECTS

**165:10-21-76. Definitions**

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

**"Base production amount**" means the average monthly amount of productions for the twelve (12) month period immediately prior to the project beginning date minus the monthly rate of production decline for the project or property for each month beginning one hundred eighty (180) days prior to the project beginning date.

**"Completion date"** means the date a well is first capable of being used for the injection of liquids, gases or other matter, or is capable of producing crude oil or other liquid hydrocarbons through permanent wellhead equipment.

**"Enhanced recovery project costs"** means the incremental project costs that are allowed as payback factors in determining the exemptions from the levy of gross production tax of project incremental production.

**"Existing tertiary recovery project"** means, for purposes of the exemption described in 68 O.S. Section 1001(D)(1), a tertiary recovery project whose beginning date is prior to October 16, 1987.

**"Incremental production"** means the amount of crude oil or other liquid hydrocarbons which are produced during an approved enhanced oil recovery operation and which are in excess of the base production amount of crude oil or other liquid hydrocarbons.

**"Incremental working interest revenue"** means the gross value of the incremental production, less the royalty interest therein.

**"Monthly rate of production decline"** means a rate equal to the average extrapolated monthly decline rate for the twelve (12) month period immediately prior to the project beginning date as determined by the Commission, based on the production history of the field, its current status, and sound reservoir engineering principles.

**"New enhanced recovery project"** means, for purposes of the exemption described in 68 O.S. Section 1001(D)(1), a secondary or tertiary recovery project whose beginning date is on or after October 16, 1987.

**"Project beginning date**" means the date on which the injection of liquids, gas or other matter begins on an enhanced recovery project.

**"Project payback or payout"** means that point at which the incremental working interest revenue from the enhanced recovery project equals the enhanced project costs.

**"Secondary recovery properties"** means secondary recovery properties approved or having an initial project beginning date on or after July 1, 2000 and before ~~July 1, 2003~~ July 1, 2002, such that any incremental production attributable to the working interest which results from such secondary recovery property shall be exempt from the gross production tax levied pursuant to 68 O.S. Section 1001 for a period not to exceed five (5) years from the initial project beginning date or for a period ending upon the termination of the secondary recovery process, whichever occurs first. [Applicant may omit payback report for such secondary recovery properties.]

**165:10-21-78. Recovery of costs allowed as payback factors**

(a) **Enhanced recovery project, project beginning date between October 17, 1987 and June 30, 1990.** For any enhanced recovery project with a project beginning date between October ~~16~~ 17, 1987, and June 30 1990, allowed enhanced recovery costs shall include only incremental capital costs and incremental operating expenses associated with enhanced recovery operations.

(b) **Enhanced recovery project, project beginning date between July 1, 1990 and June 30, 1993.** For any enhanced recovery project with a project beginning date between July 1, 1990, and June 30, 1993, allowable enhanced recovery project costs shall be limited to the incremental capital costs of project start up, including the cost of completing any well necessary to the project and of converting any existing well to handle secondary or tertiary injection of liquids, gas or other matter. With respect to completing or converting a well, no expenditure after completion or conversion for enhanced recovery purposes shall be included.

(c) **Secondary recovery project, project beginning date on or after July 1, 1993 and before July 1, 2000.** For any secondary recovery project with a project beginning date on or after July 1, 1993, and before July 1, 2000, allowed enhanced recovery project costs shall include only incremental capital costs and fifty percent (50%) of incremental operating expenses, provided however that the period for project payback shall not exceed a period of ten (10) years from the project beginning date.

(d) **Tertiary enhanced recovery project, project beginning date on or after July 1, 1993 and before July 1, 2003.** For any tertiary enhanced recovery project with a project beginning date on or after July 1, 1993, and before July 1, 2003, allowable enhanced recovery project costs shall include only incremental capital costs and incremental operating expenses, excluding administrative expenses. The capital expenses of pipelines constructed to transport carbon dioxide to a tertiary recovery project shall not be included in determining project payback. The period for project payback shall not exceed ten (10) years from the project beginning date.

(e) **Excluded costs.** The cost of tank batteries, meters, pipelines or other external equipment shall not be included in allowable enhanced recovery project costs. Allowable costs shall be determined using generally accepted accounting principles such as outlined in the "Council of Petroleum Accountants Society (COPAS) - Accounting Procedure Form for Joint Operations" and "COPAS Bulletin No. 16", or subsequent revisions thereto.

## PART 14. PRODUCTION OF OIL, GAS OR OIL AND GAS FROM ANY WELL LOCATED WITHIN BOUNDARIES OF A THREE-DIMENSIONAL SEISMIC SHOOT

**165:10-21-82.2. Qualification procedure**

(a) **Applicable wells.** The provisions of this Section establish criteria for determining if an operator producing oil, gas or oil and gas from a well, drilling of which is commenced on or after July 1, 2000, and prior to July 1, 2003, located within the boundaries of a three-dimensional seismic shoot and drilled based on three-dimensional seismic technology, has met the required conditions to qualify the production from such a well for the exemption from the Gross Production Tax. [See: 68 O.S. §1001(J)]

(b) **Application to Oklahoma Corporation Commission; determination; order.** An operator seeking an exemption of the gross production tax on production from a well located within the boundaries of a three-dimensional seismic shoot and drilled based on such technology, shall make application to the Oklahoma Corporation Commission on a Form 1534 for a determination that the well qualifies for such exemption, as provided in 68 O.S. 2000 Supp. §1001(J).

(1) If the application is administratively approved, an order of the Oklahoma Corporation Commission shall be issued.

(2) To obtain the tax exemption, the operator shall forward a copy of the Oklahoma Corporation Commission order to the Oklahoma Tax Commission, together with any other data required by that agency pursuant to OAC ~~165:10-21-88~~ 165:10-21-82.3.

(3) Any data, maps and other information submitted with the Form 1534 for determination that a well qualifies for the exemption provided in this paragraph shall be held as confidential information by the Conservation Division and/or Commission, and upon approval through issuance of a Commission order, shall be returned to the applicant or destroyed.

**165:10-21-82.3. Refund procedure**

(a) **Request to Oklahoma Tax Commission for a tax refund.** If the Commission grants the application, the well operator or one of the working interest owners in the well, on behalf of the well operator and the other owners of the well, shall make its request for refund by letter to the Audit Division, Oklahoma Tax Commission. Such letter request shall state the reason for refund and the amount claimed and must be accompanied by the following:

(1) Corporation Commission order approving such application and containing a determination that the well meets the criteria of the statute insofar that its drilling was

commenced on or after July 1, 2000, and prior to July 1, 2003, that it is located within the boundaries of a three-dimensional seismic shoot and was drilled based on such technology, and indicating whether the seismic shoot was shot either prior to or on or after July 1, 2000.

(2) A schedule of production, by month, of the gross amounts of oil, gas or oil and gas produced, and the gross values thereof, from the date of first sale until the date application is made to the Tax Commission.

(3) OTC Form 320A, 320C, and 320U, as are necessary, to set up the OTC Production Units, to request merge numbers, and to show the entity who will remit taxes.

(4) If the refund request is filed by any person other than the party named in the Oklahoma Corporation Commission order, a notarized affidavit, signed by the party named in the order must be filed, authorizing the applicant to apply for the refund.

(b) **No time limitation on rebate for qualifying wells.** Approval of a "Three-Dimensional Incentive" shall not be time-barred by either the date of certification or the date of filing a claim for refund of the rebate of gross production tax.

(c) **Method of appeal.** If the refund is denied, the applicant may file an appeal under the provisions of Title 68, Sections 227 and 228 of the Oklahoma Statutes.

**165:10-21-82.4. Time periods for exemption from gross production tax levied on oil, gas or oil and gas production from a well located within boundaries of three-dimensional seismic shoot**

The exemption from gross production tax levied on oil, gas or oil and gas production from a well qualified pursuant to this Section shall be applied as follows:

(1) **Eighteen (18) month exemption.** For a well where the seismic shoot was ~~finished before~~ shot prior to July 1, 2000, the well shall be exempt from the gross production tax levied from the date of first sales for a period of eighteen (18) months.

(2) **Twenty-eight (28) month exemption.** For a well where the seismic shoot was ~~finished~~ shot on or after July 1, 2000, the well shall be exempt from the gross production tax levied from the date of first sales for a period of twenty-eight (28) months.

## PART 17. SALES TAX EXEMPTION FOR ELECTRICITY AND ASSOCIATED DELIVERY AND TRANSMISSION SERVICES SOLD FOR OPERATION OF RESERVOIR DEWATERING PROJECT AND/OR UNIT

**165:10-21-90. General**

(a) **Scope.** This Part deals with the classification by the Oklahoma Corporation Commission (Corporation Commission or Commission) of a reservoir dewatering project and/or unit for the purpose of an exemption, beginning January 1, 2004, from sales taxes levied on electricity and associated delivery and transmission services sold to an oil and gas operator for reservoir dewatering projects and associated operations commencing on or after July 1, 2003, as provided in 68 O.S. 2002 Supp., §1357(28).

(b) **Distinction from designation as reservoir dewatering oil spacing unit or other spacing application.** The classification of an area and reservoir(s) as a "reservoir dewatering project" and/or a "reservoir dewatering unit" pursuant to this Part shall be separate and distinct from the designation of a reservoir dewatering oil spacing unit for oil allowable purposes pursuant to OAC 165:10-15-18. Corporation Commission approval of an area and reservoir(s) for the instant sales tax exemption shall be made by application under this Part and not as a result of a spacing application filed for oil allowable purposes under OAC 165:10-15-1 and OAC 165:10-15-18, a spacing application filed for gas allowable purposes under OAC 165:10-17-2 through 10-17-16, a spacing application filed for horizontal drilling purposes under OAC 165:10-3-28, or any spacing application filed under OAC 165:10-1-22.

(c) **Reservoir dewatering projects for oil production.** Any reservoir that is the subject of an application pursuant to this Part, which produces predominantly oil, shall be evaluated to determine the initial water-to-oil ratio is equal to or greater than five-to-one (5-to-1).

(d) **Reservoir dewatering projects for gas production.** Any reservoir that is the subject of an application pursuant to this Part, which produces predominantly gas, shall be evaluated to determine the initial five-to-one (5-to-1) water-to-oil ratio using a gas conversion factor of one (1) barrel of oil converted to an MCF of natural gas based on an initial natural gas formation volume factor, BTU or price calculation or conversion accepted by the Conservation Division.

**165:10-21-91. Definitions**

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

**"Reservoir dewatering project"** means an oil or gas production project covering a specified area and reservoir(s), which utilizes water recovery and disposal technology to increase water production in the initial phase of reservoir development, with the primary purpose of increasing oil or gas production from the reservoir(s) as a result of the dewatering process. For the purpose of qualification for the sales tax exemption pursuant to this Part, the definition of reservoir dewatering project shall require the proof that the reservoir's initial water-to-oil ratio is greater than or equal to five-to-one (5-to-1), or is greater than or equal to the appropriate gas-to-water ratio calculated using the gas conversion factor outlined in OAC 165:10-21-90(d). This definition shall not include enhanced recovery projects or secondary recovery properties, which are subject to gross production tax exemptions pursuant to 68 O.S. Section 1001 and Part 13 of this Subchapter, OAC 165:10-21-75 through 10-21-80.

**"Reservoir dewatering unit"** means an area and reservoir(s) designated a "reservoir dewatering project" where a reservoir dewatering process is conducted as defined in this Part.

**165:10-21-92. Qualification procedure**

(a) **Applicable operations.** The provisions of this Section establish criteria for determining if an area and reservoir(s) can be classified a reservoir dewatering project and/or a reservoir dewatering unit, beginning January 1, 2004, for the purpose of an exemption from sales taxes levied on electricity and associated delivery and transmission services sold to an oil and gas operator for a reservoir dewatering project and associated operations commencing on or after July 1, 2003.

(b) **Application to the Oklahoma Corporation Commission.** An oil and gas operator seeking the classification of an area and reservoir(s) as a reservoir dewatering project and/or reservoir dewatering unit pursuant to this Part shall file an application with the Corporation Commission on a Form 1535 for a determination that the project and/or unit qualifies for the exemption, as provided in 68 O.S. 2002 Supp., §1357(28). The operator shall attach to the Form 1535 a copy of the following information:

(1) A production test or other appropriate data showing the initial water-to-oil ratio is greater than or equal to five-to-one (5-to-1) or is greater than or equal to the appropriate gas-to-water ratio calculated using the gas conversion factor outlined in OAC 165:10-21-90(d). For this purpose, a Corporation Commission Form 1013 may be filed with the sales tax exemption application to demonstrate the initial 5-to-1 water-to-oil ratio for the reservoir.

(2) Geological structure and isopach maps for the applicable reservoir showing its geological characteristics; and any additional engineering and geological data or information deemed necessary by the Conservation Division to evaluate the application.

(3) A schematic diagram of the electrical grid and dewatering and water disposal equipment associated with the reservoir dewatering project covered by the application.

(c) **Administrative approval, determination and order.**

(1) If the application is administratively approved, an order of the Oklahoma Corporation Commission shall be issued.

(2) To obtain the tax exemption, the operator should contact the Director's Office, Taxpayer Assistance Division, Oklahoma Tax Commission, 2501 N. Lincoln Blvd., Oklahoma City, OK 73194.

(3) Any data, maps and other information submitted with the Form 1535 for determination that an area and reservoir qualify for the exemption provided in this Part shall be held as confidential information by the Conservation Division and/or Corporation Commission, and upon approval through issuance of a Commission order, shall be returned to the applicant or destroyed.

*[OAR Docket #03-860; filed 5-2-03]*

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# TITLE 175. STATE BOARD OF COSMETOLOGY
# CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #03-827]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
175:1-1-2 [AMENDED]
Subchapter 3. Board Structure and Agency Administration
175:1-3-1 [AMENDED]
**AUTHORITY:**
59 O.S., 1991, Section 199.3 (A); State Board of Cosmetology
**DATES:**
**Comment Period:**
December 17, 2002 through December 27, 2003
**Public hearing:**
January 27, 2003
**Adoption:**
January 27, 2003
**Submitted to Governor:**
February 5, 2003
**Submitted to House:**
February 5, 2003
**Submitted to Senate:**
February 5, 2003
**Gubernatorial approval:**
March 17, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on April 1, 2003
**Final adoption:**
April 1, 2003
**Effective:**
July 1, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The finally adopted rules permit cosmetology schools to measure student progress in credit hour or clock hours pursuant to 59 O.S. § 199.7 as amended at Laws 2002, c.225, § 1, effective November 1, 2002. Prior to amendments, schools could only measure students progress in clock hours.
**CONTACT PERSON(S):**
Betty Moore, Director, Oklahoma State Board of Cosmetology, 2401 NW 23rd Street, Suite 84, Oklahoma City, Oklahoma 73106, 405-521-2441 and Grant Moak, Assistant Attorney General, Office of Attorney General, 4545 N. Lincoln Boulevard, Suite 260, Oklahoma City, OK 73105, 405-522-0152.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS

**175:1-1-2. Definitions**

The terms and phrases defined in the Oklahoma Cosmetology Act shall have the same meaning when applied in the rules which are herein set forth in this Chapter to substantiate ~~said~~ the Cosmetology Law. The following rules and terms shall

have the same meaning, unless the context clearly indicates otherwise:

**"Act"** means the Oklahoma Cosmetology Act.

**"Apprentice"** means a person who is engaged in learning the practice of cosmetology in a cosmetology salon. [Title 59 O.S. Section 199.1]

**"Assigned practice or clinic work"** means demonstrations and lesson practice in which services may be performed on patron, student or model on clinic floor in classroom for the benefit of student observation, notes, etc. ~~Said~~ The practice or demonstration shall be assigned by or with approval of the instructor in charge and materials/supplies used for ~~said~~ the education demonstration are the responsibility of the school.

**"Clock hour"** means a measure of time determined to be sixty (60) minutes that a student spends in an educational or training activity.

**"Cosmetician"** means a person licensed by the Board to perform patron services limited to hair arranging and application of make-up, including, but not limited to using hairstyling tools and products. Services must be performed in a licensed establishment limited to photo studios and cosmetic studios.

**"Credit hour"** means a unit of value awarded to a student for successful completion of a program, course or course lesson and is determined by using the ratio of thirty (30) clock hours equal to one (1) credit hour.

**"Dry sanitizer"** means a clean, dry, closed (covered) cabinet, drawer, chest or other type container used in a cosmetology salon or school for the purpose of storing clean, dry sanitized combs, brushes and other implements without fumigant after ~~said~~ the articles have been cleaned and sanitized in a wet sanitizer (or by other approved method in the case of metal implements).

**"Emergency circumstances"** means a serious injury, illness or death in the immediate family of applicant for registration, examination, licensure, etc.

**"Establishment"** means a place or premises, cosmetology salon, cosmetic or other specialty shop/salon where any one or combination of cosmetology practices are performed by the public except that ~~said~~ the term shall not include a cosmetology school.

**"Esthetician/Facialist/Facial Operator"** means a person licensed by the Board to perform skin care, make-up and hair removal services to the public provided ~~said~~ the hair removal services shall not include electrolysis.

**"Facial/Esthetics Instructor"** means a person licensed by the Board as a qualified teacher of the art and science of skin care theory and practice.

**"Hairbraiding Technician"** means a person licensed by the Board to perform hairbraiding, hairweaving techniques, and hair extensions in a licensed cosmetology establishment.

**"Manicurist/Nail Technician"** means a person licensed by the Board to perform nail care services to the public in a place licensed by the Board where nail care/manicuring/pedicuring services may be performed.

**"Manicurist/Nail Technician Instructor"** means a person licensed by the Board as a qualified teacher of the art and science of nail technology theory and practice.

**"Master Instructor"** means a person licensed by the Board as a qualified teacher of cosmetology theory and practice.

**"Operator/Cosmetologist"** means a person licensed by the Board to perform cosmetology services to the public in a place licensed by the Board where cosmetology practice(s) may be performed.

**"School"** means a cosmetology school or cosmetology department that is approved by the Board to conduct and provide cosmetology training and education in Oklahoma.

**"Student"** means a person who is enrolled in a cosmetology school and appropriately registered with the Board for the purpose of being educated and trained in the practice of cosmetology.

**"Unassigned practice or clinic work"** means a personal service or cosmetology practice (one student on another etc.); which shall be elective practice which one student chooses to perform or to receive (routine shampoo not included); and in which school supplies may be used (i.e. bleach/color/perm, etc.); and which practice and service is not assigned by the instructor and/or performed for the benefit of a group of students who have been scheduled to observe as a classroom or clinic demonstration; and for which a reasonable cost fee for supplies used in the practice may be charged to the student receiving the unassigned service.

**"Wet sanitizer"** means a large, pan-type covered container which shall contain a liquid chemical sanitizing agent used in a cosmetology school or salon for the purpose of sanitizing and disinfecting combs, brushes and other non-metal tools and implements used in cosmetology training and practice.

## SUBCHAPTER 3. BOARD STRUCTURE AND AGENCY ADMINISTRATION

### 175:1-3-1. Composition, powers and duties of Board

(a) The Board is composed on nine (9) members appointed by the Governor to four (4) years staggered terms. Six (6) members are appointed, one (1) from each of six (6) congressional districts of the state. One (1) member is appointed to represent public schools, one (1) to represent privately owned schools and one (1) is appointed as a lay/public member.

(b) The Board shall employ an Executive Director who shall be in charge of the Board office. ~~and have the same qualifications as a Board member~~. The ~~Except the~~ Executive Director shall devote entire time to the duties of the agency ~~and shall not practice cosmetology while in this position~~.

(c) The Board elects a chair and vice chair from its membership in July each year.

(1) The chair presides over all Board meetings.

(2) The chair has the authority to call meetings if the need arises.

(d) An Assistant Attorney General is assigned to the agency as liaison and serves as the Board's legal advisor.

(e) In order to safeguard and protect the health and general welfare of the people of the ~~state~~ State of Oklahoma, the Board

has the power and duty to carry out the provisions of the Cosmetology Act 59 O.S. Section 199.1 et. seq. And to make and enforce all reasonable and necessary rules and regulations for that purpose. In addition to the general powers, the Board shall have the following powers and duties:

(1) The Board shall promulgate rules relating to the standards of sanitation which shall be observed and practiced by all cosmetology schools and salons.

(2) Conduct examinations for licensure at such times and places determined by the Board.

(f) The Board may exercise its official powers at any locations in the State of Oklahoma.

*[OAR Docket #03-827; filed 4-30-03]*

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## TITLE 175. STATE BOARD OF COSMETOLOGY
## CHAPTER 10. LICENSURE OF COSMETOLOGISTS, SCHOOLS AND RELATED ESTABLISHMENTS

*[OAR Docket #03-826]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 3. Licensure of Cosmetology Schools
Part 5. Equipment and Curriculum Requirements
175:10-3-34 [AMENDED]
175:10-3-37 [AMENDED]
175:10-3-40 [AMENDED]
175:10-3-41 [AMENDED]
175:10-3-42 [AMENDED]
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**ANALYSIS:**
The finally adopted rules permit cosmetology schools to measure student progress in credit hour or clock hours pursuant to 59 O.S. § 199.7 as amended at Laws 2002, c.225, § 1, effective November 1, 2002. Prior to amendments, schools could only measure students progress in clock hours.

**CONTACT PERSON(S):**
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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

### SUBCHAPTER 3. LICENSURE OF COSMETOLOGY SCHOOLS

### PART 5. EQUIPMENT AND CURRICULUM REQUIREMENTS

**175:10-3-34. Basic Cosmetologist course curriculum for privately owned and public schools**

(a) **Privately owned cosmetology school.** The 1500 clock hour or 50 credit hour curriculum (pure cosmetology) is prescribed as follows ~~with a recommended completion time of 39 weeks (40 hours per week)~~.

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| ~~SUBJECT~~ | ~~HOURS~~ |
|---|---|
| ~~Theory (must be coordinated with each practical practice subject as is appropriate throughout course of training)~~ | ~~140~~ |
| ~~Manicuring and pedicuring (includes sculptured nails and tips and other artificial nail application procedures and care)~~ | ~~75~~ |
| ~~Facials (skin care training includes make up, waxing and/or other methods for nonpermanent hair removal)~~ | ~~25~~ |
| ~~Scalp treatments~~ | ~~15~~ |
| ~~Shampooing/conditioning and rinses~~ | ~~100~~ |
| ~~Hairstyling, including finger waving, the dressing of wigs, thermal and blow drying~~ | ~~385~~ |
| ~~Hair color tints and bleaching and other color treatments~~ | ~~135~~ |
| ~~Hair cutting and hair shaping with shears and thinning shears (scissors) razor and clippers (includes beard trimming/grooming)~~ | ~~200~~ |
| ~~Lash and brow tinting and arching~~ | ~~25~~ |
| ~~Personality, shop management and unassigned hours for review, examinations, etc.~~ | ~~175~~ |
| ~~Hair re-structuring/permanent waving and chemical hair relaxing~~ | ~~225~~ |
| ~~Total cosmetology hours~~ | ~~1,500~~ |

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(1) Theory (must be coordinated with each practical practice subject as is appropriate throughout the course of training):
(A) Clock hours - 150
(B) Credit hours - 5
(2) Manicurist and pedicuring (includes sculptured nails and tips and other artificial nail application procedures and care)
(A) Clock hours - 90
(B) Credit hours - 3
(3) Facials (skin care training includes make-up, waxing and/or other methods for permanent hair removal)
(A) Clock hours - 30
(B) Credit hours - 1
(4) Scalp treatments
(A) Clock hours - 30
(B) Credit hours - 1
(5) Shampooing/conditioning rinses
(A) Clock hours - 60
(B) Credit hours - 2
(6) Hairstyling, including finger waving, the dressing of wigs, thermal and blow drying
(A) Clock hours - 390
(B) Credit hours - 13
(7) Hair color tints and bleaching and other color treatments
(A) Clock hours - 120
(B) Credit hours - 4
(8) Hair cutting and hair shaping with shears and thinning shears (scissors) razor and clipper (includes beard)
(A) Clock hours - 180
(B) Credit hours - 6
(9) Lash and brow tinting and arching
(A) Clock hours - 30
(B) Credit hours - 1
(10) Personality, shop management and unassigned hours for review, examinations, etc.
(A) Clock hours - 180
(B) Credit hours - 6
(11) Hair restructuring/permanent waving and chemical hair relaxing
(A) Clock hours - 240
(B) Credit hours - 8
(12) Total cosmetology hours:
(A) Clock hours - 1500
(B) Credit hours - 50

(b) **Public cosmetology school.** The 1500 clock hour or 50 credit hour curriculum (1000 hours pure cosmetology plus 500 hours of cosmetology related high school subjects) is prescribed for public school students only. Students shall qualify by completing 1000 clock hours or 34 credit hours in a Basic cosmetology course and 500 hours of approved related subjects. The official high school transcript shall serve as documentation for the 500 hours of related instruction. The transcript must show passing grades in related subjects and completion of at least the first semester of the twelfth (12th) grade. Related subjects shall run concurrently with and/or shall be in no instance be older than three (3) years at time of enrollment in a cosmetology school course. Said curriculum as follows has a recommended completion time of two (2) school years (3 hours per day - 5 days per week for 36 weeks).

| ~~SUBJECT~~ | ~~HOURS~~ |
|---|---|
| ~~Theory (must be coordinated with each practical practice subject as is appropriate throughout course of training)~~ | ~~150~~ |
| ~~Manicuring and pedicuring (includes sculptured nails and tips and other artificial nail application procedures and care)~~ | ~~70~~ |
| ~~Facials (skin care training includes make-up, waxing and/or other methods for non-permanent hair removal)~~ | ~~15~~ |
| ~~Scalp treatments~~ | ~~15~~ |
| ~~Shampoo/conditioning and rinses~~ | ~~40~~ |
| ~~Hair styling, including finger waving, the dressing of wigs, thermal and blow drying~~ | ~~190~~ |
| ~~Hair color, tints, bleaches and other color treatments~~ | ~~90~~ |
| ~~Hair cutting and hair shaping with shears and thinning shears (scissors) razor and clippers (includes beard trimming/grooming)~~ | ~~125~~ |
| ~~Lash and brow tinting~~ | ~~15~~ |
| ~~Personality, shop management and unassigned hours for review, examinations, etc.~~ | ~~75~~ |
| ~~Hair re-structuring/permanent waving and chemical hair relaxing~~ | ~~215~~ |
| ~~Cosmetology related high school subjects~~ | ~~500~~ |
| ~~Total hours~~ | ~~1,500~~ |

(1) Theory (must be coordinated with each practical practice subject as is appropriate throughout course of training)
(A) Clock hours - 150
(B) Credit hours - 5
(2) Manicuring and pedicuring (includes sculptured nails and tips and other artificial nail application procedures and care)
(A) Clock hours - 60
(B) Credit hours - 2
(3) Facials (skin care training includes make-up, waxing and/or other methods of non-permanent hair removal)
(A) Clock hours - 30
(B) Credit hours - 1
(4) Scalp treatments
(A) Clock hours - 30
(B) Credit hours - 1
(5) Shampooing/conditioning and rinses
(A) Clock hours - 30
(B) Credit hours - 1
(6) Hairstyling including finger waving, the dressing of wigs, thermal and blow drying
(A) Clock hours - 180
(B) Credit hours - 6

(7) Hair color tints and bleaching and color treatments
(A) Clock hours - 90
(B) Credit hours - 3
(8) Hair cutting and hair shaping with shears and thinning shears (scissors) razor and clippers (including beard trimming/grooming)
(A) Clock hours - 120
(B) Credit hours - 4
(9) Lash and brow tinting
(A) Clock hours - 30
(B) Credit hours - 1
(10) Personality, shop management and unassigned hours for review, examination, etc.
(A) Clock hours - 100
(B) Credit hours -3
(11) Hair re-structuring/permanent waving and chemical hair relaxing
(A) Clock hours - 180
(B) Credit hours - 6
(12) Cosmetology related high school credits
(A) Clock hours - 500
(B) Credit hours - 17
(13) Total cosmetology hours
(A) Clock hours - 1500
(B) Credit hours - 50

**175:10-3-37. Master instructor course entrance and curriculum requirements**

(a) **Entrance requirements.**

(1) Student registered in the master instructor course must:

(A) hold an Oklahoma Cosmetologist license or be registered for the Basic Cosmetologist examination. If any person enrolled prior to examination shall fail to appear or shall fail to pass Basic Cosmetologist test, he/she shall immediately cease master instructor training until such time as he shall again register for and show proof of achieving a passing score on the cosmetologist examination.

(B) hold a High School Diploma or General Education Development Certificate

(C) file registration application for master instructor course including fee of $5.00 with the Board.

(2) Each student shall be provided with an approved text book or manual before commencing training.

(b) **Curriculum requirements.**

(1) The 1000 clock hour or 32 credit hour Master Instructor course curriculum is prescribed as follows ~~with a recommended completion time of 25 weeks (40 hours per week)~~.

~~(A) Orientation and review of the cosmetology curricula: 150 hours~~
~~(B) Introduction to teaching: 60 hours~~
~~(C) Course outlining and development; lesson planning; teaching techniques; teaching aids; development, administering and grading examinations: 330 hours~~
~~(D) Cosmetology Law, cosmetology school management and record keeping: 50 hours~~
~~(E) Teaching - assisting in classroom and clinic: 150 hours~~
~~(F) Practice teaching - classroom and clinic: 260 hours~~
~~(G) Total hours: 1000 hours~~

(A) Orientation and review of the cosmetology curricula
(i) Clock hours - 150
(ii) Credit hours - 5
(B) Introduction to teaching
(i) Clock hours - 60
(ii) Credit hours - 2
(C) Course outlining and development; lesson planning; teaching techniques; teaching aids; developing and administering and grading examinations
(i) Clock hours - 330
(ii) Credit hours - 11
(D) Cosmetology Law, cosmetology school management and record keeping
(i) Clock hours - 60
(ii) Credit hours - 2
(E) Teaching - assisting in classroom and clinic
(i) Clock hours - 150
(ii) Credit hours - 5
(F) Practice teaching - classroom and clinic
(i) Clock hours - 250
(ii) Credit hours - 7
(G) Total hours
(i) Clock hours - 1000
(ii) Credit hours - 32

(2) Master Instructor students are assigned practice in classes actually scheduled by the school. Practice teaching by master instructor students will be in the Basic, Manicurist/Nail Technician, and/or Esthetician/Facialist/Facial Operator course. Practice teaching must be supervised by a licensed master instructor.

(3) A master instructor student is not allowed to perform patron service/practice. ~~Said~~ The master instructor student shall only demonstrate for or otherwise assist student under his supervision.

**175:10-3-40. Curriculum and training requirements for all courses**

(a) ~~General rules for curriculum~~ Curriculum training shall include the study of electricity, safety measures and chemistry and must be carried through all classes in all classes in which it is used. Mannequin practice must be given to each student.

(b) A student who has completed 1500 hours of training in the Basic course or as an apprentice who has completed a course in a cosmetology salon must have had required amount of patron practice by working under actual cosmetology salon conditions so that he should be able to:

(1) perform any ordinary operation satisfactorily and in the same amount of time customarily allotted to that operation in a cosmetology salon.

(2) conduct a consultation on any ordinary cosmetology subject and prescribe proper treatment.

(3) mix any preparation used in a cosmetology salon.

(c) Cosmetology salon management must include purchasing, price determination, selling, appointment scheduling, dispensing of supplies and personal management.

(d) The teaching of wig styling shall consist in the training in the proper fitting, dressing, styling and arranging of wigs.

~~(e) Each student shall be provided the approved textbook for course in which he is enrolled before commencing training.~~

(~~f~~e) State Cosmetology Law and Board Rules and Regulations must be taught in all courses. At least six (6) copies of the Rules, Regulations and Law book will be provided by the ~~board~~ Board to each school (at cost for printing and delivery). Schools shall make rules, regulations and law book available to students.

(~~g~~f) A school owner shall maintain an adequate dispensary room with supplies necessary for school operation and student training.

(~~h~~g) A student enrolled in a privately owned or public cosmetology school shall not be allowed to work on the public until such time as he has received at least 150 clock hours or 5 credit hours of training spent in classroom theory and in mannequin or student practice under the direct supervision of a licensed instructor.

(~~i~~h) Closed circuit television may be used to teach classes related to cosmetology only.

(~~j~~i) A Basic Cosmetology student who fails to complete the course and registers in the Manicurist, Cosmetician, Hairbraiding Technician or Facialist course may be credited with 10% of the previously accumulated hours.

(~~k~~j) Cosmetology schools must teach the curriculum for each course approved by the Board. A copy of current curriculum must be on file with the Board. The curriculum must be proven by a schedule which must be posted and followed ~~made available to students~~. The theory curriculum must be posted and made available to student. The schedule may be interrupted for a period not to exceed three (3) hours per month for assembly purposes.

(~~l~~k) If a school stays open more than eight (8) hours per day, a curriculum and schedule must be submitted to the Board covering extra hours.

(~~m~~l) An evening school cannot be approved unless complete information as to the instructors in charge, and a curriculum and schedule for each course to be taught is submitted to the Board before beginning evening classes. A student must attend both day and evening classes provided the entire time does not exceed eight (8) hours daily. A schedule must be submitted to each student training in such manner.

(~~n~~m) Each manager, instructor and/or other person shall exercise the greatest care in keeping his person, all instruments used in school in the cleanest possible condition. Each must be knowledgeable of the more communicable diseases and the techniques necessary to prevent the transmission of disease.

**175:10-3-41. Cosmetician course entrance and curriculum requirements**

(a) **Entrance requirements.** Cosmetician course entrance requirements are the same as for a Basic course.

(1) Each student shall be provided an approved textbook or manual before commencing classroom training.

(2) A Cosmetician student shall not be allowed to perform patron services until such time as he has received at least 80 clock hours or 2 credit hours of practice and classroom instruction under the direct supervision of a licensed Instructor.

(3) Kit is required on or before completion of ~~80 hours of~~ practice and classroom instruction hours.

(4) If a licensed Cosmetician registers for the Basic ~~1500 hour~~ course, credit of 224 clock hours or 8 credit hours is allowed. ~~Therefore, the student must complete an additional 1276 hours in order to be eligible for the Basic Cosmetology examination.~~

~~(5) A Cosmetician student shall have performed no less than 120 practices before being eligible to sit for the Cosmetician examination for license.~~

(b) **Curriculum requirements.** The 600 clock hour or 20 credit hour curriculum is prescribed as follows:

~~(1) The 600 hour curriculum is prescribed as follows with a recommended completion time of 15 weeks (40 hours per week)~~:

~~(A) Bacteriology, sterilization and sanitation: 60 hours~~

~~(B) Make-up application (includes application of make-up, lipstick, eyeshadow, eyeliner, mascara and rouge): 200 hours~~

~~(C) Hair arranging (includes arranging of hair using curling irons, hot rollers, combs, brushes and any necessary product and accessories): 200 hours~~

~~(D) Salon development (includes business administration and law, insurance, professional ethics, record keeping, business telephone techniques, salesmanship, displays, advertising, hygiene and public health): 60 hours~~

~~(E) Cosmetology rules, regulations and law: 80 hours~~

~~(F) Total hours: 600 hours~~

(1) Bacteriology, sterilization and sanitation

(A) Clock hours - 60

(B) Credit hours - 2

(2) Make-up application (includes application of make-up, lipstick, eyeshadow, eyeliner, mascara and rouge)

(A) Clock hours - 200

(B) Credit hours - 7

(3) Hair arranging (includes arranging of the hair using curling irons, hot rollers, combs, brushes and any necessary product and accessories)

(A) Clock hours - 200

(B) Credit hours - 7

(4) Salon development (includes business administration and law, insurance, professional ethics, record

keeping, business telephone techniques, salesmanship, displays, advertising, hygiene and public health)

(A) Clock hours - 90

(B) Credit hours - 3

(5) Cosmetology rules, regulations and law

(A) Clock hours - 50

(B) Credit hours - 1

(6) Total hours

(A) Clock hours - 600

(B) Credit hours - 20

(c) **Minimum student kit contents.**

(1) A Cosmetician minimum kit equipment is required as follows:

(A) textbook or manual

(B) make-up with disposable applicators

(C) lipstick with disposable applicators

(D) eyeshadow with disposable applicators

(E) mascara with disposable applicators

(F) eyeliner with disposable applicators

(G) rouge/blush with disposable applicators

(H) 1 set of five (5) make-up brushes

(~~H~~I) hairspray

(~~I~~J) minimum of twelve (12) ~~four (4)~~ combs

(~~J~~K) minimum of twelve (12) ~~four (4)~~ hairbrushes

(~~K~~L) disposable make-up sponges

(~~L~~M) hot rollers

(~~M~~N) curling iron

(~~N~~O) one (1) kit or tray to contain student personal training equipment

(~~O~~P) one (1) comb-out cape

(2) In addition to the list of equipment in (1) of this subsection, the school shall have immediately available for student training:

(A) An adequate supply of protective gloves (disposable)

(B) An adequate supply of neck strips

(C) Visual aid equipment in addition to the blackboard

**175:10-3-42. Facial/Esthetics Instructor course entrance and curriculum requirements**

(a) **Entrance requirements.**

(1) Student registered in the facial/esthetics instructor course must:

(A) hold an Oklahoma facial/esthetician license or be registered for the facial/esthetician examination. If any person enrolled prior to examination shall fail to appear or shall fail to pass facial test, he/she shall immediately cease facial/esthetics instructor training until such time as he shall again register for and show proof of achieving a passing score on the facial/esthetician examination.

(B) hold a high school diploma or General Education Development Certificate.

(C) file registration application for facial/esthetics instructor course including fee of $5.00 with the Board.

(2) Each student shall be provided with an approved textbook or manual before commencing training.

(b) **Curriculum requirements.** The 1000 clock hour or 32 credit hour Facial/Esthetics Instructor course curriculum is prescribed as follows:

~~(1) The 1000 hour Facial/Esthetics Instructor course curriculum is prescribed as follows with a recommended completion time of 25 weeks (40 hours per week)~~:

~~(A) Orientation and review of the facial/esthetician curricula: 150 hours~~

~~(B) Introduction to teaching: 60 hours~~

~~(C) Course outlining and development; lesson planning; teaching techniques; developing, administering and grading examinations: 330 hours~~

~~(D) Cosmetology Law, cosmetology school management and record keeping: 50 hours~~

~~(E) Teaching - assisting classroom and clinic: 150 hours~~

~~(F) Practice teaching - classroom and clinic: 260 hours~~

~~(G) Total hours: 1000 hours~~

(1) Orientation and review of the facial/esthetician curricula

(A) Clock hours - 150 hours

(B) Credit hours - 5

(2) Introduction to teaching

(A) Clock hours - 60

(B) Credit hours - 2

(3) Course outlining and development; lesson planning; teaching techniques; teaching aids; developing and administering and grading examinations

(A) Clock hours - 330

(B) Credit hours - 11

(4) Cosmetology Law, cosmetology school management and record keeping

(A) Clock hours - 60

(B) Credit hours - 2

(5) Teaching - assisting in classroom and clinic

(A) Clock hours - 150

(B) Credit hours - 5

(6) Practice teaching - classroom and clinic

(A) Clock hours - 250

(B) Credit hours - 7

(7) Total hours

(A) Clock hours - 1000

(B) Credit hours - 32

(c) **Minimum student kit contents.** A facial/esthetics instructor minimum kit equipment is required as follows:

~~(1) A facial/esthetics instructor minimum kit equipment is required as follows:~~

~~(A) textbook or manual~~

~~(B) workbook~~

(1) textbook or manual

(2) workbook

**175:10-3-43. Hairbraiding Technician course entrance and curriculum requirements**

(a) **Entrance requirements.** Hairbraiding Technician course entrance requirements are the same as for a Basic course pursuant to OAC 175:10-3-16.

(1) Each student shall be provided an approved textbook or manual before commencing classroom training.

(2) A Hairbraiding Technician student shall not be allowed to perform patron services until such time as he/she has received at least 80 clock hours or 2 credit hours or practice and classroom instruction under the direct supervision of a licensed Instructor.

(3) Kit is required on or before completion of ~~80 hours of~~ practice and classroom instruction hours.

(4) If a licensed Hairbraiding Technician registers for the Basic ~~1500 hour~~ course, credit of 224 clock hours or 8 credit hours is allowed. ~~Therefore, the student must complete an additional 1276 hours in order to be eligible for the Basic Cosmetology examination.~~

~~(5) A Hairbraiding Technician student shall have performed no less than 120 practices before being eligible to sit for the Hairbraiding Technician examination for license.~~

(b) **Curriculum requirements.** The 600 clock hour or 20 credit hour curriculum is prescribed as follows:

~~(1) The 600 hour curriculum is prescribed as follows with a recommended completion time of 5 weeks (40 hours per week):~~

~~(A) Bacteriology, chemistry, sterilization and sanitation (includes hair and scalp disorders): 100 hours~~

~~(B) Hairbraiding/weaving skills (includes purpose and effect, procedures, repair, removal of weft, sizing and finishing, extension and maintenance/care of braids/weaves: 300 hours~~

~~(C) Salon development (includes business administration and law, insurance, professional ethics, record keeping, business telephone techniques, salesmanship, displays, advertising, hygiene and public health: 100 hours~~

~~(D) Cosmetology rules, regulations and law: 100 hours~~

~~(E) Total hours: 600 hours~~

(1) Bacteriology, chemistry, sterilization and sanitation (includes hair and scalp disorders)

(A) Clock hours - 100

(B) Credit hours - 3

(2) Hairbraiding/hairweaving skills (includes purpose and effect, procedures, repair, removal of weft, sizing and finishing, extension and maintenance/care of braids/weaves)

(A) Clock hours - 300

(B) Credit hours - 10

(3) Salon development (includes business administration and law, insurance, professional ethics, record keeping, business telephone techniques, salesmanship, displays, advertising, hygiene and public health)

(A) Clock hours - 180

(B) Credit hours - 6

(4) Cosmetology rules, regulations and law

(A) Clock hours - 30

(B) Credit hours - 1

(5) Cosmetology rules, regulations and law

(A) Clock hours - 600

(B) Credit hours - 20

(c) **Minimum student kit contents.**

(1) A Hairbraiding Technician minimum kit equipment is required as follows:

(A) textbook or manual

(B) four (4) hair brushes

(C) four (4) hard rubber combs or other good quality combs (shall include rat-tail, color regular and/or barber-type)

(D) hair extension material

(E) one (1) comb-out cape

(F) one (1) kit or tray to contain student personal training equipment

(G) one (1) kit or tray to contain student personal training equipment

(2) In addition to the list of equipment in (1) of this subsection, the school shall have immediately available for student training:

(A) An adequate supply of protective gloves (disposable)

(B) An adequate supply of neck strips

(C) Visual aid equipment in addition to the blackboard

*[OAR Docket #03-826; filed 4-30-03]*

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## TITLE 175. STATE BOARD OF COSMETOLOGY
## CHAPTER 10. LICENSURE OF COSMETOLOGISTS, SCHOOLS AND RELATED ESTABLISHMENTS

*[OAR Docket #03-825]*

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The finally adopted rules permit cosmetology schools to measure student progress in credit hour or clock hours pursuant to 59 O.S. § 199.7 as amended at Laws 2002, c.225, § 1, effective November 1, 2002. Prior to amendments, schools could only measure students progress in clock hours.
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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

## SUBCHAPTER 3. LICENSURE OF COSMETOLOGY SCHOOLS

## PART 5. EQUIPMENT AND CURRICULUM REQUIREMENTS

### 175:10-3-56. Student training; approved credits; credit limits

(a) **Commencement of student training.** Student training shall be counted from the date on the student registration receipt. The postmark will determine the issuance date on the registration receipt provided that all forms and affidavits required by the Board are complete and accurate in accordance with Board rules. A student registration for any course in a specific school is valid ~~eighteen (18) months~~ two (2) years.

(b) If a cosmetology school both offers credit hours and has an articulation agreement with a college or university, then the school shall notify a student prior to the student's registration of the following:

(1) the identity of the college or university with which the school has the agreement; and

(2) the number of credit hours that the college or university will accept pursuant to the articulation agreement.

(c) The notice shall also include a disclaimer informing the student that there is no guarantee that colleges of universities that do not have an articulation agreement with the school will accept the credit hours. The notice to the student shall be prominently displayed in the student handbook.

(~~b~~d) **Direct instructor supervision required.** A student must train under the direct supervision of an instructor employed by ~~said~~ the school at all times in order to be credited for hours by the Board.

(~~c~~e) **Credit for cosmetology related field trip.** A student may be given credit for hours spent in a Board approved cosmetology related field trip provided:

(1) the student is accompanied and observed by a cosmetology instructor licensed by the State of Oklahoma.

(2) ~~number of hours credited~~ credit for cosmetology related field trips shall not exceed seventy-two (72) total clock hours of the ~~1500 hour~~ Basic Cosmetology course or more than sixteen clock hours in a given week.

(3) credit for cosmetology related field trips shall not exceed twenty-four (24) total clock hours of the Manicurist, Facial/Esthetics or Hairbraiding Technician course or more than sixteen clock hours in a given week.

(4) credit for cosmetology related field trips shall not exceed forty (40) total clock hours of the Master Instructor, Manicurist/Nail Technician Instructor or Facial/Esthetics Instructor course or more than sixteen clock hours in a given week.

(~~d~~f) **Credit for model participation in a State Board practical examination.** A student may be given eight (8) ~~credit~~ clock hours for participation as a student model in a State Board practical examination.

(~~e~~g) **Credit limit per day.** No student is ~~IS~~ permitted to receive more ~~credit~~ than eight (8) clock hours per day.

## PART 7. GENERAL OPERATIONS AND LICENSING REQUIREMENTS

### 175:10-3-60. Attendance records and requirements for clock hour schools

(a) **Monthly attendance record.** The owner of each cosmetology school shall file an attendance report with the Board on or before the fifth day of the month showing the total number of hours of instruction and training received by each student during the preceding calendar month. Hours reported shall be rounded to the nearest half hour.

(b) **Minimum attendance per week.** A student cannot be registered who will attend only one (1) day per week, even though he may attend regularly during the summer or other months. A part time schedule shall be submitted and approved by the Board. Student shall attend cosmetology school at least three (3) hours per day, five (5) days per week or a total of fifteen (15) hours per week.

(c) **Corrected attendance records.** Hours of student training credited on attendance records and submitted to the Board cannot be changed except as a correction which is approved and directed by the Board. Copies of sign-in sheet or time cards may be necessary to verify hours of attendance.

(d) **Daily sign-in/time clock records.** In addition to keeping the monthly report of student hours, schools shall keep a record of daily attendance (sign-in sheet or time clock record)

and of clinic practical practice(s) performed by each student. Each student shall sign or clock in and out of each class daily.

**175:10-3-61. School Affidavit; hours accumulated**

(a) **Record of practical practice and classroom theory hours.** The school shall keep a record of practical practices performed and the number of hours of classroom theory received by each student.

(b) **School Affidavit upon completion, withdrawal or termination.** School Affidavit shall be submitted within five (5) days upon completion of a course, withdrawal, or other termination of a student for any reason. (Excused absence excepted). The School Affidavit shall reflect the total number of clock or credit hours accumulated, and must state reason for termination or withdrawal.

(c) **School Affidavit of hours completed to be submitted with examination registration.** The School Affidavit of completed hours of training must be submitted with the examination registration.

(d) **Hours submitted upon course completion.** Accumulated student hours shall be submitted to the Board within five (5) days of the full completion of the hours for any designated course by a student. The school owner or instructor shall submit ~~said~~ the accumulated hours to the Board on Board approved attendance records and on the School Affidavit to allow the student to be registered for examination and/or to be issued a student work permit by the Board.

(e) **Refusal to submit student hours.** No school owner or instructor shall ever refuse to submit accumulated student hours.

~~(f) **Loss of hours after break in training.** A School Affidavit which reflects total hours accumulated shall be submitted to the Board for any student absent from school for a period of thirty (30) consecutive days (excused absence excepted). Any student who has not completed a cosmetology course after a break in training of two (2) years will lose one half ($\frac{1}{2}$) of the accumulated total hours and after three (3) years shall lose all accumulated hours.~~

(~~g~~f) **Hours not to be adjusted as penalty for absence or rule infraction.** No school owner or instructor shall penalize a student by deducting hours from the accumulated hours earned, nor shall hours be added to the total hours required for course completion as penalty for excessive student absence or other school rule infraction.

(~~h~~g) **Student copies of School Affidavit of completion and practical practice form.** A student who completes a specific course must be provided the School Affidavit of completion dated on the day of completion. The student shall also be provided, upon request, a report of the number of practical practice services performed.

**175:10-3-64. School uniform/dress code**

(a) school rules shall be specific for student and student instructor uniform dress code requirements. The uniform dress code shall meet or exceed the Board rule requirements as pertain to professional uniform and safe and sanitary training practices. No hours shall be credited to any student who is not in uniform during classroom or clinic practical practice training. Points of demerit will be noted on Board inspection records for any instructor and/or school not in compliance with Board minimum uniform dress code standards set forth as follows:

(1) Each cosmetology school student, instructor student trainee and instructor shall be dressed in a washable tightly woven crisp fabric which shall readily shed hair clippings and/or other airborne particles.

(2) Tank or tube tops, ~~shorts~~, sleeveless tops, high heals, sandals, thongs and other open toe footwear are considered by the ~~board~~ Board to be unsafe and unsanitary attire for any cosmetology school student while training in the theory and practical practices of cosmetology

(b) It shall be the responsibility of the managing cosmetology instructor of a cosmetology school to dismiss any student not in compliance with uniform dress code from class (clinic or theory) until such time as ~~said~~ student shall be in Board uniform dress code. No hours of training may be credited for any time student is present while not in Board approved uniform dress code.

**175:10-3-69. Student registration for examination upon course completion**

~~A student~~ Students who ~~has~~ have completed their course of training will be given no further credit in school until properly registered for the examination.

**175:10-3-70. Student work permit**

(a) When an applicant registers for examination a permit may be granted to the student upon completion of his ~~1500 hour Basic cosmetologist course, 600 hour Manicurist course, or 600 hour Cosmetician course, 600 hour Hairbraiding Technician course or 600 hour Facialist~~ course of training. The student may be issued a permit to work in a licensed cosmetology salon and permit shall designate his current student status to the public

(b) The work permit with current 2" X 3" full-face photo of student must be posted conspicuously at his work station.

(c) The student may practice cosmetology under the supervision of a licensed cosmetologist in a licensed salon until the scheduled appropriate examination.

(d) The permit shall be void from the date of notification from the Board that the student has passed (or failed) the examination. Except the student who shall pass the examination and apply for the appropriate license may practice under ~~said~~ the permit thirty (30) days of notice.

**175:10-3-71. Review hours**

After a student registers for examination, he may register for review hours not to exceed 500 clock or 17 credit hours. The review hours remain on file but shall not be credited toward an examination. Except those review hours required for the applicant whose license has expired may be credited toward the appropriate examination.

**175:10-3-76. Student complaints**

~~Any complaint made by a student to the board concerning the school must be in writing and must be notarized. Any information must be clearly and concisely written and signed by the student making the complaint. Complaint must show some attempt has been made to resolve problem(s) with school administration/instructor prior to filing complaint with the board.~~

Each school shall have in place a student complaint process. The procedures for the complaint process shall be provided to the student in writing no later than the first day of class. A student who has exhausted the school's complaint process may file a complaint with the Board. The Board shall investigate the complaint in the same manner as other complaints.

*[OAR Docket #03-825; filed 4-30-03]*

## TITLE 245. STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS CHAPTER 2. ADMINISTRATIVE OPERATIONS

*[OAR Docket #03-884]*

**RULEMAKING ACTION:**
Permanent final adoption
**RULES:**
245:2-1-6 [AMENDED]
245:2-1-10 [AMENDED]
245:2-1-16 [AMENDED]
245:2-1-18 [AMENDED]
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**SUPERSEDED EMERGENCY ACTIONS:**
N/A
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N/A
**ANALYSIS:**
The Board's purpose for this rule revision is as follows:
clarify existing rules,
revise reinstatement fees and provisions
**CONTACT PERSON:**
Kathy Hart, Executive Director, (405) 521-2874

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2003:**

**245:2-1-6. Duties of Executive Director and Principal Assistant**

(a) The Board shall employ an Executive Director who shall be responsible for the administration of the policies of the board, the processing of its routine operations, and other administrative and ministerial duties as the Board authorizes. ~~At the end of each fiscal year, the Executive Director, with the assistance of the Principal Assistant shall prepare a report of the Board for submission to the Governor, covering all transactions of the preceding year and including a complete statement of the receipts and expenditures of the Board, attested by affidavits of the Chairman and Executive Director.~~

(b) The Board shall appoint a Principal Assistant for the Board, who shall not be a member of the Board, but shall be a Professional Engineer or Land Surveyor. The Principal Assistant's duties shall be to assist the Executive Director in the administration of the policies of the board and other administrative and ministerial duties as the Board authorizes. The Principal Assistant shall act on behalf of the Executive Director in the absence of the Executive Director.

(c) The Board shall furnish the Executive Director and Principal Assistant the necessary equipment, supplies and clerical assistance, paying for same directly on claims handled as prescribed herein and by law. The Executive Director and Principal Assistant shall make available to the Public for inspection at 201 N. E. 27th Street, Oklahoma City, Oklahoma, or subsequent address, all public records of the Board, and shall accept submissions and requests at said location.

**245:2-1-10. Official records**

Among other official records required by law, or by rules of other agencies in support of law, the Board shall maintain accurate and current records including, but not limited to:

(1) A record of minutes, in proper order, containing a summary of actions of all meetings of the Board.

(2) Records of Registrants, containing the name and registration number of all persons to whom Certificates of Registration are issued, date of original registration, the last known address of all current registrants and renewals affected through biennial registration.

(3) Registrant files for each current registrant containing the original application, relevant verification and evaluation data, record of examination grades, and when applicable, records of alleged violations, suspensions, revocations, refusal to renew, orders issued, hearing transcriptions and penalties levied.

(4) Certificate of Authorization files containing the name of each current firm~~, partnership, association or corporation~~ holding a current certificate, the engineer(s) or land surveyor(s) of record, a record of all partners, officers and directors of the entity, their registration number

and state of registration, if applicable, and the last known address.

(5) A system of finance records indicating funds received, budgeted, committed, spent, remaining and projections of appropriate request for consideration in budget development.

**245:2-1-16. National Council of Examiners for Engineering and Surveying**

The Board shall maintain membership in the National Council of Examiners for Engineering and Surveying (NCEES)~~. It is this Board's intent to support all of NCEES' programs possible under Oklahoma law. The Board will cooperate with NCEES in establishing uniform standards of professional qualification throughout the United States.~~ At the National and Zone annual meetings, the Board may be represented by one or more members of the Board, Executive Director and/or Principal Assistant, and others whom the Board may designate.

**245:2-1-18. Fees and penalties**

(a) Schedule of fees and penalties effective January 1, 2002, are as follows:

| | ~~ENGINEER AND SURVEYOR~~ | ~~INTERN~~ | ~~FIRM~~ | ~~PUBLIC~~ |
|---|---|---|---|---|
| ~~Application:~~ | | | | |
| ~~(1) Original~~ | ~~100.00~~ | ~~25.00~~ | ~~150.00~~ | |
| ~~(2) Re-registration~~ | ~~100.00~~ | ~~25.00~~ | ~~150.00~~ | |
| ~~(3) Requalification~~ | ~~100.00~~ | ~~25.00~~ | ~~–~~ | |
| ~~Biennial renewals:~~ | | | | |
| ~~(1) Individuals*~~ | ~~100.00~~ | ~~WAIVED~~ | ~~–~~ | |
| ~~*Renewal fees waived for licensed Oklahoma registered engineers and surveyors at 70 years old. Individuals must be 70 years old prior to their biennial renewal date and return the renewal card sent by the Board to qualify.~~ | | | | |
| ~~(2) Firm:~~ | | | ~~100.00~~ | |
| ~~Reinstatement penalty~~ | ~~25.00~~ | | ~~25.00~~ | |
| ~~Examination and scoring~~ | ~~Actual cost~~ | | ~~–~~ | |
| ~~Requalifications: Application fee + examination and scoring fee~~ | | | | |
| ~~Re-examination:~~ | | | | |
| ~~(A) Application~~ | ~~60.00~~ | ~~10.00~~ | | |
| ~~(B) Examination/Scoring~~ | ~~Actual cost~~ | | ~~–~~ | |
| ~~Temporary permit (Engineering)~~ | ~~500.00~~ | | | |
| ~~Out of State Proctoring:~~ | | | | |
| ~~(A) Application~~ | ~~30.00~~ | ~~20.00~~ | ~~–~~ | |
| ~~(B) Examination/Scoring~~ | ~~Actual cost~~ | | ~~–~~ | |
| ~~Administrative fee for returned checks~~ | ~~25.00~~ | ~~25.00~~ | ~~25.00~~ | ~~25.00~~ |
| ~~Duplicate certificate~~ | ~~15.00~~ | ~~15.00~~ | ~~15.00~~ | |
| ~~Roster~~ | | ~~10.00~~ | ~~10.00~~ | ~~10.00~~ |
| ~~Transcript of hearing~~ | ~~Actual cost~~ | | | |
| ~~Copy of public records (per page)~~ | ~~.25~~ | ~~.25~~ | ~~.25~~ | ~~.25~~ |

(1) Application:
(A) Original
(i) Engineer/Surveyor - $100.00
(ii) Intern - $25.00
(iii) Firm - $150.00
(B) Re-registration
(i) Engineer/Surveyor - $100.00
(ii) Intern - $25.00
(iii) Firm - $150.00
(C) Requalifications
(i) Engineer/Surveyor - $100.00
(ii) Intern - $25.00
(2) Biennial renewals:
(A) Individuals (Renewal fees are waived for Oklahoma registered engineers and surveyors at 70 years old. Individuals must be 70 years old prior to their biennial renewal date and return the renewal form sent by the Board to qualify.)
(i) Engineer/Surveyor - $100.00
(iii) Intern - WAIVED
(B) Firm - $100.00
(3) Reinstatement penalty: The following reinstatement penalty schedule refers to payments received by the Board within the prescribed number of days following the expiration date of the renewal:
(A) 1 - 90 days:
(i) Engineer/Surveyor - $50.00
(ii) Firm - $50.00
(B) 91 - 120 days:
(i) Engineer/Surveyor - $100.00
(ii) Firm - $100.00
(C) 121 - 180 days:
(i) Engineer/Surveyor - $150.00
(ii) Firm - $150.00
(4) Re-examination application:
(A) Engineer/Surveyor - $50.00
(B) Intern - $10.00
(5) Temporary permit (Engineering) - $500.00
(6) Administrative fee for returned checks:
(A) Engineer/Surveyor - $25.00
(B) Intern - $25.00
(C) Firm - $25.00
(D) Public - $25.00
(7) Duplicate certificate:
(A) Engineer/Surveyor - $15.00
(B) Intern - $15.00
(C) Firm - $15.00
(8) Roster:
(A) Intern - $10.00
(B) Firm - $10.00
(C) Public - $10.00
(9) Transcript of hearing - Actual cost
(10) Copy of public records (per page):
(A) Engineer/Surveyor - $.25
(B) Intern - $.25
(C) Firm - $.25
(D) Public - $.25

(b) The Board shall make no refunds of any fees or penalties to any applicant or registrant.
(c) These fees and penalties apply to the Rules in this Chapter and Chapter 15 of this Title.
(1) The administrative fee for returned checks shall be applied to any check returned to the Board for insufficient funds. Any such check returned to the Board shall be replaced with a cashier's check or money order within ten (10) days following notification from the Board of the returned check.

*[OAR Docket #03-884; filed 5-7-03]*

## TITLE 245. STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS CHAPTER 15. REGISTRATION AND PRACTICE OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

*[OAR Docket #03-883]*

**RULEMAKING ACTION:**
Permanent final adoption
**RULES:**
Subchapter 3. Application and Eligibility for Registration [AMENDED]
245:15-3-2. Documents required for registration
245:15-3-7. Qualifications for engineer registration
245:15-3-10. Temporary Permits
Subchapter 5. Examinations [AMENDED]
245:15-5-4. Taking and order of taking examinations
245:15-5-6. Re-examination
Subchapter 7. Registration [AMENDED]
245:15-7-1. Certificate of Registration
245:15-7-3. Biennial registration required
245:15-7-4. Waived renewal fees for engineers and surveyors over the age of 70
245:15-7-5. Reinstatement of revoked registrations
Subchapter 9. Rules of Professional Conduct [AMENDED]
245:15-9-4. Areas of practice
Subchapter 11. Continuing Education [AMENDED]
245:15-11-1. Definitions
245:15-11-7. Conversion of units
245:15-11-8. Comity/Out-of-Jurisdiction Resident
245:15-11-9. Records
245:15-11-11. Disallowed credit; failure to comply
Subchapter 19. Organizational Practice [AMENDED]
245:15-19-2. Criteria for issuance of Certificate of Authorization
245:15-19-3. Biennial registration for Certificate of Authorization
245:15-19-4. Reinstatement of revoked Certificate of Authorization
245:15-19-7. Authority to use professional titles
Subchapter 23. Violations [AMENDED]
245:15-23-2. Grounds for violations and penalties
245:15-23-9. Filing a complaint; forms and evidence
245:15-23-22. Procedures to file exceptions to proposed orders
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N/A
**ANALYSIS:**
The Board's purpose for this rule revision is as follows:
clarify existing rules,
revise the requirements for engineering and surveying registration,
expedite registration of comity applications
revise reinstatement provisions
revise continuing education requirements
**CONTACT PERSON:**
Kathy Hart, Executive Director, (405) 521-2874

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2003:**

## SUBCHAPTER 3. APPLICATION AND ELIGIBILITY FOR REGISTRATION

### 245:15-3-2. Documents required for registration

(a) Every individual applying for registration shall submit an application, which shall be the printed forms furnished by the Board or forms located on the Board's website, accompanied by the applicable fees.

(b) All information filled in on the application forms must be typewritten or computer generated. In case there is not sufficient room on the form to present all the subject matter necessary, the applicant shall set forth the additional information on additional sheets of plain white paper, 8 1/2" x 11" in size. Such sheets shall be typewritten or computer generated on one side only, shall be marked and numbered consecutively and in series with the regular pages of the application.

(c) An affidavit certifying the truthfulness of the statements in the application shall constitute a part of each application.

(d) An applicant shall request the university or college from which credit has been obtained to forward directly to the Board a properly certified university or college transcript showing all academic work.

(e) All application forms and information furnished thereon and all examinations and answers thereto shall be entirely in the English language.

### 245:15-3-7. Qualifications for engineer registration

To be eligible for registration as a Professional Engineer or certified as an Engineer Intern, the applicant must be of good character and reputation. Applicants must meet all qualifications as contained within the Statutes and the Rules of the Board. Applications shall be individually reviewed by the Board. Evidence of minimum qualifications is required by the Board in accordance with the following:

(1) Engineer Intern:

(A) An applicant, who graduated from an EAC/ABET accredited engineering curriculum of four (4) years or more or an engineering curriculum of four (4) years or more recognized by the ABET Washington Accord Agreement, shall show proof of:

(i) graduation from an EAC/ABET accredited engineering curriculum of four (4) years or more or an engineering curriculum of four (4) years or more recognized by the ABET Washington Accord Agreement;

(ii) passing an eight hour written examination in the fundamentals of engineering;

(B) An applicant who graduated from a non-approved engineering or related sciences curriculum of four (4) years or more, shall show proof of:

(i) graduation from a non-approved engineering or related science curriculum of four (4) years or more;

(ii) one (1) year approved engineering experience following the date of degree,

(iii) passing an eight (8) hour written examination in the fundamentals of engineering;

(C) Four (4) year degrees in other sciences must be followed by a Masters Degree in engineering before being considered for approval as a related science degree by the Board. Non-ABET approved foreign degrees may be considered following a degree evaluation from an NCEES approved evaluation service, provided however, maximum equivalency granted shall be that of a non-approved engineering or related science curriculum of four or more years.

(2) Professional Engineer (original registration):

(A) An applicant who graduated from an EAC/ABET approved engineering program, shall show proof of;

(i) graduation from an EAC/ABET accredited engineering curriculum of four (4) years or more, or an engineering curriculum of four (4) years or more recognized by the ABET Washington Accord Agreement;

(ii) passing the fundamentals of engineering examination, and

(iii) a specific record of an additional four (4) years or more of progressive engineering experience, following the date of graduation, of a grade and character which indicates to the Board that the applicant may be competent to practice and has experienced increased engineering responsibilities.

(B) An applicant who graduated from a non-approved engineering or related science program, shall show proof of;

(i) graduation from a non approved engineering or related sciences curriculum of four (4) years or more. Four (4) year degrees in other sciences must be followed by a Masters Degree in engineering before being considered for approval as a related science degree by the Board. Non-ABET approved foreign degrees may be considered following a degree evaluation from an NCEES approved evaluation service, provided however, maximum equivalency granted shall be that of a non-approved engineering or related science curriculum of four or more years.

(ii) passing the fundamentals of engineering examination, and

(iii) a specific record of an additional six (6) years or more of progressive engineering experience following the date of graduation ~~acceptable to the Board~~ of a grade and character which indicates that the applicant may be competent to practice and has experienced increased engineering responsibilities.

(C) ~~Applicants must show proof of a specific record of progressive experience on engineering projects of a grade and character which indicates to the Board that the applicant is competent to practice and has obtained increased responsibilities.~~ Experience credit may be claimed to the date of the application. Experience record is to be continuous from beginning to the date of the application. Experience time shall not exceed elapsed calendar time. Applications with insufficient experience will be rejected by the Board. Only experience obtained directly within the professional field will be considered as qualifying experience by the Board. The following areas of experience which may be verified by a Professional Engineer will be considered to be of a grade and character satisfactory to the Board.

(i) Evaluation, selection and application of standard engineering techniques, procedures and criteria, using judgment in making adaptations and modifications.

(ii) Engineering research and development.

(iii) Plan, design and analysis of engineering projects, systems and/or manufactured products.

(iv) Construction of engineering projects or systems.

(v) Applications and operational analysis of engineering projects, systems or facilities.

(vi) Teaching of advanced engineering subjects and related courses.

(D) A maximum of six (6) months experience may be allowed for successful completion of an EAC/ABET accredited engineering cooperative education program with work experience meeting (2)(A) of this Sections.

(E) Concurrent time, that is, time spent in engineering work while attending school will be credited either as education experience or work experience but not both.

(F) Successful completion of graduate study leading to the master's degree in engineering, which has followed an EAC/ABET accredited engineering curriculum of four (4) years or more or an engineering curriculum of four (4) years or more recognized by the ABET Washington Accord Agreement may be awarded one year's experience. If the Ph.D. in engineering is completed under the same conditions, two year's total experience may be awarded. The two years awarded includes the one year awarded for the master's degree. If the Ph.D. in engineering is completed under the same conditions but without the master's degree, two years experience may be awarded. If the Ph.D. is completed with a master's degree in engineering which does not follow an EAC/ABET accredited engineering curriculum of four (4) years or more or an engineering curriculum of four (4) years or more recognized by the ABET Washington Accord Agreement, one year of experience may be awarded for the combined master's degree and Ph.D.

(G) Accredited engineering programs of six (6) years or more which confer a masters of science in engineering without first conferring a bachelor of science in engineering may be accepted under 2(A) and may be allowed the additional one year of engineering experience under 2(F) of this section.

(~~G~~H) Applicants shall submit a minimum of five (5) references, three (3) of whom shall be Professional Engineers having personal knowledge of the applicant's engineering experience. These references should be able to verify the periods of experience since the beginning of the history, leaving no gaps in dates. The Board cannot give credit for engineering experience that has not been verified by one or more references.

(~~H~~I) When the requirements of the Statutes of this Chapter are met, the applicant shall be admitted to an eight (8) hour written examination in the fundamentals of engineering, an eight (8) hour written examination in the principles and practice of engineering and shall be provided an examination covering the laws, rules, procedures and practices pertaining to engineering in the state of Oklahoma.

(~~I~~J) Upon completion of the applicable requirements of this section, to the satisfaction of the Board, the applicant shall be registered as a Professional Engineer in the State of Oklahoma.

**245:15-3-10. Temporary Permits**

The Executive Director or Principal Assistant shall be authorized to issue a Temporary Permit to an engineer, subject to the approval of the Board, under the following conditions:

(1) An applicant for a Temporary Permit shall have a valid registration in the applicant's resident state or jurisdiction, and the information provided by the applicant on the application form approved by the Board does not disclose a prima facie violation of any provision of Sections 475.1 et seq of the laws of the state of Oklahoma or the rules of this Board; has not been disciplined in any jurisdiction by a Board of licensure for either engineering or land surveying or architecture; has not been convicted in any jurisdiction of a felony or misdemeanor.

(2) Information relative to registration in the other state or jurisdiction shall be verified before issuance of a Temporary Permit.

(3) The Temporary Permit fee as prescribed by law shall be remitted with the application.

(4) A Temporary Permit shall be issued for a definite period of time not to exceed one (1) year, for a specifically described work project in one location as set out in the application form and may not be renewed or extended.

(5) The holder of a Temporary Permit shall seal plans, specifications, surveys, or documents only in accordance with the Statutes and Rules of this Board. The seal used shall be the holder's registration seal of the state on which issuance of the Temporary Permit was based and immediately under the seal the following shall be inserted:

Oklahoma Temporary Permit number _____

Date of issue _____

Date of expiration_____

Signature of holder_____

(6) No individual may be issued more than one (1) temporary permit.

## SUBCHAPTER 5. EXAMINATIONS

**245:15-5-4. Taking and order of taking examinations**

(a) Applicants approved to take examinations will be required to take one or more of the NCEES examinations listed in this subsection and administered by the Board. Each examination will be given in two (2) four (4) hour periods of one day, with the exceptions being the Oklahoma Law and Surveying and Oklahoma Law and Engineering examinations, which will be administered per Board policy.

(1) Fundamentals of Engineering (FE)

(2) Principles and Practice of Engineering (PE)

(3) Fundamentals of Land Surveying (FLS)

(4) Principles and Practice of Land Surveying (PLS)

(5) Oklahoma Law and Surveying (OLS)

(6) Oklahoma Law and Engineering (OLE)

(b) Applicants who are now, or were in the past, enrolled in an engineering or related science curriculum meeting the requirements set forth in Section 245:15-3-7 and who have completed ninety (90) semester hours or more of academic requirements for graduation may take the Fundamentals of Engineering examination as an advance step toward certification as an engineer intern.

(c) Applicants who are enrolled in a Land Surveying or related curriculum meeting the requirements set forth in Section 245:15-3-8 and who have completed forty-five (45) semester hours or more of academic requirements for graduation may take the Fundamentals of Land Surveying examination as an advanced step toward certification as a Land Surveyor Intern.

(d) Applicants required to take the Fundamentals of Engineering or Land Surveying examination and the Principles and Practice of Engineering or Land Surveying, shall have received a passing score on the Fundamentals examination prior to being permitted to take the Principles and Practice examination.

(e) Applicants who have previously taken and passed an examination out of order of taking as specified in this Section and has not completed the registration process may be required to re-take such examination in the proper sequence.

(f) Examination subversion is the use of any means to alter the results of an examination to cause the results to inaccurately represent the competency of an examinee. Examination subversion includes, but is not limited to:

(1) Communication between examinees inside of the examination room.

(2) Giving or receiving any unauthorized assistance on the examination while an examination is in progress.

(3) Having any unauthorized printed or written matter or other devices in his or her possession which might serve to aid the examinee on the examination.

(4) Obtaining, using, buying, selling, distributing, having possession of, or having unauthorized access to secured examination questions or other secured examination material prior to, during or after the administration of the examination.

(5) Copying another examinee's answers or looking at another examinee's materials while an examination is in progress.

(6) Permitting anyone to copy answers to the examination.

(7) Removing any secured examination materials from the examination facility.

(8) Allowing another person to take the examination in the examinee's place.

(9) Placing any identifying mark upon his or her examination papers other than his or her identification number or other identifiers as directed by the examination administrator.

(10) Use by an examinee of any written material, audio material, video material, digital material, or any other mechanism not specifically authorized during the examination for the purpose of assisting any examinee in the examination.

(11) Writing on anything other than designated examination material.

(12) Writing or erasing anything after time is called.

(g) At the discretion of the Executive Officer, if there is evidence of examination subversion by an examinee prior to, during, or after the administration of the examination, one or more of the following may occur:

(1) The examinee may be denied the privilege of taking the examination if examination subversion is detected before the administration of the examination.

(2) If the examination subversion detected has not yet compromised the integrity of the examination, such steps as are necessary to prevent further examination subversion shall be taken, and the examinee may be permitted to continue with the examination.

(3) The examinee may be requested to leave the examination facility if examination subversion is detected during the examination.

(4) The examinee may be requested to submit written advisement of his or her intent to comply with and understanding of the law.

(5) The examination results may be voided and the application fee forfeited.

(6) The examinee may not be allowed to sit for an examination for up to three (3) years.

(h) If examination subversion is detected after the administration of the examination, the Chief Proctor shall make appropriate inquiry to determine the facts concerning the examination subversion and may take any of the actions described in subdivision (g).

(i) The Executive Director reserves the right not to release the examination results to the examinee pending the outcome of any investigation of examination subversion.

(j) Removal from or voidance of one part of a multiple-part examination taken during a single examination administration shall constitute removal from or voidance of all other parts of the multiple-part examination.

**245:15-5-6. Re-examination**

An applicant failing any one of the examinations shall request re-examination by payment of the required fees and re-take the examination at the next scheduled administration of the examination, provided the grade on the examination is equal to or above 50~~%~~ points. If the failing grade of any one of the examinations is below 50~~%~~ points, the applicant shall wait a period of one (1) year and file a new application for re-examination.

## SUBCHAPTER 7. REGISTRATION

**245:15-7-1. Certificate of Registration**

(a) Registration certificates shall be issued to individuals meeting statutory registration requirements and the current Rules of Procedure of the Board. The certificate will identify the registrant by name and registration number, show the effective date, confirm the registrant's qualifications and acknowledge the registrant's right to practice engineering or land surveying, as the case may be, in the State of Oklahoma.

(b) Certificate of Registration will be issued by the Board for the life of the registrant, subject to powers of renewal, reinstatement, suspension, revocation, penalties, orders or refusal to renew for cause, vested in the Board by the Statutes.

(c) Individuals holding a Certificate of Registration shall display or maintain it at the registrant's place of practice and be prepared to substantiate biennial registration renewal.

(d) Duplicate original Certificates of Registration will be issued to a registrant provided:

(1) The current registration renewal is effective;

(2) The registrant makes written request for a replacement of ~~duplicate~~ certificate;

(3) The registrant certifies that the original certificate has been lost, damaged or destroyed; and

(4) The registrant pays the ~~fee~~ prescribed fee ~~in this Chapter~~.

(e) Duplicate Certificates of Registration will be issued for display at multiple places of practice upon a written request and payment of the prescribed fee. However, each duplicate certificate will be marked as such.

**245:15-7-3. Biennial registration required**

(a) The Statute requires all engineers and land surveyors desiring to practice in Oklahoma to biennially register with the Board and pay a biennial registration renewal fee as prescribed by this Chapter. Notices will be sent to all registrants at the last known address of record; however, it is the responsibility of each individual registrant to insure the renewal fees and ~~applications~~ properly completed renewal form , along with any required continuing education log forms, are received by the Board office not later than the renewal date. Registration expires on the last day of the month in which it is due, and becomes invalid on that date unless the renewal fee is paid. Upon receipt by the Board of the individual's, and if applicable, entity's properly completed renewal forms, fees and any required continuing education log forms~~compliance with the current Rules of Procedure of the Board~~, the pocket card sent each engineer, land surveyor and firm confirming registration will be valid. No Certificate of Registration or Certificate of Authorization will be valid for longer than a two (2) year period.

(b) Failure to biennially register and remit renewal fees and penalties where applicable, as prescribed by the Statute and the current Rules of Procedure of the Board, will result in revocation of the registrant's Certificate of Registration or the Certificate of Authorization.

(c) Notices of revocation will be sent to the last known address of registrants and firms failing to biennially register and remit renewal fees.

**245:15-7-4. Waived renewal fees for engineers and surveyors over the age of 70**

The biennial renewal fee for engineers or land surveyors who reach the age of 70 prior to the renewal date of their certificate of registration will be waived. Renewal forms must be filled out and returned to the Board office prior to the renewal date to qualify. Registrants who are required to fulfill continuing education requirements must fill out and submit the log form supplied by the board by the registration expiration date. Otherwise, the certificate of registration will be revoked and reinstatement fees and penalties will apply to re-register.

**245:15-7-5. Reinstatement of revoked registrations**

(a) Registrations revoked for nonpayment of fees, failing to fill out and return a required continuing education log form, failing to fill out a reinstatement form for inactive retired registrants, or failing to return the renewal form for registrants over the age of 70, may be reinstated by making written application for reinstatement within ~~ninety (90)~~ one hundred eighty days after expiration and payment of the prescribed renewal fee and penalty. After ~~ninety (90)~~ one hundred eighty (180) days of revocation, a new application and fees will be required, which shall be considered specifically by the Board, both from the standpoint of competency and character. If reinstatement is within ~~ninety (90)~~ one hundred eighty (180) days following the date of revocation, then registration will be deemed to have been continuous. Practicing your profession with a revoked registration during this reinstatement period a violation of Title 59, Section 475.1 et seq and the Rules of this Board.

(b) If a registration revoked for non-payment remains canceled or suspended for a period exceeding three (3) consecutive years, such former registrant's application for re-registration may not be considered by the Board without the former registrant taking and passing a current examination as prescribed by the Board.

(c) Registrations suspended, refused to renew, penalties, orders issued or revoked for cause, may be reinstated only by Board action and only then in the manner determined by such Board action. Request for reinstatement of registration shall show the Board that the public interest will not suffer by reason of the reinstatement and shall be addressed to the Chairman at the Board office. The Board, by Statute, has the discretion as to whether to reinstate the Certificate of Registration or Certificate of Authorization or deny it.

## SUBCHAPTER 9. RULES OF PROFESSIONAL CONDUCT

**245:15-9-4. Areas of practice**

Registrants shall perform services only in the areas of their competence.

(1) Registrants shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering or land surveying involved.

(2) Registrants shall not affix their signatures or seals to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their ~~direction and control~~ direct control and personal supervision.

(3) Registrants may accept assignments for coordination of an entire project, provided that each design segment is signed and sealed by the ~~licensee responsible for preparation~~ registrant in direct control and personal supervision of that design segment.

(4) In the event a question arises as to the competence of a registrant in a specific technical field which cannot be otherwise resolved to the State Board's satisfaction; the State Board, either upon request of the registrant or on its own volition, shall admit the registrant to an appropriate examination.

## SUBCHAPTER 11. CONTINUING EDUCATION

**245:15-11-1. Definitions**

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

~~**"CEU"** means a continuing education unit as defined in this Section.~~

~~**"College unit semester"** means credit for an engineering or land surveying course or other related college course approved by the Board.~~

~~**"Continuing education unit"** means a unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of class in an approved continuing education course.~~

**"Dual registrant"** means a person registered as a Professional Engineer and Professional Land Surveyor.

**"PDH"** means a professional development hour, as defined in this Section.

**"Professional development hour"** means a contact hour (nominal) of instruction or presentation; the common denominator for other units of credit.

**"Registrant"** means a person registered as a Professional Engineer or as a Professional Land Surveyor.

**245:15-11-7. Conversion of units**

The conversion of other units of credit of continuing education to PDH units is as follows:

(1) One (1) college or unit semester hour - 15 PDH

(2) Auditing of (1) college or unit semester hour -15 PDH

(3) One (1) continuing education unit (CEU)- 10 PDH

(4) One (1) hour of technical or professional development in course work, seminars, technical and professional meetings, conventions, workshops, - 1 PDH

(5) One (1) hour for developing professional licensure examinations - 1 PDH

(6) For teaching or making presentations - apply multiple of 2 (Teaching credit is valid for teaching a course or seminar for the first time only. Teaching credit does not apply to full-time or part-time faculty members unless the activity is outside the scope of the registrant's customary teaching responsibilities.)

(7) Each published Professional/Technical paper or article -10 PDH

(8) Active participation in a professional and technical society. (maximum of 4 PDH units per biennial renewal period) - 2 PDH

(9) Each patent. - 10 PDH

**245:15-11-8. Comity/Out-of-Jurisdiction Resident**

The continuing education requirements for Oklahoma will be satisfied when a non-resident ~~certifies registration in and satisfaction of the mandatory continuing education requirements of any jurisdiction approved and listed by this board~~ fulfills the requirements for resident registrants outlined in 245:15-11-10.

**245:15-11-9. Records**

(a) Each registrant is charged with the responsibility of his own professional development activities. The responsibility of maintaining records to be used to support credits claimed is the responsibility of the registrant. Records required include, but are not limited to:

(1) A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned.

(2) Attendance verification records in the form of completion certificates~~, paid receipts~~ or other documentation supporting evidence of attendance.

(b) Records must be maintained for a period of five (5) years and copies may be requested by the Board for audit verification purposes.

**245:15-11-11. Disallowed credit; failure to comply**

~~(a)~~ If the Board disallows claimed PDH credit, the registrant shall have 120 days after notification to substantiate the original claim or to earn other credit to meet the minimum requirement.

~~(b) If a registrant fails to furnish the required continuing education form, properly completed or signed, the right to practice as a Professional Engineer and/or Professional Land Surveyor in the State of Oklahoma will expire 120 days after the date of notification of failure to comply from the Board.~~

## SUBCHAPTER 19. ORGANIZATIONAL PRACTICE

**245:15-19-2. Criteria for issuance of Certificate of Authorization**

The Board may grant a Certificate of Authorization to practice through individual registrants to those firms meeting the following criteria:

(1) An application is filed and approved by the Board.

(2) At least one individual in responsible charge is registered to practice engineering or land surveying in the State of Oklahoma. If the firm is offering to practice both professions, the firm shall have at least one individual in responsible charge registered to practice each profession. A Professional Engineer or Land Surveyor who renders occasional part-time or consulting engineering or land surveying services to or for a firm may not, for the purposes of this section, be designated as being in responsible charge of the professional activities of the firm.

(3) The firm's practice of engineering or land surveying in any office (e.g. branch office) is under the personal supervision and immediate direction of a duly registered engineer or land surveyor of record as defined in this Chapter and the Statutes.

(4) All documents relating to engineering or surveying work shall be signed, sealed and dated by the Professional Engineer or Land Surveyor of record as defined in this Chapter.

(5) The Certificate of Authorization shall identify the individual(s), Oklahoma Professional Engineer(s) or Land Surveyor(s), who shall be an individual(s) within the firm in responsible charge of the engineering or land surveying practice.

(6) Compliance with the Board's Rules in this Chapter and 59 O.S., Sections 475.1 et seq. shall not alleviate other members, directors, partners or employees from direct responsibility and liability to the Board by reason of an employment or relationship with the entity.

(7) ~~The Certificate of Authorization issued by the Board is subject to powers of renewal, suspension, revocation, denial, refusal to renew, criminal or administrative penalties vested in the Board by the Statutes and does not preclude the Board from using any other legal procedures necessary to carry out its powers and duties~~ Certificates of Authorization shall be issued to firms meeting statutory requirements and the current Rules of Procedure of the Board. The certificate will identify the firm by name and authorization number, show the effective date, and confirm the firm's right to practice engineering and/or land surveying in the State of Oklahoma.

(8) Certificates of Authorization will be issued by the Board for the life of the firm, subject to powers of renewal, reinstatement, suspension, revocation, penalties, orders or refusal to renew for cause, vested in the Board by the statutes.

(9) Firms holding a Certificate of Authorization shall display or maintain it at the firm's place of practice.

(10) Duplicate original Certificates of Authorization will be issued to a firm provided:

(A) The current Certificate of Authorization's renewal is effective;

(B) The firm makes written request for a replacement of certificate;

(C) The firm certifies that the original certificate has been lost, damaged or destroyed; and

(D) The firm pays the prescribed fee.

(11) Duplicate Certificates of Authorization will be issued for multiple places of practice upon a written request and payment of the prescribed fee. However, each duplicate certificate will be marked as such.

**245:15-19-3. Biennial registration for Certificate of Authorization**

(a) An entity desiring to practice under the Certificate of Authorization must submit the proper fees ~~and applicable penalties~~ and forms for ~~application and~~ renewal biennially. No Certificate of Authorization shall be valid for longer than a two (2) year period.

~~(b) Failure to biennially register and remit payment of the renewal fee for the Certificate of Authorization on the renewal date will result in a late payment penalty.~~

(~~c~~b) Failure to biennially register~~,~~ and remit renewal fees ~~and penalties~~ by the renewal date will result in automatic revocation of the Certificate of Authorization.

(~~d~~c) Notices of revocation will be sent to the last known address of the entity failing to biennially register and remit renewal fees ~~and penalties~~.

**245:15-19-4. Reinstatement of revoked Certificate of Authorization**

(a) ~~Certificate of Authorization revoked for non-payment of fees may be renewed upon completion of an updated application form, provided the entity currently meets all statutory requirements, the Rules of Procedure of the Board and payment to the Board of the fees and penalties which have been accrued by the entity at the time of reinstatement.~~ Certificates of Authorization revoked for nonpayment of fees, may be reinstated within one hundred eighty (180) days by paying the reinstatement fee and renewal fee.

(b) Certificates of Authorization revoked for longer than one hundred eighty (180) days without reinstating must submit a new application and fee to be considered by the Board. If reinstatement is within one hundred eighty (180) days following the date of the revocation, then the certificate of authorization will be deemed to have been continuous. Practicing your professional with a revoked certificate of authorization during this reinstatement period is a violation of Title 59, Section 475.1 et seq and the Rules of this Board.

(~~b~~c) Certificate of Authorization suspended, denied, refused to renew or revoked for cause may be reinstated only by Board action and only then in the manner determined by such Board action. Requests for reinstatement of the Certificate of Authorization revoked for cause shall be addressed to the Chairman at the Board office and shall show cause why such Board action is justified.

**245:15-19-7. Authority to use professional titles**

(a) Only persons holding current Certificates of Registration in Oklahoma and entities holding current Certificates of Authorization issued by the Board, are authorized to employ the title "Engineer" or "Land Surveyor" and use any various construction thereof, in describing or identifying services solicited, offered, contracted or executed.

(b) No other person~~,~~ or firm~~, partnership, association or corporation~~ may employ the title "Engineer" or "Land Surveyor" or any various construction thereof, to describe persons, entities or services, nor do such unregistered individuals or entities have authority to solicit, offer, contract or execute engineering or land surveying services in the State of Oklahoma.

## SUBCHAPTER 23. VIOLATIONS

**245:15-23-2. Grounds for violations and penalties**

Grounds for denial, revocation, suspension, refusal to issue, restore or renew, place on probation, fine or reprimand, orders, injunctions, administrative and/or criminal penalties includes:

(1) Fraud, deception or misrepresentation in obtaining or attempting to obtain or renew a Certificate of Registration, Certificate of Authorization, or in taking the examinations administered by the Board;

(2) Noncompliance with statutory requirements or rules in this chapter for qualifying for registration;

(3) Violating the statutes regulating professional engineering and land surveying or any rule in this chapter, regulations or order issued by the Board;

(4) Violating any of the provisions of the "Corner Perpetuation and Filing Act (65 O.S. 1981, 3.116-3.123) or any requirements, rules and regulations or order issued by the Board;

(5) Conviction of or entry of a plea of nolo contendere to any crime, whether or not it relates to the practice of engineering or land surveying, whether a felony or a misdemeanor which includes dishonesty as an essential element, or which is directly related to the practice of engineering or land surveying;

(6) Violating any other jurisdiction's registration laws, requirements or rules and regulations;

(7) Fraud or Misrepresentation (Refer to 245:15-23-4)

(8) Gross negligence (Refer to 245:15-23-5);

(9) Gross incompetence (Refer to 245:15-23-6);

(10) Dishonest practice (Refer to 245:15-23-7);

(11) Failure, within 30 days, to provide information requested by the Board as a result of a formal or informal complaint to the Board;

(12) Violating any terms of probation imposed by the Board;

(13) Unauthorized or misuse of seal which shall include sealing, dating and signing any documents not prepared under the registrant's direct control and personal supervision;

(14) Habitual intoxication or addiction to the use of alcohol or illegal use or distribution of a controlled dangerous substance;

(15) Violating the Oklahoma Minimum Standards for the Practicing of Land Surveying;

(16) Nonpayment of fees or penalties shall result in revocation.

**245:15-23-9. Filing a complaint; forms and evidence**

~~When filing a formal complaint, the persons, registrant or entity shall contact the Board office for the forms required to be completed.~~ When filing ~~an informal~~ a complaint, the

person, registrant or entity, shall contact the Board office and provide all information requested. ~~to insure that the Board can complete all necessary forms.~~ The complainant ~~shall~~ may document the allegations with evidence available and ~~shall~~ submit one copy of the documentation to the Board office. The Executive Director of the Board shall make appropriate inquiry to verify such information and shall, based upon such information and inquiry, proceed to one of the following courses:

(1) Terminate the investigation when it appears no violation has occurred or there is insufficient evidence to support any violation, or that the Board lacks jurisdiction; or
(2) Refer the matter to the investigation committee; or
(3) Appoint an individual investigator; or
(4) Attempt informal resolution of the matter; or
(5) Refer directly to Board; or
(6) Refer the matter to other Boards, Agencies, or Authorities.

**245:15-23-22. Procedures to file exceptions to proposed orders**

Exceptions to ~~the written~~ a proposed final order, together with a brief in support, shall be filed with the Executive Director within ten (10) days of the entry of the final order. If exceptions are filed, the Executive Director shall set the time and place for the Board to consider the exceptions. The exceptions and cause notice of the time and place to hear the exceptions shall be mailed to the registrant, person or entity or to the attorney of record. Such time shall not be less than twenty (20) days after said notice is mailed. Briefs in response to the exceptions must be filed with the Board at least seven (7) days before such meeting. The registrant, person or entity may personally or through counsel be present and present oral argument to the Board in support of the exceptions. No exceptions to the final order shall be considered without full compliance of this section by the respondent, individual, or entity.

*[OAR Docket #03-883; filed 5-7-03]*

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

*[OAR Docket #03-874]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions [AMENDED]
Subchapter 7. Permits for Minor Facilities [AMENDED]
Subchapter 17. Incinerators [AMENDED]
Subchapter 31. Control of Emission of Sulfur Compounds [AMENDED]
Subchapter 35. Control of Emission of Carbon Monoxide [AMENDED]
Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]
Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [AMENDED]
**AUTHORITY:**
Environmental Quality Board; 27A O.S., §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S., § 2-5-101, *et seq.*
**DATES:**
**Comment period:**
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N/A
**ANALYSIS:**
The Department is proposing changes to Subchapters 1, 7, 17, 31, 35, 37, and 39 as a single action. The intent of these changes is to simplify and clarify defined terms. The proposed changes include the addition of new definitions, changes to existing definitions, and deletion of redundant definitions and definitions no longer being used. In Subchapter 7 a cross reference is inserted to direct the reader to the location of two existing permits by rule.
**CONTACT PERSON:**
Michelle Martinez, 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., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### SUBCHAPTER 1. GENERAL PROVISIONS

**252:100-1-1. Purpose**

~~It is the purpose of this Subchapter to provide definitions of words and phrases used in the field of air pollution and which are consistent with accepted usage. The definitions contained in the Oklahoma Clean Air Act, under which this regulation is promulgated, shall also apply. Definitions having specialized applications are followed by parenthetical citations to the particular Subchapter wherein they are used.~~ This Subchapter provides definitions of words and phrases used in Chapter 100. The definitions contained in the Oklahoma Clean Air Act, under which this regulation is promulgated, shall also apply. The Subchapter also contains a list of commonly used units with their abbreviations and a list of commonly used acronyms.

**252:100-1-2. Statutory definitions**

The definitions contained in the ~~Oklahoma Clean Air Act, 27A O.S. 1993 Supp. Sec. 2-5-101 et seq.,~~ Oklahoma Environmental Quality Code at 27A O.S. Sections 2-01-102 and 2-05-101(2002) under which this Chapter is promulgated, shall ~~also~~ apply~~:~~ for the following terms.

~~(1) board,~~
~~(2) department,~~
~~(3) Executive Director,~~
~~(4) council,~~
~~(5) director,~~
~~(6) person,~~
~~(7) air pollution, and~~
~~(8) air contaminants.~~
(1) air contaminants,
(2) air pollution,
(3) council,
(4) department,
(5) director,
(6) Executive Director, and
(7) person.

**252:100-1-3. Definitions**

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.

~~**"Acrylic"** means a chemical coating containing polymers or copolymers of acrylic or substitute acrylic acid in combination with suitable resinous modifiers and its primary mode of cure is solvent evaporation. (252:100-37)~~

~~**"Actual emissions"** when used in OAC 252:100-7, Part 5, means the actual rate of emissions of a pollutant from an emission unit, as determined in accordance with the following:~~

~~(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority may 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. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.~~

~~(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.~~

~~(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. (OAC 252:100-7, Part 5)~~

~~**"Actual emissions"** when used in OAC 252:100-7, Part 7, means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:~~

~~(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the operation. The reviewing authority may 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. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.~~

~~(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.~~

~~(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. (OAC 252:100-7, Part 7)~~

**"Air contaminant source"** means any and all sources of emission of air contaminants, 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.

~~**"Alkyd primer"** when used in Subchapter 37 means a chemical coating composed primarily of alkyd applied to a surface to provide a firm bond between the substrate and any additional paint. (OAC 252:100-37)~~

~~**"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. (OAC 252:100-7, Parts 5 and 7)~~

**"Ambient air standards"** or **"Ambient air quality standards"** means levels of air quality as codified in OAC 252:100-3.

~~**"Architectural coating"** means coating used for residential, commercial and/or industrial buildings and their appurtenances.~~

**"Atmosphere"** means the air that envelops or surrounds the earth.

~~**"Automatic tread end cementing"** means the application of a solvent based cement to the tire tread ends by automated devices. (OAC 252:100-39-44)~~

~~**"Baseline area"** means any area designated as attainment or unclassifiable in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m³ (annual average) of the pollutant for which the minor source baseline date is established. (OAC 252:100-7, Part 5) (Effective May 11, 1991)~~

~~**"Baseline concentration"**~~

~~(A) when used in OAC 252:100-7, Part 5, means that ambient concentration level which exists in the baseline area at the time of the applicable baseline date.~~

~~(i) 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 baseline date, except as provided in (B) of this definition.~~

~~(II) the allowable emissions of major sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date. (Effective May 11, 1991)~~

~~(ii) 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 source on which construction commenced after the major source baseline date; and,~~

~~(II) actual emission increases and decreases at any source occurring after the minor source baseline date. (OAC 252:100-7, Part 5) (Effective May 11, 1991)~~

~~(B) when used in the remainder of this Chapter, in regard to prevention of significant deterioration (PSD), means the ambient concentration levels which exist at the time application for permit in an area plus emissions from sources not yet operating on which construction commenced prior to January 6, 1975. Emissions from major sources as defined in Section 169 of the Federal Clean Air Act on which construction commenced after January 6, 1975 will not be counted in the baseline and shall be counted against the maximum allowable increase in pollution concentration. (Effective April 1, 1979)~~

~~**"Baseline date"**~~

~~(A) means:~~

~~(i) for major sources,~~

~~(I) in the case of particulate matter and sulfur dioxide, January 6, 1975, and~~

~~(II) in the case of nitrogen dioxide, February 8, 1988; and,~~

~~(ii) for minor sources, the earliest date after the trigger date on which a major stationary source or a major modification (subject to 40 CFR 52.21 or OAC 252:100-7, Part 5) submits a complete application. The trigger date is:~~

~~(I) in the case of particulate matter and sulfur dioxide, August 7, 1977; and,~~

~~(II) in the case of nitrogen oxides, February 8, 1988. (OAC 252:100-7, Part 5) (Effective May 11, 1991)~~

~~(B) is established for each pollutant for which increments have been established if:~~

~~(i) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable for the pollutant on the date of its complete application; and~~

~~(ii) in the case of a major 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. (OAC 252:100-7, Part 5)~~

~~**"Basic oxygen furnace"** means a furnace in which the melting and refining of iron are accomplished by the addition at high velocities of large amounts of high purity oxygen to the atmosphere above the surface of the metal bath. The metal is held in a tiltable vessel with a basic refractory lining. Such a furnace includes the furnace proper, oxygen lance, scrap and flux charging units, iron transfer units, gas collecting and cleaning equipment, stacks and any other auxiliaries pertinent to the process.~~

~~**"Bead dipping"** means the dipping of an assembled tire bead into a solvent based cement. (OAC 252:100-39-44)~~

~~**"Begin actual construction"** means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. 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. (OAC 252:100-7, Parts 5 and 7)~~

**"Best available control technology"** or **"BACT"** means ~~the control technology to be applied for a major source or modification is the best that is available as determined by the Executive Director on a case-by-case basis taking into account energy, environmental, costs and economic impacts of alternative control systems. (OAC 252:100-7, Part 5)~~ the best control technology that is currently available as determined by the Division Director on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs of alternative control systems.

~~**"Blast furnace"** means furnace and equipment used in connection with the smelting process of reducing metallic ores to molten metal in which primarily oxygen is removed from~~

~~the ore and gas is produced as a by-product. The furnace and equipment consists of, but is not limited to, the furnace proper, charging equipment, stoves, bleeders, gas dust cleaning devices, after-burner, and other auxiliaries pertinent to the process.~~

~~**"Building, structure, facility"** means 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. (OAC 252:100-7, Part 7)~~

**"Building, structure, facility, or installation"** means 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. ~~(OAC 252:100-7, Part 5)~~

**"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.

~~**"Chimney"** means any conduit, duct, stack, vent, flue, or opening of any kind whatsoever arranged to conduct any emission of products to the atmosphere.~~

**"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. ~~(OAC 252:100-13)~~

~~**"Commence"** means as applied to construction of a major stationary source or major modification means 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 canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be competed within a reasonable time. (OAC 252:100-7, Parts 5 and 7)~~

**"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.

**"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 reviewing authority from requesting or accepting any additional information. ~~(OAC 252:100-7, Part 5)~~

~~**"Component"** means any piece of equipment which has the potential to leak volatile organic compounds when tested in the manner described in Appendix B, EPA Guideline Series Document, Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment, EPA-450/2-78-036, or an equivalent method as determined by the Director. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open ended pipes. Excluded from these sources are valves which are not externally regulated. (OAC 252:100-39, Part 3)~~

~~**"Condensate"** means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at normal operating conditions. (OAC 252:100-39, Part 5)~~

**"Construction"**

~~(A) when used in OAC 252:100-7, Parts 5 and 7, means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. (OAC 252:100-7, Parts 5 and 7)~~

~~(B)~~ when used in the remainder of this Chapter means, unless specifically defined otherwise, ~~means~~ fabrication, erection, or installation of a source. ~~(Effective June 22, 1974)~~

**"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. ~~(OAC 252:100-39, Part 5)~~

~~**"Custom product finishes"** means a proprietary chemical coating designed for a specific customer and end use. (OAC 252:100-37)~~

~~**"Cutback asphalt"** means basic asphalt or asphaltic concrete containing a petroleum distillate. (OAC 252:100-37)~~

**"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.

~~**"Effluent water separator"** means any tank, box, sump, or other container in which any material compound floating on or entrained or contained in water entering such tank, box, sump or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water. (OAC 252:100-37)~~

~~**"Emissions unit"** means any part of a source which emits or would have the potential to emit any pollutant subject to regulation. (OAC 252:100-7, Parts 5 and 7)~~

~~**"Epoxy"** means a chemical coating containing epoxy groups and suitable chemical cross-linking agents. Epoxies~~

~~prime mode of cure involves a chemical reaction between the epoxy and the cross-linking agent. (OAC 252:100-37)~~

~~**"Equivalent opacity"** means the degree to which an emission, other than gray or black smoke, is partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as an equivalent of the obstruction caused by a gray or black smoke emission of a given density as measured by a Ringelmann Smoke Chart.~~

~~**"Excess air"** means air entering a combustion chamber in excess of the amount theoretically required to complete combustion of materials in the combustion chamber.~~

**"Excess emissions"** means the emission of regulated air ~~contaminants~~ pollutants in excess of an applicable limitation or requirement as specified in the applicable limiting ~~regulation (OAC 252:100-9)~~ 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.

~~**"External floating roof"** means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall. (OAC 252:100-39, Part 5)~~

**"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).

~~**"Flexographic printing"** means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials. (OAC 252:100-39-43)~~

~~**"Fly ash"** means particulate matter capable of being gas-borne or airborne consisting essentially of fused ash and/or burned or unburned material.~~

~~**"Foundry cupola"** means shaft-type furnace used for the melting of metals usually consisting of, but not limited to, the furnace proper, tuyeres, fans or blowers, tapping spout, charging equipment, gas cleaning devices and other auxiliaries. Shaft furnaces used for processing non-metallic materials are not included under this definition but are included in the definition of process equipment.~~

**"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. ~~(Effective July 1, 1977)~~

**"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. ~~(OAC 252:100-7, Parts 5 and 7)~~

**"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.

~~**"Gas service"** means equipment which processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the gaseous phase. (OAC 252:100-39, Part 3)~~

~~**"Green tire spraying"** means the spraying of green tires, both inside and outside, with release compounds which help remove air from the tire during molding and prevent the tire from sticking to the mold after curing. (OAC 252:100-39-44)~~

~~**"Green tires"** means assembled tires before molding and curing have occurred. (OAC 252:100-39-44)~~

~~**"Hazardous air contaminant"** means any hazardous air pollutant regulated under Section 112 of the federal Clean Air Act, 42 U.S.C. Section 7412, and subject to national emission standards (NESHAP). (OAC 252:100-41)~~

**"In being"** means as used in the definitions of New Installation and Existing Source ~~means~~ 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 ~~of the application~~ as specified by the applicable regulation. ~~(Effective June 22, 1974)~~

**"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.

~~**"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. (OAC 252:100-7, Part 5)~~

**"Installation"** means an identifiable piece of process equipment. ~~(OAC 252:100-7, Part 7)~~

~~**"Lease custody transfer"** means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation. (OAC 252:100-39, Part 5)~~

~~**"Liquid-mounted seal"** means a primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof. (OAC 252:100-39, Part 5)~~

~~**"Liquid service"** means equipment which processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the liquid phase. (OAC 252:100-39, Part 3)~~

~~**"Lowest achievable emissions rate"** means the control technology to be applied to a major source or modification which the Executive Director, on a case-by-case basis, determines is achievable for a source based on the lowest achievable emission rate achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act). (OAC 252:100-7 Part 7)~~

~~**"Maintenance finishes"** means a chemical coating formulated to form a protection of a given substrate to adverse chemical or physical condition. (OAC 252:100-37)~~

~~**"Major modification"** when used in OAC 252:100-7, Part 5, means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.~~

~~(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.~~

~~(B) A physical change or change in the method of operation shall not include:~~

~~(i) routine maintenance, repair and replacement;~~

~~(ii) use of an alternate 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 Federal Clean Air 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 source which:~~

~~(I) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975, or~~

~~(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7;~~

~~(vi) an increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975; or~~

~~(vii) any change in source ownership. (OAC 252:100-7, Part 5)~~

~~**"Major modification"** when used in OAC 252:100-7, Part 7, means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.~~

~~(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.~~

~~(B) A physical change or change in the method of operation shall not include:~~

~~(i) routine maintenance, repair and replacement;~~

~~(ii) use of an alternate 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 Federal Clean Air Act;~~

~~(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;~~

~~(v) use of an alternate fuel or raw material by a source which:~~

~~(I) the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976, or~~

~~(II) the source is approved to use under any Permit issued under 40 CFR 52.21 or OAC 252:100-7;~~

~~(vi) An increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976; or~~

~~(vii) Any change in source ownership. (OAC 252:100-7, Part 7)~~

~~**"Major source (major emitting facility)"** means any stationary facility or source of an air pollution which directly emits or has the potential to emit (i.e., as if no controls were to be applied) 100 tons or more per year. (Effective April 1, 1979)~~

**"Major ~~sources~~ 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)

~~**"Major stationary source"** when used in OAC 252:100-7, Part 5, means:~~

~~(A) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:~~

~~(i) fossil fuel fired steam electric plants of more than 250 million BTU per hour heat input,~~

~~(ii) coal cleaning plants (with thermal dryers),~~

~~(iii) kraft pulp mills,~~

~~(iv) portland cement plants,~~

~~(v) primary zinc smelters,~~

~~(vi) iron and steel mill plants,~~
~~(vii) primary aluminum ore reduction plants,~~
~~(viii) primary copper smelters,~~
~~(ix) municipal incinerators capable of charging more than 50 tons of refuse per day,~~
~~(x) hydrofluoric, sulfuric or nitric acid plants,~~
~~(xi) petroleum refineries,~~
~~(xii) lime plants,~~
~~(xiii) phosphate rock processing plants,~~
~~(xiv) coke oven batteries,~~
~~(xv) sulfur recovery plants,~~
~~(xvi) carbon black plants (furnace process),~~
~~(xvii) primary lead smelters,~~
~~(xviii) fuel conversion plants,~~
~~(xix) sintering plants,~~
~~(xx) secondary metal production plants,~~
~~(xxi) chemical process plants,~~
~~(xxii) fossil-fuel boilers (or combustion thereof) totaling more than 250 million BTU per hour heat input,~~
~~(xxiii) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,~~
~~(xxiv) taconite ore processing plants,~~
~~(xxv) glass fiber processing plants,~~
~~(xxvi) charcoal production plants, or~~
~~(xxvii) any other source not on the above list which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.~~

~~(B) Any physical change that would occur at a source not otherwise qualifying as a major source under (A) of this definition if the change would constitute a major source by itself.~~

~~(C) For ozone, any source that is major for volatile organic compounds shall be considered major. (OAC 252:100-7, Part 5)~~

~~**"Major stationary source"** when used in OAC 252:100-7, Part 7, means:~~

~~(A) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation; or,~~

~~(B) Any physical change that would occur at a source not qualifying under (A) of this definition as a major source, if the change would constitute a major source by itself.~~

~~(C) For ozone, any source that is major for volatile organic compounds shall be considered major. (OAC 252:100-7, Part 7)~~

**"Malfunction"** ~~means any sudden and unavoidable failure of air pollution control equipment on process or process equipment to operate in a normal and usual manner. Failures caused entirely or partially by poor maintenance, careless operation or any other preventable upset condition or preventable equipment failure shall not be considered a malfunction. (252:100-9)~~ 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.

~~**"Manual tread end cementing"** means the application of a solvent based cement to the tire tread ends by manufacturers. (252:100-39-44)~~

~~**"Mechanical fuel-burning equipment"** means fuel-burning equipment incorporating means by which fuel is mechanically introduced into the combustion chamber.~~

**"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:

(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. ~~(Effective June 22, 1974)~~

~~**"Motor vehicle"** means a self-propelled, wheeled vehicle designed for normal use of public streets and highways. (OAC 252:100-15)~~

~~**"Motor vehicle pollution control devices"** means any or all of the devices or systems referred to in this Section and designed to control or prevent air pollution emissions from motor vehicles. (OAC 252:100-15)~~

~~**"Multiple-chamber incinerator"** means any article, machine, equipment, or contrivance or part of a structure, used to dispose of refuse or garbage by burning, consisting of three or more refractory-lined chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design necessary for maximum combustion of material to be burned.~~

~~**"Necessary preconstruction approvals or permits"** means those permits or approvals required under all applicable air quality control laws and rules. (OAC 252:100-7, Parts 5 and 7)~~

~~**"Net emissions increase"** when used in OAC 252:100-7, Part 5, means:~~

~~(A) The amount by which the sum of the following exceeds zero:~~

~~(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,~~

~~(ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.~~

~~(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 the Executive Director has not relied on it in issuing a permit under OAC 252:100-7, Part 3, 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 or particulate matter which occurs before the applicable 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:~~

~~(i) the old level of actual emissions or the old level of allowable emissions, which ever is lower, exceeds the new level of actual emissions.~~

~~(ii) it is enforceable at and after the time that actual construction on the particular change begins.~~

~~(iii) 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 emission 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. (OAC 252:100-7, Part 5)~~

~~**"Net emissions increase"** when used in OAC 252:100-7, Part 7, means:~~

~~(A) The amount by which the sum of the following exceeds zero:~~

~~(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,~~

~~(ii) any other increases and decreases in actual emission at the source that are contemporaneous with the particular change and are otherwise creditable.~~

~~(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 the Executive Director has not relied on it in issuing a permit under OAC 252:100-7, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.~~

~~(D) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.~~

~~(E) A decrease in actual emissions is creditable only to the extent that:~~

~~(i) the old level of actual emissions or the old level of the allowable emissions, whichever is lower, exceeds the new level of actual emissions.~~

~~(ii) it is enforceable at and after the time that actual construction on the particular change begins.~~

~~(iii) the reviewing authority has not relied on it in issuing any permit under State air quality regulations.~~

~~(iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.~~

~~(F) an increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational after a reasonable shakedown period, not to exceed 180 days. (OAC 252:100-7, Part 7)~~

**"New installation~~ (source or equipment)~~", "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 ~~altered~~ modified, replaced, or ~~rebuilt~~ reconstructed after the effective date of the regulations such that the amount of air contaminant emissions is increased.

~~**"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. (Effective July 1, 1977)~~

~~**"Nitric acid plant"** means process involving the high temperature oxidation of ammonia with air over a catalyst to form nitric oxide which is reacted with air to form nitrogen dioxide which is absorbed in water to weak nitric acid which may be concentrated. The plant consists of, but is not limited to, the reactor, absorber, concentrator and other auxiliaries pertinent to the process.~~

~~**"Nitrocellulose lacquers"** means a chemical coating containing nitrocellulose and suitable resinous modifiers, and whose primary mode of cure is solvent evaporation. (OAC 252:100-37)~~

~~**"Odorant (odor)"** means that property of a material that affects the sense of smell.~~

**"Opacity"** means ~~equivalent opacity~~ 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. ~~(OAC 252:100-13)~~

~~**"Organic materials"** means chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic~~

~~acid, metallic carbides, metallic carbonates, and ammonium carbonate.~~

~~**"Organic solvents"**~~

~~(A) when used in Subchapter 37 of this Chapter, means organic materials including diluents and thinners which are liquids at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents, except that such materials which exhibit a boiling point higher than 220°F. at 0.5 millimeters of mercury absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220°F. However, the following listed materials are presently judged to be suitable for exclusion to any control:~~

~~(i) methane,~~

~~(ii) ethane,~~

~~(iii) 1,1,1 trichloroethane (methyl chloroform),~~

~~(iv) trichlorotrifluoroethane (freon 113), and~~

~~(v) methylene chloride (dichloromethane). (OAC 252:100-37)~~

~~(B) when used in the remainder of this Chapter, unless specifically defined otherwise, means organic materials including diluents and thinners which are liquids at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents, except that such materials which exhibit a boiling point higher than 220°F. at 0.5 millimeters of mercury absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220°F. (Effective June 22, 1974)~~

**"Owner or operator"** means any person who owns, leases, operates, controls or supervises a source. ~~(Effective June 22, 1974)~~

**"PM-10 emissions"** means ~~finely divided solid or liquid material~~ particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers, as measured during a stack test of the source's emissions.

**"PM-10 (particulate matter - 10 micrometers)"** means ~~a portion of total suspended particulates, comprised by that fraction of particles which exhibit an average aerodynamic particle diameter of 10 micrometers or less and exists as a solid or a liquid, and is - is defined as~~ particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a federal reference method based on Appendix J of 40 CFR Part 50.

~~**"Packaging rotogravure printing"** means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates which are, in subsequent operations, formed into packaging products and labels for articles to be sold. (252:100-39-43)~~

~~**"Paper mill"** means a plant in which paper, paperboard, cardboard, paper felt, or similar material is produced from waste paper products, wood chips and/or pulp slurry, including, but not limited to, mixers, forming screens, suction boxes, dryers, filters, paper rolls and other auxiliary equipment pertinent to the process.~~

~~**"Particle board"** means mat-formed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.~~

**"Particulate matter"** means any material that exists in a finely divided form as a liquid or a solid.

**"Particulate matter emissions"** means ~~are finely divided solid or liquid material as measured during a stack test of the sources emissions~~ particulate matter emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method.

~~**"Passenger type tire"** means agricultural, airplane, industrial, mobile home, light and medium duty truck, and passenger vehicle tires with a bead diameter up to but not including 20.0 inches and cross section dimension up to 12.8 inches. (252:100-39-44)~~

~~**"Petroleum and natural gas processes"** means processes used in the processing of crude petroleum and/or natural gas into refined products including, but not limited to, distillation columns, treating columns, catalytic cracking units, catalytic reforming units, sulfur removal equipment, petroleum coke units, flares, heat exchangers, reboilers, jet ejectors, compressors, recompressors and other auxiliary equipment pertinent to the process.~~

~~**"Petroleum liquids"** means crude oil, condensate, and any finished or intermediate liquid products manufactured or extracted in a petroleum refinery. (OAC 252:100-39, Part 5)~~

~~**"Petroleum refinery"** means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil and other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives. (OAC 252:100-39, Part 3)~~

~~**"Photochemically reactive solvent"** means any solvent with an aggregate more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composite limitations, referred to the total volume of solvent:~~

~~(A) a combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cyclo-olefinic type of unsaturation: 5 percent;~~

~~(B) a combination of aromatic compounds with either eight (8) or more carbon atoms to the molecule except ethylbenzene: 8 percent;~~

~~(C) a combination of ethylbenzene, ketones having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent.Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered as a member of the most reactive chemical group; that is, that group having the least allowable percent of the total volume of solvents.~~

~~**"Plywood"** means panel built generally of a number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at an angle to the one adjacent to it.~~

~~**"Pneumatic rubber tire manufacture"** means the production of pneumatic rubber, passenger type tire on a mass production basis. (OAC 252:100-39-44)~~

~~**"Portable source"** means a source with design and intended use to allow disassembly or relocation. (Effective July 1, 1977)~~

**"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. ~~(OAC 252:100-7, Parts 5 and 7)~~

**"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.

~~**"Products of combustion"** means all particulate and gaseous air contaminants emitted as a result of the burning of refuse and combustible materials. (OAC 252:100-13)~~

~~**"Publication rotogravure printing"** means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials. (OAC 252:100-39-43)~~

~~**"Pulp mill"** means the process equipment used in production of pulp from wood chips or bolts which may include but are not limited to, debarker, chipper, digester, blow tank, washers, condensers, evaporators, recovery furnace, lime kiln, smelt dissolving tank, mixers, heat exchangers, gas scrubbers and other auxiliaries pertinent to the process.~~

**"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. ~~(OAC 252:100-37)~~

~~**"Refinery unit"** means a set of components which are a part of a basic process operation, such as, distillation, hydrotreating, cracking or reforming of hydrocarbons. (OAC 252:100-39, Part 3)~~

**"Refuse"**

~~(A) when used in Subchapter 13 of this Chapter, means garbage, rubbish, and all other wastes generated by a trade, business, industry, building operation, or household. (OAC 252:100-13)~~

~~(B) when used in the remainder of this Chapter, unless specifically defined otherwise,~~ 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.

**"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 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.

~~**"Resource recovery facility"** means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 50 percent of the heat input to be considered a resource recovery facility under OAC 252:100-7, Part 7.~~

~~**"Ringelmann chart"** means the chart published and described in the U.S. Bureau of Mines Information Circular 8333.~~

~~**"Roll printing"** means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage. (OAC 252:100-39-43)~~

~~**"Rotogravure printing"** means the application of works, designs and pictures to a substrate by means of a roll printing technique which involves an intaglio or recessed image areas in the form of cells. (OAC 252:100-39-43)~~

~~**"Secondary emissions"** means emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purposes of OAC 252:100-7, Parts 5 and 7, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:~~

~~(A) emissions from trains coming to or from the new or modified stationary source; and,~~

~~(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification. (OAC 252:100-7, Parts 5 and 7)~~

**"Shutdown"** means the cessation of operation of any process, process equipment, or air pollution control equipment ~~process or process equipment other than routine phasing out of process units~~. ~~As used in this regulation, the term "phasing out" refers to the permanent cessation of use of a piece of process equipment. (OAC 252:100-9)~~

~~**"Significant"** when used in OAC 252:100-7, Part 5, means:~~

~~(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, significant means, a rate of emissions that would equal or exceed any of the following rates:~~

~~(i) carbon monoxide: 100 tons per year (tpy)~~

~~(ii) nitrogen oxides: 40 tpy~~

~~(iii) sulfur dioxide: 40 tpy~~

~~(iv) particulate matter: 25 tpy of particulate matter emissions or 15 tpy of PM-10 emissions~~

~~(v) ozone: 40 tpy of volatile organic compounds~~

~~(vi) lead: 0.6 tpy~~

~~(vii) asbestos: 0.007 tpy~~

~~(viii) beryllium: 0.0004 tpy~~

~~(ix) mercury: 0.1 tpy~~

~~(x) vinyl chloride: 1 tpy~~

~~(xi) fluorides: 3 tpy~~

~~(xii) sulfuric acid mist: 7 tpy~~

~~(xiii) hydrogen sulfide ($H_2S$): 10 tpy~~

~~(xiv) total reduced sulfur (including $H_2S$): 10 tpy~~

~~(xv) reduced sulfur compounds (including $H_2S$): 10 tpy~~

~~(B) notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major source or 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 ug/m$^3$ (24-hour average). (OAC 252:100-7, Part 5)~~

~~**"Significant"** when used in OAC 252:100-7, Part 7, means 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 rates:~~

~~(A) carbon monoxide: 100 tons per year (tpy)~~

~~(B) nitrogen oxides: 40 tpy~~

~~(C) sulfur dioxide: 40 tpy~~

~~(D) particulate matter: 15 tpy of PM-10 emissions~~

~~(E) ozone: 40 tpy of volatile organic compounds~~

~~(F) lead: 0.6 tpy. (OAC 252:100-7, Part 7)~~

**"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.

~~**"Soiling index"** means a measure of the soiling properties of suspended particulates determined by drawing a known volume of air through a known area of filter paper tape and measuring the optical density of the filtered deposit as given in the American Society for Testing Materials Standard D-1704-61, expressed in coefficient of haze (COH's) per 1000 linear feet.~~

~~**"Source gas volume"** means the volume in standard cubic feet, of all gases leaving a source operation; for purposes of this definition, the boundary of a source operation is that point or surface at which the separation of the air contaminants from the process materials, or the conversion of the process materials, or the conversion of the process materials into air contaminants, is essentially complete.~~

**"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 ~~any chimney, flue, duct, conduit, exhaust, vent or opening of any kind whatsoever capable of, or used for, the emission of air contaminants~~, unless specifically defined otherwise, any chimney, flue, duct, conduit, exhaust, vent or opening 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.

~~**"Standard cubic foot of gas"** means that amount of gas which would occupy a cube having dimensions of one foot on each side, if the gas were at standard conditions; calculations to determine the number of standard cubic feet corresponding to actual measured conditions shall follow accepted engineering practice.~~

~~**"Standard dry cubic foot of gas"** means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor and at standard condition; calculations to determine the number of standard dry cubic feet corresponding to actual measured conditions shall follow accepted engineering practice.~~

**"Startup"** means the setting into operation of any process, process equipment, or air pollution control equipment~~, process or process equipment for any purpose other than routine phasing in of process units. As used in this Chapter, the term "phasing in" refers to the initial introduction of a piece of process equipment into the particular process. (OAC 252:100-9)~~

~~**"Stationary engine"** means an internal combustion engine not providing motive power to a motor vehicle. Stationary external combustion engines are included in the definition for fuel burning equipment.~~

**"Stationary source"**

~~(A) when used in OAC 252:100-7, Parts 5 and 7, means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation. (OAC 252:100-7, Parts 5 and 7)~~

~~(B)~~ when used in the remainder of this Chapter means, unless specifically defined otherwise, ~~means~~ 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. ~~(Effective July 1, 1977)~~

~~**"Submerged fill pipe"** means any fill pipe or discharge nozzle which meets any one of the following conditions:~~

~~(A) the bottom of the discharge pipe or nozzle is below the surface of liquid in the receiving vessel for at least 95 percent of the volume filled;~~

~~(B) the bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel;~~

~~(C) the bottom of the discharge pipe or nozzle is less than two (2) pipe or nozzle diameters from the bottom of the receiving vessel; or,~~

~~(D) other equivalent methods acceptable to the Executive Director. (OAC 252:100-37 and 252:100-39)~~

~~**"TSP (total suspended particulates)"**~~ **"Total Suspended Particulates"** or **"TSP"** means ~~is defined as~~ particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50.

**"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.

~~**"Undertaking cementing"** means the application of a solvent based cement to the underside of a tire tread. (OAC 252:100-39-44)~~

~~**"Valves not externally regulated"** means valves that have no external controls, such as in-line check valves. (OAC 252:100-39, Part 3)~~

~~**"Vapor mounted seal"** means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof. (OAC 252:100-39, Part 5)~~

~~**"Veneer"** means a thin panel of wood usually not exceeding 1/4 inch in thickness, formed by slicing or peeling from a log.~~

~~**"Vinyl"** means a chemical coating containing plasterized or unplasterized polymers and co-polymers of vinyl acetate, vinyl chloride, polyvinyl alcohols or their condensation products and the primary mode of cure is solvent evaporation. (OAC 252:100-37)~~

**"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 compound ~~containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage condition. (OAC 252:100-37)~~ of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonates, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100(s)(1) will be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.

~~**"Water based sprays"** means release compounds, sprayed on the inside and outside of green tires, in which solids, water and emulsifiers have been substituted for organic solvents. These sprays may contain an average of up to five percent organic solvent. (OAC 252:100-39-44)~~

~~**"Waxy, high pour point crude oil"** means a crude oil with a pour point of 50°F. or higher as determined by the American Society for Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils." (OAC 252:100-39, Part 5)~~

**252:100-1-4. Units, abbreviations and acronyms**

(a) **Abbreviations and symbols of units of measure.**

(1) Btu - British thermal unit
(2) cm/sec - centimeter per second
(3) dscf - dry cubic feet at standard conditions
(4) dscm - dry cubic meter at standard conditions
(5) ft/min - feet per minute
(6) gal - gallon
(7) gal/d - gallons per day
(8) gal/yr - gallons per year
(9) gr/dscf - grains per dry standard cubic foot
(10) hr - hour
(11) Hg - mercury
(12) hp - horsepower
(13) $H_2O$ - water
(14) $H_2S$ - hydrogen sulfide
(15) $H_2SO_4$ - sulfuric acid
(16) kg - kilogram
(17) kg/metric ton - kilograms per metric ton
(18) kPa - kilopascals
(19) l - liter
(20) l/yr - liters per year
(21) LT/D - long tons per day
(22) lb/wk - pounds per week
(23) lb - pound
(24) lbs/hr - pounds per hour
(25) $m^3$ - cubic meter
(26) mg/dscm - milligrams per dry standard cubic meter
(27) MMBTU/hr - heat input in million british thermal units per hour
(28) Mg - megagram - $10^6$ gram
(29) Mg/yr - megagrams per year
(30) mg/l - milligrams per liter
(31) m/min - meter per minute
(32) ng/dscm - nanograms per dry standard cubic meter
(33) oz/$in^2$ - ounce per square inch
(34) ppm - parts per million
(35) psia - pounds per square inch absolute
(36) psig - pounds per square inch gage
(37) ppmv - parts per million by volume
(38) $SO_2$ - sulfur dioxide
(39) TPY - tons per year
(40) ug/$m^3$ - micrograms per cubic meter

(b) **Acronyms.**

(1) A.I.S.I. - American Iron and Steel Institute
(2) A.S.M.E. - American Society of Mechanical Engineers
(3) A.S.T.M. - American Society for Testing and Materials
(4) BACT - Best Available Control Technology
(5) CEM - Continuous Emission Monitor
(6) CFR - Code of Federal Regulations
(7) COM - Continuous Opacity Monitor
(8) DEQ - Department of Environmental Quality
(9) EPA - Environmental Protection Agency
(10) HAP - Hazardous Air Pollutants
(11) HMIWI - Hospital/Medical/Infectious Waste Incinerator
(12) MACT - Maximum Achievable Control Technology
(13) MSW - Municipal Solid Waste
(14) MWC - Municipal Waste Combustors
(15) NAAQS - National Ambient Air Quality Standards
(16) NESHAP - National Emissions Standards for Hazardous Air Pollutants
(17) NSPS - New Source Performance Standards
(18) OAC - Oklahoma Administrative Code
(19) PBR - Permit by Rule
(20) PM - Particulate Matter
(21) PSD - Prevention of Significant Deterioration
(22) SIC - Standard Industrial Classification
(23) SIP - State Implementation Plan
(24) TSP - Total Suspended Particulates
(25) VOC - Volatile Organic Compound
(26) 27A O.S. - Title 27A Oklahoma Statutes Annotated

## SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

## PART 1. GENERAL PROVISIONS

**252:100-7-1.1. Definitions**

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 regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in 252:100-5-2.1(d).

**"Best Available Control Technology"** or **"BACT"** means the best control technology that is currently available as determined by the Division 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

(A) Is on the de minimis list contained in Appendix H or meets all of the following de minimis criteria:

(i) Has actual emissions of five (5) tons per year or less of each regulated air pollutant, except Total Suspended Particulates (TSP).

(ii) Is not a "major source" as defined in 252:100-8-2.

(iii) Is not a "major stationary source" as defined in 252:100-8-31 for facilities in attainment areas.

(iv) Is not a "major stationary source" as defined in 252:100-8-51 for facilities in nonattainment areas.

(v) Is not operated in conjunction with another facility or source that is subject to air quality permitting.

(B) Is not subject to the federal NSPS (40 CFR Part 60).

(C) Is not subject to the NESHAP (40 CFR Parts 61 and 63).

**"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).

**"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.

**"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:

(A) Any Volatile Organic Compound (VOC), as that term is defined in 252:100-1-3, 252:100-37-2, or 252:100-39-2.

(B) Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.

(C) Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.

(D) Any Toxic Air Contaminant as defined and regulated under 252:100-41-2.

(E) Any other substance for which an air emission limitation or equipment standard is set by permit or rule.

## PART 9. PERMITS-BY-RULE

**252:100-7-60.3. Particulate matter emissions**

See 252:100-19-13.

**252:100-7-60.4. VOC storage and loading facilities**

See 252:100-37, Part 9.

## SUBCHAPTER 17. INCINERATORS

## PART 3. INCINERATORS

**252:100-17-2.2. Definitions**

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

**"Capacity"** means amount of specified wastes a unit is designed to burn. Capacity may be expressed as pounds per hour or tons per day.

**"Excess air"** means air entering a combustion chamber in excess of the amount theoretically required to complete combustion of materials in the combustion chamber.

**"Fly ash"** means particulate matter capable of being gas-borne or airborne consisting essentially of fused ash and/or burned or unburned material.

**"Primary combustion chamber"** means the initial incinerator chamber where waste is charged, ignited and burned.

**"Secondary burner"** means a supplemental burner in the secondary chamber for the purpose of maintaining a minimum temperature and to insure the complete combustion of volatile gases and smoke.

## SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS

## PART 1. GENERAL PROVISIONS

**252:100-31-2. Definitions**

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

**"Black liquor solids"** means the dry weight of the solids, which enter the recovery furnace in the black liquor.

**"Digester system"** means each continuous digester or each batch digester used for the cooking of wood in white liquor, and associated flash tank(s), below tank(s), chip steamer(s), and condenser(s).

**"Existing facility," "existing source,"** or **"existing equipment"** means any ~~air contaminant~~ facility, source, or equipment that emits sulfur compounds and which is in being prior to July 1, 1972, except that for facilities, sources, or equipment subject to ~~OAC 252:100-31-7(b) and OAC 252:100-31-26(a)(1), the term means any source in being prior to December 31, 1974, and for sources subject to OAC 252:100-31-13, the term means any source in being on or before August 17, 1971.~~ :

(A) OAC 252:100-31-7(b) and/or OAC 252:100-31-26(a)(1), the date is prior to December 31, 1974, and

(B) OAC 252:100-31-13, the date is on or before August 17 1971.

**"Lime kiln"** means a unit used to calcine lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.

**"Multiple-effect evaporator system"** means the multiple-effect evaporators and associated condenser(s) and hotwell(s) used to concentrate the spent cooking liquid that is separated from the pulp (black liquor).

**"New facility," "new installation," "new source,"** or **"new equipment"** means ~~an air contaminant~~ any facility, installation, source, or equipment that emits sulfur compounds and which is not in being on, or which is modified after, July 1, 1972, except that for ~~all sources subject to OAC 252:100-31-7(b) and OAC 252:100-31-26(a)(1) and for petroleum refining sources subject to OAC 252:100-31-26(a)(2), the date is December 31, 1974, and for sources subject to OAC 252:100-31-13 the date is August 17, 1971.~~ :

(A) facilities, installations, sources, or equipment subject to OAC 252:100-31-7(b) and/or OAC 252:100-31-26(a)(1) the date is December 31, 1974;

(B) petroleum refining facilities, sources, or equipment subject to OAC 252:100-31-26 (a)(2), the date is December 31, 1974; and

(C) facilities, sources or equipment subject to OAC 252:100-31-13, the date is August 17, 1971.

**"Petroleum and natural gas process"** means processes used in the processing of crude petroleum and/or natural gas into refined products including, but not limited to, distillation columns, treating columns, catalytic cracking units, catalytic reforming units, sulfur removal equipment, petroleum coke units, flares, heat exchangers, reboilers, jet ejectors, compressors, recompressors and other auxiliary equipment pertinent to the process.

**"Pulp mill"** means the process equipment used in production of pulp from wood chips or bolts which may include but are not limited to, debarker, chipper, digester, blow tank, washers, condensers, evaporators, recovery furnace, lime kiln, smelt-dissolving tank, mixers, heat exchangers, gas scrubbers, and other auxiliaries pertinent to the process.

**"Recovery furnace"** means either a straight kraft recovery furnace or a cross recovery furnace, and includes the direct-contact evaporator for a direct contact furnace.

**"Smelt dissolving tank"** means a vessel used for dissolving the smelt collected from the recovery furnace.

**"Sulfur recovery plant"** means a process device that recovers elemental sulfur from acid gas.

**"Sweetening plant"** means a process device that separates the $H_2S$ and $CO_2$ contents from the gas stream.

**"Three-hour average"** or **"3-hour average"** means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.

**"Total reduced sulfur"** or **"TRS"** is the sum of the compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide.

## SUBCHAPTER 35. CONTROL OF EMISSION OF CARBON MONOXIDE

### 252:100-35-1.1. Definitions

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

**"Basic oxygen furnace"** means a furnace in which the melting and refining of iron are accomplished by the addition at high velocities of large amounts of high purity oxygen to the atmosphere above the surface of the metal bath. The metal is held in a tiltable vessel with a basic refractory lining. Such a furnace includes the furnace proper, oxygen lance, scrap and flux charging units, iron transfer units, gas collecting and cleaning equipment, stacks and any other auxiliaries pertinent to the process.

**"Blast furnace"** means furnace and equipment used in connection with the smelting process of reducing metallic ores to molten metal in which primarily oxygen is removed from the ore and gas is produced as a by-product. The furnace and equipment consists of, but is not limited to, the furnace proper, charging equipment, stoves, bleeders, gas dust-cleaning devices, after-burner, and other auxiliaries pertinent to the process.

**"Existing source"** means any gray iron cupola, blast furnace, basic oxygen furnace, petroleum catalytic cracking unit or petroleum catalytic reforming unit, in being on July 1, 1972, and not modified thereafter so as to increase the emission of carbon monoxide.

**"Gray iron cupola"** means shaft-type furnace used for the melting of metals usually consisting of, but not limited to, the furnace proper, tuyeres, fans or blowers, tapping spout, charging equipment, gas-cleaning devices and other auxiliaries. Shaft furnaces used for processing non-metallic materials are not included under this definition but are included in the definition of process equipment.

**"New source"** means any gray iron cupola, blast furnace, basic oxygen furnace, petroleum catalytic cracking unit or petroleum catalytic reforming unit, in being after July 1, 1972.

## SUBCHAPTER 37. CONTROL OF EMISSION OF VOLATILE ORGANIC COMPOUNDS(VOCS)

## PART 1. GENERAL PROVISIONS

### 252:100-37-2. Definitions

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

**"Acrylic"** means a chemical coating containing polymers or co-polymers of acrylic or substitute acrylic acid in combination with resinous modifiers. The primary mode of cure is solvent evaporation.

**"Alkyd primer"** means a chemical coating composed primarily of alkyd applied to a surface to provide a firm bond between the substrate and any additional coating.

"**Condensate**" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at normal operating conditions.

"**Custom product finish**" means a proprietary chemical coating designed for a specific customer and use.

"**Drilling or production facility**" means all drilling and servicing equipment, wells, flow lines, separators, equipment, gathering lines, and auxiliary non-transportation-related equipment used in the production of petroleum but does not include natural gasoline plants.

"**Effluent water separator**" means any container in which any VOC floating on, entrained in, or contained in water entering the container is physically separated and removed from the water prior to discharge of the water from the container.

"**Epoxy**" means a chemical coating containing epoxy groups and suitable chemical cross-linking agents. The primary mode of cure involves a chemical reaction between the epoxy and the cross-linking agent.

"**External floating roof**" means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

"**Lease custody transfer**" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage vessels or automatic transfer facilities to pipelines or any other form of transportation.

"**Maintenance finish**" means a chemical coating that protects a given substrate from adverse chemical or physical conditions.

"**Nitrocellulose lacquer (NC lacquer)**" means a chemical coating containing nitrocellulose and suitable resinous modifiers . The primary mode of cure is solvent evaporation.

"**Submerged fill pipe**" means any fill pipe or discharge nozzle that meets any one of the following conditions.

(A) The bottom of the discharge pipe or nozzle is below the surface of the liquid in the receiving vessel for at least 95 percent of the volume filled.

(B) The bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel.

(C) The bottom of the discharge pipe or nozzle is less than 2 pipe or nozzle diameters from the bottom of the receiving vessel.

"**Vinyl**" means a chemical coating containing plasticized or unplasticized polymers and co-polymers of vinyl acetate, vinyl chloride, polyvinyl alcohols or their condensation products. The primary mode of cure is solvent evaporation.

"**Volatile organic compound (VOC)**" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100(s)(1) will be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.

## PART 5. CONTROL OF VOCS IN COATING OPERATIONS

### 252:100-37-25. Coating of parts and products

(a) **Standards.** No owner or operator of any coating line or coating operation with VOC emissions shall use coatings that as applied contain VOCs in excess of the amounts listed below. (Limits are expressed in pounds of VOC per gallon of coating, excluding the volume of any water and exempt organic compounds.)

(1) Alkyd primer - 4.8
(2) Vinyls - 6.0
(3) NC lacquers - 6.4
(4) Acrylics - 6.0
(5) Epoxies - 4.8
(6) Maintenance finishes - 4.8
(7) Custom products ~~finishes~~ finish - 6.5

(b) **Plant-wide emission plan.**

(1) **Development of a plant-wide emission plan.** An owner or operator may develop a plant-wide emission plan instead of having each coating line comply with the VOC content limitations in 252:100-37-25(a), if the following conditions are met.

(A) The owner or operator demonstrates by the methods in 252:100-5-2.1(d) that sufficient reductions in emissions of VOCs may be obtained by controlling other sources within the plant to the extent necessary to compensate for all excess emissions that result from one or more coating lines not achieving the limitation. Such demonstration shall be made in writing and shall include:

(i) a complete description of the coating line or lines that can not comply with the VOC content limitation in 252:100-37-25(a);

(ii) quantification of emissions, in terms of pounds per day of VOCs, which are in excess of the VOC content limitation for each coating line described under 252:100-37-25(b)(1)(A)(i);

(iii) a complete description of how emissions will be decreased at specific sources to compensate for excess emissions from each coating line described under 252:100-37-25(b)(1)(A)(i) and the date on which such reductions will be achieved;

(iv) quantification of emissions, in terms of pounds per day of VOCs, for each source described under 252:100-37-25(b)(1)(A)(iii), both before and after the improvement or installation of any applicable control system, or operational changes to such a facility or facilities to reduce emissions; and,

(v) a description of the procedures and methods used to determine the emissions of VOCs.

(B) The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules.

(2) **Compliance with a plant-wide emission plan.** The implementation of a plant-wide emission reduction

plan instead of compliance with the VOC content limitation prescribed in 252:100-37-25(a) must be approved in writing by the Division Director. Upon approval, any emissions in excess of those established for each facility under the plan shall be a violation of this Subchapter.

(c) **Exemption.** Owners or operators of sources that emit less than 100 pounds of VOC per 24-hour day are exempt from the requirements of this Section.

(d) **Alternate standard.** The use of coatings with VOC contents in excess of those permitted by 252:100-37-25(a) or 252:100-37-25(b) is allowable if both of the following conditions are met:.

(1) VOC emissions are reduced to the quantity that would occur if the coating used complied with the VOC content allowed in 252:100-37-25(a) by:

(A) incineration;

(B) absorption/adsorption; or,

(C) any other process of equivalent reliability and effectiveness.

(2) No air pollution, as defined by the Clean Air Act, results.

## SUBCHAPTER 39. EMISSION OF VOLATILE ORGANIC COMPOUNDS(VOCS) IN NONATTAINMENT AREAS AND FORMER NONATTAINMENT AREAS

## PART 5. PETROLEUM PROCESSING AND STORAGE

### 252:100-39-30. Petroleum liquid storage in vessels with external floating roofs

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) **"Condensate"** means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at standard conditions.

~~(2)**"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.~~

(~~3~~2) **"Drilling or production facility"** means all drilling and servicing equipment, wells, flow lines, separators, equipment, gathering lines, and auxiliary non-transportation-related equipment used in the production of petroleum but does not include natural gasoline plants.

(~~4~~3) **"External floating roof"** means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(~~5~~4) **"Lease custody transfer"** means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage vessels or automatic transfer facilities to pipelines or any other form of transportation.

(~~6~~5) **"Liquid-mounted seal"** means primary seal mounted in continuous contact with the liquid between the vessel wall and the floating roof.

(~~7~~6) **"Petroleum liquid"** means crude oil, condensate, and any finished or intermediate liquid products manufactured or extracted in a petroleum refinery.

(~~8~~7) **"Vapor-mounted seal"** means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the vessel wall, the liquid surface, and the floating roof.

(~~9~~8) **"Waxy, high pour point crude oil"** means a crude oil with a pour point of 59°F or higher as determined by the American Society of Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils."

(b) **Applicability.**

(1) This Section applies to petroleum liquid storage vessels equipped with external floating roofs, having capacities greater than 40,000 gal (150,000l).

(2) This Section does not apply to petroleum liquid storage vessels that:

(A) are used to store waxy, high pour point crude oil;

(B) have capacities less than 422,675 gal ( 1,600 $m^3$) and are used to store produced crude oil and condensate prior to lease custody transfer;

(C) contain a petroleum liquid with a true vapor pressure less than 1.5 psia (10.5 kPa);

(D) contain a petroleum liquid with a true vapor pressure less than 4.0 psia (27.6 kPa) if the vessels are of welded construction and have a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Division Director; or,

(E) are of welded construction, are equipped with a metallic-type shoe primary seal and have a secondary seal from the top of the shoe seal to the vessel wall (shoe-mounted secondary seal).

(3) Storage vessels that are subject to the equipment standards for external floating roofs in 40 CFR 60 Subparts Ka or Kb are exempt from the requirements of 252:100-39-30.

(4) Storage vessels that are subject to the equipment standards for external floating roofs in 40 CFR 63 Subparts CC (63.646) or G shall be exempt from the requirements of 252:100-39-30 upon the date compliance with the standards in Subparts CC and G is required.

(c) **Equipment and operating requirements.**

(1) **Standards.** Each storage vessel used to store a petroleum liquid shall meet the following conditions.

(A) The vessel has been fitted with:

(i) a continuous secondary seal extending from the floating roof to the vessel wall (rim-mounted secondary seal); or,

(ii) a closure device or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required in 252:100-39-30(c)(1)(A)(i) and approved by the Division Director.

(B) All seal closure devices meet the following requirements.

(i) There are no visible holes, tears, or other openings in the seal(s) or seal fabric.

(ii) The seal(s) are intact and uniformly in place around the circumference of the floating roof between the floating roof and the vessel wall.

(iii) The accumulated area of gaps exceeding 1/8 in. (0.32 cm) in width between the secondary seal and the vessel wall when the secondary seal is used in combination with a vapor mounted primary seal shall not exceed 1.0 in.$^2$/ft of vessel diameter (21.2 cm$^2$/m of vessel diameter). This shall be determined by physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a 1/8 in. (0.32 cm) uniform diameter probe passes freely between the seal and the vessel wall and summing the areas of the individual gaps.

(C) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are:

(i) equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and,

(ii) equipped with projections into the vessel which remain below the liquid surface at all times.

(D) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports.

(E) Rim vents are set to open when the roof is being floated off the leg supports or at the manufacturer's recommended settings.

(F) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers which cover at least 90 percent of the area of the opening.

(2) **Monitoring.** The owner or operator of a petroleum liquid storage vessel with an external floating roof subject to this Section shall:

(A) perform routine inspections semi-annually in order to ensure compliance with 252:100-39-30(c)(1)(B)(i), i.e., no visible holes, tears, or other openings in the seals or seal fabric;

(B) measure the secondary seal gap annually in accordance with 252:100-39-30(c)(1)(B)(iii), when the floating roof is equipped with a vapor-mounted primary seal; and,

(C) maintain records of the types of volatile petroleum liquids stored, the true vapor pressure of the liquid as stored, and the results of the inspections performed in 252:100-39-30(c)(2)(A) and 252:100-39-30(c)(2)(B).

(3) **Recordkeeping.**

(A) Copies of all records under 252:100-39-30(c)(2) shall be retained by the owner or operator for a minimum of two years after the date on which the record was made.

(B) Copies of all records under this Section shall be made available to the Division Director, upon request, at any reasonable time.

(d) **Compliance schedule.** Compliance with this Section shall be accomplished by affected facilities by May 23, 1982.

## PART 7. SPECIFIC OPERATIONS

### 252:100-39-46. Coating of parts and products

(a) **Applicability.** This Section shall apply only to industries located in Tulsa County which manufacture and/or coat metal parts and products , such as large farm machinery, small farm machinery, small appliances, commercial machinery, industrial machinery and fabricated metal products. Architectural coating, aerospace coating, and automobile refinishing are not included.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) **"Air or forced air dry coatings"** means coatings that are dried by the use of air or forced warm air at temperatures up to 194°F.

(2) **"Architectural coating"** means coating used for residential, commercial and/or industrial buildings and their appurtenances.

(~~2~~3) **"Clear coat"** means a coating that lacks color and opacity or is transparent and uses the undercoat as a reflectant base.

(~~3~~4) **"Extreme performance coatings"** mean coatings designed for harsh exposure or extreme environmental conditions (e.g., exposure to the weather all of the time, temperature above 200°F, detergents, abrasive and scouring agents, solvents, corrosive atmosphere or similar conditions).

(~~4~~5) **"Facility"** means all emission sources located on contiguous properties under common control which are affected by the surface coating provisions of 252:100-37 and 252:100-39.

(~~5~~6) **"Powder"** means a coating that is applied in a finely divided state by various methods, and becomes a continuous, solid film when the metal part or product is moved to an oven for curing.

(~~6~~7) **"Transfer efficiency"** means the weight (or volume) of coating solids adhering to the surface being coated divided by the total weight (or volume) of coating solids delivered to the applicator.

(c) **Existing source requirement.** No owner or operator shall discharge or cause the discharge into the atmosphere from an existing coating line or individual coating operation any

VOC in excess of the amounts listed in 252:100-39-46(d) as calculated by EPA method 24, 40 CFR Part 60.

(d) **Standards.** The following table enumerates the limitations for surface coatings in pounds of VOC per gallon of coating as applied (water and exempt compounds). If more than one limit listed in the table is applicable to a specific coating, then the least stringent limitation shall be applied.

| Coating type | Limitations | |
|---|---|---|
| | lbs/gal | kg/l |
| Air or Forced Air Dry | 3.5 | 0.42 |
| Clear Coat | 4.3 | 0.52 |
| Extreme Performance | 3.5 | 0.42 |
| Powder | 0.4 | 0.05 |
| Other | 3.0 | 0.36 |

(e) **Emission factor.** For the purposes of calculating an emission factor (EF) in pounds VOC per gallon of coating solids for use in the development of a plant-wide emission plan as described in 252:100-39-46(j)(1), the following formula will be utilized: EF = VD/l-(V+W) = VD/S where:

(1) V = volume fraction of VOC in coating.

(2) D = density of VOC in the coating.

(3) W = volume fraction of water in coating.

(4) S = l-(V+W) = volume fraction of solids in coating.

(f) **Compliance.** Compliance with the coating limits listed in 252:100-39-46(d) is to be calculated on a daily weighted average basis.

(g) **VOC-containing materials.** VOC-containing materials used for clean up shall be considered in the VOC content limits listed in 252:100-39-46(d) unless:

(1) the VOC containing materials are maintained in a closed container when not in use;

(2) closed containers are used for the disposal of cloth or paper or other materials used for surface preparation and cleanup;

(3) the spray equipment is disassembled and cleaned in a VOC vat and the vat is closed when not in use; or,

(4) the VOC containing materials used for the clean up of spray equipment are sprayed directly into closed containers.

(h) **Exemptions.** Facilities with a potential to emit 10 tons/year or less of VOC from coating operations are exempt from this Section. Once this limit is exceeded, the facility will always be subject to this Section.

(i) **Alternate standard.** Coatings with VOC contents in excess of those allowed by 252:100-39-46(d) may be used if both of the following conditions are met.

(1) Emissions are reduced to levels equivalent to those that would occur if the VOC content of the coatings met the limits contained in 252:100-39-46(d) and there is an overall control efficiency of at least:

(A) 85 percent by incineration;

(B) 85 percent by absorption; or,

(C) 85 percent by any other equipment of equivalent reliability and effectiveness.

(2) No air pollution, as defined by the Clean Air Act, results.

(j) **Emission plan.**

(1) **Development of a plant-wide emission plan.** An owner or operator may develop a plant-wide emission plan consistent with EPA's Emission Trading Policy as published in the December 4, 1986 Federal Register instead of having each coating line comply with the VOC content limitations contained in 252:100-39-46(d), if the following conditions are met.

(A) The owner or operator demonstrates by the methods prescribed in 252:100-5-2.1(d) that sufficient reductions in VOC emissions may be obtained by controlling other sources within the plant to the extent necessary to compensate for all excess emissions which result from one or more coating lines not achieving the prescribed limitation. Such demonstration shall be made in writing and shall include:

(i) a complete description of the coating line or lines that can not comply with the VOC content limitation in 252:100-39-46(d);

(ii) quantification of emissions, in terms of pounds per day of VOCs, which are in excess of the prescribed VOC content limitation for each coating line described in 252:100-39-46(j)(A)(i);

(iii) a complete description of how emissions will be decreased at specific sources to compensate for excess emissions from each coating line described in 252:100-39-46(j)(A)(i) and the date on which such reduction will be achieved;

(iv) a transfer efficiency based on a 60 percent baseline with emissions expressed in pounds of VOC per gallon of solids when transfer efficiency is used to compensate for excess emissions from spray painting operations;

(v) a demonstration of credits for improvements in transfer efficiency with in plant testing that complies with EPA methods.

(vi) quantification of emissions, in terms of pounds per day of VOCs, for each source both before and after the improvement or installation of any applicable control system, or any physical or operational changes to such a facility or facilities to reduce emissions and the date on which such reductions will be achieved; and,

(vii) a description of the procedures and methods used to determine the emissions of VOCs.

(B) The plant-wide emission reduction plan does not include decreases in emissions resulting from requirements of other applicable air pollution rules. The plant-wide emission reduction plan as described in the Emissions Trading Policy may include voluntary decreases in emissions accomplished through installation or improvement of a control system or through physical or operational changes to emission units, including permanently reduced production or

closing a facility, located on the premises of a surface-coating operation.

(2) **Compliance with a plant-wide emission plan.** The implementation of a plant-wide emission reduction plan instead of compliance with the VOC content limitation prescribed in 252:100-39-46(d) has been expressly approved by the Executive Director and the EPA Administrator. Upon approval of a plan, any emissions in excess of those established for each facility under the plan shall be a violation of these rules.

(k) **Compliance, testing, and monitoring requirements.**

(1) The Division Director may require at the expense of the owner or operator a demonstration of compliance with the emission limits using EPA Methods 24, 24A, 1-4, 25, 25A, 25B in 40 CFR 60.444 or EPA Document 450/3-84-019. At a minimum, such test must show that the overall capture efficiency and destruction efficiency are equal to 85 percent (e.g., 90 percent capture efficiency multiplied by 95 percent destruction efficiency equals 85.5 percent system efficiency). The one hour bake option in Method 24 is required when doing compliance testing.

(2) Testing for plant-wide emission plans shall be conducted at the expense of the owner or operator to demonstrate compliance with the VOC content limits contained in 252:100-39-46(d).

(3) Monitoring shall be required of any owner or operator subject to this Section who uses add-on control equipment for compliance. Such monitoring shall include installation and maintenance of monitors to accurately measure and record operational parameters of all required control devices to ensure the proper functioning of those devices in accordance with design specifications, including:

(A) the exhaust temperature of direct flame incinerators and/or gas temperature immediately upstream and downstream of any catalyst bed;

(B) the total amount of VOCs recovered by carbon adsorption or other VOC recovery system during a calendar month; and,

(C) the dates and reasons for any maintenance and repair of the required control devices and the estimated quantity and duration of emissions during such activities;

(l) **Reporting and recordkeeping.**

(1) The owner or operator of a facility subject to this Section shall submit to the Division Director upon written request reports detailing specific VOC sources; the quantity of coatings used for a specific time period, VOC content of each coating; capture and control efficiencies; and any other information pertinent to the calculation of VOC emissions. The data necessary to supply the requested information shall be retained by the owner or operator for a minimum of two years.

(2) The owner or operator of a facility subject to this Section shall maintain records of any testing conducted at an affected facility in accordance with the provisions specified in 252:100-39-46(k), as well as all other records, for at least two years. These records shall be available to representatives of the DEQ upon request.

(m) **Compliance date.** The date of compliance with the requirements of this Section is December 31, 1990.

*[OAR Docket #03-874; filed 5-6-03]*

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## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
## CHAPTER 100. AIR POLLUTION CONTROL

*[OAR Docket #03-875]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 17. Incinerators [AMENDED]
**AUTHORITY:**
Environmental Quality Board; 27A O.S. §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. 2001 § 2-5-101, *et seq.*
**DATES:**
**Comment period:**
June 17, 2002 through July 17, 2002
September 16, 2002 through October 16, 2002
December 16, 2002 through January 15, 2003
February 28, 2003
**Public hearing:**
July 17, 2002, October 16, 2002, January 15, 2003 and February 28, 2003
**Adoption:**
February 28, 2003
**Submitted to Governor:**
March 6, 2003
**Submitted to House:**
March 6, 2003
**Submitted to Senate:**
March 6, 2003
**Gubernatorial approval:**
April 21, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on May 1, 2003
**Final adoption:**
May 1, 2002
**Effective:**
June 12, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
**Incorporated standards:**

40 CFR 60, Subpart 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", Sections 60.51b, 60.55b, 60.58b, and 60.59b, except 60.59b(a), (b)(5), and (d)(11)

40 CFR 60, Appendix A-7, Reference Method 19, Determination of sulfur dioxide removal efficiency and particulate, sulfur dioxide and nitrogen oxides emission rates, Table 19-1

40 CFR 60, Subpart Ec, "Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction Is Commenced After June 20, 1996", Sections, 60.51c, 60.53c, 60.55c, 60.56c, except 60.56c(b)(12) and (c)(3), 60.57c, and 60.58c(b) through 60.58c(f), except 60.58c(b)(2)(ii) and (b)(7)

40 CFR 60, Subpart CCCC, "Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001", Sections 60.2055, 60.2065, 60.2070, 60.2080, 60.2085, 60.2090, 60.2095, 60.2100, 60.2110, except 60.2110(b), 60.2115, 60.2120, 60.2125, 60.2130, 60.2135, 60.2145, 60.2150, 60.2155, 60.2160, 60.2165, 60.2170, 60.2175, except 60.2175(g), 60.2180, 60.2200, 60.2205, 60.2210, 60.2215, 60.2220, 60.2225, 60.2230,

60.2235, 60.2240, 60.2242, 60.2245, 60.2255, 60.2260, 60.2265, and Tables 1 and 2.

**Incorporating Rule:**

252:100-17-14.1
252:100-17-20 through 22
252:100-17-25, 26, and 41
252:100-17-45 through 47
252:100-17-49
252:100-17-61
252:100-17-64 through 74

**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.

**ANALYSIS:**

The Department proposes the addition of OAC 252:100-17, Part 9, Commercial and Industrial Solid Waste Incineration (CISWI) Units, to establish state emission standards for existing CISWIs. A CISWI is considered an existing CISWI if construction commenced on or before November 30, 1999. These proposed rules will provide the means for implementing and enforcing the federal emission guidelines (40 CFR 60, Subpart DDDD) and will be the enforcement mechanism in Oklahoma's State 111(d)/129 Plan. The new Part 9 incorporates by reference sections of the New Source Performance Standards for CISWIs (40 CFR 60, Subpart CCCC). In addition to establishing emission standards for certain regulated pollutants, the new rule will establish requirements for CISWI operator training and qualifications, waste management plans, testing and monitoring of pollutants, and operating parameters. Also, Parts 1 and 5 of Subchapter 17 will be amended to make them consistent with the proposed new Part 9. Sections in Parts 5 and 7 of Subchapter 17 will be amended to update the incorporations by reference of federal New Source Performance Standards for large municipal waste combustors and hospital, medical and infectious waste incinerators to the standards that exist on July 1, 2002.

**CONTACT PERSON:**

Cheryl Bradley, 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., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 17. INCINERATORS

## PART 1. GENERAL PROVISIONS

### 252:100-17-1. Purpose

The purpose of this Subchapter is to ~~specify design and operating requirements and emission limitations for incinerators and municipal waste combustors (MWC)~~ control emissions from incinerators.

### 252:100-17-1.2. Terminology related to 40 CFR

When these terms are used in rules incorporated by reference, the following definitions shall apply:

**"EPA Administrator"** or **"Administrator"** is synonymous with "Executive Director" or "the Executive Director's designee".

~~**"Affected facility"** is synonymous with "large MWC unit".~~

**"State"** is synonymous with "Department of Environmental Quality" or "DEQ".

~~**"State plan"** is a program that the State is responsible for developing and implementing to achieve compliance with theemission guidelines in Subpart Cb of 40 CFR Part 60.~~

## PART 5. MUNICIPAL WASTE COMBUSTORS

### 252:100-17-14.1. Definitions

The definitions in 40 CFR 60.51b are hereby incorporated by reference as they exist on ~~October 24, 1997~~ July 1, 2002.

### 252:100-17-14.2. Terminology related to 40 CFR

When these terms are used in rules incorporated by reference, the following definitions shall apply:

**"Affected facility"** is synonymous with "large municipal waste combustor unit" or "large MWC unit".

**"State plan"** is a program that the State is responsible for developing and implementing to achieve compliance with the emission guidelines in Subpart Cb of 40 CFR Part 60.

### 252:100-17-20. Standards for nitrogen oxides

(a) **Nitrogen oxides emission limits.** The concentration of nitrogen oxides contained in the gases discharged into the atmosphere from a MWC unit shall not exceed the following:

**NITROGEN OXIDES LIMITS**

| Municipal Waste Combustor Technology | Nitrogen oxides emission limit (ppm by volume) [a] |
|---|---|
| Mass burn waterwall | 205 |
| Mass burn rotary waterwall | 250 |
| Refuse-derived fuel combustor | 250 |
| Fluidized bed combustor (by December 19, 2000) | 240 |
| Fluidized bed combustor (by August 26, 2002, or three years after EPA approval of the State plan, which ever is first) | 180 |

**a** Corrected to 7 percent oxygen, dry basis, 24 hr daily arithmetic average

(b) **Nitrogen oxides emissions averaging.** The owner or operator of a MWC plant may elect to implement a nitrogen oxides emissions averaging plan for the MWC units that are located at that plant.

(1) The following units cannot be included in the emissions averaging plan:

(A) MWC units subject to Subpart Ea or Eb of 40 CFR Part 60.

(B) Mass burn refractory MWC units and other MWC technologies not listed in paragraph (b)(3) of this section may not be included in the emissions averaging plan.

(2) Prior to implementing the nitrogen oxides emissions veraging plan, the units to be included must be identified in the initial performance test report specified in 40 CFR 60.59b(f) or in the annual report specified in 40 CFR 60.59b(g), as applicable. The units which are included in the averaging plan may be redesignated each calendar year. Partial year redesignation is allowable with DEQ approval.

(3) To implement the emissions averaging plan, the average daily (24-hour) nitrogen oxides emission concentration level discharged from the units included in the emission averaging plan shall be no greater than the levels specified in this section. Emission limits for the nitrogen oxides concentration level for each type of unit are as follows:

**NITROGEN OXIDES LIMITS FOR EXISTING DESIGNATED FACILITIES INCLUDED IN AN EMISSIONS AVERAGING PLAN AT A MUNICIPAL WASTE COMBUSTOR PLANT [a]**

| Municipal waste combustor technology | Nitrogen oxides emission limit (ppm by volume) [b] |
|---|---|
| Mass burn waterwall | 185 |
| Mass burn rotary waterwall | 220 |
| Refuse-derived fuel combustor | 230 |
| Fluidized bed combustor | 165 |

**a** Mass burn refractory municipal waste combustors and other MWC technologies not listed above may not be included in an emissions averaging plan.

**b** Corrected to 7 percent oxygen, dry basis, 24 hr daily arithmetic average

(4) Under the emissions averaging plan, the average daily nitrogen oxides emissions specified in paragraph (b)(3) of this section shall be calculated using the equation in Appendix K of this Chapter. MWC units that are off-line shall not be included in calculating the average daily nitrogen oxides emission level.

(5) For any day a unit included in the emissions averaging plan is off-line, the owner or operator of the MWC plant must demonstrate compliance according to either paragraph (b)(5)(A) or both paragraphs (b)(5)(B) and (b)(5)(C) of this section.

(A) Compliance with the applicable limits specified in (b)(3) of this Part shall be demonstrated using the averaging procedure specified in paragraph (b)(4) of this section. The averaging procedure will include the MWC units in the plan that are on-line.

(B) For each of the units included in the emissions averaging plan, the nitrogen oxides emissions shall be calculated on a daily average basis. The nitrogen oxides emissions level shall be equal to or less than the maximum daily nitrogen oxides emission levels achieved by that unit on any of the days during which the emissions averaging plan was achieved with all units on-line during the most recent calendar quarter. The requirements of this paragraph do not apply during the first quarter of operation under the emissions averaging plan.

(C) The average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b)(5)(C)(ii) of this section shall not exceed the average nitrogen oxides emissions (kilograms per day) calculated according to paragraph (b)(5)(C)(i) of this section.

(i) The average nitrogen oxides emissions shall be calculated for all days during which the emissions averaging plan was implemented and achieved and during which all MWC units were on-line. The average nitrogen oxides emissions (kilograms per day) shall be calculated, on a calendar year basis, according to paragraphs (b)(5)(C)(i)(I) through (b)(5)(C)(i)(III) of this section.

(I) The daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated for each MWC unit included in the emissions averaging plan. The calculation shall be based on the hourly nitrogen oxides data required under 40 CFR 60.58b(h) and specified under 40 CFR 60.58b(h)(5). The flue gas flow rate is determined using the hourly average steam or feedwater flow rate and Table 19-1 of EPA Reference Method 19, which is hereby incorporated by reference as it exists on ~~July 1, 1997~~ July 1, 2002.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each unit calculated under paragraph (b)(5)(C)(i)(I) of this section.

(III) On a calendar year basis, the average nitrogen oxides emissions (kilograms per day), shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b)(5)(C)(i)(II) of this section divided by the number of calendar days for which a daily total was calculated.

(ii) The average nitrogen oxides emissions shall be calculated for all days during which one or more of the MWC units under the emissions averaging plan was off-line. The average nitrogen

oxides emissions (kilograms per day) shall be calculated according to paragraphs (b)(5)(C)(ii)(I) through (b)(5)(C)(ii)(III) of this section on a calendar year basis.

(I) For each MWC unit included in the emissions averaging plan, the daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated based on the hourly nitrogen oxides data required under 40 CFR 60.58b(h) and specified under 40 CFR 60.58b(h)(5), the flue gas flow rate determined using Table 19-1 of the EPA Reference Method 19, which is hereby incorporated by reference as it exists on ~~July 1, 1997~~ July 1, 2002, and the hourly average steam or feedwater flow rate.

(II) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each MWC unit as calculated under paragraph (b)(5)(C)(ii)(I) of this section.

(III) The average nitrogen oxides emissions (kilograms per day) on a calendar year basis shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under paragraph (b)(5)(C)(ii)(II) of this section divided by the number of calendar days for which a daily total was calculated.

**252:100-17-21. Standards for municipal waste combustor operating practices**

(a) The concentration of carbon monoxide contained in the gases discharged to the atmosphere from a MWC unit shall not exceed the following limits for each type of affected equipment:

**MUNICIPAL WASTE COMBUSTOR OPERATING LIMITS**

| Municipal waste combustor technology | Carbon monoxide emissions level (ppm by volume) [a] | Averaging Time [b] (hours) |
|---|---|---|
| Mass burn waterwall | 100 | 4 |
| Mass burn refractory | 100 | 4 |
| Mass burn rotary refractory | 100 | 24 |
| Mass burn rotary waterwall | 250 | 24 |
| Modular starved air | 50 | 4 |
| Modular excess air | 50 | 4 |
| Refuse-derived fuel stoker | 200 | 24 |
| Bubbling fluidized bed | 100 | 4 |
| Circulating fluidized bed | 100 | 4 |
| Pulverized coal/refuse-derived fuel mixed fuel-fired combustor | 150 | 4 |
| Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor | 200 | 24 |

**a** Measured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to 7 percent oxygen, dry basis. Calculated as an arithmetic average.

**b** Averaging times are 4-hour or 24-hour block averages.

(b) An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.58b((b) and (c), which is hereby incorporated by reference as it exists on ~~October 24, 1997~~ July 1, 2002.

**252:100-17-22. Standards for municipal waste combustor fugitive ash emissions**

An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.55b, which is hereby incorporated by reference as it exists on ~~October 24, 1997~~ July 1, 2002.

**252:100-17-25. Compliance and performance testing**

An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.58b, which is hereby incorporated by reference as it exists on ~~October 24, 1997~~ July 1, 2002.

**252:100-17-26. Reporting and recordkeeping requirements**

Except for the provisions of subsection 60.59b(a), b(5), and d(11), 40 CFR 60.59b is hereby incorporated by reference as it exists on ~~October 24, 1997~~ July 1, 2002.

## PART 7. HOSPITAL, MEDICAL AND INFECTIOUS WASTE INCINERATORS

**252:100-17-41. Definitions**

(a) The definitions in 40 CFR 60.51c are hereby incorporated by reference as they exist on ~~July 1, 1999~~ July 1, 2002.

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

**"Small rural HMIWI"** is defined as any small HMIWI which is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area and which burns less than 2,000 pounds per week (lb/wk) of hospital waste and medical/infectious waste.

**"Standard Metropolitan Statistical Area"** or **"SMSA"** means any areas listed in the Office of Management and Budget Bulletin No. 93-17 entitled "Revised Statistical Definitions for Metropolitan Areas" dated June 30, 1993.

**252:100-17-45. Standards for HMIWI operator training and certification**

By October 1, 2000, an owner or operator of an HMIWI shall comply with all provisions specified in 40 CFR 60.53c, which is hereby incorporated by reference as it exists on ~~July 1, 1999~~ July 1, 2002.

**252:100-17-46. Standards for waste management plans**

By October 1, 2000, an owner or operator of an existing HMIWI shall comply with all provisions specified in 40 CFR 60.55c, which is hereby incorporated by reference as it exists on ~~July 1, 1999~~ July 1, 2002.

**252:100-17-47. Compliance, performance testing and monitoring requirements**

(a) Except for sections 60.56c (b)(12) and (c)(3), an owner or operator of a small, medium or large HMIWI shall comply with the compliance and performance testing requirements of 40 CFR 60.56c, which is hereby incorporated by reference as it exists on ~~July 1, 1999~~ July 1, 2002.

(b) An owner or operator of a small rural HMIWI shall meet the following requirements:

(1) Conduct the performance testing requirements in 40 CFR 60.56c(a), (b)(1) through (b)(9), (b)(11)(Hg only), and (c)(1). The 2,000 lb/week limitation for small rural HMIWI units does not apply during performance tests.

(2) Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits.

(3) Following the date on which the initial performance test is completed or required to completed, whichever date comes first, ensure that the facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times except during periods of startup, shutdown, and malfunction. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameter(s).

(4) Except as provided in paragraph (b)(5) of this section, operation of the HMIWI above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emission limits.

(5) The owner or operator may conduct a repeat performance test within 30 days of violation of the applicable operating parameter(s) to demonstrate that the HMIWI is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to this paragraph must be conducted using the identical operating parameters that indicated a violation under (b)(4) of this section.

(c) An owner or operator of any small, medium, or large HMIWI shall comply with all monitoring provisions specified in 40 CFR 60.57c, which is hereby incorporated by reference as it exists on ~~July 1, 1999~~ July 1, 2002.

(d) An owner or operator of a small rural HMIWI shall comply with the following monitoring requirements:

(1) Install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.

(2) Install, calibrate (to manufacturers' specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI.

(3) The owner or operator of a designated facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day and for 90 percent of the operating hours per calendar quarter that the HMIWI is combusting hospital waste and/or medical/infectious waste.

**252:100-17-49. Reporting and recordkeeping requirements**

(a) Except for Sections 60.58c (b)(2)(ii) and (b)(7), an owner or operator of a HMIWI shall comply with all of the requirements specified 40 CFR 60.58c(b), (c), (d), (e), and (f), which are hereby incorporated by reference as they exist on ~~July 1, 1999~~ July 1, 2002.

(b) An owner or operator of a small rural HMIWI shall:

(1) Maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within 10 days of an inspection or an alternate date approved by the DEQ.

(2) Submit an annual report containing information recorded under paragraph (b)(1) of this section no later than 60 days following the year in which data were collected. The report shall be signed by the facility's manager. Subsequent reports shall be sent no later than 12 calendar months following the previous report until the HMIWI unit is subject to Part 70 permitting requirements under 252:100-8. After the HMIWI unit is subject to Part 70 requirements, the owner or operator must submit these reports semiannually.

## PART 9. COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS

**252:100-17-60. Effective date; applicability**

(a) This Part applies to each individual commercial and industrial solid waste incineration (CISWI) unit for which construction was commenced on or before November 30, 1999.

(b) If the owner or operator of a CISWI unit makes changes that meet the definition of modification or reconstruction on or after June 1, 2001, the CISWI unit is no longer subject to this Part and becomes subject to 40 CFR 60, Subpart CCCC, that has been adopted by reference at OAC 252:100-4-5.

(c) If the owner or operator of a CISWI unit makes physical or operational changes to an existing CISWI unit primarily to comply with this Part, such changes do not qualify as a modification or reconstruction.

**252:100-17-61. Definitions**

The definitions in 40 CFR 60.2265 are hereby incorporated by reference, as they exist on July 1, 2002.

**252:100-17-62. Terminology related to 40 CFR**

For purposes of interfacing with 40 CFR, the following terms apply:

**"Affected facility"** is synonymous with "commercial and industrial solid waste incinerator (CISWI)" or "CISWI unit".

**"Administrator"** is synonymous with "Executive Director".

**252:100-17-63. Exemptions**

(a) Except as provided in subsections (b) through (p) of this section, each CISWI is subject to the requirements in this Part.

(b) **Pathological waste incineration units.** Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste as defined in 40 CFR 60.2265 are not subject to this Part if the owner or operator meets the two requirements specified in paragraphs (b)(1) and (2) of this section.

(1) Notifies the DEQ that the unit meets these criteria.

(2) Keeps records on a calendar quarter basis of the weight of pathological waste, low-level radioactive waste and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.

(c) **Agricultural waste incineration units.** Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of agricultural wastes as defined in 40 CFR 60.2265 are not subject to this Part if the owner or operator meets the two requirements specified in paragraphs (c)(1) and (2) of this section.

(1) Notifies the DEQ that the unit meets these criteria.

(2) Keeps records on a calendar quarter basis of the weight of agricultural waste burned, and the weight of all other fuels and wastes burned in the unit.

(d) **Municipal waste combustion units.** Incineration units that meet either of the two criteria specified in paragraphs (d)(1) or (2) of this section are not subject to this Part.

(1) Are regulated under Part 5 of this Subchapter or 40 CFR 60, Subpart Ea (Standards of Performance for Municipal Waste Combustors); Subpart Eb (Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994); or Subpart AAAA (Standards of Performance for New Stationary Sources: Small Municipal Waste Combustion Units).

(2) Burn greater than 30 percent municipal solid waste or refuse-derived fuel, as defined in 40 CFR 60, Subpart Ea, Subpart Eb, or Subpart AAAA, and that have the capacity to burn less than 35 tons (32 megagrams) per day of municipal solid waste or refuse-derived fuel, if the owner or operator meets the two requirements in paragraphs (d)(2)(A) and (B) of this section.

(A) Notifies the DEQ that the unit meets these criteria.

(B) Keeps records on a calendar quarter basis of the weight of municipal solid waste burned, and the weight of all other fuels and wastes burned in the unit.

(e) **Medical waste incineration units.** Incineration units regulated under Part 7 of the Subchapter or 40 CFR 60, Subpart Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996) are not subject to this Part.

(f) **Small power production facilities.** Units that meet the three requirements specified in paragraphs (f)(1) through (3) of this section are not subject to this Part.

(1) The unit qualifies as a small power-production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).

(2) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(3) The owner or operator notifies the DEQ that the unit meets all of these criteria.

(g) **Cogeneration facilities.** Units that meet the three requirements specified in paragraphs (g)(1) through (3) of this section are not subject to this Part.

(1) The unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).

(2) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(3) The owner or operator notifies the DEQ that the unit meets all of these criteria.

(h) **Hazardous waste combustion units.** Units that meet either of the two criteria specified in paragraph (h)(1) or (2) of this section are not subject to this Part.

(1) Units for which the owner or operators is required to get a permit under section 3005 of the Solid Waste Disposal Act.

(2) Units regulated under 40 CFR part 63, Subpart EEEE (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors).

(i) **Materials recovery units.** Units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters, are not subject to this Part.

(j) **Air curtain incinerators.** Air curtain incinerators that burn only the materials listed in paragraphs (j)(1) through (3) of this section are only required to meet the requirements under 40 CFR Sections 60.2245 through 60.2260.

(1) 100 percent wood waste.

(2) 100 percent clean lumber.

(3) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

(k) **Cyclonic barrel burners.**

(l) **Rack, part, and drum reclamation units.**

(m) **Cement kilns.** Kilns regulated under 40 CFR 63, Subpart LLL, (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry) are not subject to this Part.

(n) **Sewage sludge incinerators.** Incineration units regulated under 40 CFR 60, Subpart O (Standards of Performance for Sewage Treatment Plants) are not subject to this Part.

(o) **Chemical recovery units.** Combustion units burning materials to recover chemical constituents or to produce chemical compounds where there is an existing commercial market for such recovered chemical constituents or compounds are not subject to this Part. The seven types of units described in paragraphs (o)(1) through (7) of this section are considered chemical recovery units.

(1) Units burning only pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery process and reused in the pulping process.

(2) Units burning only spent sulfuric acid used to produce virgin sulfuric acid.

(3) Units burning only wood or coal feedstock for the production of charcoal.

(4) Units burning only manufacturing byproduct streams/residues containing catalyst metals which are reclaimed and reused as catalysts or used to produce commercial grade catalysts.

(5) Units burning only coke to produce purified carbon monoxide that is used as an intermediate in the production of other chemical compounds.

(6) Units burning only hydrocarbon liquids or solids to produce hydrogen, carbon monoxide, synthesis gas, or other gases for use in other manufacturing processes.

(7) Units burning only photographic film to recover silver.

(p) **Laboratory analysis units.** Units that burn samples of materials for the purpose of chemical or physical analysis are not subject to this Part.

**252:100-17-64. Emission limits**

On and after the date on which the initial performance test is completed or is required to be completed, whichever date comes first, no CISWI subject to this Part shall discharge into the atmosphere from that facility any gases that contain stack emissions in excess of the emission limits in Table 1 of 40 CFR 60, CCCC, which is hereby incorporated by reference as it exists on July 1, 2002.

**252:100-17-65. Operating limits**

(a) Except for 40 CFR 60.2110(b), a CISWI shall comply with all of the requirements specified 40 CFR 60.2110, 60.2115 and 60.2120 and Table 2 of 40 CFR 60, Subpart CCCC, which are hereby incorporated by reference, as they exist on July 1, 2002.

(b) The CISWI must be operated within the operating limits established during initial performance test.

**252:100-17-66. Standards for CISWI operator training and qualification requirements**

(a) The CISWI operator training and qualification requirements in 40 CFR 60.2070, 60.2080, 60.2085, 60.2090, 60.2095 and 60.2100 are hereby incorporated by reference, as they exist on July 1,2002.

(b) The operator training course must be completed by the latest of the three dates specified in (1) through (3) of this paragraph.

(1) December 1, 2005.

(2) Six months after CISWI unit startup.

(3) Six months after an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit.

**252:100-17-67. Standards for waste management plans**

(a) The CISWI waste management plan requirements in 40 CFR 60.2055 and 60.2065, are hereby incorporated by reference, as they exist on July 1,2002.

(b) The waste management plan must be submitted to the DEQ no later than April 1, 2004.

**252:100-17-68. Performance testing**

40 CFR 60.2125 and 60.2130 are hereby incorporated by reference as they exist on July 1, 2002.

**252:100-17-69. Initial compliance requirements**

(a) 40 CFR 60.2135 is hereby incorporated by reference, as it exists on July 1, 2002.

(b) The initial performance test must be conducted no later than 180 days after the final compliance date or December 1, 2005, whichever is earlier.

**252:100-17-70. Continuous compliance requirements**

40 CFR 60.2145, 60.2150, 60.2155, and 60.2160 are hereby incorporated by reference, as they exist on July 1, 2002.

**252:100-17-71. Monitoring**

40 CFR 60.2165 and 60.2170 are hereby incorporated by reference, as they exist on July 1, 2002.

**252:100-17-72. Reporting and recordkeeping requirements**

Except for 40 CFR 60.2175(g), 40 CFR 60.2175, 60.2180, 60.2200, 60.2205, 60.2210, 60.2215, 60.2220, 60.2225, 60.2230, 60.2235 and 60.2240 are hereby incorporated by reference, as they exist on July 1, 2002.

**252:100-17-73. Part 70 permits**

(a) The owner or operator of a CISWI, that is not otherwise a Part 70 source, must submit to the DEQ a complete application for a Part 70 operating permit on or before December 1, 2003.

(b) 40 CFR 60.2242 is hereby incorporated by reference, as it exists on July 1, 2002.

**252:100-17-74. Air curtain incinerators**

(a) 40 CFR 60.2245, 60.2255 and 60.2260 are hereby incorporated by reference, as they exist on July 1, 2002.

(b) After the date the initial stack test is required or completed (whichever is earlier), the owner or operator must meet the limitations in paragraphs (b)(1) and (2) of this section.

(1) The opacity limitation is 10 percent (6-minute average), except as described in paragraph (b)(2) of this section.

(2) The opacity limitation is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

(c) Except during malfunctions, the requirements of OAC 252:100-17-74(b) apply at all times, and each malfunction must not exceed 3 hours.

**252:100-17-75. Compliance schedules**

(a) Except as provided in paragraphs (b) and (c) of this section, the owner or operator of any CISWI unit, including air curtain incinerators, shall comply with all the requirements of this Part or shall close the CISWI unit(s) and take any steps necessary to render the unit(s) inoperable by December 1, 2003.

(b) The DEQ may grant an extension to December 1, 2005, for closing a CISWI if the owner or operator demonstrates that no waste disposal options exist other than onsite incineration. The owner or operator shall:

(1) Submit to the DEQ documentation of the analyses undertaken to support the need for an extension, including an explanation of why 1 year after approval of the State plan is not sufficient time to close the CISWI.

(2) Submit to the DEQ an evaluation of the option to transport the waste offsite to a commercial waste treatment and/or disposal facility on a temporary or permanent basis.

(3) Enter into a consent order to close. The closure order must include the date of plant closure.

(c) The DEQ will allow an extension to December 1, 2005, for the installation of air pollution control equipment to comply with the requirements of this Part provided the owner or operator of the CISWI:

(1) Submits a final control plan by January 1, 2004. The final control plan must include a description of the control the source will use to comply with the emission limitations and other requirements.

(2) Achieves final compliance with the emission limitations and other requirements by December 1, 2005.

(d) The owner or operator of the CISWI shall send written notification to the DEQ to confirm achievement of the events specified in (c)(2) of this section.

(1) The notification shall be postmarked no later than 10 business days after the compliance date for the requirement.

(2) The notification shall include the signature of the owner or operator.

(e) If the owner or operator fails to meet any of the compliance requirements specified in OAC 252:100-17-75(c), he shall notify the DEQ in writing within 10 business days after the compliance deadline and continue to submit reports each subsequent calendar month until compliance with that requirement is achieved.

**252:100-17-76. CISWI closure**

(a) If the CISWI unit is closed but will be restarted prior to December 1, 2005, the owner or operator shall meet the increments of progress specified in OAC 252:100-17-75.

(b) If the CISWI unit is closed but will be restarted on or after December 1, 2005, the owner or operator shall complete emission control retrofits and meet the emission limitations and operating limits on the date the CISWI unit restarts operations.

(c) If the CISWI unit is permanently closed, the owner or operator shall submit a closure notification, including the date of closure, to the DEQ by January 1, 2004.

*[OAR Docket #03-875; filed 5-6-03]*

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

*[OAR Docket #03-876]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 31. Control of Emission of Sulfur Compounds
Part 2. Ambient Air Concentration Limits or Impacts for New and Existing Equipment, Sources, or Facilities
252:100-31-7 [AMENDED]
Part 5. New Equipment Standards
252:100-31-26 [AMENDED]
**AUTHORITY:**
Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201 and Oklahoma Clean Air Act, 27A O.S. § 2-5-101, *et seq.*
**DATES:**
**Comment period:**
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December 16, 2002 through January 15, 2003
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None
**INCORPORATIONS BY REFERENCE:**
None
**ANALYSIS:**
The Department proposes revisions to clarify that the ambient air concentration standards in OAC 252:100-31-7(a) for sulfur oxides are measured in terms of facility-wide impact on the ambient air concentration. The Department also proposes to reinstate the annual ambient air concentration limit for sulfur oxides that was inadvertently revoked and to correct a scrivener's error in OAC 252:100-31-26(a)(2)(E).
**CONTACT PERSON:**
Joyce D. Sheedy, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 794-6800

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS

### PART 2. AMBIENT AIR CONCENTRATION LIMITS OR IMPACTS FOR NEW AND EXISTING EQUIPMENT, SOURCES, OR FACILITIES

**252:100-31-7. Ambient air concentration limits or impacts**

(a) **Sulfur oxides.** ~~Emissions of sulfur dioxide from any one existing source or any one new petroleum and natural gas process source subject to OAC 252:100-31-26(a)(1) shall not result in an ambient air concentration (including background concentration) of a sulfur dioxide at any given point that is greater than:~~ Emissions of sulfur dioxide from any existing facility or any new petroleum and natural gas process facility with equipment subject to OAC 252:100-31-26(a)(1) shall not impact existing ambient air concentrations of sulfur dioxide by more than:

(1) 1300 µg/m$^3$ (0.50 ppm) in a five (5) minute period of any hour;
(2) 1200 µg/m$^3$ (0.46 ppm), one-hour average;
(3) 650 µg/m$^3$ (0.25 ppm), 3-hour average; ~~or,~~
(4) 130 µg/m$^3$ (0.05 ppm), 24-hour average; or,
(5) 80 µg/m$^3$ (0.03 ppm), annual arithmetic mean.

(b) **Hydrogen sulfide.** Emissions of hydrogen sulfide from any new or existing source shall not result in a 24-hour average ambient air concentration of hydrogen sulfide at any given point of 0.2 ppm or greater.

(c) **Exceptions.** The standards set in subsections (a) and (b) of this Section shall not apply to ambient air concentrations or impacts occurring on the property from which such emission occurs, providing such property, from the emission point to the point of any such concentration, is controlled by the person responsible for such emission.

(d) **Compliance assurance.** Upon approval of the Director, ~~source~~ facility operators may use appropriate material balances, performance test data, and/or emission factors to determine stack emissions combined, when necessary, with the appropriate EPA approved atmospheric dispersion models to determine ambient air concentration or impact in lieu of ambient air monitoring as proof of compliance with limits set in OAC 252:100-31-7(a) and (b).

### PART 5. NEW EQUIPMENT STANDARDS

**252:100-31-26. Petroleum and natural gas processes**

(a) **Standards.**

(1) **Hydrogen sulfide standards.** Hydrogen sulfide from any new petroleum or natural gas process equipment shall be removed from the exhaust gas stream or it shall be oxidized to sulfur dioxide. Hydrogen sulfide emissions

shall be reduced by 95% of the hydrogen sulfide in the exhaust gas.

(2) **Sulfur dioxide standards.**

(A) **Natural gas processing.** Sulfur oxide emissions, calculated as sulfur dioxide, from any new gas sweetening plant shall be reduced by use of a sulfur recovery plant prior to release of the exhaust gas to the atmosphere. The sulfur recovery plant shall have the sulfur reduction efficiencies required in subparagraphs (C) through (F) of OAC 252:100-31-26(a)(2).

(B) **Petroleum refinery processing.** Sulfur recovery plants operating in conjunction with any refinery process shall have the sulfur reduction efficiencies required in paragraphs (C) through (F) of OAC 252:100-31-26(a)(2).

(C) **Greater than 0.54 LT/D but less than or equal to 5.0 LT/D.** When the sulfur content of the acid gas stream from a new gas sweetening unit or refinery process is greater than 0.54 LT/D but less than or equal to 5.0 LT/D, the sulfur dioxide emission reduction efficiency of the sulfur recovery plant shall be at least 75.0%.

(D) **Greater than 5.0 LT/D but less than or equal to 150.0 LT/D.** When the sulfur content of the acid gas stream from a new gas sweetening unit or refinery process is greater than 5.0 LT/D but less than or equal to 150.0 LT/D, the required sulfur dioxide emission reduction efficiency of the sulfur recovery plant shall be calculated using the following formula where Z is the minimum emission reduction efficiency required at all times and X is the sulfur feed rate expressed in LT/D of sulfur rounded to one decimal place: $Z = 92.34 (X^{0.00774})$

(E) **Greater than 150.0 LT/D but less than or equal to 1500.0 LT/D.** When the sulfur content of the acid gas stream from a new gas sweetening unit or refinery process is greater than 150.0 LT/D but less than or equal to 1500.0 LT/D, the required sulfur dioxide emission reduction efficiency of the sulfur recovery plant shall be calculated using the following formula where Z is the minimum emission reduction efficiency required at all times and X is the sulfur feed rate expressed in LT/D of sulfur rounded to one decimal place: $\cancel{Z = 88.78 (X^{0.00156})}$ $\underline{Z = 88.78 (X^{0.0156})}$

(F) **Greater than 1500.0 LT/D.** When the sulfur content of the acid gas stream from a new gas sweetening unit or refinery process is greater than 1500.0 LT/D, a minimum sulfur dioxide reduction efficiency of 99.5% shall be met.

(b) **Exceptions.**

(1) **Hydrogen sulfide.** The requirements of OAC 252:100-31-26(a)(1) shall not apply if hydrogen sulfide emissions do not exceed 0.3 lb/hr, two-hour average.

(2) **Sulfur dioxide.** The requirements of OAC 252:100-31-26(a)(2) shall not apply to any new petroleum or natural gas process which would emit 100 lb/hr or less of sulfur oxides expressed as sulfur dioxide, two-hour average. The requirements of paragraph (2) of subsection (a) of this Section can be met alternatively by establishing that the sulfur content of the acid gas stream from any gas sweetening plant or refinery process is 0.54 LT/D or less.

(c) **Emission monitoring for hydrogen sulfide.** All new thermal devices for petroleum and natural gas processing facilities regulated under OAC 252:100-31-26(a)(1) shall have installed, calibrated, maintained, and operated an alarm system that will signal noncombustion of the gas.

*[OAR Docket #03-876; filed 5-6-03]*

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 205. HAZARDOUS WASTE MANAGEMENT

*[OAR Docket #03-877]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 3. Incorporation by Reference
252:205-3-1. [AMENDED]
252:205-3-2. [AMENDED]
252:205-3-3. [REVOKED]
**AUTHORITY:**
Environmental Quality Board; 27A O.S., §§ 2-2-101, 2-2-201 and 2-7-106
**DATES:**
**Comment period:**
December 2, 2002 through January 15, 2003
**Public hearing:**
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**Gubernatorial Approval:**
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**Final adoption:**
May 1, 2003
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June 12, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
**Superseding rules:**
Subchapter 3. Incorporation by Reference
252:205-3-3. Incorporation by reference [AMENDED]
**Gubernatorial approval:**
October 31, 2002
**Register publication:**
20 Ok Reg 60
**Docket number:**
02-1435
**INCORPORATION BY REFERENCE:**
**Incorporated standards:**
Title 40, Parts 260-266, Parts 268, 270, 273 and 279 of the Code of Federal Regulations as amended through July 1, 2002
**Incorporating rules:**
252:205-3-1 through 252:205-3-3
**Availability:**
Through the contact person listed below

**ANALYSIS:**

The purpose of the proposed amendment to 252:205-3-1 is to adopt by reference the federal hazardous waste regulations found in Title 40 of the Code of Federal Regulations (40 CFR) published on July 1, 2002, specifically: 1)66 FR 58258-58300, published November 20, 2001, regarding three newly listed hazardous wastes generated from inorganic chemical manufacturing processes; 2) 67 FR 2962-3029, published January 22, 2002, regarding amendments to the Corrective Action Management Unit Rule; 3) 67 FR 11251-11254, published March 13, 2002, regarding the classification of mineral processing characteristic sludges and by-products being reclaimed as solid wastes under RCRA's hazardous waste management regulations; and the decision that the Toxicity Characteristic Leaching Procedure may not be used for determining whether manufactured gas plant waste is hazardous under RCRA; 4) 67 FR 17119-17120, published April 9, 2002, regarding corrections to 66 FR 58258-58300, published November 20, 2001. The purpose of the proposed amendment to 252:205-3-2(f) is to update the amendment reflective of the adoption by reference of the federal hazardous waste regulations published in 40 CFR on July 1, 2002. The proposed revision to 252:205-3-3 involves revoking the incorporation of new or superseding amendments which are now contained in the 40 CFR published on July 1, 2002.

**CONTACT PERSON:**

Tammi Johnson (405) 702-5100, 707 North Robinson, Fifth Floor, Oklahoma City, Oklahoma 73102. Mailing address is P.O. Box 1677, Oklahoma City, OK 73101-1677.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 3. INCORPORATION BY REFERENCE

### 252:205-3-1. Reference to 40 CFR

When reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified) the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through July 1, ~~2001, as well as any new or superseding provisions listed in OAC 252:205-3-3~~ 2002.

### 252:205-3-2. Incorporation by reference

(a) **Part 124.** Procedures For Decision Making, those sections required by 40 CFR 271.14, with the following additions:

(1) § 124.19 (a) through (c) and (e);

(2) §§ 124.31, 124.32, & 124.33, substituting DEQ for EPA, and deleting the following sentence from each section: For the purposes of this section only, "Hazardous waste management units over which EPA has permit issuance authority" refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR part 271.

(b) **Part 260.** Hazardous Waste Management System: General, except 260.21. In the 260.10 definitions of "new tank system" and "existing tank system", the reference to "July 14, 1986" for commencement of tank installation applies only to tank regulations promulgated pursuant to the federal Hazardous and Solid Waste Amendment ("HSWA") requirements. The following categories outline HSWA requirements: (a) Interim status and permitting requirements applicable to tank systems owned and operated by small quantity generators [3001(d)]; (b) Leak detection requirements for all new underground tank systems [3004(o)(4)]; and (c) permitting standards for underground tanks that cannot be entered for inspection [3004(w)]. For tank regulations promulgated pursuant to statutory authority other than HSWA, the date relative to the commencement of installation is November 2, 1987.

(c) **Part 261.** Identification and Listing of Hazardous Waste. In 261.4(e)(3)(iii) delete "in the Region where the sample is collected". In 261.5(f)(3)(iv), and (v), and in 261.5(g)(3)(iv), and (v) add "other than Oklahoma" after the word "State".

(d) **Part 262.** Standards Applicable to Generators of Hazardous Waste except Subpart E and Subpart H. In 262.42(a)(2) and 262.42(b) delete "for the Region in which the generator is located".

(e) **Part 263.** Standards Applicable to Transporters of Hazardous Waste.

(f) **Part 264.** Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities ~~including the revisions contained in the 66 FR 35087-35107, published July 3, 2001~~. The following sections and subsections are not adopted by reference: 264.1(f), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), and 264.1080(g). In 264.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988. In 264.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987. In 264.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987. In 264.570(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

(g) **Part 265.** Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except 265.1(c)(4), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g). In 265.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988. In 265.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987. In 265.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987. In 265.440(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

(h) **Part 266.** Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities. Due to an early incorporation by reference, for purposes of Part 266 only, HSWA and non-HSWA

dates are the same. In 266.325, the reference to 10 CFR 1.5 is changed to 10 CFR 71.5.

(i) **Part 268.** Land Disposal Restrictions, except 268.5, 268.6, 268.13, 268.42(b) and 268.44(a) through (g).

(j) **Part 270.** Permit Programs, except 270.14(b)(18).

(k) **Part 273.** Universal Waste Rule.

(l) **Part 279.** Used Oil Management Standards. The only portion of 279.82 which is adopted by reference is "The use of used oil as a dust suppressant is prohibited."

(m) **Excepted CFR Regulations.** Authority for carrying out excepted CFR regulations remains with EPA.

**252:205-3-3. Subsequent incorporations [REVOKED]**

~~The new or superseding amendments to 40 CFR contained in 65 FR 81373-81381, published December 26, 2000, regarding the deferment of the requirements that polychlorinated biphenyls be considered a constituent subject to treatment when they are present in soils that exhibit the Toxicity Characteristic for metals are incorporated by reference.~~

*[OAR Docket #03-877; filed 5-6-03]*

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 410. RADIATION MANAGEMENT

*[OAR Docket #03-878]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 10. State Agreement Program
Part 101. State Agreement Program Fees
252:410-10-121 [NEW]
**AUTHORITY:**
Environmental Quality Board and Radiation Management Advisory Council powers and duties, 27A O.S. §§ 2-2-101, 2-2-201, 2-9-104 and 2-9-105
**DATES:**
**Comment period:**
October 2, 2002 through November 5, 2002
**Public hearing:**
November 6, 2002 and February 28, 2003
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**Submitted to Governor:**
March 6, 2003
**Submitted to House:**
March 6, 2003
**Submitted to Senate:**
March 6, 2003
**Gubernatorial approval:**
April 21, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on May 1, 2003
**Final adoption:**
May 1, 2003
**Effective:**
June 12, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
None
**INCORPORATIONS BY REFERENCE:**
None
**ANALYSIS:**
The purpose of the proposed amendment is to add a new fee for the registration of certain generally licensed devices containing sources of radioactive material. In March 2002, the Environmental Quality Board promulgated rules adopting by reference the January 1, 2001 publication of Title 10 of the Code of Federal Regulations (10 CFR), which included amendments, published December 18, 2000 at 65 Fed. Reg. 79161-79190, relating to a registration requirement for these generally licensed devices. To date, the registration requirement has not been implemented but will be upon adoption of the registration fee proposed. This rulemaking is necessary to update the rules as directed by the U. S. Nuclear Regulatory Commission in order to ensure that DEQ retains its state agreement status in administering the radiation management program in Oklahoma. The proposed rule is to add a new annual fee in the amount of $300.00 per general licensee for the registration of certain generally licensed devices containing sources of radioactive material. Examples of such devices are those containing at least 370 MBq (10 mCi) of cesium-137, 3.7 MBq (0.1 mCi) of strontium-90, 37 MBq (1 mCi) of cobalt-60, or 37 MBq (1 mCi) of americium-241, or any other transuranic (i.e., element with atomic number greater than uranium [92], based on the activity indicated on the label. This annual registration fee relates to a previously adopted registration requirement that has not yet been implemented. The registration requirement will be implemented upon adoption of the proposed annual registration fee. [The abbreviation Bq stands for Becquerel, a measure of radioactivity, as used by the *Systeme International d'Unites*, commonly known as the SI system. The abbreviation Ci stands for Curie, the English system of measure of radioactivity. The equivalent amounts of radioactivity from both systems are shown above for comparison purposes.]
**CONTACT PERSON:**
Mike Broderick, Department of Environmental Quality, Land Protection Division, Radiation Management Section, 707 N. Robinson, Oklahoma City, OK 73102, mailing address: P. O. Box 1677, Oklahoma City, OK 73101, phone 405-702-5100, FAX 405-702-5101.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 10. STATE AGREEMENT PROGRAM

## PART 101. STATE AGREEMENT PROGRAM FEES

**252:410-10-121. State agreement annual registration fee for generally licensed devices**

The annual fee for generally licensed devices requiring registration shall be $300.00 per general licensee and is due on or before each anniversary date of registration. For devices held under a general license as of July 1, 2003, the fee shall be due on September 1, 2003 and at each anniversary date thereafter. [See 252:410-10-31(2)(B)]

*[OAR Docket #03-878; filed 5-6-03]*

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 6. ELECTRICAL HEARING BOARD PROCEDURES [REVOKED]

*[OAR Docket #03-844]*

**RULEMAKING ACTION:**
PERMANENT final revocation
**RULES:**
310:6-1-1 [REVOKED]
310:6-1-2 [REVOKED]
310:6-1-3 [REVOKED]
310:6-1-4 [REVOKED]
310:6-1-5 [REVOKED]
310:6-1-6 [REVOKED]
310:6-1-7 [REVOKED]
310:6-1-8 [REVOKED]
310:6-1-9 [REVOKED]
310:6-1-10 [REVOKED]
**AUTHORITY:**
Oklahoma State Board of Health; 59 O.S. 2001, § 1000.4
**DATES:**
**Comment Period:**
January 2, 2003 through February 13, 2003
**Public Hearing:**
February 13, 2003
**Adoption:**
February 13, 2003
**Submitted to Governor:**
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February 21, 2003
**Gubernatorial approval:**
April 7, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2003
**Final adoption:**
April 16, 2003
**Effective:**
June 12, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
"n/a"
**INCORPORATION BY REFERENCE:**
"n/a"
**ANALYSIS:**
The purpose of the proposed revocation is to repeal rules governed by statutes that are no longer enforced or within the regulatory purview of the Oklahoma State Department of Health. The regulatory responsibilities associated with these rules and the activities of the Electrical, Plumbing, Mechanical, and Building Inspection trades have been transferred to the Construction Industries Board. These rules have been recently duplicated in Title 158 of the Oklahoma Administrative Code via recent promulgation by the Constructions Industries Board and have no application to activities currently performed by the Department under Title 310.
**CONTACT PERSON:**
Charles Broadway, Office of General Counsel, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-6017

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### 310:6-1-1. Purpose [REVOKED]

~~The rules in this Chapter implement the Electrical Licensing Act, 59 O.S. Supp. 1981, Section 1680 et seq.~~

### 310:6-1-2. Applicability [REVOKED]

~~(a) The rules of this Chapter shall govern all formal proceedings before the Electrical Hearing Board.~~
~~(b) Informal proceedings may be held in accordance with agreement of the Board or agents of the Board and any person.~~

### 310:6-1-3. Effective date [REVOKED]

~~The effective date of the rules of this Chapter is January 29, 1985.~~

### 310:6-1-4. Severability [REVOKED]

~~The provisions of the rules of this Chapter are severable.~~

### 310:6-1-5. Description of organization [REVOKED]

~~(a) The Electrical Hearing Board is created in 59 O.S. Supp.1982, Sections 1689 and following. It consists of the members of the Committee of Electrical Examiners and the State Commissioner of Health, who is chairman. The Committee of Electrical Examiners is created in 59 O.S. Supp. 1982, Sections 1683 and following. The Commissioner may designate any person in the State Department of Health to represent him on the Board. The official address of the Board is Electrical Hearing Board, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73152.~~
~~(b) The Board may from time to time designate other officers from among its members for the purpose of carrying on the business of the Board, and the Commissioner as chairman may enlist anyone in the State Health Department to assist the Board in performing its functions under law.~~
~~(c) Three members of the Board shall constitute a quorum to conduct business.~~

### 310:6-1-6. Method of operation [REVOKED]

~~(a) **Meetings.** The board shall meet on call of any member of the Board. Regularly scheduled meetings shall be conducted only if the Board votes to schedule regular meetings. Notice shall be provided in accordance with state law.~~
~~(b) **Meeting place.** The Board shall meet at its official address or at such other place as the Board shall designate from time to time.~~
~~(c) **Appearances at Board meetings.** Any member of the public may appear at Board meetings and make statements, requests, or submissions. Members of the public may write to the Board at its official address or call any member of the Board to ask to be places on the agenda of the next meeting. Appearances during individual proceedings may be made only in accordance with the Administrative Procedures Act and the Rules of Practice of the Board.~~

~~(d) **Conduct of meetings.** All meetings shall be conducted according to Robert's Rules of Order, except where an individual proceeding is conducted. In an individual proceeding before the Board, the provisions of the Administrative Procedures Act, 75 O.S. 1981, Sections 301 and following, will be followed.~~

~~(e) **Minutes.** Minutes of all meetings shall be kept in accordance with state law.~~

~~(f) **Voting.** All questions before the Board shall fail except upon an affirmative vote by a majority of all the members of the Board, not just those present at the meeting.~~

**310:6-1-7. Public information, submissions, requests and documents [REVOKED]**

~~(a) **Records of proceedings.** All records of the proceedings of the Board shall be kept in the office of the Commissioner of Health or his designee, 1000 N. E. 10th Street, Oklahoma City, Oklahoma 73152.~~

~~(b) **Requests for information and submissions.** Requests for information about the proceedings of the Board may be made in writing to the Electrical Hearing Board, at its official address. All submissions to the Board shall be made in writing directed to the same address. Submissions sent to another address will be considered by the Board whenever they are received by it.~~

~~(c) **Final orders, rules, decisions.** All final orders, rules, opinions, decisions, policy statements, and minutes of meetings of the Board shall be available for public inspection at the Board's official address during weekdays from 8:00 a.m. to 4:30 p.m. excluding holidays and other times during which the State Department of Health may be closed in accordance with state law.~~

~~(d) **Copies of records.** Members of the public may be provided copies of all documents which are open to public inspection. The Board shall charge for such copies at a price to recover costs. Such price shall be set by the Board from time to time as costs fluctuate. Persons requesting copies shall be notified of the price at the time of the request.~~

**310:6-1-8. Individual proceedings [REVOKED]**

~~(a) Individual proceedings for the suspension or revocation of aneelectrical license may be initiated only by the Board in accordance with state law. Investigations may be initiated by any member. Each member may bring to the attention of the chairman facts which he feels warrant the conduct of an individual proceeding or the summary suspension of an electrician's license.~~

~~(b) Individual proceedings shall be conducted in accordance with the Oklahoma Administrative Procedures Act, 75 O.S. 1981, Sections 301 and following.~~

~~(c) Complaints served upon respondents by the Board and all other pleadings of any party shall take any form sufficient to comply with the provisions of the Administrative Procedures Act and the Electrical License Act, 59 O.S..1982, Sections 1680 and following. In the interest of allowing respondents to provide their own defense where they so desire, no particular forms shall be required.~~

~~(d) As for any other question which comes before the Board, suspension or revocation of an electrical license shall be carried out by the Board by a majority vote of its members in open meeting.~~

~~(e) Revocation of an electrical license may only be carried out after the conduct of an individual proceeding.~~

**310:6-1-9. Summary suspension [REVOKED]**

~~(a) Suspension of an electrical license shall be carried out under the rules governing notice and hearings in individual proceedings unless the Board finds that public health, safety, or welfare imperatively requires emergency action. Summary suspension may be carried out whenever these conditions exist and the Board makes a finding to that effect in its summary suspension order.~~

~~(b) Whenever summary suspension is appropriate, such must be carried out by the Board with the vote of each member present recorded and the decision announced in open meeting; provided, that deliberations by the Board on summary suspension, suspension, or revocation may be conducted in private or only in the presence of such assistants as the Board may require, with the vote of each member present recorded and the decision stated in open meeting prior to the decision taking effect. The Board shall notify the person complained against of the decision and the reasons therefore. When the decision is made pursuant to an individual proceeding, such notice shall contain findings of fact and conclusions of law, separately stated.~~

~~(c) Summary suspension shall be followed by an individual proceeding for revocation or other action as the Board may determine to be proper. Such proceeding shall be instituted and determined promptly unless otherwise requested in writing by the respondent.~~

**310:6-1-10. Petition for rule adoption [REVOKED]**

~~(a) The procedure for requesting promulgation, amendment, or repeal of rules is the same as that for other submissions to the Board. No particular form is required so long as the request is in writing, is signed by the applicant, and identifies the exact wording or wording change that is requested. It must also state whether emergency action is requested and the reasons therefore.~~

~~(b) Each request will be considered at the next meeting of the Board after receipt of the request.~~

~~(c) Applicants may testify to the reasons for the request at the meeting in which the submission is considered. The Board may limit such testimony at its discretion.~~

~~(d) Under state law, electrical standards for licensing purposes are adopted by the State Board of Health, not the Electrical Hearing Board. Requests to amend these standards should be made to the State Board of Health.~~

*[OAR Docket #03-844; filed 5-2-03]*

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 7. PLUMBING HEARING BOARD PROCEDURES [REVOKED]

*[OAR Docket #03-845]*

**RULEMAKING ACTION:**
PERMANENT final revocation
**RULES:**
310:7-1-1 [REVOKED]
310:7-1-2 [REVOKED]
310:7-1-3 [REVOKED]
310:7-1-4 [REVOKED]
310:7-1-5 [REVOKED]
310:7-1-6 [REVOKED]
310:7-1-7 [REVOKED]
310:7-1-8 [REVOKED]
310:7-1-9 [REVOKED]
310:7-1-10 [REVOKED]
**AUTHORITY:**
Oklahoma State Board of Health; 59 O.S. 2001, § 1000.4
**DATES:**
**Comment Period:**
January 2, 2003 through February 13, 2003
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**Submitted to Senate:**
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**Gubernatorial approval:**
April 7, 2003
**Legislative approval:**
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**Final adoption:**
April 16, 2003
**Effective:**
June 12, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
"n/a"
**INCORPORATION BY REFERENCE:**
"n/a"
**ANALYSIS:**
The purpose of the proposed revocation is to repeal rules governed by statutes that are no longer enforced or within the regulatory purview of the Oklahoma State Department of Health. The regulatory responsibilities associated with these rules and the activities of the Electrical, Plumbing, Mechanical, and Building Inspection trades have been transferred to the Construction Industries Board. These rules have been recently duplicated in Title 158 of the Oklahoma Administrative Code via recent promulgation by the Constructions Industries Board and have no application to activities currently performed by the Department under Title 310.
**CONTACT PERSON:**
Charles Broadway, Office of General Counsel, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-6017

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### 310:7-1-1. Purpose [REVOKED]

~~The rules in this Chapter implement the procedures of the Plumbing Hearing Board which are authorized in 59 O.S. 1981, Section 1001 et seq.~~

### 310:7-1-2. Applicability [REVOKED]

~~(a) The rules of this Chapter govern all formal proceedings before the Plumbing Hearing Board.~~
~~(b) Informal proceedings may be held in accordance with agreement of the Board or agents thereof and any person.~~

### 310:7-1-3. Effective date [REVOKED]

~~The effective date of the rules of this Chapter is July 12, 1980.~~

### 310:7-1-4. Severability [REVOKED]

~~The provisions of the rules of this Chapter are severable.~~

### 310:7-1-5. Description of organization [REVOKED]

~~(a) The Plumbing Hearing Board is created in 59 O.S. 1971, Sections 1010 and following. It consists of the members of the Committee of Plumbing Examiners and the State Commissioner of Health, who is chairman. The Committee of Plumbing Examiners is created in 59 O.S. 1971, Sections 1004 and following. The Commissioner may designate any person in the State Department of Health to represent him on the Board. The official address of the Board is Plumbing Hearing Board, OSDH, N. E. 10th and Stonewall, Oklahoma City, Oklahoma.~~
~~(b) The Board may from time to time designate other officers from among its members for the purpose of carrying on the business of the Board and the Commissioner as chairman may enlist anyone in the State Health Department to assist the Board in performing its functions under law.~~
~~(c) Three members of the Board shall constitute a quorum for the conduct of business.~~

### 310:7-1-6. Method of operation [REVOKED]

~~(a) **Meetings.** The Board shall meet on call of any member of the Board. Regularly scheduled meetings shall be conducted only if the Board votes to schedule regular meetings. Notice shall be provided in accordance with state law.~~
~~(b) **Meeting place.** The Board shall meet at its official address or at such other place as the Board shall designate from time to time.~~
~~(c) **Appearances at Board meetings.** Any member of the public may appear at Board meetings and make statements, requests, or submissions. Members of the public may write to the Board at its official address or call any member of the Board to ask to be placed on the agenda of the next meeting. Appearances during individual proceedings may be made only in accordance with the Administrative Procedures Act and the Rules of Practice of the Board.~~

~~(d) **Conduct of meetings.** Meetings shall be conducted according to Robert's Rules of Order, except where an individual proceeding is conducted. In an individual proceeding before the Board, the provisions of the Administrative Procedures Act, 75 O.S. 1971, Sections 301 and following, will be followed.~~

~~(e) **Minutes.** Minutes of all meetings shall be kept in accordance with state law.~~

~~(f) **Voting.** All questions before the Board shall fail except upon an affirmative vote by a majority of all the members of the Board, not just those present at the meeting.~~

**310:7-1-7. Public information, submissions, requests and documents [REVOKED]**

~~(a) All records of the proceedings of the Board shall be kept in the Office of the Commissioner of Health or his designee, NE.10th and Stonewall, Oklahoma City, Oklahoma.~~

~~(b) Requests for Information and Submissions. Requests for information about the proceedings of the Board may be made in writing to the Plumbing Hearing Board, at its official address. All submissions to the Board shall be made in writing directed to the same address. Submissions sent to another address will be considered by the Board whenever they are received by it.~~

~~(c) All final orders, rules, opinions, decisions, policy statements, and minutes of meetings of the Board shall be available for public inspection at the Board's official address during weekdays from 8:00 a.m. to 4:30 p.m. excluding holidays and other times during which the Department may be closed in accordance with state law.~~

~~(d) Members of the public may be provided copies of all documents which are open to public inspection. The Board shall charge for such copies at a price to recover costs. Such price shall be set by the Board from time to time as costs fluctuate. Persons requesting copies shall be notified of the price at the time of the request.~~

**310:7-1-8. Individual proceedings [REVOKED]**

~~(a) Individual proceedings for the suspension or revocation of a plumbing license may be initiated only by the Board in accordance with state law. Investigations may be initiated by any member. Each member may bring to the attention of the chairman facts which he feels warrant the conduct of an individual proceeding or the summary suspension of a plumbing license.~~

~~(b) Individual proceedings shall be conducted in accordance with the Oklahoma Administrative Procedures Act, 75 O.S. 1971, Section 309 and following.~~

~~(c) Complaints served upon respondents by the Board and all other pleadings of any party shall take any form sufficient to comply with the provisions of the Administrative Procedures Act and the Plumbing License Law, 59 O.S. 1981, Sections 1001 and following. In the interest of allowing respondents to provide their own defense where they so desire, no particular forms shall be required.~~

~~(d) As for any other question which comes before the Board, suspension or revocation of a plumbing license shall be carried out by the Board by a majority vote of its members in open meeting.~~

~~(e) Revocation of a plumbing license may only be carried out after the conduct of an individual proceeding.~~

**310:7-1-9. Summary suspension [REVOKED]**

~~(a) Suspension of a plumbing license shall be carried out under the rules governing notice and hearings in individual proceedings unless the Board finds that public health, safety, or welfare imperatively requires emergency action. Summary suspension may be carried out whenever these conditions exist and the Board makes a finding to that effect in its summary suspension order.~~

~~(b) Whenever summary suspension is appropriate, such must be carried out by the Board with the vote of each member present recorded and the decision announced in open meeting; provided, that deliberations by the Board on summary suspension, suspension, or revocation may be conducted in private or only in the presence of such assistants as the Board may require, with the vote of each member present recorded and the decision stated in open meeting prior to the decision taking effect. The Board shall notify the person complained against of the decision and the reasons therefore. When the decision is made pursuant to an individual proceeding, such notice shall contain findings of fact and conclusions of law, separately stated.~~

~~(c) Summary suspension shall be followed by an individual proceeding for revocation or other action as the Board may determine to be proper. Such proceeding shall be instituted and determined promptly unless otherwise requested in writing by the respondent.~~

**310:7-1-10. Petition for rule adoption [REVOKED]**

~~(a) The procedure for requesting promulgation, amendment, or repeal of rules is the same as that for other submissions to the Board. No particular form is required so long as the request is in writing, is signed by the applicant, and identifies the exact wording or wording change that is requested. It must also state whether emergency action is requested and the reasons therefore.~~

~~(b) Each request will be considered at the next meeting of the Board after receipt of the request.~~

~~(c) Applicants may testify as to the reasons for the request at the meeting in which the submission is considered. The Board may limit such testimony at its discretion.~~

~~(d) Under State Law, plumbing standards are adopted by the Board of Health, not the Plumbing Hearing Board. Requests to amend these standards should be made to the State Board of Health.~~

*[OAR Docket #03-845; filed 5-2-03]*

# TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 110. FEE AND FINE SCHEDULE FOR OCCUPATIONAL LICENSING

*[OAR Docket #03-846]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
310:110-1-1 [AMENDED]
Subchapter 3. Fees
310:110-3-2 [REVOKED]
Subchapter 5. Administrative Fine Schedule
310:110-5-1 [REVOKED]
310:110-5-2 [REVOKED]
310:110-5-3 [AMENDED]
310:110-5-6 [NEW]
310:110-5-7 [NEW]
**AUTHORITY:**
Oklahoma State Board of Health; Fee and Fine Schedule for Occupational Licensing Service Title 63 Section 1-106.1 et seq., Title 59 Section 61.1 et seq., and Title 59 Section 858-621 et seq.; 59 O.S. 2001, § 1000.4
**DATES:**
**Comment Period:**
January 2, 2003 through February 13, 2003
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February 21, 2003
**Submitted to Senate:**
February 21, 2003
**Gubernatorial approval:**
April 7, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2003
**Final adoption:**
April 16, 2003
**Effective:**
June 12, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
**Superseded rules:**
Subchapter 1. General Provisions
310:110-1-1 [AMENDED]
Subchapter 5. Administrative Fine Schedule
310:110-5-6 [NEW]
310:110-5-7 [NEW]
**Gubernatorial Approval:**
January 6, 2003
**Register publication:**
20 Ok Reg 502
**Docket number:**
03-81
**INCORPORATION BY REFERENCE:**
"n/a"
**ANALYSIS:**
The proposal amends Subchapter 1 to allow violations of the Barber Licensing Act, Barber rules, the Home Inspection Licensing Act and the Home Inspection Industry Regulations to utilize the administrative fine schedule. The proposal amends Subchapter 5 by adding Section 5-6, Schedule of fines for the Home Inspection Industry and 5-7, Schedule of fines for the Barber Industry. Legislation passed during the 2001 and 2002 session provided the authority for the Board of Health to establish and levy administrative fines. The legislation for the Barber Industry becomes effective November 1, 2002 and July 1, 2003 for the Home Inspection Industry.

The purpose of the proposed revocation is to repeal rules governed by statutes that are no longer enforced or within the regulatory purview of the Oklahoma State Department of Health. The regulatory responsibilities associated with these rules and the activities of the Electrical, Plumbing, Mechanical, and Building Inspection trades have been transferred to the Construction Industries Board. These rules have been recently duplicated in Title 158 of the Oklahoma Administrative Code via recent promulgation by the Constructions Industries Board and have no application to activities currently performed by the Department under Title 310.
**CONTACT PERSON:**
Rocky McElvany, Consumer Health Services (405) 271-9444, ext. 57901

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 310:110-1-1. Purpose

(a) Subchapter Three of this Chapter implements the fee provisions of the Public Health Code which authorize license fees for licenses issued by the Commissioner of Health or the Oklahoma State Department of Health for occupations and professions codified in Title 59 of the Oklahoma Statutes, as they exist and may be amended.

(b) Subchapter Five of this Chapter implements the administrative fine schedule for violations of the ~~Electrical License Act, the Mechanical Licensing Act, The Plumbing License Law of 1955, and the~~ Alarm Industry Act, the Barber Licensing Act and the Home Inspection Licensing Act, as they exist and may be amended, and the rules promulgated thereunder, respectively.

## SUBCHAPTER 3. FEES

### 310:110-3-2. Plumbing examination, license and registration fees [REVOKED]

~~Initial plumbing license and examination fees for contractors and journeymen, license renewal fees for contractors and journeymen and apprentice registration fees are:~~

~~(1) $150 - Plumbing contractor's initial examination and license fee~~
~~(2) $50 - Subsequent plumbing contractor's examination fee per examination~~
~~(3) $55 - Journeyman plumber's initial examination and license fee~~
~~(4) $25 - Subsequent journeyman plumber's examination fee per examination~~
~~(5) $25 - Plumbing apprentice registration per four (4) years~~
~~(6) $100 - Plumbing contractor's license renewal fee~~
~~(7) $30 - Journeyman plumber's license renewal fee~~
~~(8) $200 - Late renewal of plumbing contractor's license (if made more than thirty (30) days after expiration)~~
~~(9) $60 - Late renewal of journeyman plumber's license (if made more than thirty (30) days after expiration)~~

## SUBCHAPTER 5. ADMINISTRATIVE FINE SCHEDULE

**310:110-5-1. Common requirements under the Electrical License Act, the Mechanical Licensing Act and the Plumbing License Law of 1955 [REVOKED]**

~~The schedule of fines in this Section are based on violation of requirements common to the rules promulgated under authority of the Electrical License Act, the Mechanical Licensing Act and The Plumbing License Law of 1955, or each of the respective licensing laws. Except as provided in Section 310:110-5-3, the fine schedule for citations issued by Occupational Licensing for violations of the following requirements is:~~

~~(1) Contracting without license:~~
~~(A) First - $400~~
~~(B) Second or subsequent - $500~~
~~(2) Inactive contractor or a journeyman engaged in contracting:~~
~~(A) First - $450~~
~~(B) Second or subsequent - $500~~
~~(3) Contracting with an expired bond:~~
~~(A) First - $200~~
~~(B) Second or subsequent - $320~~
~~(4) Contractor working unlicensed or unregistered individual (per person):~~
~~(A) First - $190~~
~~(B) Second or subsequent - $400~~
~~(5) Contractor working registered apprentice without direct supervision (per apprentice):~~
~~(A) First - $100~~
~~(B) Second or subsequent - $250~~
~~(6) Unlicensed individual working for a contractor:~~
~~(A) First - $150~~
~~(B) Second or subsequent - $280~~
~~(7) Loaning a license:~~
~~(A) First - $500~~
~~(B) Second or subsequent - $500~~
~~(8) Forging or altering a license:~~
~~(A) First - $400~~
~~(B) Second or subsequent - $500~~
~~(9) Code violations per day (after NOV compliance date):~~
~~(A) First - $210~~
~~(10) Failure to properly display firm name and state license number on vehicles~~
~~(A) First - $70~~
~~(B) Second or subsequent - $190~~

**310:110-5-2. Other requirements under the Electrical License Act and/or the Mechanical Licensing Act [REVOKED]**

~~The schedule of fines in this Section are based on violation of requirements common to the rules promulgated under authority of the Electrical License Act and/or the Mechanical Licensing Act, or each of the respective licensing laws. Except as provided in Section 310:110-5-3, the fine schedule for citations issued by Occupational Licensing for violations of the following requirements is:~~

~~(1) Contracting with expired insurance (electrical and mechanical trades):~~
~~(A) First - $200~~
~~(B) Second or subsequent - $320~~
~~(2) Failure to display state contractor license number on advertising, contracts, and bids (electrical trade only):~~
~~(A) First - $70~~
~~(B) Second or subsequent - $190~~

**310:110-5-3. Administrative citations**

(a) **Issuance of a citation.** A citation which is issued to a person for violation of one or more of the compliance requirements provided in ~~Section 310:110-5-1, Section 310:110-5-2, and~~ Section 310:110-5-5, Section 310:110-5-6, and Section 310:110-5-7 shall advise the person of the hearing date at which the person may contest the issuance of the citation and/or the amount of the fine. Such hearings shall be conducted in compliance with the Oklahoma Administrative Procedures Act and the Oklahoma Open Meetings Act.

(b) **Orders following hearing.** A final order may uphold the citation as issued, reduce the amount of the fine or dismiss the action. A default order may be issued if the person cited has been advised in writing of the hearing date and fails to appear. The fine is due and payable immediately upon issuance of the order unless otherwise provided therein. A final order is appealable to the district court in accordance with the Oklahoma Administrative Procedures Act.

**310:110-5-6. Schedule of fines for the Home Inspection Industry**

The fine schedule for citations issued by the Department for Violations of the Home Inspector Licensing Act or the Rules promulgated thereunder shall be subject to the following fines:

(1) Violations of 310:276-11-2(a):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(2) Violations of 310:276-11-2(b):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(3) Violations of 310:276-11-2(c):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(4) Violations of 310:276-11-2(d):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00
(5) Violations of 310:276-11-2(e):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(6) Violations of 310:276-11-2(f):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(7) Violations of 310:276-11-2(g):
(A) First violation: up to $500.00

(B) Subsequent violation: up to $1,000.00
(8) Violations of 310:276-11-2(h):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(9) Violations of 310:276-11-2(i):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(10) Violations of 310:276-11-2(j):
(A) First violation: up to $1,000.00
(B) Subsequent violation: up to $2,000.00
(11) Violations of 310:276-11-2(k):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00
(12) Violations of 310:276-11-2(l):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00
(13) Violations of 310:276-11-2(m):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00
(14) Violations of 310:276-11-2(n):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00

**310:110-5-7. Schedule of fines for the Barber Industry**

The fine schedule for citations issued by the Department for violations of the Barber Act or rules promulgated thereunder shall be subject to the fines as follows providing each day a violation continues shall be a separate offense:

(1) Engaging in barbering as an instructor, barber or apprentice without a license in the appropriate category:
(A) First: $250
(B) Subsequent: $500
(2) Employing an unlicensed person to perform barbering (per person):
(A) First: $50
(B) Subsequent: $50
(3) Allowing a graduate apprentice or a barber apprentice to work without direct supervision:
(A) First: $50
(B) Subsequent: $50
(4) Employing more than one barber apprentice and one graduate apprentice per shop (fine per apprentice):
(A) First: $50
(B) Subsequent: $50
(5) Operating a barber work station in violation of any general sanitation requirement found in Subchapter 7 of the Barber Regulations, 310:210-7-1 et seq.:
(A) First: $50
(B) Subsequent: $50
(6) Failure to comply with a specific provision of the Barber Act or Regulations by a graduate apprentice, barbers or barber apprentice:
(A) First: $50
(B) Subsequent: $50
(7) Failure to comply with a specific provision of the Barber Act or Regulations by an individual not licensed under the Barber Act:
(A) First: $250
(B) Subsequent: $500
(8) Operating a barber school without a state barber school license:
(A) First: $250
(B) Subsequent: $500
(9) Operating a barbershop or school without notifying the appropriate authority for a sanitation and equipment inspection:
(A) First: $50
(B) Subsequent: $50
(10) Operating a barber college without the appropriate number of licensed instructors:
(A) First: $50
(B) Subsequent $50

*[OAR Docket #03-846; filed 5-2-03]*

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 234. MEDICAL MICROPIGMENTATION

*[OAR Docket #03-847]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 3. Medical Micropigmentation Certification
310:234-3-4 [AMENDED]
310:234-3-5 [AMENDED]
**AUTHORITY:**
Oklahoma State Board of Health; 63 O.S. Section 1-1452 et seq., 21 O.S. Section 841.5.
**DATES:**
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**Submitted to Senate:**
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Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2003
**Final adoption:**
April 16, 2003
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**SUPERSEDED EMERGENCY ACTIONS:**
**Superseded rules:**
Subchapter 3. Medical Micropigmentation Certification
310:234-3-4 [AMENDED]
310:234-3-5 [AMENDED]
**Gubernatorial approval:**
August 22, 2002
**Register publication:**
19 Ok Reg 3048
**Docket number:**
02-1324

**INCORPORATION BY REFERENCE:**

"n/a"

**ANALYSIS:**

The proposal amends the Medical Micropigmentation Rules allowing CareerTech to determine the actual number of hours of theory and lab training in the skill areas for the curriculum established by rule by the Board of Health. The proposed rules amend the requirements for the students completing all procedures on clients and provide CareerTech greater latitude to make program modifications and efficiently implement the training program approved by the Board of Health. This would move the training to a competency-based program. The instructor language was modified and the minimum numbers of procedures were eliminated to allow greater flexibility to find instructors for medical micropigmentation training. Language was inserted, which would allow an unsuccessful candidate to remediate in all areas where they had scored less than 85% through an approved micropigmentation program.

**CONTACT PERSON:**

Rocky McElvany, Chief, Protective Health Services, Oklahoma State Department of Health, (405) 271-9444, ext. 57901

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 3. MEDICAL MICROPIGMENTATION CERTIFICATION

### 310:234-3-4. Certificate by completion of medical micropigmentation training program and certification testing process

(a) Training in medical micropigmentation obtained through the Oklahoma Department of Career and Technology Education shall consist of at least 450 hours or equivalent of competency based instruction [63:1-1455] encompassing both theory and clinical training and is approved by the Department as meeting the training and curriculum requirements of ~~Title 63, Section 1-1455~~this section.

(b) ~~The minimum~~Medical Micropigmentation training ~~hours by~~shall be in the following skills ~~area are as follows:~~area including theory and lab training:

(1) Safety and Aseptic Technique~~:~~;

~~(A) Theory Hours - 35~~

~~(B) Lab Hours - 5~~

(2) Knowledge of Facial Anatomy, Physiology, and Disease~~:~~;

~~(A) Theory Hours - 30~~

~~(B) Lab Hours - 0~~

(3) Theory and Application of Micropigmentation~~:~~;

~~(A) Theory Hours - 3~~

~~(B) Lab Hours - 65~~

(4) Color Theory:

~~(A) Theory Hours - 25~~

~~(B) Lab Hours - 15~~

(5) Client Consultation Services~~:~~;

~~(A) Theory Hours - 30~~

~~(B) Lab Hours - 30~~

(6) Professionalism~~:~~; and

~~(A) Theory Hours - 15~~

~~(B) Lab Hours - 0~~

(7) Micropigmentation procedures~~ on clients~~ (eyeliner, lips, eyebrows, eye shadow, cheeks, scars, and/or reconstructive surgery, or trauma, or repigmentation of the areola):

~~(A) Theory Hours - 37~~

~~(B) Lab hours - 160~~

(~~i~~A) Basic procedures on clients(eyeliner, lips, and eyebrows),

(~~ii~~B) Advanced procedures (eye shadow, cheeks, scars, and/or reconstructive surgery, or trauma or repigmentation of the areola.

(c) The instructor for micropigmentation procedures and techniques shall ~~have performed the minimum number of documented procedures within the proceeding two (2) years~~be certified in medical micropigmentation and/or be a physician approved by CareerTech. Subject matter experts may be utilized to teach technique and theory in other skill areas.~~ The minimum number of documented procedures for each type of micropigmentation procedure is as follows:~~

~~(1) Eyeliner - 160 procedures;~~

~~(2) Eyebrow - 160 procedures;~~

~~(3) Lips - 160 procedures;~~

~~(4) Areola - 15 procedures;~~

~~(5) Eye shadow - 5 procedures; and~~

~~(6) Cheeks - 5 procedures.~~

(d) **Skills area evaluations.**

(1) During the training program, a candidate must satisfactorily complete an evaluation for each skills area. The evaluation verifies that micropigmentation concepts and/or techniques presented in that skills area have been mastered.

(2) Mastery of medical micropigmentation technique in a skills area shall be demonstrated when the candidate performs all skills presented on all job sheets contained within that skills area to the instructor with 100% accuracy.

(3) Mastery of medical micropigmentation theory in a skills area shall be demonstrated when the candidate scores 85% on the written test over material covered in that skills area (if applicable).

(e) **Written certification examination.**

(1) Candidate shall be eligible to sit for the written certification examination upon satisfactory completion of training and skills area evaluations. The written certification examination for medical micropigmentation shall be offered at Health Certification Project testing sites located in Technology Centers. Documentation of satisfactory completion of the written certification exam shall be required before a candidate is permitted to take the clinical certification examination.

(2) A passing score of 70% shall be required to show competency. A candidate who does not meet this score can retest up to two (2) times. Candidates who do not pass the written certification examination must wait at least seven (7) days before retesting. Candidates who are unable to attain competency after three attempts shall be required to re-enroll in the medical micropigmentation training program.

(f) **Clinical certification examination.**

(1) Candidates shall be eligible to take the clinical certification examination upon satisfactory completion of the written certification examination. The clinical certification examination for medical micropigmentation shall be offered at selected Technology Center test sites and shall be offered two (2) times per year or as deemed necessary by the Medical Micropigmentation Advisory Committee. The clinical certification examination shall consist of three (3) components.

(2) Candidates shall provide all equipment and supplies for the clinical certification examination. Competency shall be verified by documentation of the clinical certification examination. A candidate must attain a score of 100% to pass the clinical certification examination. A candidate shall be permitted to retest one (1) clinical component up to two (2) times. Candidates who are unable to pass all three components within these guidelines shall be required to re-enroll in a medical micropigmentation program.

(g) **Application for certification.** Upon satisfactory completion of the medical micropigmentation training and certification testing process, the applicant is eligible to apply for a Medical Micropigmentation Certificate. In order to apply for a Certification, the candidate must submit the following to OSDH:

(1) Completed application;

(2) Notarized copy of the candidate's certificate of birth;

(3) Notarized copy of the candidate's driver's license or other similar form of photo ID;

(4) Notarized copy of the candidate's professional credentials; and

(5) Completed Training and Testing Verification Form.

(h) **Issuance of certificates.** The State Commissioner of Health shall award a certificate to eligible applicants as set forth in Section 5 of the Act within thirty days of receipt of the completed application and required documents.

**310:234-3-5. Certificate by skills challenge and certification testing**

(a) A person who has received training in micropigmentation and has experience in performing micropigmentation procedures may be deemed to have met the Department-approved preparedness requirements. Attaining challenge status enables the applicant to bypass micropigmentation training if he/she is able to score 100% on the Skills area evaluations for each of the areas:

(1) Safety and Aseptic Technique;

(2) Knowledge of Facial Anatomy, Physiology, and Disease;

(3) Theory and Application of Micropigmentation;

(4) Color Theory;

(5) Client Consultation Services;

(6) Professionalism; and

(7) Micropigmentation Procedures on Clients.

(A) Basic procedures (eyeliner, lips, and eyebrows),

(B)Advanced procedures (eye shadow, cheeks, scars, and/or reconstructive surgery, trauma, or repigmentation of the areola)

(b) **Application for certification by skills challenge and certification testing.**

(1) To apply for challenge status, the applicant must submit all of the following to OSDH:

(A) Completed application for challenge status;

(B) Notarized copy of the applicant's certificate of birth;

(C) Notarized copy of the applicant's driver's license or other similar photo identification;

(D) Notarized copy of his/her credentials and professional resume of satisfactory completion of Medical Micropigmentation procedures for a minimum of six months experience and 60 procedures performed;

(E) Letter from supervising physician detailing the types of micropigmentation procedures that shall be performed under his/her supervision or letter of recommendation;

(F) $1000 Application for Certification fee;

(2) Challenge status shall only be granted between January 1, 2002, and December 31, 2002, to those seeking to practice medical micropigmentation in Oklahoma.

(3) OSDH shall notify the applicant in writing of its decision to approve/disapprove the applicant's challenge status within 60 days of receipt of a completed application. Applicants who are not eligible to challenge must enroll in a micropigmentation training program before entering the certification testing process. Applicants who are eligible to challenge must present the letter of notification from OSDH upon enrolling in the skills challenge and certification testing process.

(c) **Skills area evaluations.**

(1) A skills challenge candidate must score 100% on each skills area evaluation. The evaluation verifies those micropigmentation concepts and/or techniques presented in the training program have been mastered through previous training and experience.

(2) Mastery of medical micropigmentation technique in a skills area shall be demonstrated when the candidate performs all skills presented on all job sheets contained within that competency area to the instructor with 100% accuracy. A skills challenge candidate shall perform all skills presented on a job sheet in the presence of his/her supervising physician. Each job sheet must document the procedure performed and include the signature of the supervising physician who witnessed and evaluated the procedure. In order to take the written portion of the skills area evaluation, the candidate must present signed and completed job sheets for each skill presented in that competency area.

(3) Mastery of medical micropigmentation theory in a skills area shall be demonstrated when the candidate scores 85% on the written test (if applicable). Candidates who fail to score 85% on the written portion of each skills

area evaluation can re-test in no more than two (2) competency areas. Candidates who fail to score 85% after three (3) attempts shall be required to enroll in a micropigmentation program. Unsuccessful challenge candidates must remediate in all areas where they scored less than 85% through an approved micropigmentation program. Competency will be determined by successful completion of the associated written skill evaluation(s). Candidates who satisfactorily complete all skills area evaluations shall be eligible to register for the written certification examination.

(d) **Written certification examination.**

(1) Candidate shall be eligible to sit for the written certification examination upon satisfactory completion of training and skills area evaluations. The written certification examination for medical micropigmentation shall be offered at Health Certification Project testing sites located in Technology Centers. Documentation of satisfactory completion of the written certification exam shall be required before a candidate is permitted to take the clinical certification examination.

(2) A passing score of 70% shall be required to show competency. A candidate who does not meet this score can retest up to two (2) times. Candidates who do not pass the written certification examination must wait at least seven (7) days before retesting. Candidates who are unable to attain competency after three attempts shall be required to re-enroll in the medical micropigmentation training program.

(e) **Clinical certification examination.**

(1) Candidates shall be eligible to take the clinical certification examination upon satisfactory completion of the written competency examination. The clinical competency for medical micropigmentation shall be offered at selected Technology Center test sites and shall be offered two (2) times per year or as deemed necessary by the Medical Micropigmentation Advisory Committee. The clinical certification examination shall consist of three (3) components.

(2) Candidates shall provide all equipment and supplies for the clinical competency examination. Competency shall be verified by documentation of the clinical competency examination. A candidate must attain a score of 100% to pass the clinical certification examination. A candidate shall be permitted to retest one (1) clinical component up to two (2) times. Retesting a clinical component shall be available at the next clinical certification examination test date. Candidates who are unable to pass all three components within these guidelines shall be required to re-enroll in a medical micropigmentation program.

(f) **Application for certification.**

(1) Upon satisfactory completion of the medical micropigmentation training and certification testing process, the applicant is eligible to apply for a Medical Micropigmentation Certificate. In order to apply for a Certification, the candidate must submit the following to OSDH:

(A) Completed application for certification, and

(B) Completed Training and Testing Verification Form.

(2) The State Commissioner of Health shall award a certificate to eligible applicants as set forth in Section 5 of the Act within thirty days of receipt of the completed application and required documents.

*[OAR Docket #03-847; filed 5-2-03]*

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## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 245. ELECTRICAL INDUSTRY REGULATIONS [REVOKED]

*[OAR Docket #03-848]*

**RULEMAKING ACTION:**
PERMANENT final revocation

**RULES:**
Subchapter 1. General Provisions [REVOKED]
310:245-1-1 [REVOKED]
310:245-1-2 [REVOKED]
310:245-1-3 [REVOKED]
Subchapter 3. Procedures of the Committee, the Hearing Board and the Variance and Appeals Board [REVOKED]
310:245-3-1 [REVOKED]
310:245-3-2 [REVOKED]
310:245-3-3 [REVOKED]
Subchapter 5. Licensing Requirements [REVOKED]
310:245-5-1 [REVOKED]
310:245-5-2 [REVOKED]
310:245-5-3 [REVOKED]
Subchapter 7. License Classifications [REVOKED]
310:245-7-1 [REVOKED]
310:245-7-2 [REVOKED]
310:245-7-3 [REVOKED]
310:245-7-4 [REVOKED]
310:245-7-5 [REVOKED]
Subchapter 9. Examinations and License Applications [REVOKED]
310:245-9-1 [REVOKED]
310:245-9-2 [REVOKED]
310:245-9-3 [REVOKED]
Subchapter 11. Prohibited Acts [REVOKED]
310:245-11-1 [REVOKED]
Subchapter 13. Plan Review and Code Variance Applications and Fees, and Code Appeals [REVOKED]
310:245-13-1 [REVOKED]
310:245-13-2 [REVOKED]
310:245-13-3 [REVOKED]

**AUTHORITY:**
Oklahoma State Board of Health; 59 O.S. 2001, § 1000.4

**DATES:**
**Comment Period:**
January 2, 2003 through February 13, 2003
**Public Hearing:**
February 13, 2003
**Adoption:**
February 13, 2003
**Submitted to Governor:**
February 21, 2003
**Submitted to House:**
February 21, 2003
**Submitted to Senate:**
February 21, 2003
**Gubernatorial approval:**
April 7, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2003

**Final adoption:**
April 16, 2003
**Effective:**
June 12, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
"n/a"
**INCORPORATION BY REFERENCE:**
"n/a"
**ANALYSIS:**
The purpose of the proposed revocation is to repeal rules governed by statutes that are no longer enforced or within the regulatory purview of the Oklahoma State Department of Health. The regulatory responsibilities associated with these rules and the activities of the Electrical, Plumbing, Mechanical, and Building Inspection trades have been transferred to the Construction Industries Board. These rules have been recently duplicated in Title 158 of the Oklahoma Administrative Code via recent promulgation by the Constructions Industries Board and have no application to activities currently performed by the Department under Title 310.
**CONTACT PERSON:**
Charles Broadway, Office of General Counsel, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-6017

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

### 310:245-1-1. Purpose [REVOKED]

~~The rules in this Chapter implement the Electrical Licensing act.~~

### 310:245-1-2. Definitions [REVOKED]

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

~~**"Applicant"** means any person applying for an examination, for a license or registration, for review of plans and specifications or for an electrical code variance from the National Electrical Code by the Department under the Act.~~

~~**"Commissioner"** means the State Commissioner of Health or the Commissioner's designee.~~

~~**"Committee"** means the Committee of Electrical Examiners created by the Act.~~

~~**"Department"** means the Oklahoma State Department of Health.~~

~~**"Electrical facility"** means wiring, fixtures, appurtenances and appliances used for and in connection with a supply of electricity, but excludes the connection with a power meter or other supply source.~~

~~**"Electrical firm"** means any firm, corporation, partnership, sole proprietorship, joint venture or any other business entity engaged in the business of planning, contracting, supervising or furnishing labor or labor and materials for the installation, repair, maintenance or renovation of electrical facilities according to the Act.~~

~~**"Electrical maintenance"** means electrical work limited to maintaining existing electrical systems, facilities or equipment by an employee of a person, company, corporation or entity owning the electrical systems, facilities or equipment. Maintenance shall not include any alterations or additions to existing systems, facilities or equipment.~~

~~**"Electrical work"** means work on electrical facilities as defined in 59 O.S. Supp. 1995, Section 1682.~~

~~**"Hearing Board"** means the Electrical Hearing Board created by the Act.~~

~~**"Journeyman electrician"** or **"journeyman"** means any person, other than a contractor or apprentice, who engages in the installation, repair, maintenance or renovation of electrical facilities according to the Act, in the category in which the person is licensed.~~

~~**"Limited electrical contractor"** means any person who has qualified and become licensed in accordance with 310:245-7-5. Such person is prohibited from engaging in the work of a journeyman electrician.~~

~~**"National Electrical Code"** means the current edition of minimum electrical installation standards, by the National Fire Protection Association, as adopted in 310:245-1-3.~~

~~**"Variance"** means the use of an alternative material or method of construction from that prescribed in the National Electrical Code for use at a particular location or project specified in the variance application; and~~

~~**"Variance and Appeals Board"** means the Oklahoma State Electrical Installation Code Variance and Appeals Board.~~

### 310:245-1-3. Standard of installation [REVOKED]

~~The Board of Health hereby incorporates the 1999 National Electrical Code [National Fire Protection Association Standard 70-99 (NFPA 70-99)] as the minimum standard for electrical installations in Oklahoma.~~

## SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE, THE HEARING BOARD AND THE VARIANCE AND APPEALS BOARD [REVOKED]

### 310:245-3-1. Procedures of the Committee [REVOKED]

~~(a) Committee meetings are generally, and unless otherwise stated by the Committee, held in the State Department of Health Building at 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1299. The Committee shall meet and conduct examinations as often as is necessary, but at least once each quarter when applications are pending. Meetings of the Committee will comply with the Oklahoma Open Meeting Act.~~

~~(b) The Committee may write and shall administer electrical examinations; shall notify applicants by mail of the dates and time of examinations; shall grade examinations; shall certify qualified applicants; may recommend regulations to the Commissioner and to the State Board of Health; and shall act as advisor to the Commissioner on electrical matters.~~

~~(c) The only formal procedure available to the public is to apply for an electrical license. This shall be done by filling out an application for examination on a form provided by the Committee.~~

~~(d) The public may communicate with the Committee in person or by mail through the State Department of Health. The Department will make available all forms and instructions used by the Committee, rules, and all other written statements of policy or interpretations, all final orders, decisions and opinions. Copies of same may be provided in accordance with the Commissioner's fee schedule.~~

**310:245-3-2. Procedures of the Hearing Board [REVOKED]**

~~(a) The Hearing Board shall meet as often as is necessary to enforce the requirements of the Act and these Rules. The Hearing Board, comprised of the Commissioner and the Committee, shall follow the Rules of Practice and Procedure of the Oklahoma State Department of Health.~~

~~(b) The standard of review to be used by the Hearing Board for individual proceedings concerning the work of contractors, journeymen and apprentices shall be the National Electrical Code as described in the Act, when a city or county electrical requirement is not applicable.~~

**310:245-3-3. Procedures of the Variance and Appeals Board [REVOKED]**

~~The Commissioner shall call a meeting of the Variance and Appeals Board after the Commissioner receives proper application for a variance accompanied by the fifty dollar ($50.00) filing fee or receives proper notice of an appeal of the Department's interpretation of the National Electrical Code as applied to a particular installation. Variance and Appeals Board meetings are held in the State Department of Health Building at 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1299, or at another location named by the Commissioner. The Variance and Appeals Board may hold meetings by teleconference and shall comply with the Oklahoma Open Meetings Act.~~

## SUBCHAPTER 5. LICENSING REQUIREMENTS [REVOKED]

**310:245-5-1. Apprentice requirements [REVOKED]**

~~(a) Apprentice electricians must be under the direct "on-the-job" supervision of a licensed journeyman or contractor when engaged in the work of an apprentice.~~

~~(b) No more than two (2) apprentice electrician shall work under the supervision of a single journeyman or contractor. This change in ratio shall apply on all work contracted or started on or after July 1, 1988.~~

~~(c) Apprentice electricians shall work only under a licensed electrician who shall be responsible only for the direct supervision of no more than two electrical apprentices.~~

**310:245-5-2. Journeyman requirements [REVOKED]**

~~(a) Each journeyman must be licensed and employed by a licensed contractor before engaging in the work of a journeyman electrician.~~

~~(b) No journeyman shall contract to furnish labor or labor and materials.~~

**310:245-5-3. Contractor requirements [REVOKED]**

~~(a) Each electrical firm must have a person who is currently licensed as an electrical contractor employed full time, and who shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Act and these Rules. Such contractor shall be an officer, partner or owner of that electrical firm, and shall be responsible for the work of and licensed on behalf of that electrical firm.~~

~~(b) An electrical contractor may choose to place his license on inactive status and not be required to provide a bond and insurance. An inactive electrical contractor is a person who, because of the nature of his business, does not offer himself to the public as an electrical contractor. The inactive electrical contractors license may be used to perform work as a journeyman electrician.~~

~~(c) Each electrical contractor shall advise the Committee by mail within thirty (30) days of any change in address or business relationship, structure or affiliation. Failure to so notify shall be cause for administrative sanction.~~

~~(d) An electrical contractor shall be permitted to register for only one electrical firm.~~

~~(e) When two or more electrical firms desire to associate on a job or project as electrical contractors, each person or electrical firm shall have an electrical contractor licensed by the Committee, and each shall register with the city or town in whose jurisdiction they intend to operate.~~

~~(f) All electrical contractors or electrical firms shall, on all vehicles used to transport materials and tools in the operation of the business, display the firm name and the license number bearing the initials "OK" preceding that number issued by the Commissioner. Such signs and license numbers shall be printed in letters and numerals at least two (2) inches high in conspicuous places on both sides of each vehicle in contrasting color to background surface.~~

~~(g) Electrical Contractor State License Number must be displayed on all advertising, contracts, and bids.~~

~~(h) All active electrical contractors must show proof of compliance with the Nonresident Contracting Act, Title 68 Oklahoma Statutes, Sections 1701 through 1707, by indicating on initial and annual renewal applications the following:~~

~~(1) Name and street address of business;~~

~~(2) Phone number of business;~~

~~(3) Number of employees;~~

~~(4) Federal Tax Number;~~

~~(5) Employer's Social Security Numbers;~~

~~(6) Employer's account number assigned by the Employment Security commission; and~~

~~(7) Nonresident electrical contractor bond on file with the Oklahoma Tax Commission, if applicable.~~

~~(i) Each active electrical contractor must furnish a license bond in the amount of $5,000.00 to the State Department of~~

~~Health. This bond is to be a continuous bond with a thirty (30) day cancellation notice. Such bond shall be conditioned upon faithful and lawful performance of all work entered upon by him within the State of Oklahoma and shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. The bond will be filed with the State Department of Health and be in lieu of all other license bonds to any political subdivision.~~

~~(j) Each active electrical contractor must maintain insurance coverage and furnish and maintain in effect in the office of the State Health Department, Electrical Licensing Division, a certificate of insurance therefore which indicates that the electrical contractor has a comprehensive general liability policy including manufacturers and contractors, completed operations, and independent contractors liability coverage. Limits of liability are to be no less than $50,000.00 combined single limit for bodily injury and property damage. The certificate of insurance shall provide for thirty (30) days notice to the State Department of Health, Electrical Licensing Division, prior to cancellation or material alteration of the required insurance.~~

~~(k) Each active electrical contractor shall be aware of the requirements of Title 85 of the Oklahoma Statutes (Workers' Compensation Act and the Rules and Regulations of the Workers' Compensation Court of the State of Oklahoma, and indicate in the space provided on the application compliance therewith.)~~

~~(l) Failure to provide the complete information with current bond and insurance certificate will result in an inactive electrical contractor's license being issued until such time as the requirements are met. Failure to maintain the bond and insurance in force, as required, will result in the immediate suspension of the electrical contractor's active license and the issuance of an inactive license to said electrical contractor.~~

~~(m) Each active electrical contractor shall document the hours worked by each apprentice electrician and the hours worked in commercial, industrial and residential electrical work.~~

## SUBCHAPTER 7. LICENSE CLASSIFICATIONS [REVOKED]

### 310:245-7-1. Unlimited electrical license [REVOKED]

~~(a) Applicants for an unlimited electrical contractor examination must be eighteen (18) years of age or older and must verify at least twelve thousand (12,000) hours (6 years) experience on the job in electrical construction work. Four thousand (4,000) of the hours of experience must be verified in commercial/industrial work. Six thousand (6,000) of the hours may be satisfied by actual classroom hours of formal electrical education. Experience must be obtained while employed by a licensed electrical contractor, except for up to two thousand (2,000) hours experience performing electrical maintenance or electrical installation for the military. Applicants must submit proof of two (2) years experience as a licensed electrical journeyman prior to making application for the unlimited electrical contractors license.~~

~~(b) Applicants for an unlimited electrical journeyman examination must be at least eighteen (18) years of age or older and must verify eight thousand (8,000) hours (4 years) on-the-job experience in the electrical construction trade, as defined in 90-2 National Electrical Code, under the supervision of a journeyman or contractor. Experience must be obtained while employed by a licensed electrical contractor. Four thousand (4,000) of the hours of experience must be verified in commercial/industrial work. A maximum of four thousand (4,000) of the hours of experience may be satisfied by actual classroom hours of formal electrical education. A maximum of two thousand (2,000) hours may be satisfied by military electrical installations or electrical maintenance.~~

~~(c) A licensed residential electrician may work as an apprentice electrician on commercial/industrial jobs in order to qualify experience for an unlimited license exam.~~

~~(d) A licensed residential electrician may work as an apprentice under the unlimited license category.~~

### 310:245-7-2. Residential electrical license [REVOKED]

~~(a) Residential electrical licenses are limited to wiring buildings as defined in the National Electrical code for one and two family dwellings.~~

~~(b) Applicants for residential electrical contractor examination must be eighteen (18) years of age or older, have served four thousand (4,000) hours as an apprentice, have passed the residential or unlimited journeyman examination and have an additional four thousand (4,000) hours as a residential or unlimited journeyman electrician under the employment and supervision of an electrical contractor. One thousand (1,000) hours of the four thousand (4,000) hours as a licensed journeyman may be satisfied by actual classroom hours of formal electrical education.~~

~~(c) Applicants for residential electrical journeyman examination must be eighteen (18) years of age or older and verify at least 4,000 hours (2 years) experience in the electrical construction trade under the direct supervision of a journeyman electrician or electrical contractor. 2,000 of such hours may be satisfied by actual classroom hours of formal electrical education.~~

### 310:245-7-3. Low voltage technicians [REVOKED]

~~(a) The classification of low voltage technicians covers all low voltage classes, as defined in Article 725 and 760 of the National Electrical Code, and is restricted to low voltage systems which do not control line voltage, appliances, apparatuses, or controlled environmental equipment.~~

~~(b) Each low voltage technician must be licensed and employed by a licensed alarm industry firm, electrical contractor, or other business entity doing business in the electronic field as listed in the National Electrical Code, that has been approved and licensed by the Oklahoma State Department of Health.~~

~~(c) No more than three (3) apprentices shall work under the supervision of a single low voltage technician journeyman or contractor, each apprentice must be registered with the Oklahoma State Department of Health.~~

~~(d) Applicants for a low voltage technician examination must be eighteen (18) years of age or older and must have 2,000 hours (one year) of experience in the low voltage electrical trade working under the direct supervision of a licensed low voltage technician, electrical contractor, journeyman electrician, or other approved business entity. Up to 1,000 hours of this time may be satisfied by actual classroom hours of formal education in low voltage and electronic applications.~~

**310:245-7-4. Electrical inspectors [REVOKED]**

~~(a) **City Electrical Inspector.** Electrical inspectors shall meet the experience requirements found in the Electrical Licensing Act, Title 59, Section 1693 (Supp. 1999).~~

~~(b) **Requisite experience.** The experience necessary for an electrical inspector must be in electrical work. Experience in electrical maintenance, electrical manufacturing, electrical utility power wiring or in the supplying of electrical facilities does not meet this requirement.~~

~~(c) **License renewal fee exemption.** Those persons employed as city, county or state inspectors may have their state license placed in inspector status and be exempt from the annual renewal fee. Persons holding an inspector's position cannot engage in electrical work as defined in these Rules and Regulations.~~

**310:245-7-5. Limited electrical contractor [REVOKED]**

~~(a) Applicants for Limited Electrical Contractor examination must be at least eighteen (18) years of age or older and must have a degree in Electrical Engineering from an accredited college or university. Additionally, an applicant must have eight thousand (8,000) hours (4 years) of electrical experience in field construction, electricial estimating, electrical project management in commercial and industrial electrical work; or~~

~~(b) Applicant for a Limited Electrical Contractor examination must be at least eighteen (18) years of age or older and must verify sixteen thousand hours (8 years) experience in the electrical trade performing electrical work, estimating or project management. The experience must be verified in commercial and/or industrial work.~~

## SUBCHAPTER 9. EXAMINATIONS AND LICENSE APPLICATIONS [REVOKED]

**310:245-9-1. Examination applications [REVOKED]**

~~(a) Applicants for electrical license examinations who are not licensed and wish to include experience gained in Oklahoma must have an apprentice registration on file with the Oklahoma State Department of Health.~~

~~(b) Formal electrical education shall mean attendance at a technical school or one or more training courses approved by the Committee, with specialization in electrical wiring skills. The credit shall be based upon actual classroom hours. Applicants must present transcripts showing schools, classroom hours attended, grades and certificates achieved to substitute education for experience. The Committee shall make the final determination.~~

**310:245-9-2. Examinations [REVOKED]**

~~Electrical license examinations may include, without limitation, the following parts:~~

~~(1) Written questions, consisting of open book, closed book and problems, based on current National Electrical Code and other related questions; and~~

~~(2) Practical shop, which for contractors shall also include written questions on job estimating and the laws and regulations relating to electricians.~~

~~(3) The maximum grade value of each part of the examination shall be 100 points. A passing score is 70% or more on each part.~~

~~(4) Each applicant shall pay all examination and license fees before undertaking any examination. Reexamination fees shall be the same as the initial examination fees.~~

~~(5) Applicants for a contractor license must be capable of reading without assistance.~~

~~(6) Unless authorized by the Committee, only examinees shall be permitted in the examination area.~~

~~(7) Any applicant who fails a first examination must wait thirty (30) days before taking any other electrical examination. All subsequent failures will result in a waiting period of at least ninety (90) days.~~

~~(8) Applicants shall present positive identification before undertaking an examination.~~

~~(9) An examinee cheating or fraudulently representing an applicant shall immediately be expelled from the examination. A written record of the proceedings shall be made and become a part of the applicant's file. The Committee shall determine when the applicant may retake the exam, which time shall be no fewer than 30 days and no longer than 365 days.~~

**310:245-9-3. License and registration fees and renewals [REVOKED]**

~~(a) **Examination and license fees.** Electrical examination and license fees are:~~

~~(1) $50.00 for each contractor exam;~~

~~(2) $25.00 for each journeyman or low voltage technician exam;~~

~~(3) $50.00 for each annual contractor license;~~

~~(4) $15.00 for each annual journeyman or low voltage technician license; and~~

~~(5) $15.00 for each one-year registration as an apprentice.~~

~~(b) **License renewal penalties.** Penalty for late license renewal (after July 31), as provided in the Act, is $10.00 for each contractor license and $5.00 for each journeyman license. Penalty for late apprentice registration renewal (30 days after registration expiration) is $2.50.~~

~~(c) **Renewal eligibility.** No license may be renewed after it has been expired for a period of more than one year, except for the military service exemption described in the Act.~~

~~(d) **Continuing education hours.** No electrical contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education on the revisions to the current, published edition of the National Electrical Code within one (1) year of adoption of the current, published National Electrical Code. For the license year beginning July 1, 2000, no electrical contractor or journeyman license may be renewed unless the licensee has completed at least six (6) hours of continuing education on the revisions incorporated in the 1999 edition of the National Electrical Code.~~

~~(e) **Continuing education course approval.** Organizations that propose to offer education to licensees in compliance with the continuing education requirements of subsection (d) of this Section shall submit an agenda or outline of the subject matter of its continuing education course for approval by the Committee prior to beginning instruction. Additionally, such organizations shall include a list of the course instructors and their qualifications. Licensees shall not receive continuing education credit for attending code revision classes that have not been approved by the Committee before beginning the class. After completion of the course, the entity shall submit sign-in sheets for all sessions. The sign-in sheets shall contain the signature and social security number or state electrical license number of each person in attendance. The entity shall verify the total number of continuing education hours completed by each attendee. All programs shall be presented as submitted unless changes have been approved by the Committee. Changes to the program shall be submitted to the Department within ten (10) days of the training session for review by the committee. Failure to obtain approval of changes may result in loss of continuing education approval. Except the Committee may approve continuing education earned outside of Oklahoma by licensees that has been approved by organizations in other states to fulfill the continuing education requirements of this Section.~~

~~(f)**Approval requirements for continuing education.**~~

~~(1) All material and information presented shall pertain to the changes and use of the current adopted National Electrical Code.~~

~~(2) All courses shall be at least two (2) hours in length.~~

~~(3) The training location shall be outside the regular work place or after regular working hours.~~

~~(4) Each attendee shall complete a course evaluation on a form provided by the Department. The entity shall return the completed evaluation forms to the Department with the sign-in sheets.~~

~~(g) **Correspondence course approval.** Organizations that propose to offer correspondence courses for continuing education in compliance with subsection (d) of this Section shall submit a class curriculum and study materials for approval by the Committee prior to the class being accepted as meeting the requirements. Approved correspondence courses shall be required to comply with all requirements for continuing education courses except sign in sheets. Completion of approved correspondence courses shall be certified by providing the student with a document of completion.~~

## SUBCHAPTER 11. PROHIBITED ACTS [REVOKED]

### 310:245-11-1. Prohibited acts [REVOKED]

~~(a) No person shall offer to engage or engage in work as an apprentice, journeyman or contractor during the period his license is suspended or revoked.~~

~~(b) The employment and use of an unlicensed contractor or journeyman or unregistered apprentice is the illegal use of a license and will be grounds for the Hearing Board to revoke or suspend the license of the employing contractor or electrical firm.~~

~~(c) No person or electrical firm shall "bid", offer to engage in the business or trade of electrical contractor until such person or firm has been licensed and registered as an active electrical contractor by the Commissioner.~~

~~(d) Licenses and registrations are not transferable.~~

~~(e) No state licensed electrical contractor shall enter into an agreement for the use of his license with any electrical firm which is, or has been adjudicated to be in violation of Section 1690-B of this Act, or whose license is currently suspended or has within the last year been revoked, until approved by the Commissioner.~~

~~(f) Cities and towns may choose by ordinance not to recognize any of the categories of electrical licenses established herein except the unlimited electrical license.~~

~~(g) The minimum standard for installation, repair, maintenance or renovation of electrical facilities in the State of Oklahoma shall be the National Electrical Code as described in the Act.~~

## SUBCHAPTER 13. PLAN REVIEW AND CODE VARIANCE APPLICATIONS AND FEES, AND CODE APPEALS [REVOKED]

### 310:245-13-1. Plan review applications and filing fees [REVOKED]

~~(a) Applications for the Department's review of plans and specifications to ensure conformance with State adopted installation codes shall be submitted in writing to the Oklahoma State Department of Health. An application provided by the Department, and the appropriate filing fee, shall accompany the construction plans and specifications submitted for plan review. Plan review by the Department shall only be conducted for construction projects where a city or town has not adopted a nationally recognized, trade installation code by ordinance. Applications shall only be reviewed by the Department if submitted prior to the bid dates for the project. Plan review shall be completed within fourteen (14) days of receipt of a complete application.~~

~~(b) The Department will advise the applicant through its liaison if the application is determined to be incomplete in order for the applicant to re-submit a complete, plan review application.~~

~~(c) The plan review fee for:~~

~~(1) electrical plans and specifications shall be $75.00;~~

~~(2) electrical and mechanical or plumbing plans and specifications shall be $150.00;~~

~~(3) electrical, mechanical and plumbing plans and specifications shall be $200.00.~~

**310:245-13-2. Code variance applications and filing fee [REVOKED]**

~~(a) Applications for a variance from the National Electric Code by an Oklahoma licensed, electrical contractor shall be submitted to the Commissioner of Health. An application provided by the Department and the fifty dollar ($50.00) filing fee shall accompany sufficient technical data submitted to support the proposed variance. Applications submitted after the use of materials or methods of construction not in conformance with the National Electric Code that are relevant to the application, or submitted where a city or town has adopted a nationally recognized, trade installation code by ordinance, shall not be considered by the Variance and Appeals Board.~~

~~(b) The applicant and the Department may offer testimony to the Variance and Appeals Board which is relevant to the code variance requested. If testimony will be offered to support the application, the applicant shall include in the application the identity of the applicant's witnesses by name, profession or occupation, address and telephone number, and a concise summary of the expected testimony of each witness. If the Department contests the application, and will offer testimony to rebut the application, the Department will provide the applicant with the identity of the Department's witnesses by name, profession or occupation, address and telephone number, and a concise summary of the expected testimony of each witness.~~

**310:245-13-3. Code interpretation appeals [REVOKED]**

~~An electrical contractor, or any party who has an ownership interest in or who is in responsible charge of the design of or work on the electrical installation, may appeal the Department's interpretation of the National Electrical Code as applied during the Department's review of electrical plans and specifications or inspection of the electrical installation to the Variance and Appeals Board created pursuant to Title 59, O.S.Supp.1994, § 1697 (O.S.L. 1994, Chapter 293, § 7). Such appeals shall be made in writing to the Commissioner within fourteen days after the Department's code interpretation or receipt of written notice of the alleged code violation by the licensed electrical contractor, and shall be heard only if based on a claim that:~~

~~(1) the true intent of the installation code has been incorrectly interpreted;~~

~~(2) the provisions of the code do not fully apply, or~~

~~(3) an equal or better form of installation is proposed.~~

*[OAR Docket #03-848; filed 5-2-03]*

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## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 256. FOOD SERVICE ~~ESTABLISHMENT REGULATIONS~~ESTABLISHMENTS

*[OAR Docket #03-849]*

**RULEMAKING ACTION:**
PERMANENT final adoption

**RULES:**
Chapter 256. Food Service ~~Establishment Regulations~~Establishments [AMENDED]

**AUTHORITY:**
Oklahoma State Board of Health; 63 O.S. 2001, Section 1-1101 et seq.

**DATES:**

**Comment Period:**
January 2, 2003, through February 13, 2003

**Public Hearing:**
February 13, 2003

**Adoption:**
February 13, 2003

**Submitted to the Governor:**
February 21, 2003

**Submitted to the House:**
February 21, 2003

**Submitted to the Senate:**
February 21, 2003

**Gubernatorial approval:**
April 7, 2003

**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2003

**Final adoption:**
April 16, 2003

**Effective:**
June 12, 2003

**SUPERSEDED EMERGENCY ACTIONS:**

**Superseded rules:**
Chapter 256. Food Service ~~Establishment Regulations~~Establishments [AMENDED]

**Gubernatorial Approval:**
July 26, 2002

**Register publication:**
19 Ok Reg 2903

**Docket number:**
02-1281

**INCORPORATION BY REFERENCE:**
"n/a"

**ANALYSIS:**
The proposal amends the present Food Service Establishment Regulations in order to correlate the regulations with the 1999 Food and Drug Administration Model Food Code. The intent is to provide public protection from foodborne infection by establishing prescriptive rules for operators of food service establishments. The proposal contains additional definitions, new language concerning a consumer advisory requiring notification to the public regarding food establishments, which serve raw or undercooked foods of animal origin. Foods service establishments that only sell prepackaged foods are excluded from warewashing sinks. Pushcarts shall have a minimum water capacity greater than five gallons. Other changes involve clarification and modification of existing rule language, which was impractical or ambiguous.

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S.,**

**SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS

**310:256-1-2. Definitions**

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

**"Accredited Program"** means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals.

**"Adulterated"** means the definition in 63 O.S. 1991, Section 1-1109.

**"Approved"** means acceptable to the Department based on a determination of conformity with these rules.

**"Beverage"** means a liquid for drinking, including water.

**"Bottled drinking water"** means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, and includes bottled mineral water.

**"Bulk food"** means unpackaged or unwrapped, processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn. For the purpose of this interpretation, the term does not include fresh fruits, fresh vegetables, nuts in the shell, and buffet areas in food-service establishments.

**"Certification number"** means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the National Shellfish Sanitation Program.

**"Certified applicator"** means any individual who is certified under 7 USC 136(i) or by the Oklahoma State Department of Agriculture as authorized to use or supervise the use of any pesticide that is classified for restricted use. Any applicator who holds or applies registered pesticides or uses dilutions of registered pesticides consistent with the product labeling only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides.

**"CIP"** means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine. It does not include the cleaning of equipment such as band saws, slicers or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

**"Code of Federal Regulations"** or **"CFR"** means the compilation of the general and permanent rules adopted by federal executive departments and agencies.

**"Color additive"** means any material, not exempted under section 201(t) of the Federal Food, Drug, and Cosmetic Act, that is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source and that, when added or applied to a food, drug, or cosmetic or to the human body or any part thereof, is capable (alone or through reaction with another substance) of imparting a color thereto. Substances capable of imparting a color to a container for foods, drugs, or cosmetics are not color additives unless the customary or reasonably foreseeable handling or use of the container may reasonably be expected to result in the transmittal of the color to the contents of the package or any part thereof. Food ingredients such as cherries, green or red peppers, chocolate, and orange juice which contribute their own natural color when mixed with other foods are not regarded as color additives; but where a food substance such as beet juice is deliberately used as a color, as in pink lemonade, it is a color additive. Food ingredients as authorized by a definitions and standard of identity prescribed by regulations pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act are color additives, where the ingredients are specifically designated in the definitions and standards of identity as permitted for use for coloring purposes. An ingredient of an animal feed whose intended function is to impart, through the biological processes of the animal, a color to the meat, milk, or eggs of the animals is a color additive and is not exempt from the requirements of the statute. This definition shall apply whether or not such ingredient has nutritive or other functions in addition to the property of imparting color. An ingested drug the intended function of which is to impart color to the human body is a color additive. For the purposes of this part, the term color include black, white, and intermediate grays, but substances including migrants from packaging materials which do not contribute any color apparent to the naked eye are not color additives.

**"Comminuted"** means reduced in size by methods including chopping, flaking, grinding, or mincing and includes fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, formed roast beef, gyros, ground beef, and sausage; and a mixture of two (2) or more types of meat that have been reduced in size and combined.

**"Commissary"** means a facility used for the servicing of pushcarts and mobile retail units and storage of packaged food and single service articles for use in those units.

**"Common dining area"** means a central location in a group residence where people gather to eat at mealtime but does not apply to a kitchenette or dining area located within private living quarters.

**"Confirmed disease outbreak"** means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative organism and epidemiological analysis implicates the food as the source of the illness.

**"Consumer"** means a person who takes possession of food, is not functioning in the capacity of an operator of a food service establishment or food processing plant, and does not offer the food for resale.

**"Corrosion-resistant material"** means a substance that maintains acceptable surface clean ability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the environment.

**"Critical control point"** means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

**"Critical item"** means a provision of these rules that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard.

**"Critical limit"** means the maximum or minimum value to which a physical, biological, or chemical parameter is controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

**"Customer self-service"** means customer selection and packaging of a bulk food product from a product module.

**"Department"** means the Oklahoma State Department of Health.

**"Display area"** means a location or locations, including physical facilities and equipment, where bulk food is offered or customer self-service.

**"Drinking water"** means water that is traditionally known as "potable water." The term "water" except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "non-drinking" water.

**"Dry storage area"** means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

**"Easily cleanable"** means a surface that allows effective removal of soil by normal cleaning methods; is dependent on the material, design, construction, and installation of the surface; or varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

**"Easily movable"** means an object mounted on casters, gliders, or rollers, or provided with a mechanical means to safely tilt a unit of equipment for cleaning, and has no utility connection, a utility connection that disconnects quickly or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and the adjacent area.

**"Employee"** means a person working in a food service establishment.

**"EPA"** means the U.S. Environmental Protection Agency.

**"Equipment"** means an article such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine. It does not include items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or over wrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids. Food equipment that shall be certified by the National Sanitation Foundation (NSF) or an equivalent organization includes but is not limited to, floor mounted refrigerators, grills, warewashing machines, griddles, fryers, ice machines, and steam tables; and counter mounted equipment such as slicers, grinders, food processors, crock-pot/hot holding units, and other similar food processing equipment.

**"FDA"** means the Food and Drug Administration.

**"Fish"** means fresh or saltwater finfish, molluscan shellfish, crustaceans, and other forms of aquatic animal life other than birds or mammals and includes any edible human food product derived in whole or in part from fish, including fish that has been processed in any manner.

**"Food"** means a 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, or chewing gum.

**"Food additive"** means all substances not exempted by section 201(s) of the Federal Food, Drug, and Cosmetic Act, the intended use of which results or may reasonably be expected to result, directly or indirectly, either in their becoming a component of food or otherwise affecting the characteristics of food. A material used in the production of containers and packages is subject to the definition if it may reasonably be expected to become a component, or to affect the characteristics, directly or indirectly, of food packed in the container. "Affecting the characteristics of food" does not include such physical effects, as protecting contents of packages, preserving shape, and preventing moisture loss. If there is no migration of a packaging component from the package to the food, it does not become a component of the food and thus is not a food additive. A substance that does not become a component of food, but that is used, for example, in preparing an ingredient of the food to give a different flavor, texture, or other characteristic in the food, may be a food additive.

**"Foodborne disease outbreak"** means an incident in which two (2) or more persons experience a similar illness after ingestion of a common food.

**"Food-contact surface"** means a surface of equipment or a utensil with which food normally comes into contact.

**"Food employee"** means a person working with unpackaged food, food equipment or utensils, or food-contact surfaces.

**"Food processing plant"** means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer.

**"Food service establishment"** means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption or any establishment that relinquishes possession of food to a consumer directly, or indirectly through a delivery service. It includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite location unless the vending location is licensed by the Department~~;~~, and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location~~;~~, where consumption is on or off the premises. ~~A seasonal food service establishment is one that is open for 150 consecutive days per year. The seasonal food service establishment is limited to serving dispensed drinks, coffee, snow cones, raw fruits, raw vegetables, nuts in the shell, and commercially bottled syrup, sorghum, honey, sweet cider, and other non-potentially hazardous foods. The food service establishment definition~~

~~does not include a food processing plant; a kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function such as a religious or charitable organization's bake sale; a kitchen in a private home, such as a bed and breakfast operation that prepares and offers food to guests if the number of available guest bedrooms does not exceed three (3) and breakfast is the only meal offered; or a private home that receives catered or home delivered food.~~

**"Food service establishment - fee exempt"** means:

(A) A food establishment operated by a hospital, public school or government institution, which only prepares and serves food to its patients, students, employees, members or inmates and occasional visitors or guests; or

(B) Except as otherwise provided in paragraph (i) and (ii) below, a food establishment or operation conducted by a nonprofit civic, charitable or religious organization primarily for benevolent purposes.

(i) Fee exempt licensees shall comply with the applicable sections of these rules depending upon the type of operation involved; e.g., food service, retail food, combination, temporary, or mobile.

(ii) Fee exempt licenses, except temporary licenses, shall not expire but shall remain in full force and effect until revoked, suspended, annulled or withdrawn by the Commissioner in accordance with applicable law. A license is not required for a non-profit civic, charitable or religious organization, using non-paid persons to prepare or serve food on its behalf, for occasional fund-raising events sponsored and conducted by the organization, nor shall a license be required if such an organization, using non-paid persons, prepares and serves non-hazardous food at events sponsored or conducted by other organizations. Guidelines shall be provided for safeguarding the health of customers.

**"Game animal"** means an animal, the products of which are food, that is not included in the definitions of 2 O.S. 1991, §§ 6-183 et seq. (cattle, bison sheep, swine and goats). Equines are not included due to the provisions of 63 O.S. 1991, § 1-1135 (prohibits the use of equine for food), 2 O.S. 1991, § 6-251 et seq. (poultry, including any domestic bird whether live or dead), 2 O.S. 1991, §§ 6-280.1 et seq. (domesticated rabbits whether live or dead), 2 O.S. 1991, § 6-290.3 et seq. (exotic livestock including commercially raised livestock including but not limited to animals of the families bovidae, cervidae, antilocapridae, or birds of the order casuariiformes or in the definitions of fish in this subchapter).

**"General use pesticide"** means a pesticide that is not classified by the EPA for restricted use as specified in 40 CFR 152.175.

**"Grade A milk and milk products"** means the milk and milk products at any stage from production through pasteurization and packaging, that are of the minimum quality and are produced, hauled, processed and distributed under conditions which substantially meet the requirements of the Oklahoma Milk and Milk Products Act (OS 2, Supp 1998, Sec 7-401 et seq).

**"Group residence"** means a private or public housing corporation or institutional facility that provides living quarters and meals or includes a domicile for unrelated persons.

**"HACCP plan"** means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

**"Hazard"** means a biological, chemical, or physical property that shall cause an unacceptable consumer health risk.

**"Hermetically sealed container"** means a receptacle that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

**"Highly susceptible population"** means a group that is more likely than other populations to experience foodborne disease; i.e., immunocompromised persons, older adults, or preschool age children in a facility that provides custodial care.

**"Imminent health hazard"** means a significant threat or danger to health that is considered to exist when there is evidence that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury.

**"Impermeable"** means incapable of allowing liquids to pass through the covering.

**"Injected"** means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat with juices which may be referred to as "injecting," "pinning," or "stitch pumping".

**"Juice"** means the aqueous liquid expressed or extracted from one or more fruits and vegetables, purees of the edible portions of one or more fruits and vegetables, or any concentrate of such liquid or puree.

**"Kitchenware"** means food preparation and storage utensils.

**"Law"** means local, state, and federal statutes, rules, and ordinances.

**"License"** means the document issued by the Department that authorizes a person to operate a food service establishment.

**"Linens"** means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including gloves.

**"Meat"** means the flesh of animals used as food including the dressed flesh of cattle, bison, swine, sheep, goats, and other edible animals, except fish and poultry, that is offered for human consumption.

**"mg/L"** means milligrams per liter, which is the metric equivalent of parts per million (ppm).

**"Misbranding"** means the definition contained in 63 O.S. 1991, § 1-1110.

**"Mobile food service establishment"** means a facility that is vehicle mounted (has wheels and axles), is readily moveable and remains at one physical address for no more than 17 days at one time.

**"Mobile pushcart"** means a non-self propelled mobile food unit that can be manually moved, is limited to serving non-potentially hazardous foods, pre-packaged food or preparation and serving of frankfurters, and returns daily to a commissary.

**"Mobile retail food establishment"** means a facility that is vehicle mounted, remains at one physical address for no more than 17 days at a time and serves only prepackaged foods and dispensed drinks prepared in a facility that is regulated by the Good Manufacturing Practices in Title 21 of the CFR or regulated as a license holder pursuant to Chapter 310:260, Good Manufacturing Prctice Regulations, or this chapter.

**"Molluscan shellfish"** means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

**"Packaged"** means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food service establishment or a food processing plant. It does not include a wrapper, carryout box, or other non-durable container used to facilitate food protection during service and receipt of the food by the consumer.

**"Person"** means an association, corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

**"Person in charge"** means the individual present at a food service establishment who is responsible for the operation at the time of inspection.

**"Personal care items"** means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance.

**"pH"** means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution.

**"Physical facilities"** means the structure and interior surfaces of a food service establishment including accessories.

**"Physician"** means a doctor of medicine (M.D.) or osteopathic medicine (D.0.) currently licensed to practice medicine and surgery in Oklahoma.

**"Plumbing fixture"** means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

**"Plumbing system"** means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

**"Poisonous"** or **"toxic materials"** means substances that are not intended for ingestion and are included in the following:

(A) Cleaners and sanitizers including cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(B) Pesticides including substances such as insecticides and rodenticides;

(C) Substances necessary for the operation and maintenance of the establishment including non-food grade lubricants and personal care items that may be deleterious to health; and

(D) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, including petroleum products and paints.

**"Potentially hazardous food"** means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms, the growth and toxin production of ***Clostridium botulinum,*** or in raw shell eggs, the growth of ***Salmonella enteritidis*****.** Potentially hazardous foods include, but are not limited to, animal foods (a food of animal origin) that is raw or heat-treated, a food of plant origin that is heat-treated or consists of raw seed sprouts, cut melons, and garlic and oil mixtures that are not modified in a way that results in mixtures that do not support growth. Potentially hazardous food does not include air-cooled hard-boiled eggs with the shell intact, a food with a water activity of 0.85 or less, a food with a pH level of 4.6 or below when measured at seventy-five (75) degrees F, a food in an unopened, hermetically sealed container, a food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of **S. enteritidis** or **C. botulinum** can not occur, a food that may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the rapid and progressive growth of infectious or toxigenic microorganisms.

**"Poultry"** *includes chickens, turkeys, ducks, geese and other domesticated bird used for human food and/or animal feed [OS 2, Supp 1998, Section 10-9.1].*

**"Premises"** means the physical facility, its contents, and the contiguous land or property under the control of the license holder; or the physical facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the license holder that may affect food service establishment personnel, facilities, or operations.

**"Primal cut"** means a basic major cut into which carcasses and sides of meat are separated.

**"Product module"** means a food contact container (multi-use or single-service) designed for customer self-service of bulk food by either mechanical or manual means.

**"Public water system"** means the definition in Chapter 630, "Public Water Supply Operation," of the Oklahoma Department of Environmental Quality.

**"Ready-to-eat food"** means food that is in a form that is edible without washing, cooking, or additional preparation by the food service establishment or the consumer and that is reasonably expected to be consumed in that form. It also includes unpackaged potentially hazardous food that is cooked

to the temperature and time required for the specific food under OAC 310:256-5-45 through OAC 310:256-5-47; raw, washed, cut fruits and vegetables; whole, raw, fruits and vegetables that are presented for consumption without the need for further washing, such as at a buffet, or other food presented for consumption where further washing or cooking is not required and the rinds, peels, husks or shells have been removed.

**"Reduced oxygen packaging"** means the reduction of the amount of oxygen in a package by removing oxygen, displacing oxygen and replacing it with another gas or combination of gases, or otherwise controlling the oxygen content ~~in a package~~ to a level below that normally found in the surrounding 21% oxygen atmosphere, and a process as specified in this definition that involves a food for which **Clostridium botulinum** is identified as a microbiological hazard in the final packaged form. Reduced oxygen packaging includes vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package, such as sous vide, modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes a reduction in the proportion of oxygen, a total replacement of oxygen, or an increase in the proportion of other gasses such as carbon dioxide or nitrogen. Reduced oxygen packaging also includes controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material.

**"Refuse"** means solid waste not carried by water through the sewage system.

**"Restricted use pesticide"** means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 and that is limited to use by or under the direct supervision of a certified applicator.

**"Safe material"** means an article manufactured that shall not reasonably be expected to result, directly or indirectly, in becoming a component or otherwise affecting the characteristics of any food; an additive that is used as specified in Section 409 or 706 of the Federal Food, Drug, and Cosmetic Act; or other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

**"Sanitization"** means the application of cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for effectiveness, yield a reduction of five (5) logs, which is equal to a 99.999 percent reduction, of representative disease microorganisms of public health importance.

**"Sealed"** means free of cracks or other openings that allows the entry or passage of moisture.

**"Seasonal food service establishment"** means a facility that is open no more than 150 consecutive days per physical address per year. The seasonal food service establishment is limited to serving coffee, snow cones, raw fruits, raw vegetables, nuts in the shell, and commercially bottled syrup, sorghum, honey, sweet cider, and other non-potentially hazardous foods.

**"Seasonal fruit stand"** means an establishment that is open no more than 150 consecutive days per physical address per year and is limited to whole, raw fruits and vegetables and unprocessed nuts in the shell.

**"Service animal"** means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

**"Servicing area"** means an operating base location to which a mobile food service establishment or transportation vehicle returns regularly for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

**"Sewage"** means liquid waste containing animal or vegetable matter in suspension or solution and includes liquids containing chemicals in solution.

**"Shellfish control authority"** means a local, state, federal or foreign government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

**"Shellstock"** means raw, in-shell molluscan shellfish.

**"Shucked shellfish"** means molluscan shellfish that have one (1) or both shells removed.

**"Single-service articles"** means tableware, carryout utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one (1) time, one (1) person use after which they are intended for discard.

**"Single-use articles"** means utensils and bulk food containers designed and constructed to be used once and discarded. Single use articles include items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and items which do not meet the materials, durability, strength, and cleanability specifications for multiuse utensils.

**"Slacking"** means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of minus twenty-three (23) degrees Celsius (minus 10 degrees Fahrenheit) to minus four (4) degrees Celsius (25 degrees Fahrenheit) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen foods.

**"Smooth"** means a food contact surface having a surface free of pits and inclusions with a clean ability equal to or exceeding that of one hundred (100) grit number three (3) stainless steel; a non-food-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and a floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

**"Table-mounted equipment"** means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

**"Tableware"** means eating, drinking, and serving utensils for table use, hollowware and plates.

**"Temperature measuring device"** means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

**"Temporary food service establishment"** means a food service establishment where food is offered for sale or sold at retail from a fixed, temporary facility in conjunction with a single event or celebration not to exceed the duration of the event or celebration.

**"USDA"** means the United States Department of Agriculture.

**"Utensil"** means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multi-use, single-service, or single-use gloves used in contact with food and food temperature-measuring devices.

**"Variance"** means a written document issued by the Department that authorizes a modification or waiver of one or more requirements of these rules if, in the opinion of the Department, a health hazard or nuisance will not result from the modification or waiver.

**"Vending machine"** means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

**"Vending machine location"** means the room, enclosure, space, or area where one (1) or more vending machines are installed and operated and includes the storage and servicing areas on the premises that are used in conjunction with the vending machines.

**"Warewashing"** means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

**"Water activity"** means a measure of the free moisture in a food that is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol $a_w$.

**"Whole-muscle intact beef"** means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

**310:256-1-4. Exemptions**

The food service establishment definition does not include a food processing plant; a facility that sells only pre-packaged, non-potentially hazardous foods, which are incidental to the business, and does not have food in storage; a kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function such as a religious or charitable organization's bake sale; a kitchen in a private home, such as a bed-and-breakfast operation that prepares and offers food to guests if the number of available guest bedrooms does not exceed three (3) and breakfast is the only meal offered; a lodging facility that is serving food in compliance with 310:285-3-14; or a private home that receives catered or home-delivered food.

## SUBCHAPTER 3. MANAGEMENT AND PERSONNEL

**310:256-3-4. Responsibility of the person in charge to require reporting by food employees and applicants**

The license holder shall require food service ~~employees~~employee applicants to whom a conditional offer of employment is made to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food. A food service employee or applicant ~~to whom a conditional offer of employment is made~~ shall report the information in a manner that allows the person in charge to prevent the likelihood of foodborne disease transmission, including the date of onset of jaundice or of an illness specified under Paragraph (6) of this section. The employee or applicant reporting shall include the following:

(1) A symptom caused by illness, infection, or other source that is associated with an acute gastrointestinal illness such as:

(A) Diarrhea;

(B) Fever;

(C) Vomiting;

(D) Jaundice; or

(E) Sore throat with fever, or

(2) A lesion containing pus such as a boil or infected wound that is open or draining and is:

(A) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover;

(B) On exposed portions of the arms, unless the lesion is protected by an impermeable cover; or

(C) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.

(3) Meets one (1) or more of the following high-risk conditions: Is suspected of causing, or being exposed to, a confirmed disease outbreak caused by ***Salmonella typhi***, ***Shigella*** spp., ***Escherichia coli*** O157:H7; or hepatitis A virus illness including an outbreak at an event such as a family meal, church supper, or ethnic festival because the food employee or applicant:

(A) Prepared food implicated in the outbreak;

(B) Consumed food implicated in the outbreak; or

(C) Consumed food at the event prepared by a person who is infected or ill with the infectious agent that caused the outbreak or who is suspected of being a shedder of the infectious agent.

(4) Lives in the same household as a person who is diagnosed with a disease caused by ***S. typhi***, ***Shigella*** spp., ***E. coli*** O157:H7, or hepatitis A virus infection; and

(5) Lives in the same household as a person who attends or works in a setting where there is a confirmed disease outbreak caused by ***S. typhi***, ***Shigella*** spp., ***E. coli*** O157:H7, or hepatitis A virus infection.

(6) Is diagnosed with an illness due to:

(A) Salmonella Typhi,

(B) Shigella spp.,

(C) Escherichia coli 0157:H7, or

(D) Hepatitis A virus.

(7) Had a past illness from an infectious agent specified under paragraph (6) of this section.

**310:256-3-5. Exclusions and restrictions**

The person in charge~~, if informed of a food employee's illness,~~ shall:

(1) Exclude a food employee from a food service establishment if the food employee is diagnosed with an infectious agent specified in OAC 310:256-3-4(3);

(2) Except as specified under (3) of this section, restrict a food employee from working with exposed food; clean equipment, utensils, linens, and unwrapped single-service and single-use articles in a food service establishment if the food employee is:

(A) Suffering from a symptom specified in OAC 310:256-3-4(1); or

(B) Is not experiencing a symptom of acute gastroenteritis specified in OAC 310:256-3-4(1) but has a stool that yields a specimen culture that is positive for ***Salmonella typhi, Shigella spp. or Escherichia coli 0157:H7.***

(3) If the population served is a highly susceptible population, exclude a food service employee whom:

(A) Is experiencing a symptom of acute gastrointestinal illness specified in OAC 310:256-3-4(1) and meets a high-risk condition specified under OAC 310:256-3-4(3);

(B) Is not experiencing a symptom of acute gastroenteritis specified in OAC 310:256-3-4(1) but has a stool that yields a specimen culture that is positive for ***S. typhi, Shigella*** spp., or ***Escherichia coli*** O157:H7;

(C) Had a past illness from ***S. typhi*** within the last three (3) months; or

(D) Had a past illness from ***Shigella*** spp. or ***E. coli*** O157:H7 within past thirty (30) days.

(4) For a food employee who is jaundiced:

(A) If the onset of jaundice occurred within the last seven (7) calendar days, exclude the food employee from the food service establishment; or

(B) If the onset of jaundice occurred more than seven (7) calendar days before:

(i) Exclude the food employee from a food service establishment that serves a highly susceptible population; or

(ii) Restrict the food employee from activities specified in OAC 310:256-3-5(2), if the food service establishment does not serve a highly susceptible population.

**310:256-3-6. Removal of exclusions and restrictions**

(a) The person in charge ~~shall consider removing~~ may remove the exclusion of a food service employee specified in OAC 310:256-3-5(1) if the person excluded provides to the person in charge written documentation from a licensed physician, nurse practitioner, or physician assistant that specifies the excluded person:

(1) Is eligible to work in an unrestricted capacity in a food service establishment, including an establishment that serves a highly susceptible population, because the person is free of the infectious agent of concern as specified in OAC 310:256-15-41 or symptoms, if hepatitis A virus is the infectious agent of concern; or

(2) Is eligible to only work in an unrestricted capacity in a food service establishment that does not serve a highly susceptible population because the person is free of the symptoms specified in OAC 310:256-3-4(1) and has a stool culture that yields a specimen culture that is positive for **Shigella** or **E. coli** 0157:H7.

(b) The person in charge ~~shall consider removing~~ may remove a restriction specified in:

(1) OAC 310:256-3-5(2)(A) if the restricted person:

(A) Is free of the symptoms specified in OAC 310:256-3-4(1) and no foodborne illness occurs that may have been caused by the restricted person;

(B) Is suspected of causing foodborne illness but:

(i) Is free of the symptoms specified in OAC 310:256-3-4(1); and

(ii) Provides written documentation from a physician stating that the restricted person is free of the infectious agent that is suspected of causing the person's symptoms or causing foodborne illness, as specified in OAC 310:256-15-41.

(C) Provides written documentation from a licensed physician stating that the symptoms experienced result from a chronic noninfectious condition, such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis; or

(2) OAC 310:256-3-5(2)(B) if the restricted person provides written documentation according to the criteria specified in OAC 310:256-15-41 that indicates the stools are free of ***Salmonella typhi, Shigella spp. or E. coli*** 0157:H7.

(c) The person in charge ~~shall consider removing~~ may remove the exclusion of a food service employee specified under OAC 310:256-3-5(3) if the excluded person provides written documentation from a physician that the person is free of ***S. typhi***, ***Shigella*** spp., ***E. coli*** O157:H7, or hepatitis A virus infection, as specified in OAC 310:256-15-41.

(d) The person in charge ~~shall consider removing~~ may remove the exclusion of a food service employee specified in OAC 310:256-3-5(4)(A), OAC 310:256-3-5(4)(B)(i) or a restriction specified in OAC 310:256-3-5(4)(B)(ii) if:

(1) No foodborne illness occurs that has been epidemiologically linked to the excluded or restricted person and the person:

(A) Provides written documentation from a physician stating that the person is free of hepatitis A virus as specified in OAC 310:256-15-41(4)(B); or

(B) Is no longer jaundiced.

(2) The excluded or restricted person is suspected of causing foodborne illness and complies with (d)(1)(A) and (d)(1)(B) of this section.

## SUBCHAPTER 5. FOOD

**310:256-5-5. Fish**

Fish shall not be received for sale or service unless they are commercially and legally caught or harvested, or as approved by the Department. Molluscan shellfish that are recreationally caught may not be received for sale or service.

**310:256-5-15. Shucked shellfish, packaging and identification**

(a) Raw shucked shellfish shall be obtained in non-returnable packages legibly bearing the name and address of the person who shucks and packs or repacks the shellfish, the person's authorized certification number, and the "sell by" date for packages with a capacity of less than one-half ($\frac{1}{2}$) gallon or the date shucked for packages with a capacity of more than one-half ($\frac{1}{2}$) gallon.

(b) A package of raw shucked shellfish that does not bear a label or which bears a label which does not contain all the information as specified under (a) of this section shall be subject to an embargo or other legal action.

**310:256-5-39. Food preparation**

During preparation, unpackaged food shall be protected from environmental sources of contamination. Pushcarts preparing unpackaged food shall be shielded on three sides.

**310:256-5-40. Food display**

Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter; service line~~, salad bar food guards~~; effective sneeze sheilds; display cases; or other effective means.

**310:256-5-45. Raw animal foods**

(a) Except as specified in (b), (c), and (d) of this section, raw animal foods such as eggs, fish, poultry, meat, and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods:

(1) Sixty-three (63) degrees Celsius (145 degrees Fahrenheit) or above for at least fifteen (15) seconds for:

(A) Raw shell eggs that are broken and prepared in response to a consumer's order and for immediate service; and

(B) Except as specified under (a)(2) and (a)(3) of this section, fish, pork, and meat including game animals commercially raised for food as specified under OAC 310:256-5-8(1)(A) & (B) and game animals under a voluntary inspection program as specified under OAC 310:256-5-8(2);

(2) Sixty-eight (68) degrees Celsius (155 degrees Fahrenheit) for fifteen (15) seconds or sixty-three (63) degrees Celsius (145 degrees Fahrenheit) for three (3) minutes or sixty-six (66) degrees Celsius (150 degrees Fahrenheit) for one (1) minute for pork, ratites, and injected meats or for comminuted meat, fish or game animals~~, comminuted fish, meat, and game animals~~ commercially raised for food as specified under OAC 310:256-5-8(1)(A) & (B), and game animals under a voluntary inspection program as specified under OAC 310:256-5-8(2) and raw eggs that are not prepared as specified under OAC 310:256-5-8(a)(1)(A) or;

(3) Seventy-four (74) degrees Celsius (165 degrees Fahrenheit) or above for fifteen (15) seconds for poultry, wild game animals as specified under OAC 310:256-5-8(3), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, or stuffing containing fish, meat, poultry, or ratites.

(b) Whole beef roasts and corned beef roasts shall be cooked:

(1) In an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature, as follows:

(A) In a still dry oven, one hundred seventy-seven (177) degrees Celsius (350 degrees Fahrenheit) or more if the roast weight is less than or equal to 4.5 kilograms (10 pounds) or one hundred twenty-one (121) degrees Celsius (250 degrees Fahrenheit)or more if the roast weight is greater than 4.5 kilograms (10 pounds); or

(B) In a convection oven, one hundred sixty-three (163) degrees Celsius (325 degrees Fahrenheit) or more if the roast weight is less than or equal to 4.5 kilograms (10 pounds) or one hundred twenty-one (121) degrees Celsius (250 degrees Fahrenheit)or more if the roast weight is greater than 4.5 kilograms (10 pounds); or

(C) In a high humidity oven in which relative humidity is greater than ninety percent (90%) for at least one (1) hour as measured in the cooking chamber or exit of the oven, or in a moisture-impermeable bag that provides one-hundred percent (100%) humidity, less than one hundred twenty-one degrees (121) degrees Celsius (250 degrees Fahrenheit; and

(2) To heat all parts of the food for 121 minutes at fifty-four (54) degrees Celsius (130 degrees Fahrenheit) or 77 minutes at fifty-six degrees Celsius (132 degrees Fahrenheit) or 47 minutes at fifty-seven degrees Celsius (134 degrees Fahrenheit) or 32 minutes at fifty-eight degrees Celsius (136 degrees Fahrenheit) or 19 minutes at fifty-nine degrees Celsius (138 degrees Fahrenheit) or 12 minutes at sixty (60) degrees Celsius (140 degrees Fahrenheit) or 8 minutes at sixty-one (61) degrees Celsius (142 degrees Fahrenheit) or 5 minutes at sixty-two (62) degrees Celsius (144 degrees Fahrenheit) or 3 minutes at sixty-three (63) degrees Celsius (145 degrees Fahrenheit).

(c) A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

(1) The food service establishment serves a population that is not a highly susceptible population;

(2) The steak is labeled to indicate that it meets the definition to "whole-muscle intact beef" as specified under OAC 310:256-5-2(e); and

(3) The steak is cooked on both the top and bottom to a surface temperature of sixty-three (63) degrees Celsius (145 degrees Fahrenheit) or above and a cooked color change is achieved on all external surfaces.

(d) A raw animal food such as raw egg; raw fish; raw marinated fish; raw molluscan shellfish; steak tartare; or a partially cooked food such as lightly cooked fish, rare meat other than whole-muscle intact beef as specified in OAC 310:256-5-45(c), and soft cooked eggs may be served or offered for sale in a ready-to-eat form and the consumer is informed as specified under OAC 310:256-5-67 that to ensure its safety, the food should be cooked as specified under OAC 310:256-5-45(a) if:

(1) The food service establishment serves a population that is not a highly susceptible population; or

(2) The Department grants a variance from OAC 310:256-5-45(a) or OAC 310:256-5-45(b) of this section as specified in OAC 310:256-15-3 based on a HACCP plan that:

(A) Is submitted by the license holder and approved by the Department;

(B) Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food; and

(C) Verifies that equipment and procedures for food preparation and training of food employees at the food service establishment meet the conditions of the variance.

**310:256-5-57. Potentially hazardous food, hot and cold holding**

Except during preparation, cooking, or cooling, or when time is used as the public health control potentially hazardous food shall be maintained:

(1) At sixty (60) degrees Celsius (140 degrees Fahrenheit) or above, except that cooked roasts shall be held at a temperature of at least fifty-four (54) degrees Celsius (130 degrees Fahrenheit); or

(2) At five (5) degrees Celsius (41 degrees Fahrenheit) or below, except as specified under (3) of this section;

(3) At seven (7) degrees Celsius (45 degrees Fahrenheit) or below in existing refrigeration equipment that is not capable of maintaining the food at five (5) degrees Celsius (41 degrees Fahrenheit) or below if:

(A) The equipment is in place and in use in the food service establishment; and

(B) Within five (5) years of ~~adoption of these rules,~~ July 29, 1998, the equipment is upgraded or replaced to maintain food at a temperature of five (5) degrees (41 degrees Fahrenheit) or below.

**310:256-5-67. Consumption of raw or undercooked animal foods**

Except as specified in 310:256-5-45(c) and 310:256-5-45(d)(2) and 310:256-5-69(a)(4), if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish that is raw, undercooked, or not otherwise processed to eliminate pathogens is offered in a ready-to-eat food, the permit holder shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such foods in raw or undercooked form.

**310:256-5-68. Discarding or reconditioning unsafe, adulterated, or contaminated food**

(a) A food that is unsafe, adulterated, or not honestly presented shall be reconditioned according to a procedure approved by the Department or discarded.

(b) Food that is not from an approved source shall be discarded.

(c) Ready-to-eat food that has been contaminated by an employee who has been restricted or excluded shall be discarded.

(d) Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, or other means shall be discarded.

(e) Food may be examined or sampled by the department as often as necessary for enforcement of these rules and regulations. The department may place an embargo on food in accordance with the provisions of Title 63 O.S., Section 1-1105.

**310:256-5-69. Pasteurized foods, prohibited re-service, and prohibited food**

(a) In a food service establishment that serves a highly susceptible population:

(1) Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in 21 CFR, Section 101.17(g) Food Labeling, shall not be served or offered for sale;

(2) Pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs, or egg products shall be substituted for raw shell eggs in the preparation of:

(A) Foods such as Caesar salad, hollandaise or bernaise sauce, mayonnaise, eggnog, ice cream, and egg-fortified beverages; and

(B) Except as specified in OAC 310:256-5-69(b) recipes in which more than one egg is broken and the eggs are combined;

(3) Food in an unopened original package shall not be re-served; and

(4) Raw animal food such as raw fish, raw-marinated fish; raw molluscan shellfish; steak tartare; or a partially cooked animal food such as lightly cooked fish, rare meat, and soft-cooked eggs that are made from raw shell eggs, meringue, and raw seed sprouts shall not be served or offered for sale in ready-to-eat form.

(b) OAC 310:256-5-69(2)(B) does not apply if:

(1) The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified in OAC 310:256-5-45, and served immediately, such as an omelet, souffle, or scrambled eggs;

(2) The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or

(3) The preparation of the food is conducted under a HACCP plan that:

(A) Identifies the food to be prepared;

(B) Includes specifications and practices that ensure ***Salmonella enteritidis*** growth is controlled before and after cooking, and ***Salmonella enteritidis*** is destroyed by cooking the eggs according to the temperature and time specified in OAC 310:256-5-45;

(C) Contains information on control of cross contamination of ready-to-eat food with raw eggs, and delineates the cleaning and sanitization procedures for food contact surfaces; and

(D) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

(c) Juices that have not been subjected to processing to achieve a 5 log destruction of the pathogen of concern shall be restricted to sale at the site of production.

## SUBCHAPTER 7. EQUIPMENT, UTENSILS, AND LINENS

### 310:256-7-42. Warewashing machines, sanitizer level indicator

A warewashing machine that uses a chemical for sanitization and that is installed after adoption of these rules shall be equipped with an ~~device~~ alarm that indicates audibly or visually when more chemical sanitizer needs to be added.

### 310:256-7-51. Manual warewashing, sink compartment requirements

(a) Except as specified in (c) or (e) of this section, a sink with at least three (3) compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils.

(b) Sink compartments shall be large enough to accommodate immersion of at least half of the largest piece of equipment or utensil. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in (c) of this section shall be used. Manual warewashing sinks in mobile establishments, if required, shall be a minimum size of 80 square inches with each side at least eight (8) inches in length if a square or rectangular design or a diameter of ten (10) inches if circular in design. The sink compartments shall be a minimum of four (4) inches in depth.

(c) Alternative manual warewashing equipment shall be used when there are special cleaning needs or constraints and the Department has approved the use of the alternative equipment. Alternative manual warewashing equipment may include:

(1) High-pressure detergent sprayers;

(2) Low or line-pressure spray detergent foamers;

(3) Other task-specific cleaning equipment;

(4) Brushes or other implements;

(5) Two (2) compartment sinks as specified under (d) of this section; or

(6) Receptacles that substitute for the compartments of a multi-compartment sink in the case of temporary food service establishments.

(d) A two (2) compartment sink will be considered for use only if:

(1) The food service establishment is a retail establishment that does not serve or prepare unpackaged potentially hazardous foods;

(2) The Department approves its use; a0nd

(3) The nature of warewashing is limited to batch operations for cleaning kitchenware such as cleanup at the end of a shift, where the number of items cleaned is limited, where the cleaning and sanitizing solutions are made up immediately before use and drained immediately after use, and where a detergent-sanitizer is used to sanitize and is applied as specified in OAC 310:256-7-76. A two (2) compartment sink shall not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of kitchenware or tableware in an ongoing warewashing process.

(e) Food Service establishments that sell only pre-packaged foods and have no food preparation, no equipment or utensils that require cleaning are exempt from the requirements of a warewashing sink.

### 310:256-7-79. Single-service and single-use articles, required use

A food service establishment which is temporarily without facilities for cleaning and sanitizing kitchenware and tableware shall provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by the consumer. Seasonals and temporaries shall use single-use and single-service articles.

## SUBCHAPTER 9. WATER, PLUMBING AND WASTE

### 310:256-9-8. Capacity

(a) The water source and system shall be of sufficient capacity to meet the water demands of the food service establishment. Mobile and seasonal food service establishments shall have a minimum water capacity of at least 10 gallons. Pushcarts shall have a minimum water capacity of at least 5 gallons.

(b) Hot water generation and distribution systems shall be sufficient to meet peak hot water demands throughout the food service establishment.

## SUBCHAPTER 11. PHYSICAL FACILITIES

**310:256-11-40. Cleaning, frequency and restrictions**

(a) The physical facilities shall be cleaned as often as necessary.

(b) Cleaning shall be done during periods when a minimal amount of food is exposed to prevent contamination of food, equipment, and utensils. This requirement does not apply to cleaning that is necessary due to an immediate need.

(c) Mobile pushcarts shall return daily to the commissary for servicing and cleaning.

## SUBCHAPTER 15. COMPLIANCE AND ENFORCEMENT

**310:256-15-6. Food service establishment plans**

(a) A license applicant or license holder shall submit to the Department plans and specifications for review before:

(1) The construction of a food service establishment;

(2) The conversion of an existing structure for use as a food service establishment; or

(3) The remodeling of a food service establishment or a change of type of food service establishment or food operation.

(b) The Department shall review plans for compliance with rules pertaining to basic sanitation, equipment needs, and temperature requirements for potentially hazardous foods. ~~The Department provides plan review for compliance with rules relating to mechanical, plumbing, and electrical codes.~~

**310:256-15-7. Contents of the plans and specifications**

The plans and specifications for a food service establishment shall include the type of operation, type of food preparation, foods prepared, and the following information:

(1) Intended menu;

(2) Proposed floor plan

(3) Proposed equipment types, manufacturer and model numbers (if available);

(4) Anticipated volume of food to be stored, prepared, and sold or served;

(5) Other information that may be required by the Department for the proper review of the proposed construction, conversion, or modification, and procedures for operating a food establishment.

**310:256-15-8. When a HACCP plan is required**

Before engaging in an activity that requires a HACCP plan, a license applicant or license holder shall submit to the Department for approval a properly prepared HACCP plan as specified under OAC 310:256-15-9 and the relevant provisions of this code if:

(1) Submission of a HACCP plan is required according to law;

(2) A variance is required under OAC 310:256-5-19, under OAC 310:256-5-45, or under OAC 310:256-5-61; or

(3) The Department determines that a food preparation or processing method requires a variance based on a plan submittal, an inspection finding, or a variance request.

**310:256-15-9. Contents of a HACCP plan**

A food service establishment that is required to have a HACCP plan shall indicate:

(1) The types of potentially hazardous foods that are specified in the menu and of other foods as specified by the Department;

(2) A flow diagram showing specific food or category type identifying critical control points and providing information on the following:

(A) Ingredients, materials, and equipment used in the preparation of that food; and

(B) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved.

(3) A food employee and person in charge training plan that addresses the food safety issues of concern;

(4) A statement of operating procedures including:

(A) Each critical control point;

(B) The critical limits for each critical control point;

(C) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;

(D) The method and frequency for the person in charge to routinely verify that the food employee is following operating procedures and monitoring critical control points;

(E) Action to be taken by the person in charge if the critical limits for each critical control point are not met; and

(F) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

(5) Additional scientific data or other information, as required by the Department, supporting the determination that food safety is not compromised by the proposal.

**310:256-15-11. Pre-licensing inspections**

The Department shall conduct one (1) or more pre-licensing inspection(s) to verify that the food service establishment is constructed and equipped in accordance with the approved plans and is in compliance with law and these rules.

**310:256-15-14. Qualifications and responsibilities of applicants**

An applicant shall be an owner of the establishment, ~~or an officer of the legal entity;~~ comply with the requirements of this chapter, agree to permit access to the food service establishment, ~~and to~~ provide required information~~;~~, and pay the applicable license fees at the time the application is submitted.

**310:256-15-16. New, converted, or remodeled establishments**

The Department shall issue a license to the applicant after:

(1) A properly completed application is received;

(2) The required fees are received;

(3) The plans, specifications, and information, if applicable, are reviewed; and

(4) A pre-licensing inspection shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this chapter and meets the Department's criteria for a license.

**310:256-15-20. Responsibilities of the license holder**

The license holder shall:

(1) Post the license in a conspicuous location in the food service establishment;

(2) Comply with these rules;

(3) If a food service establishment is required to operate under a HACCP plan, comply with the plan;

(4) Immediately discontinue operations and notify the Department if an imminent health hazard exists;

(5) Allow the Department's representatives access to the food service establishment;

(6) Replace existing facilities and equipment with the required facilities and equipment if:

(A) The Department directs the replacement because the facilities and equipment constitute a public health hazard or no longer comply with the criteria upon which the facilities and equipment were accepted;

(B) The Department directs the replacement of the facilities and equipment because of a change of ownership; or

(C) The facilities and equipment are replaced in the normal course of operation;

(7) Comply with the Department's directives including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives in response to public health concerns; and

(8) Be subject to suspension, denial, nonrenewal, revocation or summary suspension of the food license, administrative fines, or other administrative, civil, injunctive, and criminal remedies authorized under law for failure to comply with these rules or a directive of the Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives,

(9) Accept notices issued and served by the regulatory authority according to law.

**310:256-15-33. Ceasing operations and reporting**

(a) Except as specified in (b) of this section, a license holder shall immediately discontinue operations and notify the Department if an imminent health hazard exists because of an emergency such as a fire, flood, ~~extended interruption of electrical or water service,~~ sewage backup, no hot water in the facility, insufficient refrigeration and/or hot food storage facilities available, substantial evidence or presence of a large number of insects or evidence of rodents in food or on food preparation surfaces, interruption of safe potable water supply to the facility, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, interruption of electrical service for more than 4 hours, severe structural damage in the facility, an employee working with a Salmonella, Shigella, E. coli 0157:H7 or hepatitis A infection, gross unsanitary occurrence or condition, or other circumstance as determined by the Commissioner of Health, or his designee, that shall endanger public health.

(b) A license holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

**310:256-15-38. Obtaining information: personal history of and control illness, medical examination, and specimen analysis**

The Department shall act when it has reasonable cause to believe that a food service employee has possibly transmitted ~~diseases,~~disease; ~~is~~ may be infected with a disease in a communicable form that is transmissible through ~~foods,~~food; ~~is~~ may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound, or acute respiratory infection, by:

(1) Securing a confidential medical history of the employee suspected of transmitting disease or making other investigations as deemed appropriate; and

(2) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected employee and other employees.

**310:256-15-41. Release of employee from restriction or exclusion**

The ~~licensee may request from the license holder the release of a food service employee from retriction or exclusion according to~~ Department shall release a food employee from restriction or exclusion as required by this Chapter upon the following conditions:

(1) An employee who was infected with ***Salmonella typhi*** if the employee's stools are negative for ***S. typhi*** based on testing of at least three (3) consecutive stool specimen cultures that are taken not earlier than one (1) month after onset; at least forty-eight (48) hours after discontinuance of antibiotics; and at least twenty-four (24) hours apart;

(2) If one (1) of the cultures is positive, repeat cultures are taken at intervals of one (1) month until at least three (3) consecutive negative stool specimen cultures are obtained;

(3) An employee who was infected with ***Shigella*** spp. or ***Escherichia coli*** O157:H7 if the employee's stools are negative for ***Shigella*** spp. or ***E. coli*** O157:H7 based on testing of two (2) consecutive stool specimen cultures that are taken not earlier than forty-eight (48) hours after discontinuance of antibiotics and at least twenty-four (24) hours apart; or

(4) An employee who was infected with hepatitis A virus if symptoms cease or at least two (2) blood tests show a decrease liver enzymes.

**310:256-15-42. Critical items**

(a) The Department shall treat as a critical item any requirement in the following sections: OAC 310:256-3-1, OAC 310:256-3-2, OAC 310:256-3-3, OAC 310:256-3-4, OAC 310:256-3-5, OAC 310:256-3-7, OAC 310:256-3-8, OAC 310:256-3-9, OAC 310:256-3-10, OAC 310:256-3-16, OAC 310:256-3-17, OAC 310:256-3-19, OAC 310:256-5-1, OAC 310:256-5-2, OAC 310:256-5-3, OAC 310:256-5-4, OAC 310:256-5-5, OAC 310:256-5-6, OAC 310:256-5-7, OAC 310:256-5-8, OAC 310:256-5-9, OAC 310:256-5-10, OAC 310:256-5-11, OAC 310:256-5-12, OAC 310:256-5-13, OAC 310:256-5-14, OAC 310:256-5-16, OAC 310:256-5-19, OAC 310:256-5-20, OAC 310:256-5-22, OAC 310:256-5-24, OAC 310:256-5-25, OAC 310:256-5-26, OAC 310:256-5-28, OAC 310:256-5-29, OAC 310:256-5-40, OAC 310:256-5-42, OAC 310:256-5-43, OAC 310:256-5-45, OAC 310:256-5-46, OAC 310:256-5-48, OAC 310:256-5-51, OAC 310:256-5-55, OAC 310:256-5-57, OAC 310:256-5-58, OAC 310:256-5-59, OAC 310:256-5-60, OAC 310:256-5-61, OAC 310:256-5-62, OAC 310:256-5-68, OAC 310:256-5-69, OAC 310:256-7-1, OAC 310:256-7-4, OAC 310:256-7-5, OAC 310:256-7-12, OAC 310:256-7-14, OAC 310:256-7-15, OAC 310:256-7-36, OAC 310:256-7-50, OAC 310:256-7-56, OAC 310:256-7-72, OAC 310:256-7-75, OAC 310:256-7-79, OAC 310:256-7-82, OAC 310:256-7-83, OAC 310:256-7-92, OAC 310:256-7-94, OAC 310:256-7-95, OAC 310:256-9-1, OAC 310:256-9-2, OAC 310:256-9-3, OAC 310:256-9-4, OAC 310:256-9-5, OAC 310:256-9-8, OAC 310:256-9-9, OAC 310:256-9-13, OAC 310:256-9-14, OAC 310:256-9-16, OAC 310:256-9-19, OAC 310:256-9-20, OAC 310:256-9-22, OAC 310:256-9-23, OAC 310:256-9-26, OAC 310:256-9-27, OAC 310:256-9-29, OAC 310:256-9-30, OAC 310:256-9-41, OAC 310:256-9-47, OAC 310:256-9-49, OAC 310:256-9-52, OAC 310:256-11-24, OAC 310:256-11-43, OAC 310:256-11-49, OAC 310:256-11-53, OAC 310:256-13-1, OAC 310:256-13-2, OAC 310:256-13-3, OAC 310:256-13-4, OAC 310:256-13-5, OAC 310:256-13-6, OAC 310:256-13-7, OAC 310:256-13-8, OAC 310:256-13-9, OAC 310:256-13-10, OAC 310:256-13-11, OAC 310:256-13-12, OAC 310:256-13-13, OAC 310:256-13-14, OAC 310:256-13-15, OAC 310:256-13-16, OAC 310:256-13-17, OAC 310:256-13-19, OAC 310:256-15-5.

(b) The Department shall reinspect an establishment within 14 days after noting that the establishment has violated three of the following critical items: OAC 310:256-3-5, OAC 310:256-3-9, OAC 310:256-5-2, OAC 310:256-5-13, OAC 310:256-5-20, OAC 310:256-5-22, OAC 310:256-5-45, OAC 310:256-5-51, OAC 310:256-5-55, OAC 310:256-5-57.

(c) The Department shall reinspect an establishment within 14 days after noting that the establishment has violated seven or more of the following critical items:OAC 310:256-3-2, OAC 310:256-3-3, OAC 310:256-3-5, OAC 310:256-3-9, OAC 310:256-3-16, OAC 310:256-5-2, OAC 310:256-5-13, OAC 310:256-5-20, OAC 310:256-5-22, OAC 310:256-5-28, OAC 310:256-5-45, OAC 310:256-5-51, OAC 310:256-5-55, OAC 310:256-5-57, OAC 310:256-7-50, OAC 310:256-7-51, ~~OAC 310:256-7-62,~~ OAC 310:256-7-75, OAC 310:256-7-83, OAC 310:256-9-1, OAC 310:256-9-9, OAC 310:256-9-10, OAC 310:256-9-19, OAC 310:256-9-26, OAC 310:256-9-52, OAC 310:256-11-15, OAC 310:256-11-49, OAC 310:256-11-53, OAC 310:256-13-5, OAC 310:256-13-19.

(d) The Department shall reinspect an establishment within 14 working days after noting that the establishment has 14 or more violations that include four or more violations of the requirements in the following sections: 310:256-3-2, OAC 310:256-3-3, OAC 310:256-3-5, OAC 310:256-3-9, OAC 310:256-3-16, OAC 310:256-5-2, OAC 310:256-5-13, OAC 310:256-5-20, OAC 310:256-5-22, OAC 310:256-5-28, OAC 310:256-5-45, OAC 310:256-5-51, OAC 310:256-5-55, OAC 310:256-5-57, OAC 310:256-7-50, OAC 310:256-7-51, OAC ~~310:256-7-62,~~ OAC 310:256-7-75, OAC 310:256-7-83, OAC 310:256-9-1, OAC 310:256-9-9, OAC 310:256-9-10, OAC 310:256-9-19, OAC 310:256-9-26, OAC 310:256-9-52, OAC 310:256-11-15, OAC 310:256-11-49, OAC 310:256-11-53, OAC 310:256-13-5, OAC 310:256-13-19OAC.

(e) In determining if a reinspection is required, the Department shall count a violation number only once regardless of how many separate violations under the violation number are listed on the inspection sheet.

(f) If the Department cites OAC 310:256-5-20(b) twice within a 12 month period, then the establishment must submit a plan that is approved by the Department that includes the elements of training for establishment employees, monitoring plans of handwashing procedures, and remedial actions for those that do not follow the procedures adopted by the establishment. Training records shall be available to the sanitarian for review upon inspection of the establishment.

(g) If OAC 310:256-5-20(b) is cited three times within an 18 month period, the monitoring portion of the plan must include recording of handwashing procedures by management for review by the sanitarian upon inspection. This portion must receive approval by the Department.

(h) If OAC 310:256-5-20(b) is cited four times during a two year period, the establishment must implement a no-bare-hand-contact policy until the Department determines the establishment has made sufficient progress in training to attempt a bare hand policy.

*[OAR Docket #03-849; filed 5-2-03]*

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## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 275. INSPECTOR REGULATIONS [REVOKED]

*[OAR Docket #03-850]*

**RULEMAKING ACTION:**

PERMANENT final revocation

**RULES:**

Subchapter 1. General Provisions [REVOKED]

310:275-1-1 [REVOKED]

310:275-1-2 [REVOKED]

Subchapter 3. Inspector License Categories, Qualifications, Requirements, and Fees, Certification and Continuing Education [REVOKED]

310:275-3-1 [REVOKED]

310:275-3-2 [REVOKED]

310:275-3-3 [REVOKED]
310:275-3-4 [REVOKED]
310:275-3-5 [REVOKED]

**AUTHORITY:**
Oklahoma State Board of Health; 59 O.S. 2001, § 1000.4

**DATES:**
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**Gubernatorial approval:**
April 7, 2003
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Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2003
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**SUPERSEDED EMERGENCY ACTIONS:**
"n/a"

**INCORPORATION BY REFERENCE:**
"n/a"

**ANALYSIS:**
The purpose of the proposed revocation is to repeal rules governed by statutes that are no longer enforced or within the regulatory purview of the Oklahoma State Department of Health. The regulatory responsibilities associated with these rules and the activities of the Electrical, Plumbing, Mechanical, and Building Inspection trades have been transferred to the Construction Industries Board. These rules have been recently duplicated in Title 158 of the Oklahoma Administrative Code via recent promulgation by the Constructions Industries Board and have no application to activities currently performed by the Department under Title 310.

**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., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

### 310:275-1-1. Purpose [REVOKED]

~~The rules of this Chapter set forth definitions, provide for categories of licenses, establish examination guidelines, determine continuing education requirements, and determine violations which are grounds for suspension or revocation of any license issued pursuant to the Oklahoma Inspectors Act.~~

### 310:275-1-2. Definitions [REVOKED]

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

~~**"BOCA"** means the Building Officials and Code Administrators International, Inc., a nationally recognized code organization that publishes codes as standards for governing building, mechanical and plumbing installations and that certifies inspectors in various categories in the building and construction trades.~~

~~**"Certification"** means approval by a certifying entity demonstrating that an applicant has passed an appropriate certification examination.~~

~~**"C.E.U."** means a continuing education unit which is either one (1) clock hour of Committee approved instruction or its equivalent as determined by the Committee.~~

~~**"Commissioner"** means the Commissioner of Health.~~

~~**"Committee"** means the Oklahoma Inspector Examiners Committee.~~

~~**"IAPMO"** means the International Association of Plumbing and Mechanical Officials, a nationally recognized code organization that publishes a code for governing plumbing installations and that certifies inspectors in the plumbing trade.~~

~~**"ICBO"** means the International Conference of Building Officials, a nationally recognized code organization that publishes codes as standards for governing building and mechanical installations and that certifies inspectors in various categories in the building and construction trades.~~

~~**"OSDH EXAM"** means an examination prepared by the Committee.~~

~~**"Provisional license"** means a license issued for not more than one year to a person who has made proper application but does not meet all licensing requirements.~~

~~**"Residential"** means the classification of inspector license which authorizes an individual to conduct electrical, mechanical, plumbing or building inspections of only those structures designated as use group R3 or R4 in the 1993 edition of the BOCA National Building Code.~~

~~**"SBCCI"** means the Southern Building Code Congress International, a nationally recognized code organization that publishes codes as standards for governing building, mechanical and plumbing installations and that certifies inspectors in various categories in the building and construction trades.~~

~~**"Unlimited"** means the classification of inspector license which authorizes an individual to conduct electrical, mechanical, plumbing or building inspections of all structures or installations.~~

## SUBCHAPTER 3. INSPECTOR LICENSE CATEGORIES, QUALIFICATIONS, REQUIREMENTS, AND FEES, CERTIFICATION AND CONTINUING EDUCATION [REVOKED]

### 310:275-3-1. Categories and classifications of inspector licenses [REVOKED]

~~(a) Licenses shall be issued for the following categories and classifications:~~

~~(1) Electrical inspector~~
~~(A) Unlimited~~
~~(B) Residential~~
~~(2) Mechanical inspector~~
~~(A) Unlimited~~
~~(B) Residential~~
~~(3) Plumbing inspector~~
~~(A) Unlimited~~
~~(B) Residential~~
~~(4) Building inspector~~
~~(A) Unlimited~~
~~(B) Residential~~

~~(b) In addition to the above categories, a person may also be classified as:~~

~~(1) a circuit rider inspector if the person is employed by more than one political subdivision,~~

~~(2) a provisional inspector if the Commissioner determines that a license should be issued even though the examination requirement has not yet been met,~~

~~(3) an inactive inspector if the person is not currently employed as a building and construction inspector.~~

**310:275-3-2. Qualifications for inspector licensure [REVOKED]**

~~(a) Initial application must be made on the form provided by the Commissioner.~~

~~(b) The proper fees must accompany any application, including the late fee if application for renewal is made within one year after expiration of the initial license.~~

~~(c) The applicant must submit as soon as is practicable after application is made:~~

~~(1) proof of certification by a national code organization recognized by the Committee, such as BOCA, IAPMO, ICBO, or SBCCI;~~

~~(2) proof of certification by the Committee that the person has passed the Oklahoma Inspector Examination; or~~

~~(3) proof that the required C.E.U.'s have been completed.~~

~~(d) Section 310:275-3-4 sets forth the licensing qualifications for the license categories and classifications provided in 310:275-3-1. However, no person shall be required to meet the continuing education requirements for the licensing year the certification requirements of 310:275-3-2(c)1 or 2 are met.~~

~~(e) A provisional license is issued to allow a person to work as an inspector even though all the license qualifications have not been met. This provisional license will provide the licensee with adequate time and motivation to become educated and meet all licensure requirements within one year after being issued the provisional license. No person shall be issued more than one provisional license at a time, nor shall a provisional license be issued twice for the same category. The initial fee for the provisional license shall be $25.00.~~

~~(f) The Commissioner shall maintain a list of inactive inspectors, said list shall be made available on request to any political subdivision who may need the services of a licensed inspector.~~

**310:275-3-3. License requirements for inspectors [REVOKED]**

~~(a) The licensee shall notify the Commissioner within fifteen (15) days of any change in employment status related to the license.~~

~~(b) The licensee shall, in addition to any local procedures or requirements, notify the Commissioner as to persons suspected of performing building, electrical, mechanical, or plumbing work within their jurisdiction who are not properly licensed by the State. All licensed building and construction inspectors shall require all persons doing work in his/her jurisdiction to meet all requirements for licensing and code standards.~~

~~(c) Any person who voluntarily surrenders their license during an investigation by the licensing authority shall be treated as if their license had been revoked by the Commissioner on the day of surrender.~~

~~(d) The licensee shall not attempt to retain licensure by making false statements concerning C.E.U.'s.~~

**310:275-3-4. Fees, certification and continuing education for inspectors [REVOKED]**

~~Fees, certification and continuing education requirements for inspectors are as follows:~~

~~(1) Building inspectors (both unlimited and residential licenses):~~
~~(A) Fee for license and renewal - $25.00.~~
~~(B) Certification or exam - BOCA, ICBO, SBCCI, or OSDH Exam.~~
~~(C) C.E.U. - 5 (effective for license year beginning July 1, 1995).~~

~~(2) Electrical inspectors (both unlimited and residential licenses):~~
~~(A) Fee for license and renewal - $25.00.~~
~~(B) Certification or exam - BOCA, ICBO, SBCCI, or OSDH Exam.~~
~~(C) C.E.U. - 5 (effective for license year beginning July 1, 1995).~~

~~(3) Mechanical inspectors (both unlimited and residential licenses):~~
~~(A) Fee for license and renewal - $25.00.~~
~~(B) Certification or exam - BOCA, ICBO, SBCCI, or OSDH Exam.~~
~~(C) C.E.U. - 5 (effective for license year beginning July 1, 1995).~~

~~(4) Plumbing inspectors (both unlimited and residential licenses):~~
~~(A) Fee for license and renewal - $25.00.~~
~~(B) Certification or exam - BOCA, IAPMO, ICBO, SBCCI, or OSDH Exam.~~
~~(C) C.E.U. - 5 (effective for license year beginning July 1, 1995).~~

**310:275-3-5. Continuing education courses [REVOKED]**

~~(a) **Continuing education course approval.** Any entity which desires to sponsor education to licensees in compliance with the continuing education requirements of OAR~~

~~310:275-3-4 shall file an application for approval on the form prescribed by the Department. The application shall include a list of the course instructors and their qualifications, an agenda detailing the material to be presented, the location of the training, the program objectives, and the number of clock hours of classroom and supervised instruction. Licensees shall not receive continuing education credit for attending classes that are not approved by the Committee. After completion of the course, the entity shall submit sign-in sheets for all sessions. The sign-in sheets shall include the signature and social security number or state inspector license number of each person in attendance. The entity shall verify the total number of continuing education hours completed by each attendee. All programs shall be presented as submitted unless changes have been approved. Changes to the program shall be submitted to the Department within 10 days of the training session for review by the committee. Failure to obtain approval of changes may result in loss of CEU approval.~~

~~(b) **Approval requirements for continuing education.**~~

~~(1) All material and information presented shall pertain to the discipline in which the person is licensed.~~

~~(2) All courses must be of at least two (2) hours in length.~~

~~(3) The training location must be outside the regular work place or after hours.~~

~~(4) Each attendee shall complete an evaluation on a form provided by the Department. The entity shall return the completed evaluation form to the Department.~~

*[OAR Docket #03-850; filed 5-2-03]*

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## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 276. HOME INSPECTION INDUSTRY

*[OAR Docket #03-851]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions [NEW]
310:276-1-1 [NEW]
310:276-1-2 [NEW]
310:276-1-3 [NEW]
Subchapter 3. Procedures of the Committee [NEW]
310:276-3-1 [NEW]
Subchapter 5. License Requirements. License Fees, License Period, Re-examination, Display and Insurance [NEW]
310:276-5-1 [NEW]
310:276-5-2 [NEW]
Subchapter 7. [RESERVED]
Subchapter 9. Examination Applications, Examinations, Course Approval Requirements, Instructor Requirements, Continuing Education, Denied Application Appeal, Submission of Records, and Continuing Education Reciprocity [NEW]
310:276-9-1 [NEW]
310:276-9-2 [NEW]
310:276-9-3 [NEW]
310:276-9-4 [NEW]
310:276-9-5 [NEW]
310:276-9-6 [NEW]
310:276-9-7 [NEW]
310:276-9-8 [NEW]
Subchapter 11. License Revocation and Suspension and Prohibited Acts [NEW]
310:276-11-1 [NEW]
310:276-11-2 [NEW]
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310:276-1-3 [NEW]
Subchapter 3. Procedures of the Committee [NEW]
310:276-3-1 [NEW]
Subchapter 5. License Requirements, License Fees, License Period, Re-examination, Display and Insurance [NEW]
310:276-5-1 [NEW]
310:276-5-2 [NEW]
Subchapter 9. Examination Applications, Examinations, Course Approval Requirements, Instructor Requirements, Continuing Education, Denied Application Appeal, Submission of Records, and Continuing Education Reciprocity [NEW]
310:276-9-1 [NEW]
310:276-9-2 [NEW]
310:276-9-3 [NEW]
310:276-9-4 [NEW]
310:276-9-5 [NEW]
310:276-9-6 [NEW]
310:276-9-7 [NEW]
310:276-9-8 [NEW]
Subchapter 11. License Revocation and Suspension and Prohibited Acts [NEW]
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**Docket number:**
03-83
**INCORPORATION BY REFERENCE:**
"n/a"
**ANALYSIS:**
The purpose of these rules is to set forth the Home Inspection Industry regulations mandated by the Home Inspection Licensing Act. These rules have no antecedent and the Home Inspection Licensing Act became effective on November 1, 2001. The rules adopt and set forth standards of workmanship, advisory committee procedures, examination procedures, licensure fees, continuing education requirements and prohibited acts.

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS

**310:276-1-1. Purpose**

The rules in this Chapter implement the Home Inspection Licensing Act, Title 59 O.S. 2001, § 858-621 et seq.

**310:276-1-2. Definitions**

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

**"Act"** means the Home Inspection Licensing Act, found at 59 O.S.§ 858.621 et seq.

**"Alarm systems"** means warning devices, installed or free-standing, including but not limited to: carbon monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps and smoke alarms.

**"Applicant"** means any person applying for an examination for a license or registration under the Act.

**"Architectural service"** means any practice involving the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structures or the design for construction, including but not specifically limited to, schematic design, design development, preparation of construction contract documents, and administration of the construction contract.

**"Board"** means the State Board of Health.

**"Certificates of course completion"** means a document acceptable to the Committee which signifies satisfactory completion of course work and reflects the hours of credit earned.

**"Cheating"** means any unapproved deviation from any official instruction given before, during or after a home inspector license examination for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

**"Classroom hour"** is equal to fifty (50) minutes out of each sixty (60) minute segment.

**"Commissioner"** means the State Commissioner of Health.

**"Committee"** means the Committee of Home Inspector Examiners established by the Home Inspector Licensing Act, 59 O.S. 858-624.

**"Component"** means a part of a system.

**"Continuing education"** means education that is approved by the Committee to satisfy education requirements in order to renew licensure as a home inspector.

**"Continuing education verification form"** means a form acceptable to the Committee and completed by the course provider, that documents compliance with the continuing education requirements.

**"Decorative"** means ornamental; not required for the operation of the essential systems and components of a home.

**"Defect"** means a condition, malfunction or problem, which is not decorative, that would have a materially adverse effect on the value of a system or component, or would impair the health or safety of the occupants or client.

**"Department"** means the Oklahoma State Department of Health.

**"Describe"** means to report a system or component by its type or other observed, significant characteristics to distinguish it from other systems or components.

**"Dismantle"** means to take apart or remove any component, device or piece of equipment that would not be taken apart or removed by a homeowner in the course of normal and routine homeowner maintenance.

**"Engineering service"** means any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional service or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with the specifications and design, in conjunction with structures, buildings, machines, equipment, works or processes.

**"Further evaluation"** means examination and analysis by a qualified professional, tradesman or service technician beyond that provided by the home inspection.

**"Home"** or **"residence"** means any dwelling, from one to four (1-4) units in design, intended principally for residential purposes by one (1) or more individuals.

**"Home inspection" or "inspection"** *means a visual examination of any or all of the readily accessible physical real property and improvements to real property consisting of four or fewer dwelling units, including structural, lot drainage, roof, electrical, plumbing, heating and air conditioning and such other areas of concern as are specified in writing to determine if performance is as intended.*

**"Home inspection license unit"** means the staff and administrative support unit to the Committee of Home Inspector Examiners.

**"Home inspection report"** means a written opinion of the functional and physical condition of property written by the licensed home inspector pursuant to home inspection.

**"Home inspector"** means an individual licensed pursuant to the Home Inspection Licensing Act who, for compensation, conducts home inspections.

**"Inspect"** means to examine readily accessible systems and components of a building in accordance with these Standards of Practice, using normal operating controls and opening readily openable access panels.

**"Installed"** means attached such that removal requires tools.

**"Instructor"** means a person who presents course materials approved for qualifying education and continuing education credit hours that has the experience, training, and/or education in the course subject matter and has been approved by the Committee.

**"Normal working order"** means the system or component functions without defect for the primary purpose and manner for which it was installed.

**"Normal operating controls"** means devices such as thermostats, switches or valves intended to be operated by the homeowner.

**"Provider"** means a person, corporation, professional association or its local affiliates, or any other entity, which is approved by the Committee and provides approved qualifying and continuing education to home inspectors.

**"Readily accessible"** means available for visual inspection without requiring moving of personal property, dismantling, destructive measures, or any action which will likely involve risk to persons or property.

**"Readily openable access panel"** means a panel provided for homeowner inspection and maintenance that is within normal reach, can be removed by one person, and is not sealed in place.

**"Reciprocity agreement"** means an agreement whereby a home inspector who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

**"Recreational facilities"** means spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground or other similar equipment and associated accessories.

**"Report"** means to communicate in writing.

**"Representative number"** means one component per room for multiple similar interior components such as windows and electric outlets; one component on each side of the building for multiple similar exterior components.

**"Roof drainage systems"** means components used to carry water off a roof and away from a building.

**"Shut down"** means a state in which a system or component cannot be operated by normal operating controls.

**"Solid fuel burning appliances"** means a hearth and fire chamber or similar prepared place in which a fire may be built and which is built in conjunction with a chimney; or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction.

**"Structural component"** means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

**"System"** means a combination of interacting or interdependent components, assembled to carry out one or more functions.

**"Technically exhaustive"** means an investigation that involves dismantling, the extensive use of advanced techniques, measurements, instruments, testing, calculations, or other means.

**"Under-floor crawl space"** means the area within the confines of the foundation and between the ground and the underside of the floor.

**"Unsafe"** means a condition in a readily accessible, installed system or component which is judged to be a significant risk of personal injury during normal operation. The risk may be due to damage, deterioration, improper installation or a change in accepted residential construction standards.

**"Wiring methods"** means identification of electrical conductors or wires by their general type, such as "non-metallic sheathed cable" ("Romex"), "armored cable" ("bx") or "knob and tube", etc.

**310:276-1-3. Standards of workmanship and practice**

(a) **General requirements and limitations.**

(1) The inspector shall be governed by the following general requirements:

(A) Only readily accessible systems and components of homes listed in these Standards shall be required to be inspected.

(B) Only installed systems and components of homes listed in these Standards shall be required to be inspected.

(C) The inspector shall report on those systems and components inspected which, in the professional opinion of the inspector, are not in normal working order.

(D) The inspector shall report a reason why, if not self-evident, the system or component is not in normal working order.

(E) The inspector shall report the inspector's recommendations to correct or monitor the reported deficiency.

(F) The inspector shall report on any systems and components designated for inspection in these Standards which were present at the time of the Home Inspection but were not inspected and a reason they were not inspected.

(G) These Standards are not intended to limit inspectors from including other inspection services, systems or components in addition to those required by these Standards.

(H) These Standards are not intended to limit inspectors from specifying repairs and providing an opinion of the costs to cure, provided the inspector is appropriately qualified and willing to do so.

(I) These Standards are not intended to limit inspectors from excluding systems and components from the inspection if requested by the client.

(2) Inspections performed in accordance with these Standards are not technically exhaustive, will not identify concealed conditions or latent defects, and are applicable to buildings with four or fewer dwelling units and their garages or carports.

(3) The inspector is not required to perform any action or make any determination unless specifically stated in these Standards, except as may be required by lawful authority.

(4) Inspectors are not required to determine the condition of systems or components which are not readily accessible, the remaining life of any system or component,

the strength, adequacy, effectiveness, or efficiency of any system or component, the causes of any condition or deficiency, the methods, materials, or costs of corrections, future conditions including, but not limited to, failure of systems and components, the suitability of the property for any specialized use, compliance with any regulatory requirements other than this Chapter (codes, regulations, laws, ordinances, etc.), the market value of the property or its marketability, the advisability of the purchase of the property, the presence of potentially hazardous plants or animals including, but not limited to wood destroying organisms or diseases harmful to humans, the presence of any environmental hazards including, but not limited to toxins, carcinogens, noise, and contaminants in soil, water, and air, the effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances, the operating costs of systems or components, or the acoustical properties of any system or component.

(5) Inspectors are not required to offer or perform any act or service contrary to law, perform engineering services, perform work in any trade or any professional service other than home inspection, or warranties or guarantees of any kind.

(6) Inspectors are not required to operate any system or component which is shut down or otherwise inoperable, any system or component which does not respond to normal operating controls, or shut-off valves.

(7) Inspectors are not required to enter any area which will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or damage the property or its systems or components, or the under-floor crawl spaces or attics which are not readily accessible.

(8) Inspectors are not required to inspect underground items including, but not limited to underground storage tanks or other underground indications of their presence, whether abandoned or active, systems or components which are not installed, decorative items, systems or components located in areas that are not entered in accordance with these Standards, detached structures other than garages and carports, or common elements or common areas in multi-unit housing, such as condominium properties or cooperative housing.

(9) Inspectors are not required to perform any procedure or operation which will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or damage the property or its systems or components, move suspended ceiling tiles, personal property, furniture, equipment, plants, soil, snow, ice, or debris, or dismantle any system or component, except as explicitly required by these Standards.

(b) **Structural system inspection requirements.**

(1) The inspector shall inspect the structural components including foundation and framing, by probing a representative number of structural components where deterioration is suspected or where clear indications of possible deterioration exist. Probing is not required when probing would damage any finished surface or where no deterioration is visible.

(2) The inspector shall describe the foundation and report the methods used to inspect the under-floor crawl space, the floor structure, the wall structure, the ceiling structure, and the roof structure and report the methods used to inspect the attic.

(3) The inspector is not required to provide any engineering service or architectural service, or offer an opinion as to the adequacy of any structural system or component.

(c) **Exterior inspection requirements.**

(1) The inspector shall inspect the exterior wall covering, flashing and trim, all exterior doors, attached decks, balconies, stoops, steps, porches, and their associated railings, the eaves, soffits, and fascias where readily accessible from the ground level, the vegetation, grading, surface drainage, and retaining walls on the property when any of these are likely to adversely affect the building, and the walkways, patios, and driveways leading to dwelling entrances.

(2) The inspector shall describe the exterior wall covering.

(3) The inspector is not required to inspect screening, shutters, awnings, and similar seasonal accessories, fences, geological, geotechnical or hydrological conditions, recreational facilities, outbuildings, seawalls, break-walls, and docks, and erosion control and earth stabilization measures.

(d) **Roof system inspection requirements.**

(1) The inspector shall inspect the roof covering, the roof drainage systems, the flashings, the skylights, chimneys, and roof penetrations.

(2) The inspector shall describe the roof covering and report the methods used to inspect the roof.

(3) The inspector is not required to inspect antennae, interiors of flues or chimneys which are not readily accessible, or other installed accessories.

(e) **Plumbing system inspection requirements.**

(1) The inspector shall inspect the interior water supply and distribution systems including all fixtures and faucets, the drain, waste and vent systems including all fixtures, the water heating equipment, the vent systems, flues, and chimneys, the fuel storage and fuel distribution systems, and the drainage sumps, sump pumps, and related piping.

(2) The Inspector shall describe the water supply, drain, waste, and vent piping materials, the water heating equipment including the energy source, and the location of main water and main fuel shut-off valves.

(3) The inspector is not required to inspect, the clothes washing machine connections, the interiors of flues or chimneys which are not readily accessible, wells, well pumps, or water storage related equipment, water conditioning systems, solar water heating systems, fire and lawn sprinkler systems, or private waste disposal systems.

(4) The inspector is not required to determine whether water supply and waste disposal systems are public or private, the quantity or quality of the water supply, or operate safety valves or shut-off valves.

(f) **Electrical system inspection requirements.**

(1) The Inspector shall inspect the service drop, the service entrance conductors, cables, and raceways, the service equipment and main disconnects, the service grounding, the interior components of service panels and sub panels, the conductors, the overcurrent protection devices, all readily accessible installed lighting fixtures, switches, ceiling fans, and receptacles, the ground fault circuit interrupters, and accessible wiring and splicing including the basement and attic.

(2) The Inspector shall describe the amperage and voltage rating of the service, the location of main disconnect(s) and sub panels, and the wiring methods.

(3) The Inspector shall report the presence of solid conductor aluminum branch circuit wiring, and the absence of smoke detectors.

(4) The inspector is not required to inspect the remote control devices unless the device is the only control device, the alarm systems and components, the low voltage wiring, systems and components, the ancillary wiring, systems and components not a part of the primary electrical power distribution system, or measure amperage, voltage, or impedance.

(g) **Heating system inspection requirements.**

(1) The inspector shall inspect the installed heating equipment, the vent systems, flues, and chimneys.

(2) The inspector shall describe the energy source, and the heating method by its distinguishing characteristics.

(3) The inspector is not required to inspect the interiors of flues or chimneys, which are not readily accessible, the humidifier or dehumidifier, the electronic air filter, the solar space heating system, or determine heat supply adequacy or distribution balance.

(h) **Air conditioning systems inspection requirements.**

(1) The inspector shall inspect the installed central and through-wall cooling equipment.

(2) The inspector shall describe the energy source, and the cooling method by its distinguishing characteristics.

(3) The inspector is not required to inspect electronic air filters, or determine cooling supply adequacy or distribution balance.

(i) **Interior inspection requirements.**

(1) The inspector shall inspect the readily accessible walls, ceilings, and floors, the steps, stairways, and railings, the countertops and a representative number of installed cabinets, and the readily accessible doors and windows, garage doors and garage door openers, and the following installed household appliances: garbage disposal, stove, cook top, dishwasher, vent hood, and free-standing stove.

(2) The inspector is not required to inspect the paint, wallpaper, and other finish treatments, the carpeting, the window treatments, the central vacuum systems, the household appliances not listed in OAC 310:276-1-3(i)(1), or recreational facilities.

(j) **Insulation and ventilation inspection requirements.**

(1) The inspector shall inspect the insulation and vapor retarders in unfinished spaces, the ventilation of attics and foundation areas, and the mechanical ventilation systems.

(2) The inspector shall describe the insulation and vapor retarders in unfinished spaces, and the absence of insulation in unfinished spaces at conditioned surfaces.

(3) The inspector is not required to disturb insulation or vapor retarders, or determine indoor air quality.

(k) **Fireplaces and solid fuel burning appliances inspection requirements.**

(1) The inspector shall inspect the vent systems, flues, and chimneys and the readily accessible portion of the firebox.

(2) The inspector shall describe the fireplaces and solid fuel burning appliances, and the chimneys.

(3) The inspector is not required to inspect the interiors of flues or chimneys, the firescreens and doors, the seals and gaskets, the automatic fuel feed devices, the mantels and fireplace surrounds, the combustion make-up air devices, or the heat distribution assists whether gravity controlled or fan assisted.

(4) The inspector is not required to ignite or extinguish fires, determine draft characteristics, or move fireplace inserts or stoves or firebox contents.

## SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE

### 310:276-3-1. Procedures of the Committee

(a) Committee meetings are generally, and unless otherwise stated by the Committee, held in the State Department of Health Building at 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1299. The committee shall meet as often as is necessary, but at least once each quarter. Meetings of the committee will comply with the Oklahoma Open Meetings Act.

(b) The Committee shall provide oversight to the overall licensure examination process; shall set minimum standards for certifying qualified applicants; may write examinations; may recommend regulations to the Commissioner and to the Board of Health; and, shall act as advisor to the Commissioner on home inspection matters.

(c) The only formal procedure available to the public is to apply for a home inspection license. This shall be done by filling out an application for examination on a form provided by the Committee.

(d) The public may communicate with the Committee in person or by mail through the Department. The Department will make available all forms and instructions used by the Committee, rules, and all other written statements of policy or interpretations, all final orders, decisions and opinions. Copies of same may be provided in accordance with OAC 310:2-3-5.

## SUBCHAPTER 5. LICENSE REQUIREMENTS, LICENSE FEES, LICENSE PERIOD, RE-EXAMINATION, DISPLAY AND INSURANCE

**310:276-5-1. Home inspection license requirements**

No person, on behalf of himself or a firm or company engaged in home inspection work shall engage or offer to engage in, by advertisement or otherwise, any home inspection work who does not possess a valid and appropriate license from the Department, unless otherwise exempt by law.

**310:276-5-2. License fees, license period, re-examination, display, and insurance requirements**

(a) **Initial license fees.** The following fees apply to home inspection industry licensure:

(1) Approval fees for schools, instructors and home inspection organizations - $100.00

(2) Approval fees for educational course content - $50.00

(3) Application for license - $30.00

(4) Licensure for reciprocity - $50.00

(5) Examination fee - $200.00

(6) License fee - $250.00

(7) License Renewal - $150.00

(8) License reactivation - $50.00

(b) **License period.**

(1) A license shall expire twelve months after issuance, and may be renewed without penalty during the month following expiration.

(2) A license which has been expired for more than one (1) year shall not be renewed. An individual may obtain a valid license by successful completion of the appropriate examination and other licensure requirements.

(c) **Re-examination.** Any applicant initially failing to pass the appropriate examination, if required, shall not be permitted to take the same category examination for at least thirty (30) days, and thereafter any such applicant failing to pass the examination shall not be permitted to take a subsequent examination for at least ninety (90) days.

(d) **License display.** The state issued license number shall be placed on all letterhead stationery, business cards, bids, estimates and printed advertisements, and shall be included in electronic media advertisements. Decals and yard signs shall display the state issued license number.

(e) **Personal license display.** All persons subject to these rules shall possess the state issued card any time the person is working. The card shall be shown when requested.

(f) **Insurance requirements.** Each licensee must maintain insurance coverage and furnish and maintain in effect a certificate of insurance therefor which indicates that the licensee has a comprehensive general liability policy. Limits of liability are to be no less than $50,000.00 combined single limit for bodily injury and property damage. The certificate of insurance shall provide for thirty (30) days notice to the Home Inspection License Unit, prior to cancellation or material alteration of the required insurance.

## SUBCHAPTER 7. [RESERVED]

## SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS, COURSE APPROVAL REQUIREMENTS, INSTRUCTOR REQUIREMENTS, CONTINUING EDUCATION, DENIED APPLICATION APPEAL, SUBMISSION OF RECORDS, AND CONTINUING EDUCATION RECIPROCITY

**310:276-9-1. Qualifications and examination applications**

Applicants for home inspection license examinations must be eighteen (18) years of age or older and be of good moral character, and every application must be accompanied by evidence of successful completion of fifty (50) clock hours of home inspection training that is approved pursuant to 310:276-9-3, or its equivalent.

**310:276-9-2. Examinations**

(a) Home inspection license examinations may include, without limitation, written questions, consisting of open book, closed book and problems, based on current national standards, and other related questions.

(b) The maximum grade value of each part of the examination shall be 100 points. A passing score is 70% or more on each part.

(c) Each applicant shall pay all examination and license fees before undertaking any examination. Reexamination fees shall be the same as the initial examination fees.

(d) Unless authorized by the Committee, only examinees shall be permitted in the examination area.

(e) Applicants shall present positive identification before undertaking an examination.

(f) Any applicant who fails a first examination must wait thirty (30) days before retaking the home inspection examination. All subsequent failures will result in a waiting period of at least ninety (90) days.

(g) An examinee cheating or fraudulently representing an applicant shall immediately be expelled from the examination. A written record of the proceedings shall be made and become a part of the applicant's file. The Committee shall determine when the applicant may retake the exam, which time shall be no fewer than three hundred sixty-five (365) days.

**310:276-9-3. Course approval requirements**

(a) Any person or entity seeking to conduct an approved course for qualifying or continuing education credits shall make application and submit documents, statements and forms as may reasonably be required by the Committee in accordance with Section 310:276-5-2. All providers shall provide to the Committee:

(1) Name and address of the provider;

(2) Contact person and his or her address, telephone number and fax number;

(3) The location of the courses or programs;

(4) The number and type of education credit hours requested for each course;

(5) Topic outlines, which list the summarized topics, covered in each course and upon request a copy of any course materials;

(6) If a prior approved course has substantially changed, a summarization of these records; and,

(7) The names and qualifications of each instructor who is qualified in accordance with Section 310:276-9-4.

(b) In addition to accepting courses approved as described in this section, qualifying and continuing education credits may be granted to an individual in such case that said individual supplies acceptable documentation showing that the offering meets applicable Committee requirements for the category of credit applied for, including proof that said individual attended and successfully completed the offering.

(c) The Department may automatically accept without further review, courses pre-approved by the Committee.

(d) The Committee may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(e) No person or entity sponsoring or conducting a course shall advertise that it is endorsed, recommended, or accredited by the Committee. Such person or entity may indicate that the Committee has approved a course of study if that course of study has been pre-approved by the committee before it is advertised or held.

(f) At the completion of each course the provider shall provide to the committee a list of all attendees who completed the course on the course completion form approved by the Committee.

(g) Providers shall maintain course records for at least five (5) years. The Committee may order an examination of the records for good cause shown.

**310:276-9-4. Instructor requirements**

(a) **Instructor qualifications.** An instructor should have one of the following qualifications:

(1) Three (3) years of recent experience in the subject matter being taught; or

(2) A degree related to the subject area being taught; or

(3) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college credit and/or vocational technical school technical credit hours in the subject being taught.

(4) Other educational, teaching, or professional qualifications determined by the Committee which constitute an equivalent to one or more of the qualifications in the previously stated sub-paragraphs (1), (2), and (3) of this paragraph.

(b) **Instructor renewal.** In order to maintain approved status, an instructor must furnish evidence that the instructor has taught a Committee approved course, or any other CEU course the Committee determines to be equivalent, within a required thirty-six (36) month period.

(c) **Re-application.** Any instructor not meeting the requirements of this subsection will be required to re-apply as an original instructor applicant.

**310:276-9-5. Continuing education**

(a) **Continuing education hours.** No home inspection license shall be renewed unless the licensee has completed at least five (5) clock hours of continuing education prior to the date of renewal.

(b) **Special approval requirements for continuing education.** All continuing education providers shall abide by the following requirements:

(1) All courses shall be at least two (2) hours in length.

(2) Unless provided after regular working hours, the training location shall be outside the regular work place.

(3) Each attendee shall complete a course evaluation on a form provided by the Department. The CEU provider shall return the completed evaluation forms to the home inspection license unit with the sign-in sheets.

**310:276-9-6. Denied application appeal**

(a) **Denied instructor/provider application.** If the Committee fails to approve or rejects any proposed instructor or entity seeking to conduct an approved course, the Committee shall give written notice of the rejection and the cause therefore within fifteen (15) days after such decision. The applicant may appeal the decision by filing a written request for a hearing before the Committee within thirty (30) days after notice of denial. The Committee shall set the matter for hearing to be conducted within sixty (60) days thereafter. No part of the application fee is refundable.

(b) **Denied course application.** If the Committee fails to approve or rejects any proposed continuing education offering or fifty (50) hour home inspection training course, the Committee shall give written notice of the rejection and the cause therefore within fifteen (15) days after such decision to the party applying for approval. Upon the written request from such party, filed within thirty (30) days after such notice of denial, the Committee shall set the matter for hearing to be conducted within sixty (60) days thereafter for an appeal of the determination of the cause for rejection. No portion of the fee is refundable.

**310:276-9-7. Submission of records**

An entity conducting an offering shall, within five (5) working days of the completion thereof, submit to the Committee on a form approved by the Committee, a list of the names and license numbers or social security numbers of the licensees who successfully completed the said offering. Each licensee successfully completing an offering shall be furnished a certificate certifying completion.

**310:276-9-8. Continuing education reciprocity**

If a non-resident licensee satisfies a continuing education requirement in another state for license renewal, the Committee will exempt the non-resident licensee from the continuing education requirement in the state. In order to qualify for the exemption, the non-resident licensee must file with the license renewal of this state a certificate from the state in which the continuing education was satisfied stating that the non-resident licensee had completed the continuing education requirement

for license renewal in that state. The certificate from the state verifying the non-resident's compliance with continuing education in the other state must be received by the Committee within sixty (60) days of issuance by the other state and must be received in conjunction with license renewal.

## SUBCHAPTER 11. LICENSE REVOCATION AND SUSPENSION AND PROHIBITED ACTS

**310:276-11-1. License revocation and suspension**

(a) The employment or use of unlicensed individuals may be grounds to suspend, revoke, or deny renewal of the license of the person so employing or using unlicensed individuals.

(b) The repeated violation of any rule or provision of the Act, or the violation of multiple sections of this Chapter or provisions of the Act, may be grounds to suspend or revoke a licensee's license.

(c) Any person convicted in a court of competent jurisdiction of forgery, fraud, conspiracy to defraud, or any similar offense, or pleading guilty or nolo contendre to any such offense may be subject to license suspension or revocation.

(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.

(e) Any person whose license is suspended pursuant to these Rules may not perform a home inspection and, prior to reinstatement, must make application therefor, which must be accompanied by evidence of successful completion of the continuing education requirements set forth in OAC 310:276-9-3.

(f) Any person whose license is revoked pursuant to these rules may not perform a home inspection before attaining licensure pursuant to OAC 310:276-9-1.

**310:276-11-2. Prohibited acts**

(a) No person, entity, or firm may perform home inspection work without first obtaining a license or registration pursuant to these Rules.

(b) No person shall offer to engage in work as a home inspector during the period his license is suspended or revoked.

(c) No employing home inspection firm shall employ or use an unlicensed home inspector to perform home inspection work.

(d) No person, entity, or firm may transfer a license or registration.

(e) No home inspector, licensed pursuant to these Rules, shall enter into an agreement for the use of his license with any firm or person who is, or has been adjudicated to be, in violation of any provision of the Act, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Department.

(f) No person shall make a materially false or fraudulent statement in an application for license or for approval of continuing education, engage in cheating, or otherwise commit an act in violation of 310:276-9-2(g).

(g) No person shall falsify or fail to disclose in a home inspection report a material defect.

(h) No person shall accept inspection assignments when the employment itself is contingent upon reporting a predetermined estimate, analysis or opinion.

(i) No person shall accept inspection assignments when the fee to be paid is contingent upon the opinion, the conclusion, analysis, or report reached, or upon the consequences resulting from such assignments.

(j) No person shall perform repair or maintenance work, or receive compensation either directly or indirectly from a company regularly engaged in home repair work, on a property having four or fewer dwelling units that the home inspector inspected within one (1) year from the date of the inspection.

(k) No person shall knowingly accept compensation from more than one client for a single home inspection, unless the home inspector has informed all clients who are paying a fee for that home inspection that such compensation is sought or anticipated.

(l) Unless upon demand in writing by the Department, a law enforcement agency, or by order of a court of competent jurisdiction, no person shall disclose the results of a home inspection to any person other than the client without the written consent of the client.

(m) No person shall fail to disclose to the client any conflict of interest of which the inspector knows or should have known that may adversely affect the client.

(n) No person shall fail to submit a written home inspection report within a reasonable time as determined by the Board to the client after compensation has been paid to the home inspector.

*[OAR Docket #03-851; filed 5-2-03]*

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## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
## CHAPTER 290. MECHANICAL INDUSTRY REGULATIONS [REVOKED]

*[OAR Docket #03-852]*

**RULEMAKING ACTION:**
PERMANENT final revocation

**RULES:**
Subchapter 1. General Provisions [REVOKED]
310:290-1-1 [REVOKED]
310:290-1-2 [REVOKED]
310:290-1-3 [REVOKED]
310:290-1-4 [REVOKED]
Subchapter 3. License Types, Limitations, Qualifications and Duration; Contractor Requirements; Application Procedures; Apprentice Registration; and License Retention Requirements [REVOKED]
310:290-3-1 [REVOKED]
310:290-3-2 [REVOKED]
310:290-3-3 [REVOKED]
310:290-3-4 [REVOKED]
310:290-3-5 [REVOKED]
310:290-3-6 [REVOKED]
310:290-3-7 [REVOKED]
310:290-3-8 [REVOKED]
Subchapter 5. Plan Review and Code Variance Procedures and Fees, and Code Appeals [REVOKED]

310:290-5-1 [REVOKED]
310:290-5-2 [REVOKED]
310:290-5-3 [REVOKED]
310:290-5-4 [REVOKED]

**AUTHORITY:**
Oklahoma State Board of Health; 59 O.S. 2001, § 1000.4

**DATES:**
**Comment Period:**
January 2, 2003 through February 13, 2003
**Public Hearing:**
February 13, 2003
**Adoption:**
February 13, 2003
**Submitted to Governor:**
February 21, 2003
**Submitted to House:**
February 21, 2003
**Submitted to Senate:**
February 21, 2003
**Gubernatorial approval:**
April 7, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2003
**Final adoption:**
April 16, 2003
**Effective:**
June 12, 2003

**SUPERSEDED EMERGENCY ACTIONS:**
"n/a"

**INCORPORATION BY REFERENCE:**
"n/a"

**ANALYSIS:**
The purpose of the proposed revocation is to repeal rules governed by statutes that are no longer enforced or within the regulatory purview of the Oklahoma State Department of Health. The regulatory responsibilities associated with these rules and the activities of the Electrical, Plumbing, Mechanical, and Building Inspection trades have been transferred to the Construction Industries Board. These rules have been recently duplicated in Title 158 of the Oklahoma Administrative Code via recent promulgation by the Constructions Industries Board and have no application to activities currently performed by the Department under Title 310.

**CONTACT PERSON:**
Charles Broadway, Office of General Counsel, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-6017

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

### 310:290-1-1. Purpose [REVOKED]

~~The rules in this Chapter set forth definitions, provide for categories and limitations of licenses, provide for registration of apprentices, establish bond and insurance requirements to preclude municipal requirements, adopt standards for mechanical work, and otherwise govern the licensee.~~

### 310:290-1-2. Definitions [REVOKED]

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

~~**"Applicant"** means any person applying for an examination, for a license or registration, for review of plans and specifications or for a mechanical code variance from the ICC International Mechanical Code/1996 or the 1992 edition of the National Fuel Gas Code by the Department under the Act.~~

~~**"Associated with and responsible for"** means the relationship between a mechanical contractor and mechanical firm based on the mechanical contractor being a permanent employee, owner, partner, or officer in a corporate firm, and whereby the mechanical contractor shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Mechanical Licensing Act and this Chapter.~~

~~**"Committee"** means the Committee of Mechanical Examiners.~~

~~**"Direct supervision"** means the on-the-job presence by the supervisor who must be a licensed mechanical contractor or mechanical journeyman.~~

~~**"Gas piping"** means and includes all natural gas piping within or adjacent to any building, structure, or conveyance, on the premises up to the connection with a natural gas meter, regulator, or other source of supply.~~

~~**"Ground source piping"** means piping buried below the earth's surface or submerged in a water well, lake or pond and used in conjunction with a heat pump to provide heating, ventilation and/or air conditioning to a structure.~~

~~**"Humidification"**, when applied to air conditioning, means and includes an increase or decrease in moisture content of the air being conditioned and supplied to the space for human occupancy by means of that integral part of the entire air conditioning system, equipment, and control devices; when applied to refrigeration, means and includes an increase or decrease in the moisture content of the air or product being conditioned for a food preservation measure or manufacturing process by means of the integral part of the entire refrigeration system, equipment, and control devices.~~

~~**"HVAC"** or **"heating, ventilation and air conditioning"** means the process of treating air by controlling its temperature, humidity, and cleanliness and of supplying such air to spaces for human occupancy by means of an integrated system of air conditioning and ventilation equipment, accessories and control devices.~~

~~**"ICC"** means the International Code Council.~~

~~**"Limited residential journeyman"** means a type and category of mechanical license that is restricted to new installations in detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress as regulated by this chapter.~~

~~**"Mechanical work"** means the installation, maintenance, repair, or renovation, in whole or in part, of any heating system, cooling system, mechanical refrigeration system or ventilation system or any equipment or piping carrying chilled water, air for ventilation purposes, or natural gas, or the installation, maintenance, repair, or renovation of process piping used to carry any liquid, substance, or material, including steam and hot water used for space heating purposes not under the jurisdiction of the Department of Labor, provided that minor maintenance and repairs are excluded.~~

~~**"Minor repairs and maintenance"** means minor repairs or maintenance prescribed in the manufacturer's operating instructions to be performed by the equipment owner or his authorized agent, and shall not include replacement and repairs of any nature on natural gas piping, natural gas controls, the low voltage manufacturer installed controls, the vent system of fuel burning appliances or any repair or maintenance which would violate the safe operation of the equipment.~~

~~**"OSDH"** or **"Department"** means the Oklahoma State Department of Health.~~

~~**"Process"** means a series of operations performed in the making or treatment of a product.~~

~~**"Process piping"** means lay out, assembly, installation, and maintenance of pipe systems, pipe supports, and related hydraulic and pneumatic equipment for steam, hot water, heating, cooling, lubricating and fire sprinklers, not subject to regulation pursuant to the Alarm Industry Act, and industrial production and processing systems.~~

~~**"Refrigeration system"** means a system employing fluid which normally is vaporized and liquefied in a food preservation system or manufacturing process. Mechanical work involving a refrigeration system for residential purposes is not included in the licensing requirements.~~

~~**"Sheet metal"** means the ferrous and non-ferrous duct work and components which house and ventilate air conditioning systems, both assembled and custom fabricated.~~

~~**"Variance"** means the use of an alternative material or method of construction from that prescribed in the ICC International Mechanical Code/1996 or the 1992 edition of the National Fuel Gas Code for use at a particular location or project specified in the variance application; and~~

~~**"Variance and Appeals Board"** means the Oklahoma State Mechanical Installation Code Variance and Appeals Board.~~

**310:290-1-3. License requirement and exemptions [REVOKED]**

~~(a) No person, on behalf of himself or of a mechanical firm, shall engage or offer to engage in, by advertisement or otherwise, any mechanical work who does not possess a valid and appropriate license from the Department unless otherwise exempt by law or this Chapter. No State agency, a political subdivision of the State, business entity or trust shall act as a mechanical firm unless a licensed, active mechanical contractor is associated with and responsible for all mechanical work of such entity.~~

~~(b) The terms air conditioning, sheet metal, and heating do not include the design, installation, construction, maintenance, service, repair, alteration, or modification of a portable or self contained ductless air conditioning or heating unit that has a cooling capacity of less than two and one half (2 1/2) tons or a heating capacity of 36,000 British Thermal Units per Hour (BTU/H) or less.~~

**310:290-1-4. Adopted references [REVOKED]**

~~The Board of Health hereby incorporates the International Code Council (ICC) International Mechanical Code/2000, International Fuel Gas Code/2000 and the International Residential Code/2000 (Chapters 12 through 24) as the minimum standards for mechanical work in Oklahoma.~~

## SUBCHAPTER 3. LICENSE TYPES, LIMITATIONS, QUALIFICATIONS AND DURATION; CONTRACTOR REQUIREMENTS; APPLICATION PROCEDURES; APPRENTICE REGISTRATION; AND LICENSE RETENTION REQUIREMENTS [REVOKED]

**310:290-3-1. License types [REVOKED]**

~~(a) Mechanical licenses shall be issued as one of the following types:~~

~~(1) Journeyman; or~~

~~(2) Contractor, either~~

~~(A) Active, or~~

~~(B) Inactive.~~

~~(b) Licenses shall be issued for the following categories:~~

~~(1) HVAC~~

~~(A) Limited; or~~

~~(B) Unlimited;~~

~~(2) Natural Gas Piping;~~

~~(3) Process Piping;~~

~~(4) Refrigeration;~~

~~(5) Sheet Metal;~~

~~(6) Ground Source Piping; and/or~~

~~(7) Limited Residential.~~

**310:290-3-2. Limitations of licenses [REVOKED]**

~~(a) **License duties.**~~

~~(1) Journeyman is a person who possesses the knowledge and skills to perform mechanical work within a category or categories without direct supervision.~~

~~(2) Contractor is a person who possesses the knowledge and skills of a journeyman and who is responsible, either to himself or his employer, for planning, contracting, supervising, or furnishing labor and/or materials used for mechanical work. A mechanical contractor shall only be associated with and responsible for one mechanical firm. However, a mechanical contractor may be responsible for one firm with branch offices.~~

~~(A) Active contractor is one who is actively performing as a contractor and who has met the bond and insurance requirements for licensure.~~

~~(B) Inactive contractor is one who has met all the licensing requirements of a contractor, but has chosen not to currently perform as a contractor. An inactive contractor is not required to provide bond or insurance, and will be regulated as a journeyman.~~

~~(b) **License categories.**~~

~~(1) A limited mechanical HVAC license entitles the licensee to install, alter, modify, service, maintain, or repair a ventilation (duct) system and/or:~~

~~(A) any cooling product, system, or equipment including the process piping, that has a cooling capacity of no more than twenty-five (25) tons, and/or~~

~~(B) all heating equipment including the process piping that have a heat input of no more than 500,000 British Thermal Units per hour per appliance.~~

~~(2) A limited residential journeyman license entitles the licensee to install:~~

~~(A) 5 ton or less cooling systems and/or~~

~~(B) 150,000 British Thermal Units per hour or less heating systems. Installations shall include complete new systems for detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress. Accessory appurtenances (such as humidifiers and filtering systems), kitchen vent hoods, exhaust fans and clothes dryer vent exhausts for such dwellings shall not be prohibited to be installed by the holder of this category. Such installations shall not include any welding, soldering or final connection of refrigerant lines or final connection of any electrical wiring permitted to be installed in accordance with Oklahoma statutes.~~

~~(3) An unlimited mechanical HVAC license entitles the licensee to install, alter, modify, service, maintain, or repair a ventilation (duct) system and/or:~~

~~(A) any cooling product, system, or equipment, including the process piping, and/or~~

~~(B) heating equipment, including the process piping.~~

~~(4) A natural gas piping license entitles the licensee to install, alter, modify, service, maintain, or repair all natural gas piping.~~

~~(5) A process piping license entitles the licensee to install, alter, modify, service, maintain, or repair all process piping.~~

~~(6) A refrigeration license entitles the licensee to install, alter, modify, service, maintain, or repair refrigeration products, systems, or equipment, including the process piping.~~

~~(7) A sheet metal license entitles the licensee to install, alter, modify, service, maintain, or repair all ferrous and nonferrous duct systems.~~

~~(8) A ground source piping license entitles the licensee to install, alter, modify, service, maintain or repair all piping outside a structure for a ground source (earth or water) loop pipe.~~

**310:290-3-3. Qualifications for mechanical licensure [REVOKED]**

~~(a) **Examination.** A license cannot be issued until the applicant has passed the appropriate examination for the license type and category. Examinations and the passing score for each examination shall be approved by the Committee. Applicants for the Ground Source Piping category shall provide proof of being certified in the proper installation of ground source piping by an organization approved by the Committee.~~

~~(1) The application for examination must be accompanied by an examination fee of $50.00 for the contractor exam and $25.00 for the journeyman exam. This fee must be received no less than three (3) working days before the examination date.~~

~~(2) If the applicant does not pass the exam, the applicant may re-apply for the exam and pay the fee. However, no person will be allowed to retake an exam within 30 days of the first failed exam nor within 90 days of the second or subsequent failed exam.~~

~~(3) Any person suspected of cheating during an examination shall be immediately notified of the suspicion and shall not be allowed to finish the examination. He shall be called before the Committee during the next scheduled meeting for discussion of the incident. If the Committee determines that the person did in fact cheat, the examinee's application for licensure shall be denied and the Committee shall determine when the applicant can next apply for an examination.~~

~~(4) No person shall be allowed any assistance in reading the contractor's examination, nor shall any persons other than the examinees or the Committee members be allowed in the examination area.~~

~~(b) **Experience.** All persons applying for a license must provide proof of experience in the mechanical trade.~~

~~(1) Applicants for a journeyman license must be at least eighteen (18) years of age and have either three (3) years of verifiable experience in the mechanical trade in the category for which he is applying or have an associates degree or Vo-Tech diploma from a school, approved by the Committee, which exhibits knowledge of the trade in the category of license applied for and one (1) year of verifiable experience in the mechanical trade.~~

~~(2) Applicants for a contractor license must meet the same requirements as a journeyman with an additional one (1) year experience.~~

**310:290-3-4. Duration of licenses [REVOKED]**

~~(a) All licenses shall have a duration of no more than one year, and shall expire on June 30 of each year.~~

~~(b) Any license issued by examination may be renewed by submitting the license fee for the next year prior to the June 30th expiration.~~

~~(c) An expired license issued by examination may be reinstated if:~~

~~(1) The license fee is submitted within one (1) year after the license expired, and~~

~~(2) is accompanied by a late fee of $50 for a contractor license and $25 for a journeyman license.~~

~~(d) Any person who has not renewed or reinstated a mechanical license cannot obtain another license of the same type without making application and having passed an examination for that license. Any previously passed OSDH examination may be used to meet an examination requirement.~~

~~(e) A licensee who, during an investigation of the licensee by the OSDH, surrenders their license, shall be treated as if the license had been revoked for one year from the day of surrender.~~

**310:290-3-5. Contractor special requirements [REVOKED]**

~~(a) **Bond.**~~

~~(1) A corporate surety bond, (the "bond") in the sum of five thousand dollars ($5,000.00) payable to the Oklahoma State Department of Health and approved by the Commissioner shall be permanently deposited with the department prior to the issuance of the mechanical contractor's license.~~

~~(2) Said bond shall be executed by the applicant for the contractor's license and by a surety authorized to do business in the State of Oklahoma, and shall be a continuous bond with a 30 day cancellation notice to the OSDH.~~

~~(3) Said bond shall be in lieu of filing a bond with each municipality where the contractor works and shall be conditioned upon all of the following terms:~~

~~(A) The mechanical contractor, his agents and employees shall faithfully and properly conduct business in compliance with all the applicable provisions of ordinances and provisions of the municipality in which he is performing mechanical work;~~

~~(B) The mechanical contractor shall pay all fines and penalties imposed by courts of competent jurisdiction for the violation of said ordinances or provisions;~~

~~(C) The mechanical contractor shall protect, save harmless and indemnify the municipality and the state against any liability imposed by law against said municipality or state for the negligence of said contractor, his agents or employees, which arises from any act or omission of said individuals engaged in work pursuant to the Mechanical Licensing Act;~~

~~(D) Any person aggrieved may bring an action upon the bond for the recovery of the penalty thereof to the same extent and with equal rights as though such aggrieved person had been named as the obligee in the bond.~~

~~(b) **Insurance.** A mechanical contractor shall provide proof of financial responsibility by providing a certificate of insurance which indicates a minimum general liability policy of $50,000. The certificate shall include a 30 day cancellation notice to the OSDH.~~

~~(c) **Exceptions.** The bond and insurance requirement will be waived if:~~

~~(1) The contractor wishes to be inactive. The inactive contractor can obtain an active license at any time if his inactive license is valid and the bond and insurance requirements are met; or~~

~~(2) The contractor is employed by a corporation, partnership, public entity, or political subdivision and said corporation, partnership, public entity or political subdivision submits an affidavit on behalf of the contractor that the employee will only perform mechanical work on property owned by said corporation, partnership, public entity, or political subdivision and the employer assumes all financial responsibility in lieu of the contractor providing bond and insurance. The affidavit must include a statement by the employer that the OSDH will be notified if the contractor is no longer employed by said employer, or if the employer no longer wishes to assume financial responsibility for the contractor.~~

**310:290-3-6. Initial mechanical license application procedures [REVOKED]**

~~First time applicants may obtain an application form for a mechanical license from the OSDH.~~

~~(1) The completed application, along with the examination fee, the application fee and the experience verification must be returned to Occupational Licensing Service at least three (3) working days before the date of examination.~~

~~(2) The applicant shall be notified of the time and date of the exam, and shall appear for the exam at that time. An applicant who fails to appear on date scheduled or fails to notify the Occupational Licensing Service at least three (3) working days prior to the date of exam of an inability to attend shall forfeit the examination fee.~~

~~(3) The examination will be graded by the Committee.~~

~~(4) If the examination is passed, the committee will make recommendation that the applicant be licensed.~~

~~(5) Any application for license renewal mailed should be accompanied by a check or money order and be mailed on or before June 30.~~

**310:290-3-7. Apprentice registration [REVOKED]**

~~(a) A person may register as a mechanical apprentice if the person does not meet the qualifications for licensure but wishes to learn or perform mechanical work. An individual licensed in any category shall be permitted to work as an apprentice in any category for which they are not licensed by complying with the requirements of this chapter for ratio and direct supervision.~~

~~(b) The apprentice will be registered if the following procedures are followed:~~

~~(1) Obtain an application for registration from the OSDH.~~

~~(2) Return the completed application with the registration fee of $15 for a one (1) year period and provide either verification of enrollment in an approved school or training course or a statement of employment by the licensed mechanical contractor who arranged for employment of the apprentice.~~

~~(c) The apprentice must perform mechanical work in the same category as the licensed mechanical person who is supervising the apprentice.~~

~~(d) The apprentice shall be provided with a copy of the Mechanical Licensing Act, Title 59 O.S., Sections 1850.2 through 1850.14, and a copy of the rules of this Chapter upon registration.~~

~~(e) An apprentice who participates in activities inconsistent with the provisions of the Mechanical Licensing Act and the rules of this Chapter shall be subject to the sanctions described in 310:290-3-8.~~

**310:290-3-8. License retention requirements [REVOKED]**

~~(a) All mechanical work performed by the licensee shall be minimally in accordance with the International Mechanical Code and the National Fire Protection Association Fuel Gas Code (NFiPA 54).~~

~~(1) An exception shall be made only if the plans calling for other than the International Mechanical Code have been approved by the Office of State Fire Marshal.~~

~~(2) Each violation of the International Mechanical Code can be treated as a separate violation of the Mechanical Industry Regulations.~~

~~(b) All persons issued a mechanical license shall abide by the following regulations:~~

~~(1) No licensee shall perform mechanical work in a category under which he is not licensed;~~

~~(2) No licensee shall perform work contrary to any provision of the International Mechanical Code, except as otherwise provided by law or rule.~~

~~(3) No licensee shall fail to notify the OSDH of a change in his address;~~

~~(4) No licensee shall perform mechanical work without keeping their license on their person or in close proximity while performing mechanical work; and~~

~~(5) No person whose license has been suspended shall perform mechanical work during the period of suspension.~~

~~(c) Also, no person issued a contractor license shall:~~

~~(1) Employ or supervise persons performing mechanical work unless those persons are licensed or registered to perform that category of work;~~

~~(2) Allow any apprentice to perform mechanical work at the contractor's job site unless the apprentice will have direct supervision by a person licensed to perform in that category of mechanical work;~~

~~(3) Allow more than three (3) apprentices per licensee at a job site;~~

~~(4) Fail to maintain a bond as provided for in 310:290-3-5;~~

~~(5) Fail to provide proof of financial responsibility to the OSDH as provided for in 310:290-3-5; or~~

~~(6) Be associated with and responsible for more than one mechanical firm.~~

~~(d) Also, no person issued a journeyman license shall:~~

~~(1) Allow an apprentice under his direct supervision to perform mechanical work for which the journeyman is not licensed to perform;~~

~~(2) Perform mechanical work except under the employment or supervision of a Mechanical Contractor; or~~

~~(3) Engage in the planning, contracting, or furnishing of labor and/or materials used for mechanical work.~~

~~(e) Violation of any of these Regulations shall be grounds for:~~

~~(1) Suspension of the license pursuant to Title 59 Oklahoma Statutes Section 1850.14;~~

~~(2) Revocation of the license pursuant to Title 59 Oklahoma Statutes Section 1850.14;~~

~~(3) Administrative penalties (fines) pursuant to Title 63 Oklahoma Statutes Section 1-1701.1A; or~~

~~(4) Other action authorized by Law.~~

~~(f) Each person issued a contractor license shall display the mechanical firm name and the contractor license number bearing the initials "OK" preceding that license number issued by the Commissioner on all vehicles used to transport materials and tools in the operation of the business. Such names and numbers shall be printed in letters and numerals at least two (2) inches in height in a conspicuous location on both sides of each vehicle in contrasting color to the background color.~~

## SUBCHAPTER 5. PLAN REVIEW AND CODE VARIANCE PROCEDURES AND FEES, AND CODE APPEALS [REVOKED]

**310:290-5-1. Procedures of the Variance and Appeals Board [REVOKED]**

~~The Commissioner shall call a meeting of the Variance and Appeals Board after the Commissioner receives proper application for a variance accompanied by the fifty dollar ($50.00) filing fee or receives proper notice of an appeal of the Department's interpretation of the ICC International Mechanical Code/1996 or the 1992 edition of the National Fuel Gas Code as applied to a particular installation. Variance and Appeals Board meetings are held in the State Department of Health Building at 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1299, or at another location named by the Commissioner. The Variance and Appeals Board may hold meetings by teleconference and shall comply with the Oklahoma Open Meetings Act.~~

**310:290-5-2. Plan review applications and fees [REVOKED]**

~~(a) Applications for the Department's review of plans and specifications to ensure conformance with State adopted installation codes shall be submitted in writing to the Oklahoma State Department of Health. An application provided by the Department, and the appropriate filing fee, shall accompany the construction plans and specifications submitted for plan review. Plan review by the Department shall only be conducted for construction projects where a city or town has not adopted a nationally recognized, trade installation code by ordinance. Applications shall only be reviewed by the Department if submitted prior to the bid dates for the project. Plan review shall be completed within fourteen (14) days of receipt of a complete application.~~

~~(b) The Department will advise the applicant through its liaison if the application is determined to be incomplete in order for the applicant to re-submit a complete, plan review application.~~

~~(c) The plan review fee for:~~

~~(1) mechanical plans and specifications shall be $75.00;~~

~~(2) mechanical and plumbing or electrical plans and specifications shall be $150.00;~~

~~(3) mechanical, plumbing, and electrical plans and specifications shall be $200.00.~~

### 310:290-5-3. Code variance applications and fee [REVOKED]

~~(a) Applications for a variance from the ICC International Mechanical Code/1996 or the 1992 edition of the National Fuel Gas Code by an Oklahoma-licensed, mechanical contractor, or other person as stated in statute, shall be submitted to the Commissioner of Health. An application form provided by the Department and the fifty dollar ($50.00) filing fee shall accompany sufficient technical data submitted to support the proposed variance. Applications submitted after the use of materials or methods of construction not in conformance with the ICC International Mechanical Code/1996 or the 1992 edition of the National Fuel Gas Code that are relevant to the application, or submitted where a city or town has adopted a nationally recognized, mechanical installation code by ordinance, shall not be considered by the Variance and Appeals Board.~~

~~(b) The applicant and the Department may offer testimony to the Variance and Appeals Board which is relevant to the code variance requested. If testimony will be offered to support the application, the applicant shall include in the application the identity of the applicant's witnesses by name, profession or occupation, address and telephone number, and a concise summary of the expected testimony of each witness. If the Department contests the application, and will offer testimony to rebut the application, the Department will provide the applicant with the identity of the Department's witnesses by name, profession or occupation, address and telephone number, and a concise summary of the expected testimony of each witness.~~

### 310:290-5-4. Code interpretation appeals [REVOKED]

~~A mechanical contractor, or any party who has an ownership interest in or who is in responsible charge of the design of or work on the mechanical installation, may appeal the Department's interpretation of the ICC International Mechanical Code/1996 or the 1992 edition of the National Fuel Gas Code as applied during the Department's review of mechanical plans and specifications or inspection of a mechanical installation to the Variance and Appeals Board created pursuant to Title 59, O.S. Supp. 1994, § 1850.16. Such appeals shall be made in writing to the Commissioner within fourteen days after the Department's code interpretation or receipt of written notice of the alleged code violation by the licensed mechanical contractor, and shall be heard only if based on a claim that:~~

~~(1) the true intent of the installation code has been incorrectly interpreted;~~

~~(2) the provisions of the code do not fully apply, or~~

~~(3) an equal or better form of installation is proposed.~~

*[OAR Docket #03-852; filed 5-2-03]*

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## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
## CHAPTER 310. PLUMBING INDUSTRY REGULATIONS [REVOKED]

*[OAR Docket #03-853]*

**RULEMAKING ACTION:**
PERMANENT final revocation

**RULES:**
Subchapter 1. General Provisions [REVOKED]
310:310-1-1 [REVOKED]
310:310-1-2 [REVOKED]
Subchapter 3. Committee of Plumbing Examiners and the Plumbing Hearing Board [REVOKED]
310:310-3-1 [REVOKED]
310:310-3-2 [REVOKED]
310:310-3-3 [REVOKED]
310:310-3-4 [REVOKED]
Subchapter 5. License Types, License and Registration Fees, and Contractor Requirements [REVOKED]
310:310-5-1 [REVOKED]
310:310-5-2 [REVOKED]
310:310-5-3 [REVOKED]
310:310-5-4 [REVOKED]
Subchapter 7. Plan Review and Code Variance Procedures and Fees, and Code Appeals [REVOKED]
310:310-7-1 [REVOKED]
310:310-7-2 [REVOKED]
310:310-7-3 [REVOKED]
310:310-7-4 [REVOKED]

**AUTHORITY:**
Oklahoma State Board of Health; 59 O.S. 2001, § 1000.4

**DATES:**
**Comment Period:**
January 2, 2003 through February 13, 2003
**Public Hearing:**
February 13, 2003
**Adoption:**
February 13, 2003
**Submitted to Governor:**
February 21, 2003
**Submitted to House:**
February 21, 2003
**Submitted to Senate:**
February 21, 2003
**Gubernatorial approval:**
April 7, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on April 16, 2003
**Final adoption:**
April 16, 2003
**Effective:**
June 12, 2003

**SUPERSEDED EMERGENCY ACTIONS:**
"n/a"

**INCORPORATION BY REFERENCE:**
"n/a"

**ANALYSIS:**
The purpose of the proposed revocation is to repeal rules governed by statutes that are no longer enforced or within the regulatory purview of the Oklahoma State Department of Health. The regulatory responsibilities

associated with these rules and the activities of the Electrical, Plumbing, Mechanical, and Building Inspection trades have been transferred to the Construction Industries Board. These rules have been recently duplicated in Title 158 of the Oklahoma Administrative Code via recent promulgation by the Constructions Industries Board and have no application to activities currently performed by the Department under Title 310.

**CONTACT PERSON:**

Charles Broadway, Office of General Counsel, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-6017

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

### 310:310-1-1. Purpose [REVOKED]

~~The rules in this Chapter implement the Plumbing Licensing Law, Title 59 O.S., Section 1001 et. seq., as amended.~~

### 310:310-1-2. Definitions [REVOKED]

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

~~**"Applicant"** means any person applying for an examination, for a license or registration, for review of plans and specifications or for a plumbing code variance from the current, published edition of the code of plumbing regulations endorsed by the Building Officials and Code Administrators International, Inc. (BOCA) by the Department under the Act.~~

~~**"Department"** means the Oklahoma State Department of Health.~~

~~**"Direct supervision"** shall be construed as presence "on the job" with the supervisor.~~

~~**"Farm Operations"**~~

~~(A) For purposes of the Plumbing License Law, "farm" means land devoted primarily to production for sale of livestock or agricultural commodities in sufficient quantity to be capable of contributing materially to the operator's support.~~

~~(B) For purposes of the Plumbing License Law, "Farm building" means all homes (i.e., domiciles, residences), or buildings therewith designed and used primarily for and in conjunction with conducting farming operations, provided that said buildings are not connected to a public water and/or sewage system. A "farm building" shall not include other structures such as stores, service stations, schools, motels, or any other building having public access, whether connected to private or public water or sewer systems.~~

~~**"Maintenance of state owned or operated facilities"** means maintenance of state institutions and school districts and will be construed as all repair and/or renovation of plumbing or plumbing fixtures within existing state owned buildings or local school district owned buildings. This term shall not include the installation of plumbing in a new building or new additions to existing structures.~~

~~**"Plumbing"** is construed to include the following:~~

~~(A) The original installation of a water softener but not the exchanging of the units whereby only unions are disturbed in the replacement.~~

~~(B) The installation of water services and building sewers.~~

~~(C) Sewer cleaning - house sewer maintenance.~~

~~(D) Automatic sprinkler systems which do not comply with Section 1017, Paragraph D, of the Oklahoma State Plumbing License Law.~~

~~**"Variance"** means the use of an alternative material or method of construction from that prescribed in the current, published edition of the code of plumbing regulations endorsed by the Building Officials and Code Administrators International, Inc. (BOCA) for use at a particular location or project specified in the variance application; and~~

~~**"Variance and Appeals Board"** means the Oklahoma State Plumbing Installation Code Variance and Appeals Board.~~

## SUBCHAPTER 3. COMMITTEE OF PLUMBING EXAMINERS AND THE PLUMBING HEARING BOARD [REVOKED]

### 310:310-3-1. Committee function [REVOKED]

~~The Committee of Plumbing Examiners (the "Committee") shall serve the Commissioner in an advisory capacity, formulate rules pursuant to the Plumbing License Law of 1955, and to assist and advise the Department on the examination of applicants for licenses as journeyman plumber and/or plumbing contractor, in accordance with these rules and the terms and conditions of the law. The Committee shall make up a part of the State Plumbing Hearing Board which has adopted separate regulations describing its organization.~~

### 310:310-3-2. Committee procedures [REVOKED]

~~(a) The Committee of Plumbing Examiners (the "Committee") shall meet at least twice each year. The Committee shall give open meeting notices. The Department shall notify all examination applicants by direct mail of the dates and times of examinations.~~

~~(b) The public may obtain information and make submissions, requests, and applications for plumbing examinations by mail or in person at the Oklahoma State Department of Health.~~

~~(c) The only formal procedure available to the public is to apply for a plumbing license. This shall be done by filling out an application for examination with the Committee at Oklahoma State Department of Health, Oklahoma City, Oklahoma address. The application form shall be provided by the Committee.~~

~~(d) All forms and instructions used by the Committee shall be approved by the Commissioner pursuant to Title 59 O.S.~~

~~1981, Section 1007, and are available at the offices of the Plumbing Division.~~

~~(e) All rules and policy statements and interpretations of policy and results of examinations shall be available on request from the Department. Copies shall be priced as determined by rule of the State Board of Health. Names of newly certified plumbers shall be mailed to anyone upon request. A yearly listing of currently licensed plumbers shall be prepared and mailed to anyone upon request.~~

**310:310-3-3. Examination procedures [REVOKED]**

~~(a) The plumbing standards for the plumbing examination shall be the International Code Council (ICC) International Plumbing Code/2000.~~

~~(b) Examination for a plumbers license shall include but not be limited to the following parts:~~

~~(1) Written questions;~~

~~(2) Drawings and/or charts.~~

~~(c) The maximum grade value of each part of the plumbing examination shall be 100 points. An examinee must make 70% or more on each part, above, to pass the examination.~~

~~(d) Attendance at an approved technical school with specialization in the plumbing skills may be substituted for experience or employment on an equal time basis. Substitution of education for experience shall be limited to a maximum of one half the experience requirement. Applicants must present to the Department for approval records of schools attended, grades and/or certificates of completion if education is to be substituted for experience.~~

~~(e) Applicants for the plumbing contractor examination must be capable of reading without assistance.~~

~~(f) Except as authorized by the Plumbing Examining Committee, no person, other than examinees, shall be permitted in the examination area.~~

~~(g) An examinee who is caught cheating during the course of an examination shall be deemed to have failed the examination.~~

~~(h) Applicants for the journeyman examination must be eighteen (18) years of age or older and have three (3) years experience in the plumbing trade.~~

~~(i) Applicants for the contractors examination must be eighteen (18) years of age or older and have four (4) years experience in the plumbing trade.~~

~~(j) The fees for both examination and license must be on deposit with the Department in advance of the examination.~~

~~(k) Reexamination fees shall be the same as the initial fees. Applicants failing to appear for their examination on the date scheduled shall forfeit the examination fee unless notification is received by the Department at least 24 hours prior to examination date.~~

**310:310-3-4. Hearing board procedures [REVOKED]**

~~(a) The employment and use of unlicensed individuals as journeymen plumbers and/or the employment and use of individuals as apprentices without registration will be considered justification for the Plumbing Hearing Board to revoke or suspend said plumbing contractor's license based upon illegal use of license.~~

~~(b) No person with any revoked or suspended plumbing license shall do any plumbing work.~~

~~(c) In the interest of protecting the health and sanitation of the citizens of this State, and for the purpose of establishing grounds for administrative sanctions for licensed plumbers, the International Code Council (ICC) International Plumbing Code/2000 shall be deemed to be the applicable regulation for the installation of plumbing where no ordinance or regulation of a governmental subdivision applies.~~

## SUBCHAPTER 5. LICENSE TYPES, LICENSE AND REGISTRATION FEES, AND CONTRACTOR REQUIREMENTS [REVOKED]

**310:310-5-1. License types [REVOKED]**

~~(a) **Apprentice plumbers.**~~

~~(1) Apprentice plumbers must be under the direct supervision of a licensed plumber when engaged in plumbing.~~

~~(2) A maximum of three (3) apprentice plumbers can work under the supervision of a licensed plumber.~~

~~(b) **Journeyman plumber.**~~

~~(1) To engage in the act of plumbing a journeyman plumber must be employed by a licensed plumbing contractor.~~

~~(2) A journeyman shall not contract or furnish labor and/or labor and materials.~~

~~(c) **Plumbing contractor.** Plumbing contractors must notify their surety of any municipalities wherein plumbing work will be performed.~~

**310:310-5-2. License and registration fees [REVOKED]**

~~(a) A person who has been licensed under Section 1006 (b) and (c) of the Oklahoma Plumbing License Law whose license is not renewed shall be required to take the examination before being relicensed.~~

~~(b) Any previously certified examination may be used to meet an examination requirement.~~

~~(c) Apprentice registration fees shall be $15.00.~~

~~(d) The pocket license issued by the Commissioner shall be on the plumber's person while on the job.~~

~~(e) All licenses expire June 30th.~~

~~(f) Expired licenses may be renewed within 30 days after expiration by paying a renewal fee.~~

~~(g) Examination, initial licensure and license renewal fees and late penalties are listed in Section 310:110-1-3 of the Oklahoma Administrative Code, entitled Fee and Fine Schedule for Occupational Licensing Service. Copies of this schedule can be obtained from the Department.~~

**310:310-5-3. Bond requirements [REVOKED]**

~~(a) Each practicing plumbing contractor must maintain a five thousand dollar ($5,000.00) corporate surety bond, payable to the Department, and must cause the surety to~~

~~deposit a copy of such bond with the Department and with each municipality in which the bonded plumbing contractor proposes to commence plumbing work.~~

~~(b) Failure to maintain a corporate surety bond in effect shall constitute emergency grounds for suspension of a bonded plumbing contractor license immediately upon the expiration of such bond.~~

~~(c) A corporate surety bond may be accepted from any surety authorized to do business in the State of Oklahoma and they shall continue in effect until thirty (30) days have elapsed after the Department is notified by the surety of the cancellation of such bond, unless the bond expired on a date certain on its face. Sureties must notify each municipality furnished with a copy of the bond regarding the pending cancellation.~~

~~(d) The Department shall notify the surety of the suspension or revocation of the license of any of its bonded licensed plumbing contractors.~~

~~(e) A bond filed in accordance with 310:310-5-3(a) shall be in lieu of filing a bond with each municipality where the plumbing contractor works, and shall be conditioned upon all the following terms:~~

~~(1) Plumbing contractors shall faithfully and properly conduct business in compliance with applicable statutes, rules of the State Board of Health, and with all the applicable ordinances of the municipality in which plumbing work is performed.~~

~~(2) Plumbing contractors shall pay all fines and penalties imposed by penalty orders of the Department and fines and penalties imposed by courts of competent jurisdiction for the violation of municipal ordinances.~~

~~(3) Plumbing contractors shall protect, save harmless and indemnify the State and municipalities against any liability imposed by law against the State and municipalities for the negligence of said contractor arising from any act or omission while engaged in work pursuant to the Plumbing License Law.~~

~~(4) Any aggrieved person may bring an action upon the bond for the recovery of penalty thereof to the same extent and with equal rights as though such aggrieved person had been named as the obligee in the bond.~~

~~(5) For purposes of this Section, the term plumbing contractor also includes the agents, servants, and employees of a plumbing contractor.~~

~~(f) A plumbing contractor may choose, by not maintaining a current bond, to not practice as a plumbing contractor but to work instead as a journeyman under a nonbonded contractor license.~~

### 310:310-5-4. Display of license number and firm name [REVOKED]

~~All contractors shall, on all vehicles used to transport materials and tools in the operation of the business, display the plumbing firm name and the contractor's license number bearing the initials "OK" preceding that number issued by the Commissioner. Such names and numbers shall be printed in letters and numerals at least two (2) inches in height in a conspicuous location on both sides of each vehicle in contrasting color to the background color.~~

## SUBCHAPTER 7. PLAN REVIEW AND CODE VARIANCE PROCEDURES AND FEES, AND CODE APPEALS [REVOKED]

### 310:310-7-1. Procedures of the Variance and Appeals Board [REVOKED]

~~The Commissioner shall call a meeting of the Variance and Appeals Board after the Commissioner receives proper application for a variance accompanied by the fifty dollar ($50.00) filing fee or receives proper notice of an appeal of the Department's interpretation of the current, published edition of the code of plumbing regulations endorsed by the Building Officials and Code Administrators International, Inc. (BOCA) as applied to a particular installation. Variance and Appeals Board meetings are held in the State Department of Health Building at 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1299, or at another location named by the Commissioner. The Variance and Appeals Board may hold meetings by teleconference and shall comply with the Oklahoma Open Meetings Act.~~

### 310:310-7-2. Plan review applications and fees [REVOKED]

~~(a) Applications for the Department's review of plans and specifications to ensure conformance with State adopted installation codes shall be submitted in writing to the Oklahoma State Department of Health. An application provided by the Department, and the appropriate filing fee, shall accompany the construction plans and specifications submitted for plan review. Plan review by the Department shall only be conducted for construction projects where a city or town has not adopted a nationally recognized, trade installation code by ordinance. Applications shall only be reviewed by the Department if submitted prior to the bid dates for the project. Plan review shall be completed within fourteen (14) days of receipt of a complete application.~~

~~(b) The Department will advise the applicant through its liaison if the application is determined to be incomplete in order for the applicant to re-submit a complete, plan review application.~~

~~(c) The plan review fee for:~~

~~(1) plumbing plans and specifications shall be $75.00;~~

~~(2) plumbing and electrical or mechanical plans and specifications shall be $150.00;~~

~~(3) plumbing, electrical, and mechanical plans and specifications shall be $200.00.~~

### 310:310-7-3. Code variance applications and fee [REVOKED]

~~(a) Applications for a variance from the current, published edition of the code of plumbing regulations endorsed by the Building Officials and Code Administrators International, Inc. (BOCA) by an Oklahoma-licensed, plumbing contractor shall~~

~~be submitted to the Commissioner of Health. An application provided by the Department and the fifty dollar ($50.00) filing fee shall accompany sufficient technical data submitted to support the proposed variance. Applications submitted after the use of materials or methods of construction not in conformance with the current, published edition of the code of plumbing regulations endorsed by the Building Officials and Code Administrators International, Inc. (BOCA) that are relevant to the application, or submitted where a city or town has adopted a nationally recognized, plumbing installation code by ordinance, shall not be considered by the Variance and Appeals Board.~~

~~(b) The applicant and the Department may offer testimony to the Variance and Appeals Board which is relevant to the code variance requested. If testimony will be offered to support the application, the applicant shall include in the application the identity of the applicant's witnesses by name, profession or occupation, address and telephone number, and a concise summary of the expected testimony of each witness. If the Department contests the application, and will offer testimony to rebut the application, the Department will provide the applicant with the identity of the Department's witnesses by name, profession or occupation, address and telephone number, and a concise summary of the expected testimony of each witness.~~

### 310:310-7-4. Code interpretation appeals [REVOKED]

~~A plumbing contractor, or any party who has an ownership interest in or who is in responsible charge of the design of or work on the plumbing installation, may appeal the Department's interpretation of the current, published edition of the code of plumbing regulations endorsed by the Building Officials and Code Administrators International, Inc. (BOCA) as applied during the Department's review of plumbing plans and specifications or inspection of the plumbing installation to the Variance and Appeals Board created pursuant to O.S.L. 1994, Chapter 293, § 3 (Title 59, O.S.Supp.1994, § 1021.1). Such appeals shall be made in writing to the Commissioner within fourteen days after the Department's code interpretation or receipt of written notice of the alleged code violation by the licensed plumbing contractor, and shall be heard only if based on a claim that:~~

~~(1) the true intent of the installation code has been incorrectly interpreted;~~

~~(2) the provisions of the code do not fully apply, or~~

~~(3) an equal or better form of installation is proposed.~~

*[OAR Docket #03-853; filed 5-2-03]*

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## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 345. REGISTRATION OF SANITARIANS AND ENVIRONMENTAL SPECIALISTS

*[OAR Docket #03-854]*

**RULEMAKING ACTION:**
PERMANENT final adoption

**RULES:**
Subchapter 1. General Provisions
310:345-1-1 [AMENDED]
310:345-1-1.1 [AMENDED]
310:345-1-2 [AMENDED]
Subchapter 3. Applications
310:345-3-1 [AMENDED]
310:345-3-3 [AMENDED]
310:345-3-4 [AMENDED]
310:345-3-6 [AMENDED]
Subchapter 5. Registration
310:345-5-1 [AMENDED]
310:345-5-2 [AMENDED]
310:345-5-3 [AMENDED]
Subchapter 7. Revocation and Reinstatement
310:345-7-1 [AMENDED]
310:345-7-2 [AMENDED]

**AUTHORITY:**
Oklahoma State Board of Health; Registration of Sanitarians and Environmental Specialists, 59 O.S. 1995 Section 1150.1 et seq.

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**SUPERSEDED EMERGENCY ACTIONS:**
"n/a"

**INCORPORATION BY REFERENCE:**
"n/a"

**ANALYSIS:**
The proposal amends Subchapters 1, 3, 5 and 7 by changing the rule language to include the term Environmental Specialist as changed by H.B. 1230 of the 1995 Legislative Session. The proposal also recommends creation of a "Life Registration" which would allow those individuals meeting the qualifications to pay a one-time fee and continue registration without annual renewal requirements. The amendment in Subchapter 3 establishes the fee of $20 for the "Life Registration".

**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., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS

**310:345-1-1. Purpose**

The rules in this Chapter implement the Oklahoma Sanitarian and Environmental Specialist Registration Act, 59 O.S. ~~Supp. 1993~~, Section 1150.1 et seq. ~~, and 63 O.S.Supp. 1993, Section 1-2201 et seq.~~

**310:345-1-1.1. Definitions**

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

**"Board"** means the State Board of Health of the State of Oklahoma.

**"Commissioner"** means the State Commissioner of Health of the State of Oklahoma.

**"Council"** means the Sanitarian and Environmental Specialist Registration Advisory Council.

**"Department"** means the State Department of Health.

**"Executive Director"** means the Executive Director of the Department of Environmental Quality.

**"Life Registration"** means a registration available to those individuals who are 62 years of age or older before January 1, of the year renewing and have been registered as an Oklahoma Sanitarian or Environmental Specialist for at least 25 years.

**"Person"** means individuals, firms, partnerships, associations, corporations, the State of Oklahoma, counties, districts, municipalities, and all subdivisions, districts, officers, agencies, departments, institutions, or instrumentalities of any thereof, whether governmental or proprietary, except person shall only mean an individual for the purposes of the issuance of a certificate of registration.

**"Registration"** means a certificate issued pursuant to the Oklahoma Sanitarian and Environmental Specialist Registration Act.

**"Sanitarian" or "Environmental Specialist"** means ~~an~~a person uniquely qualified by education in the sciences, specialized training, and creditable field experience to effectively plan, organize, manage, execute and evaluate one or more of the many diverse elements compromising the fields of public health and environment. ~~The term sanitarian may be interpreted to include environmental sanitarian or environmental specialist.~~

**310:345-1-2. Sanitarian and Environmental Specialist Registration Advisory Council**

(a) There is hereby created the Sanitarian and Environmental Specialist Registration Advisory Council, whose duty shall be to assist and advise the Board on all matters relating to the registration of Sanitarians or Environmental Specialists in accordance with the Oklahoma Sanitarian and Environmental Specialist Registration Act.

(b) The Council shall consist of nine members as follows:

(1) One member shall be the Commissioner or the Commissioner's designee;

(2) One member shall be the Executive Director or the Executive Director's designee;

(3) One member shall be the Administrator of the Office of Personnel Management or the Administrator's designee;

(4) One member shall be a registered sanitarian or environmental specialist who shall be appointed by the City-County Health Department of Oklahoma County;

(5) One member shall be a registered sanitarian or environmental specialist who shall be appointed by the Tulsa City-County Health Department;

(6) Two members shall be registered sanitarians or environmental specialists employed by state government who shall be appointed by the Commissioner; and

(7) Two members shall be registered sanitarians or environmental specialists who shall be appointed by the Executive Director, one who is employed by private industry and one who is employed by the Indian Health Service of the Public Health Service.

(c) Appointed members of the Council may be removed from office by the appointing authority. The appointed members shall:

(1) have at least five (5) years of experience as registered sanitarians or environmental specialists;

(2) hold office for four (4) years; and

(3) hold office until a successor is appointed and has qualified under the Oklahoma Sanitarian and Environmental Specialist Registration Act.

(d) The Council shall meet at such times as the Council deems necessary to implement the Oklahoma Sanitarian and Environmental Specialist Registration Act. A majority of the Council members shall constitute a quorum to transact official business. The members of the Council shall serve without pay, but may be reimbursed for actual expenses pursuant to the State Travel Reimbursement Act.

(e) The Council shall elect from among its membership a chair, vice-chair and secretary to serve terms of not more than two (2) years ending on July 1 of the year designated by the Council. The chair or vice-chair shall preside at all meetings. The chair, vice-chair and secretary shall perform such duties as may be decided by the Council in order to effectively administer the Oklahoma Sanitarian and Environmental Specialist Registration Act.

## SUBCHAPTER 3. APPLICATIONS

**310:345-3-1. Classification of applicants**

(a) **Registered Professional Sanitarian or Registered Professional Environmental Specialist.** Applicants for registration as Registered Professional Sanitarians ("R.P.S.")

or Registered Professional Environmental Specialists ("R.P.E.S.") shall:

(1) have not less than two years of postgraduate, full-time experience working in the fields of public health or environment;

(2) have a baccalaureate degree with a major in public health, environmental health, environmental science, physical science, natural science, biological science, agricultural science, or equivalent from an accredited college or university with at least thirty (30) semester hours of work in physical, natural and biological sciences, public health and/or environmental health;

(3) pass an examination prescribed by the Council, demonstrating knowledge and understanding of the principles of sanitation and of the physical, biological and environmental sciences; and

(4) pay applicable examination and registration fees.

(b) **Sanitarian in Training or Environmental Specialist in Training.** Applicants who meet all qualifications for registration as a sanitarian or environmental specialist, except the postgraduate experience requirement, and who are employed as sanitarians or environmental specialists, may be granted an active, certificate of Sanitarian-In-Training ("SIT") or Environmental Specialist-In-Training ("ESIT") on approval of the Commissioner. Such certificate shall remain in effect for a period not to exceed 30 months after date of issue, unless revoked by the Commissioner, or the sanitarian-in-training or environmental specialist-in-training requests inactive registration status pursuant to Section 310:345-3-1(c).

(c) **Inactive Sanitarian-in-Training or Environmental Specialist-in-Training.** Sanitarians-in-Training or Environmental Specialists-in-Training who are unable to maintain their employment to complete their two (2) years of postgraduate, work experience may request the Department to change their registration status to inactive in order to preserve the thirty (30) month limitation for an individual to register as a sanitarian-in-training or environmental specialist-in-training. Such inactive status shall not be granted if the individual's employment was terminated for acts or omissions which constitute a violation of this Chapter or the Oklahoma Sanitarian and Environmental Specialist Registration Act. An individual may only be granted inactive status as a sanitarian-in-training or environmental specialist-in-training one time for no more than one (1) year.

(d) **Life Registration Sanitarian or Life Registration Environmental Specialist.** Life Registration Sanitarian or Life Registration Environmental Specialist is available to those individuals who are 62 years of age or older before January 1, in the application year, hold a valid current registration and have been registered for not less than 25 years at the time of application.

**310:345-3-3. Fees**

(a) **Payable when.** Fees shall be payable upon review by the Department and approval of an application.

(b) **R. P.S. or R.P.E.S.** The fee for registration as a Registered Professional Sanitarian or Registered Professional Environmental Specialist shall be Twenty Dollars ($20.00).

(c) **SIT or ESIT.** The fee for registration as a Sanitarian-In-Training or Environmental Specialist-In-Training shall be Ten Dollars ($10.00).

(d) **SIT or ESIT approved as R. P.S. or R.P.E.S.** Sanitarians-In-Training or Environmental Specialists-In-Training who have served two years of such, and are in good standing shall pay a registration fee of Twenty Dollars ($20.00) on application for Registered Professional Sanitarian or Registered Professional Environmental Specialist.

(e) **Life Registered Sanitarian or Environmental Specialist.** The one time fee for registration as a Life Registered Sanitarian or Environmental Specialist is $20.00.

**310:345-3-4. Examinations**

The Council shall conduct examinations for registration as Registered Professional Sanitarians, Registered Professional Environmental Specialists and/or for registration as Sanitarians-In-Training or Environmental Specialists-In-Training at least twice a year and at such other times as it deems necessary. Applicants are entitled to 30 days notice of the type and scheduling of exams. Such examinations shall be written in whole or in part at the discretion of the Council. Where the education and experience of an applicant has been in a specialized field, the Council reserves the right to narrow or extend the limits of the examination in a reasonable manner.

**310:345-3-6. Reciprocity**

The Commissioner shall, upon application therefore and upon payment of a fee of Ten Dollars ($10.00), issue a certificate of registration as a Registered Professional Sanitarian or Registered Professional Environmental Specialist to any person who holds a certificate of registration issued by the proper authority of any state, territory or possession of the United States or any country, provided that the requirements for the registration of sanitarians or environmental specialists under which the certificate was issued do not conflict with the provisions of Oklahoma laws relative thereto and at the time said certificate was granted were a standard not lower than those specified in the Oklahoma Sanitarian and Environmental Specialist Registration Act and this Chapter.

## SUBCHAPTER 5. REGISTRATION

**310:345-5-1. Number**

At the time an applicant is approved for registration by the Council, the applicant shall be assigned a registration number. The number for Sanitarian In Training or Environmental Specialist-In-Training shall be preceded by the letters "S.I.T." or "E.S.I.T". These numbers will be issued consecutively, in the order in which the applications are approved by the Council. The applicant will be advised of this registration number in the notice sent to the applicant by the Department. A registration number which has once been issued to a registrant will become obsolete in event of revocation, death, or nonpayment of dues. If a former registrant is reinstated, he will be re-issued his original number. Registration numbers, which have become

obsolete will not be re-issued to any registrant other than the original holder thereof.

**310:345-5-2. Certificate**

(a) As soon as possible after the approval of an application and payment of fees, a certificate of registration will be issued the applicant, signed by the Commissioner and Chairman of the Council, and bearing the Seal of the Council and the registration number of the applicant on the face of the certificate.

(b) Each applicant, after approval and payment of fees, shall be issued a card, ~~approximately 5/2 X 4",~~ which shall be designated by the Commissioner identifying the holder as a Registered Professional Sanitarian, Registered Professional Environmental Specialist, Environmental Specialist-In-Training or Sanitarian-In-Training. Cards and certificates shall be mailed to the applicant's address.

(c) A new certificate of registration to replace any certificate lost, destroyed, or mutilated will be issued to any registrant on his simple application, accompanied by the actual cost of replacement to reimburse the Department for expense involved in the issuance thereof.

**310:345-5-3. Expiration and renewal**

(a) **Expiration.** Each certificate and card of registration as a Registered Professional Sanitarian or Registered Professional Environmental Specialist shall expire on the last day of December following its issuance or renewal, and shall become invalid on that date unless renewed.

(b) **Renewal by December 31.** Each Registered Professional Sanitarian or Registered Professional Environmental Specialist desiring to continue the practice of the profession shall renew the certificate prior to the last day of December by paying to the Department a fee of seven dollars and fifty cents ($7.50); in return the Department shall issue a renewal card for the ensuing year.

(c) **Renewal after February 1.** Expired certificates may be renewed prior to February 1 of the year following their expiration without penalty. Beginning February 1 of the year following its expiration, expired certificates shall only be renewed by submitting a renewal fee of $7.50 plus a penalty of $2.50 for a total of $10.00.

(d) **Renewal ineligibility.** Except for extraordinary circumstances to be determined by the Council, all certificates which have not been renewed by March 1 of the year following its expiration shall be ineligible for renewal unless the registrant has successfully passed the sanitarian or environmental specialist examination, and the names of such registrants shall not appear in the roster issued annually during the month of September.

(e) **Department to notify.** As of February 1 of each year, the Department will mail a notice to each registrant who has failed to renew his certificate prior to February 1 and has not successfully completed the sanitarian or environmental specialist examination that his certificate will be ineligible for renewal as of March 1 of the year following its expiration.

## SUBCHAPTER 7. REVOCATION AND REINSTATEMENT

**310:345-7-1. Cause for revocation**

Certificates may be revoked by the Commissioner for cause after proper hearing, pursuant to the Oklahoma Sanitarian and Environmental Specialist Registration Act. Separate rules and regulations are issued by the Department covering the preference of charges and the hearing of same and the revocation of certificates resulting therefrom.

**310:345-7-2. Reinstatement**

(a) Former registrants who have successfully completed the sanitarian or environmental specialist examination may make application for reinstatement on the basis prescribed in subsection (b) of this Section.

(b) The certificate of an applicant will be reinstated on simple application therefore on a form prescribed by the Department and accompanied by remittance equal to the total amount of money which would have been paid to the Department in late renewal fees up to the time of application, had the original certificate not been permitted to expire, plus an additional fee of Ten Dollars ($10.00) to reimburse the Department for expense of special handling required by this procedure.

(c) However, if the amount of the remittance computed as described in subsection (b) of this Section shall exceed Twenty Dollars ($20.00), the applicant may file for registration as though he had not previously been registered.

(d) A former registrant whose certificate was originally issued without examination shall not be eligible for reinstatement, but may be issued a new registration after successful completion of the sanitarian or environmental specialist registration examination.

*[OAR Docket #03-854; filed 5-2-03]*

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# TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
# CHAPTER 528. CHILDREN FIRST ELIGIBILITY REQUIREMENTS

*[OAR Docket #03-855]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
310:528-1-1 [NEW]
310:528-1-2 [NEW]
310:528-1-3 [NEW]
310:528-1-4 [NEW]
310:528-1-5 [NEW]
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Oklahoma State Board of Health; 63 O.S. §§ 1-104 and 1-110.1; HB2487 of the 2002 Legislative Session.
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**SUPERSEDED EMERGENCY ACTIONS:**
"n/a"
**INCORPORATION BY REFERENCE:**
"n/a"
**ANALYSIS:**
The purpose of this chapter is to identify the eligibility requirements for the Children First Service of the Oklahoma State Department of Health.
**CONTACT PERSON:**
Annette Jacobi, J.D., Chief, Children First Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299. Telephone 405/271-4476

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

**310:528-1-1. Purpose**

This Chapter identifies the authority, provides general definitions, and establishes eligibility requirements for the Children First Service of the Oklahoma State Department of Health.

**310:528-1-2. Definitions**

The following word or term, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Children First Mother"** means the woman that meets Children First Service eligibility requirements and enrolls in the service.

**310:528-1-3. Services**

(a) Services will be provided by a public health nurse in the home of the Children First Mother unless the Children First Mother requests that the services be provided in a different location.

(b) Services include limited maternal and child health assessments; child development assessments; parenting education; health, safety and nutrition education; appropriate referrals to services such as primary health care, family planning, mental health services, job training, literacy services, employment opportunities, housing, and substance abuse treatment.

(c) Services will be made available without requirement for legal residence, age, sex, race, religion, nationality, marital status or pregnancy history.

(d) Acceptance of services must be voluntary, and individuals must not be subjected to any coercion to receive services.

(e) Acceptance of services shall not be a prerequisite to eligibility for, or receipt of, any other services provided by the Oklahoma State Department of Health (OSDH).

(f) All information obtained as to personal facts and circumstances of individuals will be held confidential, and shall not be divulged without the individual's written consent, court order, or by request of staff from a District Attorney's Office, a law enforcement official, or the Department of Human Services when conducting a child abuse investigation.

**310:528-1-4. Eligibility requirements**

The Children First Mother must be at or less than 28 weeks gestation when the initial Children First visit occurs, have a household income no greater than 185% above the Federal Poverty Level, and

(1) be expecting her first live birth, never parented and plans on parenting this child; or

(2) be expecting her first live birth, never parented and is contemplating placing the child for adoption; or

(3) be expecting her first live birth and has parented stepchildren or younger siblings; or

(4) be expecting her first live birth, been pregnant before, but the pregnancy did not result in a live birth; or

(5) be expecting a live birth, been pregnant and delivered a child in the past, but the child died within the first six months of life; or

(6) be expecting a live birth, been pregnant and delivered a child in the past, but the mother placed the child for adoption immediately following delivery of the child.

**310:530-1-5. Fees**

No fees will be charged to eligible participants for Children First home visitation services.

*[OAR Docket #03-855; filed 5-2-03]*

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
## CHAPTER 529. MULTIDISCIPLINARY TEAMS FOR CHILD PROTECTION

*[OAR Docket #03-856]*

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310:529-1-2 [NEW]
310:529-1-3 [NEW]
Subchapter 3. Child Abuse Prevention Service [NEW]
310:529-3-1 [NEW]
310:529-3-2 [NEW]
310:529-3-3 [NEW]

310:529-3-4 [NEW]
310:529-3-5 [NEW]
**AUTHORITY:**
Oklahoma State Board of Health; 63 O.S. 2001, § 1-227.7; 63 O.S. 2001 § 1-227.2
**DATES:**
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Subchapter 1. General Provisions [NEW]
310:529-1-1 [NEW]
310:529-1-2 [NEW]
310:529-1-3 [NEW]
Subchapter 3. Office of Child Abuse Prevention [NEW]
310:529-3-1 [NEW]
310:529-3-2 [NEW]
310:529-3-3 [NEW]
310:529-3-4 [NEW]
310:529-3-5 [NEW]
**Gubernatorial approval:**
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19 OK Reg 2917
**Docket number:**
02-1283
**INCORPORATIONS BY REFERENCE:**
"n/a"
**ANALYSIS:**
Chapter 529 will identify the minimal standards for determining eligibility as a functioning multidisciplinary team for child protection.
**CONTACT PERSON:**
Sally Carter, M.S.W., L.C.S.W, Chief, Child Abuse Prevention Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207. Telephone 405/271-7611

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS

**310:529-1-1. Purpose**

This Chapter identifies the authority and provides general definitions for multidisciplinary teams for child protection.

**310:529-1-2. Authority**

Oklahoma State Board of Health; 63 O.S. 2001 § 1-227.7; 63 O.S. 2001 § 1-227.2.

**310:529-1-3. Definitions**

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

**"Department"** means the Oklahoma State Department of Health.

**"Interagency agreement(s)"** means the written document(s) signed by multidisciplinary team member agencies that specify the cooperative effort of the member agencies to the team and delineates roles.

**"Multidisciplinary team"** means a group of individuals of differing disciplines working together collaboratively on a common purpose.

**"Standards"** means the state of the art criteria used to determine functionality of a multidisciplinary team.

## SUBCHAPTER 3. CHILD ABUSE PREVENTION SERVICE

**310:529-3-1. Purpose**

The Department is responsible for the Child Abuse Prevention Service. The Child Abuse Prevention Service is responsible for assisting the Child Abuse Training and Coordination Council in the performance of their duties. One of the duties of the Child Abuse Training and Coordination Council is to annually approve the list of functioning multidisciplinary teams. A functioning multidisciplinary team can apply for funding to the Department of Human Services from the Child Abuse Multidisciplinary Account. The purpose of this chapter is to establish the minimal standards to determine a functioning multidisciplinary team.

**310:529-3-2. Authority**

Oklahoma State Board of Health; 63 O.S. 2001 § 1-227.7; 63 O.S. 2001 § 1-227.2.

**310:529-3-3. Definitions**

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

**"Annual survey"** means a written document submitted on at least a yearly basis to the Office of Child Abuse Prevention summarizing the activities of the team as related to child protection investigations and services with the data elements and format proscribed by the Child Abuse Training and Coordination Council.

**"Child abuse multidisciplinary account"** means a continuing fund established by the Oklahoma Legislature for the purpose of providing operating funds to functional multidisciplinary teams.

**"Child Abuse Training and Coordination Council"** means the Office of Child Abuse Prevention B Child Abuse Training and Coordination Council as established in O.S. Title 63 § 1-227.9.

**"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 Child Abuse Training and Coordination Council.

**"Confidentiality statement"** means the written document signed by 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.

**"Data collection"** means multidisciplinary teams shall maintain data on every case reviewed by the multidisciplinary team in the format proscribed by the Child Abuse Training and Coordination Council.

**"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.

**"Initial team training"** means a training conducted during the early formation of the team where individual team members are oriented to the multidisciplinary child abuse team approach.

**"Joint investigations"** means law enforcement and child welfare staff conduct a collaborative investigation with written protocols to decrease duplicative efforts and to ensure a thorough process.

**"Multidisciplinary team members"** means team members to include police officers or other law enforcement agents, child protective services workers within the Oklahoma Department of Human Services, mental health professionals, medical personnel, multidisciplinary child abuse team coordinators, child advocacy center director and the district attorney or assistant district attorney.

**"Protocol"** means specific methods and procedures used to conduct child protection investigations and interviews.

**310:529-3-4. Services provided**

A multidisciplinary team conducts joint investigations in an effort to effectively respond to child abuse reports.

**310:529-3-5. Standards for eligibility**

A multidisciplinary team will adhere to the following minimal standards:

(1) Develop individual and team expertise through training according to the format and schedule established by the Child Abuse Training and Coordination Council;

(2) Conduct and submit a Community Needs Assessment that will identify available services, service gaps, untapped resources, and priorities for improvement or development of services to improve the delivery of services to the victim and family according to the schedule established by the Child Abuse Training and Coordination Council;

(3) Conduct joint investigations, wherever feasible, in an effort to effectively respond to child abuse reports;

(4) Utilize written protocols approved by the Child Abuse Training and Coordination Council for interviewing and investigating to increase joint investigations and decrease duplicative efforts;

(5) Utilize an approved Child Abuse Training and Coordination Council formalized case review process, interagency agreement, and confidentiality statement; and

(6) Submit data collected in the format and schedule prescribed by the Child Abuse Training and Coordination Council to complete the Child Abuse Training and Coordination Council Annual Survey.

*[OAR Docket #03-856; filed 5-2-03]*

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 535. IMMUNIZATIONS

*[OAR Docket #03-857]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. Childhood Immunizations
310:535-1-2 [AMENDED]
310:535-1-3 [AMENDED]
**AUTHORITY:**
Oklahoma State Board of Health; 70 O.S.2001, §§ 1210.191 et seq.; 10 O.S.2001, § 412; 63 O.S.2001, § 1-104; 63 O.S.2001, § 1-502
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Subchapter 1. Childhood Immunizations
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310:535-1-3 [AMENDED]
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**Register publication:**
19 Ok Reg 2919
**Docket number:**
02-1284
**INCORPORATION BY REFERENCE:**
"n/a"
**ANALYSIS:**
This rule change incorporates changes to immunization recommendations made in 2002 by the U.S. Public Health Service and allows for: 1) vaccinations to be given <=4 days before the minimum interval or age to be counted as valid; 2) DTaP #4, if administered >=4 months after DTaP #3, to be counted as valid (instead of the current minimum interval of 6 months); 3) the minimum age for hepatitis B #3 to be 6 calendar months of age for all doses administered after 2-13-1998, instead of the current 6 months (6 X 28 days) of age; 4) the minimum interval between hepatitis A first and second doses to be 6 calendar months, instead of the current 6 months (6 X 28 days); 4) specifying the minimum age for DTaP #5 to be four years of age. Changes #4 and #5 will only apply to immunizations given after January 1, 2003.
**CONTACT PERSON:**
Susan Mendus, M.P.H. Immunization Service, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-4073; facsimile: (405) 271-6133; electronic mail: susanm@health.state.ok.us

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 1. CHILDHOOD IMMUNIZATIONS

### 310:535-1-2. Criteria for immunizations required

(a) Each child shall present certification that he or she has received or is receiving the immunizations as specified below before he or she is admitted to any public, private, or parochial school.

(b) Certification shall include the following:

(1) Diphtheria, Tetanus and Pertussis (DTP/DTaP) vaccine in five doses unless the fourth dose is received on or after the fourth birthday in which case only four doses are required.

(2) Poliomyelitis vaccine in four doses unless the last dose is on or after the fourth birthday in which case only three doses are required.

(3) Measles, Mumps and Rubella (MMR) vaccine with the first dose on or after the first birthday and the second dose at least twenty-eight days thereafter for children in grades kindergarten through eighth grade in the school year beginning in 1998. In the school year beginning in 1999, this requirement shall apply to the children through the ninth grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2002, children in all grades shall be required to have the second dose of vaccine.

(4) Hepatitis B vaccine in three doses for students of any age or two doses for students eleven through fifteen years of age who complete the alternative dosage schedule providing that the alternative schedule is fully documented. Such documentation must include the name of the vaccine and the dosage received for each dose of that vaccine:

(A) before entering seventh and eighth grades in 1998. In the school year beginning in 1999, this requirement shall apply to the children entering the seventh through ninth grades. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2002, children in grades seven through twelve shall be required to have the three doses of the vaccine.

(B) before entering kindergarten in 1998. In the school year beginning in 1999, this requirement shall apply to the children entering kindergarten and first grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2004, all children entering school shall be required to have the three doses of the vaccine.

(5) Hepatitis A vaccine in two doses with the first dose on or after the second birthday and the second dose six to eighteen calendar months later:

(A) before entering kindergarten in 1998. In the school year beginning in 1999, this requirement shall apply to the children entering kindergarten and first grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2004, all children entering school shall be required to have the two doses of the vaccine.

(B) before entering grade seven in 1998. In the school year beginning in 1999, this requirement shall apply to the children entering the seventh and eighth grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2003, children in grades seven through twelve shall be required to have the two doses of the vaccine.

(6) Varicella (chickenpox) vaccine in one dose on or after the first birthday before entering kindergarten in 1998. In lieu of vaccination, a parent's statement of a history of the disease chickenpox will be accepted. In the school year beginning in 1999, this requirement shall apply to the children entering kindergarten and first grade. Each year thereafter the requirement shall be extended one grade level so that in the school year beginning in 2010, all children entering school shall be required to have the vaccine or a parent's statement of a history of the disease chickenpox.

(c) The minimum intervals between doses and minimum ages for doses shall be as follows:

(1) DTP/DTaP:

(A) First and second dose - 4 weeks

(B) Second and third dose - 4 weeks

(C) Third and fourth dose - ~~6~~ 4 months

(D) Fourth and fifth dose - 6 months

(E) For all fifth doses given after January 1, 2003 the minimum age for the fifth dose is 4 years of age

(2) Polio:

(A) First and second dose - 4 weeks

(B) Second and third dose - 4 weeks

(C) Third and fourth dose - 4 weeks

(3) MMR: First and second dose - 4 weeks

(4) Hepatitis B 3-dose series:

(A) First and second dose - 1 month (4 weeks)

(B) Second and third dose - 2 months (8 weeks), and the third dose at least 4 months (16 weeks) after first dose, and for all doses administered on or after February 13, 1998, the third dose not before 6 calendar months of age

(5) Hepatitis B 2-dose series: ~~(A)~~ First and second dose - 4 months

(6) Hepatitis A: ~~(A)~~ First and second dose - 6 months and for all doses given on or after January 1, 2003, 6 months will be defined as 6 calendar months

(7) Four day grace period: Vaccine doses administered 4 days or less before the minimum intervals or ages listed in the preceding sections will be counted as valid.

(d) A child, through his parent or guardian, may apply for an exemption from this requirement by submitting a form to the school. The school shall maintain a copy of the application in the child's records and send a copy to the Department for approval.

(1) A request for exemption for medical reasons shall contain a certificate signed by a physician stating that the physical condition of the child is such that the immunization would endanger the life or health of the child and that the child should be exempt for immunization.

(2) A request for exemption for religious or other personal reasons shall contain a signed written statement from the parent or guardian stating a summary of the objections. Lost or unobtainable immunization records are not a ground for personal exemption.

(e) A child participating in a pre-kindergarten school program shall have received or be in the process of receiving the appropriate immunization for the listed diseases based on the child's age.

(f) The Department may grant exemptions or substitutions in the immunization schedule based on a medical history of a physical condition such that the immunization would endanger the life or health of the child or a medical history stating the child is likely to be immune as a result of having had a vaccine-preventable disease if the following are met:

(1) A history of having had diphtheria and/or tetanus is not acceptable as proof of immunity since infection with diphtheria or tetanus may not render an individual immune to either of these diseases,

(2) A history of having had polio, pertussis, rubella, mumps, hepatitis B, or hepatitis A must be supported by laboratory evidence to be acceptable as proof of immunity to these diseases,

(3) A history of having had measles must be accompanied by a statement from a physician, public health authority, or laboratory evidence to be acceptable as proof of immunity to measles,

(4) A parental history of having had varicella is acceptable evidence of immunity to varicella,

(g) Haemophilus influenzae type B (Hib) vaccine is not a requirement for children attending pre-kindergarten, kindergarten, or school.

(h) In some circumstances, the United States Food and Drug Administration may approve the use of an alternative dosage schedule for an existing vaccine. These alternative schedules may be used to meet the requirements only when the alternative schedule is fully documented. Such documentation must include the name of the vaccine and dosage received for each dose of that vaccine.

**310:535-1-3. Criteria for immunizations required for day care**

(a) Each child two months of age or older shall present certification that he or she has received or is receiving the immunizations as specified below before he or she is admitted to, and while enrolled in, a day care center or day care home.

(b) Certification shall include the following:

(1) 5 DTaP/DTP doses at 2, 4, 6, and 12 to 18 months and 4 to 6 years or beginning at 6 weeks of age with minimum intervals of 4 weeks between doses 1 and 2 and doses 2 and 3 and ~~6~~ 4 months between doses 3 and 4 and 6 months between doses 4 and 5, with all fifth doses given on or after January 1, 2003 given on or after the fourth birthday; The fifth DTaP/DTP is not required if the fourth DTaP/DTP is administered on or after the fourth birthday;

(2) 4 Polio doses at 2, 4 and 6 to 18 months and 4 to 6 years or beginning at 6 weeks of age with minimum intervals of 4 weeks between all doses; The fourth Polio is not required if the third dose is given on or after the fourth birthday;

(3) 1 to 4 Haemophilus influenzae type B (Hib) doses at 2, 4, 6, and 12 to 15 months of age or older depending upon age at first Hib immunization and type of vaccine used or beginning at 6 weeks of age with minimum intervals of 1 month between doses 1, 2, and 3, if a third dose is part of the primary series, and the booster dose no earlier than 12 months of age and at least 2 months after the previous dose;

(4) 2 Measles, Mumps, Rubella doses with the first dose on or after the first birthday and the second dose at 4 to 6 years or at anytime after the first dose provided at least 4 weeks have elapsed since the receipt of the first dose;

(5) 1 Varicella dose on or after the first birthday;

(6) 2 Hepatitis A doses with the first dose on or after the second birthday and the second dose six to eighteen months later and for all doses given on or after January 1, 2003, 6 months will be defined as 6 calendar months;

(7) 3 Hepatitis B doses with minimum intervals as follows: 1 month (4 weeks) between doses 1 and 2, two months (8 weeks) between doses 2 and 3, four months (16 weeks) between doses 1 and 3, and for all doses administered on or after February 13, 1998, dose 3 no earlier than 6 calendar months of age;

(8) Vaccine doses administered 4 days or less before the minimum intervals or ages listed in the preceding sections will be counted as valid.

(c) In the event that the parent, guardian, or responsible adult presenting a child for admission to a child care facility certifies in writing that a family emergency exists, the immunization requirements shall be waived for a period not to exceed thirty days. No such waiver shall be knowingly permitted more than once for any child.

(d) Immunization records for children attending school-age programs are not required if those records are maintained by the school and are readily available.

(e) A child, through his parent or guardian, may apply for an exemption from this requirement by submitting a form to the day care center or day care home. The day care center or day care home shall maintain a copy of the application in the child's records and send a copy to the Department for approval.

(1) A request for exemption for medical reasons shall contain a certificate signed by a physician stating that the physical condition of the child is such that the immunization would endanger the life or health of the child and that the child should be exempt for immunization.

(2) A request for exemption for religious or other personal reasons shall contain a signed written statement from the parent or guardian stating a summary of the objections. Lost or unobtainable immunization records are not a ground for personal exemption.

(f) The Department may grant exemptions or substitutions in the immunization schedule based on a medical history of a physical condition such that the immunization would endanger the life or health of the child or a medical history stating the child is likely to be immune as a result of having had a vaccine-preventable disease if the following are met:

(1) A history of having had diphtheria and/or tetanus is not acceptable as proof of immunity since infection with diphtheria or tetanus may not render an individual immune to either of these diseases;

(2) A history of having had polio, pertussis, rubella, mumps, or hepatitis A must be supported by laboratory evidence to be acceptable as proof of immunity to these diseases;

(3) A history of having had measles must be accompanied by a statement from a physician, public health authority, or laboratory evidence to be acceptable as proof of immunity to measles;

(4) A parental history of having had varicella is acceptable evidence of immunity to varicella;

(5) A history of having had Hib before age two years is not acceptable as proof of immunity since infection with Hib prior to age two years may not render an individual immune.

*[OAR Docket #03-857; filed 5-2-03]*

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 667. HOSPITAL STANDARDS

*[OAR Docket #03-843]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Chapter 667. Hospital Standards [AMENDED]
**AUTHORITY:**
Oklahoma State Board of Health; 63 O.S. Section 1-104 et seq.; and Title 63 O.S. Section 1-705.
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**INCORPORATION BY REFERENCE:**
**Incorporated Standards:**
NFPA 101, "Life Safety Code" 2000 ed.
**Incorporating rules:**
310:667-41-5
**Availability:**
The incorporated standards are available for viewing at the Medical Facilities Service, Room 1116, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299. Or, copies may be obtained from the National Fire Protection Association (NFPA), 1 Batterymarch Park, PO Box 9101, Quincy, MA 02269-9101 Tel. 617-770-3000 (http://www.nfpa.org)
**ANALYSIS:**
These amendments affect more than 30 sections of the rule. The proposed revisions update definitions and add new definitions regarding various classes of practitioners, remove obsolete language, update and reorganize requirements and references for clarity, and correct syntax. Outdated requirements have been revoked and/or deleted.

Amendments include: changing references to Centers for Medicare & Medicaid Services from Health Care Financing Administration, referencing "licensed independent practitioner" when the term "physician" is used wherever appropriate, updating requirements for employee health screening and immunizations and for newborn metabolic and hearing screening, requiring compliance with the Oklahoma Health Care Information System Act, updating infection control and central sterile supply practices, correcting references to Chapter 256 Food Service Establishment Regulations, allowing one practitioner to authenticate another practitioner's orders if allowed by medical staff bylaws, removing the prohibition of the use of signature stamps in the medical record by practitioners, requiring hospitals to identify those workers who are subject to significant occupational exposure to radiation, allowing fluoroscopic procedures to be supervised by real time visualization through electronic means, applying the requirements of Subchapter five (5) to Critical Access Hospitals (CAH) and making conforming changes to Subchapter 39, adding program and construction requirements for Emergency Hospitals as Subchapter 40, updating construction requirements for general

and specialized hospitals based on new American Institute of Architects guidelines, and updating the appendixes.

**CONTACT PERSON:**

Gary Glover, Chief, Medical Facilities, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-6576; electronic mail: gary@health.state.ok.us

**DUE TO EXCESSIVE LENGTH OF THESE RULES, THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT THE OKLAHOMA STATE DEPARTMENT OF HEALTH, 1000 NE 10TH STREET, OKLAHOMA CITY, OKLAHOMA 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):**

**SUMMARY:**

In general, the changes to Chapter 667 remove obsolete language, update and reorganize requirements and references for clarity, and correct syntax. References to physicians have been revised to include licensed independent practitioners where appropriate throughout the rule. The revisions to Subchapter 1 add new definitions for various classes of practitioners and modify or remove definitions for other practitioner types. Subchapter 3 now includes a more specific reference to when and how hospitals must inform patients of their rights. The changes to Subchapter 5 clarify the role of student practitioners, update the requirements for employee health programs including immunizations and health screenings, and require compliance with the Health Care Information System Act.

The language in Subchapter 7 now permits hospitals to grant admission privileges to licensed independent practitioners. Several editorial changes were made in Subchapter 9 including renaming the category of privileged staff from "physician extenders" to "non-physician practitioners." Subchapter 11 was revised to clarify how the evaluation of nosocomial infections is linked to the quality improvement program.

The infection control requirements specified in Subchapter 13 were updated to reflect current theory and practice in the field. Subchapter 15 had several conforming changes made including a revision to the authentication of verbal orders requirement necessitated by a change made in Subchapter 19. The changes to Subchapter 17 included changing references to "food and dietary" services to "food and nutritional" services, and correcting out-of-date references to Recommended Dietary Allowances and to Chapter 255 of Title 310 by changing them to Dietary Reference Intakes and Chapter 256, respectively.

Subchapter 19 contains updated requirements for newborn hearing and metabolic screening to be consistent with other Department rules, allows influenza and pneumococcal vaccines to be administered per physician-approved hospital policy without an individual order, permits practitioners to authenticate another practitioner's orders under certain conditions when allowed by specific hospital policy, affirms that records stored electronically are equivalent to a hard copy unit record if certain conditions are met, consolidates and clarifies the information required in a medical record, and allows the use of signature stamps if certain requirements are met.

The requirements in Subchapter 21 were modified to allow for actual counts of scheduled drugs contained in, and controlled by, an automated dispensing system to be made with each access rather than each employee shift change and changes were made to allow required pharmacy reference materials to be maintained in a electronic format if desired.

Subchapter 23 was revised to require the hospital to identify those employees subject to significant occupational exposure to radiation and to allow fluoroscopic procedures to be supervised by real time visualization through electronic means. This Subchapter also corrects references to various licensed respiratory care practitioners and the requirements for pet therapy regimens have been moved to this Subchapter so they can be applied to all types of licensed hospitals rather than only to psychiatric facilities.

Subchapter 25 has been updated to reflect current theory and practices in surgery and anesthesia services, infection control, sterilization methods, and central sterile supply procedures including the use of event related sterility dating. Subchapters 27 and 29 contain only conforming changes and reference update changes.

The patient to staff ratio in Subchapter 33 for psychiatric units or hospitals has been modified to allow facilities some additional staffing flexibility when the unit census does not exceed twenty patients. Subchapter 35 has been reorganized for clarity and to more closely parallel the requirements of Subchapter 33. The patient to staff ratio in Subchapter 33 has been replaced with a requirement to staff the unit or hospital based on patient acuity and the nursing needs of the patients.

The requirements for Critical Access Hospitals (CAH) in Subchapter 39 have been modified to reflect conforming changes required by the revisions made in Subchapters 1 through 35 and to correct a previous omission by applying the requirements of Subchapter 5 to CAHs.

Subchapter 40 is new and contains all the requirements for a class of licensed hospital called the Emergency Hospital (EH). These requirements are generally very similar to those for CAHs except that the EH must be the sole provider of hospital services in the community, is limited to no more than 10 licensed inpatient stabilization and observation beds, and non-emergent surgical, scheduled obstetrical deliveries, and invasive diagnostic services requiring anesthesia or sedation are prohibited in the EH.

Subchapters 41 through 53 have been revised to be consistent with the updated codes, standards, and recommendations contained in the 2001 edition of the "Guidelines for Design and Construction of Hospitals and Health Care Facilities" produced under the guidance of the American Institute of Architects and their other participating organizations. Subchapter 56 contains references to the construction requirements for the new class of licensed hospital, the Emergency Hospital.

The revisions in Subchapter 59 are conforming changes required by the revisions made to Subchapters 1 through 35.

The previous appendices are being revoked and new appendices promulgated to reflect the current requirements specified throughout Chapter 667.

*[OAR Docket #03-843; filed 5-2-03]*

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 669. TRAUMA CARE ASSISTANCE REVOLVING FUND

*[OAR Docket #03-858]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 5. Reports and Financial Statements
310:669-5-1 [AMENDED]

**AUTHORITY:**

Oklahoma State Board of Health: 63 O.S Sections 1-2512 and 1-2522

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**SUPERSEDED EMERGENCY ACTIONS:**

"n/a"

**INCORPORATION BY REFERENCE:**

"n/a"

**ANALYSIS:**

The proposed amendments provide for changes to the rules that broaden the definition of major trauma effectively expanding the number of cases that are eligible for reporting to the Trauma Registry and reimbursement from the Trauma Care Assistance Revolving Fund. The amendments to the inclusion and exclusion criteria are necessary to clarify which cases are eligible for reporting and reimbursement to meet the needs of the Trauma System.

**CONTACT PERSON:**

V. Pamela Broyles, Emergency Medical Services, Medical Facilities, Protective Health Services, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-4027; electronic mail: pamb@health.state.ok.us

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 5. REPORTS AND FINANCIAL STATEMENTS

### 310:669-5-1. Filing requirements

(a) By December 31st of each year, each distribution entity requesting distribution of a pro rata share of the Trauma Care Assistance Revolving Fund shall file a report with the Commissioner for the twelve month period ending as of the immediate past June 30th.

(b) Each distribution entity shall use the forms established by OAC 310:669-5-2 to report the following:

(1) A link(s) to identify the trauma registry data;

(2) The dollars of gross revenues for the distribution entity's trauma care bad debts;

(3) The dollars of gross revenues for the distribution entity's trauma charity care;

(4) The cost to charge ratio calculated using the costs and charges for all departments of a trauma facility; and

(5) The trauma facility's specific ambulance department cost to charge ratio for a hospital-based ambulance service.

(c) Trauma reported to the trauma registry is described by an ICD-9 code of 800.00 to 959.9, and is limited to contacts within thirty (30) days of the injury, and is accompanied by one or more of the following events for the patient:

(1) An admission to a hospital of at least forty-eight (48) hours; or

(2) Transfer from a lower level to a higher level of trauma facility for major trauma; or

(3) Activation of a trauma team; or

(4) Admission to an intensive care unit; or

(5) Admission directly to an operating room for surgery of the head, chest, abdomen, or vascular system; or

(6) A declaration of dead on arrival; or

(7) A declaration of dead in the emergency room or elsewhere in the hospital.

(d) In addition to meeting the requirements at 310:669-5-1(c), each reportable case must also meet at least one of the following criteria as computed by the trauma registry software, unless the patient was declared dead on arrival to the hospital or died while in the hospital:

(1) Have an Abbreviated Injury Score of 3 or higher; or

(2) Have an Injury Severity Score of 9 or higher; or

(3) Have a Survival Probability of 0.90 or less.

(e) Cases meeting any of the following exclusionary conditions shall not be reported to the trauma registry or be eligible for reimbursement from the fund:

(1) Isolated orthopedic injuries to the extremities due to a same level fall;

(2) Overexertion injuries;

(3) Injuries resulting from a pre-existing condition such as osteoporosis or esophageal stricture;

(4) Injuries greater than 30 days old;

(5) Poisoning and toxic events; and

(6) Submersion injuries.

(f) Uncompensated expenses incurred by licensed ambulance services that are associated with major trauma patients and reported to the state pre-hospital emergency medical service database shall be eligible for reimbursement. Uncompensated expenses incurred for emergency transport to a trauma facility from the scene of the injury or from a lower level to a higher level trauma facility are eligible for reimbursement when the case meets one or more of the following conditions:

(1) The extent of patient injury is verified through a hospital trauma registry as described at OAC 310:667-5-1(c), (d), and (e); or

(2) Glascow coma score equal to or less than thirteen (13); or

(3) Respiratory compromise resulting from trauma requiring intervention; or

(4) Hemodynamic compromise from trauma resulting in decreased blood pressure; or

(5) Penetrating injury above the groin; or

(6) Amputation proximal to the wrist or ankle; or

(7) Paralysis resulting from traumatic injury; or

(8) Flail chest; or

(9) Two or more proximal long bone fractures (humerus and/or femur ; or

(10) Open or depressed skull fracture; or

(11) Unstable pelvis; or

(12) Pediatric trauma score equal to or less than eight (8).

(g) A distribution entity shall exclude from its contractual adjustments gross revenue amounts written off as a result of governmental payors' set reimbursement rates that are not subject to negotiation by the entity. Contractual adjustment exclusions may include but are not limited to Medicare, Medicaid, and Indian Health Service reimbursement.

(h) A free-standing ambulance service shall calculate transportation reimbursement using the Centers for Medicare and Medicaid Services reimbursement methodology in place as of the date of transportation.

(i) A distribution entity shall not include in uncompensated care any deductible or coinsurance that the patient fails to pay to the distribution entity unless the distribution entity has pursued reasonable collection efforts consistent with those

generally used by similar entities. A distribution entity shall not include any amount it is not entitled to collect from the patient.

(j) If a trauma facility transfers a major trauma patient to another facility classified to provide a higher level of care, the transfer shall be performed in accordance with the Oklahoma Triage, Transport, and Transfer Guidelines established under OAC 310:641-3-130(b)(3). The transferring facility shall include in uncompensated care reported in accordance with OAC 310:669-5-2 only those gross revenues incurred which were necessary to provide stabilizing treatment prior to effecting an appropriate transfer. Gross revenues for inappropriate definitive diagnostic testing prior to transfer shall not be reported as uncompensated care.

*[OAR Docket #03-858; filed 5-2-03]*

## TITLE 365. INSURANCE DEPARTMENT CHAPTER 10. LIFE, ACCIDENT AND HEALTH

*[OAR Docket #03-879]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 5. Minimum Standards; Contract Guidelines
Part 13. Medicare Supplement Insurance Minimum Standards
365:10-5-127. Benefit Standards For Policies Or Certificates Issued Or Delivered On Or After July 1, 1992 [AMENDED]
365:10-5-128.1. Medicare Select Policies and Certificates [AMENDED]
365:10-5-129.1 Guaranteed Issue for Eligible Persons [AMENDED]
365:10-5-132. Filing and approval of policies and certificates and premium rates [AMENDED]
365:10-Appendix Q. Medicare Supplement [REVOKED]
365:10-Appendix Q. Medicare Supplement [NEW]
365:10-Appendix S. Outline of Coverage Tables [REVOKED]
365:10-Appendix S. Outline of Coverage Tables [NEW]
365:10-Appendix V. Disclosure Statements [REVOKED]
365:10-Appendix V. Disclosure Statements [NEW]
**AUTHORITY:**
Insurance Commissioner, 36 O.S. §§ 307.1 and 3611.1.
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**ANALYSIS:**
The proposed amendments implement the mandates of federal law relating to Medicare Supplement coverage by updating the Medicare Supplement Insurance Minimum Standards regulation based on the National Association of Insurance Commissioners Model Regulation To Implement the NAIC Medicare Supplement Insurance Minimum Standards.
**CONTACT PERSON:**
Karl F. Kramer, Assistant General Counsel, (405) 521-2746

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2003.**

### SUBCHAPTER 5. MINIMUM STANDARDS; CONTRACT GUIDELINES

### PART 13. MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

**365:10-5-127. Benefit standards for policies or certificates issued or delivered on or after July 1, 1992**

(a) **Benefit standards.** The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state on or after July 1, 1992. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards.

(b) **General standards.** The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this Part.

(1) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

(2) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(3) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

(4) No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified

for termination of coverage of the insured, other than the nonpayment of premium.

(5) Each Medicare supplement policy shall be guaranteed renewable and

(A) The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual; and

(B) The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

(C) If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under (b)(5)(E) of this section, the issuer shall offer certificateholders an individual Medicare supplement policy which at the option of the certificateholder:

(i) provides for continuation of the benefits contained in the group policy, or

(ii) provides for such benefits as otherwise meets the requirements of this subsection.

(D) If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall:

(i) offer the certificateholder the conversion opportunity described in (b)(5)(C) of this section, or

(ii) at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

(E) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(6) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

(7) A Medicare supplement policy or certificate shall provide that benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period, not to exceed twenty-four (24) months, in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of such policy or certificate within ninety (90) days after the date the individual becomes entitled to such assistance.

(A) If such suspension occurs and if the policyholder or certificateholder loses entitlement to such medical assistance, such policy or certificate shall be automatically reinstituted (effective as of the date of termination of such entitlement) as of the termination of such entitlement if the policyholder or certificateholder provides notice of loss of such entitlement within ninety (90) days after the date of such loss and pays the premium attributable to the period, effective as of the date of termination of such entitlement.

(B) Each Medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226 (b) of the Social security Act and is covered under a group health plan (as defined in Section 1862 (b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstituted (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within ninety (90) days after the date of the loss.

(C) Reinstitution of such coverages:

(i) Shall not provide for any waiting period with respect to treatment of preexisting conditions;

(ii) Shall provide for coverage which is substantially equivalent to coverage in effect before the date of such suspension; and

(iii) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended.

(c) **Standards for basic ("Core") benefits common to all benefit plans.** Every issuer shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic "core" package, but not in lieu thereof.

(1) Coverage of Part A Medicare Eligible Expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(2) Coverage of Part A Medicare Eligible Expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

(3) Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the Diagnostic Related Group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional 365 days. The provider shall accept the issuer's payment as payment in full and may not bill the insured for any balances;

(4) Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

(5) Coverage for the coinsurance amount (or in the case of hospital outpatient department services under a prospective payment system, the copayment amount) of Medicare Eligible Expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible.

(d) **Standards for additional benefits.** The following additional benefits shall be included in Medicare Supplement Benefit Plans "B" through "J" only as provided by 365:10-5-128.

(1) Medicare Part A Deductible. Coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

(2) Skilled Nursing Facility Care. Coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.

(3) Medicare Part B Deductible. Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(4) Eighty Percent (80%) of the Medicare Part B Excess Charges. Coverage for eighty percent (80%) of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(5) One Hundred Percent (100%) of the Medicare Part B Excess Charges. Coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(6) Basic Outpatient Prescription Drug Benefit. Coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollar ($250) calendar year deductible, to a maximum of one thousand two hundred fifty dollars ($1,250) in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(7) Extended Outpatient Prescription Drug Benefit. Coverage for fifty percent (50%) of outpatient prescription drug charges, after a two hundred fifty dollar ($250) calendar year deductible to a maximum of three thousand dollars ($3,000) in benefits received by the insured per calendar year, to the extent not covered by Medicare.

(8) Medically Necessary Emergency Care in a Foreign Country. Coverage to the extent not covered by Medicare for eighty percent (80%) of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars ($250), and a lifetime maximum benefit of fifty thousand dollars ($50,000). For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or an illness of sudden and unexpected onset.

(9) Preventive Medical Care Benefit. Coverage for the following preventive health services:

(A) An annual clinical preventive medical history and physical examination that may include tests and services from subparagraph (B) of this paragraph and patient education to address preventive health care measures.

(B) Any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(i) ~~Fecal occult blood test and/or d~~Digital rectal examination;

(ii) ~~Mammogram;~~

~~(iii)~~ Dipstick urinalysis for hematuria, bacteriuria and proteinuria;

(~~iv~~iii) Pure tone (air only) hearing screening test, administered or ordered by a physician;

(~~v~~iv) Serum cholesterol screening, every five (5) years;

(~~vi~~v) Thyroid function test;

(~~vii~~vi) Diabetes screening.

(C) ~~Influenza vaccine administered at any appropriate time during the year and~~ Tetanus and Diphtheria booster every ten (10) years.

(D) Any other tests or preventive measures determined appropriate by the attending physician. Reimbursement shall be for the actual charges up to one hundred percent (100%) of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of one hundred twenty dollars ($120) annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

(10) At-Home Recovery Benefit. Coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury or surgery.

(A) For purposes of this benefit, the following definitions shall apply:

(i) "Activities of daily living" include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

(ii) "Care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

(iii) "Home" shall mean any place used by the insured as a place of residence, provided that such place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

(iv) "At-home recovery visit" means the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive 4 hours in a 24-hour period of services provided by a care provider is one visit.

(B) Coverage requirements and limitations are as follows:

(i) At-home recovery services provided must be primarily services which assist in activities of daily living.

(ii) The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

(iii) Coverage is limited to:

(I) No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment;

(II) The actual charges for each visit up to a maximum reimbursement of forty dollars ($40) per visit;

(III) One thousand six hundred dollars ($1,600) per calendar year;

(IV) Seven (7) visits in any one week;

(V) Care furnished on a visiting basis in the insured's home;

(VI) Services provided by a care provider as defined in this section;

(VII) At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;

(VIII) At-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight (8) weeks after the service date of the last Medicare approved home health care visit.

(C) Coverage is excluded for:

(i) Home care visits paid for by Medicare or other government programs; and

(ii) Care provided by family members, unpaid volunteers or providers who are not care providers.

(11) New or Innovative Benefits. An issuer may, with the prior approval of the Commissioner, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. Such new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies.

**365:10-5-128.1. Medicare Select Policies and Certificates**

(a) **Application.** This section shall apply to Medicare Select policies and certificates, as defined in this section. No policy or certificate may be advertised as a Medicare Select policy or certificate unless it meets the requirements of this section.

(b) **Definitions.** For the purposes of this section:

(1) "Complaint" means any dissatisfaction expressed by an individual concerning a Medicare Select issuer or its network providers.

(2) "Grievance" means dissatisfaction expressed in writing by an individual insured under a Medicare Select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare Select issuer or its network providers.

(3) "Medicare Select issuer" means an issuer offering, or seeking to offer, a Medicare Select policy or certificate.

(4) "Medicare Select policy" or "Medicare Select certificate" mean respectively a Medicare supplement policy or certificate that contains restricted network provisions.

(5) "Network provider" means a provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer to provide benefits insured under a Medicare Select policy.

(6) "Restricted network provision" means any provision which conditions the payment of benefits, in whole or in part, on the use of network providers.

(7) "Service area" means the geographic area approved by the Commissioner within which an issuer is authorized to offer a Medicare Select policy.

(c) **Authorization.** The Commissioner may authorize an issuer to offer a Medicare Select policy or certificate, pursuant to this section and Section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 if the Commissioner finds that the issuer has satisfied all of the requirements of this regulation.

(d) **Plan of operation approval.** A Medicare Select issuer shall not issue a Medicare Select policy or certificate in this state until its plan of operation has been approved by the Commissioner.

(e) **Plan of operation requirements.** A Medicare Select issuer shall file a proposed plan of operation with the Commissioner in a format prescribed by the Commissioner. The plan of operation shall contain at least the following information:

(1) Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that:

(A) Services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local

area. Geographic availability shall reflect the usual travel times within the community.

(B) The number of network providers in the service area is sufficient, with respect to current and expected policyholders, either:

(i) To deliver adequately all services that are subject to a restricted network provision; or

(ii) To make appropriate referrals.

(C) There are written agreements with network providers describing specific responsibilities.

(D) Emergency care is available twenty-four (24) hours per day and seven (7) days per week.

(E) In the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare Select policy or certificate. This paragraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare Select policy or certificate.

(2) A statement or map providing a clear description of the service area.

(3) A description of the grievance procedure to be utilized.

(4) A description of the quality assurance program, including:

(A) The formal organizational structure;

(B) The written criteria for selection, retention and removal of network providers; and

(C) The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted.

(5) A list and description, by specialty, of the network providers.

(6) Copies of the written information proposed to be used by the issuer to comply with Subsection (i).

(7) Any other information requested by the Commissioner.

(f) **Plan of operation amendments.** A Medicare Select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the Commissioner prior to implementing the changes. Changes shall be considered approved by the Commissioner after thirty (30) days unless specifically disapproved. An updated list of network providers shall be filed with the Commissioner at least ~~annually~~ quarterly.

(g) **Non-network providers.** A Medicare Select policy or certificate shall not restrict payment for covered services provided by non-network providers if:

(1) The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury or a condition; and

(2) It is not reasonable to obtain services through a network provider.

(h) **Unavailable services.** A Medicare Select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers.

(i) **Full disclosure.** A Medicare Select issuer shall make full and fair disclosure in writing of the provisions, restrictions and limitations of the Medicare Select policy or certificate to each applicant. This disclosure shall include at least the following:

(1) An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare Select policy or certificate with:

(A) Other Medicare supplement policies or certificates offered by the issuer; and

(B) Other Medicare Select policies or certificates.

(2) A description (including address, phone number and hours of operation) of the network providers, including primary care physicians, specialty physicians, hospitals and other providers.

(3) A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized.

(4) A description of coverage for emergency and urgently needed care and other out-of-service area coverage.

(5) A description of limitations on referrals to restricted network providers and to other providers.

(6) A description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer.

(7) A description of the Medicare Select issuer's quality assurance program and grievance procedure.

(j) **Proof of full disclosure.** Prior to the sale of a Medicare Select policy or certificate, a Medicare Select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to Subsection (i) of Section 365:10-5-128.1 and that the applicant understands the restrictions of the Medicare Select policy or certificate.

(k) **Grievance procedures.** A Medicare Select issuer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. The procedures shall be aimed at mutual agreement for settlement.

(1) The grievance procedure shall be described in the policy and certificates and in the outline of coverage.

(2) At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer.

(3) Grievances shall be considered in a timely manner and shall be transmitted to appropriate decision-makers who have authority to fully investigate the issue and take corrective action.

(4) If a grievance is found to be valid, corrective action shall be taken promptly.

(5) All concerned parties shall be notified about the results of a grievance.

(6) The issuer shall report no later than each March 31st to the Commissioner regarding its grievance procedure. The report shall be in a format prescribed by the Commissioner and shall contain the number of grievances

filed in the past year and a summary of the subject, nature and resolution of such grievances.

(l) **Opportunity to purchase Medicare supplement.**

(1) At the time of initial purchase, a Medicare Select issuer shall make available to each applicant for a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer.

(2) At the request of an individual insured under a Medicare Select policy or certificate, a Medicare Select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies or certificates available without requiring evidence of insurability after the Medicare Select policy or certificate has been in force for six (6) months.

(2) For the purposes of this subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

(m) **Coverage upon termination of program.** Medicare Select policies and certificates shall provide for continuation of coverage in the event the Secretary of Health and Human Services determines that Medicare Select policies and certificates issued pursuant to this section should be discontinued due to either the failure of the Medicare Select Program to be reauthorized under law or its substantial amendment.

(1) Each Medicare Select issuer shall make available to each individual insured under a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies and certificates available without requiring evidence of insurability.

(2) For the purposes of this subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for prescription drugs, coverage for at-home recovery services or coverage for Part B excess charges.

(n) **Cooperation with state and federal agencies.** A Medicare Select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select Program.

**365:10-5-129.1. Guaranteed Issue for Eligible Persons**

(a) **Guaranteed Issue.**

(1) Eligible persons are those individuals described in subsection (b) who apply to enroll under the policy not later than sixty-three (63) days after the date of the termination of enrollment described in subsection (b), and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy.

(2) With respect to eligible persons, an issuer shall not deny or condition the issuance or effectiveness of a Medicare supplement policy described in subsection (c) that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy.

(b) **Eligible Persons.** An eligible person is an individual described in any of the following paragraphs:

(1) **Employee welfare benefit plan.** The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all or substantially all supplemental health benefits to the individual~~; or the individual is enrolled under an employee welfare benefit plan that is primary to Medicare and the plan terminates or the plan ceases to provide all or substantially all health benefits to the individual because the individual leaves the plan~~.

(2) **Medicare+Choice.** The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under part C of Medicare, and any of the following circumstances apply, or the individual is 65 years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act, and there are circumstances similar to those described below that would permit discontinuance of the individual's enrollment with such provider if such individual were enrolled in a Medicare+Choice plan:

(A) The organization's or plan's certification [under this part] has been terminated or the organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

(B) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section 1856), or the plan is terminated for all individuals within a residence area;

(C) The individual demonstrates, in accordance with guidelines established by the Secretary, that:

(i) The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or

(ii) The organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or

(D) The individual meets such other exceptional conditions as the Secretary may provide.

(3) **Organizations.**

(A) The individual is enrolled with:

(i) An eligible organization under a contract under Section 1876 (Medicare risk or cost);

(ii) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999;

(iii) An organization under an agreement under Section 1833(a)(1)(A) (health care prepayment plan); or

(iv) An organization under a Medicare Select Policy; and

(B) The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under Section 365:10-5-129.1(b)(2).

(4) **Medicare supplement.** The individual is enrolled under a Medicare supplement policy and the enrollment ceases because:

(A) Of the insolvency of the issuer or bankruptcy of the nonissuer organization; or because of other involuntary termination of coverage or enrollment under the policy;

(B) The issuer of the policy substantially violated a material provision of the policy; or

(C) The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual;

(5) **Termination of enrollment and subsequent enrollment.** The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare+Choice organization under a Medicare+Choice plan under part C of Medicare, any eligible organization under a contract under ~~s~~Section 1876 of the Social Security Act (Medicare risk or cost), any similar organization operating under demonstration project authority, any PACE provider under Section 1894 of the Social Security Act or a Medicare Select Policy; and an organization under an agreement under section 1833(a)(1)(A) (health care prepayment plan), or a Medicare Select policy; and the subsequent enrollment under this subparagraph is terminated by the enrollee during any period within the first twelve (12) months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under section 1851(e) of the federal Social Security Act); or

(6) **Medicare+Choice disenrollment.**

(A) The individual, upon first becoming both enrolled in Medicare Part ~~B~~ A of Medicare and ~~is~~ at 65 years of age or older, enrolls in a Medicare+Choice plan under part C of Medicare, or with a PACE provider under Section 1894 of the Social Security Act, and disenrolls from the plan by not later than twelve (12) months after the effective date of enrollment.

(B) An individual, under age 65, who first becomes eligible for Medicare Part B and enrolls in a Medicare+Choice plan under part C of Medicare, and disenrolls from the plan by not later than twelve (12) months after the effective date of enrollment.

(c) **Guaranteed issue time periods.**

(1) In the case of an individual described in Section 365:10-5-129.1(b)(1), the guaranteed issue period begins on the date the individual receives a notice of termination or cessation of all supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of such a termination or cessation) and ends sixty-three (63) days after the date of the applicable notice;

(2) In the case of an individual described in Section 365:10-5-129.1(b)(2), (b)(3), (b)(5) or b)(6) whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends sixty-three (63) days after the date the applicable coverage is terminated;

(3) In the case of an individual described in Section 365:10-5-129.1(b)(4)(a), the guaranteed issue period begins on the earlier of the date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice if any, and the date that the applicable coverage is terminated, and ends on the date that is sixty-three (63) days after the date the coverage is terminated.

(4) In the case of an individual described in Section 365:10-5-129.1(b)(2), (b)(4)(B), (b)(4)(C), (b)(5) or (b)(6) who disenrolls voluntarily, the guaranteed issue period begins on the date that is sixty (60) days before the effective date of the disenrollment and ends on the date that is sixty-three (63) days after the effective date; and

(5) In the case of an individual described in Section 365:10-5-129.1(b) but not described in the preceding provisions of this Subsection, the guaranteed issue period begins on the effective date of disenrollment and ends on the date that is sixty-three (63) days after the effective date.

(d) **Extended Medigap access for interrupted trial periods.**

(1) In the case of an individual described in Section 365:10-5-129.1(b)(5) (or deemed to be so described, pursuant to this paragraph) whose enrollment with

an organization or provider described in Section 365:10-5-129.1(b)(5)(A) is involuntarily terminated within the first twelve (12) months or enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, the subsequent enrollment shall be deemed to be an initial enrollment described in Section 365:10-5-129.1(b)(5);

(2) In the case of an individual described in Section 365:10-5-129.1(b)(6) (o deemed to be so described, pursuant to this paragraph) whose enrollment with a plan or in a program described in Section 365:10-5-129.1(b)(6) is involuntarily terminated with the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, the subsequent enrollment shall be deemed to be an initial enrollment described in Section 365:10-5-129.1(b)(6); and

(3) For purposes of Sections 365:10-5-129.1(b)(5) and (b)(6), no enrollment of an individual with an organization or provider described in Section 365:10-5-129.1(b)(5)(a), or with a plan or in a program described in Section 365:10-5-129.1(b)(6), may be deemed to be an initial enrollment under this paragraph after the two-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan or program.

(e) **Products to which eligible persons are entitled.** The Medicare supplement policy to which eligible persons are entitled under:

(1) Section 365:10-5-129.1(b)(1), (2), (3) and (4) is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F offered by any issuer.

(2) Section 365:10-5-129.1(b)(5) is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in Section 365:10-5-129.1(c)(1).

(3) Section 365:10-5-129.1(b)(6)(A) shall include any Medicare supplement policy offered by any issuer.

(4) Section 365:10-5-129.1(b)(6)(B) shall include at least one plan offered by any Medicare Supplement issuer as required by Section 365:10-5-129(c).

(~~d~~f) **Notification provisions.**

(1) At the time of an event described in Section 365:10-5-129.1(b) because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement polices under Section 365:10-5-129.1(a). Such notice shall be communicated contemporaneously with the notification of termination.

(2) At the time of an event described in Section 365:10-5-129.1(b) because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under this section, and of the obligations of issuers of Medicare supplement policies under Section 365:10-5-129.1(a). Such notice shall be communicated within ten working days of the issuer receiving notification of disenrollment.

**365:10-5-132. Filing and approval of policies and certificates and premium rates**

(a) **Policy forms and certificates filing and approval requirements.** An issuer shall not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the Commissioner in accordance with filing requirements and procedures prescribed by the Commissioner.

(b) **Premium rates and rating schedule filing and approval requirements.** An issuer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule and supporting documentation have been filed with and approved by the Commissioner in accordance with the filing requirements and procedures prescribed by the Commissioner.

(c) **Additional policy or certificate forms.**

(1) Except as provided in paragraph (2) of this subsection, an issuer shall not file for approval more than one form of a policy or certificate of each type for each standard Medicare supplement benefit plan.

(2) An issuer may offer, with the approval of the Commissioner, up to four (4) additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one for each of the following cases:

(A) The inclusion of new or innovative benefits;

(B) The addition of either direct response or agent marketing methods;

(C) The addition of either guaranteed issue or underwritten coverage;

(D) The offering of coverage to individuals eligible for Medicare by reason of disability.

(3) For the purposes of this section, a "type" means an individual policy, a group policy, an individual Medicare Select policy, or a group Medicare Select policy.

(d) **Policy forms and certificate forms availability for purchase after Commissioner's approval.**

(1) Except as provided in (A) of this paragraph, an issuer shall continue to make available for purchase any policy form or certificate form issued after the effective date of this Part that has been approved by the Commissioner. A policy form or certificate form shall not be considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve (12) months.

(A) An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the Commissioner in writing its decision at least thirty (30) days prior to discontinuing the availability of the form of the policy or certificate. After receipt of the

notice by the Commissioner, the issuer shall no longer offer for sale the policy form or certificate form in this state.

(B) An issuer that discontinues the availability of a policy form or certificate form pursuant to (A) of this paragraph shall not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five (5) years after the issuer provides notice to the Commissioner of the discontinuance. The period of discontinuance may be reduced if the Commissioner determines that a shorter period is appropriate.

(2) The sale or other transfer of Medicare supplement business to another issuer shall be considered a discontinuance for the purposes of this subsection.

(3) A change in the rating structure or methodology shall be considered a discontinuance under (d)(1) of this section unless the issuer complies with the following requirements:

(A) The issuer provides an actuarial memorandum, in a form and manner prescribed by the Commissioner, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates.

(B) The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The Commissioner may approve a change to the differential which is in the public interest.

(e) **Combination of policy forms or certificate forms experience for purposes of refund or credit calculation.**

(1) Except as provided in (2) of this subsection, the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan shall be combined for purposes of the refund or credit calculation prescribed in 365:10-5-131.

(2) Forms assumed under an assumption reinsurance agreement shall not be combined with the experience of other forms for purposes of the refund or credit calculation.

## APPENDIX Q. MEDICARE SUPPLEMENT [REVOKED]

## APPENDIX Q. MEDICARE SUPPLEMENT [NEW]

**TABLE 1. REFUND CALCULATION FORM**

FOR CALENDAR YEAR _____

TYPE _____ SMSBP (w) _____
For the State of _____
Company Name _____
NAIC Group Code _____ NAIC Company Code _____
Address _____
Person Completing This Exhibit _____
Title _____ Telephone Number _____

| Line | | (a) Earned Premium (x) | (b) Incurred Claims (y) |
|---|---|---|---|
| 1 | Current Year's Experience<br>a. Total (all policy years)<br>b. Current year's issues (z)<br>c. Net (for reporting purposes = 1a - 1b ) | _____ | _____ |
| 2 | Past Years' Experience (All Policy Years) | _____ | _____ |
| 3 | Total Experience (Net Current Year + Past Years' Experience) | _____ | _____ |
| 4 | Refunds last year (Excluding Interest) | | |
| 5 | Previous Since Inception (Excluding Interest) | | |
| 6 | Refunds Since Inception (Excluding Interest | | |
| 7 | Benchmark Ratio Since Inception (SEE WORKSHEET FOR RATIO 1) | | |

**TABLE 1. REFUND CALCULATION FORM**

FOR CALENDAR YEAR _____

TYPE _____ SMSBP (w) _____
For the State of _____
Company Name _____
NAIC Group Code _____ NAIC Company Code _____
Address _____
Person Completing This Exhibit _____
Title _____ Telephone Number _____

| | (a) Earned Premium (x) | (b) Incurred Claims (y) |
|---|---|---|
| Line 8 Experience Ratio Since Inception | | |
| Total Actual Incurred Claims (line 3, col b) = Ratio 2 | | |
| Total Earned Premium (line 3, col a) - Refunds Since Inception (line 6) | | |
| 9 Life Years Exposed Since Inception _____ | | |

If the Experienced Ratio is less than the Benchmark Ratio, and there are more than 500 life years exposure, then proceed to calculation of refund.

10 Tolerance Permitted (obtained from credibility table) _____

11 Adjustment to Incurred Claims for Credibility

Ratio 3 = Ratio 2 + Tolerance

If Ratio 3 is more than benchmark ratio (ratio 1), a refund or credit to premium is not required.

**TABLE 1. REFUND CALCULATION FORM**

FOR CALENDAR YEAR _____

TYPE _____ SMSBP (w) _____
For the State of _____
Company Name _____
NAIC Group Code _____ NAIC Company Code _____
Address _____
Person Completing This Exhibit _____
Title _____ Telephone Number _____

| Line | | (a) Earned Premium (x) | (b) Incurred Claims (y) |
|---|---|---|---|
| If Ratio 3 is less than the benchmark ratio, then proceed. | | | |
| 12 | Adjusted Incurred Claims = [Total Earned Premiums (line 3, col a) - Refunds Since Inception (line 6)] x Ratio 3 (line 11) | | |
| 13 | Refund = Total Earned Premiums (line 3, col a) - Refunds Since Inception (line 6) - Adjusted Incurred Claims (line 12) / Benchmark Ratio (Ratio 1) | | |

If the amount on line 13 is less than .005 times the annualized premium in force as of December 31 of the reporting year, then no refund is made. Otherwise, the amount on line 13 is to be refunded or credited, and a description of the refund and/or credit against premiums to be used must be attached to this form.

**TABLE 1. REFUND CALCULATION FORM**

FOR CALENDAR YEAR _____

TYPE _____ SMSBP (w) _____
For the State of _____
Company Name _____
NAIC Group Code _____ NAIC Company Code _____
Address _____
Person Completing This Exhibit _____
Title _____ Telephone Number _____

Medicare Supplement Credibility Table

| Life Years Exposed Since Inception | Tolerance |
|---|---|
| 10,000 + | 0.0% |
| 5,000 - 9,999 | 5.0% |
| 2,500 - 4,999 | 7.5% |
| 1,000 - 2,499 | 10.0% |
| 500 - 999 | 15.0% |

If less than 500, no credibility.

(w) "SMSBP" = Standardized Medicare Supplement Benefit Plan
(x) Includes modal loadings and fees charged.
(y) Excludes Active Life Reserves.
(z) This is to be used as "Issue Year Earned Premium" for Year 1 of next year's "Worksheet for Calculation of Benchmark Ratios"

I certify that the above information and calculations are true and accurate to the best of my knowledge and belief.

_____
Signature

_____
Name - Please Type

_____
Title

_____
Date

**TABLE 2. REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR GROUP POLICIES**

FOR CALENDAR YEAR _____

TYPE _____ SMSBP (P) _____
For the State of _____
Company Name _____
NAIC Group Code _____ NAIC Company Code _____
Address _____
Person Completing This Exhibit _____
Title _____ Telephone Number _____

| (a) Year | (b) Earned Premium | (c) Factor | (d) (b)x(c) | (e) Cumulative Loss Ratio | (f) (d)x(e) | (g) Factor | (h) (b)x(g) | (i) Cumulative Loss Ratio | (j) (h)x(i) | (o) Policy Year Loss Ratio |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | | 2.770 | | 0.507 | | 0.000 | | 0.000 | | 0.46 |
| 2 | | 4.175 | | 0.567 | | 0.000 | | 0.000 | | 0.63 |
| 3 | | 4.175 | | 0.567 | | 1.194 | | 0.759 | | 0.75 |
| 4 | | 4.175 | | 0.567 | | 2.245 | | 0.771 | | 0.77 |
| 5 | | 4.175 | | 0.567 | | 3.170 | | 0.782 | | 0.80 |
| 6 | | 4.175 | | 0.567 | | 3.998 | | 0.792 | | 0.82 |
| 7 | | 4.175 | | 0.567 | | 4.754 | | 0.802 | | 0.84 |
| 8 | | 4.175 | | 0.567 | | 5.445 | | 0.811 | | 0.87 |
| 9 | | 4.175 | | 0.567 | | 6.075 | | 0.818 | | 0.88 |
| 10 | | 4.175 | | 0.567 | | 6.650 | | 0.824 | | 0.88 |
| 11 | | 4.175 | | 0.567 | | 7.176 | | 0.828 | | 0.88 |
| 12 | | 4.175 | | 0.567 | | 7.655 | | 0.831 | | 0.88 |
| 13 | | 4.175 | | 0.567 | | 8.093 | | 0.834 | | 0.89 |
| 14 | | 4.175 | | 0.567 | | 8.493 | | 0.837 | | 0.89 |
| 15 | | 4.175 | | 0.567 | | 8.684 | | 0.838 | | 0.89 |
| Total: | | (k): | | (l): | | (m): | | (n): | | |

Benchmark Ratio Since Inception: (l+n)/(k+m):

(a): Year 1 is the current calendar year - 1
Year 2 is the current calendar year - 2 (etc.)
Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989; etc.)

(b): For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

(o): These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

(p): "SMSBP" = Standardized Medicare Supplement Benefit Plan

**TABLE 3. REPORTING FORM FOR THE CALCULATION OF BENCHMARK RATIO SINCE INCEPTION FOR INDIVIDUAL POLICIES**

FOR CALENDAR YEAR _____

TYPE _____ SMSBP (P) _____
For the State of _____
Company Name _____
NAIC Group Code _____ NAIC Company Code _____
Address _____
Person Completing This Exhibit _____
Title _____ Telephone Number _____

| (a) Year | (b) Earned Premium | (c) Factor | (d) (b)x(c) | (e) Cumulative Loss Ratio | (f) (d)x(e) | (g) Factor | (h) (b)x(g) | (i) Cumulative Loss Ratio | (j) (h)x(i) | (o) Policy Year Loss Ratio |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | | 2.770 | | 0.442 | | 0.000 | | 0.000 | | 0.40 |
| 2 | | 4.175 | | 0.493 | | 0.000 | | 0.000 | | 0.55 |
| 3 | | 4.175 | | 0.493 | | 1.194 | | 0.659 | | 0.65 |
| 4 | | 4.175 | | 0.493 | | 2.245 | | 0.669 | | 0.67 |
| 5 | | 4.175 | | 0.493 | | 3.170 | | 0.678 | | 0.69 |
| 6 | | 4.175 | | 0.493 | | 3.998 | | 0.686 | | 0.71 |
| 7 | | 4.175 | | 0.493 | | 4.754 | | 0.695 | | 0.73 |
| 8 | | 4.175 | | 0.493 | | 5.445 | | 0.702 | | 0.75 |
| 9 | | 4.175 | | 0.493 | | 6.075 | | 0.708 | | 0.76 |
| 10 | | 4.175 | | 0.493 | | 6.650 | | 0.713 | | 0.76 |
| 11 | | 4.175 | | 0.493 | | 7.176 | | 0.717 | | 0.76 |
| 12 | | 4.175 | | 0.493 | | 7.655 | | 0.720 | | 0.77 |
| 13 | | 4.175 | | 0.493 | | 8.093 | | 0.723 | | 0.77 |
| 14 | | 4.175 | | 0.493 | | 8.493 | | 0.725 | | 0.77 |
| 15 | | 4.175 | | 0.493 | | 8.684 | | 0.725 | | 0.77 |
| Total: | | (k): | | (l): | | (m): | | (n): | | |

Benchmark Ratio Since Inception: (l+n)/(k+m):

(a): Year 1 is the current calendar year - 1
Year 2 is the current calendar year - 2 (etc.)
Example: If the current year is 1991, then: Year 1 is 1990; Year 2 is 1989; etc.)

(b): For the calendar year on the appropriate line in column (a), the premium earned during that year for policies issued in that year.

(o): These loss ratios are not explicitly used in computing the benchmark loss ratios. They are the loss ratios, on a policy year basis, which result in the cumulative loss ratios displayed on this worksheet. They are shown here for informational purposes only.

(p): "SMSBP" = Standardized Medicare Supplement Benefit Plan

## APPENDIX S. OUTLINE OF COVERAGE TABLES [REVOKED]

## APPENDIX S. OUTLINE OF COVERAGE TABLES [NEW]

**TABLE 1. OUTLINE OF COVERAGE - COVER PAGE**

**[COMPANY NAME]**
**Outline of Medicare Supplement Coverage-Cover Page:**
**Benefit Plan(s) _____ [insert letter(s) of plan(s) being offered]**

**Medicare supplement insurance can be sold in only ten standard plans plus two high deductible plans. This chart shows the benefits included in each plan. Every company must make available Plan "A". Some plans may not be available in your state.**

**BASIC BENEFITS: Included in All Plans.**
**Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.**
**Medical Expenses: Part B coinsurance (generally 20% of Medicare-approved expenses), or, in the case of hospital outpatient department services under a prospective payment system, applicable copayments or, in the case of hospital outpatient department services under a prospective payment system, applicable copayments.**
**Blood: First three pints of blood each year.**

| A | B | C | D | E | F | F | G | H | I | J | J* |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Basic Benefits | Basic Benefits | Basic Benefits | Basic Benefits | Basic Benefits | Basic Benefits | | Basic Benefits | Basic Benefits | Basic Benefits | Basic Benefits | |
| | | Skilled Nursing Co-Insurance | Skilled Nursing Co-Insurance | Skilled Nursing Co-Insurance | Skilled Nursing Co-Insurance | | Skilled Nursing Co-Insurance | Skilled Nursing Co-Insurance | Skilled Nursing Co-Insurance | Skilled Nursing Co-Insurance | |
| | Part A Deductible | Part A Deductible | Part A Deductible | Part A Deductible | Part A Deductible | | Part A Deductible | Part A Deductible | Part A Deductible | Part A Deductible | |
| | | Part B Deductible | | | Part B Deductible | | | | | Part B Deductible | |
| | | | | | Part B Excess (100%) | | Part B Excess (80%) | | Part B Excess (100%) | Part B Excess (100%) | |
| | | Foreign Travel Emergency | Foreign Travel Emergency | Foreign Travel Emergency | Foreign Travel Emergency | | Foreign Travel Emergency | Foreign Travel Emergency | Foreign Travel Emergency | Foreign Travel Emergency | |
| | | | At-Home Recovery | | | | At-Home Recovery | | At-Home Recovery | At-Home Recovery | |
| | | | | | | | | Basic Drugs ($1,250 Limit) | Basic Drugs ($1,250 Limit) | Extended Drugs ($3,000 Limit) | |
| | | | | Preventive Care | | | | | | Preventive Care | |

***Plans F and J also have an option called a high deductible plan F and a high deductible plan J. These high deductible plans pay the same or offer the same benefits as Plans F and J after one has paid a calendar year [$1530] deductible. Benefits from high deductible plans F and J will not begin until out-of-pocket expenses are [$1530]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare Deductibles for Part A and Part B, but does not include, in plan J, the plan's separate prescription drug deductible or, in Plans F and J, the plan's separate foreign travel emergency deductible.**

**OUTLINE OF COVERAGE**
**TABLE 2. REQUIRED ITEMS**

**PREMIUM INFORMATION [Boldface Type]**

**We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this State. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]**

**DISCLOSURES [Boldface Type]**

**Use this outline to compare benefits and premiums among policies.**

**READ YOUR POLICY VERY CAREFULLY [Boldface Type]**

**This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.**

**RIGHT TO RETURN POLICY [Boldface Type]**

**If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.**

**POLICY REPLACEMENT [Boldface Type]**

**If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.**

**NOTICE [Boldface Type]**

**This policy may not fully cover all of your medical costs.**

**[for agents:]**
**Neither [insert company's name] nor its agents are connected with Medicare.**

**[for direct response:]**
**[insert company's name] is not connected with Medicare.**

**This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security Office or consult "Medicare and You" for more details.**

**COMPLETE ANSWERS ARE VERY IMPORTANT [Boldface Type]**

**When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]**

**Review the application carefully before you sign it. Be certain that all information has been properly recorded.**

**[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan designations on these charts pursuant to 365:10-5-128(d).]**

**[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the Commissioner.]**

**OUTLINE OF COVERAGE**
**TABLE 3. PLAN A**
**MEDICARE (PART A)--HOSPITAL SERVICES--PER BENEFIT PERIOD**

***A benefit period begins on the first day you receive services as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| HOSPITALIZATION*<br>Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $812 | $0 | $ 764 (Part A Deductible) |
| 61st thru 90th days | All but $203 a day | $ 203 a day | $0 |
| 91st day and after:<br>--While using 60 lifetime reserve days | All but $406 a day | $ 382 a day | $0 |
| --Once lifetime reserve dates are used<br>--Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0 |
| --Beyond the Additional 365 days | $0 | $0 | All costs |
| SKILLED NURSING FACILITY CARE*<br>You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-Approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th days | All but $101.50 a day | $0 | Up to $101.50 a day |
| 101st day and after | $0 | $0 | All costs |
| BLOOD | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| HOSPICE CARE<br>Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited co-insurance for outpatient drugs and inpatient respite care | $0 | Balance |

**PLAN A**
**MEDICARE (PART B)--MEDICAL SERVICES--PER CALENDAR YEAR**

***Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| MEDICAL EXPENSES -- IN OUR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, | | | |
| First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% (Generally) | 20% (Generally) | $0 |
| Part B Excess Charges (Above Medicare Approved Amounts) | $0 | $0 | All Costs |
| BLOOD | | | |
| First 3 pints | $0 | All costs | $0 |
| Next $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| CLINICAL LABORATORY SERVICES-- BLOOD TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

**PARTS A & B**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| HOME HEALTH CARE<br>MEDICARE APPROVED SERVICES<br>--Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| --Durable medical equipment<br>First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |

**OUTLINE OF COVERAGE**
**TABLE 4. PLAN B**
**MEDICARE (PART A)--HOSPITAL SERVICES--PER BENEFIT PERIOD**

***A benefit period begins on the first day you receive services as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| HOSPITALIZATION*<br>Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $812 | $812 (Part A Deductible) | $0 |
| 61st thru 90th days | All but $203 a day | $203 a day | $0 |
| 91st day and after:<br>--While using 60 lifetime reserve days | All but $406 a day | $406 a day | $0 |
| --Once lifetime reserve dates are used<br>--Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0 |
| --Beyond the Additional 365 days | $0 | $0 | All costs |
| SKILLED NURSING FACILITY CARE*<br>You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th days | All but $101.50 a day | $0 | Up to $101.50 a day |
| 101st day and after | $0 | $0 | All costs |
| BLOOD<br>First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| HOSPICE CARE<br>Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited co-insurance for outpatient drugs and inpatient respite care | $0 | Balance |

****NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.**

**PLAN B**
**MEDICARE (PART B)--MEDICAL SERVICES--PER CALENDAR YEAR**

***Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| MEDICAL EXPENSES -- IN OUR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, | | | |
| First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% (Generally) | 20% (Generally) | $0 |
| Part B Excess Charges (Above Medicare Approved Amounts) | $0 | $0 | All Costs |
| BLOOD | | | |
| First 3 pints | $0 | All costs | $0 |
| Next $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| CLINICAL LABORATORY SERVICES-- BLOOD TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

**PARTS A & B**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES | | | |
| --Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| --Durable medical equipment | | | |
| First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |

**OUTLINE OF COVERAGE**
**TABLE 5. PLAN C**
**MEDICARE (PART A)--HOSPITAL SERVICES--PER BENEFIT PERIOD**

***A benefit period begins on the first day you receive services as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| HOSPITALIZATION*<br>Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $812 | $812 (Part A Deductible) | $0 |
| 61st thru 90th days | All but $203 a day | $203 a day | $0 |
| 91st day and after: | | | |
| --While using 60 lifetime reserve days | All but $406 a day | $406 a day | $0 |
| --Once lifetime reserve dates are used | | | |
| --Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0 |
| --Beyond the Additional 365 days | $0 | $0 | All costs |
| SKILLED NURSING FACILITY CARE*<br>You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th days | All but $101.50 a day | $0 | Up to $101.50 a day |
| 101st day and after | $0 | $0 | All costs |
| BLOOD | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| HOSPICE CARE<br>Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited co-insurance for outpatient drugs and inpatient respite care | $0 | Balance |

****NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.**

**PLAN C**
**MEDICARE (PART B)--MEDICAL SERVICES--PER CALENDAR YEAR**

***Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| MEDICAL EXPENSES -- IN OUR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, | | | |
| First $100 of Medicare Approved Amounts* | $0 | $100 (Part B Deductible) | $0 |
| Remainder of Medicare Approved Amounts | 80% (Generally) | 20% (Generally) | $0 |
| Part B Excess Charges (Above Medicare Approved Amounts) | $0 | $0 | All Costs |
| BLOOD | | | |
| First 3 pints | $0 | All costs | $0 |
| Next $100 of Medicare Approved Amounts* | $0 | $100 (Part B Deductible) | $0 |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| CLINICAL LABORATORY SERVICES-- BLOOD TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

**PARTS A & B**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES | | | |
| --Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| --Durable medical equipment | | | |
| First $100 of Medicare Approved Amounts* | $0 | $100 (Part B Deductible) | $0 |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |

**(continued)**

**Plan C**
**(continued)**

**OTHER BENEFITS--NOT COVERED BY MEDICARE**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| FOREIGN TRAVEL--<br>NOT COVERED BY MEDICARE<br>Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Remainder of Charges | $0 | 80% to a lifetime maximum of $50,000 | 20% of amounts over the $50,000 lifetime maximum |

**OUTLINE OF COVERAGE**
**TABLE 6. PLAN D**
**MEDICARE (PART A)--HOSPITAL SERVICES--PER BENEFIT PERIOD**

***A benefit period begins on the first day you receive services as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| HOSPITALIZATION*<br>Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $812 | $812 (Part A Deductible) | $0 |
| 61st thru 90th days | All but $203 a day | $203 a day | $0 |
| 91st day and after:<br>--While using 60 lifetime reserve days | All but $406 a day | $406 a day | $0 |
| --Once lifetime reserve dates are used<br>--Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0 |
| --Beyond the Additional 365 days | $0 | $0 | All costs |
| SKILLED NURSING FACILITY CARE*<br>You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th days | All but $101.50 a day | $0 | Up to $101.50 a day |
| 101st day and after | $0 | $0 | All costs |
| BLOOD | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| HOSPICE CARE<br>Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited co-insurance for outpatient drugs and inpatient respite care | $0 | Balance |

****NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.**

**PLAN D**
**MEDICARE (PART B)--MEDICAL SERVICES--PER CALENDAR YEAR**

***Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| MEDICAL EXPENSES -- IN OUR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, | | | |
| First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% (Generally) | 20% (Generally) | $0 |
| Part B Excess Charges (Above Medicare Approved Amounts) | $0 | $0 | All Costs |
| BLOOD | | | |
| First 3 pints | $0 | All costs | $0 |
| Next $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| CLINICAL LABORATORY SERVICES-- BLOOD TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

**(continued)**

**Plan D**
**(continued)**
**PARTS A & B**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| HOME HEALTH CARE<br>MEDICARE APPROVED SERVICES<br>--Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| --Durable medical equipment<br>First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| AT-HOME RECOVERY SERVICES--NOT COVERED BY MEDICARE<br>Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved Home Care Treatment Plan<br>--Benefit for each visit | $0 | Actual Charges to $40 a visit | Balance |
| --Number of visits covered (must be received within 8 weeks of last Medicare Approved visits) | $0 | Up to the number of Medicare Approved visits, not to exceed 7 each week | |
| --Calendar year maximum | $0 | $1,600 | |

**OTHER BENEFITS--NOT COVERED BY MEDICARE**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| FOREIGN TRAVEL--<br>NOT COVERED BY MEDICARE<br>Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA<br>First $250 each calendar year | $0 | $0 | $250 |
| Remainder of Charges | $0 | 80% to a lifetime maximum of $50,000 | 20% of amounts over the $50,000 lifetime maximum |

**OUTLINE OF COVERAGE**
**TABLE 7. PLAN E**
**MEDICARE (PART A)--HOSPITAL SERVICES--PER BENEFIT PERIOD**

***A benefit period begins on the first day you receive services as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| HOSPITALIZATION*<br>Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $812 | $812 (Part A Deductible) | $0 |
| 61st thru 90th days | All but $203 a day | $203 a day | $0 |
| 91st day and after:<br>--While using 60 lifetime reserve days | All but $406 a day | $406 a day | $0 |
| --Once lifetime reserve dates are used<br>--Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0 |
| --Beyond the Additional 365 days | $0 | $0 | All costs |
| SKILLED NURSING FACILITY CARE*<br>You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th days | All but $101.50 a day | $0 | Up to $101.50 a day |
| 101st day and after | $0 | $0 | All costs |
| BLOOD<br>First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| HOSPICE CARE<br>Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited co-insurance for outpatient drugs and inpatient respite care | $0 | Balance |

****NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.**

**PLAN E**
**MEDICARE (PART B)--MEDICAL SERVICES--PER CALENDAR YEAR**

***Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| MEDICAL EXPENSES -- IN OUR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, | | | |
| First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% (Generally) | 20% (Generally) | $0 |
| Part B Excess Charges (Above Medicare Approved Amounts) | $0 | $0 | All Costs |
| BLOOD | | | |
| First 3 pints | $0 | All costs | $0 |
| Next $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| CLINICAL LABORATORY SERVICES-- BLOOD TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

**PARTS A & B**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| HOME HEALTH CARE MEDICARE APPROVED SERVICES | | | |
| --Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| --Durable medical equipment | | | |
| First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |

**(continued)**

**Plan E**
**(continued)**

**OTHER BENEFITS--NOT COVERED BY MEDICARE**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| FOREIGN TRAVEL--<br>NOT COVERED BY MEDICARE<br>Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Remainder of Charges | $0 | 80% to a lifetime maximum of $50,000 | 20% and amounts over the $50,000 lifetime maximum |
| *PREVENTIVE MEDICAL CARE BENEFIT --NOT COVERED BY MEDICARE<br>Some annual physical and preventive tests and services such as: digital rectal exam, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare | | | |
| First $120 each calendar year | $0 | $120 | $0 |
| Additional charges | $0 | $0 | All costs |

***Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare.***

**OUTLINE OF COVERAGE**
**TABLE 8. PLAN F or HIGH DEDUCTIBLE PLAN F**
**MEDICARE (PART A)--HOSPITAL SERVICES--PER BENEFIT PERIOD**

***A benefit period begins on the first day you receive services as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.**
****This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [$1620] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [$1620]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.**

| SERVICES | MEDICARE PAYS | AFTER YOU PAY $1620 DEDUCTIBLE,** PLAN PAYS | IN ADDITION TO $1620 DEDUCTIBLE,** YOU PAY |
|---|---|---|---|
| HOSPITALIZATION*<br>Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $812 | $812 (Part A Deductible) | $0 |
| 61st thru 90th days | All but $203 a day | $203 a day | $0 |
| 91st day and after:<br>--While using 60 lifetime reserve days | All but $406 a day | $406 a day | $0 |
| --Once lifetime reserve dates are used<br>--Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0 |
| --Beyond the Additional 365 days | $0 | $0 | All costs |
| SKILLED NURSING FACILITY CARE*<br>You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th days | All but $101.50 a day | Up to $101.50 a day | $0 |
| 101st day and after | $0 | $0 | All costs |
| BLOOD<br>First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| HOSPICE CARE<br>Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited co-insurance for outpatient drugs and inpatient respite care | $0 | Balance |

****NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.**

**PLAN F or HIGH DEDUCTIBLE PLAN F**
**MEDICARE (PART B)--MEDICAL SERVICES--PER CALENDAR YEAR**

***Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.**
****This high deductible plan pays the same or offers the same benefits as Plan F after one has paid a calendar year [$1620] deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are [$1620]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.**

| SERVICES | MEDICARE PAYS | AFTER YOU PAY $1620 DEDUCTIBLE,** PLAN PAYS | IN ADDITION TO $1620 DEDUCTIBLE,** YOU PAY |
|---|---|---|---|
| MEDICAL EXPENSES -- IN OUR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, | | | |
| First $100 of Medicare Approved Amounts* | $0 | $100 (Part B Deductible) | $0 |
| Remainder of Medicare Approved Amounts | 80% (Generally) | 20% (Generally) | $0 |
| Part B Excess Charges (Above Medicare Approved Amounts) | $0 | 100% | $0 |
| BLOOD | | | |
| First 3 pints | $0 | All costs | $0 |
| Next $100 of Medicare Approved Amounts* | $0 | $100 (Part B Deductible) | $0 |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| CLINICAL LABORATORY SERVICES-- BLOOD TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

(continued)

**PLAN F or HIGH DEDUCTIBLE PLAN F**

**PARTS A & B**

| SERVICES | MEDICARE PAYS | AFTER YOU PAY $1500 DEDUCTIBLE,** PLAN PAYS | IN ADDITION TO $1500 DEDUCTIBLE,** YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE**<br>MEDICARE APPROVED SERVICES<br>--Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| --Durable medical equipment<br>First $100 of Medicare Approved Amounts* | $0 | $100 (Part B Deductible) | $0 |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |

**OTHER BENEFITS--NOT COVERED BY MEDICARE**

| SERVICES | MEDICARE PAYS | AFTER YOU PAY $1500 DEDUCTIBLE,** PLAN PAYS | IN ADDITION TO $1500 DEDUCTIBLE,** YOU PAY |
|---|---|---|---|
| **FOREIGN TRAVEL--**<br>NOT COVERED BY MEDICARE<br>Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA<br>First $250 each calendar year | $0 | $0 | $250 |
| Remainder of Charges | $0 | 80% to a lifetime maximum of $50,000 | 20% and amounts over the $50,000 lifetime maximum |

**OUTLINE OF COVERAGE**
**TABLE 9. PLAN G**
MEDICARE (PART A)--HOSPITAL SERVICES--PER BENEFIT PERIOD

*A benefit period begins on the first day you receive services as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $812 | $812 (Part A Deductible) | $0 |
| 61st thru 90th days | All but $203 a day | $203 a day | $0 |
| 91st day and after: --While using 60 lifetime reserve days | All but $406 a day | $406 a day | $0 |
| --Once lifetime reserve dates are used --Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0 |
| --Beyond the Additional 365 days | $0 | $0 | All costs |
| **SKILLED NURSING FACILITY CARE*** You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th days | All but $101.50 a day | Up to $101.50 a day | $0 |
| 101st day and after | $0 | $0 | All costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited co-insurance for outpatient drugs and inpatient respite care | $0 | Balance |

****NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.**

**PLAN G**
MEDICARE (PART B)--MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES --** IN OUR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, | | | |
| First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% (Generally) | 20% (Generally) | $0 |
| Part B Excess Charges (Above Medicare Approved Amounts) | $0 | 80% | 20% |
| **BLOOD** | | | |
| First 3 pints | $0 | All costs | $0 |
| Next $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES--** BLOOD TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

(continued)

**Plan G**
(continued)
**PARTS A & B**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE**<br>MEDICARE APPROVED SERVICES<br>--Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| --Durable medical equipment<br>First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| AT-HOME RECOVERY SERVICES--<br>NOT COVERED BY MEDICARE<br>Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved Home Care Treatment Plan<br>--Benefit for each visit | $0 | Actual charges up to $40 a visit | Balance |
| --Number of visits covered (must be received within 8 weeks of last Medicare Approved visit) | $0 | Up to the number of Medicare Approved visits, not to exceed 7 each week | |
| --Calendar year maximum | $0 | $1,600 | |

**OTHER BENEFITS--NOT COVERED BY MEDICARE**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **FOREIGN TRAVEL--**<br>NOT COVERED BY MEDICARE<br>Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA<br>First $250 each calendar year | $0 | $0 | $250 |
| Remainder of Charges | $0 | 80% to a lifetime maximum of $50,000 | 20% and amounts over the $50,000 lifetime maximum |

**OUTLINE OF COVERAGE**
**TABLE 10. PLAN H**
MEDICARE (PART A)--HOSPITAL SERVICES--PER BENEFIT PERIOD

*A benefit period begins on the first day you receive services as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $812 | $812 (Part A Deductible) | $0 |
| 61st thru 90th days | All but $203 a day | $203 a day | $0 |
| 91st day and after: --While using 60 lifetime reserve days | All but $406 a day | $406 a day | $0 |
| --Once lifetime reserve dates are used --Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0 |
| --Beyond the Additional 365 days | $0 | $0 | All costs |
| **SKILLED NURSING FACILITY CARE*** You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th days | All but $101.50 a day | Up to $101.50 a day | $0 |
| 101st day and after | $0 | $0 | All costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited co-insurance for outpatient drugs and inpatient respite care | $0 | Balance |

****NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.**

**PLAN H**
MEDICARE (PART B)--MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES --** IN OUR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, | | | |
| First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% (Generally) | 20% (Generally) | $0 |
| Part B Excess Charges (Above Medicare Approved Amounts) | $0 | $0 | All Costs |
| **BLOOD** First 3 pints | $0 | All costs | $0 |
| Next $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES--** BLOOD TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

**PARTS A & B**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE** MEDICARE APPROVED SERVICES --Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| --Durable medical equipment First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |

(continued)

**Plan H**
(continued)

**OTHER BENEFITS--NOT COVERED BY MEDICARE**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **FOREIGN TRAVEL--** NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Remainder of Charges | $0 | 80% to a lifetime maximum of $50,000 | 20% and amounts over the $50,000 lifetime maximum |
| **BASIC OUTPATIENT PRESCRIPTION DRUGS--NOT COVERED BY MEDICARE** | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Next $2,500 each calendar | $0 | 50%--$1,250 calendar year maximum benefit | 50% |
| Over $2,500 each calendar year | $0 | $0 | All Costs |

**OUTLINE OF COVERAGE**
**TABLE 11. PLAN I**
MEDICARE (PART A)--HOSPITAL SERVICES--PER BENEFIT PERIOD

*A benefit period begins on the first day you receive services as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $812 | $812 (Part A Deductible) | $0 |
| 61st thru 90th days | All but $203 a day | $203 a day | $0 |
| 91st day and after: --While using 60 lifetime reserve days | All but $406 a day | $406 a day | $0 |
| --Once lifetime reserve dates are used --Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0 |
| --Beyond the Additional 365 days | $0 | $0 | All costs |
| **SKILLED NURSING FACILITY CARE*** You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th days | All but $101.50 a day | Up to $101.50 a day | $0 |
| 101st day and after | $0 | $0 | All costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited co-insurance for outpatient drugs and inpatient respite care | $0 | Balance |

****NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.**

**PLAN I**
MEDICARE (PART B)--MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES --** IN OUR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, | | | |
| First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% (Generally) | 20% (Generally) | $0 |
| Part B Excess Charges (Above Medicare Approved Amounts) | $0 | 100% | $0 |
| **BLOOD** | | | |
| First 3 pints | $0 | All costs | $0 |
| Next $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES--** BLOOD TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

(continued)

**Plan I**
(continued)

**PARTS A & B**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE** | | | |
| MEDICARE APPROVED SERVICES | | | |
| --Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| --Durable medical equipment | | | |
| First $100 of Medicare Approved Amounts* | $0 | $0 | $100 (Part B Deductible) |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| AT-HOME RECOVERY SERVICES--NOT COVERED BY MEDICARE | | | |
| Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved Home Care Treatment Plan | | | |
| --Benefit for each visit | $0 | Actual Charges to $40 a visit | Balance |
| --Number of visits covered (must be received within 8 weeks of last Medicare Approved visit) | $0 | Up to the number of Medicare Approved visits, not to exceed 7 each week | |
| --Calendar year maximum | $0 | $1,600 | |

(continued)

**Plan I**
(continued)

**OTHER BENEFITS--NOT COVERED BY MEDICARE**

| SERVICES | MEDICARE PAYS | PLAN PAYS | YOU PAY |
|---|---|---|---|
| **FOREIGN TRAVEL--**<br>NOT COVERED BY MEDICARE<br>Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Remainder of Charges | $0 | 80% to a lifetime maximum of $50,000 | 20% and amounts over the $50,000 lifetime maximum |
| **BASIC OUTPATIENT PRESCRIPTION DRUGS--NOT COVERED BY MEDICARE** | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Next $2,500 each calendar | $0 | 50%--$1,250 calendar year maximum benefit | 50% |
| Over $2,500 each calendar year | $0 | $0 | All Costs |

**OUTLINE OF COVERAGE**
**TABLE 12. PLAN J or HIGH DEDUCTIBLE PLAN J**
MEDICARE (PART A)--HOSPITAL SERVICES--PER BENEFIT PERIOD

*A benefit period begins on the first day you receive services as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.
**This high deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year [$1620] deductible. Benefits from the high deductible Plan J will not begin until out-of-pocket expenses are [$1620]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

| SERVICES | MEDICARE PAYS | AFTER YOU PAY $1620 DEDUCTIBLE,** PLAN PAYS | IN ADDITION TO $1620 DEDUCTIBLE,** YOU PAY |
|---|---|---|---|
| **HOSPITALIZATION*** Semiprivate room and board, general nursing and miscellaneous services and supplies | | | |
| First 60 days | All but $812 | $812 (Part A Deductible) | $0 |
| 61st thru 90th days | All but $203 a day | $203 a day | $0 |
| 91st day and after: --While using 60 lifetime reserve days | All but $406 a day | $406 a day | $0 |
| --Once lifetime reserve dates are used --Additional 365 days | $0 | 100% of Medicare Eligible Expenses | $0 |
| --Beyond the Additional 365 days | $0 | $0 | All costs |
| **SKILLED NURSING FACILITY CARE*** You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital | | | |
| First 20 days | All approved amounts | $0 | $0 |
| 21st thru 100th days | All but $101.50 a day | Up to $101.50 a day | $0 |
| 101st day and after | $0 | $0 | All costs |
| **BLOOD** | | | |
| First 3 pints | $0 | 3 pints | $0 |
| Additional amounts | 100% | $0 | $0 |
| **HOSPICE CARE** Available as long as your doctor certifies you are terminally ill and you elect to receive these services | All but very limited co-insurance for outpatient drugs and inpatient respite care | $0 | Balance |

****NOTICE: When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.**

**PLAN J or HIGH DEDUCTIBLE PLAN J**
MEDICARE (PART B)--MEDICAL SERVICES--PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.
**This high deductible plan pays the same or offers the same benefits as Plan J after one has paid a calendar year [$1620] deductible. Benefits from the high deductible Plan J will not begin until out-of-pocket expenses are [$1620]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

| SERVICES | MEDICARE PAYS | AFTER YOU PAY $1620 DEDUCTIBLE,** PLAN PAYS | IN ADDITION TO $1620 DEDUCTIBLE,** YOU PAY |
|---|---|---|---|
| **MEDICAL EXPENSES --** IN OUR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, | | | |
| First $100 of Medicare Approved Amounts* | $0 | $100 (Part B Deductible) | $0 |
| Remainder of Medicare Approved Amounts | 80% (Generally) | 20% (Generally) | $0 |
| Part B Excess Charges (Above Medicare Approved Amounts) | $0 | 100% | $0 |
| **BLOOD** | | | |
| First 3 pints | $0 | All costs | $0 |
| Next $100 of Medicare Approved Amounts* | $0 | $100 (Part B Deductible) | $0 |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| **CLINICAL LABORATORY SERVICES--** BLOOD TESTS FOR DIAGNOSTIC SERVICES | 100% | $0 | $0 |

(continued)

**Plan J or HIGH DEDUCTIBLE PLAN J**
(continued)

**PARTS A & B**

| SERVICES | MEDICARE PAYS | AFTER YOU PAY $1620 DEDUCTIBLE,** PLAN PAYS | IN ADDITION TO $1620 DEDUCTIBLE,** YOU PAY |
|---|---|---|---|
| **HOME HEALTH CARE** | | | |
| MEDICARE APPROVED SERVICES | | | |
| --Medically necessary skilled care services and medical supplies | 100% | $0 | $0 |
| --Durable medical equipment | | | |
| First $100 of Medicare Approved Amounts* | $0 | $100 (Part B Deductible) | $0 |
| Remainder of Medicare Approved Amounts | 80% | 20% | $0 |
| **AT-HOME RECOVERY SERVICES--NOT COVERED BY MEDICARE** | | | |
| Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved Home Care Treatment Plan | | | |
| --Benefit for each visit | $0 | Actual Charges to $40 a visit | Balance |
| --Number of visits covered (must be received within 8 weeks of last Medicare Approved visit) | $0 | Up to the number of Medicare Approved visits, not to exceed 7 each week | |
| --Calendar year maximum | $0 | $1,600 | |

(continued)

**Plan J or HIGH DEDUCTIBLE PLAN J**
(continued)

**PARTS A & B (continued)**

**OTHER BENEFITS--NOT COVERED BY MEDICARE**

| SERVICES | MEDICARE PAYS | AFTER YOU PAY $1620 DEDUCTIBLE,** PLAN PAYS | IN ADDITION TO $1620 DEDUCTIBLE,** YOU PAY |
|---|---|---|---|
| **FOREIGN TRAVEL--** NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Remainder of Charges | $0 | 80% to a lifetime maximum of $50,000 | 20% and amounts over the $50,000 lifetime maximum |
| **EXTENDED OUTPATIENT PRESCRIPTION DRUGS--NOT COVERED BY MEDICARE** | | | |
| First $250 each calendar year | $0 | $0 | $250 |
| Next $6,000 each calendar | $0 | 50%--$3,000 calendar year maximum benefit | 50% |
| Over $6,000 each calendar year | $0 | $0 | All Costs |
| *****PREVENTIVE MEDICAL CARE BENEFIT--NOT COVERED BY MEDICARE** Some annual physical and preventive tests and services such as: digital rectal exam, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare | | | |
| First $120 each calendar year | | | |
| Additional charges | $0 | $120 | $0 |
| | $0 | $0 | All Costs |

***Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare.*

## APPENDIX V. DISCLOSURE STATEMENTS [REVOKED]

## APPENDIX V. DISCLOSURE STATEMENTS [NEW]

**Instructions for Use of the Disclosure Statements for Health Insurance Policies Sold to Medicare Beneficiaries that Duplicate Medicare**

1. Section 1882(d) of the Federal Social Security Act, 42 U.S.C. 1395ss, prohibits the sale of a health insurance policy (the term policy or policies includes certificates) to Medicare beneficiaries that duplicate Medicare benefits unless it will pay benefits without regard to other beneficiary's health coverage and it includes the prescribed disclosure statement on or together with the application for the policy.

2. All types of health insurance policies that duplicate Medicare shall include one of the attached disclosure statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement may not vary from the attached statements in terms of language or format (type size, type proportional spacing, bold character, line spacing, and usage of boxes around text).

3. State and federal law prohibits insurers from selling a Medicare supplement policy to a person that already has a Medicare supplement policy except as a replacement.

4. Property/casualty and life insurance policies are not considered health insurance.

5. Disability income policies are not considered to provide benefits that duplicate Medicare.

6. Long-term care insurance polices that coordinate with Medicare and other health insurance are not considered to provide benefits that duplicate Medicare.

7. The federal law does not preempt state laws that are more stringent than the federal requirements.

8. The federal law does not preempt existing state form filing requirements.

9. Section 1882 of the federal Social Security Act was amended in subsection (d)(3)(A) to allow for alternative disclosure statements. The original disclosure statements already in Appendix V remain. Carriers may use either disclosure statement with the requisite insurance product. However, carriers should use either the original disclosure statements or the alternative disclosure statements and not use both simultaneously.

[Original Disclosure Statement. For policies that provide benefits for expenses incurred for an accidental injury only]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE**
**THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

**This is not Medicare Supplement Insurance**

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits when it pays:**

- hospital or medical expenses up to the maximum stated in the policy

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- other approved items and services

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.
√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original Disclosure Statement. For policies that provide benefits for specified limited services]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE**
**THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

**This is not Medicare Supplement Insurance**

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits when:**

any of the services covered by the policy are also covered by Medicare

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- other approved items and services

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.

√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original Disclosure Statement. For policies that reimburse expenses incurred for specified disease(s) or other specified impairment(s). This includes expense incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.]

## IMPORTANT NOTICE TO PERSONS ON MEDICARE
## THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

**This is not Medicare Supplement Insurance**

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits when it pays**:

- hospital or medical expenses up to the maximum stated in the policy

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.

√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original Disclosure Statement. For policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

## IMPORTANT NOTICE TO PERSONS ON MEDICARE
## THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

**This is not Medicare Supplement Insurance**

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits because Medicare generally pays for most of the expenses for the diagnosis and treatment of the specific conditions or diagnoses named in the policy.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.

√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original Disclosure Statement. For indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.]

## IMPORTANT NOTICE TO PERSONS ON MEDICARE
## THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

**This is not Medicare Supplement Insurance**

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits when:**

- any expenses or services covered by the policy are also covered by Medicare

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.

√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original Disclosure Statement. For policies that provide benefits for both expenses incurred and fixed indemnity basis]

## IMPORTANT NOTICE TO PERSONS ON MEDICARE
## THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

**This is not Medicare Supplement Insurance**

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits when:**

- any expenses or services covered by the policy are also covered by Medicare; or
- it pays the fixed dollar amount stated in the policy and Medicare covers the same event

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice care
- other approved items & services

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.

√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Original Disclosure Statement. For other health insurance policies not specifically identified in the previous statements]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE**
**THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

**This is not Medicare Supplement Insurance**

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**This insurance duplicates Medicare benefits when it pays**:

- the benefits stated in the policy and coverage for the same event is provided by Medicare

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.
√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative Disclosure Statement. For policies that provide benefits for expenses incurred for an accidental injury only]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE**
**THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.

√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative Disclosure Statement. For policies that provide benefits for specified limited services]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE**
**THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

Some health care services paid by Medicare may also trigger the payment of benefits under this policy.

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.

√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative Disclosure Statement. For policies that reimburse expenses incurred for specified disease(s) or other specified impairment(s). This includes expense incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE**
**THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

**Some health care services paid for by Medicare may also trigger the payment of benefits under this policy.**

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

This policy must pay benefits without regard to other health benefit coverages to which you may be entitled under Medicare or other insurance.

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.
√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative Disclosure Statement. For policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE**
**THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

**Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.**

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.

√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative Disclosure Statement. For indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE**
**THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

**Some health care services paid for by Medicare may also trigger the payment of benefits for this policy.**

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.

√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative Disclosure Statement. For policies that provide benefits for both expenses incurred and fixed indemnity basis]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE**
**THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

**Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.**

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice care
- other approved items & services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.

√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

[Alternative Disclosure Statement. For other health insurance policies not specifically identified in the previous statements]

**IMPORTANT NOTICE TO PERSONS ON MEDICARE**
**THIS IS NOT MEDICARE SUPPLEMENT INSURANCE**

**Some health care services paid for by Medicare may also trigger the payment of benefits from this policy.**

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.
**Medicare generally pays for most or all of these expenses.**

**Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:**

- hospitalization
- physician services
- hospice
- other approved items and services

This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance.

**Before You Buy This Insurance**

√ Check the coverage in **all** health insurance policies you already have.
√ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
√ For help in understanding your health insurance, contact your state insurance department or state senior insurance counseling program.

*[OAR Docket #03-879; filed 5-7-03]*

# TITLE 365. INSURANCE DEPARTMENT CHAPTER 10. LIFE, ACCIDENT AND HEALTH

*[OAR Docket #03-880]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 19. Health Insurance Purchasing Groups [NEW]
365:10-19-1. Definitions [NEW]
365:10-19-2. Applicability and scope [NEW]
365:10-19-3. Establishment of business [NEW]
365:10-19-4. Board of directors and plan of operations [NEW]
365:10-19-5. Requirement to insure all employees of the purchaser and new entrants [NEW]
365:10-19-6. Prohibited provisions and other requirements [NEW]
365:10-19-7. Filing requirements [NEW]
365:10-19-8. Annual reporting requirements [NEW]
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Subchapter 19. Health Insurance Purchasing Groups [NEW]
365:10-19-1. Definitions [NEW]
365:10-19-2. Applicability and scope [NEW]
365:10-19-3. Establishment of business [NEW]
365:10-19-4. Board of directors and plan of operations [NEW]
365:10-19-5. Requirement to insure all employees of the purchaser and new entrants [NEW]
365:10-19-6. Prohibited provisions and other requirements [NEW]
365:10-19-7. Filing requirements [NEW]
365:10-19-8. Annual reporting requirements [NEW]
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**Register Publication:**
20 Ok Reg 224
**Docket Number:**
02-1526
**INCORPORATION BY REFERENCE:**
n/a
**ANALYSIS:**
The new rules implement the provisions of the Employer Health Insurance Purchasing Group Act (Senate Bill 2350). Rule 365:10-19-1 sets out the definitions for purposes of the regulation. Rule 365:10-19-2 sets out the applicability and scope of the regulation. Rule 365:10-19-3 mandates that health insurers maintain certain information for inspection by the Commissioner and prohibits discrimination against health insurance purchasing groups in the offer of coverage to a group. Rule 365:10-19-4 sets out sets out the term of board member, composition of the board and initial board member appointment terms. Rule 365:10-19-4 also mandates a plan of operation along with requirements for that plan of operation include a provision that an annual written report will be provided to all participating employers of the purchasing group. Rule 365:10-19-5 mandates that carriers offer coverage to each eligible employee and to each dependent of an eligible employee. Rule 365:10-19-5 also mandates that carriers offer eligible employees the option of one or more benefit plans, carriers obtain from each employer a complete list of eligible employees, and carriers obtain a written waiver for each employee or dependent who declines an offer of coverage. Rule 365:10-19-5 also prohibits issuance of coverage to an employer if there is reason to believe that the employer has induced or pressured the employee to decline coverage due to the individual's risk characteristics. Rule 365:10-19-6 sets out certain prohibited provisions and other requirements. Rule 365:10-19-7 sets out filing requirements. Rule 365:10-19-8 sets out annual filings with the Insurance Commissioner by the carrier.
**CONTACT PERSON:**
Karl F. Kramer, Assistant General Counsel, (405) 521-2746

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2003:**

## SUBCHAPTER 19. HEALTH INSURANCE PURCHASING GROUPS

### 365:10-19-1. Definitions

The following terms used in this Part, shall have the same meaning as set out in 36 O.S. § 4522 of the Act, unless the context clearly indicates otherwise:

**"Act"** means the Employer Health Insurance Purchasing Group Act, 36 O.S. § 4521, et seq.

**"Dependent"** means a spouse, newly born child, adopted child, child placed for adoption from the moment of placement, child of the insured under the age of majority who is a natural child of the insured, and/or a step-child under the age of majority who is dependent upon the insured for support or maintenance. Dependent shall also include any dependent child who is incapable of self sustaining employment due to mental retardation or physical handicap on the date that such child's coverage would otherwise terminate under the policy due to the attainment of a specified age limit for children, if the child is chiefly dependent on the insured for support and maintenance.

**"New entrant"** means an eligible employee or individual who becomes an eligible employee after the initial period for enrollment in a health benefit plan.

### 365:10-19-2. Applicability and scope

(a) This Part shall apply to any health benefit plan written for a Health Insurance Purchasing Group pursuant to the Act.

(b) This Part shall apply to any health benefit plan that issues or delivers a policy or certificate in this state pursuant to the Act.

(c) The provisions of the Act and this Part shall not apply to an individual health benefit plan delivered or issued for delivery in this state.

(d) The provisions of the Act and this Part shall apply to HIPGs formed for citizens in the State of Oklahoma.

(e) For the purpose of this act, a health insurer does not include a MEWA as defined in 36 O.S. § 634.

(f) If an eligible employer is issued a health benefit plan pursuant to the Act, the provisions of the Act and this Part shall continue to apply to the health benefit plan in the case that the employer subsequently employs more than one hundred (100) eligible employees. A HIPG health carrier providing coverage to such an employer shall, within sixty (60) days of becoming aware that the employer has more than one hundred (100) eligible employees but no later than the anniversary date of the employer's health benefit plan, notify the employer that the provisions of the Act and this Part shall cease to apply to the employer if such employer fails to renew its current health benefit plan or elects to enroll in a different health benefit plan.

(g) A HIPG health carrier providing coverage to an employer pursuant to the Act shall, within sixty (60) days of becoming aware that the employer has fifty (50) or fewer eligible employees, notify the employer of the options and protections available to the employer under the Small Employer Health Insurance Reform Act as set out pursuant to 36 O.S. § 6511 et seq., including the employer's option to purchase a small employer health benefit plan from any small employer carrier.

(h) A carrier that is not operating as a Health Insurance Purchasing Group carrier in this state shall not become subject to the provisions of the Act and this Part solely because an employer that was issued a health insurance purchasing group plan in another state by that HIPG health carrier moves to this state and the coverage remains in force.

**365:10-19-3. Establishment of business**

(a) A health insurer that establishes a health benefit plan pursuant to 36 O.S. § 4522, shall maintain on file for inspection by the Commissioner the following information with respect to each health benefit plan so established:

(1) A description of each criterion employed by the HIPG health carrier (or any of its agents) for determining membership in the health benefit plan;

(2) A statement disclosing which, if any, health benefit plans are currently available for purchase by Health Insurance Purchasing Groups.

(b) A HIPG health carrier may not directly or indirectly discriminate against Health Insurance Purchasing Groups in the offer of coverage to a group.

**365:10-19-4. Board of directors and plan of operations**

(a) Individuals on the Board of Directors as required under 36 O.S. § 4523 shall be owners or employees of the participating employer groups.

(1) Be composed of Directors of the employers participating in the Health Insurance Purchasing Group;

(2) A vacancy on the board may be filled by a member of the employer group from which the vacancy occurred if that employer is still participating in the Health Insurance Purchasing Group plan or any other employer group which is participating in the Health Insurance Purchasing Group plan;

(3) A board member may be removed from the board for cause.

(b) Within one hundred eighty (180) days after the appointment of the initial board, the board shall adopt a plan of operations and, thereafter, any amendments thereto necessary or suitable to ensure the fair, reasonable and equitable administration of the program, and to provide for the sharing of information to other members of the Health Insurance Purchasing Group.

(c) The plan of operations shall be in a written document available for review by all members of the Health Insurance Purchasing Group.

(d) The plan of operations shall establish a procedure for the implementation, administration of the HIPG and accounting of the program members, including but not limited to employees and dependents covered, and employees declining coverage.

(e) The plan of operations shall establish a procedure for an annual written report to be provided to all participating employers of the Health Insurance Purchasing Group.

**365:10-19-5. Requirement to insure all employees of the purchaser and new entrants**

(a) **Offer of coverage.**

(1) A HIPG health carrier that offers coverage to a HIPG shall offer to provide coverage to each eligible employee and their dependents and to each new entrant to the plan and to each dependent of the new entrant. New entrants shall be covered upon the first day of the calendar month following any established waiting periods of the HIPG.

(2) A HIPG health carrier shall offer the eligible employees of a HIPG the option of choosing among one or more health benefit plans, one of which shall contain the mandated benefits pursuant to the entire Oklahoma Insurance Code, provided that each employee may choose any of the offered plans. The choice among benefit plans may not be limited, restricted or conditioned based upon the risk characteristics of the employees or their dependents.

(b) **List of eligible employees and waivers.**

(1) A HIPG health carrier shall require each employer of the HIPG that applies for coverage, as part of the application process, to provide a complete list of eligible employees and dependents of eligible employees as defined in 36 O.S. § 4522(2) & (4). The HIPG health carrier shall require the Purchaser to provide appropriate supporting documentation (such as the W-2 Summary Wage and Tax Form, or other proof of employment as may be determined by the Oklahoma Insurance Department) to verify the information required under this section.

(2) A HIPG health carrier shall obtain a waiver with respect to each eligible employee and each dependent of such an eligible employee who declines an offer of coverage under a health benefit plan provided to a Purchaser. The waiver shall be signed by the eligible employee (on behalf of such employee or the dependent of such employee) and shall certify that the individual who declined coverage was informed of the availability of coverage under the health benefit plan. The waiver form shall require

that the reason for declining coverage be stated on the form and shall include a written warning of the penalties imposed on late enrollees. Waivers shall be maintained by the HIPG health carrier for the period in which the coverage is in effect.

(c) **Inducement to decline coverage due to the individual's risk characteristics prohibited.**

(1) A HIPG health carrier shall not issue coverage to a Purchaser if the HIPG health carrier, or a producer for such HIPG health carrier, has reason to believe that the Purchaser has induced or pressured an eligible employee or dependent of an eligible employee to decline coverage due to the individual's risk characteristics.

(2) A producer shall notify a HIPG health carrier, prior to submitting an application for coverage with the HIPG health carrier on behalf of a Purchaser, of any circumstances that would indicate that the Purchaser has induced or pressured an eligible employee or dependent of an eligible employee to decline coverage due to the individual's risk characteristics.

**365:10-19-6. Prohibited provisions and other requirements**

(a) No HIPG or HIPG health carrier shall make provisions establishing a probationary or waiting period during which no coverage is available to eligible employees for a period of more than three months from the date of hire.

(b) No HIPG or HIPG health carrier shall enter into exclusive agreements between the HIPG and the HIPG health carrier. A HIPG health carrier shall not enter into any contract that would bind a HIPG health carrier to a specific HIPG.

(c) No HIPG shall have or use a name that tends to mislead, deceive, or confuse. The Oklahoma Insurance Department shall determine whether the name of the HIPG has a tendency to mislead, deceive or confuse.

(d) No HIPG shall use any documents of a HIPG health carrier after termination of the HIPG and shall return all documents produced and/or provided by the HIPG health carrier immediately upon termination of the HIPG.

(e) Employer eligibility requirements shall not be more restrictive than those found in the Small Employer Health Insurance Reform Act.

**365:10-19-7. Filing requirements**

(a) Prior to the formation on a HIPG the HIPG shall provide the following documents to the Oklahoma Insurance Department for review and approval:

(1) All HIPG documents.

(2) Contracts between the HIPG and HIPG health carrier.

(3) All administrative agreements.

(4) Plan of Operations.

(5) Marketing methods to be used.

(6) Constitutions and/or bylaws.

(7) Names of five representatives of eligible employers.

(8) Employer eligibility requirements

(9) Requirements for membership and disclosure requirements.

(b) HIPG contracts shall contain a termination provision that shall provide for the following:

(1) Basis for HIPG employer to terminate participation in the HIPG.

(2) Provisions for a refund of all deposits collected upon termination.

(3) Reasons for termination, including but not limited to failure of the HIPG to perform pursuant to the HIPG documents.

(c) Plan documents shall be written by the HIPG insurance carrier

(d) Contracts that provide for the automatic renewal after the initial twelve month period shall allow employers to exit the HIPG without penalty after the initial twelve months have expired.

(e) Contracts that include additional contract periods shall provide for the termination of the contracts at the discretion of the employer during said additional twelve month periods.

(f) The HIPG contract that extends for additional periods of time may be terminated by written notice of termination by the employer. Such notice shall be given no later than thirty days prior to the expiration of the current contract period.

(g) The documents submitted shall not be used by the HIPG until approved by the Oklahoma Insurance Department.

**365:10-19-8. Annual reporting requirements**

(a) A HIPG health carrier shall file annually the following information with the Commissioner related to health benefit plans issued by the HIPG health carrier to HIPGs in this state:

(1) The number of Purchasers that were issued the limited benefit health benefit plans in the previous calendar year (separated as to newly issued plans and renewals and the number of covered lives);

(2) The number of Purchasers that were issued providing the state-mandated health benefits in the previous calendar year (separated as to newly issued plans and renewals and as to class of business and the number of covered lives);

(3) The number of Purchaser health benefit plans that were voluntarily not renewed by Purchasers in the previous calendar year;

(4) The number of HIPG health benefit plans that were terminated or nonrenewed (for reasons other than nonpayment of premium) by the HIPG health carrier in the previous calendar year; and

(5) The number of HIPG health benefit plans that were issued to Purchaser that were uninsured for at least the three (3) months prior to issue.

(b) The information described in this Section shall be filed no later than March 15 of each year.

(c) A HIPG health carrier shall file the health benefit plans intended to be issued to HIPGs for approval prior to use pursuant to 36 O.S. § 3610.

*[OAR Docket #03-880; filed 5-7-03]*

## TITLE 365. INSURANCE DEPARTMENT CHAPTER 10. LIFE, ACCIDENT AND HEALTH

*[OAR Docket #03-881]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 21. Recognition Of The 2001 CSO Mortality Table For Use In Determining Minimum Reserve Liabilities And Nonforfeiture Benefits Regulation [NEW]
365:10-21-1. Authority [NEW]
365:10-21-2. Purpose [NEW]
365:10-21-3. Definitions [NEW]
365:10-21-4 2001 CSO Mortality Table [NEW]
365:10-21-5. Conditions [NEW]
365:10-21-6. Applicability of the 2001 CSO Mortality Table to Oklahoma Valuation of Life Insurance Policies Regulation, O.A.C. 365:10-17-1, et seq. [NEW]
365:10-21-7. Gender-Blended Tables [NEW]
365:10-21-8. Separability [NEW]
365:10-21-9. Effective date [NEW]
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Failure of the Legislature to disapprove the rules resulted in approval on May 1, 2003
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**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATION BY REFERENCE:**
n/a
**ANALYSIS:**
This regulation will be used by insurance companies in determining minimum reserve liabilities and nonforfeiture benefits. It reflects improvement in mortality from the 1980 CSO Table.
**CONTACT PERSON:**
Karl F. Kramer, Assistant General Counsel, (405) 521-2746

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2003:**

## SUBCHAPTER 21. RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS REGULATION

### 365:10-21-1. Authority

This regulation is promulgated by the Commissioner of Insurance pursuant to 36 O.S. § 1510(A)(4)(iii) and 36 O.S. § 4029(H)(4)(h)(vi) of the Oklahoma Insurance Laws and O.A.C. 365:10-17-4(a) and (b) of the Oklahoma Insurance Department Regulations.

### 365:10-21-2. Purpose

The purpose of this regulation is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with 36 O.S. § 1510(A)(4)(iii) and 36 O.S. § 4029(H)(4)(h)(vi) of the Oklahoma Insurance Laws and O.A.C. 365:10-17-4(a) and (b) of the Oklahoma Insurance Department Regulations.

### 365:10-21-3. Definitions

(a) "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)*. Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.
(b) "2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.
(c) "2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.
(d) "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.
(e) "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

### 365:10-21-4. 2001 CSO Mortality Table

(a) At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this regulation, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after January 1, 2004 and before the date specified in Subsection (b) to which 36 O.S. § 1510(A)(4)(iii) and 36 O.S. § 4029(H)(4)(h)(vi) of

the Oklahoma Insurance Laws and O.A.C. 365:10-17-4(a) and (b) of the Oklahoma Insurance Department Regulations are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes.

(b) Subject to the conditions stated in this regulation, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on and after January 1, 2009, to which 36 O.S. § 1510(A)(4)(iii) and 36 O.S. § 4029(H)(4)(h)(vi) of the Oklahoma Insurance Laws and O.A.C. 365:10-17-4(a) and (b) of the Oklahoma Insurance Department Regulations are applicable.

**365:10-21-5. Conditions**

(a) For each plan of insurance with separate rates for smokers and nonsmokers an insurer may use:

(1) Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

(2) Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by 36 O.S. § 1510(H) and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

(3) Smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(b) For plans of insurance without separate rates for smokers and nonsmokers the composite mortality tables shall be used.

(c) For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of O.A.C. 365:10-21-6 of this regulation and O.A.C. 365:10-17-4 of the Oklahoma Insurance Department Regulations relative to use of the select and ultimate form.

(d) When the 2001 CSO Mortality Table is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the commissioner shall be based on an asset adequacy analysis as specified in O.A.C. 365:10-5-176 of the Oklahoma Insurance Department Regulations. A commissioner may exempt a company from this requirement if it only does business in this state and in no other state.

**365:10-21-6. Applicability of the 2001 CSO Mortality Table to Oklahoma Valuation of Life Insurance Policies Regulation, O.A.C. 365:10-17-1, et seq.**

(a) The 2001 CSO Mortality Table may be used in applying the Oklahoma Valuation of Life Insurance Policies Regulation, O.A.C. 365:10-17-4, in the following manner, subject to the transition dates for use of the 2001 CSO Mortality Table in Section 365:10-21-4 of this regulation (unless otherwise noted, the references in this section are to the Oklahoma Valuation of Life Insurance Policies Regulation, O.A.C. 365:10-17-1, et seq.):

(1) O.A.C. 365:10-17-2(1)(B)(ii): The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO Mortality Table.

(2) "Contract segmentation method" as defined at O.A.C. 365:10-17-3: All calculations are made using the 2001 CSO Mortality Rate, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in O.A.C 365:10-21-6(a)(4) of this regulation. The value of "$q_{x+k+t-1}$." is the valuation mortality rate for deficiency reserves in policy year k+t, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

(3) O.A.C. 365:10-17-4(a): The 2001 CSO Mortality Table is the minimum standard for basic reserves.

(4) O.A.C. 365:10-17-4(b): The 2001 CSO Mortality Table is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in O.A.C. 365:10-17-4(b)(3)(A) to (I). In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by regulation or necessary to be in compliance with relevant Actuarial Standards of Practice.

(5) O.A.C. 365:10-17-5(c): The valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table.

(6) O.A.C. 365:10-17-5(e)(4): The calculations specified in O.A.C. 365:10-17-5(e) shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

(7) O.A.C. 365:10-17-4(f)(4): The calculations specified in O.A.C. 365:10-17-5(f) shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

(8) O.A.C. 365:10-17-5(g)(2): The calculations specified in O.A.C. 365:10-17-5(g) shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

(9) O.A.C. 365:10-17-6(a)(1)(B): The one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.

(b) Nothing in this section shall be construed to expand the applicability of the Oklahoma Valuation of Life Insurance Policies Regulation, O.A.C. 365:10-17-1, et seq., to include life insurance policies exempted under O.A.C. 365:10-17-2(1) of the Oklahoma Valuation of Life Insurance Policies Regulation.

**365:10-21-7. Gender-Blended Tables**

(a) For any ordinary life insurance policy delivered or issued for delivery in this state on and after January 1, 2004, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the

2001 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this subsection of the regulation.

(b) The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

(c) It shall not, in and of itself, be a violation of Article 12 of the Oklahoma Insurance Laws for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

**365:10-21-8. Separability**

If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of the provision to other persons or circumstances shall not be affected.

**365:10-21-9. Effective date**

The effective date of this regulation is July 14, 2003.

*[OAR Docket #03-881; filed 5-7-03]*

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## TITLE 365. INSURANCE DEPARTMENT CHAPTER 15. PROPERTY AND CASUALTY

*[OAR Docket #03-882]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
365:15-1-3. Property and casualty form filings [AMENDED]
**AUTHORITY:**
Insurance Commissioner, 36 O.S. § 307.1.
**DATES:**
**Comment period:**
February 3, 2003 to March 5, 2003
**Public hearing:**
None
**Adoption:**
March 6, 2003
**Submitted to Governor:**
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**Submitted to House:**
March 7, 2003
**Submitted to Senate:**
March 7, 2003
**Gubernatorial approval:**
April 21, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on May 1, 2003
**Final adoption:**
May 1, 2003
**Effective:**
July 14, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATION BY REFERENCE:**
n/a
**ANALYSIS:**
The proposed amendments to this rule change the reference to "initial page" to the words "Declaration page" at 365:15-1-3(b)(21)(A) for clarification.
**CONTACT PERSON:**
Karl F. Kramer, Assistant General Counsel, (405) 521-2746

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2003:**

### SUBCHAPTER 1. GENERAL PROVISIONS

**365:15-1-3. Property and casualty form filings**

(a) **Purpose.** The purpose of this section is to specify the procedures for submitting form filings to the Insurance Commissioner as required by Article 36 of the Insurance Code.

(b) **Procedures.** Policy forms, endorsements and revisions thereto, by insurance companies and rating organizations licensed in Oklahoma, shall be submitted in compliance with this section, or shall be rejected for filing, and the entity which made such submission shall be so notified.

(1) **Filing requirements.** The Insurance Code, Article 36, requires that each insurer shall make its form filings directly with the Insurance Commissioner. Companies may satisfy their obligation to make such filings, where authorized by law, by becoming a member or subscriber to an Oklahoma licensed rating organization which makes such filings.

(2) **Filing fees.**

(A) Form filings shall be accompanied by the proper fees as specified in the Insurance Code.

(B) Filings for groups of insurers shall be accompanied by the specified fee for each transaction, regardless of the number of members or subscribers.

(C) Filings by rating organizations shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.

(D) Filing fees are not required for transactions that involve only the following:

(i) Error corrections.

(ii) Informational filings (not required to be filed).

(iii) Change in effective date for approved filing.

(iv) Final printing of approved forms.

(v) Additional information or amendments to pending filings.

(vi) Withdrawal of obsolete forms having no impact on Oklahoma policyholders.

(vii) Change in officer or signature for approved filing.

(viii) Change in company logo for approved filing.

(3) **Address requirements.** All filings shall be addressed as follows: Oklahoma Insurance Commissioner, P.O. Box 53408, Oklahoma City, OK 73152-3408.

(4) **Number of copies.** All filings including the cover letter, filing memorandum, all exhibits, forms and additional information submitted to the Insurance Commissioner shall be submitted with two (2) legible copies of all material. Such filings and exhibits shall be typewritten or printed. Companies that file as a group listing all companies on the transmittal letter may accomplish this requirement by submitting two copies plus one additional copy for each additional insurer.

(5) **Effective date of filings.** The effective date of form filings and the dates of required action by the Insurance Commissioner are governed by the applicable provisions of the Insurance Code.

(6) **Notice of Insurance Commissioner action.** The Insurance Commissioner shall indicate action taken in writing, one (1) copy of which shall be attached to the official file copy and one (1) copy transmitted to the filing entity, or action may be indicated by stamp, with the individual stamping same, placing his initial or signature thereunder. Responses to questions shall be submitted in writing with equal number of copies as required for any filing. Nothing in this section shall preclude the Insurance Commissioner from the use of other forms of communication to secure information from the filing entity.

(7) **Life, accident and health insurance.** This section does not apply to Life, Accident and Health. Life, Accident and Health filings shall be made in accordance with the applicable provisions of the Insurance Code and Rules of the Insurance Commissioner.

(8) **Postage requirements.** No submissions shall be accepted which arrive at the offices with postage due. No submissions will be returned unless the necessary postage accompanies the same.

(9) **Filing form and content.** All filings shall be accompanied by a filing memorandum attached to the front thereof, containing the following:

(A) The name of the filing entity and complete mailing address to which correspondence shall be sent.

(B) A "RE" or "caption" briefly describing the content and context of the filing.

(C) A list or index of the forms filed in the filing letter or attached thereto including the form numbers and edition date, if applicable.

(D) A complete description and full explanation of the changes made by the filing including, reasoning therefor, illustrative examples, including "John Doe" specimen form, and a comparison of currently approved and proposed materials.

(E) A concise statement to identify the form to be replaced by the filing including the approval date in this jurisdiction.

(F) If a form is being withdrawn or amended due to court decisions in any jurisdiction, the filing entity shall furnish the legal citation, and if from another jurisdiction, a copy of such decision or opinion with its filing.

(G) If a form filing is due to a federal law or regulation of a federal agency, the filing entity shall furnish the legal citation and a copy of the pertinent provisions.

(H) **Withdrawal of pending filings.** Pending filings may be withdrawn by the filing entity upon notice to the Insurance Commissioner prior to the approval or disapproval thereof.

(10) **Duration of filings.** All filings are in effect until withdrawn by the insurer or rating organization, with approval of the Insurance Commissioner or until abrogated by the Insurance Commissioner.

(11) **Bureau deviations.** Every member of, or subscriber to, a licensed rating organization may adhere to any filings made on its behalf by its Rating Organization, except that any such member or subscriber may deviate from such filings as authorized by this section if it has filed with the Rating Organization and with the Insurance Commissioner, the deviation to be applied and information necessary to justify the deviation. If such deviation is approved, it shall remain in force until such approval is withdrawn by the insurer with approval of the Insurance Commissioner.

(12) **Group filings.** Where filings are made on behalf of more than one insurer, a designation shall list the insurer or insurers by individual name and not by Company group.

(13) **Members of or subscribers to a licensed rating organization.**

(A) **Filings.** A licensed rating organization may make filings on behalf of its members and subscribers except deviation filings.

(B) **Adherence to filings.** Every member of or subscriber to a licensed rating organization may adhere to any filings made on its behalf by such organization except that any such member or subscriber may deviate from such filings upon compliance with this section and approval of the Insurance Commissioner

(C) **Individual company filings.** Members and subscribers shall not file individual forms that have been filed on their behalf by the appropriate rating organization. Declaration pages, policy "jackets" and other forms not normally filed by the rating organization should be filed by the insurer directly with the Insurance Commissioner.

(D) **Filing requirements; bureau form deviation.** If form deviations are proposed, file form including supporting data with the Insurance Commissioner and furnish copies to the appropriate rating organization.

(E) **Agency filings.** "Agency Filings" by a Rating Organization on behalf of its members or subscribers shall be accepted by the Insurance Commissioner in instances where the rating organization does not have a filing in effect for the coverage involved.

(14) **Independent filings.** If the insurer is not a member or subscriber of a bureau for the kind and line of insurance involved, filing shall comply with the following:

(A) File Policy Forms, Endorsements, and other materials, with the Insurance Commissioner and designate them as "Independent Filings".

(B) File support of each filing in accordance with this section.

(C) For revisions, file form with the Insurance Commissioner.

(15) **Reference filings; rating organization filings.**

(A) **Filings permitted without reference filing agreement.** Rating Organization forms used in whole or in part may be adopted by "Reference Filings" subject to the approval of the Insurance Commissioner. When making such type filing submit a filing memorandum identifying the forms used. Departures and exceptions, if any, shall be accompanied by the necessary supporting data. Such adoption shall apply only to current filings and shall have no automatic effect as to future filings. Each rating organization filing shall be separately and specifically adopted.

(B) **Filings permitted with reference filing agreement.** Approved Rating Organization material may be adopted by filing a REFERENCE FILING AGREEMENT with the Insurance Commissioner identifying the forms and material to be used. Such adoption shall apply from the date it is approved by the Insurance Commissioner to filings in effect on that date and to all applicable future filings. It shall remain in effect until such time as the agreement is withdrawn with the approval of the Commissioner.

(C) **Reference filing.** If filing by "Reference Filing" DO NOT file forms.

(16) **Resubmittal of disapproved filings.** All resubmitted filings shall be presented to the Insurance Commissioner in the same manner required by this section for an original filing. In addition the cover letter or filing memorandum addressed to the Insurance Commissioner shall state the full and complete history of the filing, the reason for disapproval, and the factors which distinguish the resubmittal so it warrants reconsideration.

(17) **Retroactive filings.** The Insurance Commissioner has no authority to and shall not approve filings proposing a retroactive effective date except in cases of a filing correcting an error in a previously approved filing and in cases where required or necessitated by Statute.

(18) **Delivery of policy to insured.** In any instance whereby a policy of insurance is effected the insurance shall be furnished with either:

(A) The original policy;

(B) A copy of the original policy or a duplicate policy printed with ten point or larger type; or

(C) A certificate including provisions and conditions of the original policy printed with ten point or larger type.

(19) **Coverage elimination after policy issuance.** Any endorsement which eliminates or restricts coverage and which is issued during the policy term shall be identified as accepted by the insured, by the signature of the insured thereon, and a signed copy (original, computer generated or microfilm) of such endorsement shall be retained in the files of the insurer for one year after the expiration of the policy.

(20) **Uniform standard mortgage clause.** The mortgage clause to be used by Insurance Companies in Oklahoma shall be uniform Standard Form Number 127B September 1934 Edition or subsequent editions, except upon written application by an insurer or rating organization, a cause providing broader coverage may be approved by the Insurance Commissioner.

(21) **Claims-made policies.**

(A) The policy application and the ~~initial~~ Declarations page of each claims-made policy shall include a conspicuous notice indicating that the contract is a claims-made policy and advising the policyholder to read its provisions.

(B) The policy shall provide for extended reporting period options based on rules, rates or rating plans approved by the State Board for Property and Casualty Rates or the Insurance Commissioner.

(22) **New forms, reductions in coverage.**

(A) Form filings that may result in the elimination of claims (losses) shall be considered as a relevant factor to be given due consideration by the State Board for Property and Casualty Rates or the Insurance Commissioner as respects rates in effect or proposed for the coverage involved.

(B) The filer shall fully disclose the rate consideration so that the Board or Commissioner can be notified of the form filing. The form filing may be disapproved if the rate effect has not been considered in rules, rates or rating plans approved by the Board.

*[OAR Docket #03-882; filed 5-7-03]*

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## TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS
## CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #03-821]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
490:1-1-2 [AMENDED]
490:1-3-6 [AMENDED]
**AUTHORITY:**
Oklahoma State Board of Examiners for Nursing Home Administrators; 63, O.S. Sections 330.51 et seq.
**DATES:**
**Comment period:**
November 15, 2002 through December 17, 2002
**Public hearing:**
December 17, 2002

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December 17, 2002
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December 27, 2002
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December 27, 2002
**Submitted to Senate:**
December 27, 2002
**Gubernatorial approval:**
February 7, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on March 25, 2003
**Final Adoption:**
March 25, 2003
**Effective:**
July 1, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The additions are necessary to clarify current language and to update cites from statutory language. These changes will not affect individuals applying for original or renewal of licensure as Nursing Home Administrators.
Addition to 490:1-1-2. definition added.
Amendment to 490:1-3-6. reduces the number of days that sponsors for continuing education programs must submit for review in advance of program.
**CONTACT PERSON:**
H. E. Hendrix, Executive Director, 405-521-0991

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 490:1-1-2. Definitions

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

**"Administrator-In-Training"** (AIT) means a person serving a Board approved Internship within a nursing home under the supervision of a Board approved preceptor.

**"Adult Day Care Center"** or **"center"** means a facility which provides basic day care services to unrelated impaired adults for more than four (4) hours in a twenty-four-hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" or "center" shall not include retirement centers and senior citizen centers [63:1-872].

**"Adverse action"** means any act proposed by the Board denying, refusing to issue or renew a nursing home administrator license, or an action for the suspension or revocation of a nursing home administrator's license.

**"Assisted Living Center"** means any home or establishment offering, coordinating or providing services to two (2) or more persons who:

(A) are domiciled therein;
(B) are unrelated to the operator;
(C) by choice or functional impairments, need assistance with personal care or nursing supervision;
(D) may need intermittent or unscheduled nursing care;
(E) may need medication assistance; and
(F) may need assistance with transfer and/or ambulation [63:1-890.2].

**"Board"** (OSBENHA) means the Oklahoma State Board of Examiners for Nursing Home Administrators.

**"Continuing Education"** means educational opportunities beyond formal education and initial entry level into a profession to enable practitioners to maintain competence, to become aware of new developments and to provide responsible, quality services.

**"Continuum of Care Facility"** means a home, establishment or institution providing nursing facility services as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes and one or both of the following:

(A) assisted living center services as defined in the Continuum of Care and Assisted Living Act; and
(B) adult day care center services as defined in Section 1-872 of Title 63 of the Oklahoma Statutes [63:1-890.2.4].

**"Inactive Status"** means a license which is in good standing, but not current.

**"Intermediate Care Facilities for the Mentally Retarded 16 Beds and Less" (ICF/MR-16)** means small facilities serving the mentally retarded which provide residential accommodations and transitional living training to aid residents in adapting to live in the general society. Resident accommodations are limited to not more than 16 residents, plus any required "live-in" staff. **"License"** means the written permission of the Board authorizing and granting a person the privilege of serving as a nursing home administrator for a specific period of time.

**"Nursing home"** means any home, establishment, or institution in which there is offered or provided, by any person, medical services, skilled nursing care, necessary special dietary service, and personal care and supervision to three or more persons domiciled therein who by reason of physical or mental infirmity may require such service.

**"Nursing home administrator"** means a person who operates, or manages, or supervises, or is in charge of a nursing home and as defined in Title 63 O.S. Section 330.51.2.

**"Owner"** means a person, corporation, partnership, association, or other entity which owns a facility or leases a facility. The person or entity that stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the facility.

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

**"Preceptor"** means a Board approved person who is currently licensed as a nursing home administrator in Oklahoma and is charged with coordinating the training of an Administrator In Training (AIT).

**"Provisional license"** means the temporary authority to serve as nursing home administrator as granted by the Board to an individual of good character who meets appropriate conditions and requirements as prescribed by the Board.

**"Qualified Mental Retardation Professional "(QMRP)** means an individual determined by the State Department of Health, pursuant to Section 483.430, 42 C.F.R., to have at least one (1) year of experience working directly with persons with mental retardation or other developmental disabilities, and be one of the following: a doctor of medicine or osteopathy licensed to practice in this state, a registered nurse, or an individual who holds at least a bachelor's degree in a related field.

**"Residential Care Home"** means any establishment or institution other than a hotel motel, fraternity or sorority house, or college or university dormitory which offers or provides residential accommodations, food service and supportive assistance to any of its residents or houses any resident requiring supportive assistance who are not related to the owner or administrator of the home by blood or marriage. Said residents shall be ambulatory and essentially capable of managing their own affairs, but do not routinely require skilled nursing care or intermediate care.

**"Waiver"** means the intentional, temporary relinquishment of the known right, as established by law, of the Board to require each applicant to meet the minimum standards of the Board.

**490:1-3-6. Training and instruction**

(a) In order to receive OSBENHA recognition and continuing education credit (CEU), continuing education programs shall be submitted to the Board for consideration prior to presentation as indicated at 490:1-3-6.(e)(4). All continuing education programs submitted to the OSBENHA for recognition and continuing education credit hours will be submitted with a $55.00 per credit hour non-refundable approval fee. Approval will be granted only for specific programs for specific dates of presentation. The Board shall not be bound to granting specific continuing education credit should subsequent information come to its attention that program content differed from that approved. Sponsors shall be responsible for obtaining satisfactory documentation of attendance. All programs approved by the National Association of Boards of Examiners of Long Term Care Administrators (NAB) that receive a NAB approval number will be accepted presumptively by OSBENHA for CEU credits.

(b) If the Board finds that programs of training and instruction conducted within the state are not sufficient in number or content to enable applicants for nursing home administrators' licenses and nursing home administrators to meet requirements established by this Board, it shall institute and conduct or arrange with others to conduct one or more such programs and shall make provision for their accessibility to appropriate residents of this state. The Board may approve and conduct programs sufficient to meet educational and training requirements established by the Board.

(c) The Board reserves the right to monitor any or all approved programs.

(d) Criteria for Board program approval:

(1) Relevance of subject matter and adequate facilities:

(A) Must relate to Nursing Home Administration.

(B) Must be designed to promote continued knowledge, skills and attitudes with current standards in nursing home administration.

(C) Assist administrators in the improvement of their professional competencies.

(D) Programs which deal specifically with internal affairs of an organization do not qualify for credit.

(E) Programs must be open and available to all qualified nursing home administrators in Oklahoma.

(F) Program location (facilities) must provide adequate space to accommodate potential attendees and have the ability to provide needed equipment, sound, projectors, etc.

(2) Faculty qualifications:

(A) Must have experience in long term care, supervision and administration or,

(B) Must have expertise in teaching and instructional methods suitable to subject presented or,

(C) Must have suitable academic qualifications and experience for subject presented.

(3) Learning objectives:

(A) Must be reasonable and clearly stated.

(B) Must be stated in behavioral terms, which define the expected outcomes for participants.

(C) Must demonstrate the consistency of content (objectives).

(D) Must identify mechanism by which learning objectives are shared with participants.

(4) Teaching methods:

(A) Must be clearly stated.

(B) Must be appropriate to subject matter, and allow suitable time.

(C) Must describe instructional aids and resource materials utilized.

(5) Sponsors must have expertise in the subject matter presented and should be from one of the following categories:

(A) Accredited educational institutions.

(B) Professional association and/or trade association.

(C) Private educational group.

(6) Registration fee for programs:

(A) Must be published clearly on promotional material.

(B) Fees will be reviewed by OSBENHA.

(7) Evaluation of program:

(A) Sponsor must allow OSBENHA to evaluate program.

(B) OSBENHA will provide evaluation form for each program participant's responses.

(C) OSBENHA will provide a summary of evaluations for each program.

(D) Copies of actual evaluations will be provided to sponsor at additional cost upon request.

(8) Certification of attendance:

(A) Must state method to be used.

(B) To receive full credit, attendees must attend the full program. Partial credit with a minimum of two clock hours may be earned in a divisible program. Program content will be considered by the Board in determining whether partial credit will be granted.

(C) The maximum number of hours which can be earned shall be seven clock hours per day.

(D) Must provide list of participants to OSBENHA.

(9) Instructional hours:

(A) Must be based upon clock hours (60 minutes = 1 clock hour).

(B) Schedule must show registration, meal times (not included in credit hours), and breakdown of daily educational activities.

(10) Target group for programs:

(A) Nursing Home Administrators.

(B) Other disciplines.

(11) OSBENHA reserves the right to evaluate any or all approved programs.

(e) Review process:

(1) All programs will be reviewed by the Education Committee.

(2) The Education Committee will make recommendations to the full Board for approval/or denial.

(3) Types of programs to be reviewed shall be appropriately designed for Nursing Home Administrators.

(4) Sponsors must submit program to OSBENHA ~~45~~ 30 days in advance of program, provided however, that should the Board fail to meet through lack of a quorum or other circumstance, the application will be reviewed at the next meeting of the Board and if approved, hours will be awarded retroactively.

(5) If a program is disapproved, the sponsor is to be notified in writing including the reasons for rejection.

(6) If a program is disapproved, the sponsor has 30 days to appeal in writing. The appeal must include a copy of the original application package and any additional information which the sponsor feels is needed for further clarification.

(7) The committee may recommend approval of a submitted program content or a portion of the program content even though it has been determined that the same content or a portion of the program content has been previously approved by the Board during the current calendar year; however, licensed nursing home administrators who have attended and received credit for such previously approved program that falls into this category shall be denied credit for attending subsequent duplicate programs during the same calendar year.

(8) All programs approved by the NAB will be presumptively approved by the Board.

*[OAR Docket #03-821; filed 4-30-03]*

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## TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS
## CHAPTER 10. RULES AND REGULATIONS FOR NURSING HOME ADMINISTRATORS

*[OAR Docket #03-820]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. Licensing of Nursing Home Administrators
490:10-1-2 [NEW]
490:10-1-4 [AMENDED]
Subchapter 5. Licensure Expiration, Renewal, Denial, Revocation and Suspension
490:10-5-2 [AMENDED]
Subchapter 8. Administrator-In-Training (AIT)
490:10-8-5 [AMENDED]
490:10-8-14 [AMENDED]
**AUTHORITY:**
Oklahoma State Board of Examiners for Nursing Home Administrators; 63, O.S. Sections 330.51 et seq.
**DATES:**
**Comment period:**
November 15, 2002 through December 17, 2002
**Public hearing:**
December 17, 2002
**Adoption:**
December 17, 2002
**Submitted to Governor:**
December 27, 2002
**Submitted to House:**
December 27, 2002
**Submitted to Senate:**
December 27, 2002
**Gubernatorial approval:**
February 7, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on March 25, 2003
**Final Adoption:**
March 25, 2003
**Effective:**
July 1, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The additions are necessary to clarify current language and to update cites from statutory language. These changes will not affect individuals applying for original or renewal of licensure as Nursing Home Administrators.
Addition to 490:10-1-2. definition added.
Amendment to 490:10-1-4. obsolete language deleted
Amendment to 490:10-5-2. reduces the number of continuing education hours required by provisional nursing home administrators for original licensure.
Amendment to 490:10-8-5. adds continuing education clock hours for preceptor participation.
Amendment to 490:10-8-14. amends exemptions for the AIT program
**CONTACT PERSON:**
H. E. Hendrix, Executive Director, 405-521-0991

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

## SUBCHAPTER 1. LICENSING OF NURSING HOME ADMINISTRATORS

**490:10-1-2. Definitions**

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

**"Administrator-In-Training"** (AIT) means a person serving a Board approved Internship within a nursing home under the supervision of a Board approved preceptor.

**"Adult Day Care Center"** or **"center"** means a facility which provides basic day care services to unrelated impaired adults for more than four (4) hours in a twenty-four-hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" or "center" shall not include retirement centers and senior citizen centers [63:1-872].

**"Adverse action"** means any act proposed by the Board denying, refusing to issue or renew a nursing home administrator license, or an action for the suspension or revocation of a nursing home administrator's license.

**"Assisted Living Center"** means any home or establishment offering, coordinating or providing services to two (2) or more persons who:

(A) are domiciled therein;

(B) are unrelated to the operator;

(C) by choice or functional impairments, need assistance with personal care or nursing supervision;

(D) may need intermittent or unscheduled nursing care;

(E) may need medication assistance; and

(F) may need assistance with transfer and/or ambulation [63:1-890.2].

**"Board"** (OSBENHA) means the Oklahoma State Board of Examiners for Nursing Home Administrators.

**"Continuing Education"** means educational opportunities beyond formal education and initial entry level into a profession to enable practitioners to maintain competence, to become aware of new developments and to provide responsible, quality services.

**"Continuum of Care Facility"** means a home, establishment or institution providing nursing facility services as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes and one or both of the following:

(A) assisted living center services as defined in the Continuum of Care and Assisted Living Act; and

(B) adult day care center services as defined in Section 1-872 of Title 63 of the Oklahoma Statutes [63:1-890.2.4].

**"Inactive Status"** means a license which is in good standing, but not current.

**"Intermediate Care Facilities for the Mentally Retarded 16 Beds and Less" (ICF/MR-16)** means small facilities serving the mentally retarded which provide residential accommodations and transitional living training to aid residents in adapting to live in the general society. Resident accommodations are limited to not more than 16 residents, plus any required "live-in" staff.

**"License"** means the written permission of the Board authorizing and granting a person the privilege of serving as a nursing home administrator for a specific period of time.

**"Nursing home"** means any home, establishment, or institution in which there is offered or provided, by any person, medical services, skilled nursing care, necessary special dietary service, and personal care and supervision to three or more persons domiciled therein who by reason of physical or mental infirmity may require such service.

**"Nursing home administrator"** means a person who operates, or manages, or supervises, or is in charge of a nursing home and as defined in Title 63 O.S. Section 330.51.2.

**"Owner"** means a person, corporation, partnership, association, or other entity which owns a facility or leases a facility. The person or entity that stands to profit or lose as a result of the financial success or failure of the operation shall be presumed to be the owner of the facility.

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

**"Preceptor"** means a Board approved person who is currently licensed as a nursing home administrator in Oklahoma and is charged with coordinating the training of an Administrator In Training (AIT).

**"Provisional license"** means the temporary authority to serve as nursing home administrator as granted by the Board to an individual of good character who meets appropriate conditions and requirements as prescribed by the Board.

**"Qualified Mental Retardation Professional" (QMRP)** means an individual determined by the State Department of Health, pursuant to Section 483.430, 42 C.F.R., to have at least one (1) year of experience working directly with persons with mental retardation or other developmental disabilities, and be one of the following: a doctor of medicine or osteopathy licensed to practice in this state, a registered nurse, or an individual who holds at least a bachelor's degree in a related field.

**"Residential Care Home"** means any establishment or institution other than a hotel motel, fraternity or sorority house, or college or university dormitory which offers or provides residential accommodations, food service and supportive assistance to any of its residents or houses any resident requiring supportive assistance who are not related to the owner or administrator of the home by blood or marriage. Said residents shall be ambulatory and essentially capable of managing their own affairs, but do not routinely require skilled nursing care or intermediate care.

**"Waiver"** means the intentional, temporary relinquishment of the known right, as established by law, of the Board to require each applicant to meet the minimum standards of the Board.

**490:10-1-4. Education qualifications of applicants**

(a) Each applicant shall be required to pass a written and/or oral examination in such nursing home administration subjects as the Board may determine.

(b) Endorsement is granted to applicants meeting the same requirements as required by original applicants as approved by the Board ~~or as outlined at 490:10-1-4.(f(1)(B) below~~.

(c) The following are requirements for licensing nursing home administrators:

(1) Applicant may apply directly for Nursing Home Administrator licensure if (s)he meet one of the following criteria:

(A) A Bachelor's or Master's Degree.

(B) A licensed administrator with two years experience in a supervisory position in a nursing facility from another state.

(2) The applicant may obtain an Oklahoma license after passing the Oklahoma State Standards Exam. If the applicant has not previously passed the exam by the National Association of Board of Examiners of Nursing Home Administrators (NAB), the applicant will be required to pass the exam.

(d) Effective January 1, 2001, each applicant must establish to the satisfaction of the Board that the applicant ha successfully completed a four (4) year program and obtain a bachelor's degree from an accredited college or university.

## SUBCHAPTER 5. LICENSURE EXPIRATION, RENEWAL, DENIAL, REVOCATION AND SUSPENSION

### 490:10-5-2. Renewal

(a) Each applicant for a renewal of a license shall file an application as prescribed by the Board and shall provide such evidence of ability and competence to continue as a licensed nursing home administrator as may be required by the Board.

(b) Each applicant for a renewal of a license as a licensed Nursing Home Administrator shall submit evidence satisfactory to the Board that the applicant has successfully completed eighteen (18) clock hours of continuing education in nursing home administration subjects, approved by the Board, within the period of current license.

(c) Provisional license shall not be renewed. In order to receive original license holders of this license are required to successfully complete ~~seven (7)~~ six (6) clock hours of continuing education, if offered during this time period.

(d) Each applicant for the renewal of a license shall file application at least thirty (30) days prior to the expiration date of current license. The Board will, within ten (10) days of the expiration date of the current license, notify the applicant of its intention to renew, reject, or otherwise defer action on the renewal request. A late fee as prescribed by the Board will be paid by applicants who do not file for renewal at least thirty (30) days prior to expiration date of current license.

(e) Failure to receive the renewal application shall not relieve the licensee of the responsibility of renewing the license by the expiration date.

(f) If the license is not renewed by the last day of the year, the licensee does not hold a valid license and shall not hold a nursing home administrator position in Oklahoma until the lapsed license has been reactivated.

(g) Should the nursing home operated by a licensure candidate or administered by a licensed nursing home administrator fail to comply with the Oklahoma State Department of Health requirements for licensure applicable to said facility, the Board may consider such information in determining whether the candidate is suitable for original licensure or licensure renewal.

## SUBCHAPTER 8. ADMINISTRATOR-IN-TRAINING (AIT)

### 490:10-8-5. Preceptor qualifications and agreements

(a) Anyone wishing to be certified as a preceptor for the AIT program may apply to the Board providing such information as the applicant's name, address, licensing history, education, experience, and other information which the Board deems necessary.

(b) To be certified as a preceptor, the applicant must:

(1) exemplify the highest ethical and professional standards administrator for at least twenty-four (24) months;

(2) be licensed and employed as a Oklahoma nursing home administrator for at least twenty-four (24 months;

(3) be the full time administrator of a facility which is licensed by the Oklahoma State Department of Health as a nursing facility or be the Owner/Administrator;

(4) successfully complete a preceptor training seminar/course under the direction of the Board;

(5) be an administrator or owner/administrator of a nursing facility which is currently in substantial compliance with the rules and regulations governing nursing homes;

(6) have not been the subject of any action by any Board or licensing authority which resulted in formal reprimand, suspension or revocation of license;

(7) agree to give the intern an opportunity to observe and take part in the managerial tasks of the preceptor, acquaint the intern with the organization and operation of all the various departments of the facility by permitting his/her observation and/or participation in department activities subject to the training program approved by the Board;

(8) hold an exit interview with the intern upon completion of an internship to point out noted strengths and weaknesses; and

(9) upon satisfactory completion of the program, provide the Board a letter certifying the completion of the required hours of internship.

(c) Certified preceptors who guide the AIT to successful completion of the entire program may earn up to eighteen (18) clock hours of continuing education upon payment of the processing fee.

### 490:10-8-14. AIT exempt status

The Board may waive the AIT program requirement entirely, or portions thereof, for those applicants who show evidence of the following:

~~(1) A bachelor's degree and a minimum of two (2) years experience in a supervisory position in a nursing home, OR~~

(~~2~~1) Successfully completes an internship program which meets or exceeds Board requirements.

(~~3~~2) A registered nurse or licensed practical nurse with a minimum of two (2) years experience in supervision in a nursing home, may be exempt from the nursing department module.

*[OAR Docket #03-820; filed 4-30-03]*

## TITLE 515. PARDON AND PAROLE BOARD CHAPTER 1. PROCEDURES OF THE PARDON AND PAROLE BOARD

*[OAR Docket #03-794]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions [NEW]
515:1-1-1 Purpose [NEW]
515:1-1-2 Definitions [NEW]
Subchapter 3. General Operation [NEW]
515:1-3-1 Office location and hours; communications [NEW]
515:1-3-2 Availability of records [NEW]
Subchapter 5. Notification [NEW]
515:1-5-1 Consideration of Offenders [NEW]
515:1-5-2 Board Recommendation [NEW]
515:1-5-3 Status Updates [NEW]
515:1-5-4 Governor Action [NEW]
Subchapter 7. Meetings [NEW]
515:1-7-1 Attendance [NEW]
515:1-7-2 Public Input [NEW]
Subchapter 9. Correspondence [NEW]
515:1-9-1 Public Correspondence with Members of the Board [NEW]
515:1-9-2 Victims or Victims' Representatives Correspondence [NEW]
515:1-9-1 Public Correspondence with the Agency [NEW]
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515:1-3- Availability of records [NEW]
Subchapter 5. Notification [NEW]
515:1-5-1 Consideration of Offenders [NEW]
515:1-5- Board Recommendation [NEW]
515:1-5-3 Status Updates [NEW]
515:1-5-4 Governor Action [NEW]
Subchapter 7. Meetings [NEW]
515:1-7-1 Attendance [NEW]
515:1-7-2 Public Input [NEW]
Subchapter 9. Correspondence [NEW]
515:1-9-1 Public Correspondence with Members of the Board [NEW]
515:1-9- Victims or Victims' Representatives Correspondence [NEW]
515:1-9-3 Public Correspondence with the Agency [NEW]
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The rules set forth the office location and hours of operation for the Pardon and Parole Board agency. The rules explain that documents are available to the public pursuant to the Open Records Act, except where limited by state law. The rules explain how the Pardon and Parole Board agency notifies District Attorneys and Victims or Victims' Representatives when an offender is being considered for clemency. The rules further explain how District Attorneys and Victims or Victims' Representatives are notified concerning the recommendation of the Board. The rules explain that status updates on offenders recommended for clemency are available weekly on a set day. The rules explain how different law enforcement agencies are to be notified of the Governor's action on a particular offender. The rules set explain that the meetings of the Pardon and Parole Board will be conducted in accordance with the Open Meeting Act and how the meetings are generally scheduled, including how offenders appear before the Board. The rules explain how the public may have input during the meetings, including District Attorneys, Victims or Victims' Representatives and delegations wishing to speak on behalf of offenders. The rules explain how anyone may correspond with members of the Pardon and Parole Board. The rules do not make any actual changes to the way the Board functions or has functioned in the past pursuant to state law.
**CONTACT PERSON:**
Cary Pirrong, General Counsel, Pardon and Parole Board, 4040 N. Lincoln Boulevard, Suite 219, Oklahoma City, Oklahoma 73105-5221, (405) 427-8601, ext. 228

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### SUBCHAPTER 1. GENERAL PROVISIONS

**515:1-1-1. Purpose**

(a) **Purpose.** This Chapter establishes the organization and procedures of the Pardon and Parole Board.

(b) **Scope.** The rules in this Chapter are not intended to limit or expand the authority of the Pardon and Parole Board. The Pardon and Parole Board may address any matter under its authority and change any procedure for good cause.

(c) **Severability.** The repeal or invalidity of any particular rule of this Chapter shall not affect other rules.

**515:1-1-2. Definitions**

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

**"Commutation"** means the change of a punishment to one which is less severe; as from execution to life imprisonment.

**"Jacket Review"** means the review of the investigative report for the offender and is applied to those offenders that do not meet personal appearance criteria as determined by the Policy and Procedures Manual.

**"Parole"** means the conditional release of an offender who has served part of the term for which they were sentenced to prison, provided that such may be revoked if the parolee fails to observe the conditions of parole.

## SUBCHAPTER 3. GENERAL OPERATION

**515:1-3-1. Office location and hours; communications**

(a) **Office.** The principal office of the Pardon and Parole Board is 4040 N. Lincoln Boulevard, Suite 219, Oklahoma City, Oklahoma 73105-5221.

(b) **Hours of operation.** Office hours are from 8:00 a.m. to 5:00 p.m., unless otherwise designated by the Executive Director, each day except Saturday, Sunday and state holidays.

(c) **Communications.** Unless a person is working with a particular person, written communication to the Pardon and Parole Board agency staff shall be addressed to the Executive Director at the principal office.

**515:1-3-2. Availability of records**

(a) **Availability.** Records of the Pardon and Parole Board, not otherwise confidential or privileged from disclosure by law, shall be available to the public for inspection and copying at the Pardon and Parole Board's principal office or other offices during normal business hours. The Pardon and Parole Board may take reasonable precautions in order to ensure the safety and integrity of records under its care.

(b) **Removal.** Records may not be removed from the Pardon and Parole Board's offices without written permission from the Executive Director.

(c) **Reproduction.**

(1) **By the Pardon and Parole Board.** The Pardon and Parole Board may limit the number of copies made and the time and personnel available for reproduction of open records requested by a member of the public or refer the requester to the provisions of paragraphs two (2) and three (3) of this subsection.

(2) **Commercial reproduction.** With written permission from the Executive Director, persons may arrange for the pick-up, reproduction and return of open records by a commercial copying service at their expense.

(3) **Other.** With written permission from the Executive Director and if suitable floor space is available, a requester may bring in and use his own copy machine for the reproduction of open records.

(d) **Confidentiality.** Any person submitting information, data or materials to the Pardon and Parole Board may assert and substantiate a claim of confidentiality upon submission. Absent such assertion and substantiation, information or materials submitted to the Pardon and Parole Board shall be recognized and treated as being available for disclosure. Provided that the following information is considered confidential:

(1) Victim protest letters (including information about the presence of such correspondence)

(2) Correspondence from a person exercising their rights under the State Constitution

(3) Criminal history information not resulting in conviction

(4) Juvenile records

(5) Medical and mental health information, including substance abuse treatment

(6) References to Department of Corrections internal investigations

(7) Pre-sentence investigations

(8) Other information deemed confidential by the Executive Director or General Counsel pursuant to Oklahoma law.

(e) **Certification.** Copies of official records of the Pardon and Parole Board may be certified by the Executive Director or designee.

## SUBCHAPTER 5. NOTIFICATION

**515:1-5-1. Consideration of offenders**

(a) **Internet posting.** A copy of the Regular Parole Docket is posted on the Internet at the Pardon and Parole Board's website: www.ppb.state.ok.us at least twenty days before each meeting and is available to any member of the public.

(b) **District Attorneys.** A copy of the Regular Parole Docket as well as a copy of any Supplemental Docket(s) is posted on a portion of the Pardon and Parole Board's website with access restricted to District Attorneys or their designee.

(1) **Regular Docket.** The Regular Docket will be available at least twenty days before each meeting.

(2) **Supplemental Dockets.** Any Supplemental Docket(s) will be available at least ten days before each meeting.

(3) **Paper copy of docket.** Anyone may request a paper copy of the docket. The request will be filled in a timely manner. The fee schedule will apply to the request, see 515:1-3-4.

(d) **Victims and victims' representatives.** Any victim or victim's representative requesting prior notification of consideration for a specific offender will receive notice of parole consideration at least twenty days prior to the meeting. The Department of Corrections is responsible for notification when an offender is released on parole or due to discharge.

**515:1-5-2. Board recommendation**

(a) **Telephone.** Anyone may call the offices of the Pardon and Parole Board on the Monday following a Board meeting after 2:00 p.m. to inquire about the Board's recommendation on a specific offender.

(b) **Internet posting.** Following a Board meeting results will be posted on the Pardon and Parole Board's website in a timely manner by no later than twenty days after the meeting.

(c) **District Attorneys.** Following a Board meeting results for all dockets will be posted on a portion of the Pardon and Parole Board's website with access restricted to the District Attorneys or their designee.

(d) **Victims and victims' representatives.** Any victim or victims' representative requesting notification of the Board's recommendation will be notified no later than twenty days after the meeting.

**515:1-5-3. Status updates**

The Pardon and Parole Board will give status updates on Offenders recommended for clemency by the Board and awaiting Governor action each Tuesday from 8:30 a.m. to 4:00 p.m. Due to time constraints and deadlines that must be met by the Pardon and Parole Board, status updates are only available during this time.

**515:1-5-4. Governor action**

(a) **Sheriff and District Attorney.** Within ten days after the month of the Governor's action on an Offenders' parole file, the Sheriff and District Attorney in the county of residence will be notified, unless an out of state parole is granted. The Sheriff and District Attorney in the county of sentencing will also be notified, if different from the county of residence.

(b) **Chief law enforcement officer - municipal.** Within ten days after the month of the Governors' action on an Offenders' parole file, the Chief law enforcement officer of the municipality of residence will be notified, unless an out of state parole is granted.

(c) **Victim.** Within ten days after the month of the Governor's action on an Offenders' parole file, any Victim of any crime for which the Offender was convicted who has requested such notification will be notified of the Governor's action.

## SUBCHAPTER 7. MEETINGS

**515:1-7-1. Attendance**

(a) **Public.** Meetings are open to the public, except when exclusion is allowed by law. Admittance may be limited by security regulations as well as the capacity of the meeting room. Meetings are conducted at Department of Corrections facilities and the Department of Corrections is responsible for the security of everyone in attendance. Questions of admittance to the facility hosting the meeting will be determined by the Department of Corrections. Generally, Victims and Victims' Representatives will not appear at the same time as Offenders or their Delegations.

(b) **District Attorneys.** A portion of each meeting will be set aside for the members of the Pardon and Parole Board to hear from District Attorneys and other law enforcement personnel.

(c) **Victims and Victims' Representatives.** A portion of each meeting will be set aside for Victims and Victims' Representatives to address the members of the Board.

(d) **Offenders and Delegations.** A portion of each meeting will be set aside for the members of the Board to hear from and question Offenders and their Delegations.

(1) **Jacket Review.** Those Offenders that are being considered by the Board by Jacket Review may have Delegates appear on their behalf in accordance with the Policies and Procedures of the Pardon and Parole Board.

(2) **Personal Appearance.** Those Offenders making a Personal Appearance before the members of the Board will be allowed to appear along with their delegation in accordance with the Policies and Procedures of the Pardon and Parole Board.

**515:1-7-2. Public input**

(a) **Business meeting.** The monthly business meeting portion of the Pardon and Parole Board's regular meeting will be held on a set day during a set time period as stated in the agenda for the meeting which will be available and posted no later than twenty-four hours prior to each Regular meeting.

(1) **Agenda item.** Only those people listed on the agenda will be allowed to address the members of the Board, without approval from the Chair. The Chair may recognize anyone to speak that is not listed on the agenda.

(2) **Placing item on Agenda.** Anyone may request an item be placed on the Agenda of an upcoming meeting by contacting the Executive Director at least seven days prior to the meeting, the Executive Director will relay the request to the Chair of the Pardon and Parole Board at least three days prior to the meeting for approval to place the item on the Agenda.

(b) **Victims and Victims' Representatives.** Victims and Victims' Representatives may address the members of the Board during the time designated for a maximum of five minutes. No more than two Victims or Victims' Representatives per Offender may appear, and only one will be allowed to address the members of the Board. The Board may hear from more than one Victim or Victims' Representative in cases in which there are multiple victims at the discretion of the Chair. Any Victim or Victims' Representative that appears at the meeting and addresses the Board waives confidentiality with regards to their appearance at the meeting and the statements made during the meeting.

(c) **District Attorneys.** District Attorneys and other law enforcement personnel may address the members of the Board during the time designated. Any law enforcement personnel that is appearing in the capacity of a Victim or Victims' Representative is requested to address the Board during the time designated for Victims and Victims' Representatives rather than during the time designated for law enforcement personnel.

(d) **Offender Delegations.** Delegations on behalf of Offenders may address the Board on the day designated for a

maximum of two minutes. No more than two delegates may appears on behalf of an Offender and only one Delegate will be allowed to address the members of the Board.

(1) **Jacket Review.** Jacket Review Delegations will appear on a designated day and address the Board without the Offender being present. The Board will not make a recommendation concerning the Offender at that time.

(2) **Personal Appearance.** Personal Appearance Delegation will appear on a designated day at a designated time with the Offender present. The Board may make a recommendation concerning the Offender at that time.

(e) **Offenders.** Offenders that are making a personal appearance before the members of the Board may be allowed to address the Board or may be questioned by the members of the Board or a Pardon and Parole Board staff member at the discretion of the Chair. There is no time limit placed on an Offender's personal appearance.

## SUBCHAPTER 9. CORRESPONDENCE

### 515:1-9-1. Public correspondence with members of the Board

Anyone may write to the members of the Board concerning a specific Offender or concerning the business of the Pardon and Parole Board in general. All correspondence to the members of the Pardon and Parole must comply with the following:

(1) **Return address.** All mail must show a valid return address on the outside of the envelope.

(2) **Concerning.** The outside of the envelope must clearly show a brief description of the issue involved if the correspondence is of a general nature or the Name and DOC number of the Offender the correspondence concerns.

(3) **Docket and Month.** The outside of the envelope must also clearly identify the Docket and Month on which the Offender is scheduled to be considered by the Board or the Month the author wishes the issue of a general nature to be addressed by the Board.

(4) **Large packages.** The mailing of large packages to the members of the Board is not recommended. Envelopes should be no larger than 10" X 13". Standard letter size envelopes are preferred.

(5) **Registered Mail.** Registered Mail should not be used when corresponding with Board members.

### 515:1-9-2. Victims or Victims' Representatives correspondence

Victims or Victims' Representatives contesting the possibility of favorable action by the Board concerning an Offender are not required to indicate on the outside of the envelope that they are "protesting" the named Offender, nor are they required to indicate that they are a Victim or Victims' Representative on the outside of the envelope.

### 515:1-9-3. Public correspondence with the agency

Anyone may send written correspondence to the Pardon and Parole Board agency at any time.

(1) **Public record.** All written correspondence received by the Pardon and Parole Board agency is a public record unless declared confidential by applicable state law.

(2) **Response.** The staff of the Pardon and Parole Board will respond to any correspondence that requires a response. The Executive Director has the authority to determine what correspondence requires a response.

*[OAR Docket #03-794; filed 4-28-03]*

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# TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #03-835]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
590:1-1-5. Retirement Coordinators [AMENDED]
590:1-1-6. Hearing procedures [AMENDED]
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Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., § 909(2) and 913.5
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**ANALYSIS:**
590:1-1-5. Retirement Coordinators
[74 O.S. Section 909(2)]
The rule amendment clarifies that Retirement Coordinators are employed by and under the authority of each participating employer, and that the Retirement Coordinators are not an employee of the Oklahoma Public Employees Retirement System and the responsibilities of each Coordinator to familiarize themselves with the Plan provisions.
590:1-1-6. Hearing procedures
[74 O.S. Section 909(2)]
This rule amendment provides minor changes to the hearing procedures to improve the process. It provides that a Prehearing Conference will be held before each hearing to ensure that all parties are informed and prepared for the

hearing. The rule also provides that a stenographic record will be made by a competent court reporter at the System's expense.

**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., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

**590:1-1-5. Retirement Coordinators**

(a) Retirement Coordinators shall be appointed for each participating county, city, town or county hospital and each State agency to serve as a representative between the Retirement Board and the participating Employer.

(b) These Retirement Coordinators shall be responsible for the enrollment, assistance of the completion of forms, and instructions to the members on behalf of the participating employer relating to the Oklahoma Public Employees Retirement System.

(c) The Retirement Coordinator shall be responsible for insuring that each participating member of the System is provided a copy of the most current Member Handbook, each year's Summary Annual Report, and all other official notices from the System. Each Retirement Coordinator shall establish and maintain sufficient documentation to verify compliance with this rule, and shall furnish said verification upon request by the System.

(d) The Retirement Coordinator is employed by and under the authority of each participating county, city, town or county hospital and each State agency and is not an employee of the System. The System will make available information and training opportunities, however, it is the responsibility of the Coordinator to become familiar with the Plan provisions and keep abreast of all changes and amendments. Neither the System nor the Board will be liable for or bound by any mistakes, errors or misrepresentations of the Retirement Coordinators.

**590:1-1-6. Hearing procedures**

(a) **Request for hearing.** Any decision of the System may be appealed to the Board of Trustees. The member or beneficiary must appeal the decision of the System within thirty (30) days of receipt of notification of denial by the System. The appeal shall set forth, in writing, the applicable facts and relevant law in support of the request for a hearing. For purposes of this rule, the System includes the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices & Judges, the Oklahoma State Employees Deferred Compensation Plan, and the Oklahoma State Employees Deferred Savings Incentive Plan.

(b) **Assignment of hearing.** Appeals to the Board of Trustees will be assigned to a hearing examiner, who will conduct an evidentiary hearing and prepare a proposed order for the Board of Trustees. The Chairman of the Board of Trustees or his/her designee shall appoint the hearing examiner from a list of individuals previously selected by the Board of Trustees to act in this role. The Executive Director shall have authority for the purpose of the evidentiary hearing to issue subpoenas for witnesses or subpoenas duces tecum to compel the production of books, records, papers and other objects, which subpoenas may be served by any duly qualified officer of the law or any employee of the Board in any manner prescribed for the service of a subpoena in a civil action.

(c) **Prehearing Conference; Briefing.** A Prehearing Conference ~~may be requested by the parties~~ will be scheduled to determine the legal or factual issues. ~~If requested, the~~ The Prehearing Conference shall be conducted at least seven (7) days prior to the evidentiary hearing, unless waived by the parties. Prior to the hearing before the hearing examiner, each party shall be afforded the opportunity to present a written brief setting forth the party's position to be included as part of the record.

(d) **Transcript.** ~~Upon a written request reasonably made by a person affected by the hearing at such person's expense, the~~ The System shall cause a full stenographic record of the hearing(s) to be made by a competent court reporter. If transcribed, such record shall be a part of the record of the hearing(s), and a copy of such stenographic record shall be furnished to any other party having a direct interest therein at the request and expense of such party.

(e) **Evidentiary hearing procedure; Rehearing.** Evidentiary hearings will be conducted under the provisions of the Administrative Procedures Act [75 O.S. 250 et. seq.]. Any party shall at all times have the right to counsel, provided that such counsel must be duly licensed to practice law by the Supreme Court of Oklahoma, and provided further that such counsel shall have the right to appear and act for and on behalf of the party he/she represents. All hearings shall take place in the offices of the Public Employees Retirement System. Any party to the evidentiary hearing is expected to provide timely notice to all of the other parties if a delay or failure to appear is anticipated. Opportunity shall be afforded to all parties to respond and present evidence and arguments on all issues involved. The party requesting the hearing shall be heard first; those who oppose the relief sought by the requesting party shall be heard next. Once the hearing examiner receives all evidence, arguments and briefs, the record shall be closed. The hearing examiner may grant a rehearing, reopening or reconsideration of the evidentiary hearing upon a showing of good cause by either party prior to the date of the meeting before the Board of Trustees.

(f) **Scheduling of deadlines and Board Meeting.** Prior to the close of the evidentiary hearing, each party shall be permitted to submit a proposed schedule including deadlines for filing of objections, responses to objections, and the date of the hearing before the Board of Trustees. After the parties have been afforded an opportunity to submit their proposed schedules, the hearing examiner shall produce, before adjourning the evidentiary hearing, a schedule of deadlines for filings and the date of the hearing before the Board of Trustees.

(g) **Hearing Examiner's authority.** The presiding hearing examiner may:

(1) Establish the scheduling order for the hearing which will include all time lines and deadlines for filings and the date of hearing before the Board of Trustees;
(2) Rule on any requests for an extension of time;
(3) Rule on motions and other procedural items;
(4) Regulate the course of the hearing, rule on the admissibility of all evidence, and regulate the conduct of the participants;
(5) Request additional briefs, from either or both parties, on issues and/or law as may be reasonably necessary;
(6) Take official notice of any material fact not appearing as evidence in the record, if the fact is among traditional matters of judicial notice;
(7) Administer oaths or affirmations;
(8) Recess and reconvene the hearing;
(9) Order the proceedings to be expedited in the event of severe financial hardship.

(h) **Proposed order.** Each party shall be permitted the opportunity to submit a proposed order, including findings of fact and conclusions of law, to the hearing examiner at the close of the hearing. After the close of the record, the hearing examiner shall prepare a proposed order to be delivered to the Board of Trustees. This proposed order shall include findings of fact, based exclusively on the evidence and on matters officially noted in the record of the hearing, conclusions of law and a recommended order to the Board of Trustees. A copy of this proposed order shall be provided to all parties by the System as soon as practical, and at least fifteen (15) days prior to the Board Meeting. The parties may waive the fifteen (15) day requirement by written stipulation.

(i) **Objections to proposed order.** The parties shall have the right to file a written statement outlining any objections, exceptions and/or arguments they desire the Board of Trustees to consider in its consideration of the hearing judge's proposed order. This statement must be filed with the System within the time limit prescribed by the hearing examiner and shall be provided to the other party. A party which fails to file a written statement outlining any objections, exceptions and/or arguments prior to the deadline waives the opportunity to object to the adoption of the proposed order by the Board of Trustees. The parties may prepare a written response in rebuttal to the other party's objecting statement. A copy of any response shall be filed with the System within the time limit prescribed by the hearing examiner and provided to the other party ~~at any time~~ prior to the Board of Trustees' meeting. The parties may not introduce additional evidence or materials in the written objections or in the responses.

(j) **Board of Trustees' hearing procedure.** When the proposed order comes before the Board of Trustees for consideration, the parties shall be afforded an opportunity to make a brief statement to the Board concerning the facts and any arguments he/she wishes to present and will be allowed to respond to questions from Trustees. In addition to oral argument, the Board may review the complete record, including a transcript of the original hearing conducted by the hearing examiner and all documentary evidence, and/or remand the case to receive additional evidence and testimony. The Chairman of the Board of Trustees will have final authority to set the amount of time any party may have to present information to the Board.

(k) **Final order.** After consideration of the record and arguments, both oral and written, the Board shall accept, reject or modify the proposed order. If the Board does find the facts to be in error or incomplete, the Board shall remand the case, with instructions, to the hearing examiner for further evidentiary hearing. A copy of the Board's final order will be delivered via mail to the member and/or the member's representative by the System within fifteen (15) days of final action by the Board of Trustees. As in all matters before the Board, seven (7) votes are necessary to approve any motion, resolution or order under consideration.

(l) **Appeal; Rehearing.** Any party receiving an adverse final order from the Board retains certain rights under the Administrative Procedures Act. The member may file an action for judicial review in the District Court of Oklahoma County. Such action must be filed within thirty (30) days after the aggrieved party is notified of the Board's order. The member may also file an application for a rehearing, reopening or reconsideration of the decision of the Board. The application must be filed with the System within ten (10) days from the date of the Board's decision and must be in compliance with 75 O.S. §317.

(m) **Settlement.** Unless precluded by law, informal disposition may be made of any individual proceedings by stipulation, agreed settlement, consent order, or default. The Executive Director shall report to the Board of Trustees any settlement that occurs after the hearing judge's proposed order is filed.

(n) **Expedited proceedings.** A decision by the System that a member or beneficiary does not meet the requirements for a severe financial hardship for the System's deferred compensation plan or a decision that has created a severe financial hardship under any other of the System's plans may be appealed for review before a hearing examiner. The parties may stipulate to expedite proceedings. In the event the parties do not agree to expedite the proceedings, the aggrieved party may make a motion to expedite proceedings to the hearing examiner. The hearing examiner shall rule on the party's request for expedited proceedings within seven (7) days after the filing of the motion with the System. The parties shall also be permitted to submit a proposed schedule of the proceedings in the event the hearing examiner does grant the motion. In the event the hearing examiner grants the motion, the hearing examiner shall also produce an expedited schedule of the proceedings to be implemented. In all other aspects, the hearings and proceedings shall be conducted in a similar manner to that of normal hearings and proceedings.

(o) **Prohibited communication.** The Administrative Procedures Act prohibits direct or indirect communications by any party and/or the representatives of a party with the hearing examiner and the Board of Trustees in connection with any issue of fact or law regarding an appeal before the hearing examiner or Board, except upon notice which provides an opportunity for all parties to participate. The hearing examiner and the Board of Trustees will not consider any evidence or statements

made to them by a party and/or the representatives of a party in connection with a pending appeal.

*[OAR Docket #03-835; filed 5-2-03]*

## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

*[OAR Docket #03-836]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
590:10-1-4. Health insurance contribution [AMENDED]
590:10-1-9. Receipt of documents [AMENDED]
590:10-1-11. De minimis provisions [AMENDED]
590:10-1-15. Hazardous Duty Members [NEW]
Subchapter 3. Credited Service
590:10-3-6. Full-time-equivalent employment [AMENDED]
590:10-3-10. Incentive credit [AMENDED]
Subchapter 7. Retirement Benefits
590:10-7-3. Longevity and other annual lump-sum payments [AMENDED]
590:10-7-9. Fractional year computations [AMENDED]
590:10-7-15. Post-retirement employment [AMENDED]
Subchapter 9. Survivors and Beneficiaries
590:10-9-3. Divorced spouse beneficiaries [AMENDED]
Subchapter 11. Transported and State Portable Service Credit
590:10-11-1. Transported service credit [AMENDED]
**AUTHORITY:**
Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., § 909(2) and 913.5
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Subchapter 7. Retirement Benefits
590:10-7-3. Longevity and other annual lump-sum payments [AMENDED]
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N/A

**ANALYSIS:**
Subchapter 1. General Provisions
590:10-1-4. Health insurance contribution
[74 O.S. Section 921(C)]
The rule amendment will add other eligible group health insurance plans to the State and Education Employees Group Insurance Plan to the list of permissible payees from the Retirement Medical Benefit Fund in order to provide a health insurance premium benefit pursuant to recent legislative amendments to 74 O.S. §1316.2.
590:10-1-9. Receipt of documents
[74 O.S. Section 909(2)]
The rule amendment clarifies the method of calculation for the date of receipt for certain documents received by OPERS.
590:10-1-11. De minimis provisions
[74 O.S. Section 909(2)]
The rule amendment provides that the System may pay contributions not in excess of $500.00 to an individual who is claiming such amount on behalf of a member's estate when the System is unable to make the payment to a named beneficiary only after making reasonable efforts to do so. It allows the System to make such payments without subjecting the claimant to costly probates or other legal proceedings, which in many cases make claiming such a minimal amount cost-prohibitive.
590:10-1-15. Hazardous Duty Members
[74 O.S. Section 909(2)]
The new rule defines hazardous duty members to be those members who participate in hazardous duty employment with a participating employer and certain rights and obligations of those members.
Subchapter 3. Credited Service
590:10-3-6. Full-time-equivalent employment
[74 O.S. Section 909(2)]
The rule amendment expands the examples of what will not be considered full-time-equivalent employment. In 2001, Title 74 O.S. §913.8 was enacted to provide for the purchase of military service credit, and this clarifies that it will not be considered full-time-equivalent employment unless the purchase is pursuant to the Uniformed Services Employment and Reemployment Rights Act.
590:10-3-10. Incentive credit
[74 O.S. Section 909(2)]
The rule amendment clarifies who is eligible to purchase incentive credit as a result of recent plan amendments. The rule also adds Hazardous Duty Members to the list of those who have the option to purchase incentive credit, under certain limited circumstances.
Subchapter 7. Retirement Benefits
590:10-7-3. Longevity and other annual lump-sum payments
[74 O.S. Section 902(18)]
The rule amendment provides that lump-sum annual payments, other than longevity payments, that are included within the definition of compensation for retirement purposes will be averaged out over the past twelve (12) months in computing the final average compensation of a member. This is a current emergency rule.
590:10-7-9. Fractional year computations
[74 O.S. Section 909(2)]
The rule change provides for the manner of calculating fractional year computations for Hazardous Duty Members and elected officials who contribute on a higher employee contribution rate on years of service that are not full years, to avoid losing service credit.
590:10-7-15. Post-retirement employment
[74 O.S. Section 909(2)]
The rule amendment provides that retirees who return to work will have their retirement benefit recalculated only upon termination of employment after completion of thirty-six (36) consecutive months of full-time-equivalent employment.
Subchapter 9. Survivors and Beneficiaries
590:10-9-3. Divorced spouse beneficiaries
[74 O.S. Section 909(2)]
The rule change provides that designations of beneficiaries to a divorced spouse of accumulated employee contributions or the death benefit will be void only if the System receives the divorce decree. The rule applies to all plans administered by the Board of Trustees.
Subchapter 11. Transported and State Portable Service Credit
590:10-11-1. Transported service credit
[74 O.S. Section 909(2)]
The rule has no substantive change. The language of the rule is being "cleaned up."

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS

**590:10-1-4. Health insurance contribution**

The Oklahoma Public Employees Retirement System shall contribute the amount required by law towards the cost of health insurance coverage under the State and Education Employees Group Insurance Plan or other eligible group health insurance plans only for retirants who actually receive a monthly retirement benefit for that month. This contribution shall not be made for beneficiaries, survivors or directly to the retirant.

**590:10-1-9. Receipt of documents**

Except as provided in 590:10-1-7 and 590:10-7-6 of these rules and except for the Retirement Notice and Application form, any ~~Any~~ notices, letters, payments or other documents will be considered received on the date actually received in the offices of the System, as evidenced by the OPERS date stamp, or the date of postmark on the envelope, whichever is earliest.

**590:10-1-11. De minimis provisions**

(a) In any circumstance involving an error or miscalculation concerning a retirement account, record or benefit, including, but not limited to contributions and interest, in the amount of $25.00 or less, the System shall not be required to correct such error or miscalculation, solely at the discretion of the System. The System shall also not be required to make efforts to contact inactive members or beneficiaries if the total amount due to said member or beneficiary is $25.00 or less, however, said amount shall remain payable to the member or beneficiary upon his or her request. This amount of $25.00 or less is determined to be de minimis due to the cost in manpower, postage, copying and other reasonable expenses to calculate, invoice, collect or correct such error or miscalculation would exceed the de minimis amount to be corrected. This de minimis amount may be utilized in any plan or account managed or administered by the Board.

(b) In any circumstance involving a payment to be made by the System which represents employee contributions in the amount of $500.00 or less, where the member is deceased and has not named a beneficiary, the beneficiary is deceased or where the beneficiary cannot be located, the System may pay to any person claiming such amount on behalf of the member's estate, solely at the discretion of the System. This provision shall be applicable only after the System has made reasonable efforts to locate a named beneficiary and has been unable to do so. This amount of $500.00 or less is determined to be de minimis and reasonable in order to permit the System to make payments which would otherwise remain with the System due to the inability to locate a beneficiary or the cost to probate the member's estate. This de minimis amount may be utilized in any Plan or account managed or administered by the Board.

**590:10-1-15. Hazardous Duty Members**

Hazardous Duty Members are considered to be those members who participate in hazardous duty employment with a participating employer and who are authorized by law to participate in a special benefit structure within the System, wherein the Hazardous Duty Member makes a higher employee contribution than regular employee members and is eligible for specified retirement benefits after 20 years of service as a Hazardous Duty Member.

## SUBCHAPTER 3. CREDITED SERVICE

**590:10-3-6. Full-time-equivalent employment**

Full-time-equivalent employment is a term which refers to a member's actual employment with a participating employer of the System. Full-time equivalent employment with a participating Employer must have been service for which required contributions have been paid the System.

(1) Members obtain full-time equivalent employment in two ways:

(A) actual employment with a participating employer of the System, while participating and paying contributions to the System; and/or

(B) making certain types of purchases of service credit which represent actual employment with a participating employer of the System.

(2) Each hour for which retirement contributions are paid shall credit the member with one (1) hour of full-time equivalent employment. 173 hours shall constitute one month of full-time equivalent employment.

(3) Examples of service and/or employment which does not constitute full-time equivalent employment include, but are not limited to: overtime, leave without pay, unused sick leave, bonus years, temporary or seasonal employment, prior service or military service granted free of charge, purchased military service credit other than purchases pursuant to the Uniformed Services Employment and Reemployment Rights Act, service purchased from another retirement system including transported service, and purchased incentive, severance or termination credit.

(4) Examples of service and/or employment which does constitute full-time equivalent employment include, but are not limited to: purchased prior service, repayment of withdrawn contributions, purchase of elected service, purchased temporary total disability credit, purchases pursuant to the Uniformed Services Employment and Reemployment Rights Act, and delinquent service paid for by the employer.

**590:10-3-10. Incentive credit**

Pursuant to 74 O.S. §913(b) certain eligible members of the System may purchase up to two (2) full years of incentive credit at actuarial value.

(1) Incentive credit may be used as participating service or addition to age.

(2) Members are eligible for purchase of up to 2 years of credit (24 months).

(3) Employees who are between the ages of 53 and 62, ~~or~~ who have accumulated at least 78 points toward the Rule of 80, <u>or who have accumulated at least 88 points towards the Rule of 90</u> are eligible for this purchase. Elected officials may purchase incentive credit to qualify for the Rule of 80 only. <u>Hazardous Duty Members may purchase incentive credit to qualify only for the Rule of 80 or 90 or for early retirement.</u>

(4) Incentive credit can not be used as full time equivalent employment. Members must have at least 4 years of the required 6 years of full time equivalent employment in order to be eligible for this purchase.

~~(5) Correctional Officers between the ages of 48 and 50 may purchase up to two (2) years but only if they have twenty (20) years full time equivalent employment as a correctional or probation or parole officer.~~

(~~6~~<u>5</u>) Members must be active and participating at the time of purchase.

(~~7~~<u>6</u>) This purchase may be amortized over sixty (60) months as provided for in 590:10-3-9.

(~~8~~<u>7</u>) Although this was enacted as a retirement incentive, there is no requirement that members must retire if they make this purchase.

## SUBCHAPTER 7. RETIREMENT BENEFITS

**590:10-7-3. Longevity <u>and other annual lump-sum</u> payments**

<u>(a)</u> Only three (3) highest annual longevity payments will be added into the sum of three years of salary (thirty-six months) used in computing the final average compensation. If a retiring member is scheduled to receive a prorated longevity payment at or near the effective date of retirement, the prorated longevity payments will be used only in the amount actually paid and if it is one of the three highest longevity payments. The final average salary shall not be reduced if the annual longevity payment causes any one month's salary to exceed the maximum monthly compensation level, provided the annual salary including longevity does not exceed the maximum compensation level.

<u>(b) Other lump-sum annual payments that are included as compensation for retirement purposes, shall be averaged over the previous twelve (12) months of salary immediately preceding the month of payment for use in computing the final average compensation. These lump-sum payments include those which are paid on an annual basis at the discretion of the employer such as performance or skill based pay adjustments.</u>

**590:10-7-9. Fractional year computations**

(a) Title 74 O.S. ~~94 Supp.,~~ §913~~(3)~~<u>(C)</u> provides that a fractional year of six (6) months or more shall be considered as one (1) year, and less than six (6) months shall be disregarded. This round-up provision may be used one time for credited service of a member to establish the benefit of said member. This rule is necessary to prevent the gain or loss of service credit to a member. In no event shall the rounding up provisions apply if it would result in any member receiving an additional year or years that the member would not otherwise be entitled to.

(b) Title 74 O.S. ~~94 Supp.,~~ §915 A~~(2)~~ provides for the computation of retirement benefits of Department of Corrections Correctional and Pardon and Parole Officers at 2.25% for certain credit prior to July 1, 1990, and 2.50% for certain credit after July 1, 1990, and at 2% for all other credit.

(1) Such members may retire with fractional years of service credit in the 2.25% and the 2.50% categories and the statutes only provide for computation at these rates on full years of service. Due to the fact that only the total credited service can be rounded up, some members may face losing a year of service credit when the fractional years of credit are disregarded.

(2) To prevent such a loss of service credit, the fractional portions of years in the 2.25% and the 2.50% categories will be added to the years of credit used in the 2% category and rounded up therein, if applicable. If a member still loses a year of service credit after adding the fractional years to the 2% category, the fractional years may be added to the 2.25% category and rounded up therein, if applicable.

(c) Title 74 O.S. 94 Supp., §915 A~~(1)~~ provides for the bifurcated computation of compensation and service credit for both Pre-July 1994 and Post July 1994 for those members with a retirement date prior to July 1, 1998. As a result, these rules are necessary to implement this calculation.

(1) Members may retire with fractional years of service credit in the pre-July 1994 and/or the post-July 1994 divisions of service and the statutes provide for computation of the benefits using full years of service. Because only credited service may be rounded up, members may lose a year of service credit when fractional years are disregarded.

(2) To prevent members losing service credit, the fractional years of pre-July 1994 service will be added to the post-July 1994 service and the post-July 1994 service will be rounded up if applicable.

(3) Members who retire with less than one year of service credit after July 1994 (less than six months) and whose fractional years of service credit do not round up when added together, will have both pre-July 1994 and post-July 1994 benefits computed using the actual number of years and months of service. The months will be expressed in fractions of a full year.

<u>(d) Hazardous Duty Members who elect to participate or are required to participate at the higher employee contribution rate will receive retirement benefits at the 2.5% category only on full years of service as Hazardous Duty Members for which the higher contributions have been paid. The fractional portions of years in the 2.5% category will be added to any other service</u>

credit, calculated in the 2% category and rounded up therein, if applicable, for the computation of the retirement benefit.

(e) Elected officials who do not participate in an elected status for at least six (6) full years will receive retirement benefits only on full years of elected service and calculated on the computation factor assigned for the contribution rate the official paid. Any fractional portion of an elected year of service credit or any non-elected service credit will be calculated using the 2.0% computation factor.

(f) Elected officials who participate at more than one contribution rate during their elected service will receive retirement benefits calculated using (1) the computation factor assigned for each contribution rate paid and (2) the highest annual salary for which that particular contribution rate was paid for each full year of elected service credit. Fractional years of elected service credit will be added to the years of elected service for which the highest contribution rate was paid and rounded up therein, if applicable, for the computation of the retirement benefit.

**590:10-7-15. Post-retirement employment**

(a) A year of post-retirement service shall be determined as 2076 hours of participation. All retirants who have post-retirement service with a participating employer and are eligible for an additional monthly benefit on or after January 1, 2000, pursuant to 74 O.S. 99 Supp. Section 914 (E) shall have said additional benefit calculated using the actual hours worked and reported and the actual compensation reported for which contributions have been paid for each 2076 hour period. Each 2076 hour period shall be calculated separately and benefits added each January 1 as appropriate. All applicable option and early retirement reductions selected by the member at the time of retirement shall be applied to the additional benefit.

(b) The initial addition of post-retirement benefits shall be made effective with the January, 2000 benefit payment. The additional benefits shall be cumulative and paid for the initial period to the extent OPERS can identify and verify post-retirement participation. Post-retirement employment for which the retired member has previously been granted additional benefits or for which a refund of contributions has been made will not be included.

(c) The addition of post-retirement benefits shall be available to retirants who remain members on or after July 1, 1999. Joint Annuitant benefits shall be increased only if the member would have otherwise been eligible for the increase in benefits.

(d) For those retirants who have returned to employment with a participating employer and waived receipt of their monthly retirement benefit pursuant to 74 O.S. Section 914 (E), retirement benefits will be recalculated only upon termination of employment after completion of thirty-six (36) consecutive months of full-time-equivalent employment, as that term is defined under 590:10-3-6 of these rules.

## SUBCHAPTER 9. SURVIVORS AND BENEFICIARIES

**590:10-9-3. Divorced spouse beneficiaries**

All designations of beneficiaries to a divorced spouse of accumulated employee contributions or the death benefit will be void, unless the divorced spouse has been named after the divorce decree is rendered or if the divorce decree specifies the divorced spouse is entitled to receive the benefits. The System shall void such designation of beneficiary only upon receipt of the divorce decree. The System is not responsible for any payments made in good faith without notice of divorce. The provisions of this rule are applicable for any Plan or account managed or administered by the Board.

## SUBCHAPTER 11. TRANSPORTED AND STATE PORTABLE SERVICE CREDIT

**590:10-11-1. Transported service credit**

All service which is credited to a member pursuant to 74 O.S. ~~94 Supp.,~~ Section 913 ~~(F.)~~(G) or transferred out of OPERS pursuant to 70 O.S. ~~94 Supp.,~~ Section 17-116.2 (L.) shall be called transported service. Such transported service shall be governed by those statutory provisions and the rules contained in this subchapter.

*[OAR Docket #03-836; filed 5-2-03]*

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# TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 25. DEFERRED COMPENSATION

*[OAR Docket #03-837]*

**RULEMAKING ACTION:**
PERMANENT final adoption

**RULES:**
Subchapter 1. General Provisions
590:25-1-3. Definitions [AMENDED]
Subchapter 3. Election to Defer Compensation
590:25-3-1. Election limits [AMENDED]
590:25-3-3. Discontinuation [AMENDED]
Subchapter 5. Assets, Credits, Accounts and Reports
590:25-5-1. Remittance [AMENDED]
590:25-5-8. Establishment of Accounts [AMENDED]
590:25-5-10. Valuation of Accounts [AMENDED]
Subchapter 9. Benefits
590:25-9-8. Death [AMENDED]
590:25-9-9. Designated beneficiary [AMENDED]
590:25-9-13. Plan-to-plan transfers [AMENDED]
590:25-9-16. Rollovers from other plans [AMENDED]
590:25-9-19. Transfers and rollover completion [NEW]
Subchapter 13. ~~Agents~~ Administration Functions of the Plan [AMENDED]
590:25-13-1. Administrative staff [AMENDED]
590:25-13-2. Deferred Compensation Coordinator [AMENDED]
590:25-13-3. Completing forms

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Subchapter 1. General Provisions
590:25-1-3. Definitions
[74 O.S. Section 1701(B)]
The rule amendment adds the employees of the Medical Technology and Research Authority of Oklahoma to the list of members who can participate in the Oklahoma State Employees Deferred Compensation Plan.
Subchapter 3. Election to Defer Compensation
590:25-3-1. Election limits
[74 O.S. Section 1701(B)]
The rule change requires that employees defer a minimum of an amount equivalent to at least $25.00 per month and adds that the maximum amount is that amount as determined by the Internal Revenue Service or 100% of the employee's includable compensation. It also eliminates obsolete and unnecessary language.
590:25-3-3. Discontinuation
[74 O.S. Section 1701(B)]
The rule amendment allows employees to make changes to their deferrals by authenticated notice to the Oklahoma State Employees Deferred Compensation Plan. Authenticated is defined within the rule.
Subchapter 5. Assets, Credits, Accounts and Reports
590:25-5-1. Remittance
[74 O.S. Section 1701(B)]
The rule change contains no substantive amendments. The language of the statute is amended for clarification purposes only.
590:25-5-8. Establishment of Accounts
[74 O.S. Section 1701(B)]
The rule amendment provides that the plan administrator is to maintain certain records on a calendar quarter-end basis only, with such records made available for a period of three (3) years.
590:25-5-10. Valuation of Accounts
[74 O.S. Section 1701(B)]
The rule change provides that the recordkeeper is to maintain daily account valuations for a period of one (1) year and thereafter, the account valuation records will be kept for a period of three (3) years on a calendar quarter-end basis.
Subchapter 9. Benefits
590:25-9-8. Death
[74 O.S. Section 1701(B)]
The rule change gives the beneficiary an opportunity, in certain limited circumstances, to select a settlement option in accordance with Plan provisions.
590:25-9-9. Designated beneficiary
[74 O.S. Section 1701(B)]
The rule amendment gives designation of beneficiary opportunities to a beneficiary of a participant who has died that are similar to those opportunities given to the participant prior to death.
590:25-9-13. Plan-to-plan transfers
[74 O.S. Section 1701(B)]
The rule change specifies that transfers of funds into the Oklahoma State Employees Deferred Compensation Plan from other §457 plans will not be accepted unless the other §457 plan has the same tax accounting or distribution rules to eliminate complex tax reporting requirements.
590:25-9-16. Rollovers from other plans
[74 O.S. Section 1701(B)]
The rule amendment specifies that rollovers from other plans into the Oklahoma State Employees Deferred Compensation Plan will not be accepted unless the other plan has the same tax accounting or distribution rules to eliminate complex tax reporting requirements.
590:25-9-19. Transfers and rollover completion
[74 O.S. Section 1701(B)]
The new rule requires the necessary paperwork for rollovers and plan-to-plan transfers to be completed before the transfers or rollovers will be accepted by or paid by the Oklahoma State Employees Deferred Compensation Plan.
Subchapter 13. ~~Agents~~ Administration Functions of the Plan
590:25-13-1. Administrative staff
[74 O.S. Section 1701(B)]
The rule amendment gives the Executive Director the ability to designate persons who may sign vouchers or warrants for the Oklahoma State Employees Deferred Compensation Plan.
590:25-13-2. Deferred Compensation Coordinator
[74 O.S. Section 1701(B)]
The rule change clarifies that Coordinators are not employees of the Oklahoma State Employees Deferred Compensation Plan and that the Coordinators have the responsibility to familiarize themselves with the plan provisions.
590:25-13-3. Completing forms
[74 O.S. Section 1701(B)]
The rule amendment recognizes technological advances to allow applicants who want to participate in the Oklahoma State Employees Deferred Compensation Plan to obtain applications and other forms from the Plan Administrator, from the Plan website, or the Recordkeeper in addition to the option to obtain the forms for the Coordinator.
**CONTACT PERSON:**
Lydia Lee, Attorney and General Counsel, Oklahoma Public Employees Retirement System, 6601 N. Broadway Extension, Suite 129, Oklahoma City, Oklahoma 73116, 405-858-6737

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 590:25-1-3. Definitions

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 8 of Subchapter 5 of Chapter 25.

**"Amendments, alterations and changes"** means all Annuities, Mutual Fund(s), and Savings contracts can be altered, amended, changed or substituted for, from time to time by action of a majority of the Board and such altered, amended, changed, or substituted contract or contracts thereafter shall be used in the Plan.

**"Beneficiary"** means beneficiary or beneficiaries designated by the Participant in his Agreement with the Employer. If more than one designated beneficiary survives the participant, payments shall be made equally to the surviving beneficiaries unless otherwise provided in the Agreement. Nothing herein shall prevent the Participant from designating primary and secondary beneficiaries.

**"Board"** means the Oklahoma Public Employees Retirement System Board of Trustees, acting by and through the Plan Administrator.

**"Code"** shall mean the Internal Revenue Code of 1986, as amended.

**"Contracts and savings"** means any deferred fixed annuity, variable annuity, mutual fund, common trust fund, savings account, or any combination thereof, authorized by applicable law or regulation to be sold or made available in the State of Oklahoma by any company or companies approved by the Board.

**"Deferral"** means a postponement of recognition of income taxes to be paid on salary withheld and invested with the Oklahoma State Employees Deferred Compensation Plan.

**"Deferred compensation"** means that portion of the Participant's compensation which the Participant and the Employer mutually agree to defer until the conditions set forth in the Deferred Compensation Plan are met.

**"De-minimis account"** means an inactive plan account that does not exceed the amount allowed by the Internal Revenue Code.

**"Disability"** means an actual and continuous physical or mental incapacity which causes the Participant to be retired with a disability retirement under the Participant's retirement plan.

**"Emergency withdrawals"** means withdrawals of amounts because of an unforeseeable emergency and are only permitted to the extent reasonably needed to satisfy the emergency need.

**"Employee"** means any officer or employee of the executive, legislative, or judicial branches of the Employer who is an active member of a public retirement system of this state, 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, the employees of the governing boards and the employees at the George Nigh Rehabilitation Institute <u>or the Medical Technology and Research Authority of Oklahoma</u> who remain participating members of OPERS;

(C) Persons on temporary, student, internship, or other limited-term appointments except for Executive Fellows in the Carl Albert Public Internship Program;

(D) Persons employed pursuant to Section 1.6a of Title 53 of the Oklahoma Statutes or Section 1806.1 of Title 74 of the Oklahoma Statutes.

**"Employer"** means The State of Oklahoma, its agencies and any duly constituted authority or instrumentality of the State of Oklahoma.

**"Gender and number"** Except when otherwise indicated by the context, any masculine terminology herein shall also include the feminine, and the definition of any terms herein in the singular may also include the plural.

**"Normal retirement age"** means not later than April 1 of the calendar year following that in which the Participant attains age seventy (70) years and six (6) months if the Participant is no longer employed by the Employer or April 1 of the calendar year following that in which the Participant severs employment after attaining the age seventy (70) years and six (6) months and beginning no earlier than the earliest age at which the Participant can retire under any state retirement system with full benefits.

**"Participant"** means an individual who is eligible and agrees to defer compensation under the Plan.

**"Plan"** means the current Oklahoma State Employees Deferred Compensation Plan and as it may be amended from time to time.

**"Plan Administrator"** means the person or persons appointed by the Executive Director of the Oklahoma Employees Retirement System to administer the Plan pursuant to Section 1 of Subchapter 13 of this Chapter 25.

**"Plan Year"** means the twelve month period ending on June 30.

**"Recordkeeper"** means the company designated by the Board to perform recordkeeping, administrative, and/or investment services to the Plan.

**"Retirement"** means the first date upon which each of the following shall have occurred: Separation from Service and attainment of Normal Retirement Age.

**"Termination of service"** means the severance of the Participant's employment relationship with the Employer prior to his retirement, death or disability.

**"Trust"** means the provisions of this document that comprise the trust established hereunder, effective January 1, 1998.

**"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 Deferred Compensation 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.

**"Unforeseeable emergency"** means severe financial hardship to the Participant, resulting from a sudden and unexpected illness or accident of the Participant or of a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant.

(A) The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but, in any case, payment may not be made to the extent that such hardship is or may be relieved:

(i) Through reimbursement or compensation by insurance or otherwise.

(ii) By liquidation of the Participant's assets, to the extent the liquidation of these assets would not itself cause severe financial hardship, or

(iii) By cessation of deferrals under the Plan.

(B) Foreseeable personal expenditures normally budgetable, such as a down payment for a home, mortgage payments, rent, credit card debt, the purchase of an automobile, college or other schooling expense, etc., will not constitute an unforeseeable emergency.

"**Variable annuity contract**" means a Group Variable Annuity Contract approved for sale in the State of Oklahoma by any company or companies approved by the Board.

## SUBCHAPTER 3. ELECTION TO DEFER COMPENSATION

**590:25-3-1. Election limits**

The Employee may elect to participate in this Plan and consent to the Employer, deferring a predetermined amount ~~of not less than~~ equivalent to at least $25.00 a month. ~~Deferrals may not be less than $25.00 per month unless the Participant was continuously enrolled with a maximum deferral of less than $25.00 prior to January 1, 1981. The maximum that may be deferred under the Plan for the taxable year shall not exceed the lesser of the maximum amount allowed each year as determined by the Internal Revenue Service or 25% of the pre-deferral taxable income.~~ Effective January 1, 2002, the maximum that may be deferred under the Plan for the taxable year shall not exceed the lesser of the maximum amount allowed each year as determined by the Internal Revenue Service or 100% of the employee's includable compensation. For purposes of the Plan, only compensation from the Employer that is attributable to services performed for Employer may be includable in gross income. Includable compensation excludes amounts converted under the State's Internal Revenue Code Section 125 Plan and employee retirement contributions that are tax-deferred. The deferment will commence no sooner than the first pay period of the month following the date the enrollment application is properly completed by the Employee and accepted by the Plan Administrator.

**590:25-3-3. Discontinuation**

The election of the Employee to participate under this Plan and the amount of compensation to be deferred is continuous, except that the Employee may discontinue participation or change his deferral amount at any time during the year by giving ~~written~~ authenticated notice at least thirty (30) days prior to the effective date of such change. An Employee who elects to discontinue participation shall not again become eligible to participate in the Plan until three (3) months have elapsed from the Discontinuation Date, or the next following January 1. For purposes of this rule, authenticated means participant communication through the Plan's website, through the Recordkeeper's dedicated toll-free telephone service or by approved written form.

## SUBCHAPTER 5. ASSETS, CREDITS, ACCOUNTS AND REPORTS

**590:25-5-1. Remittance**

The Employer shall remit Deferred Compensation in a timely manner so that participation amounts may be posted and transferred to the investment option selected by the state employee within ten (10) business days of the payday, end of payroll period or process date, whichever is later. The Board shall have no duty to determine whether the funds ~~paid by him~~ remitted by the Employer are correct nor to collect or enforce such payment. The Deferred Compensation of the Employee shall be invested in accordance with the investment election of the Participant as provided in 590:25-7-3 of these rules.

**590:25-5-8. Establishment of Accounts**

The Plan Administrator shall cause Accounts to be established for each Participant, to reflect such Participant's Deferred Compensation. Each Account shall be subdivided further and separate records shall be maintained showing the manner in which each such Account is invested. Separate records also shall be maintained with respect to each such Account showing the amount of Deferred Compensation thereto, distributions therefrom, and the amount of income, expenses, gains and losses attributable thereto. All such subaccounts are referred to herein as a Participant's "Account." In general, the interest of each Participant hereunder at any time shall consist of the amount in his Account, ~~(~~as determined under Section 10 of this Subchapter, plus credits (representing the Participant's Deferred Compensation, profits, income, and other increments attributable to such Deferred Compensation) and minus debits (representing the Participant's proportionate share of losses and other decrements or expenses under the Plan and any and all distributions under the Plan made to or in respect of that Participant). These records shall be maintained by the Plan on a calendar quarter-end basis only and available for a period of three (3) years.

**590:25-5-10. Valuation of Accounts**

The Recordkeeper shall value the investments each business day. On each Valuation Date, there shall be allocated to the Accounts of each Participant the proportionate share of the increase or decrease in the fair market value of the Participant's Accounts in each of the investments, based on the beginning balance of such Accounts for such day. The Recordkeeper for the Plan may determine the increase or decrease in the fair market value of the Participant's Account in each of the investments on a cash, share or unit accounting basis. Whenever an event requires a determination of the value of the Participant's Accounts, the value shall be computed as of a Valuation Date coincident with or following the date of the event. These daily valuation records shall be maintained by the Recordkeeper for a period of one (1) year. Thereafter, Account information will be available on a quarter-end basis as provided in 590:25-5-8 of these rules.

## SUBCHAPTER 9. BENEFITS

**590:25-9-8. Death**

If the Participant dies prior to receiving Plan benefits, the benefits payable under this Plan shall be paid to his or her designated beneficiary in accordance with the settlement option selected by the designated beneficiary. If the Participant dies while benefits are being paid to him under the Plan and before such benefits have been exhausted, the benefits payable under this Plan shall continue to be paid to his designated beneficiary in accordance with the settlement option selected by the Participant. The beneficiary may also select a different settlement option in accordance with Plan provisions.

**590:25-9-9. Designated beneficiary**

The Participant shall have the right to file with the Board, a written 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 Board to amend the Payment Benefit Option as previously elected by the Participant.~~ Following the death of the Participant, the beneficiary shall also have the right to file with the Board, a written 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 and will have no effect until it is signed, filed with the Board by the Participant or the beneficiary, and accepted by the Board.

(2) 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 and qualified within one hundred twenty (120) days after the death, the payment may be made first, to a surviving spouse, second, to a surviving child or children, third, to a surviving parent or parents.

(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.

**590:25-9-13. Plan-to-plan transfers**

This Plan will accept Deferred Compensation of an individual under another eligible state or municipal §457 plan, unless the transferring 457 account includes funds previously transferred or rolled-over which require tax accounting or distribution rules that are different from those contained in this Plan. It will also permit transfers to another §457 plan if the Employers receiving such amounts provide for the acceptance of these monies.

**590:25-9-16. Rollovers from other plans**

Effective January 1, 2002, the plan will accept Participant rollover contributions and/or direct rollovers of distributions made after December 31, 2001, from an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or agency or instrumentality of a state or political subdivision of a state, unless the prior 457 account includes funds previously transferred or rolled-over which require tax accounting or distribution rules that are different from those contained in this Plan.

**590:25-9-19. Transfers and rollover completion**

Any elections for plan-to-plan transfers or rollovers are contingent upon completion and acceptance of all necessary forms and documents. The forms for this purpose shall be provided by the Board and will have no effect until it is signed, filed with the Board by the Participant or the beneficiary, and accepted by the Board. The Participant and the Beneficiary accepts and acknowledges that he has the burden for executing and filing, with the Board, the proper beneficiary designation form.

## SUBCHAPTER 13. ~~AGENTS~~ ADMINISTRATION FUNCTIONS OF THE PLAN

**590:25-13-1. Administrative staff**

The Executive Director of the Oklahoma Public Employees Retirement System shall be responsible for selection and retention of the Plan Administrator and shall provide oversight and assistance in the general administration of the Oklahoma State Employees Deferred Compensation Plan. The Executive Director, the Plan Administrator, the Deputy Director, ~~and the Comptroller~~ and such other persons designated by the Executive Director, are authorized to sign all vouchers or warrants issued for the Deferred Compensation Plan.

**590:25-13-2. Deferred Compensation Coordinator**

(a) The appointing authority of each State agency shall designate a Coordinator to conduct all business transactions between the agency and the Oklahoma State Deferred Compensation Plan and shall notify the Board of Trustees for the Oklahoma Public Employees Retirement System of the designee in writing. All Deferred Compensation Coordinators shall be furnished an informational booklet on the Oklahoma State Deferred Compensation Plan. Employees should send all correspondence to the Deferred Compensation Coordinator who will forward it to the Board of Trustees. All forms and correspondence should identify the Participant by name, Social Security Number and agency.

(b) The Coordinator is employed by and under the authority of each State agency and is not an employee of the Plan. The Plan will make available information and training opportunities, however, it is the responsibility of the Coordinator to become familiar with the Plan provisions and keep abreast of all changes and amendments. Neither the Plan nor the Board will be liable for or bound by any mistakes, errors or misrepresentations of the Coordinators.

**590:25-13-3. Completing forms**

Applicants for enrollment in the Deferred Compensation Plan will obtain Enrollment/Change forms from the Deferred

Compensation Coordinator, the office of the Plan Administrator or, if available, from the Plan website or the Recordkeeper. The Coordinator will assist Participants in the preparation and submission of the enrollment agreement, changes in beneficiary, deferrals, and requests for payment of contributions for reason of termination of employment or unforeseeable emergency.

*[OAR Docket #03-837; filed 5-2-03]*

## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 30. QUALIFIED DOMESTIC RELATIONS ORDERS

*[OAR Docket #03-833]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
590:30-1-4. Contents of qualified domestic relations order [AMENDED]
590:30-1-5. Payment to alternate payee [AMENDED]
590:30-1-6. Termination of a qualified domestic relations order [AMENDED]
**AUTHORITY:**
Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., § 923 (B)(10)
**DATES:**
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**ANALYSIS:**
590:30-1-4. Contents of qualified domestic relations order
[74 O.S. Section 923(10)]
The rule amendment adds specific requirements for a qualified domestic relations order that provides for the payment of child support. The order must provide details about the children covered by the order, the dollar amounts covered by the order, and the conditions that will cause the order to terminate. The rule change also clarifies requirements and options available for all qualified domestic relations orders.
590:30-1-5. Payment to alternate payee
[74 O.S. Section 923(10)]
The rule has no substantive amendments but provides a clerical correction.
590:30-1-6. Termination of a qualified domestic relations order
[74 O.S. Section 923(10)]
The rule amendment provides an additional condition that will cause a qualified domestic relations order for child support to automatically terminate.

**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., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### 590:30-1-4. Contents of qualified domestic relations order

For a qualified domestic relations order (QDRO) to be accepted and binding on the System the order must meet the following requirements:

(1) The order must clearly specify the following:

(A) the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order and Social Security number of each,

(B) the dollar amount or exact percentage of the member's benefits to be paid to the alternate payee,

(C) the number of payments or period to which such order applies,

(D) the characterization of the benefit as to marital property rights or child support, and whether the benefit ceases upon the death or remarriage of the alternate payee,

(E) each plan to which such order applies, ~~and~~

(F) the date of marriage and the date of commencement of divorce proceedings giving rise to the QDRO for division of marital property,

(G) if the order is for child support, the name of each child covered by the order, each child's date of birth and the Social Security Number of each,

(H) if the order is for child support, the exact amount (if any) awarded in continuing child support for each child and the exact amount (if any) awarded for arrearages, and

(I) any conditions that will cause the QDRO to terminate.

(2) The order meets the requirements of this section only if such order:

(A) does not require the System to provide any type or form of benefit, or any option not otherwise provided under the state law as related to the Retirement System ~~or Deferred Compensation Plan~~,

(B) does not require the System to provide increased benefits,

(C) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic relations order by the System, and

(D) does not require payment of benefits to an alternate payee prior to the actual retirement date of the related member or prior to the date the member

elects to receive a lump sum distribution of his or her retirement account upon withdrawal from the System or Plan.

(3) The order must provide an exact dollar amount or percentage of total benefit. The order may not provide for a percentage of the benefit accrued on a given date, unless the exact dollar amount is also provided. The order may not provide a formula which requires the System to calculate the amount payable to an alternate payee.

(4) If the Order awards a dollar amount, subsequent benefit adjustment will not change the amount of payment to an alternate payee; unless the order specifically provides for the apportionment of future cost of living increases; if the order awards a percentage of the total benefit, the payment to the alternate payee may increase or decrease due to subsequent benefit adjustments, unless the order directs otherwise.

**590:30-1-5. Payment to alternate payee**

(a) Payments to an alternate payee from the Retirement Systems will be made in a like manner and at the same time payment is made to the member. Payment will be either a lump sum distribution of the contributions due the member upon termination of service ~~or death~~, or monthly benefit payments under the retirement options available to the member at the time he or she applies for retirement benefits. The alternate Payee shall not be allowed to choose a method of payment that is different from the method chosen by the member. The alternate payee may not receive payment of any kind prior to the member making application and becoming eligible for payment of benefits.

(b) Federal and Oklahoma state income taxes will be withheld from the payment to an alternate payee in accordance with applicable federal and state statutes. ~~For distributions from the Deferred Compensation Plan, the plan participant will be obligated to assume the tax liability even if the funds have been paid to the alternate payee.~~

(c) It is the responsibility of the alternate payee to notify the System of any ~~changes~~ change in ~~addresses~~ the alternate payee's address.

**590:30-1-6. Termination of a qualified domestic relations order**

(a) A qualified domestic relations order, whether for provision of marital property or child support, will terminate when the System has fully met the provisions of the order. The obligation of the System to pay an alternate payee pursuant to ~~a~~ any qualified domestic relations order shall cease upon the death of the member.

(b) In the event a qualified domestic relations order requires the benefits payable to an alternate payee to terminate upon the remarriage of the alternate payee, the System shall terminate said benefit only upon the receipt of a certified copy of a marriage license, or a copy of a certified order issued by the court that originally issued said qualified domestic relations order declaring the remarriage of said alternate payee. ~~The order may be cancelled or modified by the court that originally issued the order.~~

(c) If the qualified domestic relations order is for continuing child support obligations, the order shall cease upon the death of a minor child. If the qualified domestic relations order is for arrearages owed for child support, the order shall not cease upon the death of a minor child.

*[OAR Docket #03-833; filed 5-2-03]*

## TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 35. DEFERRED SAVINGS INCENTIVE PLAN

*[OAR Docket #03-834]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 5. Accounts
590:35-5-1. Establishments of Accounts [AMENDED]
590:35-5-3. Valuation of Accounts [AMENDED]
Subchapter 7. Contributions
590:35-7-3. Rollover contributions [AMENDED]
Subchapter 13. Benefits and Distributions
590:35-13-1. Commencement [AMENDED]
Subchapter 21. ~~Agents~~ Administration Functions of the Plan [AMENDED]
590:35-21-1. Administrative staff [AMENDED]
590:35-21-3. Oklahoma State Employee Deferred Savings Incentive Plan Coordinator ("Coordinator") [AMENDED]
590:35-21-4. Completing forms [AMENDED]
**AUTHORITY:**
Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., § 1707
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**ANALYSIS:**
Subchapter 5. Accounts
590:35-5-1. Establishment of Accounts
[74 O.S. Section 1707(B)]
The rule change provides that the plan administrator is to maintain certain records on a calendar quarter-end basis only, with such records made available for a period of three (3) years.

590:35-5-3. Valuation of Accounts
[74 O.S. Section 1707(B)]
The rule change provides that the Recordkeeper is to maintain daily account valuations for a period of one (1) year and, thereafter, the account valuation records will be kept for a period of three (3) years on a calendar quarter-end basis.
Subchapter 7. Contributions
590:35-7-3. Rollover contributions
[74 O.S. Section 1707(B)]
The rule amendment excludes after-tax employee contributions made after December 21, 2001, from direct rollover distribution for certain plans.
Subchapter 13. Benefits and Distributions
590:35-13-1. Commencement
[74 O.S. Section 1707(B)]
The rule change does not allow payment of benefits earlier than sixty (60) days after the occurrence of the event that gives rise to the beginning of the payment of benefits.
Subchapter 21. ~~Agents~~ Administration Functions of the Plan
590:35-21-1. Administrative staff
[74 O.S. Section 1707(B)]
The rule change deletes an obsolete staff position of the Comptroller from the list of individuals who have express authority to sign vouchers or warrants issued for the Deferred Savings Incentive Plan.
590:35-21-3. Oklahoma State Employee Deferred Savings Incentive Plan Coordinator ("Coordinator")
[74 O.S. Section 1707(B)]
The rule amendment emphasizes that Coordinators are not employees of the Oklahoma State Employees Deferred Compensation Plan and that the Coordinators have the responsibility to familiarize themselves with the plan provisions.
590:35-21-4. Completing forms
[74 O.S. Section 1707(B)]
The rule amendment recognizes technological advances to allow participants to obtain forms for the Coordinator, the Plan Administrator, the Plan website or the Recordkeeper.
**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., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### 590:35-5-1. Establishment of Accounts

The Plan Administrator shall cause Accounts to be established for each Participant, to reflect such Participant's Employer Contributions. Each Account shall be subdivided further and separate records shall be maintained showing the manner in which each such Account is invested. Separate records also shall be maintained with respect to each such Account showing the amount of contributions thereto, distributions therefrom, and the amount of income, expenses, gains and losses attributable thereto. All such subaccounts are referred to herein as a Participant's "Account." In general, the interest of each Participant hereunder at any time shall consist of the amount in his Account, ~~(~~as determined under Section 590:35-5-3, plus credits (representing the Participant's allocable share of contributions, profits, income, and other increments attributable to such contributions) and minus debits (representing the Participant's proportionate share of losses and other decrements or expenses under the Plan and any and all distributions under the Plan made to or in respect of that Participant). These records shall be maintained by the Plan on a calendar quarter-end basis only and available for a period of three (3) years.

### 590:35-5-3. Valuation of Accounts

The Recordkeeper shall value the investments each business day. On each Valuation Date, there shall be allocated to the Accounts of each Participant the proportionate share of the increase or decrease in the fair market value of the Participant's Accounts in each of the investments, based on the beginning balance of such Accounts for such day. The Recordkeeper for the Plan may determine the increase or decrease in the fair market value of the Participant's Account in each of the investments on a cash, share or unit accounting basis. Whenever an event requires a determination of the value of the Participant's Accounts, the value shall be computed as of a Valuation Date coincident with or following the date of the event. These daily valuation records shall be maintained by the Recordkeeper for a period of one (1) year. Thereafter, Account information will be available on a quarter-end basis as provided in 590:35-5-1 of these rules.

## SUBCHAPTER 7. CONTRIBUTIONS

### 590:35-7-3. Rollover contributions

(a) Qualified Participants may make rollover contributions to this Plan, provided such rollover contributions meet the requirements under Code Sections 402(c)(4), 403(a)(4), or 408(d)(3), or any other applicable section of the Code or regulations.

(b) Effective January 1, 2002, the Plan shall accept direct rollovers of eligible pre-tax rollover distributions excluding after-tax employee contributions, made after December 31, 2001, from the following types of plans:

(1) a qualified plan described in Code Section 401(a) or 403(a)~~, excluding after-tax employee contributions~~;

(2) an annuity contract described in Code Section 403(b)~~, excluding after-tax employee contributions~~; and

(3) an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(c) Effective January 1, 2002, the Plan shall accept a Participant contribution of an eligible pre-tax rollover distribution excluding after-tax employee contributions, from the following types of plans:

(1) a qualified plan described in Code Section 401(a) or 403(a);

(2) an annuity contract described in Code Section 403(b); and

(3) an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(d) The Plan shall accept a Participant rollover contribution of the portion of a pre-tax distribution from an individual retirement account or annuity described in Code Section 408(a)

or 408(b) that is eligible to be rolled over and would otherwise be includable in gross income.

## SUBCHAPTER 13. BENEFITS AND DISTRIBUTIONS

### 590:35-13-1. Commencement

(a) In the event of a Participant's separation from service as a result of Early Retirement, Normal Retirement, death, Disability or Termination of Service, he shall be entitled to receive a distribution of his Account under the Trust Fund. In the event that a Participant dies before the entire balance of his Account is distributed, Section 590:35-13-5 shall apply.

(b) The Participant may elect, on forms prescribed by the Plan Administrator, 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 provided by Code Section 401(a)(9). The payment of benefits shall begin no earlier than the month next following sixty (60) days after the occurrence of the event that gives rise to the beginning of the payment of benefits.

## SUBCHAPTER 21. ~~AGENTS~~ ADMINISTRATION FUNCTIONS OF THE PLAN

### 590:35-21-1. Administrative staff

The Executive Director of the Oklahoma Public Employees Retirement System shall be responsible for selection and retention of the Plan Administrator and shall provide oversight and assistance in the general administration of the Oklahoma State Employees Deferred Savings Incentive Plan. The Executive Director, the Plan Administrator, the Deputy Director, ~~the Comptroller,~~ and such other persons designated by the Executive Director are authorized to sign all vouchers or warrants issued for the ~~Plan.~~Deferred Savings Incentive Plan.

### 590:35-21-3. Oklahoma State Employee Deferred Savings Incentive Plan Coordinator ("Coordinator")

(a) The Coordinator for the Deferred Compensation Plan, as designated under Section 590:25-13-2, shall be the Coordinator for this Plan. The Coordinator shall be furnished appropriate information on the Oklahoma State Employees Deferred Savings Incentive Plan. State Employees should send all correspondence to his or her Coordinator who will forward it to the Plan Administrator. All forms and correspondence should identify the Participant by name, Social Security Number and agency.

(b) The Coordinator is employed by and under the authority of each State agency and is not an employee of the Plan. The Plan will make available information and training opportunities, however, it is the responsibility of the Coordinator to become familiar with the Plan provisions and keep abreast of all changes and amendments. Neither the Plan nor the Board will be liable for or bound by any mistakes, errors or misrepresentations of the Coordinators.

### 590:35-21-4. Completing forms

Participants in the Plan will obtain ~~enrollment/investment selection~~ Enrollment/Change forms from the Coordinator, ~~the Recordkeeper or~~ the office of the Plan Administrator or, if available, from the Plan website or the Recordkeeper. Pursuant to Section 1707 of Title 74 of the Oklahoma Statutes, the Administrator of the Office of Personnel Management and the Director of State Finance shall be responsible for the provision of such information and assistance as may be necessary to determine which State Employees are Qualified Participants. The Coordinator will assist Participants in the preparation and submission of the ~~enrollment/investment selection~~ Enrollment/Change form and requests for payment of benefits for reason of termination of employment.

*[OAR Docket #03-834; filed 5-2-03]*

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# TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #03-862]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 3. Administrative Components of the Department
612:1-3-3 The Division Administrators [AMENDED]
612:1-3-10 Final Signature Authority [AMENDED]
Subchapter 5. Program Divisions within the Department
612:1-5-2 Vocational Rehabilitation Services (DVR) [AMENDED]
612:1-5-3 Division of Visual Services (DVS) [AMENDED]
612:1-5-4.1 Management Services Division (MSD) [AMENDED]
Subchapter 7. Relationships with Department Established by Law
612:1-7-3 Relationships with state boards: ex officio representation from the Department [AMENDED]
Subchapter 11. Compliance with the Americans with Disabilities Act of 1990
Part 3. Reasonable Accommodation
612:1-11-16 Providing reasonable accommodation [AMENDED]
Subchapter 13. Civil Rights and Nondiscrimination on Basis of Race, Color, National Origin, Sex, Age or Disability
612:1-13-3 Administration of programs [AMENDED]
612:1-13-5 Awareness training [AMENDED]
612:1-13-6 Maintenance of racial and ethnic data [AMENDED]
**AUTHORITY:**
The Oklahoma Commission for Rehabilitation Services; Rehabilitation Act, United States Code Title 29, Chapter 16, Oklahoma Statute Title 74, Section 166.1 et seq.
**DATES:**
**Comment period:**
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**Submitted to House:**
March 6, 2003

**Submitted to Senate:**
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Failure of the Legislature to disapprove the rules resulted in approval on May 1, 2003
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N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The proposed changes to Chapter 1 involve clarification of the administrative components of the department, title changes from Affirmative Action Officer to Civil Rights Administrator and District Supervisors to Program Managers and the updating of language to remove reference to an expired Governor's commission and no longer viable Legislative Joint Resolution 1056.
**CONTACT PERSON:**
Larry Bishop, Policy Development Administrator, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, OK 73112 (405) 951-3408

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

## SUBCHAPTER 3. ADMINISTRATIVE COMPONENTS OF THE DEPARTMENT

### 612:1-3-3. The Division Administrators/School Superintendents

~~There are four~~The Division Administrators/School Superintendents within the Department of Rehabilitation Services~~. Each has~~ have responsibility for the day-to-day operational direction of the programmatic aspects of DRS, including the field work. The Division Administrators/School Superintendents supervise the various administrators of program units. The duties of the Division Administrators include:

(1) assuring program integrity across all programs;
(2) coordinating the planning and budgeting system;
(3) coordinating the delivery of all field services;
(4) providing support for all field offices;
(5) exploring and developing resources for programs, including coordination with state and federal officials;
(6) serving as arbitrators for programmatic and field issues;
(7) coordinating field and program issues with administrative functions; and,
(8) providing liaison between DRS and members of the Oklahoma Legislature, the Governor, and other state officials as requested by the Director and/or Deputy Director.

### 612:1-3-10. Final signature authority

The Department of Rehabilitation Services recognizes the importance of efficient processing of resource and operations approval requests. At the same time, the Department must assure sufficient oversight of resource allocation in order to fulfill its obligations as a steward of public funds. The Department has therefore established a signature authority listing to delineate final approval levels for resource and operations approval requests. Delegation of final signature authority is limited to the next lower administrative level unless approved in writing by the Director. The administrator is to notify the appropriate administrative programs of delegations. Administrators have authority to approve actions within their areas of responsibility at all administrative levels below their own. The requests listed in (1) through (9) of this Subsection must continue to be reviewed and approved by the appropriate staff before presentation to the individual with final signature authority. There are additional resource and operations approvals unique to each administrative area that are stated in the policies established for that administrative area.

(1) **Director's signature.** The Director has final signature authority for items listed in (A) through (E) of this Paragraph.
(A) Sole source contracts.
(B) Initial contracts for $250,000 or more.
(C) Notices of personnel action (may be delegated).
(D) Leave without pay requests for 90 days or more.
(E) Other actions as required by executive order, statute, etc.

(2) **Deputy Director.** Deputy Director has final signature authority for items listed in (A) through (C) of this Paragraph.
(A) Initial contracts between $100,000 and $250,000.
(B) Initial contracts or interagency agreements which obligate the entire Department or more than one division.
(C) New brochures, forms, publications (electronic or printed), and videos produced for more than one division.

(3) **Division Administrator.** Division Administrators have final signature authority for items listed in (A) through (K) of this Paragraph.
(A) Initial contracts for less than $100,000.
(B) New or revised interagency agreements involving the division.
(C) Administrative purchases costing $10,000 or more (may be delegated). Computer purchases must be co-signed by the Administrator for Information Services.
(D) Requests for employee in-state travel (may be delegated).
(E) Requests for out-of-state employee travel.
(F) Final decisions for employee grievance resolution, other than discrimination complaints, and for adverse action after review by Human Resources.

(G) Leave without pay requests for less than 90 days.

(H) Brochures, forms, publications (electronic or printed), and videos produced for the division.

(I) Requests for internships or practicums for respective division.

(J) Memos for general distribution to the division.

(K) Grant proposals.

(4) **Executive and MSD Administrators.** Executive and MSD Administrators have final signature authority for items listed in (A) through (F) of this Paragraph.

(A) Office supply orders.

(B) Reorder of existing printed materials.

(C) MSD Unit administrative purchase requisitions under area of responsibility up to $10,000. Computer purchases must be co-signed by the Administrator for Information Services.

(D) Administrative memos under area of responsibility.

(E) Policy Transmittals by the Administrator for Policy Development and Programs Standards.

(F) Requests for employee in-state travel.

(5) **Field Coordinators and Program ~~Supervisors~~Managers in DVR and DVS.** The Field Coordinators or Program ~~Supervisors~~Managers in Vocational Rehabilitation Services and Visual Services Divisions have final signature authority for administrative purchases up to $10,000. Computer purchases must be co-signed by the Administrator for Information Services.

(6) **~~District Supervisors~~Program Managers in DVR and DVS.** ~~District Supervisors~~ Program Managers have final signature authority for items listed in (A) through (B) of this Paragraph.

(A) Office supply requisitions other than those available on the electronic ordering system.

(B) Reorder of existing printed materials.

(7) **Superintendents at OSB and OSD.** Superintendents have final signature authority for items listed in (A) through (J) of this Paragraph for the respective school.

(A) Initial contracts for less than $100,000.

(B) Interagency agreements involving only the school.

(C) All administrative and educational purchases. Computer purchases must be co-signed by the Administrator for Information Services.

(D) Requests for all employee travel.

(E) Final decisions for adverse action after review by Human Resources.

(F) Final decisions for grievance resolutions, other than discrimination complaints.

(G) Leave without pay requests for less than 90 days.

(H) Requests for internships or practicums.

(I) Brochures, forms, publications (electronic or printed), and videos produced for the school.

(J) Grant proposals.

(8) **Supervisors at OSB and OSD.** Supervisors at OSB and OSD have final signature authority for items in (A) through (B) of this Paragraph for the respective school.

(A) Office supply orders.

(B) Reorder of existing printed materials.

(9) **~~Programs Assistant Administrators~~Program Managers, Disability Determination Division.** ~~Programs Assistant Administrators~~Program Managers at the Disability Determination Division have final signature authority for the following items in (A) through (B) of this Paragraph.

(A) The ~~Programs Assistant Administrator~~Program Manager responsible for budgets, contracts, and purchases approves administrative purchases under $10,000. Computer purchases must be co-signed by the Administrator for Information Services.

(B) Reorder of existing printed materials.

## SUBCHAPTER 5. PROGRAM DIVISIONS WITHIN THE DEPARTMENT

### 612:1-5-2. Division of Vocational Rehabilitation ~~Services~~ (DVR)

The Division of Vocational Rehabilitation provides vocational rehabilitation services designed to result in an employment outcome for persons with disabilities. Priority is given to those with the most severe disabilities. The Independent Living Program provides services to persons with very severe disabilities to allow more independent functioning within the family or community; funding from RSA is provided to support Independent Living Centers in the State. The Community Rehabilitation Services Unit administers Supported Employment services provided to persons with the most severe disabilities, and provides technical assistance for community rehabilitation facilities providing services for individuals with severe disabilities. Special Services for the Deaf and Hard of Hearing Unit are provided through Interpreter Services Program and the Telecommunications Devices for the Deaf (TDD) Program. ~~The Transitional Living Center provides services which promote independence and self reliance in persons who are deaf or have severe hearing impairments.~~ All unit heads, and the Vocational Rehabilitation Field Coordinators report directly to the Division Administrator. DRS has field staff assigned to meet the needs in every county of the state, although staff may not be officed in each county. Local office staff report to DVR ~~District Supervisors~~ Program Managers, who report to Field Coordinators at the State Office.

### 612:1-5-3. Division of Visual Services (DVS)

The Division of Visual Services provides diagnostic, counseling and guidance, physical restoration, training, and other services to individuals whose major disability is visual. All unit heads, and the Visual Services Field Coordinator report directly to the Division Administrator. Rehabilitation teachers for the blind provide in-home training, counseling

and instruction in daily-living skills to blind individuals. DRS has field staff assigned to meet the needs in every county of the state, although staff may not be officed in each county. Local office staff report to VS ~~District Supervisors~~Program Managers, who report to the Field Coordinator at the State Office. The Oklahoma Library for the Blind and Physically Handicapped provides books and magazines in special media to blind and print-limited Oklahomans. The Division of Visual Services administers the Randolph-Sheppard Business Enterprise Program in Oklahoma, securing suitable locations for vending facilities; designing and installing equipment; recruiting, training, placing and supervising operators for the facilities.

**612:1-5-4.1. Management Services Division (MSD)**

The Management Services Division provides administrative and programmatic support to all components of the Department. The program administrators for Central/Departmental Services, Policy Development and Program Standards, Human Resources, and Information Services report to the ~~Division Administrator for Management Services~~Deputy Director. Central/Departmental Services manages Department supplies, mail, property, communications, equipment and repair, inventory, contracts, purchasing and printing. The Policy Development and Program Standards Unit is responsible for ~~development~~management of the rulemaking process and maintenance of Department policy in accordance with State and Federal laws and regulations, ~~developing~~measuring and monitoring program standards, and quality assurance. The Human Resources Unit is responsible for personnel recruitment, transactions and records, employee benefits, payroll, employee assistance and relations, human resource development, and risk management. The Information Services Unit is responsible for data systems maintenance, statistical reporting, data systems programming, and personal computer support. The administrator for the Budget and Finance Unit is the Chief Fiscal Officer who reports to the Director. The Budget and Finance Unit is responsible for developing and administering the Department budget, Federal and general accounting, revenue and claims processing.

## SUBCHAPTER 7. RELATIONSHIPS WITH DEPARTMENT ESTABLISHED BY LAW

**612:1-7-3. Relationships with state boards: ex officio representation from the Department**

(a) **State Rehabilitation Council.** Sections 101 and 105 of the Rehabilitation Act requires the State Rehabilitation Agency establish a State Rehabilitation Council. The Council membership is appointed by the Governor, and is to be composed of at least one representative of the Statewide Independent Living Council; at least one representative of a parent training and information center; at least one representative of the Client Assistance Program; at least one rehabilitation counselor serving as an ex officio member; at least one representative of community rehabilitation program service providers; four representatives of business, industry and labor; representatives of disability advocacy groups; and current or former applicants for, or recipients of, rehabilitation services. The Director of the Department of Rehabilitation Services serves as an ex officio member of the Council. Refer to Section 105 of the Rehabilitation Act for membership qualifications. The Council reviews, analyzes, and advises the Department regarding the performance of its responsibilities under the Rehabilitation Act; helps develop the State Plan; and performs other functions as specified in Section 105 of the Rehabilitation Act.

(b) **Statewide Independent Living Council.** Section 705 of the Rehabilitation Act requires the State establish a Statewide Independent Living Council. Membership of the Council is appointed by the Governor. The membership is composed of at least one director of a center for independent living chosen by the directors of centers for independent living within the State; a representative from the Department of Rehabilitation Services serving as an ex officio member; representatives from other state agencies that provide services to individuals with disabilities who also serve as ex officio members. Other members are appointed as appropriate, and may include other representatives from centers for independent living; parents and guardians of individuals with disabilities; advocates of and for individuals with disabilities; representatives from private business; representatives from organizations that provide services for individuals with disabilities; and other appropriate individuals. Refer to Section 705 of the Rehabilitation Act for qualifications of members. The Council develops and submits, in conjunction with the Department, the State Plan as described in Section 704 of the Rehabilitation Act. The Council also monitors, reviews, helps develop and evaluates the implementation of the State Plan.

~~(c) **The Interagency Council for Services to Mentally Ill Homeless Persons.** The Interagency Council for Services to Mentally Ill Homeless Persons was created in Section 1 of Enrolled House Joint Resolution No. 1056 at the Second Session of the 43rd Oklahoma Legislature. It is composed of thirteen members, one of which is the Director of the Department of Rehabilitation Services or his designee. The Council is responsible for developing and implementing a plan for the cooperative and coordinated delivery of services by the public and private agencies responsible for services to mentally ill and homeless persons.~~

~~(d) **The Governor's Commission on the Deaf and Hard of Hearing.** The Governor's Commission on the Deaf and Hard of Hearing was created by Executive Order of Governor Frank Keating in June of 1995. The seven commissioners include deaf and hard of hearing consumers, parents of deaf and hard of hearing children, and professionals in the field of deafness. The Commission members are appointed by the Governor. The Commission is charged with the mission to coordinate efforts of the various organizations concerned with the deaf and hard of hearing and to serve as a central repository of information on resources available to individuals with hearing loss and other interested persons relating to the causes, diagnosis, treatment, and prevention of hearing loss as well as the training, education, job placement and social services available to persons~~

~~with hearing loss. The Commission meets at various locations around the state on a quarterly basis.~~

## SUBCHAPTER 11. COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990

## PART 3. REASONABLE ACCOMMODATION

**612:1-11-16. Providing reasonable accommodations**

(a) **Requests for reasonable accommodation.** All DRS employees have a right to request reasonable accommodation when circumstances exist which directly impede the performance of their duties. No employee will be discriminated against with regard to employment for exercising his or her rights under the Americans with Disabilities Act. DRS consumers also have the right to request reasonable modification of policies, practices or procedures, and/or the removal of barriers to achieve program access. The Civil Rights Administrator will be informed of each accommodation request. This information will include a description of the request, the proposed solution, and the date the solution is to be carried out. The Civil Rights Administrator will maintain records of reasonable accommodation requests filed, summary information on the number, nature, and outcome of requests. While statistical data based on this information may be released, access to individual request files is limited to those with a right or administrative authority to view an individual file.

(1) **Request by a consumer.** The Department has committed itself to ensuring that its offices and facilities are architecturally accessible. If an architectural barrier is identified, the local administrator is to notify DRS Property Management immediately. Other requests for reasonable accommodations should be met in the most effective and efficient manner available, including the provision of interpreters and/or auxiliary aids. Local administrators are to make every effort to have appropriate accommodations available so that requests may be met locally when made. For example, every office is expected to have a working TDD/TTY available. Local resources and contracted vendors are to be used for interpreter or other service oriented accommodations.

(2) **Request by an employee.** To the greatest extent possible, employee requests for reasonable accommodations will be answered using already established procedures appropriate to the nature of the request. The employee will submit a memo to his or her immediate supervisor which states the accommodation requested or the job duty for which an accommodation is needed, and the reason the accommodation is needed. The employee will attach any available documentation supporting the stated need based upon a disability, including documentation of the disability. When the request can be decided upon at the local level, the immediate supervisor will decide upon the request, initiate the appropriate actions, and inform the appropriate Division ADA Coordinator. When the request requires higher administrative approval, the immediate supervisor will review the request and forward it with a written recommendation to the appropriate Division ADA Coordinator. The ADA Coordinator will investigate the request, and make a recommendation to the appropriate Division Administrator or Executive Administrator. The ADA Coordinator will also be responsible for reporting all processed requests, and their outcomes, to the Civil Rights Administrator. Specific procedures used to provide the reasonable accommodation, when approved, depend upon the nature of the request. The more common procedures are covered in (b) of this Section.

(b) **Procedures for common accommodations.** Reasonable accommodations that may be used in DRS offices and facilities to meet the requirements of ADA are:

(1) **Modifying worksites.** In many cases, changes in the work environment enable persons with disabilities to perform job duties more effectively. Alterations to the office, furniture, telephone systems, and related changes are to be coordinated through DRS Property Management. Equipment purchases are to be processed in accordance with DRS purchasing and fiscal policy. The Requisition Justification will state in very general terms that the purchase is for a reasonable accommodation. Alterations may include:

(A) rearranging files or shelves for accessibility to wheelchair users;

(B) widening access areas between fixtures to allow room for wheelchairs and maintaining hazard-free pathways for employees who are blind or mobility impaired;

(C) raising or lowering equipment to provide required working heights;

(D) moving equipment controls to one side or another or modifying them for hand or foot operation;

(E) installing special holding devices on desks, machines, or benches;

(F) providing special equipment and/or computer software to enlarge print or convert print to spoken words for persons with vision and/or reading disabilities;

(G) placing braille labels, when appropriate, on shelves so employees with visual impairments can identify contents;

(H) installing telecommunications devices or telephone amplifiers for persons who are deaf or hearing impaired;

(I) providing a speaker telephone or an extension arm or goose-neck to hold a phone receiver.

(2) **Adjusting work schedules.** Some individuals with disabilities possess great productive potential that goes unused because they cannot meet the requirements of a standard 8 to 5 work day or 40 hour work week. Changes in work schedule will usually be decided upon by the manager or supervisor having authority to establish local office work schedules. By taking advantage of the flexibility of alternative work schedules, accommodations can be made for various disabilities, such as:

(A) employees requiring medical treatment related to their disability may need a flexible schedule;

(B) persons who need rest periods due to their disability can have their schedules adjusted to make up the time at the beginning or end of the work day; and

(C) employees who need to work or eat on a regular schedule because of a disabling condition, can be allowed to do so even though others holding comparable jobs are required to work or take breaks at different times.

(3) **Flexible leave policies.** Flexible leave policies to be considered for reasonable accommodation are presented in (A) through (C) of this Paragraph.

(A) When employees with disabilities require time off from work because of their disability, flexible leave policies should be considered as a reasonable accommodation. DRS is not required to provide additional paid leave as an accommodation, but should consider allowing use of accrued leave, work week adjustment, or leave without pay, where this will not cause an undue hardship.

(B) Under the Family and Medical Leave Act of 1993 (FMLA), employees who have worked for DRS for at least 12 months and at least 1250 hours during the prior 12 months may take up to 12 weeks of unpaid leave due to inability to perform the functions of the employee's position due to a serious health condition. The ADA sets no such time limits on long term leaves of absences. Leaves of absence due to a nonwork related injury/illness may be granted for up to the two years maximum allowed by Merit Rules with approval of the Director. All requests for long term leave must be supported by a statement from the employee's doctor, who should indicate the reason, expected duration, and whether the disability is temporary or permanent in nature. Should the impact of a temporary disability result in a permanent disability, need for reasonable accommodation should be explored in order to return the employee to work.

(C) Long term leave will be granted to employees who are unable to perform their duties due to a work-related injury that is expected to last for at least four weeks. Any dispute regarding return to work must be satisfactorily resolved in Workers Compensation hearings or settlements. In cases of permanent disability, need for reasonable accommodation should be explored to return the employee to work. Receipt of Workers Compensation does not relieve an employee of the responsibility to comply with DRS policy, procedure, and Merit Rules governing leave without pay, sick leave, or the request of a reasonable accommodation to perform essential job functions.

(4) **Restructuring jobs.** Job restructuring or modification is a form of reasonable accommodation which enables many qualified individuals with disabilities to perform jobs effectively.

(A) Job restructuring frequently is accomplished by exchanging marginal functions of a job that cannot be performed by a person with a disability for marginal functions performed by one or more other employees.

(B) Job restructuring does not alter or reallocate the essential functions of the job, which the employee must be able to perform with or without accommodation. However, the Department may modify the essential functions by changing when or how they are performed as a reasonable accommodation.

(C) Job restructuring must not fundamentally alter the essential nature of the employment position held or sought by an individual with a disability, nor the essential nature of another employment position.

(5) **Reassignment to a vacant position.** In general, reassignment should be considered only when an accommodation is not possible in an employee's present job or when an accommodation would cause an undue hardship. It may also be considered if both the employee and the Department agree it is more appropriate than an accommodation in the present job.

(A) Consideration of reassignment is only required for employees, not job applicants.

(B) Reassignment may be an appropriate accommodation when an employee becomes disabled or when a disability becomes more severe and accommodation is not possible to enable the person to continue to perform the essential functions of the present job.

(C) Reassignment may not be used to limit, segregate, or otherwise discriminate against an employee with a disability.

(D) Reassignment should be made to a vacant position equivalent in grade and salary level for which the employee is qualified with or without reasonable accommodation. If a position will be vacant within a reasonable amount of time, the employee may be reassigned when it becomes available.

(E) The Department may reassign an employee to a lower graded position if there are no accommodations which would enable the employee to remain in the current position and there are no positions vacant or soon to be vacant for which the employee is qualified, with or without a reasonable accommodation.

(F) Reasonable accommodation does not require the creation of a new position for an employee with a disability, nor that the Department promote an individual with a disability as an accommodation.

(6) **Removal of employee from a position.** Once it has been determined that no reasonable accommodation is possible, the Department is not required to maintain employees with disabilities in positions which they cannot satisfactorily perform. When an employee cannot perform his/her job because of a disability and is not eligible for (or does not wish to apply for) disability retirement, then as a last resort the employee should be removed from his/her position for failure to perform. This action is taken only if:

(A) there are no positions available for reassignment or placement; or

(B) the employee refuses an offer for reassignment or placement.

(7) **Providing special equipment.** The types of equipment or devices appropriate to assist an employee with a disability vary depending on the specific disability and the employee's capabilities. While DRS will give strong consideration to the opinion or preferences of the employee, options will be explored and the final choice will be made by DRS. Supervisors are encouraged to immediately consult with rehabilitation technology specialists for information and assistance when equipment acquisition is under consideration. Equipment purchases are to be processed in accordance with DRS purchasing and fiscal policy. The Requisition Justification will state in very general terms that the purchase is for a reasonable accommodation.

(A) **Conditions under which specialized equipment can be provided.** As a general rule, DRS will provide equipment if it is determined that:

(i) use of the equipment is necessary for transaction of official business;

(ii) its purchase does not create an undue hardship on the Department; and

(iii) the equipment is not a personal item that the employee could reasonably be expected to provide.

(B) **Examples of specialized equipment for specific disabilities.** Examples of specialized equipment and assistive devices that may be provided if warranted by particular job duties are:

(i) for persons with visual impairments: lamps, magnifiers, illuminated magnifiers, closed circuit television magnifiers, and large-print systems for computers and word processors;

(ii) for persons legally blind and/or totally blind: braille writers, braille paper, tape recorders, dictating equipment, devices that enlarge print on a screen, light-sensitive probes, paperless braille devices, and "talking" computerized devices;

(iii) for persons who are deaf or hard of hearing: telephone amplifying devices, portable or stationary telecommunication devices for the deaf (TDD's), and lights that flash as an alarm system;

(iv) for persons orthopedically impaired: special office chairs; special desks; speaker phones for those who cannot use a handset; dictating equipment for those who cannot type or write longhand; electric staplers, electric pencil sharpeners, electric date stamps, etc. for individuals with limited strength; storage spaces within appropriate reach ranges; and computerized equipment for persons with quadriplegia.

(8) **Reproducing designated materials.** The Department, upon request from employees with impaired sensory, manual, or speaking skills, may provide designated DRS materials that are critical to the performance of their job duties reproduced in alternate forms that make them accessible. Alternate forms may include but are not limited to braille, large print, tape, and simple assistive technology devices such as raised lettering for telephones and office equipment. Department resources, which include the Library for the Blind and Physically Handicapped, the Interpreter Services Program, and Services to the Deaf and Hard of Hearing, may be used to address approved requests when applicable.

(A) To insure that materials and systems will be accessible to all staff, no systems or databases will be implemented until they are fully accessible.

(B) No training materials will be distributed unless they are fully accessible in an appropriate format.

(9) **Providing special services.** DRS may provide the special services for individuals with disabilities in (A) - (C) of this Paragraph.

(A) **Qualified readers for the blind and persons with severe visual impairment.** Normally, the employees who provide clerical, secretarial, and/or stenographic assistance to employees who are blind or severely visually impaired will also provide reading assistance. This individual's additional tasks are reflected on the performance evaluation plan. DRS may also contact organizations for the blind which provide volunteer readers. Providing reading assistance to an employee in no way relieves the Department of its responsibility to provide clerical, secretarial, and/or stenographic assistance to that employee in those instances where the employee's position entitles him/her to, or requires, such assistance.

(B) **Qualified interpreters.** Persons with hearing impairments have different communication needs and use different modes of communication. Some use signing in American Sign Language, others use Signing Exact English, and others use different manual codes. Some persons use an oral interpreter to silently mouth words spoken by others to make them easier to lip read. The individual being accommodated will be consulted to determine the most effective means of communication. To obtain interpreter services contact the Services to the Deaf and Hard of Hearing program~~, State Office~~.

(C) **Personal assistance for other persons with disabilities.** The need for personal assistance services will vary widely among persons with severe disabilities. The extent of needed services must be determined on a case-by-case basis. If the service is job-related (e.g., specifically assists the employee in performing the duties of a particular job), it may be considered a reasonable accommodation. This can include page turning, note taking, or turning a computer on and off for a person with upper extremity impairments or with quadriplegia. It may also include providing a sighted guide for an employee who is blind for occasional business trips. This obligation does not extend to the provision of services that are primarily for the personal benefit of the employee

(e.g., daily personal care services performed on and off the job).

(10) **Assigning parking spaces.** Where employee parking is available, qualified employees with disabilities will be assigned spaces convenient to an accessible entrance to the assigned worksite. The assignment of parking spaces is based on medical certification of an individual's need for parking accommodations. Spaces will be designated in such a way that they in no way stigmatize the employee with the disability.

(c) **Appeal of accommodation solution.** The Director of Rehabilitation Services is the final authority for acting on appeals of proposed accommodation solutions. Any disputes concerning reasonable accommodation are subject to the final review and decision of the Director. The Director may intervene in requests at any time in order to bring about a prompt and impartial decision to the request.

(1) **Method of appeal.** In the event the employee is not satisfied with the proposed accommodation, he/she may write a memo to the Director asking for a review of the decision. The appropriate Division ADA Coordinator will provide the Director with a complete record of the prior proceedings concerning the request and the attempts to accommodate the employee. The Director shall convene a review board consisting of the Division ADA Coordinators not involved in the disputed decision, and appoint one of its members as chair for that dispute. The review board will provide the employee 20 working days to submit additional evidence. The review board may take reasonable steps to determine facts and law related to the dispute, including calling witnesses. The acting chair of the review board will submit a report to the Director in a timely fashion. This report will include:

(A) findings of fact;

(B) related findings of law and regulation, as applicable; and

(C) recommended action to be taken.

(2) **Right to prompt and equitable resolution.** The right of a person to a prompt and equitable resolution of the request shall not be abridged by the person's pursuit of other remedies, such as the filing of an ADA complaint with the appropriate federal agency or department. Use of the above procedure is not a prerequisite to the pursuit of other remedies.

(3) **Discrimination complaints.** The Department has an established grievance procedure for resolution of complaints of discrimination on the basis of disability. Refer to 612:1-13-9. Exhaustion of those procedures is not a prerequisite to filing a complaint with a Federal agency.

## SUBCHAPTER 13. CIVIL RIGHTS AND NONDISCRIMINATION ON BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, AGE OR DISABILITY

**612:1-13-3. Administration of programs**

Prior to implementation of any new programs or new methods for providing existing services, the ~~Affirmative Action Officer~~Civil Rights Administrator will carry out a study and prepare a report which will show the impact on minority groups the implementation will have, and the accessibility of the services, as proposed, to minorities or clients with disabilities; both present and prospective.

(1) Methods of recording and reporting the delivery of the services by race will be solicited by the ~~Affirmative Action Officer~~Civil Rights Administrator from each Department facility, institution, or local office participating in the program.

(2) The Department will take positive action, consistent with Title VI regulations, ADA, or Section 504 regulations, to overcome the effects of conditions which result or have resulted in limiting participation in any program by persons of a particular race, color, national origin, sex, age or disability.

(3) The Department will ensure that the services and activities of its programs will be accessible to clients who have disabilities.

**612:1-13-5. Awareness ~~training~~**

(a) The ~~Affirmative Action Officer~~Civil Rights Administrator will ensure that all Department staff members are provided with copies of the Department's policy statements signed by the Director pertaining to the agency's commitment to equal employment opportunity, ADA compliance and prevention of harassment on an annual basis. After reading the policy statements, each employee shall sign an acknowledgement form attesting to receipt of the policy statements. The Human Resources Unit shall provide all new employees with current copies of the aforementioned policy statements upon entry-on-duty.~~ongoing training designed to instill awareness of ethnic/cultural characteristics and disability characteristics and to develop capability for responding to unique needs of minority or beneficiaries with disabilities. Such training will include:~~

~~(1) Title VI requirements;~~

~~(2) compliance review objectives;~~

~~(3) basis for determining discrimination;~~

~~(4) cultural awareness and characteristics; and,~~

~~(5) disability awareness and characteristics.~~

(b) The ~~Affirmative Action Officer~~Civil Rights Administrator will provide ~~the Department heads of each administrative unit with training in~~program information on compliance review techniques and procedures, reporting procedures, data gathering and analysis, and any other appropriate instruction pertaining to Title VI, as needed.

**612:1-13-6. Maintenance of racial and ethnic data**

The Department ~~and all its administrative units~~ will collect and maintain racial and ethnic data showing the extent to which members of minority groups are beneficiaries of and participants in its programs. Considerations of privacy or confidentiality will not be used as a bar to providing access to

the Human Rights Commission to records or data. The system outlined will alert the Department and the ~~Affirmative Action Officer~~Civil Rights Administrator of suspect situations where there is a relatively low rate of minority participation, or where minorities do not appear to be deriving equal benefits and services. The system will also assist the ~~Affirmative Action Officer~~Civil Rights Administrator to set his or her own investigative priorities.

*[OAR Docket #03-862; filed 5-2-03]*

## TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 3. MANAGEMENT SERVICES DIVISION

*[OAR Docket #03-863]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
612:3-1-2 Definitions [AMENDED]
612:3-1-3 Functions of the division [AMENDED]
Subchapter 3. Human Resources Unit
Part 1. Overview of Human Resources Unit
612:3-3-2 Organization of the Human Resources Unit [REVOKED]
Subchapter 5. Policy Development and Program Standards
Part 3. Policy Development
612:3-5-16 State office memoranda [AMENDED]
**AUTHORITY:**
The Oklahoma Commission for Rehabilitation Services; Rehabilitation Act, United States Code Title 29, Chapter 16, Oklahoma Statute Title 74, Section 166.1 et seq.
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N/A
**ANALYSIS:**
The proposed changes to Chapter 3 involve clarification of the Office of Personnel Management's policy for transfers, functions of the divisions and certain responsibilities of the Policy Development Unit. It also includes a shift of responsibilities from one program to another in the Human Resources Unit.
**CONTACT PERSON:**
Larry Bishop, Policy Development Administrator, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, OK 73112 (405) 951-3408

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

### SUBCHAPTER 1. GENERAL PROVISIONS

**612:3-1-2. Definitions**

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

**"Certification as a person with a severe disability under 74 O.S. 840-4.12"** means certification of a person as having a severe physical or mental disability which seriously limits one or more functional capacities in terms of an employment outcome; and for whom State agencies have the option of waiving entrance examinations and modifying other hiring practices under the provisions of 74 O.S. 840-4.12.

**"Classified"** means state employees and positions under the jurisdiction of the Oklahoma Merit System of Personnel Administration.

**"DHCGRP"** means the Discrimination and Harassment Complaint and Grievance Resolution Procedure.

**"DRS"** means the State Department of Rehabilitation Services.

**"FEPA"** means the Oklahoma Fair Employment Practices Act, Section 840-4.12(I) of the Oklahoma Personnel Act.

**"FLSA"** means the Fair Labor Standards Act.

**"FLSA Exempt"** means employees performing work which is considered to be exempt from the overtime payment provisions of the FLSA.

**"FLSA Non-exempt"** means employees performing work which is considered to be under the overtime payment provisions of the FLSA.

**"Hiring official"** means the Director of the Department of Rehabilitation Services, or designee who is responsible for making the final decision to fill a vacant position.

**"IAGRP"** means the Internal Agency Grievance Resolution Procedures pursuant to Title 74, Subsection 840-6.2 (841.9) and Subchapter 19 of the Oklahoma Merit Protection Commission Merit Rules.

**"Interagency transfer"** means an action in which an employee leaves employment with one agency and enters employment with another agency while continuously employed with the state.

**"Intra-agency transfer"** means moving an employee from one position to another position with the same agency either with or without reclassification.

~~**"In-class transfer"** means a reassignment of a classified employee from one position to another position in the same class in the classified service.~~

**"Lateral transfer"** means the ~~reclassification~~ reassignment of ~~a~~ an ~~classified~~ employee ~~from one class~~ to another state job with the same pay band assignment as the job family

level in which the employee was classified prior to the lateral transfer ~~class in the classified service having the same grade~~.

**"Merit Rules"** means the Merit System of Personnel Administration Rules which includes rules ~~made~~ adopted by the Administrator of the Office of Personnel Management ~~and~~ or the Oklahoma Merit Protection Commission pursuant to the Oklahoma Personnel Act.

**"MPC"** means the Merit Protection Commission.

**"Noncompetitive"** means ~~a position assigned to the noncompetitive branch of the classified service not subject to the open competitive application process~~ an unskilled or semiskilled job designated by the Office of Personnel Management as noncompetitive. Noncompetitive jobs do not require written examinations for placement on registers of eligibles.

**"OPM"** means the State Office of Personnel Management.

**"OPM Certificate"** means a list of eligible applicants for a particular position who have applied through the Office of Personnel Management.

**"Open Competitive"** means an application process through the State Office of Personnel Management which permits the competition of all persons who meet the announced requirements for the class, and is not restricted to persons currently employed in the classified service.

**"Permanent"** means a classified employee who has acquired permanent status in conformity with the Merit Rules.

**"Probationary"** means a classified employee who has not acquired permanent status with the agency in accordance with the Merit Rules.

**"Reinstatement"** means the reappointment of a former permanent classified employee as provided in the Merit Rules.

**"Selecting official"** means the staff person directly responsible for the process of recommending a selection. Unless otherwise designated, this will usually be the immediate supervisor for the position being announced.

**"Trial work period"** means a working test period after promotion or intra-agency lateral transfer during which a classified employee is required to demonstrate satisfactory performance in the job family level ~~class~~ to which promoted or laterally transferred before acquiring permanent status in that ~~class~~ job family level.

**"Unclassified"** means employees and positions excluded from coverage of the Oklahoma Merit System of Personnel Administration. Such employees and positions are subject to specified provisions of the Oklahoma Personnel Act and the Merit Rules.

**612:3-1-3. Functions of the division**

The division of Management Services provides administrative and programmatic support to all components of the Department. The ~~program~~ administrators for ~~Budget and Finance;~~ Central/Departmental Services; Policy Development and Program Standards; Human Resources; and Information Services report to the ~~Division Administrator for Management Services.~~ Deputy Director. The administrator for the Budget and Finance Unit is the Chief Fiscal Officer who reports to the Director. The Budget and Finance Unit is responsible for developing and administering the Department budget, Federal and general accounting, revenue, and claims processing. Central/Departmental Services manages Department supplies, mail, property, communications, equipment and repair, inventory, contracts, purchasing and printing. The Policy Development and Program Standards Unit is responsible for development and maintenance of Department policy in accordance with State and Federal laws and regulations, developing and monitoring program standards, and quality assurance. The Human Resources Unit is responsible for personnel recruitment, transactions and records, benefits, payroll, employee assistance and relations, human resource development, and risk management. The Information Services Unit is responsible for data systems maintenance, statistical reporting, data systems programming, and personal computer support.

## SUBCHAPTER 3. HUMAN RESOURCES UNIT

## PART 1. OVERVIEW OF HUMAN RESOURCES UNIT

**612:3-3-2. Organization of the Human Resources Unit [REVOKED]**

~~(a) The unit is under the direction of the Human Resources Administrator who answers directly to the Division Administrator for Management Services. The Human Resources Unit of the Management Services Division consists of the Human Resources Development Section and the Human Resources Management Section.~~

~~(b) The Human Resources Management Section is made up of the Personnel, Employee Relations, Employee Benefits and Payroll and Retirement Programs.~~

~~(1) **Personnel.** The Personnel Program is responsible for:~~

~~(A) selection and recruitment;~~

~~(B) classification and compensation;~~

~~(C) transactions and records;~~

~~(D) personnel records maintenance;~~

~~(E) unemployment compensation;~~

~~(F) release of personnel information;~~

~~(G) human resource information system; and~~

~~(H) the employee performance management process.~~

~~(2) **Employee Relations Program.** The Employee Relations Program is responsible for:~~

~~(A) mediation;~~

~~(B) progressive discipline and adverse action management;~~

~~(C) grievance management;~~

~~(D) pre-termination hearings;~~

~~(E) the Employee Assistance Program;~~

~~(F) employee recognition and awards;~~

~~(G) state service certificates; and~~

~~(H) exit interview process;~~

~~(3) **Employee Benefits Program.** The Employee Benefits Program is responsible for:~~

~~(A) employee insurance benefits;~~
~~(B) risk management;~~
~~(C) worker's compensation; and~~
~~(D) the Wellness Program.~~

~~(4) **Payroll and Retirement Program.** The Payroll and Retirement Program is responsible for:~~
~~(A) payroll and time/leave system; and~~
~~(B) retirement process.~~

~~(c) The Human Resources Development Section is responsible for:~~
~~(1) training and staff development;~~
~~(2) organization development;~~
~~(3) career development;~~
~~(4) CPM program coordination;~~
~~(5) Department internships;~~
~~(6) management training;~~
~~(7) succession planning;~~
~~(8) human resource planning; and~~
~~(9) Quality Oklahoma coordination for the Department.~~

## SUBCHAPTER 5. POLICY DEVELOPMENT AND PROGRAM STANDARDS

## PART 3. POLICY DEVELOPMENT

### 612:3-5-16. State office memoranda

(a) The APA states that an agency shall not by internal policy, memorandum, or other action not otherwise authorized by the APA:
(1) amend, interpret, implement, or repeal a statute or a rule;
(2) expand upon or limit a statute or rule; and
(3) except as authorized by the Constitution of the United States, the Oklahoma Constitution or a statute, expand or limit a right guaranteed by the Constitution of the United States, the Oklahoma Constitution, a statute, or a rule.

(b) State office memoranda are those containing information or procedural direction issued by administrators in state office for general distribution. Types of state office memoranda and designation of those authorized to issue them will be established by the Director.

(c) Reviews of state office memoranda by Policy Development staff ~~are~~may be done in order to:
(1) assure consistency of memoranda content with existing Departmental policy; and
(2) assure state office memoranda content does not violate the APA.

~~(d) Policy Development staff will assign a number to the memorandum.~~

*[OAR Docket #03-863; filed 5-2-03]*

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# TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES
# CHAPTER 10. REHABILITATIVE AND VISUAL SERVICES

*[OAR Docket #03-864]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Chapter 10. ~~Rehabilitative~~Vocational Rehabilitation and Visual Services [AMENDED]
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The Oklahoma Commission for Rehabilitation Services; Rehabilitation Act, United States Code Title 29, Chapter 16, Oklahoma Statute Title 74, Section 166.1 et seq.
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**ANALYSIS:**
Changes in Federal regulations, the Rehabilitation Services Administration audit and Rehabilitation Services Administration recommendations have necessitated changes to DRS policy resulting in clarification to policy, updating of language and a title change for Chapter 10 as well as a title change for District Supervisors. Comparison of the Official Code with DRS policy revealed the need for numerous corrections and clean-up language. Budget reductions forced policy reviews resulting in needed changes to limit the ever-increasing payout for tuition to privately owned business/trade schools and the closing of the Transitional Living Center.
**CONTACT PERSON:**
Larry Bishop, Policy Development Administrator, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, OK 73112 (405) 951-3408

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS

**612:10-1-2. Definitions**

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

**"Act"** means the Rehabilitation Act [29 USC 701 et seq.].

**"Applicant"** means an individual who has completed and signed an agency application form or has otherwise requested vocational rehabilitation services; who has provided information necessary to initiate an assessment to determine eligibility and priority for services; and who is available to complete the assessment process.

**"Authorized Representative"** means a client's or applicant's parent, guardian, advocate (i.e. Client Assistance Program) or other person designated by the client or applicant as the individual authorized to deal with the Department on behalf of the client or applicant, consistent with provisions of the Act. Authorized representative does not include an employee of the Department of Rehabilitation Services, another state agency, or vendor of the Department unless the person is actually the parent, guardian, or is serving in the capacity of guardian (for example: court appointed).

**"Blind"** means persons who are blind within the meaning of the State Law relating to Vocational Rehabilitation. Legal blindness means a visual acuity of 20/200 or less in the better eye with best correction, or a visual field of 20 degrees or less.

**"Client"** means an individual found eligible and receiving services under the Act.

**"Clubhouse model"** means a psychosocial and vocational approach to work adjustment for people with mental illness. The work-ordered day is a core element of the clubhouse, which focuses on strengths, talents and abilities. Work in the clubhouse helps members develop appropriate social skills and gain self worth, purpose, and confidence. The clubhouse enables members to return to paid work through Transitional Employment, Supported Employment and independent employment.

**"Community rehabilitation program"** (CRP) means a program that ~~provides~~ directly provides or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and provides singly or in combination, services for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement.

**"Comparable benefits"** means services and/or funding available through any other programs and/or resources which will meet in whole or in part the cost of rehabilitation services provided to an eligible individual. For the purposes of this definition, the term "resources" does not include client assets as determined under 612:10-3-1 through 612:10-3-7.

**"Compensatory training"** means training required before the client can enter a formal training program or employment, such as pre-vocational or personal adjustment training.

**"Competitive employment"** means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and for which the individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who do not have disabilities.

**"Continuity of Services"** means once an individual is selected for services in accordance with policy, regardless of the priority category from which the individual was selected, the individual will receive the necessary purchased services, including post-employment services.

**"Core Independent Living Rehabilitation (IL) services"** is defined as information and referral services; independent living skills training; peer counseling; and individual and systems advocacy.

**"Core Vocational Rehabilitation (VR) services"** means services which substantially reduce the impact of functional limitations on employment outcomes. Physical and mental restoration services are examples of core VR services. Supportive services such as maintenance and transportation do not fall within the definition of core Vocational Rehabilitation services.

**"Department"** unless otherwise indicated in the text, means the Department of Rehabilitation Services as constituted in 74 O.S., Section 166.1 et seq.

**"DRS"** means the Department of Rehabilitation Services.

**"Durable Training Supplies"** means general training supplies which are not consumable, and are required for any student taking a particular course of study at an institution of learning, or required by a client as a reasonable accommodation for training. In general, any training supply which a client could not continue to use past successful rehabilitation, or which could not be used by other clients in future terms of training, would not meet the definition of "durable training supply".

**"DVR"** means the Division of Vocational Rehabilitation.

**"DVS"** means the Division of Visual Services.

**"Eligibility" or "Eligible"** means:

(A) when used in relation to an individual's qualification for Vocational Rehabilitation services, a determination that the individual has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; can benefit in terms of an employment outcome from rehabilitation services; and requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment;

(B) when used in relation to an individual's qualification for Supported Employment services, a determination that the individual is eligible for Vocational Rehabilitation services; is an individual with the most severe disabilities (priority group one); and

(i) for whom competitive employment has not traditionally occurred; or

(ii) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

(iii) who, because of the nature and severity of their disability, need intensive supported employment services, and extended services after the transition from intensive supported employment services, in order to perform such work;

(C) when used in relation to an individual's qualification for Rehabilitation Teaching services, certification that the individual is legally and/or functionally blind or has a rapidly progressive condition and may have secondary disabilities; the individual has identifiable deficiencies in independent living due to disabilities; and it is expected services will improve the individual's independence in the home and community;

(D) when used in relation to an individual's qualification for Independent Living Rehabilitation services, certification that the individual has a severe physical or mental disability; the disability results in a substantial limitation or inability to function independently in the family or community or to continue in employment; and a reasonable expectation that independent living services will significantly assist the individual improve his/her ability to function independently.

**"Employment and Retention"** (E&R) means short-term job coach support for individuals with severe disabilities who require assistance preparing for, obtaining, and maintaining employment.

**"Employment outcome"** means, with respect to an eligible individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market to the greatest extent practicable; supported employment; or any other type of employment (including self-employment, telecommuting, or business ownership) that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

**"Extended employment"** means work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act and any needed support services to an individual with a disability to enable the individual to continue to train or otherwise prepare for competitive employment, unless the individual through informed choice chooses to remain in extended employment.

**"Extended period of time"** means when appropriate services are provided in a timely and orderly manner, completion of the Individualized Plan for Employment (IPE) will be expected to require a minimum of 6 months.

**"Extended services"** means ongoing support services provided to individuals with the most severe disabilities after ~~once~~ the ~~time limited~~time-limited vocational rehabilitation services ~~are~~ have been completed and job stabilization has been achieved .~~and~~ They consist of specific services, including natural supports, needed to maintain the supported employment placement. Extended services are paid from funding sources other than DRS and are specifically identified in the IPE.

**"Extreme medical risk"** means a risk of substantially increasing functional impairment or risk of death if medical services are not provided expeditiously.

**"Functional capacities"** means a client's assets, strengths, and resources which maintain or increase the individual's ability to work. Functional capacities include mobility, communication, self-direction, interpersonal skills, work tolerance, or work skills.

**"Functional limitations"** means physical or mental conditions, emergent from a disability, which impair, interfere with, or impede one or more of an individual's functional capacities.

**"Higher education"** means universities, colleges, community/ junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

**"Highly challenged"** describes a client receiving supported employment services who, due to the nature of the disability, requires a greater level of support from the job coach to achieve and maintain employment.

**"Homemaker"** means a person whose primary work is performance of duties related to upkeep and maintenance of a home.

**"IEP"** means Individualized Education Program as required by the Individuals with Disabilities Education Act.

**"Individual with a disability"** means an individual having one or more physical or mental conditions which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's employment activities or vocational functioning.

**"Individual with severe disability"** means an individual with a significant disability, as used in the Rehabilitation Act amendments of 1998, and an individual:

(A) who has a physical or mental impairment seriously limiting one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(B) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(C) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, mental retardation, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease or other disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

**"Individual with the most severe disability"** means an individual with the most significant disability as used in the Rehabilitation Act amendments of 1998, and an individual with physical or mental disabilities:

(A) who has a severe physical or mental disability that seriously limits three or more major life activities in terms of an employment outcome;

(B) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(C) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, mental retardation, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease or other disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

**"Integrated setting"** means:

(A) With respect to the provision of services, a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals.

(B) With respect to an employment outcome, means a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

(C) A job site where the individual with severe disability works in a group of not more than eight workers with disability and interacts regularly in performance of job duties with non-disabled co-workers and/or members of the general public.

(D) Interaction with individuals who provide ongoing supported employment services at the job site does not satisfy the integration requirement.

**"Intercurrent (acute) conditions"** means an illness or injury occurring during the actual course of an individual's rehabilitation which, if not cared for, will complicate or delay achievement of the client's employment outcome as identified in the client's IPE.

**"IPE"** means the Individualized Plan for Employment.

**"Job Club"** is a structured learning experience for a client to build skills in self-assessment, resume development, job search and research strategies, and interview techniques to assist the person to enter a career of their choice.

**"Job Coach/Employment Training Specialist"** means a qualified individual providing ~~ongoing~~ support services to eligible individuals in supported employment ~~placements~~and employment and retention programs. Services directly support the eligible individual's work activity including marketing and job development, applied behavioral analysis, job and work site assessment, training and worker assessment, job matching procedures, and teaching job skills.

**"Long-term treatment"** means medical or psychological treatment that is expected to last more than three months.

**"Maintenance"** means a supportive service provided to assist with the out-of-ordinary or extra expenses to the individual resulting from and needed to support the individual's participation in diagnostic, evaluative, or other substantial services in the IPE.

**"Milestones"** means a payment system that reimburses a vendor based on incentives and outcomes. The vendor is paid when the client completes pre-defined checkpoints on the way to a desired employment goal.

**"Multiple services"** means the counseling and guidance provided as a routine part of case management plus two or more core VR services. Comparable benefits and/or services can count toward meeting the definition of multiple services. Services routinely provided as a package would not count as multiple services for the purpose of determining the presence of a severe disability. Core services include, but are not limited to:

(A) Restorative services including surgery, hospitalization, medical treatment, anesthetic, psychiatric treatment, nursing, medication;

(B) Prosthetics, orthotics, hearing aids, wheelchairs, other durable medical equipment, physical therapy, speech therapy, eyeglasses;

(C) Assistive technologies and services, sensory aids, telecommunication devices, and specialized adaptive equipment;

(D) Specialized services for individuals who are blind, deaf or severely disabled may include rehabilitation teaching, orientation and mobility training, reader services, interpreter services, personal assistance services, and personal or work adjustment training;

(E) Training services including tuition, fees, books and supplies, training tools and equipment, remedial training, job coaching, on-the-job training, all other training;

(F) Selective placement including job coaching, job duty analysis, work station analysis, adaptation and occupational tools; and/or

(G) Substantial guidance and counseling, such as counseling that is directed toward the acceptance of disability.

**"Natural supports"** means any assistance, relationships or interactions that allow a person to maintain employment in ways that correspond to the typical work routines and social interactions of other employees. Natural supports may be developed through relationships with people or put into place by the adaptation of the work environment itself, depending on the support needs of the person and the environment.

**"Occupational license"** means any license, permit, or other written authority required by a state, city or other governmental unit to be obtained in order to enter an occupation.

**"Ongoing support services"** means services specified in the IPE according to individual need, which support and maintain an individual with the most severe disabilities in supported employment. Sponsored ongoing support services are provided from the time of placement until the individual is stabilized on the job. Ongoing support services are provided

by one or more extended services providers, or by natural supports, following transition throughout the individual's term of employment. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.

**"Package of services"** means several services which are usually provided together for the same purpose. The services in a package are usually, but not always, from the same category of core services (see definition of multiple services, this section). Examples include, but are not limited to: surgery, anesthesia, and hospitalization; or personal computer, software, and peripheral equipment.

**"Personal assistance services"** means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability.

**"Physical and mental restoration services"** means services which are necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive, within a reasonable period of time.

**"Physical or mental disability"** means a physical or mental condition which, if not corrected, materially limits, contributes to limiting or will result in limiting an individual's activities or functioning.

**"Place/Train Model of Supported Employment"** describes a type of contracted service that is structured to meet the needs of individuals with the most severe disabilities in priority group one. The model provides the individual substantial assistance in making a job choice, in getting a job matching the choice, a significant amount of job site support to learn job tasks and to stabilize in the job, and long-term supports to retain the job.

**"Preparation/Place/Train Model of Supported Employment"** describes a type of contracted service that is structured to meet the needs of individuals with the most severe disabilities in priority group one. The model is designed to build work adjustment skills and ego strength to assist the individual to prepare for work, teach methods for obtaining and maintaining employment, clarify strengths and interests, make career choices, adjust to the demands of the work environment and maintain long-term employment.

**"Referral"** means information provided to agency staff regarding an individual who may need vocational rehabilitation services; information or direction provided to an individual regarding services and resources available from other agencies or service providers; or information and direction provided to an individual regarding opportunities for employment. A referral may include arranging for appointments on behalf of the individual.

**"Rehabilitation Act"** means the Rehabilitation Act [29 USC 701 et seq.].

**"Related factors"** means those factors which are not directly attributable to the impediment to employment, but which have impact on the potential for successful rehabilitation. They frequently become evident only from an assessment of the person's social, vocational, educational, and environmental circumstances.

**"Small business enterprises"** means a small business operated by blind or other individuals with severe disabilities under the management and supervision of the state DRS. Such businesses include only those selling, manufacturing, processing, servicing, agricultural, and other activities which are suitable and practical for the effective utilization of the skills and aptitudes of individuals who are blind or individuals who have severe disabilities. Small business enterprise provides substantial gainful employment or self-employment commensurate with the time devoted by the operators to the business, the cost of establishing the business and other factors of an economic nature.

**"Stabilization"** means the period of time when job coach support is reduced to the long-term maintenance level while the individual retains employment, and personal satisfaction with the job, as well as employer satisfaction with the person's job performance. Stabilization must include appropriate individualized supports, including a minimum of two employee contacts and one employer contact per month.

**"Substantial impediment to employment"** means that a physical or mental disability (in the light of related medical, psychological, vocational, educational, cultural, social or environmental factors) that impedes an individual's occupational performance, by preventing his/her obtaining, retaining, or preparing for a gainful occupation consistent with his/her capacities and abilities.

**"Supported employment"** (SE) means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most severe disabilities who meet the eligibility criteria for supported employment. This term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness (see the definition for "transitional employment").

**"Supportive services"** means vocational rehabilitation services provided so eligible individuals may derive the full benefit of core services being provided under an IPE.

**"Transitional employment"** (TE) means, when referring to the Supported Employment Program, a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most severe disabilities due to mental illness.

**"Transportation"** means a supportive service provided to assist with the costs of travel, including instruction in the use of public transportation vehicles and systems, which result from and are needed to support the individual's participation in diagnostic, evaluative, or other substantial and necessary VR services.

**"Unpaid family worker"** means a person who works without pay on a family farm or in a family business, operated by a family member who is related by blood or marriage.

**"VR"** means the Division of Vocational Rehabilitation, or the more general term vocational rehabilitation services, depending upon the context.

**"VR Counselor"** means the qualified rehabilitation professional, who is an employee of the designated state unit,

and who has primary responsibility for the management of an individual's VR services case record, including determination of eligibility, service planning and management, and determination of successful or unsuccessful rehabilitation. VR Counselor is equivalent to such terms as VR Specialist, VR Coordinator, and Rehabilitation Teacher who manage Visual Services cases with Homemaker goals.

**"VS"** means Visual Services.

**612:10-1-3. Basic philosophy of rehabilitation programs**

(a) **Basic philosophy.** The Division of Vocational Rehabilitation (DVR) and the Division of Visual Services (DVS) provide services to persons with disabilities who may have ability to pursue employment and those who, due to the severity of their disability, may benefit from rehabilitation services in terms of increased participation in home or community activities. Services are arranged through other sources or provided through division resources. All services provided must be appropriate, timely and provided in an economical and efficient manner within the framework of federal and state laws, the State Plan, and the rules and procedures issued by the Department of Rehabilitation Services (DRS).

(b) **Legal base.** Services from DRS are offered in accordance with the Rehabilitation Act [29 USC 701 et seq.]; Title VI of the Civil Rights Acts of 1964 and 1991, the Americans with Disabilities Act of 1990 and the regulations issued thereunder by DRS. No individual will be excluded from DRS program participation, denied services, or be otherwise subjected to discrimination on the grounds of race, age, sex, color, creed, national origin or disability.

(c) **Procedural exceptions.** Procedures set forth in this Chapter are not intended to reflect every situation that might confront DVR or DVS staff or to replace the staff's use of good judgment. In individual cases where an exception from basic procedures would be more cost effective for the division or significantly expedite services, the staff may request an exception. Authority to approve certain deviations from standard procedure rests with the division administrator. Authority to approve certain procedural exceptions has been delegated to ~~district supervisors~~ program managers and field coordinators. Only those exceptions stated in rule may be applied to rules.

(d) **Value based decision plan.** The underlying philosophy for the provision of rehabilitation services rests upon a value based decision plan developed through consensus of all DVR and DVS personnel. This plan guides the development of rules, management decisions, service delivery and the organizational environment. The mission of DVR and DVS is to provide opportunities for individuals with disabilities to achieve productivity, independence, and an enriched quality of life.

(e) **Pilot projects.** The purpose of pilot projects is to allow the Divisions of Vocational Rehabilitation and Visual Services to design and evaluate service delivery innovations on a scale that will provide for an effective trial without being disruptive to the entire organization. Such pilot projects might include trials of innovative policies, standards, and/or procedures.

(1) Authorization of pilot projects. The Division Administrator may approve applications for pilot projects after review and approval of the pilot by the DVR/DVS Management Team. Approval of an application for a pilot project by the Division Administrator will constitute authority to implement the pilot project for a length of time to be specified by the Division Administrator. The Division Administrator can terminate the pilot project at any time prior to the specified project duration. The pilot project may not be extended beyond the originally approved time period.

(2) Effect of DRS policy on pilot projects. The Director of the Department of Rehabilitation Services may waive the applicability of specified departmental policies when necessary to implement a meaningful trial of the approved pilot project. The waiver will apply only to the pilot project specified by the Director, and will be effective only for the duration of the pilot project. The waiver will end immediately upon termination or completion of the model project.

**612:10-1-6. Due process**

(a) **Notification of rights to due process.** Any applicant or client of DVR or DVS dissatisfied with a ~~decision regarding the individual's case~~determination that affects the provision of vocational rehabilitation services may request a timely review of the determination. Each applicant or client, or as appropriate, the individual's authorized representative will be informed of:

(1) the right to get decisions regarding the individual's case reviewed by an impartial hearing officer;

(2) the right to pursue mediation on decisions regarding the individual's case;~~ and~~

(3) the names and addresses of individuals with whom requests for mediation or due process hearings may be filed;

(4) the manner in which a mediator or impartial hearing officer may be selected; and

(~~3~~5) the availability of assistance from the client assistance program.

(b) **When notification of rights to due process is required.** The notifications specified in (a) shall be provided in writing, and in appropriate accessible format:

(1) at the time an individual applies for VR services;

(2) at the time an individual is assigned to the State's order of selection;

(~~2~~3) at the time the Individualized Plan for Employment is developed; and

(~~3~~4) upon reduction, suspension, or cessation of VR services for the individual.~~; and~~

~~(4) at the time an individual is assigned to the State's order of selection.~~

(c) **Client Assistance Program (CAP).** The purpose of the Client Assistance Program (CAP) as described in this Section is to provide assistance with informing and advising clients and applicants of all available benefits under the Rehabilitation Act. When requested by clients and applicants, CAP will assist them in their relationships with projects, programs, and ~~facilities~~ Community Rehabilitation Programs providing services to them under the Act.

(1) The Oklahoma CAP has the authority to pursue legal, administrative and other appropriate remedies to ensure the protection of the rights of individuals with disabilities who are receiving treatment, services or rehabilitation under the Act within the State.

(2) Vocational Rehabilitation agencies are required by Federal statute to advise all clients and applicants of the existence of CAP, the services provided by the program, and how to contact the program. A brochure is provided to each individual at the time of application and development of the IPE.

(3) Counselors must assure clients and applicants have access to CAP without fear of reprisal and are not pressured against or otherwise discouraged from using CAP services.

(4) The CAP staff members will provide the following services:

(A) Helping clients or applicants to understand rehabilitation service programs under the Act;

(B) Advising clients or applicants of benefits available to them through rehabilitation programs authorized under the Act ~~and related Federal and State assistance programs~~ and their rights and responsibilities in connection with those benefits;

(C) Otherwise assisting clients and applicants in their relationships with projects, programs, and ~~facilities~~ Community Rehabilitation Programs providing rehabilitation services under the Act;

(D) Helping clients or applicants by pursuing or assisting them in pursuing legal, administrative, and other available remedies when necessary to ensure the protection of their rights under the Act;

(E) Advising State and other agencies of identified problem areas in the delivery of rehabilitation services to individuals with disabilities and suggesting methods and means of improving agency performance; and

(F) Providing information to the public concerning the CAP and Title I of the ADA.

(5) Clients may be referred to CAP by any one of the following:

(A) The client's counselor;

(B) Other DRS representative;

(C) Office of Handicapped Concerns' Hotline;

(D) Self;

(E) Any other interested party.

~~(6) Once a referral has been made, it will take approximately 1 to 15 days for CAP personnel to work with all parties involved in the case.~~

(~~7~~6) Every client or applicant has the right to protection of information provided by him/her from unauthorized or indiscriminate disclosure. DVR and DVS will provide CAP officials information regarding an individual's case in accordance with 612:10-1-5 and applicable Federal law and regulations.

(~~8~~7) The CAP staff will make periodic field visits to facilitate CAP's availability to clients or applicants who cannot travel to Oklahoma City ~~and to make CAP staff available to DVR and DVS personnel to promote a meaningful and effective working relationship that will benefit all concerned~~.

(d) ~~**Administrative**~~ **Supervisory review.** DVR and DVS use ~~an administrative~~a supervisory review process to resolve disagreements as close to the field service delivery level as possible. The objective of the ~~administrative~~supervisory review process is a timely resolution of disagreements, and is not to be used to delay or deny a fair hearing before a hearing officer or the services of an impartial mediator. The ~~administrative~~supervisory review of a counselor determination starts the 60 day time period established under (f)(5) of this Section. The ~~Request for a Fair Hearing form~~ request for a fair hearing is submitted at this time in accordance with (f)(2) of this Section.

(1) The ~~administrative~~supervisory review is usually conducted by the ~~district supervisor~~ program manager. If the ~~district supervisor~~ program manager was involved in the disputed determination, the field coordinator conducts the administrative review. If the field coordinator was involved in the disputed determination, the division administrator conducts the administrative review.

(2) The decision that results from the administrative review will be stated in a letter to the individual, or to the individual's representative, with copies to the case record, the ~~district supervisor~~ program manager, and the hearings coordinator. The letter will identify the individual, case number, caseload, and office location. The body of the letter will state the reason for the administrative review and the decision resulting from that review. If the administrative review resolves the disagreement, the Withdrawal of Request for Hearing form must be submitted with the copy of the letter that is sent to the hearings coordinator.

(e) **Mediation.** Whenever a fair hearing is requested under this Section, mediation shall be offered as an option to resolve a disputed decision. DRS uses the voluntary mediation services of the Oklahoma Supreme Court. The supervisor will arrange for a mediator with the Early Settlement Center that is most convenient to the consumer upon receipt of a request for mediation. DRS will bear the cost of the mediation. The mediation session will be scheduled in a timely manner. An agreement reached by the parties to the dispute in the mediation will be set forth in writing. Discussions that occur during the mediation process will be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. Should the dispute be resolved through mediation, ~~the Withdrawal of Request for Hearing form~~ a withdrawal of request for hearing must be submitted to the hearings coordinator. The parties to the mediation may be required to sign a confidentiality pledge prior to commencement of the process. Nothing in this Subsection shall be construed to preclude the parties from informally resolving the dispute. The Departmental representative attending the mediation must be the individual who has final decision making authority for the question in dispute. The mediation:

(1) must be entered into voluntarily by all parties;

(2) is not used to deny or delay the hearing or any other right; and

(3) Is conducted by a qualified and impartial mediator.

(f) **Fair hearing process.** The fair hearing process will be conducted in accordance with (1) through (10) of this Subsection.

(1) **Services under IPE to continue.** No services being provided under the IPE shall be stopped, delayed, or reduced by the Department pending a final resolution of a requested hearing unless so requested by the individual or individual's authorized representative; or the service was obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual with disabilities. ~~However, this policy shall not be interpreted to mean that the Department is obligated to continue or resume a service stopped, delayed, or reduced as a result of:~~

~~(A) a client's actions or inaction;~~

~~(B) unilateral action by a service provider other than DVR and DVS;~~

~~(C) medical or psychological contraindications documented in the client's service record; or~~

~~(D) changes which are mandated by State or Federal laws or regulations, or court orders.~~

(2) **Request for a fair hearing.** The individual has 30 calendar days following the date on the notice of the adverse decision to request a fair hearing.

(A) The individual ~~will use the Request for a Fair Hearing form~~requesting a fair hearing, ~~and~~ may submit it to the local office, or may send it directly to the hearings coordinator in State Office. DVR and DVS staff will assist the individual in completing this form and with preparation of evidence from the case record in conformance with 612:10-1-5, if so requested.

(B) DVR and DVS staff will immediately notify their supervisor of the request for a fair hearing so that the administrative review can be started by the appropriate staff person. The completed Hearing Summary form, a copy of the notice of the adverse decision, and all supporting materials to be used in the hearing must be sent to the hearings coordinator as soon as possible. If ~~the Request for a Fair Hearing form~~ a request for a fair hearing is submitted to the local office, staff will immediately forward it with the other materials.

(C) Prior to the actual fair hearing, the hearings coordinator will provide copies of materials the agency will use in the fair hearing to the individual and/or the individual's representative in conformance with 612:10-1-5.

(3) **Withdrawal of request for a fair hearing.** The individual, or the individual's representative, may submit a ~~Withdrawal of Request for Hearing form~~ withdrawal of request for hearing any time following the submission of a request for a fair hearing up to the time the hearing is actually held. If the issue is resolved prior to the fair hearing, the individual, or the individual's representative, must submit a Withdrawal of Request for Hearing to end the fair hearing process.

(4) **~~Assignment~~ Selection of impartial hearing officer.** ~~The hearings coordinator will assign the fair hearing to an impartial hearing officer~~ The hearings coordinator will select an impartial hearing officer from a list of qualified impartial hearing officers maintained and identified by the State unit. Once ~~a hearing is assigned~~ selected, the impartial hearing officer will assume responsibility for arranging and conducting the fair hearing with the assistance of agency staff as necessary. The hearings coordinator will be apprised of events in the hearing process, and will be provided copies of all correspondence.

(A) ~~Assignments~~ Selections will be made ~~in order of rotation~~ randomly; or by agreement between the director of the designated State unit and the applicant or eligible individual or, as appropriate, the individual's representative; from the list of available impartial hearing officers. The hearings coordinator will forward all relevant materials to the assigned impartial hearing officer.

(B) The impartial hearing officer will send written notice of the fair hearing to all parties involved. The written notice of the fair hearing will include the name, address, and a brief vita of the impartial hearing officer.

(C) The individual may request a different impartial hearing officer based upon presented evidence that a conflict of interest exists consistent with Section 7 (16) of the Rehabilitation Act and 34 CFR 361.5(b)(25). A request for a different impartial hearing officer must be made within five days of receiving the fair hearing notice.

(5) **Scheduling of the fair hearing.** The fair hearing must be held within 60 calendar days from the date the ~~Request for a Fair Hearing~~ request for a fair hearing is received, unless the issue is resolved prior to the 60th day or the parties agree to a specific extension of time. The administrative review must be conducted and concluded within the same 60 days. Delays or continuances will not be given for the purpose of extending the provision of services. Any agreement to an extension of time must be formalized ~~using the Agreement to Postponement of Hearing form~~ in writing.

(6) **Consumer's participation in hearing.** At a fair hearing, the individual, or the individual's representative, is afforded the opportunity to:

(A) present additional evidence, information, and witnesses to the impartial hearing officer;

(B) be represented by counsel or ~~another appropriate~~ other advocate selected by the applicant or eligible individual; and

(C) examine all witnesses and other relevant sources of information and evidence.

(7) **Agency staff attendance.** Professional staff involved in the disputed determination will appear at the hearing to provide appropriate information and evidence and testimony. Other staff will appear as directed.

(8) **Order of proceedings in the fair hearing.** The Impartial Hearing Officer will conduct the fair hearing in accordance with State laws regarding conduct of individual proceedings before an agency, and applicable Federal laws and regulations. Although the order of proceedings

is at the discretion of the Hearing Officer, generally, the fair hearing follows this order of proceedings:

(A) presentation, arguments, and disposition of all preliminary motions and matters;

(B) opening statements;

(C) information and evidence presented by ~~DVR and DVS~~ the agency;

(D) evidence presented by the grievant;

(E) rebuttal by either or both sides;

(F) closing statements by the grievant;

(G) closing statements by ~~DVR and DVS~~the agency; and

(H) rebuttal by grievant.

(9) **Decision.** The hearing officer makes a decision based on the provisions of the approved State Plan, ~~and~~ the ~~Rehabilitation~~ Act, Federal vocational rehabilitation regulations, and State regulations and policies that are consistent with Federal requirements and on whether or not the counselor properly applied rules. The hearing officer does not have the authority to rule upon the legality of DRS rules that are consistent with Federal requirements. A decision made after a fair hearing shall be final, unless a party to the fair hearing requests a review under Paragraph (10) of this Subsection. The hearing officer provides the individual, or the individual's representative, and the hearings coordinator a full written report of the findings and grounds for the decision within 30 days of the completion of the hearing. The hearings coordinator will immediately forward the decision to the Director of DRS. The impartial hearing officer may make one of several decisions, which include, but are not limited to:

(A) finding in favor of the grievant;

(B) upholding the determination or action of ~~DVR and DVS~~ the agency;

(C) accepting a withdrawal of the appeal confirmed in writing signed by the grievant, or ~~as appropriate, a parent, family member, guardian, advocate, or duly authorized~~ the grievant's representative; or

(D) accepting a settlement of the issues agreed to by the grievant and ~~DVR and DVS~~ the agency which must include a ~~completed Withdrawal of Request for a Hearing~~ written withdrawal of request for a hearing.

(10) **Review of impartial hearing officer's decision.** Any party involved in a fair hearing may request an impartial review of the impartial hearing officer's decision within 20 calendar days of that decision. This review will be conducted by the Governor or the Governor's designee to whom DRS is assigned. The review will be conducted in accordance with the standards in (A) through (E) of this paragraph:

(A) The Governor or the Governor's designee will not delegate responsibility for this review to any officer or employee of DRS.

(B) The Governor or the Governor's designee will provide an opportunity for the submission of additional evidence and information relevant to a final decision concerning the matter under review.

(C) The Governor or the Governor's designee will make a final decision within 30 days of the request for administrative review. The decision will be provided to all parties, and/or to the parties' authorized representatives, in writing. The written decision will include a full report of the findings, and the grounds for the decision.

(D) The Governor or the Governor's designee cannot overturn or modify a decision, or part of a decision, made by an impartial hearing officer that supports the position of the individual unless the Governor or the Governor's designee concludes, based upon clear and convincing evidence, that the decision of the hearing officer is clearly erroneous on the basis of ~~Federal or State law, including policy~~ being contrary to the approved State plan, the Act, Federal vocational rehabilitation regulations, or State regulations and policies that are consistent with Federal requirements. The Governor or the Governor's designee will apply the standards presented in (i) through (iii) of this Subparagraph when conducting the review of the hearing officer's decision.

(i) The hearing officer's decision shall not be arbitrary, capricious, an abuse of discretion, or otherwise unreasonable.

(ii) The hearing officer's decision shall be supported by substantial findings of fact.

(iii) In reaching the initial decision, the impartial hearing officer shall correctly apply Federal and State law, regulation, agency policy, and the approved State Plan as they pertain to the specific issue in question.

(E) A decision made under this Paragraph shall be final unless a party involved in the hearing brings a civil action.

(g) **Civil proceedings.** Any party aggrieved by a final decision of an impartial hearing officer, or by the Governor or the Governor's designee, may bring a civil action for review of the decision. The action may be brought in any State court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy. If a party brings a civil action, the final decision of the impartial hearing officer, or of the Governor or the Governor's designee, shall be implemented pending review by the court. In any action brought under this Subsection, the court:

(1) shall receive the records relating to the hearing, and the records relating to any review conducted under (f)(10), if applicable;

(2) shall hear additional evidence at the request of a party to the action; and

(3) basing the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate. [29 USC 722]

(h) **Standards for impartial hearing officers.** In addition to qualifications required in a contract with the Department, an impartial hearing officer must meet the standards set forth in (1) through (6) of this Subsection:

(1) cannot be an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher learning);

(2) cannot be a member of the State Rehabilitation Council;

(3) ~~must not have been involved in previous decisions regarding the vocational rehabilitation of a grievant~~ has not been involved previously in the vocational rehabilitation of the applicant or eligible individual;

(4) must have knowledge of the delivery of vocational rehabilitation services, the State plan required under Section 101 of the Act, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties;

(5) must have no personal, professional or financial interest that would be in conflict with the objectivity of the impartial hearing officer; and

(6) must have successfully completed impartial hearing officer training presented by DRS.

(i) **Standards for impartial mediators.** In addition to qualifications required in a contract with the Department, an impartial mediator:

(1) will be trained and certified or licensed in effective mediation techniques;

(2) will not be an employee of a public agency (other than an Administrative Law Judge, hearing examiner, employee of a State Office of Mediators, or employee of an institution of higher education);

(3) will not be a member of the State Rehabilitation Council;

(4) must be knowledgeable in laws and regulations relating to the provision of VR services;

(5) has not been involved previously in the vocational rehabilitation of the applicant or eligible individual; and

(6) must have no personal, professional or financial interest that would be in conflict with the impartiality of the mediator.

**612:10-1-7. Purchase of services and goods for individuals with disabilities**

(a) All Department authorizations are made in compliance with the state purchasing policy under legal authority of the Director or by an employee to whom the Director has delegated such authority. Services, other than diagnosis, must be in an approved Individualized Plan for Employment prior to authorization. All authorizations are to be issued prior to or simultaneously with the provision of the services. Verbal authorizations may be made when needed to ensure effective delivery of services. Verbal authorization must be followed immediately by the actual authorization. Separate authorizations for each fiscal year are required when a planned service extends beyond a single fiscal year. Rehabilitation professionals may not authorize fees for services in excess of those established by the Department unless approved by the Division Administrator. A prior written purchasing agreement is required before authorization can be made to any medical vendor or post-secondary school. Other nonmedical vendors will not require a prior written purchasing agreement unless stated otherwise in the DRS policy manual section(s) for that service. When a vendor has a prior written purchasing agreement with the Department, and required approvals have been obtained, authorization may be issued for consumer services directly to that vendor. All other consumer services will be purchased pursuant to the rules in (g) and (h) of this Section. However, a requisition may be submitted to the DRS Purchasing Section if, in the judgment of the responsible rehabilitation professional, the best interests of the consumer and/or the agency would be served by having the Purchasing Section handle the procurement. In either case, once items have been received and checked against the authorization, the appropriate DVR or DVS staff, in accordance with (g) and (h) of this Section, signs the claim, then forwards it to the DRS Budget and Finance Unit. When a vendor does not abide by the authorization or written purchasing agreement or bills and accepts fees from the client in addition to those agreed upon, the rehabilitation professional will bring this to the immediate attention of the supervisor for action by the administration. The vendor will not be used for further rehabilitation services until agreement to discontinue the objectionable practice is reached.

(b) Since the Department is a state-federal agency, it does not pay sales, excise, or transportation taxes.

(c) All claims for medical and/or nonmedical client services must be filed on claim forms approved by the Department. When the provision of an authorization is fulfilled, payment for the authorized client services constitutes payment in full. The client will not have any financial liability other than the amount required of clients who must participate in the cost of the service provided. The individual is liable for services he/she arranged which were not planned and initiated under the auspices of DRS. When DVR and DVS funds are used to supplement third party medical resources, participation cannot exceed the difference between the third-party payment and the Department's established schedule.

(d) The client must transfer, assign, or authorize payments to the Department of any and all claims against Health Insurance or Liability Insurance companies or other third parties, to the full extent of all payments for medical services made by the Department.

(e) The Department retains right and title to any tools, equipment, durable medical equipment, or other goods costing $500 or more purchased with DVR and DVS funds, until and unless such goods are released to the client. Upon delivery of any such goods to the client, a Receipt for Equipment and Title Agreement must be completed and signed.

(1) **Completion of Program:** Any tools, equipment or durable medical goods purchased for training or occupational purposes remain with the client after completion of the program of services if they can be used in the client's chosen vocation. If the client fails to complete the program of service, the counselor will make effort to reclaim the goods to transfer to another client.

(2) **Disposition at closure:** Case recording must reflect the disposition at the time of closure of tools, equipment, and goods provided the client. All occupational tools, equipment, and durable medical goods remain the property of the agency until released. If the client is not

using the items, the counselor will pick them up if an economical savings to the agency will result, and if the transfer will not endanger the health or safety of the client.

(3) **Title Release:** Title on any tools, equipment or durable medical equipment purchased with DRS funds for training or occupational purposes will not be released to the client until the counselor has determined the client is rehabilitated and using the items as planned.

(f) When the rehabilitation professional determines an authorization or portion of an authorization will not be utilized, procedures to cancel the remaining services will be completed. Before the case is closed, all unliquidated authorizations must be canceled or accounted for to determine if a claim will be made against any outstanding authorization.

(g) Purchasing consumer goods or services, other than direct client payments, when there is no prior written purchasing agreement is basically a three step process. These steps include specifying the requirements for the goods or services, authorizing for the purchase, and receiving delivery of the goods or services. For audit purposes, no one person can perform more than one of these steps. A different person is required for:

(1) identifying the requirement for the purchase;

(2) placing the order; and

(3) accepting the material or service.

(h) When a prior written purchasing agreement for consumer goods or services, other than direct client payments, is not required, and the service or package of services to be obtained will cost $2500 or less, the rehabilitation professional and client will jointly choose an appropriate vendor. The rehabilitation professional will then authorize for the planned services to the chosen vendor. When a prior written purchasing agreement for consumer services, other than direct client payments, is not required, and the service or package of services will cost more than $2500, the rehabilitation professional will follow rules in (1) through ~~(6)~~(7) of this Subsection.

(1) The rehabilitation professional will obtain specialist recommendations for purchase requirements and approvals in accordance with agency policy.

(2) The participation of the client, or the client's authorized representative, will be obtained in deciding upon at least three vendors to be contacted by the rehabilitation professional to obtain bids for the goods or services. The rehabilitation professional will review available vendor information with the client, or client's authorized representative, to jointly determine which vendor(s) can best meet the needs of the client in terms of product and service function, quality, and vendor accessibility.

(3) At least three vendors offering the goods or services will be contacted to obtain bids. To expedite planning and service delivery, bids may be obtained verbally. Upon request, contacted vendors will be afforded at least 24 hours in which to prepare and submit the verbal bid. The rehabilitation professional will ensure that all bids are submitted in writing for the same or comparable items, and will document the bids received by using the Vendor Bid Documentation Form.

(4) The rehabilitation professional will issue the appropriate authorization and claim to the vendor submitting the lowest and best bid. If the rehabilitation professional managing the case is also the recognized specialist who identified the purchase requirements, then the supervisor will issue the appropriate authorization. Authorization may be issued to a vendor not submitting the lowest bid only with strong documentation that the selected vendor can best meet the needs of the client. The successful bidder will sign a non-collusion statement (to be sent with the claim), which will be maintained in the case service record.

(5) In the case of a vehicle modification or housing modification, upon completion of the authorized services, the counselor will contact the AT Specialist to schedule inspection of the work in accordance with 612:10-7-220 and 612:10-11-38. The AT Specialist will complete the "Assistive Technology Inspection Report" verifying the modification conforms to acceptable standards and the work is satisfactory.

(~~5~~6) Upon delivery of the goods or services in accordance with the IPE and authorization, a rehabilitation staff person other than the specialist who specified the purchase requirements and the rehabilitation professional who authorized the purchase will accept delivery, verify that goods received match the vendor invoice, sign the appropriate claim form, sign and attach the invoice and forward them to the DRS Budget and Finance Unit.

(~~6~~7) Upon delivery of any goods costing $500 or more to the client, a Receipt for Equipment and Title Agreement must be completed and signed.

(~~7~~8) Itemized documentation will be in the case record on all orders costing less than $500 and the client will acknowledge their receipt. (For example, signing and dating the packaging slip, vendor's invoice, or typed list of goods.)

(~~8~~9) Returned or repossessed items must be documented on for "Receipt for Equipment and Title Agreement" and the final disposition noted in Case Narrative entry.

(i) ~~District Supervisors~~Program Managers will review case records when submitted for approvals to ensure that purchases are being awarded in a manner that ensures competition and client participation within the scope of DRS and applicable fiscal rules. At least once each fiscal year a random selection of case records will be reviewed by the DRS Central/Departmental Services Unit to monitor compliance with DRS and applicable fiscal rules. If a ~~District Supervisor~~Program Manager has reason to believe that a rehabilitation professional is not making a good faith effort to award purchases in a competitive manner and in accordance with agency policy, a fiscal audit of the entire caseload will be requested to determine the appropriate action to take.

(j) Pursuant to 74 O.S. 85.44A, any goods or services required under a court order shall be purchased in accordance with DRS fiscal rules.

## SUBCHAPTER 3. CLIENT PARTICIPATION IN COST OF SERVICES

**612:10-3-4. Services exempt from client participation in service costs**

(a) DVR and DVS clients who have income and assets above the basic living requirements will be required to apply surplus resources to the cost of rehabilitation services, including status 06, except for the following services which do not require a determination of financial status:

(1) services provided to assess eligibility and rehabilitation needs (services which would require the individual's participation in cost under an IPE will also require the individual's participation in cost during an evaluation of the individual's ability to benefit from VR services);

(2) counseling, guidance, referral, and other services provided directly by DVR and DVS staff;

(3) on-the-job training;

(4) personal or work-adjustment training;

(5) reader services;

(6) interpreter services;

(7) personal assistance services;

(8) job placement;

(9) compensatory training;

(10) job coaching services~~; or~~ (i.e., supported employment, employment and retention, transitional employment);or

(11) library services.

~~(12) all services will be exempt from client participation in service cost if the client has been determined eligible for Social Security benefits under Titles II or XVI of the Social Security Act.~~

(b) Recipients of Social Security benefits under Titles II or XVI (SSDI and SSI) of the Social Security Act do not have to participate financially in the cost of their rehabilitation program.

**612:10-3-5. Basic living requirements**

(a) A basic living requirement has been established for different size family groups. A family member is an individual who either (A) is a relative or guardian of an applicant or eligible individual; or (B) Lives in the same household as an applicant or eligible individual and has a substantial interest in the well-being of that individual and whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome. Basic living requirements are based on 150% of the Federal poverty level adjusted annually for family size. The standard is intended to cover only the necessities of food, shelter, utilities, clothing, transportation, and incidentals to give the counselor some criteria by which to measure the financial status of a client. To qualify as independent from the family group, the client must meet one of the following criteria:

(1) Beneficiary of SSDI or SSI;

(2) At least 24 years of age;

(3) A ward of the court and in custody of DHS;

(4) Married and maintaining a separate household;

(5) Meets the criteria for temporary housing as described in 612:10-3-5(c) or;

(6) The counselor verifies the client has the financial resources to demonstrate self-sufficiency and the client declares no family contributions are available.

(b) Verification of family membership should be based upon whatever available information most accurately documents family membership according to the definition given in this Subsection. Examples of acceptable verification include the latest Federal income tax return, payroll information, insurance policies, client report, and/or counselor observation.

(c) An eligible adult individual whose disability has resulted in the need to live with family or friends temporarily, and as appropriate the individual's spouse and dependent children, will be considered as a separate household regardless of living arrangements.

## SUBCHAPTER 5. GUIDELINES FOR EVALUATING THE LIMITATIONS AND REHABILITATION NEEDS OF CERTAIN DISABILITY GROUPS

**612:10-5-22. ~~Size~~Height and obesity**

(a) **~~Size~~Height.** In determining whether a person will be accepted for services on the basis of ~~size~~height alone, a great deal will depend upon the personality of the individual and vocational factors. The counselor does not consider shortness of stature an impediment to employment if the person is taller than 52 inches.

(b) **Obesity.** Obesity is an increase in body weight beyond the limitations of skeletal and physical tolerance as the result of excessive accumulations of fat in the body. The cause of obesity is unknown, but several factors may contribute to an individual's obesity. Among these are social factors, endocrine and metabolic factors, psychological factors, genetic factors, developmental factors and physical activity. Diagnosis of obesity is relatively easy since it is observable and can be quantified by weight and height measurements. The determination of eligibility for vocational rehabilitation services based on a disability of severe obesity (100% over normal weight) will be made on an evaluation of the individual's ability to participate in the activities of daily living (walking, driving, use of public transportation) which might be required if the individual was employed. Severe obesity (100% over normal weight) as defined by the Metropolitan Life Insurance Company is considered as the appropriate minimum criteria.

(c) **Treatment plan.** Any vocational plan for a person who is obese must include some type of treatment plan. While the prognosis for treatment of obesity is guarded and may cause other complications, untreated the disability tends to progress. Any treatment program authorized by the agency must be monitored by a licensed dietician or a physician skilled in weight reduction. DRS will not approve any radical surgery i.e., bypass or stapling of the stomach, as those treatment plans are beyond the scope of VR services.

## SUBCHAPTER 7. VOCATIONAL REHABILITATION AND VISUAL SERVICES

## PART 1. SCOPE OF ~~REHABILITATIVE~~VOCATIONAL REHABILITATION AND VISUAL SERVICES

### 612:10-7-1. Overview of Vocational Rehabilitation and Visual Services

(a) This Subchapter discusses services within the scope of the Vocational Rehabilitation and Visual Services programs. Generally, these services are referred to as vocational rehabilitation services or VR services. Vocational rehabilitation services are provided by the Division of Vocational Rehabilitation and the Division of Visual Services. Vocational rehabilitation services are provided to help eligible individuals achieve employment outcomes that are consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of each eligible individual. To the maximum extent appropriate, VR services are meant to result in competitive employment in an integrated setting. Vocational rehabilitation services include services for individuals and services to groups of individuals.

(b) Vocational rehabilitation services for individuals include:

(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

(2) counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(3) referral and other services to secure needed services from other agencies through cooperative agreements if such services are not available from DVR or DVS;

(4) job-related services, including job search and placement assistance, job retention services, ~~followup~~ongoing services, and ~~follow-along~~extended services;

(5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by DVR or DVS staff and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;

(6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits) other than DVR or DVS, diagnosis and treatment of physical and mental impairments, including:

(A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

(B) necessary hospitalization in connection with surgery or treatment;

(C) prosthetic and orthotic devices;

(D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;

(E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

(F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;

(7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an Individualized Plan for Employment;

(8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;

(9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;

(10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;

(11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;

(12) occupational licenses, tools, equipment, and initial stocks and supplies;

(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

(14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

(15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the Individualized Plan for Employment;

(16) supported employment services~~;~~ for individuals with the most severe disabilities (priority group 1) that need ongoing support services from a job coach to obtain and maintain employment;

(17) employment and retention services for individuals with severe disabilities who require short term job coach support to obtain and maintain a successful employment outcome;

(18) transitional employment services for individuals with the most severe disabilities (priority group 1) due to mental illness who have little or no successful work history and need work adjustment/trial work experience;

(19) job placement services for individuals with disabilities who are job ready;

(~~17~~20) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and

(~~18~~21) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

(c) Vocational rehabilitation services for groups of individuals include:

(1) in the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by DVR or DVS, the provision of such services and supervision, along or together with the acquisition by DVR or DVS of vending facilities or other equipment and initial stocks and supplies;

(2) services that contribute to the rehabilitation of a group of individuals not related to an IPE, including:

(A) the establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility. Such programs shall be used to provide services that promote integration and competitive employment; and

(B) the provision of other services, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any one individual with a disability;

(3) the use of telecommunications systems (including telephone, television, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities;

(4) special services to provide nonvisual access to information for individuals who are blind, including:

(A) the use of telecommunications, Braille, sound recordings, or other appropriate media;

(B) captioned television, films, or video cassettes for individuals who are deaf or hard of hearing;

(C) tactile materials for individuals who are deaf-blind; and

(D) other special services that provide information through tactile, vibratory, auditory, and visual media.

(5) technical assistance and support services to businesses that are not subject to Title I of the Americans with Disabilities Act of 1990 [42 USC 12111 et seq.] and that are seeking to employ individuals with disabilities; and

(6) consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

**612:10-7-5. Factors affecting eligibility**

(a) **Physical or mental condition.** The presence of a disability or impairment that meets the first criterion of eligibility must be documented by more than just a diagnosis that a physical or mental condition exists. To qualify, the condition must be serious enough to result in a substantial and lasting impediment to employment.

(1) Physical or mental conditions which may meet the first element of basic eligibility are:

(A) permanent, stable conditions, for which the resulting impediments to employment, and the individual's functional capacities can be determined;

(B) slowly progressive conditions, in which the individual's functional capacity is not expected to diminish so rapidly as to prevent completion of vocational rehabilitation services, and/or employment for a reasonable period of time;

(C) remediable conditions which are recurring or chronic, require restoration services, and result in no substantial impediment to employment after restoration services have been provided.

(2) Physical or mental conditions which do not meet the first element of basic eligibility include:

(A) temporary conditions in which no functional limitations of an enduring nature are expected after treatment or recovery;

(B) unstable conditions which require emergency medical intervention and/or prolonged medical management, and for which functional capacities and limitations cannot be predicted because of the recency of onset and/or the recurring nature of the condition.

(b) **Need for VR services.** The third element of basic eligibility states the individual must require vocational rehabilitation services to prepare for, enter, engage in, or retain an employment outcome. Paragraphs (1) and (2) of this Subsection define the conditions of the third element of basic eligibility.

(1) The applicant requires VR services when the individual will not be able to achieve an employment outcome because of the documented impediment to employment, unless one or more of the services listed in 612:10-7-1 are provided.

(2) When any of the conditions listed in (A) through (E) of this Paragraph exist, VR services are not required. Counseling, guidance, and placement services may still be provided when the conditions in Subparagraphs (A), (D), or (E) exist.

(A) The applicant is already receiving services needed for employment.

(B) The applicant can obtain or retain suitable employment without VR services.

(C) The services needed will not lead to an employment outcome.

(D) The needed services are mandated of another agency.

(E) The requested services are not VR services.

(c) **Age.** There is not an upper or lower age limit in and of itself which may result in the applicant's ineligibility to receive vocational rehabilitation services. In determining eligibility, however, the counselor must keep in mind the ultimate objective of DVR and DVS is to enable an individual to achieve an employment outcome, as defined in 612:10-1-2. A counselor may provide vocational rehabilitation services to an individual

prior to working age if the client meets basic eligibility requirements, a vocational objective can be determined, and the client will reach working age by the time the IPE is completed. If the client has not yet completed his basic education (high school), the counselor will not provide services that are the responsibility of the public school system. Persons past normal retirement age who meet the basic eligibility requirements may be accepted for vocational rehabilitation services if the services to be provided will enable the applicant to achieve an employment outcome.

(d) **Disabled veterans.** Disabled veterans are eligible for vocational rehabilitation services on the same basis as other individuals with disabilities subject to the following restrictions:

(1) Disabled veterans are not provided services which can be secured from the Veterans Administration (VA), unless use of VA services will cause a substantial delay in services.

(2) Veterans receiving additional benefits under the G.I. Bill or the War Orphan Act may be provided services if such services do not duplicate those being received from the VA.

(e) **Services when client is employed.** Individuals who are regularly employed in a job commensurate with their strengths, resources, priorities, concerns, abilities, and capabilities are not considered eligible for vocational rehabilitation services. Employed persons who meet basic eligibility requirements may be provided vocational rehabilitation services when:

(1) the employment is not consistent with the individual's strengths, resources, priorities, concerns, abilities, and capabilities; and

(2) vocational rehabilitation services are required to assist the individual to obtain an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, and capabilities.

(f) **Services provided after alleviation or removal of the disability.** When physical restoration services can result in the removal or alleviation of the disability, services will be limited to the recommended physical restoration services, counseling, guidance, and placement only.

(g) **Residence.** Any individual residing in the state at the time of application may receive vocational rehabilitation services if otherwise eligible.

(h) **Citizenship.** Participation in the vocational rehabilitation program shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized to work in the United States.

(~~h~~i) **Sports participation.** Individuals with disabilities have a right to participate in sports. If the athletic activity is not detrimental to the client's health, physical well-being, general safety or the safety of others, an opportunity to participate in sports, or receive an athletic scholarship will not be the basis for denial of vocational rehabilitation services. When eligibility is questionable because of sports participation, the case will be reviewed by the medical consultant.

**612:10-7-6. Assessment for determining eligibility**

(a) To determine whether an individual is eligible for vocational rehabilitation services and to assign an individual to a priority group in the order of selection:

(1) the counselor will use to the maximum extent possible and appropriate existing information that is current as of the date of the determination of eligibility or of the development of the IPE (for the purposes of this Section, current means that there has been no appreciable change in the individual's condition as described in the obtained documentation); and

(2) to the extent necessary provide appropriate assessments, including provision of goods and services during the assessment, to obtain additional documentation necessary to make the determination of eligibility and priority group assignment. The counselor will carefully evaluate the need to provide assistive technology devices and services or worksite assessments.

(b) The counselor will determine whether an individual is eligible for vocational rehabilitation services within a reasonable period of time, not to exceed 60 days after the individual has submitted an application for services. This time period may be extended only when unforeseen and exceptional circumstances beyond the control of the Department preclude completing the determination of eligibility within the 60 days and the individual agrees ~~an~~a specific extension of time is warranted as documented on the Need for Extension of Time to Determine Eligibility form; or a trial work period is needed to determine the individual's ability to benefit from VR services.

(c) The counselor must carefully assess the usefulness of any records obtained based upon the nature of the disability; the relevance and completeness of information contained in the records; and the nature and outcome of treatment, or other services, received by the client.

(d) Documentation that the individual has a disability which constitutes or results in an impediment to employment must come from professionals qualified in accordance with State law to diagnose the reported disability, except as provided in 612:10-7-4(b).

(e) Diagnosis and evaluation are to be provided only for determination of eligibility for VR services, priority group placement, and determination of VR service needs. DVR and DVS funds are not to be used to assist an individual in establishing eligibility for other programs.

(f) When necessary, diagnostic evaluations may be purchased at any time during the life of the case. Diagnostic procedures that require hospitalization must be approved by the ~~district supervisor~~ program manager.

(g) If an individual is determined eligible, the VR counselor will notify the individual in writing then update ORMIS using the Eligibility Data Entry form. If the individual is determined to be ineligible, counselor will close the case using the Notification of Case Closure form.

(h) A qualified rehabilitation professional can proceed with an assessment of eligibility if there is an obvious and/or observable disability. An interim decision based on an observable disability must be followed up with medical records.

## PART 3. CASE PROCESSING REQUIREMENTS

**612:10-7-33. Supervisory caseload reviews**

(a) ~~District supervisors~~ Program managers are to review a sample of active cases each fiscal year to ensure a uniform quality of work is maintained. Each supervisor will be responsible for setting a schedule for case reviews in his/her area. The results of case reviews are to be included in the performance evaluations of appropriate staff.

(b) The appropriate review form will be completed for each case reviewed in accordance with instructions. The purpose of the case review is not only to check the quality of work but also to help the counselor improve his/her work. It is the responsibility of the individual ~~district supervisor~~ program manager to discuss each case review with the counselor involved and to help make any necessary adjustments in the counselor's caseload management practices.

(c) The regular case review will be supplemented by spot checks of individual cases as often as the supervisor deems necessary. In addition, periodic reviews of both active and closed cases by the State Office will be conducted. The purpose of these reviews will be to ensure uniform application of agency policies and to identify areas for which in-service training may be needed. State Office reviews are not intended to take the place of supervisory reviews.

## PART 5. CASE STATUS AND CLASSIFICATION SYSTEM

**612:10-7-50. Status 10 - accepted for services and IPE under development**

(a) **Use of status 10.** An active case is defined as one which has been accepted as meeting the basic eligibility requirements and placed in one of the statuses 10 through 24. An individual who is placed in an order of selection priority group that is not currently being served will be placed in status 10 and held there pending further directives from the Director concerning opening or closing of priority groups. While an individual is in status 10, the comprehensive assessment is completed to provide a basis for the formulation of the client's IPE. The comprehensive assessment is used to determine the scope and nature of services to be provided to accomplish the vocational objective of the client. The counselor records activities during this period by individual entry or by summary recording at regular intervals on the case narrative form. Copies of pertinent case information will be shared with all DVR or DVS professionals involved in the case. Pertinent case information will also be shared with contracted vendors, when appropriate, with a release signed by the client. During the provision of services, the counselor and teacher will share pertinent information including narrative recording. If an IPE cannot be developed during this period, the client's case is closed in status 30 with a full explanation to the client and documentation as to the reason for closing the case. This documentation will be completed on the Notification of Case Closure form. The counselor may not find an individual ineligible for supported employment services because a resource for providing extended services cannot be identified. In this instance, the counselor will:

(1) accept the individual as eligible for VR services;

(2) plan VR services as appropriate, including the expected availability of extended services; and

(3) seek out and/or help in developing the needed extended services resource.

(b) **Case recording requirements.**

(1) **Notification of eligibility.** The VR counselor will discuss eligibility with the individual, and provide a written notification of eligibility to the individual. After notifying the individual that he or she is eligible, the VR counselor will complete the Eligibility Data Entry form.

(2) **Comprehensive assessment.** A comprehensive assessment will be done in every case. It is conducted once the individual has been accepted as eligible for VR services. Additional assessments may be obtained for the comprehensive assessment to the extent information additional to that already obtained is necessary to determine the vocational rehabilitation needs of the individual and to develop the IPE. Existing information, and information supplied by the individual, or the individual's authorized representative, is to be used for the comprehensive assessment to the maximum extent possible. Rehabilitation technology will be used in the comprehensive assessment when necessary to assess and/or develop the capacities of the individual to perform in a work environment. The results of the comprehensive assessment and the VR Counselor's analysis of them will be recorded in a case narrative titled "Comprehensive Assessment". This case narrative will contain reasonable justification of the employment goal and services that will be provided in the IPE, considering the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual. For individuals who find selection of a vocational objective difficult because of unsuccessful or limited exposure to work, the counselor may refer the client to a Community Rehabilitation Provider (CRP) for additional assessments to establish a vocational goal. Employment and Retention (ER) contracts offer standardized, commercial assessments, work skills assessments, as well as short-term situational assessments in community settings. Employment and Retention contractors also provide job readiness services through work experience programs or Job Clubs, as well as benefits analysis to assure the individual understands the effect of work on public benefits.

(3) **The comprehensive assessment for supported employment.** In supported employment cases, the record must document, in a case narrative titled "Comprehensive Assessment", the counselor's determination that the client is an individual:

(A) for whom competitive employment has not traditionally occurred; or

(B) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

(C) who, because of the nature and severity of the disability, needs intensive supported employment services, and extended services after the transition from intensive supported employment services, in order to perform such work.

(4) **Referral.** The counselor refers the client to a supported employment provider to gather the information necessary to complete the comprehensive assessment, and authorizes the "Assessment and Determination of Needs" milestone. The provider will conduct situational assessments in community settings based on client choice and negotiations with the counselor, and in accordance with their contract requirements. Results of the assessments will assist the client and counselor in establishing a vocational goal.

(c) **Development of the Individualized Plan for Employment.** The VR counselor will provide the eligible individual, or the individual's authorized representative, in writing and in appropriate mode of communication, with information on the individual's options for developing the IPE, including:

(1) information on the availability of assistance, to the extent determined to be appropriate by the eligible individual, or authorized representative, from a qualified VR counselor in developing all or part of the IPE, and the availability of technical assistance for this purpose;

(2) a description of the required content of the IPE;

(3) as appropriate:

(A) an explanation of agency requirements for client participation in cost of services;

(B) additional information requested by the individual or authorized representative; and

(C) information on the availability of assistance in completing DVR/DVS forms required in developing the IPE; and

(4) a copy of a DRS publication addressing client's rights and responsibilities.

(d) **Vocational objective.** The primary purpose in providing vocational rehabilitation services is to assist an eligible individual obtain appropriate competitive employment in an integrated setting consistent with the individual's informed choice. The choice of a vocational objective for an individual receiving vocational rehabilitation services must be based primarily upon the individual's strengths, resources, priorities, concerns, abilities, and capabilities.

(1) **Informed choice.** The vocational objective is to be chosen with the full participation of the client. The client's interests and informed choice determine his or her vocational goal to the extent these factors are consistent with the client's strengths, resources, priorities, concerns, abilities, and capabilities.

(2) **External conditions.** Factors such as the local labor market or local economy must also be taken into consideration. However, in most cases these factors cannot be used as the only basis upon which to determine whether a vocational objective is appropriate.

(3) **Currently employed individuals.** When post-employment is not appropriate, the individual's functioning in current employment must be judged against the basic eligibility criteria for vocational rehabilitation services. Services may be provided to an eligible individual who is employed when:

(A) the employment is not consistent with the individual's strengths, resources, priorities, concerns, abilities, and capabilities; and

(B) vocational rehabilitation services are required to assist the individual to obtain an employment outcome consistent with the individual's strengths, resources, priorities, concerns, abilities, and capabilities.

(e) **Non-competitive vocational objectives.** The primary mission of DVR and DVS is to help eligible individuals achieve competitive employment in an integrated work setting. Therefore, careful consideration and planning are required when services are to be provided to achieve a long term goal of non-competitive employment.

~~(1) **Planning for extended employment.** When included in an IPE, extended employment should be a service leading to competitive employment in an integrated setting. Extended employment shall be the vocational goal only when a suitable wage is paid and the employment represents the maximum employment outcome for the client.~~

(~~2~~1) **Homemaker.** A homemaker is defined as a person whose primary work is performance of duties related to the upkeep and maintenance of a home. This work takes place in the individual's own home, without remuneration.

(A) The IPE can have a vocational objective of homemaker only when services will directly and substantially improve the individual's ability to perform the primary homemaking work activities for their home.

(B) Self-care activities are not sufficient to meet the definition of gainful occupation. The individual must not be receiving any type of assistance in performing primary homemaking duties.

(C) A vocational objective of homemaker can be established for only one person within the same household.

(~~3~~2) **Unpaid family worker.** A vocational objective of unpaid family worker is appropriate when services will enable the individual to perform work without pay on a family farm or in a family business operated by one or more members of the client's family. The record must document how the services will substantially improve the productivity of the client and his/her contribution to the family farm or business.

**612:10-7-51. Status 12 - IPE completed but services not initiated**

(a) **Use of status 12.** A case is placed in status 12 following determination of eligibility, placement in an order of selection priority group currently being served, completion of the comprehensive assessment and the Individualized Plan for Employment (IPE) until services are actually initiated. The initial plan is a starting point subject to amendments as a result of changes (health, financial, etc.), availability of DVR and

DVS funds, openings at facilities and schools, possibility of a delay in a phase of the plan or changes in Federal and/or State regulations. Only authorizations for diagnosis or evaluation may be issued in Status 12. Diagnosis related to eligibility or the IPE can be provided at any time it is necessary during the life of the case. An IPE is not considered in effect until all required approvals have been obtained in accordance with Department policy.

(b) **General requirements for the Individualized Plan for Employment.**

(1) The IPE documents the planning of vocational rehabilitation services which will lead to achieving the client's chosen vocational goal. The client will be a full participant in the development of the IPE or any amendments consistent with Federal and State regulations, laws, and statutes. The eligible individual must be given the opportunity to exercise informed choice in selecting an employment outcome, the specific VR services to be provided under the plan, the service providers, and the methods for service delivery. Before the IPE can become effective, it must be agreed to and signed by the eligible individual or authorized representative, and approved by a VR counselor and, as appropriate, other administrators employed by DVR or DVS. To the maximum extent possible, the IPE is to be provided in the native language or mode of communication of the individual or, as appropriate, of a parent, family member, guardian, advocate, or authorized representative. It is also required the client receive a copy of the plan and any subsequent amendments.

(2) The IPE is subject to continuous development and change. Substantial changes to the IPE are documented as amendments. A substantial change is broadly defined as any change in the plan affecting or changing the long range goal, or an addition or deletion of a service.

(3) Plan reviews are comprehensive reviews of the entire IPE. A plan review can be done at any time, but must be done at least annually. The client must be given the opportunity to review the plan and, if necessary, participate in its redevelopment and agree to its terms. A financial status determination will be completed at the time of plan review when the IPE includes services based upon client's financial status.

(4) The IPE is to be amended anytime there is a significant change in the employment objective, or in service needs or available resources not accounted for in the original IPE, or existing amendment(s). Available resources include client participation in cost, comparable benefits, and/or DVR/DVS funds. The amount of any client participation in the cost of a service will be based upon the determination of client's financial status completed at the time the relevant IPE or amendment is written, and is to be stated in the IPE or amendment. If services based upon financial status are included in the original IPE and/or in the amendment, a new Financial Status Determination form will be completed when the IPE is amended except for closure amendments. A copy of any Amendment to an Individualized Plan for Employment will be given to the client, or client's authorized representative, as appropriate.

(c) **Case recording requirements for the Individualized Plan for Employment.** The required content of the Individualized Plan for Employment consists of:

(1) a description of the specific employment outcome that is chosen by the client consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the client, and to the maximum extent appropriate, results in competitive employment in an integrated setting, and the estimated timeframe for the achievement of the employment outcome;

(2) a description of the specific VR services that are:

(A) needed to achieve the employment outcome including as appropriate, the provision of assistive technology services and devices, and personal assistance services, including training in the management of such services;

(B) provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the client; and

(C) beginning and ending dates for each service;

(3) a description of the service provider chosen by the client or authorized representative, and the methods of services delivery;

(4) a description of the criteria that will be used to evaluate progress toward achieving the employment outcome;

(5) the terms and conditions of the IPE including as appropriate:

(A) the responsibilities of DVR or DVS;

(B) the responsibilities of the client, including:

(i) the client's responsibilities for the employment outcome;

(ii) the client's participation in paying the cost of VR services; and

(iii) the client's responsibility to apply for, accept, and use comparable services and benefits to defray in whole or in part the cost of VR services.

(6) for an IPE that includes supported employment services, information identifying:

(A) the extended services needed by the client; and

(B) the source of the extended services, <u>including natural supports</u>, or an explanation ~~for~~ concluding ~~that~~ there is a reasonable expectation ~~that such~~ a source will become available; <u>and</u>

<u>(C) the weekly work goal.</u>

(7) if it appears they will be necessary, a statement of needed post-employment services.

**612:10-7-54. Status 18 - training**

(a) **Use of status 18.** Cases are placed in status 18 when the major services being provided are training in a public or private school, on-the-job training in a commercial or industrial establishment under employment conditions or personal adjustment or other training. Cases remain in this status until the client has completed or otherwise terminated the training. <u>Cases can be placed in status 18 if an individual chooses to participate in extended employment for the purposes of training or otherwise preparing for employment in an integrated setting</u>

through supported employment or other programs. Cases will be placed in this status even if the services are being provided by comparable services and benefits and they are the major services. ~~Supported employment cases are placed in status 18 when the supported employment provider places the client on the job and the job coach begins on the job training. Initial job site training for the mental health consumer is considered complete when the individual has completed four (4) weeks of job retention (Milestone 4). Developmental disabilities consumer job site training is considered complete when the individual has completed ten (10) weeks of job retention (Milestone 5)~~.

(b) **Supported employment.** Cases are placed in status 18 at the "Job Placement" Milestone, when the supported employment provider places the client on the job and the employment training specialist begins on-the-job training. If the client started working in a job at less than minimum wage, the client's wage must have increased to minimum wage or greater before training is completed. Job placement is complete when the individual has completed the third day of work. Job site training for the Preparation/Place/Train model is considered complete when the individual has completed the "Four Weeks Job Retention" Milestone. In the Place/Train model, job site training is considered complete when the individual has completed the "Eight Weeks Job Retention" Milestone. The contracted service provider will identify and negotiate necessary job accommodations with the employer and discuss any need for assistance with the counselor. Only weeks in which hours exceed 40% of the weekly work goal and in which training and supports are provided will be counted towards training weeks.

(c) **Employment and retention.** Cases are placed in status 18 at the "Job Placement" Milestone, for those individuals who require the "Four Weeks Job Retention" Milestone to maintain successful employment. On and off job site supports are provided during this time to assist the client in adjusting to the demands of the job.

(d~~b~~) **Case recording requirements.** Recording of client contacts during a training period will vary in frequency depending upon the location and type of training. There will be documentation of counselor contacts with the client to discuss general progress of the training. A program review is required at least annually. When services requiring client participation in service costs are being provided, a financial status review is required at least annually. Program amendments will be made when appropriate. Periodic reviews and evaluations as set forth on the IPE will be documented in the case record.

**612:10-7-55. Status 20 - ready for employment**

(a) **Use of status 20.** Status 20 is used when services incidental to placement are the only services being provided. Placement must be in connection with at least one other service. Placement is a joint responsibility of the client and counselor. The client has the responsibility for seeking employment through all available channels. The counselor has the responsibility to maintain a familiarity with all of the placement resources in the area and utilize those resources to the maximum extent for the benefit of the client. ~~Supported employment cases are placed in status 20 at the beginning of the stabilization phase. This begins when the Developmental Disabilities consumer has completed ten (10) weeks job retention (Milestone 5) and the Mental Health consumer has completed four (4) weeks job retention (Milestone 4).~~

(b) **Supported employment.** Cases are placed in status 20 at the beginning of the "Job Stabilization" Milestone. The purpose of the stabilization period is to assure the employer is satisfied with the client as an employee and the client has learned the job, is satisfied with the job, and will be able to retain it once supports are reduced to a maintenance level. The "Job Stabilization" Milestone is complete when the client has reached the minimum number of weeks of employment required in the contract, is working the minimum work hours set in the weekly work goal defined in the IPE, and all other requirements of the contract are met.

(~~b~~c) **Case recording requirements.** Status 20 indicates the client has completed services to the extent that he or she is ready for employment. Case recording in this status must document the efforts of the counselor to fulfill the counselor's responsibility to assist the client with placement and the client's efforts to obtain employment as described in 612:10-7-232. The placement activities of the client and counselor will be documented in the case record in narrative form.

**612:10-7-56. Status 22 - in employment**

(a) **Use of status 22.** A case is placed in status 22 when the client begins employment. The client must be followed in employment for a minimum of 90 days after the completion of services and prior to being closed in status 26 to ensure the adequacy of the employment in relation to the needs and limitations of the client. ~~Supported employment cases are placed into status 22 when the Developmental Disabilities consumer has completed 17 weeks of job retention (Milestone 6) or the Mental Health consumer has completed ten (10) weeks of job retention (Milestone 5).~~

(b) **Supported employment.** Cases are placed into status 22 after the requirements have been met for completion of the "Stabilization" Milestone, and the client is ready to begin the final milestone, "Successful Rehabilitation". During this milestone, the provider must continue follow-up supports for a minimum of 90 days before the case can be closed in status 26.

(c) **Employment and Retention.** Cases are placed into status 22 when the individual has completed the third day of work ("Job Placement" Milestone), or after completion of "Four Weeks Job Retention" Milestone if short term job coach training or support is needed. The client must be followed in employment for a minimum of 90 days prior to being closed in status 26.

(~~b~~d) **Case recording requirements.** At the time planned services are completed and the client has entered employment, it is the client's responsibility to provide the counselor with employment and salary information. When an individual is placed in employed status, case recording will document:

(1) Beginning date of employment;
(2) Name and address of the employer;
(3) Client's wages or salary;
(4) Suitability of the employment [612:10-7-58]; and

(5) How the job was obtained. If the information is obtained from a source other than the client, the source of the information will be identified.

(~~e~~e) **Contact.** When a client is placed in employed status, contact is maintained and documented until it is determined the employment is satisfactory and the case can be closed. This determination that the employment outcome is satisfactory will be made with the full participation of the individual.

**612:10-7-58. Status 26 - closed rehabilitated**

(a) **Use of status 26.** A case is placed in status 26 when being closed as rehabilitated because the client has achieved an employment outcome as a result of vocational rehabilitation services. Cases closed as rehabilitated must as a minimum meet the requirements in (1) through (5) of this Subsection:

(1) the provision of services under the individual's IPE has contributed to the achievement of the employment outcome;

(2) the employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;

(3) the employment outcome is in the most integrated setting possible, consistent with the individual's informed choice;

(4) the individual has maintained the employment outcome for a period of at least 90 days; and

(5) at the end of the appropriate period under Paragraph (4) of this Section, the individual and the VR Counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.

(b) **Out of state.** Clients who move out of state after services have been completed are closed in status 26 if the requirements in Subsection (a) of this Section can be met. If those requirements cannot be met the case will be closed in status 28, not rehabilitated.

(c) **Successful closure prior to completion of IPE.** If employment is secured before completion of the IPE, a counselor must document the conditions of substantial services and suitable employment were met. If planned services are interrupted prior to achieving the originally planned vocational goal, and services provided have directly contributed to the employment outcome for the individual or to job retention, an IPE amendment is not needed to revise the vocational goal prior to closure. A plan amendment is required when there is a substantial deviation from the original employment goal.

(d) **Cases closed from supported employment.** An individual with the most severe disabilities who is receiving supported employment services is considered to be successfully rehabilitated if the individual maintains a supported employment placement for a minimum of 90 days ~~after making the transition to extended services~~ beyond stabilization. In addition to the criteria for "suitably employed", the counselor must document, the individual has met or has made substantial progress toward meeting the weekly work goal defined in the IPE, the client is satisfied with the job, the employer is satisfied with the client's job performance, extended services are in place, all supported employment requirements have been met, and the case is ready for closure. ~~the Developmental Disabilities consumer has completed 17 weeks of job retention (Milestone 6) or the Mental Health consumer has completed ten (10) weeks of job retention (Milestone 5) (criteria for entrance into status 22), and extended services are available and can be provided without a break in services.~~ The closure amendment will address any significant differences in the ultimate work week achieved as compared with the predicted goal.

(e) **Cases closed from employment and retention.** An individual with severe disabilities who is receiving employment and retention services is considered to be successfully rehabilitated when the client maintains employment for a minimum of 90 days.

~~(e) **Cases closed in extended employment settings.** A client's case can be closed as rehabilitated when the client is employed in an extended employment setting, a suitable wage is paid and the employment represents the maximum employment outcome for the client. The usual documentation is required to substantiate closure under these circumstances. The status of each individual determined to have achieved an employment outcome in an extended employment setting must be reviewed at least annually for two years, and thereafter if requested by the individual, or the individual's authorized representative. This review must include input from the individual, or when appropriate from the individual's authorized representative, to determine the interests, priorities, and needs of the individual for employment in, or training for, competitive employment in an integrated setting. To the maximum extent possible, and consistent with the informed choice of the individual, vocational rehabilitation services, reasonable accommodations and other support services will be provided to enable the eligible individual to engage in competitive employment. Such services will be designed to promote movement from extended employment to integrated employment, including supported employment.~~

(f) **Cases closed as homemakers.** A homemaker is defined as a person whose primary work is performance of duties related to the upkeep and maintenance of a home. This work takes place in the individual's own home, without remuneration.

(1) For homemaking to be considered as a gainful occupation, primary work activities must be performed by the individual and benefits derived from DVR and DVS services must have improved the client's ability to function in these tasks. Homemaking activities must render a significant contribution to the home.

(2) Self-care activities are not sufficient to meet the definition of gainful occupation. The individual must not be receiving any type of assistance in performing primary homemaking duties.

(3) Multiple homemaking closures within the same household are prohibited.

(4) Suitable employment, substantial services and significant contribution of services to vocational adjustment must be documented on the closing amendment to the IPE. This documentation must be very explicit when the individual's vocational objective is changed to homemaking during the rehabilitation process or there could be a

question as to whether the homemaking activities render a significant contribution to the home.

(g) **Cases closed as unpaid family worker.** A case may be closed as rehabilitated when the individual is performing work without pay on a family farm or in a family business operated by one or more members of the client's family. The case recording on the closing amendment to the IPE must include the same documentation as in the case of any other rehabilitated closure but particular attention is to be given to the description of the client's work activities and their regularity. The record must confirm the productivity of the client and his/her contribution to the family farm or business.

(h) **Case recording requirements.** Closure in status 26 is accomplished by amending the IPE on a Closing Amendment to IPE form. The client, or the client's authorized representative as appropriate, will be a full participant in the decision to close the case. The last discussion of the closure decision with the client, or the client's authorized representative, will be held within 30 days of the closure, and will be documented in a case narrative. The client will also be given a copy of the amendment and advised of the availability of Post-Employment Services. The documentation on the amendment will specifically address the substantiality of the services provided, how they contributed to the client's suitable employment and type of employment, the name and address of the employer, and the client's wages. The need for post-employment services will be reassessed prior to closure. The form must include the results of this reassessment.

**612:10-7-59. Status 28 - closed not rehabilitated, after IPE initiation (from statuses 14-24)**

(a) **Use of status 28.** Cases closed in status 28 must have progressed to an in-service status and for some reason the IPE could not be completed. The decision to close the case in this status is made only after the client is given the opportunity to fully participate in the decision and after all factors have been considered. Clients who choose to remain in extended employment as a goal, without pursuing competitive employment in an integrated setting through supported employment or other programs, will not be considered as having achieved an employment outcome. A case is closed in status 28 due to ineligibility only with full participation of the client, client's parent, guardian, or other representative unless the individual has refused to participate, the individual is no longer a resident of Oklahoma, the individual's whereabouts are unknown, or the individual's condition is rapidly progressive or terminal. The rationale for the ineligibility decision is recorded on the Notification of Case Closure form, including the views of the client or appropriate representative. A copy is given to the client or appropriate representative with a detailed explanation of the services available from CAP. Procedures for annual review of ineligibility are to be explained to the client or appropriate representative in an understandable form. Referral is made to other agencies and facilities including, when appropriate, the Department's Independent Living Program.

(b) **Case recording requirements.** When a case is closed in status 28, the closure is recorded as an amendment to the IPE. The client, or authorized representative, must be given an opportunity to participate fully in the closure decision. A copy of the Notification of Case Closure will be given to the client. The recording on the Notification of Case Closure form will summarize the services provided, explain why the IPE could not be completed, referral to any other appropriate programs, and contain the client's views of the closure decision, when appropriate.

## PART 9. ACTIONS REQUIRING REVIEW AND APPROVAL

**612:10-7-87. Actions requiring supervisor's approval**

For the situations outlined in this Section, it is necessary to obtain supervisory approval. The supervisor indicates approval by signing the appropriate documentation or form in the case, or by memorandum when necessary. Verbal approval may be given when circumstances warrant, but must be followed immediately by written approval. The supervisor may delegate approval authority to a subordinate professional only when absolutely necessary because of prolonged absence or similar reasons, and when arrangements cannot be made for another supervisor to perform duties for the absent supervisor. The subordinate professional must have at least two years of experience as a Senior VR Counselor in the appropriate Division, be current on production goals, and not be under corrective discipline or intensive supervision. The appropriate field coordinator's approval must be obtained for any such substitution or delegation.

(1) All actions of a newly employed counselor/teacher. The newly employed counselor/teacher will remain under intensive supervision until the counselor/teacher has reached a sufficient level of competence to work under general supervision as documented by the ~~district supervisor~~program manager. The release from intensive supervision will be given to the counselor/teacher in writing with a copy to the field coordinator. A counselor or teacher can be returned to intensive supervision when documentation or observation indicates he or she is no longer at a level of competence to work under general supervision. This decision will be given to the counselor/teacher in writing with a copy to the field coordinator.

(2) All IPE's or amendments when the total of the planned DVR and DVS expenditures for the entire case exceed $15,000.

(3) All IPE's which include out-of-state training.

(4) All IPE's which include the purchase of psychotherapy or personal adjustment counseling.

(5) Purchase of hospitalization for diagnostic purposes.

~~(6) Eligibility when the primary disability is dental.~~

(~~7~~6) All IPE's which include purchase of occupational tools and equipment or initial stocks for small business enterprises.

(~~8~~7) Release of confidential information in instances not covered in 612:10-1-5.

(~~9~~8) All case closures except Status 08 closures.

(~~10~~9) Transfer of cases from one counselor/teacher caseload to another outside the sending supervisor's unit

(signed by the supervisor of the sending counselor or teacher).

(~~11~~10) All IPE's which include purchase of physical or mental restoration services lasting more than three months.

(~~12~~11) All IPE's which include purchase of prescription drugs or medical supplies in excess of $3,000.

## PART 11. PHYSICAL AND MENTAL RESTORATION SERVICES

**612:10-7-102. Dental services**

(a) Physical restoration services to correct a dental condition may be provided for ~~those~~eligible individuals ~~determined to have an impediment to employment as described in 612:10-5-11~~ for job retention if it is found the dental condition imposes an impediment to the job, or under the intercurrent illness policy. Dental services can be provided during active job search if approved by field coordinator.

(b) Dental services may be provided only by licensed dentists who have current medical vendor agreements with the Department of Rehabilitation Services. Hospitalization for such treatment is done only when there is the presence of a medical condition requiring hospitalization. ~~Supervisory~~ Field Coordinator approval is required.

## PART 15. TRAINING

**612:10-7-152. Payment of tuition and fees at colleges and universities**

(a) Tuition and fees for DVR and DVS clients attending colleges and universities will be paid at the rate set for resident students by the Oklahoma Regents for Higher Education and ~~approved~~ within limits prescribed by the Legislature. DVR and DVS will pay those fees charged to all students and special fees associated with required courses in the student's major field of study. The supervising counselor of a particular school will authorize payment for these services. However, the home counselor will authorize payment for these services using a direct client payment when the client will be attending schools which do not have an assigned supervising counselor. No authorization will be issued for tuition and fees until the client submits the applicable grade report, enrollment and award letter.

(b) Tuition and fees for students in attendance at accredited private or denominational schools will be paid at the same rate as that paid at state-supported colleges or universities of equal rank.

(c) Any rehabilitation program which includes training beyond the bachelor's degree level must be approved by the field coordinator.

(d) No approval for authorization will be issued for the current semester's cost after the college or university's designated "Drop and Add" date. No authorization will be issued for previous semester's costs.

**612:10-7-157. Out-of-state training**

(a) Out-of-state training of DRS clients is approved when one or more of the following applies:

(1) The course of training is not available within the state;

(2) The out of state training program is no more expensive than in-state training; or

(3) There are specific considerations based on severity of the disability which preclude the use of in-state facilities.

(b) The case record is to document the basis for this determination.

(c) All IPE's for out-of-state training must have supervisory approval. Individual counselors will be responsible for authorizing payment to out-of-state training facilities, unless a supervising counselor has been assigned for the training facility. Tuition for a student who attends an out-of-state college or university will be paid at the same rate paid at Oklahoma colleges or universities of equal rank. ~~If the training is not available within the state of Oklahoma, tuition will be paid at the same rate as that paid by the rehabilitation agency within the State in which the school is located.~~A textbook allowance and purchase of durable training supplies can be provided for clients in out-of-state training, utilizing procedures outlined in 612:10-7-153 and 612:10-7-154.

(d) Documentation must state why the particular vendor is being used in terms of specific clients, and address the issues of:

(1) selection of vocational objective;

(2) projected starting and completion dates;

(3) breakdown of costs; and

(4) extent of comparable services and benefits.

(e) Prior to client's enrollment at a facility located in another state, an approved~~The~~ Justification for Out-of-State Training form must be submitted to the DRS State Office~~, [Attention: Contracts and Agreements] three months prior to contract renewal date~~.

(f) The DRS Contracts Unit must complete renewal of contracts no less than two months prior to present contract expiration date to ensure continuation of services. When a contract lapses because renewal was not completed within time frames, the Department cannot pay the institution's claim.

**612:10-7-159. Privately owned business and trade schools**

(a) Training may be purchased for eligible clients from schools listed as approved in the contract log. Schools approved through the state board responsible for accrediting/licensing that particular type of school may be used to train clients following the processing and approval of a written purchasing agreement with the Department. If the school has not been used previously, then a written purchasing agreement must be obtained.

(b) Continued eligibility of a client in training at a privately owned business or trade school will be based on the client's performance in respect to grades, progress and attendance. Clients are expected to attend classes regularly and make continued progress toward completion while maintaining a

C average as shown in the monthly training progress report. The ~~minimum~~ standards used by the training facility and those set in DRS Policy for satisfactory progress, in respect to grades and attendance, will be utilized by DVR and DVS staff in determining the progress of the individual.

(1) DVR and DVS sponsored clients attending privately owned business and trade schools who withdraw or fail course work will be required to pay for like credit or clock hours during the following enrollment period.

(2) Students who fail to meet agency sponsorship guidelines for training at privately owned business and trade schools may continue to receive services not requiring client participation in cost.

(3) A client failing to meet agency sponsorship guidelines may be approved by the home counselor if there are extenuating circumstances.

(4) A client failing to meet agency sponsorship guidelines will be contacted as soon as appropriate to complete a program review to determine if a change in services, vocational goal or objective is needed. A client failing to meet chosen goals will not have his/her case closed until the counselor has provided counseling and guidance and has determined that a change in the IPE is inappropriate. The counselor should investigate the need for further vocational and/or educational evaluation to explore alternative employment goals.

**612:10-7-160. Payment of tuition and fees at privately owned business and trade schools**

Tuition at privately owned business and trade schools~~, other than barber and cosmetology,~~ will be paid at ~~the rate published by the Oklahoma Board of Private Vocational Schools. The school must have a valid contract with the Department to provide training for clients. The amount of tuition authorized will be the approved rate less available comparable services or benefits. The authorized rate will remain constant during the contract period. Barber and cosmetology school~~ rates ~~are~~ approved by the Oklahoma Commission for Rehabilitation Services sitting as the Rates and Standards Committee. ~~These rates are set forth in the school contract.~~ The authorized rate will remain constant during the contract period. The school must have a valid contract with the Department to receive payment for training of clients.

**612:10-7-162. Supplies and training tools for business, vocational and trade schools**

(a) Required books, supplies, and training tools may be purchased for clients attending a facility with a valid contract. The client, or client's family or authorized representative as appropriate, is responsible for maintaining supplies and training tools in good working order. DVR and DVS will pay for repairs to supplies and training tools purchased with DVR and DVS funds during the life of the case unless there is clear evidence the supplies or training tools have been damaged due to client abuse or neglect.

(b) The Department retains title to any tools costing $500 or more purchased for training purposes until title is released by an authorized agent of the Department. The supervising counselor will complete the Receipt for Equipment and Title Agreement, and obtain necessary signatures, before releasing such tools to the client. Any tools purchased for training purposes remain with the client while he/she is in training and after the completion of the training if they can be used in the client's chosen vocation. If the client drops out of training, the supervising counselor and/or home counselor will make every effort to repossess the tools to transfer to another client.

(c) Case recording must reflect the disposition of tools and materials provided the client before the case is closed.

## PART 17. SUPPORTED EMPLOYMENT SERVICES

**612:10-7-179. Overview of Supported Employment Services**

(a) Supported employment services are ~~ongoing support services and other appropriate services needed to support and maintain an individual~~ provided to individuals with the ~~a~~ most severe disability, in Priority Group 1, who need supports on and off the job to obtain and maintain ~~in supported~~ employment. Supported employment services are provided by the Department for a period of time not to exceed 18 months, unless under special circumstances the eligible individual and the rehabilitation professional jointly agree to extend the time in order to achieve the rehabilitation objective identified in the IPE. Following transition, supported employment services can be provided as post employment services when unavailable from an extended services provider and when necessary to maintain or regain the job placement or advance in employment.

(b) There are two models of supported employment services that can be purchased by the counselor from contracted providers. The Place and Train model of service is intended for individuals who have never worked in competitive employment before or have experienced significant problems in maintaining employment because of their disability, have difficulty transferring job skills learned in one job setting to another job setting, and require long term support to retain employment. The Preparation/Place/Train model of service is intended for individuals who need to build their work adjustment skills and ego strength to prepare for work, learn how to obtain and maintain employment, clarify their strengths and interests, make a career choice, adjust to the demands of the work environment, and maintain long-term employment.

(c) Within each service model, there are two levels of service: regular and highly challenged. The DRS counselor, working with the client and the provider, will designate the service model to be used and whether the individual meets the regular or highly challenged criteria. The highly challenged criteria is defined in the provider contract.

**612:10-7-180. Eligibility for the Supported Employment Program**

An individual shall be eligible for supported employment services if:

(1) The individual is determined to be eligible for vocational rehabilitation services;

(2) The individual is determined to be an individual with the most severe disabilities, in Priority Group 1; and

(3) A comprehensive assessment of rehabilitation needs of the individual, including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate rehabilitation objective for the individual.

**612:10-7-182. Competitive ~~work~~ employment for supported employment clients**

~~Supported employment must be competitive work in an integrated work setting, or employment in an integrated work setting in which the individual is working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual. While there is no set number of hours per week, the counselor must ensure the client is being provided the opportunity to work at his/her full potential. The counselor should consider 20 to 40 hours a week as a guideline for avoiding underemployment for individuals in supported employment; however,~~Competitive employment for supported employment clients is performed on a full-time or part-time basis in an integrated setting, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual. The individual is compensated at or above minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled. ~~this~~ This will in no way preclude services to individuals who ~~cannot~~ are unable to work up to this guideline before the "Stabilization" Milestone. Counselors will review the cases of individuals working less than 20 hours per week no less than every 90 days and document the appropriateness of the existing weekly goal until transition to extended services. The closure amendment will document any significant differences in the ultimate work week achieved as compared with the predicted goal.

**612:10-7-183. Ongoing support services**

(a) The individual will be provided needed and appropriate ongoing support services such as job site training, transportation, service to family members, or any service necessary to achieve and maintain the supported employment placement throughout the term of employment. DVR and DVS sponsored support services are provided from the time of placement until the individual is stabilized on the job (completion of "Stabilization" Milestone) by the service provider.~~and include twice monthly monitoring at the work site to assess employment stability, unless the IPE provides for off-site monitoring, in which case there must be a minimum of two meetings per month with the individual and one contact per month with the employer. Ongoing support services are provided by one or more extended services providers following transition throughout the individual's term of employment.~~ Ongoing support services must include, at a minimum, twice monthly contact with the supported employee at the work site to assess job stability, unless it is determined and justified in case documentation that off-site monitoring is more appropriate for a particular individual. Off-site monitoring must consist of at least two face-to-face meetings with the client and one employer contact monthly.

(b) Ongoing support services consist of:

(1) Any assessment needed to supplement the comprehensive assessment of rehabilitation needs;

(2) The provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

(3) Job development and placement;

(4) Job re-placement if a job has been lost, or additional job placement if more hours are needed;

(5) Social skills training;

(6) Regular observation or supervision of the individual;

(7) Additional skill training, if needed for promotion opportunities;

(8) Support when client is working for a new supervisor.

(9) Follow-up services such as regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement; and

(10) Facilitation of natural supports at the worksite.

**612:10-7-184. Extended services**

Extended services are a continuation of ongoing support services provided to individuals with the most severe disabilities in Supported Employment at completion of stabilization, during the "Successful Rehabilitation" Milestone and beyond DRS case closure. ~~once the time limited vocational rehabilitation services are completed.~~ Such services consist of the provision of specific services, including natural supports, needed to maintain the supported employment placement. Extended services are paid from funding sources other than DVR and DVS and are specifically identified in the IPE. ~~The counselor may not find an~~An individual may not be found ineligible for supported employment services because the resource for providing extended services cannot be identified. In this instance, the counselor would:

(1) certify the individual eligible for the DVR and DVS program;

(2) write and initiate the IPE with a statement explaining the basis for concluding that there is a reasonable expectation that extended services will become available; and

(3) seek out and/or help in developing the needed extended services resource, including natural supports, then amend the IPE when the resource is identified and in place.

**612:10-7-185. Provision of supported employment services**

(a) ~~Job coaching~~ Supported employment (SE) services are not subject to financial status determination. Services are purchased from a qualified vendor under contract with the Department. However, services may be available from a variety of providers and should be furnished to each client by the most appropriate means. This would include training from certified job coaches or employment training specialists, as well as other qualified individuals, including co-workers, through natural supports.

(b) ~~Fundable supported~~ Supported employment services ~~are~~ include:

(1) ~~supplemental evaluations (i.e. situational assessments)~~ Situational assessments to help develop, finalize or reassess a supported employment plan of services;

(2) job development and job placement;

(3) provision of ~~time limited~~time-limited job coach services needed to support an individual with the most severe disabilities, in Priority Group 1, in employment such as:

(A) intensive on-the-job skills training and other training and support services needed to achieve and maintain job stability;

(B) follow-up services with employers, supported employee, parents and guardians, and others for the purpose of supporting and stabilizing the job placement; and

(C) post employment services, following transition to extended services, not available from the extended services provider and needed to maintain job placement such as job station redesign, repair and maintenance of assistive technology, and replacement of prosthetic and orthotic devices.

~~(c) Job coach intervention time required during the time limited services can be expected to vary according to the type and severity of the client's disability, the number of hours the client works, and the quality of the job match.~~

(~~d~~c) ~~Provision of time limited~~Time-limited supported employment services cannot exceed 18 months unless ~~the~~ an amendment indicates more ~~than 18 months are~~ time is necessary for the individual to achieve job stability ~~prior to~~ before transition to extended services. Case documentation justifying the extension must indicate two criteria have been met. The first is ~~demonstrate~~ substantial progress has been made toward meeting the hours-per-week goal established in the IPE~~,~~; and secondly, ~~that~~ extended services are available and can be provided without a break in services. The 18 months of ~~time limited~~time-limited services are based on the time the client actually spends in employment. When DVR and DVS services are re-initiated through opening a new case, a new period of up to 18 months of time limited services begins. The time counted towards the 18 month limitation does not include:

(1) time during a break in employment;

(2) the period between transition to extended services and closure of the DVR or DVS case; or

(3) time in post employment services.

(~~e~~d) There are special provisions for individuals with serious ~~chronic~~ mental illness, who may be placed in transitional employment (TE). Transitional employment ~~involves sequential temporary job placements leading to a goal of permanent employment. The provision of ongoing support services must include continuing sequential job placements until job permanency is achieved. The counselor may close an individual's case in status 26 while the client is working in a temporary transitional placement if the counselor can document in the closure amendment to the IPE how the provision of extended services will achieve job permanency.~~ services are not subject to financial status determination. Services are purchased from a qualified vendor under contract with the Department. Transitional employment, like work adjustment, is designed to assist individuals who have not had significant, successful or recent work experience to build their work adjustment skills and ego strength/self-esteem, develop a positive work history, learn adjustment skills in a real work environment or clarify their strengths and interests. TE addresses the need for a transitional work period to lay the foundation for a career decision that is expected to involve employment beyond the entry level.

## PART 18. EMPLOYMENT AND RETENTION SERVICES

**612:10-7-186. Overview of Employment and Retention Services**

Employment and Retention (E&R) Services are short-term job coach support for individuals with severe disabilities, in Priority Group 2 or 3, requiring assistance preparing for, obtaining, and maintaining employment. This service model consists of 5 Milestones: "Assessment", "Employment Preparation/Job Club", "Job Placement", "Four Weeks Job Retention" and "Successful Rehabilitation". In consultation with the client and the provider chosen by the client, the counselor will determine the milestones that will be required by the client to achieve a competitive employment outcome. Each milestone will be pre-authorized by the counselor and will be paid only once per case.

**612:10-7-187. Eligibility for Employment and Retention Services**

An individual shall be eligible for employment and retention services if:

(1) The individual is determined to be eligible for vocational rehabilitation services;

(2) The client is determined to be an individual with severe disabilities, and

(3) The client needs short term job coach support in preparing for, obtaining, and/or maintaining employment.

**612:10-7-188. Provision of employment and retention services**

(a) Employment and retention (E&R) services are not subject to financial status determination. E&R services are purchased from a qualified vendor under contract with DRS, and are provided by certified job coaches or employment training specialists.

(b) Employment and retention services include:

(1) Situational assessments or Community Rehabilitation Program (CRP) based assessments to help develop a vocational goal;

(2) Employment preparation or Job Club, if job preparation is needed;

(3) Job development and job placement;

(4) Short-term job coach training including on and off site support, if needed, to maintain employment; and

(5) Follow-up services to ensure employer and client satisfaction to prepare for case closure.

## PART 19. SPECIAL SERVICES FOR INDIVIDUALS WHO ARE BLIND, DEAF, OR HAVE OTHER SEVERE DISABILITIES

**612:10-7-205. Services to persons who are deaf-blind**

(a) **Overview of services.** Because of the overwhelming impact upon the individual with a combination disability of deafness and blindness, a multiple disciplinary approach is needed to adequately serve these individuals. Unique problems in mobility and communication can cause severe social, recreational, academic deprivation and long term prevocational training may be necessary. Persons who are deaf-blind are capable of competitive ~~or extended~~ employment and the counselor will carefully evaluate expected employment outcomes.

(b) **Deaf-Blindness Specialist.** To promote and coordinate appropriate services for persons with dual losses of vision and hearing, the Division of Visual Services employs a Deaf-Blindness Specialist. This specialist works with counselors, rehabilitation teachers and others who provide services directly to clients who are deaf-blind. A major role served by this specialist is coordinating services and ensuring dialogue among schools, programs, agencies and organizations serving the deaf and blind.

**612:10-7-206. Rehabilitation technology and prescribed adaptive aids and devices**

(a) Rehabilitation technology is the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(b) Rehabilitation technology services may be provided to any individual under the provisions of an IPE to assess and develop the individual's capacities to perform adequately in the work environment. Rehabilitation technology will include compensatory strategies and adaptive equipment designed to assist the individual to achieve a higher level of independence and/or improve their functional abilities. Rehabilitation technology services, such as assessment or consultation, are not based on financial status; however equipment, appliances, and aids will be based on available financial resources of the client.

(c) Rehabilitation technology services, including prescribed adaptive aids and devices, may be provided by a licensed engineer or qualified agency specialist who will design, prescribe, modify, or fabricate electronic/mechanical aids used to replace loss of body functions or sensory perception. A qualified agency specialist is ~~a~~ an Assistive Technology Specialist ~~rehabilitation technician~~ or ~~sensory aids specialist~~ Sensory Aids Specialist who has successfully completed appropriate training and maintains an acceptable level of knowledge and skills through continuing study and in-service training. ~~Qualified staff are designated by State Office memorandum.~~ Prescriptions/recommendations for nonmedical adaptive technology may be accepted from individuals listed in 74 O.S. 85.7(12) including ~~physicians, rehabilitation engineers, qualified~~ Physicians, Rehabilitation Engineers, Assistive Technololgy ~~rehabilitation specialists,~~ or ~~qualified sensory aids specialists~~ Sensory Aids Specialists.

(d) Assistive technology devices, including prescribed adaptive aids and devices, may be purchased commercially or designed and manufactured by a ~~rehabilitation engineer~~ Rehabilitation Engineer, ~~or~~ Assistive Technology or Sensory Aids ~~specialist~~ Specialist depending on individual need.

(e) Prior to the provision of rehabilitation technology services, the counselor will determine if:

(1) the client has, as evidenced by an appropriate evaluation, the necessary capabilities, abilities, and interest to operate the devices and perform the job tasks;

(2) the client is able and willing to undertake a training program as may be required to adequately master the equipment;

(3) the equipment is necessary for the client to become suitably employed or to maximize independent living as documented through a job analysis survey, specialist's recommendation, and/or a home analysis; and

(4) the client agrees to maintain the equipment and return it to the agency if not used in accordance with the provisions of the IPE.

(f) Procedures to follow in securing prescribed adaptive aids and devices are presented in (1) - (6) of this Subsection.

(1) The counselor will use the Special Services Referral form when making a referral to an agency specialist. The counselor will include sufficient detail so that the specialist can plan for an appropriate evaluation.

(2) The agency specialist will contact the referral and take appropriate action within 30 days of receipt of referral information. The specialist's evaluation report will include, ~~at a minimum,~~ an evaluation of the client's limitations and abilities, and an evaluation of any equipment and adaptations already available to the client. ~~and the client's need for training in the use of any recommended adaptive technology devices.~~

(3) The specialist's recommendations ~~prescription~~ will specify any needed equipment, including any special features or modifications, ~~estimated cost for each prescribed item,~~ and recommendations for training the client in the use of each device.~~, and any special installation requirements. Each item in the prescription must meet established health and safety standards and be justified in the evaluation. The evaluation and prescription can be contained in the same document.~~

(4) When the prescribed adaptive technology is meant for an individual having a visual disability, the need for a low vision evaluation must be carefully evaluated. An existing evaluation will be used if, in the counselor's judgment, it is adequate and complete, considering the nature and stability of the disability.

(5) The counselor will follow purchasing instructions given in 612:10-1-7.

(6) Upon receipt of the equipment, the counselor contacts the appropriate agency specialist to consult about delivery and installation. The appropriate agency specialist will determine if the devices purchased conform to prescribed standards, are properly installed, and are useful to the client in accordance with IPE objectives. The Assistive Technology Specialist will provide an "Assistive Technology Inspection Report" to help the counselor determine when the invoice and claim are ready for processing. Upon proper delivery and installation, including any needed instruction, of any equipment costing $500 or more the counselor obtains a signed Receipt for Equipment and Title Agreement form.

## PART 21. PURCHASE OF EQUIPMENT, OCCUPATIONAL LICENSES AND CERTIFICATES

### 612:10-7-220. Purchase of special equipment for motor vehicles

(a) Special equipment for a motor vehicle may be purchased and installed when needed for an individual to drive his/her own vehicle or enable a family member to provide transportation for the client for job retention services, training for employment or active participation in an Independent Living Program. Purchases of special equipment for motor vehicles which are projected to cost $2,500 or less will be made in accordance with 612:10-1-7. Purchases of special equipment for motor vehicles projected to cost more than $2,500 will require a requisition to the Department's Central/Departmental Services Unit, Purchasing Section.

(b) Some clients with severe disabilities will not have a valid driver's license. These clients are to be referred to the Department of Public Safety for determination of whether the client is able to obtain a license. Arrangements will be made by the counselor for the individual to take special driver's training following acquisition of the driving permit. If the client is to drive the vehicle, equipment will not be purchased until the client has a valid driver's license and the client has successfully completed training in the use of the special equipment for his/her vehicle.

(~~b~~c) The qualifications in (1) - ~~(8)~~(9) of this Subsection apply to all vehicle modifications~~costing more than $2,500, and must be met before modifications are made~~.

(1) The client or individual providing the transportation must have a current, valid driver's license.

(2) ~~Vehicle modifications must be limited to the purchase and installation of adaptive devices required to meet the client's need.~~ A used vehicle must be inspected by an ASE certified mechanic to assure it is mechanically sound before equipment can be installed. This inspection may be authorized by the counselor, if necessary.

(3) ~~The client must agree to retain ownership of the vehicle for the predictable life of the equipment. The counselor completes the Receipt for Equipment and Title Agreement when the equipment costs $500 or more, and has the client sign it.~~ The name of the client must appear on the title to the vehicle and current vehicle registration. The client may be listed as a co-owner on these documents.

(4) ~~The client must agree to maintain the equipment after the warranty has expired. The Department will not pay the expense of replacing the equipment, or transferring the equipment to another vehicle for five years from the date of installation.~~ The vehicle must be evaluated by an Assistive Technology Specialist or person with equivalent qualifications for identification of the appropriate adaptive equipment.

(5)~~The client must purchase and maintain insurance on equipment.~~ Vehicle modifications must be limited to the purchase and installation of adaptive devices required to meet the client's need.

(6) ~~The client must undergo necessary training in the use of special equipment required for his/her vehicle.~~ The client must agree to retain ownership of the vehicle and maintain the vehicle for the predictable life of the equipment. The counselor completes the Receipt for Equipment and Title Agreement and has the client sign it, as per guidelines in 612:10-1-7(e).

(7) ~~The vehicle to be modified must meet the conditions given in (A) - (E) of this paragraph.~~ The client must maintain both collision and comprehensive insurance on the vehicle, including the equipment.

~~(A) If the vehicle has more than 40,000 miles or is more than four years old, it must have a service life equal to the life of the required equipment as certified by a qualified mechanic;~~

~~(B) Must have a current safety inspection sticker and vehicle registration;~~

~~(C) Must have verification of current liability, comprehensive, and uninsured motorist coverage, including a customization rider;~~

~~(D) The client's name must appear on the title to the vehicle; and~~

~~(E) Must be evaluated by a Rehabilitation Engineer or the South Central Safety Institute (UCO, Edmond, Oklahoma) for the appropriate adaptive equipment.~~

(8) ~~Van modification cannot be provided when the client owns a sedan, has transfer skills and can drive a sedan with hand controls.~~ DRS will not pay the expense of replacing the equipment unless the equipment no longer meets the needs of the client based on disability related issues, as determined through review of current medical reports and assistive technology evaluation indicating replacement is required to meet the IPE goals.

(9) Certain types of vehicle modification equipment are considered "transferable" by design: i.e., hand controls, left foot accelerator, and hitch lift systems for wheelchairs/scooters. DRS may assist with the cost of transferring this type of equipment to meet the IPE goals.

(~~c~~d) When vehicle modifications are completed, installation is to be inspected ~~checked~~ by an Assistive Technology Specialist or person with equivalent qualifications, to determine if the authorized equipment conforms to prescribed standards, is properly installed, and meets the functional needs of the client. The A.T. Specialist will inform the counselor if the installation is satisfactory and ready for delivery to the client. ~~Rehabilitation Engineer or the South Central Safety Institute, and the~~ The counselor must also obtain a statement of satisfaction from the client. ~~The client, or client's family or authorized representative as appropriate, is responsible for maintaining special equipment for vehicles in good working order. DVR and DVS will pay for repairs to such equipment during the life of the case unless there is clear evidence the special equipment has been damaged due to client abuse or neglect.~~

~~(d) Some clients with severe disabilities will not have a current, valid driver's license. These clients are to be referred to the Department of Public Safety for determination of whether the client is medically able to obtain a license. Arrangements will be made by the counselor for the individual to take special driver's training following acquisition of the permit. If the client is to drive the vehicle, equipment will not be purchased until the client has a valid driver's license.~~

(e) The client, is responsible for maintaining special equipment for vehicles in good working order. DRS may pay for repairs to such equipment during the life of the case unless there is clear evidence the special equipment has been damaged due to client abuse or neglect.

## PART 23. SELF-EMPLOYMENT PROGRAMS AND OTHER SERVICES

### 612:10-7-232. Placement

(a) Placement is an important part of the client's vocational rehabilitation, and the counselor must start preparing the client for placement prior to completion of training or other employment related services. Placement is the joint responsibility of the counselor and client.

(b) In addition to placement services provided by counselors, DRS also contracts with certified vendors for Job Placement Services. In consultation with the client and the provider, the counselor will determine the milestones required by the individual to achieve a competitive employment outcome. Job Placement Services consist of 3 milestones:

(1) During "Assessment and Job Preparation" Milestone, the provider will assess the individual's specific job interests and qualifications for employment to determine a specific job match, and may include job seeking skills training or assistance with a self-directed career search.

(2) During "Job Placement" Milestone, the provider will provide job development, and perform a job analysis and develop job accommodations as needed by the client. Job placement is complete when the individual has completed the 3rd day of work.

(3) During "Successful Rehabilitation" Milestone, the provider follows up with the client a minimum of two times during the 90 days to assure satisfaction with the job placement, and with the employer to assure the employment is secure and the employer is satisfied with the client.

(c) Each milestone will be pre-authorized by the counselor and will be paid only once per case. Mileage reimbursement can be paid at the Federal rate to vendors if they travel 50 miles beyond the immediate service area to provide services.

### 612:10-7-234. Computers and high tech electronic equipment

(a) This Section applies to computers and other high tech electronic equipment other than prescribed adaptive aids and devices. Refer to 612:10-7-206 for policy and procedures governing the provision of prescribed adaptive aids and devices. Computers and other high tech electronic equipment may be purchased if the equipment is essential to the client's achievement of his or her employment outcome.

(b) Provision of computers and high tech electronic equipment is subject to conditions in (1) - (6) of this Subsection.

(1) The individual has been evaluated by an Assistive Technology, Sensory Aids Specialist or Rehabilitation Engineer .~~agency specialist skilled in the types and use of high tech electronic equipment or, if appropriate, a rehabilitation engineer if any adaptations are needed to compensate for functional limitations~~.

(2) The client agrees to receive training in the use and care of the equipment.

(3) The client and/or family agrees to provide reasonable security and routine maintenance of the equipment after the warranty period ends.

(4) Replacement or modification of the equipment will be purchased only if the equipment is no longer capable of providing the service for which it was purchased or if modification is required to retain or improve the client's employment outcome.

(5) The client agrees to return the equipment when it is no longer used for the purpose for which it was purchased.

(6) Title of all equipment costing $500 or more remains with the agency until case closure. Upon delivery, the counselor secures a signed Receipt for Equipment and Title Agreement.

(c) Detailed specifications must be prepared and the purchase will be made in accordance with 612:10-1-7 and 612:10-7-206.

## PART 25. TRANSITION FROM SCHOOL TO WORK PROGRAM

**612:10-7-244. Overview of transition from school to work services**

(a) The Individuals with Disabilities Education Act and the Rehabilitation Act both use the same language to describe transition services and their purpose. Both statutes provide assurances that no break in required rehabilitation services will occur for eligible students exiting the public schools. Transition services is a coordinated set of activities for a student that promotes movement from the public schools to post-school activities. The transition process is outcome based, leading to post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, and/or community participation consistent with the informed choice of the individual. The goal of the Transition from School to Work Program is to help eligible individuals with disabilities make the transition from school to work in order to function as a productive member of society.

(b) The Transition from School to Work Program is implemented through a cooperative agreement between DRS and each participating local secondary school, with approval from the State Department of Education. The Educational Coordinator in DRS State Office acts as the liaison with the State Department of Education, and provides statewide coordination and technical assistance for the Transition from School to Work Program.

(c) Transition services must be based on the individual student's needs, taking into account the student's preferences and interests. Transition planning will include, to the extent needed, services in the areas of:

(1) instruction;

(2) community services;

(3) employment and other post-school adult living objectives, including job skill training available through vocational-technical schools;

(4) acquisition of daily living skills and a functional vocational evaluation; ~~and~~

(5) supported employment services can be initiated during the final graduating semester of high school; and

(~~5~~6) other needs specific to the individual.

(d) The Transition from School to Work Program is based upon effective and cooperative working relationships between the Special Education Section of the State Department of Education, the Department of Rehabilitation Services, and the Local Education Agency. Each agency retains responsibility for providing or purchasing any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency [34 CFR 300.347].

## SUBCHAPTER 11. INDEPENDENT LIVING REHABILITATION SERVICES

## PART 3. ILRS CASE STATUS CLASSIFICATION SYSTEM

**612:10-11-19. Status 02- application**

(a) A case will be opened in status 02 when an individual submits an application with the DVR and DVS. An individual is considered to have submitted an application when the individual, or the individual's authorized representative, as appropriate:

(1) has completed and signed an application form or has otherwise requested services;

(2) has provided information necessary to initiate an assessment to determine eligibility and priority for services; and

(3) is available to complete the assessment process.

(b) The minimum information necessary to initiate an assessment to determine eligibility and priority for services consists of:

(1) individual's name;

(2) reported disability;

(3) individual's address, with finding directions when needed;

(4) individual's social security number, if available;

(5) availability of documentation of the reported disability; and

(6) agreement between individual and staff person taking application on the next steps to be taken in the application process.

(c) Any applicant or client of ILRS who is dissatisfied with any decision in regard to the provision of services may file a request for a fair hearing. The procedure followed in a fair hearing is set forth in 612:10-1-6. Furthermore, the client has the right to request the assistance of the Client Assistance Program.

(d) While an applicant is in status ~~03~~02, the counselor will gather the necessary information required for the preliminary diagnostic study and make a determination of eligibility or ineligibility.

## PART 5. PROVISION OF SERVICES

**612:10-11-38. Housing services**

(a) All housing services, except assistance with location of suitable housing, require client participation in cost of services. Modification of housing space is provided as a support service incidental to one or more other ILRS. Modification of a residence will be limited to installation of ramps, widening of doors, installation of grab bars and similar types of modifications. Room additions, installation of bathrooms, removal of walls and other major structural modifications are considered beyond the scope of ILRS.

(b) In all situations where house modification is to be done, the owner of the house must sign a written release form (House Modifications Written Release). In those situations where the client is a renter, it is the renter/client's responsibility to obtain the written release from the homeowner. The renter/client must have a third party witness the signing of the release form

by the homeowner. The maximum amount authorized without further approval in making a place of residence accessible, whether owned or rented, is $2,500. The counselor will make a referral to a ~~rehabilitation engineering specialist~~ Rehabilitation Engineer or Assistive Technology Specialist who will evaluate the house and recommend the modifications needed to make the house accessible and usable by the client. In situations where the counselor is unable to locate an organization willing to pay for the necessary modifications, essential materials and labor may be purchased provided supervisory approval has been obtained. After the home modification work has been completed, the counselor will contact the Specialist for inspection of the home, to ensure the modifications conform to prescribed standards and meet the client's accessibility needs. The Specialist will provide an "Assistive Technology Inspection Report" to the counselor. The counselor must also obtain a statement of satisfaction from the client.

(c) House modifications that will cost more than $2,500 require field coordinator approval, and a requisition must be submitted to the Department's Central/Departmental Services Unit who will arrange for acquisition of the house modifications. This limit must include the total cost of both labor and materials for the entire home modification. This limit also includes modifications completed by the Department of Human Services Architectural and Construction Unit as well as home modifications done through private vendors or other public agencies. If the client is required to participate in the cost of the modification, the payment by the client will be made to the vendor.

**612:10-11-50. Rehabilitation technology, sensory aids ~~specialist~~, and adaptive aids**

Purchase of rehabilitation technology, sensory aids ~~specialist~~ and adaptive aids and/or services may be made under the conditions in (1) - ~~(6)~~(7) of this Subsection:

(1) the ~~IRP~~IPE clearly justifies the purchase of these devices and explains their relationship to the client's independent living objectives;

(2) recommendations for purchase of these devices are made by Assistive Technology Specialists, Sensory Aids Specialists, Rehabilitation Teachers or qualified medical professionals as appropriate;

(~~2~~3) the ability of the client to participate in the cost of services must be determined;

(~~3~~4) the item to be purchased meets established health and safety standards and is to be provided by individuals licensed or certified by State law, when applicable;

(~~4~~5) supervisory approval must be obtained for the purchase of any "special" telecommunications, sensory or other technological aid or device;

(~~5~~6) agency purchasing and contract policy are followed;

(~~6~~7) the client agrees to return the aid or device when it is no longer needed.

## SUBCHAPTER 13. SPECIAL SERVICES FOR THE DEAF AND HARD OF HEARING

### PART 1. SERVICE PROGRAMS

**612:10-13-2. Interpreter services**

(a) Interpreter services ~~may be purchased from interpreters with valid contracts when necessary~~ are provided to DRS consumers to enable the client who is deaf, hard of hearing, or does not speak English to communicate with individuals involved in the processing of the client's application or provision of rehabilitation services. This service does not require consideration of client participation in cost. There is no limit on the number of hours a particular individual can be provided this service. The counselor will try, however, to hold the number of hours to the lowest number practical. In training situations, the counselor must document that interpreter services are not available through the training facility or other sources before interpreter services are provided. The rate of payment is determined by the certification held by the interpreter as documented in their current contract.

(b) Interpreter services are authorized directly to the individual who will provide the service. The authorization will include the number of hours to be provided and the period of time over which the service is to be provided in addition to the per hour fee as listed in 612:10-13-3. The interpreter will submit a claim at the end of each specified time period.

(c) Interpreter services for the hard of hearing may be authorized to individuals who have valid interpreter contracts with the Department. The rate of payment is determined by the certification held by the interpreter as documented in their current contract. Rates to be paid for interpreter services according to the interpreter's level of certification are found in 612:10-13-3.

**612:10-13-4. Special services and devices for individuals with hearing and speech impairments**

(a) **Applicability.** Qualified persons who are deaf, hard of hearing, speech impaired or deaf-blind will have access to services and devices which enhance communication and contribute to the individual's increased safety.

(b) **Telecommunication and safety devices.** Qualified persons who are deaf, hard of hearing, speech impaired or deaf-blind may be provided telecommunications equipment, personal or home safety devices, or other specialized equipment determined by individual need. The recipient of services may be asked to participate in the cost of the services provided based upon individual or family income in accordance with (d) of this Section. Equipment will not be replaced before three (3) years have elapsed and then only if determined by DRS staff to be malfunctioning and non-repairable. Additional requirements are stated in (1) through (5) of this Subsection.

(1) All recipients of equipment must be residents of the state.

(2) Applicants must be hard of hearing to the extent the applicant cannot use the telephone, or speech impaired to the extent speech is unintelligible. In cases where eligibility is questionable through counselor observation, medical or other professional verification will be required.

(3) Parents or other legal guardians must assume responsibility for the telecommunication devices assigned to clients under 18 years of age.

(4) The guidelines in (A) - (D) of this Paragraph will be used in determining the priority of service.

(A) Qualified persons with disabilities living alone.

(B) Qualified households where all residents have substantial disabilities.

(C) Qualified households where two or more residents have substantial disabilities.

(D) Qualified households where one of the residents has a substantial disability.

(5) To apply for assistance, an individual must complete an application and registration using the Eligibility Application for Telecommunication Equipment. Applications may be obtained by contacting the nearest TDD service office, rehabilitation counselor or Rehabilitation Services Coordinator for Services to the Deaf and Hard of Hearing.

(c) **Hearing aids for senior citizens.** Hearing aids may be purchased through the Services to the Deaf and Hard of Hearing Unit of DRS for individuals who are sixty (60) years of age or older and have a hearing loss of 35 decibels or greater in the better ear. The level of hearing loss is to be determined by a vendor audiologist selected by the applicant and having a current contract to provide services under this program. One hearing aid will be purchased per person. All services and equipment purchased will be paid at the contracted rate. The individual may be required to participate in the cost of services in the form of a co-payment as determined under (d) of this Section. Procedures for providing hearing aids under this program are presented in (1) through (5) of this Section.

(1) **Application.** The Areawide Aging Agencies (AAA) operated by the State Department of Human Services and the Eldercare agencies operated by the State Department of Health will take applications for this program on individuals who are sixty years of age or older. DRS will supply the agencies with application forms. An applicant will be given an approved vendor list and asked to choose a preferred vendor audiologist. The completed application will be sent by the referral source to the DRS Services to the Deaf and Hard of Hearing Unit.

(2) **Eligibility determination and authorization of services.** Upon receipt of a completed application, the staff of the Services to the Deaf and Hard of Hearing Unit will determine the amount of any required co-payment in accordance with (d) of this Section. Staff will authorize an audiological evaluation to the preferred vendor designated on the application form. The referral source and applicant will be notified of the authorization and the amount of any required co-payment to be made to the vendor. The report of audiological evaluation is sent to the DRS Services to the Deaf and Hard of Hearing Unit. If the result is a hearing loss of 35 decibels in the better ear, staff will issue an authorization for a hearing aid and appropriate ancillary services and devices in accordance with the vendor contract. The level of hearing loss will be determined averaging the readings reported at the 500 Hz, 1000 Hz, and 2000 Hz frequency ranges.

(3) **Appointments and transportation.** The staff of the DRS Services to the Deaf and Hard of Hearing Unit will notify the individual and the referral source of any authorizations for evaluation or services. This notification will instruct the individual to contact the vendor for an appointment. The referral source will assist the individual with making the appointment and arranging transportation if needed.

(4) **Evaluation of service provision.** Following completion of the evaluation and hearing aid fitting, a simple response card will be sent to each individual to determine the applicant's satisfaction with the program, the vendor, and the services provided.

(5) **Disposal of unused hearing aids.** A list of agencies which recycle used hearing aids will be provided to the referral source. Service recipients will be encouraged to donate unused hearing aids to one of these agencies.

(d) **Client participation in cost of services.** Allowable income levels for these services will be 200% of the current income guidelines for food stamps. Individuals earning above the income guidelines will contribute an amount of $1.00 for each 1% above the allowable income levels toward procurement of the equipment. All income and resources will be evaluated on an annual basis if services are continuing.

## SUBCHAPTER 15. TRANSITIONAL LIVING CENTER FOR THE DEAF (TLC) [REVOKED]

### 612:10-15-1. Overview of Transitional Living Center Program [REVOKED]

~~(a) TLC is a Department of Rehabilitation Services facility serving secondary and post-secondary deaf clients in the 18 to 25 age range. The purpose of the program is to assist these individuals develop independent living skills and in entering the work force.~~

~~(b) Independent living skills are taught in a group living setting until clients are capable of living in a supervised independent on-site apartment. Work skills are taught at job sites in the community with staff job coaching assistance.~~

### 612:10-15-2. Eligibility for TLC Program [REVOKED]

~~Individuals must meet the criteria in (1) - (6) of this Subsection to be admitted to TLC.~~

~~(1) The individual must be a DVR and DVS client.~~

~~(2) The individual must have a severe hearing impairment and use sign language as the primary mode of communication.~~

~~(3) The individual must be within the age range of 18 to 25 years.~~

~~(4) The individual must have the potential to live independently. At the time of admission, the individual~~

~~must be sufficiently independent to travel in the immediate community without assistance once familiarized with the area.~~

~~(5) The individual must have the potential to become independent within two years.~~

~~(6) The individual must have the potential for competitive employment in the community.~~

**612:10-15-3. Application and admission [REVOKED]**

~~(a) Individuals wanting services from TLC must submit a completed application form, completed independent living skills checklist, a letter of recommendation from a VR counselor, and a letter of recommendation from a person outside the individual's family who is familiar with the individual's needs for transitional training. The applicant will receive a response within two weeks of submittal. When an opening is not immediately available to an eligible applicant, the applicant's name will be placed on a waiting list. Admission to the program will be in order of application when space becomes available.~~

~~(b) Eligible applicants are accepted into the TLC program for a six week trial and evaluation period. During this time, staff systematically assess each individual's independent living and work skills.~~

**612:10-15-4. TLC services [REVOKED]**

~~(a) If the six week evaluation period indicates the individual will derive substantial benefits in terms of independent living skills and employment outcome, a service plan is developed with measurable goals and objectives. The planned goals and objectives will be based upon individual abilities and needs. It is expected that an individual's program will last a minimum of six months and a maximum of two years.~~

~~(b) Clients initially are placed in the group home living space. Bedroom areas are large enough to accommodate three to four clients of the same sex. The group home has a common living room, recreation room, kitchen, dining room, and classrooms. Clients will share responsibility for planning meals, shopping, cooking, housekeeping, yard work, and other simple home maintenance tasks. These experiences are systematically supervised and structured to increase each client's independent living skills.~~

~~(c) TLC has small efficiency apartments on campus. These serve as transitional independent living skills training environments for clients who have achieved mastery in 80% or more of the independent living skills curriculum, have at least 30 hours per week employment, and independent transportation. Each apartment may be occupied by one or two clients. Clients are expected to pay rent according to their income, and are responsible for their own food and living expenses.~~

~~(d) TLC staff will work closely with the client and the client's VR counselor to assist the client in securing employment which best suits the client's skills, abilities, and interests. A staff member is assigned as job coach to assist the client in learning job tasks, adjust to work schedules, to understand the employer's personnel policies, and to develop effective communication strategies with supervisors and co workers. When the client is able to perform the job independently, the staff make regular weekly contact with the employer to assist with any issues related to the client's continued successful employment.~~

**612:10-15-5. Client responsibilities and discipline [REVOKED]**

~~(a) **Client behavior of a minor nature.** Clients must demonstrate a willingness to work. Clients are expected to be engaged in job search or employment while in residence at TLC. While residing in the main house, clients agree to observe curfew, which is 11:00 pm Sunday through Thursday, and 1:00 am on Friday and Saturday. Clients residing in the main house will sign out when leaving TLC for a short time or overnight. Upon returning, the client will sign in. Clients will smoke in designated smoking areas only. Clients will make only local calls using TLC phones, unless a collect call is approved by staff. Clients will wear shoes in the kitchen area at all times for safety.~~

~~(b) **Client behavior of a major nature.** Clients residing in the main house will not have sexual relations in the main house. Clients will refrain from fighting, threats against others, or force used against staff. Clients will not steal, or borrow without asking permission. Clients will not bring alcoholic beverages into TLC, nor be in possession of such in TLC. Clients will not bring illegal drugs or other controlled substances into TLC, nor be in possession of such in TLC. Clients will not bring weapons into TLC, nor be in possession of such in TLC.~~

~~(c) **Discipline for minor infractions.** Infractions of the rules contained in Subsection (a) of this Section will result in the disciplinary actions listed in order of severity in (1) through (6) of this Subsection:~~

~~(1) First warning not to repeat the infraction;~~

~~(2) Second warning not to repeat the infraction;~~

~~(3) Restriction to room for one, two, or three days;~~

~~(4) Suspension for one, two, or three days;~~

~~(5) Suspension for one week; and,~~

~~(6) Expulsion from TLC.~~

~~(d) **Discipline for major infractions.** Infractions of the rules contained in Subsection (b) of this Section will result in the disciplinary actions listed in order of severity in (1) through (5) of this Subsection:~~

~~(1) Restriction of one, two, or three days;~~

~~(2) Suspension for three days;~~

~~(3) Suspension for one week;~~

~~(4) Expulsion from TLC.~~

~~(5) In any situation in which a client violates local, State, or Federal law, the infraction will be reported to the appropriate authorities.~~

~~(e) **Client-owned cars.** Clients may use their own cars while residents of TLC. To have a car on campus, the client must have a valid driver's license, proof of insurance and current license tag. Clients' cars are to be parked in the designated area. An extra set of keys will be given to TLC staff to be used only in case of lost keys, or keys locked in cars. Any client not following legal requirements for operating a car in Oklahoma or failing to drive safely on the TLC campus will~~

~~have car privileges either restricted or terminated depending upon the seriousness of the infraction.~~

~~(f) **Visitors.** Parents, family members, and friends are welcome to visit TLC. To assure the privacy and comfort of all group home residents, visiting hours begin at 10:00 am and end at 10:00 pm each day. To ensure a client will be available to receive visitors, the visitor is strongly encouraged to call ahead. The telephone number is (405) 495-2882. Clients living in apartments may receive visitors at their own discretion.~~

### 612:10-15-6. Independent living skills curriculum [REVOKED]

~~The Transitional Living Center offers a curriculum in independent living skills. This curriculum is outlined in (1)--(8) of this Subsection.~~

~~(1) **Work skills.** Work related values and attitudes, job search skills, filling out applications, resume' preparation, punctuality, dress and grooming, communication, job specific skills.~~

~~(2) **Food management.** Basic nutrition, four food groups, consumer skills, money management, utensil and appliance use, cooking, preparing and storing foods safely, cleanliness standards.~~

~~(3) **Home management.** Housekeeping, cleaning, use of cleaning tools and products, appliance use and maintenance, laundry, home security/safety.~~

~~(4) **Personal management.** Self care, personal hygiene, cosmetics and grooming products, minor injuries, basic first aid, medical services management, exercise, personal time management, scheduling, making appointments, use of clock, alarm clock.~~

~~(5) **Money management.** Counting and recognition, combinations and change, consumer skills, comparisons, estimation, payroll concepts, banking, checkbook management, budget, planning.~~

~~(6) **Community awareness.** Personal information, street names and numbers, city map, location of stores and services, emergency services, TDD use and TDD relay, community mobility, independent use of transportation options, community participation, Deaf Community, leisure time activities.~~

~~(7) **Sex education.** Understanding of social responsibility and laws regarding sexual behavior, male and female anatomy, birth control, AIDS and venereal disease, reproduction, relationships.~~

~~(8) **Communication skills.** TDD use and TDD relay, interpreter use and services, emergency service access, communication with employer, family contacts and relationships, strategies for communication.~~

*[OAR Docket #03-864; filed 5-2-03]*

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## TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 15. OKLAHOMA LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED (OLBPH)

*[OAR Docket #03-865]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
612:15-1-4 Appendices [REVOKED]
Subchapter 3. OLBPH Services
612:15-3-6 Descriptive video service [AMENDED]
**AUTHORITY:**
The Oklahoma Commission for Rehabilitation Services; Rehabilitation Act, United States Code Title 29, Chapter 16, Oklahoma Statute Title 74, Section 166.1 et seq.
**DATES:**
**Comment period:**
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**PUBLIC HEARING:**
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March 6, 2003
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**GUBERNATORIAL APPROVAL:**
April 21, 2003
**LEGISLATIVE APPROVAL:**
Failure of the Legislature to disapprove the rules resulted in approval on May 1, 2003
**FINAL ADOPTION:**
May 1, 2003
**EFFECTIVE:**
July 1, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The removal of forms from the APA process requires the revocation of the Appendices policy section and the Oklahoma Library for the Blind and Physically Handicapped does not mandate a non-refundable subscription fee for the Descriptive video service.
**CONTACT PERSON:**
Larry Bishop, Policy Development Administrator, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, OK 73112 (405) 951-3408

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 612:15-1-4. Appendices [REVOKED]

~~These are the appendices which apply to this Chapter:~~

~~(1) Appendix A: Individual Application for Library Service. This appendix is used for individual application and certification for library services.~~

~~(2) Appendix B: Institutional Application for Library Service. This appendix is used for nursing homes, libraries, hospitals, schools for the blind, and public and/or private schools to apply for library services on behalf of qualified individuals.~~

## SUBCHAPTER 3. OLBPH SERVICES

**612:15-3-6. Descriptive video service**

(a) Descriptive video is a service offered by the Oklahoma Library for the Blind and Physically Handicapped (OLBPH). However, it is not a part of the services offered by the National Library Service for the Blind and Physically Handicapped (NLS). Descriptive video tapes are feature films that are specially adapted for the visually impaired. A narrator describes what is happening in the video without interfering with the dialogue. An ordinary TV and VCR are the only equipment needed to play these videos. OLBPH will not provide or repair VCR equipment.

(b) A one-time non-refundable subscription fee ~~will~~may be charged to begin the descriptive video service. This money will be used only for the costs associated with providing this service. For example, the funds will be used to add new video selections, or to replace damaged videotapes. To subscribe, one must be eligible for other OLBPH services. A parental permission slip must be on file for borrowers under 18. When a subscription application is received, a list of available video titles will be sent to the patron. The application provides a check off for the patron to indicate the format needed for this list: braille, large print, or cassette.

(c) The borrower will be expected to pay full replacement costs for a damaged or lost video checked out in the borrower's name. OLBPH reserves the right to discontinue descriptive video services to any patron who is abusing the service. This will not affect the patron's access to other OLBPH services.

(d) Only one tape at a time may be borrowed. The loan period is two weeks. Notices will be sent when videos are overdue. After three notices are sent, the patron will be billed for the video tape. Requests for videos may be made by telephone or in writing. Selections will not be made for patrons by OLBPH reader advisors. Videos will be sent automatically upon the return of a used video provided the patron's request is on file, and the requested video is available at the time of the request.

*[OAR Docket #03-865; filed 5-2-03]*

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# TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 20. SPECIAL SCHOOLS

*[OAR Docket #03-866]*

**RULEMAKING ACTION:**
PERMANENT final adoption

**RULES:**
Subchapter 2. Contracted Instructional Personnel
612:20-2-13 ~~Grievance process~~Dismissal/Nonreemployment Hearing [AMENDED]
612:20-2-17 Full-time administrators; Appeal of dismissal or non-reemployment [AMENDED]
Subchapter 3. General Operating Procedures for the Schools
Part 1. General Educational Policies
612:20-3-8 Elementary and Secondary Education Act [AMENDED]
Subchapter 5. Oklahoma School for the Blind (OSB/Parkview School) Admission Rules
612:20-5-7 Admissions process [AMENDED]
Subchapter 7. Oklahoma School for the Deaf (OSD) Admission Rules
612:20-7-8 Admissions process [AMENDED]

**AUTHORITY:**
The Oklahoma Commission for Rehabilitation Services; Rehabilitation Act, United States Code Title 29, Chapter 16, Oklahoma Statute Title 74, Section 166.1 et seq.

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July 1, 2003

**SUPERSEDED EMERGENCY ACTIONS:**
N/A

**INCORPORATIONS BY REFERENCE:**
N/A

**ANALYSIS:**
he proposed changes to Chapter 20 involve changing the tag line of a policy section for clarification, correcting grammatical errors, and updating phone numbers and street addresses for the two schools. It also involves clarification of the admissions process for parents and children entering the Oklahoma School for the Blind.

**CONTACT PERSON:**
Larry Bishop, Policy Development Administrator, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, OK 73112 (405) 951-3408

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

## SUBCHAPTER 2. CONTRACTED INSTRUTIONAL PERSONNEL

**612:20-2-13. ~~Grievance process~~Dismissal/Nonreemployment Hearing**

(a) When the Director receives a recommendation from the Superintendent that a teacher be dismissed or not reemployed pursuant to OAC 612:20-2-12, the Director shall send a Notice of Dismissal/Nonreemployment Hearing to the teacher. The notice shall be sent by certified mail, restricted delivery, return receipt requested, or by substitute process as provided for by law.

(1) The notice shall include a copy of the Superintendent's recommendation and the date, time and place of the hearing. The date of the hearing shall be no sooner than twenty (20) days or no later than sixty (60) days after the teacher's receipt of the notice.

(2) The notice shall specify the policy grounds as provided for at OAC 612:20-2-8(3) upon which the recommendation is based for career teachers and the cause upon which the recommendation is based for probationary teachers. The notice shall also specify the underlying facts supporting the recommendation.

(b) The Director shall assign the hearing to an independent Hearing Officer. The hearing shall be conducted as an individual proceeding pursuant to the Oklahoma Administrative Procedures Act (75 O.S. § 250 et seq.).

(c) The Director shall also designate a person as the Hearing Coordinator who shall facilitate communication between the parties and the Hearing Officer.

(d) The parties may conduct discovery as provided for in the Oklahoma Administrative Procedures Act. Such discovery may include written interrogatories, document requests, depositions and any other discovery device permitted by law.

(e) The Hearing Coordinator shall schedule a pre-hearing conference between the parties and the Hearing Officer at which time the parties shall submit witness lists and any requests for subpoenas. The Hearing Officer shall issue subpoenas pursuant to the Oklahoma Administrative Procedures Act. If a party fails to obey a subpoena, the Hearing Officer may apply to the district or superior court of the county of such person's residence or to any judge thereof for an order to compel compliance with the subpoena or the furnishing of information or the giving of testimony.

(f) At the hearing, the standard of proof shall be by the preponderance of the evidence and the burden of proof shall be on DRS to establish that the teacher's dismissal or nonreemployment is warranted.

(g) At the hearing, in the absence of any other arrangements made by the parties and the Hearing Officer, the order of the proceedings shall be as follows:

(1) Opening statement by DRS.

(2) Opening statement by the teacher.

(3) Presentation of the case by DRS, including the examination and cross-examination of witnesses.

(4) Presentation of the case by the teacher, including the examination and cross-examination of witnesses called by the teacher.

(5) Closing statement by DRS.

(6) Closing statement by the teacher.

(h) The hearing shall be tape-recorded and a copy of the tape shall be provided the teacher upon request.

(i) Within seven (7) calendar days following the conclusion of the hearing, the Hearing Officer shall prepare written findings of fact and conclusions of law separately stated and shall issue a decision as to whether the dismissal or nonreemployment be affirmed or denied. The findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(j) The Director shall review the Hearing Officer's decision as well as the record of the case and shall issue a final agency order regarding the dismissal or nonreemployment of the teacher.

(k) The teacher may seek a rehearing, reopening or reconsideration of the final order pursuant to the Oklahoma Administrative Procedures Act at 75 O.S. § 317.

(l) The teacher may seek judicial review of the Hearing Officer's decision pursuant to the Oklahoma Administrative Procedures Act at 75 O.S. § 318.

**612:20-2-17. Full-time administrators; Appeal of dismissal or nonreemployment**

(a) Whenever the Director, Deputy Director or Superintendent shall determine that the dismissal or nonreemployment of an administrator from his/her administrative position should be effected, the administrator shall be notified in writing of the proposed action. The notice shall state the reason(s) for taking the action and shall inform the administrator of his/her right to a hearing before the Director or the Director's designee prior to the dismissal or nonreemployment.

(b) The administrator may request a hearing within ten (10) calendar days after receipt of the notice of proposed dismissal or nonreemployment. If the administrator fails to request a hearing within the ten-day period, then the administrator will have waived the right to such a hearing. The request for a hearing shall be made in writing to the Director and sent by certified mail, return receipt requested, or by substitute process as provided for by law.

(c) Upon the receipt of a timely request, the Director shall schedule a hearing to take place no more than ten (10) calendar days after receipt of the request. The Director shall notify the administrator of the hearing by certified mail, return receipt requested, or by substitute process as provided for by law. The notice shall include a statement of the reasons for the recommendation for dismissal or nonreemployment, the facts underlying the recommendation, and a statement of the legal authority and jurisdiction under which the hearing is to be held.

(d) The Director or the Director's designee shall serve as the hearing officer. The hearing shall be an individual proceeding pursuant to the Oklahoma Administrative Procedures Act (70 O.S. § 250 et seq). Discovery may be conducted by the parties pursuant to the Oklahoma Administrative Procedures Act. The

hearing officer shall be authorized to issue subpoenas pursuant to 75 O.S. § 315.

(e) The hearing shall be tape-recorded and a copy of the tape shall be provided the administrator upon request.

(f) If the hearing officer is the Director's designee:

(1) The hearing officer shall deliver to the Director a decision within three (3) workdays after the conclusion of the hearing. The decision shall include findings of fact and conclusions of law, separately stated. The hearing officer shall decide by a preponderance of the evidence whether reason(s) exist for the dismissal or nonreemployment of the administrator.

(2) In deciding whether to dismiss or to not reemploy the administrator, the Director shall take the hearing officer's decision into consideration and shall independently review the record of the case. The Director shall issue a final agency order regarding the dismissal or nonreemployment of the administrator within five (5) workdays after the date of the hearing officer's decision. The Director shall notify the administrator of the order by certified mail, return receipt requested, or by substitute process as provided for by law. The order shall include findings of fact and conclusions of law separately stated.

(g) If the Director serves as the hearing officer, the Director shall issue a final agency order regarding the dismissal or nonreemployment of the administrator within five (5) workdays following the conclusion of the hearing. The Director shall notify the administrator of the order by certified mail, return receipt requested, or by substitute process as provided for by law. The order shall include findings of fact and conclusions of law separately stated.

(h) The administrator may seek a rehearing, reopening or reconsideration of the final order pursuant to the Oklahoma Administrative Procedures Act at 75 O.S. § 317.

(i) The administrator may seek judicial review of the Director's decision pursuant to the Oklahoma Administrative Procedures Act at 75 O.S. § 318.

## SUBCHAPTER 3. GENERAL OPERATING PROCEDURES FOR THE SCHOOLS

## PART 1. GENERAL EDUCATIONAL POLICIES

### 612:20-3-8. Elementary and Secondary Education Act

The OSB and OSD come under the provisions of the Federal Elementary and Secondary Education Act. In compliance with Title IX of the Education Amendments of 1972, the Department's policy is that no student or employee at the OSB or OSD shall ~~not~~ be excluded on the basis of sex from participation in any educational endeavor or other activity sponsored by the OSB or OSD. The Principal/Education Director of each of these two schools has been designated to coordinate the local Title IX compliance efforts, including the processing of parent/student or employee complaints alleging sex discrimination. Any parent, student, or employee aware of discrimination based on sex may obtain details on how to pursue a complaint from the Title IX coordinator.

## SUBCHAPTER 5. OKLAHOMA SCHOOL FOR THE BLIND (OSB/PARKVIEW SCHOOL) ADMISSION RULES

### 612:20-5-7. Admissions process

(a) **Referrals/Admission procedures.** Any child between preschool and age 21, who is resident of Oklahoma, may be eligible to be admitted to Oklahoma School for the Blind/Parkview. The minimum criteria for admission is a corrected visual acuity of 20/70 or less in the better eye and/or field no greater than 20 degrees in the better eye or a visual impairment which even with the best correction adversely affects performance in a regular classroom. Visual impairment should be a major contributor to the student's inability to succeed in the public school. Referrals may be initiated by school districts, RESC's, educational cooperatives, parents, and/or third party agencies or individuals. ~~Upon receipt of a referral, parents are contacted by the OSB Superintendent's office either by correspondence or phone. Parents are invited to visit the campus and OSB program if they are interested in possible enrollment.~~

(b) **Application.** Applications are sent to parents to be completed. Prior to consideration for admission, the records in (1) - ~~(9)~~(10) of this Subsection are requested:

(1) academic records/transcripts;
(2) most recent IEP;
(3) medical records;
(4) birth certificate;
(5) immunization records;
(6) ophthalmological or optometric information;
(7) psychological report;
(8) social/emotional information; ~~and~~
(9) attendance and disciplinary records; and
(~~9~~10) any other information that may be pertinent.

(c) **Review of records/evaluation.** Upon receipt of a referral, all student admissions will be determined by a staffing with an OSB ~~all records, a~~ multidisciplinary team. OSB staff will evaluate each child to determine eligibility status and decide whether he/she can benefit from attending OSB.~~will review the records to determine eligibility status.~~ The team may request that the child come to campus to be evaluated for either a 2-day or a 9-day evaluation to determine eligibility. ~~if further information is required.~~

(d) **Placement evaluation.** All student admissions will begin with a 30-day ~~temporary placement at OSB~~observation evaluation period. OSB staff will evaluate each child and decide whether he/she can benefit from ~~attending~~ OSB services. Parents should feel free to visit with their child during this 30-day period and may, if they choose, remove their child from the program at any time. If additional time appears to be needed for evaluation purposes, a short-term IEP will be written at the end of the 30-day evaluation period to extend this time.

(e) **Parent conference.** Following the ~~team~~ staff meeting, the parents will be notified of the team's decision and ~~invited to discuss the results of the evaluations and to receive the~~ recommendations~~ of the team~~. If a student is found eligible for OSB services following the least restrictive guidelines, this information is referred to the local education agency for their determination of the student's placement. ~~If the parents are unable to attend, a correspondence will be sent to them with the team's recommendations. If admission is denied, the individual will be returned to his place of origin within the 30 day period. Any referring party/facility/agency must agree to these conditions, in writing, prior to temporary admission to OSB.~~

(f) **Readmission.** Persons formerly served by OSB shall be eligible for readmission services on the same basis as an individual initially seeking services.

(g) **Placement IEP.** If admission is granted, all reports and IDEA paperwork will be reviewed and the 30-day interim IEP meeting will take place. An initial IEP will be developed prior to continued placement at OSB if the IEP team, through development of individualized goals and objectives, determines that such placement is the least restrictive environment for the student. Placement and programming needs will be reviewed at least annually.~~ the initial IEP meeting will take place no later than the 30th day following temporary placement. A placement IEP will be developed through a team for those students accepted into the OSB program. At the minimum, an annual review of placement will be conducted.~~

(h) **Special facts.**

(1) There is no tuition fee for OSB.

(2) There is no room/board fee for OSB residential students.

(3) There is no cost for OSB staff evaluations.

(~~3~~4) Transportation is provided by parents and/or LEA.

(~~4~~5) Parents/Guardians are responsible for the child's clothing, medical expenses, and personal hygiene items.

(~~5~~6) It is strongly recommended that parents maintain an adequate amount in the student's account to cover any incidental expenses.

(i) **Admission information source.** For admission information, please contact: ~~Superintendent~~ Compliance Officer, Oklahoma School for the Blind, 3300 Gibson Street, Muskogee, Oklahoma 74403, Telephone ~~918-682-6641~~918-781-8200.

## SUBCHAPTER 7. OKLAHOMA SCHOOL FOR THE DEAF (OSD) ADMISSION RULES

### 612:20-7-8. Admissions process

(a) **Referrals.** Students must be residents of Oklahoma. Referrals may be received from school districts, Regional Educational Service Centers (RESC's), educational cooperatives, parents, and/or any third party agency or individual. Upon receipt of a referral, parents are contacted by the OSD Student Assessment and Program Development Center either by correspondence or phone. Parents are invited to visit the campus and OSD program.

(b) **Application.** Applications are sent to parents to be completed. Prior to consideration for admission, the following records are requested:

(1) academic records/transcripts;

(2) most recent IEP;

(3) medical records;

(4) audiological information;

(5) psychological report;

(6) social/emotional information with adaptive behavior; and

(7) any other information that may be pertinent.

(c) **Conference/review of records/evaluation.** Upon receipt of all records, an IEP team which may consist of the parent, LEA representative, OSD Principal, representatives from the OSD Student Assessment and Program Development Center, special and regular teachers, and others as appropriate, will meet to determine the student's program needs and program options. The team may request the child come to campus to be evaluated if further information is required. A 30 day interim IEP will be developed by the team if the individual educational needs of the student require that placement at OSD constitutes the least restrictive environment for that student.

(d) **Review of placement.** A review of placement will be made as described in (1) and (2) of this Subsection.

(1) **First determination.** Prior to the end of the 30 day interim IEP, a review of placement will be conducted to reevaluate the placement for appropriateness in accordance with the student's individual needs. An IEP will be developed prior to continued placement at OSD if the IEP team, through development of individualized goals and objectives, determines that such placement is the least restrictive environment for the student. Placement will be reviewed at least annually. If OSD is determined by the team not to be the appropriate placement, the IEP team will reevaluate the full continuum of placements in order to meet the student's educational needs in the least restrictive environment.

(2) **Readmission.** Persons formerly served by OSD shall be eligible for readmission as described in (a) through (d)(1) of this Section.

(e) **Special facts.**

(1) There is no tuition fee for OSD.

(2) There is no room/board fee for OSD residential students.

(3) Transportation is provided each weekend to and from designated areas across the state. There is no fee for this service. Other transportation needs will be addressed through the IEP process.

(4) Parents/Guardians are responsible for the child's clothing, medical expenses, and personal hygiene items, and weekly allowance.

(f) **Admission information source.** For admission information, please contact: Admissions, Oklahoma School for the Deaf, 1100 East ~~10th & Tahlequah~~Oklahoma

Street, Sulphur, Oklahoma 73086-3108, Telephone ~~405-622-3186~~580-622-4900 (Voice or TDD).

*[OAR Docket #03-866; filed 5-2-03]*

## TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 25. BUSINESS ENTERPRISE PROGRAM

*[OAR Docket #03-867]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 2. General Provisions
612:25-2-5 Definitions [AMENDED]
Subchapter 4. The State Licensing Agency
Part 1. Organization and General Operation Standards
612:25-4-2 SLA staff responsibilities [AMENDED]
Part 9. Assignment and Transfer of Licensed Managers
612:25-4-53 Promotion and transfer policy [AMENDED]
612:25-4-55 Qualifications [AMENDED]
612:25-4-59 Scoring [AMENDED]
Subchapter 6. Licensed Managers and Business Enterprise Operation
Part 3. Business Enterprises
612:25-6-21 Business expense [AMENDED]
Part 5. The Elected Committee of Licensed Managers
612:25-6-33 Organization and operation of the Elected Committee of Licensed Managers [AMENDED]
**AUTHORITY:**
The Oklahoma Commission for Rehabilitation Services; Rehabilitation Act, United States Code Title 29, Chapter 16, Oklahoma Statute Title 74, Section 166.1 et seq.
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N/A
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N/A
**ANALYSIS:**
The proposed changes to Chapter 25 involve updating the language, correcting grammatical errors, clarification of policy and supervisory title change.
**CONTACT PERSON:**
Larry Bishop, Policy Development Administrator, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, OK 73112 (405) 951-3408

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

### SUBCHAPTER 2. GENERAL PROVISIONS

**612:25-2-5. Definitions**

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

**"Acquired stock"** means that stock in which the licensed manager has accrued equity and which the State Licensing Agency, in conjunction with the licensed manager or licensed managers involved, has determined is suitable for use. Stock in which the licensed manager has not accrued equity is not acquired stock and remains the property of the State Licensing Agency.

**"Act"** means the Randolph-Sheppard Vending Facility Act (Public Law 74-732), as Amended by Public Law 83-565 and Pub Law 93-516, 20 U.S.C., Ch. 6A, Sec. 107.

**"Active participation"** means a process of good faith negotiations involving the Elected Committee of Licensed Managers and the State Licensing Agency. The Committee must be given the opportunity to have meaningful input into the decision-making process in the formulation of program policies which affect licensed managers. The SLA is charged with the ultimate responsibility for the administration and operation of all aspects of the Business Enterprise Program.

**"BEP"** means the Business Enterprise Program of the State Licensing Agency which provides self-employment opportunities for qualified persons who are blind.

**"BEP Administrator"** means the person who has responsibility for the operation of the Business Enterprise Program in the State.

**"BEP Training Specialist"** means an individual who is responsible for the SLA's part in planning, coordinating, and/or conducting the training activities for prospective licensed managers and for in-service and upward mobility training activities for experienced licensed managers.

**"Blind person"** means a person who, after examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the person shall select, has been determined to have (1) not more than 20/200 central visual acuity in the better eye with correcting lenses, or (2) an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

**"Board" or "Commission"** means the governing body for the State Licensing Agency.

**"Business consultant (BC)"** means an individual who provides consultative and management services to those business enterprises and licensed managers in the area of the State to which the consultant is assigned.

**"Business enterprise"** means an approved business administered by the State Licensing Agency. See definition of "Vending Facility."

**"Business Enterprise Program (BEP)"** means the Business Enterprise Program services available to establish business enterprises for persons who are blind.

**"Cafeteria facility"** means a food dispensing business enterprise capable of providing a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a line where customers serve themselves from displayed selections. A cafeteria may be fully automatic or provide limited waiter or waitress service. Table and/or booth seating facilities are always provided.

**"Client or Consumer"** means any person who has made application for the State Licensing Agency's services and has been determined by the State Licensing Agency to be eligible for services.

**"Commissioner"** means the Commissioner of the Rehabilitation Services Administration (RSA) who exercises approval authority for the Federal government under the Randolph-Sheppard Act.

**"Committee"** means the Elected Committee of Licensed Managers.

**"Contract"** means a written agreement between the State Licensing Agency and officials in control of Federal or other property to establish a business enterprise.

**"Contract labor"** means a person or company that performs duties or services not a part of the regular duties of the business enterprise.

**"Counselor"** means Division of Vocational Rehabilitation or Division of Visual Services counselors assigned to the State Licensing Agency's program of vocational rehabilitation.

**"Director"** or **"Executive Director"** means the chief administrator of the State Licensing Agency.

**"Displaced licensed manager"** means a licensed manager who has been displaced from his or her business enterprise through no fault of his or her own.

**"Dry/Wet facility"** means any business enterprises providing manual dispensing of prepackaged articles, refreshments, and services.

**"Elected Committee of Licensed Managers (ECM)"** means the committee elected biennially by licensed managers in accordance with 34 CFR 395.14.

**"Emergency"** means an unforeseen circumstance that calls for immediate action. When a piece of equipment is out of order it is not normally considered an emergency unless it will harm/destroy lives, other equipment or property.

**"Employee"** means an individual who receives compensation for services rendered to a licensed manager.

**"Equipment, expendable"** means items having a relatively small cost per item and having a relatively short life expectancy.

**"Equipment, non-expendable"** means all necessary equipment which requires a relatively high capital outlay and has a normal life expectancy of several years.

**"Federal property"** means any building, land or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States.

**"Federal regulations"** means the regulations issued pursuant to the Randolph-Sheppard Act.

**"Grantor"** means a Federal, State, County, Parish, city government, private corporation, company, partnership or individual, who grants a permit or enters into an agreement with the State Licensing Agency to operate a business enterprise on its/their property.

**"Grantor's agreement"** means a written document between a Grantor and the State Licensing Agency which sets forth the terms, conditions and responsibilities of all parties to the agreement for the operation of a business enterprise on private and/or public property.

**"Gross receipts"** means all revenue from a business enterprise, including sales tax.

**"Inactive Licensee"** means a licensed individual who is not currently working in the Business Enterprise Program.

**"Initial stock and supplies"** means those resalable items or supplies necessary for the opening and operation of a specific type of business enterprise.

**"Interim manager"** means a licensed manager appointed to manage a business enterprise on a temporary basis.

**"License"** means a written instrument issued by the State Licensing Agency to a person who is blind, authorizing such person to manage a business enterprise.

**"Licensed employee"** means a licensed individual who is currently working for a licensed manager.

**"Licensed manager (LM)"** means a licensed individual who has signed an agreement with the State Licensing Agency to manage a Randolph-Sheppard business enterprise under the supervision of the State Licensing Agency.

**"Licensee"** means a person who is blind ~~who~~and holds a valid BEP license.

**"Licensing agency"** means the State Licensing Agency (SLA), which has been designated by the Commissioner, pursuant to the Act, to issue licenses to persons who are blind for the management of business enterprises.

**"Management services"** means inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve business enterprises operated by licensed managers.

**"Manager's agreement"** means an agreement between a licensed manager and the State Licensing Agency, establishing basic terms and conditions for management of a business enterprise.

**"Net earnings" or "Net profits"** means gross profit after deducting operating expenses and set-aside collected.

**"Net proceeds"** means the amount remaining from the sale of articles or services of business enterprises and any vending machine income or other income accruing to licensed managers after deducting the cost of such sales and other authorized expenses excluding set-aside charges required to be paid by the licensed managers.

**"Net sales"** means the sum total of sales, excluding sales tax.

**"Nominee"** means a nonprofit agency or organization designated by the State Licensing Agency through a written agreement to act as its agent in the provision of services to licensed managers under the State's Business Enterprise Program.

**"Other income"** means money received by a licensed manager from sources other than over the counter and machine sales.

**"Other property"** means property which is not Federal property and on which business enterprises are established or operated by the use of any funds derived in whole or in part, directly or indirectly, from the operation of vending facilities on any Federal property.

**"Permit"** means the official approval given a State Licensing Agency by a department, agency, or instrumentality in control of the maintenance, operation and protection of Federal property or person in control of other property where the State Licensing Agency is authorized to establish a business enterprise.

**"Purveyor"** means an approved source of supply for food, beverages, supplies, or services.

**"Randolph-Sheppard Act"** means Public Law 74-732 as amended by Public Law 83-565, Public Law 93-516, and Public Law 95-602, 20 U.S.C. Chapter 6A, Section 107.

**"Retained vending machine income"** means vending machine income disbursed by a property managing department, agency or instrumentality of the United States, or received from vending machines on State or other property in excess of the amounts eligible to accrue to licensed managers.

**"Routine preventive maintenance"** means the regular care, upkeep, and cleaning of equipment used in a business enterprise whether owned by the State Licensing Agency or the licensed manager.

**"Rules and regulations"** means the instrument written by the State Licensing Agency and approved by the Secretary of Education setting forth the conduct and operation of the Business Enterprise Program. A copy of the document granting approval of the rules and regulations from RSA, will be mailed to each licensed manager as a revision to the BEP handbook.

**"Saleable stock/merchandise"** means products comprising the merchandise available for sale to the public and determined by the SLA to be from an approved source in the original container, in date, consistent with the needs of the customers for a particular business enterprise.

**"Satellite business enterprise"** means a business enterprise without a permanently assigned licensed manager which is being managed by a licensed manager who is also managing his/her regularly assigned business enterprise.

**"Satisfactory site"** means an area determined by the BEP Administrator to have sufficient space, electrical and plumbing outlets, and other such accommodations as prescribed by the Act, for the location and operation of a business enterprise in accordance with applicable health laws and building codes.

**"Secretary"** means the United States Secretary of Education.

**"Set-aside funds"** means funds which accrue to a State Licensing Agency from an assessment against the net proceeds of each business enterprise in the State's business enterprise Program and any income from vending machines on Federal property which accrues to the SLA.

**"Snack bar business enterprise"** means a business enterprise engaged in selling limited lines of refreshment and prepared food items necessary for a light meal service.

**"State Licensing Agency (SLA)"** means the State agency that issues licenses to persons who are blind for the operation of business enterprises on public and/or private property.

**"State property"** means lands, buildings, and/or equipment owned, leased, or otherwise controlled by the State.

**"Statewide average manager earnings"** means the average annual manager earnings (after set-aside) as calculated each year for the RSA-15 Report.

**"Trainee"** means a qualified client of the Division of Visual Services, who when referred to the Business Enterprise Program, is placed in training to prepare for licensing under the rules and regulations of the State Licensing Agency.

**"Training program"** means the program of study and/or on-the-job training provided to prospective and/or experienced licensed managers.

**"Vending facility"** means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by licensed managers and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws and including the vending or exchange of chances for any lottery authorized by State Law and conducted by an agency of a State within such State. [CFR 34, Part 395.1(X)]

**"Vending machine"** means any coin or currency operated machine which dispenses articles or services, except any machine operated by the United States Postal Service for the sale of postage stamps or other postal products and services. Machines providing services of a recreational nature and telephones shall not be considered to be vending machines.

**"Vending machine facility"** means an automated coin or currency operated business enterprise which dispenses a variety of food and refreshment items and services. Included in this category would be interstate highway locations and vending machine routes.

**"Vocational Rehabilitation Services"** means those services as defined in the Rehabilitation Act. [29 USC 701 et seq.]

**"Volunteer"** means an individual who works in a business enterprise and receives no compensation.

## SUBCHAPTER 4. THE STATE LICENSING AGENCY

## PART 1. ORGANIZATION AND GENERAL OPERATION STANDARDS

**612:25-4-2. SLA staff responsibilities**

(a) **Duties of the Business Enterprise Program Administrator.** The duties of the Business Enterprise Program Administrator are as follows:

(1) assure compliance with all applicable rules, regulations and statutory provisions;

(2) prepare program budgets and approve expenditures;

(3) plan for the development and expansion of the program and upgrading of existing business enterprises;

(4) draft program policy, operating instructions and regulation changes as needed to make the program more efficient or to conform to current legislative mandates;

(5) promote the program to the general public;

(6) actively participate with the ECM in accordance with 34 CFR 395.14;

(7) review reports generated by the licensed managers and business consultants;

(8) visit business enterprises on a regular basis;

(9) hold regular staff meetings; and

(10) investigate complaints related to the BEP.

(b) **Duties of the business consultant.** Each business consultant is assigned consultant responsibility for business enterprises in a particular area of the state, and may inquire into any aspect which effects each business enterprise. The duties of the business consultant include:

(1) assist each licensed manager in managing the business enterprise within applicable rules and regulations;

(2) initiate negotiations for new business enterprises;

(3) locate and survey locations for possible business enterprises on County, State, Federal and private property;

(4) supervise the development of new installations;

(5) design each business enterprise including the floor plans, specifications, and equipment list;

(6) recommend closure of unprofitable business enterprises;

(7) supervise the removal of business enterprises;

(8) establish licensed managers in business enterprises;

(9) conduct public relations activities which promote a positive image of the program to existing and potential host organizations, rehabilitation workers, consumers, and the general public;

(10) attend area DVR OR DVS counselor meetings when requested by the ~~District Supervisor~~Program Manager;

(11) provide management services to licensed managers;

(12) collect and analyze data on the operation of each business enterprise in order to provide technical assistance and for monitoring and reporting purposes;

(13) responsibility for program goals and objectives as they relate to that part of the state to which he/she is assigned; and

(14) collect data for the RSA-15 report from his/her assigned area and forward the information to the Sate Office no later than October 15 of each year. The data will include:

(A) a detailed list of equipment expenditures for new business enterprises;

(B) a detailed list of equipment expenditures for upgrade of established business enterprises; and

(C) a list of all upward mobility training provided to licensed managers.

(15) The business consultant in conjunction with DRS staff persons in his/her assigned area will actively promote the Business Enterprise Program, making known to blind persons and to professionals working with blind persons the employment opportunities in the Business Enterprise Program. He/she will receive referrals from and work cooperatively with the DVR and DVS counselors in processing applications.

(c) **SLA staff conduct.** SLA staff will adhere to the guidelines for conduct in (1) through (3) of this Subsection.

(1) Staff will not buy or sell products for resale from or to a licensed manager.

(2) Any item received by the SLA staff will be paid for at retail prices.

(3) Staff will not receive membership cards, account numbers or other similar information from the licensed managers.

## PART 9. ASSIGNMENT AND TRANSFER OF LICENSED MANAGERS

**612:25-4-53. Promotion and transfer policy**

(a) **Promotion.** It is the SLA's policy to promote any ~~licensed manager~~"Licensee" to a better location when he/she has demonstrated the ability to manage a more complex operation. Selection for promotion is made by the Business Enterprise Program Selection Committee.

(b) **Transfer.** It is the SLA's policy to transfer licensed managers to different locations of substantially the same complexity and income potential when it appears to be in the best interest of the licensed manager and/or the BEP. The SLA notifies the licensed manager in writing by registered or certified mail, return receipt requested, of a transfer and the grounds therefore.

**612:25-4-55. Qualifications**

(a) In order to apply for placement as a licensed manager in the Business Enterprise Program, an individual must hold a current ~~Managers License~~ license issued by the SLA. In addition, the SLA requires experience in the program before an individual will be considered eligible to apply for "A" and "B" classification business enterprises. Although a new location is to be classified "C" for the initial 90 days of operation, the Selection Committee may require prior business enterprise experience on applications for new locations. Verified experience in a business enterprise in another state may be considered by the Selection Committee.

(b) A displaced licensed manager will have priority in the selection process for a comparable business enterprise, including type, size and geographical location, for one year from the date of displacement.

(c) Licensed managers on probation are not eligible to apply for another business enterprise.
(d) Applicants must be eligible to obtain an Oklahoma Tax Permit.
(e) There is not a specified minimum time period that a licensed manager must remain in a particular facility. However, it is preferred that a licensed manager manage the business enterprise he/she is selected to manage for a minimum of one year. Although the one year operation of a business enterprise is not mandatory, the Selection Committee may give preference to licensed managers who have managed a business enterprise for a year or more.
(f) If a licensed manager is not current with his/her merchandise loan, the licensed manager is not eligible to apply for another business enterprise.
(g) Licensee's are not eligible to apply for a facility if set-aside is owed or loan payments are not current with the payment plan.
(h) The minimum requirements for each classification of a business enterprise will be listed in the business enterprise opening announcement.
(i) Experience requirements for each classification are:

(1) **Classification A.** Applicants will be restricted to individuals who have a minimum of three (3) years total experience in a business enterprise including a minimum of one (1) year of management experience.

(2) **Classification B.** Applicants will be restricted to individuals who have a minimum of two (2) years total experience in a business enterprise, including a minimum of six (6) months of management experience, or two (2) years additional employment in a business enterprise may be substituted for the management experience.

(3) **Classification C.** No experience required, except on new locations as determined by the Selection Committee.

(4) **Classification D.** No experience required.

**612:25-4-59. Scoring**

(a) The personal interview by the Selection Committee is required. An applicant not present for the interview will have his/her name removed from consideration for this location ~~unless arrangements have been made by the licensed manager for a telephone interview~~.
(b) Following every interview, each Selection Committee member will complete a score sheet on the applicant. All members of the Selection Committee must complete his or her own score sheet before assisting another member. After all interviews are completed, the overall rating from all score sheets on each applicant will be totaled. The combined scores for all applicants will then be ranked.
(c) At the end of the interview process, each form will be reviewed by the person submitting the score sheet to make sure he/she has maintained consistency in scoring throughout the interviewing process.
(d) The BEP Administrator/Chairperson of the Selection Committee or designee's score will not be added into the ranking unless it is a tie.
(e) The names of the two top scoring applicants will be submitted to the BEP Administrator in order of ranking. The BEP Administrator may choose either name submitted.
(f) The BEP Administrator may re-interview each of the two candidates before making a final decision. However, the decision cannot be extended more than 5 working days before a decision is rendered.
(g) Any candidate not scoring a minimum of 50 percent of the available points, not considering the points given for number of years in the program, will be considered not qualified to manage the facility being considered.

## SUBCHAPTER 6. LICENSED MANAGERS AND BUSINESS ENTERPRISE OPERATION

## PART 3. BUSINESS ENTERPRISES

**612:25-6-21. Business expenses**

(a) All business enterprises will be so designed and stocked with merchandise that a licensed manager can purchase from wholesalers that deliver products to the location, and there will be minimal travel required by the licensed manager.
(b) All monthly report information must remain in the business enterprise during normal business hours. If a business deduction cannot be verified by the business consultant while in a business enterprise, the deduction will not be allowed, stricken from the report, and a revised report will be forwarded to the licensed manager to reflect the change.
(c) The expense column on the monthly report should reflect the actual expenses incurred by the business enterprise. The items claimed on the report should have documentation located in the business enterprise for the business consultant to review, (~~mileage log book,~~ merchandise receipts, salaries, copies of the quarterly IRS and social security report, insurance invoice and policies, and etc.). If it is considered by the SLA that the amount of the expenses is excessive, the SLA may audit the business enterprise to determine that the expenses are actually required for that particular location.
(d) There will be no mileage or vehicle expense claimed as a business expense on the monthly report except as detailed at 612:25-4-61(g).
(e) The amount of telephone charges claimed on each monthly report will be limited to a total of $50.00 for all communication devices.
(f) If a licensed manager rents, leases, or buys equipment to enhance the business enterprise, the cost may be deducted as a business expense. The licensed manager must have prior written approval as per Section 612:25-4-25(h) and written notice will be given to the SLA accountant.

## PART 5. THE ELECTED COMMITTEE OF LICENSED MANAGERS

**612:25-6-33. Organization and operation of the Elected Committee of Licensed Managers**

(a) **Organization.** The ECM will be organized according to the provisions set forth in (1) through (7) of this Subsection.

(1) The ECM consists of five committee members and four alternate members.

(2) Representation of all licensed managers will be obtained by area districts. The districts are formed by dividing the state into four areas starting with a point to be determined and drawing a line east and west and north and south to the state borders. The four quadrants are divided in order to have as close to an equal number of business enterprises as possible. Each quadrant will have one ECM member and one alternate.

(3) The term of office for ECM members is two years. A member of the committee will not serve more than two consecutive terms.

(4) The fifth ECM member is elected at large and will be the Chairperson of the Elected Committee of Licensed Managers.

(5) The Vice Chairperson will be elected by and from the Elected Committee of Licensed Managers.

(6) When the Chairperson is not present, the Vice Chairperson will preside at the meeting and the alternate for the Vice Chairperson will represent the area of the Vice Chairperson.

(7) Elections will be held in the northeast and northwest districts on even numbered years. Southeast district, southwest district, and the member-at-large elections will be held on odd numbered years.

(b) **Nominations and elections.** The procedures set forth in (1) through (14) of this Subsection shall be used to nominate and elect members of the committee.

(1) The ECM Chairperson of the Committee of Licensed Managers presides over the election of the Committee of Licensed Managers.

(2) The election will be conducted annually at the licensed managers training conference. The SLA presents the districts for nomination and a list of eligible voters and candidates for each district. The Chairperson will call for nominations from the floor for ECM members. Nominees must give consent to be nominated. The ECM members will receive advance written notice of the election.

(3) A licensed manager or licensed employee is eligible to be a nominated candidate and to vote for the member at large and one candidate for the ECM in the district in which his or her facility is located.

(4) The voting is by secret ballot. The ballot will contain the name of the nominees in their respective district and will be circulated and read by the SLA to each eligible voter.

(5) Eligible voters at the ECM meeting at the annual training conference, will mark their ballot or sign a written waiver if the licensed manager does not wish to vote.

(6) ECM members are elected by a majority vote of licensed managers present at the ECM meeting voting in the district in which their business enterprise is located. If a candidate does not receive a majority vote in the first election, a run-off election will be conducted. The candidate receiving the second highest number of votes will be the alternate ECM member.

(7) If no licensed manager or no licensed employee will ~~not~~ accept the nomination for an ECM district, during the prescribed election process, the new Elected Committee of Licensed Managers will appoint an ECM member and alternate member to represent the district. If the ECM member appointed is the past ECM member and not eligible for a third term, the two-term limitation is waived for this term.

(8) If an ECM member or alternate ECM member is placed on probation for any reason, the ECM member or alternate ECM member will be suspended from participation with the Elected Committee of Licensed Managers during the period of the probation.

(9) licensed managers or licensed employees on probation are not eligible to run for any Elected Committee of Licensed Managers position.

(10) If an ECM member moves to another district, resigns from the Elected Committee of Licensed Managers, or resigns from his/her facility, the alternate ECM member will fill the ECM member's position for the remainder of the term and the Elected Committee of Licensed Managers will appoint a new alternate ECM member.

(11) The SLA is responsible for the collection and tallying of votes~~ and announcing the results not later than 60 days after nomination or before the first of the succeeding year, whichever comes first. The counting of votes will be at the state office of the SLA~~.

(12) Newly elected ECM members of the Committee of Licensed Managers will take office at the end of the annual training conference.

(13) The Elected Committee of Licensed Managers will appoint a new alternate ECM member for the district where there is a vacancy.

(14) If both the ECM member and the alternate ECM member resign, the Elected Committee of Licensed Managers will appoint licensed managers or licensed employees from the district to fill both vacancies.

(15) If an ECM member misses two (2) consecutive meetings, it is considered that he/she has resigned from the Elected Committee.

(c) **Operation.** The Elected Committee of Licensed Managers shall operate according to (1) through (3) of this Subsection.

(1) The Elected Committee of Licensed Managers will convene at least once each year at the licensed manager's training conference. The time and place of joint meetings scheduled by SLA staff and the Elected Committee of Licensed Managers. Requests for meetings by the ECM committee will be made in writing to the SLA for prior approval of financial assistance.

(2) The ECM members will be notified of matters within its purview that are being considered for decision. The ECM committee members will have the opportunity to initiate subjects for consideration by it and the SLA.

Recommendations by the ECM members will be in writing and given serious consideration by the SLA.

(3) The SLA has the ultimate responsibility for the administration of the Business Enterprise Program. If the SLA does not adopt the views and positions of the Elected Committee of Licensed Managers it will notify the ECM Committee in writing of the decision reached or the action taken and the reasons therefore.

(4) A quorum will consist of three (3) of the members or alternates of the Elected Committee be present.

(d) **Materials.** The SLA will supply the necessary materials for the function of the Elected Committee of Licensed Managers upon written request to the SLA. The Elected Committee of Licensed Managers may elect to carry on its functions through subcommittees.

(e) **Travel Expenses.** ECM members on committee business will be reimbursed for travel expenses at the same rates and conditions as state employees.

*[OAR Docket #03-867; filed 5-2-03]*

## TITLE 730. DEPARTMENT OF TRANSPORTATION CHAPTER 40. RAILROADS

*[OAR Docket #03-818]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. Railroad Program [NEW]
Subchapter 3. Railroad Rehabilitation Act Loan Program [NEW]
730:40-3-1 [NEW]
730:40-3-2 [NEW]
730:40-3-3 [NEW]
730:40-3-4 [NEW]
730:40-3-5 [NEW]
730:40-3-6 [NEW]
**AUTHORITY:**
Oklahoma Transportation Commission, 200 N. E. 21st Street, Oklahoma City, Oklahoma 73105; 66 O.S. Section 309.3
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**SUPERSEDED EMERGENCY ACTIONS:**
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Subchapter 1. Railroad Program
Subchapter 3. Railroad Rehabilitation Act Loan Program [NEW]
730:40-3-1 [NEW]
730:40-3-2 [NEW]
730:40-3-3 [NEW]
730:40-3-4 [NEW]
730:40-3-5 [NEW]
730:40-3-6 [NEW]
**Gubernatorial approval:**
October 29, 2002
**Register publication:**
20 Ok Reg 248
**Docket number:**
02-1503
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The Department of Transportation was directed to implement a railroad loan program known and cited as the Railroad Rehabilitation Act enacted by Senate Bill 1534 (66 O.S. 309.1) which was effective on July 1, 2002. The purpose of the law is to provide loans for the rehabilitation of private railroads in an effort to improve the state rail network. The Railroad Rehabilitation Loan Program provides for loans up to $500,000 with terms of up to ten years with an annual interest rate of five percent (5%). Potential loan recipients are certified freight railroads chosen through an application process. The program will be administered by the Department with final loan approval made by the Transportation Commission. An emergency rule is currently in effect until superceded by this permanent rule or July 14, 2003.
**CONTACT PERSON:**
Michael E. Mayberry, Assistant Director-Administration, ODOT, 200 N.E. 21st Street, Suite 3A2, Oklahoma City, OK 73105, (405) 522-6000

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### SUBCHAPTER 1. RAILROAD PROGRAM

***EDITOR'S NOTE:*** *Sections 730:40-1-1 through 730:40-1-12 will now be in Subchapter 1.*

### SUBCHAPTER 3. RAILROAD REHABILITATION ACT LOAN PROGRAM

**730:40-3-1. Purpose**

The Railroad Rehabilitation Act was enacted to provide loans from the Oklahoma Railroad Maintenance Revolving Fund to qualified railroad entities for the purpose of financing the rehabilitation of railroad properties.

**730:40-3-2. Authority**

Pursuant to the provisions contained in Title 66 of the Oklahoma Statutes, Section 309.1, known and cited as the Railroad Rehabilitation Act which grants authority for the Department of Transportation to provide direct loans to qualified private railroad entities for the purpose of financing the rehabilitation of railroad properties and mandates the adoption of rules to effectuate this program.

**730:40-3-3. Definitions**

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

**"Qualified railroad entity"** means any certified freight railroad regulated by the United States Surface Transportation Board; and

**"Rehabilitation"** means the replacement of antiquated rail; replacement or reconstruction of deteriorating road beds with adequate rail, ties and ballast; reconstruction of sidings and industrial leads; and bridge replacement or reconstruction.

**730:40-3-4. Requirements and criteria**

The Department shall develop an application form which shall be made available to all qualified railroad entities. The initial loan application period will be from November 1, 2002 to December 31, 2002. Thereafter, the loan application period will be from January 1 to March 1 for each following state fiscal year beginning July 1, 2003. The application period may be waived by the Department of Transportation (Department) if sufficient unobligated funds are not available for the program. If the Director declares that a transportation emergency has occurred, a loan application(s) outside the annual application period may be submitted to the Department for consideration by the Oklahoma Transportation Commission. Applications submitted during the designated period shall be evaluated based on the following criteria:

(1) The ratio of benefits to costs for any project funded by such loan shall be greater than one. The benefit/cost methodology to be used for this determination shall be the most recent standard benefit/cost methodology approved by the Federal Railroad Administration of the United States Department of Transportation;

(2) The qualified entity shall demonstrate that it is financially sound and capable of fulfilling all obligations created by the proposed loan guarantee agreement; and

(3) The qualified railroad entity shall demonstrate that adequate funding for the proposed project is not otherwise available at terms that would make the proposed project financially feasible.

(4) Projects that are determined to be the most critical shall take precedence.

(5) The length of the loan repayment schedule shall be a major consideration in determining the viability of the loan application.

(6) Privately owned rail facility rehabilitation projects shall take precedence.

(7) Projects with the earliest start and completion dates shall be given major consideration in determining the viability of the loan application.

**730:40-3-5. Procedures**

(a) Applications will be submitted to the Railroad Programs Division of the Department.

(b) The Director shall establish an application review process in conformance with the criteria established by the Oklahoma Transportation Commission. Loan eligibility will be determined within sixty (60) days of the close of the application period.

**730:40-3-6. Terms**

(a) The Department may choose one or more applications to present before the Transportation Commission for loan approval. The Commission shall have final authority on which, if any, applications will be approved.

(b) The loan interest rate shall be five percent (5%) for loans approved by the Commission during the calendar years of 2002-2003. The Commission shall establish an annual interest rate for the year 2004 and subsequent years no later than November 15, prior to each calendar year in which loan applications will be considered. Loans will not exceed Five Hundred Thousand Dollars ($500,000.00) for a duration not to exceed ten (10) years. The loan portion of the agreement will include a promissory note and lien and/or mortgage. All loan applications are subject to the approval of the Transportation Commission.

(c) No more than fifty percent (50%) of the unobligated cash balance of the Oklahoma Railroad Maintenance Revolving Fund (Fund) for any one (1) year may be encumbered for Railroad Rehabilitation loans and the aggregate amount of all loans from the Fund shall not exceed Five Million Dollars ($5,000,000.00). When these limitations have been reached, the application process will be suspended.

(d) Loan proceeds will be applied by the qualified railroad entity only to the improvements and rehabilitation described in the loan application. The Department may request an audit of records and inspection of the physical location of the rehabilitation project at the expense of the qualified railroad entity.

(e) An agreement between the Department and the qualified railroad entity shall include, but not be limited to, specifying that loan payments will be submitted monthly with a construction report for the duration of the rehabilitation project. All monies submitted for repayment made through the Railroad Loan program will be deposited back into the Fund.

*[OAR Docket #03-818; filed 4-29-03]*

## TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 1. ORGANIZATION AND METHOD OF OPERATIONS

*[OAR Docket #03-796]*

**RULEMAKING ACTION:**
PERMANENT final adoption

**RULES:**
765:1-1-1 [AMENDED]
765:1-1-2 [AMENDED]
765-1-1-2.1 [NEW]
765:1-1-9 [AMENDED]

**AUTHORITY:**
Oklahoma Used Motor Vehicle and Parts Commission
47 O.S. Section 582(E)(1)
75 O.S. Section 302(A)(1)
75 O.S. Section 307

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n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The adopted rule changes correct the statement of the composition of the Commission to reflect recent statutory changes regarding the reduction of Congressional districts; clarifies the types of meetings the Commission may conduct; establishes the procedure for the meetings and the effect of votes; and adds a new charge for the cost of transcripts.
**CONTACT PERSON:**
John W. Maile, Executive Director (405)949-2626

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

**765:1-1-1. Purpose**

The rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et seq., 75 O.S. Section 302, and 47 O.S. Section 582 (E). This Chapter will provide a description of the Commission, a statement of the types of meetings of the Commission and the procedures for the meetings, and the methods whereby the public may obtain information or make submissions or requests.

**765:1-1-2. Description of Commission**

(a) **Creation.** The Used Motor Vehicle and Parts Commission (hereinafter "Commission") is created by 47 O.S. Section 581 et seq. Applicable definitions and the powers and the duties of the Commission are set forth in 47 O.S. Section 581 et seq. and 47 O.S. Section 591.1 et seq.

(b) **Members.** The Commission shall consist of ~~nine (9)~~ ten (10) members, ~~one each from the six (6) Congressional Districts of the state, two (2) members selected from the state at large, and a Chairman to be selected from the state at large. These members shall meet the qualifications and be appointed as provided in 47 O.S. Section 582.~~ one from each of the congressional districts of the state, a chair and all other members selected from the state at large.

(c) **Quorum.** ~~Five (5)~~ Six (6) members of the Commission shall constitute a quorum and may transact any business or hold any hearing by a simple majority vote of the quorum. If a quorum is not present, the Chairman may cancel the meeting for lack of a quorum.

~~(d) **Meetings.**~~

~~(1) The Commission shall hold at least one regular meeting each month of each calendar year at its office in Oklahoma City. The Commission may hold other meetings as it deems necessary, at the same location. All meetings of the Commission shall be held in compliance with the provisions of its enabling act, the Oklahoma Administrative Procedures Act, and the Open Meeting Act.~~

~~(2) The Commission shall meet at its offices in Oklahoma City, Oklahoma, on the second Tuesday in each month to transact such business as may properly come before it. Notice of any change of any monthly meetings schedule will be in accordance with the Oklahoma Open Meeting Act.~~

~~(e) **Special meetings.** Special meetings shall be held upon call of the Chairman by notice given to the members of the Commission at least forty-eight (48) hours prior to the time the meeting is to be held; such notice to be given by telephone, telegraph or letter. Special meetings shall be held in compliance with the Oklahoma Open Meeting Act.~~

**765:1-1-2.1. Meetings of the Commission**

(a) **Monthly meeting.**

(1) The Commission shall hold at least one regular meeting each month of each calendar year at its office in Oklahoma City.

(2) The Commission shall meet at its offices in Oklahoma City, Oklahoma, on the second Tuesday in each month to transact such business as may properly come before it. Notice of any change of any monthly meetings schedule will be in accordance with the Oklahoma Open Meeting Act.

(b) **Special meetings.** Special meetings shall be held upon call of the Chairman by notice given to the members of the Commission at least forty-eight (48) hours prior to the time the meeting is to be held; such notice to be given by telephone, telegraph or letter. Special meetings shall be held in compliance with the Oklahoma Open Meeting Act.

(c) **Emergency meetings.** The Commission may hold an emergency meeting for any purpose authorized in the Open Meeting Act, 25 O.S. Section 301 et seq.

(d) **Continued or reconvened meetings.** Any meeting may be continued or reconvened as authorized in the Open Meeting Act, 25 O.S. Section 301 et seq.

(e) **Other meetings.** The Commission may hold other meetings as it deems necessary, at the same location monthly meetings may be held. All meetings shall be held in compliance with the provision of its enabling act, the Open Meeting Act and the Oklahoma Administrative Procedures Act.

(f) **Procedure for meetings.** The Commission may adopt such rules of procedure as the Commission deems appropriate. In absence of a specified procedure, the Chair may determine whether a specific action may be taken and the procedure therefore. The action or procedure shall not conflict with any statutory procedural meeting requirements.

(g) **Effect of vote denying application.** An application which is considered by the Commission for approval or denial and upon which a vote is taken which has the effect of denying the application, need not be reconsidered by the Commission for a period of three (3) months from the date of the original vote.

**765:1-1-9. Copies of records**

(a) Copies of official records of the Commission may be made, and may be certified by the Executive Director and his/her designee. A fee for such copies and certification may be charged as provided in a fee schedule enacted by the Commission. The fee for each of the following items shall be as follows:

(1) $.25 mechanical copy
(2) $1.00 certified mechanical copy
(3) $5.00 list of Wholesale Used Motor Vehicle Dealers
(4) $10.00 list of Automotive Dismantlers
(5) $10.00 list of BID CARD holders
(6) $10.00 list of Manufactured Home Dealers
(7) $25.00 list of Used Motor Vehicle Dealers
(8) $35.00 list of Used Motor Vehicle Salesmen
(9) $50.00 label list of any kind
(10) $10.00 hourly research fee
(11) Actual cost of transcription of hearings as submitted by transcriber.

(b) Requests for copies of Commission files must be made between the hours of 9:00AM and 4:00PM Monday through Friday (excluding holidays), providing the copier is available and authorized personnel is available for copy service. Otherwise copying will be scheduled upon request. Any requests requiring research will have to be scheduled with authorized personnel as time permits. Any material in the office of the Commission which is privileged or protected from publication by state law, shall not be copied, nor be available for public inspection.

*[OAR Docket #03-796; filed 4-28-03]*

## TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 2. INFORMAL AND FORMAL PROCEDURES

*[OAR Docket #03-797]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 3. Formal Procedures
765:2-3-1 [AMENDED]
765:2-3-6 [AMENDED]
765:2-3-10 [AMENDED]
**AUTHORITY:**
Oklahoma Used Motor Vehicle and Parts Commission
47 O.S. Section 582(E)(1)
75 O.S. Section 302(A)(1)
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n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The adopted rule changes allow the Commission's legal counsel to file a complaint, acknowledges that the Commission may impose a fine in certain circumstances, and changes language regarding testimony to clarify the standard of evidence required.
**CONTACT PERSON:**
John W. Maile, Executive Director (405)949-2626

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

**765:2-3-1. Parties to proceeding**

The Executive Director or the Commission's legal counsel shall file a sworn complaint for every individual proceeding. The style of the complaint shall be: STATE OF OKLAHOMA, ex rel. THE USED MOTOR VEHICLE AND PARTS COMMISSION vs. PARTY'S NAME.

**765:2-3-6. Hearing**

(a) **Presiding officer.** The hearing shall be conducted by the Chairman of the Commission or his designate.

(b) **Order of procedure.** Each individual proceeding shall proceed as follows:

(1) Any party shall at all times have the right to counsel. Counsel must be licensed to practice law by the Oklahoma Supreme Court.
(2) All parties shall be afforded the opportunity to present witnesses, evidence, and argument on all issues involved.
(3) A party may cross-examine witnesses.

(4) The Commission or hearing officer may ask questions of all parties.

(c) **Objections and motions.** The Commission or hearing officer shall rule on the admissibility of evidence and objections to evidence, and shall rule on motions or objections raised in the course of the hearing. In the exercise of this function, the Commission or officer may rely on the advice of counsel present and serving in an advisory capacity. Any party may object to a ruling which the party considers erroneous, and an exception to such ruling shall be noted of record. Failure to timely object to any alleged error or irregularity shall be deemed as a waiver of such objection.

(d) **Burden and standard of proof.** The burden of proving the allegations contained in its Complaint shall be upon the Movant. The standard of proof required to sustain the imposition of any sanction against a Respondent shall be by clear and convincing evidence.

(e) **Ruling.**

(1) The Commission or Hearing Officer shall prepare Findings of Fact and Conclusions of Law. The Commission or Hearing Officer may request the parties to submit proposed Findings and Conclusions before making a final ruling. Any party may file proposed Findings and Conclusions. Disposition of any individual proceeding may be by stipulation, agreed settlement, consent order, default or majority vote.

(2) The Commission by majority vote, may deny, suspend, or revoke a license or impose a fine, if authorized, for any of the reasons provided in 47 O.S. Section 581 et seq. The Commission, by majority vote, may refuse, cancel, or revoke a license or impose a fine, if authorized, for any of the reasons provided in 47 O.S. Section 591.1 et seq.

**765:2-3-10. Depositions**

The Commission, or any party to a proceeding before it, may take the deposition of witnesses, within or without the state, in the same manner as provided by law for the taking of depositions in civil actions in courts of record. The admissibility of a deposition and objections to all or part of a deposition shall be determined by the Commission in accordance with ~~rules of evidence~~ the standards for such evidence as provided in the Administrative Procedures Act.

*[OAR Docket #03-797; filed 4-28-03]*

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## TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 10. USED MOTOR VEHICLE DEALERS

*[OAR Docket #03-798]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. Licensing Qualifications, Procedures and Fees
765:10-1-1 [AMENDED]
Subchapter 3. Operation
765:10-3-1 [AMENDED]
765:10-3-3 [AMENDED]
**AUTHORITY:**
Oklahoma Used Motor Vehicle and Parts Commission
47 O.S. Section 582(E)(1)
75 O.S. Section 302(A)(1)
75 O.S. Section 307
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n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The adopted rule changes address the ability of the Commission to impose a fine, adds language regarding documentation of used motor vehicle sales, and requires public auctions which make retail sales to keep record of titles.
**CONTACT PERSON:**
John W. Maile, Executive Director (405)949-2626

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

**765:10-1-1. Purpose**

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. and 47 O.S. Section 582 (E). This Chapter will provide a description of the qualifications for obtaining a used motor vehicle dealer's license, operation under the license, and the grounds and procedures for denial, suspension, or revocation of a used motor vehicle dealer's license or imposition of a fine.

### SUBCHAPTER 3. OPERATION

**765:10-3-1. Forms required**

(a) **Forms.** The following forms shall be required in the sale of a used motor vehicle by a used motor vehicle dealer:

(1) Sales contract, bill of sale or buyer's order,

(2) Odometer statement,

(3) Federal Trade Commission Buyer's Guide conforming to FTC and state standards,

(4) Written notice of thirty (30) day title-transfer requirement and receipt for delivery of certificate of title to buyer,

(5) Used motor vehicle dealer's temporary tag,

(6) Condition of sale:

(A) warranty, or

(B) vehicle service contract, or

(C) warranty disclaimer,

(7) Finance or security agreement, if applicable, and

(8) Consignment agreement, if applicable~~.~~,

(9) Spot delivery form, if applicable,

(10) Any other form which affects the rights of either party.

(b) **Approval.** All forms must be approved by the Commission. The content and forms to be used shall be filed ten (10) days prior to use, and if not rejected in ten (10) days from the filing date, the forms will be conditionally approved.

(c) **Standards.** The forms required shall contain substantially the following information:

(1) **Sales contract, bill of sale, or buyer's order.**

(A) The sales contract, bill of sale, or buyer's order shall state the names of the parties, the make, model, tag number and vehicle identification number (VIN) of the vehicle subject to the transaction, a statement of the selling amount, a description of the vehicle traded in, if any, and the consideration given therefore, and the statement referring to the FTC Buyer's Guide set forth in the following paragraph, and proper signatures of the parties.

(B) Said form shall also contain or have attached a statement of any terms that create any contingencies in the completion of the contract, including contingencies relating to financing, whether by the dealer or a third party, and any limitations to which the contingencies may be subject.

(C) Said form shall also state, in clearly understandable terms, the type of title the purchaser shall receive, whether it be an "original" green title; an insurance loss dated title; a title with a theft or flood damage notation; or a rebuilt, salvage or junk title, together with some form of written acknowledgment by the purchaser that the purchaser is aware of the type of title to be received. Failure to make said disclosure shall create a presumption that the type of title to be received shall be an "original" green title without discrepancies of any sort.

(D) Said form shall not contain statements such as "trade in value does not reflect actual cash value of trade in" or any language that suggests the amounts stated are not the true value agreed upon by the parties.

(2) **Odometer statement.** The odometer statement must conform to the requirements of federal and state law.

(3) **Federal Trade Commission Buyer's Guide.**

(A) From and after May 9, 1985, in all sales to consumers, as defined in Title 16 Code of Federal Regulations Section 455.1(4), it shall be required that dealers display and complete the "Buyer's Guide" form required by the Federal Trade Commission. Display and completion of the "Buyer's Guide" as required by Federal Trade Commission Used Motor Vehicle Trade Regulation Rule shall be deemed compliance with this rule.

(B) The "Buyer's Guide" required herein shall not be used in lieu of warranty disclaimer forms to disclaim warranties, actual or implied. In order to disclaim any warranties, a separate warranty disclaimer form must be used.

(C) From and after May 9, 1985, conditions of sale forms must include the following language, conspicuously written on that form: "The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale." Condition of sale contracts which do not contain this language shall not be approved by this Commission. Nothing in this rule shall be construed to make any additional informational or substantive requirements as to warranties, implied warranties or service contracts beyond that presently required by the Used Motor Vehicle Trade Regulation Rules or state law.

(4) **Title and tax transfer notice requirement.** It shall be the duty of every person licensed to sell new or used motor vehicles to advise each purchaser in writing about his title requirements and payment of any taxes due. Dealers failing to comply with provisions of this section shall be responsible for all taxes due on such sales or on such vehicles.

**765:10-3-3. Records**

Each dealer shall keep for a period of three (3) years from the date of sale (or as required by any other federal, state, or local regulations), a record of the purchase and sale of each motor vehicle he buys or sells, which shall show the name of the seller or buyer as the case may be, and a complete description of the vehicle purchased or sold, and which shall include a copy of the front and back of the certificate of title to each vehicle sold to a retail purchaser, and such other information as the Commission may prescribe. A public auction which allows non-dealers to sell or purchase vehicles at its auction shall also be required to keep a copy of the front and back of the certificate of title to each vehicle sold or purchased by a non-dealer. The records and title of vehicles shall be available upon request to authorized agents or employees of the Commission or any law enforcement officer of the State of Oklahoma. If it is determined that a licensee has knowingly provided false or misleading information when requested to

provide records, the licensee may be subjected to any appropriate sanction authorized by rule or statute.

*[OAR Docket #03-798; filed 4-28-03]*

## TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 15. USED MOTOR VEHICLE SALESMEN

*[OAR Docket #03-799]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. Licensing Qualifications, Procedures and Fees
765:15-1-3 [AMENDED]
**AUTHORITY:**
Oklahoma Used Motor Vehicle and Parts Commission
47 O.S. Section 582(E)(1)
75 O.S. Section 302(A)(1)
75 O.S. Section 307
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**INCORPORATIONS BY REFERENCE:**
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**ANALYSIS:**
The adopted rule endorses a practice employed by dealers to have other licensed individuals purchase vehicles for them.
**CONTACT PERSON:**
John W. Maile, Executive Director (405)949-2626

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

### 765:15-1-3. Applicant

(a) **Activities requiring license.** A used motor vehicle salesman is anyone who:

(1) receives gain or compensation of any kind, directly or indirectly, regularly or occasionally, or negotiates for sale or trade of a specified used motor vehicle for a specified used motor vehicle dealer, or

(2) operates as a broker only for a specified used motor vehicle dealer, or

(3) receives compensation for referral of a prospective buyer to his employer or acts on behalf of the dealer in the purchase or sale of a used motor vehicle, or

(4) is authorized to transfer and/or sign titles for the dealership, or

(5) displays or offers used motor vehicles for sale for the dealership at a licensed location.

(b) **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 license. The information shall include:

(1) information relating to the applicant's business integrity, the applicant's experience in the same or similar businesses, and his business history,

(2) whether the applicant will devote full or part time to the business, and

(3) any other pertinent information consistent with the safeguarding of the public interest and welfare.

(c) **Application required.** Applications for license 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 license applied for.

(d) **Activity not requiring a license.** A dealer, by written instrument, may authorize another licensed individual or dealer to purchase vehicles for the dealer. Said authorization shall not authorize the individual to conduct any other business for the dealer or represent the dealer in any other manner.

*[OAR Docket #03-799; filed 4-28-03]*

## TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 30. BUYER'S IDENTIFICATION CARDS

*[OAR Docket #03-800]*

**RULEMAKING ACTION:**
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**RULES:**
Subchapter 7. Salvage Pools and Salvage Disposal Sales
765:30-7-1 [AMENDED]
765:30-7-2 [AMENDED]
**AUTHORITY:**
Oklahoma Used Motor Vehicle and Parts Commission
47 O.S. Section 582(E)(1)
75 O.S. Section 302(A)(1)
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**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The adopted rule changes qualify who may attend salvage pool sales and the method of identifying authorized persons.
**CONTACT PERSON:**
John W. Maile, Executive Director (405)949-2626

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

**765:30-7-1. Bidding privileges**

(a) **Limitation.** Sales at a salvage pool or salvage disposal sale shall be opened only to persons possessing a current, legal BID card to buy at a salvage pool or salvage disposal sale. Only Buyers Identification Card holders shall be allowed at salvage pool sales on the date of the sale. Visitors shall not be allowed in the sales areas.

(b) **Verification.** It shall be the duty of the owner, manager, or person in charge of any salvage pool or salvage disposal sale to prohibit the bidding by any person who does not display his BID card, and further, to refuse to sell to any person any wrecked or repairable motor vehicle if such person does not display a valid BID card. The BID card shall be carried upon the cardholder's person and same displayed to owner, manager, or person in charge of any salvage pool or salvage disposal sale. Physical description and signature of cardholder must be compared with cardholder's driver's license for valid identification by owner, manager, or person in charge of any salvage pool or salvage disposal sale. It shall be the duty of the person in charge of any salvage pool or salvage disposal sale to refuse to sell to any person any wrecked or repairable motor vehicle if such person does not display a valid BID card.

**765:30-7-2. ~~Imprint~~ Copies of BID cards**

Bids at salvage pools or salvage disposal sales shall be verified as licensed dismantler bids by ~~imprinting~~ attaching a copy of the dismantler's BID card ~~on~~ to each bid sheet accepted for sale of salvage vehicles.

*[OAR Docket #03-800; filed 4-28-03]*

## TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 37. MANUFACTURED HOME INSTALLERS

*[OAR Docket #03-801]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 7. Installation Standards For Ground Sets
765:37-7-4 [AMENDED]
**AUTHORITY:**
Oklahoma Used Motor Vehicle and Parts Commission
47 O.S. Section 582(E)(1)
75 O.S. Section 302(A)(1)
75 O.S. Section 307
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**ANALYSIS:**
The adopted rule changes the standard for anchors in the installation of manufactured homes to the recognized national standard.
**CONTACT PERSON:**
John W. Maile, Executive Director (405)949-2626

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:**

**765:37-7-4. Anchoring**

(a) Ties shall be as evenly spaced as practicable along the length of the home, and the distance from each end of the home and the diagonal tie nearest that end shall not exceed 2 feet. Ties will be spaced no more than 11 feet apart on a side, allowing adjustment for obstructions (any strap spacing may be

exceeded by 10%, so long as the average strap spacing does not exceed 11 feet). The number of ties per side will be calculated by the formula: section-length minus 4 feet, divided by the spacing of 11 feet (rounded to next whole number), plus 1 tie. [The result for a 16'x80' (overall length) would be 8 diagonal ties per side.] (This method is based on ANSI 225.1 - 1994)

(b) Over-the-top vertical ties will not be necessary for home 13.5 feet or wider, with 10 feet or less wall height, with I-beams that are 96 inches or more apart, with no evidence that vertical ties have been cut or removed and with diagonal ties installed extending to the nearest I-beam.

(c) Where a vertical tie and diagonal tie are located at the same place, both ties may be connected to a single anchor, provided that the anchor used is capable of carrying both loadings.

(d) Anchors shall be capable of resisting a ~~load of 3,450 pounds~~ minimum total load capacity of 4,725 pounds (2,143 kg) and a working capacity of 3,150 pounds (1,429kg).

(e) All anchoring devices shall be installed in accordance with the anchor manufacturer's instructions, including, but not limited to, the use of approved stabilizer plates or 10" diameter x 18" deep poured concrete cylinders to prevent lateral movement of the anchor through the soil.

(f) Tie down anchors are not required when the home is installed on a FOUNDATION SYSTEM designed by an architect or registered engineer, which is designed to resist all tributary vertical live and dead loads, as well as lateral loads (wind or seismic), for the local conditions.

*[OAR Docket #03-801; filed 4-28-03]*

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## TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS CHAPTER 10. LICENSURE OF VETERINARIANS,VETERINARY TECHNICIANS AND ANIMAL EUTHANASIA TECHNICIANS

*[OAR Docket #03-870]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
775:10-1-1 [AMENDED]
Subchapter 3. Licensure of Veterinarians
775:10-3-5 [AMENDED]
775:10-3-12 [AMENDED]
Subchapter 5. Rules of Professional Conduct
775:10-5-30 [AMENDED]
Subchapter 7. Certification of Veterinary Technicians
775:10-7-1 [AMENDED]
775:10-7-2 [AMENDED]
775:10-7-4 [AMENDED]
775:10-7-6 [AMENDED]
775:10-7-8 [AMENDED]
775:10-7-9 [AMENDED]
775:10-7-10 [AMENDED]
Subchapter 8. Certification of Euthanasia Technicians
775:10-8-2 [AMENDED]
775:10-8-7 [AMENDED]
775:10-8-22 [AMENDED]

**AUTHORITY:**
59 O.S. Supp.2002, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners
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N/A
**ANALYSIS:**
The proposed chapter 10 revisions include clarification of name change for veterinary technicians and a reduction in cost of National Examination fee for veterinarians.
**CONTACT PERSON:**
Cathy Kirkpatrick, Executive Director, 201 N.E 38th Terr. Suite 1, Oklahoma City, OK 73105, 405-524-9006

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

### SUBCHAPTER 1. GENERAL PROVISIONS

**775:10-1-1. Purpose**

The rules in this chapter describe the procedures for licensing and renewal procedures of veterinarians, ~~certified~~ registered veterinary technicians, animal euthanasia technicians and the rules of professional conduct for veterinarians.

### SUBCHAPTER 3. LICENSURE OF VETERINARIANS

**775:10-3-5. Continuing education for renewal of license**

(a) Before an active license is reissued, the licensee shall, on a form provided by the Board, certify that he or she has obtained twenty (20) hours of continuing education in veterinary medicine or surgery. Acceptable hours of credit will be determined as follows:

(1) One hour of credit for each hour of attendance at veterinary college and extension seminars.

(2) One hour of credit for each hour of attendance at national, regional, state or local scientific meetings.

(3) One hour of credit for each hour spent developing or presenting original, peer-received presentations or publication. A maximum of five hours credit may be gained by this means.

(4) One hour of credit for each hour of study with autotutorial tapes of scientific material related to veterinary practice. A maximum of five hours credit may be gained by this means.

(5) One hour of credit for each hour of study of scientific or non-scientific articles in veterinary journals or periodicals pertaining to veterinary medicine or state and federal controlled dangerous substance laws. A maximum of five hours credit may be gained by this means.

(6) A minimum of two and no more than four of the twenty hours of continuing education per year shall encompass state or federal controlled dangerous substance laws, or review of the Oklahoma Veterinary Practice Act and applicable rules.

(7) One hour of credit for each approved hour of completed interactive online courses approved by the Board. For all online courses, a copy of the certificate indicating the number of course hours must be submitted to qualify.

(b) Graduates who receive a license to practice veterinary medicine in the State of Oklahoma within one calendar year of graduation are exempt from reporting continuing education credits until the submission of the second renewal application after initial licensure.

(c) The Board may waive these requirements upon written request and a finding of good cause.

(d) Each licensee shall maintain verifiable documentary proof of attendance in a readily retrievable file of reported continuing education credit for random audit purposes. Documentary proof shall be maintained for a period of five years from the date of attendance.

(e) Only those courses, meetings or seminars previously approved and/or offered by the American Veterinary Medical Association (AVMA), the American Association of Veterinary State Boards (AAVSB), or any other state veterinary board or recognized state veterinary association, shall not require previous approval by the Board to qualify as continuing education hours to be counted towards the fulfillment of the twenty (20) required hours, so long as the material offered complies with the requirements of this section.

(f) Regional veterinary associations, corporations, individuals or any other organizations must submit course material to the Board for evaluation to qualify for continuing education hours being offered at regional or local meetings, and shall adhere to the following procedure:

(1) Submit a published notice of the meeting,

(2) Submit a planned program as evidenced by a published agenda,

(3) Submit a formal presentation on printed material (i.e. papers, brochures, videos with printed material describing the video contents, etc), and

(4) Submit a verification of attendance form after the conclusion of the meeting, which contains the attendees printed name and signature taken previously to the initiation of the material presented, and the attendees printed name and signature after the conclusion of the material presented.

(g) Non-scientific topics may be acceptable as continuing education credits provided that:

(1) ~~Seventy-five percent (75%)~~ Not more than twenty-five percent (25%) of the total hours submitted to meet the required credits for renewal of license are devoted to non-scientific material, and

(2) Any ~~local (within the state)~~ meetings shall be conducted by or sponsored by a veterinary association, organization or professional recognized as such by the Oklahoma Board of Veterinary Medical Examiners.

(h) The Vice-President of the Board may evaluate and approve any Continuing Education (CE) credit requests received by the Board office, or the Vice-President of the Board may submit the request to the full Board at the next regularly scheduled meeting of the Board for consideration.

(i) Regional veterinary associations, corporations, individuals or any other organizations that submitted Continuing Education credit program requests which were deemed ineligible, may appeal the decision upon the presentation of new and additional material to the full Board at the next regularly scheduled meeting of the Board for consideration.

**775:10-3-12. Fees**

(a) **Fee Schedule.**

(1) **Examination.** The following fees shall be assessed for licensure and examination of veterinarians:

(A) North American Veterinary Licensing Examination - Cost + ~~$200.00~~ $185.00

(B) Oklahoma State Examination - $150.00

(2) **Licensure.** The following fees shall be assessed for licensure of veterinarians:

(A) Annual renewal (prior to June 30) - $125.00

(B) Annual renewal Faculty License (prior to June 30) - $100.00

(C) Reactivation fee (between July 1 and August 29) - $150.00

(D) Reinstatement fee (after August 30) - $625.00

(E) Licensure by Endorsement - $625.00

(F) Faculty License - $125.00

(3) **Duplication or modification of license.** A fee of $50.00 shall be assessed for duplication or modification of a veterinary license.

(4) **Supervised Doctor of Veterinary Medicine.** The following fees shall be assessed for certification as a supervised doctor of veterinary medicine:

(A) Original Certificate - $125.00

(B) Extension - $100.00

(C) Transfer - $50.00

(5) **Miscellaneous fees.** The following miscellaneous fees shall be assessed by the Board.

(A) Certification of scores - $40.00

(B) Verification of license - $20.00

(C) Duplication of proof of renewal of license - $10.00
(D) Certification of public records (per page) - $1.00
(E) Duplication of public records (per page) - $.25
(F) Transcript of public records recorded (per page) - Cost
(G) Issuance of subpoena - $.25
(H) Returned check processing fee - $35.00
(I) Probation fees:
(i) $50.00/month, unless otherwise modified by the Board or the Secretary/Treasurer
(ii) Investigation/Prosecution -actual cost incurred (Non-payment of investigation, prosecution or probation costs or fees within 30 days of billing may be grounds for imposition of additional sanctions by the Board).
(J) Declaratory ruling - $300.00 plus court costs.

(6) ~~Certified~~ **Registered Veterinary technician fees.** The following ~~certified~~ registered veterinary technician fees shall be assessed by the Board:
(A) National Veterinary Technician Examination - At cost
(B) State Examination - $60.00
(C) Application Processing Fee - $50.00
(D) Certificate - $20.00
(E) Annual Renewal - $40.00

(7) **Animal Euthanasia technician fees.** The following animal euthanasia technician fees shall be assessed by the Board:
(A) Training and Practical Examination - At cost
(B) Oklahoma State Bureau of Investigation criminal history search - At cost
(C) State Written Examination - $60.00
(D) Application Processing Fee - $50.00
(E) Certificate - $20.00
(F) Annual Renewal - $40.00
(G) Reactivation fee - $25.00

(b) **Submission of fees.** All fees are non-refundable.

## SUBCHAPTER 5. RULES OF PROFESSIONAL CONDUCT

### 775:10-5-30. Unprofessional conduct

The following acts and/or omissions shall be considered unprofessional conduct and shall constitute grounds for disciplinary action by the Board. They shall include, but not be limited to:

(1) failing to meet the minimum standards for veterinary clinics as set forth by Chapter 20 herein and for the practice of veterinary medicine as set forth by Chapter 25.

(2) engaging in conduct likely to deceive, defraud or harm the public or a demonstration of willful or careless disregard for the health, welfare or safety of a patient. For the purposes of this provision, acts of fraud herein shall include, but not be limited to:
(A) claiming to have performed or charging for an act or treatment that was, in fact, not performed or given;
(B) providing professional services to more than one party in any transaction where such parties have conflicting interests, without providing full, written disclosure of the dual representation and consent of the interested parties;
(C) claiming certification or recognition as a specialist which is untrue. Specialization shall be limited to those areas of specialization accepted by the American Veterinary Medical Association.
(D) practicing veterinary medicine under a false or assumed name or impersonatinganother practitioner;
(E) using a corporate or assumed name which is deceptive or misleading to the public;
(F) making a false, fraudulent or misleading statement of professional superiority in the practice of veterinary medicine;
(G) using any form of advertisement which is false, deceptive or misleading;
(H) performing surgery to conceal genetic or congenital defects, in any species, with the knowledge the surgery is performed to perpetrate a fraud;
(I) fraudulently issuing or using:
(i) certificate of veterinary inspection;
(ii) test chart;
(iii) vaccination report;
(iv) any other official report for the prevention of the dissemination of animal disease, the transportation of diseased animals or the sale of edible products of animal origin for human consumption;
(J) fraud or misrepresentation in applying for, procuring or renewing a veterinary license or certificate;
(K) the use of any false, fraudulent or deceptive statement in any document connected with the practice of veterinary medicine and surgery;

(3) practice under an expired, revoked or suspended Oklahoma veterinary license;

(4) promoting, aiding, abetting or allowing the practice of veterinary medicine by any unlicensed person, except as specifically authorized by the Veterinary Practice Act or rules of the Board. For the purposes of this provision, aiding the unlicensed practice of veterinary medicine shall also include, but shall not be limited to:
(A) allowing an unlicensed person to issue an animal health certificate~~s~~ with the veterinarian's signature affixed to the certificate, or to inoculate or treat animals unless the inoculation or treatment was performed under the direct supervision of the licensed veterinarian;
(B) allowing the issuance by any person in the employ of the veterinarian of a certificate of veterinary inspection of an animal unless the veterinarian performs the inspection and appropriate tests as required.

(5) performing any aspect of veterinary medicine outside a valid veterinarian, client, and patient relationship, except as specifically authorized by rules of the Board;

(6) violating any state or federal statute, rule or regulation regarding the prescription, dispensation or administration of veterinary prescription drugs or controlled dangerous substances. For the purposes of this provision, such violations shall include, but shall not be limited to:

(A) prescribing, providing, obtaining, ordering, administering, dispensing, giving or delivering any veterinary prescription drug or controlled dangerous substance to or for an animal solely for training, show or racing purposes and not for a medically sound reason;

(B) failing to provide appropriate labels on veterinary prescription drugs or controlled dangerous substances;

(C) prescribing or dispensing, delivering, or ordering any veterinary prescription drug or controlled dangerous substance without first having established a veterinarian/client/patient relationship and determining that such prescription drug is therapeutically indicated for the health or well being of the animal;

(D) prescribing, providing, ordering, administering, possessing, dispensing, giving or delivering any veterinary prescription drugs or controlled dangerous substance under the following circumstances:

(i) when the drugs are not necessary or required for the medical care of animals; or

(ii) when the use or possession of the drugs would promote addiction thereto.

(E) prescribing, providing, obtaining, ordering, administering, dispensing, giving or delivering any controlled dangerous substance for the veterinarian's personal use.

(7) failing or refusing to cooperate in an investigation by the Board where no privilege for such exists. For the purposes of this provision~~s~~, such failure to cooperate shall include, but shall not be limited to:

(A) failing or refusing to allow the Board or its investigator the ability to inspect a veterinary facility at reasonable hours, pursuant to an investigation by or on behalf of the Board and permitted by the Act or rules of the Board, or in accordance with other applicable State and/or Federal Statutes and regulations;

(B) failing or refusing to respond to reasonable inquiry from the Board or its investigator in the course of an investigation;

(8) failing to report to the proper authorities cruel or inhumane treatment to animals by any person, when the veterinarian has direct knowledge of the cruel or inhumane treatment;

(9) practicing any form of medicine on humans, except that a veterinarian may render first aid or emergency care, without expectation of compensation, in an emergency or disaster situation;

(10) any disciplinary action taken against the licensee by any other licensing jurisdiction, professional veterinary association, veterinary specialty board, or government or regulatory agency, where the basis for such disciplinary action would be a basis for action by the Board.

(11) failing to report to the Board within 30 days any disciplinary action taken against the licensee by any other licensing jurisdiction, professional veterinary association, veterinary specialty board, or government or regulatory agency, where the basis for such disciplinary action would be a basis for action by the Board;

(12) except as appropriate in the course of a valid veterinarian, patient, client relationship, allowing any unlicensed person, as defined by 59 O.S. 698.2 (16), to control the professional judgment of the veterinarian;

(13) failing to post or display, in a public area of the veterinarian's practice, the veterinarian's original license to practice veterinary medicine and current year's renewal certificate;

(14) failing to practice veterinary medicine with reasonable skill and safety. For the purpose of this provision, reasonable skill and safety shall refer to a level of care, skill and diligence in treating patients as is ordinarily used in the same or similar circumstances by average members of the profession in good standing in the community;

(15) commission of any act of sexual abuse, misconduct or exploitation related ~~or unrelated~~ to the licensee's practice of veterinary medicine and surgery;

~~(16) engaging in predatory sexual behavior;~~

(~~17~~16) improper preparation, recording, management and/or maintenance of veterinary records.

(~~18~~17) no person, as defined by O.S., Sec. 698.2 (16) shall control, exploit, or intervene between the patient, client and the veterinarian. A veterinarian shall not allow a non-licensed person or entity to interfere with or intervene in the veterinarian's practice of veterinary medicine. Each veterinarian shall be responsible for the veterinarian's own actions and shall be directly responsible to the client for the care and treatment of the patient.

## SUBCHAPTER 7. CERTIFICATION OF VETERINARY TECHNICIANS

### 775:10-7-1. Application for certification form; time for filing; fee

(a) Application for certification as a veterinary technician shall be made on printed forms provided by the Oklahoma Board of Veterinary Medical Examiners, herein after referred to as the Board.

(b) An application for certification shall be sworn to and accompanied by fees as listed in Board rule 775:10-3-12 (a)(6). This application shall be filed with the Board not less than sixty (60) days prior to the date of an examination.

~~(c) An applicant shall submit the following information on the application:~~

~~(1) Name in full, usual written signature.~~

~~(2) Date of birth.~~

~~(3) Residence address.~~

~~(4) Business address.~~

~~(5) Social Security number.~~
~~(6) Membership in professional organizations.~~
~~(7) Education.~~
~~(8) Record of applicant's entire professional career and such other information as the Board deems appropriate. The information furnished on the application shall be concise but comprehensive. It shall contain inclusive dates as well as names and addresses of the applicant's employers.~~

(~~d~~c) The applicant shall also submit documents sufficient to establish proof of graduation from an approved program in veterinary technology.

(~~e~~d) The application shall not be considered until the application is complete.

**775:10-7-2. Certification by examination**

(a) An application for certification by examination may be thoroughly investigated. The Board may inquire from the references or by such other means as the Board deems expedient as to the accuracy of the information submitted. If the replies from the references cited are not received within a reasonable time the Board may so notify the applicant and may request additional references. Information so obtained shall then be filed with the application as a permanent record and shall remain the property of the Board.

~~(b) A candidate must pass all sections of the examination as prescribed by the Board.~~

(b) In the event an applicant twice fails any veterinary examination, whether or not taken in the State of Oklahoma, before the applicant can retake any veterinary exam in Oklahoma, the Board may require the applicant to demonstrate successful completion of additional training and clinical competency. Such evidence may include but not be limited to:

(1) One additional year of education training in a school approved by the Board.

(2) Obtaining certification in another state or jurisdiction.

**775:10-7-4. Current certification**

(a) In order to hold current certification in the State of Oklahoma, a ~~certified~~ registered veterinary technician must apply for renewal each year on a form provided by the Board. However, the Board may refuse to issue any certification pending its investigation into questions of negligence, noncompliance with the Oklahoma Veterinary Practice Act, or noncompliance with the Rules and Regulations of the Board.

(b) Before certification is renewed, the applicant shall:

(1) Certify that he or she has obtained 10 (ten) hours of continuing education,

(2) Pay the annual renewal fee as determined by the Board and

(3) Complete an application for certificate renewal and provide current information with regard to, mailing address, telephone number and other contact information.

(c) Acceptable hours of continuing education credit will be determined as follows:

(1) One hour of credit for each hour of attendance at veterinary college and extension seminars, veterinary technology schools, courses and meetings.

(2) One hour of credit for each hour of attendance at national, regional, state or local scientific meetings.

(3) One hour of credit for each hour spent developing or presenting original, peer-received presentations or publications. A maximum of two and one-half hours credit may be gained by this means.

(4) One hour of credit for each hour of study with autotutorial tapes of scientific material related to veterinary practice. A maximum of two and one-half hours credit may be gained by this means.

(5) One hour of credit for each hour of study of scientific or non-scientific articles in veterinary journals or periodicals pertaining to veterinary medicine or state and federal controlled dangerous substance laws. A maximum of two and one-half hours credit may be gained by this means.

(6) A minimum of two and no more than four hours of continuing education per year shall-encompass state or federal controlled dangerous substance laws and/or review of the Oklahoma Veterinary Practice Act and applicable rules.

(7) One hour of credit for each approved hour of completed interactive online courses approved by the Board. For all online courses, a copy of the certificate indicating the number of course hours must be submitted to qualify.

(d) Graduates who receive a certificate to practice veterinary technology in the State of Oklahoma within one calendar year of graduation are exempt from reporting continuing education credits until the submission of the second renewal application after initial certification.

(e) The Board may waive these requirements upon written request and a finding of good cause.

(f) Each certificate holder shall maintain verifiable documentary proof of attendance in a readily retrievable file of reported continuing education credit for random audit purposes. Documentary proof shall be maintained for a period of five years from the date of attendance.

(g) Only those courses, meetings or seminars previously approved and/or offered by the American Veterinary Medical Association (AVMA), the American Association of Veterinary State Boards (AAVSB), or any other state veterinary board or recognized state veterinary association, shall not require previous approval by the Board to qualify as continuing education hours to be counted towards the fulfillment of the ten (10) required hours, so long as the material offered complies with the requirements of this section.

(h) Regional veterinary associations, corporations, individuals or any other organizations must submit course material to the Board for evaluation to qualify for continuing education hours being offered at regional or local meetings, and shall adhere to the following procedure:

(1) Submit a published notice of the meeting,

(2) Submit a planned program as evidenced by a published agenda,

(3) Submit a formal presentation on printed material (i.e. papers, brochures, videos with printed material describing the video contents, etc), and

(4) Submit a verification of attendance form after the conclusion of the meeting, whichcontains the attendees printed name and signature taken previously to the initiation of the material presented, and the attendees printed name and signature after the conclusion of the material presented.

(i) The Vice-President of the Board may evaluate and approve any Continuing Education (CE) credit requests received by the Board office, or the Vice-President of the Board may submit the request to the full Board at the next regularly scheduled meeting of the Board for consideration.

**775:10-7-6. Qualifications for reinstatement of lapsed certificate**

A ~~certified~~ registered veterinary technician must qualify for reinstatement of a certificate by the following:

~~(1) Any applicant who has not held a current certification in the State of Oklahoma shall:~~

(~~A~~1) Make application for reinstatement on a form provided by the Board,

(~~B~~2) Pay fees as determined by the Board, and

(~~C~~3) Certify that he or she has obtained ten (10) hours of continuing education per year for each year certification has lapsed.

**775:10-7-8. Complaint against the veterinary technician**

(a) A complaint against a ~~certified~~ registered veterinary technician shall be sworn to and submitted in writing to the Secretary of the Board. It shall contain sufficient facts to enable the Board to properly dispose of the matter.

(b) A sworn complaint submitted to the Board shall be reviewed by the Board. If the Board determines that the complaint does not warrant formal action, it shall close the case. If the Board determines that disciplinary action may be appropriate, a hearing shall be held in accordance with the laws of the Oklahoma Veterinary Practice Act.

**775:10-7-9. Supervision of a veterinary technician**

(a) Direct supervision is defined as directions given to a Veterinary Technician, nurse, laboratory technician, intern, assistant, or other employee for medical care following the examination of an animal by the veterinarian responsible for professional care of the animal.

(b) Under conditions of an emergency a Veterinary Technician may render life saving aid to an animal in accordance with applicable provisions of the Veterinary Practice Act and Board rules. "Emergency" means the animal is in a life threatening condition where immediate treatment is necessary to sustain life. ~~"Indirect supervision" means voice contact with the veterinarian.~~

**775:10-7-10. Denial, suspension or revocation of a veterinary technician certificate**

Upon written complaint under oath by any person and after notice and hearing, as prescribed in the Oklahoma Veterinary Practice Act, the Board may deny, suspend for a definite period or revoke the certificate of a veterinary technician for:

(1) Fraud, misrepresentation or deception in obtaining a license, certificate or permit.

(2) ~~Adjudication of insanity~~ adjudicated to be incompetent.

(3) Use of advertising or solicitation which is false, misleading or as otherwise deemed unprofessional under the regulations promulgated by the Board.

(4) Conviction of a felony.

(5) Incompetence, gross negligence or other malpractice in the practice of the profession.

(6) Having professional association with any person practicing veterinary medicine unlawfully.

(7) ~~Cruelty to animals~~ Engaging in conduct likely to deceive, defraud or harm the public or a demonstration of willful or careless disregard for the health, welfare or safety of a patient.

(8) Fraud or dishonesty in the application or reporting of any test or disease in animals.

(9) Unprofessional conduct by violation of a regulation promulgated by the Board under the Oklahoma Veterinary Practice Act.

(10) Representing himself/herself as a doctor of veterinary medicine.

(11) Violation of the Oklahoma Veterinary Technician Act.

(12) Conviction of a violation of a Federal or State law regarding dangerous substances as defined by House Bill 1100 of the 1st session of the 33rd Legislature and as hereafter amended.

(13) Habitually using intoxicating liquors or habit-forming drugs.

## SUBCHAPTER 8. CERTIFICATION OF EUTHANASIA TECHNICIANS

**775:10-8-2. Definitions**

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

**"Administer"** means the direct application of a controlled dangerous substance, whether by injection, inhalation, ingestion or any other means, to the body of an animal.

**"Animal"** means any animal other than humans, whether wild or domestic, and includes, but is not limited to, mammals, birds, fish, and reptiles.

**"Animal Control Agency"** means a federal, state, county or municipal agency or an agency which is a political division or subdivision of a federal, state, county or municipal agency authorized by law with the duties of enforcing laws or ordinances relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any

federal, state or local law enforcement agency which employs animal control officers, peace officers or other employees whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

**"Animal handler"** means a person who is trained in techniques of animal handling and human safety and is not certified as an animal euthanasia technician.

**"Animal Shelter"** means a private animal shelter, humane society organization or wildlife rehabilitation facility, which is recognized and approved by the Board;

**"Board"** means the Oklahoma State Board of Veterinary Medical Examiners;

**"Citizen complaint"** means a written or oral statement of complaint from any person of a possible violation of the Veterinary Practice Act or implementing rules.

**"Commercial container"** means any container in which a controlled dangerous substance is packaged by the manufacturer or distributor and includes, but is not limited to, vials, bottles and cartons. The term "commercial container" does not include package inserts, such as drug information.

**"Committee"** means the committee on animal euthanasia technicians.

**"Complaint"** means a written statement of alleged violation of the Veterinary Practice Act and/or implementing rules by a person or entity under the jurisdiction of the Board and which is filed with the Secretary-Treasurer in anticipation of the issuance of a citation. This definition is distinct from a citizen complaint;

**"Controlled Dangerous Substance**" means a drug, substance or immediate precursor in Schedules I through V of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes;

**"DEA"** means the Drug Enforcement Administration;

**"Denatured sodium pentobarbital"** means sodium pentobarbital to which an agent has been added that makes it unsuitable for use other than for euthanasia of animals;

~~**"Direct Supervision"** means directions have been given to an employee following the examination of an animal by the licensed veterinarian responsible for the professional care of the animal and the licensed veterinarian is physically on the premises when the directions are followed ;~~

**"Dispense"** means to deliver a controlled dangerous substance to an ultimate user by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for such delivery;

**"Dispose" or "disposal"** means the physical delivery of a controlled dangerous substance to the OSBI, OBN or DEA for destruction;

**"Employee"** means an individual who is under wages or a salary, and where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed. The term "Employee" does not include an individual providing services under contract.

**"Euthanasia drug"** means denatured sodium pentobarbital or other drug approved for animal euthanasia by the Board.

**"Fiscal year"** means the fiscal year of the Board, which is July 1 through June 30;

**"Law Enforcement Agency"** means a federal, state, county or municipal agency or other agency authorized by law with the duties to maintain public order, make arrests, serve warrants, and enforce the laws of the United States, this state, and county or municipal ordinances;

**"Licensed veterinarian"** means a veterinarian who holds an active license to practice veterinary medicine in this state;

**"Mid-level practitioner"** means an individual practitioner, other than a physician, dentist, veterinarian, or podiatrist, who is licensed, regulated, or otherwise permitted by the United States or the jurisdiction in which he/she practices, to dispense a controlled substance in the course of professional practice;

**"Non-commercial container"** means any container other than a commercial container which contains a controlled dangerous substance. A non-commercial container includes, but is not limited to, vials, bottles, boxes or envelopes into which a controlled dangerous substance has been transferred from a commercial container;

**"OAC"** means the Oklahoma Administrative Code;

**"OBN"** means the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

**"OSBI"** means the Oklahoma State Bureau of Investigation;

**"Primary container"** means any container, whether commercial or non-commercial, which is in direct contact with a controlled dangerous substance, whether the substance is liquid, solid or encapsulated, and includes, but is not limited to, vials, bottles, boxes or envelopes;

**"Regulations"** means federal regulations as published in the Code of Federal Regulations and which are promulgated under and implement federal statutes;

**"Rules**" means the administrative rules as published in the Oklahoma Administrative Code and which are promulgated under and implement Oklahoma Statutes;

**"Transfer"** means the physical transfer of a controlled dangerous substance from one individual registered with the OBN and DEA to another individual registered with the OBN and DEA; and

**"Veterinary Practice Act"** means Title 59, Section 698.1 et seq. of the Oklahoma Statutes.

**"Wildlife rehabilitation facility"** means a non-profit organization that cares for and rehabilitates sick or injured wildlife.

**775:10-8-7. Continuing education hours required for renewal of certificate**

(a) Before any certificate is renewed, the certificate holder shall certify on a form provided by the Board that he/she has obtained six (6) hours of continuing education approved by the Board which covers topics that relate to animal euthanasia, the care and custody of animals in preparation for adoption and/or shelter management. Acceptable hours of credit will be determined as follows:

(1) One hour of credit for each hour of attendance at veterinary college and extension seminars<u>, and veterinary technology schools</u>.

(2) One hour of credit for each hour of attendance at national, regional, state or local approved scientific meetings.

(3) One hour of credit for each hour of study with autotutorial tapes or reading of scientific or non-scientific articles in journals or periodicals pertaining to animal euthanasia, the care and custody of animals in preparation for adoption and/or shelter management. A maximum of two hours credit may be gained by this means.

(4) Two hours of continuing education per year must encompass review of state and federal controlled dangerous substance laws and applicable rules and regulations and/or review of the Oklahoma Veterinary Practice Act and applicable rules.

(b) Individuals who are certified as an Animal Euthanasia Technicians in the State of Oklahoma within one calendar year of completing a training course for Animal Euthanasia Technicians are exempt from reporting continuing education credits until submission of the second renewal application after initial certification.

(c) The Board or its agent(s) may waive all or part of the required continuing education hours and accept in lieu training or education considered comparable by the Board.

(d) Each certificate holder shall maintain verifiable documentary proof of attendance of reported continuing education credit in a readily retrievable file for random audit purposes. Documentary proof shall be maintained for a period of five years from the date of attendance.

(e) Only those courses, meetings or seminars previously approved and/or offered by the American Veterinary Medical Association (AVMA), the American Association of Veterinary State Boards (AAVSB), or any other state veterinary board or recognized state veterinary association, shall not require previous approval by the Board to qualify as continuing education hours to be counted towards the fulfillment of the six (6) required hours, so long as the material offered complies with the requirements of this section.

(f) Regional veterinary associations, corporations, and any other organizations or individuals must submit course material to the Board for evaluation to qualify for continuing education hours being offered at regional or local meetings, and shall adhere to the following procedure:

(1) Submit a published notice of the meeting,

(2) Submit a planned program as evidenced by a published agenda,

(3) Submit a formal presentation on printed material (i.e. papers, brochures, videos with printed material describing the video contents, etc),

(4) Submit a verification of attendance form after the conclusion of the meeting, which contains the attendee's printed name and signature taken prior to the initiation of the material presented and the attendee's printed name and signature after the conclusion of the material presented.

(g) The Vice-President of the Board may evaluate and approve any Continuing Education (CE) credit requests received by the Board, or the Vice-President of the Board may submit the request to the Board for consideration at the next regularly scheduled meeting of the Board.

(h) Regional veterinary associations, corporations, and any other organizations or individuals that submit Continuing Education credit requests which are deemed ineligible for Continuing Education credit may appeal the decision upon the presentation of new and additional material for consideration at the next regularly scheduled meeting of the Board.

**775:10-8-22. Denial, suspension or revocation of an animal euthanasia technician certificate**

(a) Upon written complaint, and after notice and hearing pursuant to the disciplinary procedures as provided for in Section 698.14a of the Veterinary Practice Act, Rule 775:15-1-1 et seq. and Rule 775:30-1-1 et seq. the Board may deny, suspend or revoke the certificate of an Animal Euthanasia Technician and/or impose a penalty upon the certificate holder for:

(1) Violation of any part of the Oklahoma Veterinary Practice Act or implementing rules;

(2) Fraud, misrepresentation or deception in obtaining a certificate, or failure to provide accurate information upon request by the Board for initial certification or renewal, reactivation or reinstatement of certification, or during an investigation or disciplinary hearing;

(3) Conviction of, or entry of a plea of guilty or nolo contendere to, a felony or misdemeanor involving cruelty to animals, moral turpitude or relating to any controlled dangerous substance as defined by the Uniform Controlled Dangerous Substance Act, in this or any other jurisdiction;

(4) Violation of any laws relating to the administration, prescribing or dispensing of controlled dangerous substances or violation of any federal laws or the laws of any state relative to prescription drugs or controlled dangerous substances;

(5) Accepting employment as an Animal Euthanasia Technician by, or entering into a contract to perform euthanasia services for, any person or organization other than a law enforcement agency, animal control agency or animal shelter that is recognized and approved by the Board;

(6) Having a working association with any person, agency or organization practicing veterinary medicine or performing animal euthanasia unlawfully;

(7) Incompetence or negligence;

(8) Cruelty to animals;

(9) Use of advertising or solicitation that is false, misleading, or otherwise deemed unprofessional under the rules promulgated by the Board;

(10) Representing him/herself as a licensed veterinarian or a ~~Certified~~ Registered Veterinary Technician, unless licensed or certified as such;

(11) Fraud or dishonesty in the application for, or in the reporting of the results of, any diagnostic test, or in the reporting of disease in animals;

(12) Adjudication of insanity or incapacity; or

(13) Habitual use or abuse of alcohol or of a habit-forming drug or chemical.

(b) The President or Secretary-Treasurer of the Board may issue a confidential letter of concern to a certificate holder when, although evidence does not warrant formal proceedings,

there has been noted indications of possible misconduct by the certificate holder that could lead to serious consequences and formal action.

(c) In the event it comes to the attention of the Board that a violation of the rules may have occurred, even though a formal complaint or charge may not have been filed, the Board may conduct an investigation of such possible violation, and may, upon its own motion, institute a formal complaint.

*[OAR Docket #03-870; filed 5-6-03]*

## TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS
## CHAPTER 25. RECORDKEEPING AND SUPERVISION REQUIREMENTS

*[OAR Docket #03-871]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
775:25-1-4 [AMENDED]
**AUTHORITY:**
59 O.S. Supp.2002, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners
**DATES:**
**Comment period:**
January 16, 2003 through February 16, 2003
**Public hearing:**
February 28, 2003
**Adoption:**
February 28, 2003
**Submitted to Governor:**
March 5, 2003
**Submitted to House:**
March 5, 2003
**Submitted to Senate:**
March 5, 2003
**Gubernatorial approval:**
April 23, 2003
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on April 30, 2003
**Final adoption:**
April 30, 2003
**Effective:**
July 1, 2003
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The proposed chapter 25 revisions include clarification of name change for veterinary Technicians.
**CONTACT PERSON:**
Cathy Kirkpatrick, Executive Director, 201 N.E 38th Terr. Suite 1, Oklahoma City, OK 73105, 405-524-9006

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2003:**

**775:25-1-4. Supervision Requirements.**

(a) Each licensed veterinarian shall provide direct supervision of any ~~certified~~ registered veterinary technician, employed assistant or Supervised Doctor of Veterinary Medicine ("SDVM") who participates in the practice of veterinary medicine, except that when a licensed veterinarian is not on the premises, said licensed veterinarian shall give written instructions for post operative or follow-up treatment of the animal patient, provided that the animal has been examined by the supervising veterinarian at such time as good veterinary medical practice requires, and the animal is not anesthetized. A licensed veterinarian may delegate only those activities within the practice of veterinary medicine to an employee or SDVM which are consistent with that person's training, experience and professional competence.

(b) Unless otherwise exempted by statute or specified for SDVM's, a licensed veterinarian shall not delegate any of the following to any ~~certified~~ registered veterinary technician or employed assistant:

(1) any act of diagnosis or prognosis;
(2) performance of any surgical procedure; or
(3) the prescribing of any drug, medicine, biologic, apparatus, application, anesthesia or other therapeutic or diagnostic substance or technique.

(c) Unless otherwise exempted by statute or specified for SDVM's, a licensed veterinarian may delegate the following to any ~~certified~~ registered veterinary technician or employed assistant under direct supervision as defined in 59 O.S. Section 698.2, while the licensed veterinarian is physically on the premises:

(1) inducing anesthesia by inhalation or intravenous injection;
(2) applying casts or splints;
(3) performing dental extractions;
(4) suturing existing skin incisions; or,
(5) administering controlled dangerous substances or veterinary prescription drugs and vaccinations, unless a veterinary-client-patient relationship has been established and previously written orders exist when the licensed veterinarian is not on the premises.

(d) Unless otherwise exempted by statute, a licensed veterinarian may delegate any of the following to any SDVM under direct supervision;

(1) any act of diagnosis or prognosis;
(2) performance of any surgical procedure;
(3) inducing anesthesia by inhalation or intravenous injection;
(4) applying casts or splints;
(5) performing dental extraction's.
(6) suturing existing skin incisions;
(7) prescribing, dispensing and administering controlled dangerous substances, veterinary prescription drugs or vaccinations. The prescribing, dispensing, and administering of controlled dangerous substances may only be performed after a federal (DEA) controlled dangerous substance certificate and a state Oklahoma Bureau of Narcotics and Dangerous Drug certificate has been procured by the certificate holder (SDVM).

(e) In situations where a licensed veterinarian is not on the premises, a SDVM, ~~a certified~~ registered veterinary technician or an employed assistant who possesses the training, experience and professional competence may perform the following emergency treatments in a life saving situation:

(1) apply tourniquets and/or pressure bandages to control hemorrhage;

(2) administer pharmacological agents to prevent or control shock, including parenteral fluids, provided that the SDVM or employee has direct communication with a licensed veterinarian. When direct communication cannot be established with respect to this paragraph (e), a SDVM or competent employed assistant may provide emergency care in accordance with pre-established written instructions provided by their employer veterinarian(s);

(3) initiate resuscitative oxygen procedures;

(4) establish open airways including intubation appliances but excluding surgery;

(5) perform external cardiac resuscitation;

(6) apply temporary splints or bandages to prevent further injury to bones or soft tissues;

(7) apply wound dressings and external supportive treatment for severe burns; and

(8) provide external supportive treatment in ~~heat prostration~~ thermal injury cases.

*[OAR Docket #03-871; filed 5-6-03]*

# Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code.*

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

## TITLE 1. EXECUTIVE ORDERS

**1:2003-8.**

### EXECUTIVE ORDER 2003-8

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by Article VI of the Oklahoma Constitution, hereby establish the position of Homeland Security Director.

It is the fundamental duty of government to protect its people. With the creation of a federal Department of Homeland Security and the issue of homeland security being of increasing significance in Oklahoma and our sister states and local governmental entities, it is necessary to have a single point of contact for issues related to homeland security.

The position of Homeland Security Director shall exist until the Legislature creates such a permanent position by statute. The commissioner of Public Safety shall serve, ex officio, as the Homeland Security Director. The purpose of this position is to coordinate homeland security efforts for the State of Oklahoma including initiatives to prevent terrorist acts, reduce our vulnerability to such attacks, and prepare to respond and recover from any terrorist attacks.

The State of Oklahoma was devastated by the bombing in downtown Oklahoma City on April 19, 1995. In responding and recovering from this destructive attack, Oklahoma set the standard in terrorism response efforts. This position will enable Oklahoma to continue to play a prominent role in the national effort to protect this country and the furthering of the "Oklahoma Standard".

Recognizing the primary purpose of homeland security shall be the prevention of terrorist attacks, it is imperative that the Homeland Security Director be a law enforcement professional. Only through proper interpretation and notification of potential threats can the flow of information to state agencies and officials, local government officials, private businesses and the citizens of Oklahoma be facilitated. This will further ensure the activation of the Oklahoma Homeland Security Advisory system is made with the proper information.

The Oklahoma Homeland Security Director will have the following primary duties:

1. Representing the State of Oklahoma with federal agencies as the state homeland security director for purposes of accessing federal funds and cooperating with federal agencies in the development and implementation of a nationwide homeland security strategy and response;

2. Coordinating and preparing applications for federal funds and overseeing the implementation of plans for the expenditure of those funds consistent with the recommendation of the Governor;

3. Administration of the Oklahoma Homeland Security Advisory System;

4. Serve as a single point of contact for the State of Oklahoma, including state agencies and officials, local government officials, private businesses and the citizens of Oklahoma; for homeland security issues and efforts; and

5. Such other duties related to homeland security as the Governor may prescribe.

The efforts of the Homeland Security Director will result in federal, state and local officials and the citizens of Oklahoma to be better and more effectively served when interfacing with a single point of contact.

This Executive Order shall be distributed to the Commissioner of Public Safety who shall cause the provisions of this order to be implemented.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 9th day of May, 2003.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
Kathy Jekel
Acting Assistant Secretary of State

*[OAR Docket #03-907; filed 5-9-03]*

**1:2003-9.**

## EXECUTIVE ORDER 2003-9

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by Article VI of the Oklahoma Constitution, hereby establish the Governor's Committee on Homeland Security Funding.

The September 11, 2001 attacks on the United States of America raised concerns about the ability of our Nation to respond to acts of terrorism. This concern has resulted in an unprecedented amount of federal funding available to the states to prevent, reduce vulnerability, and prepare to respond and recover, from terrorist attacks. As a State which has been the target of domestic terrorism, Oklahoma recognizes the need to further assess its current security capabilities, develop the requisite level of preparedness, and plan a structured and swift response to terrorist threats. Such strategies must also encompass an approach to be prepared for all hazards whether they are manmade or come from natural disasters requiring similar responses.

In the State of Oklahoma all federal funding related to homeland security should be part of an overall strategy to increase the capability of the State for an all-hazards response. The Oklahoma Homeland Security Director must serve as the single point of contact in the development of this statewide strategy. As part of the statewide strategy, a First Responder Equipment Program has been developed using funding from the United States Department of Justice and United States Department of Homeland Security. The Governor has designated the Oklahoma Department of Public Safety as the State Administering Agency for first responder homeland security funding.

The Governor's Committee on Homeland Security Funding created by this Order shall review and make recommendations on the implementation of the statewide First Responder Equipment Program. The Committee shall consist of five (5) members appointed by the Governor from the following areas:

Representative from the firefighting service
Representative from law enforcement
Representative from the health sector
Representative from emergency management
Representative from the military

All members shall serve on the Committee at the pleasure of the Governor. The representative from the firefighting service shall serve as the Chairperson of the Committee. Staffing and support services shall be provided by the Oklahoma Department of Public Safety. The Committee may meet at such times and places as they deem appropriate.

The Governor's Committee on Homeland Security Funding shall focus on:

1. Assessing the current level of preparedness of first responders and identifying the needs for additional capabilities;
2. Reviewing all federal funding available to state agencies and local jurisdictions to increase the capability of the state response community;
3. Consistent with the applications for federal funding, and the First Responder Equipment Program developed by the Oklahoma Homeland Security Director and approved by the Governor, the committee shall make recommendations for sub-grantees to receive funding; and,
4. Review sub-grant applications and agreements to ensure compliance with the statewide strategy and the principles of the First Responder Equipment Program.

The Committee shall submit a preliminary report to the Governor and the Oklahoma Homeland Security Director within thirty (30) days of the committee members' appointment.

This Executive Order shall be distributed to the Commissioner of Public Safety who shall cause the provisions of this order to be implemented.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 9th day of May, 2003.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
Kathy Jekel
Acting Assistant Secretary of State

*[OAR Docket #03-908; filed 5-9-03]*

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**1:2003-10.**

## EXECUTIVE ORDER 2003-10

I, Brad Henry, Governor of the State of Oklahoma, by authority conferred upon me by the Constitution and the Laws of the State of Oklahoma, hereby declare the following.

1. A survey has been made, to the extent possible, in Oklahoma and Cleveland County and surrounding areas that received substantial damages as a result of tornadoes and severe thunderstorms that occurred on May 8, 2003.

2. It is necessary to provide for the rendering of mutual aid among the State and political subdivisions of the State and to cooperate with the Federal government with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Civil Defense and Emergency Resources Management Act.

3. There is hereby declared a disaster emergency caused by tornadoes and severe thunderstorms in Oklahoma and Cleveland County and surrounding areas, which has threatened the lives and property of the people of this State and the peace, health, and safety of the public.

4. The resources of all State departments and agencies available to meet the emergency are hereby committed to the reasonable extent necessary to prevent, minimize, and repair injury and damage. These actions are to be coordinated by the Director of the Department of Civil Emergency Management with comparable functions of the federal government and political subdivisions of the State.

5. This declaration of emergency shall terminate as provided in Section 683.3(3) of Title 63 of the Oklahoma Statues.

6. This declaration of emergency shall satisfy the requirements of the Emergency Price Stabilization Act, 15 O.S.§771.1 et seq.

Copies of this Executive Order shall be distributed to the Director of Civil Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 9th day of May, 2003.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
Kathy Jekel
Acting Assistant Secretary of State

*[OAR Docket #03-909; filed 5-9-03]*

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**1:2003-11.**

## EXECUTIVE ORDER 2003-11

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution and 63 O.S. Sections 683.1 et seq., hereby declare that because there is a state of emergency existing in Oklahoma as a result of tornadoes and severe thunderstorms that occurred on May 8, 2003, it is necessary to expedite restoration of services for those counties enumerated in Executive Order 2003-10. In order to accommodate this need to provide assistance to our citizens in this extraordinary situation, I hereby order the suspension of the following as they apply to vehicles involved in the restoration efforts:

1. The requirement for special permits for use of overweight/oversized vehicles under Title 47 of the Oklahoma statutes.

2. The requirements for licensing/operating authority as required by Oklahoma Corporation Commission.

3. The requirements for licensing/registration as required by the Oklahoma Tax Commission.

4. The requirements contained in CFR 49 parts 390-399 under the authority of CFR 49 Part 390.23. All other regulations in CFR 49 shall apply.

This order shall terminate as provided in 63 O.S. § 683.3(3).

This Executive Order shall be forwarded to the Oklahoma Corporation Commission, the Oklahoma Tax Commission, the Commissioner of Public Safety and the Director of Civil Emergency Management, who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 9th day of May, 2003.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
Vickie L Mitchell
Acting Assistant Secretary of State

*[OAR Docket #03-926; filed 5-12-03]*

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