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Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register.* In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 510. STATE BOARD OF OSTEOPATHIC EXAMINERS CHAPTER 5. PROFESSIONAL STANDARDS

[OAR Docket #04-325]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 11. Medical Micropigmentation

510:5-11-1. Purpose [REVOKED]

510:5-11-2. Definitions [REVOKED]

510:5-11-3. Duties and Responsibilities [REVOKED]

SUMMARY:

The proposed rules to be revoked in Subchapter 11 are to promote public health, safety, and welfare by removing the Oklahoma State Board of Osteopathic Examiners from any regulatory function in the field of medical micropigmentation by osteopathic physicians.

AUTHORITY:

Oklahoma Osteopathic Medicine Act; 59 O.S. 2001, §624, et seq.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before June 17, 2004, at the following address: Gary Clark, Executive Director, Oklahoma State Board of Osteopathic Examiners, 4848 North Lincoln Boulevard, Suite 100, Oklahoma City, OK 73105.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m., on June 17, 2004, at the office of the Oklahoma State Board of Osteopathic Examiners, 4848 North Lincoln Boulevard, Suite 100, Oklahoma City, OK 73105. Anyone who wishes to speak must appear by the hour of 9:30 a.m.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma State Board of Osteopathic Examiners, 4848 North Lincoln Boulevard, Suite 100, Oklahoma City, OK 73105.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. 2001, §303(D), a Rule Impact Statement will be prepared and available on March 10, 2004, and may be obtained from the Oklahoma State Board of Osteopathic Examiners at the above address.

CONTACT PERSON:

Gary Clark, Executive Director, Oklahoma State Board of Osteopathic Examiners, (405) 528-8625.

[OAR Docket #04-325; filed 3-10-04]

TITLE 510. STATE BOARD OF OSTEOPATHIC EXAMINERS CHAPTER 10. LICENSURE OF OSTEOPATHIC PHYSICIANS AND SURGEONS

[OAR Docket #04-326]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 3. Licensure Requirements

510:10-3-20. Purpose [NEW]

510:10-3-21. Procedure for Volunteer License [NEW]

510:10-3-22. Annual Renewal [NEW]

SUMMARY:

The proposed additions to Subchapter 3 are to protect public health, safety, and welfare by setting forth objective criteria that must be met by any osteopathic physician who desires to practice osteopathic medicine under the auspices of the statutory Special Volunteer Osteopathic Medical License, and to establish uniform procedures for application for that volunteer license and the annual renewal thereof.

AUTHORITY:

Oklahoma Osteopathic Medicine Act; 59 O.S. 2002, §635.1 and §624, et seq.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before June 17, 2004, at the following address: Gary Clark, Executive Director, Oklahoma State Board of Osteopathic Examiners, 4848 North Lincoln Boulevard, Suite 100, Oklahoma City, OK 73105.

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CONTACT PERSON:

Gary Clark, Executive Director, Oklahoma State Board of Osteopathic Examiners, (405) 528-8625.

[OAR Docket #04-326; filed 3-10-04]

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

[OAR Docket #04-425]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
10:15-1-2. Definitions [AMENDED]
Subchapter 5. Examination Procedures
10:15-5-1. Eligibility to take examination [AMENDED]
10:15-5-3. Notice of examinations [REVOKED]
10:15-5-4. Restrictions [AMENDED]
Subchapter 7. Application to Take an Examination
10:15-7-1. Requirements for filing applications [AMENDED]
10:15-7-2. Educational requirements [AMENDED]
Subchapter 13. Conditional Credit on Examination
10:15-13-1. Conditional credit for candidates for certificates [AMENDED]
Subchapter 18. Transitioning from the Paper-and-Pencil Examination to the Computer-Based Examination [NEW]
10:15-18-1. Applicatiions for examination [NEW]
10:15-18-2. Time and place of examination [NEW]
10:15-18-3. Retake and granting of credit requirements [NEW]
Subchapter 19. Proctoring of Candidates Taking Examinations
10:15-19-4. Oklahoma candidates taking examination in other states [AMENDED]
Subchapter 20. Internet Practice Requirements
10:15-20-1. Requirements regarding practice or solicitation of an engagment via electronic means [AMENDED]
Subchapter 25. Permits
10:15-25-3. Individual permit [AMENDED]
Subchapter 27. Fees
10:15-27-1. Initial application to take CPA examination [AMENDED]
10:15-27-2. Initial application to take PA examination [AMENDED]
10:15-27-3. Reexamination [AMENDED]
10:15-27-3.1. Computer based test fee [NEW]
10:15-27-4. Examination processing fee [AMENDED]
10:15-27-6. Out of state candidates [AMENDED]
10:15-27-13. Portal convience fees [NEW]
Subchapter 29. Continuing Professional Education
10:15-29-1.1. Burden of proof [AMENDED]
10:15-29-3. CPE compliance period for new CPAs and PAs [AMENDED]
10:15-29-4. Required CPE for issuance of a permit [AMENDED]
10:15-29-5. Reciprocity [AMENDED]
10:15-29-8. Verification [AMENDED]
Subchapter 31. Standards for Continuing Professional Education [REVOKED]
10:15-31-1. General standards for structured CPE [REVOKED]
10:15-31-2. Standards for structured CPE program development [REVOKED]
10:15-31-3. Standards for structured CPE program presentation [REVOKED]
10:15-31-4. Standards for structured CPE program measurement [REVOKED]
10:15-31-5. Standards for structured CPE program reporting by participant [REVOKED]
10:15-31-6. Documentation and record-keeping standards for CPE sponsors [REVOKED]
Subchapter 32. Standards for Continuing Professional Education (CPE) Programs
10:15-32-1. Standards for permit holders [AMENDED]
10:15-32-2. Standards forCPE program sponers [AMENDED]
10:15-32-3. Standards forCPE program development [AMENDED]
10:15-32-4. Standards forCPE program presentation [AMENDED]
10:15-32-5. Standards forCPE program measurement [AMENDED]
10:15-32-6. Standards forCPE program reporting [AMENDED]
Subchapter 33. Quality/Peer Review
10:15-33-1. Establishment of quality/peer review program [NEW]
10:15-33-2. Special definitions [NEW]
10:15-33-3. Standards for quality/peer reviews and sponsoring organizatios [NEW]
10:15-33-4. Enrollment and participation [NEW]
10:15-33-5. Effect of successive modified/adverse reports [NEW]
10:15-33-6. Reporting to the board [NEW]
10:15-33-7. Quality/peer reviewcommittee [NEW]
Subchapter 37. Enforcement Procedures
10:15-37-1. ~~Initiation of investigation~~Enforcement committee [AMENDED]
10:15-37-2. Investigation committee [AMENDED]
10:15-37-4. Individual investigator [AMENDED]

10:15-37-5. Filing of formal complaint [AMENDED]
10:15-37-11. Felony convictions and pleas [AMENDED]
Subchapter 39. Rules of Professional Conduct
10:15-39-1. Application [AMENDED]
10:15-39-3. Independence [REVOKED]
10:15-39-4. Integrity and objectivity [REVOKED]
10:15-39-5. Disclosure of other compensation and financial interest in transactions [REVOKED]
10:15-39-6. Competence and technical standards [REVOKED]
10:15-39-7. Responsibilities to clients [REVOKED]
10:15-39-8. Other responsibilities and practices [AMENDED]

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TITLE 25. OKLAHOMA AERONAUTICS COMMISSION
CHAPTER 20. AIRCRAFT EXCISE TAX CREDIT PROGRAM

[OAR Docket #04-403]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
25:20-1-1. through 25:20-1-5. [NEW]
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TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 1. ORGANIZATION

[OAR Docket #04-427]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
160:1-1-1.2. [AMENDED]
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TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 3. PROCEDURE

[OAR Docket #04-428]

RULEMAKING ACTION:
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RULES:
160:3-1-1.1. [AMENDED]
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TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 5. FEES

[OAR Docket #04-429]

RULEMAKING ACTION:
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RULES:
160:5-1-2. [AMENDED]
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TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 10. CONSUMER LEASING

[OAR Docket #04-430]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Disclosures

160:10-5-1.1. [AMENDED]
160:10-5-1.4. [NEW]
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TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 15. PAWN TRANSACTIONS

[OAR Docket #04-431]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Records
160:15-3-1. [AMENDED]
Subchapter 5. Licensing
160:15-5-6. [AMENDED]
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TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 30. CREDIT SERVICES ORGANIZATION

[OAR Docket #04-432]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Licensing
160:30-3-3.4. [AMENDED]
Subchapter 9. Records
160:30-9-1. [AMENDED]
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[OAR Docket #04-432; filed 3-24-04]

TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 35. OKLAHOMA RENTAL-PURCHASE ACT

[OAR Docket #04-433]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Licensing
160:35-3-1.4. [AMENDED]
Subchapter 5. Records
160:35-5-1. [AMENDED]
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TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 45. TRUTH IN LENDING RULES

[OAR Docket #04-434]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
160:45-1-1. [AMENDED]
Subchapter 3. Open-End Credit
160:45-3-1. [AMENDED]
160:45-3-2. [AMENDED]
160:45-3-3. [AMENDED]
160:45-3-13. [AMENDED]
160:45-3-14. [AMENDED]
Subchapter 5. Closed-End Credit
160:45-5-1. [AMENDED]
160:45-5-7. [AMENDED]
160:45-5-8. [AMENDED]
Subchapter 7. Miscellaneous
160:45-7-3. [AMENDED]
Subchapter 9. Special Rules for Certain Home Mortgage Transactions
160:45-9-1. [AMENDED]
160:45-9-2. [AMENDED]

160:45-9-4. [NEW]
Subchapter 11. Electronic Communication [NEW]
160:45-11-1. [NEW]
Appendix F. Annual Percentage Rate Computations for Certain Open-End Credit Plans [REVOKED]
Appendix F. Annual Percentage Rate Computations for Certain Open-End Credit Plans [NEW]
Appendix H. Closed-End Model Forms and Clauses [REVOKED]
Appendix H. Closed-End Model Forms and Clauses [NEW]

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TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 50. HEALTH SPAS

[OAR Docket #04-435]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Registration
160:50-3-11. [AMENDED]
Subchapter 11. Records
160:50-11-1. [AMENDED]

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TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 55. MORTGAGE BROKERS

[OAR Docket #04-436]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
160:55-1-1. [AMENDED]
160:55-1-2. [AMENDED]
Subchapter 3. Licensing
160:55-3-1.1. [AMENDED]
160:55-3-1.2. [AMENDED]
160:55-3-1.3. [NEW]
160:55-3-1.4. [NEW]
160:55-3-3. [AMENDED]
160:55-3-3.1. [AMENDED]
160:55-3-4. [AMENDED]
160:55-3-8. [AMENDED]
160:55-3-9. [AMENDED]
160:55-3-9.1. [AMENDED]
160:55-3-10.1. [NEW]
Subchapter 5. Advisory Committee
160:55-5-2. [AMENDED]
Subchapter 7. Records
160:55-7-1. [AMENDED]
Subchapter 9. Enforcement
160:55-9-2. [AMENDED]
160:55-9-3. [AMENDED]
160:55-9-4. [AMENDED]
160:55-9-6. [AMENDED]

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TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 60. PRECIOUS METAL AND GEM DEALERS

[OAR Docket #04-437]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Licensing
160:60-3-6. [NEW]
Subchapter 7. Records
160:60-7-1. [AMENDED]

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TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 65. SUPERVISED LENDERS

[OAR Docket #04-438]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Licensing
160:65-3-6. [AMENDED]
Subchapter 7. Records
160:65-7-1. [AMENDED]
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TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 70. DEFERRED DEPOSIT LENDERS

[OAR Docket #04-439]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions [NEW]
160:70-1-1. through 160:70-1-3. [NEW]
Subchapter 3. Licensing [NEW]
160:70-3-1. through 160:70-3-6. [NEW]
Subchapter 5. Disclosures [NEW]
160:70-5-1. through 160:70-5-2. [NEW]
Subchapter 7. Records [NEW]
160:70-7-1. through 160:70-7-2. [NEW]
Subchapter 9. Enforcement [NEW]
160:70-9-1. through .160:70-9-6. [NEW]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #04-342]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
252:100-5-2.1. [AMENDED]
252:100-5-2.2. [AMENDED]
Subchapter 7. Permits for Minor Facilities
Part 1. General Provisions
252:100-7-1.1. [AMENDED]
252:100-7-2. [AMENDED]
Part 2. Permit Application Fees
252:100-7-3. [AMENDED]
Part 3. Construction Permits
252:100-7-15. [AMENDED]
Part 4. Operating Permits
252:100-7-18. [AMENDED]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #04-343]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 13. Open Burning
252:100-13-2. [AMENDED]
252:100-13-7. [AMENDED]
252:100-13-9. [AMENDED]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 205. HAZARDOUS WASTE MANAGEMENT

[OAR Docket #04-344]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Incorporation by Reference
252:205-3-1. [AMENDED]
252:205-3-2. [AMENDED]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 300. LABORATORY ACCREDITATION

[OAR Docket #04-345]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Laboratory Accreditation Process
252:300-5-5. [AMENDED]
Subchapter 15. Proficiency Testing
252:300-15-5. [AMENDED]
Subchapter 17. Quality Assurance/Quality Control
252:300-17-1. [AMENDED]
252:300-17-4. [AMENDED]
Subchapter 19. Classifications
252:300-19-1. [AMENDED]
252:300-19-2. [AMENDED]
252:300-19-3. [AMENDED]
Subchapter 21. Categories
252:300-21-3. [AMENDED]
252:300-21-4. [NEW]
Appendix B. Analytes for General Water Quality Laboratory Categories [REVOKED]
Appendix B. Analytes for General Water Quality Laboratory Categories [NEW]
Appendix D. Analytes for Petrolelum Hydrocarbon Laboratory Category [NEW]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 410. RADIATION MANAGEMENT

[OAR Docket #04-346]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
252:410-1-1. [AMENDED]
252:410-1-2. [AMENDED]
252:410-1-4. [AMENDED]
252:410-1-5. [AMENDED]
Subchapter 3. Radiation Machines - Common Requirements
252:410-3-7. [AMENDED]
252:410-3-33. [AMENDED]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 410. RADIATION MANAGEMENT

[OAR Docket #04-347]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Certification of Industrial Radiographers
252:410-5-5. [AMENDED]
Subchapter 7. Radiation Management Authorizations; Procedures and Requirements
Part 3. Reciprocity Recognition
252:410-7-33. [AMENDED]
252:410-7-34. [AMENDED]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 410. RADIATION MANAGEMENT

[OAR Docket #04-348]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 10. ~~State Agreement~~ Radioactive Materials Program
Part 1. General Provisions
252:410-10-1. [AMENDED]
252:410-10-2. [AMENDED]
252:410-10-3. [AMENDED]
252:410-10-4. [AMENDED]
252:410-10-5. [AMENDED]
Part 19. Worker Communications
252:410-10-19. [AMENDED AND RENUMBERED TO 252:410-23-1]
Part 30. Byproduct Material Licensing in General
252:410-10-30. [AMENDED]
Part 32. Byproduct Material: Specific Licenses for Manufacturing and Transferring Certain Items
252:410-10-32. [AMENDED]
Part 34. Industrial Radiographic Operations
252:410-10-34. [AMENDED]
Part 35. Medical Use of Byproduct Material
252:410-10-35. [AMENDED]
Part 36. Irradiator Licenses and Radiation Safety Requirements
252:410-10-36. [AMENDED]
Part 39. Well Logging
252:410-10-39. [AMENDED]
252:410-10-39.1. [NEW]
Part 70. Special Nuclear Material: Licensing
252:410-10-70. [AMENDED]
Part 71. Packaging and Transporting Radioactive Material
252:410-10-71. [AMENDED]
Part 101. ~~State Agreement~~ Radioactive Materials Program Fees
252:410-10-101. [AMENDED]
252:410-10-102. [AMENDED]
252:410-10-103. [AMENDED]
252:410-10-104. [AMENDED]
252:410-10-105. [AMENDED]
252:410-10-106. [AMENDED]
252:410-10-107. [AMENDED]
252:410-10-108. [AMENDED]
252:410-10-109. [AMENDED]
252:410-10-110. [AMENDED]
252:410-10-111. [AMENDED]
252:410-10-114. [AMENDED]
252:410-10-116. [AMENDED]
252:410-10-117. [AMENDED]
252:410-10-118. [AMENDED]
252:410-10-119. [AMENDED]
252:410-10-120. [REVOKED]
Part 150. Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters under Section 274 of the Federal Atomic Energy Act
252:410-10-150. [AMENDED]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 410. RADIATION MANAGEMENT

[OAR Docket #04-349]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 15. Industrial X-ray Radiography
252:410-15-1. [AMENDED]
252:410-15-2. [AMENDED]
252:410-15-4. [AMENDED]
252:410-15-8. [NEW]
252:410-15-9. [NEW]
252:410-15-10. [NEW]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 410. RADIATION MANAGEMENT

[OAR Docket #04-350]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 20. Standards for Protection Against Radiation
252:410-20-7. [NEW]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 410. RADIATION MANAGEMENT

[OAR Docket #04-351]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 23. Notices, Instructions and Reports to Workers: Inspection and Investigations [NEW]
252:410-23-1. [NEW]
252:410-23-2. [NEW]
252:410-23-3. [NEW]
252:410-23-4. [NEW]
252:410-23-5. [NEW]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 605. DISCHARGE STANDARDS [REVOKED]

[OAR Docket #04-352]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 605. Discharge Standards [REVOKED]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 606. OKLAHOMA POLLUTANT DISCHARGE ELIMINATION SYSTEM (OPDES) STANDARDS

[OAR Docket #04-353]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 606. Oklahoma Pollutant Discharge Elimination System (OPDES) Standards [NEW]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 616. INDUSTRIAL WASTEWATER SYSTEMS

[OAR Docket #04-354]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Introduction
252:616-1-2. Definitions [AMENDED]
Subchapter 3. Permit Procedures

252:616-3-1. Requirement to obtain a permit [AMENDED]
Subchapter 5. General Standards
252:616-5-1. Site and system [AMENDED]
Subchapter 11. Land Application Standards
252:616-11-1. Restrictions [AMENDED]

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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 641. INDIVIDUAL AND SMALL PUBLIC ON-SITE SEWAGE ~~DISPOSAL~~ TREATMENT SYSTEMS

[OAR Docket #04-355]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

RULES:
Subchapter 1. General Provisions
252:641-1-1. [AMENDED]
252:641-1-2. [AMENDED]
252:641-1-2.1. [AMENDED]
252:641-1-3. [AMENDED]
252:641-1-4. [AMENDED]
Subchapter 3. Soil Tests
252:641-3-1. [AMENDED]
252:641-3-2. [AMENDED]
252:641-3-4. [AMENDED]
Subchapter 5. Building Sewer~~,~~ and Collection ~~System and Other Solid Pipe~~ Systems
252:641-5-2. [AMENDED]
Subchapter 7. Septic Tanks
252:641-7-2. [AMENDED]
252:641-7-4. [AMENDED]
Subchapter 9. Lift Stations and Dosing Tanks
252:641-9-1. [AMENDED]
252:641-9-2. [AMENDED]
252:641-9-3. [AMENDED]
252:641-9-4. [NEW]
Subchapter 11. ~~Absorption Fields~~ Subsurface Systems
252:641-11-1. [AMENDED]
252:641-11-2. [AMENDED]
252:641-11-3. [REVOKED]
252:641-11-4. [REVOKED]
Subchapter 13. Aerobic Systems
252:641-13-1. [AMENDED]
252:641-13-3. [REVOKED]
252:641-13-4. [AMENDED]
Subchapter 15. Lagoons
252:641-15-1. [AMENDED]
252:641-15-5. [AMENDED]
252:641-15-6. [AMENDED]
Subchapter 21. Certification for On-Site Sewage ~~Disposal~~ Treatment System Installers
252:641-21-1. [AMENDED]
252:641-21-2.1. [AMENDED]
252:641-21-3. [AMENDED]
252:641-21-8. [REVOKED]
252:641-21-12. [AMENDED]
252:641-21-13. [AMENDED]
Subchapter 22. Certification for Persons Who Perform Soil Profile Descriptions
252:641-22-1. [AMENDED]
252:641-22-3. [AMENDED]
252:641-22-4. [AMENDED]
252:641-22-6. [AMENDED]
Subchapter 23. Fees
252:641-23-1. [AMENDED]
252:641-23-2. [AMENDED]
252:641-23-3. [AMENDED]
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Appendix A. Minimum Lot Size Requirements for On-Site Sewage Disposal Systems [NEW]
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Appendix B. Soil Groups [NEW]
Appendix C. Pipe Specifications for On-Site Sewage Disposal Systems [REVOKED]
Appendix C. Pipe Specifications for On-Site Sewage Disposal Systems [NEW]
Appendix D. Sampling Frequency & Testing Requirements for On-Site Surface Application of Treated Sewage [REVOKED]
Appendix D. Sampling Frequency & Testing Requirements for On-Site Surface Application of Treated Sewage [NEW]
Appendix E. Separation Distance Requirements for On-Site Sewage Disposal Systems [REVOKED]
Appendix E. Separation Distance Requirements for On-Site Sewage Disposal Systems [NEW]
Appendix F. Small Public Systems Sewage Flow [REVOKED]
Appendix F. Small Public Systems Sewage Flow [NEW]
Appendix G. Minimum Trench Length for Subsurface Absorption Systems [REVOKED]

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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 648. LAND APPLICATION OF BIOSOLIDS [REVOKED]

[OAR Docket #04-356]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 648. Land Application of Biosolids [REVOKED]
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TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 710. WATERWORKS AND WASTEWATER WORKS OPERATOR CERTIFICATION

[OAR Docket #04-357]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Certification
252:710-3-34. [AMENDED]
252:710-3-38. [REVOKED]
Subchapter 5. Duties and Responsibilities
252:710-5-58. [NEW]
252:710-5-59. [NEW]
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 2. GRIEVANCE PROCEDURES AND PROCESS

[OAR Docket #04-457]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
317:2-1-2. [AMENDED]
317:2-1-2.2. [AMENDED]
(Reference APA WF # 03-54A and 03-55A)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 25. SOONERCARE

[OAR Docket #04-452]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. Health Plan Competitive Bid Requirements
317:25-1-1. through 317:25-13. [REVOKED]
Subchapter 3. Health Maintenance Organizations
317:25-3-1. through 317:25-3-2. [REVOKED]
317:25-3-2.2. through 317:25-3-3. [REVOKED]
Subchapter 5. SoonerCare Plus
Part 1. General Provisions
317:25-5-1. through 25-5-5. [REVOKED]
Part 3. Enrollment Criteria
317:25-5-10. through 317:25-5-14. [REVOKED]
Part 5. Enrollment Process
317:25-5-25. through 317:25-5-32. [REVOKED]
Part 7. Plan Requirements
317:25-5-40. through 317:25-5-41.1. [REVOKED]
Subchapter 7. SoonerCare Choice
Part 1. General Provisions
317:25-7-1. through 317:25-7-3. [AMENDED]
317:25-7-5. through 317:25-7-6. [AMENDED]
Part 3. Enrollment Criteria
317:25-7-10. through 317:25-7-11. [AMENDED]
317:25-7-13. [AMENDED]
Part 5. Enrollment Process
317:25-7-25. through 317:25-7-30. [AMENDED]
(Reference APA WF 03-13C, 03-54B and 03-55B)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #04-447]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-46. [AMENDED]
317:30-3-57. [AMENDED]
317:30-3-58. [REVOKED]
317:30-3-59. [AMENDED]
Part 5. Eligibility
317:30-3-70. [AMENDED]
317:30-3-71. [AMENDED]
317:30-3-72. [REVOKED]
317:30-3-84. [REVOKED]
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-2. [AMENDED]
317:30-5-9. [AMENDED]
317:30-5-11. [AMENDED]
317:30-5-15. [AMENDED]
317:30-5-22. [AMENDED]
317:30-5-24. [AMENDED]
Part 3. Hospitals
317:30-5-41. [AMENDED]
Part 5. Pharmacists
317:30-5-72. [AMENDED]
317:30-5-72.1. [AMENDED]
317:30-5-77. [AMENDED]
317:30-5-77.2. [AMENDED]
317:30-5-77.3. [AMENDED]
Part 35. Rural Health Clinics
317:30-5-356. [AMENDED]
Part 63. Ambulatory Surgical Centers
317:30-5-566. [AMENDED]
(Reference APA WF # 03-01, 03-09, 03-12, 03-13A, 03-20A, 03-25, 03-34, 03-36, 03-39, 03-42, 03-43, 03-44 and 03-53)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #04-450]

RULEMAKING ACTION:
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RULES:
Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-241. [AMENDED]
Part 67. Case Management Services for Under 21
317:30-5-595. through 317:30-5-596.1. [AMENDED]
317:30-5-596.2. [NEW]
317:30-5-597. [AMENDED]
317:30-5-599. [AMENDED]
Part 79. Dentists
317:30-5-697. [AMENDED]
Part 85. ADvantage Program Waiver Services
317:30-5-763. [AMENDED]
Part 95. Agency Personal Care Services
317:30-5-952. [AMENDED]
(Reference APA WF # 03-11, 03-14, 03-16, 03-21, 03-22A and 03-33)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #04-453]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-53. [AMENDED]
Part 5. Eligibility
317:30-3-73. [AMENDED]
317:30-3-76. through 317:30-3-77. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-8. [AMENDED]
317:30-5-18. [AMENDED]
Part 15. Child Health Centers

317:30-5-198. [AMENDED]
(Reference APA WF # 03-24, 03-37 and 03-41)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #04-454]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Individual Providers and Specialties
Part 105. Residential Behavioral Management Services in Group Settings and Non-Secure Diagnostic and Evaluation Centers
317:30-5-1043. [AMENDED]
317:30-5-1046. [AMENDED]
(Reference APA WF # 03-27)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #04-456]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-25. [AMENDED]
317:30-3-26. [REVOKED]
Subchapter 5. Individual Providers and Specialties
Part 5. Pharmacists
317:30-5-77.1. [AMENDED]
(Reference APA WF # 03-47 and 03-51)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #04-458]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-5. [AMENDED]
Subchapter 5. Individual Providers and Specialties
Part 3. Hospitals
317:30-5-47. [AMENDED]
(Reference APA WF # 03-54C and 03-55C)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #04-448]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 15. Personal Care Services
317:35-15-4. [AMENDED]
Subchapter 17. ADvantage Waiver Services
317:35-17-2. through 317:35-17-5. [AMENDED]
317:35-17-6. [REVOKED]
317:35-17-7. [REVOKED]
317:35-17-8.1. [REVOKED]
317:35-17-11. through 317:35-17-12. [AMENDED]
317:35-17-14. [AMENDED]
317:25-17-16. [AMENDED]

317:35-17-19. [AMENDED]
Subchapter 19. Nursing Facility Services
317:35-19-2. [AMENDED]
317:35-19-7.1. [AMENDED]
317:35-19-9. [AMENDED]
317:35-19-18. [AMENDED]
317:35-19-20. [AMENDED]
317:35-19-22. [AMENDED]
(Reference APA WF # 03-05 and 03-22B)

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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #04-449]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review

RULES:
Subchapter 5. Eligibility and Countable Income
Part 3. Non-Medical Eligibility Requirements
317:35-5-25. [AMENDED]
Subchapter 7. Medical Services
Part 7. Certification, Redetermination and Notification
317:35-7-62. [AMENDED]
(Reference APA WF # 03-07 and 03-08)

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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #04-451]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review

RULES:
Subchapter 1. General Provisions
317:35-1-2. [AMENDED]
Subchapter 3. Coverage and Exclusions
317:35-3-1. [AMENDED]
317:35-3-2. [AMENDED]
Subchapter 5. Eligibility and Countable Income
Part 1. Determination of Qualifying Categorical Relationships
317:35-5-1. [AMENDED]
317:35-5-7. [AMENDED]
Part 3. Non-Medical Eligibility Requirements
317:35-5-26. [AMENDED]
Part 5. Countable Income and Resources
317:35-5-42. [AMENDED]
317:35-5-45. [AMENDED]
317:35-5-46. [AMENDED]
Subchapter 6. SoonerCare Health Benefits for Categorically Needy Pregnant Women and Families with Children
Part 5. Determination of Eligibility for SoonerCare Health Benefits for Pregnant Women and Families with Children
317:35-6-36. [AMENDED]
Part 7. Certification, Redetermination and Notification
317:35-6-60. [AMENDED]
317:35-6-61. [AMENDED]
317:35-6-63. [AMENDED]
Subchapter 7. Medical Services
Part 1. General
317:35-7-1. [AMENDED]
Part 5. Determination of Eligibility for Medical Services
317:35-7-37. [AMENDED]
317:35-7-39. [REVOKED]
317:35-7-41. [AMENDED]
317:35-7-45. [REVOKED]
317:35-7-46. [AMENDED]
Part 7. Certification, Redetermination and Notification
317:35-7-60. [AMENDED]
317:35-7-64. [AMENDED]
Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
Part 1. Services
317:35-9-1. [AMENDED]
Part 9. Certification, Redetermination and Notification
317:35-9-76. [AMENDED]
Subchapter 10. Medical Aid to Families with Dependent Children
Part 3. Resources
317:35-10-10. [AMENDED]
Part 5. Income
317:35-10-26. [AMENDED]
317:35-10-28. through 317:35-10-33. [REVOKED]
317:35-10-35. through 317:35-10-37. [REVOKED]
317:35-10-38. [NEW]
Part 7. Budgeting and Assistance Payments
317:35-10-55. through 35-10-58. [REVOKED]
Part 9. Conditions of Eligibility-Age and Residence

317:35-10-65. through 317:35-10-68. [REVOKED]
Part 11. Conditions of Eligibility-Relationship of Payee to Child
317:35-10-75. through 317:35-10-77. [REVOKED]
Part 13. Conditions of Eligibility-Deprivation of Parental Support or Care by a Natural or Adoptive Parent
317:35-10-85. through 317:35-10-92. [REVOKED]
317:35-10-94. through 317:35-10-95. [REVOKED]
Subchapter 15. Personal Care Services
317:35-15-1. [AMENDED]
317:35-15-6. [AMENDED]
(Reference APA WF # 03-13B, 03-20B, 03-26 and 03-28)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #04-455]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Eligibility and Countable Income
Part 5. Countable Income and Resources
317:35-5-41. [AMENDED]
(Reference APA WF # 03-45)
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TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES

[OAR Docket #04-459]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. General Provisions
317:40-1-1. [AMENDED]
Subchapter 5. Client Services
317:40-5-112. [NEW]
(Reference APA WF # 03-29)
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TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
CHAPTER 36. AFFORDABLE HOUSING TAX CREDIT PROGRAM

[OAR Docket #04-395]

RULEMAKING ACTION:
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RULES:
Chapter 36. Affordable Housing Tax Credit Program [AMENDED]
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TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
CHAPTER 40. GUIDELINES FOR HOUSING PILOT PROGRAM

[OAR Docket #04-394]

RULEMAKING ACTION:
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RULES:
Chapter 40. Guidelines for Housing Pilot Program [AMENDED]
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TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
CHAPTER 60. OKLAHOMA HOUSING TRUST FUND RULES

[OAR Docket #04-393]

RULEMAKING ACTION:
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RULES:
Chapter 60. Oklahoma Housing Trust Fund Rules [AMENDED]
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TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
CHAPTER 70. PERFORMANCE BASED CONTRACT ADMINISTRATION PROGRAM RULES

[OAR Docket #04-392]

RULEMAKING ACTION:
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RULES:
Chapter 70. Performance Based Contract Administration Program Rules [NEW]
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TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #04-406]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. General Provisions
Part 1. Scope and Applicability
340:75-1-6. [AMENDED]
340:75-1-8. [REVOKED]
340:75-1-21. [AMENDED]
Part 15. Training for Child Welfare Workers
340:75-1-233. [AMENDED]
Subchapter 3. Child Protective Services
340:75-3-2. [AMENDED]
340:75-3-6.1. [AMENDED]
340:75-3-8.1. [AMENDED]
340:75-3-12. [AMENDED]
340:75-3-13.1. through 340:75-3-13.2. [REVOKED]
Subchapter 12. ~~Child Welfare~~OKDHS Operated Group Homes
340:75-12-1. [AMENDED]
Subchapter 18. Continuous Quality Improvement
340:75-18-2. through 340:75-18-3. [AMENDED]
(Reference APA WF 04-01)
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TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #04-407]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 7. Foster Home Care
Part 1. General Provisions
340:75-7-1. [REVOKED]
340:75-7-2. [AMENDED]
340:75-7-8. [REVOKED]
Part 2. Development of Resources
340:75-7-10. [AMENDED]
340:75-7-12. [AMENDED]
340:75-7-12.1. [REVOKED]
340:75-7-14. through 340:75-7-15. [AMENDED]
340:75-7-15.1. through 340:75-7-17. [REVOKED]
340:75-7-18. through 340:75-7-19. [AMENDED]
340:75-7-20. [REVOKED]
340:75-7-22. through 340:75-7-23. [REVOKED]
340:75-7-24. [NEW]
Part 4. Foster Parents' Roles and Responsibilities
340:75-7-36. [REVOKED]
340:75-7-37. through 340:75-7-38. [AMENDED]
340:75-7-41. [AMENDED]
340:75-7-41.1. through 340:75-7-42. [REVOKED]
340:75-7-48. [REVOKED]

Part 5. Eligibility and Payments
340:75-7-51. through 340:75-7-53. [AMENDED]
340:75-7-54. through 340:75-7-56. [REVOKED]
340:75-7-58. through 340:75-7-60. [REVOKED]
Part 6. Foster Home Care Support Services
340:75-7-62. [REVOKED]
340:75-7-64. [REVOKED]
340:75-7-65. [AMENDED]
340:75-7-66. [REVOKED]
340:75-7-69. through 340:75-7-70. [REVOKED]
Part 8. Continuous Quality Assessment of a Resource Home
340:75-7-86. through 340:75-7-93. [REVOKED]
340:75-7-94. [NEW]
Part 25. Emergency Foster Care Program
340:75-7-260. through 340:75-7-261. [REVOKED]
340:75-7-262. [AMENDED]
340:75-7-263. through 340:75-7-269. [REVOKED]
(Reference APA WF 04-02)

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TITLE 365. INSURANCE DEPARTMENT CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-376]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
365:1-1-2. Office of the Insurance Commissioner [AMENDED]
Subchapter 9. Description of Forms and Instructions
365:1-9-1. Company licensure forms [AMENDED]
365:1-9-15.1. License renewals and reinstatements [AMENDED]
365:1-9-19. Request for Assistance and Prompt Pay ~~form~~Forms [AMENDED]

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[OAR Docket #04-376; filed 3-16-04]

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

[OAR Docket #04-375]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 21. Recognition Of The 2001 CSO Mortality Table For Use In Determining Minimum Reserve Liabilities And Nonforfeiture Benefits Regulation
365:10-21-4. 2001 CSO Mortality Table [AMENDED]

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TITLE 365. INSURANCE DEPARTMENT CHAPTER 15. PROPERTY AND CASUALTY

[OAR Docket #04-373]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 9. Medical Professional Liability Rate Setting [NEW]
365:15-9-1. Purpose [NEW]
365:15-9-2. Severability [NEW]
365:15-9-3. Notice to policyholders [NEW]
365:15-9-4. Stenographer for hearing [NEW]
365:15-9-5. Purchasing groups [NEW]
365:15-9-6. Rating organizations [NEW]
365:15-9-7. Right to appeal [NEW]
365:15-9-8. Miscellaneous
Appendix D. Notification of Policyholders of Application for Rate Change [NEW]

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[OAR Docket #04-373; filed 3-16-04]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 15. PROPERTY AND CASUALTY

[OAR Docket #04-374]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
365:15-1-3. Property and casualty form filings [AMENDED]
Subchapter 7. Commercial Property and Casualty Competitive Loss Cost Rating Regulation
365:15-7-3. Property and casualty rate, loss cost and manual rule filings [AMENDED]
365:15-7-12. Resubmittal of ~~disapproved~~ filings [AMENDED]
365:15-7-25. Multi tiering [NEW]
Appendix B. Oklahoma Workers' Compensation Small Deductible Acceptance/Rejection Form [REVOKED]
Appendix B. Oklahoma Workers' Compensation Small Deductible Acceptance/Rejection Form [NEW]
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[OAR Docket #04-374; filed 3-16-04]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 25. LICENSURE OF AGENTS, ADJUSTERS, BAIL BONDSMEN, COMPANIES, PREPAID FUNERAL BENEFITS, AND VIATICAL AND LIFE SETTLEMENTS PROVIDERS AND BROKERS

[OAR Docket #04-372]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Agents, Brokers, Adjusters and Limited Representatives
365:25-3-1. Insurance agents continuing education [AMENDED]
365:25-3-17. Agriculture Revenue License [NEW]
Subchapter 7. Companies
Part 5. Oklahoma Insurance Holding Company System Regulatory Act
365:25-7-31. Adequacy of surplus [AMENDED]
Part 7. Companies In Hazardous Financial Condition
365:25-7-44. Risk-based Capital Instructions [NEW]
Part 13. ~~Required Diskettes~~Electronic Filings
365:25-7-75. ~~Diskette~~Electronic filings of quarterly financial statements [AMENDED]
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[OAR Docket #04-372; filed 3-16-04]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 40. HEALTH MAINTENANCE ORGANIZATIONS (HMO)

[OAR Docket #04-377]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions [NEW]
365:40-1-1. Purpose [NEW]
365:40-1-2. Definitions [NEW]
365:40-1-3. Medicaid HMOs
365:40-1-4. Severability provision [NEW]
Subchapter 3. Financial [NEW]
Part 1. HMO Forms and instructions [NEW]
365:40-3-1. Licensure forms [NEW]
365:40-3-2. Deposit of securities forms [NEW]
Part 3. Holding Company System [NEW]
365:40-3-10. Definitions [NEW]
365:40-3-11. Compliance with Article 16A of Title 36 [NEW]
365:40-3-12. Annual Registration Statements [NEW]
365:40-3-13. Transactions with affiliates [NEW]
365:40-3-14. Prior approval pursuant to 36 O.S. § 6903(C) [NEW]
365:40-3-15. Notice of amendments or modifications pursuant to 36 O.S. § 6903(C) [NEW]
365:40-3-16. Redomestication [NEW]
365:40-3-17. Forms: general requirements [NEW]
365:40-3-18. Forms: incorporation by reference, summaries and omissions [NEW]
365:40-3-19. Acquisition of control; statement filing (HMO Form A) [NEW]
365:40-3-20. Pre-acquisition notification [NEW]
365:40-3-21. Annual registration of HMOs; statement filing (HMO Form B) [NEW]
365:40-3-22. Dividend to stockholders [NEW]
365:40-3-23. Extraordinary dividends and other distributions [NEW]
365:40-3-24. Adequacy of surplus [NEW]
365:40-3-25. Failure to file [NEW]
Part 5. Miscellaneous [NEW]
365:40-3-30. Liabilities [NEW]

365:40-3-31. Name of HMO [NEW]
365:40-3-32. Standards for determining hazardous financial condition [NEW]
365:40-3-33. Commissioner's authority [NEW]
Subchapter 5. Life, Accident & Health Division and Claims and Consumer Assistance Division Rules [NEW]
Part 1. General Provisions [NEW]
365:40-5-1. Definitions [NEW]
Part 3. Rating System [NEW]
365:40-5-10. Definitions [NEW]
365:40-5-11. Community rating [NEW]
365:40-5-12. Community rating by class [NEW]
365:40-5-13. Adjusted community rating [NEW]
365:40-5-14. Rates to reflect risk-sharing arrangements [NEW]
Part 5. Basic And Supplemental Health Care Services [NEW]
365:40-5-20. Basic health care services [NEW]
365:40-5-21. Supplemental health care services [NEW]
365:40-5-22. Benefit changes [NEW]
365:40-5-23. Identification cards [NEW]
Part 7. Point Of Service Option [NEW]
365:40-5-30. Definitions [NEW]
365:40-5-31. Purpose/scope [NEW]
365:40-5-32. Responsibilities of the HMO [NEW]
Part 9. HMO Requirements And Prohibitions [NEW]
365:40-5-40. Services to members [NEW]
365:40-5-41. Membership [NEW]
365:40-5-42. Individual conversion contracts [NEW]
365:40-5-43. Premiums/co-payments [NEW]
365:40-5-44. Internal grievance system [NEW]
365:40-5-45. Guaranteed renewal [NEW]
365:40-5-46. Small group offering [NEW]
365:40-5-47. Special enrollment periods [NEW]
Part 11. Coordination Of Benefits [NEW]
365:40-5-50. Purpose [NEW]
365:40-5-51. Definitions [NEW]
365:40-5-52. Effect on benefits [NEW]
365:40-5-53. Right to receive and release necessary information [NEW]
365:40-5-54. Benefit payments [NEW]
365:40-5-55. Subrogation [NEW]
365:40-5-56. Small claim waivers [NEW]
365:40-5-57. Public education [NEW]
365:40-5-58. Retroactivity [NEW]
365:40-5-59. Facility of payment [NEW]
365:40-5-60. Right of recovery [NEW]
Part 13. Termination Of Members, Providers and Continuation of Benefits [NEW]
365:40-5-70. Termination of group or individual contracts [NEW]
365:40-5-71. Termination of providers [NEW]
365:40-5-72. Continuation of benefits [NEW]
365:40-5-73. Disenrollment for cause [NEW]
365:40-5-74. Certification of creditable coverage [NEW]
Part 15. Discontinuation of HMO [NEW]
365:40-5-80. Notice [NEW]
365:40-5-81. Individual market [NEW]
365:40-5-82. Group market [NEW]
365:40-5-83. Market reentry [NEW]
Part 17. Confidentiality of Medical Information and Liability [NEW]
365:40-5-90. Responsibility of HMO [NEW]
Part 19. Request For Assistance and Prompt Pay Form [NEW]
365:40-5-100. Request for assistance [NEW]
365:40-5-101. Prompt Pay Form and Requirements [NEW]
Part 21. Geographic Service Area Variations [NEW]
365:40-5-110. Accessibility of providers [NEW]
365:40-5-111. Marketing and enrolling [NEW]
365:40-5-112. Geographic area filings [NEW]
Part 23. Reimbursement of Claims [NEW]
365:40-5-120. Purpose [NEW]
365:40-5-121. Requirement to reimburse claims for point of service [NEW]
365:40-5-122. Responsibilities [NEW]
365:40-5-123. Reimbursement criteria [NEW]
310:40-5-124. Claims payment report [NEW]
365:40-5-125. Elements of a clean claim [NEW]
365:40-5-126. Disclosure requirements [NEW]
365:40-5-127. Disclosure of processing procedures [NEW]
365:40-5-128. Failure to promptly pay [NEW]
365:40-5-129. Date of claim receipt [NEW]
365:40-5-130. Terms of contracts [NEW]
365:40-Appendix A. HMO Form A [NEW]
365:40-Appendix B. HMO Form B [NEW]
365:40-Appendix C. HMO Form C [NEW]
365:40-Appendix D. HMO Form D [NEW]
365:40-Appendix E. HMO Form E [NEW]
365:40-Appendix F. HMO Form R [NEW]
365:40-Appendix G. Prompt Pay Form [NEW]

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TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 1. AGENCY AUTHORITY AND OBJECTIVES

[OAR Docket #04-463]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
390:1-1-3. [AMENDED]

390:1-1-4. [AMENDED]
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[OAR Docket #04-463; filed 3-26-04]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 10. PEACE OFFICER CERTIFICATION

[OAR Docket #04-464]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
390:10-1-6. [AMENDED]
390:10-1-7. [AMENDED]
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[OAR Docket #04-464; filed 3-26-04]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 15. BASIC PEACE OFFICER CERTIFICATION TRAINING

[OAR Docket #04-465]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Basic Academy Programs
390:15-1-6. [AMENDED]
390:15-1-11. [AMENDED]
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[OAR Docket #04-465; filed 3-26-04]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 30. CDS DETECTOR DOG CERTIFICATION

[OAR Docket #04-466]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
390:30-1-5. [AMENDED]
390:30-1-7. [AMENDED]
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[OAR Docket #04-466; filed 3-26-04]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 35. REGULATION OF PRIVATE SECURITY INDUSTRY

[OAR Docket #04-467]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. License Requirements
390:35-5-2. [AMENDED]
Subchapter 13. Use of Firearms
390:35-13-2. [AMENDED]
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[OAR Docket #04-467; filed 3-26-04]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 45. RETIRED PEACE OFFICER FIREARMS PERMIT

[OAR Docket #04-468]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
390:45-1-3. [AMENDED]
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[OAR Docket #04-468; filed 3-26-04]

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

[OAR Docket #04-426]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
420:10-1-5. Permits [AMENDED]
420:10-1-6. Application for certificate or permit [AMENDED]
420:10-1-14. Standards for the storage and handling of liquefied petroleum gas [AMENDED]
420:10-1-15 Standards for installations of gas appliances, ~~and~~ gas piping~~,~~ and testing~~, and test records~~ [AMENDED]
420:10-1-20 Suspension or revocation of registration permits and fines; appeals [AMENDED]
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[OAR Docket #04-426; filed 3-24-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 1. ADMINISTRATION

[OAR Docket #04-378]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 5. Procedure in Individual Administrative Proceedings
450:1-5-14. [AMENDED]
450:1-5-15. [REVOKED]
Subchapter 9. Certification and Designation of Facilities and Services
450:1-9-7. [AMENDED]
450:1-9-12. [AMENDED]
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[OAR Docket #04-378; filed 3-16-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 15. CONSUMERS RIGHTS

[OAR Docket #04-379]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. General Provisions
450:15-1-1. [AMENDED]
450:15-1-2. [AMENDED]
Subchapter 3. Consumer Rights
Part 1. ~~Inpatient~~Mental Health and Drug or Alcohol Abuse Services Consumer Bill of Rights
450:15-3-1. [AMENDED]
450:15-3-2. [AMENDED]
450:15-3-3. [AMENDED]
450:15-3-4. [REVOKED]
450:15-3-5. [REVOKED]
450:15-3-6. [AMENDED]
450:15-3-8. [AMENDED]
450:15-3-9. [AMENDED]
450:15-3-10. [AMENDED]
450:15-3-11. [AMENDED]
450:15-3-12. [AMENDED]
450:15-3-14. [AMENDED]
450:15-3-15. [REVOKED]

450:15-3-16. [AMENDED]
450:15-3-17. [REVOKED]
450:15-3-18. [AMENDED]
450:15-3-21. [AMENDED]
450:15-3-23.1. [NEW]
450:15-3-25. [AMENDED]
450:15-3-27. [AMENDED]
450:15-3-28. [NEW]
Part 3. ~~Inpatient Mental Health~~Consumer Grievance Procedure
450:15-3-45. [AMENDED]
Part 7. Consumer Access to Health Information, Facilities Operated by ODMHSAS
Part 9. Client Rights, Domestic Violence, Batterer's Intervention Sexual Assault Programs and Shelters [NEW]
450:15-3-70. [NEW]
450:15-3-71. [NEW]
450:15-3-72. [NEW]
450:15-3-73. [NEW]
Part 11. Resident Rights, Mental Health Residential Care Facilities [NEW]
450:15-3-80. [NEW]
450:15-3-81. [NEW]
450:15-3-82. [NEW]
450:15-3-83. [NEW]
450:15-3-84. [NEW]
450:15-3-85. [NEW]
Subchapter 9. Consumer Rights, Non-Inpatient Services
450:15-9-1. [REVOKED]
450:15-9-2. [REVOKED]
450:15-9-3. [REVOKED]
450:15-9-4. [REVOKED]
450:15-9-5. [REVOKED]
450:15-9-7. [REVOKED]

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TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 18. STANDARDS AND CRITERIA FOR ~~SUBSTANCE ABUSE SERVICES~~ ALCOHOL AND DRUG TREATMENT PROGRAMS

[OAR Docket #04-380]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

PROPOSED RULES:
Subchapter 1. General Provisions
450:18-1-7. [REVOKED]
Subchapter 3. Substance Abuse Treatment Services
Part 25. Opioid Treatment Programs and Opiate Antagonists and Opiate Agonists
450:18-3-241. [AMENDED]
Subchapter 7. Facility Record System
Part 1. ~~Facility~~Record System
450:18-7-3. [REVOKED]
450:18-7-3.1. [NEW]
Part 7. Case Management
450:18-7-63. [NEW]
Part 15. Other Case Record Materials
450:18-7-143. [AMENDED]
Subchapter 11. Consumer Rights
450:18-11-1. [AMENDED]
450:18-11-2. [AMENDED]
450:18-11-3. [AMENDED]

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TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 19. STANDARDS AND CRITERIA FOR DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS

[OAR Docket #04-381]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review

PROPOSED RULES:
Subchapter 11. Client Rights
450:19-11-1. [AMENDED]
450:19-11-2. [AMENDED]
450:19-11-3. [AMENDED]

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TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 21. CERTIFICATION OF ALCOHOL AND DRUG SUBSTANCE ABUSE COURSES (ADSAC), ORGANIZATIONS AND ~~INSTRUCTORS~~ FACILITATORS

[OAR Docket #04-382]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. Certification of Alcohol and Drug Substance Abuse Courses (ADSAC), Organizations and ~~Instructors~~ Facilitators
450:21-1-1. [AMENDED]
450:21-1-2. [AMENDED]
450:21-1-3. [AMENDED]
450:21-1-5. [AMENDED]
450:21-1-6. [AMENDED]
450:21-1-7. [AMENDED]
450:21-1-7.2. [AMENDED]
450:21-1-8. [AMENDED]
450:21-1-10. [AMENDED]
450:21-1-11. [AMENDED]
450:21-1-13. [AMENDED]
450:21-1-14. [AMENDED]
Subchapter 3. Certification Denial or Sanctions
450:21-3-1. [AMENDED]
450:21-3-2. [AMENDED]
450:21-3-3. [AMENDED]
Subchapter 5. Course Attendance and Completion
450:21-5-1. [AMENDED]
450:21-5-2. [AMENDED]
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TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 22. CERTIFICATION OF ALCOHOL AND DRUG ASSESSMENT AND ~~EVALUATION PROGRAMS~~EVALUATIONS RELATED TO DRIVER'S LICENSE REVOCATION

[OAR Docket #04-383]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
450:22-1-1.1. [AMENDED]
450:22-1-3. [AMENDED]
450:22-1-6. [AMENDED]
450:22-1-8. [AMENDED]
450:22-1-10. [AMENDED]
450:22-1-11. [AMENDED]
450:22-1-15. [AMENDED]
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[OAR Docket #04-383; filed 3-16-04]

TITLE 570. STATE BOARD FOR PROPERTY AND CASUALTY RATES CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-370]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Rules
570:1-1-2. Definitions [AMENDED]
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TITLE 570. STATE BOARD FOR PROPERTY AND CASUALTY RATES
CHAPTER 10. FILING PROCEDURES, INTERPRETATIONS AND ADDITIONAL BOARD RULES

[OAR Docket #04-371]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
570:10-1-2. Definitions [AMENDED]
570:10-1-3. Filing procedure for rates, loss costs, rating plans, schedules, manuals, and revisions thereto [AMENDED]
570:10-1-7. Automatic rate revisions [AMENDED]
570:10-1-10. Fidelity and surety filings [REVOKED]
570:10-1-38. Waiver of premium [NEW]
570:10-1-39. Multi tiering [NEW]
570:10-1-40. Resubmittal of rejected filings [NEW]
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TITLE 605. OKLAHOMA REAL ESTATE COMMISSION
CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES

[OAR Docket #04-402]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Education and Examination Requirements
605:10-3-7. [AMENDED]
Subchapter 9. Broker's Operational Procedures
605:10-9-4. [AMENDED]
605:10-13-1. [AMENDED]
Subchapter 15. Disclosures
605:10-15-4. [AMENDED]
Appendix A. Residential Property Condition Disclosure Statement [REVOKED]
Appendix A. Residential Property Condition Disclosure Statement [NEW]
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TITLE 660. DEPARTMENT OF SECURITIES
CHAPTER 1. ORGANIZATION AND PROCEDURES OF SECURITIES COMMISSION

[OAR Docket #04-494]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
660:1-1-3. [AMENDED]
Subchapter 3. Organization
660:1-3-1. [AMENDED]
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TITLE 660. DEPARTMENT OF SECURITIES
CHAPTER 2. ORGANIZATION AND PROCEDURES OF DEPARTMENT OF SECURITIES

[OAR Docket #04-495]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
660:2-1-3. [AMENDED]
Subchapter 3. Organization
660:2-3-1. [AMENDED]
Subchapter 5. Authority and Actions of Administrator
660:2-5-4. [AMENDED]
Subchapter 7. Investigations
660:2-7-1. [AMENDED]
660:2-7-2. [REVOKED]
660:2-7-3. [AMENDED]
660:2-7-4. [REVOKED]
660:2-7-5. [REVOKED]
660:2-7-6. [REVOKED]
660:2-7-7. [REVOKED]
660:2-7-8. [REVOKED]
660:2-7-9. [AMENDED]

Subchapter 9. ~~Hearing~~ Individual Proceeding Practices and Procedures
660:2-9-1. [AMENDED]
660:2-9-2. [AMENDED]
660:2-9-3. [AMENDED]
660:2-9-4. [AMENDED]
660:2-9-5. [AMENDED]
660:2-9-6. [AMENDED]
660:2-9-7. [AMENDED]
660:2-9-9. [AMENDED]
Subchapter 11. Procedures for Inspecting and/or Copying Public Records
660:2-11-7. [AMENDED]
Subchapter 13. Declaratory Rulings and Interpretive Opinions
660:2-13-1. [AMENDED]
SUBMITTED TO GOVERNOR:
March 26, 2004
SUBMITTED TO HOUSE:
March 26, 2004
SUBMITTED TO SENATE:
March 26, 2004

[OAR Docket #04-495; filed 3-26-04]

TITLE 660. DEPARTMENT OF SECURITIES CHAPTER 6. FORMS

[OAR Docket #04-496]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 5. Forms Used Under the Securities Act
660:6-5-1. [AMENDED]
660:6-5-2. [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #04-496; filed 3-26-04]

TITLE 660. DEPARTMENT OF SECURITIES CHAPTER 10. OKLAHOMA SECURITIES ACT [REVOKED]

[OAR Docket #04-497]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 10. Oklahoma Securities Act [REVOKED]
SUBMITTED TO GOVERNOR:
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SUBMITTED TO SENATE:
March 26, 2004

[OAR Docket #04-497; filed 3-26-04]

TITLE 660. DEPARTMENT OF SECURITIES CHAPTER 11. OKLAHOMA UNIFORM SECURITIES ACT OF 2004

[OAR Docket #04-498]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Chapter 11. Oklahoma Uniform Securities Act of 2004 [NEW]
SUBMITTED TO GOVERNOR:
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March 26, 2004

[OAR Docket #04-498; filed 3-26-04]

TITLE 675. STATE BOARD OF LICENSED SOCIAL WORKERS CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-327]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
675:1-1-1.1. Definitions [NEW]
675:1-1-3. Makeup of Board [AMENDED]
675:1-1-4. Officers of the Board [AMENDED]
675:1-1-5. Executive Secretary [REVOKED]
675:1-1-8. Meeting dates [AMENDED]
675:1-1-9. Fee schedule [NEW]
SUBMITTED TO GOVERNOR:
March 9, 2004
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[OAR Docket #04-327; filed 3-10-04]

TITLE 675. STATE BOARD OF LICENSED SOCIAL WORKERS
CHAPTER 3. INDIVIDUAL PROCEEDINGS

[OAR Docket #04-328]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
675:3-1-1. Purpose [NEW]
675:3-1-2. Definitions [NEW]
675:3-1-3. Complaint procedure [NEW]
675:3-1-4. Procedures for denials, revocations, suspensions [NEW]
SUBMITTED TO GOVERNOR:
March 9, 2004
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[OAR Docket #04-328; filed 3-10-04]

TITLE 675. STATE BOARD OF LICENSED SOCIAL WORKERS
CHAPTER 10. LICENSURE REQUIREMENTS

[OAR Docket #04-329]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
Chapter 10. Licensure Requirements [AMENDED]
SUBMITTED TO GOVERNOR:
March 9, 2004
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[OAR Docket #04-329; filed 3-10-04]

TITLE 675. STATE BOARD OF LICENSED SOCIAL WORKERS
CHAPTER 12. GUIDELINES FOR SUPERVISION

[OAR Docket #04-330]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
675:12-1-2. Supervision and the Licensed Social Work Associate [AMENDED]
675:12-1-3. Supervision and the Licensed Social Worker [REVOKED]
675:12-1-4. Supervision and specialty certification [AMENDED]
675:12-1-5. Supervision and specific licensure [REVOKED]
675:12-1-6. Minimum supervision expectations [AMENDED]
675:12-1-7. Requirements for Board Approved Supervisor [REVOKED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #04-330; filed 3-10-04]

TITLE 675. STATE BOARD OF LICENSED SOCIAL WORKERS
CHAPTER 15. GUIDELINES FOR CONTINUING EDUCATION

[OAR Docket #04-331]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
675:15-1-2. Introduction [AMENDED]
675:15-1-3. Continuing education standards [AMENDED]
675:15-1-4. Content of continuing education learning activities [AMENDED]
675:15-1-5. Information to providers of continuing education [AMENDED]
675:15-1-6. Suggested criteria for accepting category I and II continuing education events [REVOKED]
SUBMITTED TO GOVERNOR:
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March 9, 2004

[OAR Docket #04-331; filed 3-10-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 50. INCOME

[OAR Docket #04-408]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.

RULES:
Subchapter 3. Returns and Reports
Part 5. Filing Status; Elections; Accounting Periods and Methods
710:50-3-40. Husbands and wives [AMENDED]
710:50-3-46. Electronic filing requirement for tax return preparers [NEW]
Part 7. Other Required Reporting
710:50-3-54. Income tax withholding for pass-through entities [NEW]
Subchapter 11. Intercept of Refunds
710:50-11-2. Notice to taxpayer [AMENDED]
710:50-11-3. Notice of protest [AMENDED]
Subchapter 13. Estimated Tax
710:50-13-6. Payment of estimated tax [AMENDED]
Subchapter 15. Oklahoma Taxable Income
Part 1. General Provisions
710:50-15-2. Application of the Oklahoma Individual Income Tax to Native Americans [NEW]
Part 5. Other Adjustments to Income
710:50-15-55. Depletion [AMENDED]
710:50-15-60. Inventors assistance income exclusion [AMENDED]
Part 7. Credits Against Tax
710:50-15-72. Credit for taxes paid other states [AMENDED]
710:50-15-74. Credit for investment/new jobs [AMENDED]
710:50-15-81. Credit for qualified clean-burning motor vehicle fuel property and qualified electric vehicle property [AMENDED]
710:50-15-93. Credit for Qualified Oklahoma Space Transportation Vehicle Providers [NEW]
Subchapter 17. Oklahoma Taxable Income for Corporations
Part 5. Determination of Taxable Corporate Income
710:50-17-51. Adjustments to arrive at Oklahoma taxable income for corporations [AMENDED]
Subchapter 19. Oklahoma Taxable Income for Partnerships
710:50-19-1. Partnership return [AMENDED]
SUBMITTED TO GOVERNOR:
March 23, 2004
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March 23, 2004

[OAR Docket #04-408; filed 3-23-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 65. SALES AND USE TAX

[OAR Docket #04-399]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review.
RULES:
Chapter 65. Sales and Use Tax [AMENDED]
SUBMITTED TO GOVERNOR:
March 22, 2004
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[OAR Docket #04-399; filed 3-22-04]

TITLE 712. OKLAHOMA COMMISSION FOR TEACHER PREPARATION
CHAPTER 10. TEACHER PREPARATION PROGRAM ACCREDITATION

[OAR Docket #04-339]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 7. Teacher Preparation Teacher Assessment
712:10-7-1. [AMENDED]
SUBMITTED TO GOVERNOR:
March 12, 2004
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March 12, 2004

[OAR Docket #04-339; filed 3-12-04]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 25. DAMS AND RESERVOIRS

[OAR Docket #04-365]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
785:25-1-4. Variances and waivers [NEW]
Subchapter 3. Responsibility, Classification and Design Standards
785:25-3-7. Minimum outlet conduit capacities [AMENDED]

SUBMITTED TO GOVERNOR:
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[OAR Docket #04-365; filed 3-15-04]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 30. TAKING AND USE OF GROUNDWATER

[OAR Docket #04-367]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
785:30-1-2. Definitions [AMENDED]
Subchapter 3. Permit Application Requirements and Processing
785:30-3-5. Approval of application [AMENDED]
785:30-3-6. Well spacing [AMENDED]
Subchapter 5. Groundwater Permits
785:30-5-2. Temporary permits [AMENDED]
Subchapter 9. Maximum Annual Yield Determinations
785:30-9-2. Determination of maximum annual yield [AMENDED]
SUBMITTED TO GOVERNOR:
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March 15, 2004

[OAR Docket #04-367; filed 3-15-04]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 35. WELL DRILLER AND PUMP INSTALLER LICENSING

[OAR Docket #04-368]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
785:35-1-2. Definitions [AMENDED]
Subchapter 3. Licensing and Certifications
785:35-3-1. Licensing procedures [AMENDED]
Subchapter 7. Minimum Standards for Construction of Wells
785:35-7-1. Minimum standards for construction of groundwater wells, fresh water observation wells, and water well test holes [AMENDED]
785:35-7-1.1. Minimum standards for construction of heat exchange wells [AMENDED]
Subchapter 9. Minimum Standards for Pump Installation
785:35-9-1. Minimum standards for pump installation [AMENDED]
Subchapter 11. Plugging and Capping Requirements for Wells and Test Holes
785:35-11-2. Plugging requirements for site assessment observation wells, monitoring wells and geotechnical borings [AMENDED]
SUBMITTED TO GOVERNOR:
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[OAR Docket #04-368; filed 3-15-04]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 45. OKLAHOMA'S WATER QUALITY STANDARDS

[OAR Docket #04-340]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 3. Antidegradation Requirements
785:45-3-2. Applications of antidegradation policy [AMENDED]
Subchapter 5. Surface Water Quality Standards
Part 3. Beneficial Uses and Criteria to Protect Uses
785:45-5-9. General narrative criteria [NEW]
785:45-5-13. Agriculture: livestock and irrigation [AMENDED]
785:45-5-16. Primary Body Contact Recreation [AMENDED]
785:45-5-17. Secondary Body Contact Recreation [AMENDED]
785:45-5-19. Aesthetics [AMENDED]
Appendix A. Designated Beneficial Uses for Surface Waters [REVOKED]
Appendix A. Designated Beneficial Uses for Surface Waters [NEW]
Appendix E. Requirements for Development of Site Specific Criteria for Metals [REVOKED]
Appendix E. Requirements for Development of Site Specific Criteria for Metals [NEW]
SUBMITTED TO GOVERNOR:
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March 12, 2004

[OAR Docket #04-340; filed 3-12-04]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 46. IMPLEMENTATION OF OKLAHOMA'S WATER QUALITY STANDARDS

[OAR Docket #04-341]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
785:46-1-2. Definitions [AMENDED]
Subchapter 5. Implementation Of Numerical Criteria To Protect Fish And Wildlife From Toxicity Due To Conservative Substances
785:46-5-8. pH and hardness dependent toxicity [AMENDED]
Subchapter 7. Implementation of Numerical Criteria to Protect Human Health from Toxicity Due to Conservative Substances
785:46-7-1. Applicability and scope [AMENDED]
Subchapter 9. Implementation of Criteria to Protect the Agriculture Beneficial Use
785:46-9-5. Reasonable potential [AMENDED]
Subchapter 11. Implementation of Temperature Criteria to Protect Fish and Wildlife Propagation
785:46-11-2. Applicable temperatures [AMENDED]
Subchapter 15. Use Support Assessment Protocols
785:46-15-1. Scope and applicability [AMENDED]
785:46-15-5. Assessment of Fish and Wildlife Propagation support [AMENDED]
785:46-15-6. Assessment of Primary Body Contact Recreation support [AMENDED]
785:46-15-7. Assessment of Public and Private Water Supply support [AMENDED]
785:46-15-10. Nutrients [AMENDED]
785:46-15-11. Assessment of Hydroelectric Power Generation support [NEW]
785:46-15-12. Assessment of Industrial and Municipal Process and Cooling Water support [NEW]
785:46-15-13. Assessment of Navigation support [NEW]
SUBMITTED TO GOVERNOR:
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March 12, 2004

[OAR Docket #04-341; filed 3-12-04]

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

[OAR Docket #04-358]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Appendix A. Fine Matrix [REVOKED]
GUBERNATORIAL APPROVAL:
March 8, 2004

[OAR Docket #04-358; filed 3-12-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 3. FINE MATRICES

[OAR Docket #04-359]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Chapter 3. Fine Matrices [NEW]
GUBERNATORIAL APPROVAL:
March 8, 2004

[OAR Docket #04-359; filed 3-12-04]

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

[OAR Docket #04-360]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Eggs [REVOKED]
35:10-3-1. through 35:10-3-10. [REVOKED]
GUBERNATORIAL APPROVAL:
March 8, 2004

[OAR Docket #04-360; filed 3-12-04]

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

[OAR Docket #04-361]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 15. Equine Infectious Anemia (EIA)
Part 1. General Provisions [AMENDED]
Part 11. Requirements for Equidae Entering Oklahoma [AMENDED]
GUBERNATORIAL APPROVAL:
March 8, 2004

[OAR Docket #04-361; filed 3-12-04]

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

[OAR Docket #04-362]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 25. Meat Inspection [REVOKED]
35:15-25-1. through 35:15-25-380. [REVOKED]
Subchapter 27. Poultry Products Inspection [REVOKED]
35:15-27-1. through 35:15-27-401. [REVOKED]
Subchapter 29. Construction Standards for Meat Packing Plants [REVOKED]
35:15-29-1. through 35:15-29-144. [REVOKED]
Subchapter 31. Oklahoma Rabbit and Rabbit Products Inspection Regulations [REVOKED]
35:15-31-1. through 35:15-31-80. [REVOKED]
Subchapter 41. Exotic Livestock and Exotic Livestock Products [REVOKED]
35:15-41-1. through 35:15-41-256. [REVOKED]
GUBERNATORIAL APPROVAL:
March 8, 2004

[OAR Docket #04-362; filed 3-12-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #04-363]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 14. Oklahoma Boll Weevil Quarantine [AMENDED]
GUBERNATORIAL APPROVAL:
March 8, 2004

[OAR Docket #04-363; filed 3-12-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 35. MILK AND MILK PRODUCTS [REVOKED]

[OAR Docket #04-364]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
35:35-1-1. through 35:35-1-5. [REVOKED]
Subchapter 3. Chemical, Bacteriological and Temperature Standards for Milk and Milk Products
35:35-3-1. [REVOKED]
Appendix A. Chemical, Bacteriological and Temperature Standards for Milk and Milk Products [REVOKED]
GUBERNATORIAL APPROVAL:
March 8, 2004

[OAR Docket #04-364; filed 3-12-04]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-460]

RULEMAKING ACTION:
Gubernatorial approval
PROPOSED RULES:
Subchapter 5. Formal and Informal Procedures
87:1-5-10. [AMENDED]
GUBERNATORIAL APPROVAL:
March 10, 2004

[OAR Docket #04-460; filed 3-26-04]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 10. FLEXIBLE BENEFITS PLAN

[OAR Docket #04-461]

RULEMAKING ACTION:
Gubernatorial approval
PROPOSED RULES:
Subchapter 3. Flexible Benefits Plan Provisions
87:10-3-2. [AMENDED]
Subchapter 17. Benefit Plan Election
87:10-17-3. [AMENDED]
87:10-17-4. [AMENDED]
87:10-17-5. [NEW]
Subchapter 19. Benefit Allowance
87:10-19-1. [AMENDED]
GUBERNATORIAL APPROVAL:
March 10, 2004

[OAR Docket #04-461; filed 3-26-04]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 15. COMPETITIVE BIDDING CRITERIA AND PROCEDURES FOR CONTRACTS AWARDED FOR FLEXIBLE BENEFITS PLANS

[OAR Docket #04-462]

RULEMAKING ACTION:
Gubernatorial approval
PROPOSED RULES:
87:15-1-2. [AMENDED]
87:15-1-4. [AMENDED]
87:15-1-14. [NEW]
GUBERNATORIAL APPROVAL:
March 10, 2004

[OAR Docket #04-462; filed 3-26-04]

TITLE 165. CORPORATION COMMISSION CHAPTER 30. MOTOR CARRIERS

[OAR Docket #04-492]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 3. Intrastate Motor Carriers
Part 1. Applying For A License
165:30-3-3. License renewals [AMENDED]
Part 3. License Requirements
165:30-3-12. Identification device [AMENDED]

Part 13. Suspension Or Cancellation Of License
165:30-3-103. Reinstatement of certificate or permit, license or IRC [AMENDED]
165:30-3-104. Violations [AMENDED]
Subchapter 9. Interstate Exempt Motor Carriers
Part 5. Miscellaneous
165:30-9-46. Violations [NEW]
Subchapter 11. Interstate Regulated Motor Carriers
Part 7. Miscellaneous
165:30-11-47. Violations [NEW]
Subchapter 13. Intrastate Certificates Or Permits
Part 11. Suspension Or Cancellation Of Authority
165:30-13-94. Violations [AMENDED]
Subchapter 15. Intrastate Private Carriers
Part 3. Obtaining A Private Carrier License And License Requirements
165:30-15-5. License renewals [AMENDED]
165:30-15-9. Identification device [NEW]
Part 7. Violations, Suspension Or Cancellation
165:30-15-34. Violations [AMENDED]

GUBERNATORIAL APPROVAL:
February 25, 2004

[OAR Docket #04-492; filed 3-26-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #04-384]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
Subchapter 8. Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule [NEW]
340:2-8-1. through 340:2-8-14. [NEW]
(Reference APA WF # 03-17)

GUBERNATORIAL APPROVAL:
March 11, 2004

[OAR Docket #04-384; filed 3-18-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #04-385]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
Subchapter 17. Staff Development Unit
340:2-17-4. [REVOKED]
Appendix A. Application for Employment [REVOKED]
Appendix C. Employment Eligibility Handout [REVOKED]
Appendix D. Applicant Availability Letter [REVOKED]
Appendix N. Application for Occupational Therapy/Physical Therapy Scholarship [REVOKED]
(Reference APA WF # 03-25)

GUBERNATORIAL APPROVAL:
March 11, 2004

[OAR Docket #04-385; filed 3-18-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #04-386]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
Appendix E. Statement of Grievance and Resolution [REVOKED]
Appendix F. Student Grievance [REVOKED]
Appendix J. Claim Form [REVOKED]
Appendix R. Release of Information Regarding Juveniles [REVOKED]
(Reference APA WF # 03-27)

GUBERNATORIAL APPROVAL:
March 11, 2004

[OAR Docket #04-386; filed 3-18-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[OAR Docket #04-387]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
Subchapter 1. General Provisions
340:10-1-3. [AMENDED]
Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program
340:10-2-3. through 340:10-2-4. [AMENDED]
340:10-2-7. through 340:10-2-8. [AMENDED]
340:10-2-9. [REVOKED]
Subchapter 3. Conditions of Eligibility - Need
Part 1. Resources
340:10-3-2. through 340:10-3-3. [AMENDED]

340:10-3-5. [AMENDED]
340:10-3-10. [AMENDED]
Part 3. Income
340:10-3-32. [AMENDED]
340:10-3-39. [AMENDED]
340:10-3-40. [AMENDED]
Part 5. Assistance Payments
340:10-3-56. [AMENDED]
Subchapter 12. Conditions of Eligibility - Social Security Numbers
340:10-12-1. [AMENDED]
Subchapter 15. Conditions of Eligibility - Citizenship and Alienage
340:10-15-1. [AMENDED]
340:10-15-3. [AMENDED]
340:10-15-5. [REVOKED]
340:10-15-9. [REVOKED]
Subchapter 20. Diversion Assistance
340:10-20-1. [AMENDED]
Subchapter 22. Temporary Assistance For Needy Families (TANF) Supported Permanency Program
340:10-22-1. [AMENDED]
(Reference APA WF # 03-11, 03-23, and 03-32)
GUBERNATORIAL APPROVAL:
March 11, 2004

[OAR Docket #04-387; filed 3-18-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 20. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

[OAR Docket #04-388]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 1. Low Income Home Energy Assistance Program
340:20-1-10. through 340:20-1-11. [AMENDED]
340:20-1-17. [AMENDED]
(Reference APA WF # 03-18)
GUBERNATORIAL APPROVAL:
March 11, 2004

[OAR Docket #04-388; filed 3-18-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 50. FOOD STAMP PROGRAM

[OAR Docket #04-389]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 5. Non-Financial Eligibility Criteria
Part 1. Household Definition
340:50-5-8.1. [AMENDED]
Part 5. Students, Strikers, Resident Farm Laborers, Migrant Households, Sponsored Aliens, and School Employees
340:50-5-49. [AMENDED]
Subchapter 7. Financial Eligibility Criteria
Part 1. Resources
340:50-7-2. [AMENDED]
340:50-7-4. [AMENDED]
Part 3. Income
340:50-7-20. through 340:50-7-21. [REVOKED]
340:50-7-22. [AMENDED]
340:50-7-23. through 340:50-7-24. [REVOKED]
340:50-7-26. through 340:50-7-28. [REVOKED]
340:50-7-29. [AMENDED]
340:50-7-31. [AMENDED]
Part 5. Determination of Income and Deductions
340:50-7-45. through 340:50-7-46. [AMENDED]
340:50-7-47. through 340:50-7-48. [REVOKED]
Subchapter 9. Eligibility and Benefit Determination Procedures
340:50-9-1. [AMENDED]
340:50-9-5. [AMENDED]
Subchapter 10. Electronic Benefit Transfer (EBT)
340:50-10-11. [AMENDED]
Subchapter 13. Fair Hearings
340:50-13-2. [AMENDED]
Subchapter 15. Overpayments and Fraud
Part 1. Overpayments
340:50-15-1. [AMENDED]
340:50-15-6. [AMENDED]
(Reference APA WF # 03-16, 03-22, and 03-31)
GUBERNATORIAL APPROVAL:
March 11, 2004

[OAR Docket #04-389; filed 3-18-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 70. SOCIAL SERVICES

[OAR Docket #04-390]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
Subchapter 8. Supplemental Security Income-Disabled Children's Program (SSI-DCP)
340:70-8-1. [AMENDED]
(Reference APA WF # 03-30)
GUBERNATORIAL APPROVAL:
March 11, 2004

[OAR Docket #04-390; filed 3-18-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION

[OAR Docket #04-391]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 3. Administration
Part 1. General Administration
340:100-3-5.2. [AMENDED]
Part 3. Operations
340:100-3-27. [AMENDED]
340:100-3-29. [AMENDED]
340:100-3-38.12. [NEW]
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-22.5. [AMENDED]
340:100-5-26. [AMENDED]
340:100-5-26.2. [NEW]
(Reference APA WF # 03-09 and 03-28)
GUBERNATORIAL APPROVAL:
March 11, 2004

[OAR Docket #04-391; filed 3-18-04]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #04-401]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 5. Approval of Hospitals and Programs for Post- Graduate Training
435:10-5-1. Determination of hospitals and programs approved for post-graduate training [AMENDED]
Subchapter 19. Special Volunteer Medical License [NEW]
435:10-19-1. Purpose [NEW]
435:10-19-2. Procedure for volunteer license [NEW]
435:10-19-3. Annual renewal [NEW]
GUBERNATORIAL APPROVAL:
March 15, 2004

[OAR Docket #04-401; filed 3-22-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 16. STANDARDS AND CRITERIA FOR COMMUNITY RESIDENTIAL MENTAL HEALTH FACILITIES

[OAR Docket #04-332]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
450:16-1-1. [AMENDED]
450:16-1-2. [AMENDED]
Subchapter 5. Services
450:16-5-1. [AMENDED]
450:16-5-2. [AMENDED]
Subchapter 11. Safety
450:16-11-2. [AMENDED]
Subchapter 13. Quality of Life
450:16-13-2. [AMENDED]
450:16-13-3. [AMENDED]
450:16-13-12.1. [AMENDED]
450:16-13-12.2. [NEW]
450:16-13-16. [AMENDED]
450:16-13-27.1. [AMENDED]
Subchapter 15. Resident Rights
450:16-15-1. [AMENDED]
450:16-15-2. [REVOKED]
450:16-15-3. [REVOKED]
450:16-15-4. [REVOKED]
450:16-15-5. [REVOKED]
450:16-21-1. [AMENDED]
450:16-21-4. [AMENDED]
450:16-29-2. [AMENDED]
450:16-29-2.1. [AMENDED]
450:16-29-4. [AMENDED]
450:16-29-7. [AMENDED]
450:16-29-8. [AMENDED]
GUBERNATORIAL APPROVAL:
March 1, 2004

[OAR Docket #04-332; filed 3-11-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 17. STANDARDS AND CRITERIA FOR COMMUNITY MENTAL HEALTH SERVICES CENTERS

[OAR Docket #04-333]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
450:17-1-2. [AMENDED]
450:17-1-6. [AMENDED]
Subchapter 3. Required Services
Part 1. Required Services
450:17-3-2. [AMENDED]
Part 9. Medication Clinic Services
450:17-3-83. [AMENDED]
Part 11. Case Management
450:17-3-101.1. [AMENDED]
450:17-3-103. [AMENDED]
Part 13. ODMHSAS Operated Psychiatric Hospitals
450:17-3-122. [REVOKED]
Part 15. Adult Day Programs
450:17-3-141. [AMENDED]
450:17-3-142. [REVOKED]
450:17-3-144. [AMENDED]
450:17-3-144.1. [REVOKED]
450:17-3-146. [NEW]
Subchapter 5. Optional Services
Part 11. Community Living Programs
450:17-5-56. [AMENDED]
450:17-5-59.1. [NEW]
450:17-5-60. [AMENDED]
450:17-5-61. [AMENDED]
450:17-5-62. [AMENDED]
450:17-5-63. [REVOKED]
450:17-5-64. [AMENDED]
450:17-5-65. [REVOKED]
450:17-5-66. [AMENDED]
450:17-5-67. [AMENDED]
450:17-5-67.1. [REVOKED]
450:17-5-67.2. [AMENDED]
450:17-5-67.3. [AMENDED]
Part 19. Program for Assertive Community Treatment
450:17-5-127. [AMENDED]
Subchapter 7. Facility Clinical Records
450:17-7-8. [AMENDED]
Subchapter 11. Consumer Rights
450:17-11-1. [AMENDED]
450:17-11-2. [REVOKED]
450:17-11-3. [AMENDED]
Subchapter 15. Performance Improvement and Quality Management
450:17-15-5. [AMENDED]
Subchapter 19. Human Resources
450:17-19-3. [AMENDED]
Subchapter 23. Facility Environment
450:17-23-1. [AMENDED]
GUBERNATORIAL APPROVAL:
March 1, 2004

[OAR Docket #04-333; filed 3-11-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 23. STANDARDS AND CRITERIA FOR COMMUNITY-BASED STRUCTURED CRISIS CENTERS

[OAR Docket #04-334]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
450:23-1-2. [AMENDED
Subchapter 9. Consumer Rights
450:23-9-1. [AMENDED]
450:23-9-2. [AMENDED]
Subchapter 21. Facility Environment
450:23-21-1. [AMENDED]
450:23 21-3. [NEW]
GUBERNATORIAL APPROVAL:
March 1, 2004

[OAR Docket #04-334; filed 3-11-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 30. CLINICAL CARE

[OAR Docket #04-335]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 9. Role of State-Operated Inpatient Psychiatric Units
450:30-9-3.1. [AMENDED]
450:30-9-5. [AMENDED]
450:30-9-9. [NEW]
450:30-9-10. [NEW]
450:30-9-11. [NEW]

GUBERNATORIAL APPROVAL:
March 1, 2004

[OAR Docket #04-335; filed 3-11-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 50. CERTIFIED BEHAVIORAL HEALTH CASE MANAGERS

[OAR Docket #04-336]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions [NEW]
450:50-1-1. [NEW]
450:50-1-2. [NEW]
450:50-1-3. [NEW]
Subchapter 3. Behavioral Health Case Manager Certification Application [NEW]
450:50-3-1. [NEW]
450:50-3-2. [NEW]
450:50-3-3. [NEW]
450:50-3-4. [NEW]
450:50-3-5. [NEW]
450:50-3-6. [NEW]
Subchapter 5. Behavioral Health Case Manager Certification Training [NEW]
450:50-5-1. [NEW]
450:50-5-2. [NEW]
450:50-5-3. [NEW]
450:50-5-4. [NEW]
Subchapter 7. Rules of Professional Conduct [NEW]
450:50-7-1. [NEW]
450:50-7-2. [NEW]
450:50-7-3. [NEW]
450:50-7-4. [NEW]
450:50-7-5. [NEW]
Subchapter 9. Enforcement [NEW]
450:50-9-1. [NEW]
GUBERNATORIAL APPROVAL:
March 1, 2004

[OAR Docket #04-336; filed 3-11-04]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 55. STANDARDS AND CRITERIA FOR PROGRAMS FOR ASSERTIVE COMMUNITY TREATMENT

[OAR Docket #04-337]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions [NEW]
450:55-1-1. [NEW]
450:55-1-2. [NEW]
450:55-1-3. [NEW]
Subchapter 3. Program Description and PACT Services [NEW]
450:55-3-1. [NEW]
450:55-3-2. [NEW]
450:55-3-3. [NEW]
450:55-3-4. [NEW]
450:55-3-5. [NEW]
450:55-3-6. [NEW]
450:55-3-7. [NEW]
450:55-3-8. [NEW]
450:55-3-9. [NEW]
450:55-3-10. [NEW]
Subchapter 5. PACT Clinical Documentation [NEW]
450:55-5-1. [NEW]
450:55-5-2. [NEW]
450:55-5-3. [NEW]
450:55-5-4. [NEW]
450-55-5-5. [NEW]
450-55-5-6. [NEW]
450:55-5-7. [NEW]
450:55-5-8. [NEW]
450:55-5-9. [NEW]
450:55-5-10. [NEW]
450:55-5-11. [NEW]
Subchapter 7. Confidentiality [NEW]
450:55-7-1. [NEW]
Subchapter 9. Consumer Rights [NEW]
450:55-9-1. [NEW]
450:55-9-2. [NEW]
450:55-9-3. [NEW]
Subchapter 11. Organizational Management [NEW]
450:55-11-1. [NEW]
450:55-11-2. [NEW]
450:55-11-3. [NEW]
Subchapter 13. Performance Improvement and Quality Management [NEW]
450:55-13-1. [NEW]
450:55-13-2. [NEW]
Subchapter 15. Personnel [NEW]
450:55-15-1. [NEW]

450:55-15-2. [NEW]
Subchapter 17. Staff Development and Training [NEW]
450:55-17-1. [NEW]
450:55-17-2. [NEW]
450:55-17-3. [NEW]
Subchapter 19. Facility Environment [NEW]
450:55-19-1. [NEW]
450:55-19-2. [NEW]
Subchapter 21. Governing Authority [NEW]
450:55-21-1. [NEW]
Subchapter 23. Special Populations [NEW]
450:55-23-1. [NEW]
450:55-23-2. [NEW]
GUBERNATORIAL APPROVAL:
March 1, 2004

[OAR Docket #04-337; filed 3-11-04]

TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES

[OAR Docket #04-409]

RULEMAKING ACTION:
Gubernatorial Approval
RULES:
Subchapter 11. Disciplinary Action
485:10-11-2. [AMENDED]
GUBERNATORIAL APPROVAL:
March 17, 2004

[OAR Docket #04-409; filed 3-23-04]

TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES

[OAR Docket #04-410]

RULEMAKING ACTION:
Gubernatorial Approval
RULES:
Subchapter 7. Requirements for Registration and Licensure as a Registered Nurse
485:10-7-2. [AMENDED]
485:10-7-4. [AMENDED]
485:10-7-5. [AMENDED]
Subchapter 9. Requirements for Registration and Licensure as a Licensed Practical Nurse
485:10-9-1. [AMENDED]
485:10-9-2. [AMENDED]
485:10-9-4. [AMENDED]
485:10-9-5. [AMENDED]
Subchapter 13. Requirements for Employment
485:10-13-2. [AMENDED]
Subchapter 15. Requirements for Practice as an Advanced Practice Nurse
485:10-15-5. [AMENDED]
GUBERNATORIAL APPROVAL:
March 17, 2004

[OAR Docket #04-410; filed 3-23-04]

TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-405]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 1. General Provisions
490:1-1-2. [AMENDED]
GUBERNATORIAL APPROVAL:
March 10, 2004

[OAR Docket #04-405; filed 3-23-04]

TITLE 490. OKLAHOMA STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS
CHAPTER 10. RULES AND REGULATIONS FOR NURSING HOME ADMINISTRATORS

[OAR Docket #04-404]

RULEMAKIING ACTION:
Gubernatorial approval
RULES:
Subchapter 1. Licensing of Nursing Home Administrators
490:10-1-2. [AMENDED]
490:10-1-6. [AMENDED]
490:10-1-7. [NEW]
Subchapter 5. Licensure Expiration, Renewal, Denial, Revocation and Suspension
490:10-5-2. [AMENDED]
490:10-5-3. [AMENDED]
490:10-5-4. [NEW]
Subchapter 10. Fee Schedule
490:10-10-1. [AMENDED]
GUBERNATORIAL APPROVAL:
March 10, 2004

[OAR Docket #04-404; filed 3-23-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 20. ALCOHOL, MIXED BEVERAGES, AND LOW-POINT BEER

[OAR Docket #04-396]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 2. Low-Point Beer
Part 1. General Provisions
710:20-2-4. Payment of taxes; persons liable [AMENDED]
710:20-2-6. Annual state permits and license taxes [AMENDED]
710:20-2-16. [RESERVED]
710:20-2-17. [RESERVED]
710:20-2-18. [RESERVED]
710:20-2-19. [RESERVED]
710:20-2-20. Keg identification [NEW]
GUBERNATORIAL APPROVAL:
March 11, 2004

[OAR Docket #04-396; filed 3-22-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 45. GROSS PRODUCTION, PETROLEUM EXCISE, AND CONSERVATION EXCISE

[OAR Docket #04-397]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 9. Exemptions and Exclusions
Part 5. Horizontally Drilled Production Wells
710:45-9-21. [AMENDED]
710:45-9-24. [AMENDED]
710:45-9-28. [AMENDED]
Part 7. Incremental Production from Enhanced Recovery Projects or Properties
710:45-9-31. [AMENDED]
710:45-9-32.1. [AMENDED]
710:45-9-34. [AMENDED]
710:45-9-35. [AMENDED]
Part 9. Production Enhancement Projects
710:45-9-40. [AMENDED]
710:45-9-41. [AMENDED]
710:45-9-43. [AMENDED]
Part 11. Reestablishment of Production from an Inactive Well
710:45-9-51. [AMENDED]
710:45-9-53. [AMENDED]
Part 13. Deep Wells
710:45-9-60. [AMENDED]
710:45-9-62.1. [AMENDED]
Part 15. New Discovery Wells
710:45-9-70. [AMENDED]
710:45-9-71. [AMENDED]
710:45-9-73. [AMENDED]
Part 19. Production Using Three Dimensional Seismic Shoots
710:45-9-90. [AMENDED]
710:45-9-92. [AMENDED]
710:45-9-93. [AMENDED]
GUBERNATORIAL APPROVAL:
March 11, 2004

[OAR Docket #04-397; filed 3-22-04]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 70. TOBACCO, ~~AND~~ TOBACCO PRODUCTS, AND CIGARETTES

[OAR Docket #04-398]

RULEMAKING ACTION:
Gubernatorial approval
RULES:
Subchapter 2. Cigarette Stamp Tax [NEW]
710:70-2-1. Purpose [NEW]
710:70-2-2. Definitions [NEW]
710:70-2-3. When stamps must be applied [NEW]
710:70-2-4. Conditions under which a cigarette license may be granted, maintained, or renewed [NEW]
710:70-2-5. Filing requirements for persons making "delivery sales of cigarettes" [NEW]
710:70-2-6. Requirements placed on vendors making delivery sales of cigarettes [NEW]
710:70-2-7. Payment of taxes due on delivery sales of cigarettes [NEW]
710:70-2-8. Penalties for failure to comply with statutory provisions [NEW]
GUBERNATORIAL APPROVAL:
March 11, 2004

[OAR Docket #04-398; filed 3-22-04]

TITLE 730. DEPARTMENT OF TRANSPORTATION
CHAPTER 45. PUBLIC TRANSPORTATION PROJECT DEVELOPMENT ASSISTANCE

[OAR Docket #04-369]

RULEMAKING ACTION:
Gubernatorial approval

RULE:
730:45-1-2. Authority [AMENDED]
GUBERNATORIAL APPROVAL:
February 25, 2004

[OAR Docket #04-369; filed 3-15-04]

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 #04-469]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Individual Procedures
35:1-9-16. [REVOKED]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2),(12),(29); article 6, Section 31, Constitution of the State of Oklahoma
DATES:
Comment period:
November 17, 2003 through December 17, 2003
Public hearing:
December 17, 2003
Adoption:
December 18, 2003
Submitted to Governor:
December 22, 2003
Submitted to House:
December 22, 2003
Submitted to Senate:
December 22, 2003
Gubernatorial approval:
February 4, 2004
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2004
Final adoption:
March 24, 2004
Effective:
April 26, 2004
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed rule revokes rule 35:1-9-16 of Subchapter 9 pertaining to communication with parties by the President and members of the Board of Agriculture and their respective agents and employees. This change allows communication with parties to be governed by the Oklahoma Administrative Procedures Act and to avoid confusion that may be caused by having two rules within the Oklahoma Statutes that address the same issue.
CONTACT PERSON:
Janet Stewart, Director, Legal Services, Oklahoma Department of Agriculture, Food, and Forestry, (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 APRIL 26, 2004:

SUBCHAPTER 9. INDIVIDUAL PROCEDURES

35:1-9-16. Communication with parties [REVOKED]

~~Unless required for the disposition of ex parte matters authorized by law, the President and the members of the Board or the employees or the agents of the Board shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor in connection with any issue of law, with any party or his representative except upon notice and an opportunity for all parties to participate. The President and members of the Board may communicate with one another and have the aid and advice of one or more personal assistants. Advice may also be secured from the Attorney General's office or from a duly licensed attorney by the Board.~~

[OAR Docket #04-469; filed 3-26-04]

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

[OAR Docket #04-471]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Appendix A. Fine Matrix [REVOKED]
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:
December 15, 2003 through January 15, 2004
Public hearing:
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January 22, 2004
Submitted to Governor:
January 22, 2004
Submitted to House:
January 22, 2004
Submitted to Senate:
January 22, 2004
Gubernatorial approval:
March 8, 2004
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2004
Final adoption:
March 24, 2004

Effective:
April 26, 2004
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The primary purpose of the proposed rule is to revoke the fine matrix in Appendix. This revocation is necessary because the Department plans to create a new chapter to incorporate those fines into the rules.
CONTACT PERSON:
Janet Stewart, Director, Legal Services, Oklahoma Department of Agriculture, Food, and Forestry, (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 APRIL 26, 2004:

APPENDIX A. FINE MATRIX [REVOKED]

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 2 O.S. §8-41.4 35 O.A.C. §30-27-11	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
2. License fee received thirty (30) days or more after renewal date 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 2 O.S. §8-41.5(1) 35 O.A.C. §30-27-2	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
4. Failure to correctly document or label customer formula feed 2 O.S. §8-41.5(3)	First Violation - $100 to $500 Second Violation - $250 to $750 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 35 O.A.C. §30-27-3 35 O.A.C. §30-27-6 35 O.A.C. §30-27-7	First Violation - $250 to $1500 Second Violation - $750 to $3000 Subsequent Violations - $3000 to $10,000
6. Failure to substantiate the safety or efficiency of a feed additive 35 O.A.C. §30-27-8	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000

Adulterated or Misbranded

7. The manufacture or distribution of any commercial feed that is adulterated or misbranded 2 O.S. §8-41.7(1)	First Violation - $250 to $1500 Second Violation - $750 to $3000 Subsequent Violations - $3000 to $10,000
8. The adulteration or misbranding of any commercial feed 2 O.S. §8-41.7(2)	First Violation - $100 to $1000 Second Violation - $1000 to $5000 Subsequent Violations - $3000 to $10,000

Order Violations

9. Violation of a stop sale order 2 O.S. §8-41.12(A)	First Violation - $100 to $1000 Second Violation - $1000 to $5000 Subsequent Violations - $5000 to $10,000
10. Failure to comply with condemnation/confiscation order 2 O.S. §8-41.2(B)	First Violation - $100 to $1000 Second Violation - $1000 to $5000 Subsequent Violations - $5000 to $10,000

Record Keeping Violations

11. Failure to keep tonnage record and/or provide an accurate report 2 O.S. §8-41.9(B)(2)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $2500

Fees

12. Failure to pay inspection fee by due date 2 O.S. §8-41.9(B)	Penalty of 10% of Amount Due (Minimum of $50.00)
13. No remittance of deficiency inspection fee by audit 2 O.S. §8-41.9(D)	10% of amount due, not less than $100 or more than $2000

Miscellaneous Violations

14. Any other violation of the Oklahoma Commercial Feed Law not otherwise addressed	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000

OKLAHOMA SEED LAW

Licensing Violations

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

Labeling and Advertising Violations

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

Standards Violations

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

Content Violations

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

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

OKLAHOMA FERTILIZER LAW

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

2. Failure to obtain a license for each business location 2 O.S. §8-77.5(B)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
Registration Violations	
3. Distribution of unregistered fertilizer 2 O.S. §8-77.5(D)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
4. Failure to register or guarantee plant nutrients 35 O.A.C. §30-29-22(a)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
Label Violations	
5. Failure to provide a label 2 O.S. §8-77.6(A)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
6. Failure to provide an adequate label 2 O.S. §8-77.6(C) 35 O.A.C. §30-29-22(e)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
7. Failure to provide warning or caution statement when required 35 O.A.C. §30-29-22(c)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
Inspection Fee and Report	
8. Failure to provide semiannual inspection fee report and pay inspection fee on time 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 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 2 O.S. §8-77.12	First Violation - $250 to $1500 Second Violation - $750 to $3000 Subsequent Violations - $3000 to $10,000

11. Distribution of nutrient deficient fertilizer 2 O.S. §8-77.10 35 O.A.C. §30-29-51(c)	First Violation - $250 to $1500 Second Violation - $750 to $3000 Subsequent Violations - $3000 to $10,000
Records and Reports	
12. Failure to keep adequate records 2 O.S. §8-77.7(H) 2 O.S. §8-77.8(C)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $2500
13. Failure to furnish distribution report 2 O.S. §8-77.8	First Violation - $100 to $500 Second Violation - $250 to $750 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 2 O.S. §8-77.15 35 O.A.C. §30-29-34	First Violation - $500 to $1000 Second Violation - $1000 to $5000 Subsequent Violations - $5000 to $10,000
15. Failure to properly report fertilizer discharge to Board 35 O.A.C. §30-29-22(l)	First Violation - $100 to $500 Second Violation - $500 to $1000 Subsequent Violations - $1000 to $2500
16. Failure to prepare discharge response plan 35 O.A.C. §30-29-22(m)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
17. Failure to have copy of response plan available 35 O.A.C. §30-29-22(n)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
Miscellaneous Violations	
18. Failure to meet storage facility requirements 35 O.A.C. §30-29-31 through §30-29-32 35 O.A.C. §30-29-35 through §30-29-37	First Violation - $100 to $500 Second Violation - $500 to $2500 Subsequent Violations - $2500 to $10,000

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

OKLAHOMA STANDARD WEIGHTS and MEASURES LAW

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

5. The average quantity of contents of packages in a lot, shipment, or delivery must equal or exceed the quantity printed on the label 2 O.S. §14-35(2, 8) 35 O.A.C §10.11.1	First Violation - $100 to $500 Second Violation - $250 to $750 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) 2 O.S. §14-35(2, 8) 35 O.A.C. §10.11.1	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
7. Failure to meet the requirements of the "Uniform Regulations For The Method Of Sale Of Commodities" 2 O.S. §14-35(2-3) 35:10-13-1.	First Violation - $100 to $500 Second Violation - $500 to $2500 Subsequent Violations - $2500 to $10,000
8. Failure to meet the requirements of the "National Type Evaluation Program (NTEP)" 2 O.S. §14-35(2) 35 O.A.C. 10-15-1 thru 35 O.A.C. 10-15-4	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
9. Failure to meet the requirements of the "Uniform Open Dating Regulation" 2 O.S. §14-35(2- 3) 35 O.A.C. §10-17-1	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
10. Failure to meet the requirements of the "Examination Procedures For Price Verification" 2 O.S. §14-35(2) 35 O.A.C. §10-19-1	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000

11. Failure to meet accuracy requirements for the appropriate sample size in column 4, 98% accuracy with one overcharge and on undercharge item 2 O.S. §14-35(2) 35 O.A.C. 10-19-1	First Violation - $100 to $500 Second Violation - $250 to $750 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 2 O.S. §14-38(1)	First Violation - $100 to $500 Second Violation - $250 to $750 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 2 O.S. §14-38(2)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
14. Use, or have in possession for use in Commerce, any incorrect weight or measure 2 O.S. §14-42(1)	First Violation - $100 to $500 Second Violation - $250 to $750 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 2 O.S. §14-42(2)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
16. Hinder or obstruct any weights and measures official in performance of the duties of such official 2 O.S. §14-42(3)	First Violation - $100 to $1000 Second Violation - $1000 to $5000 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 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000

OKLAHOMA SERVICE TECHNICIAN and SERVICE AGENCY LAW

1. Failure to renew service agency and service technician license within thirty (30) days from expiration 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 2 O.S. §14-65(3)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
3. Failure to meet the requirements of the Oklahoma Service Technician and Service Agency Act rules 2 O.S. §14-68 35 O.A.C. §10-5-1 thru 35 O.A.C. §10-5-6	First Violation - $100 to $500 Second Violation - $250 to $750 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 2 O.S. §14-69(1)	First Violation - $100 to $500 Second Violation - $250 to $750 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 2 O.S. §14-69(2)	First Violation - $100 to $500 Second Violation - $250 to $750 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 2 O.S. §14-69(3)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000

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 § 2-14-69. 4.	First Violation - $100 to $500 Second Violation - $250 to $750 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 2 O.S. §14-69(5)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
9. Making a misrepresentation for the purpose of defrauding 2 O.S. §14-69(6)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
10. Operating as a service technician or service agency without a license 2 §14-69(7)	First Violation - $100 to $500 Second Violation - $250 to $750 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 2 O.S. §14-69(8)	First Violation - $100 to $500 Second Violation - $250 to $750 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 2 O.S. §14-69(9)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
13. Filing a false or fraudulent application to the Board 2 O.S. §14-69(10)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000

Miscellaneous Violations

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

OKLAHOMA COMBINED PESTICIDE LAW

Licensing Violations

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

General Contract Violations

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

Structural Contract Violations

8. Failed to issue a contract 35 O.A.C. §30-17-20	First Violation - $100 to $500 Second Violation - $250 to $750 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 2 O.S. §3-81(11) 35 O.A.C. §30-17-20	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
10. For structural pest control operators - failure to show how the application was performed 35 O.A.C. §30-17-20 2 O.S. §3-81(11)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
11 Did not address minimum standards for termite work for existing structures 35 O.A.C. §30-17-20(2)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
12. Did not address minimum standards for pre-construction application 35 O.A.C. §30-17-20(2)	First Violation - $100 to $1500 Second Violation - $1500 to $5000 Subsequent Violations - $5000 to $10,000
13. Did not explain in the contract any minimum standards which were not going to be met 2 O.S. §3-86(A)(9) 35 O.A.C. §30-17-20(2)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000

Identification of Equipment

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) 35 O.A.C. §30-17-15	First Violation - $100 to $500 Second Violation - $250 to $750 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 35 O.A.C. §30-17-16	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
16. Failed to label, when required, a rodent control bait box 35 O.A.C. §30-17-26	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000

Record Keeping Violations

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

Minimum Standards Violations (Termite)

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

30. Failed to have a certified applicator or service technician present at each job performed 35 O.A.C. §30-17-25	First Violation - $100 to $500 Second Violation - $300 to $1000 Subsequent Violations - $1000 to $5000
31. Pesticide label was not attached to application container, or present in the vehicle used to transport the container 35 O.A.C. §30-17-26	First Violation - $100 to $500 Second Violation - $250 to $750 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 2 O.S. §3-86(A)(2)	First Violation - $100 to $1000 Second Violation - $1000 to $5000 Subsequent Violations - $5000 to $10,000
33. Used a pesticide in a manner inconsistent with its labeling 2 O.S. §3-86(A)(2) 2 O.S. §3-86(A)(18) 2 O.S. §3-86(C)(5)	First Violation - $100 to $1000 Second Violation - $1000 to $5000 Subsequent Violations - $5000 to $10,000
34. Failed to report accidental spill of a hazardous material (pesticide) into or on any land or water 35 O.A.C. §30-17-92	First Violation - $100 to $500 Second Violation - $500 to $1000 Subsequent Violations - $1000 to $2500
35. Used a chemical not properly labeled as a pesticide and/or not registered with the Department 2 O.S. §3-82(J)	First Violation - $100 to $500 Second Violation - $500 to $1000 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 35 O.A.C. §30-17-25	First Violation - $100 to $500 Second Violation - $300 to $1000 Subsequent Violations - $1000 to $2500

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

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

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

OKLAHOMA HORTICULTURE LAW

Licensing Violations

1. Failure to obtain a license 2 O.S. §3-32.8(8)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
2. Misrepresenting or falsifying information on a license application 2 O.S. §3-32.8(7)	First Violation - $100 to $500 Second Violation - $250 to $750 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 2 O.S. §3-32.8(9)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
4. Failure to provide the legal description of all growing locations of nursery stock or sod 2 O.S. §3-32.8(10)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000

5. Made a false declaration of acreage 2 O.S. §3-32.8(1)(b)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
Plant Health and Quality Violations	
6. Offering for sale nursery stock which is seriously or substantially devitalized 2 O.S. §3-32.8(1)(d)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
7. Selling, offering for sale, or distributing any nursery stock infected or infested with a plant pest 2 O.S. §3-32.8(4)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
8. Selling, offering for sale, or distributing nursery stock that is not healthy, sound, and capable of growth 2 O.S. §3-32.8(5)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
9. Misrepresenting the grade, character, variety, or quality of any nursery stock 2 O.S. §3-32.8(1)(a)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
10. Mislabeling nursery stock by using the wrong common name or botanical name 2 O.S. §3-32.8(14)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
11. Failure to carry out treatment or destruction of nursery stock as ordered by the Board 2 O.S. §3-32.8(6)	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
12. Selling, moving, or distributing nursery stock or other material under quarantine 2 O.S. §3-32.8(13)	First Violation - $100 to $2500 Second Violation - $2500 to $7500 Subsequent Violations - $7500 to $10,000
13. Selling nursery stock restricted by a stop sale order 2 O.S. §3-32.8(12)	First Violation - $250 to $1000 Second Violation - $1000 to $5000 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 2 O.S. §3-32.8(15)	First Violation - $100 to $2500 Second Violation - $2500 to $7500 Subsequent Violations - $7500 to $10,000
15. Any other violation of the Oklahoma Horticulture Law not otherwise addressed	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000

OKLAHOMA AGRICULTURAL LIMING MATERIALS LAW

Registration and Labeling Violations

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

Product Violations

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

License Violations

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

Inspection Fee And Report

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

Vendor Requirements

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

OKLAHOMA SOIL AMENDMENT LAW

Labeling Violations

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

3. Failure to provide proof of claims 2 O.S. §8-85.4	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
Registration Violations	
4. Failure to register a product 2 O.S. §8-85.5	$100 Late Fee
5. Failure to provide a copy of all information promoting sales 2 O.S. §8-85.5	First Violation - $100 to $500 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000
Stop Sale Order	
6. Violation of Stop Sale Order 2 O.S. §8-85.7	First Violation - $100 to $1000 Second Violation - $1000 to $5000 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 Second Violation - $250 to $750 Subsequent Violations - $500 to $1000

GENERAL VIOLATIONS OF THE OKLAHOMA AGRICULTURAL CODE

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

[OAR Docket #04-471; filed 3-26-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES

[OAR Docket #04-481]

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PERMANENT final adoption
RULES:
Subchapter 3. Fee Schedules
35:2-3-11. [AMENDED]
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N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The Forestry Services Division is amending its rule governing the fees charged by the agency for state-grown forest tree and shrub seedlings when sold to landowners. The agency has established seedling prices in effect, and proposes to amend these prices to better reflect the actual costs of production. In most cases, seedling prices will be increased by two to six cents per tree to help offset increases in shipping rates, labor, materials, fuels, and contracts. Amended prices will become effective in the 2004-2005 tree-planting season.
CONTACT PERSON:
Kurt Atkinson, (405) 522-6147; kurt@oda.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 APRIL 26, 2004:

SUBCHAPTER 3. FEE SCHEDULES

35:2-3-11. Schedule of fees for forest tree and shrub seedlings from the Forest Regeneration Center

The following is a schedule of fees for forest tree and shrub seedlings purchased from the State's Forest Regeneration Center:

(1) Bare-root deciduous and evergreen species:
(A) 50 to 300:
(i) Price per tree if shipped - ~~$0.39~~$0.44
(ii) Price per tree if picked up - ~~$0.34~~$0.40
(B) 350 to 500:
(i) Price per tree if shipped - ~~$0.37~~$0.42
(ii) Price per tree if picked up - ~~$0.32~~$0.38
(C) 550 to 950:
(i) Price per tree if shipped - ~~$0.35~~$0.40
(ii) Price per tree if picked up - ~~$0.29~~$0.34
(D) 1000+:
(i) Price per tree if shipped - ~~$0.32~~$0.35
(ii) Price per tree if picked up - ~~$0.26~~$0.30
(2) Southern Pine:
(A) 50 to 300:
(i) Price per tree if shipped - ~~$0.29~~$0.33
(ii) Price per tree if picked up - ~~$0.25~~$0.30
(B) 350 to 500:
(i) Price per tree if shipped - ~~$0.26~~$0.29
(ii) Price per tree if picked up - ~~$0.22~~$0.26
(C) 550 to 950:
(i) Price per tree if shipped - ~~$0.23~~$0.26
(ii) Price per tree if picked up - ~~$0.19~~$0.22
(D) 1000 to 2950:
(i) Price per tree if shipped - ~~$0.16~~$0.18
(ii) Price per tree if picked up - ~~$0.13~~$0.15
(E) 3000 to 9950:
(i) Price per tree if shipped - ~~$0.10~~$0.11
(ii) Price per tree if picked up - ~~$0.044~~$0.05
(F) 10,000+:
(i) Price per tree if shipped - $0.045
(ii) Price per tree if picked up - $0.038
(3) Improved Virginia Pine:
(A) 50 to 300:
(i) Price per tree if shipped - ~~$0.27~~$0.33
(ii) Price per tree if picked up - ~~$0.23~~$0.28
(B) 350 to 500:
(i) Price per tree if shipped - ~~$0.24~~$0.29
(ii) Price per tree if picked up - ~~$0.20~~$0.24
(C) 550 to 950:
(i) Price per tree if shipped - ~~$0.21~~$0.25
(ii) Price per tree if picked up - ~~$0.17~~$0.20
(D) 1000+:
(i) Price per tree if shipped - ~~$0.14~~$0.16
(ii) Price per tree if picked up - ~~$0.11~~$0.12
~~(4) Wildlife packages - 50 tree non-game package:~~
~~(A) Price per package if shipped - $24.00~~
~~(B) Price per package if picked up - $20.00~~
(~~5~~4) Containerized seedlings:
(A) Seedling price is $0.90 each.
(B) Prepaid shipping costs:
(i) 50 trees - $8.00
(ii) 100 trees - $14.00
(iii) 150 trees - $20.00
(iv) 200 trees or more - $26.00 plus $8.00 for each 50 trees over 200

[OAR Docket #04-481; filed 3-26-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES

[OAR Docket #04-482]

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RULES:
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N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The purpose of the new amendments is to add a fee to the Laboratory fee rules to reflect the capability of new technology and testing instrumentation. The newly proposed fee reflects the analytical process and is established in order to recover the cost of performing the analysis, including but not limited to, reagent cost, preventative maintenance of instrumentation, disposal of generate hazardous waste, labor and administrative expenditures.
CONTACT PERSON:
Dr. Mike Talkington, Director, Laboratory Services, Oklahoma Department of Agriculture, Food, and Forestry (405) 522-5432

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 APRIL 26, 2004:

SUBCHAPTER 3. FEE SCHEDULES

35:2-3-2.4. Schedule of microbiological testing fees

(a) Bacillus cereus, confirmed - $61.00.
(b) Bacillus cereus, presumptive - $14.00.
(c) Campylobacter - $20.00.
(d) Clostridium perfringens - $14.00.
(e) Coliform - $10.00.
(f) Confirmed membrane filter (MF), lauryl sulfate tryptose (LST) and brilliant green bile (BGB) - $7.00.
(g) E. coli - $20.00.
(h) E. coli O157 - $20.00.
(i) Enterococcus - $10.00.
(j) Fecal coliform, membrane filter (MF), or most probable number (MPN) - $10.00.
(k) Filth and adulteration of foods, gross examination - $5.00.
(l) Gram stain - $5.00.
(m) Listeria - $25.00.
(n) Plate count, coliform - $10.00.
(o) Salmonella - $20.00.
(p) Shigella - $20.00.
(q) Staphylococcus - $20.00.
(r) Staphylococcus, confirmation of coagulase + - $5.00.
(s) Utensil count - $4.00.
(t) Water activity - 30.00.
(u) Yeast and mold count - $9.00.
(v) Ribotyping, individual bacteria - $105.00

[OAR Docket #04-482; filed 3-26-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES

[OAR Docket #04-486]

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RULES:
Subchapter 3. Fee Schedules
35:2-3-3. [AMENDED]
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Oklahoma State Board of Agriculture; 2 O.S. 2001, §§ 2-4(2), 2-4(20), 2-4(29), and 14-36
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N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The purpose of the proposed rule is to receive payment of fees commensurate with the expense incurred in performing requested weighing and measuring device inspections. The State Board of Agriculture may, at the request of an owner or user of any weighing and measuring device, test a device

upon payment of a fee for expenses. The Department has not increased the fee for testing since 1990. The cost for providing the service has risen over the last thirteen years. These proposed changes increase the testing fees to cover the Department's cost in providing the service. No fees are charged for routine inspections of weighing and measuring devices required by Oklahoma law. The proposed increase in fees would only affect owners, operators, or users of devices who request testing by the Department.

CONTACT PERSON:

Charles Carter, (405) 522-5968; charlesc@oda.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 APRIL 26, 2004:

SUBCHAPTER 3. FEE SCHEDULES

35:2-3-3. Schedule of weights and measures fees

(a) ~~Fees assessed~~ Owners ~~owners~~ or users requesting tests of weighing and measuring devices ~~requesting tests are as follows:~~ shall pay the following fees:

(1) VEHICLE SCALES (per indicator): ~~$100.00~~ $200.00

(2) RANCH AND ANIMAL SCALES (per indicator): ~~$80.00~~ $200.00

(3) PORTABLE PLATFORM SCALES (up to 1,000 lbs.): ~~$25.00~~ $50.00

(4) PLATFORM SCALES (more than 1,000 lbs.): ~~$75.00~~ $150.00

(5) COUNTER AND COMPUTING:

(A) Up to 40 lbs.: ~~$15.00~~ $30.00

(B) More than 40 lbs.: ~~$25.00~~ $50.00

(6) GRAIN HOPPER SCALES: ~~$200.00~~$400.00

(7) HANGING SCALES: ~~$25.00~~ $50.00

(8) OVERHEAD TRACK: ~~$75.00~~ $150.00

(9) PACKING SCALES:

(A) Up to 30 lbs.: ~~$15.00~~ $30.00

(B) Over 30 lbs.: ~~$25.00~~ $50.00

(10) OVER AND UNDER SCALES: ~~$15.00~~ $30.00

~~(b) In addition to the above fees, a minimum mileage charge of $10.00 or $1.50 per mile, whichever is greater, will be added. This charge will be computed both ways from Oklahoma City as the base for departure and return. The requestor will be assessed the minimum fee provided that if a request for scale inspection is received in sufficient time to routinely schedule with other scale inspections. Requests requiring a special trip will be assessed at the higher rate.~~

(~~c~~b) The following license fees shall be paid to the Oklahoma Department of Agriculture, Food, and Forestry:

(1) A fee of One Hundred Dollars ($100.00) for issuance or renewal of a service agency license. ~~as a service agency;~~

(2) A fee of Twenty-five Dollars ($25.00) for issuance or renewal of a service technician license ~~as a service technician~~ for each category of weights and measures serviced~~;~~.

(3) A fee of Ten Dollars ($10.00) for the issuance of ~~a~~ an apprentice service technician license. ~~for an apprentice service technician;~~

(4) A fee of Ten Dollars ($10.00) for the issuance of a duplicate license.~~; and~~

(5) ~~If an~~ Any license renewal applications ~~is not~~ received ~~within~~ thirty (30) or more days after ~~of~~ the renewal ~~expiration~~ date~~,~~ shall result in the Board charging a penalty ~~of twice the amount of the renewal fee shall be charged for renewal of the license as applicable.~~ equal to and in addition to the cost of the license.

[OAR Docket #04-486; filed 3-26-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES

[OAR Docket #04-470]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Fee Schedules
35:2-3-6. [REVOKED]
35:2-3-7. [REVOKED]
35:2-3-12. through 35:2-3-16. [AMENDED]
35:2-3-18. [AMENDED]
35:2-3-22. [AMENDED]
35:2-3-26. [AMENDED]
35:2-3-27. [NEW]
35:2-3-28. [NEW]

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. 2001, §§ 2-4(2), 2-4(20), 10-79, 3-32.2, 3-32.7, 3-85, 8-77.5, 8-77.7, 8-85.10, 8-26, 3-101

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N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

These amendments shall assist in providing information about fees and fee schedules, provide clarification of fee requirements, replace obsolete terms and language in existing rules, and ensure that the rules are in agreement with the current statutes.

CONTACT PERSON:
Janet Stewart, Director, Legal Services, Oklahoma Department of Agriculture, Food, and Forestry (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 APRIL 26, 2004:

SUBCHAPTER 3. FEE SCHEDULES

35:2-3-6. Inspection fees for peanuts, pecans, and other fresh fruits and vegetables [REVOKED]

~~(a) The inspection fee for farmers' stock peanuts graded from 8:00 a.m. to 5:00 p.m., Monday through Friday, is $4.00 per ton.~~

~~(b) The inspection fee for farmers' stock peanuts graded before 8:00 a.m. and after 5:00 p.m., Monday through Friday, and at anytime on Saturday, Sunday, and holidays, is $4.00 per ton, plus $9.00 per hour per grader. Recognized holidays are as follows: Independence Day, Labor Day, Thanksgiving Day, Christmas, New Year's Day, and Memorial Day.~~

~~(c) The inspection fee for shell stock peanuts is $1.30 per ton, with a $10.00 minimum charge per sample. The charge for aflatoxin sample is $7.50.~~

~~(d) The inspection fee for each FVO-95 certificate that is issued on each load of farmers' stock peanuts not sold because of excess moisture or foreign material is $5.00.~~

~~(e) The inspection for each farmers' stock peanut sample that is regraded is $5.00.~~

~~(f) The inspection fee for in-shell pecans is $4.00 per net ton, with a $12.00 minimum charge per sample. For a 40-hour work week, the minimum charge for grading pecans is $400.00.~~

~~(g) For special requests for grading services not covered by an appropriate fee, fees may be negotiated with the person requesting the service on a cost-recovery basis.~~

~~(h) Any fee for inspection or grading peanuts or pecans or other fresh fruit and vegetables in conflict herewith is hereby repealed.~~

35:2-3-7. Schedule of fees for commercial values per unit of nutrient of commercial fertilizer in the State [REVOKED]

~~(a) The following is a list of commercial values per unit of nutrient of commercial fertilizer in the State to be effective July 1, 1990 through June 30, 1991.~~

~~(1) $4.00 per total nitrogen~~
~~(2) $4.00 for available phosphoric acid~~
~~(3) $2.00 for soluble potash~~

~~(b) The values in (a) of this Section are used to calculate penalties for fertilizers found deficient from guarantee.~~

35:2-3-12. Schedule of horticulture program fees

(a) The fee for each Federal Phytosanitary Certificate issued or renewed shall be as follows:

(1) Federal Phytosanitary Certificate PPQ Form 577
(A) If the aggregate commercial value of the product inspected for certification is $1,250.00 or more - Fifty Dollars ($50.00).
(B) If the aggregate commercial value of the product inspected for certification is less than $1,250.00 - Twenty Five Dollars ($25.00).
(C) No charge for products of no commercial value.

(2) Federal Phytosanitary Certificate, Processed Plant Products PPQ Form 578
(A) If the aggregate commercial value of the product inspected for certification is $1,250.00 or more - Fifty Dollars ($50.00).
(B) If the aggregate commercial value of the product inspected for certification is less than $1,250.00 - Twenty Five Dollars ($25.00).
(C) No charge for products of no commercial value.

(3) Federal Phytosanitary Certificate for Re-export PPQ Form 579
(A) If the aggregate commercial value of the product inspected for certification is $1,250.00 or more - Fifty Dollars ($50.00).
(B) If the aggregate commercial value of the product inspected for certification is less than $1,250.00 - Twenty Five Dollars ($25.00).
(C) No charge for products of no commercial value.

(4) Ten Dollars ($10.00) for the re-issuance of a Federal Phytosanitary Certificate.

(b) The fee for each State Phytosanitary Certificate issued or renewed shall be as follows:

(1) If the aggregate commercial value of the product inspected for certification is $1,000.00 or more - Ten Dollars ($10.00).
(2) If the aggregate commercial value of the product inspected for certification is less than $1,000.00 - Five Dollars ($5.00).
(3) No charge for products of no commercial value or for the issuance of a certificate required by the Japanese Beetle Harmonization Plan unless a treatment is monitored by an authorized agent of the Board.

(c) The fee for each grower, dealer, broker, and landscaper license issued or renewed and inspection conducted shall be as follows:

(1) Growers license - Twenty five Dollars ($25.00) for each business location.
(2) Growers inspection fee - One Dollar ($1.00) per acre or 1000 square feet of greenhouse area inspected.
(3) Dealers, broker license and landscapers fees -Thirty eight Dollars ($38.00) for each business location.
(4) No fee for shall be charged for a grower's license issued to any scientific, agricultural, or horticultural club, garden center, educational or eleemosynary institution, or any department or branch of the state or federal government:

(5) Failure to remit the license fee by the 15th of the month following the expiration month shall result in a penalty fee equal to the cost of the license.

(d) All fees and monies collected under this program shall be paid to the Oklahoma Department of Agriculture, Food, and Forestry.

35:2-3-13. Schedule of combined pesticide program fees

(a) The ~~annual license~~ fees for issuance or annual renewal of pesticide applicators licenses shall be as follows:

(1) Commercial applicator - Fifty Dollars ($50.00) per category: Two Hundred and Fifty Dollars ($250.00) maximum for each location.

(2) Non-commercial applicator - Twenty Dollars ($20.00) each.

~~(3) Private applicator - Five Dollars ($5.00) each.~~

(~~4~~3) Government agencies or their employees - No charge.

(~~5~~4) Duplicate issue - Five Dollars ($5.00) each.

(b) The fee for issuance or five (5) year renewal of pesticide applicators licenses for Private applicator shall be Five Dollars ($5.00) each. Duplicate issue of Private applicator licenses shall be Five Dollars ($5.00) each.

(c) Failure to remit a license renewal fee by the 1st day of January will result in a penalty of twice the amount of the license renewal fee shall be charged for renewal of the license. After the 1st day of February, in addition to the penalty, a reexamination shall be required.

(d) The issuance and annual registration fees for pesticides and devices shall be as follows:

(1) Pesticide - One Hundred Sixty Dollars ~~($100.00)~~ ($160.00) each.

(2) Device - One Hundred Sixty Dollars ~~($100.00)~~ ($160.00) each.

(e) Failure to remit the registration fees for pesticides and devices by the 15th of the month following the month of expiration shall result in a penalty of twice the amount of the renewal fee shall be charged for renewal of the pesticide or device registration.

(~~e~~f) The annual permit fees for pesticide dealers shall be as follows: Restricted Use Pesticide Dealers - Twenty Dollars ($20.00) each location.

(~~d~~g) The fee for each written examination or practical conducted for the combined pesticide program shall be as follows:

(1) Certified applicator's written - Twenty Dollars ($20.00) for each category.

(2) Certified applicator's practical - Twenty Dollars ($20.00) for each category.

(3) Private applicator's practical (fumigation only) -Twenty Dollars ($20.00) each.

(4) Government agencies or their employees - No charge.

(~~e~~h) Applicator certification fees shall be as follows:

(1) Re-certification procedure - Twenty Dollars ($20.00) for each.

(2) Reciprocal certification procedure - Twenty Dollars ($20.00) for each.

(3) Government agencies or their employees - No charge.

(~~f~~i) Identification card fees shall be as follows:

(1) Service technician - Ten Dollars ($10.00) each.

(2) Certified applicator - No charge

(3) Duplicate issue or transfers - Five Dollars ($5.00) each.

(~~g~~j) All fees and monies collected under this program shall be paid to the Oklahoma Department of Agriculture.

35:2-3-14. Schedule of fertilizer program fees

(a) The annual fee for persons operating a business engaged in the distribution or sale of a commercial fertilizer shall be Fifty Dollars ($50.00) and expire on December 31 of each year.

(b) An inspection fee of sixty-five ($0.65) cents per ton of which thirty cents ($0.30) per ton shall be forwarded directly to a special Soil Fertility Research Account in the Plant and Soil Sciences Department of the Division of Agricultural Sciences and Natural Resources at Oklahoma State University for the sole purpose of conducting soil fertility research involving groundwater protection from plant food nutrients, Oklahoma State University shall present an annual report to the Agriculture Committees of the Legislature on the use of the special Soil Fertility Research Account Fund.

(c) Each registrant distributing commercial fertilizer in this state shall file with the Board not later than the last day of January~~, April,~~ and July~~, and October~~ of each year, a ~~quarterly~~ semiannual statement under oath, setting forth the number of net tons of commercial fertilizer distributed during the preceding three (3) calendar months. The inspection fee and tonnage report shall be due within thirty (30) days following the close of the filing period and upon return of the statement the licensee shall pay the inspection fee. If no fertilizer was sold or distributed in this state for the quarter, the registrant shall submit a statement reflecting that information and shall remit a minimum fee of ~~Five~~ Ten Dollars ~~($5.00)~~ ($10.00). If the inspection fee and tonnage report is not filed and the payment of inspection fee is not made within thirty (30) days after the end of the specified filing period, a collection fee of ten percent (10%) of the inspection fee due or a minimum ~~Five~~ Ten Dollars ~~($5.00)~~ ($10.00), shall be assessed and added to the amount due.

(d) If the Board finds any deficient inspection fees due as a result of an audit of the records of any person subject to the provisions of the Oklahoma Fertilizer Act, the Board shall assess a penalty fee of ten percent (10%) of the amount due, with a maximum not to exceed Two Thousand Dollars ($2,000.00) or a minimum of One Hundred Dollars ($100.00) whichever is greater. The audit penalty shall be added to the deficient inspection fees due and payment shall be made within thirty (30) days of notice of the deficiency.

(e) Annual registrations for specialty fertilizer products sold in packages of less than thirty (30) pounds shall pay a One-hundred Dollar ($100.00) registration fee for each product. Specialty fertilizer product registrations shall expire on June 30 of each year. The penalty for failure to register any specialty fertilizer product shall be One-hundred Dollars ($100.00) per

product and shall be added to the registration fee and payment shall be made within thirty (30) days after receipt of notice.

35:2-3-15. Schedule of ag-lime program fees

(a) The annual vendors license fee shall be Twenty Five Dollars ($25.00). Each license shall expire December 31 of each year.

(b) An inspection fee of ten cents ($0.10) per ton shall be paid to the Board on all agricultural liming material sold or distributed for use within this state. If no lime was sold or distributed in this state for the semiannual period, manufacturers shall submit a statement reflecting that information and shall remit a minimum fee of Five Dollars ($5.00).

(c) If the Board finds any deficient inspection fees due, as a result of an audit of the records of any person subject to the provisions of the Oklahoma Agricultural Liming Materials Act, the Board shall assess a penalty fee of ten percent (10%) maximum not to exceed Two Thousand Dollars ($2,000.00) of amount due, or One Hundred Dollars ($100.00), whichever is greater. The audit penalty shall be added to the deficient inspection fees due and payment made within thirty (30) days.

35:2-3-16. Schedule of soil-amendment program fees

(a) The registration fee shall be ~~Twenty Five~~ One Hundred Dollars ~~($25.00)~~ ($100.00) for each product. All registrations shall expire on December 31, of the year the soil amendment product is registered.

(b) ~~The registrant shall pay to the Board an inspection fee of thirty-five cents ($0.35) per ton on all products registered and sold in this state. Each registrant shall keep adequate records of their sales, and shall file with the Board, on a semiannual basis, a signed report of the tonnage distributed by county during the preceding six (6) month periods beginning July 1, to and including December 31, and January 1, to and including June 30. The report and payment of the inspection fee shall be due within thirty (30) days from the date of the close of each period. Soil amendments registered under this act shall be exempt from the inspection fees required for commercial fertilizers.~~ If the Board finds any soil amendment products that have not been registered, a penalty of One Hundred Dollars ($100.00) per product shall be assessed. The penalty shall be added to the registration fee and payment shall be made within thirty (30) days after receipt of notice.

~~(c) If the report is not filed, or the report is false in any respect or the inspection fee is not paid within the thirty (30) day period, the Board may revoke the registration. A penalty of One Dollar ($1.00) per day is assessed for each day the payment is overdue until paid. The inspection fee and the penalty shall constitute a debt and become the basis for a judgment against the registrant which may be collected by the Board in any court of competent jurisdiction without prior demand.~~

35:2-3-18. Schedule of seed program fees

(a) The annual license fee shall be Five Dollars ($5.00) for each retail seed dealer and Twenty Five Dollars ($25.00) for each wholesale seed dealer. A combination retail/wholesale license shall be issued for Thirty Dollars ($30.00). Each license shall expire on June 30 of each year.

(b) An inspection fee of eight cents ($0.08) per hundred pounds shall be paid by every person responsible for labeling and distributing seed to a retail seed licensee in Oklahoma, or each retail seed licensee who processes and sells seed to the consumer on which the inspection fee has not been paid. A semi-annual affidavit, stating forth the number of pounds of seed sold for the preceding six (6) calendar months; shall be filed not later than the last day of January and July and upon filing the statement shall pay the inspection ~~fee or a minimum of Ten Dollars ($10.00)~~. An inspection fee penalty of ten percent (10%) of the amount due or Ten Dollars ($10.00), whichever is greater, shall be assessed if the semi-annual statement is not submitted when due.

(c) If the State Board of Agriculture finds any deficient inspection fees due, as a result of an audit of the records of any person subject to the provisions of Sections 8-21 through 8-28 of Title 2 of the Oklahoma Statutes, the Board shall assess a penalty fee of ten percent (10%) maximum not to exceed Two Thousand Dollars ($2,000.00) of amount due, or One Hundred Dollars ($100.00), whichever is greater. The audit penalty shall be added to the deficient inspection fees due and payment made within thirty (30) days.

35:2-3-22. Schedule of fees for the egg program

(a) No person shall be issued a license to handle eggs commercially unless an application has been properly filed on a form provided by the Board and the annual license fee has been paid. The license shall not be transferable.

~~(1) A state egg retailer's license shall be Ten Dollars ($10.00).~~

(~~2~~1) A state egg dealer's license ~~fees~~ shall be ~~determined on the basis of cases of eggs sold in the shell in any one (1) month:~~

~~(A) 1 to 500 cases - $5.00~~

~~(B) 501 to 2,000 cases - $12.50~~

~~(C) 2,001 to 5,000 cases - $25.00~~

~~(D) More than 5,000 cases - $50.~~00 Thirty-five Dollars ($35.00).

(~~3~~2) An egg packer or processor license shall be ~~issued without charge if an inspection fee is paid on a minimum of six thousand (6,000) dozen eggs or two hundred (200) cases~~ annually Thirty-five Dollars ($35.00).

(~~4~~3) Each license ~~except a packer or processor license~~ shall expire annually on the last day of the anniversary month in which the license was issued. The Board may adjust the anniversary date to provide for efficient administration. ~~A packer or processor license shall be issued for a period of five (5) years.~~

(~~5~~4) Each location shall require a separate license.

(~~6~~5) Packers residing within the state who package eggs intended solely for distribution sale or resale outside the state shall obtain a license except the packer shall be exempt from all fee and reporting requirements. A packer shall be subject to all inspections, record keeping, and audits.

(~~7~~6) If a license expires and is not renewed within thirty (30) days of its expiration, the applicant for renewal shall pay a penalty. The penalty shall be an amount equal and in addition to the license fee.

(b) Each packer or processor shall pay an inspection fee of three mills ($0.003) per dozen on all eggs that are processed, graded, packed, or repacked which are intended for sale to consumers in this state.

~~(1) Inspection fee stamps shall be provided by the Board upon request. The cost shall be the per dozen fee rate and costs for printing, mailing, and handling the stamps.~~

~~(2) When used, inspection fee stamps shall be the label indicating grade of the egg, size of the egg, and the container size.~~

~~(3) Packers whose monthly production is six thousand (6,000) dozen or more may apply for a permit to report and pay the fees monthly, in lieu of inspection fee stamps.~~

~~(4) All inspection fees shall be paid through fee stamps or monthly reports.~~

(~~5~~1) There shall be a nine-cent ($0.09) per case inspection fee on all egg products sold or shipped into the State.

(~~6~~2) All egg product processors shall pay the inspection fees on all processed eggs sold or used for human consumption in the State based on the following formula:

(A) Thirty-six (36) pounds of frozen or liquid eggs equals a thirty (30) dozen case of shell eggs.

(B) Nine (9) pounds of dried eggs equals a ~~thirty (30) dozen~~ thirty-dozen case of shell eggs.

(C) Two (2) containers of boiled eggs weighing twenty (20) to twenty-five (25) pounds each equals a ~~thirty (30) dozen~~ thirty-dozen case of shell eggs.

(D) Fifty (50) pounds of cooked or diced eggs equals a ~~thirty (30)~~ dozen thirty-dozen case of shell eggs.

(c) Packers, processors, and dealers shall keep records of eggs graded, packed, distributed, or sold. Records shall be maintained for three (3) years. The Board shall have access to all required records of any applicant for a license.

(d) The Board shall audit the records of packers at least once every three (3) years. The packer shall reimburse the Board for all expenses incurred in conducting the required audit. The costs of audits other than the required audit shall be paid by the Board.

(e) Packers paying inspection fees on a monthly basis shall prepare a report of all fees due as of the last day of each month. The report and fee payment shall be due no later than the fifteenth day of the following month. Reports shall contain the quantity of eggs packed and intended for sale or resale in the state, the names of the dealers for whom the eggs were packed or to whom the eggs were sold or delivered, and all other information required by the Board. Reports provided to the Board pursuant to this section shall not be public information and may be used only for administration of this program. Reports may be used for statistical information if specific packers are not identified by name or implication. If a report is not filed and the fees are not paid within thirty (30) days of the due date, the packer shall pay a penalty of two percent (2%) of the fees due for each additional day the fees are late. If the report is not filed and the fees are not paid within sixty (60) days of the due date, the amount of the penalty shall be an amount equal and in addition to the amount of the fees due.

(f) All fees collected under this program shall be paid to the Oklahoma Department of Agriculture, Food, and Forestry.

35:2-3-26. Apiary program fees

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

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

(c) An annual fee of Five Dollars ($5.00) shall be charged for the registration of each minatory beekeeper. Migratory beekeepers moving colonies of bees into this state shall be required to register annually, on a form provided by the Board, for all seasonal or permanent locations of their apiaries. A migratory beekeeper shall not locate an apiary closer than two (2) miles to an established apiary. Any resident of this state may establish an apiary on their farm, acreage, or home lot which is adjacent to another apiary.

(d) Any beekeeper requesting inspection of an apiary shall pay a fee based on the total number of colonies in the possession of the beekeeper. The following fees shall be charged at the time of inspection:

(1) 5 to 50 colonies of bees: $ 5.00
(2) 51 to 100 colonies of bees: $10.00
(3) 101 to 300 colonies of bees: $15.00
(4) 301 to 1000 colonies of bees: $25.00
(5) over 1000 colonies of bees: $40.00.

(e) Upon request, the Board may take samples and perform laboratory diagnosis to determine if any disease or invasive species exists in the apiary. The person making the request shall be charged Twenty-five Dollars ($25.00) for each diagnosis. The manner of sampling and method of diagnosis shall be at the Board's discretion.

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

(g) All fees and monies collected under this program shall be paid to the Oklahoma Department of Agriculture, Food, and Forestry.

35:2-3-27. Aquaculture program fees

(a) 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.

(b) 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.

(c) 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.

35:2-3-28. Swine Special Sale fees

(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 #04-470; filed 3-26-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 3. FINE MATRICES

[OAR Docket #04-472]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Chapter 3. Fine Matrices [NEW]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. 2001 § 2-4(2), § 2-18, and 2000 Okla. Sess. Laws § 116 of S.B. 1402
DATES:
Comment period:
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Public hearing:
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January 22, 2004
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January 22, 2004
Submitted to Senate:
January 22, 2004
Gubernatorial approval:
March 8, 2004
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2004

Final adoption:
March 24, 2004
Effective:
April 26, 2004
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The primary purpose of the proposed rule is to revoke the fine matrix in Appendix A. This revocation is necessary because the Department plans to create a new chapter to incorporate those fines into the rules.
CONTACT PERSON:
Janet Stewart, Director, Legal Services, Oklahoma Department of Agriculture, Food, and Forestry, (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 APRIL 26, 2004:

SUBCHAPTER 1. FINE SCHEDULES

PART 1. GENERAL

35:3-1-1. General Violations

(a) Violation of Stop-Sale or Stop-Use Order pursuant to 2 O.S. §2-4(8).
- (1) First Violation - $100 to $1000
- (2) Second Violation - $1000 to $5000
- (3) Subsequent Violations - $5000 to $10,000

(b) Interfering with an authorized agent of the Board pursuant to 2 O.S. §2-29.
- (1) First Violation - $100 to $1000
- (2) Second Violation - $1000 to $5000
- (3) Subsequent Violations - $5000 to $10,000

PART 3. ANIMAL HEALTH AND DISEASE VIOLATIONS [RESERVED]

PART 5. FOOD SAFETY VIOLATIONS [RESERVED]

PART 7. FORESTRY AND TIMBER VIOLATIONS [RESERVED]

PART 9. GRAIN WAREHOUSE VIOLATIONS

35:3-1-10. Violations of the Public Warehouse and Commodity Indemnity Act

(a) Licensing and insurance violations
- (1) Failure to obtain or operate an elevator without a charter pursuant to 2 O.S. §9-22 and OAC 35:10-7-10.
  - (A) First Violation - $100 to $1000
  - (B) Second Violation - $1000 to $5000
  - (C) Subsequent Violations - $5000 to $10,000
- (2) Failure to obtain surety in lieu of a bond, certificate of deposit, or irrevocable letter of credit pursuant to 2 O.S. §9-22.
  - (A) First Violation - $100 to $1000
  - (B) Second Violation - $1000 to $5000
  - (C) Subsequent Violations - $5000 to $10,000
- (3) Failure to insure commodities for full market value pursuant to 2 O.S. §9-26.
  - (A) First Violation - $100 to $500
  - (B) Second Violation - $500 to $1000
  - (C) Subsequent Violations - $1000 to $10,000

(b) Scale ticket, warehouse receipt, and record keeping violations
- (1) Failure to issue a scale ticket pursuant to 2 O.S. §9-27 and OAC 35:10-7-1.
  - (A) First Violation - $100 to $500
  - (B) Second Violation - $500 to $750
  - (C) Subsequent Violations - $750 to $2500
- (2) Failure to have a licensed weigher and grader at each location to supervise weighing and grading of commodities received and signing of the scale tickets pursuant to 2 O.S. §9-27 and OAC 35:10-7-1.
  - (A) First Violation - $100 to $500
  - (B) Second Violation - $500 to $750
  - (C) Subsequent Violations - $750 to $2500
- (3) Issued or received a fraudulent warehouse receipt pursuant to 2 O.S. §9-28, 2 O.S. §9-34, 2 O.S. §9-35, and OAC 35:10-7-1.
  - (A) First Violation - $500 to $2500
  - (B) Second Violation - $1000 to $7500
  - (C) Subsequent Violations - $3000 to $10,000
- (4) Delivery of commodities without cancellation of warehouse receipt pursuant to 2 O.S. §9-28, 2 O.S. §9-34, 2 O.S. §9-35, and OAC 35:10-7-1.
  - (A) First Violation - $500 to $2500
  - (B) Second Violation - $1000 to $7500
  - (C) Subsequent Violations - $3000 to $10,000
- (5) Failure to maintain complete and accurate records and reports pursuant to 2 O.S. §9-25, OAC 35:10-7-1, and OAC 35:10-7-7.
  - (A) First Violation - $100 to $3000
  - (B) Second Violation - $750 to $7500
  - (C) Subsequent Violations - $3000 to $10,000

(c) Warehouse exam and financial statement violations
- (1) If examination determines that warehouseman is in a short position, or has operated in a short position for longer than 72 hours since their last examination, any shortage position of quantity is a violation pursuant to 2 O.S. §9-27 and OAC 35:10-7-7.
  - (A) First Violation - $100 to $500
  - (B) Second Violation - $500 to $750
  - (C) Subsequent Violations - $750 to $2500
- (2) Failure to submit a current financial statement within ninety (90) days following year end close of business pursuant to 2 O.S. §9-22 and OAC 35:10-7-12.
  - (A) First Violation - $100 to $500
  - (B) Second Violation - $250 to $1000

(C) Subsequent Violations - $750 to $5000

(d) Scale and equipment, approved storage space, and warehouse safety violations

(1) Failure to maintain correct and accurate scales and equipment pursuant to 2 O.S. §9-32.

(A) First Violation - $100 to $1000

(B) Second Violation - $750 to $1500

(C) Subsequent Violations - $1500 to $5000

(2) Failure to obtain Department approval of storage space as conventional, temporary, or emergency space pursuant to OAC 35:10-7-14, OAC 35:10-7-5, and OAC 35:10-7-14.

(A) First Violation - $100 to $500

(B) Second Violation - $500 to $1000

(C) Subsequent Violations - $1000 to $5000

(3) Failure to provide safe and sanitary working conditions pursuant to OAC 35:10-7-8.

(A) First Violation - $100 to $1000

(B) Second Violation - $1000 to $5000

(C) Subsequent Violations - $5000 to $10,000

(e) Miscellaneous violations

(1) Issue a delayed pricing contract, deferred payment contract, or any other records for sales of commodities in a fraudulent manner without the full knowledge and consent of the producer pursuant to 2 O.S. §9-34.

(A) First Violation - $100 to $1000

(B) Second Violation - $750 to $5000

(C) Subsequent Violations - $3000 to $10,000

(2) Failure to notify the management of the public warehouse that a lien or mortgage exists on any commodities that any person deposits or attempts to deposit in a public warehouse pursuant to 2 O.S. §9-37.

(A) First Violation - $100 to $500

(B) Second Violation - $500 to $1000

(C) Subsequent Violations - $750 to $2500

(3) Any depositor who knowingly or negligently offers for deposit or for sale commodities which have been contaminated or have been determined to be a threat to the health or safety of the public or a condition that affects the marketability of a commodity pursuant to OAC 35:10-7-18.

(A) First Violation - $100 to $10,000

(B) Second Violation - $3000 to $10,000

(C) Subsequent Violations - $5000 to $10,000

PART 11. LIVESTOCK MARKET VIOLATIONS [RESERVED]

PART 13. MARKET DEVELOPMENT VIOLATIONS [RESERVED]

PART 15. PLANT AND CONSUMER SERVICES VIOLATIONS

35:3-1-15. Violations of the Oklahoma Agricultural Liming Materials Law

(a) Registration and labeling violations

(1) Failure to provide a Label pursuant to 2 O.S. §8-80.3(A) and OAC 35:30-31-2(2).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(2) Providing misleading label or information pursuant to 2 O.S. §8-80.3(B).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(3) Failure to identify adulterated product pursuant to 2 O.S. §8-80.3(C).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(4) Failure to register a product pursuant to 2 O.S. §8-80.3(E).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(b) Product violations

(1) Distribution of a toxic material pursuant to 2 O.S. §8-80.5(B).

(A) First Violation - $100 to $1000

(B) Second Violation - $1000to $5000

(C) Subsequent Violations - $5000 to $10,000

(2) Failure to pay deficiency penalty pursuant to 2 O.S. §8-80.5(C).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(3) Violation of Stop Sale Order pursuant to 2 O.S. §8-80.9 (A).

(A) First Violation - $100 to $1000

(B) Second Violation - $1000 to $5000

(C) Subsequent Violations - $5000 to $10,000

(c) Miscellaneous violations

(1) Failure to obtain a license pursuant to 2 O.S. §8-80.6(A).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(2) Failure to provide semi-annual inspection fee report and pay inspection fee on time pursuant to 2 O.S. §8-80.7(C).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(3) Deficient inspection fees discovered as result of an audit pursuant to 2 O.S. §8-80.7(C).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(4) Failure to purchase, haul, or spread registered lime pursuant to OAC 35:30-31-2(1) and (2).

(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

(5) Any other violation of the Oklahoma Agricultural Liming Materials Act not otherwise addressed.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

35:3-1-16. Violations of the Combined Pesticide Law

(a) Licensing violations

(1) Failure or refusal to pay by the specified date any fees or penalties authorized under the Combined Pesticide Law pursuant to 2 O.S. §3-86(A)(8) and 2 O.S. §3-86(C)(11).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

(2) Act, operate, do business, or advertise:
(A) In a category or under a name for which no license is held pursuant to 2 O.S. §3-86(A)(7).
(B) Without a license pursuant to 2 O.S. §3-86(A)(13).
(C) As a private applicator without a private applicator license pursuant to 2 O.S. §386(A)(15).
(i) First Violation - $100 to $1500
(ii) Second Violation - $1500 to $5000
(iii) Subsequent Violations - $5000 to $10,000

(3) Made a false statement or representation in the application for issuance or renewal of a license pursuant to 2 O.S. §3-86(A)(3) and 2 O.S. §3-86(C)(10).
(A) First Violation - $100 to $1500
(B) Second Violation - $1500 to $5000
(C) Subsequent Violations - $5000 to $10,000

(4) Employed or represented self as a certified applicator or service technician without having met the certification standards pursuant to 2 O.S. §3-86(A)(14).
(A) First Violation - $100 to $1500
(B) Second Violation - $1500 to $5000
(C) Subsequent Violations - $5000 to $10,000

(5) Failure to have a separate license or certified applicator at each business location pursuant to 2 O.S. §3-82(A)(4).
(A) First Violation - $100 to $1500
(B) Second Violation - $1500 to $5000
(C) Subsequent Violations - $5000 to $10,000

(b) General contract violations

(1) Made misrepresentation for the purpose of defrauding pursuant to 2 O.S. §3-86(A)(1).
(A) First Violation - $500 to $1000
(B) Second Violation - $1000 to $3000
(C) Subsequent Violations - $3000 to $6000

(2) Failure to satisfactorily perform any contract into which a person shall have entered pursuant to 2 O.S. §3-86(A)(1).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

(c) Structural contract violations

(1) Failed to issue a contract pursuant to OAC 35:30-17-20.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

(2) For structural pest control operators - failure to include a statement, plat, or diagram showing all locations of visible termites and termite damaged materials that are observed pursuant to 2 O.S. §3-81(11) and OAC 35:30-17-20.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

(3) For structural pest control operators - failure to show how the application was performed pursuant to 2 O.S. §3-81(11)and OAC 35:30-17-20.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

(4) Failure to address minimum standards for termite work for existing structures pursuant to OAC 35:30-17-20(2).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

(5) Failure to address minimum standards for pre-construction application pursuant to OAC 35:30-17-20(2).
(A) First Violation - $100 to $1500
(B) Second Violation - $1500 to $5000
(C) Subsequent Violations - $5000 to $10,000

(6) Failure to explain in the contract any minimum standards which were not going to be met pursuant to 2 O.S. §3-86(A)(9) and OAC 35:30-17-20(2).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

(d) Identification of equipment

(1) Commercial applicator did not display the name and license number of the person or firm to whom the license is issued on any vehicle pursuant to OAC 35:30-17-15.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

(2) 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 pursuant to OAC 35:30-17-16.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

(3) Failure to label, when required, a rodent control bait box pursuant to OAC 35:30-17-26.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

(e) Record keeping violations.
(1) Failure to allow audit of the required records pursuant to 2 O.S. §3-83.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $2500
(2) Failure to maintain required records pursuant to 2 O.S. §3-83 and 2 O.S. §3-86(A)(6).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $2500
(3) Failure to furnish records within seven (7) working days of request pursuant to 2 O.S. §3-83(A).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $2500
(f) Termite minimum standards violations
(1) Failure to meet any minimum standard for termite work for existing structures pursuant to 2 O.S. §3-86(A)(10) and OAC 35:30-17-54 et. seq.
(A) First Violation - $100 to $500
(B) Second Violation - $300 to $1000
(C) Subsequent Violations - $750 to $2500
(2) Failure to meet any minimum standard for termite work for preconstruction (pretreats) pursuant to OAC 35:30-17-73.
(A) First Violation - $100 to $1500
(B) Second Violation - $1500 to $5000
(C) Subsequent Violations - $5000 to $10,000
(3) Failure to correct substandard work within twenty (20) days pursuant to 2 O.S. §3-86(A)(17).
(A) First Violation - $100 to $500
(B) Second Violation - $300 to $1000
(C) Subsequent Violations - $750 to $2500
(4) Failure to meet minimum standards for termite work for Spot/Partial Treatment pursuant to OAC 35:30-17-70.
(A) First Violation - $100 to $500
(B) Second Violation - $300 to $1000
(C) Subsequent Violations - $750 to $2500
(5) Failure to meet any minimum standard for termite work for baits and bait stations pursuant to OAC 35:30-17-75 et. seq.
(A) First Violation - $100 to $500
(B) Second Violation - $300 to $1000
(C) Subsequent Violations - $750 to $2500
(g) Fumigation minimum standards violations
(1) Failure to meet any minimum fumigation standard for structures pursuant to OAC 35:30-17-76 through §30-17-86.
(A) First Violation - $100 to $500
(B) Second Violation - $300 to $1000
(C) Subsequent Violations - $750 to $2500
(h) Failure to meet disposal standards of pesticides or pesticide containers pursuant to 2 O.S. 3-86(A)(2); 2 O.S. 3-86(A)(18); 2 O.S. 3-86(C)(5) and OAC 35:30-17-89 through 35:30-17-99.
(1) First Violation - $500 to $1000
(2) Second Violation - $1000 to $5000
(3) Subsequent Violations - $5000 to $10,000
(i) Wood infestation report violations
(1) Failure to show, 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 pursuant to 2 O.S. §3-81(44).
(A) First Violation - $100 to $500
(B) Second Violation - $300 to $1000
(C) Subsequent Violations - $750 to $2500
(2) Issued an inaccurate wood infestation report pursuant to 2 O.S. §3-86(A)(5).
(A) First Violation - $100 to $500
(B) Second Violation - $300 to $1000
(C) Subsequent Violations - $750 to $2500
(j) Standards for application violations
(1) Certified applicator was not accessible to the non-certified applicator at all times during the application by telephone or radio pursuant to 2 O.S. §3-81(15).
(A) First Violation - $100 to $500
(B) Second Violation - $300 to $1000
(C) Subsequent Violations - $750 to $2500
(2) Failure to have a certified applicator or service technician present at each job performed pursuant to OAC 35:30-17-25.
(A) First Violation - $100 to $500
(B) Second Violation - $300 to $1000
(C) Subsequent Violations - $1000 to $5000
(3) Pesticide label was not attached to application container, or present in the vehicle used to transport the container pursuant to OAC 35:30-17-26.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1500
(k) Use and misuse violations
(1) Used methods or pesticides not suitable or safe for the purpose for which they have been employed pursuant to 2 O.S. §3-86(A)(2).
(A) First Violation - $100 to $1000
(B) Second Violation - $1000 to $5000
(C) Subsequent Violations - $5000 to $10,000
(2) Use of a pesticide in a manner inconsistent with its labeling pursuant to 2 O.S. §3-86(A)(2); 2 O.S. §3-86(A)(18); and 2 O.S. §3-86(C)(5).
(A) First Violation - $100 to $1000
(B) Second Violation - $1000 to $5000
(C) Subsequent Violations - $5000 to $10,000
(3) Failure to report accidental spill of a hazardous material or pesticide into or on any land or water pursuant to OAC 35:30-17-92.
(A) First Violation - $100 to $500
(B) Second Violation - $500 to $1000
(C) Subsequent Violations - $1000 to $2500
(4) Used a chemical not properly labeled or not registered with the Department pursuant to 2 O.S. §3-82(J).
(A) First Violation - $100 to $500
(B) Second Violation - $500 to $1000
(C) Subsequent Violations - $1000 to $2500

(5) Certified applicator was not on site to use, or supervise use, of a pesticide when required by the label or labeling pursuant to OAC 35:30-17-25.
(A) First Violation - $100 to $500
(B) Second Violation - $300 to $1000
(C) Subsequent Violations - $1000 to $2500
(6) Use of a hormone type pesticides in a restricted area between the restricted dates without a "Special Permit," if applicable, pursuant to OAC 35:30-17-35 through 35:30-17-53. Note: Commercial applicators only - category 3 exempt.
(A) First Violation - $500 to $1000
(B) Second Violation - $1000 to $3000
(C) Subsequent Violations - $3000 to $6000
(7) Employed a fluoroacetate compound without specific written authorization from the Board pursuant to OAC 35:30-17-27.
(A) First Violation - $500 to $1000
(B) Second Violation - $1000 to $2500
(C) Subsequent Violations - $2500 to $7500
(8) Used a mistblower in violation of Oklahoma Pesticide Applicator Rules pursuant to OAC 35:30-17-24(e).
(A) First Violation - $500 to $1000
(B) Second Violation - $1000 to $3000
(C) Subsequent Violations - $3000 to $6000
(9) Failure to comply with the Worker Protection Standards in 40 CFR 170 pursuant to 2 O.S. §3-86(A)(18).
(A) First Violation - $100 to $1000
(B) Second Violation - $500 to $3000
(C) Subsequent Violations - $3000 to $10,000
(l) Pesticide sales violations
(1) Sale of a pesticide or device which has not been registered pursuant to 2 O.S. §3-86(C)(1).
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $2500 to $5000
(2) Sale of a pesticide not in its original container pursuant to 2 O.S. §3-86(C)(2).
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $7500
(3) Sale of a pesticide not properly labeled pursuant to 2 O.S. §3-86(C)(3).
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $10,000
(4) Sale of an adulterated or misbranded pesticide or device pursuant to 2 O.S. §3-86(C)(4).
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $10,000
(5) Sale of a pesticide in a manner inconsistent with its labeling pursuant to 2 O.S. §3-86(C)(5).
(A) First Violation - $100 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $10,000
(6) Sale of a pesticide that has been canceled or suspended pursuant to 2 O.S. §3-86(C)(6).
(A) First Violation - $250 to $2500
(B) Second Violation - $750 to $5000
(C) Subsequent Violations - $3000 to $7500
(7) Sale of a pesticide without a valid dealer's permit pursuant to 2 O.S. §3-86(C)(7).
(A) First Violation - $100 to $500
(B) Second Violation - $500 to $1000
(C) Subsequent Violations - $1000 to $5000
(8) Failure to keep accurate records concerning the sale of pesticides pursuant to 2 O.S. §3-86(C)(8).
(A) First Violation - $100 to $500
(B) Second Violation - $500 to $1000
(C) Subsequent Violations - $1000 to $5000
(9) Failure to provide true and accurate records concerning the sale of pesticides pursuant to 2 O.S. §3-86(C)(9).
(A) First Violation - $100 to $500
(B) Second Violation - $500 to $1000
(C) Subsequent Violations - $1000 to $5000
(10) Violation of Stop Sale/Service Order pursuant to 2 O.S. §3-86(A)(19) and 2 O.S. §3-86 (C)(12).
(A) First Violation - $100 to $500
(B) Second Violation - $500 to $1000
(C) Subsequent Violations - $1000 to $2500
(m) Miscellaneous violations
(1) Failure to allow the Board to inspect any work or contracts pursuant to 2 O.S. §3-85(A)(4).
(A) First Violation - $100 to $1000
(B) Second Violation - $1000 to $5000
(C) Subsequent Violations - $5000 to $10,000
(2) Failure to allow sampling of a pesticide pursuant to 2 O.S. §3-85(A)(6).
(A) First Violation - $100 to $500
(B) Second Violation - $500 to $1000
(C) Subsequent Violations - $1000 to $2500
(3) Failure or refusal 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 pursuant to 2 O.S. §3-86(A)(3).
(A) First Violation - $100 to $500
(B) Second Violation - $500 to $1000
(C) Subsequent Violations - $1000 to $2500
(4) Falsely stating that a person is employed by, or represents, another person pursuant to 2 O.S. §3-86(A)(11).
(A) First Violation - $100 to $500
(B) Second Violation - $500 to $1000
(C) Subsequent Violations - $1000 to $2500
(5) Falsely state that methods were recommended by any branch of government pursuant to 2 O.S. §3-86(A)(12).
(A) First Violation - $100 to $500
(B) Second Violation - $500 to $1000
(C) Subsequent Violations - $1000 to $2500
(6) Falsely state that specific work would be inspected by any branch of government pursuant to 2 O.S. §3-86(A)(12).
(A) First Violation - $250 to $1000

(B) Second Violation - $1000 to $3000
(C) Subsequent Violations - $3000 to $7500
(7) Failure to use a method to prevent back flow during filling and mixing operations pursuant to OAC 35:30-17-24(d).
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $7500
(8) Any other violation of the Combined Pesticide Law not otherwise addressed.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

35:3-1-17. Violations of the Oklahoma Commercial Feed Law

(a) Licensing violations
(1) Failure to obtain a license pursuant to Title 2 O.S. §8-41.4.and OAC 35:30-27-11.
(A) First violation - $100 to $500
(B) Second violation - $250 to $750
(C) Subsequent violations - $500 to $1000
(2) License fee received thirty (30) days or more after renewal date pursuant to Title 2 O.S. §8.41.4. Late Filing Fee of Fifty Dollars ($50.00).
(b) Labeling violations
(1) Failure to correctly label a commercial (branded) feed product pursuant to Title 2 O.S. §8-41.5(1) and OAC 35:30-27-2.
(A) First violation - $100 to $500
(B) Second violation - $250 to $750
(C) Subsequent violations - $500 to $1000
(2) Failure to correctly document or label customer formula feed pursuant to Title 2 O.S. §8-41.5(3)
(A) First violation - $100 to $500
(B) Second violation - $250 to $750
(C) Subsequent violations - $500 to $1000
(3) Distributing a feed containing an animal drug, animal protein by product, or non-protein nitrogen without precautionary or warning statements for correct use pursuant to OAC 35:30-27-3; OAC 35:30-27-6; OAC 35:30-27-7.
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $10,000
(4) Failure to substantiate the safety or efficiency of a feed additive pursuant to OAC 35:30-27-8.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(c) Adulterated or misbranded violations
(1) The manufacture or distribution of any commercial feed that is adulterated or misbranded pursuant to 2 O.S. §8-41.7(1).
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $10,000
(2) The adulteration or misbranding of any commercial feed pursuant to 2 O.S. §8-41.7(2).
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $10,000
(d) Order violations
(1) Violation of a stop sale order pursuant to 2 O.S. §8-41.12(A).
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $10,000
(2) Failure to comply with condemnation or confiscation order pursuant to 2 O.S. §8-41.12(B).
(A) First Violation - $250 to $1,500
(B) Second Violation - $750 to $3,000
(C) Subsequent Violations - $3,000 to $10,000
(e) Failure to keep tonnage record and/or provide an accurate report pursuant to 2 O.S. §8-41.9(B)(2).
(1) First Violation - $250 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $2500
(f) Fee violations
(1) Failure to pay inspection fee by due date pursuant to 2 O.S. §8-41.9(B) shall result in a penalty of 10% of Amount Due (Minimum of $50.00).
(2) Failure to remit deficiency inspection fees found as a result of an audit pursuant to 2 O.S. §8-41.9(D) shall result in a penalty of $100 or 10% of amount due, whichever is greater, but shall not exceed $2,000.
(g) Any other violation of the Oklahoma Commercial Feed Law not otherwise addressed.
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000

35:3-1-18. Violations of the Oklahoma Fertilizer Law

(a) Licensing violations
(1) Sale or distribution of fertilizer without a license pursuant to 2 O.S. §8-77.5(B) and OAC 35:30-29-51(A).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(2) Failure to obtain a license for each business location pursuant to 2 O.S. §8-77.5(B).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(b) Registration violations
(1) Distribution of unregistered fertilizer pursuant to 2 O.S. §8-77.5(D).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(2) Failure to register or guarantee plant nutrients pursuant to OAC 35:30-29-22(a).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(c) Label violations

(1) Failure to provide a label pursuant to 2 O.S. §8-77.6(A).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(2) Failure to provide an adequate label pursuant to 2 O.S. §8-77.6(C) and OAC 35:30-29-22(e).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(3) Failure to provide warning or caution statement when required pursuant to OAC 35:30-29-22(c).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(d) Inspection fee and report violations

(1) Failure to provide semiannual inspection fee report and pay inspection fee on time pursuant to 2 O.S. §8-77.7(A) shall result in a penalty of $50 or 10% of the amount due, whichever is greater.

(2) Deficient inspection fees discovered as result of an audit pursuant to 2 O.S. §8-77.7(F) shall result in a penalty of $100 or 10% of amount due, whichever is greater, but shall not exceed $2,500.

(e) Distribution violations

(1) Distribution of misbranded or adulterated fertilizer pursuant to 2 O.S. §8-77.12.

(A) First Violation - $250 to $1500

(B) Second Violation - $750 to $3000

(C) Subsequent Violations - $3000 to $10,000

(2) Distribution of nutrient deficient fertilizer pursuant to 2 O.S. §8-77.10 and OAC 35:30-29-51(c).

(A) First Violation - $250 to $1500

(B) Second Violation - $750 to $3000

(C) Subsequent Violations - $3000 to $10,000

(f) Records and reports violations

(1) Failure to keep adequate records pursuant to 2 O.S. §8-77.7(H).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $2500

(2) Failure to furnish distribution report pursuant to 2 O.S. §8-77.7(B).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $2500

(g) Pollution prevention violations

(1) 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 pursuant to 2 O.S. §8-77.15(A) and (D) and OAC 35:30-29-34.

(A) First Violation - $500 to $1000

(B) Second Violation - $1000 to $5000

(C) Subsequent Violations - $5000 to $10,000

(2) Failure to properly report fertilizer discharge to Board pursuant to OAC 35:30-29-22(l).

(A) First Violation - $100 to $500

(B) Second Violation - $500 to $1000

(C) Subsequent Violations - $1000 to $2500

(3) Failure to prepare discharge response plan pursuant to OAC 35:30-29-22(m).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(4) Failure to have copy of discharge response plan available pursuant to OAC 35:30-29-22(n).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(h) Miscellaneous violations

(1) Failure to meet storage facility requirements pursuant to OAC 35:30-29-31 through 35:30-29-32 and OAC 35:30-29-35 through 35:30-29-37.

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $2550

(C) Subsequent Violations - $2500 to $10,000

(2) Failure to employ a method to prevent backflow with sprinkler irrigation systems pursuant to OAC 35:30-29-33.

(A) First Violation - $250 to $1500

(B) Second Violation - $750 to $3000

(C) Subsequent Violations - $3000 to $7500

(3) Failure to meet Anhydrous Ammonia requirements pursuant to OAC 35:30-29-38.

(A) First Violation - $100 to $500

(B) Second Violation - $500 to $2500

(C) Subsequent Violations - $2500 to $10,000

(4) Any other violation of the Oklahoma Fertilizer Law not otherwise addressed.

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $2500

(C) Subsequent Violations - $2500 to $5000

35:3-1-19. Violations of the Oklahoma Horticulture Law

(a) Licensing violations

(1) Failure to obtain a license pursuant to 2 O.S. §3-32.8(8).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(2) Misrepresenting or falsifying information on a license application pursuant to 2 O.S. §3-32.8(7).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) 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 pursuant to 2 O.S. §3-32.8(9).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(4) Failure to provide the legal description of all growing locations of nursery stock or sod pursuant to 2 O.S. §3-32.8(10).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(5) Making a false declaration of acreage pursuant to 2 O.S. §3-32.8(1)(b).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(b) Plant health and quality violations
(1) Offering for sale nursery stock which is seriously or substantially devitalized pursuant to 2 O.S. §3-32.8(1)(d).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(2) Selling, offering for sale, or distributing any nursery stock infected or infested with a plant pest pursuant to 2 O.S. §3-32.8(4).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(3) Selling, offering for sale, or distributing nursery stock that is not healthy, sound, and capable of growth pursuant to 2 O.S. §3-32.8(5).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(4) Misrepresenting the grade, character, variety, or quality of any nursery stock pursuant to 2 O.S. §3-32.8(1)(a).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(5) Mislabeling nursery stock by using the wrong common name or botanical name pursuant to 2 O.S. §3-32.8(14).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(6) Failure to carry out treatment or destruction of nursery stock as ordered by the Board pursuant to 2 O.S. §3-32.8(6).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(7) Selling, moving, or distributing nursery stock or other material under quarantine pursuant to 2 O.S. §3-32.8(13).
(A) First Violation - $100 to $2500
(B) Second Violation - $2500 to $7500
(C) Subsequent Violations - $7500 to $10,000
(8) Selling nursery stock restricted by a stop sale order pursuant to 2 O.S. §3-32.8(12).
(A) First Violation - $250 to $1000
(B) Second Violation - $1000 to $5000
(C) Subsequent Violations - $5000 to $10,000
(9) 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 pursuant to 2 O.S. §3-32.8(15).
(A) First Violation - $100 to $2500
(B) Second Violation - $2500 to $7500
(C) Subsequent Violations - $7500 to $10,000
(10) Any other violation of the Oklahoma Horticulture Law not otherwise addressed
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000

35:3-1-20. Violations of the Oklahoma Seed Law

(a) Failure to obtain a license pursuant to 2 O.S. §8-23(A)(1).
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000
(b) Labeling and advertising violations
(1) Failure to provide a label pursuant to 2 O.S. §8-22
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $10,000
(2) False or misleading label pursuant to 2 O.S. §8-23(A)(3); OAC 35:30-25-2; OAC 35:30-25-7.
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $10,000
(3) False or misleading advertisement pursuant to 2 O.S. §8-23(A)(4).
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $10,000
(4) Selling seed labeled certified that is not in compliance pursuant to 2 O.S. §8-23(B)(8).
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $10,000
(5) Failure to provide a caution or warning statement pursuant to 2 O.S. §8-23(A)(5).
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $10,000
(c) Standards violations
(1) Date of test exceeds standards pursuant to 2 O.S. §8-23(A)(2) and OAC 35:30-25-6.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(2) Failure to meet minimum standards for germination and purity pursuant to 2 O.S. §8-23(B)(1) and OAC 35:30-25-5.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(d) Content violations

(1) Exceeds maximum for inert matter and weed seed pursuant to 2 O.S. §8-23(B)(1) and OAC 35:30-25-4.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(2) Selling seed that contains prohibited noxious weeds pursuant to 2 O.S. §8-23(B)(2) and OAC 35:30-25-4.
(A) First Violation - $250 to $1500
(B) Second Violation - $750 to $3000
(C) Subsequent Violations - $3000 to $10,000
(3) Selling seed that exceeds tolerance for restricted noxious weeds pursuant to 2 O.S. §8-23(B)(2) and OAC 35:30-25-4.
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $1000
(e) Order violations
(1) Violation of Stop Sale Order pursuant to 2 O.S. §8-23(B)(6).
(A) First Violation - $100 to $1000
(B) Second Violation - $1000 to $5000
(C) Subsequent Violations - $5000 to $10,000
(2) Failure to keep records pursuant to 2 O.S. §8-23(B)(7).
(A) First Violation - $100 to $500
(B) Second Violation - $250 to $750
(C) Subsequent Violations - $500 to $2500
(f) Fee violations
(1) Failure to pay inspection fee by due date pursuant to 2 O.S. §8-26(9) shall result in a penalty of $10 or 10% of the amount due, whichever is greater.
(2) Deficient inspection fees discovered by audit pursuant to 2 O.S. §8-29(B) shall result in a penalty of $100 or 10% of amount due, whichever is greater, but shall not exceed $2,000.
(g) Any other violation of the Oklahoma Seed Law not otherwise addressed.
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000

35:3-1-21. Violations of the Oklahoma Services Technician and Service Agency Law

(a) Failure to renew service agency and service technician license within thirty (30) days from expiration pursuant to 2 O.S. §14-63(E) shall result in a penalty of twice the amount charged for the renewal.
(b) Failure to attach an approval seal approved by the Board that identifies the service agency, signed by the service technician pursuant to 2 O.S. §14-65(3).
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000
(c) Failure to meet the requirements of the Oklahoma Service Technician and Service Agency Act rules pursuant to 2 O.S. §14-68 and OAC 35:10-5-1 through OAC 35:10-5-6.
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000
(d) Failure to correct work on each job that fails to meet the requirements and required testing procedures as Specified in Handbook 44 pursuant to 2 O.S. §14-69(1).
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000
(e) 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 pursuant to 2 O.S. §14-69(2).
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000
(f) 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 pursuant to 2 O.S. §14-69(3
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000
(g) 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 pursuant to § 2-14-69(4).
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000
(h) 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 pursuant to 2 O.S. §14-69(5).
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000
(i) Making a misrepresentation for the purpose of defrauding pursuant to 2 O.S. §14-69(6).
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000
(j) Operating as a service technician or service agency without a license pursuant to 2 §14-69(7).
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000
(k) Repairing a weight or measure unless the repairs involved cause 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 pursuant to 2 O.S. §14-69(8).
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000
(l) Failure to submit a placing-in-service report to the Board within five (5) calendar days after that repair, installation, or removal is performed pursuant to 2 O.S. §14-69(9).
(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750

(3) Subsequent Violations - $500 to $1000

(m) Filing a false or fraudulent application to the Board pursuant to 2 O.S. §14-69(10).

(1) First Violation - $100 to $500

(2) Second Violation - $250 to $750

(3) Subsequent Violations - $500 to $1000

(n) Any other violation of the Oklahoma Service Technician and Service Agency Law not otherwise addressed.

(1) First Violation - $100 to $500

(2) Second Violation - $250 to $750

(3) Subsequent Violations - $500 to $1000

35:3-1-22. Violations of the Oklahoma Soil Amendment Law

(a) Labeling violations

(1) Failure to provide a Label pursuant to 2 O.S. §8-85.4(A) and (B).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(2) Failure to approve an ingredient with the Board before listing it on a label pursuant to 2 O.S. §8-85.4(F).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(3) Failure to provide proof of claims pursuant to 2 O.S. §8-85.4(C).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(b) Registration violations

(1) Failure to register a product pursuant to 2 O.S. §8-85.5(A) and (E) shall result in a $100 Late Fee

(2) Failure to provide a copy of all information promoting sales pursuant to 2 O.S. §8-85.5(D).

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

(c) Miscellaneous violations

(1) Violation of Stop Sale Order pursuant to 2 O.S. §8-85.7.

(A) First Violation - $100 to $1000

(B) Second Violation - $1000 to $5000

(C) Subsequent Violations - $5000 to $10,000

(2) Any other violation of the Oklahoma Soil Amendment Act not otherwise addressed.

(A) First Violation - $100 to $500

(B) Second Violation - $250 to $750

(C) Subsequent Violations - $500 to $1000

35:3-1-23. Violations of the Oklahoma Standard Weights and Measures Law

(a) Failure to meet the requirements of Handbook 44 "Specifications, Tolerances, and Other Technical Requirements For Weighing and Measuring Devices" pursuant to 2 O.S. §14-34.

(1) First Violation - $100 to $500

(2) Second Violation - $250 to $750

(3) Subsequent Violations - $500 to $1000

(b) Failure to meet the requirements of the "Uniform Packaging And Labeling Regulation" pursuant to 2 O.S. §14-35(2) and OAC 35:10-9-1.

(1) First Violation - $100 to $500

(2) Second Violation - $250 to $750

(3) Subsequent Violations - $500 to $1000

(c) Failure to repair a weighing and measuring device within the specified time pursuant to 2 O.S. §14-35(2) and (7).

(1) First Violation - $100 to $500

(2) Second Violation - $250 to $750

(3) Subsequent Violations - $500 to $1000

(d) Failure to meet the requirements of Handbook 133 "Checking The Net Contents Of Packaged Goods" pursuant to 2 O.S. §14-35(2) and (8) and OAC 35:10-11-1.

(1) First Violation - $100 to $500

(2) Second Violation - $250 to $750

(3) Subsequent Violations - $500 to $1000

(e) The average quantity of contents of packages in a lot, shipment, or delivery must equal or exceed the quantity printed on the label pursuant to 2 O.S. §14-35(2) and (8) and OAC 35:10.11.1.

(1) First Violation - $100 to $500

(2) Second Violation - $250 to $750

(3) Subsequent Violations - $500 to $1000

(f) The variation of individual package contents from the labeled quantity shall not exceed the maximum allowed Variation (MAV) on individual packages in the lot pursuant to 2 O.S. §14-35(2) and (8) and OAC 35:10.11.1.

(1) First Violation - $100 to $500

(2) Second Violation - $250 to $750

(3) Subsequent Violations - $500 to $1000

(g) Failure to meet the requirements of the "Uniform Regulations For The Method Of Sale Of Commodities" pursuant to 2 O.S. §14-35(2) and (3) and OAC 35:10-13-1.

(1) First Violation - $100 to $500

(2) Second Violation - $500 to $2500

(3) Subsequent Violations - $2500 to $10,000

(h) Failure to meet the requirements of the "National Type Evaluation Program (NTEP)" pursuant to 2 O.S. §14-35(2) and OAC 35:10-15-1 through 35:10-15-4.

(1) First Violation - $100 to $500

(2) Second Violation - $250 to $750

(3) Subsequent Violations - $500 to $1000

(i) Failure to meet the requirements of the "Uniform Open Dating Regulation" pursuant to 2 O.S. §14-35(2) and (3) and OAC 35:10-17-1.

(1) First Violation - $100 to $500

(2) Second Violation - $250 to $750

(3) Subsequent Violations - $500 to $1000

(j) Failure to meet the requirements of the "Examination Procedures For Price Verification" pursuant to 2 O.S. §14-35(2) and OAC 35:10-19-1.

(1) First Violation - $100 to $500

(2) Second Violation - $250 to $750

(3) Subsequent Violations - $500 to $1000

(k) Failure to meet accuracy requirements for the appropriate sample size in column 4, 98% accuracy with one overcharge

and one undercharge item pursuant to 2 O.S. §14-35(2) and OAC 35:10-19-1.

(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000

(l) Sold, offered, or exposed for sale any item for less than the quantity represented or took more than the represented quantity when the buyer furnishes the weight or measure that determines the quantity pursuant to 2 O.S. §14-38(1).

(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000

(m) 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 pursuant to 2 O.S. §14-38(2).

(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000

(n) Use, or have in possession for use in Commerce, any incorrect weight or measure pursuant to 2 O.S. §14-42(1).

(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000

(o) Remove any tag, seal, or mark from any weight or measure without specific written authorization from the proper authority pursuant to 2 O.S. §14-42(2).

(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000

(p) Hinder or obstruct any weights and measures official in performance of the duties of the official pursuant to 2 O.S. §14-42(3).

(1) First Violation - $100 to $1000
(2) Second Violation - $1000 to $5000
(3) Subsequent Violations - $5000 to $10,000

(q) Any other violation of the Oklahoma Standard Weights and Measures Law not otherwise addressed.

(1) First Violation - $100 to $500
(2) Second Violation - $250 to $750
(3) Subsequent Violations - $500 to $1000

PART 17. WATER QUALITY VIOLATIONS [RESERVED]

[OAR Docket #04-472; filed 3-26-04]

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

[OAR Docket #04-479]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Eggs [REVOKED]
35:10-3-1. through 35:10-3-10. [REVOKED]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. 2001, §§ 2-4(2), (5), (22), (23), (27), (28) and (29)
DATES:
Comment period:
December 15, 2003 through January 15, 2004
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Submitted to Governor:
January 22, 2004
Submitted to House:
January 22, 2004
Submitted to Senate:
January 22, 2004
Gubernatorial approval:
March 8, 2004
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2004
Final adoption:
March 24, 2004
Effective:
May 27, 2004
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The Department of Agriculture, Food, and Forestry has established a new division that will supervise and regulate Food Safety. The proposed rules will be moved to a new chapter that will govern food safety regulation. The new chapter will allow the rule regarding eggs to be reorganized and located with other food safety rules greatly increasing readability.
CONTACT PERSON:
Billy Klein, (405) 522-5898; billy@oda.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 MAY 27, 2004:

SUBCHAPTER 3. EGGS [REVOKED]

35:10-3-1. Oklahoma standards [REVOKED]

~~Grades and weight classes for shell eggs shall be those as set forth in the "United States Standards, Grades, and Weight Classes for Shell Eggs," maintained by the United States Department of Agriculture ("USDA"), Agricultural Marketing Service, Poultry Division, as AMS 56 (1995 Version).~~

35:10-3-2. Methods of grading [REVOKED]

~~Methods of egg grading shall be the same as those described in USDA Egg Grading Manual, AH 75 (2000 Version).~~

35:10-3-3. Display of eggs for sale [REVOKED]

~~All eggs offered or displayed for sale to consumers shall be in customary containers. Eggs shall not be offered or displayed for sale to consumers in bulk displays.~~

35:10-3-4. Improper marking and signs; advertising [REVOKED]

~~Window display signs advertising eggs for sale must be plainly and uniformly marked with the price, grade, and size of the eggs. Oklahoma Department of Agriculture, Food, and Forestry inspectors are authorized to deface immediately any label or marking on any egg container or display that does not comply with the Oklahoma Egg Law and rules, including any window sign that contains false or misleading information or that fails to include all required information.~~

35:10-3-8. Display of egg license [REVOKED]

~~Egg packers and dealers shall obtain and display in a prominent place a separate state egg license for each packing plant and each shipping point, as set forth in the Oklahoma Egg Law, Section 10-81.~~

35:10-3-9. Egg inspection fee permits [REVOKED]

~~(a) Licensed egg packers selling eggs in the state of Oklahoma shall submit reports and remit inspection fees to the Department on a monthly basis.~~

~~(b) At the time of license application, small egg packers that pack less than five thousand (5,000) dozen eggs per year shall pre-pay an annual inspection fee in the amount of fifteen dollars ($15.00).~~

35:10-3-10. Samples for inspections [REVOKED]

~~(a) Department of Agriculture, Food, and Forestry inspectors shall inspect every retail, dealer, and packer location offering eggs and egg products for sale to consumers.~~

~~(b) Inspectors shall personally draw samples from each lot of eggs and shall follow USDA shell egg statutes, rules, and handbooks on official grading.~~

[OAR Docket #04-479; filed 3-26-04]

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

[OAR Docket #04-476]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Animal Health Reportable Diseases
35:15-3-4. [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:
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Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2004
Final adoption:
March 24, 2004
Effective:
April 26, 2004
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The purpose of the proposed rule is to clarify reporting procedures by persons engaged in the practice of veterinary medicine to the State Veterinarian regarding clinical symptoms indicating a possible contagious and infectious disease prior to a confirmed diagnosis.
CONTACT PERSON:
Dr. Burke Healey, Director, Animal Industry Services, Oklahoma Department of Agriculture, Food, and Forestry (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 APRIL 26, 2004:

SUBCHAPTER 3. ANIMAL HEALTH REPORTABLE DISEASES

35:15-3-4. Diseases by clinical symptoms

Diseases not confirmed or diagnosed as a List A or List B disease shall be reported as a List A disease if the following clinical symptoms are exhibited:

(1) Sore mouth or muzzle, especially if accompanied by foot, udder, vulva, or skin lesions resembling blisters or vesicles.

(2) Encephalitis (CNS) conditions in all animals and avians.

(3) High death loss, especially over a short period of time in animals more than several weeks old.

(4) Reproductive problems.

(5) Any highly unusual condition or unusual symptomatology of any kind.

[OAR Docket #04-476; filed 3-26-04]

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

[OAR Docket #04-475]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 11. Importation of Livestock, Poultry, and Pets

Part 11. Poultry and Other Avian Species [NEW]
35:15-11-41. [NEW]

AUTHORITY:
Oklahoma State Board of Agriculture and the Oklahoma Agriculture Code; 2 O.S. 2001 §§ 2-4(2 & 7), 6-2, and 6-133

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Subchapter 11. Importation of Livestock, Poultry, and Pets
Part 11. Poultry and Other Avian Species [NEW]
35:15-11-41. [NEW]
Gubernatorial Approval:
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Register Publication:
20 Ok Reg 785
Docket Number:
03-473

INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
The purpose of this rule is to provide specific and necessary importation restrictions on poultry and other avian species entering Oklahoma from or passing through states quarantined due to an outbreak of Exotic Newcastle Disease. This rule is to protect the Oklahoma poultry and avian species industries from the devastating effects caused by this foreign animal disease. This rule addresses recent importation problems, actions to be taken if birds become infected, and promotes the continued growth and economic development of the poultry and avian species industries 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 APRIL 26, 2004:

SUBCHAPTER 11. IMPORTATION OF LIVESTOCK, POULTRY, AND PETS

PART 11. POULTRY AND OTHER AVIAN SPECIES

35:15-11-41. Poultry and other avian species importation

(a) No person shall import poultry or other avian species or products of poultry or other avian species originating from or transported through an area under quarantine by any state or federal animal health official for Exotic Newcastle Disease.
(b) Poultry or other avian species determined to be infected with or exposed to Exotic Newcastle Disease shall be destroyed without compensation to the owner.

[OAR Docket #04-475; filed 3-26-04]

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

[OAR Docket #04-474]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 15. Equine Infectious Anemia (EIA)
Part 1. General Provisions [AMENDED]
Part 11. Requirements for Equidae Entering Oklahoma [AMENDED]

AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and (7) and 2 O.S. 2001 § 6-286

DATES:
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N/A

INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
The proposed rule changes will allow the State of Oklahoma to become a participating member of the Equine Interstate Event Permit Agreement by and between the State Animal Health Regulatory Agencies of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. The equine event permit enhances the coordination and cooperation of these states regarding the interstate transportation of equine. Thus, providing more flexibility to horse owners in Oklahoma and in the above participating states traveling into and through the participating states for horse shows, rodeos, and other horse events.

CONTACT PERSON:
Dr. Burke Healey, Director, Animal Industry Services, Oklahoma Department of Agriculture, Food, and Forestry (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 APRIL 26, 2004:

SUBCHAPTER 15. EQUINE INFECTIOUS ANEMIA (EIA)

PART 1. GENERAL PROVISIONS

35:15-15-4. Definitions

The following words or 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.

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

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

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

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

"Certificate" means an official document issued by an accredited veterinarian at the point of origin of a shipment of Equidae and includes the name, breed, any registration number, any tattoo, any brand, sex, age, color, and markings sufficient to positively identify each Equidae listed on the form. It shall also include a record of a physical examination of each animal verifying freedom from visible evidence of any contagious, infectious, or communicable diseases and the results of an official test for equine infectious anemia, including the name of the approved laboratory, the case number, and the date of the most recent test results.

"Certified copy" means a photocopy of an original VS 10-11 Equine Infectious Anemia Laboratory Test which is stamped or sealed and signed by an authorized official of a state agency, commission, or board approved by the State Veterinarian.

"Designated epidemiologist" means an epidemiologist who has been designated to perform those functions necessary for the classification of Equidae, based on the evaluation of test results and consideration of the animal and herd history as well as other epidemiologic factors. The selection of the designated epidemiologist shall be made by the State Veterinarian.

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

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

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

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

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

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

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

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

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

"Official Equine Passport" <u>or "Equine Interstate Event Permit"</u> means an approved document issued by an accredited veterinarian at the point of origin of a shipment of equine originating in a state with an equine passport agreement <u>or equine interstate event permit agreement</u>.

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

"Official test" means the agar gel immunodiffusion (AGID) or "Coggins" test, the competitive enzyme-linked immunosorbent assay (CELISA) test, the synthetic antigen enzyme-linked immunosorbent assay (SA-ELISA) test, any USDA licensed tests, or any other diagnostic test approved by the State Veterinarian.

"Oklahoma Certified EIA Laboratory" means any approved laboratory that has passed additional proficiency tests administered by the Board.

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

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

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

"Quarantine" means a written notice or order issued by an authorized agent of the Board showing the boundaries of the area or premise affected, the Equidae restricted, and any conditions.

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

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

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

PART 11. REQUIREMENTS FOR EQUIDAE ENTERING OKLAHOMA

35:15-15-111. General requirements for Equidae entering Oklahoma

(a) All test eligible Equidae, entering Oklahoma for any purpose other than consignment to a veterinarian's clinic or an approved slaughter facility shall be accompanied by one of the following:

(1) An Official Equine Passport.

(2) A record of a negative official test for EIA conducted within the previous twelve (12) months and a certificate of veterinary inspection.

(3) An equivalent certificate as approved by the State Veterinarian.

(b) An Official Equine Passport shall include the following:

(1) The name, breed, sex, age, color, and an electronic identification, a unique brand, or a tattoo to positively identify each Equidae listed on the form~~.~~, provided that any owner using electronic identification shall carry and maintain a functional reader or scanner.

(2) A record of a physical examination of each Equidae verifying freedom from visible evidence of any contagious, infectious, or communicable diseases at the time of the examination.

(3) The negative test results of an official test for EIA, including the name of the approved laboratory, the case or accession number, and the date of the most recent test.

(4) A VS Form 10-11 or equivalent EIA test chart for each animal.

~~(c) Each Equidae shall have tested negative for EIA within thirty (30) days prior to the date the Official Equine Passport is issued.~~

(~~d~~c) The Official Equine Passport shall be valid and meet import requirements for a period of ~~one hundred eighty (180) days from the date of the EIA test.~~ six (6) months when accompanied by proof of an official negative VS Form 10-11 or equivalent EIA test chart. In no instance shall a permit expiration date exceed twelve (12) months after the date of a negative EIA test.

(d) An Official Equine Passport shall only be issued by a state animal health official from Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Virginia, or West Virginia in accordance with the signed Memorandum of Agreement by and between the state animal health regulatory agencies.

[OAR Docket #04-474; filed 3-26-04]

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

[OAR Docket #04-477]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 25. Meat Inspection [REVOKED]
35:15-25-1. through 35:15-25-380. [REVOKED]
Subchapter 27. Poultry Products Inspection [REVOKED]
35:15-27-1. through 35:15-27-401. [REVOKED]
Subchapter 29. Construction Standards for Meat Packing Plants [REVOKED]
35:15-29-1. through 35:15-29-144. [REVOKED]
Subchapter 31. Oklahoma Rabbit and Rabbit Products Inspection Regulations [REVOKED]
35:15-31-1. through 35:15-31-80. [REVOKED]
Subchapter 41. Exotic Livestock and Exotic Livestock Products [REVOKED]
35:15-41-1. through 35:15-41-256. [REVOKED]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. (2001) §§ 2-4(2), (5), (7), (23), (27), (28) and (29)
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N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The Department of Agriculture, Food, and Forestry has established a new division that will supervise and regulate Food Safety. The proposed rules will be moved to a new chapter that will govern food safety regulation. The new chapter will allow these rules to be reorganized and located with other food safety rules greatly increasing readability.
CONTACT PERSON:
Stan Stromberg, Director, Meat Inspection Services, Oklahoma Department of Agriculture, Food, and Forestry (405) 522-6113

DUE TO EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT THE OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY, 2800 NORTH LINCOLN BOULEVARD, OKLAHOMA CITY, OKLAHOMA 73105-4298, 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:
The Department of Agriculture, Food, and Forestry has established a new division that will supervise and regulate Food Safety. The purpose of the proposed rule is to revoke the subchapters entirely so that they can be moved to the new Food Safety chapter. This will allow the rules to be reorganized and located with other food safety rules greatly increasing readability.
Copies may be obtained by contacting Cathy Clinton, Legal Services Division, Oklahoma Department of Agriculture, Food, and Forestry at (405) 522-5997.

[OAR Docket #04-477; filed 3-26-04]

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

[OAR Docket #04-473]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 47. Chronic Wasting Disease (CWD) in Cervidae
Part 3. Herd Certification Standards
35:15-47-6. [AMENDED]
Part 5. Disposition of Positive and Trace Herds
35:15-47-12. through 35:15-47-14. [AMENDED]
Part 7. Interstate Movement Requirements
35:15-47-18. [AMENDED]
35:15-47-19. [AMENDED]
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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INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The proposed rule changes are based off new epidemiology reports detailing the viability of the CWD prion in cervids and in the natural environment. The proposed change in rule 35:15-47-6 requires accredited veterinarians to include the origin of all herd additions on annual verifications of herd inventories. In rules 35:15-47-12, 35:15-47-13, and 35:15-47-14 the Department is increasing the time periods used to define trace-forward and trace-back herds, as well as increasing the quarantine times of these herds. In rule 35:15-47-18 the amendment would restrict importation of cervids from states that have ever had CWD in any free-ranging cervids. The proposed change in rule 35:15-47-19 allows the State Veterinarian the ability to alter the conditions required for disposition of cervids unlawfully imported into the state. These changes are necessary to protect the cervid industry and the wild cervid population in the state.
CONTACT PERSON:
Dr. Burke Healey, Director, Animal Industry Services, Oklahoma Department of Agriculture, Food, and Forestry (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 APRIL 26, 2004:

SUBCHAPTER 47. CHRONIC WASTING DISEASE (CWD) IN CERVIDAE

PART 3. HERD CERTIFICATION STANDARDS

35:15-47-6. Minimum requirements for herd certification

(a) Herd owners shall have perimeter fencing adequate to confine their cervidae and prevent access by other cervidae.
(b) Herd owners shall perform surveillance testing of all deaths occurring in cervidae over sixteen (16) months of age. The State Veterinarian may approve exemptions from this requirement on a case by case basis.
(c) Herd owners shall maintain the highest quality sampling for use in the surveillance testing. The State Veterinarian may adjust the surveillance levels and herd status if poor quality samples are routinely submitted from a premise.

(d) An accredited veterinarian or state or federal animal health official shall perform an annual verification of the herd inventory. The annual verification shall include a comparison of all cervidae with the herd inventory and provide specific information on the disposition of each cervid not present and the origin of all herd additions since the last inventory verification. The herd inventory shall also include information on any cervidae subgroups within the herd and shall detail all management, including movement between subgroups, for the purpose of assessing risk to other cervidae on the premises in the event a CWD positive cervid is diagnosed.

(e) Herd owners shall report all cervidae deaths and maintain documentation on any cervidae movement.

(f) Each cervid shall have at least two (2) identifiers which may include an official ear tag or any other visible, permanent identification device approved by the Board.

(g) The initial herd inventory shall contain a Global Positioning System (GPS) or legal description of the premises and shall include a detailed description of the physical facilities, including fences, gates, and structures.

(h) Herd status.

(1) The status of each herd shall be based on the number of years the herd has been enrolled in the CWD herd certification program and shown no evidence of CWD.

(2) If cervidae from a herd of lower status are added to another herd, the receiving herd's status shall revert to the same status as the herd from which the cervidae were acquired.

(3) If a cervid is added from a herd that is not in the CWD herd certification program, the receiving herd shall lose its herd status and start over at the beginning of the herd certification process.

(i) Diagnosis of CWD shall be determined by testing a post-mortem brain at a CWD certified laboratory. Any positive diagnosis at one laboratory shall be confirmed by the National Veterinary Services Laboratory (NVSL) or other CWD certified laboratory.

(j) The Board shall issue a quarantine on any herd that contained a CWD positive cervid. The quarantined herd shall not participate in the herd certification program until all herd plan requirements are completed.

PART 5. DISPOSITION OF POSITIVE AND TRACE HERDS

35:15-47-12. Types of trace herds

(a) A trace-forward herd is any herd that received cervidae from an affected herd up to ~~thirty-six (36)~~ sixty (60) months prior to the death of the affected cervid.

(b) A trace-back herd is any herd where an affected cervid resided up to ~~thirty-six (36)~~ sixty (60) months prior to death.

35:15-47-13. Herd plans for trace-forward herds

(a) In trace-forward herds, the trace-forward cervid shall be removed and tested for CWD.

(b) If the cervid tests positive, the trace-forward herd is deemed positive and shall be depopulated.

(c) If the cervid tests negative, the herd owner shall either enter the trace-forward herd in the CWD herd certification program for a minimum of three (3) years or shall complete the following requirements:

(1) A state or federal animal health official shall inspect the trace-forward herd, and all suspect and high risk cervidae shall be removed and tested for CWD;

(2) The trace-forward herd shall be quarantined for at least ~~three (3)~~ five (5) years from the date the trace-forward cervid was removed from the herd; and

(3) The herd owner shall report and CWD test all cervidae that die during the quarantine.

(d) The requirements of (a) and (c) may be altered by the State Veterinarian if epidemiology supports the decision.

35:15-47-14. Herd plans for trace-back herds

(a) A state or federal animal health official shall inspect the trace-back herd, and all suspect and high risk cervidae shall be removed and tested for CWD.

(b) A state, federal, or accredited veterinarian shall perform a herd inventory for the trace-back herd. The inventory shall identify each cervid on the premises and shall be verified annually.

(c) The trace-back herd shall be quarantined for at least ~~three (3)~~ five (5) years from the date the trace-back cervid was removed from the herd. The term of the quarantine may be altered by the State Veterinarian if epidemiology indicates that the CWD in the trace-back cervid did not originate in the trace-back herd.

(d) Herd owners shall report and CWD test all cervidae that die during the quarantine.

PART 7. INTERSTATE MOVEMENT REQUIREMENTS

35:15-47-18. Minimum CWD requirements for interstate movement of cervids

(a) A person shall not import white-tail deer, black-tail deer, mule deer, red deer (European elk), or elk into the state of Oklahoma if the state of origin ~~at the time of importation~~ has ever had any free-ranging cervidae infected with CWD. The State Veterinarian may grant an exemption from this requirement but only under quarantine restrictions.

(b) A person shall not import white-tail deer, black-tail deer, mule deer, red deer (European elk), or elk into the state of Oklahoma unless the herd of origin has participated since January 1, 2002, in a state or federal CWD herd certification program that imposes response measures for positive and trace herds at least equal to the requirements described in this Subchapter.

(c) Any person importing cervidae to an approved slaughter facility operated pursuant to state or federal inspection is exempt from (a) and (b) of this section, as long as the cervidae are transported directly to the slaughter facility without any diversions.

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.

(4) The above conditions can be altered by the State Veterinarian if it is determined the cervidae entered Oklahoma on a Certificate of Veterinary Inspection issued by a veterinarian accredited in the state of origin and if epidemiology supports the decision.

(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 #04-473; filed 3-26-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 20. FORESTRY

[OAR Docket #04-480]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 17. Forest Resources Development Program
Part 3. Cost-Share Program Guidelines
35:20-17-7. [AMENDED]
35:20-17-8. [AMENDED]
35:20-17-14. [AMENDED]
35:20-17-15. [AMENDED]
35:20-17-18. [AMENDED]
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Oklahoma State Board of Agriculture; 2 O.S. Article 16, Section 16-10
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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]
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20 Ok Reg 785
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INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The Forestry Services Division proposes to amend its permanent rules governing the administration of the Forest Resources Development Program, a forestry cost-share program intended to assist private landowners with implementation of practices on their lands. Final publication of federal rules for the Forest Land Enhancement Program in the Federal Register on June 9, 2003, and subsequent meetings of the Forest Stewardship Committee have helped identify changes that are needed in the rules to be consistent with program guidelines.
CONTACT PERSON:
Kurt Atkinson, (405) 522-6147; kurt@oda.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 APRIL 26, 2004:

SUBCHAPTER 17. FOREST RESOURCES DEVELOPMENT PROGRAM

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 primarily engaged in the manufacture of wood products, public utilities, owners of less than 10 contiguous acres, unless a waiver is approved by the Director, 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.~~

35:20-17-14. 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~~ Forestry Services 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~~ 12 months of the date of approval.

(b) Forestry Services' State Office may approve an extension of up to ~~six (6)~~ twelve (12) 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.

35:20-17-18. 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~~ may make partial payments for completed components.

[OAR Docket #04-480; filed 3-26-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #04-487]

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PERMANENT final adoption
RULES:
Subchapter 14. Oklahoma Boll Weevil Quarantine [AMENDED]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. (2001) §§ 2-4(2), 2-4(29), and 3-50.1 et seq. [specifically 3-50.17]
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ANALYSIS:
The Oklahoma Boll Weevil Eradication Organization has submitted these rules to the Department for promulgation. These rule changes shall clearly define terms used in the statutes and rules. In addition the changes shall enable the state's eradication and quarantine process to work with the eradication process in Texas and surrounding states to provide similar levels of eradication that shall help eliminate paperwork for producers and transporters of cotton and cotton products moving across state lines.

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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 APRIL 26, 2004:

SUBCHAPTER 14. OKLAHOMA BOLL WEEVIL QUARANTINE

35:30-14-1. Definitions

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

"Certificate" means a document issued by an authorized agent of the Department indicating that the movement or transportation of the regulated article complies with the legal requirements detailed in these rules.

~~**"Compliance agreement"** means a written agreement between a person engaged in growing, dealing, or moving regulated articles and the Oklahoma Department of Agriculture, Plant Industry and Consumer Services, wherein the former agrees to comply with conditions specified in the agreement to prevent the dissemination of the boll weevil.~~

"Cotton products" means seed cotton, cotton lint, linters, oil mill waste, gin waste, squares, bolls, gin trash, cotton seed, cottonseed hulls, and all other forms of cotton fiber, excluding the cotton plant or any part of it including stalks, flowers, roots, or leaves.

"Cotton production equipment" means cotton equipment used to plant, harvest, ~~strip,~~ transport, or destroy cotton.

~~**"Eradicated zone"** means that portion of this state or any other state that has been classified as boll weevil free.~~

~~**"Eradication zone"**~~ **"Elimination zone"** means that portion of this state where eradication of the boll weevil is undertaken as an objective.

"Eradicated area" means an area free of boll weevil or an area where documentation acceptable to both the Board of directors and the Department is provided that indicates no boll weevils were captured for a period of at least one cotton growing season by boll weevil pheromone traps operated by the Organization or any other state agency.

~~**"Exemptions"** mean provisions contained in these rules which provide for modifications in conditions of movement of regulated articles from regulated areas under specified conditions.~~

~~**"Farm operator"** means person responsible for production and sale of a cotton crop on any individual farm.~~

"Functionally eradicated area" means an area meeting the trapping criteria for a suppressed area with no confirmed evidence of boll weevil reproduction, no oviposition in squares, and movement of regulated articles into or through the area presents a threat to the success of the boll weevil eradication program. The boll weevil population shall be equal to or less than the average of 0.001 boll weevils per trap per week during the cotton-growing season as measured by boll weevil pheromone traps operated by the Organization or any other state agency.

~~**"Gin trash"** means all of the material produced during the cleaning and ginning of seed cotton, bolls, or snapped cotton except the lint, cottonseed, and gin waste.~~

"Inspector" means any authorized ~~employee~~ agent of the Oklahoma Department of Agriculture, Food, and Forestry ~~Plant Industry Division, or any other person authorized by the Board~~ assigned to enforce the provisions of ~~this Subchapter~~ the Boll Weevil Eradication Act and promulgated rules.

~~**"Noncommercial cotton"** means cotton intended for purposes other than processing.~~

"Permit" means a specialized document issued by an authorized agent of the Department for the movement or transportation of a regulated article that complies with the legal requirements in these rules.

"Quarantined area" means that portion of an elimination zone not designated as being suppressed, functionally eradicated, or eradicated.

"Regulated area" means any state other than Oklahoma or any portion of that state ~~which~~ that is infested with the boll weevil.

"Restricted area" means that portion of an elimination zone designated as suppressed, functionally eradicated, or eradicated.

~~**"Seed cotton"** means cotton as it comes from the field prior to ginning.~~

"Suppressed area" means an area in which boll weevil reproduction may be present and movement of regulated articles into or through the area presents a threat to the success of the boll weevil eradication program. The boll weevil population must be equal to or less than 0.025 weevils per trap per week during the cotton-growing season as measured by boll weevil pheromone traps operated by the Organization or any other state agency.

35:30-14-2. Regulated articles

The following articles are regulated:

(1) The boll weevil (*Anthonomus grandis* Boheman) in any living stage of development.

(2) ~~Seed cotton~~ Cotton.

(3) ~~Gin trash~~ Cotton products.

(4) Cotton production equipment.

(5) Any other products, articles, ~~or~~ means of conveyance, or any ~~character~~ other item not ~~covered by Paragraphs (1) to (4) of this Section, when it is~~ already listed if determined by an inspector that ~~they present~~ a hazard of spreading the boll weevil exists and the person in possession ~~of the item~~ has been notified.

35:30-14-3. Conditions governing the movement of regulated ~~Articles~~ articles

The following conditions govern the movement of regulated articles:

(1) A certificate ~~or permit~~ is required to move or transport regulated articles from:

(A) a regulated or quarantined area into or through any ~~eradication~~ elimination zone or restricted area in this state~~.~~;

(~~2~~B) ~~A certificate is required to transport regulated articles from~~ one ~~eradication~~ elimination zone or restricted area into or through ~~another eradication~~ any other type of elimination zone or restricted area~~, and~~.

(~~3~~2) A certificate may be required to move or transport any regulated ~~article(s)~~ article within ~~an eradication zone~~ designated areas when an inspector determines that the regulated ~~article(s)~~ article ~~present~~ presents ~~a hazard of~~ the potential to spread ~~of~~ boll weevils and the person in possession ~~thereof has been~~ is notified in writing. ~~When certificates or permits are required, they shall be securely attached to the outside of the container in which the article(s) are moved except where the certificate or permit is attached to the shipping document and the regulated article(s) are adequately described on the shipping document or on the certificate or permit, the attachment of the certificate or permit to each of the containers is not required.~~

(~~4~~3) Certificates may be issued by an inspector if the regulated ~~article(s)~~ article:

(A) ~~Have originated~~ Originated in the non-infested area of this state or in a non-infested area of any other state and ~~have~~ was not ~~been~~ exposed to infestation at any time;

(B) ~~Have been~~ Is treated to destroy the infestation in accordance with approved procedures;

(C) ~~Have been~~ Is grown, manufactured, stored, or handled in a manner that ~~will prevent~~ prevents the spread or transmission of an infestation; or

(D) ~~When they have been~~ Is examined by the inspector and found to be free of infestation.

(~~5~~4) Permits may be issued by an inspector to allow the movement of a non-certified, regulated ~~article(s)~~ article for specified handling, utilization, processing, ~~or~~ treatment, or experimental or scientific purposes in accordance with ~~approved~~ procedures and conditions specified in the permit, provided the inspector ~~has determined~~ determines that the movement will not result in the spread of the boll weevil.

(~~6~~5) Any certificate or permit ~~which has been~~ issued or authorized by the Department ~~may~~ shall be withdrawn or revoked ~~by the inspector~~ if ~~they determine~~ the Department determines that the holder ~~has not complied~~ failed to comply with ~~any~~ the procedures and specified conditions set out in ~~for the use of~~ the certificate or permit ~~or with any conditions contained in a compliance agreement~~.

(6) All certificates or permits shall be securely attached to the outside of the container that the article is moved or transported except where the certificate or permit is attached to the shipping document and the regulated article is adequately described on the shipping document or on the certificate or permit.

(7) The following are exempt from the provisions of this rule:

(A) Cotton seed and vehicles transporting cotton seed;

(B) Baled cotton, baled gin motes and linters, and vehicles transporting these articles;

(C) Manufactured cotton products; and

(D) Any regulated article transported or moved from one elimination zone or restricted area to another similarly designated area, unless an inspector determines that the regulated article presents the potential to spread boll weevils and the person in possession is notified in writing.

35:30-14-4. Disposition of certificates and permits

~~In all cases, certificates and permits shall be furnished by the carrier to the consignee at the destination of the shipment~~ Any person that moves or transports regulated articles shall provide any and all records, papers, certificates, or permits issued by the Department on the regulated article to the consignee at the shipment destination.

35:30-14-5. Movement for scientific purposes [REVOKED]

~~Regulated articles may be moved for experimental or scientific purposes in accordance with specified conditions provided a scientific permit is obtained from Plant Industry and Consumer Services and securely attached to the container of the articles or to the article.~~

35:30-14-6. Compliance agreement [REVOKED]

~~(a) As a condition of issuance of certificates or permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving the articles may be required to sign a compliance agreement stipulating that they will maintain safeguards against the establishment and spread of an infestation and comply with the conditions regarding the maintenance of identity, handling, and subsequent movement of the articles, and the cleaning and treatment of the means of conveyance and containers used in the transportation of the articles as may be required by the Board.~~

~~(b) Any compliance agreement may be canceled by the Board whenever it finds that the other party has failed to comply with the conditions of the agreement.~~

~~(c) Any compliance agreement may be canceled when compliance is no longer required.~~

[OAR Docket #04-487; filed 3-26-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #04-483]

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RULES:
Subchapter 17. Combined Pesticide
Part 9. Minimum Standards for Contracts and Keeping of Records
35:30-17-20. [AMENDED]
35:30-17-21. [AMENDED]
Part 10. Minimum Standards for Pesticides
35:30-17-22.2. [AMENDED]
Part 11. Standards for Application of Pesticide
35:30-17-24. [AMENDED]
Part 13. Restricted Areas for the Application of Hormone Type Pesticides
35:30-17-35. [AMENDED]
Part 19. Minimum Fumigation Standards for Structures
35:30-17-83. [AMENDED]

AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. (2001) §§ 2-4(2), 2-4(29), and 3-81 et seq. (especially 3-83, 3-84 and 3-85(A)(1))

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ANALYSIS:
The amendment to 35:30-17-20 is to correct a statutory cite that changed in 2000 and was never corrected and updated in the rule. The Department proposes revoking two record keeping requirements in rule 35:30-17-21 and propose adding for clarification the record keeping requirement for wood infestation reports. In rules 35:30-17-22.2 and 35:30-17-24 the Department is adding omitted words and phrases. In rule 35:30-17-35 the amendment corrects an error in the description of Restricted Area A of Harmon County for the application of hormone type pesticides. The rule should refer to the town of Hollis, Oklahoma, which is in Harmon County rather than the town of Arnett, which is in Ellis County. Lastly, in rule 35:30-17-83 the Department proposes more general language in the warning sign requirements similar to the terminology used in other states.

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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 APRIL 26, 2004:

SUBCHAPTER 17. COMBINED PESTICIDE

PART 9. MINIMUM STANDARDS FOR CONTRACTS AND KEEPING OF RECORDS

35:30-17-20. Contract contents

Contracts shall be issued for the commercial application of pesticides in the Structural Pest Category. Information on the contracts shall include:

(1) Specific information from 2 O. S. Sections ~~3-81(25)~~ 3-81(11) and 3-83 and rule 35:30-17-21.

(2) Minimum standards for termite work for existing structures and preconstruction application(s). Any minimum requirements ~~which~~ that are not going to be met must be explained in the contract.

35:30-17-21. Records required for pesticide applications and restricted use pesticide sales

(a) Commercial and non-commercial applicators shall keep an accurate record pertaining to pesticide activities, which, at a minimum show:

(1) Time of application.
(2) Place of each application.
(3) Name and address of the applicator.
(4) Name and address of person for whom applied.
(5) Legal description of the land where applied. The description may be a street address when properly marked, but shall not be a Post Office Box address.
(6) Date of application.
(7) Pesticide tank mix concentration.
(8) Dilution rate for mixing.
(9) Total quantity of pesticide used, including the total amount of pesticide concentrate and tank mix used.
(10) Complete trade name of pesticide product used.
(11) EPA registration number of pesticide product used.
~~(12) EPA establishment number of pesticide product used.~~
~~(13) Any lot or batch number appearing on the pesticide product used.~~
(~~14~~12) Target pest for the application.
(~~15~~13) Site where the pesticide was applied.
(~~16~~14) Restricted Entry Interval as stated on the product label.
(~~17~~15) A copy of the pesticide product label or labeling that is attached to ~~as it appears on~~ the container or included in the shipping case.
(~~18~~16) Copies of any contracts issued.
(17) Copies of any wood infestation reports issued.
(~~19~~18) Other information as required by the Board.

(b) Restricted use pesticide dealers shall keep an accurate record of restricted use pesticide sales, which, at a minimum show:

(1) Complete brand name of the pesticide.
(2) EPA registration number of the pesticide.
~~(3) EPA establishment number of the pesticide.~~
~~(4) Any batch or lot number appearing on the pesticide product.~~
(~~5~~3) Date the pesticide was sold.
(~~6~~4) Total amount of restricted use pesticide sold.
(~~7~~5) Name of the person to whom sold.
(~~8~~6) Name and license or certification number of the certified or private applicator.

(~~9~~7) Other information as required by the Board.

(c) Failure to allow inspection of these records by the Board, to provide copies to the Board when requested in person, or to provide a summary of these records within seven (7) working days when requested by mail or in person shall be a violation of this section.

PART 10. MINIMUM STANDARDS FOR PESTICIDES

35:30-17-22.2. Pesticide enforcement

The Board is authorized to enter any premise during normal business hours for the purpose of:

(1) Determining whether pesticides or devices comply with the provisions of the law.

(2) Procuring samples of pesticides and devices.

(3) Examining and obtaining copies of records and documents relative to the shipment, manufacture, application of, or sale of pesticides or devices.

(4) Monitoring and evaluating the application and effects of application of any pesticide registered as a Special Local Need 24(c), Experimental Use Permit, or Emergency Exemption Section 18 of the Federal Pesticide Law (FIFRA).

PART 11. STANDARDS FOR APPLICATION OF PESTICIDE

35:30-17-24. Approved chemicals and equipment

(a) Only chemicals which are properly labeled as pesticide products and registered with the Department shall be approved for use as provided for in 2 O.S., Section 3-85.

(b) Any use inconsistent with the pesticide product labeling, registered with the Department is prohibited unless prior written approval for the use has been obtained from the Board. Approval may be obtained by application with reference to:

(1) Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act as Amended, application procedures.

(2) Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act as Amended, application procedures.

(3) Section 2(ee) of the Federal Insecticide, Fungicide, and Rodenticide Act as Amended, for commercial and noncommercial pesticide applications.

(c) To protect public health and the environment, failure to follow precautionary and recommended language included in the pesticide product label may be considered a use not suitable or safe.

(d) Every applicator of pesticides shall employ an appropriate method to prevent the backflow of spray materials during filling, mixing, and/or application operations. The method shall include, but not be limited to, the employment of a check valve or similar in-line device, or positive mechanical method, such as an air gap, designed to insure that backflow shall not occur.

(e) No person shall use a mist blower or other type of air blasting or misting equipment for the application of hormone type herbicides within the State except where the following specific conditions exist:

(1) Forest nursery and timber production areas where the control of undesirable vegetation with a hormone type herbicide is necessary and the area cannot be covered by any other type of ground application equipment.

(2) Range, pasture, and crop areas where control of undesirable vegetation with a hormone type herbicide is necessary and a specific type of terrain feature such as a gully precludes the use of any other type of ground application equipment.

(f) Application of a hormone type herbicide under one of the exceptions given in paragraph (e) of this Section is subject to the following restrictions:

(1) At no time during the application shall the outlet point above horizontal.

(2) At no time shall an application be performed in a wind speed over 10 MPH.

(3) The person making the application shall keep records as required by law.

PART 13. RESTRICTED AREAS FOR THE APPLICATION OF HORMONE TYPE PESTICIDES

35:30-17-35. Restricted areas of Harmon County

Hormone type pesticides shall not be applied by commercial applicators in Harmon County between the dates listed for each of the following areas:

(1) Area A - April 25 - October 31. Area A begins at the southwest corner of Section 36, T4N, R27W in Harmon County (approximately 2 miles north and 2 miles west of ~~Arnett~~ Hollis in Harmon County at the Texas state line) and extends 11 miles east of the Oklahoma-Texas state line, thence 6 miles south, thence 3 miles east, thence 1 mile south, thence 2 miles east, thence 11 miles south to the Jackson County line, and includes that portion lying south and west of the Area A boundary line.

(2) Area B - May 2 - October 31. Area B begins at a point in Section 1, T4N, R27W where the Salt Fork of the Red River intersects the Texas state line and extends east along the river to a point in Section 4, T4N, R24W where the Salt Fork of the Red River intersects the Greer County border and includes all lands in Harmon County south of the Salt Fork of the Red River and north and east of the Area A boundary line.

(3) Area C - May 25 - October 31. Area C begins at a point where the north line of Section 36, T6N, R27W intersects the Texas state line (approximately 3 1/2 miles west of Carl) and extends east approximately 5 miles to State Highway 30, thence south 3 miles along said highway, thence east 6 1/2 miles, thence north 2 miles to the Greer County line, and includes all lands in Harmon County south of this line and north of the Area B north boundary line (the Salt Fork of the Red River).

(4) Area D - No cut-off date specified. Area D includes all areas of Harmon County not previously described in

Areas A, B, or C and lying north of the Area C boundary line.

PART 19. MINIMUM FUMIGATION STANDARDS FOR STRUCTURES

35:30-17-83. Warning signs

Warning signs shall be posted conspicuously at all entrances of the premise to be fumigated and at the entrances of all adjacent multiple units and structures within 10 feet and kept there during the entire fumigation and ventilation period. Signs shall be a minimum size of $8\frac{1}{2}$ inches by 11 inches and color to be conspicuous and bearing the word "poison" ~~at least 10" X 12"~~ and ~~printed in red or black on white stock;~~ display the skull and cross-bones, ~~the words "Danger" and "Poison Gas" in 2" letters,~~ the name of the fumigant used, and the name, address and telephone number of the fumigator. Before the fumigant is released, ~~safety devices shall be applied to all entrances~~ all entrances leading directly to the fumigated space shall be closed, sealed, and locked except exits to be used by fumigating crew. These exits shall be ~~secured~~ closed, sealed, and locked promptly after the fumigant has been released.

[OAR Docket #04-483; filed 3-26-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #04-484]

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Subchapter 27. Feed
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ANALYSIS:
The purpose of the rule amendment is for the Department to receive payment that is commensurate with the expense of issuing the feed license to manufacturers. The feed licensing fee has been at $10.00 since the fee was established in 1995 and the law caps the license fee at $20.00. Over the last eight years costs to the Department have increased. These increased costs had to be absorbed by other state funds, because the $10.00 fee was not adequate to cover these costs. This proposed rule increases the fee from $10.00 to $20.00 to help offset these costs.
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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 APRIL 26, 2004:

SUBCHAPTER 27. FEED

PART 1. COMMERCIAL FEED

35:30-27-11. License fee

~~A fee in the amount of Ten Dollars ($10.00) shall be submitted along with each~~ Each application to obtain a license to manufacture ~~and/~~or distribute commercial feed products within the state shall be accompanied by a license fee of Twenty Dollars ($20.00). ~~The fee shall be in the form of cash, check, money order or cashier's check made payable to the Oklahoma Department of Agriculture.~~

[OAR Docket #04-484; filed 3-26-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

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Subchapter 29. Fertilizer
Part 1. General
35:30-29-23. [NEW]
Part 3. Liquid, Dry, and Anhydrous Ammonia
35:30-29-34. [AMENDED]
Part 5. Licenses and Complaints
35:30-29-51. [AMENDED]
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ANALYSIS:
The purpose of these proposed rules is to protect consumers and the environment by requiring manufacturers and handlers of fertilizers to adhere to certain standards. First, the "heavy metals" rule requires manufacturers of fertilizers who guarantee phosphate or micronutrient content to limit the heavy metal content to levels at or below those levels set by the Association of American Plant Food Control Officials. The second rule requires all fertilizers to be handled in a manner that is not likely to cause pollution, and also ensures that the party responsible for causing pollution bears the cost of clean up. The final rule clarifies licensing and registration requirements, in addition to detailing penalties for late applications for license renewal.
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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 APRIL 26, 2004:

SUBCHAPTER 29. FERTILIZER

PART 1. GENERAL

35:30-29-23. Heavy Metals

Fertilizers stating guaranteed amounts of phosphates or micronutrients shall be considered adulterated if the fertilizers contain metals in amounts greater than the levels of metals established by the Association of American Plant Food Control Officials in the SUIP 25 guide.

PART 3. LIQUID, DRY, AND ANHYDROUS AMMONIA

35:30-29-34. Pollution prevention

(a) ~~All fertilizer~~ Fertilizer materials shall not be stored, applied, ~~and~~ or handled in a manner ~~which prevents pollution of groundwater by minimizing losses of the fertilizer materials~~ that is likely to cause pollution of any air, lands, or waters of the state.

(b) The responsible party shall pay all costs associated with cleanup and remediation of any spill or pollution caused by the storage, application, or handling of fertilizer materials.

PART 5. LICENSES AND COMPLAINTS

35:30-29-51. Fertilizer license

(a) Any person engaged in the distribution or sale of fertilizer shall ~~be required to~~ obtain a license.

(b) ~~A fertilizer license~~ The Board shall not ~~be issued~~ issue a fertilizer registration to any bulk dry, liquid, or anhydrous ammonia facility~~, until the application, pre-construction site inspection, and liquid containment facility have been completed and~~ unless the following are approved by the Board: ~~or its authorized agent and all requirements have been met.~~

(1) Complete application for a fertilizer license.

(2) Site inspection performed by the Board prior to construction.

(3) Final construction of the liquid containment facility.

(4) Completion of all other conditions required by the Board.

(c) ~~A fertilizer registration~~ The Board shall not ~~be issued~~ issue and may ~~be revoked~~ revoke any fertilizer registration if the Board determines: ~~that the~~

(1) The nutrient value of the product or substance has inadequate plant food content.

(2) ~~and is requesting~~ The registration is for the primary purpose of disposal of the product or substance.

(d) Fertilizer license renewal applications received thirty (30) or more days after the renewal date shall result in the Board charging a penalty equal and in addition to the cost of the license.

[OAR Docket #04-485; filed 3-26-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 35. MILK AND MILK PRODUCTS
[REVOKED]

[OAR Docket #04-478]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions [REVOKED]
35:35-1-1. through 35:35-1-5. [REVOKED]
Subchapter 3. Chemical, Bacteriological and Temperature Standards for Milk and Milk Products [REVOKED]
35:35-3-1. [REVOKED]
Appendix A. Chemical, Bacteriological and Temperature Standards for Milk and Milk Products [REVOKED]
AUTHORITY:
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2), (5), (22), (23), (27), (28) and (29)
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ANALYSIS:
The Department of Agriculture, Food, and Forestry has established a new division that will supervise and regulate Food Safety. The proposed rules will be moved to a new chapter that will govern food safety regulation. The new chapter will allow the Milk and Milk Products rules to be reorganized and located with other food safety rules greatly increasing readability.
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 MAY 27, 2004:

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

35:35-1-1. Purpose [REVOKED]

~~The rules of this chapter implement the Oklahoma Milk and Milk Products Act, 2 O.S. Supp. 1995, Section 7-401, et seq.~~

35:35-1-2. Incorporations by reference [REVOKED]

~~(a) Adopted references.~~

~~(1) PMO. Grade A Pasteurized Milk Ordinance with Administrative Procedures - 2001 Recommendations", including Appendices A through P thereto, hereinafter referred to as the "PMO", consisting of pages 1 through 271 as published in the Grade A Pasteurized Milk Ordinance, 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, 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, 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) Code of Federal Regulations. Where mention is made to any section or sections of the Code of Federal Regulations in either the PMO or DMO, that section or sections shall be incorporated by reference. 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 6, 7 and 8 of the PMO), is not incorporated by reference.~~

~~(2) "Table 1" (page 20 of the PMO) of Section 7 of the PMO is not incorporated by reference.~~

~~(3) Section 16, "Penalty" (page 96 of the PMO) is not incorporated by reference.~~

~~(4) Section 17, "Repeal and Date of Effect" (page 96 of the PMO), is not incorporated by reference.~~

~~(5) Section 5, "Certified Industry Inspection" (pages 12, 13 and 14 of the PMO), is not incorporated by reference.~~

~~(6) Appendices E, "Examples of 3 out of 5 Compliance Enforcement Procedures" (pages 163 and 164 of the PMO,) is not incorporated by reference.~~

35:35-1-3. Terms for interfacing with the PMO and the DMO [REVOKED]

~~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 (page iv of the PMO) is synonymous with the Oklahoma State Board of Agriculture. In Item 7r, "Toilet" of Section 7 (pages 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 36 of the PMO), Section 3, "Permits" (page 35 of the PMO), Section 5, "Inspection of Dairy Farms and Milk Plants" (page 10 of the PMO), and Section 11, "Milk and Milk Products Which May Be Sold" (page 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 Oklahoma Department of Agriculture, Food, and Forestry.~~

35:35-1-4. Suspension and revocation [REVOKED]

~~(a) The Commissioner shall immediately, upon receipt of the appropriate analysis, or upon a second consecutive inspection disclosing gross neglect of cleaning of milk contact surfaces, or upon refusal of permission to inspect a facility, notify and suspend the permit of a dairy farm or milk plant in accordance with the provisions of 2 O.S. Supp. 1995, Section 7-410. The Commissioner may, after providing notice of intent, suspend or revoke a permit upon a finding of continuing and multiple violations of the Milk and Milk Products Act. The Commissioner may summarily suspend a permit when public health, safety or welfare imperatively requires such, in accordance with the Administrative Procedures Act. In all cases, opportunity shall be provided for a hearing upon the request of the permit holder.~~

~~(b) Notices provided for in 35:35-1-4(a) to the permit holder, shall be made in person, by posting on the premises or by mail, or to the designee of the permit holder according to the election made at the time of application for the permit. The Commissioner may, for those facilities which have not had an opportunity to designate, presume that the Producer Association or company which purchases milk has been designated. Notices provided for in 35:35-1-4(a) shall contain a short and plain statement of the violation or violations involved, including the specific statue, rule or regulation violated. If a hearing is requested, further notice shall be provided, conforming to 75 O.S. 1991, Section 309, as to date, time and nature of the hearing, and all other matters contained therein.~~

~~(c) The Commissioner may also send copies of notices provided for in 35:35-1-4(a) to the appropriate milk market, the marketing agent, field man, the sanitarian and to the market administrator, in accordance with the past operating practices.~~

35:35-1-5. Application to manufacture grade dairies [REVOKED]

~~The equipment and facility standards applicable to Grade A dairies shall also be applicable to ungraded or manufacture grade dairies.~~

SUBCHAPTER 3. CHEMICAL, BACTERIOLOGICAL AND TEMPERATURE STANDARDS FOR MILK AND MILK PRODUCTS [REVOKED]

35:35-3-1. Chemical, bacteriological, and temperature standards for milk and milk products [REVOKED]

~~For chemical, bacteriological, and temperature standards for milk and milk products, See Appendix A of this Chapter.~~

APPENDIX A. CHEMICAL, BACTERIOLOGICAL AND TEMPERATURE STANDARDS FOR MILK AND MILK PRODUCTS [REVOKED]

Individual Distributed Raw Milk and Raw Milk for Pasteurization, Ultra Pasteurization, Aseptic Processing or Manufacturing	Temperature	Cooled to 7°C (45°F) or less within two hours after milking, provided that the blend temperature after the first and subsequent milkings does not exceed 10°C (50°F).
	Bacterial Limits (Grade A)	Individual-distributed raw milk not to exceed 35,000 per ml. Individual producer milk not to exceed 100,000 per ml prior to commingling with other producer milk. Not to exceed 300,000 per ml as commingled milk prior to pasteurization.
	Bacterial Limits (Manufacture (Grade)	Individual producer milk for manufacturing not to exceed 500,000 per ml prior to commingling with other producer milk. Not to exceed 1,000,000 per ml as commingled milk prior to manufacturing.
	Drugs	No zone greater than or equal to 16 mm with the Bacillus stearothermophilus disc assay method. No positive results on drug residue detection methods as referenced in Section 6. Laboratory Techniques.
	Somatic Cell Count (Grade A)	Individual producer milk: Not to exceed 750,000 per ml.
	Somatic Cell (Count) (Manufacture Grade)	Individual producer milk: Not to exceed 750,000 per ml.

(Note: Manufacture grade raw milk is raw milk that fails to comply with Grade A raw milk standards)

Grade A Pasteurized Milk And Milk Products And Bulk Shipped Heat Treated Milk Products	Temperature	Cooled to 7°C (45°F) or less and maintained thereat.
	Bacterial Limits	20,000 per ml (except cultured products).
	Coliform	Not to exceed 10 per ml.
	Phosphatase	Less than 1 microgram per ml by the Scharer Rapid Method (less than 500 milliunits/L

		by Fluorometric Procedure) or equivalent.
	Antibiotic	No zone greater than or equal to 16 mm with the Bacillus stearothermophilus disc assay method.
Grade A Aseptically Processed Milk and Milk Products	Temperature	None.
	Bacterial Limits	No growth by test specified in Section 6.
	Antibiotics	No zone greater than or equal to 16 mm with the Bacillus stearothermophilus disc assay method.
Ungraded (Manufacture Grade) Milk Products	Bacterial Limits (except cultured products)	Frozen dessert - 100,000 per ml Soft-serve mix - 30,000 per ml
	Coliform Limits	Frozen dessert - not to exceed 20 per ml Soft-serve mix - not to exceed 10 per ml Cottage cheese - not to exceed 10 per ml
	Butterfat	Must match label.

[OAR Docket #04-478; filed 3-26-04]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 1. PROCEDURES OF THE OKLAHOMA CONSTRUCTION INDUSTRIES BOARD

[OAR Docket #04-412]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
158:1-1-4. Administrator [AMENDED]
Subchapter 3. General Operation and Procedures
158:1-3-1. Address [AMENDED]
Subchapter 5. Procedure In Individual Proceedings
158:1-5-17. Notice of violation and compliance orders [NEW]
AUTHORITY:
Construction Industries Board; 59 O.S. § 1000.4
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ANALYSIS:
The purpose of these rules is to set forth the general administrative procedures as amended in 59 O.S. 2001, Section 1000.6. These proposed rules implement 59 O.S. Supp. 2003, §1000.9. The proposed rules will permit the Construction Industries Board or its designee to issue a written order directing a person or an entity to comply with any standard or rule adopted by the Board. Prior to an order being issued, the Board shall serve the person or entity subject to the order with a notice of violation. In addition to ordering compliance, the Board or its designee may assess an administrative fine for each day of non-compliance with the order. The proposed rules provide for a hearing upon the request of the person or entity subject to the order. These hearings and orders are subject to the Administrative Procedures act.
CONTACT PERSON:
Jeanne Britt, Rules Liaison Officer, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma 73107; telephone: (405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@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 APRIL 26, 2004:

SUBCHAPTER 1. DESCRIPTION OF ORGANIZATION

158:1-1-4. Administrator

(a) **Appointment and term.** The Construction Industries Board shall ~~submit the names of at least three (3) individuals to the State Commissioner of Health as candidates for selection and appointment as Administrator. The State Commissioner of Health shall~~ hire the Administrator. ~~from the list provided and thereafter the Administrator's term of employment continues until terminated pursuant to (b) below.~~

(b) **Removal.** The Board may, by majority vote, ~~recommend the termination of~~ terminate the employment of the Administrator. ~~to the State Commissioner of Health. The Administrator may, for any lawful reason, be terminated by the State Commissioner of Health.~~

(c) **Duties.** The duties of Administrator shall include, but are not limited to:

(1) *Keep a record of all proceedings of the Board and certify to actions of the Board*;

(2) *oversee the receipt and deposit of all monies received by the Board in the appropriate revolving funds*;

(3) *submit, at the first regular meeting of the Board after the end of each fiscal year, a full itemized report of the receipts and disbursements for the prior fiscal year, showing the amount of funds on hand*;

(4) *perform such other duties as are prescribed in this act or as may be prescribed by the Board; and,*

(5) *assist the Construction Industries Board in the performance of its duties and shall report directly to the ~~Commissioner of Health~~* Board.

SUBCHAPTER 3. GENERAL OPERATION AND PROCEDURES

158:1-3-1. Address

The principal office of the Board is ~~Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1299.~~ 2401 N.W. 23rd, Suite 5, Oklahoma City, Oklahoma 73107.

SUBCHAPTER 5. PROCEDURE IN INDIVIDUAL PROCEEDINGS

158:1-5-17. Notice of violation and compliance orders

(a) The Board, through its investigator, may issue a written notice of violation to any person or entity who is in violation of any standard or rule adopted by the Board. The notice of violation shall be served in accordance with OAC 158:1-5-3.

(b) Fifteen days following the service of the notice of violation, the Board, through the administrator, may issue a written order requiring compliance with such standards or rules immediately or within a specified period of time. The fifteen-day

notice period may be reduced to render the order reasonably effectual. Such order shall state with specificity the nature of the violation. Additionally, such order may assess a fine for each day of noncompliance with the order. All orders shall be served in accordance with OAC 158:1-5-3.

(c) Any person or entity issued an order must request a hearing no later than fifteen days after the order is served. If a hearing is not requested, the order shall become final. If a hearing is requested, a hearing shall be held before the appropriate hearing board of the Construction Industries Board.

[OAR Docket #04-412; filed 3-24-04]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 10. FINE SCHEDULE

[OAR Docket #04-411]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Administrative Fine Schedule
158:10-3-4. Payment of fines [AMENDED]
AUTHORITY:
Construction Industries Board; 59 O.S. § 1000.4.
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ANALYSIS:
The purpose of the proposed rules is to change the location address of the Construction Industries Board for the payment of fines. The rule change the Board may seek payment through the surety bond of any fines or penalties that the licensee fails to pay.
CONTACT PERSON:
Jeanne Britt, Rules Liaison, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, OK 73107; telephone:(405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@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 APRIL 26, 2004:

SUBCHAPTER 3. ADMINISTRATIVE FINE SCHEDULE

158:10-3-4. Payment of fines

(a) A person who is ordered to pay a fine shall submit the fine to the Construction Industries Board, ~~1000 N.E. Tenth Street~~2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma ~~73117-1299~~73107. A person who decides not to contest the issuance of the citation shall submit payment of the fine amount to the address above on or before the hearing date indicated on the citation.

(b) Contractors or journeymen shall pay all fines and penalties imposed by penalty orders of the Electrical, Mechanical, Plumbing, or Inspector Hearing Boards and/or the Board and fines and penalties imposed by courts of competent jurisdiction for the violation of municipal ordinances.

(c) The Board may seek payment through the surety bond of any licensed Contractor for any fines or penalties, which the licensee fails to pay.

[OAR Docket #04-411; filed 3-24-04]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 30. PLUMBING INDUSTRY REGULATIONS

[OAR Docket #04-413]

RULEMAKING ACTION:
PERMANENT adoption
RULES:
Subchapter 1. General Provisions
158:30-1-4. Standard of Installation [AMENDED]
Subchapter 5. License Types, Bond Requirements, and Display of License Number and Firm Name
158:30-5-2. Bond requirements [AMENDED]
158:30-5-4. Plumbing Journeymen and Contractor Licenses by Reciprocity [NEW]
Subchapter 9. Examination Procedures, License and Registration Fees and Duration of Licenses
158:30-9-2. Fee schedule for contractors, journeymen, and apprentices [AMENDED]
158:30-9-3. Duration of Licenses [AMENDED]
158:30-9-4. Continuing Education [NEW]
Subchapter 11. License Revocation or Suspension and Prohibited Acts
158:30-11-2. Prohibited acts [AMENDED]
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Subchapter 5. License Types, Bond Requirements, and Display of License Number and Firm Name
158:30-5-2. Bond requirements [AMENDED]
158:30-5-4. Plumbing journeymen and contractor licenses by reciprocity [NEW]
Subchapter 9. Examination Procedures, License and Registration Fees and Duration of Licenses
158:30-9-2. Fee schedule for contractors, journeymen, and apprentices [AMENDED]
158:30-9-3. Duration of licenses [AMENDED]
158:30-9-4. Continuing education [NEW]
Subchapter 11. License Revocation or Suspension and Prohibited Acts
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04-78
INCORPORATIONS BY REFERENCE:
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ANALYSIS:
The rule changes allow the Construction Industries Board or its representatives to enforce the 2003 International Plumbing Code. The rule changes set forth insurance requirements for Plumbing Contractors. The rule changes provide a means to issue licenses by reciprocity and to enter into mutual agreements with other states to recognize licenses. A fee pursuant to Section 1000.5 Section 1037 of Title 59 of the Oklahoma Statutes shall accompany the reciprocity application, which shall not be refundable under any circumstances. The fees shall be used by the agency to regulate the plumbing trade. The rule changes establish a method for prorating license fees to coincide with the birth date of the licensee. The rule provides provisions for administering new continuing education requirements according to 59 O.S. 2003, Section 1009. The rule changes establish administrative fines for any person or entity denying the Board or its representatives' access to a job site for purposes of enforcing any of the provisions of the Plumbing License Law of 1955.
CONTACT PERSON:
Jeanne Britt, Rules Liaison, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, OK 73107; telephone:(405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@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 APRIL 26, 2004:

SUBCHAPTER 5. LICENSE TYPES, BOND REQUIREMENTS, AND DISPLAY OF LICENSE NUMBER AND FIRM NAME

158:30-5-2. Insurance and Bond~~bond~~ requirements

(a) Unless as otherwise provided in 158:30-5-2(b) below: Each active plumbing contractor must maintain a five thousand dollar ($5,000.00) corporate surety bond, payable to the Board, and must cause the surety to deposit a copy of such bond with the Plumbing Licensing Unit and with each municipality in which the bonded plumbing contractor proposes to commence plumbing work.

(b) An active plumbing contractor may satisfy the requirements of 158:30-5-2(a) above by depositing with the Plumbing Licensing Unit, either the sum of $5,000 cash, or a certificate of deposit in the sum of $5000 payable to the order of the Plumbing Licensing
Revolving Fund.

(c) Failure to maintain a corporate surety bond in effect shall constitute grounds for summary suspension of a bonded plumbing contractor license immediately upon the expiration of such bond.

(d) A corporate surety bond may be accepted from any surety authorized to do business in the State of Oklahoma. It shall continue in effect until thirty (30) days have elapsed after the Bond and Insurance Unit 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 if known to them.

(e) The Board shall notify the surety of the summary suspension or revocation of the license of any of its bonded licensed plumbing contractors.

(f) A bond or other surety filed in accordance with 158:30-5-3(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 Oklahoma Construction Industries Board, 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 Board and fines and penalties imposed by courts of competent jurisdiction for the violation of municipal ordinances. The Board may seek payment through the surety bond of any fines or penalties, which the licensee fails to pay.

(3) In lieu of a corporate surety, an active plumbing contractor may deposit with the Bonds and insurance Unit the required amount in lawful money or negotiable bonds of the United States, accompanied by a written instrument, to be approved by the Construction Industries Board, executed and acknowledged by the active plumbing contractor, and setting forth the conditions upon which the deposit is made. When the true owner is other than the active plumbing contractor making the deposit, the instrument shall so state and shall also be executed and acknowledged by the true owner. Upon exoneration, the instrument and deposit may be returned by the Bonds and Insurance Unit to the depositor or the true owner, if the depositor is other

than the named true owner, after application of the deposit to claims made pursuant to these Rules.

(4) Notwithstanding any provision of a security instrument to the contrary, every surety or depositor of security subjects himself to the jurisdiction of the Construction Industries Board and irrevocably appoints the Administrator as his agent upon whom any papers affecting his liability may be served. Every surety or depositor of security consents to his liability being joint and several. Consequently, judgment may be entered against the surety, or depositor of security, in accordance with his obligation simultaneously with judgment against the principal, and execution may thereupon issue.

(~~3~~5) 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~~6) 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. (57) For purposes of this Section, the term plumbing contractor also includes the agents, servants, and employees of a plumbing contractor.

(g) A plumbing contractor may choose, by not maintaining a current bond, not to practice as a plumbing contractor but to work instead as a journeyman with an inactive contractor license.

(h) Insurance. A plumbing 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 Board.

158:30-5-4. Plumbing journeymen and contractor licenses by reciprocity

(a) **General procedures for application.** Any person holding a valid plumbing journeyman license or plumbing contractor license issued by another State who is seeking to obtain a license by reciprocity shall first submit an application to the Construction Industries Board on a form provided by the Board. The application shall include all documentation necessary to show the applicant meets the requirements established by these rules. All applications shall first be directed to the Committee or its designee for an initial review to determine if the applicant meets the qualifications for a license by reciprocity as set forth in these rules and in 59 O.S. Supp. 2002, § 1000.5A or any subsequent enactment of the Legislature. Following this review, the Committee or its designee shall make a recommendation to the Board or its designee as to whether the application should be approved or disapproved. The Board or its designee shall make the final determination as to whether an application shall be approved or disapproved. If the Board or its designee disapproves an application, the application shall be returned to the applicant with the reason for the disapproval.

(b) **Application fees.** Before an application will be considered, a person applying for a plumbing journeyman license by reciprocity must pay an application and licensing fee of $ 75. If the person is applying for a plumbing contractor license, the person must pay an application and licensing fee of $225. These fees shall not be refundable under any circumstances.

(c) **Requirements for issuance of a license by reciprocity.** An application for a license by reciprocity may be approved upon a satisfactory showing by the applicant of the following:

(1) That the requirements for licensure from the State in which the applicant is licensed is determined to be substantially the same or equivalent to the requirements for obtaining a license by examination in this state. In making this determination the following shall be considered:

(A) Whether the experience required by the other State to be eligible to sit for the license examination is substantially the same or equivalent to the Board's requirements;

(B) Whether the experience commercial/industrial work required by the other State is substantially the same or equivalent to the Board's requirements;

(C) Whether the continuing education requirements of the other State are substantially the same or equivalent to the Board's requirements;

(D) Whether the codes adopted by the other State are substantially the same or equivalent to the Board's requirements;

(E) Whether the examination of the other State is substantially the same or equivalent to the Board's requirements. This shall include the score required to pass the examination, the subject matter of the examination, the codes on which the examination is based, and whether the examination is in written form.

(2) That the other State will recognize a license issued by the State of Oklahoma through the Construction Industries Board. Paragraphs 1 and 2 of this rule may only be satisfied by the existence of a reciprocity agreement between the Board and the State issuing the applicant's current license as provided in subsection (d) of this rule.

(3) That the applicant is currently licensed by a State that meets the requirements of Section 1 of this rule and that one year immediately prior to the application, the applicant lawfully practiced an applicable trade within and under the laws of that State.

(4) That no disciplinary matters are pending against the applicant in any jurisdiction in which the applicant is currently licensed. This requirement will be considered satisfied upon presentation of a certified statement from the licensing authorities of all jurisdictions in which the applicant is currently licensed that no disciplinary matters are pending against applicant.

(5) That the applicant obtained the license to be reciprocated by examination.

(d) **Reciprocity agreements.** The Board may enter into a reciprocity agreement with another State if the requirements for licensure in the other State are deemed by the Board to be substantially the same or equivalent to the requirements for obtaining an original license by examination in this state.

(e) **Additional requirements for contractor applicants.** Applicants seeking a plumbing contractor license by reciprocity who meet the necessary qualifications for a license as required in this rule will be granted a journeyman license by reciprocity. The applicant will be issued a contractor license upon successfully passing the Oklahoma Plumbing Contractor Business and Law portion of the full contractor examination and satisfaction of the bonding and insurance requirements of OAC 158:30-5-2.

SUBCHAPTER 9. EXAMINATION PROCEDURES, LICENSE AND REGISTRATION FEES AND DURATION OF LICENSES

158:30-9-2. Fee schedule for contractors, journeymen, and apprentices

(a) **Examination fees for contractors and journeyman.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by these rules. The cost for each such examination referenced in section 158:30-9-1 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to setting for the examination. The unit testing fee shall be the amount negotiated by the administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee provided in 59 O.S.§1000.5 (A)(2). Documentation confirming the contractual fee shall be available upon request

(b) **Licensing, registration and application fee schedule for contractors, journeyman, and apprentices.** The licensure, application, and registration fees shall be annually as follows:

(1) contractors application - $25.00
(2) initial contractor license - $200.00
(3) renewal contractor license - $150.00
(4) renewal contractor late fee - $300.00
(5) journeyman application - $25.00
(6) initial journeyman license - $50.00
(7) renewal journeyman license - $50.00
(8) renewal journeyman late fee - $100.00
(9) apprentice application - $10.00
(10) apprentice registration - $20.00

(c) **Conversion to birth date renewal proration schedule.** Beginning July 1, 2004 in the Licensing period of 2004-2005 andfor a period of one year only, licenses will be prorated asfollows

(1) Journeymen license holders with a birth date in the months from July through December will pay a regular renewal fee of $50.00 plus $4.16667 (rounded up to the nearest whole cent) for each month (August, September, October, November, December) or 1/12 of a full renewal fee until the birth month of the licensee. This period of prorated fees will extend the duration of the license until the birth month of the license holder in the year of 2005.

(2) Journeymen License holders with birth dates in the months of January 2005 through June 2005 will pay $4.16667 (rounded up to the nearest whole cent) each month or 1/12 of full renewal, until their next birth month (January, February, March, April, May, June) at which time they will pay a full fee to renew their license for a period of one year.

(3) Contractor license holders with a birth date in the months from July through December will pay a regular renewal fee of $150.00 plus $12.50 for each month (August, September, October, November, December) or 1/12 of a full renewal fee until the birth month of the licensee. This periodof prorated fees will extend the duration of the license until the birth month of the license holder in the year of 2005.

(4) Contractor License holders with birth dates in the months of January 2005 through June 2005 will pay $12.50 for each month or 1/12 of full renewal, until their next birth month (January, February, March, April, May, June) at which time they will pay a full fee to renew their license for a period of one year.

158:30-9-3. Duration of licenses

(a) All licenses shall have a duration of no longer than one year, and shall expire on ~~June 30th~~ the last day of the birth month of the licensee ~~of~~ each year.

(b) Any license issued by examination may be renewed by submitting the license fee for the next year by a check or money order and be mailed on or before the ~~June 30th~~ birth month expiration date.

(c) An expired license issued by examination may be reinstated if: The license fee is submitted within one (1) year after the license expired, and is accompanied by a late fee.

~~(d) A person who was licensed without successful completion of the state license examination and whose license is not renewed within one (1) year of its expiration shall be required to take the examination before being re-licensed.~~

(~~e~~d) A licensee who, during an investigation of the licensee by the Construction Industries Board, surrenders their license shall be treated as if the license had been revoked for one year from the day of surrender.

(~~f~~e) A license cannot be renewed until the licensee has paid any and all outstanding fines due and owing to any department of the Construction Industries Board.

158:30-9-4. Continuing education

(a) **Continuing education hours.** For the license year beginning July 1, 2005, no plumbing contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education within one (1) year of adoption of the current, published revisions of the International Plumbing Code, International Fuel Gas Code, and International Residential Code. At least four (4) hours must consist of training on the revisions of the International Plumbing Code, International Fuel Gas Code, and International Residential Code. Not more than two (2) hours of continuing education

may consist of manufacturer provided training in the installation of equipment or parts.

(b) **Continuing education course approval.** Entities seeking to offer continuing education courses to licensees must submit an application for approval to the Plumbing Licensing Unit prior to beginning instruction. The application shall include an outline or other synopsis of the subject matter for each unit of instruction, and a list of the course instructors with their qualifications. Upon recommendation of the Committee and approval by the Board, notice of the course approval will be sent to the applying entity. Licensees shall not receive credit for attending courses that have not been approved by the Board prior to the beginning of the course. All courses shall be presented as approved unless changes are submitted to the Plumbing Licensing Unit for consideration prior to the beginning of the course. Failure to obtain approval of changes may result in the loss of continuing education approval. After completion of the course, the entity shall submit sign-in sheets for all sessions. The sign-in sheets shall contain the signature and state plumbing license number of each person in attendance. The entity shall verify the total number of continuing education hours completed by each attendee. Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet. The Board may approve continuing education earned outside of Oklahoma if the course is approved by another state for continuing education in that state.

(c) **Approval requirements for continuing education.** All continuing education providers shall abide by the following requirements:

(1) Materials and information presented shall pertain to the use of the current adopted International Plumbing Code, International Fuel Gas Code, and International Residential Code or shall be manufacturer provided training in the installation of equipment or parts.

(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) All attendees shall complete a course evaluation on a form provided by the Board. The entity shall return the completed evaluation forms to the Board with the sign-in sheets.

(d) **Correspondence course approval.** Entities seeking to offer correspondence courses for continuing education shall submit a course curriculum and study material for review by the Committee and approval by the Board prior to the courses being accepted as continuing education. Approved correspondence courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providing a student with a document of completion shall certify completion of approved correspondence courses.

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:30-11-2. Prohibited acts

(a) No person, entity, or firm may perform plumbing work without first obtaining the appropriate license or registration pursuant to these Rules.

(b) No person shall offer to engage in work as a plumber during the period his license is suspended or revoked.

(c) No employing plumbing firm shall employ or use an unlicensed or unregistered plumber to perform plumbing work.

(d) No person, entity, or firm may transfer a license or registration.

(e) No plumber, licensed pursuant to these Rules, shall enter into an agreement for the use of his license with any firm or person which 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 Board.

(f) No person shall make a materially false or fraudulent statement in an application for license.

(g) No person may alter a license.

(h) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.

(i) No person or entity shall deny access to the Construction Industries Board or its representative on a job site.

[OAR Docket #04-413; filed 3-24-04]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS

[OAR Docket #04-414]

RULEMAKING ACTION:
PERMANENT adoption
RULES:
Subchapter 5. Licensing Requirements, Display of License and Firm Name, And Bond Requirements
158:40-5-5. Bond requirements [AMENDED]
Subchapter 7. License Classifications
158:40-7-5. Unlimited journeyman licenses by reciprocity [NEW]
Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals
158:40-9-3. License and registration fees and renewals [AMENDED]
Subchapter 11. License Revocation or Suspension and Prohibited Acts
158:40-11-2. Prohibited acts [AMENDED]
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Subchapter 7. License Classifications
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158:40-9-3. License and registration fees and renewals [AMENDED]
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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 APRIL 26, 2004:

SUBCHAPTER 5. LICENSING REQUIREMENTS, DISPLAY OF LICENSE AND FIRM NAME, AND BOND REQUIREMENTS

158:40-5-5. Bond requirements

(a) Each active electrical contractor must furnish a license bond in the amount of $5,000.00 to the Bonds and Insurance Unit. 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 Bonds and Insurance Unit of the Oklahoma Construction Industries Board and be in lieu of all other license bonds to any political subdivision.

(b) Each active electrical contractor must maintain insurance coverage and furnish and maintain in effect in the Bonds and Insurance Unit of the Oklahoma Construction Industries Board, 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 Oklahoma Construction Industries Board, prior to cancellation or material alteration of the required insurance.

(c) 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.)

(d) 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 summary suspension of the electrical contractor's active license and the issuance of an inactive license to said electrical contractor.

(e) Electrical contractors shall pay all fines and penalties imposed by penalty orders of the Board and fines and penalties imposed by courts of competent jurisdiction for the violation of municipal ordinances. The Board may seek payment through the surety bond of any fines or penalties, which the licensee fails to pay.

SUBCHAPTER 7. LICENSE CLASSIFICATIONS

158:40-7-5. Electrical journeyman and contractor licenses by reciprocity

(a) **General procedures for application.** Any person holding a valid electrical journeyman license or electrical contractor license issued by another State who is seeking to obtain a license by reciprocity shall first submit an application to the Construction Industries Board on a form provided by the Board. The application shall include all documentation necessary to show the applicant meets the requirements established by these rules. All applications shall first be directed to the Committee or its designee for an initial review to determine if the applicant meets the qualifications for a license by reciprocity as set forth in these rules and in 59 O.S. Supp. 2002, § 1000.5A or any subsequent enactment of the Legislature. Following this review, the Committee or its designee shall make a recommendation to the Board or its designee as to whether the application should be approved or disapproved. The Board or its designee shall make the final determination as to whether an application shall be approved or disapproved. If an application is disapproved by the Board or its designee, the application shall be returned to the applicant with the reason for the disapproval.

(b) **Application fees.** Before an application will be considered, a person applying for an electrical journeyman license by reciprocity must pay an application and licensing fee of $ 75. If the person is applying for an electrical contractor license, the person must pay an application and licensing fee of $300. These fees shall not be refundable under any circumstances.

(c) **Requirements for issuance of a license by reciprocity.** An application for a license by reciprocity may be approved upon a satisfactory showing by the applicant of the following:

(1) That the requirements for licensure from the State in which the applicant is licensed is determined to be substantially the same or equivalent to the requirements for obtaining a license by examination in this state. In making this determination the following shall be considered:

(A) Whether the experience required by the other State to be eligible to sit for the license examination is substantially the same or equivalent to the Board's requirements;

(B) Whether the experience in commercial/industrial work required by the other State is substantially the same or equivalent to the Board's requirements;

(C) Whether the continuing education requirements of the other State are substantially the same or equivalent to the Board's requirements;

(D) Whether the codes adopted by the other State are substantially the same or equivalent to the Board's requirements;

(E) Whether the examination of the other State is substantially the same or equivalent to the Board's requirements. This shall include the score required to pass the examination, the subject matter of the examination, the codes on which the examination is based, and whether the examination is in written form.

(2) That the other State will recognize a license issued by the State of Oklahoma through the Construction Industries Board. Paragraphs 1 and 2 of this rule may only be satisfied by the existence of a reciprocity agreement between the Board and the State issuing the applicant's current license as provided in subsection (d) of this rule.

(3) That the applicant is currently licensed by a State that meets the requirements of Section 1 of this rule and that one year immediately prior to the application, the applicant lawfully practiced an applicable trade within and under the laws of that State.

(4) That no disciplinary matters are pending against the applicant in any jurisdiction in which the applicant is currently licensed. This requirement will be considered satisfied upon presentation of a certified statement from the licensing authorities of all jurisdictions in which the applicant is currently licensed that no disciplinary matters are pending against applicant.

(5) That the applicant obtained the license to be reciprocated by examination.

(d) **Reciprocity agreements.** The Board may enter into a reciprocity agreement with another State if the requirements for licensure in the other State are deemed by the Board to be substantially the same or equivalent to the requirements for obtaining an original license by examination in this state.

(e) **Additional requirements for contractor applicants.** Applicants seeking an electrical contractor license by reciprocity who meet the necessary qualifications for a license as required in this rule will be granted a journeyman license by reciprocity. The applicant will be issued a contractor license upon successfully passing the Oklahoma Electrical Contractor Business and Law portion of the full contractor examination and satisfaction of the insurance and bonding requirements of OAC 158:40-5-5.

SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS AND LICENSE AND REGISTRATION FEES AND RENEWALS

158:40-9-3. License and registration fees and renewals

(a) **Examination fees for contractors and journeyman.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by these rules. The cost for each such examination referenced in section 158:40-9-2 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to setting for the examination. The unit testing fee shall be the amount negotiated by the administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee provided in 59 O.S.§ 1000.5 (A)(2). Documentation confirming the contractual fee shall be available upon request.

(b) **Licensing, registration and application fee schedule for contractors, journeyman, and apprentices.** The licensure, application, and registration fees shall be annually as follows:

(1) contractors application - $25.00
(2) initial contractor license - $200.00
(3) renewal contractor license - $150.00
(4) renewal contractor late fee - $300.00
(5) journeyman application - $25.00
(6) initial journeyman license - $50.00
(7) renewal journeyman license - $50.00
(8) renewal journeyman late fee - $100.00
(9) apprentice application - $10.00
(10) apprentice registration - $20.00

(c) **License renewal penalties.** Penalty for late license renewal for contractors and journeyman (30 days after expiration date), as provided in the Act is listed above~~.~~, and upon meeting continuing education requirements listed in 158: 40-9-4.

(d) **Outstanding fines.** A license cannot be issued until the applicant has paid any and all outstanding fines due and owing to any department of the Construction Industries Board.

(e) **Duration of licenses.** ~~A license renewed under the provision is effective when notice of such renewal is issued by the Construction Industries Board.~~ All licenses shall have a duration of no longer than one year, and shall expire on the last day of the birth month of the licensee each year.

(f) **Conversion to birth date renewal proration schedule.** Beginning July 1, 2004 in the Licensing period of 2004-2005 and for a period of one year only, licenses will be prorated as follows:

(1) Journeymen license holders with a birth date in the months from July through December will pay a regular renewal fee of $50.00 plus $4.16667 (rounded up to the nearest whole cent) for each month (August, September, October, November, December) or 1/12 of a full renewal fee until the birth month of the licensee. This period of

prorated fees will extend the duration of the license until the birth month of the license holder in the year of 2005.

(2) Journeymen License holders with birth dates in the months of January 2005 through June 2005 will pay $4.16667 (rounded up to the nearest whole cent) each month or 1/12 of full renewal, until their next birth month (January, February, March, April, May, June) at which time they will pay a full fee to renew their license for a period of one year.

(3) Contractor license holders with a birth date in the months from July through December will pay a regular renewal fee of $150.00 plus $12.50 for each month (August, September, October, November, December) or 1/12 of a full renewal fee until the birth month of the licensee. This period of prorated fees will extend the duration of the license until the birth month of the license holder in the year of 2005.

(4) Contractor License holders with birth dates in the months of January 2005 through June 2005 will pay $12.50 for each month or 1/12 of full renewal, until their next birth month (January, February, March, April, May, June) at which time they will pay a full fee to renew their license for a period of one year.

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:40-11-2. Prohibited acts

(a) The following prohibited acts apply to all license holders:

(1) No person, entity, or firm may perform work without first obtaining the appropriate license or registration pursuant to these Rules.

(2) No licensee shall perform work contrary to any provision of the standard of installation in 158:40-1-3, except as otherwise provided by law or rule. Each violation of the standard of installation in 158:40-1-~~3~~4 can be treated as a separate violation of this Chapter.

(3) No person shall offer to engage in work during the period his license is suspended or revoked.

(4) No employing firm shall employ or use an unlicensed or unregistered individual or entity to perform work.

(5) No person, entity, or firm may transfer a license or registration.

(6) No individual or entity, licensed pursuant to these Rules, shall enter into an agreement for the use of his license with any firm or person which 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 Board.

(7) No person shall make a materially false or fraudulent statement in an application for license.

(8) No person may alter a license.

(9) No licensee shall perform work without keeping their license on their person or in close proximity while performing work.

(10) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.

(11) No person or entity shall deny access to the Construction Industries Board or its representative on a job site.

(b) The following prohibited acts apply to persons issued a contractor license:

(1) No licensee shall allow more than two (2) apprentices per journeyman at a job site.

(2) No licensee shall fail to maintain a bond as provided for in 158:40-5-5.

(3) No licensee shall fail to provide proof of financial responsibility to the Administrator as provided for in 158:40-5-5 (b).

(4) No licensee shall be associated with and responsible for more than one firm.

(5) No licensee shall fail to provide proof of financial responsibility to the Administrator as provided for in 158:40-5-5.

(c) The following prohibited acts apply to persons issued a journeyman license:

(1) No licensee shall perform work except under the employment or supervision of an contractor.

(2) No licensee shall engage in the planning, contracting, or furnishing of labor and/or materials used for work.

[OAR Docket #04-414; filed 3-24-04]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

[OAR Docket #04-415]

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Subchapter 1. General Provisions
158:50-1-4. Adopted references and standard of workmanship [AMENDED]
Subchapter 5. License Types, Limitations of Licenses, Contractor Special Requirements and Display of License Number and Firm Name.
158:50-5-3. Contractor special requirements
Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration.
158:50-9-2. License and registration fees and renewals [AMENDED]
158:50-9-3. Duration of licenses [AMENDED]
158:50-9-6. Mechanical journeyman and contractor licenses by reciprocity [NEW]
158:50-9-7. Continuing Education [NEW]
Subchapter 11. License Revocation or Suspension and Prohibited Acts.
158:50-11-2. Prohibited acts [AMENDED]

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Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration.
158:50-9-2. License and registration fees and renewals [AMENDED]
158:50-9-3. Duration of licenses [AMENDED]
158:50-9-6. Mechanical journeyman and contractor licenses by reciprocity [NEW]
Subchapter 11. License Revocation or Suspension and Prohibited Acts.
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ANALYSIS:
The rule changes allow the Construction Industries Board or its representatives to enforce the 2003 International Mechanical Code. The rule change the Board may seek payment through the surety bond of any fines or penalties that the licensee fails to pay. The rule changes provide a means to issue licenses by reciprocity and to enter into mutual agreements with other states to recognize licenses. A fee pursuant to Section 1000.5 Section 1037 of Title 59 of the Oklahoma Statutes shall accompany the reciprocity application, which shall not be refundable under any circumstances. The fees shall be used by the agency to regulate the mechanical trade. The rule changes establish a method for prorating license fees to coincide with the birth date of the licensee. The rule provides provisions for administering new continuing education requirements according to 59 O.S. 2003, Section 1850.8. The rule changes establish administrative fines for any person or entity denying the Board or its representatives access to a job site for purposes of enforcing any of the provisions of the Mechanical Licensing Law.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF APRIL 26, 2004:

SUBCHAPTER 1. GENERAL PROVISIONS

158:50-1-4. Adopted references and standard of workmanship

The Construction Industries Board hereby incorporates the International Mechanical Code/~~2000~~ 2003, International Fuel Gas Code/~~2000~~ 2003, and the International Residential Code/~~2000~~ 2003,(Chapters 12 through 24) as the minimum standard for mechanical work in Oklahoma.

SUBCHAPTER 5. LICENSE TYPES, LIMITATIONS OF LICENSES, CONTRACTOR SPECIAL REQUIREMENTS AND DISPLAY OF LICENSE NUMBER AND FIRM NAME

158:50-5-3. Contractor special requirements

(a) **Bond.**

(1) A corporate surety bond, (the "bond") in the sum of five thousand dollars ($5,000.00) payable to the Oklahoma Construction Industries Board and approved by the Administrator shall be permanently deposited with the Bonds and Insurance Unit 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 Board.

(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~~;~~. The Board may seek payment through the surety bond of any fines or penalties, which the licensee fails to pay.

(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 Board.

(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 Board 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.

SUBCHAPTER 9. QUALIFICAITONS FOR MECHANICAL LICENSURE, LICENSE AND REGISTRATION FEES, DURATION OF LICENSE, MECHANICAL LICENSE APPLICATION, AND APPRENTICE REGISTRATION

158:50-9-2. License and registration fees and renewals

(a) **Examination fees for contractors and journeyman.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by these rules. The cost for each such examination referenced in section 158:50-9-1 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to setting for the examination. The unit testing fee shall be the amount negotiated by the administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee provided in 59 O.S.§ 1000.5 (A)(2). Documentation confirming the contractual fee shall be available upon request.

(b) **Licensing, registration and application fee schedule for contractors, journeyman, and apprentices.** The licensure, application, and registration fees shall be annually as follows:

(1) contractors application - $25.00
(2) initial contractor license - $200.00
(3) renewal contractor license - $150.00
(4) renewal contractor late fee - $300.00
(5) journeyman application - $25.00
(6) initial journeyman license - $50.00
(7) renewal journeyman license - $50.00
(8) renewal journeyman late fee - $100.00
(9) apprentice application - $10.00
(10) apprentice registration - $20.00

(c) **Conversion to birth date renewal proration schedule.** Beginning July 1, 2004 in the Licensing period of 2004-2005 and for a period of one year only, licenses will be prorated as follows:

(1) Journeymen license holders with a birth date in the months from July through December will pay a regular renewal fee of $50.00 plus $4.16667 (rounded up to the nearest whole cent) for each month (August, September, October, November, December) or 1/12 of a full renewal fee until the birth month of the licensee. This period of prorated fees will extend the duration of the license until the birth month of the license holder in the year of 2005.

(2) Journeymen License holders with birth dates in the months of January 2005 through June 2005 will pay $4.16667 (rounded up to the nearest whole cent) each month or 1/12 of full renewal, until their next birth month (January, February, March, April, May, June) at which time they will pay a full fee to renew their license for a period of one year.

(3) Contractor license holders with a birth date in the months from July through December will pay a regular renewal fee of $150.00 plus $12.50 for each month (August, September, October, November, December) or 1/12 of a full renewal fee until the birth month of the licensee. This period of prorated fees will extend the duration of the license until the birth month of the license holder in the year of 2005.

(4) Contractor License holders with birth dates in the months of January 2005 through June 2005 will pay $12.50 for each month or 1/12 of full renewal, until their next birth month (January, February, March, April, May, June) at which time they will pay a full fee to renew their license for a period of one year.

158:50-9-3. Duration of licenses

(a) All licenses shall have a duration of no more than one year, and shall expire on ~~June 30th~~ the last day of the birth month of the licensee ~~of~~ each year.

(b) Any license issued by examination may be renewed by submitting the license fee for the next year by a check or money order and be mailed on or before the ~~June 30th~~ birth month expiration date.

(c) A license renewed under the provision of 158:9-3 (b) is effective when notice of such renewal is issued by the Construction Industries Board.

(d) An expired license ~~issued by examination~~ may be reinstated if: The license fee is submitted within one (1) year after the license expired, and is accompanied by a late fee, plus any applicable continuing education, and insurance and bonding requirements.

~~(e) 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 Construction Industries examination may be used to meet an examination requirement.~~

(~~f~~e) A licensee who, during an investigation of the licensee by the Construction Industries Board, surrenders their license,

shall be treated as if the license had been revoked for one year from the day of surrender.

(~~g~~f) A license cannot be renewed until the licensee has paid any and all outstanding fines due and owing to any department of the Construction Industries Board.

158:50-9-6. Mechanical journeyman and contractor licenses by reciprocity

(a) **General procedures for application.** Any person holding a valid mechanical journeyman license or mechanical contractor license issued by another State who is seeking to obtain a license by reciprocity shall first submit an application to the Construction Industries Board on a form provided by the Board. The application shall include all documentation necessary to show the applicant meets the requirements established by these rules. All applications shall first be directed to the Committee or its designee for an initial review to determine if the applicant meets the qualifications for a license by reciprocity as set forth in these rules and in 59 O.S. Supp. 2002, § 1000.5A or any subsequent enactment of the Legislature. Following this review, the Committee or its designee shall make a recommendation to the Board or its designee as to whether the application should be approved or disapproved. The Board or its designee shall make the final determination as to whether an application shall be approved or disapproved. If an application is disapproved by the Board or its designee, the application shall be returned to the applicant with the reason for the disapproval.

(b) **Application fees.** Before an application will be considered, a person applying for a mechanical journeyman license by reciprocity must pay an application and licensing fee of $ 75. If the person is applying for a mechanical contractor license, the person must pay an application and licensing fee of $225. These fees shall not be refundable under any circumstances.

(c) **Requirements for issuance of a license by reciprocity.** An application for a license by reciprocity may be approved upon a satisfactory showing by the applicant of the following:

(1) That the requirements for licensure from the State in which the applicant is licensed is determined to be substantially the same or equivalent to the requirements for obtaining a license by examination in this state. In making this determination the following shall be considered:

(A) Whether the other State regulates and issues licenses for mechanical trade categories in a manner that is substantially the same or equivalent to the State of Oklahoma;

(B) Whether the experience required by the other State to be eligible to sit for the license examination is substantially the same or equivalent to the Board's requirements;

(C) Whether the continuing education requirements of the other State are substantially the same or equivalent to the Board's requirements;

(D) Whether the codes adopted by the other State are substantially the same or equivalent to the Board's requirements;

(E) Whether the examination of the other State is substantially the same or equivalent to the Board's requirements. This shall include the score required to pass the examination, whether examinations are given for specific mechanical trade categories, and whether the examination is in written form.

(2) That the other State will recognize licenses issued by the State of Oklahoma through the Construction Industries Board. Paragraphs 1 and 2 of this rule may be satisfied by the existence of a reciprocity agreement between the Board and the State issuing the applicant's current license as provided in subsection (d) of this rule.

(3) That the applicant is currently licensed by a State that meets the requirements of Section 1 of this rule and that one year immediately prior to the application, the applicant lawfully practiced an applicable trade within and under the laws of that State.

(4) That no disciplinary matters are pending against the applicant in any jurisdiction in which the applicant is currently licensed. This requirement will be considered satisfied upon presentation of a certified statement from the licensing authorities of all jurisdictions in which the applicant is currently licensed that no disciplinary matters are pending against applicant.

(5) That the applicant obtained the license to be reciprocated by examination in the applicable mechanical trade category.

(d) **Reciprocity agreements.** The Board may enter into a reciprocity agreement with another State if the requirements for licensure in the other State are deemed by the Board to be substantially the same or equivalent to the requirements for obtaining an original license by examination in this state.

(e) **Additional requirements for contractor applicants.** Applicants seeking a mechanical contractor license by reciprocity who meet the necessary qualifications for a license as required in this rule will be granted a journeyman license by reciprocity. The applicant will be issued a contractor license upon successfully passing the Oklahoma Mechanical Contractor Business and Law portion of the full contractor examination and satisfaction of the requirements of OAC 158:50-5-3.

(f) **Additional requirements for ground source piping license applicants.** Applicants seeking a mechanical license by reciprocity in the ground source piping category must provide proof of being certified in the proper installation of ground source piping by an organization approved by the Committee.

158:50-9-7. Continuing Education

(a) **Continuing education hours.** For the license year beginning July 1, 2005, no mechanical contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education within one (1) year of adoption of the current, published revisions of the International Mechanical Code, International Fuel Gas Code, and International Residential Code. At least four (4) hours must consist of training on the revisions of the International Mechanical Code, International Fuel Gas Code, and International Residential Code. Not more than two (2) hours of continuing education

may consist of manufacturer provided training in the installation of equipment or parts.

(b) **Continuing education course approval.** Entities seeking to offer continuing education courses to licensees must submit an application for approval to the Mechanical Licensing Unit prior to beginning instruction. The application shall include an outline or other synopsis of the subject matter for each unit of instruction, and a list of the course instructors with their qualifications. Upon recommendation of the Committee and approval by the Board, notice of the course approval will be sent to the applying entity. Licensees shall not receive credit for attending courses that have not been approved by the Board prior to the beginning of the course. All courses shall be presented as approved unless changes are submitted to the Mechanical Licensing Unit for consideration prior to the beginning of the course. Failure to obtain approval of changes may result in the loss of continuing education approval. After completion of the course, the entity shall submit sign-in sheets for all sessions. The sign-in sheets shall contain the signature and state mechanical license number of each person in attendance. Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet. The entity shall verify the total number of continuing education hours completed by each attendee. The Board may approve continuing education earned outside of Oklahoma if the course is approved by another state for continuing education in that state.

(c) **Approval requirements for continuing education.** All continuing education providers shall abide by the following requirements:

(1) Materials and information presented shall pertain to the use of the current adopted International Mechanical Code, International Fuel Gas Code, and International Residential Code or manufacturer provided training in the installation of equipment or parts that is relevant to the licensee's category of licensure.

(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) All attendees shall complete a course evaluation on a form provided by the Board. The entity shall return the completed evaluation forms to the Board with the sign-in sheets.

(5) Continuing education from manufacturers with a certificate of completion may be approved with a copy of the certificate.

(d) **Correspondence course approval.** Entities seeking to offer correspondence courses for continuing education shall submit a course curriculum and study material for review by the Committee and approval by the Board prior to the courses being accepted as continuing education. Approved correspondence courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providing a student with a document of completion shall certify completion of approved correspondence courses.

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:50-11-2. Prohibited acts

(a) The following prohibited acts apply to all license holders:

(1) No person, entity, or firm may perform mechanical work without first obtaining the appropriate license or registration pursuant to these rules.

(2) No licensee shall perform mechanical work in a category under which he is not licensed.

(3) No licensee shall perform work contrary to any provision of the adopted references in 158:50-1-4, except as otherwise provided by law or rule. Each violation of the adopted references in 158:50-1-4 can be treated as a separate violation of this Chapter.

(4) No person shall offer to engage in mechanical work during the period his license is suspended or revoked.

(5) No employing mechanical firm shall employ or use and unlicensed or unregistered individual or entity to perform mechanical work.

(6) No person, entity, or firm may transfer a license or registration.

(7) No individual or entity, licensed pursuant to these Rules shall enter into an agreement for the use of his license with any firm or person which 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 Board.

(8) No person shall make a materially false or fraudulent statement in an application for license.

(9) No person may alter a license.

(10) No licensee shall fail to notify the Administrator of a change in his address.

(11) No licensee shall perform mechanical work without keeping their license on their person or in close proximity while performing mechanical work.

(12) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.

(13) No person or entity shall deny access to the Construction Industries Board or its representative on a job site.

(b) The following prohibited acts apply to persons issued a contractor license:

(1) No licensee shall employ or supervise persons performing mechanical work unless those persons are licensed or registered to perform that category of work.

(2) No licensee shall 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) No licensee shall allow more than three (3) apprentices per journeyman at a job site.

(4) No licensee shall fail to maintain a bond as provided for in 158:50-5-3.

(5) No licensee shall fail to provide proof of financial responsibility to the Administrator as provided for in 158:50-5-3 (b).

(6) No licensee shall be associated with and responsible for more than one mechanical firm.

(c) The following prohibited acts apply to persons issued a journeyman license:

(1) No licensee shall allow an apprentice under his direct supervision to perform mechanical work for which the journeyman is not licensed to perform.

(2) No licensee shall perform mechanical work except under the employment or supervision of a Mechanical Contractor.

(3) No licensee shall engage in the planning, contracting, or furnishing of labor and/or materials used for mechanical work.

[OAR Docket #04-415; filed 3-24-04]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 60. INSPECTORS REGULATIONS

[OAR Docket #04-416]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Categories and Classifications of Inspector Licenses, Qualifications for Inspector Licensure, License Requirements for Inspectors, Fees, Certification And Continuing Education For Inspectors, And Continuing Education Courses
158:60-5-4. Fees, Certification and Continuing Education for Inspectors. [AMENDED]
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Subchapter 5. Categories and Classifications of Inspector Licenses, Qualifications for Inspector Licensure, License Requirements for Inspectors, Fees, certification and continuing education for inspectors, and continuing education courses
158:60-5-4. Fees, Certification and Continuing Education for Inspectors. [AMENDED]
Gubernatorial approval:
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Register publication:
21 Ok Reg 500
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04-81
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The Construction Industries Board is required to establish by rule a method for prorating license fees to coincide with the birth date of the licensee.
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 APRIL 26, 2004:

SUBCHAPTER 5. CATEGORIES AND CLASSIFICATIONS OF INSPECTOR LICENSES, QUALIFICATIONS FOR INSPECTOR LICENSURE, LICENSE REQUIREMENTS FOR INSPECTORS, FEES, CERTIFICATION AND CONTINUING EDUCATION FOR INSPECTORS, AND CONTINUING EDUCATION COURSES

158:60-5-4. Fees, certification and continuing education for inspectors

(a) Fees, certification and continuing education requirements for inspectors are as follows:

(1) Building inspectors (both unlimited and residential licenses):

(A) $35.00 Fee for license and renewal;

(B) $70.00 Late fee; and

(C) Certification or exam - BOCA, ICC, ICBO, SBCCI, or Construction Industries Inspector's Exam.

(D) C.E.U. - 5 (effective for license year beginning July 1, 1995).

(2) Electrical inspectors (both unlimited and residential licenses):

(A) $35.00 Fee for license and renewal;

(B) $70.00 Late fees for renewal license; and

(C) Certification or exam - BOCA, ICC, ICBO, SBCCI, or Construction Industries Inspector's Exam.

(D) C.E.U. - 5 (effective for license year beginning July 1, 1995).

(3) Mechanical inspectors (both unlimited and residential licenses):

(A) $35.00 Fee for license and renewal;

(B) $70.00 late fees for renewal license; and

(C) Certification or exam - BOCA, ICC, ICBO, SBCCI, or Construction Industries Inspector's Exam.

(D) C.E.U. - 5 (effective for license year beginning July 1, 1995).

(4) Plumbing inspectors (both unlimited and residential licenses):

(A) $35.00 Fee for license and renewal;

(B) $70.00 late fees for renewal license; and

(C) Certification or exam - BOCA, ICC, IAPMO, ICBO, SBCCI, or Construction Industries Inspector's Exam.

(D) C.E.U. - 5 (effective for license year beginning July 1, 1995).

(b) **Duration of licenses.** All licenses shall have a duration of no longer than one year, and shall expire on the last day of the birth month of the licensee each year.

(c) **Conversion to birth date renewal proration schedule.** Beginning July 1, 2004 in the Licensing period of 2004-2005 and for a period of one year only, licenses will be prorated as follows:

(1) License holders with a birth date in the months from July through December will pay a regular renewal fee of $35.00 plus $2.91667 (rounded up to the nearest whole cent) for each month (August, September, October, November, December) or 1/12 of a full renewal fee until the birth month of the licensee. This period of prorated fees will extend the duration of the license until the birth month of the license holder in the year of 2005.

(2) License holders with birth dates in the months of January 2005 through June 2005 will pay $2.91667 (rounded up to the nearest whole cent) each month or 1/12 of full renewal, until their next birth month (January, February, March, April, May, June) at which time they will pay a full fee to renew their license for a period of one year.

[OAR Docket #04-416; filed 3-24-04]

TITLE 165. CORPORATION COMMISSION CHAPTER 30. MOTOR CARRIERS

[OAR Docket #04-493]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Intrastate Motor Carriers
Part 1. Applying For A License
165:30-3-3. License renewals [AMENDED]
Part 3. License Requirements
165:30-3-12. Identification device [AMENDED]
Part 13. Suspension Or Cancellation Of License
165:30-3-103. Reinstatement of certificate or permit, license or IRC [AMENDED]
165:30-3-104. Violations [AMENDED]
Subchapter 9. Interstate Exempt Motor Carriers
Part 5. Miscellaneous
165:30-9-46. Violations [NEW]
Subchapter 11. Interstate Regulated Motor Carriers
Part 7. Miscellaneous
165:30-11-47. Violations [NEW]
Subchapter 13. Intrastate Certificates Or Permits
Part 11. Suspension Or Cancellation Of Authority
165:30-13-94. Violations [AMENDED]
Subchapter 15. Intrastate Private Carriers
Part 3. Obtaining A Private Carrier License And License Requirements
165:30-15-5. License renewals [AMENDED]
165:30-15-9. Identification device [NEW]
Part 7. Violations, Suspension Or Cancellation
165:30-15-34. Violations [AMENDED]

AUTHORITY:
Oklahoma Corporation Commission, 47 O.S. §§ 161 through 180m et seq.

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None

INCORPORATIONS BY REFERENCE:
None

ANALYSIS:
OAC 165:30-3-3 concerning intrastate for-hire motor carrier license renewals is amended to implement a carrier-optional two or three year renewal license. Allows a motor carrier to reduce the paperwork involved in renewing its motor carrier license by electing a two or three year license renewal.OAC 165:30-3-12 concerning identification devices is amended to include the requirement for identification devices to be timely acquired prior to the annual expiration of a multiple year renewal license. Allows the Commission to ensure for-hire motor carriers are operating within the liability insurance limits of their for-hire motor carrier license and requires timely renewal of a carrier's annual identification device(s), i.e., bingo stamps.

OAC 165:30-3-103 concerning reinstatements of certificate or permit, license or IRC is amended to allow for administrative approval of a reinstatement application if certain conditions are met. Allows a motor carrier to receive a reinstated license, without appearing before an Administrative Law Judge, if all requirements for the license are now in effect.

OAC 165:30-3-104 concerning violations is amended to comply with statutory fine amounts; to provide for detention of motor carrier's equipment and impoundment if necessary. Allows a motor carrier to determine all applicable rules of the Commission, relating to its mode of operations, within a single subchapter.

OAC 165:30-9-46 concerning violations is added to ensure interstate exempt carriers are apprised of penalties associated with statutory or Commission rule violations. Allows a motor carrier to determine all applicable rules of the Commission, relating to its mode of operations, within a single subchapter.

OAC 165:30-11-47 concerning violations is added to ensure interstate regulated carriers are apprised of penalties associated with statutory or Commission rule violations. Allows a motor carrier to determine all applicable rules of the Commission, relating to its mode of operations, within a single subchapter.

OAC 165:30-13-94 concerning violations is amended to comply with statutory fine amounts; to provide for detention of motor carrier's equipment and impoundment if necessary. Allows a motor carrier to determine all applicable rules of the Commission, relating to its mode of operations, within a single subchapter.

OAC 165:30-15-5 concerning intrastate private carrier license renewals is amended to implement a carrier-optional two or three year renewal license. Allows a motor carrier to reduce the paperwork involved in renewing its motor carrier license by electing a two or three year license renewal.

OAC 165:30-15-9 is added for intrastate private carriers to be required to acquire annual identification devices. Allows the Commission to ensure private motor carriers are operating within the liability insurance limits of their

private motor carrier license and requires timely renewal of a carrier's annual identification device(s), i.e., bingo stamps.

OAC 165:30-15-34 concerning violations is amended to comply with statutory fine amounts; to provide for detention of motor carrier's equipment and impoundment if necessary. Allows a motor carrier to determine all applicable rules of the Commission, relating to its mode of operations, within a single subchapter.

CONTACT PERSON:

Jeff Southwick (405) 522-4457

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, 2004:

SUBCHAPTER 3. INTRASTATE MOTOR CARRIERS

PART 1. APPLYING FOR A LICENSE

165:30-3-3. License renewals

(a) Any motor carrier desiring to continue intrastate motor carrier operations as granted in its license, shall, prior to the date of license expiration, apply for renewal by submitting the appropriate application form (TDF 2) and all supporting documentation. Each renewal application shall be properly signed, attested to and notarized as follows:

(1) Application of sole proprietorship must be signed by owner.

(2) Application of partnership must be signed by one of the partners.

(3) Application of corporation must be signed by an officer ~~and attested to by the Secretary or assistant secretary, and contain its corporate seal~~.

(b) All intrastate motor carrier licenses issued by the Commission shall expire the same calendar month as issued, and shall be valid for a period of one year, but may be renewed for up to three years. Carriers renewing licenses for more than one year must maintain all requirements of that license as prescribed in Part 3 of this Subchapter in order for the license to be valid.

(c) Renewal applications shall be accompanied by a filing fee as prescribed by the Commission, unless filed simultaneously with a sub application to modify operations.

(d) Renewal applications may be set for hearing, and, if set for hearing, shall be published on the Commission's Transportation Docket. A renewal application may be set for hearing ~~in~~ at the discretion of the Commission for good cause.

(e) An intrastate motor carrier desiring to renew its license should apply for renewal of its license a minimum of thirty (30) days prior to its expiration.

(f) A renewal application will not be accepted if the license has previously expired, unless the Director of the Transportation Division reviews and approves the acceptance of the application for renewal.

(g) No intrastate motor carrier license shall be renewed until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

(h) No intrastate motor carrier operations shall be performed under an expired motor carrier license.

PART 3. LICENSE REQUIREMENTS

165:30-3-12. Identification device

(a) Every motor carrier operating upon the public highways of the State of Oklahoma shall purchase and place within or upon each power unit operated by said motor carrier an identification device issued by this Commission, and make available for inspection upon request.

(1) Only one (1) identification device is required for each power unit.

(2) The annual fee for each identification device will be as prescribed by law or Commission rule.

(3) Identification devices shall expire simultaneously with the expiration date of the annual license issued to the motor carrier.

(b) No identification device may be sold or otherwise transferred; except if such motor carrier provides a newly acquired vehicle in substitution therefor, each identification device on the discontinued vehicle, if such device is still in the possession of the motor carrier, may be transferred to the substitute vehicle or any subsequently substituted vehicle.

(c) Identification devices found to be in the possession of a carrier not authorized will be confiscated and returned to the Commission by a motor carrier enforcement officer.

(d) No identification devices will be issued to any motor carrier who does not meet all statutory, regulatory and Commission requirements.

(e) Identification device(s) must be purchased prior to the expiration of each annual expiration of a multiple year renewal license to extend the motor carrier license. Failure to timely purchase the identification device(s) will cause the motor carrier license to expire. Failure to purchase the identification device(s) within 30 days of the expiration of the license will cause the motor carrier license to automatically expire and subject to reinstatement rules as prescribed in OAC 165:30-3-103.

PART 13. SUSPENSION OR CANCELLATION OF LICENSE

165:30-3-103. Reinstatement of certificate or permit, license or IRC

(a) A motor carrier whose certificate or permit, or a portion thereof, license or IRC or a private carrier whose license has been cancelled by law or by order of the Commission, may file with the Court Clerk of the Commission a written application for reinstatement on the appropriate form prescribed by the Commission (TDF 8), and shall tender with the application a filing fee as prescribed by law or by Commission rule.

(b) The application for reinstatement must be filed within three (3) months from the date the certificate or permit, license

or IRC was cancelled by law or by Commission order and may be approved by the director for administrative reinstatement. Applications not approved for administrative reinstatement may be set for hearing.
(c) The application shall be filed under the PIN as assigned to the certificate or permit, license or IRC, with appropriate sub-number designation.
(d) If the authority was revoked due to lack of insurance on file and the carrier cannot furnish proper proof of continuous insurance, the ~~The~~ Commission may reinstate the certificate or permit, license or IRC only after a hearing has been held and notice thereof has been given as prescribed by the Oklahoma Corporation Commission's Rules of Practice, OAC 165:5.
(e) No order granting reinstatement shall be issued until all requirements of the certificate or permit, license or IRC have been fulfilled and a reinstatement fee as prescribed by law or Commission rule has been tendered.

165:30-3-104. Violations
(a) Every for-hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or of any ~~rules~~ requirements of Subchapters 3, 9, 11, 13 or 15 of this Chapter; or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed ~~One Thousand ($1,000.00)~~ Five Hundred ($500.00) Dollars per violation per day or as otherwise provided for by law.
(b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted road signs.
(c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or rules of this Agency.
(d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, safety or welfare, upon direction of the Transportation Division Director or his designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.
(e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

SUBCHAPTER 9. INTERSTATE EXEMPT MOTOR CARRIERS

PART 5. MISCELLANEOUS

165:30-9-46. Violations
(a) Every for-hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or of any requirements of Subchapters 3, 9, 11, 13 or 15 of this Chapter; or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed Five Hundred ($500.00) Dollars per violation per day or as otherwise provided for by law.
(b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted road signs.
(c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or rules of this Agency.
(d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, safety or welfare, upon direction of the Transportation Division Director or his designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.
(e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

SUBCHAPTER 11. INTERSTATE REGULATED MOTOR CARRIERS

PART 7. MISCELLANEOUS

165:30-11-47. Violations
(a) Every for-hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or of any requirements of Subchapters 3, 9, 11, 13 or 15 of this Chapter; or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed Five Hundred ($500.00) Dollars per violation per day or as otherwise provided for by law.
(b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted road signs.

(c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or rules of this Agency.
(d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, safety or welfare, upon direction of the Transportation Division Director or his designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.
(e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

SUBCHAPTER 13. INTRASTATE CERTIFICATES OR PERMITS

PART 11. SUSPENSION OR CANCELLATION OF AUTHORITY

165:30-13-94. Violations

(a) Every for-hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or of any ~~rules~~ requirements of Subchapters 3, 9, 11 ~~or~~ , 13 or 15 of this Chapter; or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed ~~One Thousand ($1,000.00)~~ Five Hundred ($500.00) Dollars per violation per day or as otherwise provided for by law.
(b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted road signs.
(c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or rules of this Agency.
(d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, safety or welfare, upon direction of the Transportation Division Director or his designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.
(e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

SUBCHAPTER 15. INTRASTATE PRIVATE CARRIERS

PART 3. OBTAINING A PRIVATE CARRIER LICENSE AND LICENSE REQUIREMENTS

165:30-15-5. License renewals

(a) Any private carrier desiring to continue intrastate private carrier operations as granted in its license, shall, prior to the date of license expiration, apply for renewal by submitting the appropriate application form (TDF 2) and all supporting documentation. Each renewal application shall be properly signed and attested to as follows:
(1) Application of sole proprietorship must be signed by owner.
(2) Application of partnership must be signed by one of the partners.
(3) Application of corporation must be signed by officer ~~and attested to by the Secretary or assistant secretary, and contain its corporate seal~~.
(b) All intrastate private carrier licenses issued by the Commission shall expire the same calendar month as issued, and shall be valid for a period of one year, but may be renewed for up to three years. Carriers renewing licenses for more than one year must maintain all requirements of that license as prescribed in Part 3 of this Subchapter in order for the license to be valid.
(c) Renewal applications shall be accompanied by a filing fee as prescribed by the Commission, unless filed simultaneously with a sub application to modify operations.
(d) Renewal applications may be set for hearing, and, if set for hearing, shall be published on the Commission's Transportation Docket. A renewal application may be set for hearing in the discretion of the Commission for good cause. All proceedings subsequent to the application, and the conduct of the hearing, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.
(e) An intrastate private carrier desiring to renew its license should apply for renewal of its license a minimum of thirty (30) days prior to its expiration.
(f) A renewal application will not be accepted if the license has previously expired, unless the Director of the Transportation Division reviews and approves the acceptance of the application for renewal.
(g) No intrastate private carrier license shall be renewed until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.
(h) No intrastate private carrier operations shall be performed under an expired private carrier license.

165:30-15-9. Identification device

(a) Every private motor carrier operating upon the public highways of the State of Oklahoma shall place within or upon each power unit operated by said private motor carrier an identification device issued by this Commission, and make available for inspection upon request.
(1) Only one (1) identification device is required for each power unit.
(2) The annual fee for each identification device will be as prescribed by law or Commission rule.

(3) Identification devices shall expire simultaneously with the expiration date of the annual license issued to the motor carrier.

(b) No identification device may be sold or otherwise transferred.

(c) Identification devices found to be in the possession of a carrier not authorized will be confiscated and returned to the Commission by a motor carrier enforcement officer.

(d) No identification devices will be issued to any private motor carrier who does not meet all statutory, regulatory and Commission requirements.

(e) Identification device(s) must be acquired prior to the expiration of each annual expiration of a multiple year renewal license to extend the motor carrier license. Failure to timely acquire the identification device(s) will cause the motor carrier license to expire. Failure to acquire the identification device(s) within 30 days of the expiration of the license will cause the motor carrier license to automatically expire and subject to reinstatement rules as prescribed in OAC 165:30-3-103.

PART 7. VIOLATIONS, SUSPENSION OR CANCELLATION

165:30-15-34. Violations

(a) Every for-hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or of any ~~rules~~ requirements of Subchapters 3, ~~5,~~ 9, 11, ~~or~~ 13 or 15 of this Chapter; or who fails to obey, observe or comply with any order, decision, rule~~,~~ or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed ~~One Thousand ($1,000.00)~~ Five Hundred ($500.00) Dollars per violation per day or as otherwise provided for by law.

(b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted road signs.

(c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or rules of this Agency.

(d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, safety or welfare, upon direction of the Transportation Division Director or his designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.

(e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

[OAR Docket #04-493; filed 3-26-04]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 5. EMPLOYMENT SERVICE

[OAR Docket #04-488]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Internet Use
240:5-3-4. Penalties for violations [AMENDED]
AUTHORITY:
40 O.S. §§4-302; and the Oklahoma Employment Security Commission.
DATES:
Comment period:
December 1, 2003 through December 31, 2003
Public hearing:
No public hearing was held or requested
Adoption:
January 13, 2004
Submitted to Governor:
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January 15, 2004
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February 25, 2004
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Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2004
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March 24, 2004
Effective:
May 1, 2004
SUPERSEDED EMERGENCY ACTIONS:
None
INCORPORATIONS BY REFERENCE:
None
ANALYSIS:
This amendment corrects a typographical error in a rule citation in the text of the rule.
CONTACT PERSON:
For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, or 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 1, 2004:

SUBCHAPTER 3. INTERNET USE

240:5-3-4. Penalties for violations

If an Internet user is found to have violated any of the restrictions set out in ~~240:5-3-5~~ 240:5-3-3, the user will receive a warning for the first violation, a 30 day suspension for the second violation, and an indefinite suspension for the third violation.

[OAR Docket #04-488; filed 3-26-04]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #04-489]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Benefits
Part 9. Disqualifications
240:10-3-41. Application of retirement proceeds and severance pay [AMENDED]
240:10-3-44. Domestic violence or abuse [NEW]
240:10-3-45. Cases involving positive drug or alcohol tests [NEW]
Subchapter 13. Appeal Tribunal Procedure
Part 3. Appeals to Appeal Tribunal
240:10-13-20. Filing an appeal [AMENDED]
Part 5. Hearings
240:10-13-45. Legal Fees [REVOKED]
AUTHORITY:
40 O.S. §§2-405(5); 2-603; 4-302; 551 through 565; and the Oklahoma Employment Security Commission.
DATES:
Comment period:
December 1, 2003 through December 31, 2003
Public hearing:
No public hearing was held or requested
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March 24, 2004
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May 1, 2004
SUPERSEDED EMERGENCY ACTIONS:
None
INCORPORATIONS BY REFERENCE:
None
ANALYSIS:
240:10-3-41 - this amendment will change the way severance pay is deducted from unemployment benefits. Once approved, severance pay will be deducted in the week that severance pay is received. 240:10-3-44 - is a new rule required by legislation passed in 2003. This rule will set out the requirement that if a claimant separated from employment as a part of a plan to escape domestic violence or abuse, this would be deemed good cause for quitting work and benefits would be allowed if a victim's protection order is in effect on the date of separation. 240:10-3-45 - is a new rule that will set out the minimum documentation required by the Standards for Workplace Drug and Alcohol Testing Act. 240:10-13-20 - is being amended to implement a statutory change made in 2003. This rule amendment will allow appeals to the Appeal Tribunal to be filed by telephone. 240:10-13-45 - is being revoked because the granting of attorney's fees is within the jurisdiction of the Board of Review and not the Appeal Tribunal.
CONTACT PERSON:
For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, or 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 1, 2004:

SUBCHAPTER 3. BENEFITS

PART 9. DISQUALIFICATIONS

240:10-3-41. Application of retirement proceeds and severance pay

(a) **Retirement proceeds.** A lump-sum distribution from a retirement plan shall be deductible from benefits ~~only~~ in the week received.
(b) **Severance pay.** Severance pay which is deemed wages ~~and is paid in a lump sum~~ shall be deductible from benefits ~~only~~ in the week received.

240:10-3-44. Domestic violence or abuse

If a claimant separates from employment as part of a plan to escape domestic violence or abuse, the separation will be deemed to have occurred for good cause and benefits will be allowed; provided that a victim's protection order was on file with the appropriate authorities and the order was effective on the date the claimant separated from employment.

240:10-3-45. Cases involving positive drug or alcohol tests

In order to establish that the drug or alcohol test of an unemployment insurance claimant was conducted in accordance with the Standards for Workplace Drug and Alcohol Testing Act, 40 O.S. §551 through 565, the employer must produce the following:

(1) Documentation of a positive test result issued by the testing facility that performed the test.
(2) Documentation of the chain of custody of the testing sample from the point of collection to the testing facility.
(3) The medical review officer's certification of proper testing standards and procedures.
(4) A statement concerning the circumstances, as set out in 40 O.S. §554, under which the testing was requested or required.
(5) A copy of the employer's drug testing policy as required by 40 O.S. §555.
(6) Documentation showing that the employer provides an employee assistance program as required by 40 O.S. §561.
(7) Any evidence relevant to the adjudication of questions of fact or law regarding drug or alcohol testing that may be an issue in the claim for unemployment benefits.

SUBCHAPTER 13. APPEAL TRIBUNAL PROCEDURE

PART 3. APPEALS TO APPEAL TRIBUNAL

240:10-13-20. Filing an appeal

The appeal should be filed ~~at a~~ with the Commission ~~office~~ in any manner set forth in 40 O.S. §1-224 or by telephone through the Commission's interactive voice response system or by speaking with one of the Commission's claim representatives. A Commission representative will then forward the appeal, along with available documentation, to the Benefit Division. The Benefit Division will immediately assure that two copies of the entire file is included and forwarded to the Appeal Tribunal.

240:10-13-45. Legal fees [REVOKED]

~~If a party is represented by an attorney, the hearing officer may approve a fee for legal services on a quantum meruit basis, provided the fee is commensurate with the fee set by the Board of Review. [40:2-302]~~

[OAR Docket #04-489; filed 3-26-04]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 12. TRADE ACT PROGRAMS

[OAR Docket #04-490]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Reemployment Services
240:12-5-4. Maximum cost of training [REVOKED]
AUTHORITY:
40 O.S. § 4-302; 19 U.S. §§2271 through 2331; and the Oklahoma Employment Security Commission.
DATES:
Comment period:
December 1, 2003 through December 31, 2003
Public hearing:
No public hearing was held or requested
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Final adoption:
March 24, 2004
Effective:
May 1, 2004
SUPERSEDED EMERGENCY ACTIONS:
None
INCORPORATIONS BY REFERENCE:
None
ANALYSIS:
This rule is being revoked from the Trade Act Program rules because federal law no longer requires the state to set a maximum cost of training.
CONTACT PERSON:
For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, or 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 1, 2004:

SUBCHAPTER 5. REEMPLOYMENT SERVICES

240:12-5-4. Maximum cost of training [REVOKED]

~~The OESC shall establish, on or before January 15th of each year, a maximum amount allowable for the total cost of training per worker taking into consideration the type of occupational training, the usual and customary cost of such training in the state of Oklahoma, and the duration of the training. The established amount shall be effective for the entire calendar year in which it was calculated. This information shall be made available to the applicant upon request at any local office of the OESC.~~

[OAR Docket #04-490; filed 3-26-04]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 15. BOARD OF REVIEW PROCEDURES

[OAR Docket #04-491]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
240:15-1-5. ~~Attorneys or representative; fees~~Attorneys and representatives [AMENDED]
240:15-1-7. Attorney fees - approval [NEW]
AUTHORITY:
40 O.S.§§ 2-607; 4-302; and the Oklahoma Employment Security Commission.
DATES:
Comment period:
December 1, 2003 through December 31, 2003
Public hearing:
No public hearing was held or requested
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Final Adoption:
March 24, 2004
Effective:
May 1, 2004
SUPERSEDED EMERGENCY ACTIONS:
None
INCORPORATIONS BY REFERENCE:
None
ANALYSIS:
240:15-1-5 is being amended to clarify its language and to remove the procedures for attorney's to claim attorney fees in unemployment benefit cases. 240:15-1-7 is a new rule that sets out the current procedures for an attorney to claim attorney fees in unemployment benefits cases.
CONTACT PERSON:
For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, or 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 1, 2004:

240:15-1-5. ~~Attorneys or representative; fees~~ Attorneys and representatives

Parties to proceedings before the Board of Review may be represented by a licensed attorney or an unlicensed representative. When a party is represented by an attorney or ~~other authorized~~ representative, the party shall be deemed to have received notice of hearing, correspondence, decision or order mailed by the Board of Review when ~~said~~ these written communications are mailed to the attorney or representative. ~~Claim for legal services by an attorney representing the claimant shall not be enforceable unless approved by the Board of Review. The claim shall be determined on a quantum merit basis, provided that such claim for legal fees shall not exceed 20% of the claim for unemployment benefits. A party employing an attorney has the sole responsibility for the payment of all attorney fees.~~

240:15-1-7. Attorney fees - approval

When a claimant for unemployment benefits is represented by an attorney at law, the Board of Review must approve the fee of the attorney. Upon final disposition of the claim, the attorney for the claimant shall make a motion to the Board of Review for approval of the attorney fee. The approval of the attorney fee will be on a quantum meruit basis, provided that the maximum amount of the fee shall not exceed 20% of the claimant's maximum benefit amount. No attorney fee will be approved unless the claimant is ultimately awarded benefits. It shall be the responsibility of the claimant to pay all attorney fees approved by the Board of Review.

[OAR Docket #04-491; filed 3-26-04]

TITLE 318. HIGHWAY CONSTRUCTION MATERIALS TECHNICIAN CERTIFICATION BOARD
CHAPTER 20. COMPLAINTS AND INDIVIDUAL PROCEEDINGS

[OAR Docket #04-440]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
318:20-1-1. Purpose [NEW]
318:20-1-2. Complaint procedures; forms [NEW]
318:20-1-3. Investigation of alleged violations [NEW]
318:20-1-4. Parties to proceedings [NEW]
318:20-1-5. Notice of hearing [NEW]
318:20-1-6. Persons to be notified [NEW]
318:20-1-7. Method of service [NEW]
318:20-1-8. Time for hearing [NEW]
318:20-1-9. Hearing [NEW]
318:20-1-10. Hearing Officer [NEW]
318:20-1-11. Failure to appear [NEW]
318:20-1-12. Subpoenas [NEW]
318:20-1-13. Depositions [NEW]
318:20-1-14. Record of Hearing [NEW]
318:20-1-15. Rehearing [NEW]
318:20-1-16. Appeal [NEW]
AUTHORITY:
Oklahoma Highway Construction Materials Technician Registration Act; 69 O.S. Supp 2001 § 1954
DATES:
Comment period:
August 15, 2003 through September 15, 2003
Public hearing:
September 15, 2003
Adoption:
October 15, 2003
Submitted to Governor:
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Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2004
Final adoption:
March 24, 2004
Effective:
April 26, 2004
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The Oklahoma Highway Construction Materials Technician Registration Act (69 O.S. Section 1953) effective on July 1, 1999 created a new board for the purpose of administering a training and certification program for technicians involved in sampling and/or testing highway construction materials. Rules covering these efforts were finally adopted on May 5, 2000. Prior to this Rulemaking action, the rules were revised twice, with the latest previous changes being finally adopted on March 26, 2003. The most significant change was in 318:10-1-10, Grounds for Discipline. The new Chapter 20, Complaints and Individual Proceedings, covered herein, provides guidance to the Board in handling serious disciplinary problems.
CONTACT PERSON:
Reynolds Toney or Scott Seiter, Materials Division, Oklahoma Department of Transportation, 200 N.E. 21st Street, Oklahoma City, Oklahoma 73105-3204, Phone 405-521-2677.

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 APRIL 26, 2004.

318:20-1-1. Purpose

The rules of this Chapter establish procedures for pursuing formal disciplinary proceedings against persons qualified to use the title Registered Highway Construction Materials Technician or RHCMT, based on the grounds for discipline set forth in 318:10-1-10.

318:20-1-2. Complaint procedures; forms

(a) Complaint against any Highway Construction Materials Technician shall be verified and signed by the person or persons making complaint or allegation and shall be notarized. Complaint forms are available from the office of the Board. Complaint shall include the following information:

(1) Name and address of person against whom complaint is filed.

(2) Detailed explanation of offense committed.

(3) Name and address of person(s) filing complaint.

(b) Anonymous complaints may not receive response from or other action by the Board.

318:20-1-3. Investigation of alleged violations

(a) Alleged violations are investigated by an investigator appointed by the Program Director. One or more investigators may be assigned to complete the investigatory process.

(b) A full written report of the investigation of alleged violations shall be submitted by the investigator(s) to the Program Director.

(c) Reports are reviewed by the Program Director who determines in accordance with the Highway Construction Materials Technician Registration Act and Board rules and regulations if sufficient evidence exists to call for formal disciplinary proceedings.

318:20-1-4. Parties to proceedings

If sufficient evidence exists to call for formal disciplinary proceedings, the Program Director shall file a sworn complaint. The style of the complaint shall be: STATE OF OKLAHOMA ex rel. HIGHWAY CONSTRUCTION MATERIALS TECHNICIAN CERTIFICATION BOARD v. RESPONDENT'S NAME.

318:20-1-5. Notice of hearing

(a) **General statement.** Original complainants and respondents shall be given not less than ten (10) days advance notice of every individual proceeding.

(b) **Content of notice.** The notice shall include:

(1) a statement of the time, place and nature of the hearing,

(2) a statement of the legal authority and jurisdiction under which the hearing is to be held,

(3) a reference to the particular sections of the statute and rules involved, and

(4) a short and plain statement of the matters asserted. If the Board or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

318:20-1-6. Persons to be notified

(a) The original complainant and respondent shall be entitled to notice of an individual proceeding.

(b) The Board shall also notify the person or entity with whom the respondent technician is associated.

318:20-1-7. Method of service.

(a) **Service.** All notices or other papers requiring service in an individual proceeding shall be served in one of the following manners:

(1) personally, by a person appointed by the Program Director for such purpose, in any manner authorized by the law of this state for the personal service of summons in proceedings in a state court, or

(2) by certified mail mailed by the Program Director, or the Program Director's designee, addressed to the technician or applicant at such address as the technician or applicant filed with the Board, or if no such address is on file, at the noticee's last known address.

(b) **Completion.** Notice shall be deemed to have been given at the time that notice is deposited in the United States mail with proper postage thereon and mailed to the last known address of the notified person, or the date when such notice is served in person by a person duly authorized as a representative of the Board.

318:20-1-8. Time for hearing

(a) **Setting hearing.** The time set for a hearing, specified in the notice, shall not be less than ten (10) days after the date the notice is completed.

(b) **Continuances.** Written motions for any continuances or extensions of time shall state the time desired and the reasons for the request. The Board hereby authorizes the Program Director to rule on said motions. Said application shall be served upon the Program Director. If the extension is denied, the party may renew the request and make proper showing for continuance at the hearing.

318:20-1-9. Hearing

(a) **Presiding officer.** The hearing shall be conducted by the Chair of the Board or his designee.

(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 Board or hearing officer may ask questions of all parties.

(c) **Objections and motions.** The Chair or his designee 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 Chair 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 State. 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 Board or hearing officer shall prepare Findings of Fact and Conclusions of Law. The Board 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 Board, by majority vote of a quorum of its members, may deny, suspend, or revoke a certification for any of the reasons provided in 318:10-1-10. The Board by majority vote of a quorum of its members, may refuse, cancel, or revoke a certification or any of the reasons provided in 318:10-1-10.

318:20-1-10. Hearing officer

(a) **Selection.** A hearing may be conducted by a hearing officer designated by the Chair.

(b) **Hearing.** The hearing officer shall swear witnesses, hear testimony, admit evidence, and make rulings on objections and motions, and prepare proposed Findings of Fact and Conclusions of Law and submit the Findings and Conclusions to the Board.

318:20-1-11. Failure to appear

Any respondent who fails to appear as directed, after having received proper notice, may be determined to have waived their right to present a defense to the charges alleged in the complaint and a denial, suspension, or revocation of a certification, or other disciplinary action may be ordered by the Board if it appears, after having reviewed the evidence, that the allegations did in fact occur.

318:20-1-12. Subpoenas

(a) **Witnesses.** Subpoenas for the furnishing of information required by the Board, for the attendance of witnesses, and/or the production of evidence or records of any kind shall be issued by the Program Director of the Board. Subpoenas shall be served and a return made in any manner prescribed by general civil law.

(b) **Sanctions.** Upon the failure of any person to obey a subpoena, upon the refusal of any witness to be sworn or make an affirmation, or to answer a lawful question put to them in the course of the hearing, the Program Director may institute appropriate judicial proceedings under the laws of the State for an order to compel compliance with the subpoena or the giving of testimony, as the case may be. The hearing shall proceed, so far as it is possible, but the hearing officer or the Board in its discretion, at any time may continue the proceedings for such time as may be necessary to secure a final ruling in the compliance proceeding.

318:20-1-13. Depositions

The Board 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 Board Chair or his designee in accordance with rules provided in the Administrative Procedures Act.

318:20-1-14. Record of hearing

(a) **Contents of record.** The record in every individual proceeding shall include the following:

(1) all pleadings, motions, and intermediate rulings,

(2) evidence received and considered,

(3) a statement of matters officially noticed,

(4) questions and offers of proof, objections and rulings thereon,

(5) proposed findings and exceptions,

(6) any decision, opinion, or report by the person(s) presiding at the hearing, and

(7) all staff memoranda or data submitted to the Board or hearing officer in connection with their consideration of the case.

(b) **Recording**

(1) A record of the hearing, by means of tape recording, will be made of all hearings conducted by the Board or hearing officer unless the presiding officer designates otherwise.

(2) The record of the hearing and the file containing the pleadings will be maintained in aplace designated by the Program Director. The tape recordings of the proceedings shall be maintained for a period of at least one (1) year.

(c) **Transcript.** A transcript of the proceeding shall not be transcribed except upon written application by any party to the action. The party requesting transcription will bear the cost and will pay a fee according to the actual cost of transcription. An initial deposit established by the Program Director must be paid by the requesting party.

(d) **Final order.** All final orders in individual proceedings shall be in writing. The final order shall include Findings of Fact and Conclusions of Law, separately stated. A copy of the final order will be mailed to each party and to their attorney of record.

318:20-1-15. Rehearing

(a) **Petition.** A petition for rehearing is not required before an appeal may be perfected to the District Court of Oklahoma County. A petition for rehearing, reopening, or reconsideration of a final order may be filed with the Program Director within ten (10) days from the entry of the order. It must be signed by the party or their attorney and must set forth with particularity the statutory grounds upon which it is based. However, a petition for rehearing based upon fraud by any party or procurement of the order by perjured testimony or fictitious evidence may be filed at any time within one (1) year of the entry of the order.

(b) **Disposition.** An order of the Board granting a rehearing shall set forth the grounds which justify such action. The hearing shall be confined to the grounds upon which the rehearing was ordered.

318:20-1-16. Appeal

The technician or applicant may appeal the decision of the Board within thirty (30) days from the date the written Final Order is issued. Such appeal shall be made to the District Court of Oklahoma County.

[OAR Docket #04-440; filed 3-24-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #04-417]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 8. Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule [NEW]
340:2-8-1. through 340:2-8-14. [NEW]
(Reference APA WF # 03-17)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Parts 160 and Subparts A and E of Part 164 of Title 45 of the Code of Federal Regulations, the Health Insurance Portability and Accountability Act (HIPAA).
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January 27, 2004
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Gubernatorial approval:
August 21, 2003
Register publication:
20 Ok Reg 2907
Docket number:
03-3060
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The purpose of the proposed rules is to implement provisions of the HIPAA that protect client health information and allow clients the right to exercise more control over their protected health information. Without approval of the proposed rules, the Oklahoma Department of Human Services (OKDHS) will be out of compliance with HIPAA.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

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 APRIL 26, 2004.

SUBCHAPTER 8. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) PRIVACY RULE

340:2-8-1. Legal basis and purpose

(a) Part 160 and Subparts A and E of Part 164 of Title 45 of the Code of Federal Regulations constitute the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, which provides protection for the privacy of health information.

(b) The purpose of this Subchapter is to describe the Oklahoma Department of Human Services (OKDHS) privacy policies contained in the Privacy Rule. OKDHS privacy policies are intended to:

(1) protect clients' medical records and other personal health information;

(2) give clients more control over their protected health information (PHI);

(3) set boundaries on the use and disclosure of PHI; and

(4) hold violators accountable.

(c) Employees who violate OKDHS privacy policies are disciplined in accordance with DHS:2-1-7(g)(2)(A) and may be

subject to sanctions set forth by the Department of Health and Human Services.

340:2-8-2. Definitions

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

"Authorization" means a document that contains:

(A) the name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure;

(B) the name or other specific identification of the person(s), or class of persons, to whom Oklahoma Department of Human Services (OKDHS) may make the requested use or disclosure;

(C) a description of each purpose of the requested use or disclosure. The statement "at the request of the individual" is a sufficient description of the purpose when an individual initiates the authorization and does not, or elects not to, provide a statement of the purpose;

(D) an expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure. The statement "end of the research study," "none," or similar language is sufficient if the authorization is for a use or disclosure of protected health information (PHI) for research, including for the creation and maintenance of a research database or research repository;

(E) the signature of the individual and date. If the authorization is signed by a personal representative of the individual, a description of the representative's authority to act for the individual must also be provided; and

(F) the individual's right to revoke the authorization in writing.

"Disclosure" means the release of PHI to another entity or individual.

"Health care operations" means certain administrative, financial, legal, and quality improvement activities that are necessary to run the organization and to support the core functions of treatment and payment. Some common activities include quality assessment activities, case management, care coordination, and fraud and abuse investigation.

"Payment" means the various activities of health care providers to obtain payment or be reimbursed for their services. Some common activities include determining eligibility for a plan, adjudicating claims, risk adjustments, billing and collecting activities, medical necessity reviews, and utilization reviews.

"Personal representative" means an individual who:

(A) is a parent, legal guardian, or legal custodian appointed by a court;

(B) has the authority to act on behalf of a deceased individual or his or her estate;

(C) has been given authority to act on behalf of an individual with regard to health care through a power of attorney, medical directive, or guardianship; or

(D) has been designated by an adult as his or her personal representative with regard to health care. A personal representative is treated the same as the client.

"Privacy notice" means a form that notifies an individual:

(A) how his or her health information is handled by OKDHS; and

(B) what his or her rights are regarding PHI.

"Protected health information (PHI)" means any health-related information that is used to individually identify a person by virtue of its containing one or more individual identifiers, such as name, Social Security number, telephone number, case number, or postal zip code, and it applies to information transmitted or maintained in any form or medium, including electronic, paper, or oral.

"Treatment" means the provision, coordination, or management of health care and related services. This includes consultation between health care providers regarding a client or the referral of a client from one health care provider to another.

"Treatment, payment, operations (TPO)" means routine uses and disclosures of PHI.

"Use" means, with respect to PHI, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

340:2-8-3. Training

Oklahoma Department of Human Services (OKDHS) offers two forms of training regarding the Health Insurance Portability and Accountability (HIPAA) Privacy Rule and how the regulations relate to specific job functions. Every OKDHS employee whose job function is affected by the Privacy Rule is required to complete an available training course.

340:2-8-4. Client privacy rights

(a) Oklahoma Department of Human Services (OKDHS) clients have the right to:

(1) access, inspect, and obtain a copy of their own protected health information (PHI) in OKDHS files or records consistent with federal and state law except for:

(A) psychotherapy notes that are not specifically released by the originator of the notes;

(B) information compiled for use in civil, criminal, or administrative proceedings; and

(C) information that OKDHS believes can cause harm to the client or to any other person. For this exception, clients have the right to have the decision reviewed by a licensed health care professional or other designated staff not directly involved in making the original denial decision;

(2) receive an accounting of disclosures OKDHS has made of their PHI for up to six years prior to the requesting date, except for disclosures made for the purposes of treatment, payment, or health care operations activities; and

(3) submit complaints if they believe or suspect that OKDHS has improperly used or disclosed their PHI.

(b) Clients may ask OKDHS to take specific actions regarding the use or disclosure of their PHI and OKDHS may either

approve or deny the request. Specifically, clients have the right to request:

(1) that OKDHS restrict uses and disclosures of their PHI to those activities related to treatment, payment, and operations, unless the restriction adversely affects the quality of the client's care or prevents OKDHS from making or obtaining payment for services;

(2) to receive information from OKDHS by alternative means, such as mail, e-mail, fax, or telephone, or at alternative locations; and

(3) that OKDHS amend their PHI.

(c) Clients have the right to receive Form HIPPA-1, Privacy Notice.

340:2-8-5. Privacy officer

(a) The Oklahoma Department of Human Services (OKDHS) has designated a privacy officer to perform the required functions as specified in the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule. The contact information is: Oklahoma Department of Human Services, Privacy Officer, P.O. Box 53025, Oklahoma City, OK 73152.

(b) The privacy officer is responsible for:

(1) the development and implementation of OKDHS privacy policies;

(2) making decisions regarding the use and or disclosure of protected health information (PHI) when requested for the purpose of:

(A) judicial and administrative proceedings;

(B) law enforcement investigations;

(C) research; and

(D) marketing;

(3) reviewing a denial for a client's access to his or her own PHI for reasons indicated in OAC 340:2-8-4(a)(1)(C), and taking appropriate action following the review;

(4) receiving complaints regarding the use or disclosure of PHI from external and internal sources, and taking the appropriate action following the review;

(5) ensuring proper business associate agreements contain the appropriate language and provisions as required by the Privacy Rule; and

(6) receiving complaints regarding business associate activities or practices, and taking appropriate action following the review.

340:2-8-6. Uses and disclosures without authorization

Unless prohibited or limited by federal or state laws, Oklahoma Department of Human Services (OKDHS) may use or disclose protected health information (PHI) without written authorization for the circumstances explained in this Section.

(1) **Individual access.** OKDHS may disclose information to individuals who have requested disclosure of their own PHI in accordance with OAC 340:2-8-4(a)(1).

(2) **Required by law.** OKDHS may use or disclose PHI without authorization if the law requires such disclosure and the use or disclosure complies with, and is limited to, the relevant requirements of such law.

(3) **Treatment, payment, or health care operations.** OKDHS may use or disclose PHI without authorization:

(A) for its own treatment, payment, or health care operations;

(B) to another covered entity or health care provider for the payment activities of the entity that receives the PHI;

(C) to another covered entity for the health care activities of that entity, if:

(i) both that entity and OKDHS have or have had a relationship with the individual who is the subject of the PHI; and

(ii) the PHI pertains to such relationship.

(4) **Psychotherapy notes.** OKDHS may use or disclose psychotherapy notes generated by OKDHS:

(A) in training programs where students, trainees, or practitioners in mental health learn under supervision to practice or improve their skills;

(B) when a health oversight agency uses or discloses in connection with oversight of the originator of the notes; or

(C) to the extent authorized under state law to defend OKDHS in a legal action or other proceeding brought by the individual.

(5) **Public health activities.** OKDHS may disclose an individual's PHI to appropriate entities or persons for governmental public health activities and purposes, including but not limited to a:

(A) governmental public health authority that is authorized by law to collect or receive the PHI for the purpose of preventing or controlling disease, injury, or disability. This includes reporting vital events, such as:

(i) birth or death; or

(ii) abuse or neglect of a vulnerable adult;

(B) governmental public health authority, or other appropriate government authority, that is authorized by law to receive report of child abuse or neglect; or

(C) person who may have been exposed to a communicable disease, or may be at risk of contracting or spreading a disease or condition, if OKDHS is authorized by law to notify such person as necessary in conducting a public health intervention or investigation.

(6) **Health oversight activities.** OKDHS may disclose PHI for health oversight activities authorized by law, including audits; civil, criminal, or administrative investigations, prosecutions, or actions; licensing or disciplinary actions; Medicaid fraud; or other activities necessary for oversight.

(7) **Judicial and administrative proceedings.** Unless prohibited by applicable federal and state law, OKDHS

may disclose PHI for judicial or administrative proceedings as required by law, in response to an order of a court, a subpoena, a discovery request, or other lawful process.

(8) **Law enforcement purposes.** OKDHS discloses PHI only when required by federal or state laws.

(9) **Deceased persons.** OKDHS discloses PHI to a coroner or medical examiner only when required by federal or state laws.

(10) **Organ or tissue donation.** If a client is an organ donor, OKDHS may disclose PHI to an entity that participates in transplantation activities.

(11) **To avert a serious threat to health or safety.** OKDHS discloses PHI if:

(A) OKDHS believes in good faith that the PHI is necessary to prevent or lessen a serious or imminent threat to the health or safety of a person or the public; and

(B) the report is disclosed to a person(s) reasonably able to prevent or lessen the threat, including to the target of the threat.

340:2-8-7. Authorization

(a) A valid authorization is required to disclose protected health information (PHI) unless it is:

(1) for the purposes of treatment, payment, or health care operations; or

(2) listed specifically in OAC 340:2-8-6.

(b) An authorization is considered valid if:

(1) it contains the elements described at OAC 340:2-8-2;

(2) the expiration date has not passed; and

(3) the authorization is signed by the client, parent, guardian, or court-ordered personal representative of the client.

(c) A client may revoke an authorization if the revocation is in writing.

340:2-8-8. Disclosures to friends and relatives

(a) If the client has been informed in advance and has been given the opportunity to either agree or to refuse or restrict the disclosure, Oklahoma Department of Human Services (OKDHS) may disclose protected health information (PHI) to friends and relatives of the client to the extent allowed by the client. The disclosure must only reveal PHI that directly relates to such person's involvement with the client's care or payment for such care.

(b) If the client is not present, or the opportunity to object to the disclosure cannot practicably be provided due to the client's incapacity or an emergency situation, OKDHS determines, using professional judgment, whether the disclosure is in the client's best interests. If disclosure is in the client's best interest, then the minimum necessary disclosure may be made. If disclosure is not in the client's best interest, then no disclosure is made.

(c) Oral permission to disclose PHI to friends and relatives is not sufficient when the client is referred to or receiving substance abuse treatment, mental health, or vocational rehabilitation services. Written authorization is required under those circumstances.

340:2-8-9. Personal representative

(a) A personal representative must be authorized under state law to act on behalf of the client with respect to use or disclosure of protected health information (PHI).

(b) Oklahoma Department of Human Services (OKDHS) treats a personal representative the same as the client unless:

(1) there is reasonable belief that the client has been or may be subjected to domestic violence, abuse, or neglect by the personal representative; or

(2) by using professional judgment, it is determined that it is not in the best interest of the client to treat the person as a personal representative.

340:2-8-10. Minimum necessary standards

Oklahoma Department of Human Services (OKDHS) limits request for, use of, and disclosure of protected health information (PHI) to that which is reasonably necessary to accomplish the intended purpose of the use or disclosure. This minimum necessary standard will not be used to impede the essential activities of treatment, payment, or health care operations.

(1) The minimum necessary standard applies to:

(A) the use of PHI within OKDHS. Employees who;

(i) do not need PHI to perform their job duties must not access PHI; and

(ii) need PHI to perform their job duties must access PHI to the least extent necessary;

(B) disclosure of PHI to a third party in response to a request; and

(C) the request of PHI from another covered entity.

(2) The minimum necessary standard does not apply to:

(A) disclosures to or requests by a health care provider for treatment;

(B) disclosures made to the individual;

(C) disclosures made in accordance with a valid authorization;

(D) disclosures made to the United States Secretary of Health and Human Services for the purposes of compliance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule; or

(E) uses or disclosures that are required by law.

340:2-8-11. Safeguarding protected health information

(a) If Oklahoma Department of Human Services (OKDHS) staff is familiar with the person or entity requesting protected health information (PHI), OKDHS verifies the authority of the person or entity to receive the information. If OKDHS staff is not familiar with the person or entity requesting PHI, OKDHS

verifies identity and authority of the person or entity to receive the information.

(b) OKDHS staff must exercise care to avoid incidental disclosures of PHI through oral communications.

(c) Appointment reminders may be left on answering machines and voice mail systems, unless the client has requested an alternate means of communication.

(d) Faxing PHI is allowed when:

(1) only the minimum necessary PHI is sent;

(2) the information is not sensitive or it is an emergency situation;

(3) the information is accompanied by Form HIPAA-8, Health Information Fax Cover Sheet; and

(4) reasonable efforts are made to ensure the fax transmission is sent to the correct destination.

(e) PHI is only photocopied when necessary for treatment, payment, or health care operations, when authorized by the client or the client's personal representative, or when required by law.

(f) PHI must be discarded in accordance with OAC 340:2-21-35.

(g) Client's case records and other forms of PHI must be filed and kept safe from unauthorized access.

(h) Clients and visitors must be appropriately escorted in a secured area to ensure there is not unauthorized access to PHI.

(i) Computer monitors must be positioned to prevent unauthorized observation or access. Unattended computers must be returned to a password protected screen saver.

(j) Correspondence, including e-mail and fax, that includes PHI is allowed if limited to the minimum necessary standard.

340:2-8-12. Business associate

(a) A business associate is defined as an individual or entity who:

(1) performs on behalf of Oklahoma Department of Human Services (OKDHS) any function or activity involving the use or disclosure of protected health information (PHI); and

(2) is not a member of the OKDHS workforce.

(b) The definition of "function or activity" includes:

(1) claims processing or administration;

(2) data analysis and data processing;

(3) utilization review;

(4) quality assurance; and

(5) billing, actuarial accounting, and other financial services.

(c) OKDHS discloses a client's PHI to a business associate, and allows a business associate to create or receive PHI on behalf of OKDHS.

(d) OKDHS enters into a contractual agreement with a business associate. The contract includes the appropriate language and provisions required by the federal Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule regarding the proper use and disclosure of PHI.

340:2-8-13. Uses and disclosures for research or marketing purposes

(a) Oklahoma Department of Human Services (OKDHS) must obtain a valid authorization for any use or disclosure of protected health information (PHI) for research purposes.

(b) OKDHS must obtain a valid authorization for any use or disclosure of PHI for marketing purposes unless the communication is in the form of face-to-face contact made by OKDHS staff.

340:2-8-14. Privacy complaints

(a) A client or employee wishing to file a complaint regarding the use or disclosure of protected health information (PHI) is instructed to contact the Oklahoma Department of Human Services (OKDHS) privacy officer.

(b) A client or employee who requests an alternative means of filing a complaint regarding the use or disclosure of PHI, is instructed to contact the federal Department of Health and Human Services.

(c) OKDHS will not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual for:

(1) filing a privacy violation complaint;

(2) testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing conducted by a government enforcement agency; or

(3) opposing any act or practice made unlawful by the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, provided the manner of opposition does not involve a disclosure of PHI.

[OAR Docket #04-417; filed 3-24-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #04-418]

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PERMANENT final adoption

RULES:
Subchapter 17. Staff Development Unit
340:2-17-4. [REVOKED]
Appendix A. Application for Employment [REVOKED]
Appendix C. Employment Eligibility Handout [REVOKED]
Appendix D. Applicant Availability Letter [REVOKED]
Appendix N. Application for Occupational Therapy/Physical Therapy Scholarship [REVOKED]
(Reference APA WF # 03-25)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and 75 O.S. § 250 et seq.

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n/a
ANALYSIS:
Human Resources Management Division rule revisions revoke a rule that is no longer applicable as the program is no longer offered by the Oklahoma Department of Human Services (OKDHS) and revoke appendices that are obsolete or have been replaced by OKDHS forms.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

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 APRIL 26, 2004.

SUBCHAPTER 17. STAFF DEVELOPMENT UNIT

340:2-17-4. Occupational Therapy/Physical Therapy Educational Assistance program [REVOKED]

~~(a) **OT Assistant/PT Assistant Associate Degree Scholarship program.** A maximum of eight one-year Occupational Therapy/Physical Therapy Assistant Work/Study Scholarships are available each fiscal year. Preference will be given to prior scholarship recipients who have successfully completed their first year of the program and to employee applicants who have two years of successful DHS employment by July 1st preceding the academic year for which the application is made and who are already working in DHS programs serving clients who have extensive needs for Occupational Therapy/Physical Therapy.~~

~~(1) Applicants who are not DHS employees may also be recruited from students currently enrolled in Occupational Therapy/Physical Therapy Assistant programs. However, before the scholarship can be finally approved, the student must be employed in a DHS residential facility or at Oklahoma Medical Center.~~

~~(2) Tuition costs, book costs and fees will be paid by the Department directly to the educational institution (Appendix J of this Chapter). The local administrator will review and initial the claim and forward it to the Staff Development Unit for approval.~~

~~(3) The curriculum for the Occupational Therapy/Physical Therapy Assistant program is structured in such a way that employees work part time during their course of study. Employees are expected to schedule classes to minimize absences from work and to review their class schedule with their supervisor prior to the beginning of the semester to ensure minimal use of educational leave. Educational leave is granted as agreed between the supervisor and employee for the length of the course of study.~~

~~(4) Scholarship recipients will be assigned to unclassified positions as Occupational Therapy or Physical Therapy Assistant Trainees, exempt salary grade 20, step 1. Employees in the classified service selected as scholarship recipients must resign from the classified service and accept positions in the unclassified service as Occupational Therapy or Physical Therapy Assistant Trainees in order to be eligible to receive the scholarship. Employees in the unclassified service whose present salaries are above salary grade 20, step 1, must voluntarily demote to the Occupation Therapy or Physical Therapy Assistant Trainee class in order to be eligible to receive the scholarship.~~

~~(5) At the end of each fall semester, scholarship recipients will submit a copy of their grades to the local administrator. The local administrator will sign and date the grade report and forward it to the Staff Development Unit. An official transcript for the academic year is required at the end of each spring or summer semester for both the local administrator and the Staff Development Unit.~~

~~(6) Continuation of the scholarship is contingent upon the employee's satisfactory work performance and academic record. The scholarship may be withdrawn if the employee fails to earn a grade of at least "C" in each course.~~

~~(7) A scholarship recipient who withdraws from a class or receives a grade of "incomplete" and does not convert it to an acceptable grade during the next semester must reimburse the Department for the cost of tuition and books for that course. Exceptions may be granted for serious injury or illness, or a personal situation requiring the employee to withdraw from school.~~

~~(8) Final approval for this scholarship is dependent upon the applicant's admission to an Occupational Therapy/Physical Therapy Assistant program at an accredited educational institution.~~

~~(9) Form P-S-104, Contract for Department Payment of Education Expenses, will be completed by the scholarship recipient upon final approval of the scholarship. The contract requires the scholarship recipient to work for the Department as a licensed Occupational Therapy Assistant or Physical Therapy Assistant for a maximum period of four years following certification, two years for each scholarship year. If the scholarship recipient fails to satisfactorily fulfill the terms of the contract or fails to become licensed, he or she will reimburse the Department on a pro rata basis for the money expended by the Department on the scholarship and educational leave. Payment~~

~~will begin within two months following the break in contract. If the scholarship recipient leaves the employment of the Department, payment in full will become due 60 days from the recipient's date of separation. The scholarship recipient will arrange reimbursement with the Office of Finance Chief Financial Officer.~~

~~(b) **OT/PT Undergraduate Degree Program.** A maximum of four one year Occupational Therapy/Physical Therapy scholarships are available to full time students each fiscal year. Preference will be given to prior scholarship recipients who have successfully completed their first year of the program and to employee applicants currently serving DHS clients who have extensive needs for Occupational Therapy/Physical Therapy.~~

~~(1) These scholarships are granted to DHS employees enrolled in the junior or senior year of a Bachelor of Science degree program in Occupational Therapy/Physical Therapy which will result in eligibility for the national certification examination and licensure by the State of Oklahoma.~~

~~(2) First year Occupational Therapy/Physical Therapy students who are not DHS employees may be recruited as scholarship applicants and for employment at a DHS residential facility and/or OMC. Each selected individual will be employed in the unclassified service as a Physical Therapy/Occupational Therapy Trainee.~~

~~(3) Tuition costs, book costs and fees will be paid by the Department directly to the educational institution (Appendix J of this Chapter). The local administrator will review and initial the claim and forward it to the Staff Development Unit for approval. Travel expenses are not reimbursable.~~

~~(4) Scholarship recipients will be assigned to unclassified positions as Occupational Therapy or Physical Therapy Trainees, exempt salary grade 23, step 1. Employees in the classified service who are selected as scholarship recipients must resign from the classified service and accept a position in the unclassified service as a Occupational Therapy or Physical Therapy Trainee, grade 23, step 1 in order to be eligible to receive the scholarship. Employees in the unclassified service whose present salaries are above grade 23, step 1 salary must voluntarily demote to the Occupational Therapy or Physical Therapy Trainee class in order to be eligible to receive the scholarship.~~

~~(5) Scholarship recipients are considered on duty for the length of their course of study. During college holidays and breaks between semesters recipients will be required to work except for agency holidays.~~

~~(6) At the end of each fall semester, the scholarship recipients will submit a copy of their grades to the local administrator. The local administrator will sign and date the grade report and forward it to the Staff Development Unit. An official transcript for the academic year is required at the end of each spring or summer semester for both the local administrator and the Staff Development Unit.~~

~~(7) Continuation of the scholarship is contingent upon the employee's satisfactory work performance and academic record. The scholarship may be withdrawn if the employee fails to earn a grade of at least "C" in each course.~~

~~(8) A scholarship recipient who withdraws from a class or receives a grade of "incomplete" and does not convert it to an acceptable grade during the next semester must reimburse the Department for the cost of tuition and books for that course. Exceptions may be granted for serious injury or illness, or a personal situation requiring the employee to withdraw from school.~~

~~(9) Final approval for the Physical Therapy/Occupational Therapy scholarship is dependent upon the applicant's admission to an Occupational Therapy/Physical Therapy program at an accredited institution.~~

~~(10) Form P-S-104, Contract for Department Payment of Education Expenses, will be completed by the scholarship recipient upon final approval of the scholarship. The contract requires the scholarship recipient to work for the Department as a licensed Occupational Therapist or a licensed Physical Therapist for a maximum period of four years following certification, two years for each scholarship year. If the scholarship recipient fails to satisfactorily fulfill the terms of the contract or fails to become certified, he or she will reimburse the Department on a pro-rata basis for the money expended by the Department on the scholarship including salary. Payment will begin within two months following the break in contract. If the scholarship recipient leaves the employment of the Department, payment in full will become due 60 days from the recipient's date of separation. The scholarship recipient will arrange reimbursement with the Office of Finance Chief Financial Officer.~~

~~(c) **Advanced Scholarship Program.** A maximum of six scholarships will be available for each fiscal year to licensed Occupational Therapists or Physical Therapists currently employed in DHS residential facilities and/or OMC for specialized training in occupational therapy or physical therapy techniques and leading to advanced certification or degree.~~

~~(1) Tuition costs, book costs and fees will be paid by the Department directly to the educational institution (Appendix J of this Chapter). No reimbursement will be made for lodging or travel expenses. Advanced scholarship recipients will be considered on duty for this period of study and will be paid at their regular salary rate.~~

~~(2) At the end of each fall semester, the scholarship recipient will submit a copy of his or her grades to the local administrator. The local administrator will sign and date the grade report and forward it to the Staff Development Unit. An official transcript for the academic year is required at the end of each spring or summer semester for both the local administrator and the Staff Development Unit.~~

~~(3) Continuation of the scholarship is contingent upon the employee's satisfactory work performance and academic record. The scholarship may be withdrawn if the employee fails to earn a grade of at least "C" in each course.~~

~~(4) A scholarship recipient who withdraws from a class or receives a grade of "incomplete" and does not convert it~~

~~to an acceptable grade during the next semester must reimburse the Department for the cost of tuition and books for that course. Exceptions may be granted for serious injury or illness, or a personal situation requiring the employee to withdraw from school.~~

~~(5) Final approval for the Occupational Therapy/Physical Therapy scholarship is dependent on the applicant's admission to an accredited institution for Physical Therapy or Occupational Therapy. Contract form, P-S-104 will be completed by recipient when the scholarship has received final approval.~~

~~(6) Form P-S-104, Contract for Department Payment of Education Expenses, will be completed by the scholarship recipient upon final approval of the scholarship. The contract requires the scholarship recipient to work for the Department for a maximum period of four years following certification, two years for each scholarship year. If the scholarship recipient fails to satisfactorily fulfill the terms of the contract or fails to become certified, he or she will reimburse the Department on a pro-rata basis for the money expended by the Department on the scholarship including salary. Payment will begin within two months following the break in contract. If the scholarship recipient leaves the employment of the Department, payment in full will become due 60 days from the recipient's date of separation. The scholarship recipient will arrange reimbursement with the Finance and Central Services Division Administrator.~~

~~(d)~~ ~~**Application procedures.**~~

~~(1) Applicants for Occupational Therapy/Physical Therapy scholarships must submit the following items to the Staff Development Unit:~~

~~(A) A completed Appendix N of this Chapter, Application for Occupational/Physical Therapy Scholarship; and~~

~~(B) A letter of recommendation from the applicant's immediate supervisor. This letter, addressed to the OT/PT Scholarship Committee, should include information about the applicant's job performance, ability to pursue further study, career plans with DHS and any other information supporting the applicant's request for a scholarship. For non-DHS applicants, recommendations from two college or university Occupational Therapy/Physical Therapy instructors will substitute for the supervisory recommendation; and~~

~~(C) For the undergraduate or graduate degree programs, an official copy of the applicant's college or university transcript; and~~

~~(D) For the Associate Degree program, a copy of the applicant's high school diploma or GED certificate.~~

~~(2) Applications will be reviewed by a committee composed of an institutional superintendent, an OMC administrator, a Physical Therapist, an Occupational Therapist; and the Programs Administrator for Staff Development Unit.~~

~~(e)~~ ~~**Notification of approval or denial.**~~ ~~Each scholarship applicant will be notified by letter from the Programs Administrator for Staff Development Unit that the application has been approved, approved as an alternate, pending admission to a college or university program of occupational or physical therapy, or denied.~~

APPENDIX A. APPLICATION FOR EMPLOYMENT [REVOKED]

State of Oklahoma Department of Human Services/Oklahoma Medical Center
An Equal Opportunity/Affirmative Action Employer

Application for Employment

PLEASE PRINT OR TYPE all information on this form. Each question should be fully and accurately answered. If you need additional space, use a blank sheet of paper identifying the section (by question number) for which you are inserting information. Attach it to this form. No action will be taken on this application until all questions have been answered. Be sure to date and sign the application on page 4. **Unsigned and undated applications cannot be processed.** Return this form to the appropriate Personnel Unit listed below:

☐ Oklahoma Department of Human Services
Personnel Unit
Sequoyah Memorial Office Building
P.O. Box 25352
Oklahoma City, OK 73125
(405) 521-3613

1 Last Name ____ First Name ____ Initial ____ Suffix ____ (Jr., III)

Social Security number ____ Mailing Address ____

City ____ State ____ Zip Code ____ Date of application ____ Month ____ Day ____ Year ____

Home phone ____ Area Code ____ Business phone ____ Area Code ____ Extension ____

Finding address (the address where you may normally be located) ____ City ____ State ____ Zip Code ____

2 a Are you a U.S. citizen?
☐ Yes ☐ No
If no, provide your visa type ____
and your visa number ____

b Are you legally allowed to work in the U.S.? ☐ Yes ☐ No
Work permit number ____

3 Are you currently a resident of the State of Oklahoma? ☐ Yes ☐ No

4 Are you applying for temporary work? ☐ Yes ☐ No

5 Have you ever plead guilty or no contest to a felony or been convicted of a felony by a judge or jury? ☐ Yes ☐ No
If yes, under Item 19 Additional Information, provide date(s), location(s) type(s) of felony and sentencing, i.e., time served, probation suspended or deferred.

6 Have you been discharged or resigned in lieu of discharge from employment within the past two years? ☐Yes ☐No

7 If you have worked under another name(s) please list the full name(s) on the last page of this application.

8 Date you will be available for employment ____

9 Education

Name of School or Special Training Received	Location City & State	Month/Year To—From	Graduate Yes / No	Major	Type Degree or Diploma	Total Credit Hours Semester	Quarter	Clock

If the position for which you are applying requires college course work, please attach a copy of your transcript. The transcript will become a permanent part of your records and **will not be returned.** If you need additional space, continue on page 4.

10 Special Qualification
☐ Typing (WPM) ____
☐ Shorthand (WPM) ____
☐ Personal computer (type) ____
☐ Word processor
☐ Data entry
☐ Manual sign language
☐ Other ____

11 Do you have a valid Oklahoma driver's license? ☐ Yes ☐ No

12 Do you have a valid Oklahoma chauffer's license? ☐ Yes ☐ No
License No. ____
Yr. of Issue ____

13 Do you have access to transportation for job-related travel?
☐ Yes ☐ No

14 Specialized licenses/certificates
Kind ____
Year first received ____
Year last received ____
State or other licensing authority: ____

15 Employment History

IMPORTANT. Please list all periods of your employment separately, **starting with your present employer.**

If you have more than four separate periods of employment, attach a sheet of paper listing all employment information in the same outline form as below. Also, if you performed different jobs at one location, each job should be listed as a separate period of employment. **Date and sign each attachment.** Please explain any periods of unemployment on page 4 of this application.

May we contact your present employer? ☐ Yes ☐ No

Have you ever worked for the Oklahoma Department of Human Services? ☐ Yes ☐ No

Have you ever worked for any other Oklahoma state agency? ☐ Yes ☐ No If yes, list agency(s) and date(s) _____

Employer's name (firm, organization, etc.)		Exact title of your position	
Address		Employment dates From Month ____ Year ____ To Month ____ Year____	
Your duties (be specific—attach extra sheets, dated and signed, if necessary)		Average hours worked per week	
		Beginning salary	Ending salary
		Reason for leaving	
Your supervisor's name, title and telephone number	Did you supervise any employees? ☐ Yes ☐ No If yes, list number and general duties of employees.____		

Employer's name (firm, organization, etc.)		Exact title of your position	
Address		Employment dates From Month ____ Year ____ To Month ____ Year____	
Your duties (be specific—attach extra sheets, dated and signed, if necessary)		Average hours worked per week	
		Beginning salary	Ending salary
		Reason for leaving	
Your supervisor's name, title and telephone number	Did you supervise any employees? ☐ Yes ☐ No If yes, list number and general duties of employees.____		

Employer's name (firm, oganization, etc.)		Exact title of your position	
Address		Employment dates From Month ____ Year ____ To Month ____ Year____	
Your duties (be specific—attach extra sheets, dated and signed, if necessary)		Average hours worked per week	
		Beginning salary	Ending salary
		Reason for leaving	
Your supervisor's name, title and telephone number	Did you supervise any employees? ☐ Yes ☐ No If yes, list number and general duties of employees.____		

Employer's name (firm, oganization, etc.)		Exact title of your position	
Address		Employment dates From Month ____ Year ____ To Month ____ Year____	
Your duties (be specific—attach extra sheets, dated and signed, if necessary)		Average hours worked per week	
		Beginning salary	Ending salary
		Reason for leaving	
Your supervisor's name, title and telephone number	Did you supervise any employees? ☐Yes ☐No If yes, list number and general duties of employees.____		

Oklahoma Department of Human Services/Oklahoma Medical Center

Application for Employment

Social Security number

Last Name First Middle Initial

16 Title of DHS/OMC Job Desired—*You may apply for four positions.*

Depending on the area of placement, a physical examination may be required prior to employment.

For Personnel Use Only

Job title: _____

I will accept this job under the following conditions (when both blocks in any category are left blank, *NO* will be assumed):

Full-time ☐ Yes ☐ No Temporary (6 months or less) ☐ Yes ☐ No

Part-time ☐ Yes ☐ No Shiftwork ☐ Yes ☐ No

Frequent travel ☐ Yes ☐ No

Job title: _____

I will accept this job under the following conditions (when both blocks in any category are left blank, *NO* will be assumed):

Full-time ☐ Yes ☐ No Temporary (6 months or less) ☐ Yes ☐ No

Part-time ☐ Yes ☐ No Shiftwork ☐ Yes ☐ No

Frequent travel ☐ Yes ☐ No

Job title: _____

I will accept this job under the following conditions (when both blocks in any category are left blank, *NO* will be assumed):

Full-time ☐ Yes ☐ No Temporary (6 months or less) ☐ Yes ☐ No

Part-time ☐ Yes ☐ No Shiftwork ☐ Yes ☐ No

Frequent travel ☐ Yes ☐ No

Job title: _____

I will accept this job under the following conditions (when both blocks in any category are left blank, *NO* will be assumed):

Full-time ☐ Yes ☐ No Temporary (6 months or less) ☐ Yes ☐ No

Part-time ☐ Yes ☐ No Shiftwork ☐ Yes ☐ No

Frequent travel ☐ Yes ☐ No

DHS/OMC POLICY does not allow some family members to be employed together within the same supervisory group or unit. To keep this from happening, please list the names of your relatives—first cousins or nearer—by blood, adoption and/or marriage, now employed by this agency.

Name Relationship Location of employment

Name Relationship Location of employment

Name Relationship Location of employment

Name Relationship Location of employment

Oklahoma Department of Human Services/Oklahoma Medical Center
Application for Employment

17 How did you learn about employment with the Department of Human Services ?

18 Job-Related References: (List name, address and telephone number)

19 Additional Information

Use this space for any comments or explanations you may have that are relative to your application. If you are providing additional information for a certain section on this form, please list that section and question number. Attach additional sheets, signed and dated, if needed.

Please read the following information carefully and then sign and date it below.

ACCURACY OF INFORMATION. I have reviewed each page and made sure all sections are correct and complete. I understand that my eligibility for employment will be based on the information I have given on this application.

FALSIFICATION OF INFORMATION. I certify that all statements made on this application are true and correct. I understand that any false statements made by me may cause me to be ineligible for employment or subject to termination from employment.

VERIFICATION OF INFORMATION. I authorize this agency to investigate and verify the facts claimed by me on this application. I also authorize my former employers to provide any information requested by this agency.

BE SURE YOU HAVE CHECKED THE APPROPRIATE ADDRESS ON PAGE 1. RETURN THIS APPLICATION TO THAT ADDRESS.

Unsigned and undated applications will not be processed.

Signature Date

APPENDIX C. EMPLOYMENT ELIGIBILITY HANDOUT [REVOKED]

OKLAHOMA DEPARTMENT OF HUMAN SERVICES

"An Equal Opportunity Employer"

WE HIRE ONLY UNITED STATES CITIZENS
AND
LAWFULLY AUTHORIZED ALIEN WORKERS

The regulations implemented by the Immigration and Naturalization Service (INS) under the Immigration Reform and Control Act of 1986 requires that employers may no longer hire anyone, including United States citizens, without proof of identity and employment eligibility. Any individual employed by the Department of Human Services will be required to:

(1) complete the I-9, Employment Eligibility Verification form,

(2) provide documents for review and verification of identity and employment eligibility, or

(3) present a receipt evidencing application for documentation needed to comply with employment eligibility verification requirements.

Employees may present one document from List A, or present one document from List B **and** one document from List C, to meet these requirements.

List A **Identity and Employment Eligibility**	List B **Identity**	List C **Employment Eligibility**
• United States Passport	• A State issued driver's license or I.D. card with a photograph or information including name, sex, date of birth, height, weight, and color of eyes. (specify State) _____	• Original Social Security Card (other than a card stating it is not valid for employment)
• Certificate of United States Citizenship	• U.S. Military Card	• A birth certificate issued by State, county, or municipal authority bearing a seal or other certification
• Certificate of Naturalization	• Other (specify document and issuing authority)	• Unexpired INS Employment Authorization. Specify form # _____
• Unexpired foreign passport with attached Employment Authorization		
• Alien Registration Card with Photograph		

FAILURE TO PRESENT THE REQUIRED DOCUMENTATION FOR EMPLOYMENT VERIFICATION WITHIN THE FIRST THREE BUSINESS DAYS (MONDAY THROUGH FRIDAY) AFTER ENTERING ON DUTY WILL RESULT IN TERMINATION OF EMPLOYMENT FROM THE DEPARTMENT OF HUMAN SERVICES.

Additional information may be obtained by contacting:

Transactions and Records Section
State Office Personnel Unit
Department of Human Services
P.O. Box 25352
Oklahoma City, Oklahoma 73125
Telephone: (405) 521-2723

or by contacting:

U.S. Immigration and Naturalization Service
215 Dean A. McGee Avenue
Oklahoma City, Oklahoma 73102
Telephone: (405) 231-4121

Okla. DHS Issued 3-1-88 P-1B

EMPLOYMENT ELIGIBILITY HANDOUT P-1B

Purpose of Form

Form P-1B is used to advise all job applicants at the time of completing Form P-1, Application for Employment, that only citizens and aliens lawfully authorized to work in the United States are hired by the Department; that all new employees are required to certify they are eligible for employment; and to advise applicants of documents for such certification.

Routing of Form

A copy of the information sheet is given to all job applicants with the Form P-1, Application for Employment.

Okla. DHS Issued 3-1-88 1

APPENDIX D. APPLICANT AVAILABILITY LETTER [REVOKED]

COMMISSION
FOR HUMAN SERVICES
Burns Hargis, Chairman

State of Oklahoma
Department of Human Services
Sequoyah Memorial Office Building
P.O.Box 25352
Oklahoma City, Okla. 73125

DIRECTOR
OF HUMAN SERVICES
Phil Watson

Your name has been certified to this agency by the Office of Personnel Management to be considered for the following:

CLASSIFICATION TITLE_____

LOCATION OF WORK_____

BEGINNING MONTHLY SALARY $_____

SHIFT_____

TRAVEL REQUIRED [ ] YES [ ] NO

If you are available for an interview, you must within seven (7) calendar days from the postmark date of this letter, contact:

INTERVIEWER_____

ADDRESS_____

TELEPHONE_____

OFFICE HOURS_____

Very truly yours,

_____

_____
Title

Okla. DHS Revised 3-1-88 P-8

Help for Today — Hope for Tomorrow

APPENDIX N. APPLICATION FOR OCCUPATIONAL THERAPY/PHYSICAL THERAPY SCHOLARSHIP [REVOKED]

1) NAME: _____ 2) SSN: _____
Last First MI

Complete Items 3-8 below if you are currently a DHS employee:

3) WORK PHONE: _____ 4) JOB TITLE: _____

5) WORK LOCATION: _____ 6) DIVISION: _____

7) DATE OF ENTRY ON DUTY: _____ 8) NUMBER OF YEARS WORKED FOR DHS: _____

Complete Items 9-11 if you are not currently a DHS employee:

9) HOME ADDRESS: _____
Street Address City State Zip

10) HOME PHONE: _____ 11) WORK PHONE: _____

12) I PLAN TO ATTEND: _____
University or College Location

13) DEGREE SOUGHT AND AREA OF STUDY: [ ] Undergraduate _____

[ ] Associate _____ [ ] Graduate _____

14) I PLAN TO TAKE THE FOLLOWING CLASSES:

SPRING TERM: _____

SUMMER TERM: _____

FALL TERM: _____

15) COLLEGE NAME & LOCATION	DATE	DEGREE	OVERALL GRADE POINT	MAJOR

CHECK IF ATTACHED:

[ ] LETTER OF RECOMMENDATION

[ ] OFFICIAL COLLEGE TRANSCRIPT (FOR UNDERGRADUATE OR GRADUATE DEGREE STUDENTS)

[ ] COPY OF HIGH SCHOOL DIPLOMA OR GED (FOR ASSOCIATE DEGREE STUDENTS)

APPLICANT'S SIGNATURE: _____ DATE: _____

****

FOR OT/PT COMMITTEE USE ONLY:

[APPROVED [ ] APPROVED AS ALTERNATE [ ] DENIED

Okla. DHS Issued 5-18-92 (P-4A)

PURPOSE OF FORM

Form P-4A, Application for Occupational Therapy/Physical Therapy Scholarship is prepared by the employee to apply for an OT/PT scholarship.

INSTRUCTIONS FOR COMPLETION OF FORM

Complete each item on the form. Use a separate sheet if additional space is needed.

1) **Name of Applicant**

2) **Social Security Number**

COMPLETE ITEMS 3-8 IF YOU ARE CURRENTLY A DHS EMPLOYEE:

3) **Work Phone**

4) **Job Title:** Enter employee's official job classification title

5) **Work Location:** Enter the local office, unit or institution where employee works

6) **Division:** Enter the division for which the employee works

7) **Date of Entry on Duty:** Enter the beginning date of last continuous employment

8) **Number of Years Worked for DHS:** Enter the years worked since last continuous employment

COMPLETE ITEMS 9-11 IF YOU ARE NOT CURRENTLY A DHS EMPLOYEE:

9) **Home Address:**

10) **Home Phone:**

11) **Work Phone:**

12) **I Plan to Attend:** Identify University or College and location

13) **Degree Sought and Area of Study:** Check appropriate block to identify the level of study. Enter the area of study

14) **I Plan to Take the Following Classes:** Enter class schedule for the appropriate term

15) **College Name and Location:** Complete information requested for all colleges and universities attended

Check if Attached: Check the appropriate blocks

APPLICANT'S SIGNATURE: The form is signed and dated by the applicant.

ROUTING OF FORM

Form P-4A is prepared in quintuplicate. The original and one copy are submitted to the Staff Development Unit; one copy to the appropriate Division Administrator or Unit Administrator in the State Office; one copy to the local administrator; and one copy retained in the local office.

[OAR Docket #04-418; filed 3-24-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #04-419]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Appendix E. Statement of Grievance and Resolution [REVOKED]
Appendix F. Student Grievance [REVOKED]
Appendix J. Claim Form [REVOKED]
Appendix R. Release of Information Regarding Juveniles [REVOKED]
(Reference APA WF # 03-27)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and 75 O.S. § 250 et seq.
DATES:
Comment period:
December 15, 2003 through January 14, 2004
Public hearing:
None requested.
Adoption:
January 27, 2004
Submitted to Governor:
January 27, 2004
Submitted to House:
January 27, 2004
Submitted to Senate:
January 27, 2004
Gubernatorial approval:
March 11, 2004
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 24, 2004.
Final adoption:
March 24, 2004
Effective:
April 26, 2004
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Chapter 2. Administrative Components appendices are revoked as they are obsolete or replaced by an Oklahoma Department of Human Services form.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

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 APRIL 26, 2004.

APPENDIX E. STATEMENT OF GRIEVANCE AND RESOLUTION [REVOKED]

DEPARTMENT OF HUMAN SERVICES

STATEMENT OF GRIEVANCE AND RESOLUTION

Date of Submission _____

Case Number_____ Student's Name_____
Last First Middle

Location_____ Grievance Form No._____

Statement of Grievance:_____

_____

_____

_____

Student's Proposed Resolution:_____

_____

_____

Grievance Category: Against [ ] Person [ ] Program [ ] Condition

Student's Signature:_____ Date_____

Staff Representative (if requested:) Name:_____Title:_____

Grievance Resolution By: [ ] Staff [ ] Group [ ] Committee

Proposed Resolution:_____

_____

_____

_____

Were Resolutions Adopted? [ ] Yes [ ] No
Does Student Accept Proposed Resolution? [ ] Yes [ ] No
Will Student Appeal to Superintendent? [ ] Yes [ ] No

Student's Signature:_____ Date_____

Staff Signature:_____ Date_____

RESOLUTION ON FIRST APPEAL

Grievance Resolution By: [ ] Superintendent [ ] District Supervisor

Proposed Resolution:_____

_____

_____

_____

Were Resolutions Adopted? [ ] Yes [ ] No Date:_____
Does Student Accept Proposed Resolution? [ ] Yes [ ] No
Will Student Appeal to Unit Supervisor? [ ] Yes [ ] No

Student's Signature:_____ Date:_____

Supt./Dist. Supervisor's Signature:_____ Date:_____

Okla. DHS Issued 6-1-83 AD-1

STATEMENT OF GRIEVANCE AND RESOLUTION AD-1

Purpose of Form

This form is completed by the individual responsible for resolution, in all facility or community programs following the filing of a staff, student, policy or procedure grievance by or on behalf of a child in the Department's custody; or completed by the Grievance Coordinator following a placement or mistreatment grievance, to record pertinent information about the grievant and the grievance and the progress of resolution of the grievance at the site.

This completed form will accompany other pertinent forms (AD-2, AD-3, and/or AD-4) when an appeal is made to the unit supervisor or a referral is made in cases of suspected mistreatment. This form will also be used to monitor the grievance process.

Instructions for P- :ration of Form

Number of Copies. The original is subm..tted to the Office of the Advocate Defender, State Office, in appeals or mistreatment grievances and a copy retained by the Grievance Coordinator. In cases which are resolved at the site, a copy of the completed AD-1 will be submitted to the Office of Advocate Defender, State Office, for monitoring purposes.

Date of Submission. Enter the date the grievance was assigned for first level resolution.

Case Number. Enter all pertinent student identification numbers.

Student's Name. Enter last name, first name, middle name.

Location. In institutional settings, enter institutional name and cottage on which student resides. Group homes, shelters: enter name and city. Community programs: enter county and indicate CR&CS or CSU.

Grievance Form Number. Enter the number assigned on the Grievance Log and on the numbered Form AD-2.

Statement of Grievance. Summarize the grievance.

Student's Proposed Resolution. Summarize student's proposed resolution.

Grievance Category. Check the category which most nearly applies.

Student's Signature: Date. The student signs, or the individual who grieves on behalf of a student signs, and records the date of signature.

Staff Representative: Name: Title. Any employee who may have assisted in the statement of grievance may sign and record date at time of signature, along with the title of the employee.

Grievance Resolution By. Check the appropriate area addressing first level resolution, either staff, group or committee.

Okla. DHS Issued 6-1-83 1

Proposed Resolution. The staff supervisor, group leader or committee leader summarizes the resolution decided on.

Were Resolutions Adopted. When specific action is agreed upon to achieve resolution, indicate "yes" or "no" whether the action was carried out.

Does Student Accept Resolution. Check "yes" or "no" whether student accepts proposed resolution.

Will Student Appeal to Superintendent. Check "yes" or "no" whether student plans to appeal the proposed resolution.

Student's Signature: Date. Student signs and dates at first level resolution.

Staff Signature. Employee responsible for resolution signs and dates at first level resolution.

RESOLUTION ON FIRST APPEAL:

Grievance Resolution By. Check person responsible for resolution on first appeal.

Proposed Resolution. Responsible party records proposed resolution.

Were Resolutions Adopted. When specific action is agreed upon to achieve resolution, indicate "yes" or "no" whether the action was carried out.

Does Student Accept Proposed Resolution. Check "yes" or "no" whether student accepts proposed resolution.

Will Student Appeal to Unit Supervisor. Check "yes" or "no" whether the student plans to appeal to the next level, unit supervisor.

Student's Signature: Date. Student signs and dates the resolution on first appeal.

Superintendent/District Supervisor's Signature: Date. Person responsible for resolution on first appeal signs and dates first appeal.

Routing of Form

The form is routed by the Grievance Coordinator to the responsible party at each level of resolution. For detailed instructions see Interim Grievance Policy and Procedure, Grievance Resolution.

APPENDIX F. STUDENT GRIEVANCE [REVOKED]

DEPARTMENT OF HUMAN SERVICES

STUDENT GRIEVANCE

Student's Name_____ Date_____

My Grievance is:

_____

_____

_____

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_____

_____

This form is numbered. The Grievant keeps the yellow copy until the grievance is resolved.

Student's Signature_____

Okla. DHS Issued 6-1-83

AD-2

STUDENT GRIEVANCE AD-2

Purpose of Form

This numbered form is used when a student in the Department's custody wishes to file a grievance having to do with placement, mistreatment, another student in a Department's facility, a staff member, rules, policies, program procedures; or is used when someone wishes to file a grievance on the student's behalf.

The student or other grievant may be assisted by any Agency employee in filling out the grievance form.

Instructions for Preparation of Form

Number of Copies. The AD-2 is an NCR form. The original (white sheet) is forwarded to the Grievance Coordinator and the copy (yellow sheet) is retained by the grievant.

Student's Name: Date. Student should enter his/her name and the date of preparation of form or, enter the name of the student on whose behalf the grievance is being filed.

My Grievance is. As concisely as possible, student should include the dates, times, location and names of individuals involved in the problem(s) he/she is grieving. A statement of the circumstances, the incident and details necessary to explain the problem being grieved are to be included. All information necessary to explain the student's grievance should be written on this form. The student's proposed resolution should also be included.

Student's Signature. The student signs the form.

Routing of Form

In facilities which have a Student Grievance Clerk, the completed original AD-2 is given to the Student Grievance Clerk and the grievant keeps his/her yellow copy. The Student Grievance Clerk, after recording pertinent data in the log, forwards the original to the Grievance Coordinator through the grievance box. The form is then routed by the Grievance Coordinator to the responsible party at each level of resolution. For detailed instructions see Interim Policy and Procedure, Grievance Resolution.

In programs without a Student Grievance Clerk, the form is given directly to the Grievance Coordinator.

Okla. DHS Issued 6-1-83 1

APPENDIX J. CLAIM FORM [REVOKED]

STATE OF OKLAHOMA

DEPARTMENT OF INSTITUTIONS, SOCIAL AND REHABILITATIVE SERVICES
Oklahoma City, Oklahoma
STATE DEPARTMENT NO. 830
Inv. No. _____ Claim No. _____

Date _____ 19 ____

IN ACCOUNT WITH _____

P. O. ADDRESS _____

PURCHASE ORDER NO. _____

For the following items:

Date	Quantity	Description of Article or Services	Unit Price	Amount Claimed	Object	Disallowed by Approv. Officer	Disallowed by Budget Div.
			TOTAL				

_____ Unit Supervisor

UNIT APPROVAL: _____ Title and Location

"STATE OF OKLAHOMA COUNTY OF)ss

The undersigned (claimant, architect, contractor, supplier or engineer), of lawful age, being first duly sworn, on oath, deposes and says that (s)he has full knowledge of the above and foregoing account; that said account is just, true, correct, due and according to law; and that the amount claimed after allowing all just credits is now due and wholly unpaid. Affiant further states that the (work, services, or materials) as shown by this invoice or claim have been (completed or supplied) in accordance with the plans, specifications, orders or requests furnished the affiant. Affiant further states that (s)he has made no payment, given or donated or agreed to pay, give or donate, either directly or indirectly, to any elected official; office or employee of the State of Oklahoma, of money or any other thing of value to obtain payment or the award of this contract; and that (s)he is duly authorized to make this affidavit.

Subscribed and sworn to before me _____ 19 ____

My Commission expires _____ 19 ____

_____
Claimant, Architect, Contractor, Supplier or Engineer

_____
Notary Public, Court Clerk or Judge

Officer's Approval

Received and checked by _____

Approved on Fund _____ Function 4 Agency 830 Account 0000

For $ _____ Dated this _____ day of _____ 19 ____

FOR STATE OFFICE USE ONLY

Ia. DISRS Revised 4-15-74

Adm-12

	Rejection No.	Warrant No.

CLAIM OF

Approved and Certified for Payment for

$

AGAINST

Dept. of Institutions, Social and Rehab. Services
State Agency

Fund	Func.	Agency	Account
	4	830	0000

Transaction Code	Order Number	Claim Number

Partial No. Final No.

By
Approving Officer

By
Controlling Board

By
Division of Central Accounting and Reporting

Object	Amount	Object	Amount

ASSIGNMENT

Assigned to
In accordance with attached assignment instrument.

/ 12 Okla. DISRS Revised 12-1-77

INSTRUCTIONS

1. Always specify purchase order number.

2. Make in quintuplicate claims for supplies, equipment and repairs on equipment and clothing or other articles purchased for children receiving child welfare services. Make in quadruplicate claims for boarding home care for children receiving child welfare services. Make in triplicate all other claims.

3. File with the Division of Finance the original and three copies of claims for supplies, equipment and repairs on equipment; and clothing or other articles purchased for children receiving child welfare services. File original and two copies of claims for boarding home care for children receiving child welfare services. File original and one copy of all other claims.

NOTICE: The Oklahoma Department of Institutions, Social and Rehabilitative Services has assured compliance with DHEW Regulation, Title 45, Code of Federal Regulations, Part 80 (which implements Public Law 88-352, Civil Rights Act of 1964, Section 601) and Part 84 (which implements Public Law 93-112, Rehabilitation Act of 1973, Section 504). These laws and regulations prohibit excluding from participation in, denying the benefits of, or subjecting to discrimination under any program or activity receiving Federal Financial Assistance any person on the grounds of race, color, national origin or any qualified person on the basis of handicap. Under these requirements, payment cannot be made to vendors providing care and/or services under Federally-assisted programs conducted by the Department unless such care and/or service is provided without discrimination on the grounds of race, color, national origin or handicap. Written complaints of noncompliance with either law should be made to the Director, Institutions, Social and Rehabilitative Services, Box 25352, Oklahoma City, Oklahoma 73125, or the Secretary of Health, Education, and Welfare, Washington, D.C., or both.

CLAIM FORM ADM-12

Purpose of Form

Form Adm-12 is used in payment for:

(1) Foster care provided by Departmental foster homes for purchase of foster care services and from other agencies and institutions from Child Welfare funds;
(2) Any time Title XX Emergency funds are being used for payment of a child's first 30 days or any part thereof in foster care;
(3) Home Maintenance service and other services provided by agencies holding Title XX Contracts for purchase of services;
(4) Physical examinations necessary to confirm or rule out alleged child abuse/neglect when parents or other responsible person refuses to pay for such examinations or to apply for medical assistance (Title XIX or CCU) or when the family has been determined ineligible for medical assistance but state they are unable to pay for the examination;
(5) Expense of meals and lodging incident to physical examinations at University Hospital to determine eligibility;
(6) Payment of drugs for individuals too old for Crippled Children's Services but still in need of life saving drugs and also to pay for drugs and blood products for persons suffering from catastrophic illnesses;
(7) Obtaining medical information to determine an exemption from WIN
* Registration;
(8) Office rent;
(9) Abstractor's reports;
(10) Notary Public commissions;
(11) Repair of equipment;
(12) SSI-DCP;
(13) Payment of services from state CCU funds; and
(14) Other items for which invoices cannot conveniently be secured. If an invoice can be secured, it will be used instead of Form Adm-12. (See Form Adm-6, Travel Voucher, for claim for travel and subsistence; Manual 1573.3 for postage and the following forms for special medical providers); Adm-36, Medical Providers Claim; Adm-36-D, Dentist Claim; Adm-36-K, Physician's Report and Claim for Early and Periodic Screening and Related Procedures; Adm-38, Hospital Out-Patient and/or Surgicenter Claim; Adm-38-K, Physician's Report and Hospital Claim for Early and Periodic Screening and Related Procedures (for Organized Out-Patient Clinic Services Only); Adm-39, Hospital Claim for Deductible and/or Coinsurance; and Adm-12-SI, Service Invoice.

Instructions for Preparation of Form

The form is prepared in sufficient copies so that the State Office receives copies as follows:

Repairs - 4; Rent- 3; Labor - 3; Telephone - 3; Authorized Physician's Examination - 3; Bus travel - 3; Boarding Home Care - 4; Freight and Drayage - 3; Supplies - 3; Physician examinations involving alleged child abuse/neglect - 3; Day Care claims - 3; and Title XX contract services - 3; Home Maintenance Service - 3 and Medical Services - 3.

Okla. DHS Revised 2-16-81 1

ADM-12 CLAIM FORM

Form Adm-12 should be signed by the vendor. Claims for foster boarding home care are prepared by the local county staff (responsible for the care of the children involved). Claims for initial medical eligibility or WIN exemptions are prepared by the local staff.

Date. Enter on the date line the month, day and year the claim is prepared.

In Account With. Enter the name of the individual, organization or firm to whom the Department is indebted. The name must be typed in the same form that the signature of the claimant is written. The Social Security or Federal I.D. Number or Title XX Contract Number should also be included on this line if the vendor is a purchase of care facility.

P.O. Address. Enter the full mailing address of the individual, organization or firm whose name appears on the previous line.

Date. Beneath "Date" indicate the period covered by this claim. Omit dates in this column if claiming for boarding home care.

Quantity. No entry should be made if claiming for boarding home care.

Description of Article or Service. The exact nature of the service for which the claim is made should be entered in this section. "Boarding Home Care For" should be entered if appropriate. Identifying information should include the name of the child, date of birth, race, sex and service case number, if claim is for boarding home care. If for boarding home care the dates of care should be entered, as well as the total number of days being claimed for. If for payment of boarding home care through Title XX Emergency Funds, so indicate at the top of the column. If claim is for Home Maintenance services, identifying information should include the client's name, birthdate and service case number.

Unit Price. Enter unit price. On boarding home claims include the daily rate of pay for the child being claimed on if for a portion of a month. If payment for an entire month's care is being claimed, give the monthly rate of pay.

Amount Claimed. After all entries have been made in this column, the total amount should be shown at the end of the column.

For State Office Use. The columns Object, Disallowed by Approving Officer, and Disallowed by Budget Division are for State Office use only.

Unit Approval. When the claim is complete, the county administrator or district supervisor or a designee signs the form, enters his title and county of location.

Acknowledgment. (See Section "In Account With" on page 1 of Instructions.) The official who takes the acknowledgment signs on the lines provided, marking out the printed title of Notary Public if that does not apply, and writing in the correct title. The official seal must be placed on all copies of the claim.

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The date of signature and acknowledgment should not be prior to the end of the period being claimed for foster boarding home care. If the claim period for foster boarding home care ends on the 15th of the month and that date falls on a Sunday, the date of signature and acknowledgment should be the 16th rather than the 14th.

The local unit will make no entires in the section below the notary's (or other public official's) acknowledgment of the form.

* Routing of Form

For payment for goods or services, other than exceptions below, the original and two copies of Form Adm-12 are submitted, by the local office, to the Division of Finance.

For payment of boarding home care purchased by the Department, an original and two copies of Form Adm-12 are submitted to the Division of Finance by the county staff.

One copy of Form Adm-12 should be retained in the local office files.

APPENDIX R. RELEASE OF INFORMATION REGARDING JUVENILES [REVOKED]

TO: _____ ATTN: _____

_____

_____

FROM: _____

_____

_____

RE: _____

TYPE OF INFORMATION REQUESTED:

PURPOSE OR NEED FOR INFORMATION:

_____ _____
Signature of Juvenile Date

_____ _____
Signature of Parent or Guardian Date

_____ _____
Signature of Witness Date

Okla. DHS Issued 11-15-93

PURPOSE OF APPENDIX

This appendix is used for releasing or obtaining information on juveniles by any division or unit within the agency.

INSTRUCTIONS FOR PREPARATION OF APPENDIX

The appendix is to be prepared in duplicate.

The appendix is self explanatory, complete all information requested.

ROUTING OF APPENDIX

The original is to be maintained in juvenile's case file and a copy is to be routed to appropriate division or unit in state office.

[OAR Docket #04-419; filed 3-24-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[OAR Docket #04-420]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
340:10-1-3. [AMENDED]
Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program
340:10-2-3. through 340:10-2-4. [AMENDED]
340:10-2-7. through 340:10-2-8. [AMENDED]
340:10-2-9. [REVOKED]
Subchapter 3. Conditions of Eligibility - Need
Part 1. Resources
340:10-3-2. through 340:10-3-3. [AMENDED]
340:10-3-5. [AMENDED]
340:10-3-10. [AMENDED]
Part 3. Income
340:10-3-32. [AMENDED]
340:10-3-39. [AMENDED]
340:10-3-40. [AMENDED]
Part 5. Assistance Payments
340:10-3-56. [AMENDED]
Subchapter 12. Conditions of Eligibility - Social Security Numbers
340:10-12-1. [AMENDED]
Subchapter 15. Conditions of Eligibility - Citizenship and Alienage
340:10-15-1. [AMENDED]
340:10-15-3. [AMENDED]
340:10-15-5. [REVOKED]
340:10-15-9. [REVOKED]
Subchapter 20. Diversion Assistance
340:10-20-1. [AMENDED]
Subchapter 22. Temporary Assistance For Needy Families (TANF) Supported Permanency Program
340:10-22-1. [AMENDED]
(Reference APA WF # 03-11, 03-23, and 03-32)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 7003.5.6 of Title 10 of the Oklahoma Statutes; Sections 1631 and 1641 of Chapter 14 of Title 8 of the United States Code; Title IV of the Personal Responsibility and Work Opportunity Act of 1996, amended; Trafficking Victims Protection Act of 2000; and Section 408(f) of Title IV of the Social Security Act; and Section 230.52 of Title 56 of the Oklahoma Statutes.
DATES:
Comment period:
December 15, 2003 through January 14, 2004
Public hearing:
None requested.
Adoption:
January 27, 2004
Submitted to Governor:
January 27, 2004
Submitted to House:
January 27, 2004
Submitted to Senate:
January 27, 2004
Gubernatorial approval:
March 11, 2004
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 24, 2004.
Final adoption:
March 24, 2004
Effective:
May 1, 2004
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 15. Conditions of Eligibility - Citizenship and Alienage
340:10-15-1. [AMENDED]
340:10-15-3. [AMENDED]
340:10-15-5. [REVOKED]
340:10-15-9. [REVOKED]
Subchapter 22. Temporary Assistance For Needy Families (TANF) Supported Permanency Program
340:10-22-1. [AMENDED]
(Reference APA WF # 03-11)
Gubernatorial approval:
June 4, 2003
Register publication:
20 Ok Reg 2640
Docket number:
03-2040
Superseded rules:
Subchapter 20. Diversion Assistance
340:10-20-1. [AMENDED]
(Reference APA WF # 03-23)
Gubernatorial approval:
November 7, 2003
Register publication:
21 Ok Reg 241
Docket number:
03-3215
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Temporary Assistance For Needy Families (TANF) rules are revised to: (1) eliminate the substance abuse and literacy screening from the Diversion Assistance (DA) Program; (2) bring rules regarding citizenship and alien status into compliance with current federal regulations; (3) eliminate the age limitation for the Supported Permanency Program; (4) eliminate out of date rules; (5) clarify existing rules; (6) amend the word guardianship to legal responsibility.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

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 MAY 1, 2004.

SUBCHAPTER 1. GENERAL PROVISIONS

340:10-1-3. State ~~plan~~ Plan for Temporary Assistance for Needy Families (TANF)

The State Plan covering TANF encompasses the requirements listed in paragraph (1) ~~-~~through (12) of this Section.

(1) **State-wide operation.** The plan is in effect in all counties of the state as a state-administered program.

(2) **Financing.** The ~~State of~~ Oklahoma ~~provides the state money used~~ State Legislature appropriates funds for financing the TANF program. ~~Funds are appropriated by the Oklahoma State Legislature.~~ Federal money is provided by block grant funding in accordance with federal laws and regulations relating to the TANF program. These state and federal funds are used for assistance and administration under the plan.

(3) **Designated state agency.** The state TANF program is administered by the Oklahoma Department of

Human Services (~~DHS~~ OKDHS), with at least one county office in each county in the state, operating under rules and regulations adopted by the Oklahoma Commission for Human Services (Commission).

(4) **Fair hearings.** Any individual whose application for TANF is denied or is not acted upon with reasonable promptness, or who is dissatisfied with the amount of the assistance payment or with any other action taken in regard to ~~the individual's~~ his or her assistance payment, is provided an opportunity for a fair hearing ~~before the state agency~~ with OKDHS.

(5) **Proper and efficient administration.** ~~DHS~~ OKDHS operates under the State Merit System which establishes and maintains personnel standards on a merit basis for certain federal grant-in-aid agencies, including ~~DHS~~ OKDHS. Employees of ~~the Department~~ OKDHS engaged in the administration of the TANF State Plan are covered by the Merit System.

(6) **Reports as required.** The ~~Office of~~ Finance Division:

(A) assists in fulfilling the requirements of state and federal laws ~~in~~ by making necessary reports~~,~~;

(B) cooperates with various federal agencies by providing current and special reports~~,~~; and

(C) furnishes ~~the Department~~ OKDHS with data necessary for ~~and valuable to~~ the operation of its programs.

(7) **Safeguarding of information.** Federal and state laws and the rules and regulations adopted by the ~~Oklahoma~~ Commission ~~for Human Services~~ restrict the use or disclosure of information concerning applicants for~~,~~ or recipients of~~,~~ TANF to purposes directly connected with the administration of the program.

(8) **Right to apply.** An individual has the right to:

(A) make application for TANF~~,~~;

(B) expect an investigation of eligibility~~,~~; and

(C) ~~expect~~ a ~~reasonably~~ prompt decision by ~~the Department~~ OKDHS in regard to the application.

(9) **Assistance under only one program.** ~~An eligible person's needs~~ The needs of an eligible person can only be included in one State Supplemental Payment (SSP) or TANF payment.

(10) **Standards for determining eligibility and amount of payment.** Uniform standards for determining eligibility and policies and procedures for such determination are provided in OAC 340:65, and this Chapter. As a means of promoting uniformity and accuracy in determining the basic needs, such as food, clothing, basic drugs, personal items, shelter, utilities, and household equipment of each TANF assistance unit, a flat grant consisting of these requirements is used.

(11) **Income and resources.** ~~DHS in~~ In determining need for TANF, OKDHS takes into consideration any available income and resources of an individual requesting ~~such aid~~ assistance, except income and resources required to be disregarded by federal or state law or by rules of ~~the Department~~ OKDHS. Income and resources received on behalf of a member of the assistance unit by another individual ~~such as~~ which include, but is not limited to, a guardian or conservator, is considered available to the assistance unit.

(12) **Civil rights.** The TANF program is administered in accordance with the provisions of Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1975, as amended, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Title IX of the Education Amendments of 1972, as amended.

SUBCHAPTER 2. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) WORK PROGRAM

340:10-2-3. Employability planning

(a) **Scope and applicability.** The employability planning process begins at intake and continues as long as there are employment barriers or family circumstances which interfere with the participant obtaining and retaining employment. The worker and the participant initiate Form TW-2, TANF Work/Personal Responsibility Agreement. In the development of the employability plan, the worker takes into consideration the need for English as a Second Language, basic education, literacy, learning disabilities, counseling or treatment for substance abuse or mental health issues, and crisis intervention for domestic violence. Substance abuse screening is required for every new Temporary Assistance for Needy Families (TANF) participant. Literacy screening is required for individuals who have not obtained a high school diploma or General Educational Development (GED) certificate and have demonstrated a lack of literacy skills.

(b) **Interest and ability assessments.** Assessments are required to determine the participant's skills, abilities, and barriers. Assessment tools used are the Washington State Learning Disability Screen, the Test of Adult Basic Education (TABE) locator, the TABE battery, and the Career Occupation Preference System (COPS). These can be obtained through the statewide assessment contract or a community partner.

(1) The use of these assessments provides the worker, participant, assessment specialist, and/or community partners with:

(A) an indication of possible learning disabilities;

(B) a measurement of the participant's skills, abilities, interests, and aptitude; and

(C) meaningful information to create a valid employability plan.

(2) Participants referred for testing are informed of the use that is made of the test results. Test scores are kept confidential but may be shared with community partners. Referrals for testing are made by use of Form TW-3, Interagency Referral and Information. Participants in formal assessments are eligible for participant allowances and child care.

(c) **Employability planning.** The worker and the participant use the information from the assessment and other relevant information to develop a plan for securing employment. The

employability plan includes establishing both short and long term goals, including specific occupational goals, activities, and services which are necessary to achieve the goals.

(1) The employability plan may include staffing with other community partners for assignment to specific work activities, collaboration with other agencies for services such as job placement, training, and education, and the provision of social services. ~~[OAC 340:10-2-9]~~ The plan must identify specific needs and activities required to reach the occupational goal and estimated dates for achievement. The plan may include more than one activity at a time based on the ~~individual's~~ participant's specific needs and the hours available. The employability plan is a part of the social services plan for the entire family. It must be realistic and within the participant's ability to complete.

(2) The participant is informed that the employability plan is updated as necessary to account for situational changes. The employability plan is reviewed with the participant and updated as changes occur and at the completion of any work activity. If no changes have occurred, the worker reviews the employability plan within six months.

(3) Participants who are employed with income insufficient to close the case must have a plan designed to upgrade employment. These plans must not interfere with current employment.

(d) **Work activities.** Participants are assigned to one or more activities and scheduled the minimum number of hours as required. The participant signs Form TW-2, when any work activity other than the Work Experience Program or Work Supplementation Program is approved.

(1) Assignments must be within the scope of the ~~individual's~~ participant's employability plan.

(2) The assignment must be related to the capability of the ~~individual~~ participant to perform the task on a regular basis.

(3) The daily commuting time to and from home to the assigned education, employment, or training site is normally less than two hours. Commuting time does not include the time required to transport a child to and from a child care facility. Where longer travel time is normal in the community, the round trip commuting time ~~will~~ may not exceed the general community standards.

(4) When child care is required, it must be of the participant's choosing. It must be available during the hours the participant is engaged in any work activity, plus any additional commuting time.

(5) Assignments which are discriminatory in terms of age, sex, race, religion, ethnic origin, or physical or mental disability are not made.

(6) The site of the assignment must not be in violation of established and applicable health and safety standards.

(7) The participant is not referred for a work activity unless supportive services necessary for participation are available. The cessation or withdrawal of such services constitutes good cause for refusal to participate.

(8) When the agreed upon employability plan requires hours in excess of the minimum requirement, the participant must participate the agreed upon number of hours.

340:10-2-4. Employment

(a) **Applicability.** Temporary Assistance for Needy Families (TANF) Work activities are designed to assist the ~~individual~~ participant in obtaining employment to achieve economic self-sufficiency. Work allows ~~individuals~~ participants to enhance their self-esteem and to become more independent. Every effort is made to assist ~~individuals~~ participants in securing jobs which provide financial security and opportunities for advancement. The appropriate employment criteria for subsidized and unsubsidized employment are included in paragraph (1) ~~-~~through (5) of this subsection.

(1) Appropriate employment may be temporary, permanent, full-time, part-time, or seasonal work, as long as the daily and weekly hours of employment do not exceed those customary to the occupation.

(2) The wage must meet or exceed the federal or state minimum wage laws or the prevailing rate for similar employment, whichever is applicable. The state law applies when federal law does not cover the job.

(3) ~~An individual~~ A participant is not required to accept employment if the position offered is vacant due to a strike, lockout, or other bona fide labor dispute.

(4) ~~The individual~~ A participant is not required to work for an employer if this is contrary to the conditions of membership in the union governing that occupation. Employment not governed by the rules of the union to which the ~~individual~~ participant belongs may be appropriate.

(5) ~~The individual~~ A participant is not required to accept employment that results in the net loss of ~~cash~~ income.

(b) **Unsubsidized employment.** The State Work Incentive Program ~~as well as~~ and any employment for which the employer does not receive reimbursement for any portion of the wages paid are examples of unsubsidized employment.

(1) **State Work Incentive Program.** The State Work Incentive Program is designed to assist in employing ~~recipients of~~ TANF participants into entry level positions in all branches of state government. ~~DHS~~ Oklahoma Department of Human Services (OKDHS), in cooperation with other state agencies and the Office of Personnel Management, coordinates job placements for those TANF ~~recipients~~ participants who are referred for the program by Form TW-23, State Work Incentive Referral. Employment of eligible ~~persons~~ participants can be considered for positions of unclassified status for a two year period in a full-time or part-time capacity. These positions are not included within any limitation on full-time equivalent employee positions for any agency. ~~Employees~~ Participants hired under this program are eligible for leave and other benefits that are available to other state ~~workers~~ employees, subject to other eligibility requirements, and may be reassigned or promoted while they are in the program. ~~Conversion to permanent classified status can be considered for those employees after two years of continuous~~

~~participation in the program and employees are exempt from probationary hiring procedures.~~ Participants hired are exempt from probationary hiring procedures. They can be considered for conversion to the permanent classified status after two years of continuous participation in the program. Requirements for placing employees in permanent status include:

(A) completing satisfactory performance ratings which are conducted during employment;

(B) having possession of the minimum requirements stated in the job specifications; and

(C) passing the required entrance examination for the applicable job specification.

(2) **Other unsubsidized employment.** Unsubsidized employment includes any employment in which ~~an individual~~ a participant is hired by a private or public employer and there is no reimbursement of any portion of the wages paid to the recipient.

(c) **Subsidized employment.** The Work Supplementation Program (WSP), ~~On-the-Job Training~~ on-the-job training (OJT), and Supported Transitional Employment Program (STEP) are examples of subsidized employment. The employment criteria in subsection (a) ~~are appropriate~~ apply.

(1) **WSP.** ~~The~~ WSP is a subsidized employment opportunity through which a TANF ~~recipient~~ participant is hired in full-time employment with ~~DHS~~ OKDHS reimbursing the employer for wages paid at a maximum of $250 per month for up to six months. Public agencies, nonprofit private agencies, and private employers are eligible to participate. Payments to employers and supplemental payments to WSP participants are made from a wage pool created by diversion of the TANF ~~recipient's~~ participant's cash assistance. State agencies expressing an interest in participating in the program are informed that the $250 reimbursement cannot be used to claim matching federal funds. If, for any reason in any given month, a WSP participant is paid less ~~money~~ than the amount of his or her cash assistance at the time of entry into the program, the WSP participant will receive a supplemental check. WSP participants are entitled to all benefits from the employer which are available to other employees. Participation is limited to one adult per assistance unit and to a six-month period during the lifetime of the ~~individual~~ participant. The six-month period may or may not be consecutive or with the same employer. ~~Individuals~~ Participants are assigned based on their employability plan and the availability of appropriate and willing employers ~~who are willing to participate~~. The employer ~~is to retain~~ retains the satisfactory WSP participant on a permanent basis following the contract period.

(A) **Participant requirements.** TANF ~~recipients~~ participants must:

(i) be ~~a recipient~~ included in a cash assistance unit;

(ii) be available for immediate employment;

(iii) have participated in Job Search; and

(iv) be assigned to a job at a salary exceeding their cash assistance.

(B) **Position requirements.** Positions must be permanent, not less than 30 hours per week, and ~~must~~ pay at least 65 cents above the federal minimum wage. Tips are not considered ~~as~~ part of the wages. All contracts must conform to the Equal Employment Opportunity Commission and fair employment practices, for example, nondiscrimination regarding age, race, sex, national origin, or disability. Contracts are not written for positions:

(i) ~~where~~ when there is a strike, lockout, or the contract would cause displacement of other employees;

(ii) ~~involving~~ that involve commission sales when the federal minimum wage is not guaranteed; or

(iii) that are casual ~~labor~~, intermittent, or seasonal labor.

(C) **Recruitment of employers.** The employer can be asked to identify potential positions during the initial interview to facilitate contract negotiations and ~~matching of~~ match TANF ~~recipients~~ participants with employers.

(i) The program explanation emphasizes that employers are expected to retain the WSP participant in full-time employment unless there is good cause for the dismissal. Employers who fail to continue the successful WSP participant's employment without good cause are not granted subsequent contracts. Good cause reasons for dismissal are:

(I) lay-off due to economic reasons which result in a reduction in force;

(II) the employee is frequently absent from work or engages in disruptive or inappropriate behavior; or

(III) the employee is unable to perform at an acceptable skill level.

(ii) Before new or additional contracts are written with an employer, WSP employees or other employees in lay-off status must be recalled.

(iii) The county has the responsibility for ensuring the employer is complying with the contract.

(D) **WSP placements.** The ~~social services specialist~~ worker arranges interviews between ~~recipients~~ participants and potential employers. WSP participants may begin employment any time during the month. The employer is informed that reimbursement begins the first month after the cash assistance is diverted to the wage pool.

(i) Following the employer's agreement to participate and the employer's selection of a TANF ~~recipient~~ participant, the ~~social services specialist~~ worker negotiates the contract with the employer. Negotiation must include the beginning date of employment, the salary the employee will be paid, and the number of months the subsidy will be received.

(ii) Upon receipt of the contract, the county director reviews it for completeness and, if approved, signs and dates the contract. The ~~social services specialist~~ worker delivers the employer's copy of the contract with a supply of Form TW-18, Work Supplementation Program Invoice, and a copy of the instructions for the form. The ~~social services specialist~~ worker contacts the participant and Form TW-6, Work Supplementation Program Participant Agreement, is completed in duplicate and signed by the ~~social services specialist~~ worker and participant.

(iii) If a contract is not approved, a letter is ~~prepared and~~ mailed to the employer explaining the reason for the disapproval. The ~~recipient~~ participant is notified ~~by Form FSS-37, Notice Regarding Social Services,~~ that the contract was not approved and that a placement will be negotiated with a new employer.

(E) **Program procedures.** The procedures for programs listed in unit (i) ~~-~~through (iv) of this subparagraph are used.

(i) **Cash assistance.** Under ~~the~~ WSP, eligibility for cash assistance is frozen. During the period of participation, the cash assistance unit cannot be determined ineligible.

(ii) **Medical services.** ~~Participants~~ WSP participants continue to be eligible for medical services unless found ineligible for a reason other than earned income.

(iii) **Food ~~stamps~~ stamp benefits.** WSP participants may be eligible for food ~~stamps~~ stamp benefits. Eligibility for food ~~stamps~~ stamp benefits is determined based on OAC 340:50-11-20.

(iv) **Child care.** Child care plans must be explored with each WSP participant. When purchased child care services are required, the participant's earnings are considered income, and family share co-payments are computed in accordance with ~~DHS~~ OKDHS Appendix C-4, Child Care Eligibility/Rates Schedule. ~~[OAC 340:40-7-13]~~

(F) **Wage pool payments.** Under ~~the~~ WSP, the diversion of the cash assistance creates a wage pool from which payments are made to employers and cash assistance supplemental payments are issued to WSP participants.

(i) **Payment of employers.** Employers are eligible for reimbursement of the first $250 of the gross wages paid to each WSP participant. Payment to the employer is made the month following the month the cash assistance is diverted to the wage pool. Employers file for reimbursement by submitting Form TW-18 to the county office at the first of the month. When a business changes ownership, the WSP contract transfers with the business. When change of ownership occurs mid-month, the original owner maintains the right to a claim for reimbursement for that month.

(ii) **Supplemental payments to WSP participants.** The Family Support Services Division (FSSD) ~~State Office~~ issues supplemental payments for months in which income shown on Form TW-18 is less than the amount of the WSP participant's cash assistance prior to entering the program.

(G) **Terminations.** The closing date of the authorization is the last day of employment under the contract. When employment ends prior to the end of the contract, the authorization must be closed prior to the next deadline for cash assistance changes.

(2) **OJT.** OJT is subsidized employment in which ~~an individual~~ a participant is hired by a private or public employer and, while engaged in productive work, receives training that provides knowledge or skills essential to the full performance of that job. During the OJT period the employer receives reimbursement for a portion of the wages paid to the employee. ~~The Workforce Investment Act (WIA) Program has 12 Workforce Investment Boards (WIB) in the state. Each may operate an OJT Program. When a TANF recipient requires OJT, he or she is referred to the local WIA Program for placement in OJT.~~

(A) ~~Recipients~~ Participants who have successfully completed the Work Experience Program, have a recent history of employment, or who have been through a job readiness activity are the primary candidates for OJT referral.

(B) Income from OJT is considered as any other earned income. Transitional child care and medical benefits are explained to the ~~recipient~~ participant at the time of entry into OJT. ~~The social services specialist works closely with the recipient and WIA to ensure completion of this training~~.

(3) **STEP.** STEP is a subsidized employment program which provides comprehensive support services that lead to permanent employment placements for TANF participants. These services are contracted with specified vendors who provide temporary paid work experience to program participants in a supportive work environment. When the participant is accepted into the program, his or her TANF benefit ~~will remain~~ remains active with no cash benefit issued. If eligible, the participant continues to receive other program benefits.

(d) **Work Opportunity Tax Credit (WOTC).** The WOTC law permits for-profit employers to take a credit on their federal income tax when workers from certain groups are hired. The WOTC is equal to 40% of the first year wages up to $6,000. To claim the credit, the employee must be retained at least 180 days or work at least 400 hours.

(1) WOTC is available to employers for workers hired from targeted groups. The targeted groups are:

(A) cash assistance recipients who have received assistance for nine months out of the last 18 months;

(B) qualified veterans;

(C) qualified ex-felons;

(D) high-risk youths;

(E) vocational rehabilitation referrals;

(F) qualified summer youth employees;

(G) qualified food stamp recipients; and

(H) qualified recipients of Supplemental Security Income (SSI).

(2) Through an agreement with the Oklahoma Employment Security Commission, ~~the Department~~ OKDHS issues WOTC conditional certification forms for recipients of ~~DHS~~ OKDHS benefits.

(3) The Conditional Certificate, Form ETA-9062, and a letter from the ~~social services specialist~~ worker stating the number of months the participant has ~~been a recipient of DHS~~ received OKDHS benefits must be given to the participant to present to the employer on or before the first day of employment. An explanation is given to the participant about the purpose of the form and that the tax credit may help the participant get a job.

~~(e) **Welfare-to-Work Tax Credit (WtWTC).** The WtWTC is established by the Taxpayer Relief Act of 1997. It gives for-profit employers a tax credit for hiring long-term TANF recipients who begin work any time after December 31,1997. It is administered under the WOTC certification procedure. The tax credit is 35% of qualified wages for the first year of employment and 50% for the second year, if employed at least 180 days or 400 hours. A cap is set on qualified wages at $10,000 per year. The WtWTC is $3,500 the first year and $5,000 the second year of employment for a maximum tax savings of $8,500 per new hire.~~

340:10-2-7. Training

(a) **Scope.** Job skills training includes vocational training and hands-on work experience to develop technical skills, knowledge, and abilities in specific occupational areas. All training programs must include qualitative measures, such as competency gains or proficiency levels, to evaluate a participant's progress and reasonable time limits for completion. Referrals are made to appropriate training facilities on Form TW-3, Interagency Referral and Information.

(b) **Assignments.** Any training to which the participant is assigned must meet the criteria in (1) through (4) of this subsection.

(1) The hours of any training activity are governed by the training facility but must not exceed 40 hours per week.

(2) The training is preparation for a job which meets the criteria for appropriate employment.

(3) The quality and type of training must meet local employers' requirements so participants are in a competitive position with the local labor market.

(4) Training is related to in-demand occupations which are likely to become available in the state.

(c) **Work Experience Program (WEP).** The purpose of WEP is to provide skill training and work enhancement to Temporary Assistance for Needy Families (TANF) participants while providing a useful public service that will enable them to move toward self-sufficiency and ~~to~~ obtain unsubsidized employment following completion of the placement. Facilities selected for WEP training must be capable of providing employment and have an apparent intent to hire, or be able to provide quality training. Care is given to avoid placement of trainees with facilities which consistently use WEP trainees without providing first option employment. Benefits of the program to participants include an opportunity to establish a work history and earn a recommendation from an employer. Participants also learn to balance the demands of home and work, gain confidence by performing in a job setting, brush-up skills already acquired, learn marketable skills on-the-job, and determine interest and aptitude for a particular type of work by doing the job. WEP assignments are approved for an initial period of three months. No salary is paid. With respect to injuries incurred during working hours in WEP, federal law requires that medical coverage be offered under either state workers' compensation law or by the Oklahoma Department of Human Services (OKDHS). Oklahoma workers' compensation law does not cover WEP participants. Medical coverage is provided by the Medicaid Program.

(1) **~~Process.~~ WEP referrals.** ~~To help prepare for employment, all participants must attend an orientation session prior to entering WEP. Training is expected to be for no less than 20 nor more than 40 hours per week. WEP assignments are approved for an initial period of three months. No salary is paid. With respect to injuries incurred during working hours in WEP, federal law requires that medical coverage be offered under either state workers compensation law or by the Oklahoma Department of Human Services (OKDHS). Oklahoma workers compensation law does not cover WEP participants. Medical coverage is provided by the Medicaid Program.~~ Participants are referred to WEP slots based on their employability plan. Assignment to a WEP position is coordinated between the participant and worker. Based on the employability plan, the worker determines which facility best meets the participant's needs, arranges for an interview between the facility and the participant, and notifies the participant of the place, time, and interviewer's name.

(2) **~~Referrals for~~ WEP ~~placements~~ facilities.** ~~Participants are referred to WEP slots based on the employability plan. Assignment to a WEP position is coordinated between the participant and the worker. Based upon the employability plan, the worker determines which facility best meets the participant's needs, arranges for an interview between the facility and the participant, and notifies the participant of the place, time, and interviewer's name.~~ Training facilities are solicited by Oklahoma Department of Human Services (OKDHS) staff or a contracted entity who has agreed to assist with job development and placement including WEP. Local job market conditions, opportunities for employment following completion of WEP participation as well as the ability of the facility to provide the necessary supervision and training are criteria used when soliciting a facility.

(A) Training slots are developed which meet the employment needs of the participant as determined by the employability plan. When a facility agrees to participate in WEP, the representative of the facility is requested to provide a written description of the type of activities the participant will be involved in,

the number of participants the facility can accept, the hours of participation, and any special requirements.

(B) There are two types of WEP training facilities, WEP-Nonprofit (WEP-NP) and WEP-For-profit (WEP-FP).

(i) WEP-NP placement is approved for public and private non-profit and not-for-profit agencies, organizations, or businesses. When a participant requires additional training, the worker may approve a 60-day extension. Extensions are not granted when the primary purpose is to provide additional help to the facility. The criteria listed in subunit (I) through (VII) of this subsection are used as a guide in determining the appropriateness of requesting an extension beyond the initial three-month period.

(I) The participant needs the additional time for skills to be acquired to meet minimum hiring requirements.

(II) The participant demonstrates a willingness to learn, but needs additional training, including the development of new skills, to be competitive in the labor market.

(III) The facility has agreed to hire the participant, but will not have funds available or a job opening until a specific date.

(IV) The facility has an opening in an area different from the one the participant was trained in and has agreed to hire the participant if additional time is granted for the additional training.

(V) The participant has shown improvement in all areas, but needs additional socialization skills and improved behavior patterns in a work setting.

(VI) The participant has missed more than two weeks of training due to illness or the illness of a household member.

(VII) There are extenuating circumstances which prevented the participant from receiving full benefit of the training.

(ii) WEP-FP is approved for businesses or entities that operate for profit. Extensions are not approved unless the initial placement did not result in full-time employment. A subsequent placement at the same facility for the participant is not considered. Only one WEP-FP placement is allowed per 25 full-time employees in a for-profit business or entity. The criteria in subunit (I) through (II) of this subsection must be in effect prior to a WEP-FP placement.

(I) The placement matches the participant's employability plan and the career path chosen by the participant.

(II) The employer has committed to hire the participant following the three month placement.

(3) **WEP ~~training facilities~~ procedures.** ~~Training sites are solicited keeping in mind local job market conditions, opportunities for employment following completion of WEP participation, willingness of the facility to employ participants, and the ability of the site to provide the necessary supervision and training. Training slots are developed which meet the employment needs of the participant as determined by the employability plan.~~ Upon approval by the county director, the worker contacts the WEP facility to complete Form TW-15, Work Experience Program - Nonprofit Training Agreement, or Form TW-15-A, Work Experience Program - For-profit Training Agreement. The worker instructs the facility representative or the training supervisor regarding the purpose and use of Form TW-13, Time and Progress Report. It is the participant's responsibility to complete Form TW-13, secure the signature of the facility director or supervisor on Part III of Form TW-13, and return the form to the county office by the fifth day of each month. Approved training slots that have not been utilized within a six-month period are reviewed for appropriateness. If the position is no longer feasible, the county sends a letter to the facility stating the WEP slot is no longer active and may be re-evaluated at the facility's request.

~~(4) **WEP private sector (WEP-PS) placements.** Limitations of private sector placements include no extensions for work experience slots and no second placements for participants. Only one WEP-PS work experience placement per 25 full-time employees in a single for-profit agency or organization is allowed at any one time. WEP-PS placements are made only if two or more of the situations described in (A) through (D) of this paragraph apply.~~

~~(A) No suitable WEP assignment is available. WEP assignments have priority over WEP-PS assignments. Suitable placements are defined as those that match the employability plan and the participant's chosen education or career field that leads to full-time employment.~~

~~(B) The employer makes a commitment to hire the participant following the three-month private sector work experience placement.~~

~~(C) The participant has completed job search and not obtained employment.~~

~~(D) The worker determines WEP-PS placement is the most suitable activity.~~

~~(5) **Public and non-profit, private for-profit and not-for-profit agencies, organizations, or businesses.** Participation may be approved in public and non-profit, private for-profit and not-for-profit agencies, organizations, or businesses.~~

~~(A) When facilities agree to participate in WEP, the representative of the facility is requested to provide a written description to the worker of the type of activities the participant will be involved in, the number of participants they can accept, the hours of participation, and any special requirements.~~

~~(B) Upon approval by the county director, the worker contacts the facility and completes Form TW-15, Work Experience Program Training Agreement, or Form TW-15A, Work Experience Program - Private Sector Training Agreement. No more than three participants are assigned to one type of position within a facility.~~

~~(i) When a participant requires additional training, the worker may grant 60-day extensions. Extensions are not granted when the request is for the primary purpose of providing additional help to the facility. The criteria listed in (I) through (VIII) of this unit are used as a guide in determining the appropriateness of requesting an extension beyond the initial three-month period.~~

~~(I) The requested time is needed for the participant to develop additional skills.~~

~~(II) The facility has agreed to hire the participant, but will not have funds available or a job opening until a specific date.~~

~~(III) The facility has an opening in an area different from the one the participant was trained in and has agreed to hire the participant if additional time is granted for the additional training.~~

~~(IV) The participant demonstrates a willingness to learn, but needs additional training, including the development of new skills and tasks, to be competitive in the labor market.~~

~~(V) The participant has shown improvement in all areas, but needs additional socialization skills and improved behavior patterns in a work setting.~~

~~(VI) The participant has missed more than two weeks of training due to illness or the illness of a household member.~~

~~(VII) There are extenuating circumstances which prevented the participant from receiving full benefit of the training.~~

~~(VIII) The participant needs the additional time on the job to meet minimum hiring requirements for the skills to be acquired.~~

~~(ii) The worker instructs the facility representative or the training supervisor regarding the purpose and use of Form TW-13, Time and Progress Report.~~

~~(I) It is the participant's responsibility to complete Form TW-13, secure the approving signature of the facility director or supervisor on Part III of Form TW-13, and return the form to the county office by the 5th day of each month.~~

~~(II) Approved training slots that have not been utilized within a six-month period are reviewed for appropriateness. If the position is no longer feasible, the county sends a letter to the facility stating the WEP slot is no longer active and may be re-evaluated at the facility's request.~~

(~~6~~4) **Non-cooperation by WEP facility.** When information is obtained that the facility is violating the terms and conditions of Form TW-15, Form ~~TW-15A~~ TW-15-A, or that participants are being treated unfairly, the county director is informed immediately. The nature of the allegations guides the necessary action which may include:

(A) suspension of subsequent assignments at the facility;

(B) immediate removal of current participants; or

(C) termination of the agreement.

(~~7~~5) **Notification to participant and facility.** Ten calendar days prior to the anticipated WEP completion date, or at any time the participant becomes ineligible for WEP, the worker notifies the participant by ~~Form FSS-37, Notice Regarding Social Services~~ letter or telephone. The worker notifies the facility by letter or by ~~phone~~ telephone five calendar days prior to the termination. When a participant has been referred to WEP and an appropriate training slot cannot be provided, the worker notifies the participant of this decision ~~by Form FSS-37, stating the reason(s) for which the service cannot be provided~~.

(~~8~~6) **Changes in placements and subsequent placements.** When the facility, worker, and participant determine that placement in a different facility is more beneficial, the worker locates a new facility and arranges an interview for the participant. When the participant fails to secure employment following successful completion of WEP training, a conference is held with the participant, worker, and supervisor to determine whether a second training placement might be beneficial. The employability plan is reviewed prior to allowing a participant to re-enter WEP training. Consideration is given to reassignment to job search or another appropriate work activity. In making this decision, consideration must be given to the:

(A) participant's ability to secure and maintain full-time employment;

(B) opportunities for employment in the new field and in the area in which the participant received training;

(C) participant's efforts to secure employment; and

(D) length of time between training assignments.

(d) **Job Corps nonresident training program (Job Corps II).** Oklahoma's four Job Corps centers provide a nonresident Job Corps program to TANF participants who can commute to their sites. Participants referred must be ages 16 through 24. Referrals are made by the worker completing Form K-13, Information/Referral - Social Services. It is the responsibility of the worker to coordinate with the Job Corps center and arrange for child care.

(1) By special agreement with the Job Corps centers, Job Corps II students are provided Job Corps participant training allowances designed to meet training costs not covered by the TANF cash assistance. These allowances are not considered as income.

(2) The worker coordinates with the centers and other designated agencies, such as Oklahoma Employment Security Commission (OESC) and Workforce Investment Act (WIA), to ensure Job Corps II students leaving the

center are placed in an appropriate work activity. When a Job Corps II student leaves the center, the worker meets with the Job Corps II student to make immediate plans for further implementation of the employability plan.

(e) **Vocational training.** Vocational training other than that described in ~~special programs and demonstration efforts~~ subsection (f) of this ~~subsection~~ Section include, but are not limited to, practicum placements, internships, or proprietary schools and are considered as work activities.

(f) **Special programs and demonstration efforts with other agencies.** OKDHS may enter into special education, training, or employment efforts with federal, state, and local governments, and private for-profit, private not-for-profit organizations, and agencies. When this occurs, the counties involved are expected to comply with the terms of those agreements.

340:10-2-8. Temporary Assistance for Needy Families (TANF) Work support services

(a) **Scope.** The worker provides or arranges payments and services for the participant to ensure successful completion of his or her employability plan to become self-supporting. Payments are authorized for items or services directly related to employment as an outcome. When support services are available and part of the employability plan, the participant's failure to cooperate in obtaining the support services constitutes a failure to participate in the TANF Work program. Items and services covered by the participant's medical card are not paid for by the support service funds. The only support services available to an applicant are the participant allowance and work activity payment.

(b) **Flexible ~~fund accounts~~ funds.** The intent of ~~the~~ flexible ~~fund account~~ funds is to provide a participant with the necessary support services needed to accomplish his or her employment goals. Flexible funds are not available to an applicant. To be eligible for flexible funds, the ~~individual~~ participant must either be otherwise ready to participate in a required work activity for the minimum number of hours, have a guaranteed offer of employment, or be employed. Payments for the services through flexible funds are not an automatic entitlement to the participant. Flexible funds are not used for fines including traffic fines or any cost related to a criminal offense such as legal fees or court costs. The county staff has final authority to determine authorizations. One-time payments of specific services are allowed after the service is rendered. Ongoing maintenance payments are not allowed. The provider is paid no later than five days from the date of receipt of the properly completed ~~invoice~~ Authorization to Purchase in the Finance Division.

(c) **Other support services.**

(1) **Work activity payments.** To be eligible for the work activity payment, the individual must be ready to participate in or be in a required work activity and in need of a small amount of cash to purchase items such as a tank of gas, or health, beauty, or personal items. The maximum amount approved cannot exceed $30 per month.

(2) **Participant allowances.** Allowances, up to a maximum of $8 for each day, are made to participants in assigned work activities which are scheduled, structured, and supervised ~~up to a maximum of $8 for each day~~. Lunch hours and travel time are not included as actual hours of attendance. For persons in Job Search, travel time between job interviews and job applications is included as actual hours of attendance. The participant makes appropriate daily entries on Form TW-13, Time and Progress Report, which documents actual hours in attendance. The daily allowance is determined ~~in the manner given in~~ based on (A) ~~through~~ and (B) of this paragraph.

(A) An allowance of $5 each day is paid when the work activity equals four hours or less.

(B) An allowance of $8 each day is paid when the work activity equals more than four hours.

(3) **Oklahoma State Bureau of Investigations (OSBI) background checks.** OSBI background checks may be requested for a participant who is being placed in job skills training that requires an OSBI background check as a prerequisite for employment. The job skills training can include vocational training, hands-on work experience, or public or private sector work experience. The participant is advised of the requirement and Form ADM-60, Request for Release of Information, is completed.

(4) **Child care.** Child care arrangements are made for each child in the home who is under age 13, mentally or physically incapable of self care, or under court supervision. The plans for child care are included on Form TW-2, TANF Work/Personal Responsibility Agreement. When the individual begins active participation in TANF Work activities, child care services are documented.

(5) **Transportation contracts.** Transportation contracts are initiated to provide transportation for TANF recipients who have no means of transportation to access required TANF Work training activities. To initiate a transportation contract, contact the Family Support Services Division, TANF Section.

~~(6) **Individual Development Accounts (IDAs).** IDAs are dedicated savings accounts that are used for a qualified purpose such as purchasing a first home, education or job training expenses, capitalizing a small business, or other purposes designated by the IDA administrative entity. IDAs are managed by community organizations and accounts are held at local financial institutions. An IDA can be established by an individual or on behalf of a child eligible for TANF assistance for a qualified purpose. Cash deposits and interest accrued from the deposits made by an individual in an IDA up to $2,000 are not considered as income or resources in determining TANF eligibility. The account deposits must be made from earned income, earned income tax credits, or tax refunds. Deposits made by an individual into an IDA are matched in a separate account by public and private funds. All participants may receive training in economic literacy, budgeting, money management, and business and home ownership as developed by the administrative entity.~~

(~~7~~6) **Disability Advocacy Program (DAP).** DAP is available to assist a TANF recipient, adult or child, who

has an application for disability pending with the Social Security Administration (SSA). The program is also available for a TANF recipient, adult or child, who does not have an application pending with SSA but who the Oklahoma Department of Human Services (OKDHS) determines has a potentially meritorious claim for such benefits. A referral is made to the OKDHS contracted law firm to assist the recipient(s) with the application, reconsideration, Administrative Law Judge hearing, and review by the SSA Appeals Council. The evaluation of merit determines if the appropriate SSA test for disability would be met if evidence ~~were~~ was available to prove all conditions claimed by the TANF recipient. If the evaluation of merit determines there is sufficient evidence, the law firm ~~will represent~~ represents the TANF recipient. Statewide this representation consists of assisting the recipient with the application through an unfavorable decision by the SSA Appeals Council. In counties in which representation by a lawyer or experienced non-lawyer advocate is not available without advanced payment, the contracted law firm assists with the pending application for disability through an unfavorable decision by the SSA Appeals Council. If the evaluation of merit determines there is insufficient evidence to prove conditions claimed by the TANF recipient, no further services are provided by DAP. Representation by the law firm ceases at any time the law firm determines there is insufficient evidence to support the TANF recipient's claim for disability benefits.

340:10-2-9. Welfare to Work (WtW) [REVOKED]

~~(a) **Scope.** The Balanced Budget Act of 1997 authorizes the Department of Labor to provide WtW grants to states to create additional job opportunities for the hardest-to-employ recipients of Temporary Assistance for Needy Families (TANF). The Workforce Investment Act (WIA) of 2000 mandates the formation of local Workforce Investment Boards (WIB) to be the administrative entity for WtW. The WIBs are responsible for administering programs within a specific local area and overseeing a One-Stop delivery system designed to provide quality information and services.~~

~~(b) **Applicability.** The local DHS staff identify TANF recipients or non-custodial parents who may meet the WtW eligibility requirements. The local DHS staff facilitate the eligibility determination through a joint assessment process which includes all appropriate WtW partners or through a direct referral to the WIB office or other WtW provider for an eligibility determination. WtW staff complete the eligibility process on referred individuals. Once determined eligible, the WtW staff immediately begin the individualized strategy process with the referred individual. If services to obtain, retain, or upgrade employment are not required at the time of the eligibility determination, actual enrollment in the WtW program may be deferred until services are required.~~

~~(c) **Targeted groups.** The 1999 WtW Amendments removed the requirements that long-term TANF recipients must meet additional barriers to employment in order to be eligible for WtW. The targeted groups are:~~

~~(1) **Required beneficiaries.** A TANF recipient(s) is eligible for WtW under the 70% eligibility criteria when he or she is a:~~

~~(A) current recipient(s) who received financial benefits 30 or more months which do not have to be consecutive, will reach the 60 month lifetime limit of TANF within 12 months, or has exhausted receipt of TANF due to time limits; or~~

~~(B) non-custodial parent:~~

~~(i) unemployed, under-employed, or who has difficulty paying child support obligations;~~

~~(ii) whose minor child(ren) is eligible for or receiving TANF benefits. Priority is given for a parent with a child(ren) who is a long-term recipient;~~

~~(iii) who received TANF benefits during the preceding year or is eligible for or receiving assistance under the Food Stamp Program, the Supplemental Security Income Program, Medicaid, or the Children's Health Insurance Program; and~~

~~(iv) who has entered into a personal responsibility contract under which he or she commits to cooperating in establishing paternity, paying child support, participating in services to increase his or her employment and earnings, and to support his or her child(ren).~~

~~(2) **Other beneficiaries.** An individual is eligible for WtW under the 30% eligibility criteria when he or she is a:~~

~~(A) TANF recipient who has significant barriers to self-sufficiency as determined by the WIB;~~

~~(B) youth 18 to 25 years of age who has aged out of foster care; or~~

~~(C) custodial parent(s) with income below the poverty level.~~

SUBCHAPTER 3. CONDITIONS OF ELIGIBILITY - NEED

PART 1. RESOURCES

340:10-3-2. General provisions regarding resources

(a) Every time eligibility is determined, each capital resource is evaluated. The maximum allowable resource amount is $1000 for a family to be eligible to receive Temporary Assistance for Needy Families (TANF).

(b) In establishing eligibility and who is included in the TANF assistance unit, only those resources which the applicant owns, wholly or in part, are considered. If an adult or child is receiving Supplemental Security Income (SSI), his or her resources are not considered in determining eligibility for TANF.

(c) Capital resources are evaluated on a monthly basis in determining eligibility for TANF. An applicant is determined ineligible for any month that resources exceed the resource standard at any time during that month. When a recipient has resources which exceed the resource standard, ~~case closure is~~

~~completed for~~ the TANF cash assistance is terminated the next possible effective date.

(d) The recipient may change the form of capital resources from time to time as long as the resources are not in excess of the maximum ~~reserve~~ resource standard.

(e) In determining eligibility based on resources, only those resources available for current use or those which the client can convert for current use with no legal impediment involved are considered as countable resources. A resource is considered available ~~both~~ when actually available and when the ~~individual~~ client has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance. Under this provision, a resource is considered available if the ~~individual~~ client has the legal ability to convert the resource to cash for his or her own use. Legal ability is explained in (f) of this Section.

(f) Generally, a resource is considered unavailable if there is a legal impediment to overcome. However, the client must agree to pursue all reasonable steps to overcome the impediment and is responsible for taking necessary steps to initiate legal action within 30 calendar days. While the legal action is in process, the resource is considered unavailable. If a determination is made and documented that the cost of making a resource available exceeds the gain, the client is not required to pursue action to make it available.

340:10-3-3. Home property

The home and surrounding property necessary for the operation of the home is exempt regardless of the value. For purposes of the home resource exclusion, a home is defined as any shelter in which the individual has an ownership interest and which is used by the individual as his or her principal place of residence. The home may be either real or personal property, fixed or mobile.

(1) The home as described in this Section may be retained without affecting eligibility during periods when it is necessary to be absent for illness or other necessity. The Oklahoma Department of Human Services (OKDHS) has not set a definite time limit to the individual's absence from the home.

(2) When it is determined the individual does not have a feasible plan for and is not expected to return to the home, the current market value of the property is considered in relation to the ~~reserve~~ maximum resource standard. Once the property is determined to be a resource, the individual is responsible for converting it for use in meeting current needs. If the individual fails or is unwilling to take steps necessary to convert the resource, continuing eligibility cannot be established. The individual is advised as to the effective date of denial or closure and his or her right to receive cash assistance when the resources are within the maximum ~~reserve~~ resource standard provided other conditions of eligibility continue to be met.

(3) When a recipient sells his or her home with the intention of purchasing another home or when an insurance payment for damage to the home is received, a reasonable period of time is given to use the money for the intended purpose. A reasonable period of time is 90 days.

(4) At the point a recipient decides not to use the funds from the sale of his or her home to purchase another home, an evaluation is made in accordance with ~~DHS~~ OKDHS Appendix C-1, Schedule of Maximum Income, Resource and Payment Standards, Schedule IX C~~, maximum reserve~~. The amount considered available is the total payment received from the sale of the home. At the point a recipient decides not to use an insurance payment received to repair damage to the home, the lump sum rule applies. ~~[OAC 340:10-3-28]~~

(5) A home traded for another home of equal value does not affect the recipient's eligibility status. If the home is traded for a home of lesser value, the difference may be invested in improvement of the new home.

340:10-3-5. Personal property

(a) This subsection describes personal property and how it is considered in determining eligibility for Temporary Assistance for Needy Families (TANF).

(1) **Household goods and equipment.** Items essential to day-to-day living such as clothing, furniture, and other similarly essential items of limited value are excluded as resources.

(2) **Livestock and equipment used in a business enterprise.** The individual's equity in livestock, equipment, or inventory of merchandise in a business enterprise is considered ~~in relation to the reserve~~ as a resource only if the individual is not actively engaged in the business enterprise. Equity is not counted if the individual actively participates in the business or is only temporarily inactive, for example, incapacitated and can reasonably expect and has plans to resume the business enterprise. Equity is established on the basis of oral or written information which the individual has at hand and counsel with persons who have specialized knowledge about the particular resources.

(3) **Livestock and home produce used for home consumption.** Any livestock or produce grown and used by the assistance unit for home consumption is exempt.

(4) **Cash savings and bank accounts.** Money on hand or in a savings account is considered as ~~reserve~~ a resource. The individual's statement that he or she has no money on hand or on deposit is sufficient unless there are indications to the contrary. When there is information to the contrary or when the individual does not have records to verify the amount on deposit, verification is obtained from bank records. Section 167.1 of Title 56 of the Oklahoma Statutes provides that financial records obtained for the purpose of establishing eligibility for assistance or services must be furnished without cost to the individual or the Oklahoma Department of Human Services (OKDHS).

(A) Checking accounts may or may not represent savings. Current bank statements are evaluated with the individual to establish what, if any, portion of the account represents savings. Any income which has been deposited during the current month is not considered.

(B) Accounts owned jointly are considered available to the individual unless it can be established what part of the account actually belongs to each of the owners, the money is actually separated, and the joint account is dissolved.

(5) **Insurance policies and prepaid funeral benefits.**

(A) **Life insurance policies.** The cash surrender value (CSV) less any loans or unpaid interest of life insurance policies owned by members included in the TANF cash assistance is counted as ~~part of the reserve~~ a resource. Dividends which accrue and remain with the insurance company increase the amount of ~~reserve~~ the resource. Dividends paid to an individual are considered as income. ~~However, assignment~~ Assignment of the face value of a life insurance policy to fund a prepaid burial contract is not counted as ~~part of the reserve~~ a resource. In this instance, the amount of the face value of the life insurance is evaluated according to the policy on burial funds or, if applicable, the policy on the irrevocable burial contract.

(B) **Burial spaces.** The value of a burial space for each family member whose needs are in the cash assistance or whose income and resources are considered when computing the cash assistance is excluded from resources.

(C) **Burial funds.** Revocable burial funds not in excess of $1500 for each member included in the assistance unit are excluded as a resource if the funds are specifically set aside for the burial arrangements of the individual. Any amount in excess of $1500 for each member included in the assistance unit is considered as a resource. Burial policies which require premium payments and do not accumulate cash value are not considered prepaid burial policies.

(i) Burial funds means a prepaid funeral contract or burial trust with a funeral home or burial association which is for the individual's burial expenses.

(ii) The face value of a life insurance policy, when properly assigned by the owner to a funeral home or burial association, may be used for purchasing burial funds as described in (i) of this subparagraph.

(iii) The burial fund exclusion must be reduced by the face value of life insurance policies owned by the individual and by the amounts in an irrevocable trust or other irrevocable arrangement.

(iv) Interest earned or appreciation on the value of any excluded burial funds is excluded if left to accumulate and become a part of the burial fund.

(v) If the individual did not purchase the prepaid burial, even if the individual's money was used for the purchase, the individual is not the owner and the prepaid burial funds cannot be considered a resource to the individual.

(D) **Irrevocable burial contract.** Oklahoma law provides that a purchaser of a prepaid funeral contract may elect to make the contract irrevocable. Irrevocability ~~never~~ becomes effective ~~until~~ 30 days after the contract is signed.

(i) If the irrevocable election was made prior to July 1, 1986, and the individual received assistance on July 1, 1986, the full amount of the irrevocable contract is excluded as a countable resource. This exclusion applies only if the individual does not add to the amount of the contract. Interest accrued on the contract is not considered as added. Any break in assistance requires that the contract be evaluated at the time of reapplication.

(ii) If the effective date for the irrevocable election or application for assistance is July 1, 1986, or later, the amount in any combination of an irrevocable contract, revocable prepaid burial contract or trust, and the cash value of unassigned life insurance policies cannot exceed $7500. When the principal amount exceeds $7500, the individual is ineligible for assistance. Accrued interest is not counted as a part of the $7500 limit, regardless of when it is accrued.

(iii) For an irrevocable contract to be valid, the election to make it irrevocable must be made by the purchaser or the purchaser's guardian or an individual with power of attorney for the purchaser.

(E) **Medical insurance.** When an individual has medical insurance whether directly purchased or available in conjunction with employment, the available benefits are applied toward the medical expense for which the benefits are paid. If an assignment of the insurance is not made to the vendor and payment is made directly to the individual, the payment must be applied to the cost of medical services. Any amount remaining after payment for medical services is considered ~~in relation to the reserve~~ as a resource.

(6) **Stocks, bonds, mortgages, and notes.** The individual's equity in stocks and bonds, including United States Savings Bonds, Series A through EE, is considered ~~in relation to the reserve~~ a resource. The current market value less encumbrances is the equity. Except for a bond which has been held beyond the maturity date, the current value is the redemption value listed in the table on the back of the bond for the anniversary date most recently reached. If the bond has been held beyond maturity date, it has continued to draw interest. The amount which can be realized from notes, mortgages, and similar instruments, if offered for immediate sale, constitutes a ~~reserve~~ resource.

(7) **Non-negotiable resources.** Installment payments received on a note, mortgage, and similar instruments, for which a buyer cannot be found are considered as monthly income.

(8) **Automobiles, pickups, and trucks.** The market value of each year's make and model is established on the basis of the average ~~trade-in~~ trade-in value. In the event the individual and worker cannot agree on the value of the vehicle, the individual secures written appraisals by

two persons familiar with current values. If there is substantial unexplained divergence between these appraisals or between the blue book value and one or more of these appraisals, the worker and the individual jointly arrange for the market value to be established by an appraisal made by a third person who is familiar with current values and acceptable to both the individual and worker.

(A) **Exempt automobiles.** One automobile, pickup, truck, or other vehicle used for the primary source of transportation for each assistance unit not to exceed an equity of $5,000 is exempted. The amount of the equity in excess of $5,000 is considered against the resource limit.

(B) **Other vehicles.** The equity in other automobiles, pickups, and trucks as well as other personal property including boats, travel trailers, motorcycles, motor homes, campers, and similar items is considered ~~in relation to the reserve~~ as a resource. The current market value less encumbrances on the vehicle is the equity. Only encumbrances that can be verified are considered in computing equity.

(9) **Lump sum payments.** A lump sum settlement which compensates for the loss of a resource such as an automobile may be disregarded in the amount used to replace the loss. The individual is given a reasonable amount of time to replace the loss not to exceed ~~a 30-day period~~ 30 days. Extension beyond ~~the~~ 30 days may be justified in special instances when completion of the transaction is beyond the individual's control. Any amount remaining after the replacement of the loss is considered as income. Income tax refunds, except for the portion that represents an earned income tax credit (EITC), must be treated as a resource and considered available to the recipient upon receipt. Retirement benefits received as a lump sum payment at termination of employment are considered a resource. These benefits are not treated as income because the retirement contribution was regarded as income in the month earned and withheld by the employer.

(10) **Individual Development Accounts (IDAs).** IDAs are dedicated savings accounts that are used for a qualified purpose such as purchasing a first home, education or job training expenses, capitalizing a small business, or other purposes designated by the IDA administrative entity. IDAs are managed by community organizations and accounts are held at local financial institutions. Cash deposits and interest accrued from the deposits made by an individual in an IDA up to $2,000 are not considered as income or resources in determining TANF eligibility. The account deposits must be made from earned income, earned income tax credits, or tax refunds.

(b) This subsection describes resources disregarded in determining need. Disregarded resources are:

(1) food stamp allotments under the Food Stamp Act of 1977;

(2) any payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(3) education grants, including work study, scholarships, and similar grants, if receipt is contingent upon the student regularly attending school. The student's classification, graduate or undergraduate, is not a factor;

(4) loans, regardless of use, if a bona fide debt or obligation to pay can be established. Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan was from an individual or financial institution in the loan business. The borrower's acknowledgment of obligation to repay, with or without interest, is considered to indicate that the loan is bona fide. If the loan agreement is not written, Form ADM-103, Loan Verification, is completed by the borrower attesting that the loan is bona fide and signed by the lender verifying the date and amount of loan;

(5) Indian payments, including judgment funds or funds held in trust, distributed per capita by the Secretary of the Interior, Bureau of Indian Affairs (BIA) or distributed per capita by the tribe subject to approval by the Secretary of the Interior. Any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds is disregarded. Any income from mineral leases or tribal business investments is disregarded as long as the payments are paid per capita. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. Any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(6) special allowances for school expenses made available upon petition, in writing, from funds held in trust for the student;

(7) trusts of a child included in a TANF benefit if it is determined by the worker the funds are to be used for educational purposes for the child. Any court established trust must be examined to determine if the court has restricted the trust for other purposes. The worker must verify at application and redetermination if funds have been withdrawn. Any funds withdrawn are treated as lump sum unearned income unless it can be documented the funds were used for the child's educational purposes;

(8) any accounts, stocks, bonds, or other resources held under the control of a third party if the funds are designated for educational purposes for a child eligible for TANF ~~child~~, even if the child's name is on the account and the third party holder is required to access the funds;

(9) benefits from state and community programs on aging ~~[~~from Title III and Title V~~]~~ are disregarded. Both Title III and Title V are under the Older Americans Act of 1965 amended by Public Law (P.L.) 100-175 to become the Older Americans Act amendments of 1987;

(10) unearned income received by a child eligible for TANF ~~child~~, such as needs based payments, cash assistance, compensation in lieu of wages, or allowances from programs funded by the Workforce Investment Act (WIA), including Job Corps income. This includes WIA earned

income received as wages when the child is a full-time student;

(11) payments for supportive services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE), and any other programs pursuant to the National and Community Service Trust Act of 1993 (NCSTA);

(12) payments to volunteers under the NCSTA, unless the gross amount of AmeriCorps*VISTA payments equals or exceeds the state or federal minimum wage, whichever is greater;

(13) the value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(14) any portion of payments made under the Alaska Native Claims Settlement Act to an Alaska Native which are exempt from taxation under the Settlement Act;

(15) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended;

(16) advance payments of EITC or refunds of EITC, as a result of filing a federal income tax return, in the month received and the following month;

(17) refunds of the state EITC, as a result of filing a state income tax return, in the month received and the following month;

(18) payments from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(19) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(20) federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by state, local governments, and disaster assistance organizations;

(21) interests of individual Indians in trust or restricted lands. However, any disbursements from the trust or restricted lands are considered as income;

(22) a migratory farm worker's out-of-state homestead if the farm worker's intent is to return to the homestead after the temporary absence;

(23) a non-recurring lump sum Supplemental Security Income (SSI) retroactive payment, made to a TANF recipient, in the month paid and the next following month. The amount remaining in the second month after the month of receipt is a countable resource;

~~(24) the balance in an individual's Individual Development Account up to $2,000;~~

(~~25~~24) payments received under the Civil Liberties Act of 1988. These payments are made to individuals of Japanese ancestry who were detained in internment camps during World War II;

(~~26~~25) payments made to individuals because of their status as victims of Nazi persecution;

(~~27~~26) payments made from the crime victims compensation program as amended in section 1403 of the Victims of Crime Act of 1984, Section 10602 of Title 42 of the United States Code; ~~and~~

(~~28~~27) reimbursements made to a foster care parent(s)~~.~~; and

(28) payments as described in Section 1823(c) of Title 38 of the United States Code (USC) provided to certain individuals who are children of Vietnam War veterans.

340:10-3-10. Maximum ~~reserve~~ resources

Maximum ~~reserve~~ resources is a term used to designate the largest amount ~~which~~ an individual can hold in one or more capital resources and still be considered eligible for Temporary Assistance for Needy Families (TANF) from the standpoint of need. ~~[OAC 340:10-3-2 through 340:10-3-5]~~ Such ~~reserve~~ resources may be held in any form or combination of forms of capital resources.

(1) **Maximum TANF ~~reserve~~ resource standard.** The maximum ~~reserve~~ resource standard is shown on OKDHS Appendix C-1, Schedule of Maximum Income, Resource, and Payment Standards, Schedule IX.C. The resources of all members whose needs are included in the TANF cash assistance benefit are considered in determining the ~~reserve~~ maximum resources for the family. For resources of a needy caretaker see paragraph (2) of this Section.

(A) When both parents are in the home and one parent is included in a State Supplemental Payment (SSP) case and the spouse is included in a TANF case with the children, the resources of both parents are evaluated in relation to eligibility for Supplemental Security Income (SSI) and therefore not considered on the TANF case.

(B) If a natural or adoptive parent or dependent child is not included in the assistance unit because of alien status, his or her resources are considered ~~along~~ with the resources of the eligible children in computing the maximum ~~reserve~~ resources.

(2) **Consideration of resources of a relative-payee other than a natural or adoptive parent.** A relative-payee can only be included in the cash assistance benefit when the natural or adoptive parent is not in the home and the relative-payee also meets the definition of a needy caretaker. A stepparent may be included in the cash assistance benefit when the natural or adoptive parent is ~~either~~ incapacitated or not in the home.

(A) If a relative-payee is not eligible to be included in the TANF assistance unit or is eligible but does not request to be included, consideration is not given to his or her resources or the resources of his or her spouse in determining eligibility of the children.

(B) A relative-payee is considered resource eligible as a needy caretaker if the ~~reserve~~ resources for the

case does not exceed the maximum ~~reserve~~ resource standard.

(C) Only one needy caretaker may be included in the TANF assistance unit when the child's parents are not in the home. If the needy caretaker has a spouse who is not an SSI recipient, one-half of their combined resources are considered to be the needy caretaker's resources. If the spouse of the needy caretaker is an SSI recipient, consideration is not given to his or her resources.

PART 3. INCOME

340:10-3-32. Determination of earned income

Earned income results from self-employment or other employment sources.

(1) **Earned income from self-employment.** If the income results from the individual's activities primarily as a result of the individual's own labor from the operation of a business enterprise, the countable earned income is the total profit after deducting the business expenses. ~~Money from the sale of whole blood or blood plasma is considered as self-employment income subject to necessary business expenses and appropriate earned income disregards~~.

(A) **Cost of producing self-employment income.** Allowable costs of producing self-employment income include, but are not limited to, the identifiable cost of labor, stock, raw material, seed, fertilizer, payments on the principal of the purchase price of income-producing real estate, capital assets, equipment, machinery, other durable goods, interest payments to purchase income-producing property, insurance premiums, and taxes paid on income-producing property. Self-employment income that represents a household's annual support is prorated over a 12-month period, even if the income is received in a shorter period of time.

(B) **Items not considered.** Items not considered as a cost of producing self-employment income are:

(i) the purchase price of capital assets, equipment, machinery, and other durable goods;

(ii) net losses from previous periods;

(iii) depreciation of capital assets, equipment, machinery, and other durable goods; and

(iv) federal, state, and local income taxes, Federal Insurance Contributions Act (FICA) deductions, money set aside for retirement purposes, and other work related personal expenses, such as meals and necessary transportation.

(C) **Room or board.** Earned income from a room rented in the home is determined by considering 25% of the gross amount received as business expenses. Earned income from room and board paid by a person in the home is determined by considering 50% of the gross income received as a business expense.

(D) **Rental property.** Income from rental property is considered income from self-employment if none of the activities associated with renting the property is conducted by an outside person or agency.

(2) **Earned income from sources other than self-employment.**

(A) **Earned income from wages, salary, or commission.** If the income is from wages, salary, or commission, the earned income is the gross income or true wage prior to payroll deductions and withholdings.This includes earned income from contract employment. Money from the sale of whole blood or blood plasma is considered as earned income.

(B) **Earned income from work and training programs.**

(i) **Workforce Investment Act (WIA).** WIA earned income received by the payee or spouse as wages is considered as any other earned income. WIA earned income of a dependent child is considered when received in excess of six months in any calendar year.

(ii) **On-the-job training (OJT).** Earned income from regular employment for OJT is considered as any other earned income.

340:10-3-39. Income other than earned income

(a) **Capital investments.** Proceeds from interest or dividends from capital investments, which include savings accounts, bonds, other than U.S. Savings Bonds, ~~Series A through EE,~~ notes, and mortgages received subsequent to certification constitute income.

(b) **Real property held as ~~reserve~~ a resource.** If the individual has income from property held as a ~~reserve~~ resource, only the income after deducting the actual business expense is considered.

(c) **Life estate and homestead rights.** For income from life estate and homestead rights, see OAC 340:10-3-4(d).

(d) **Minerals.** If the individual owns minerals, but not the surface rights, only actual income from minerals, delayed rentals, and production is considered. Evidence is obtained from documents which the individual has in hand. When the individual has no documentary evidence of the amount of income, the evidence is secured from the firm or person who is making the payment.

(e) **Home produce.** Any home produce from garden, livestock, and poultry utilized by the individual and his or her household for their consumption represents resourcefulness on the part of the individual in improving his or her situation, and is not considered in determining the amount of benefit.

(f) **Contributions.** Appreciable contributions recurrently received in cash are considered ~~as~~ income except ~~in instances where~~ when the contribution is not made directly to the recipient.

(g) **Retirement, disability, and unemployment benefits.** Income received monthly from these sources is considered ~~as~~ unearned income. Information as to present receipt and amount of current benefits is obtained from the individual's award letter or benefit verification statement, by viewing the

warrant, or by use of the data exchange files. Retirement benefits received as a lump sum payment at termination of employment are considered a resource. Supplemental Security Income (SSI) does not fall under these types of benefits.

(h) **Military benefits.** Life insurance, pensions, compensation, servicemen dependents' allowances, and similar benefits, are ~~all~~ sources of income which the individual and dependents may be eligible to receive. In each case, information is obtained ~~as to whether~~ concerning the military service of the individual's son, daughter, spouse, or parent has been in any military service. Clearance is made with the proper veterans' agencies, both state and federal, to determine whether the benefits are available.

(i) **Income from any agency or organization.** Financial aid provided to individuals by agencies or organizations which base their payment on financial need is not considered in determining the amount of the benefit provided duplication does not exist between such other assistance and that provided by the Oklahoma Department of Human Services (OKDHS). Financial aid given by other agencies or organizations does not constitute duplication if the financial aid is given:

(1) for a different purpose than that provided by ~~the Department~~ OKDHS;

(2) for goods and services that are not included in the Temporary Assistance for Needy Families (TANF) need standard; or

(3) in an amount sufficient to make it possible for the individual to have the amount of money as determined by the TANF need standard. In this instance, the non-duplicated amount is the difference between the monthly payment standard and the monthly need standard. Any amount of financial aid that exceeds that difference is considered as unearned income.

(j) **Income from Vocational Rehabilitation Program through Department of Rehabilitation Services.** Assistance or services received by a TANF individual from the Vocational Rehabilitation Program through the Department of Rehabilitation Services which are allocated to items not covered in the TANF standards, such as car fare to a rehabilitation center, extra clothing, lunches, grooming needed for a training program, and any other such complementary payments, are disregarded in determining the amount of the assistance payments.

(k) **Casual and inconsequential gifts.** Monetary gifts which do not realistically represent income to meet living expenses, for example, Christmas, graduation, and birthday gifts, not to exceed $30 per calendar quarter for each individual, are disregarded as income. The amount of the gifts is disregarded as received during the quarter until the aggregate amount has reached $30. At that time the portion exceeding $30 is counted as lump sum income. If the amount of a single gift exceeds $30, it is not inconsequential and the total amount is counted. If the recipient claims that the gift is intended for more than one person in the assistance unit, it can be divided among these persons. Gifts between members of the assistance unit are not counted.

(l) **Grants.** Grants which are not based on financial need are considered income to the extent the grant is available for current maintenance. Any portion of the grant that is expended, designated, or intended for items not included in current maintenance is excluded. Any remaining portion of a grant excluded as not for current maintenance must have detailed case documentation to justify the exclusion. The countable amount of a grant received for a period covering more than one month is prorated over the period it is intended to cover.

(m) **Funds held in trust by Bureau of Indian Affairs (BIA).** The BIA frequently puts an individual's trust funds in an Individual Indian Money (IIM) account. To determine the availability of funds held in trust in an IIM account, the ~~social services specialist~~ worker must contact the BIA in writing and ascertain if the funds, in total or any portion, are available to the individual. If any portion of the funds is disbursed to the individual client, guardian, or conservator, such funds are considered as available income. If the BIA determines the funds are not available, they are not considered in determining eligibility. Funds held in trust by the BIA and not disbursed are considered unavailable.

(1) ~~In some instances,~~ When BIA ~~may determine~~ determines the account is unavailable~~; however, they release~~ and releases a certain amount of funds each month to the individual.~~. In this instance~~ the monthly disbursement is considered as unearned income.

(2) When the BIA has stated the account is unavailable and the account does not have a monthly disbursement plan, but a review reveals a recent history of disbursements to the individual, guardian, or conservator, these disbursements must be resolved with the BIA. These disbursements indicate all or a portion of the account may be available to the individual, guardian, or conservator. When the ~~county office~~ worker is unable to resolve the situation with the BIA, the ~~county~~ worker submits a referral to the ~~appropriate section in~~ Family Support Services Division (FSSD). When a referral is sent to FSSD, the funds are considered as unavailable with a legal impediment until the ~~county~~ worker is notified otherwise.

(3) When disbursements have been made, a determination is made whether such disbursements were made to the individual or to a third party vendor in payment for goods or services. Payments made directly from the BIA to vendors are not considered as income to the individual. Services rendered and payment made by BIA is documented.

(4) Amounts disbursed directly to the individual are counted as non-recurring lump sum payments in the month received. Some trusts generate income on a regular basis and the income is sent to the beneficiary. In those instances, the income is treated as unearned income in the month received.

340:10-3-40. Income disregards

Income that is disregarded in determining eligibility for Temporary Assistance for Needy Families (TANF) is:

(1) the food stamp allotment under the Food Stamp Act of 1977;

(2) any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(3) education grants, including work study, and scholarships that are contingent upon the student regularly attending school. The student's classification as a graduate or undergraduate is not a factor;

(4) loans, regardless of use, if a bona fide debt or obligation to pay can be established. Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan was from an individual or financial institution in the loan business. If the loan was from a person(s) not in the loan business, the borrower's acknowledgment of obligation to repay, with or without interest, is required to indicate that the loan is bona fide. If the loan agreement is not written, Form ADM-103, Loan Verification, must be completed by the borrower attesting that the loan is bona fide and signed by the lender verifying the date and amount of loan. When copies of written agreements or Form ADM-103 are not available, detailed case documentation must include information that the loan is bona fide and how the debt amount and date of receipt was verified;

(5) Indian payments, which include judgment funds or funds held in trust, distributed per capita by the Secretary of the Interior, Bureau of Indian Affairs (BIA) or distributed by the tribe subject to approval by the Secretary of the Interior. Any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds is disregarded. Any income from mineral leases or from tribal business investments is disregarded as long as the payments are paid per capita. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. Any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(6) special ~~allowance~~ allowance(s) for school expenses made available upon petition in writing from trust funds of the student;

(7) income from trusts of a child included in a TANF benefit if it is determined by the worker that funds are to be used for educational purposes for the child. Any court established trust must be examined to determine if the court has restricted the trust for other purposes. The worker must verify at application and redetermination if funds have been withdrawn. Any funds withdrawn are treated as lump sum unearned income unless it can be documented the funds were used for the child's educational purposes;

(8) income from accounts, stocks, and bonds held under the control of a third party if the funds are designated for educational purposes for a child in a TANF ~~child~~ benefit even if the child's name is on the account and the third party holder is required to access the funds;

(9) benefits from state and community programs on aging from Title III and Title V. Title III and Title V are under the Older Americans Act of 1965 amended by Public Law (P.L.) 100-175 to become the Older ~~American~~ Americans Act amendments of 1987. Each state and eight organizations receive some Title V funds. These organizations are:

(A) Green Thumb;

(B) National Council on Aging;

(C) National Council of Senior Citizens;

(D) American Association of Retired Persons;

(E) United States (US) Forest Service;

(F) National Association for Spanish Speaking Elderly;

(G) National Urban League; and

(H) National Council on Black Aging;

(10) unearned income received by a child in a TANF ~~child~~ benefit, such as a needs based payment, cash assistance, compensation in lieu of wages, or allowance from a program funded by the Workforce Investment Act (WIA) including Job Corps income and WIA earned income received as wages;

(11) payments for supportive services or reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE);

(12) payments to volunteers under the National and Community Service Trust Act of 1993 (NCSTA), unless the gross amount of AmeriCorps*VISTA payments equals or exceeds the state or federal minimum wage, whichever is greater;

(13) the value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(14) any portion of payments, made under the Alaska Native Claims Settlement Act to an Alaska Native, which are exempt from taxation under the Settlement Act;

(15) any income if an adult or child from the family group is living in the home and is receiving Supplemental Security Income (SSI), his or her individual income is considered by the Social Security Administration in determining eligibility for SSI. This includes any payment made by the Developmental Disabilities Services Division through the Family Support Assistance Payment Program on behalf of a child(ren) receiving SSI. The individual's income and SSI payment are not considered in determining the TANF benefit;

(16) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the US Housing Act of 1937, as amended;

(17) earnings of a child in a TANF ~~child~~ benefit who is a full-time student are disregarded;

(18) government rental or housing subsidies by governmental agencies, for example, Housing and Urban Development (HUD) which are received in-kind or in cash for rent, mortgage payments, or utilities;

(19) reimbursements from an employer, the Department of Labor, or the Bureau of Indian Affairs, for out-of-pocket

expenditures and allowances for travel, training, meals, or supplies, which could include uniforms, to the extent the funds are used for expenses directly related to such travel, training, meals or supplies;

(20) Low Income Home Energy Assistance Program (LIHEAP) payments for energy assistance and payments for emergency situations under Emergency Assistance to Needy Families with Children;

(21) advance payments of Earned Income Tax Credit (EITC) or refunds of EITC as a result of filing a federal income tax return;

(22) refunds of state EITC as a result of filing a state income tax return;

(23) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(24) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(25) federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974 and comparable disaster assistance provided by states, local governments, and disaster assistance organizations;

(26) interests of individual Indians in trust or restricted lands;

(27) income up to $2,000 per calendar year received by individual Indians, which is derived from leases or other uses of individually owned trust or restricted lands. Any remaining disbursements from the trust or the restricted lands are considered as unearned income;

(28) payments received under the Civil Liberties Act of 1988. These payments are made to individuals of Japanese ancestry who were detained in internment camps during World War II;

(29) payments made to individuals because of their status as victims of Nazi persecution;

(30) interest accrued from the deposits made by an individual into an Individual Development Account (IDA) up to $2,000;

(31) stipends paid to students participating in the Indian Vocational Education Program (IVEP) through the Carl D. Perkins Vocational and Applied Technology Education Act;

(32) payments made from the crime victims compensation program as amended in section 1403 of the Victims of Crime Act of 1984, Section 10602 of Title 42 of the United States Code; ~~and~~

(33) reimbursements made to a foster care parent(s)~~.~~; and

(34) payments as described in Section 1823(c) of Title 38 of the United States Code (USC) provided to certain individuals who are children of Vietnam War veterans.

PART 5. ASSISTANCE PAYMENTS

340:10-3-56. Structure of the assistance unit

(a) The structure of the assistance unit is defined in this Section.

(1) Individuals whose needs **must** be included in the assistance unit, unless otherwise excluded in accordance with paragraph (3) of this subsection, are:

(A) at least one Temporary Assistance for Needy Families (TANF) eligible child;

(B) the natural or adoptive parent(s); and

(C) all blood-related minor siblings living in the home with the TANF eligible child(ren), including half brothers and half sisters unless eligibility for the half brothers and half sisters does not exist. This does not apply to siblings of a minor parent when the minor parent is the adult in the assistance unit.

(2) Individuals whose needs **may** be included are:

(A) the caretaker relative-payee other than the natural or adoptive parent(s) with whom the child(ren) resides, if this individual meets the definition of needy and is of the specified degree of relationship. A caretaker other than stepparent may be included in the assistance unit only when the natural or adoptive parent(s) is absent from the home. A stepparent may be included in the assistance unit when the natural or adoptive parent(s) is incapacitated or absent;

(B) the caretaker relative or the natural or adoptive parent when the only dependent child(ren) residing in the home:

(i) receives Supplemental Security Income (SSI); or

(ii) has been removed from the home by a child protection action and the plan for the child(ren) is impending reunification;

(C) the caretaker relative when the only child(ren) in the home receives federal or state foster care maintenance payments;

(D) the natural parent(s) when the only child in the home received benefits in the form of a voucher and has been removed from the cash benefit as a result of attaining 36 months of age;

(E) the adoptive parent(s) when the only dependent child(ren) receives a Title IV-E or state adoption subsidy; or

(F) a family that includes any head of household or a spouse of the head of household who has received TANF benefits for a total of 60 cumulative months nationwide, whether or not consecutive, and a hardship extension is approved. All other conditions of TANF eligibility must be met. The hardship extensions are:

(i) under-employment. The participant is regularly working 30 hours or more ~~a~~ per week and earning at least ~~the~~ minimum wage or its equivalent, but the net income of the assistance unit is insufficient to close the TANF cash assistance;

(ii) chronically under-employed. The participant is under-employed over an extended period of time as a result of documented barriers;

(iii) pending SSI or Social Security Administration (SSA) disability application. ~~The participant has applied for SSI or SSA disability benefits and has not received an unfavorable decision from the SSA Appeals Council.~~ This extension is granted only if the Oklahoma Department of Human Services (OKDHS) determines the disability application has merit and the participant pursues all appeals through a decision by the SSA Appeals Council~~;~~. If an unfavorable decision is received from the SSA Appeals Council during the time period the participant is approved for a hardship extension, Family Support Services Division (FSSD), TANF Section, is notified and the TANF benefit is closed the next effective date;

(iv) care of a disabled child or spouse. The participant is responsible for the care of a disabled child or spouse. This extension is granted only when verification has been provided to show the participant is needed in the home to care for this disabled individual and there is no alternative care available;

(v) a clinical diagnosis of mental illness. The participant must be diagnosed with and receiving treatment for a mental disorder listed at Part 404, Subpart P, Appendix 1 of Title 20 of the Code of Federal Regulations. This illness must interfere with the participant maintaining or obtaining gainful employment. If appropriate, the ~~individual~~ participant must participate in other work activities in conjunction with receiving treatment;

(vi) a substance abuse treatment plan. The participant has a treatment plan level of care which requires intensive aftercare treatment of nine hours or more ~~a~~ per week in conjunction with other appropriate work activities, or outpatient treatment of nine hours or more ~~a~~ per week in conjunction with other appropriate work activities, or is in full-time inpatient treatment; or

(vii) a continuing training or educational activity. The participant is actively involved during the 60th month in an approved training or educational activity which will be completed in less than 12 months.

(3) Individuals whose needs **may not** be included are:

(A) an individual who has received a State Supplemental Payment (SSP) for the same month;

(B) an individual who has received or is included in an SSI payment for the same month;

(C) the spouse of the payee if the payee is not the natural or adoptive parent;

(D) a child(ren) who is receiving foster care;

(E) an adopted child(ren) receiving an adoption subsidy;

(F) an alien who is not legally admitted to the United States (US) for permanent residence or does not meet alienage requirements;

(G) a caretaker other than a stepparent when the natural or adoptive parent is in the home;

(H) an individual whose period of ineligibility due to receipt of a lump sum payment has not expired;

(I) a stepparent when the natural or adoptive parent is in the home and not incapacitated;

(J) an individual in a household that is eligible to receive benefits under a tribal TANF program;

(K) a child(ren) born to a recipient after ten months from the date of application. Any such child(ren) is not eligible for the parent to receive cash benefits but is eligible for the parent to receive a non-cash voucher in the incremental amount the cash benefits would have been increased had the child(ren) been eligible for cash benefits. This voucher is issued for items of necessity for newborns until the age of 36 months. If a recipient gives birth to an additional child(ren) during the period in which the family is eligible for benefits or during a temporary penalty period of ineligibility, the increase in the amount of benefits is issued as a voucher. A child(ren) born within ten months of application is not considered an additional child(ren) for this provision. The first child(ren) born after ten months from the date of application to a minor child(ren) of an applicant or a recipient family is not considered an additional child(ren) for this provision and is added to the cash payment. Any subsequent child(ren) born to a minor child(ren) is considered an additional child(ren) who is added for voucher benefits for the first child's 36 months of age;

(L) a fugitive felon;

(M) a probation and/or parole violator;

(N) an individual convicted of having fraudulently misrepresented residence in order to obtain assistance in more than one state. The individual is ineligible for a ten year period that begins on the date of conviction;

(O) a family that includes any head of household or a spouse of the head of household who has received TANF benefits for a total of 60 cumulative months, whether or not consecutive, and a hardship extension is not approved; or

(P) a minor unmarried payee who has a dependent child(ren) in the minor's care and does not reside with a parent(s), legal guardian, or other adult relative age 18 or older. For the minor payee to be eligible for TANF benefits, the minor must live with the minor's natural or adoptive parent(s) or a stepparent, legal guardian, or other adult relative age 18 or older, or live in a foster home, maternity home, or other supportive living arrangement supervised by an adult. A supportive living arrangement is where a private family setting is maintained and an adult assumes the responsibility for the care and control of the minor and the minor's dependent child(ren) or provides supportive services such as counseling and guidance. The minor payee can reside elsewhere and be eligible for TANF if good cause is established because the:

(i) minor has no living parent or legal guardian whose whereabouts are known;

(ii) parent(s), legal guardian, or other adult relative does not allow the minor to live in the home;

(iii) physical or emotional health or safety of the minor or the minor's dependent child(ren) is jeopardized if the minor or the minor's dependent child(ren) lives in the home with the parent(s), legal guardian, or other adult relative age 18 or older;

(iv) minor parent has lived apart from the minor's parent(s), legal guardian, or other adult relative age 18 or older, for at least one year before the birth of any dependent child(ren), or before the minor applied for benefits; or

(v) minor parent is legally emancipated pursuant to Chapter 4, Title 10 of the Oklahoma Statutes. ~~For a~~ A minor ~~to be~~ is legally emancipated~~,~~ when the district court must have granted the minor the authority to act on the minor's own behalf.

(b) In general, when an individual whose requirements are included in a TANF assistance unit is temporarily absent from the home for the purpose of receiving training or education for employment, or certain medical services, he or she is considered part of the family and the budgetary requirements are not changed unless needs change by reason of circumstances unrelated to the temporary absence. Individuals temporarily absent from the home but included in the assistance unit are:

(1) an individual receiving training or education for employment during the period of time the training or educational activities are taking place;

(2) a child(ren) attending boarding school during the school term;

(3) a child(ren) absent from the home on visitation to the absent parent up to a maximum of three months. This consideration applies only to visitation and does not apply if the absent parent has physical and legal custody of the child(ren) during these three months;

(4) a child(ren) absent in order to attend school, other than boarding school. Factors considered in making this determination include the maintenance of normal ties between home and the child(ren) during the period of absence; whether the child(ren) continues under the control and guidance of the payee during the absence; and assumption of responsibility by the relative-payee for meeting the child's expenses during the school term. A child(ren) who attends the School for the Blind or the School for the Deaf is considered temporarily absent from the home in determining TANF eligibility;

(5) an individual absent from the home because of entrance into a private facility for counseling, rehabilitation, behavioral problems, or special training. If an assessment indicates care is projected for a period exceeding four months, the absence is not considered temporary. At any time an absence is determined as not temporary or no longer temporary, the needs of the individual cannot be included in the ~~case~~ assistance unit;

(6) an individual absent from the home for medical services, other than institutionalization for treatment of mental illness, mental retardation, or tuberculosis, for up to six months. Six-month extensions may be allowed when verification indicates the individual may return to the home within the next six months;

(7) an individual absent from the home to receive substance abuse treatment for up to four months. A four-month extension may be allowed when verification indicates the individual will return to the home within the next four months; or

(8) an individual absent from the home to receive nursing care approved by the Oklahoma Health Care Authority, Level of Care Evaluation Unit. If it appears that ~~this~~ the individual ~~may be~~ is disabled, an application for a State Supplemental Payment is taken and a referral made to the SSA district office for an SSI application.

(c) A change in benefit is not made during a temporary absence from ~~the state~~ Oklahoma for three months or less, unless a change is necessary by reason of some change in circumstances not relating to such absence from ~~the state~~ Oklahoma.

SUBCHAPTER 12. CONDITIONS OF ELIGIBILITY - SOCIAL SECURITY NUMBERS

340:10-12-1. Social Security ~~Numbers~~ number (SSN)

~~It is mandatory that~~ Federal regulations require ~~a social security number~~ a SSN or application for a SSN ~~be applied~~ for ~~or provided for~~ each ~~person~~ individual determined eligible for ~~whom a~~ Temporary Assistance for Needy Families (TANF) ~~application is made~~. The individual's needs are included in the ~~cash assistance~~ TANF benefit with a 25% penalty reduction of the payment standard until a ~~social security number~~ SSN is applied for or provided for that individual(s). The 25% penalty is removed effective the date the ~~social security number~~ SSN is applied for or provided.

SUBCHAPTER 15. CONDITIONS OF ELIGIBILITY - CITIZENSHIP AND ALIENAGE

340:10-15-1. Citizenship and alien status

(a) An individual eligible to be included in a Temporary Assistance for Needy Families (TANF) benefit, must be either:

(1) a citizen or a national of the United States (U.S.), including the 50 states, District of Columbia, commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa and Northern Mariana Islands. ~~Persons from the Marshall Islands are classified as permanent non immigrants and eligible the same as citizens or nationals.~~ An individual may be a citizen of the ~~United States~~ U.S. by being born in the ~~United States~~ U.S. or by being born in some other country but moving to the ~~United States~~ U.S. and being granted ~~United States~~ U.S. citizenship through

the ~~Immigration and Naturalization Services (INS)~~ Bureau of Citizenship and Immigration Services (BCIS), a branch of the ~~United States~~ U.S. Department of Justice; or

(2) a qualified alien described as:

(A) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;

(B) an alien who is paroled into the ~~United States~~ U.S. under Section 212(d)(5) of such Act for a period of at least one year;

(C) an alien who is granted conditional entry pursuant to Section 203(a)(7) of such Act as in effect prior to April 1, 1980;

(D) an alien who is granted asylum under Section 208 of such Act;

(E) a refugee who is admitted to the ~~United States~~ U.S. under Section 207 of such Act;

(F) an alien whose deportation is being withheld under Section 243(h) or Section 241(b)(3) of such Act;

(G) an alien who is a Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

(H) battered aliens and their children or parents as defined in Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act as amended; or [8 U.S.C. 1641(c)]

(I) an alien who is ~~certified by the Office of Refugee Resettlement (ORR) as~~ a victim of a severe form of trafficking pursuant to Section 107(b) of the Trafficking Victims ~~protection~~ Protection Act of 2000.

(b) A qualified alien who enters the ~~United States~~ U.S. on or after August 22, 1996, is not eligible for TANF benefits for a five year period beginning on the date of the alien's entry into the ~~United States~~ U.S. with a qualified alien status unless the alien is:

(1) admitted to the ~~United States~~ U.S. as a refugee;

(2) granted asylum;

(3) one whose deportation is being withheld;

(4) a Cuban or Haitian entrant;

(5) admitted to the ~~United States~~ U.S. as an Amerasian immigrant;

(6) lawfully residing in the state and is a veteran of the U.S. armed forces, on active duty, or is that person's spouse or unmarried dependent child; or

(7) ~~granted certification as~~ is a victim of a severe form of trafficking ~~by ORR~~.

(c) A declaration of citizenship and alien status is required for all adults and children in the case. This requirement is met when an adult member in the assistance unit signs ~~the application form~~ Form FSS-1, Comprehensive Application and Review, attesting to the citizenship and alien status for all members of the assistance unit.

(d) Declaration on behalf of a newborn child may be delayed provided the delay does not exceed the date of the assistance unit's next eligibility redetermination.

(e) Persons determined as having satisfactory alien status must have the status verified through Systematic Alien Verification for Entitlements (SAVE). In situations which require a written inquiry to the ~~INS~~ BCIS, the ~~county~~ worker must not delay, deny, terminate, or reduce benefits to an alien pending ~~INS~~ BCIS verification of submitted documentation.

(f) All persons born in the ~~United States~~ U.S. are, with rare exceptions, ~~United States~~ U.S. citizens. Documents of citizenship or national status of individuals from certain ~~United States~~ U.S. territories or possessions listed in (a)(1) of this Section may not be in their possession nor available. However, their status can usually be determined by birth certificate, passport, or other official document.

340:10-15-3. Sponsored aliens

Certain aliens, unless specifically exempted or covered by one of two exceptions as identified at Section 1631(e)(f) of Chapter 14 of United States Code (USC) 8, whose entry into the ~~United States~~ U.S. required sponsorship, must have the income and resources of the sponsor considered in determining eligibility and benefit amount for Temporary Assistance for Needy Families (TANF). Aliens who are exempted from this requirement are parolees, political asylees, Cuban or Haitian entrants, and refugees admitted under ~~section~~ Section 207(a)(7) and ~~section~~ Section 207(c) of the Immigration and Nationality Act. The deeming rules do not apply to a sponsored immigrant and his or her child(ren) who are victims of domestic violence or extreme cruelty. If a sponsored immigrant is unable to obtain food and shelter without government assistance, then only the amount of income and resources actually provided by the sponsor or the sponsor's spouse is deemed to the immigrant. A sponsor is defined as an individual(s) or an organization who executed an affidavit of support or similar agreement on behalf of the alien, who is not an individual sponsor's child. Such affidavit or agreement must be verified before application of this rule.

(1) **Organizational sponsor.** ~~Those aliens~~ Aliens who have a support affidavit from an organizational sponsor are ineligible for a period of three years from the date of entry into the U.S. unless the sponsoring agency has ceased to exist or is unable to meet the alien's financial need. The case record must contain documentation of the reason the organization is not meeting the need.

(2) **Individual sponsor.** To determine eligibility and benefit amount, an alien who was sponsored must provide any information and documentation necessary to determine the income and resources of the sponsor and obtain the necessary sponsor's cooperation. The income and resources of a sponsor and his or her spouse, if living with the sponsor, are considered as the unearned income and resources of an alien unless the sponsor is receiving TANF or Supplemental Security Income (SSI).

(A) The amount of the sponsor's income considered is determined ~~as~~:

(i) as total monthly gross earned income minus 20%, not to exceed $175, plus total monthly unearned income;

(ii) ~~subtract~~ by subtracting the need standard for the sponsor and his or her dependents living in the home shown on ~~DHS~~ Oklahoma Department of Human Services (OKDHS) Appendix C-1, Schedule of Maximum Income, Resource and Payment Standards, Schedule IX.A;

(iii) ~~subtract~~ by subtracting amounts actually paid by the sponsor to dependents outside of the home who are claimed by the sponsor as dependents, to determine his or her federal personal income tax liability; and

(iv) ~~subtract~~ by subtracting actual payments of alimony or child support to individuals not living in the household.

(B) Resources considered available to the alien from the sponsor are the total amount of the resources of the sponsor determined as if he or she were applying for TANF, less $1,500.

(C) ~~In the case where~~ When the person is the sponsor of two or more aliens in the same home, the income and resources of the sponsor and his or her spouse, if living with the sponsor, are divided equally among the aliens.

(D) Income and resources considered available to a sponsored alien are not considered in determining the need of unsponsored members of the alien's family unless actually available.

(E) The sponsor and the alien are held jointly liable for any overpayment of benefits due to failure to provide correct information.

(F) ~~Income and resources of the sponsors of refugees, asylees, veterans, and Cuban or Haitian entrants are not deemed because they are not required to execute an affidavit of support.~~ The income and resources of the sponsors of ~~all other~~ aliens who have Bureau of Citizenship and Immigration Services (BCIS) Form I-864, Affidavit of Support, ~~continues~~ continue to be deemed to the alien until ~~the alien~~:

(i) the alien achieves ~~United States~~ U.S. citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act; ~~or~~

(ii) the alien has worked 40 qualifying quarters of coverage as defined under Title II of the Social Security Act or can be credited with 40 qualifying quarters as provided under Section 435 of this Title; and in the case of any qualifying quarter credited for any period beginning after December 31, 1996, the alien did not receive any federal means-tested public benefit, as provided under Section 403, during such period~~.~~; or

(iii) the sponsor dies.

(G) The income and resources of the sponsors of aliens who have affidavits of support other than BCIS Form I-864 continues to be deemed to the alien for a period of three years from the date of entry of the alien into the U.S.

340:10-15-5. Permanent residence under color of law (PRUCOL) [REVOKED]

~~A permanent resident under color of law is an alien who entered the United States before January 1, 1972, has maintained continuous residence since then, and intends to continue living here.~~

~~(1) PRUCOL is defined by INS to include aliens who are living in the United States with the knowledge and permission of INS. Certain "deportable" aliens are considered PRUCOL if deportation is deferred, unlikely, or the individual has been granted voluntary departure for an indefinite time period based on INS determination.~~

~~(2) INS forms or documents which support or may indicate PRUCOL status include, but are not limited to: Forms I-94, I-220B, I-210, I-181, orders from an Immigration Judge, INS letters or local INS documents.~~

~~(3) When an applicant has an INS form or document with an expiration date of less than one year from date of issuance, or there is insufficient evidence to determine PRUCOL eligibility, a memo to Family Support Services Division, State Office, is necessary for a determination of alien status.~~

340:10-15-9. Special provisions relating to Kickapoo Indians [REVOKED]

~~Kickapoo Indians migrating between Mexico and the United States carry Form I-94, Arrival Departure Record, Parole Edition. Their Form I-94 may state that the Kickapoo is "paroled pursuant to Section 212(d)(5) of the Immigration and Nationality Act" or that the "Kickapoo status is pending clarification of status by Congress." Regardless of whether such statements are preprinted or handwritten and regardless of a specific mention of the treaty, they meet the citizenship and alienage requirement because they are in the United States under color of law. All Kickapoo Indians paroled in the United States must renew their paroled status each year at any local Immigration Office. There are other Kickapoos who have entered the United States from Mexico who carry Form I-151 or Form I-551, Alien Registration Receipt Card. These individuals have the same status as other individuals who have been issued Form I-151 or Form I-551 and therefore, meet the citizenship and alienage requirement. Still other Kickapoos are classified as Mexican Nationals by the Immigration and Naturalization Service (INS). They carry Form I-94, Arrival Departure record, which has been issued as a visiting visa and does not make mention of the treaty. Such a form does not meet the "citizenship and alienage" requirement but provides only the non-immigrant status.~~

SUBCHAPTER 20. DIVERSION ASSISTANCE

340:10-20-1. Diversion Assistance (DA)

(a) **Scope.** DA for families with a minor child(ren) provides for financial assistance in lieu of Temporary Assistance for Needy Families (TANF) when there is an immediate need to retain or obtain employment. ~~It~~ DA is not used ~~for~~ to pay fines,

including traffic fines, or any cost related to a criminal offense, such as legal fees or court costs. ~~It~~ DA is limited to once in the ~~life-time~~ lifetime of the applicant(s); therefore, it is vital that financial planning be initiated to determine if the provision of DA will allow the family to be self-sufficient for the next 12 months. Families approved for this benefit are not included in the count of persons reported for federal participation rates and these payments do not count against the individual(s) 60-month lifetime limit of receipt of TANF. For this reason, an adult must be included in the DA benefit.

(b) **Need.** The criteria for the ~~receipt of~~ eligibility for DA ~~is:~~ are described in (1) through (4).

(1) ~~the~~ The individual(s) is employed or has a bona fide offer of employment~~;~~.

(2) ~~there~~ There is a financial need which, if not met, can cause the loss of employment or the offer of employment for the individual(s)~~;~~.

(3) ~~the~~ The family monthly gross income cannot exceed the gross income maximum as shown on the Oklahoma Department of Human Services (OKDHS) Appendix C-1, Schedule of Maximum Income, Resource, and Payments Standards, Schedule XVI, for the appropriate family size~~; and~~.

(4) ~~family~~ Family resources cannot exceed limits as shown on OKDHS Appendix C-1, Schedule XVI.

(c) **Requirements.** The applicant(s) completes ~~the application form~~ Form FSS-1, Comprehensive Application and Review, which states the applicant(s) agrees to not apply for TANF for one year from the date of application for DA. In two-parent families both parents must sign the application form.

~~(1) The applicant(s) must be screened for literacy and substance abuse prior to receipt of DA. If the applicant(s) refuses to complete the screenings, the application for DA is denied. When the screening for literacy or substance abuse indicates a need, a referral is made to an appropriate provider. If the applicant(s) fails to follow through with the referral, this does not affect the eligibility for DA.~~

(~~2~~1) Refer to OAC 340:65-3-4 for Social Security number (SSN) requirement. The application is not delayed waiting for a SSN.

(~~3~~2) Refer to OAC 340:10-15 for requirements for citizenship and alienage.

(~~4~~3) The application is processed within seven working days.

(d) **Benefits.** Benefits can equal up to three months of the payment standard as shown on OKDHS Appendix C-1, Schedule XVI for the appropriate family size. Benefits can be approved in more than one authorization as long as the request for additional funds is made before the end of the 90 day period which begins with the initial date of application, and does not exceed three times the monthly payment standard for the family size. Payment is issued through an authorization to purchase. The provider is paid no later that five working days from the date of receipt of the properly completed invoice in the OKDHS Finance Division.

SUBCHAPTER 22. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) SUPPORTED PERMANENCY PROGRAM

340:10-22-1. Temporary Assistance for Needy Families (TANF) ~~supported permanency program~~ Supported Permanency Program

(a) **Scope.** In an effort to promote permanency for a child(ren) who is in ~~a relative out-of-home placement~~ the custody of the Oklahoma Department of Human Services (OKDHS) and placed with a relative(s) residing in Oklahoma who is a paid kinship relative foster home, the ~~supported permanency program~~ Supported Permanency Program has been developed. ~~The program targets a child(ren) who has been placed in out-of-home care with a relative by a child protection action. In this instance, the court has made a finding that reasonable efforts to reunite the child(ren) with his or her parent(s) have failed or are not feasible and adoption is not a permanency option.~~ Supported permanency is considered appropriate when:

(1) ~~at least one child who resides in the same relative's home is age 12 or older~~ the relative(s) meets the specified degree of relationship as defined in OAC 340:10-9-1;

(2) the court has made a finding that reasonable efforts to reunite the child(ren) with his or her parent(s) are not required or have been made and failed, and the permanency plan of reunification has been ruled out;

(~~2~~3) the child(ren) currently resides with the ~~relative~~ relative(s) in Oklahoma and has resided with the ~~relative~~ relative(s) four of the last six months;

~~(3) the child(ren) has a case plan goal for long term out-of-home care;~~

(4) the ~~relative~~ relative(s) has completed all requirements to be an approved ~~DHS placement~~ OKDHS foster care home;

(5) the ~~relative~~ relative(s) is willing to assume legal ~~guardianship~~ responsibility; and

(6) the ~~child(ren) and~~ court and, if appropriate, the child(ren), are in agreement with the plan for ~~guardianship~~ the relative(s) to obtain legal responsibility.

(b) **Eligibility.** Once the ~~supported permanency program~~ Supported Permanency Program is determined appropriate by the ~~Division of Child and Family Services (DCFS)~~ Child Welfare (CW) worker and ~~guardianship~~ the transfer of legal responsibility has been approved by the court, the ~~child welfare~~ CW worker makes a referral for TANF to the ~~Office of~~ Field Operations Division, Family Support ~~for TANF~~. When the child(ren) is approved for TANF supported permanency, he or she is eligible for managed health care and child care services, if appropriate. Income of this child(ren) is considered the same as for any other TANF eligible child. Food stamp eligibility is dependent on the eligibility of the household. Benefit reduction as a result of program violation is applicable for school attendance and immunization. If the child(ren) leaves the home to reside elsewhere, the Supported Permanency Program benefit is terminated for the child(ren). If the child(ren) returns to this home, he or she may be eligible for

cash assistance but not the Supported Permanency Program benefit.

[OAR Docket #04-420; filed 3-24-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 20. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

[OAR Docket #04-421]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Low Income Home Energy Assistance Program
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340:20-1-17. [AMENDED]
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n/a
ANALYSIS:
The proposed revisions to Chapter 20 provide Oklahoma Department of Human Services (OKDHS) staff with guidance regarding illegal alien ineligibility, treatment of illegal alien income, and revises Energy Crisis Assistance Program (ECAP) income guidelines. Rules are revised to: (1) allow an illegal alien to reside in an eligible household; (2) explain the treatment of illegal alien income and reflect the correct rule cites; and (3) simplify the ECAP income criteria.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

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 APRIL 26, 2004.

SUBCHAPTER 1. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

340:20-1-10. Program factors

(a) **Home energy.** Home energy refers to a household's source of energy used for heating or cooling in a residential dwelling.

(b) **Primary energy source.** The primary energy source during winter months is the fuel used by the household for heating. If a cooling program is implemented during the summer months, the fuel type used for cooling is the primary energy source. In the event funds are available to assist with cooling through the Energy Crisis Assistance Program (ECAP), the primary energy source becomes the fuel used by the household for cooling. If an ~~"~~interim period~~"~~ is implemented between heating and cooling programs or as part of ECAP, the client may choose the primary energy source.

(c) **Household.** The term "household" refers to any individual or group of individuals who are living together as one economic unit and for whom residential energy is customarily purchased in common, or who make undesignated payments for energy in the form of rent. There is one authorization for heating assistance per household.

(d) **Subsidized household.** A ~~"Subsidized Household"~~ subsidized household is a household that receives assistance through a utility allowance(s) to cover all or part of their energy cost, ~~or~~ and/or which receives assistance in paying their rent or house payment on a regular basis. The assistance can be from a government agency, such as a local housing authority, or a private individual, usually a relative, who helps an individual or family pay their utility bills, or the rent or house payment, or allows them to live rent free. Eligible subsidized households with out-of-pocket utility expenses receive the same ~~Heating Assistance~~ heating assistance benefit as unsubsidized households.

(e) **Vulnerability.** A household is vulnerable if it is responsible, either totally or partially, for the cost of home energy. A vulnerable household includes a household whose source of home energy has been temporarily discontinued.

(1) **Apartment rental rates.** If apartment rental rates in college or university-owned apartment complexes are deliberately set lower than other apartments in the community in order to help the student, the household is considered a subsidized household. ~~The county may need to contact the campus housing office(s) to determine if rental rates have been set lower for college or university-owned apartments.~~

(2) **Non-vulnerability.** Non-vulnerable households are those which do not bear any of the expense of home energy.

(A) Examples of non-vulnerable living arrangements include:

(i) congregate or domiciliary facilities, such as nursing facilities and college or university dormitory, fraternity, or sorority housing;

(ii) households whose primary energy source is totally paid by someone other than a household member; and

(iii) subsidized households whose heating costs are included in their rent.

(B) Some subsidized households may be assessed an "energy surcharge" during the operation of the Low Income Home Energy Assistance Program. These households might be eligible for ~~Heating Assistance~~ heating assistance if they can document assessment of the surcharge.

(f) **Eligible households.** All households must ~~meet the following conditions~~:

(1) be vulnerable by being totally or partially responsible for the cost of home energy; ~~and~~

(2) ~~must~~ not exceed the income and resource standards as shown on Oklahoma Department of Human Services (OKDHS) Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size. The income amounts are established at 110% of the applicable Federal Poverty Guidelines~~.~~;

(3) must include at least one citizen or legal alien as defined in OAC 340:20-1-8; and

(4) may include an illegal alien.

(g) **Benefit amount.** The household benefit amount is based upon the household's size, income, and type of fuel. The benefit amount is not changed during the program year due to changes in household composition, income, or fuel type. However, it is adjusted after the end of the heating application period if the total number of households finally approved for heating assistance in relation to the total federal funding available for heating assistance payments requires an adjustment.

(1) There is no difference in the benefit levels between subsidized and unsubsidized households.

(2) Subsidized households whose heating costs are included in their rent are not vulnerable unless assessed a surcharge. Refer to OAC 340:20-1-10(e)(2).

340:20-1-11. Income and liquid resources

(a) **Income.** Gross earned and unearned income less exclusions are considered in determining financial eligibility. Income which is received on an annual basis is prorated over 12 months to arrive at the average monthly income. If the income is not received on a regular monthly basis, refer to OAC ~~340:10-3-29~~ 340:10-3-31. Total income is rounded to the nearest dollar. When an individual's income is reduced due to recoupment of an overpayment or garnishment, the gross amount before the recoupment or garnishment is considered. When an illegal alien is part of an eligible household, ~~The~~ the portion of earned and unearned income of ~~a legal or~~ an illegal adult alien countable for household income is computed as outlined in (1) - (~~5~~4) of this subsection.

(1) Deduct ~~TANF standard work related expense~~ $120 for each employed household member from the gross earned income ~~for net earned income~~.

(2) Add ~~net earned income to~~ the unearned income of the alien.

(3) Subtract the need standard on Oklahoma Department of Human Services Appendix C-1, Schedule of Maximum Income, Resource, and Payment Standards Schedule IX, for the appropriate number of persons. Persons counted for the need standard are the alien and his or her alien dependents who:

(A) are claimable for federal personal income taxes;

(B) live in the same household; and

(C) are not included in determining the Low Income Home Energy Assistance Program (LIHEAP) benefit level because they are aliens.

(4) Subtract the actual amounts paid by the alien to dependents not living in the household as well as actual child support and alimony payments to non-household members. This is the amount considered available to the LIHEAP household.

~~(5) The remaining amount is considered available to the LIHEAP household.~~

(b) **Income disregards.** In determining income, disregard:

(1) the ~~Food Stamp~~ food stamp benefit amount under the Food Stamp Act of 1977;

(2) any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(3) educational grants, including work study, or scholarships~~, and the like~~, that are contingent upon the student regularly attending school. The student's classification, whether graduate or undergraduate, is not a factor;

(4) loans, regardless of use, if a bona fide debt or obligation to pay can be established. Criteria to establish a loan as bona fide ~~include~~ includes an acknowledgment of obligation to repay or evidence that the loan is from an individual or financial institution in the loan business. If the loan is from a person(s) not in the loan business, the borrower's acknowledgment of obligation to repay, with or without interest, is required to indicate that the loan is bona fide;

(5) Indian payments including judgment funds or funds held in trust and distributed per capita by the Secretary of the Interior Bureau of Indian Affairs (BIA) or distributed by the tribe subject to approval by the Secretary of the Interior. Also, disregard any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds. Any per capita payments, for example, headrights of Osage tribe, income from mineral leases, or other tribal business ventures, are disregarded as long as they meet the distribution requirements as stated in this paragraph. However, any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(6) special allowance for school expenses made available upon petition in writing from trust funds of the student;

(7) benefits from State and Community Programs on Aging [Title III]. Income from the Older American Community Service Employment Act [Title V], including American Association of Retired Persons (AARP) and Green Thumb organizations as well as employment positions allocated at the discretion of the Governor of Oklahoma, is counted as earned income~~. Both Title III and Title V are under the Older Americans Act of 1965 amended by P.L. 100-175 to become the Older Americans Act amendments of 1987~~;

(8) unearned income received by a ~~TANF~~ child receiving Temporary Assistance for Needy Families (TANF), such as a needs based payment, cash assistance, compensation in lieu of wages, or allowance, from a program funded by the ~~Job Training and Partnership Act (JTPA)~~ Workforce Investment Act (WIA) including Job Corps income, and ~~JTPA~~ WIA earned income received as wages, not to exceed six months in any calendar year;

(9) payments for supportive services or reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE);

(10) payments to volunteers under the Domestic Volunteer Service Act of 1973, Volunteers in Service to America (VISTA), unless the gross amount of VISTA payments equals or exceeds the state or federal minimum wage, whichever is greater;

(11) the value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(12) any portion of payments, made under the Alaska Native Claims Settlement Act to an Alaska native, which are exempt from taxation under the Settlement Act;

(13) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended;

(14) earnings of a minor dependent child who is a full-time student;

(15) ~~government~~ rental or housing subsidies by governmental agencies, for example, United States Department of Housing and Urban Development (HUD), received ~~in-kind~~ in-kind or in cash for rent, mortgage payments, or utilities;

(16) reimbursements from an employer for out-of-pocket expenditures and allowances for travel or training to the extent the funds are used for expenses directly related to such travel or training. Uniform allowances are disregarded if the uniform is uniquely identified with company name or logo;

(17) advance payments of Earned Income Tax Credit (EITC) or refunds of EITC as a result of filing a ~~Federal~~ federal income tax return;

(18) refunds of state EITC as a result of filing a state income tax return;

(~~18~~19) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the IN RE Agent Orange Product Liability Litigation, M.D.L. No. 381 (E.D.N.Y.) are not considered as income or as a resource in determining eligibility for or the amount of the benefit;

(~~19~~20) payments received for Emergency Assistance to Needy Families with Children;

(~~20~~21) Medicare ~~Buy-in Premium~~ buy-in premium;

(~~21~~22) work related expenses that are applicable under the TANF Program;

(~~22~~23) payments made by others on the household's behalf;

(~~23~~24) in-kind benefits received by an employee from an employer in lieu of wages or in conjunction with wages;

(~~24~~25) payments made under the Radiation Exposure Compensation Act (P.L. 101-426) enacted October 15, 1990;

(~~25~~26) federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by states, local governments, and disaster assistance organizations;

(~~26~~27) interests of individual Native Americans in trust or restricted lands;

(~~27~~28) income up to $2,000 per year received by individual Native Americans, which is derived from leases or other uses of individually-owned trust or restricted lands. Any remaining disbursements from the trust or the restricted lands are considered as income; ~~and~~

(~~28~~29) payments made to individuals because of their status as victims of Nazi persecution~~.~~; and

(30) monetary allowances as described in United States Code (USC) Section 1823(c) of Title 38 of the United States Code (USC) provided to certain individuals who are children of Vietnam War veterans.

(c) **Resources.** Liquid resources, such as cash on hand, checking or savings accounts, certificates of deposits, stocks or bonds, cannot exceed the allowable resource level. For households that are not categorically eligible, liquid resources cannot exceed $2,000 for one person, $3,000 for two persons and $50 for each additional person in the household. The applicant's statement is accepted as verification unless the information received is inconsistent or questionable.

340:20-1-17. Energy Crisis Assistance

(a) **Energy Crisis Assistance.** Energy crisis situations are handled through Expedited Services (ES) during the regular heating assistance program, and through the Energy Crisis Assistance Program (ECAP) in March. All applications for Energy Crisis Assistance must be made by contacting the ~~county~~ local Oklahoma Department of Human Services (OKDHS) office. The procedures and eligibility conditions in (1) through (8) of this subsection apply to both ES and ECAP.

(1) If a household is approved for Energy Crisis Assistance, either ES or ECAP, assistance is provided to resolve the crisis situation within 48 hours from the time of application.

(2) If the crisis situation is verified by a designated authority as life-threatening, the application must be processed so that assistance is provided to resolve the crisis situation within 18 hours following application provided, the household is eligible for crisis assistance benefits. The life-threatening decision must be documented in detail in the case record. Authority for designating a crisis situation as life-threatening is limited to a:

(A) physician;

(B) public health official;

(C) licensed practitioner of the healing arts; or

(D) OKDHS county director.

(3) Following verification of the crisis and determination of eligibility, the certifying worker contacts the fuel supplier as soon as possible to request delivery of fuel. Form LIHEAP-37-J, Notice of Eligibility For Energy Crisis Assistance, is then issued to the supplier or to the client to take to the supplier.

(4) ES and ECAP are utilized for households having an energy crisis who do not exceed the income and liquid resource standards. Income and resource criteria for Energy Crisis Assistance are the same as for heating assistance found in OAC 340:20-1-11 except if the energy crisis is due to garnishment or recoupment of an overpayment, other than OKDHS, ~~the computation to determine net income is:~~ the garnishment or recoupment amount is subtracted to arrive at net income for ES or ECAP.

~~(A) gross earned income;~~

~~(B) minus the garnishment or recoupment amount;~~

~~(C) minus the Temporary Assistance for Needy Families (TANF) standard work related expense;~~

~~(D) plus unearned income;~~

~~(E) equals net income for ES and ECAP.~~

(5) A household that exceeds income and liquid resource standards is ineligible. Even if income and liquid resources are equal to or below the standard, the worker must verify that the energy crisis need cannot be met by available income and liquid resources. The household also must have had service discontinued or terminated by the seasonal primary energy supplier, or received ~~a~~:

(A) notice of a scheduled cut-off within 72 hours;

(B) notice of a refusal to provide additional energy needs by the supplier when supply of fuel will be depleted within 72 hours or less; or

(C) information regarding fee for a new connection.

(6) The worker must ascertain why the energy bill has not been paid. For a household to be eligible for ES or ECAP, some precipitating factor must exist which caused the household's inability to pay their energy bill. Simply not paying the bill when there was no household crisis does not qualify a household for ES or ECAP. Factors preventing payment of the energy bill include, but are not limited to, situations causing the household to make a choice between paying the energy bill and:

(A) purchasing sufficient food for the household;

(B) paying for emergency situations such as medical expenses or disaster recovery; or

(C) providing clothing for children in the household.

(7) Counties must use discretion in determining what constitutes good cause for a household not paying the utility bill. Any practical reason is ~~is~~ acceptable. If in doubt, the Family Support Services Division (FSSD), Low Income Home Energy Assistance Program (LIHEAP) Unit, is available for consultation.

(8) If the energy supplier will not establish or restore service for the amount of the ES or ECAP payment, combined with whatever other resource is available or can be developed, the crisis payment cannot be authorized.

(9) All payments for crisis assistance are made directly to energy suppliers with rare exceptions.

(b) **Expedited Services (ES).** During the open application period in December, energy crisis situations are addressed by approving eligible households for ES.

(1) A household approved for ES is not eligible for a heating assistance payment in February. ~~Also, if a household which has already been approved for heating assistance, either through pre-certification or regular assistance is approved for ES, the heating assistance authorization on the 105H screen must be closed.~~ The ES benefit from the Estimated Benefit Level Matrix is the appropriate amount based on the ~~Agency's~~ best estimate by OKDHS of the total amount of federal funds that will be available in relation to the number of households expected to be approved.

(2) ES payments are made weekly after the heating assistance application period begins in December. The household benefit level for ES and heating assistance is the same unless it is necessary to adjust the heating assistance benefit, either up or down, before the February payment is made.

(c) **Energy Crisis Assistance Program (ECAP).** Based upon previous years' program experience, reasonable funds are reserved until March 15 of each year for ECAP. All ECAP applications must be made on Form LIHEAP-1-B, Application for Low Income Home Energy Assistance. The authorized benefit for ECAP is limited to a one-time-only payment for the amount necessary to connect, restore, or maintain energy service to the household. The authorized benefit cannot include the cost of propane or butane tank delivery. In instances where the maximum amount of ECAP and other available emergency programs do not meet the crisis, the case must be documented as having a feasible plan for maintaining or restoring service before an ECAP payment can be authorized. Payment may only be authorized for the seasonal primary source of energy, although it is possible for the primary energy source to change in some situations. If an interim period is implemented, the

client may ~~chose~~ choose the primary energy source. If a cooling program is implemented, payment is only authorized for the primary energy source for cooling. [OAC 340:20-1-10(b)]

[OAR Docket #04-421; filed 3-24-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 50. FOOD STAMP PROGRAM

[OAR Docket #04-422]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Non-Financial Eligibility Criteria
Part 1. Household Definition
340:50-5-8.1. [AMENDED]
Part 5. Students, Strikers, Resident Farm Laborers, Migrant Households, Sponsored Aliens, and School Employees
340:50-5-49. [AMENDED]
Subchapter 7. Financial Eligibility Criteria
Part 1. Resources
340:50-7-2. [AMENDED]
340:50-7-4. [AMENDED]
Part 3. Income
340:50-7-20. through 340:50-7-21. [REVOKED]
340:50-7-22. [AMENDED]
340:50-7-23. through 340:50-7-24. [REVOKED]
340:50-7-26. through 340:50-7-28. [REVOKED]
340:50-7-29. [AMENDED]
340:50-7-31. [AMENDED]
Part 5. Determination of Income and Deductions
340:50-7-45. through 340:50-7-46. [AMENDED]
340:50-7-47. through 340:50-7-48. [REVOKED]
Subchapter 9. Eligibility and Benefit Determination Procedures
340:50-9-1. [AMENDED]
340:50-9-5. [AMENDED]
Subchapter 10. Electronic Benefit Transfer (EBT)
340:50-10-11. [AMENDED]
Subchapter 13. Fair Hearings
340:50-13-2. [AMENDED]
Subchapter 15. Overpayments and Fraud
Part 1. Overpayments
340:50-15-1. [AMENDED]
340:50-15-6. [AMENDED]
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Part 1. Resources
340:50-7-2. [AMENDED]
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340:50-7-29. [AMENDED]
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n/a
ANALYSIS:
Food Stamp Program rules are revised to: (1) change the name of Immigration and Naturalization Service to the current name of Bureau of Citizenship and Immigration Service; (2) update rules according to the implementation of the 2002 Farm Bill regarding sponsored aliens and deeming of income; (3) disregard as a resource income received by certain individuals who are children of Vietnam War veterans in accordance with federal law; (4) exclude Family Support Assistance Payment Program payments from Developmental Disabilities Services Division (DDSD), income received by certain individuals who are children of Vietnam War veterans in accordance with federal law, and list additional sources of excluded income; (5) remove training allowances as included income; (6) clarify the meaning of the cost of doing business; (7) simplify utility deductions per the Farm Bill of 2002; (8) remove reference to the client claiming a higher utility cost than the standard; (9) clarify when an overpayment referral is made; (10) remove the sponsor of an alien from responsibility for an overpayment to an alien they have sponsored; (11) clarify when an overpayment claim is considered delinquent and when the claim is referred to the Treasury Offset Program; (12) revoke sections and incorporate language to other sections; (13) remove and replace outdated language; (14) add clarifying language regarding computation of income; (15) replace language concerning converting food stamp benefits to coupons for households moving to or from another state with procedures for using electronic benefit transfer cards; (16) require participating households to report changes in unearned income of $50 or more per month; and (17) clarify existing language.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

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 APRIL 26, 2004.

SUBCHAPTER 5. NON-FINANCIAL ELIGIBILITY CRITERIA

PART 1. HOUSEHOLD DEFINITION

340:50-5-8.1. Ineligible and illegal aliens

Aliens not identified as qualified aliens in ~~340:50-5-67(a)(3) of this Subchapter~~ OAC 340:50-5-67(3) are not eligible for food stamps. Income and resources of ineligible aliens are considered available to the household. All aliens who are in the United States unlawfully, ~~illegal aliens,~~ must be reported to the ~~Immigration and Naturalization Service (INS)~~ Bureau of Citizenship and Immigration Service (BCIS).

PART 5. STUDENTS, STRIKERS, RESIDENT FARM LABORERS, MIGRANT HOUSEHOLDS, SPONSORED ALIENS, AND SCHOOL EMPLOYEES

340:50-5-49. Sponsored aliens

(a) ~~Aliens admitted for permanent residence under Section 101(a)(15) and (20) of the Immigration and Nationality Act, whose entry into the United States required sponsorship, must have the income and resources of the sponsor and sponsor's spouse, if living with the sponsor, considered in determining eligibility and benefit amount for food stamps.~~ Sponsored aliens whose sponsor signed an enforceable affidavit of support may be subject to sponsor deeming, unless exempt from deeming requirements. The groups in (1) through (5) of this Subsection are exempt from deeming requirements.

(1) During any 12-month period the alien is exempt if he or she is a battered spouse, battered child or parent, or child of a battered person, providing the battered alien lives in a separate household from the person responsible for the battery. The exemption can be extended beyond the 12-month period if the alien demonstrates that the battery is recognized in a court or administrative order and if it is determined by the Oklahoma Department of Human Services (OKDHS) that the battery has a substantial connection to the need for benefits.

(2) If the sponsor lives in the same household as the alien, deeming does not apply because the sponsor's income and resources are already counted. There is no deeming exemption if the sponsor receives food stamps in another household.

(3) If the sponsored alien is ineligible for food stamps because of immigration status, such as he or she is not a qualified alien or a refugee or asylee during the seven year eligibility period, the sponsor's income is not deemed to other eligible members of the immigrant's household.

(4) Children under the age of 18 are exempt.

(5) If the alien's own income and any assistance provided by the sponsor or any other individual(s) is not enough for the alien to obtain food and shelter without the assistance of other assistance programs, the amount of the income and resources attributed to the alien cannot exceed the actual amount provided for a 12-month period. An alien is considered indigent if the sum of alien's household's own income and any cash or in-kind assistance provided by the sponsor or others is less than 130% of the poverty limit as shown on OKDHS Appendix C-3, Maximum Coupon Allotments and Standards for Deductions, Maximum Income and Utilities (Food Stamps). Each indigence determination is effective for 12 months and may be renewed for additional 12-month periods.

(A) If exempted under (5) of this subsection, OKDHS is required to send a written notice of the determination to the statistics branch of the Bureau of Citizenship and Immigration Service (BCIS).

(B) After learning of the reporting requirement, the alien may be given the opportunity to refuse food stamp benefits for himself or herself without withdrawing the entire household's application.

(C) An alien who does not wish to be exempt as indigent can be permitted to have his or her eligibility and benefits determined based on the deeming formula.

(b) The income and resources of a sponsor and his or her spouse~~, if living with the sponsor,~~ are considered as the unearned income and resources of an alien ~~until the alien becomes a citizen or has 40 qualifying quarters of Social Security coverage as defined in OAC 340:50-5-67~~. The income of the sponsor's spouse is considered even if the marriage occurred after the sponsor signed an agreement to support the alien.

(1) A sponsor is defined as an individual(s), not an organization, who executed an affidavit of support or similar agreement on behalf of the alien as a condition of the alien's entry or admission into the United States as a permanent resident.

(2) In addition to providing information required for any other applicant, if deeming is required, the alien must provide the:

(A) income and resource information of the alien's sponsor and the sponsor's spouse;

(B) number of other aliens sponsored by the sponsor;

(C) Immigration and Naturalization Services (INS) Act under which the alien was admitted and the date of entrance;

(D) alien's birthdate, birthplace, and registration number;

(E) number of dependents claimed on the sponsor's and his or her spouse's income tax statement; and

(F) name, address, and phone number of the sponsor.

(3) Verification requirements described in OAC 340:50-3-3 ~~applies~~ apply to all information the alien is required to provide except that non-liquid resources of the sponsor and the number of aliens he or she sponsors must also be verified.

(4) If an alien has already reported the gross income and resources of the sponsor and the sponsor's spouse in a Temporary Assistance for Needy Families (TANF) case, that income amount may be used for food stamp purposes. The amount of the sponsor's income ~~considered~~ and resources deemed to the alien is determined by:

(A) using the total monthly gross earned income, including income from self-employment but excluding in-kind or vendor payments to the sponsor and sponsor's spouse, minus ~~the~~ 20% of the gross earned income ~~deduction from DHS Appendix C-3, Maximum Food Stamp Allotments and Standards for Deductions, Income, and Utilities~~, plus total monthly unearned income~~; and~~.

(i) In-kind assistance such as food and shelter provided to the alien must be included as income in determining indigent exemption only. It is not considered when determining eligibility or benefit levels for the alien household.

(ii) In the absence of actual declared in-kind assistance cost provided by the sponsor, an assigned value of $143 is used;

(B) subtracting the food stamp gross income eligibility standard for the sponsor and the dependents as claimed by the sponsor to determine his or her federal personal income tax liability~~.~~; ~~See DHS Appendix C-3, for household size. The amount of resources considered available to the client from the sponsor is the total amount of the resources of the sponsor less $1500.~~ and

(C) considering the total amount of the resources of the sponsor and sponsor's spouse less $1,500.

(5) Income and resources of the sponsor and sponsor's spouse considered available to the sponsored alien are:

(A) not considered in determining need of unsponsored members of the alien's household unless actually available;

(B) divided equally where the sponsor also sponsors other aliens; and

(C) redetermined on a new sponsor if the alien switches sponsors during the certification period.

(6) Changes during the certification period must be reported for both the alien's and the sponsor's household.

(7) ~~The sponsor and the alien are held jointly liable for any overissuance of benefits due to failure to provide correct information unless the sponsor established good cause.~~ Sponsor-to-alien deeming stops when the:

(A) alien becomes a naturalized citizen;

(B) alien can be credited with 40 quarters of work per OAC 340:50-5-67; or

(C) alien's sponsor is deceased.

SUBCHAPTER 7. FINANCIAL ELIGIBILITY CRITERIA

PART 1. RESOURCES

340:50-7-2. Excluded resources

Only resources listed in this Section are excluded for household members, for disqualified members whose resources are counted, or for ineligible aliens who would otherwise be a household member. When an exclusion applies because of use by or for a household member, the exclusion also applies when the resource is used by or for a disqualified person whose resources are counted or for an ineligible alien who would otherwise be a household member.

(1) **Home and surrounding property.** The home and surrounding property which is not separated from the home by intervening property owned by others is exempt. Public right-of-way, such as roads which run through the surrounding property and separate it from the home, does not affect exemption of the property. The home and surrounding property remain exempt when temporarily unoccupied by reasons of employment, training for future employment, illness, vacation, or uninhabitability caused by casualty or natural disaster so long as the household intends to return. Households that currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home receive an exclusion for the value of the lot and, if it is partially completed, for the home.

(2) **Household personal goods, life insurance, and pension plans.** Household goods, personal belongings, including one burial lot per household member, the cash value of life insurance policies, and prepaid burial plans are exempt. The cash value of pension plans or funds is excluded, except for Individual Retirement Accounts (IRA) and Keogh Plans. A Keogh Plan may be excluded if it involves a contractual arrangement with individuals outside the household.

(3) **Vehicles.**

(A) Exclude one licensed vehicle per adult household member, including an ineligible alien or disqualified household member whose resources are considered available to the household, regardless of the use of the vehicle. Exclude any other vehicle a household member under age 18, including an ineligible alien or disqualified household member under age 18 whose resources are considered available to the household, drives ~~to commute~~ to and from employment, or to and from training or education which is preparatory to employment, or to seek employment. This exclusion applies during temporary periods of unemployment to a vehicle which a household member under age 18 customarily drives ~~to commute~~ to and from employment. Also exclude any licensed vehicle if:

(i) used for income-producing purposes such as, but not limited to, a taxi, truck, or fishing boat,

or a vehicle used for deliveries, to call on clients or customers, or required by the terms of employment. Licensed vehicles that have previously been used by a self-employed household member engaged in farming but are no longer used in farming because the household member has terminated his or her self-employment from farming must continue to be excluded as a resource for one year from the date the household member terminated his or her self-employment farming;

(ii) annually producing income consistent with its fair market value, even if used only on a seasonal basis;

(iii) necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member, ineligible alien, or disqualified person whose resources are considered available to the household, such as the vehicle of a traveling sales person or of a migrant farm worker following the work stream;

(iv) used as the household's home;

(v) necessary to transport a physically disabled household member, physically disabled ineligible alien, or physically disabled disqualified person whose resources are considered available to the household, regardless of the purpose of such transportation. The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member. Only one vehicle per physically disabled household member may be excluded;

(vi) necessary to carry fuel for heating or water for home use when the transported fuel or water is anticipated to be the primary source of fuel or water for the household during the certification period. Households must receive this resource exclusion without having to meet any additional tests concerning the nature, capabilities, or other uses of the vehicle. Households must not be required to furnish documentation unless the exclusion of the vehicle is questionable;

(vii) the value of the vehicle is inaccessible because its sale would produce an estimated return of not more than $1,500;

(viii) jointly owned by a food stamp household member and someone who does not live with the food stamp household. To be excluded, the vehicle must not be used by, nor in the possession, of anyone who lives in or with the household. The member must also be unable to sell the vehicle because the signature of the co-owner is needed and that person will not sign; or

(ix) legally prohibited from being sold by the food stamp household. The determination of whether a food stamp household can legally sell a vehicle is governed by the law ~~of the State~~ of Oklahoma.

(B) The exclusions in (i) through (iii) of this ~~Section~~ subsection continue to apply when the ~~vehicles are~~ vehicle(s) is not in use because of temporary unemployment such as when a taxi driver is ill and cannot work or the vehicle is broken down and cannot be used.

(4) **Real or personal property directly related to the maintenance of excluded vehicles.** Property, real or personal, to the extent it is directly related to the maintenance or use of a vehicle described in paragraph (3) of this subsection is excluded. Only that portion of real property determined necessary for maintenance or use is excluded. For example, a household which owns a produce truck to earn its livelihood may be prohibited from parking the truck in a residential area. The household may own a 100-acre field and use a quarter-acre of the field to park or service the truck. Only the value of the quarter-acre is excluded under this provision, not the entire 100-acre field.

(5) **Income producing property.** Income producing property which annually produces income consistent with the fair market value is excluded even if used on a seasonal basis. Examples of such property are rental homes and mineral rights. When it is necessary to determine if property is producing income consistent with its fair market value, the worker contacts a local realtor, tax assessor, the Small Business Administration, Farmer's Home Administration, or other knowledgeable sources to determine the prevailing rate of return from similar property in the area.

(6) **Property essential to employment.** Property, such as farm land or work related equipment including tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member is excluded. Property of a household member engaged in farming continues to be excluded for one year from the date the household member terminates his or her self-employment from farming.

(7) **Installment contracts.** Installment contracts for the sale of land or buildings are excluded if the contract or agreement is producing income consistent with its fair market value. The exclusion applies to the value of the property sold under the installment contract or held as security in exchange for a purchase price consistent with the fair market value of that property.

(8) **Inaccessible resources.** Resources whose cash value is not accessible to the household are exempt, such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. If questionable, the worker establishes that the property is for sale and that the household will accept a reasonable offer. A resource is considered inaccessible if its sale or other disposition is unlikely to produce funds amounting to one half or more of the applicable resource limit for the household. The value of the inaccessible resource is the amount of the expected return to the household after subtracting estimated cost of sale or disposition,

and consideration of the ownership interest to the household. A single resource may not be subdivided solely to obtain an exclusion as inaccessible. This inaccessible provision does not apply to vehicles or financial instruments such as stocks, bonds, or negotiable financial instruments. Any funds in a trust or transferred to a trust and the income produced by that trust to the extent it is not available to the household is considered inaccessible to the household if:

(A) the trust arrangement is not likely to cease during the certification period and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period;

(B) the trustee administering the funds is either a court, or an institution, corporation, or organization which is not under the direction or ownership of any household member, or an individual appointed by the court who has court imposed limitations placed on his or her use of the trust funds;

(C) trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member; and

(D) the funds held in irrevocable trust are either established from the household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust, or established from non-household funds by a non-household member.

(9) **Education assistance.** All education grants, work study, scholarships, and student loans are exempt if receipt is contingent upon the student regularly attending school.

(10) **Resources excluded by law.** Resources currently excluded by law are:

(A) payments received:

(i) under the Alaska Native Claims Settlement Act [Public Law (P.L.) 92-203, ~~Sec.~~ § 21(a)];

(ii) under the Sac and Fox Indian Claims Agreement [P.L. 94-189];

(iii) from the disposition of funds to the Grand River Band of Ottawa Indians [P.L. 94-540];

(iv) by members of the Confederated Tribes of the Mescalero Reservation [P.L. 95-433]; or

(v) under the Maine ~~Indians~~ Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation [P.L. 96-420];

(B) payments received by certain Indian tribal members under P.L. 94-114, ~~Sec.~~ Section 6 regarding submarginal land held in trust by the United States;

(C) Indian per capita payments distributed from judgment awards and trust funds made pursuant to P.L. 98-64. Also excluded is any interest or investment income accrued on such funds while held in trust or any purchases made with ~~judgement~~ judgment funds, trust funds, interest or investment income accrued on such funds. Exclude any per capita payments, such as headrights of Osage tribe, income from mineral leases, or other tribal business ventures, as long as the payments meet the distribution requirements as stated in this subparagraph. Any interest or income derived from the funds after distribution is considered as any other income. The per capita exclusion applies per person rather than per family. When these excluded funds are deposited in a bank or other financial institution, the deposits are excluded as long as the funds are kept in a separate account and not commingled in an account with non-excluded funds. When the excluded funds are commingled in an account with non-excluded funds, the excluded funds retain their exemption for six months from the date of commingling. After six months from the date of commingling, all funds are counted as a resource. Purchases made with excluded funds are considered a resource;

(D) interests of individual Indians in trust or restricted lands;

(E) benefits received from ~~special supplemental food program for women, infants, and children~~ Special Supplemental Nutrition Program For Women, Infants, and Children (WIC) [P.L. 92-443, ~~Sec.~~ § 6];

(F) reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 [P.L. 91-646, ~~Sec.~~ § 216];

(G) Earned Income Tax Credit (EITC) payments received by a participating food stamp household member as part of a federal tax refund or as advance payments received as part of a ~~pay check~~ paycheck, excluded for 12 months during continuous participation. This does not mean that households lose the exclusion if they temporarily leave the program for administrative reasons;

(H) refunds of the state EITC as a result of filing a state income tax return in the month received and the following month;

(I) payments received from the Youth Incentive Entitlement Pilot Projects, the Youth Community Conservation and Improvement Projects, and the Youth Employment and Training Programs under Title IV of the Comprehensive Employment and Training Act of 1978 [P.L. 95-524];

(J) financial assistance provided by a program funded in whole or in part under Title IV of the Higher Education Act in accordance with P.L. 99-498;

(K) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(L) payments received under the Civil Liberties Act of 1988. These payments are made to individuals of Japanese ancestry who were detained in internment camps during World War II;

(M) payments made from the Radiation Exposure Compensation Trust Fund as compensation for

injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(N) amounts held in an account for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act;

(O) the resources of any non-household member unless the individual is disqualified from the program by an administrative or court fraud hearing, by failing to obtain or refusing to provide a Social Security number, or is an ineligible alien who would otherwise be a household member;

(P) payments or allowances made under any federal law for the purpose of energy assistance such as the Low Income ~~Heating and~~ Home Energy Assistance Program (LIHEAP);

(Q) earmarked resources, such as those governmental payments made by the Individual and Family Grant Program or the Small Business Administration which are designated for the restoration of homes damaged in a disaster and which are subject to a legal sanction if the funds are not used as intended. Resources such as those of self-employed persons, which have been prorated and counted as income, and Indian lands held jointly with the tribe or land that can be sold only with the approval of the Bureau of Indian Affairs are also exempt;

(R) the identified resources of all Temporary Assistance for Needy Families (TANF) and Supplemental Security Income (SSI) recipients when the household's total resources are calculated for food stamp eligibility purposes;

(S) excluded monies kept in a separate account, which are not commingled in an account with the non-excluded funds retain excluded status for an unlimited period of time. Monies of self-employed households ~~which~~ that are excluded as a resource because they have been prorated over the period they are intended to cover and are commingled in an account with non-excluded funds retain their exclusion for the period of time over which they have been prorated as income. All other excluded monies which are commingled in an account with other funds retain their exempt status for six months from the date they are commingled. If the household's total resources, including all funds in the commingled account, exceed the allowable limit after that time, all funds in the commingled account are considered as a resource;

(T) payments made to individuals because of their status as victims of Nazi persecution; ~~and~~

(U) any funds deposited in an Individual Development Account (IDA) operated under the Assets for Independence Act~~.~~; and

(V) monetary allowances as described in Section 1823(c) of Title 38 of the United States Code (USC) provided to certain individuals who are children of Vietnam War veterans.

340:50-7-4. Special resource situations

(a) **Jointly owned resources other than vehicles.** Resources other than vehicles owned jointly by separate households must be considered available in their entirety to each household, unless the household can demonstrate such resources are inaccessible to the household. If the household can demonstrate it has access to only a portion of the resources, the value of that portion of the resource is counted toward the household's resource level. The resources are considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply. For purposes of this provision, ineligible aliens or disqualified individuals residing with the household are considered household members. Resources are considered inaccessible to persons residing in shelters for battered women and children if:

(1) the resources are jointly owned by such persons and by members of their former household; and

(2) the shelter resident's access to the value of the resources is dependent on the agreement of a joint owner who still resides in the former household.

(b) **Non-recurring lump sum payments.** Money received in the form of a non-recurring lump sum payment such as income tax refunds, rebates, credits, and retroactive lump sum insurance settlements constitute a resource in the month received unless specifically excluded from consideration as a resource by federal law.

(1) Upon receipt of information that a certified household has received a non-recurring lump sum payment, the ~~social services specialist~~ worker reviews the case file to determine if the amount received, in addition to the other resources listed on the application form, exceeds the resource limitation for the household.

(2) If the total amount exceeds the allowable resource limitation, the ~~social services specialist~~ worker must close the case giving ten-day advance notice. If, within ten days, the household presents evidence that the resources have been depleted and are within the allowable resource limits, the case may be left open for the remainder of the certification period. If the household does not agree with the decision to terminate the case and requests a hearing, the food stamp ~~case~~ benefit may be continued pending a decision on the appeal.

(3) Any amount received by an income eligible Supplemental Security Income (SSI) recipient due to an underpayment or retroactive payment of SSI or Social Security benefits is excluded as a resource.

(c) **Non-excluded vehicles.** The equity in all vehicles, except those excluded in OAC 340:50-7-2, is considered ~~in relation to the reserve~~. The amount of equity in excess of $5,000 is considered against the maximum allowable resource limit for the household. The current market value less encumbrances on the vehicle(s) is the equity. Only encumbrances that can be verified are considered in computing equity. The market value of each year's make and model is established on the basis of the average ~~trade-in~~ trade-in value. In the event the ~~individual~~ household and ~~social services specialist~~ worker cannot agree

on the value of the vehicle, the ~~individual~~ household secures written appraisals by two persons familiar with current values. If there is substantial unexplained divergence between these appraisals or between the blue book value and one or more of these appraisals, the ~~social services specialist~~ worker and the ~~individual~~ household jointly arrange for the market value to be established by an appraisal made by a third person who is familiar with current values and acceptable to both the ~~individual~~ household and ~~social services specialist~~ worker.

(d) **Resources of disqualified members or ineligible aliens.** All resources of disqualified members or ineligible aliens are considered in determining the eligibility of the remaining household members.

PART 3. INCOME

340:50-7-20. Income considered [REVOKED]

~~Household income means all income from whatever sources excluding only those items described in Section 22 of this Subchapter. The income considered is that income which is expected to be received during the period of certification. When an applicant/recipient reports no income and/or the household's expenses (rent/mortgage, utilities, other payments, miscellaneous personal expenses, etc.), exceed the income the worker must determine with the household how these needs are met.~~

340:50-7-21. Verification of income [REVOKED]

~~Gross, non-exempt income must be verified for all households prior to certification. In cases where all attempts to verify income have been unsuccessful because the person or organization providing the income fails to cooperate with the household, the social services specialist must determine the amount to be used based on the best available information.~~

~~(1) **Method of verifying income.** The social services specialist uses documentary evidence as the primary source of verification. If other types of verification are used, the social services specialist must document in the case why an alternate source was needed.~~

~~(A) Documents which can be used to verify earned income are:~~

~~(i) pay stubs;~~
~~(ii) employee W-2 forms;~~
~~(iii) wage tax receipts;~~
~~(iv) state or federal income tax returns;~~
~~(v) self-employed bookkeeping credits;~~
~~(vi) sales or expenditure records;~~
~~(vii) employer wage records;~~
~~(viii) statements from an employer;~~
~~(ix) Oklahoma Employment Security Commission (OESC) statements; or~~
~~(x) Oklahoma Tax Commission statements.~~

~~(B) In verifying other types of income, documents or records generally available from the applicant are:~~

~~(i) award letters;~~
~~(ii) benefit payment checks;~~
~~(iii) correspondence on benefits;~~
~~(iv) income tax records;~~
~~(v) support and alimony payments as evidenced by court order;~~
~~(vi) divorce or separation papers; and~~
~~(vii) contribution checks.~~

~~(C) Other sources include:~~

~~(i) State Data Exchange (SDX) system;~~
~~(ii) Beneficiary and Earnings Data Exchange (BENDEX) system;~~
~~(iii) OESC wage records;~~
~~(iv) union records;~~
~~(v) workers' compensation records;~~
~~(vi) information received from Veterans Administration records; and~~
~~(vii) tax records.~~

~~(2) **Unreported income.** When there is an indication that other income which has not been reported is available to the household, the social services specialist must explore the possibilities of unreported income. When the applicant states that he or she has no earnings or other income and the applicant is employable or it appears that he or she may be eligible for other benefits, such as Social Security, Supplemental Security Income (SSI), unemployment compensation, or public assistance, it may be necessary to verify that he or she is not receiving income from such sources.~~

~~(3) **Other required verification.** When verifying that income is exempt as a loan, a simple statement signed by both parties which indicates that the payment is a loan and must be repaid is sufficient verification. However, if the household receives payment on a recurrent or regular basis from the same source, but claims that the payments are a loan, the social services specialist must require that the provider of the loan sign an affidavit which states that the payments are being made or that payments will be made in accordance with an established repayment schedule.~~

340:50-7-22. Income exclusions

Only the payments listed in this Section ~~can be~~ are excluded from the household's income, from income of disqualified members whose income is counted, or from the income of ineligible aliens who would otherwise be household members. No other income is excluded.

(1) **In-kind income.** In-kind income is any gain or benefit which is not in the form of money payable directly to the household, including non-monetary or in-kind benefits, such as meals, clothing, public housing, or produce from a garden.

(2) **Vendor payments.** Vendor payments are payments in money on behalf of a household when a person or organization outside the household uses its own funds to make a direct payment to either a household's creditors or a person or organization providing a service to the household.

(3) **Education assistance.** All education grants, work-study, scholarships, and student loans are exempt if receipt is contingent upon the student regularly attending school.

(4) **Family Support Assistance Payment Program.** Family Support Assistance Payment Program payments

provided by Developmental Disabilities Services Division (DDSD) are excluded.

(~~4~~5) **Income excluded by law.** Income excluded by law is:

(A) reimbursements from the Uniform Relocation Assistance and Real Property Acquisition ~~Policy~~ Policies Act of 1970. [Public Law (P.L.) 91-646, § 216] Such payments are:

(i) payments to persons displaced due to the acquisition of real property;

(ii) relocation payments to a displaced home owner toward the purchase of a replacement dwelling if the owner purchased and occupied the dwelling within one year following displacement; and

(iii) replacement housing payments to displaced persons not eligible for a home owner's payment;

(B) payments received:

(i) under the Alaska ~~Natives~~ Native Claims Settlement Act [P.L. 92-203~~, Sec.~~ § 21(a)]~~,~~;

(ii) under the Sac and Fox Indian Claims Agreement [P.L. 94-189]~~,~~;

(iii) from the disposition of funds to the Grand River Band of Ottawa Indians [P.L. 94-540]~~,~~;

(iv) by members of the Confederated Tribes of the Mescalero Reservation [P.L. 95-433]~~,~~; or

(v) under the Maine Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation [P.L. 96-420];

(C) any payment to volunteers under Title II, Retired and Senior Volunteer Program (RSVP), foster grandparents and others, of the Domestic Volunteer Services Act of 1973 [P.L. 93-113] as amended~~.~~; ~~Payments under Title I of that Act, Volunteers In Service to America (VISTA), University Year for Action, and Urban Crime Prevention Program, to volunteers are excluded for those individuals receiving food stamps or public assistance at the time they joined the Title I Program, except that households who were receiving an income exclusion for a VISTA or other Title I subsistence allowance on February 1, 1979 continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time. Temporary interruptions in food stamp participation does not alter the exclusion once an initial determination has been made;~~

(D) income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes [P.L. 94-114, ~~Sec.~~ § 6];

(E) Indian per capita payments distributed from judgment awards and trust funds made pursuant to ~~Public Law~~ P.L. 98-64. Also excluded is any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds. Any per capita payments, ~~such as~~ headrights of the Osage tribe, income from mineral leases or other tribal business ventures are excluded, as long as they meet the distribution requirements as stated in this paragraph. Any interest or income derived from the funds after distribution is considered as any other income. The per capita exclusion applies per person rather than per family. ~~When:~~

(i) ~~these excluded~~ Excluded funds ~~are~~ deposited in a bank or other financial institution ~~the deposits~~ are excluded as long as they are kept in a separate account and not commingled in an account with non-excluded funds. When the excluded funds are commingled in an account with non-excluded funds they retain their exemption for six months from the date of commingling. After six months from the date of commingling, all funds are counted as a resource~~; and~~.

(ii) ~~purchases~~ Purchases made with excluded funds are considered a resource;

(F) income up to $2,000 per year received by individual Indians, which is derived from leases or other uses of individually-owned trust or restricted lands. The income exclusion applies to calendar years beginning January 1, 1994. Any remaining disbursements from the trust or restricted lands are considered as income;

(G) allowances, earnings, and payments made for participation in the Workforce Investment Act (WIA) to individuals of all ages and student status. There are numerous programs for which payments are excluded. These programs include Summer Youth, Job ~~Corp~~ Corps, paid ~~class-room~~ classroom training, and others. The ~~exemption~~ exception to the income exclusion is income to individuals for on-the-job training paid to participants 19 years old and older. This income is treated as any other earned income;

(H) payments, allowances, or earnings to individuals participating in programs under Title I of the National and Community Service Act, such as ~~Health Careers Volunteer Program~~ University Year for Action (UYA), Senior Companion Program, AmeriCorps Volunteers in Service to America (VISTA) and ~~the~~ other ~~Americorps Program~~ AmeriCorps Programs, are not included as income for purposes of determining food stamp eligibility and benefit level;

(I) payments or allowances made under any federal law for the purpose of energy assistance, Low Income Home Energy Assistance Program (LIHEAP) and ~~also~~ utility payments, and reimbursements made by the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA);

(J) the amount of the mandatory salary reduction of military service personnel used to fund the G.I. Bill;

(K) all funds ~~which~~ that are paid to individuals under the Community Service Employment Program under Title V~~.~~, ~~[~~P.L. 100-175~~]~~. This program is authorized by the Older Americans Act. Each state

and ~~eight~~ various organizations receive some Title V funds. These organizations include:

(i) Green Thumb;

(ii) National Council on Aging;

(iii) National Council of Senior Citizens;

(iv) American Association of Retired Persons;

(v) U. S. Forest Service;

(vi) National Association for Spanish Speaking Elderly;

(vii) National Urban League; ~~and~~

(viii) National Council on Black Aging; and

(ix) National Council on Indian Aging;

(L) Earned Income Tax Credit (EITC) payments received as part of a tax refund and also EITC advance payments received as part of a paycheck [P.L. 100-435];

(M) refunds of the state EITC as result of filing a state income tax return;

(N) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(O) payments received under the Civil Liberties Act of 1988. These payments are made to individuals of Japanese ancestry who were detained in interment camps during World War II;

(P) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from the exposure to radiation from nuclear testing and uranium mining;

(Q) payments for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act;

(R) payments made to individuals because of their status as victims of Nazi persecution; ~~and~~

(S) funds distributed by Federal Emergency Management Assistance (FEMA) due to a disaster or emergency to individuals directly affected by the event. This exclusion also applies to comparable disaster assistance provided by states, local governments, and disaster assistance organizations. For payments to be excluded, the disaster or emergency must be declared by the President of the United States~~.~~; and

(T) monetary allowances as described in Section 1823(c) of Title 38 of the United States Code (USC) provided to certain individuals who are children of Vietnam War veterans.

(6) **Payments which are not considered income.**

(A) The payments in (i) through (iii) are not considered as income.

(i) Monies withheld from any income source to repay a prior overpayment from that same source.

(ii) Monies voluntarily or involuntarily returned to repay a prior overpayment received from that same income source.

(iii) Child support payments received by Temporary Assistance for Needy Families (TANF) recipients which must be sent to the Child Support Enforcement Unit to maintain TANF eligibility.

(B) Monies withheld or returned to repay overpayments in federal, state, or local means-tested assistance programs are counted when they are withheld or returned to repay overpayments resulting from intentional program violation as established by the agency administering the program.

(i) In the Food Stamp Program, willful misrepresentation is considered as intentional program violation.

(ii) The State Supplemental Payment to the Aged, Blind and Disabled and TANF programs define intentional program violation using the terms restitution, fraud, and willful misrepresentation.

(iii) The Social Security Administration (SSA) and Veterans Benefits Administration programs define intentional program violation as fraud. Supplemental Security Income (SSI) is a means-tested program within SSA.

(7) **Reimbursements.**

(A) Reimbursements for past or future expenses to the extent they do not exceed actual expenses and do not represent a gain or benefit to the household are not considered. Examples are reimbursements for:

(i) job or training related expenses such as travel, per diem, uniforms, and transportation to and from job or training site. However, if these expenses are not reimbursements, they are considered income;

(ii) out-of-pocket expenses incurred by volunteers in the course of their work;

(iii) medical or dependent care; and

(iv) services provided by Title XX of the Social Security Act.

(B) When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living expenses. The amount of the reimbursement that exceeds the actual incurred expenses is counted as income. A reimbursement is not considered to exceed actual expenses unless the provider or household indicates the amount is excessive.

(8) **Money received for third parties.** Money received and used for the care and maintenance of a third party beneficiary who is not a household member is not considered.

(A) If the intended beneficiaries of a single payment are both household and non-household members, any identifiable portion of the payment intended and used for the care and maintenance of the non-household member is excluded.

(B) If the non-household member's portion cannot be readily identified, as in TANF payments, the payment is evenly prorated among intended beneficiaries. The exclusion is applied to the non-household member's pro rata share or the amount actually used for the non-household member's care and maintenance, whichever is less.

(9) **Earnings of a child.** Earned income of a child who is head of his or her own household is counted. The earned income of an elementary or high school student 17 years of age or younger who is under parental control of an adult household member is excluded. This exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break. If the child's earnings cannot be differentiated from those of other household members, the total earnings are prorated equally among the working members, and the child's prorated share is excluded.

(10) **Other types of excluded income.**

(A) **Loans.** All loans, including loans from private as well as commercial institutions, are excluded. Verification that the income is a loan is required.

(B) **Irregular Income.** Exclude any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated which is $30 or less per quarter.

(C) **Non-recurring lump sum payments.** Exclude money received in the form of non-recurring lump sum payments, including but not limited to: income tax refunds, rebates, credits, retroactive lump sums from SSA, SSI, public assistance, Railroad Retirement pensions, or other payments, or retroactive lump sum insurance settlements. These payments are counted as resources.

(D) **Cost of self-employment.** Exclude the cost of producing self-employment income.

(E) **Income of non-household members.** The income of non-household members who have not been disqualified or are not ineligible aliens is not considered available to the household.

(F) **Charitable contributions.** Exclude cash contributions to a household from one or more private non-profit charitable organizations, not to exceed $300 in a federal fiscal year quarter. For the purposes of this provision a quarter includes these specific months:

(i) October, November, December;

(ii) January, February, March;

(iii) April, May, June; and

(iv) July, August, September.

(G) **Department of Housing and Urban Development's (HUD) Family Self-sufficiency Program (FSS) escrow accounts.** Families participating in the HUD FSS program may withdraw money from their escrow accounts prior to completion of the program. This money is excluded both as income and as a resource.

340:50-7-23. Payments which are not considered income [REVOKED]

~~(a) The payments in (1) through (3) of this subsection are not considered as income.~~

~~(1) Monies withheld from any income source to repay a prior overpayment received from that same source.~~

~~(2) Monies voluntarily or involuntarily returned to repay a prior overpayment received from that same income source.~~

~~(3) Child support payments received by Temporary Assistance for Needy Families (TANF) recipients which must be sent to the Child Support Enforcement Unit to maintain TANF eligibility.~~

~~(b) Monies withheld or returned to repay overpayments in federal, state, or local means tested assistance programs are not excluded when they are withheld or returned to repay overpayments resulting from intentional program violation as established by the agency administering the program.~~

~~(1) In the Food Stamp Program, willful misrepresentation is considered as intentional program violation.~~

~~(2) The State Supplemental Payment to the Aged, Blind, and Disabled and TANF programs define intentional program violation using the terms restitution, fraud, and willful misrepresentation.~~

~~(3) The Social Security Administration (SSA) and Veteran's Administration programs define intentional program violation as fraud. Supplemental Security Income (SSI) is a means tested program within SSA.~~

340:50-7-24. Reimbursements [REVOKED]

~~(a) Reimbursements for past or future expenses to the extent they do not exceed actual expenses and do not represent a gain or benefit to the household are not considered. Examples are reimbursements for:~~

~~(1) job or training related expenses such as travel, per diem, uniforms, and transportation to and from job or training site. However, if these expenses are not reimbursements, they are not otherwise deductible;~~

~~(2) out-of-pocket expenses incurred by volunteers in the course of their work;~~

~~(3) medical or dependent care; and~~

~~(4) services provided by Title XX of the Social Security Act.~~

~~(b) When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursements cover normal living expenses. The amount of the reimbursement that exceeds the actual incurred expenses is counted as income. A reimbursement is not considered to exceed actual expenses unless the provider or household indicates the amount is excessive.~~

~~(c) Reimbursements for normal living expenses of the household, such as rent or mortgage, personal clothing, and food eaten at home are a gain or benefit, and, therefore, are not excluded. To be excluded, these payments must be provided specifically for an identified expense other than normal living expenses and used for the purpose intended.~~

340:50-7-26. Money received for third parties [REVOKED]

~~Money received and used for the care and maintenance of a third party beneficiary who is not a household member is not considered. If the intended beneficiaries of a single payment are both household and non-household members, any identifiable portion of the payment intended and used for the care and maintenance of the non-household member is excluded. If the non-household member's portion cannot be readily identified, as in Temporary Assistance for Needy Families (TANF) payments, the payment is evenly prorated among intended beneficiaries and the exclusion applied to the non-household member's pro rata share or the amount actually used for the non-household member's care and maintenance, whichever is less.~~

340:50-7-27. Earnings of a child [REVOKED]

~~Earned income of a child who head his or her own household is treated as adult income. The earned income of elementary or high school students 17 years of age or younger who are under parental control of an adult household member is excluded. This exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break. If the child's earnings cannot be differentiated from those of other household members, the total earnings are prorated equally among the working members, and the child's prorated share is excluded.~~

340:50-7-28. Other types of excluded income [REVOKED]

~~(a) **Loans.** All loans, including loans from private as well as commercial institutions, are excluded. Verification that the income is a loan is required.~~

~~(b) **Irregular income.** Exclude any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated which is not in excess of $30 per quarter.~~

~~(c) **Non-recurring lump sum payments.** Exclude money received in the form of non-recurring lump sum payments, including but not limited to: income tax refunds; rebates; credits; retroactive lump sums from Social Security, Supplemental Security Income (SSI), public assistance, Railroad Retirement pensions, or other payments; or retroactive lump sum insurance settlements. These payments are counted as resources.~~

~~(d) **Cost of self-employment.** Exclude the cost of producing self-employment income.~~

~~(e) **Income of non-household members.** The income of non-household members who have not been disqualified or are not ineligible aliens is not considered available to the household.~~

~~(f) **Charitable contributions.** Exclude cash contributions to a household from one or more private non-profit charitable organizations, not to exceed $300 in a Federal fiscal year quarter. For the purposes of this provision a quarter includes these specific months:~~

~~(1) October, November, December;~~
~~(2) January, February, March;~~
~~(3) April, May, June; and~~
~~(4) July, August, September.~~

340:50-7-29. Income inclusions

(a) **Earned income.** Earned income is income which a household receives in the form of wages, self-employment, or training allowances and for which an individual puts forth daily, physical labor. The types of earnings listed in (1) through (5) of this subsection, including money from the sale of whole blood or blood plasma, are considered earned income.

(1) **Wages.** All wages and salaries for services performed as an employee including sick pay paid by the employer to an employee who plans to return to work when recovered are considered as earned income. Wages that are garnisheed or diverted and paid to a third party for a household's expenses are also included.

(2) **Self-employment.** The total gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business but excluding the cost of producing the income and payments from roomers or boarders and rent from rental property are considered self-employment income. Income from rental property is considered earned income only if a member of the household is actively engaged in management of the property an average of at least 20 hours ~~a~~ per week.

~~(3) **Training allowances.** Training allowances for vocational and rehabilitative programs recognized by the federal, state, or local governments such as the Work Incentive Program and programs authorized by the Comprehensive Employment and Training Act, are considered income to the extent they are not reimbursement. The individual must be actively involved in some type of work.~~

(~~4~~3) **Title I ~~Payments~~ payments of the Domestic Volunteer Services Act.** Payments under Title I of the Domestic Volunteer Services Act of 1973 as amended [Public Law (P.L.) 93-113] are considered as income unless excluded in OAC 340:50-7-22. ~~This includes income to volunteers in Volunteers in Service to America (VISTA), University Year for Action, and similar volunteer payments.~~

(~~5~~4) **On-the-job training.** Income earned in on-the-job training positions is considered earned income. This includes on-the-job training provided under Section 204(b)(1)(c) or Section 264(c)(1)(A) of the Workforce Investment Act for individuals 19 years of age or older.

(b) **Unearned income.** In general, unearned income is that income which a household receives and is not in the form of wages, self-employment, or training allowances and for which an individual does not put forth any daily, physical labor. The types of income listed in (1) through (6) of this subsection, while not all inclusive, are considered unearned.

(1) **Assistance payments.** Assistance payments from a federally aided public assistance program, such as Supplemental Security Income (SSI), ~~or~~ Temporary Assistance for Needy Families (TANF), or assistance programs

based on need, such as State Supplemental Payments are considered as unearned income.

(A) A household's food stamp benefit amount does not increase when the benefit received from another program is reduced, suspended, or terminated because of a penalty imposed for an intentional failure to comply with a requirement of that program. The other program must be a means-tested, federal, state, or local welfare or public assistance program which is governed by welfare or public assistance laws or regulations and which distributes public funds, OAC 340:10-2-2.

(i) When a worker is not able to obtain the necessary information and cooperation from another federal, state, or local means-tested welfare, or public assistance program to comply with the provision in (A) of this paragraph, Oklahoma Department of Human Services (OKDHS) is not held responsible. The worker must make a good faith effort to get the needed information and record the details and results of this effort in the case file.

(ii) The household's current food stamp benefit amount is not reduced, suspended, or terminated when the benefits under another assistance program are decreased.

(iii) When eligible members are added to the food stamp case the benefit must be adjusted regardless of whether ~~or not~~ the household is prohibited from receiving benefits for the additional member under another federal, state, or local welfare or public assistance means-tested program.

(iv) Changes in the household circumstances which are not related to the penalty imposed by another federal, state, or local welfare or public means-tested assistance program are not affected by the provision in (A) of this paragraph.

(v) The application of the provision in (A) of this paragraph applies for the duration of the imposed penalty.

(B) The provision in (A) of this paragraph does not apply to individuals or households subject to disqualification from the Food Stamp Program for noncompliance with a comparable work requirement under Title IV of the Social Security Act or an unemployment compensation work requirement.

(2) **Pension and Social Security.** Annuities, pensions, retirement, ~~Veterans'~~ veterans' or disability benefits, workers' or unemployment compensation, survivors' or Social Security benefits, and strike benefits are unearned income.

(3) **Support and alimony.** Support and alimony payments that are made directly to the household from non-household members, money deducted or diverted from court-ordered support or alimony payments, or other binding written support or alimony agreement, to a third party for a household expense must be considered as income when the court order directs that the payment be made to the household.

(4) **Grants and interest payments.** Payments from government sponsored programs, such as Agricultural Stabilization and Conservation Service Programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or profit are considered as income. Income from royalties is treated as unearned, self-employment income.

(5) **Monies which are withdrawn or dividends which are or could be received by a household from trust funds.** Dividends which the household has the option of either receiving as income or reinvesting in the trust are considered as income in the month they become available to the household.

(c) **Income of disqualified or ineligible household members.** A complete list of reasons for disqualification of household members is found in OAC 340:50-5-10.1. Income of disqualified individuals and unqualified aliens is counted as indicated in ~~OAC 340:50-7-9(c)(1) and (2)~~ paragraphs (1) and (2) of this subsection.

(1) **Income of an individual disqualified for failure to comply with food stamp employment and training requirements or willful misrepresentation, fraud.** All income of an individual disqualified for failure to comply with food stamp employment and training requirements or willful misrepresentation, fraud, is counted as available to the remaining household members. Utility, medical, dependent care, and excess shelter deductions continue to apply to the remaining household members.

(2) **Income of individuals disqualified for reasons other than willful misrepresentation or failure to comply with employment and training requirements.** Income of individuals disqualified for reasons other than those stated in paragraph (1) of this subsection is prorated among all household members. A pro rata share of the income of a disqualified individual is considered as income available to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the disqualified member's income and dividing the income evenly among the household members, including the disqualified member. All but the disqualified member's share is considered as income available to the remaining household members. The earned income deduction from OKDHS Appendix C-3, Maximum Coupon Allotments and Standards for Deductions, Maximum Income~~,~~ and Utilities (Food Stamps) applies to the prorated income attributed to the household if it was earned by the disqualified member. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the disqualified member is divided evenly among the household members, including the disqualified member. When the household is using the utility standard, it too is evenly prorated. All but the disqualified member's share is considered as a deductible shelter expense for the remaining household members.

(3) **Determining eligibility and benefit level.** The needs of a disqualified or ineligible household member are not considered when determining the household's size for purposes of assigning a benefit level to the household

or for purposes of comparing the household's monthly income with the income eligibility standard.

340:50-7-31. Deductions

Deductions from income are allowed for the expenses listed in paragraphs (1) through (6) of this subsection. That portion of the household's allowable shelter and dependent care expenses, which are either paid by or billed to a disqualified household member, as defined by OAC 340:50-7-29(c)(2), is divided evenly among the household members, including the disqualified member. When the household is using the utility standard, it is also evenly prorated. All except the disqualified member's share is considered as a deductible shelter expense for the remaining household members.

(1) **Standard deduction.** The appropriate standard deduction as shown in Oklahoma Department of Human Services (OKDHS) Appendix C-3, Maximum Coupon Allotments and Standards for Deductions, Maximum Income and Utilities (Food Stamps), is deducted from the household's income.

(2) **Earned income deduction.** The appropriate amount of earned income deduction from OKDHS Appendix C-3 is deducted from the gross earned income to cover the cost of state and local income taxes, pensions, union dues, and work related expenses. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance. No other deduction is allowed from the gross earned income.

(3) **Medical expense deduction.** Medical expenses exceeding $35 per month incurred by any elderly or disabled household members are deductible. The $35 is subtracted from medical expenses only once per household even though the household has more than one elderly or disabled member.

(A) Households report and verify medical expenses at certification and each recertification. Households are not required to report changes in medical expenses during the certification period. When a household voluntarily reports a change in medical expenses that will reduce the food stamp allotment, no verification is needed. However, the change does require notice of adverse action. When a household voluntarily reports a change in medical expenses that will increase the food stamp allotment, the change must be verified before the change is made. If OKDHS finds out about a change from a source other than the household, the change is acted on if it is considered verified upon receipt. The household is not contacted for additional information. When the change requires contacting the household for additional information or verification, no change is made.

(B) If a household reports an anticipated medical expense at the time of certification, but is unable to provide the verification at that time, the household is told the expense will be allowed when the verification is provided during the certification period. Upon verification, a household may elect to have a one-time medical deduction or have the expense averaged over the remaining months of the certification period. Allowable costs are:

(i) medical and dental care, including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by state law or other qualified health professional;

(ii) hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the state;

(iii) prescription drugs and other over-the-counter medication, including insulin, when approved by a licensed practitioner or other qualified health professional. Costs of medical supplies, sick-room equipment, including rentals, or other prescribed equipment are also included;

(iv) health and hospitalization policy premiums;

(v) Medicare premiums, and any cost-sharing or spend-down expenses incurred by Medicare or Medicaid recipients;

(vi) dentures, hearing aids, and prosthetics;

(vii) eye glasses prescribed by a licensed practitioner, and securing and maintaining a seeing eye or hearing dog, including the cost of dog food and veterinarian bills;

(viii) reasonable cost of transportation and lodging to obtain medical treatment or services; and

(ix) maintaining an attendant, homemaker, home health ~~aid~~ aide, child care services, or housekeeper due to age, infirmity, or illness. If this expense also qualifies as a dependent care expense as described in paragraph (4) of this subsection, it is considered as a medical expense rather than a dependent care expense. Additionally, if the household furnishes a majority of the caretaker's meals, an amount equal to one allotment is added to the medical expense for meals provided. The allotment used is the amount in effect at certification.

(C) Cost for special diets or health and accident insurance policies such as those payable in lump sum settlements for death or dismemberment, or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled are **not** allowable medical costs. The worker must verify the amount of any deductible medical expenses. Verification of other factors, such as the allowability of services provided or the eligibility of the person incurring the cost, is required only if questionable.

(4) **Dependent care.** Dependent care is payment for the actual cost for the care of a child or other dependent when necessary for a household member to seek, accept, or continue employment or to attend training or education

preparatory to employment. This deduction is applicable whether or not the household member is subject to the Food Stamp Employment and Training requirements. If this expense also qualifies as a medical expense, it is considered as a medical expense rather than a dependent care expense. See OKDHS Appendix C-3 for the maximum dependent care deduction allowable. Dependent care is only verified when the expenses claimed would actually result in a deduction and other information available to the worker is inconsistent with the household's claim that it incurs a dependent care expense or that the household incurs the expense for reasons of employment, seeking employment or training, or education for employment.

(5) **Legally-binding child support.** A deduction is allowed for verified legally-binding child support payments paid by a household member to or for a non-household member, including payments made to a third party on behalf of the non-household member.

(6) **Shelter costs.** A deduction is made for monthly shelter cost in excess of 50% of the household's income after all of the deductions are allowed. The shelter deduction alone cannot exceed the maximum amount as shown in OKDHS Appendix C-3, unless the household has an elderly or disabled member. Households with an elderly or disabled member receive an excess shelter deduction for the monthly cost that exceeds 50% of the household's income after all of the deductions listed in paragraphs (1) through (6) of this subsection have been allowed. All homeless households who incur or can expect to incur a shelter cost during the month are entitled to use the estimated homeless shelter deduction to determine food stamp eligibility and benefit level. This estimate covers all shelter costs as described in this paragraph. If a homeless household is living in a vehicle for which they are making payments, the monthly payment may be allowed as a shelter cost. If the household's actual verified shelter cost exceeds the estimated amount, the larger amount is used. Shelter costs include only:

(A) continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of the shelter, such as loan repayments for the purchase of a mobile home, including interest on such payments. The ~~charges~~ charge for renting or buying the land on which a mobile home is located is also considered shelter cost;

(B) property taxes, state and local assessments, and insurance on the structure itself except the separate costs for insuring furniture or personal belongings. The cost of vehicle registration or tag for a mobile or motor home is not a shelter expense. A mobile home is taxed as part of the property tax when the land is owned or being purchased. This is considered as a shelter expense. Unregistered mobile homes on rented land are taxed as personal property. The personal property tax for the mobile home is considered a shelter expense. No other personal property tax is considered a shelter expense;

(C) charges for heating, cooling, or cooking fuel; electricity; water, sewage, garbage, and trash collection fees; and the basic service fee for one telephone including tax on the basic fee~~, and fees charged by the utility provider for initial installation of the utility. One time deposits are not included as shelter costs~~. A household that incurs an allowable utility expense receives the total amount of the utility standard specified in OKDHS Appendix C-3 for one of the mandatory utility standards in (i) through (iii) of this subparagraph.

(i) The standard utility ~~standard~~ allowance (SUA) is a single standard based on annual averages that include costs for heating, cooling, and cooking fuel; electricity; basic telephone service; and water, sewage, and garbage.

(I) The SUA may be used as long as the household is billed for heating or cooling during the year. Households billed less often than monthly for heating costs such as butane or propane may continue to use the utility standard between billing months. The worker must assess the household's eligibility for the SUA at each application, reapplication, and when the household moves. If the household reports they no longer incur a heating or cooling expense, but still have a utility expense, the standard must be changed to either the basic utility allowance (BUA) or telephone standard.

(II) A household with utility expenses which are reimbursed or paid by an excluded payment such as a vendor payment, Housing and Urban Development (HUD) or Farmers Home Administration (FmHA) payment may use the SUA when the heating or cooling cost exceeds the amount of the excluded payment.

(ii) ~~Households may elect to use the utility standard rather than verify actual expense if costs for heating or cooling are billed separately from rent or mortgage. Cooling costs are limited to operation of room air conditioners and central air conditioning systems. Households that cannot use the utility standard and are required to provide verification for the amount actually billed for utilities in order to have these costs included in calculating the shelter deduction are those:~~ The BUA includes utility charges other than for heating and/or cooling which the household incurs.

~~(I) responsible only for the portion of heating or cooling costs which exceed a set amount included in rent or mortgage such as is common in public housing units; or~~

~~(II) who do not have a cost for heating or cooling.~~

(iii) ~~Households eligible for and electing to use the standard utility deduction receive the total amount of the utility standard specified in OKDHS Appendix C-3 unless the household lives~~

~~with and shares utility cost with another household. Multiple households living in the same residence are allowed only one utility standard which is prorated equally among the households that contribute to meeting any utility cost included in the standard whether or not each household receives food stamps.~~ The telephone standard is used if the household is not entitled to use the SUA or BUA but has a telephone cost;

~~(iv) The utility standard can be used as long as the household is billed for heating or cooling during the year. Households billed less often than monthly for heating costs such as butane or propane may continue to use the utility standard between billing months. Households are allowed to switch between the utility standard and actual utilities only at recertification.~~

~~(v) A household with utility expenses which are reimbursed or paid by an excluded payment such as a vendor payment, Housing and Urban Development (HUD) or Farmers Home Administration (FmHA) payment may use the standard utility allowance when the heating or cooling cost exceeds the amount of the excluded payment.~~

~~(vi) The worker must verify household utility expenses if the household chooses to use actual expenses rather than the state's standard utility allowance and when the expense would actually result in a deduction;~~

(D) the shelter costs for the home even when not actually occupied by the household because of employment or training away from home, illness, or abandonment of the home due to disaster or casualty loss. For the cost of a vacated home to be included in shelter costs, the household must intend to return to the home. The current occupants of the home, if any, must not be claiming the shelter costs during the absence of the household and the home must not be rented or leased during the absence of the household. If a deductible expense must be verified and obtaining the verification may delay the household's certification, the worker advises the household that the household's eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense. The appropriate utility standard is used if the household is entitled to claim it. ~~If actual expenses can be used but cannot be verified within 30 days of the date of application, the worker determines eligibility and benefit level without providing a deduction for the unverified expense.~~

340:50-7-45. Income

(a) The methods in this Part are used to estimate income. The ~~social~~ worker uses the method(s) that will best predict income for the current and future months. Actual income is always used for the current and prior month, if known prior to teleprocessing the certification. If the household income is received more often than monthly, the income for future months of the certification period ~~should~~ must be converted to a monthly amount, if the conversion represents the income anticipated to be received by the household.

(b) Household income means income from all sources excluding only those items described in Section 22 of this Subchapter. The income considered is that income which is expected to be received during the period of certification. When an applicant or recipient reports no income and/or the household's expenses such as rent or mortgage, utilities, other payments, or miscellaneous personal expenses exceed the income, the worker must determine with the household how these needs are met.

(c) Gross, non-exempt income is verified for all households prior to certification. In cases where all attempts to verify income have been unsuccessful because the person or organization providing the income fails to cooperate with the household, the worker determines the amount to be used based on the best available information.

(1) **Method of verifying income.** The worker uses documentary evidence as the primary source of verification. If other types of verification are used, the worker must document in the case why an alternate source was needed.

(A) Documents which can be used to verify earned income are:

(i) pay stubs;
(ii) employee W-2 forms;
(iii) wage tax receipts;
(iv) state or federal income tax returns;
(v) self-employed bookkeeping credits;
(vi) sales or expenditure records;
(vii) employer wage records;
(viii) statements from an employer;
(ix) Oklahoma Employment Security Commission (OESC) statements; or
(x) Oklahoma Tax Commission statements.

(B) Verification of other types of income, documents, or records generally available from the applicant are:

(i) award letters;
(ii) benefit payment checks;
(iii) correspondence on benefits;
(iv) income tax records;
(v) support and alimony payments as evidenced by court order;
(vi) divorce or separation papers; or
(vii) contribution checks.

(C) Other sources of income verification include;

(i) State Data Exchange (SDX) system;
(ii) Beneficiary and Earnings Data Exchange (BENDEX) system;
(iii) OESC wage records;
(iv) union records;
(v) workers' compensation records;
(vi) information received from Veterans Benefits Administration records; or
(vii) tax records.

(2) **Unreported income.** When there is an indication other income which has not been reported is available to the household, the worker must explore the possibilities of unreported income. When the applicant states he or she has no earnings or other income and the applicant is employable or it appears he or she may be eligible for other benefits, such as Social Security, Supplemental Security Income (SSI), unemployment compensation, or public assistance, it may be necessary to verify the applicant is not receiving income from such sources.

(3) **Other required verification.** When verifying income is exempt as a loan, a simple statement signed by both parties which indicates the payment is a loan and must be repaid is sufficient verification. If the household receives payment on a recurrent or regular basis from the same source, but claims the payments are a loan, the worker must require the provider of the loan sign an affidavit which state the payments are being made or that payments will be made in accordance with an established repayment schedule.

340:50-7-46. Converting to monthly income

(a) **Converting income.** ~~Whenever~~ When a full ~~months~~ month's income is anticipated but is received more often than monthly, the income is converted to a monthly amount as indicated in (1) through (5) of this subsection. ~~In instances where~~ When the amounts to be converted differ, such as fluctuating daily, weekly, or biweekly amounts, an average is obtained and the average is multiplied by 4.3 or 2.15 ~~which ever~~ whichever is applicable. Cents are carried through all steps and then rounded to the nearest dollar when the monthly amount is determined. One cent through 49 cents are rounded down and 50 cents through 99 cents are rounded up. ~~Income received more often than monthly is converted to monthly amounts as follows:~~ The worker must exercise extreme caution when determining whether income is received twice per month or biweekly (every two weeks).

(1) **Daily.** Income received on a daily basis is converted to a weekly amount then multiplied by 4.3 only when there is a consistency in days worked each week and a regularity of pay dates.

(2) **Weekly.** Income received weekly is multiplied by 4.3.

(3) **Twice a month.** Income received twice a month is multiplied by 2.

(4) **Biweekly.** Income received every two weeks is multiplied by 2.15.

(5) **Irregular income.** Income received at irregular intervals is not converted.

(b) **Anticipating income.** ~~The worker must exercise extreme caution when determining whether income is received twice a month or biweekly (every two weeks).~~ For the purpose of determining the household's eligibility and monthly benefit allotment, the worker takes into account the income already received by the household and any anticipated income the household can be reasonably certain to receive during the certification period.

(1) **Uncertain income.** If the amount of income that will be received or when it will be received is uncertain, that portion of the household's income is not counted. For example, a household's anticipated income from a new source, such as a new job, recently applied for public assistance, or unemployment benefits, may be uncertain as to the time and the amount of the initial payment.

(A) The anticipated payment is not considered unless there is reasonable certainty concerning the month the payment will be received and the amount of the payment.

(B) The payment is disregarded if there is no way to determine the amount of the payment.

(C) If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty must be considered as income.

(D) In cases where the receipt of income is reasonably anticipated but the monthly amount may fluctuate, the household may elect to have their income averaged.

(E) Households are advised to report all changes in gross monthly income as required.

(2) **Income received in the past 30 days.** Income received during the past 30 days may be used as an indicator of income anticipated to be available to the household during the next certification period. Past income is not used to anticipate future income for any month in which a change in income has occurred or employment has terminated.

(3) **Regular employment.** When the head of the household or other members of the household have regular employment, income from previous months is usually a good indicator of the amount of income that can be anticipated in the month of application and subsequent months. If information supplied by the household or collateral contact indicates that future income will differ substantially from the previous month's income, the worker uses the information to make a reasonable estimate of the anticipated income. The method used to determine the income is fully documented in the case record.

(4) **Withheld wages.** Wages withheld at the request of the employee are considered income to the household in the month the wages would otherwise be paid by the employer. Wages withheld by the employer as a general practice even if in violation of the law are not counted as income to the household, unless the household anticipates that it will ask for and receive an advance, or the household anticipates that it will receive income from previously held wages. Advances on wages are counted as income when they can be reasonably anticipated.

(c) **Averaging income.** Households, except for destitute and migrant or seasonal farm worker households, may have their income averaged. To determine the household's eligibility, all other income is added to this averaged monthly income then the income exclusions and deductions are applied in the normal manner.

(1) **Fluctuating income.** Households with fluctuating income may elect to have the income averaged.

(A) If the household indicates the most recent 30 days income is representative of anticipated future earnings, it is appropriate to use this income for computing gross monthly income.

(B) When the household indicates the most recent 30 days of income is not representative of anticipated future income, the worker uses additional months income to arrive at a representative anticipated monthly gross income.

(C) Income that is received more often than monthly is converted to a monthly income prior to determining a monthly average. The number of months used to arrive at the average income need not be the same as the number of months in the certification period. For example, if fluctuating income for the past 30 days and the month of application are known and, with reasonable certainty, are representative of the income fluctuations anticipated for the coming months, the income for the two months may be averaged and projected over the certification period.

(2) **Employment contract and self-employment.** Households which by contract or self-employment derive their annual income in a period of time shorter than one year must have that income annualized over a 12-month period, provided the income from the contract is not received on an hourly or piece-work basis. These households may include school employees, sharecroppers, farmers, and other self-employed households. These provisions do not apply to migrant or seasonal farm workers.

(d) **SSA/SSI Income.** When using the Beneficiary and Earnings Data Exchange System (BENDEX) or the State Data Exchange System (System) to verify Social Security (SSA) benefits or Supplemental Security Income (SSI), see OAC 340:65-3-4.

340:50-7-47. Anticipating income [REVOKED]

~~For the purpose of determining the household's eligibility and monthly benefit allotment, the social services specialist takes into account the income already received by the household and any anticipated income the household can be reasonably certain to receive during the certification period. If the amount of income that will be received or when it will be received is uncertain, that portion of the household's income that is uncertain is not counted. For example: a household's anticipated income from a new source, such as a new job, recently applied for public assistance, or unemployment benefits, may be uncertain as to the time and the amount of the initial payment. The anticipated payment is not considered unless there is reasonable certainty concerning the month the payment will be received and the amount of the payment. The payment is disregarded if there is no way to determine the amount of the payment. If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average. Households shall be advised to report all changes in gross monthly income as required.~~

~~(1) **Income received in past 30 days.** Income received during the past 30 days may be used as an indicator of income anticipated to be available to the household during the next certification period. Past income is not used to anticipate future income for any month in which a change in income has occurred or employment has terminated.~~

~~(2) **Regular employment.** In cases where the head of the household or other members of the household have regular employment, income from previous months is usually a good indicator of the amount of income that can be anticipated in the month of application and subsequent months. If information supplied by the household or collateral contact indicates that future income will differ substantially from the previous month's income, the social services specialist uses such information to make a reasonable estimate of the anticipated income. The method used to determine the income is fully documented in the case record.~~

~~(3) **Withheld wages.** Wages withheld at the request of the employee are considered income to the household in the month the wages would otherwise be paid by the employer. However, wages withheld by the employer as a general practice even if in violation of the law are not to be counted as income to the household, unless the household anticipates that it will ask for and receive an advance, or the household anticipates that it will receive income from previously held wages. Advances on wages are only counted as income when they can be reasonably anticipated.~~

340:50-7-48. Averaging income [REVOKED]

~~Households except for destitute and migrant or seasonal farm worker households may have their income averaged. To determine the household's eligibility, all other income is added to this averaged monthly income then the income exclusions and deductions are applied in the normal manner.~~

~~(1) **Fluctuating income.** Households with fluctuating income, such as income received on an hourly wage or piece work basis, may elect to have such income averaged. At a minimum, at least two months' worth of income that is known or one month that is known and one month that can be anticipated with reasonable certainty and that is representative of the fluctuations is needed in order to average income. Income that is received more often than monthly is converted to monthly income prior to determining a monthly average. The number of months used to arrive at the average income need not be the same as the number of months in the certification period. For example, if fluctuating income for the past 30 days and the month of application are known and, with reasonable certainty, are representative of the income fluctuations anticipated for the coming months, the income for the two months may be averaged and projected over the certification period.~~

~~(2) **Employment contract and self-employment.** Households which by contract or self-employment derive their annual income in a period of time shorter than one~~

~~year shall have that income annualized over a 12 month period, provided the income from the contract is not received on an hourly or piece work basis. These households may include school employees, share croppers, farmers and other self-employed households. However, these provisions do not apply to migrant or seasonal farm workers.~~

~~(3) **Student income.** Households receiving scholarships, deferred educational loans or other educational grants shall have such income, after exclusions, averaged over the period for which it was provided.~~

SUBCHAPTER 9. ELIGIBILITY AND BENEFIT DETERMINATION PROCEDURES

340:50-9-1. Determining the food stamp allotment and teleprocessing certifications

(a) **Cases with unverified deductible expenses.**

(1) **Benefits without deductions.** If a deductible expense cannot be verified before the 30-day processing standard for applications expires, the ~~social services specialist~~ worker determines the household's benefit level without giving a deduction for the claimed but unverified expense. ~~The utility standard is used if the household wishes to claim utility expenses in excess of the standard utility amount, but the higher amounts cannot be verified.~~ If the household is eligible without allowing the expense, an allotment which does not reflect deduction of the expense is provided within 30 days after the application is filed. If the household wishes to claim expenses for an unoccupied home, the ~~social services specialist~~ worker verifies the household's ~~actual~~ utility expenses for the unoccupied home and ~~does not use~~ uses the appropriate utility standard ~~utility amount~~.

(2) **Benefits delayed.** If a deductible expense cannot be verified before the 30-day processing standard for applications expires and the household is ineligible unless the expense is allowed, the household application is held pending or denied.

(b) **Determining household eligibility.** In calculating net monthly income, cents are used in determining each source of each individual's monthly income and the household's monthly dependent care, shelter, or medical expense. When the monthly amount of each individual's source of income or each of the household's expenses ~~are~~ is established, and at all other steps of the net income computation, cents are rounded to the nearest dollar, 1 cent – through 49 cents is rounded down and 50 cents – through 99 cents is rounded up. For example an individual's weekly earnings of $99.90 are multiplied by the number of checks that will be received in a month's time and the cents rounded to the nearest dollar, $99.90 x 4.3 = $429.57 rounded to $430. Due to changes in composition or circumstances, households certified under gross income standards may become subject to net income standards during the certification period or vice versa. The ~~social services specialist~~ worker is required to change the one income standard to the other when any change is made in the case to adjust the household's eligibility, benefit level, or certification period, or at recertification, whichever is earlier.

(1) **Households without elderly or disabled members.** If the household does not have an elderly or disabled member, the household's total gross monthly income and household size are the first basis for determining eligibility. The household is not eligible if the total gross income exceeds the Maximum Gross Income Standard for the appropriate household size as shown on ~~DHS~~ Oklahoma Department of Human Services (OKDHS) Appendix C-3, Maximum ~~Food Stamp~~ Coupon Allotments and Standards for Deductions, Maximum Income~~,~~ and Utilities (Food Stamps). After gross income, resource, and non-financial conditions of eligibility are established, the net food stamp monthly income is computed and compared to the Maximum Net Income Standard for the appropriate household size as shown on ~~DHS~~ OKDHS Appendix C-3. If the net food stamp income does not exceed this standard, the household is determined eligible. The steps in (A) ~~-~~through (H) of this paragraph are used to determine the household's net food stamp monthly income if the household does not contain an elderly or disabled member.

(A) Add gross monthly income earned by all household members including any net self-employment income minus the earned income exclusions to determine the household's total gross earned income.

(B) Multiply the total gross earned income by the appropriate earned income deduction according to ~~DHS~~ OKDHS Appendix C-3 and subtract that amount to determine the net monthly income. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance.

(C) Add the net monthly earned income and the total monthly unearned income of all household members, minus income exclusions.

(D) Subtract the standard deduction as shown in ~~DHS~~ OKDHS Appendix C-3.

(E) Subtract monthly dependent care expenses, if any, up to the maximum amount allowed as shown in ~~DHS~~ OKDHS Appendix C-3. A dependent care deduction cannot be allowed for dependent care expenses which are reimbursed or paid for under an Employment and Training Program or other source.

(F) Subtract verified legally-binding child support payments made to someone outside the food stamp household.

(G) Add the allowable shelter expenses to determine the total shelter costs. Subtract from the total shelter costs 50% of the adjusted income, the household's monthly income after all of the deductions given in subparagraphs (A) – through (F) of this paragraph have been subtracted. The remaining amount, if any, is the excess shelter costs. If there are no excess shelter costs, the net monthly income has been determined. If there are excess shelter costs, go to the next step.

(H) To apply the excess shelter costs, subtract excess shelter costs from the adjusted income if the total of excess shelter costs ~~do~~ does not exceed the maximum shown in ~~DHS~~ OKDHS Appendix C-3. If the total of the shelter costs ~~exceed~~ exceeds the standard shown in ~~DHS~~ OKDHS Appendix C-3, only the amount not exceeding the standard is deducted.

(2) **Households with elderly or disabled members.**

(A) The steps listed in (i) – through (ix) of this subparagraph are used to determine the household's net food stamp income if the household does contain an elderly or disabled member.

(i) Add gross monthly income earned by all household members, including any net self-employment income minus the earned income exclusions, to determine the household's total gross earned income.

(ii) Multiply the total gross earned income by the appropriate earned income deduction from ~~DHS~~ OKDHS Appendix C-3 and subtract that amount to determine the net monthly income. The earned income deduction is not allowed on any portion of income earned under a work supplementation or support program that is attributable to public assistance.

(iii) Add the net monthly earned income and the total monthly unearned income of all household members, minus income exclusions.

(iv) Subtract the standard deduction as shown in ~~DHS~~ OKDHS Appendix C-3.

(v) Subtract medical expenses which exceed $35 for the elderly or disabled household members only. Thirty-five dollars is subtracted only once for the household rather than for each household member.

(vi) Subtract monthly dependent care expenses, if any, up to the maximum amount allowed as shown in ~~DHS~~ OKDHS Appendix C-3. A dependent care deduction cannot be allowed for dependent care expenses which are reimbursed or paid for under an Employment and Training Program or other source.

(vii) Subtract verified legally-binding child support payments made to someone outside the food stamp household.

(viii) Add the allowable shelter expenses to determine the total shelter costs. Subtract from the total shelter costs 50% of the adjusted income, the household's monthly income after all of the deductions in (i) – through (vi) of this subparagraph have been subtracted. The remaining amount, if any, is the excess shelter costs. If there are no excess shelter costs, the net monthly income has been determined. If there are excess shelter costs, go to the next step.

(ix) To apply the excess shelter costs, subtract excess shelter costs from the adjusted income.

(B) When a household that contains an elderly or disabled member meets the other resource and non-financial conditions of eligibility, the household's net food stamp monthly income and household size are the basis for determining eligibility. The net food stamp monthly income is compared to the Maximum Net Income Standards for the appropriate household size as shown on ~~DHS~~ OKDHS Appendix C-3. If the net food stamp income does not exceed this standard, the household is determined eligible.

(c) **Food stamp allotment.**

(1) **Initial month proration.**

(A) Initial month means the first month the household is certified for food stamps following any period during which the household was not certified. Food stamp allotments for an initial month are based upon the date of the application and prorated from the date of application. Proration of benefits from the application date applies to the new case if one food stamp household separates into two or more food stamp households. Migrant and seasonal farm workers are not prorated when the household has participated in food stamps in the prior month. While a household's eligibility for the initial month is determined by considering the household's circumstances for the entire month of application, the allotment is based on the day of the month the household applies for benefits. The monthly allotment that the recipient would be eligible to receive if proration did not apply must be determined prior to computation by using the prorated allotment on ~~DHS~~ OKDHS Appendix B, Proration Table for TANF and Food Stamp Benefits, or by using the formula: (31 ~~Application Date~~ minus the application date) x ~~Monthly Allotment~~ monthly allotment divided by 30 = the prorated allotment.

(B) The prorated allotment is rounded down to the lower dollar. If the answer is less than $10, the household is denied for the month of application but certified for the next month. If the household applies on the 31st day of the month, use the 30th for the application date for purposes of this provision. Households ~~which~~ that apply after the 15th of the month are issued the prorated benefits for the month of application and the benefits for the first full future month on the same day.

(C) When a household is certified for the month following the month of initial application because the household failed to furnish necessary information, benefits are prorated from the date the household furnished the information. The application date becomes the date information was furnished to ~~the Department~~ OKDHS.

(2) **Monthly allotment.** The monthly allotment for all months except the initial month is the amount listed on ~~DHS~~ OKDHS Appendix C-3 for the appropriate household size and net income.

(d) **Certification periods.** Definite periods of time are established for each eligible household to receive benefits.

At the expiration of each certification period, entitlement to food stamp benefits is established only upon a recertification based upon a newly completed application, an interview, and verification required. Under no circumstances are benefits continued beyond the end of a certification period without a redetermination of eligibility. The month of application is the first month in the certification period for initial applicants if eligibility is determined within the 30-day period. Because of anticipated changes, a household may be eligible for the month of application but ineligible for the subsequent month. In this situation, the household is certified for the month of application only. If a household is found to be ineligible and is denied benefits for the month of application but is eligible for subsequent months, a new application form is not needed and the case is certified effective the month following the month of application. During the application process a household who did not appear for their first scheduled interview may request a new interview date be scheduled through the 30th day following their application date. See delayed applications in paragraph (1) of this subsection to determine the proration date of the food stamp allotment. When an application is denied because the household did not provide the requested information and the applicant furnishes the needed information and an eligibility determination can be made within the second 30-day period, no new application is needed. The case is then certified using the date the information or verification is furnished as the application, certification, or proration date.

(1) **Delayed applications.** Applications which have been neither approved nor denied by the 30th day are considered delayed applications. On the 30th day following the application date, every delayed application is assessed to determine who caused the delay. The purpose of this assessment is to determine if the benefits are denied and what date is used to prorate benefits if the household is determined eligible at a later date.

(A) **Delay caused by the county.** When the processing delay is caused by the county, the application remains in pending status. At the end of the first 30 days the household is notified of the reason the application is still pending using Form ABCDMS-37-A, Notice to Client of Action Taken. If the household is later determined eligible, the case is certified back to the date of application. County caused delays include, but are not limited to, the circumstances given in (i) ~~-~~through (vi) of this subparagraph.

(i) The household's first interview was scheduled on or before the 20th day following the date of application. The household appeared for the interview but subsequently failed to provide the needed verification. During the interview the ~~social services specialist~~ worker did not explain to the household or provide the information in writing regarding:

(I) what factors must be verified;

(II) what is considered acceptable verification; or

(III) by what date the information must be supplied.

(ii) An interview was never scheduled for the household.

(iii) The ~~social services specialist~~ worker did not offer or provide assistance to the household in obtaining the verification as required or did offer assistance but failed to follow through on collateral contacts or release of information.

(iv) The ~~social services specialist~~ worker discovered that additional information was needed after the interview but the client did not have ten days between the request for the verification and the 30th day of the application process.

(v) The household missed their first interview on or before the 30th day and requested that the interview be rescheduled. The county was unable to schedule the second interview date until after the 30th day.

(vi) The eligible household provided all the needed verification on or before the 30th day, and the application was not approved or denied ~~by the social services specialist~~.

(B) **Delay caused by the household.** When the processing delay is caused by the household, the application is denied on the 30th day. The household is notified that the application is denied by computer-generated notice. When the household provides the needed verification in the second 30 days, no new application is needed. If the household is determined eligible, the food stamp allotment is prorated from the date the household provided the verification. Household caused delays include, but are not limited to, the circumstances given in (i) ~~-~~through (iii) of this subparagraph.

(i) The household's first interview was scheduled on or before the 20th day following the date of application. The household appeared at the interview but subsequently failed to provide the needed verification. The ~~social services specialist~~ worker provided the household with a statement of required verification, offered to assist the household in obtaining the verification, and also allowed the household sufficient time to provide the verification.

(ii) The household missed their first interview and requested on or before the 30th day that the interview be rescheduled. The interview was rescheduled to be held on the 30th day; however, the household did not provide all the needed verification at the rescheduled interview.

(iii) The household missed their first interview and requested on or before the 30th day that the interview be rescheduled. The household stated they could not come in until after the 30th day.

(2) **Length of certification periods.** Households are assigned the longest certification period possible based on the predictability of the household's circumstances. In (C) and (D) of this paragraph, the length of the incapacity

must be expected to exceed the length of the certification period.

(A) **One month.** A one-month certification is assigned only to:

(i) households eligible only for the month of application; and

(ii) migrant farm worker households, in the work stream, who apply before the 16th of the month.

(B) **Two months.** A two-month certification is assigned only to:

(i) households eligible only for the month of certification and subsequent month; and

(ii) migrant farm worker households, in the work stream, who apply after the 15th of the month.

(C) **Three to six months.** A three to six-month certification is assigned to all households with circumstances not addressed in subparagraphs (A), (B), or (D) of this paragraph. Information to be used as guidelines for the length of certification periods for groups listed in this subparagraph is given in (i)(I) ~~-~~ through (III) of this subparagraph.

(i) The ~~social services specialist~~ worker reviews the case carefully to see if there have been overissuances or underissuances due to the household's failure to report:

(I) changes in income;

(II) changes in household composition; or

(III) moving from residence to residence, thereby changing the shelter expense.

(ii) The factors in (i)(I) ~~-~~ through (III) of this subparagraph are some of the factors to be checked, but are not meant to be all inclusive. At the discretion of the ~~social services specialist~~ worker, a shorter certification period may be assigned. The length of the certification period assigned groups in this subparagraph is based on review of the history of the household and the judgment of the ~~social services specialist~~ worker.

(D) **Twelve months.** A 12-month certification period is assigned to non-public assistance (non-PA) households who have countable earned income at certification unless the household contains an able-bodied adult without dependents member who is not meeting the work requirement or is not otherwise exempt. These households are required to complete a benefit review form at six-month intervals. They are known as semi-annual reporters.

(E) **Twenty-four months.** A 24-month certification period is assigned to non-PA households when all adult members are elderly or disabled without earned income. These households are required to complete a benefit review form at 12-month intervals. They are known as annual reporters.

340:50-9-5. Changes after application and during the certification period

(a) **Applicant households.** Applicant households must report all changes related to their eligibility and benefits. ~~Changes~~ Households must report changes, which occur after the interview but before date of the notice of eligibility, ~~must be reported by the household~~ within ten days of the date of the notice.

(b) **Certified households.** Those households assigned a certification period other than 12 months are required to report within ten days:

(1) changes in sources of income;

(2) changes in unearned income of ~~$25~~ $50 per month or more;

(3) changes in earned income of more than $100 per month;

(4) all changes in household composition, such as an addition or loss of a household member;

(5) changes in residence and resulting changes in shelter costs;

(6) the acquisition of licensed vehicles not fully excluded;

(7) cash on hand, stocks, bonds, and money in bank checking or savings accounts or savings institutions, when ~~they reach~~ the balance reaches or ~~exceed~~ exceeds a total of $2000; and

(8) changes in the legal obligation to pay child support.

(c) **Change affecting food stamp ~~allotment~~ benefit.** If a reported change affects the household's eligibility or food stamp ~~allotment~~ benefit amount, the household is notified of the adjustment to be made and the effective date. The ~~social services specialist~~ worker has ten days from the date the change is reported to take the necessary action.

(d) **Follow-up.** The household is notified of the receipt of the change report by a computer-generated notice.

(1) If the household fails to report a change within the ten-day period and, as a result, receives benefits to which it is not entitled, an overissuance is referred to the Family Support Services Division, Overpayment Section~~, State Office~~.

(2) If the ~~social services specialist~~ worker fails to take action on a reported change within the prescribed time limits and benefits are lost, they are restored to the household.

(e) **Changes which increase benefits.** Changes resulting in a benefit increase must be verified. The household is allowed ten days to verify the information.

(1) The change is made effective no later than the first issuance to be delivered ten days after the date the change was reported or verified, whichever is later.

(2) The ~~social services specialist~~ worker issues a supplement when a change that increases benefits is reported too late to verify and make the change by regular roll deadlines.

(3) The household is allowed ten days to verify the information.

(4) If verification is provided timely, the supplement is issued by the tenth day following the date the change

was reported, or the date the regular roll benefit is to be received, whichever is later.

(5) If the required verification is not provided within ten days but is provided at a later date, the supplement is issued within ten days of the date verification was provided, rather than from the date the change was reported.

(f) **Changes which decrease or terminate benefits.** A case is closed, **never** suspended, if a change in household circumstances causes a household to be ineligible for food stamp benefits. When a household's benefit level decreases or is terminated, an advance notice is required unless exempt from such a notice for a reason listed in (1) and (2) of this subsection. When an advance notice is required, the decrease or termination of the benefit is effective no later than the month following the month in which the advance notice period expired. When the change is reported less than ten days before the advance notice deadline, the action must be taken before advance notice deadline the following month. Advance notice is not required when:

(1) the ~~Agency~~ Oklahoma Department of Human Services (OKDHS) receives a clear written statement signed by a responsible household member stating he or she no longer wishes food stamps or giving information which requires termination or reduction of food stamp benefits and stating that he or she understands the food stamp benefit will be reduced or terminated. The household retains its right to a fair hearing and to continue benefits if a fair hearing is requested within ten days of the change notice; and

(2) the reduction or termination of food stamp benefits is based on situations listed in (j) of this Section.

(g) **Annual reporting households.** Non-public assistance (non-PA) households with all adult members elderly or disabled with no earned income are known as annual reporters. A 24-month certification period is automatically assigned. These households are required to report within ten days those changes listed in (b) of this Section.

(h) **Benefit review form for annual reporters.** Annual reporting households are sent a computer-generated review form in the 11th month of certification. The intent of this form is to allow the household's circumstances to be reviewed without requiring face-to-face contact.

(1) The ~~social services specialist~~ worker must act on any changes reported on the benefit review form.

(2) If the reported changes result in a reduction or termination of benefits, an adequate advance notice must be sent.

(3) If the household fails to provide sufficient information regarding a deductible expense, the benefits must not be terminated, but processed without regard to the deduction.

(4) The annual review form must be completed and returned to the county office, along with all required verification, by the last day of the 12th month.

(i) **Semi-annual reporting households.** A 12-month certification period is assigned to non-PA households who have countable earned income at certification unless the household contains a member who is an able-bodied adult without dependents and who is not meeting the work requirement or is not otherwise exempt. These households are only required to report changes which result in their gross monthly income exceeding 130 percent of the monthly poverty income guidelines for their household size. The ~~social services specialist~~ worker must act on any changes reported by these households which would increase their benefits. Changes reported by the household which would result in a decrease in benefits are also acted upon by the ~~social services specialist~~ worker. The system determines if the change results in a decrease in benefits. A decrease in the benefits will not occur unless the:

(1) household has requested the case be closed; or

(2) ~~social services specialist~~ worker has information about the household's circumstances considered verified upon receipt.

(j) **Benefit review form for semi-annual reporters.** Semi-annual reporting households are sent a computer-generated review form in the fifth month of certification.

(1) The ~~social services specialist~~ worker must act on any changes reported on the benefit review form.

(2) If the reported changes result in a reduction or termination of benefits, an adequate advance notice must be sent.

(3) If the household fails to provide sufficient information regarding a deductible expense, the benefits must not be terminated, but processed without regard to the deduction.

(4) The semi-annual review form must be completed and returned to the county office, along with all required verification, by the last day of the sixth month.

(k) **Notice of adverse action not required.** The situations listed in (1) - (8) of this subsection do not require a notice of adverse action.

(1) **Mass changes.** The individual notification requirement is waived when changes affecting the entire caseload or significant portions of the caseload are initiated because of changes or requirements in federal or state law. In these situations, the ~~State Office~~ Family Support Services Division (FSSD) mails notices to the households informing them of the changes which are about to be made.

(2) **Notice of death.** If the ~~social services specialist~~ worker determines, based on reliable information, that all members of the household are deceased, notice of adverse action is not required.

(3) **Moved out of county.** Notice of adverse action is not required when the ~~social services specialist~~ worker determines, based on reliable information, that the household has moved out of the county and that a transfer request has not been received.

(4) **Completion of restoration of lost benefits.** Notice of adverse action is not required if the household is previously notified in writing when restoration of lost benefits is completed and the household's food stamp ~~allotment~~ benefit is reduced due to completion of restoration of lost benefits.

(5) **Variable ~~allotment~~ food stamp benefit.** The household ~~allotment will vary~~ benefit amount varies from

month to month within the certification period to take into account changes which were anticipated at the time of certification and the household was so notified at the time of certification.

(6) **Willful misrepresentation.** Notice of adverse action is not required if a person in the household is disqualified for willful misrepresentation. If there is more than one person in the household, the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member.

(7) **Food stamp recoupment.** A notice of adverse action is not required if the household fails to make agreed upon cash or food stamp repayment of an overpayment.

(8) **Drug or alcohol treatment center or group home loses approved status.** If a household's eligibility is being terminated because the drug or alcohol treatment center or group home facility is no longer approved, an individual notice of adverse action is not required.

(l) **Action on changes when fair hearings are requested.** When a household requests a fair hearing within ten days of the date shown on the adverse action notice, the household may continue to receive food stamps.

SUBCHAPTER 10. ELECTRONIC BENEFIT TRANSFER (EBT)

340:50-10-11. ~~Conversion of benefits~~ Food stamp household leaves the state

When a household moves to another state and ~~is unable to access any remaining~~ has benefits remaining in their account, the ~~Agency converts~~ Oklahoma Department of Human Services (OKDHS) does not convert their electronic benefits to coupons. The Access Oklahoma card can be used in most states. Most major retailers accept the Access Oklahoma card. If the household is unable to locate a store near their new residence, the benefits must be used in Oklahoma before they move or can be used to purchase food in areas or states that accept the Access Oklahoma card during their move.

~~(1) The Agency rounds the benefits remaining in an Electronic Benefit Transfer (EBT) account down to the nearest dollar amount suitable for coupon issuance.~~

~~(2) The household is required to spend any remaining EBT benefits within one week after conversion occurs. The Agency then expunges the benefits from the account.~~

SUBCHAPTER 13. FAIR HEARINGS

340:50-13-2. Hearing based on any action relating to a food stamp application or case

(a) **Client rights.** Every applicant and participating household has the right of appeal on any action relating to their food stamp application or case. Applicants and recipients are advised orally as well as in writing of their right to a fair hearing and of the procedures for appealing any decision.

(b) **Hearing request.** Every applicant and participating household who believes proper consideration has not been given to the circumstances surrounding their situation may request a hearing. This request may be made orally or in writing.

(1) When the aggrieved client chooses to orally request a hearing instead of making a written request, the client is given an opportunity to review the situation with a supervisory or administrative staff member in the local office. If the situation is not resolved in the review or the aggrieved client does not wish to review the situation with local supervisory or administrative staff, a memorandum is prepared summarizing the client's reason(s) for requesting a fair hearing and the identifying portion of ~~Appendix G of Chapter 2~~ Form H-1, Request for a Hearing, is completed. The memorandum and ~~Appendix G~~ Form H-1 are prepared in triplicate. The original is submitted to the ~~State Director~~ Oklahoma Department of Human Services (OKDHS), Attention: Appeals Unit, with a copy given to the client, and a copy filed in the local case record.

(2) Households wishing to contest a denial of expedited service must be given an opportunity to have an ~~agency~~ OKDHS conference scheduled within ~~2~~ two working days unless the household requests it be scheduled later or states it does not wish to have an ~~agency~~ OKDHS conference. The ~~agency~~ conference is handled in accordance with procedures in ~~Subchapter 5 of Chapter 2~~ OAC 340:2-5-61.~~;~~ ~~however, a~~ A fair hearing must ~~still~~ be held if the issue is not resolved or the household does not withdraw its request for a fair hearing by signing ~~Appendix I of Chapter 2~~ Form H-3, Withdrawal of ~~a~~ Request for ~~a~~ Hearing.

(c) **Participation during appeal.** If a household requests a hearing during the ten-day advance notice period, the household can choose to continue participation on the basis of the household's situation authorized immediately prior to the notice of adverse action. ~~However, if~~ If the appeal is not sustained, the client ~~will be~~ is required to reimburse the ~~cash value of coupons~~ benefits received ineligibly. If the household chooses not to continue participation on the basis immediately prior to the notice of adverse action and the appeal is sustained, the household is entitled to the retroactive benefits ~~for the value of coupons~~ lost during the appeal period. If the household failed to request continuation of benefits within the advance notice period and later establishes there was good cause for the failure, the worker ~~shall reinstate~~ reinstates the benefits to the prior basis. If benefits are reduced or terminated as a result of a mass change without individual notice of adverse action, ~~the Department will~~ OKDHS, upon request of the household, ~~reinstate~~ reinstates benefits if the issue being appealed is that eligibility or benefits were improperly computed. If a household requests a hearing and continuation of benefits as a result of ~~action or actions~~ action(s) taken by ~~the Department~~ OKDHS at initial certification or on a subsequent application, benefits are not reinstated or continued except as authorized at such initial or subsequent certification.

(d) **Reduction or termination prior to hearing decision.** Once continued, benefits are not reduced or terminated prior to a hearing decision except under the circumstances in (1) and (2) of this subsection.

(1) **Change in circumstances while hearing is pending.** If a change in circumstances, ~~(~~other than the issue being appealed~~)~~, occurs while the hearing decision is pending which affects the household's eligibility or basis of issuance and the household does not request an additional hearing and continuation of benefits after the notice of adverse action, such action is initiated by the worker. ~~However, the coupon~~ The benefit allotment must be based on any income the household had prior to the first notice of adverse action.

(2) **Notification to household.** The head of the household is mailed written notice of the decision of the Appeals Committee and is apprised of the reason for the decision. At the same time, the head of the household is advised of any further right to appeal.

(e) **Hearing decision.** Decisions of the Appeals Committee may not run counter to federal law, regulation, or policy. The hearing ~~should be~~ is conducted, ~~and~~ a decision is reached, and the household and county office are notified within 60 calendar days of receipt of the fair hearing request. A decision which results in an increase in household benefits ~~shall be~~ is reflected in the ~~coupon allotment~~ benefit within ten days of the receipt of the hearing decision.

SUBCHAPTER 15. OVERPAYMENTS AND FRAUD

PART 1. OVERPAYMENTS

340:50-15-1. Scope and applicability

An overissuance or overpayment of food stamp benefits occurs when a household receives more food stamp benefits than it is entitled to receive. When the ~~social services specialist has determined~~ worker determines a household may have received more food stamp benefits than it is entitled to receive, the ~~social services specialist~~ worker makes a referral to Family Support Services Division (FSSD) Overpayment Section~~, State Office,~~ within 30 days of the date of discovery for determination of an overpayment.

(1) Instances which may result in referral for an overpayment determination include, but are not limited to:

(A) the household:

(i) failing to provide the Oklahoma Department of Human Services with correct or complete information;

(ii) failing to report changes in ~~its~~ household circumstances;

(iii) electing to receive benefits pending a fair hearing decision which subsequently found the ~~family~~ household ineligible or eligible for fewer benefits; or

(iv) trafficking benefits;

(B) the ~~social services specialist~~ worker:

(i) assigning an incorrect allotment;

(ii) failing to take prompt action on a change reported by the household;

(iii) incorrectly computing the household's income, deductions, or both; or

(iv) incorrectly authorizing issuance to a household; or

(C) any overissuance discovered as a result of a Quality Control Review.

(2) Persons responsible for paying a claim are:

(A) each person who was an adult member of the household when the overpayment or trafficking occurred; or

~~(B) a sponsor of an alien household member if the sponsor is at fault; or~~

(~~C~~B) a person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.

(3) The FSSD Overpayment Section~~, State Office,~~ classifies overpayments as inadvertent client error, intentional program violation also known as fraud, or agency error. The FSSD Overpayment Section treats all overpayments as inadvertent client error or agency error until Form H-S-13A, Administrative Disqualification Hearing Waiver, is signed or a court of law finds a household guilty of fraud.

(4) The FSSD Overpayment Section sends Form FSP-S-18, Notification of Food Stamp Overpayment, to the client along with page 1 of Form FSP-10, Report of Food Stamp Overissuance.

(5) The FSSD Overpayment Section postpones notification on cases being referred for judicial court decision until a court decision has been made.

(6) Food stamp overpayments classified as inadvertent client error or agency error ~~will~~ do not cover more than 12 months prior to the month in which the overpayment was discovered. Food stamp overpayments classified as fraud may cover the entire time the overpayment occurred. However, the time covered cannot include periods more than six years prior to the date the overpayment was discovered.

(7) Food stamp overpayments arising from trafficking related offenses ~~will be~~ are the value of the trafficked benefits as determined by the individual's admission, adjudication, or documentation that forms the basis for the trafficking determination.

(8) When the ~~social services specialist~~ worker and the Overpayment Section suspect an intentional program violation, the Overpayment Section makes a referral to the Office of Inspector General or to the Appeals Unit for a determination of fraud.

340:50-15-6. Development of repayment

(a) **Repayment of established overpayments.** Households must make repayment on all established ~~overpayments~~ overpayment claims regardless of the reason for the overpayment. Family Support Services Division (FSSD) Overpayment Section initiates collection efforts against all adult household members except those who are deceased. Collection may be received from two separate households for the same claim. Any other collection method may be used against any adult

individual who was in the household at the time of the overpayment and who is not a current member of the household undergoing allotment reduction. The FSSD Overpayment Section sends the client Form FSP-18-B, Food Stamp Repayment Agreement, that explains the acceptable methods of repayment for the debt classification. The client is responsible for completing and returning Form FSP-18-B within the appropriate time frame. The food stamp overpayment is considered delinquent if the overpayment claim is not paid within 30 days of the date of the FSP-S-18, Notification of Food Stamp Overpayment, or a monthly payment, as designated on the repayment agreement, has not been made by the due date. An overpayment claim is not considered delinquent if another food stamp overpayment claim for the same household is currently being paid either through a previous repayment agreement or allotment reduction. Paragraphs (1) ~~-~~ through (2) of this subsection describe the basis for acceptable methods of repayment and time frames for client responses.

(1) **Agency error or inadvertent client error.** To make a voluntary plan of repayment of an agency error or inadvertent client error debt, the client must complete and return Form FSP-18-B within ~~20~~ 30 days of the date on the form. If the client fails to return Form FSP-18-B, FSSD ~~will begin~~ begins recoupment from the client's food stamp benefits.

(2) **Intentional program violation.** To make a voluntary plan of repayment of an intentional program violation debt, the client must complete and return Form FSP-18-D, Repayment Agreement ~~for~~ - Fraud ~~Debts~~ Debt, within ~~ten~~ 30 days of the date on the form. If the client fails to return Form FSP-18-D, FSSD ~~will begin~~ begins recoupment from the client's food stamp benefits.

(b) **Repayment options.**

(1) **Payment in full.** The client may repay an overpayment claim in one lump sum by personal check, money order, cashier's check, or Electronic Benefit Transfer (EBT) debit with a signed statement.

(2) **Monthly payments.** The client may repay an overpayment claim in regular monthly installments by personal check, money order, cashier's check, or approved EBT debits. The amount to be repaid in monthly installments cannot be less than the amount that could be recovered through allotment reduction.

(3) **Food stamp allotment reduction.**

(A) **Agency error or inadvertent client error.** The FSSD Overpayment Section ~~will process~~ processes the reduction in the amount of 10% of the client's monthly allotment or $10, whichever is greater. The client may request a reduction up to the client's maximum monthly allotment.

(B) **Intentional program violation.** The FSSD Overpayment Section ~~will process~~ processes the reduction in the amount of 20% of the client's monthly allotment or $20, whichever is greater. The client may request a reduction up to the client's maximum monthly allotment.

(4) **Lost benefit reductions.** Any lost benefit due the household ~~will be~~ is used as payment on a food stamp overpayment claim.

(5) **Client authorized EBT debits.** A household may make a voluntary payment through a debit from the EBT Access account. In order to debit the EBT account a signed statement must be received from the client or the household's authorized, representative giving permission for the debit. This statement is faxed to the FSSD Overpayment Section for immediate processing.

(6) **Expunged benefits.** Expunged food stamp benefits are those where the account has not been accessed for one year. These expunged benefits, when known and identified with an overpayment account ~~will be~~ are used to adjust the overpayment balance by the amount of the expunged benefit.

(7) **Stale benefits.** Stale food stamp benefits are those where the account has not been accessed for three months. These benefits when known and identified with an overpayment account ~~will be~~ are used as payment on a food stamp overpayment claim. This is done only after the client is notified of this intent on the EBT Inactivity Notice and given 30 days from the date of the notice to request these benefits be left in the account for client use.

(c) **Reconsideration of repayment plan.** The client may request reconsideration of the repayment plan by submitting information regarding changes in family and financial circumstances directly to the FSSD Overpayment Section~~, State Office~~. The FSSD Overpayment Section ~~will reconsider~~ reconsiders any repayment plan if circumstances warrant.

(d) **Referrals for Treasury Offset Program (TOP).** If the client fails to pay the overpayment ~~debts~~ claims or payments have become delinquent, the FSSD Overpayment Section ~~may~~ will make referrals to TOP.

(1) **Criteria for TOP.** The criteria for state and federal tax offsets are the:

(A) amount owed must be at least $25;

(B) ~~debt was established less than ten years ago. If the debt is part of a court ordered judgment, the maximum delinquency criteria does not apply~~ claim is under ten years delinquent except for judgment claims;

(C) ~~repayment~~ claim is delinquent by 180 days ~~from the initial notice of overpayment or from a missed installment from a voluntary repayment agreement~~;

(D) ~~debt~~ overpayment claim is not part of a bankruptcy stay or under litigation or review;

(E) client received the original notification of the debt; and

(F) ~~debt~~ overpayment claim is not being collected through allotment reduction, also known as recoupment, or under an approved repayment plan.

(2) **Notification of TOP.** The FSSD Overpayment Section notifies individuals of any intended referral to TOP and mails the notices as the ~~debt~~ overpayment claim meets the criteria in paragraph (1) of this subsection and 60 days prior to referring the ~~debt~~ overpayment claim to TOP. The Overpayment Section mails TOP notices to individuals

at the address provided by United States Department of Agriculture (USDA), Food and Nutrition Service. Information contained in the notice includes:

(A) the individual's Social Security number;

(B) the citation of the statutory authority for the offset;

(C) the instructions on how to pay the claim;

(D) the individual's right to request a review;

(E) all TOP exemptions and restrictions;

(F) information regarding spousal protection from offset;

(G) a statement that all adult household members who were members when the overpayment occurred are liable for repayment of the food stamp ~~debt~~ overpayment claim; and

(H) the individual's right to review applicable records.

(3) **Request for review of intended action.** Individuals whose food stamp ~~debt(s)~~ overpayment claim(s) are being referred to TOP may ask for a review of the intended action. The individual's contention that the claim is not past due or legally enforceable is the basis for the review.

(A) A claim is not past due and legally enforceable if the:

(i) ~~debt~~ claim has been paid and the individual proves it;

(ii) individual cited for offset is not the person who owes the ~~debt~~ claim;

(iii) individual substantiates bankruptcy action; or

(iv) individual denies he or she was informed of the ~~debt~~ overpayment claim and a review of ~~Agency~~ Oklahoma Department of Human Services files substantiates the denial.

(B) The client must request the review within 60 days of the TOP notice date. FSSD Overpayment Section sends written notification of the review decision to individuals requesting reviews. The notice informs individuals requesting a review why the overpayment is or is not being referred to TOP and further review rights to which they are entitled.

(C) The individual can avoid referral to TOP if the individual pays the ~~debt~~ overpayment claim in full or a payment specified by the FSSD Overpayment Section along with an acceptable repayment agreement by 60 days from the date of the TOP notice.

[OAR Docket #04-422; filed 3-24-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 70. SOCIAL SERVICES

[OAR Docket #04-423]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 8. Supplemental Security Income-Disabled Children's Program (SSI-DCP)
340:70-8-1. [AMENDED]
(Reference APA WF # 03-30)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Titles IV-A, IV-B, IV-C, V, XVI, XIX, and XX of the Federal Social Security Act.

DATES:
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December 15, 2003 through January 14, 2004
Public hearing:
None requested.
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January 27, 2004
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March 11, 2004
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 24, 2004.
Final adoption:
March 24, 2004
Effective:
May 1, 2004

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The purpose of the proposed rule revision is to increase the age that children are eligible to receive diapers through SSI-DCP from three years to four years of age.

CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

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 MAY 1, 2004.

SUBCHAPTER 8. SUPPLEMENTAL SECURITY INCOME-DISABLED CHILDREN'S PROGRAM (SSI-DCP)

340:70-8-1. Eligibility and available services

Supplemental Security Income-Disabled Children's Program (SSI-DCP) is established under Section 1615 of the Social Security Act. This provides for the referral by the Social Security Administration (SSA) for Supplemental Security Income (SSI) recipient children who are under 18 years of age to a designated state agency which provides social services.

(1) **Eligibility.** Any child between the age of birth and 18 years of age is eligible if the child receives a Supplemental Security Income (SSI) payment. SSA establishes financial and medical eligibility for the SSI disability payment.

(2) **Service plan.** A service plan must be written by a ~~social service specialist~~ worker for each child on SSI-DCP to plan current and future social service needs. This plan must be reviewed yearly in conjunction with the eligibility review. If the child has other types of benefits which have a current social service plan, an additional social service plan is not necessary. All equipment and services available through SSI-DCP funding must be pre-approved.

(3) **Services.** Services available locally or through SSI-DCP funding are~~:~~ described in (A) through (F) of this paragraph.

(A) **Child care.** The purpose of child care services is to enhance social skills and assist transition into a group setting such as the classroom. Enrichment child care, developmental child care, or both, are available to children with disabilities for a period of ten full-time days per month in an approved child care center.

(i) A written recommendation is submitted by a professional such as an occupational therapist, physical therapist, special education teacher, or physician and processed by the Oklahoma Department of Human Services (OKDHS) county office for approval.

(ii) The professional who writes the recommendation must work directly with the child in some capacity and be knowledgeable concerning the needs of the child.

(iii) This service is only for children who have no other funding source to provide child care.

(B) **Equipment.** Equipment which is ordered, purchased, and paid for through SSI-DCP is available for ~~special needs~~ children with special needs. The equipment must be used to aid the child ~~for~~ in accessibility or mobility ~~purposes~~. It requires a recommendation from a professional such as an occupational therapist, physical therapist, special education teacher, or physician who has professional knowledge concerning the equipment needs of the child.

(i) Computers or computer software are not in the scope of the program.

(ii) Educational or classroom devices, equipment, or supplies ~~which~~ that are not adapted are not in the scope of the program.

(iii) Van lifts are available to a child who is not in ~~State or Tribal~~ OKDHS custody, ~~of DHS~~ tribal custody, or in the Developmental Disabilities Home and Community-Based Waiver Program. The family must own the van as verified by title registration and license verification. Only a certified van lift specialist is approved to install the lift and the lift must have factory and dealership warranty equal to private purchase warranty. The life expectancy of a van lift is ten years through SSI-DCP. Under no circumstances will the lift be replaced prior to the ten-year period. All repairs are the responsibility of the family.

(C) **Diapers.** Diapers are stocked in the ~~DHS~~ OKDHS warehouse. Diapers are ordered and distributed monthly to county offices. To be approved for this service the child must be between ~~three~~ four years and 18 years of age. ~~and a~~ A physician must document in writing that the child cannot be toilet trained. This service request must be renewed yearly at the time of the review to continue receipt of the diapers.

(D) **Formula.** Formula is stocked in the ~~DHS~~ OKDHS warehouse for distribution to the county office for children with special health care needs. Formula is ordered monthly and distributed monthly. A physician or nutritionist must provide a written recommendation naming the brand of formula needed by the child. A written recommendation is required yearly at the time of the review to continue receipt of the formula.

(E) **Developmental ~~aides~~ aid.** ~~Developmental aides are~~ A developmental aid is any device or equipment ~~which~~ that is adapted to meet the ~~special~~ needs of a ~~special needs~~ child with special needs. ~~These items are not~~ A child who is not disabled does not generally ~~used by a non-special needs child~~ use these items. This service request requires a written explanation from a professional such as an occupational therapist, physical therapist, special education teacher, or physician concerning the goals and objectives this equipment would meet.

(F) **Professional services.** These are non-medical services recommended by a physician, physical therapist, or occupational therapist which define goals and objectives to achieve clearly defined results. As the budget allows, certain services are available for emergency needs on a temporary basis.

(4) **Purchasing procedures.** All equipment and materials purchased from SSI-DCP funds must be pre-authorized by Family Support Services Division (FSSD), Health Related and Medical Services (HR&MS) Section ~~(HRMS), State Office~~.

(5) **SSI-DCP notices.** If a SSI-DCP request is denied, a ~~computer generated~~ computer-generated denial notice is sent to the family advising the item is not approved for purchase through the SSI-DCP funding. The family ~~must~~ may request a fair hearing within 30 days from the date of the notice by completing Form H-1, Request for a Fair Hearing.

[OAR Docket #04-423; filed 3-24-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #04-442]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
Part 1. Scope and Applicability
340:75-1-12.1. [REVOKED]
340:75-1-12.2. [AMENDED]
Subchapter 4. Family-Centered and Community Services
Part 1. Voluntary Family-Centered Services
340:75-4-13. [AMENDED]
Subchapter 16. Mental Health Treatment Services
Part 1. Inpatient Mental Health Treatment
340:75-16-39. [AMENDED]
(Reference APA WF 03-33)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Section 7001-1.2 of Title 10 and Section 60.1 et seq. of Title 22 of the Oklahoma Statutes; and Section 5101 et seq. of Title 42 of the United States Code.

DATES:
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December 15, 2003 through January 14, 2004
Public hearing:
None requested.
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January 27, 2004
Submitted to House:
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January 27, 2004
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Failure of the Legislature to disapprove the rule(s) resulted in approval on March 24, 2004.
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March 24, 2004
Effective:
April 26, 2004

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
The revisions to Subchapters 1, 4, and 16 of Chapter 75: eliminate the client resolution process as previously required by the Council on Accreditation (COA); reflect the utilization of Form CWS-KIDS-24, Individualized Service Plan, when opening ongoing Family-Centered Services (FCS) cases; clarify procedures in securing a Victim's Protection Order (VPO); and improve readability and coordination with the KIDS system.

340:75-1-12.1 is revoked as the client resolution process in adherence to COA is no longer required.

340:75-1-12.2 is revised to clarify appeal procedures in coordination with KIDS and specify written notification of the final determination of an abuse/neglect finding(s) to the tribe, if applicable.

340:75-4-13 is revised to reflect the utilization of Form CWS-KIDS-24.

340:75-16-39 is revised to clarify procedures when securing a VPO involving a child age 13 years or older.

CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, Office of Planning, Policy, and Research, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

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 APRIL 26, 2004.

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. SCOPE AND APPLICABILITY

340:75-1-12.1. Client resolution process [REVOKED]

~~(a) All persons with active Child Welfare (CW) Family-Centered Services (FCS) or Permanency Planning (PP) cases have a right to have their CW case reviewed by the Children and Family Services Division (CFSD) program staff regarding the specific areas cited in (1) - (5) of this subsection. Rulings and issues resulting from findings made by the court are not eligible for a case review. The CW supervisor or worker is responsible for providing the parent(s) or person(s) responsible for the child (PRFC(s)) a written notice of the right to this case review at the time the treatment plan is initiated. A request for a case review by CFSD program staff can be made regarding failure of CW staff to comply with DHS policy and procedure as related to the parent(s) or PRFC(s), including:~~

~~(1) a treatment plan within 30 days from the request for voluntary CW services or 60 days from the child's removal from the home;~~

~~(2) the right to visitation with the child when the child has been removed;~~

~~(3) the right to have input into the treatment plan;~~

~~(4) provision of agreed upon services in the treatment plan; or~~

~~(5) provision of an administrative review if no judicial review or Post Adjudication Review Board was held on a court involved case.~~

~~(b) Every effort is made at the local level to resolve matters that may evolve into requests for such a case review.~~

~~(c) Requests for a case review by the parent(s) or PRFC(s) must be submitted in writing within 30 days after the failure to provide any of the identified services within the required time frame.~~

340:75-1-12.2. ~~Appeals~~ Appeal process

(a) **Purpose.** ~~Section 106(b)(2)(A)(xi)(II) of the~~ The 1996 Child Abuse Prevention and Treatment Act (CAPTA), Section 5101 et seq. of Title 42 of the United States Code, requires Child Welfare (CW) to provide an ~~appeals~~ appeal process for ~~individuals~~ persons who disagree with a confirmed finding of child abuse or neglect. The ~~appeals~~ appeal process ~~is designed to~~:

(1) ~~provide the person responsible for a child's (PRFC) health or welfare as described in OAC 340:75-3-2~~ provides an opportunity ~~to have~~ for the review of a confirmed ~~findings reviewed~~ finding(s) by program staff not directly involved in ~~the handling of~~ the investigation;

(2) ~~serve~~ serves as a quality assurance mechanism to assess compliance of staff findings with Child Protective Services (CPS) ~~Standards~~ standards, per OAC 340:75-3; and ~~[OAC 340:75-3]~~

(3) ~~enhance~~ enhances the CPS ~~Program~~ program by providing a review of ~~the~~ confirmed findings ~~of confirmed~~ in investigations.

(b) ~~Criteria~~ **Eligibility criteria.** ~~An individual~~ A person may request a review through the ~~appeals~~ appeal process ~~if~~ when:

(1) the ~~individual~~ person is ~~identified as the~~ a person responsible for the child (PRFC), per OAC 340:75-3-2, in an investigation involving abuse or neglect allegations;

(2) the investigation resulted in a finding of ~~Confirmed Services Recommended~~ confirmed - services recommended or ~~Confirmed Court Intervention Recommended~~ confirmed - court intervention requested regarding the PRFC, and no deprived petition was filed; and

(3) no civil or criminal proceedings are pending in regard to the specific investigation referred for appeal or the court case is dismissed prior to adjudication.

(c) **Procedures for ~~appeals~~ appeal process.** The procedures for the ~~appeals~~ appeal process ~~review~~ are outlined in (1) ~~-~~ through (4) ~~of this subsection~~.

(1) **Notification of PRFC.** Upon confirmation of abuse, ~~and or~~ neglect, or both, the CW worker notifies the PRFC of the ~~findings~~ finding(s) by mailing Form CWS-KIDS-97, Notification Concerning Finding(s) of Child Abuse/Neglect, and Form CWS-KIDS-98, Request for Appeal, provided the criteria ~~apply as described~~ in OAC 340:75-1-12.2(b)(1) ~~and (b)(2) of this Section~~ through (3) are met. ~~Notification sent by the worker must meet specific standards. The Notification must~~ Form CWS-KIDS-97 and Form CWS-KIDS-98 are mailed:

(A) ~~be sent by mail~~ within ten calendar days of a confirmation of abuse or neglect; and

(B) ~~be mailed~~ to the PRFC's last known address~~;~~.

(~~C~~i) Form CWS-KIDS-97 informs ~~advise that~~ the PRFC ~~has~~ of:

(I) a confirmed child abuse or neglect ~~finding~~ finding(s) in an investigation; and

(~~D~~II) ~~inform the PRFC of~~ the date of the abuse or neglect ~~referrals~~ referral, ~~allegations~~ allegation(s), and ~~findings~~ finding(s) without identifying the ~~complainants;~~ reporting party.

(~~E~~ii) Form CWS-KIDS-98 specifies:

(I) ~~specify~~ the PRFC may file an appeal by mailing a request to the Children and Family Services Division (CFSD) Appeals Section within 15 calendar days ~~following receipt of~~ from the ~~initial letter of notification~~ postmark of Form CWS-KIDS-97; and

(~~F~~II) ~~state~~ that failure to submit an ~~appeals~~ appeal request within 15 calendar days following receipt of ~~the notice results will result~~ Form CWS-KIDS-98 results in the ~~finding~~ finding(s) becoming final and ~~waiver of~~ the PRFC waives any right to ~~accessing the appeals process~~ appeal this finding(s) in the future.

(2) **Conditions of good cause.** A PRFC must be granted a review despite failure to make a timely response, provided good cause is established, such as severe illness or other disabling condition.

(3) **Response to ~~appeals~~ appeal request from PRFC.** If the PRFC requests a review within the required time, the Appeals Section responds to the PRFC through written notice within ten calendar days following receipt of PRFC's request for review. The Appeals Section ~~also~~ notifies the PRFC:

(A) of the right to provide additional information through written statements, that must be submitted within 30 calendar days ~~after~~ from the ~~date on the Notice of Appeals Receipt~~ postmark of the notification that the appeal was accepted for review;

(B) that failure to submit additional information within 30 calendar days results in a waiver of this right, unless good cause is established as described in ~~paragraph~~ OAC 340:75-1-12.2(c)(2) ~~above~~; and

(C) that verification of legal representation must be established if the PRFC desires ~~their~~ notification to an attorney ~~to be notified~~ of the determination results. Verification is established by a:

(i) ~~a~~ release of information signed by the PRFC; or

(ii) ~~a~~ statement of representation on official letterhead from the attorney.

(4) **Procedure for conducting the review.** Within 90 days following receipt of the PRFC's timely request for a review, or a late request in which good cause ~~has been~~ is established as described in ~~paragraph~~ OAC 340:75-1-12.2(c)(2) ~~above~~, the Appeals ~~Section~~ Committee determines whether the confirmed ~~finding~~ finding(s) meets the criteria for confirmation ~~as set forth in Child Protective Services policy~~, per OAC 340:75-3.

(A) The ~~determination~~ decision to uphold or reverse the original ~~findings~~ finding(s) is reached by reviewing:

(i) ~~reviewing the~~ Form CWS-KIDS-3, Report to District Attorney, and attachments, ~~as well as~~ and relevant information in the KIDS system; and

(ii) ~~reviewing~~ all ~~additional~~ written statements submitted by the PRFC.

(B) If determination establishes that ~~the findings~~ a finding(s) failed to meet the criteria for confirmation, ~~as set forth in CPS policy OAC 340:75-3~~ the CFSD Appeals Committee reverses the ~~findings~~ finding(s). If the ~~finding~~ finding(s) is reversed, ~~the~~ a new ~~finding will be~~ finding(s) is entered in ~~the~~ KIDS ~~System~~ by the Appeals Section.

(C) Notification of the final determination of ~~findings~~ the finding(s) is the responsibility of the Appeals Section. Notification must be made within 90 days following receipt of the PRFC's request for a review. Written notification is sent to the:

(i) PRFC;

(ii) ~~County Director~~ county director, ~~Child Welfare~~ CW field liaison, CW worker, and CW supervisor; ~~and~~

(iii) ~~Office of District Attorney~~ office of the district attorney in ~~whose~~ the county ~~findings~~ in which the finding(s) originated~~.~~; and

(iv) tribe, if applicable.

SUBCHAPTER 4. FAMILY-CENTERED AND COMMUNITY SERVICES

PART 1. VOLUNTARY FAMILY-CENTERED SERVICES

340:75-4-13. Ongoing FCS services

At the discretion of the county director, the Child Welfare (CW) worker has the option of opening an ongoing voluntary Family-Centered Services (FCS) case. The guidelines and procedures in (1) through (14) are followed when an ongoing voluntary FCS case is opened.

(1) **Ongoing safety and health of the child.** After the CW worker completes the initial Form DCFS-76, Safety Assessment, and Form DCFS-75, Voluntary Family Service Agreement, and determines the need for ongoing voluntary services, the CW worker's actions and plans focus on maintaining the safety of the child while the family works on achieving the goals of Form ~~CWS-KIDS-10, Treatment Plan~~ CWS-KIDS-24, Individualized Service Plan. Form DCFS-76 is completed every six months from case opening, or whenever evidence or circumstances suggest that a child's safety may be in jeopardy.

(2) **Family strengths and needs assessment.** Completing Form CWS-KIDS-9, Family/Child Strengths and Needs Assessment, is an ongoing process throughout the duration of the case. Form CWS-KIDS-9 addresses strengths, needs, ~~and~~ underlying behaviors, and conditions in the family that impact the child's safety, well-being, and permanence.

(3) **Child's needs assessment.** The child's needs assessment is included in Form CWS-KIDS-9. The assessment includes the child's risk related, safety, and other needs. The child's safety needs are included in Form ~~CWS-KIDS-10~~ CWS-KIDS-24 along with desired results that reflect that the ~~parent(s)~~ parent can meet the child's needs. Input from the family or collaterals, such as a child care provider or school teacher, is utilized to fully address the child's needs. Services are also provided to enhance and develop the child's strengths and ensure the child's well-being.

(4) **Treatment planning process.** The objective of the treatment planning process is to determine services needed to help the family provide for the child's safety ~~on their own~~, without CW intervention. The CW worker and the family develop Form ~~CWS-KIDS-10~~ CWS-KIDS-24 to include the permanency goal, strengths~~,~~ and needs of the family and child, and behaviors and conditions that must change. Form ~~CWS-KIDS-10~~ CWS-KIDS-24 is exempt for voluntary cases that are open 30 days or less.

(5) **Child well-being measures.** Child well-being includes ensuring the child's educational, physical, and mental health needs are addressed and documented in the case record. The federal requirements for child well-being measures are the same for voluntary FCS and permanency planning cases.

(6) **Referral for determination of medical eligibility.** The CW worker discusses the child's medical needs and determines whether the family has medical coverage for the child in the home for whom the Oklahoma Department of Human Services (OKDHS) does not have custody. If the family does not have medical coverage for the child, the person(s) responsible for the child (PRFC(s)) is referred to ~~the~~ SoonerCare ~~program according to~~ Health Benefits, per OAC 317:35-6.

(7) **Subsequent family strengths and needs assessments.** Throughout the life of the case, the CW worker and family amend or enhance the family strengths and needs assessment to reflect the results of the continuous evaluation process. The initial Form CWS-KIDS-9 is completed by the CW worker during the first 30 days of service. The expanded or updated assessment is completed within 90 days and is built upon the initial assessment, incorporating any additional relevant information that is gathered through professional evaluations and worker and family contacts.

(8) **Goals and outcomes.** During the treatment process, the CW worker continues to engage the family by working with them on the specific goals of Form ~~CWS-KIDS-10~~ CWS-KIDS-24. The conversations with the family regarding the specific goals are documented in ~~case contacts~~ KIDS.

(9) **Regular and purposeful home visits.** The CW worker continues to maintain a minimum of twice per month home visits with the family, unless worker and supervisory conferences have determined the need for more frequent visits. The CW supervisor must approve any decrease in the number of visits.

(10) **Abuse or neglect in an active voluntary FCS case.** ~~If~~ When a child who is part of an FCS case is reported or observed by the CW worker to have an injury, including an alleged accidental injury, or has evidence of any abuse or neglect, the information is documented ~~as a referral per OAC 340:75-3-6(d)~~ on Form CWS-KIDS-1, Referral Information Report. If new allegations are reported, are more severe in nature, or both, Form CWS-KIDS-3, Report to District Attorney, is completed and submitted to the district attorney.

(11) **Contact with service providers.** The CW worker maintains at least monthly ~~contacts~~ contact with the service provider(s), by phone, in person, or by correspondence. It is the responsibility of the CW worker to keep the provider(s) informed of any changes in the family's circumstances and to provide the provider(s) with a copy of Form ~~CWS-KIDS-10~~ CWS-KIDS-24 that pertains to the service provisions to be addressed.

(12) **Alternative voluntary out-of-home placement.** The CW worker has face-to-face contact with the child in the voluntary out-of-home placement within the first two weeks of placement and a minimum of once every four weeks thereafter. The CW worker makes more frequent contacts in times of change and stress.

(13) **Family progress toward meeting the child's essential needs.** While the family receives services, the CW

worker, at every contact with the child, evaluates whether the child's essential needs are being met. The CW worker assesses the ability of the person(s) responsible for the child (PRFC(s)) to meet the child's essential needs in compliance with the minimal parenting standards established by Form ~~CWS-KIDS-10~~ CWS-KIDS-24.

(14) **Conference with supervisor.** The progress on Form ~~CWS-KIDS-10~~ CWS-KIDS-24 is reviewed by the CW supervisor and CW worker in a conference held at least once per month and documented in KIDS. During the conference, the CW worker and CW supervisor review the frequency of visits to the family and consider whether more frequent supervisory conferences are ~~needed~~ required to staff the case.

SUBCHAPTER 16. MENTAL HEALTH TREATMENT SERVICES

PART 1. INPATIENT MENTAL HEALTH TREATMENT

340:75-16-39. Victim's protection order

When family members are threatened with imminent physical harm by their child, age 13 years or older, the ~~parents contact~~ parent(s) contacts the local ~~district attorney for~~ county court clerk's office and requests a Victim's Protection Order (VPO) petition form. The ~~district attorney~~ court clerk then files ~~a~~ the petition requesting a hearing be set placing the child in the custody of the Office of Juvenile Affairs (OJA)~~.~~. [per Section 60.1 et seq. of Title 22 of the Oklahoma Statutes~~, Domestic Abuse Act, Section 60.1~~]. OJA is responsible for placement of the ~~juvenile~~ child.

[OAR Docket #04-442; filed 3-25-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #04-443]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
Part 1. Scope and Applicability
340:75-1-18.1. [AMENDED]
340:75-1-22. [AMENDED]
Subchapter 6. Permanency Planning
Part 5. Permanency Planning Services
340:75-6-30. through 340:75-6-31. [AMENDED]
340:75-6-31.4. [AMENDED]
Part 7. Case Plans
340:75-6-40. through 340:75-6-40.1. [AMENDED]
340:75-6-40.4. through 340:75-6-40.5. [AMENDED]
(Reference APA WF 03-34)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Sections 7003-5.3 and 7003-5.6(e) of Title 10 of the Oklahoma Statutes.
DATES:
Comment period:
December 15, 2003 through January 14, 2004
Public hearing:
None requested.
Adoption:
January 27, 2004
Submitted to Governor:
January 27, 2004
Submitted to House:
January 27, 2004
Submitted to Senate:
January 27, 2004
Gubernatorial approval:
March 11, 2004
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 24, 2004.
Final adoption:
March 24, 2004
Effective:
April 26, 2004
Gubernatorial approval:
June 4, 2003
Register publication:
20 Ok Reg 2643
Docket number:
03-2039
SUPERSEDED EMERGENCY ACTIONS:
Subchapter 6. Permanency Planning
Part 5. Permanency Planning Services
340:75-6-31.4. [AMENDED]
(Reference APA WF 03-12)
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The revisions to Subchapters 1 and 6 of Chapter 75 modify procedures for arranging the permanency meeting; clarify existing permanency goals and the provisions of the Supported Permanency program; provide for the utilization of KIDS generated Form CWS-KIDS-24, Individualized Service Plan, and Form CWS-KIDS-25, Individualized Service Plan Progress Report; update statutory citations; and improve readability and coordination with the KIDS system.

340:75-1-18.1 is revised to clarify procedures regarding the Child Welfare (CW) worker's role in the permanency meeting held three weeks prior to the permanency hearing.

340:75-1-22 is revised to improve readability and introduce Form CWS-KIDS-24 and Form CWS-KIDS-25 in the administrative case review process.

340:75-6-30 is revised to include Form CWS-KIDS-24 when determining the child's visitation schedule.

340:75-6-31 is revised to introduce the planned alternative permanent placement goal, formerly known as long-term out-of-home placement, and the adoption preparation goal, and the utilization of Form CWS-KIDS-24 as a source for determining the child's permanent plan.

340:75-6-31.4 supersedes the emergency rule and is revised to clarify that the Supported Permanency program is contingent upon availability of funding.

340:75-6-40 is revised to improve readability and delete a reference to accreditation standards.

340:75-6-40.1 is revised to include the filing of Form CWS-KIDS-24 in conjunction with Form CWS-KIDS-8, Placement Plan Report, when applicable.

340:75-6-40.4 is revised to reflect updated statutory cites and provide information on the contents of Form CWS-KIDS-24.

340:75-6-40.5 is revised to reflect the issuance, utilization, and information on the contents of Form CWS-KIDS-25.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, Office of Planning, Policy, and Research, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

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 APRIL 26, 2004.

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. SCOPE AND APPLICABILITY

340:75-1-18.1. Permanency hearings

(a) **Permanency hearing.** Oklahoma statutes comply with federal regulations and set out certain requirements for permanency hearings. The responsibility for conducting the permanency hearing resides with the court~~.~~, ~~[10 O.S. § ~~per Section 7003-5.6d~~]~~ of Title 10 of the Oklahoma Statutes. The Oklahoma Department of Human Services (OKDHS) Child Welfare (CW) workers are responsible for providing the court with the necessary information to conduct the hearing. Permanency hearings are held for every case regarding a child alleged or adjudicated deprived no later than:

(1) six months from the date of the child's placement in out-of-home care for a child who, on the date of initial removal from the physical custody of the parent(s), was ~~under the age of~~ younger than three years, and at least every 12 months thereafter;

(2) 12 months from the date of the child's placement in out-of-home care for a child who, on the date of initial removal from the physical custody of the parent(s), was three years or older, and at least every 12 months thereafter; or

(3) 30 days after a determination that reasonable efforts are not required and at least every 12 months thereafter.

(b) **Permanency meeting.** At least three weeks prior to a permanency hearing, ~~the court-appointed special advocate (CASA) assigned to the case or, if there is no CASA assigned,~~ the CW worker arranges for a meeting to prepare a report regarding the child for the court's review. This does not apply to 30-day permanency hearings scheduled when the court makes a finding that reasonable efforts are not required.

(c) **Notification of hearing and opportunity to be heard.** Prior written notice of the hearing is provided by OKDHS to the present foster ~~parent(s)~~ parent of the child, any pre-adoptive parent~~,~~ or relative caring for the child, and the child's guardian ad litem. An opportunity to be heard is provided by the court. Such notice and opportunity to be heard is not construed as requiring any foster parent, pre-adoptive parent, or relative to be made a party to such action.

340:75-1-22. Administrative review and procedures

(a) **Administrative review.** Title IV of the Social Security Act requires that a case review, either judicial or administrative, occur at least each six months following the date of placement for each child in out-of-home care. An administrative review may not substitute for the statutorily required hearings. An administrative review is held when a case involving a child placed in out-of-home care, or a youth age 18 to 21 ~~receiving~~ in voluntary ~~foster care from~~ placement with the Oklahoma Department of Human Services (OKDHS) ~~has~~ is not ~~been~~ reviewed after a six month interval by the court of jurisdiction or the post adjudication review board (PARB). Child Welfare is responsible for ~~the provision of the~~ providing an administrative review in ~~this situation~~ these situations.

(b) **Case review system.** Section 475(6) of the Social Security Act defines the administrative review as ... *a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.* The case review system ~~assures~~ ensures:

(1) each ~~deprived~~ child adjudicated deprived in OKDHS custody living in out-of-home placement has a case plan designed to achieve placement in a safe setting that is least restrictive, in close proximity to the parent(s)' home, and is consistent with the best ~~interest~~ interests and special needs of the child;

(2) the child's status is reviewed at least each six months by either a court or administrative review to determine:

(A) the safety of the child~~,~~;

(B) the continuing need for and appropriateness of the placement~~,~~;

(C) the extent of progress made on the case plan toward alleviating the conditions that caused the placement of the child in out-of-home care~~,~~; and

(D) a likely date ~~by which~~ that the child can be returned home or ~~placed in another form of~~ will obtain permanency through adoption, guardianship, or other placement, as applicable; and

(3) procedural safeguards, such as a permanency hearing, are made available to the child and family, ~~such as a permanency hearing~~ as required by Sections 7003-5.6d and 7003-5.6g of Title 10 of the Oklahoma Statutes, ~~in accordance with~~ per OAC 340:75-1-18.1.

SUBCHAPTER 6. PERMANENCY PLANNING

PART 5. PERMANENCY PLANNING SERVICES

340:75-6-30. Child's visitation with parents and siblings

(a) **Parent-child visitation.** The frequency ~~and quality~~ of a child's visits with his or her parent(s) ~~relate~~ is directly linked to the length of time the child stays in out-of-home placement. Visitation is the single most predictive factor in whether a child is successfully reunified. Parent-child visitation is a high priority of the Child Welfare (CW) worker ~~responsibilities~~ and serves the functions of:

(1) reassuring the child that the parent(s) has not abandoned him or her and that the parent(s) still cares for him or her;

(2) reassuring the parent(s) that ~~Child Welfare (~~CW~~)~~ is serious about maintaining family relationships and ~~about~~ helping ~~them~~ the parent(s);

(3) strengthening familial relationships;

(4) demonstrating new parenting skills by the parent(s);

(5) evaluating parenting skills;

(6) evaluating parent-child interaction;

(7) assessing the parent(s)' level of interest and ability to parent;

(8) ~~helping prepare~~ preparing families for reunification; and

(9) ~~helping identify~~ identifying continued risks to the child's safety that make reunification unfeasible.

(b) **Visitation is a right.** The child and parent(s) have a right to regular visitation.

(1) The parent(s) is notified of this right on either Form CWS-KIDS-10, Treatment Plan, or Form CWS-KIDS-24, Individualized Service Plan. Denial of family visitation, sibling contact, or the exchange of letters and ~~telephone~~ phone calls is not used to reward or punish the child or family.

(2) Visitation is available to the children and families involved with CW, ~~as long as~~ provided there is no:

(A) documentation that the child is ~~not~~ endangered~~,~~;

(B) ~~or as long as there is not sufficient~~ documentation that visitation is damaging to the child~~,~~; or

(C) ~~there has not been a~~ court finding that efforts to reunite are not required or have been made and failed and visitation ~~should~~ cease. When the court has made a finding that reasonable efforts are not required, visitation may continue in some situations until the permanency hearing.

(3) Only election of the parents to decline to participate, a permanency plan goal other than reunification, or the special circumstances described in OAC 340:75-6-30(c) ~~of this Section~~ rule out regular visitation.

(4) Prior to discontinuing visitation with the parent(s), the CW worker discusses this with the district attorney, ~~the~~ child's attorney, and ~~the~~ child's therapist if appropriate, and advises the court. ~~Parents are sent written~~ Written notice of this decision with a detailed explanation ~~and a copy~~ is provided to the:

(A) court;

(B) ~~and the~~ child's attorney~~.~~; and

(C) parent(s).

(c) **Frequency of parent-child visitation.** Family visitation begins no later than two weeks after removal of the child and is arranged a minimum of every four weeks thereafter until the child is returned or the permanency plan is no longer reunification. Exceptions are made when the:

(1) ~~the~~ parent(s) fails to cooperate with visitation arrangements;

(2) ~~the~~ court orders ~~that~~ no visitation ~~does not occur~~;

(3) ~~the~~ whereabouts of the parent(s) are unknown; or

(4) visitation, even supervised, ~~would endanger~~ endangers or ~~submit~~ submits the child to highly damaging psychological stress.

(d) **Visitation schedule.**

(1) A schedule of visitation is designed jointly with the family, ~~the~~ placement provider, and ~~the~~ CW worker. Visitation increases in length and frequency and decreases in the level of supervision as the parents correct the conditions of intervention.

(2) A visitation schedule provides security for parent-child interaction and allows parents a reliable routine for practicing new parenting and relationship techniques. ~~It~~ The schedule promotes time management skills for the parents and allows the CW worker an opportunity to observe the parent-child interaction.

(3) The CW worker determines the frequency, location, and arrangements for visitations. When safety is ~~assured~~ ensured, the placement ~~provider(s)~~ provider may participate in visitation ~~and, thereby, serve as a model for parenting, an ally for the~~ parent(s), ~~and protector and guide for the child~~. The visitation schedule is written and signed by the family, ~~the~~ placement ~~provider(s)~~ provider, and ~~the~~ CW worker, with copies for all ~~parties~~, including the child as appropriate, and attached to Form CWS-KIDS-10 or Form CWS-KIDS-24.

(~~1~~A) **Frequency.** Contact with the child occurs according to the safety situation for the child. ~~Often the~~ Initially, frequency ~~may increase first~~ is increased by adding a schedule for letters and ~~telephone~~ phone calls, followed by an increase in visits. ~~Telephone~~ Phone calls and visits are arranged with the parent(s), placement ~~provider(s)~~ provider, and child, age permitting~~, in arranging a convenient method and time for all concerned~~.

(~~2~~B) **Length.** Initial visits are of short duration, one to two hours~~, allow parents to experience small successes~~. Length of visits gradually increases as the parents become more proficient in parenting skills. Successful unsupervised day-long, overnight, and weekend visits are completed prior to planning for the child's return home.

(~~3~~C) **Location.** In the beginning stages of a case, visits may require supervision by the CW worker, and when necessary, held in a sterile environment such as the Oklahoma Department of Human Services (OKDHS) office. As soon as safety permits, visits are held in locations conducive to parent-child interaction, such as parks, restaurants, and shopping malls. As the parents progress ~~on~~ in eliminating the risk factors, the frequency and length of visits increase and the location moves to the placement provider's or ~~parents'~~ parent(s)' home, as appropriate. The length ~~of visits~~, frequency, and location of visits are based on the needs of the child and the abilities of the parent(s).

(~~4~~D) **Activities.** Visits are planned and structured to include age appropriate activities with the child. This allows ~~parents~~ the parent(s) the opportunity to learn about the child's development~~,~~ and to strengthen the parent-child relationship~~, and helps the parent(s)~~

~~enjoy his or her child~~. As parental involvement progresses, school conferences and doctor appointments may be combined with the family visits.

(~~5~~E) **Mail and ~~telephone~~ phone contact.** Contact with the child's parent(s), extended family, and friends through phone calls and letters is encouraged. Mail, including email, and ~~telephone~~ phone calls are not monitored or restricted unless it is essential for the child's protection. The court is advised ~~if~~ when restrictions ~~appear~~ are warranted and of OKDHS efforts to improve the quality of family contacts. Restrictions may be ~~indicated if any of the items listed in (A)(i) through (D)(iv) are observed.~~ considered when:

(~~A~~i) ~~There are~~ threats are made to the child~~.~~;

(~~B~~ii) ~~The~~ the contact causes harm to the child's emotional well-being~~.~~;

(~~C~~iii) ~~There~~ there is an attempt to influence ~~a~~ the child's testimony~~.~~; or

(~~D~~iv) ~~An~~ an attempt is made to undermine a present or future placement.

(e) **Contact with siblings.** All efforts are made to place sibling groups together in both temporary and permanent placements, per OAC 340:75-6-85.3. When this is not possible, siblings have frequent contact. A child who is in out-of-home care is normally in compelling need of closeness with siblings. Sibling contacts approved by the CW worker may be arranged by placement providers. ~~[OAC 340:75-6-85.3]~~

(f) **Child's visits or contacts with relatives.** ~~In~~ When a child is in emergency ~~and~~ or temporary OKDHS custody ~~situations~~, the CW worker evaluates requests for visitation or contact from relatives or extended family members based on information from the child's parent(s) and the significance of the relationship to the well-being of the child. The decision is discussed with the child's attorney when there is disagreement with the child's parent(s) regarding the contact or visitation with relatives.

(g) **Child's visits or contacts from outside entities.** The CW worker determines who is appropriate to have visitation or contact with a child in care. ~~In~~ When the child is in emergency or temporary OKDHS custody ~~situations~~, the ~~parents have~~ parent(s) has input into this decision. For ~~children~~ the child in permanent OKDHS custody, the CW worker may approve ~~such~~ contact, based upon the child's wishes and the case plan goal.

340:75-6-31. Permanency planning for custody children

(a) **Permanency planning.** Permanency planning begins immediately after a child is placed in the Oklahoma Department of Human Services (OKDHS) custody and continues until the child is living in a permanent home and the Child Welfare (CW) case is closed. Once a child is removed from the custody of the child's parent(s), ~~the court or~~ OKDHS immediately begins concurrent permanency planning so that permanency occurs at the earliest opportunity. Consideration of the initial placement is given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child. The first permanency hearing is held as required by Sections 7003-5.6d and 7003-5.6g of Title 10 of the Oklahoma Statutes, and in accordance with OAC 340:75-1-18.1.

(1) The permanency plan goal ~~is~~ preferences are to:

(A) reunite the child with his or her family;

(B) terminate parental rights and place the child for adoption;

(C) establish guardianship; or

(D) provide ~~long-term out-of-home care; or~~ a planned alternative permanent placement.

~~(E) provide another permanent arrangement.~~

(2) The purpose of permanency planning is to ensure that every child who enters the CW system has a plan that addresses the child's immediate and long-term needs for safety, well-being, and permanence.

(3) CW staff are required to be diligent in the development and implementation of a permanency plan.

(b) **Sources for determining the child's permanent plan.** Sources ~~which~~ that assist the CW worker and supervisor in determining the best permanency plan for the child are:

(1) Form CWS-KIDS-10, Treatment Plan, or Form CWS-KIDS-24, Individualized Service Plan, containing current documentation of the parent(s)' progress, correspondence, consultations, or conferences with service and placement providers and professionals who ~~have had interactions~~ interact with the child and the ~~parents~~ parent(s);

(2) the ~~case contacts~~ KIDS Contacts and ~~family visitation~~ Visits screens ~~in KIDS~~, containing pertinent information gained from visits and CW worker contacts with the child, ~~parents~~ parent(s), placement ~~providers~~ provider, and service providers;

(3) statements by the parent(s) ~~which give indications of~~ that indicate the parent(s)' perceptions of the child, parenting the child, and the abuse and neglect issues that required corrections;

(4) statements by the child regarding the parent(s)' and the child's desire to reunite, ~~which~~ that are obtained from the CW worker's monthly ~~private~~ visitation with the child, ~~the~~ placement provider, and ~~other~~ service providers;

(5) staffing with the CW supervisor;

(6) recommendations by the post adjudication review board (PARB);

(7) conclusions or recommendations by a multidisciplinary staffing;

(8) consultation with the ~~Adoption Section,~~ Children and Family Services Division (CFSD), ~~State Office~~ Adoption Section;

(9) the ~~Permanency Planning Review~~ permanency planning review process, ~~in accordance with~~ per OAC 340:75-6-31.1; and

(10) coordination with tribal officials, for a child who falls under the Indian Child Welfare Act, to explore the tribe's interest and ability in providing for the child's permanent placement.

(c) **Reunification ~~as the first permanent plan goal~~.** In most situations, the initial permanency plan case goal is to

reunite the child with the family. These services are implemented until:

(1) the child is returned home, the family home has stabilized, and the court case is dismissed; or

(2) it is determined that the conditions that necessitated intervention have not been corrected ~~although~~ even though sufficient time and services have been provided.

(d) **Exceptions to reunification as the initial case plan goal.** Situations that require an alternative permanent plan to reunification as the initial case plan goal include:

(1) voluntary relinquishment by all parents, natural, legal, putative, and alleged;

(2) a Petition for Termination ~~has been~~ is filed on the parent(s), legal ~~guardian(s)~~ guardian, or ~~custodian(s)~~ custodian; or

(3) the court ~~has found~~ finds that reasonable efforts to reunite are not required~~.~~, ~~[~~per OAC 340:75-1-18.4~~]~~.

(e) **Reunification services.** Prior to reunification with ~~parents~~ a parent(s) who ~~have~~ has contributed to the abuse or neglect of the child, a court order granting approval is required. In preparation for reunification and to provide to the court for consideration, the CW worker ensures the activities in (1) through (7) ~~have occurred~~ occur.

(1) Visitation ~~has~~ is increased in frequency and duration with reduced supervision as described in OAC 340:75-6-30.

(2) The age appropriate child is made aware that the ~~parents have~~ parent(s) has progressed in ~~their~~ treatment to the point that reunification may ~~be possible and the court will make the decision~~ occur, with the court's approval.

(3) Any issues involving the child's apprehensions, indecisiveness, or reluctance to return home ~~have been~~ are managed through family consultation, ~~or~~ counseling, or both.

(4) Support services ~~have been~~ are utilized~~,~~ including, but not limited to, temporary child care, assistance in contacting community service providers, in-home services, or continued Temporary Assistance for Needy Families (TANF) eligibility, if applicable~~.~~, ~~[~~per OAC 340:75-6-31.2~~]~~.

(5) The placement provider is informed of the possibility of reunification and is included in and provided with information regarding the child for ~~the~~ permanency planning.

(6) Service providers ~~have provided~~ present supporting information ~~as to~~ about the degree of safety in the family.

(7) The case ~~has been~~ is staffed with the CW supervisor and the requirements for the permanency planning review process ~~have been~~ are met~~.~~, ~~[~~per OAC 340:75-6-31.1~~]~~.

(f) **Criteria for reunification.** Indications for reunification are listed in ~~this subsection~~ (1) through (6).

(1) The risk that necessitated the intervention is ~~no longer present~~ minimized and ~~there is no other risk that jeopardizes~~ a plan is in place to address the child's safety ~~of the child~~.

(2) The parent(s) has complied with the treatment and service plan in such a manner that those adjudication conditions the court determines essential and fundamental to the child's health, safety, and welfare ~~have been~~ are met.

(3) Visitation is successful and has increased in length and frequency.

(4) The child has dealt with the feelings about the separation through counseling or some other effective means.

(5) The child ~~has been~~ is prepared for the reunion and received support in handling his or her feelings about returning home and separating from the current placement.

(6) The court ~~has given~~ gives prior approval of the return of the child to the ~~parents'~~ parent(s)' home in accordance with OAC 340:75-6-31(e).

(g) **Reunification with the custodial parent.** ~~In cases where~~ When the child's parents do not live together, the priority for reunification relates primarily to the custodial parent; however, the noncustodial parent is assessed for the possibility of placement or custody, if appropriate~~.~~, ~~[~~per OAC 340:75-1-13~~]~~. Prior to closure of the court case, modification of the divorce decree or any other custody order may be ~~needed~~ necessary if the parent ~~having~~ who had custody prior to CW involvement is no longer the custodial parent.

(h) **Indicators to proceed with concurrent permanency plan.** The conditions in (1) through (8) ~~of this subsection~~ may be indicators of the need to expedite the concurrent permanency plan for the child.

(1) Completion of the treatment and service plan is irregular or sporadic, and has not eliminated the risk in the home, which may indicate a lack of interest in or commitment to reunification.

(2) Family visitation indicates the parent(s):

(A) lacks a close and positive relationship with the child~~,~~;

(B) visits irregularly~~,~~;

(C) frequently misses scheduled visits~~,~~; or

(D) arrives late and leaves early.

(3) Indications of maltreatment ~~have been~~ are reported during unsupervised visitations. Examples of maltreatment include, but are not limited to, referrals regarding the reoccurrence of abuse or failure of the parent(s) to comply with any recommended treatment for the child.

(4) The child ~~has been~~ was returned to the home and removed again for safety reasons.

(5) The parent(s) receives negative reports from service providers or other entities, such as ~~Permanency Planning Review~~ permanency planning review members, PARB members, and ~~Court Appointed Special Advocate~~ the court-appointed special advocate (CASA).

(6) The length of time reunification has been the case plan goal~~.~~, ~~[~~per OAC 340:75-6-47(c)(18)~~]~~.

(7) The finding of the permanency hearing.

(8) A judicial finding ~~of "Reasonable~~ that reasonable efforts to reunite are not required.~~"~~

(i) **Adoption.** When a child cannot return safely to his or her own home, adoption is the preferred permanency plan in essentially every case. Adoption is usually possible regardless of the child's age or special needs. Adoption provides a

child with a lifelong, committed family, a permanent home, connection, belonging, and identity, and the same legal status he or she would have with a biological family. Consultation about adoptive placement for the child is initiated with the county's adoption specialist to discuss permanency planning options when reunification appears no longer feasible. This consultation is held regardless whether ~~or not~~ termination of parental rights ~~has been~~ was recommended to the court.

(j) **Legal guardianship or permanent custodian.** ~~In some situations, a~~ A guardianship or permanent care and custody transferred to another person or kinship guardian may be the permanency plan for a child~~.~~, ~~[~~per OAC 340:75-1-18.2 ~~through~~ and 340:75-1-18.3~~;~~, ~~10 O.S. § 7003-5.5(C)(7)(a) through 7003-5.5(C)(8)(j)] This often occurs~~ when a child is placed with ~~another~~ a person who is reluctant to adopt due to extenuating circumstances. Guardianship or permanent custodian is not preferred over adoption because this option does not provide the same level of family permanency. ~~Financial~~ Subject to the availability of funds, financial assistance is available to the ~~guardian(s)~~ legal guardian or ~~legal custodian(s)~~ custodian, provided the ~~guardian(s) or legal custodian(s) and the case meet the~~ eligibility requirements~~.~~ are met, ~~[~~per OAC 340:75-6-31.4~~]~~.

(k) **~~Long-term out-of-home care~~ Planned alternative permanent placement.** ~~In a few cases, a permanent~~ A plan for ~~long-term out-of-home~~ planned alternative permanent placement may be appropriate for a child ~~if~~ when OKDHS ~~has documented~~ documents a compelling reason for the court to determine that to return home, be placed for adoption, or ~~placed with a fit and willing relative(s) or legal guardian(s)~~ guardianship is not in the best interests of the child. Long-term out-of-home care does not always provide a child with the emotional and physical support or life-long family attachments and is ~~used~~ only an option when:

(1) all other permanency plans have been explored and are not feasible or in the child's best interests; or

(2) the child chooses not to be adopted after adoption has been thoroughly explored, explained, and the opportunities demonstrated.

(l) **Emancipation.** The federal definition of emancipation is the age at which the child reaches the age of majority. In Oklahoma this age is 18.

340:75-6-31.4. Supported Permanency

~~(a) **Eligibility for Supported Permanency.**~~ When a child in the custody of the Oklahoma Department of Human Services (OKDHS) is placed in a paid kinship foster home with a relative who resides in Oklahoma and meets the specified degree of relationship as defined by the Temporary Assistance for Needy Families (TANF) program, per ~~[~~OAC 340:10-9-1(a)~~]~~. Supported Permanency ~~can~~ may be explored, subject to the availability of funds. ~~This assistance is not considered unless the court has made a finding that reasonable efforts to reunite are not required, or have been made and failed and the permanency plans of reunification and adoption have been rules out.~~

(1) Supported Permanency is appropriate when the ~~following factors exist~~:

~~(A) the child is age 12 or older or has a sibling age 12 or older who resides in the same relative foster home;~~

(A) court makes a finding that reasonable efforts to reunite are not required or have been made and failed, and the permanency plans of reunification and adoption have been ruled out;

(B) ~~the~~ relative has completed all requirements to be an approved ~~DHS~~ OKDHS foster home;

(C) ~~the~~ child is currently residing with the relative in Oklahoma and has been for four of the previous six months;

(D) ~~the~~ relative is willing to assume legal responsibility;

~~(E) without this option, the child is likely to remain in long-term out-of-home care;~~ and

(~~F~~E) ~~the child and~~ court and, if appropriate, the child are in agreement with the plan for the relative to obtain legal responsibility.

(2) Supported Permanency provides the relative with:

(A) ~~financial assistance~~ monetary reimbursement to an attorney ~~to assist~~ for the legal costs incurred in the transfer of legal responsibility of the child;

(B) a monthly ~~stipend~~ cash benefit for the child based on the standard foster care rates;

(C) a medical card for the child; and

(D) an assigned ~~TANF~~ Family Support Services worker to provide referrals for services, if needed.

PART 7. CASE PLANS

340:75-6-40. Case plan

(a) **Written case plan.** The reports that comprise the case plan encompass and document the scope of permanency planning services for the child and family. These reports ~~contain~~ include essential information ~~to comply~~ that complies with state statutes~~,~~ and federal regulations ~~and accreditation standards~~. The ~~treatment planning~~ case plan information documented is the:

(1) ~~the reasons~~ reason(s) for Child Welfare (CW) involvement;

(2) information about the child's placement;

(3) case plan ~~goal~~ goal(s);

(4) desired results that must be achieved for reunification to occur;

(5) services and steps identified to assist the ~~parents~~ parent(s) in developing the ability to protect and care for ~~their~~ the child;

(6) evaluation of the parents' progress and case status;

(7) ~~DHS~~ Oklahoma Department of Human Services (OKDHS) recommendations ~~as to~~ for the child's permanency plan;

(8) assessment of the family;

(9) assessment of the child; and

(10) services to the child ~~addressing~~ that address the identified needs and ~~assuring~~ the child's well-being.

(b) **Case plan components.** The case plan is made up of ~~the~~:

(1) ~~Placement Plan Report,~~ Form CWS-KIDS-8, Placement Plan~~;~~, [per OAC 340:75-6-40.1];
(2) ~~Placement Provider Information Report,~~ Form CWS-KIDS-7, Placement Provider Information~~;~~, [per OAC 340:75-6-40.2];
(3) ~~Family/Child Strengths and Needs Assessment,~~ Form CWS-KIDS-9, Family/Child Strengths and Needs Assessment~~;~~, [per OAC 340:75-6-40.3];
(4) ~~Treatment Plan,~~ Form CWS-KIDS-10, Treatment Plan, or Form CWS-KIDS-24, Individualized Service Plan~~;~~, [per OAC 340:75-6-40.4];
(5) ~~Court Report,~~ Form CWS-KIDS-11, Court Report, or Form CWS-KIDS-25, Individualized Service Plan Progress Report~~;~~, [per OAC 340:75-6-40.5];
(6) ~~Case contacts screen in~~ KIDS Contacts screen information~~;~~, [per OAC 340:75-6-40.6]; and
(7) ~~Family visitation screen in~~ KIDS Visits screen information~~.~~, [per OAC 340:75-6-40.7].

340:75-6-40.1. Placement Plan ~~Report~~

Form CWS-KIDS-8, Placement Plan ~~Report~~, is completed for the initial and all subsequent changes of placement, except own home and shelter, of a child in the custody of the Oklahoma Department of Human Services (OKDHS) ~~except own home and shelter~~. Form CWS-KIDS-8:

(1) is completed within 30 days of removal of a child ~~in the custody or supervision of OKDHS and in out-of-home placement,~~ and updated when changes occur. Changes are submitted to the court at review and dispositional hearings~~.~~;
(2) ~~The report~~ is filed with the court in conjunction with Form CWS-KIDS-10, Treatment Plan, or Form CWS-KIDS-24, Individualized Service Plan~~.~~;
(3) ~~Information included in Form CWS-KIDS-8~~ includes information that assists the judge in determining whether:
(A) continuation of the child in the home is contrary to the health, safety, or welfare of the child~~, whether~~;
(B) reasonable efforts were made to prevent removal~~,~~; ~~or whether~~
(C) an emergency existed that required the removal of the child~~,~~; ~~and whether~~ or
(D) independent living services are appropriate, if applicable~~.~~, [per OAC 340:75-6-40.4]; and
(4) ~~In~~ includes, in part, the ~~report contains the~~:
(~~1~~A) reason for removal;
(~~2~~B) reason placement outside the home was necessary and return to the home not appropriate;
(~~3~~C) services offered to the family to prevent removal, if applicable, or if services were not provided or appropriate, the emergency that existed that required removal of the child;
(~~4~~D) description of the safe and proper placement setting and the safety and appropriateness of the placement to meet the child's special needs;
(~~5~~E) determination of the least restrictive placement, consistent with the best interests and special needs of the child, including efforts to place with relatives or kin;
(~~6~~F) independent living services, if appropriate;
(~~7~~G) determination whether the placement is in close proximity to the child's family; and
(~~8~~H) services provided to the child and ~~to~~ the placement provider to ensure safe and proper care and meet the needs of the child.

340:75-6-40.4. Treatment Plan~~, Form CWS-KIDS-10~~ and Individualized Service Plan

(a) **Family ~~treatment~~ plan.** The Child Welfare (CW) worker and family develop the initial treatment and service plan, either Form CWS-KIDS-10, Treatment Plan, or Form CWS-KIDS-24, Individualized Service Plan, after the strengths and needs assessment is completed and prior to the dispositional hearing. Participation or input from the ~~parents~~ parent(s), legal guardian, ~~foster parents or other~~ placement ~~providers~~ provider, ~~the~~ child, if appropriate, ~~the~~ child's attorney, and ~~the~~ guardian ad litem, if applicable, are also utilized in the development of the ~~treatment and service~~ plan. An age appropriate ~~child(ren)~~ child, regardless of legal status, participates, if feasible. The ~~treatment~~ plan:

(1) is initiated prior to the dispositional hearing or no later than 60 days from the child's removal or the filing of the petition in order that services to correct conditions that created the risk to the child ~~can~~ may begin. Regardless of the status of the case in court, the ~~treatment~~ plan is completed within this time frame and filed with the court prior to the dispositional hearing or no later than 30 days after adjudication if the dispositional hearing has not been held~~.~~;
(~~1~~2) ~~The treatment plan~~ addresses the conditions the ~~parents~~ parent(s), legal guardian, custodian, stepparent, or other adult person living in the home must change in order to alleviate the risks to the child~~. The needs that relate to the child's safety are included in the treatment plan~~ and ~~relate to~~ the conditions of deprivation set out in the petition~~.~~;
(3) ~~The treatment plan~~ is individualized and specific to each child and ~~each~~ parent with specified time frames~~.~~;
(~~2~~4) ~~The treatment plan~~ contains all of the risk related needs and safety issues in order to prevent the return of the child to ~~a~~ an unsafe home ~~that is unsafe~~. The allegations in the deprived petition are the risk factors that must be addressed.
(A) ~~However, risk~~ Risk factors that relate to those identified in the petition may also be included in the ~~treatment~~ plan, for example, neglect is alleged in the petition but the basis for the neglect is substance abuse.
(B) The parent's improvement on identified non-risk related needs is not ~~to be~~ used as a basis for recommending reunification unless the parent has made significant progress on the risk related needs~~.~~;
(~~3~~5) ~~The~~ is recommended to the court by the CW worker ~~recommends the initial treatment plan to the court~~ at the first disposition hearing. Prior to the dispositional hearing,

the ~~treatment~~ plan is initiated with the parents on a voluntary basis~~.~~;

(6) ~~The initial treatment plan~~ is revised after the first disposition hearing to conform to the court's order~~.~~;

(~~4~~7) ~~The treatment plan~~ is updated regarding the ~~parents'~~ parent's progress toward completion every six months or prior to every review and disposition hearing, whichever is earlier, and submitted three days prior to the hearing ~~date.~~;

(~~5~~8) ~~Every treatment plan,~~ including ~~those~~ each plan submitted for review hearings, is signed by the parents, age appropriate ~~youth~~ child, ~~the~~ CW worker, and ~~the~~ CW supervisor and a copy is provided to the designated persons~~.~~;

(~~6~~9) ~~Every treatment~~ in accordance with Section 7003-5.3 of Title 10 of the Oklahoma Statutes (O.S.), ~~plan contains the following~~ includes this statement ~~[10 O.S. § 7003-5.3(E)]~~: *TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE IS TO HELP YOU PROVIDE YOUR ~~CHILD(REN)~~ CHILD WITH A SAFE HOME WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE HOME, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR ~~CHILD(REN)~~ CHILD MAY NOT BE RETURNED TO YOU~~.~~*;

(~~7~~10) ~~The~~ is written by the CW worker ~~writes the treatment plan~~ in simple and clear language that is understood by the parents or the persons for whom the plan is intended. If the ~~clients do~~ person does not ~~know~~ read or understand English, an effort is made to ~~have~~ translate the plan ~~translated~~ to the ~~client's~~ person's principal language~~.~~, per ~~[~~10 O.S. § 7003-5.3~~(C)(2]~~.

(~~8~~11) ~~A copy of the treatment plan approved by the court~~ is provided to the child's attorney, guardian ad litem, ~~child's resource parents~~ placement provider, and ~~the parents~~ parent(s) after it is approved by the court. ~~Foster parents are given the opportunity to provide input into the child's service plan. This input is given the same consideration as that of any other professional on the team.~~

(~~9~~12) ~~The treatment plan~~ includes the permanency goal for the child and an explanation ~~as to the reason~~ for this goal~~.~~;

(~~10~~13) ~~Each treatment plan~~ specifically provides for the safety of the child, in accordance with state and federal law, and clearly defines what actions or precautions are~~, or may be~~ necessary~~,~~ to provide for the safety and protection of the child~~.~~;

(~~11~~14) ~~Each treatment plan~~ includes a description of any visitation rights and addresses the parent(s)' obligation to assist in the financial support of the child.

(A) The amount of financial support is based on the child support guidelines, per Sections 118 and 119 of Title 43 of the Oklahoma Statutes, which the court must follow when entering a child support order in a deprived court action.

(B) The child support order must be a separate document from the plan and have a child support computation form attached as required per Section 120 of Title 43 of the Oklahoma Statutes; and

(~~12~~15) ~~Parents who~~ includes documentation, when applicable, that parents are unwilling to participate in the development or implementation of the ~~treatment~~ plan ~~receive this documented in writing on the treatment plan and a copy of this plan is filed with the court~~.

(b) **Child only plan.**

(1) When the court determines that reasonable efforts have been made and failed or are not required, a Petition for Termination is filed or rights of the parent(s) are terminated, the CW worker develops a plan that addresses the permanency goal for the child. Participation or input from the placement provider, child, if age appropriate, child's attorney, and guardian ad litem, if applicable, are utilized in the development of this plan. If the child, age 12 years or younger, is unable to sign, the placement provider signs for the child.

(2) When the permanency plan for the child is adoption or other permanent placement, information is provided in the plan regarding child-specific recruitment efforts such as the use of state, regional, and national adoption exchanges, including electronic exchange systems. The plan documents the steps the Oklahoma Department of Human Services (OKDHS) takes to:

(A) find an adoptive family or other permanent living arrangement for the child;

(B) place the child with an adoptive family, a fit and willing kinship relation, legal guardian, kinship guardian, or in another planned permanent living arrangement; and

(C) finalize the adoption, guardianship, kinship guardianship, or other permanent placement.

(c) **Independent living plan.** Federal law requires the initiation of an individualized independent living (IL) plan with every child in the custody of OKDHS and in out-of-home placement upon reaching the age of 16 years, per OAC 340:75-6, Part 13.

(~~b~~d) **Revisions to the ~~treatment~~ plan.** A court-ordered ~~treatment~~ plan or ~~a court ordered~~ portion of a ~~treatment~~ plan cannot be changed except by further action by the court. All changes to the ~~treatment~~ plan are developed with the family and child, as appropriate, and recommended to the court at the next hearing. ~~Resource parents or~~ The placement ~~providers are~~ provider is informed of any ~~changes~~ change that ~~impact~~ impacts the child's care. ~~The new information is included by adding needs statements with the accompanying services.~~ Changes are made when one of the circumstances in (1) – through (~~7~~4) ~~of this paragraph~~ exists.

(1) **Abuse or neglect allegations.** ~~New~~ When new allegations of abuse or neglect ~~have been~~ are confirmed ~~which have resulted~~ and result in an amended or new petition~~. In this circumstance~~, a request is made to the district attorney for an accelerated hearing ~~in order~~ to consider the revisions.

(2) **Underlying causes.** The discovery is made of additional underlying causes, such as substance abuse, ~~which~~ that require treatment.

~~(3) **Placement changes.** Significant differences in the type of placement for a child has occurred which necessitate a change in services.~~

~~(4) **Temporary to permanent custody.** The child's legal status is changed from temporary to permanent custody. The plan is then designed in accordance with the child's needs for a permanency plan goal rather than reunification.~~

(~~5~~3) **New adult in the household.** An additional adult, such as the mother's new husband, ~~who~~ becomes a part of the family home.

~~(6) **Independent Living.** Federal law requires than an individualized Independent Living treatment plan be initiated with every DHS custody child reaching the age of 16 years. [OAC 340:75-6, Part 13]~~

(~~7~~4) **Court-ordered standards.** ~~Occasionally~~ When the court orders that the ~~parents~~ parent(s) change or correct some conditions that ~~have~~ were not ~~been~~ previously identified in the ~~treatment~~ plan~~. In this situation~~, the ~~treatment~~ plan is either revised to include the court-ordered standards or the standards are attached to the ~~treatment~~ plan. The ~~client~~ parent(s) is informed of the additions and that the orders are binding. A copy of the court-ordered standards is given to the ~~client~~ parent(s). ~~The decision to return the child to his home is made when the risk is no longer present.~~

~~(c) **Child only treatment plan.**~~

~~(1) When the court has determined that reasonable efforts have been made and failed or are not required, a petition for termination has been filed or rights of the parent(s) have been terminated, the worker develops a treatment plan that addresses the permanency plan for the child. Participation or input from the foster parents or other placement providers, the child, if age appropriate, the child's attorney, and the guardian ad litem, are utilized in the development of this plan. If the child, age 12 or younger, is unable to sign, the placement provider signs for the child.~~

~~(2) When the permanency plan for the child is adoption or other permanent placement, information is provided in the treatment plan regarding child-specific recruitment efforts such as the use of state, regional, and national adoption exchanges, including electronic exchange systems. The treatment plan documents the steps the Department is taking to:~~

~~(A) find an adoptive family or other permanent living arrangement for the child;~~

~~(B) place the child with an adoptive family, a fit and willing kinship relation, a legal guardian, a kinship guardian, or in another planned permanent living arrangement; and~~

~~(C) finalize the adoption or guardianship, kinship guardianship or other permanent placement.~~

(~~d~~e) **More than one ~~treatment~~ plan for the child and family.** There are some circumstances in which more than one ~~treatment~~ plan is ~~needed~~ necessary. For example, if the child's parents are living separately with separate families and both are involved with the ~~custody~~ child in OKDHS custody either as the custodial parent with whom reunification is the case plan goal, or the noncustodial parent who has visitation through the divorce court, a ~~treatment~~ plan for each family ~~may be~~ is appropriate.

(~~e~~f) **Custody child who is a parent.** A ~~treatment~~ plan is developed with a ~~DHS~~ child in OKDHS custody who is the parent of a child in ~~DHS~~ OKDHS care, regardless whether ~~or not~~ in ~~DHS~~ OKDHS custody. Services are identified and provided to assist the ~~DHS custody~~ child in OKDHS custody in parenting his or her child~~.~~, [per OAC 340:75-6-85.6].

(~~f~~g) **Substance abuse treatment.** Section 7003-5.3~~.D~~ of Title 10 of the Oklahoma Statutes specifies that when a child who at birth tested positive for alcohol or a controlled dangerous substance and who ~~has been~~ was determined at risk for future exposure to these substances, ~~has been~~ was removed from the home, the ~~treatment~~ plan, subject to court approval, may require:

(1) the mother of such child to complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the child's return ~~to the~~ home~~.~~;

(2) the father, legal guardian, legal custodian, stepparent of the child, or other adult person living in the home, who is an alcohol or drug-dependent person, as defined by Section 3-403 of Title 43A of the Oklahoma Statues, and whose conduct ~~has~~ contributed to the child's or mother's dependency on alcohol or drugs or to the conditions ~~which~~ that caused the deprived adjudication of the child ~~to be adjudicated deprived~~, complete a treatment program approved by the Alcohol and Drug Abuse Prevention, Training, Treatment and Rehabilitation Authority prior to the child's return ~~of the child~~ to the safe home~~.~~; or

(3) monthly testing for substance abuse of the mother, father, legal guardian, legal custodian, stepparent, or other adult person living in the home, ~~on a monthly basis~~ for a 12-month period after completing the substance abuse program and the child's return ~~of the child to the~~ home. A positive test ~~shall~~ must be presented to ~~the Department of Human Services~~ OKDHS and the district attorney. Testing ordered by the court is admissible only for the purpose of juvenile and custody proceedings.

340:75-6-40.5. Court Report or Individualized Service Plan Progress Report

Form CWS-KIDS-11, Court Report, or Form CWS-KIDS-25, Individualized Service Plan Progress Report, is submitted for the initial disposition hearing, ~~for~~ review hearings held no later than six months after the date of the child's out-of-home placement and at least every six months thereafter, and ~~for~~ permanency hearings held as required by Sections 7003-5.6d and 7003-5.6g of Title 10 of the Oklahoma Statutes~~.~~ [and OAC 340:75-1-18.1]. Form CWS-KIDS-11 or Form CWS-KIDS-25 is prepared and submitted three days prior to each hearing. A copy of Form CWS-KIDS-11 or Form CWS-KIDS-25 is provided to and discussed with the parent(s). Reports, correspondence, and information provided by other

professionals working with the family, including the foster parent(s), are attached or incorporated into Form CWS-KIDS-11 or Form CWS-KIDS-25.

[OAR Docket #04-443; filed 3-25-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #04-441]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
340:75-1-28. [AMENDED]
Subchapter 6. Permanency Planning
Part 5. Permanency Planning Services
340:75-6-31.3. [AMENDED]
Part 8. Role of the Child Welfare Worker
340:75-6-48. [AMENDED]
Subchapter 16. Mental Health Treatment Services
Part 1. Inpatient Mental Health Treatment
340:75-16-27. [REVOKED]
340:75-16-28. through 340:75-16-33. [AMENDED]
340:75-16-36. through 340:75-16-37. [AMENDED]
(Reference APA WF 03-12, 03-14, and 03-21)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Sections 5-501 through 5-513 of Title 43A and Sections 7001-1, 7003-5.5a, 7003-5.6, 7003.5.6b, 7004-1.1, 7204, 7206, and 7221 of Title 10 of the Oklahoma Statutes.
DATES:
Comment period:
December 15, 2003 through January 14, 2004
Public hearing:
None requested.
Adoption:
January 27, 2004
Submitted to Governor:
January 27, 2004
Submitted to House:
January 27, 2004
Submitted to Senate:
January 27, 2004
Gubernatorial approval:
March 11, 2004
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 24, 2004.
Final adoption:
March 24, 2004
Effective:
April 26, 2004
Gubernatorial approval:
June 4, 2003
Register publication:
20 Ok Reg 2643
Docket number:
03-2039
Superseded rules:
Subchapter 6. Permanency Planning
Part 5. Permanency Planning Services
340:75-6-31.3. [AMENDED]
Part 8. Role of Child Welfare Worker
340:75-6-48. [AMENDED]
(Reference APA WF 03-14)
Gubernatorial approval:
June 26, 2003
Register publication:
20 Ok Reg 2693
Docket number:
03-2080
Superseded rules:
Subchapter 16. Mental Health Treatment Services
Part 1. Inpatient Mental Health Treatment
340:75-16-27. [REVOKED]
340:75-16-28. through 340:75-16-33. [AMENDED]
340:75-16-36. through 340:75-16-37. [AMENDED]
(Reference APA WF 03-21)
Gubernatorial approval:
November 7, 2003
Register publication:
21 Ok Reg 246
Docket number:
03-3211
SUPERSEDED EMERGENCY ACTIONS:
Subchapter 1. General Provisions
Part 1. Scope and Applicability
340:75-1-28. [AMENDED]
(Reference APA WF 03-12)
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The revisions to Subchapters 1, 6, and 16 of Chapter 75 provide Child Welfare (CW) staff with the necessary guidance to implement modifications regarding the utilization of the CW contingency fund, to permit the utilization of the fund for an open CPS case. The modification to the Supported Permanency program in Subchapter 6 eliminates the eligibility requirement of a child in the custody of the Oklahoma Department of Human Services (OKDHS), age 12 or older, in kinship placement. Other revisions to Subchapter 6 allow CW staff to request of the court that OKDHS be relieved of legal custody, supervision, or both for cases when children have been reunified for at least six months and the reunification process appears successful. The revised rules provide clarification of CW worker contact responsibilities for children supervised by or in the custody of OKDHS, which reduces the frequency of visitation or contact in some instances, while promoting the participation of and reliance on other professionals involved in the planning and implementation of permanency for children. The revisions to Subchapter 16 correct and clarify roles and responsibilities of CW staff when providing services to children in the custody of OKDHS who receive mental health and substance abuse treatment in accordance with Senate Bill (SB) No. 674 and House Bill (HB) No. 1063. These bills, effective November 1, 2003, amend the Inpatient Mental Health and Substance Abuse Treatment of Minors Act of Title 43A of the Oklahoma Statutes to ensure adequate treatment of and enhance the commitment process for minors in need of mental health and substance abuse treatment.

340:75-1-28 is revised to allow the utilization of the CW contingency fund for an open CPS case.

340:75-6-31.3 is revised to instruct that OKDHS supervises reunification cases for six months, and, if conditions appear stable, the CW worker recommends that the court relieve OKDHS of legal custody, supervision, or both.

340:75-6-48 is revised to clarify the CW worker's responsibilities for contacts with children in OKDHS custody, supervision, or both, especially children placed in foster care, shelter, community-based residential care, acute inpatient, residential inpatient, own home, and Developmental Disabilities Services Division placement.

340:75-16-27 is revoked and incorporated in 75-16-28 to emphasize the importance of the legislative basis for mental health and substance abuse treatment provisions.

340:75-16-29, 75-16-31, 75-16-33, 75-16-36, and 75-16-37 are revised to reflect terms expressed in SB 674 and HB 1063, as well as those specific to inpatient services.

340:75-16-30 is revised to include current admission procedures for inpatient mental health and substance abuse treatment. The inpatient psychiatric care review coordinator (IPCRC) authorizes all inpatient mental health services for children in OKDHS custody. An inpatient psychiatric care review is required for Title XIX Medicaid reimbursement. The licensed mental health professional of the inpatient facility must submit an evaluation within 48 hours of the child's admission. The district attorney obtains a pre-hearing detention order authorizing the child to remain inpatient pending the hearing. The hearing is set within one to three judicial days from the filing

of the petition. The facility submits a proposed individualized treatment plan within 24 hours of the scheduled hearing. The court determines whether the minor is in need of mental health and substance abuse treatment.

340:75-16-32 is revised to reflect the time frames for initial length of stays for inpatient and residential mental health care. The IPCRC determines the number of days required to resolve the identified problems. Procedures for a reconsideration request for the length of stay may be made to Oklahoma Foundation for Medical Quality (OFMQ) when additional information was not considered by the IPCRC.

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 APRIL 26, 2004.

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. SCOPE AND APPLICABILITY

340:75-1-28. Child Welfare (CW) contingency fund

(a) **Scope.** If poverty is identified as a contributing factor when assessing risk of abuse or neglect, immediate assistance is provided for the family. The continuum of CW services available to children and families affected by child abuse and neglect includes a flexible contingency fund ~~which~~ that is available for ~~hard~~ services such as food, clothing, utility bills, rent, home or car repairs, and public transportation tokens. This fund, used in conjunction with safety and service planning, ~~[~~as described in OAC 340:75-3-10.1~~]~~, is used for a one-time purchase of goods, services, or both, needed to maintain ~~children~~ the child safely in ~~their~~ his or her own ~~homes~~ home or return ~~them~~ the child safely to ~~their homes~~ his or her home. In addition, the contingency fund is utilized for purchased services for ~~custody~~ children in the custody of the Oklahoma Department of Human Services (OKDHS). Contingency fund accounts are established for each of the six ~~DHS~~ OKDHS Field Operations Division (FOD) areas, and staff from each county office is designated to access the respective area fund.

(b) **Intent.** The ~~intent of the~~ contingency fund accounts ~~is to~~ provide families involved in open Child Protective Services (CPS), Family Centered Service (FCS), Permanency Planning, or Aftercare Permanency Planning cases with the support services necessary for them to provide for and protect their children. The contingency fund is not used for families that are referred to Comprehensive Home-Based Services (CHBS), as CHBS offers another source of discretionary funds for families. Contingency fund determinations are made on a case by case basis. Payment for services through the contingency fund is not an automatic entitlement to the family. ~~Contingency fund determinations are made on a case by case basis.~~

(c) **Authorization.** Payments and services are pre-determined by the CW worker. All services are obtained at the lowest possible cost or best value to the state. Only staff specifically designated by the county director or area director are authorized to issue contingency fund authorizations on the Finance system.

(d) **Outcomes.** ~~The use of the contingency fund is entered into the Service Log on the KIDS case.~~ Service utilization and outcomes are used to determine ongoing funding amounts and the allocation of funds among areas. On a yearly basis, the county's contingency fund tracking log and the Service Utilization Report are reviewed to determine outcomes for families utilizing this service. ~~Service utilization and outcomes are used to determine ongoing funding amounts and the allocation of funds among areas.~~

(e) **Allowable services.** ~~The following listed services are authorized from the area account at the county office level by designated staff.~~ Allowable services are those required to maintain the child in the home, return the child to the home, or to maintain the well-being of ~~child welfare clients~~ CW families. The contingency fund is used to pay vendors for goods and services which have been properly authorized and provided to the client. The contingency fund is not used to reimburse clients, staff, or others for purchases made on behalf of clients. Ongoing maintenance or installment payments are not allowed. Cost limits for contingency fund object codes are not exceeded except when an override is approved by specifically designated staff in the ~~DCFS State Office or Office of Field Operations~~ six FOD area offices. The issuance of more than one contingency fund authorization to purchase the same goods or services ~~and issuing contingency fund authorizations using inappropriate object codes or exceeding the object code cost limits without approval are~~ is not permitted. ~~Refer to DHS~~ Account limits are listed on OKDHS Appendix C-19, Child Welfare Contingency Fund Accounts~~, for limitations on each service~~.

(1) **Food.** This covers a one-time purchase of food for the household not available through Women, Infants, and Children (WIC) or another program, including infant formula and baby food, sufficient to supply the family for a period of time until the family receives some type of income or ~~Food Stamps~~ food stamp benefits.

(2) **Clothing.** This includes an emergency supply of clothing, shoes, or both, appropriate for the weather conditions for infants and children in the household and adequate clothing for children to attend school. In addition, this may include work clothing for the person responsible for the child (PRFC) if the PRFC is actively involved in job search or training or has been guaranteed a job and has demonstrated the need for such clothing.

(3) **Rent deposit or monthly payment.** If adequate housing is needed to prevent the removal of the ~~children~~ child(ren), documented rental deposits and the first month's rent are paid or a single month's rent is paid to avoid eviction. ~~This also includes non-OCS apartment or dormitory deposits for a youth in the Independent Living Program. The CW specialist verifies the client's address and obtains a copy of the rent, lease, or mortgage agreement prior to requesting a contingency fund authorization.~~

(4) **Utility deposits or monthly payment.** If the lack of utilities in the home may result in the removal of the ~~children~~ child(ren), required utility deposits or overdue payments for gas, electricity, and water are covered. This does not include telephone deposits or overdue telephone bills. ~~Prior to requesting a contingency fund authorization the CW specialist verifies that the utility service is for the client's place of residence. The name of the utility service customer, account number and address of the utility service are included in the "Description of Services" on the contingency fund authorization form.~~

(5) **Home repairs.** If the condition of the home may result in the removal of the children, home repairs are covered, including plumbing, painting, repair of broken windows and doors, purchase of screens and door locks, repair of steps and stairs, and rodent or insect fumigation.

(6) **Furniture and appliances.** This includes adequate beds and bedding for infants, children, and the PRFC, as well as basic necessities, such as a dining table and chairs.

(7) **Car repairs.** To be eligible for car repairs, the PRFC must need the car for transportation to obtain or maintain employment or to ~~assure~~ ensure adequate medical or behavioral health care for the children so that removal is not necessary. When available, public transportation is used in lieu of car repair payments.

(8) **Public transportation vouchers or tokens.** If the PRFC requires public transportation to obtain or maintain employment or to ~~assure~~ ensure adequate medical or behavioral health care for the children, a three month supply of public transportation vouchers or tokens is provided.

(9) **Miscellaneous.** This includes goods and services ~~which~~ that are required but not specifically covered by other object codes. ~~For purchases using the "Miscellaneous" object code the CW specialist ensures that the contingency fund authorization includes a specific description of the goods and services authorized.~~

(10) **Purchased services.** This includes specific services designed to meet the identified needs of a ~~custody~~ child in OKDHS custody or PRFC as part of a treatment plan. Examples include tutoring, mentoring, group and family counseling, job placement, therapeutic or recreational services, and educational or vocational advocacy services that are not available through any other sources, including volunteers.

(11) **Automobile.** This includes payments for the purchase of an automobile, down payment for the purchase of an automobile, assistance with making a monthly payment, payment of tag, title, and tax for an automobile, or payment of automobile insurance. The payment of any automobile related costs through the use of the contingency fund must be required to obtain or maintain employment or to ensure adequate medical or behavioral health care for the children. When available, public transportation is used in lieu of payment for automobile related expenses from this object code.

(12) **Attorney fees for TANF Supported Permanency ~~Program~~ program.** This a one-time authorization for the payment of attorney fees for relatives who are being referred to the Temporary Assistance for Needy Families (TANF) Supported Permanency ~~Program~~ program to obtain guardianship of the child(ren) placed in their home~~.~~, ~~[~~in accordance with OAC 340:75-6-31.4~~]~~.

SUBCHAPTER 6. PERMANENCY PLANNING

PART 5. PERMANENCY PLANNING SERVICES

340:75-6-31.3. Court supervision of cases after reunification - Aftercare

To further protect children, Section 7003-5.5(a) of Title 10 of the Oklahoma Statutes provides that once any child of a family has been returned to a person named in a deprived petition, supervision of the court continues for a minimum of 12 months, subject to the availability of funds. ~~The CW case will remain open during the period of court supervision. The court may order the child to remain in DHS custody or under DHS supervision.~~ Oklahoma Department of Human Services (OKDHS) supervises for six months, and, if conditions in the home appear stable, the CW worker recommends OKDHS be relieved of legal custody, supervision, or both.

PART 8. ROLE OF THE CHILD WELFARE WORKER

340:75-6-48. ~~Child Welfare (~~CW~~)~~ worker contacts with child, placement providers, and parents

(a) **Child and placement provider.** The purposes of a Child Welfare (CW) worker's contacts ~~with the child in placement maintain~~ include, but are not limited to, maintaining the child's connections to his or her family, ~~and provide continuity and hope for the future. Contacts allow~~ allowing the worker to evaluate the interactions, conditions, and services the child is receiving, particularly those in the home or in placement~~.~~, ~~In addition, the CW worker's contacts with the placement providers serve~~ and serving to establish and maintain a teamwork relationship. CW worker contacts with a ~~DHS custody~~ child in the custody of the Oklahoma Department of Human Services (OKDHS) and placement ~~provider~~ provider(s) are provided in (1) ~~-~~ through (~~6~~7) ~~of this subsection~~.

(1) **Foster family care and therapeutic foster care.** The CW worker in the county of placement has face-to-face contact with the child in the foster home within the first two weeks of each placement and a minimum of once every four weeks thereafter. This applies to ~~children~~ a child placed in paid or non-paid kinship placement, regular foster care, contract foster care, and therapeutic foster care. Contacts increase in times of change and stress. If there is good cause to believe that a child needs to be interviewed privately during a contact in the foster home, for reasons other than abuse and neglect allegations, the foster ~~parents provide~~ parent(s) provides

a place in the home where the child can be interviewed outside the foster ~~parents'~~ parent(s)' presence.

(2) **Shelter.** The CW worker has face-to-face contact with the child at the shelter within 24 hours of his or her entry into the shelter and a minimum of once weekly while the child remains in the shelter. ~~If~~ During the shelter stay, when the child's CW worker offices:

(A) within 60 miles of the shelter, ~~that~~ the CW worker visits and provides any identified services to the child ~~during the shelter stay.~~; or

(B) ~~If the child's CW worker offices~~ more than 60 miles from the shelter, the assigned shelter liaison ~~will service~~ visits and provides any identified services to the child ~~during the shelter stay and provide the required contacts~~. The child's CW worker ~~has weekly contact~~ contacts, either by ~~telephone~~ phone or in person, ~~with~~ the shelter social worker weekly while the child remains in shelter care~~. [~~as described in OAC 340:75-10-10(~~1~~7)(~~C~~A)~~]~~.

(3) **Community-based residential care - non-OKDHS operated.** For ~~custody children~~ the child placed in a group ~~homes~~ home or specialized community ~~homes~~ home, the CW worker has face-to-face, private contact with the child and placement provider in the placement once every 30 days ~~if~~ when the child's placement is 30 miles or less and every 90 days ~~if~~ when the child's placement is over 30 miles from the county of jurisdiction. The facility liaison ~~is responsible for the~~ contacts ~~with~~ the child and placement ~~provider~~ provider(s) during the months the CW worker does not have a face-to-face contact with the child.

(4) **Community-based residential care - OKDHS operated.** For the child placed in an OKDHS operated group home, the CW worker has phone or personal contact with the child and group home worker once every 30 days. The group home worker visits with the child and coordinates or completes any applicable permanency planning duties pertaining to the child.

(~~4~~5) **Inpatient treatment - acute.** ~~If~~ When a child is in acute inpatient treatment, face-to-face contact with the child at the placement location is provided by the facility liaison every 30 days. ~~Close~~ Daily phone contact is maintained between the ~~liaison~~ mental health facility and the child's worker during the first five working days of treatment. ~~Refer to Mental Health Treatment Services rules at OAC 340:75-16. In addition, the primary CW worker is responsible for having on-site interaction with the child every 30 days. The primary~~ If the child remains in acute inpatient treatment in excess of five working days, the CW worker ~~makes telephone contact with~~ contacts the child's therapist or other mental health professional ~~every two weeks to inquire~~ and facility liaison by phone a minimum of once a week and inquires about the child's progress ~~toward~~ in order to facilitate the discharge plan. [OAC 340:75-16]

(~~5~~6) **Inpatient treatment - residential.** ~~If~~ When a child is in inpatient residential treatment, face-to-face contact with the child at the placement location is provided by the facility liaison every 30 days. Close contact is maintained between the liaison and the child's worker. ~~Refer to Mental Health Treatment Services rules at OAC 340:75-16.~~ In addition, the ~~primary~~ CW worker ~~is responsible for having~~ has on-site interaction with the child every 30 days if the child's placement is 30 miles or less, and every 90 days if the child's placement is over 30 miles from the county of jurisdiction. The ~~primary~~ CW worker ~~makes telephone contact with~~ contacts the child's therapist or other mental health professional by phone every two weeks ~~to inquire~~ and inquires about the child's progress toward the discharge plan. [OAC 340:75-16]

(~~6~~7) **Own home.** The CW worker has face-to-face private contact with the child a minimum of once every four weeks. After the child's return to the parent(s), the first three contacts are in the child's home. Contact location then ~~can~~ may alternate between the home and any other location. If the child has been returned for at least six months and OKDHS has been ordered to continue legal custody, supervision, or both, the CW worker has one face-to-face private contact with the child within two weeks prior to each scheduled court hearing unless more frequent visits are ordered by the court in order to obtain updated information to provide to the court. Contacts are increased during times of change and stress.

(b) **Child - special case circumstances.** ~~In~~ There are several special case circumstances~~,~~ when ~~the CW worker's~~ minimum required contacts with the child and placement ~~provider, if applicable,~~ provider(s) may be ~~modified~~ allowed. The decision to ~~modify the amount of~~ allow the use of the minimum required contact rule ~~is made jointly between the CW supervisor, worker, and other appropriate parties, as identified below, and~~ requires supervisory approval. ~~Any reduction in the amount of~~ Reduced contact with the child and family ~~should~~ is not ~~be~~ considered when ~~there are~~ concerns are identified that ~~may~~ require more intensive contact. ~~These~~ The circumstances and the minimum amount of required contact are detailed in (1) – through (6) ~~of this subsection~~.

(1) **Own home with Comprehensive Home-Based Services (CHBS).** When there is an open CHBS case for the purpose of reunification of a child in the custody or supervision of ~~the Department~~ OKDHS, the assigned CHBS worker has face-to-face, private contact with the child in the home per contract specifications and the CW worker has face-to-face private contact with the child in the home a minimum of once every ~~quarter~~ 90 days. The CW worker ~~has a minimum of one case staffing monthly with~~ contacts the CHBS worker monthly, either by phone or in person, and inquires about case circumstances and identified needs.

(2) **Developmental Disabilities Services Division (DDSD) placement.** When a child in the custody of ~~the Department~~ OKDHS is in a DDSD placement, DDSD case management staff ~~provide~~ provides services to the ~~custody~~ child in accordance with OAC 317:~~30-5-1010.1, 1011, and 1012~~ 40-5-14. The CW worker in the county of placement:

(A) has face-to-face, private contact with the child in the home a minimum of once every ~~quarter.~~ 90 days; and

(B) ~~The CW worker has a minimum of one case staffing~~ contacts, either by phone or in person, ~~with~~ the DDSD ~~worker~~ case manager monthly and inquires about case circumstances and identified needs.

(3) **Youth, 18 years or older, in voluntary placement.** The CW worker's contact with a youth, 18 years or older, in placement voluntarily, is determined jointly by the CW supervisor, CW worker, youth, and the placement ~~provider~~ provider(s).

(A) A minimum of one face-to-face contact with the youth is required in the placement location every six months until closure of the case ~~is required~~.

(B) During the months when the CW worker's contact with the youth is not in the ~~provider's~~ provider(s)' home, the worker ~~is to contact~~ contacts the youth and the provider by ~~telephone~~ phone.

(4) **Custody with relative or another person with ~~DHS~~ OKDHS supervision.** The CW worker has face-to-face contact with the child placed in the custody of a ~~relative~~ relative(s) or another ~~person~~ person(s) with ~~DHS~~ OKDHS supervision a minimum of once every four weeks. The location of the worker's contact ~~can~~ may alternate between contact in the home and any other location.

(5) **Interstate Compact on the Placement of Children (ICPC) placement in residential treatment centers or group homes.** The CW worker has face-to-face contact at least ~~quarterly~~ every 90 days in the facility. [OAC 340:75-1-86]

(6) **Casey Family Programs placement.** When a child in out-of-home placement is placed with Casey Family Programs, the assigned Casey Family Programs worker has face-to-face, private contact with the child in the home per contract specifications. This worker's contact meets the minimum monthly requirement for contact with the child. The CW worker maintains responsibility for coordination and completion of ~~the~~ Form CWS-KIDS-11, Court Report, and attendance at any court hearing involving the child.

(c) **Parents.** The CW worker has face-to-face contact with the ~~parents~~ parent(s) of the child within the first two weeks of the child's removal and a minimum of once every four weeks thereafter. The location of the contact is decided jointly by the CW supervisor and worker. The CW worker makes a home visit when assessing the home for reunification purposes. Exceptions to contacts with the ~~parents~~ parent(s) are made when:

(1) the ~~parents'~~ parent(s)' whereabouts are unknown;

(2) the ~~parents are living~~ parent(s) lives out of state;

(3) parental rights have been terminated; or

(4) other justified reasons exist which are documented in the case record.

~~(d) **Purpose of contacts.** The purpose of worker contacts with the child, placement provider, and parents is to:~~

~~(1) ensure the parents understand the treatment plan and the consequences of failure to correct the conditions of intervention and are informed of the next court hearing;~~

~~(2) assess the family and their willingness and abilities to provide a safe home environment for their child; evaluate the home situation, their progress on the treatment plan and inform them of their progress;~~

~~(3) provide the parents with information about the child and the services the child is receiving, including medical care;~~

~~(4) inform the parents and child of each other's situation, progress, and other related issues;~~

~~(5) ensure the parents understand the importance of visitation in developing and maintaining a healthy parent child relationship. The worker facilitates and coordinates visits and records reactions to specific visits on the family visitation screen;~~

~~(6) advise the parents of their rights, roles and responsibilities and the status of the case;~~

~~(7) ensure the child's needs are being met and his or her safety is intact in the placement;~~

~~(8) encourage and guide the parents in the completion of their treatment plan;~~

~~(9) facilitate the parents obtaining the identified services needed to correct the conditions that led to the child's removal; and~~

~~(10) provide timely and relevant information to the placement provider on the child that is pertinent to the care needs of the child and or permanency planning process pursuant to Section 7005-1.4(a)(17) of Title 10 of the Oklahoma Statutes.~~

SUBCHAPTER 16. MENTAL HEALTH TREATMENT SERVICES

PART 1. INPATIENT MENTAL HEALTH TREATMENT

340:75-16-27. Purpose [REVOKED]

~~The purpose of the Children and Family Services Division's (CFSD) mental health services is to assure that custody children receive inpatient mental health treatment as needed in accordance with Title 43A of Oklahoma Statutes, Inpatient Mental Health Treatment of Children Act. The primary purpose of inpatient mental health treatment is for the short term crisis stabilization of children. The number of custody children in inpatient mental health treatment is minimized by the utilization of outpatient behavioral health care services and community based residential care services.~~

340:75-16-28. ~~Legal~~ Purpose and legal base

(a) **Purpose.** The purpose of the Children and Family Services Division's (CFSD) mental health services is to ensure that children in the custody of the Oklahoma Department of Human Services (OKDHS) receive inpatient mental health treatment as needed in accordance with Sections 5-501 through

5-513 of Title 43A of the Oklahoma Statutes, Inpatient Mental Health and Substance Abuse Treatment of Minors Act. The primary purpose of inpatient mental health treatment is for the short-term crisis stabilization of children. The number of children in OKDHS custody in inpatient mental health treatment is minimized by the utilization of outpatient behavioral health care services and community-based residential services.

(b) **Legal base.** The rules in ~~this subchapter~~ OAC 340:75-16 are issued in compliance with Sections 5-501 through 5-513 of Title 43A of the Oklahoma Statutes, Inpatient Mental Health and Substance Abuse Treatment of ~~Children~~ Minors Act, and Section 7004-1.1 of Title 10 of the Oklahoma Statutes, which mandates ~~the Department~~ OKDHS to review and assess each child in the ~~Department's~~ custody of OKDHS to determine the type of placement consistent with the treatment needs of the child in the nearest geographical proximity to the home of the child.

340:75-16-29. Definitions

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

"Acute psychiatric facilities" means facilities that provide inpatient mental health treatment to patients requiring ~~acute~~ intensive treatment. These facilities are secure and may be located in either a hospital ~~setting~~ or ~~a~~ non-hospital setting. ~~The facilities provide a secure setting while the patient is undergoing treatment. Restraint (physical~~ Physical, mechanical, or drug~~)~~ restraint by the facility may be utilized along with treatment modalities ~~by the facility~~. Seclusion may also be used. ~~The facilities must abide by patients' rights while patients are placed in acute psychiatric facilities.~~

~~**"Child in need of mental health treatment"** means a child who is in need of mental health treatment, per Section 5-502 of Title 43A of Oklahoma Statutes, and who:~~

~~(A) has a demonstrable mental illness and as a result of that mental illness can be expected, within the near future, to inflict or attempt to inflict serious bodily harm on himself or herself or another person if mental health services are not provided; and has engaged in one or more recent overt acts or made significant recent threats which substantially support that expectation; or the illness is of sufficient severity to cause substantial impairment or disability in at least two of the major areas of functioning in the child's life given in (i) - (iv) of this subparagraph. The major areas of functioning are:~~

~~(i) family relations;~~

~~(ii) school performance;~~

~~(iii) social interactions; and~~

~~(iv) ability to perform independently the basic tasks of personal hygiene, hydration and nutrition, or self-protection. A determination regarding the ability of the child to perform basic tasks independently is based upon the age of the child and a reasonable and appropriate expectation of the abilities of a child of such age to perform basic tasks; and~~

~~(B) is not afflicted with epilepsy, developmental disability, organic brain syndrome, physical handicaps, brief periods of intoxication caused by substances such as alcohol or drugs, or who is truant or sexually active unless the child also meets the criteria for a child in need of mental health treatment.~~

~~**"Community Mental Health Center (CMHC)"** means a county agency that provides the screening or gatekeeping, according to the medical necessity criteria, or the inpatient mental health treatment of custody children. The Department of Mental Health and Substance Abuse Services' local community mental health centers are designated by OFMQ to provide this service.~~

~~**"Gatekeeping"** means the process of conducting a formal evaluation to determine whether a child needs acute psychiatric inpatient mental health treatment or residential psychiatric inpatient mental health treatment (RTC) based on the medical necessity criteria established by OHCA. Gatekeeping is conducted by the county of jurisdiction CMHC assigned gatekeeper.~~

"Inpatient psychiatric care review (IPCR)" means the process of conducting a formal evaluation by phone or fax to determine whether a child requires acute psychiatric or residential treatment center (RTC) inpatient mental health treatment based on the medical necessity criteria established by the Oklahoma Health Care Authority (OHCA). The inpatient psychiatric care review is a function of the Oklahoma Foundation for Medical Quality (OFMQ) and is conducted by the inpatient psychiatric care review coordinator.

"Inpatient psychiatric care review coordinator (IPCRC)" means the person working for OFMQ who makes the determination whether a child in the custody of the Oklahoma Department of Human Services (OKDHS) meets the medical necessity criteria for acute psychiatric inpatient care or RTC treatment services.

"Medical necessity review" means an assessment of current and recent behaviors and symptoms to determine whether an admission for inpatient mental illness or drug or alcohol dependence treatment constitutes the least restrictive level of care necessary. The review is performed by a licensed mental health professional.

"Minor" means any person younger than 18 years of age.

"Minor in need of treatment" means a person younger than 18 years of age who is in need of treatment, per Section 5-502 of Title 43A of the Oklahoma Statutes, and who:

(A) has a demonstrable mental illness or who is drug or alcohol dependent and as a result of that mental illness or dependency is expected within the near future to inflict or attempt to inflict serious bodily harm to himself or herself or another person and has engaged in one or more recent overt acts or made significant recent threats which substantially support that expectation; or

(B) has a demonstrable mental illness or is drug or alcohol dependent of sufficient severity to cause substantial impairment or disability in at least two of the major areas of functioning in the minor's:

(i) family relations;

(ii) school performance;
(iii) social interactions; or
(iv) ability to perform independently the basic tasks of personal hygiene, hydration and nutrition, or self-protection. A determination regarding the ability of the minor to perform independently such tasks is based upon the age of the minor and the reasonable and appropriate expectation of the minor's ability to perform such tasks.

"Oklahoma Foundation for Medical Quality (OFMQ)" means ~~a state agency that is~~ the ~~agent~~ entity designated by OHCA responsible for the prior authorization of outpatient behavioral health care services for Title XIX Medicaid reimbursement and to ~~manage the screening and gatekeeping process for both~~ facilitate the inpatient psychiatric medical necessity care review for acute and residential inpatient mental health treatment ~~for Title XIX Medicaid reimbursement~~.

"Oklahoma Health Care Authority (OHCA)" means ~~a~~ the state agency that administers medical programs reimbursed by the Title XIX Medicaid program and is responsible for the establishment of medical necessity criteria that determine ~~if~~ whether an inpatient mental health treatment facility is reimbursed by Title XIX Medicaid.

"Residential treatment centers (RTC)" means facilities ~~which can~~ that provide residential mental health treatment ~~(less secure than acute)~~ to residents ~~requiring residential treatment~~. These facilities ~~can~~ may be located in either a hospital ~~setting~~ or ~~a~~ non-hospital setting. The facilities must ~~be able to~~ provide adequate supervision for residents since residential treatment centers are not secure facilities. ~~Restraint (physical~~ Physical, mechanical, or drug~~)~~ restraint may be utilized by the facility along with treatment modalities ~~by the facility~~. Seclusion may also be used. ~~The facilities must abide by residents' rights while residents are placed in residential treatment centers.~~

340:75-16-30. Admission ~~of custody child~~ to inpatient mental health care

(a) The ~~Community Mental Health Center (CMHC) gatekeeper~~ inpatient psychiatric care review coordinator (IPCRC) authorizes all inpatient mental health services for ~~custody~~ children in the custody of the Oklahoma Department of Human Services (OKDHS) prior to admission. ~~Gatekeeping evaluations are~~ An inpatient psychiatric care review (IPCR) is required for Title XIX Medicaid reimbursement of acute inpatient mental health treatment and residential mental health treatment for ~~custody~~ children in OKDHS custody.

(1) The ~~CMHC providing services in the child's county of jurisdiction~~ IPCRC is responsible for ~~the gatekeeping evaluations~~ determining whether the child meets medical necessity criteria for inpatient care.

(2) The ~~gatekeeping initial assessment~~ IPCR is a ~~face-to-face evaluation~~ phone review to determine the level of inpatient mental health treatment needed by the child, based on the medical necessity criteria developed for each level of care.

(A) The two levels of care of inpatient mental health treatment are acute and residential.

(B) Authorization for the length of services is ~~also~~ approved at this time.

(3) ~~A pre-screening evaluation~~ The medical necessity review form is ~~conducted~~ completed by the IPCRC ~~a licensed mental health professional~~ at the ~~CMHC having the responsibility for the area where the child resides~~ Oklahoma Foundation for Medical Quality (OFMQ) and submitted to the facility.

(b) If the ~~gatekeeper~~ IPCRC denies inpatient mental health treatment for the child, the Child Welfare (CW) worker may ~~appeal the decision~~ request reconsideration of the decision by OFMQ.

(c) ~~If the gatekeeper~~ When OFMQ authorizes inpatient mental health treatment, the child is admitted to an inpatient mental health treatment facility on an emergency basis~~.~~ ~~A child does not remain in an inpatient facility for more than two judicial~~ for up to five days ~~without a court order~~ from the time of admission, excluding weekends and holidays.

~~(d) A custody child is civilly committed to either an inpatient acute or residential mental health treatment facility by the court. The district attorney, in the county where the custody child is currently placed or in the county of jurisdiction, files the petition alleging the need for civil commitment~~.

(d) A mental health evaluation must be completed by a licensed mental health professional at the inpatient facility and a report provided to the district attorney within 48 hours of admission, excluding weekends and holidays. This evaluation by a licensed mental health professional is required by Section 5-507 of Title 43A of the Oklahoma Statutes and is attached to the petition requesting inpatient treatment.

(e) After the filing of a petition, ~~and upon order of the court,~~ the district attorney obtains a pre-hearing detention order authorizing the child to remain inpatient pending the hearing. The hearing is set within one to three judicial days from the filing of the petition. The child is detained in the mental health facility for no longer than necessary for a hearing on the petition ~~and further order of the court. [43A O.S. § 5-507 E.2]~~ as provided by Section 5-510 of Title 43A of the Oklahoma Statutes. The inpatient facility submits a proposed individualized treatment plan to the court 24 hours in advance of the scheduled hearing.

~~(f) An evaluation by an independent a licensed mental health professional is required by state statute. The independent licensed mental health professional's report is due to the court no less than 24 hours prior to the time of the hearing and includes information as to whether or not the child needs inpatient mental health treatment.~~

(~~g~~f) At the hearing, the court determines whether by clear and convincing evidence the child is a ~~child~~ minor in need of mental health and substance abuse treatment. When the court:

(1) ~~If the court~~ finds the child is not ~~child~~ a minor in need of mental health and substance abuse treatment, the court dismisses the ~~civil~~ commitment case~~.~~;

(2) ~~If the court~~ finds the child is a ~~child~~ minor in need of mental health and substance abuse treatment, but does not require inpatient treatment, the court may order mental health and substance abuse treatment or services through a less restrictive alternative~~.~~;

(3) ~~If the court~~ finds the child is a ~~child~~ minor in need of mental health and substance abuse treatment and requires inpatient treatment in an inpatient mental health facility, the court orders the commitment of the child to a mental health facility for not more than 30 days~~.~~; or

(4) ~~When the court~~ commits a child to a mental health facility for inpatient treatment, the court sets the case for review every 30 days from the date of the commitment hearing as long as the child receives inpatient treatment.

(g) An individualized treatment plan is submitted by the facility within ten days after the order authorizing inpatient treatment.

(h) The inpatient facility submits a report on progress and recommendations three days prior to any review hearing.

(~~h~~i) The child's rights during the ~~civil~~ commitment process ~~are~~ include:

(1) notice of hearing~~,~~;

(2) representation by an attorney~~,~~;

(3) right to a private hearing unless the judge directs otherwise according to the statute~~,~~;

(4) right to a jury trial; and

(5) right to cross examine.

340:75-16-31. Individualized treatment plan

Within ten days after ~~admission for~~ the order authorizing continued inpatient mental health treatment, ~~the person in charge of~~ the facility ~~in which the child is being treated~~ ensures that ~~the person responsible for the child's treatment prepares~~ an individualized treatment plan is submitted to the court. The child is involved in determining the treatment plan when possible. The child's ~~parent~~ parent(s) and the Child Welfare (CW) worker are involved to the maximum extent consistent with the treatment needs of the child.

340:75-16-32. Length of stay in inpatient mental health facilities and extension by ~~gatekeeper~~ IPCRC

(a) The initial length of stay for acute inpatient mental health care is up to five calendar days and residential inpatient mental health care is ~~five~~ up to ten calendar days, based on the ~~face-to-face assessment~~ review by the ~~gatekeeper~~ inpatient psychiatric care review coordinator (IPCRC) at the Oklahoma Foundation for Medical Quality (OFMQ) to determine the number of days required to resolve the identified presenting problems.

(b) An extension for acute inpatient mental health care is five ~~to ten~~ calendar days as determined by the ~~gatekeeper~~ IPCRC, based upon the documented need for the extension of care. A request for extension is ~~submitted~~ made by staff of the treating ~~facilities three calendar days before the end of the current certificate of need (CON)~~ facility via phone on or before the last business day of the current authorization for inpatient care. ~~Gatekeepers cannot authorize extension requests beyond thirty days without first conducting a face-to-face evaluation for a child in acute inpatient mental health care.~~

(c) An extension for residential mental health care is ~~required every~~ up to 15 to 30 calendar days ~~after the initial five or ten day admission~~. The number of days allowed is determined by the ~~gatekeeper~~ IPCRC, based on the level of impairment, severity, and chronicity of the symptoms present that meet the medical necessity criteria. The treating facility submits the request for an extension three calendar days before the end of the ~~CON~~ current authorization. ~~Gatekeepers cannot authorize extension requests beyond 90 days for a child who is in a residential mental health care facility without first conducting a face-to-face evaluation.~~

(d) ~~An appeal~~ A reconsideration request for the length of stay is made to ~~Oklahoma Foundation for Medical Quality (~~OFMQ~~)~~ by the Child Welfare (CW) worker ~~if~~ or the inpatient psychiatric facility when the ~~gatekeeper~~ IPCRC denies an extension and the CW worker or the inpatient psychiatric facility has additional information which was not considered in the extension decision by the ~~gatekeeper~~ IPCRC.

340:75-16-33. Discharge plan

(a) The treating facility prepares a discharge plan with the Child Welfare (CW) worker's input prior to discharge and submits a copy to the CW worker. The discharge plan includes:

(1) the services required by the child in the community to meet his or her needs for treatment, education, housing, ~~and~~ physical care, and safety; and

(2) identification of the public and private agencies that are involved in providing treatment and support for the child.

(b) The child is discharged from the facility when he or she no longer meets medical necessity or ~~civil~~ commitment criteria as determined by appropriate inpatient mental health staff.

(c) ~~A civilly committed~~ The child is discharged upon the expiration of the court order or when a new court order directs the child's discharge.

340:75-16-36. Out-of-state inpatient mental health care ~~for custody children~~

(a) ~~Custody children placed in~~ Children in the custody of the Oklahoma Department of Human Services (OKDHS) admitted to inpatient mental health care facilities out-of-state must meet the same medical necessity criteria for inpatient mental health treatment required in ~~the state of~~ Oklahoma. ~~Custody children~~ Children in OKDHS custody are only admitted to a facility ~~which~~ that is an Oklahoma Health Care Authority (OHCA) approved Title XIX provider under formal contract with OHCA and Children and Family Services Division (CFSD). Admission of a ~~custody~~ child in OKDHS custody to an out-of-state inpatient mental health treatment facility requires prior approval through Interstate Compact on the Placement of Children (ICPC).

(b) ~~Custody children~~ Children in OKDHS custody in ~~non-psychiatric~~ out-of-state placements who ~~need~~ require inpatient mental health treatment ~~can~~ may only be admitted to an out-of-state facility ~~which~~ that is OHCA approved and has a formal contract with CFSD. ~~The county of jurisdiction gatekeeper is contacted in order to have the admission approved for Medicaid reimbursement. The gatekeeper determines whether there is a face-to-face evaluation completed by the gatekeeper, a courtesy gatekeeper, or whether the child has~~

~~to be returned to the state of Oklahoma for an independent evaluation.~~

(c) Children who are placed in an inpatient mental health facility in ~~the state of~~ Oklahoma by another state do not have to meet the Oklahoma Medicaid requirements.

340:75-16-37. ~~Custody child~~ Child who no longer meets medical necessity criteria for inpatient mental health treatment

(a) The ~~custody~~ child in the custody of the Oklahoma Department of Human Services (OKDHS) who is denied continued inpatient mental health treatment by the ~~gatekeeper~~ inpatient psychiatric care review coordinator (IPCRC), no longer meets medical necessity criteria for inpatient treatment, and whom the therapist agrees to discharge, is discharged and placed in an above foster care, foster care, or other appropriate placement. The Child Welfare (CW) worker ~~takes~~ considers the placement recommendation ~~of placement~~ by the facility therapist ~~into consideration~~ when placement plans are made.

(b) ~~An appeal~~ A request for reconsideration of the decision of the ~~gatekeeper~~ IPCRC is made to the Oklahoma Foundation for Medical Quality (OFMQ) for the ~~custody~~ child in OKDHS custody who is denied ~~by the gatekeeper for~~ continued inpatient mental health care~~,~~ or no longer meets medical necessity criteria for inpatient care, but the therapist or doctor does not agree to the child's discharge.

[OAR Docket #04-441; filed 3-25-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION

[OAR Docket #04-424]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Administration
Part 1. General Administration
340:100-3-5.2. [AMENDED]
Part 3. Operations
340:100-3-27. [AMENDED]
340:100-3-29. [AMENDED]
340:100-3-38.12. [NEW]
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-22.5. [AMENDED]
340:100-5-26. [AMENDED]
340:100-5-26.2. [NEW]
(Reference APA WF # 03-09 and 03-28)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Section 1415.1 of Title 10 of the Oklahoma Statutes; and Sections 228 and 1020 of Title 56 of the Oklahoma Statutes.
DATES:
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January 27, 2004
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March 11, 2004
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SUPERSEDED EMERGENCY ACTIONS:
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Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-26.2. [NEW]
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April 10, 2003
Register publication:
20 Ok Reg 1078
Docket number:
03-726
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Developmental Disabilities Services Division (DDSD) rules are established to: (1) guide DDSD staff, service recipients, and providers regarding service delivery when a service recipient is diagnosed as having a terminal illness; and (2) provide training guidelines for contract provider staff.

Rules are revised to: (1) clarify that guardianship vouchers expire after one year if unused; (2) add a procedure for correction of situations recognized by DDSD quality assurance staff that are the responsibility of a DDSD staff member; (3) update and make the rules correspond with federal regulations and statutes; (4) correct a citation error; and (4) clarify the responsibilities of DDSD staff and contract providers regarding advance directives and Do Not Resuscitate orders.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-3611.

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 APRIL 26, 2004.

SUBCHAPTER 3. ADMINISTRATION

PART 1. GENERAL ADMINISTRATION

340:100-3-5.2. Guardianship ~~Voucher Program~~ voucher program

(a) **Scope and applicability.** Section 1415E of Title 10 and Section 228 of Title 56 of the Oklahoma Statutes provide the legal basis for the Oklahoma Department of Human Services (OKDHS) to pay for legal fees to initiate guardianship proceedings for ~~consumers~~ persons who receive Home- and Community-Based Waiver ~~services~~ Services, or who are residents of institutions named in Section 1406 of Title 10 of the Oklahoma Statutes.

(b) **Payment.** Payment for legal services is contingent upon availability of resources and ~~shall~~ does not exceed $700 per ~~consumer~~ service recipient.

(c) **Participation.** Participation in the guardianship voucher program extends only to those ~~consumers~~ service recipients who have been determined by a Developmental Disabilities Services Division (DDSD) Guardianship Assessment Team to need a service listed in subsection (d) of this ~~section~~ Section.

(d) **Services.** Payment may be made for legal services necessary to:

(1) establish guardianship~~.~~;

(2) replace, change, or add a guardian~~.~~;

(3) appoint a successor guardian~~.~~;

(4) alter the terms or level of an established guardianship~~.~~;

(5) establish less restrictive alternatives such as conservatorship~~.~~; or

(6) restore the ward's capacity.

(e) **Subsequent services.** Requests for payment for subsequent legal services related to the guardianship of the same ~~consumer~~ service recipient may be approved by the DDSD ~~Division Administrator~~ director or designee.

(f) **Eligibility.** The eligibility requirements of the guardian or potential guardian for participation in the guardianship voucher program are explained in this subsection.

(1) The guardian(s) or potential guardian(s) applying for a voucher must be a relative of the ~~consumer~~ service recipient or a volunteer guardian certified in accordance with OAC 340:100-3-5.1.

(2) The guardian(s) or potential guardian(s) must be recommended by the DDSD Guardianship Assessment Team.

(g) **Financial eligibility.** Financial eligibility for participation in the guardianship voucher program is explained in this subsection.

(1) Certified volunteer guardians are exempt from financial eligibility requirements.

(2) Immediate family members are subject to financial eligibility requirements.

(A) For the purposes of this Section, the term "immediate family member" includes spouse, mother, or father. Other relatives who desire to become the ~~consumer's~~ service recipient's guardian are not required to meet the financial eligibility criteria.

(B) To be financially eligible to participate in the guardianship voucher program, the annual adjusted gross income (AGI) of the immediate family member applicant or co-applicants must be $60,000 or less. Immediate family member applicants whose AGI exceeds $60,000 are not eligible for the guardianship voucher program.

(h) **Application.** The application process for the guardianship voucher program is explained in this subsection.

(1) Applications are available from the DDSD case manager assigned to the ~~consumer~~ service recipient.

(2) The guardian(s) or potential guardian(s) making application for the guardianship voucher program must return the required income verification according to subsection (j) of this Section.

(3) Any incomplete application is returned to the applicant identifying the missing information.

(4) The completed application is date stamped upon receipt in the DDSD State Office. The date the application is received establishes the chronological placement of the completed application after the effective date of the statutes establishing the guardianship voucher program.

(5) Applications for the guardianship voucher program are considered in chronological order of receipt in the DDSD State Office.

(6) The number of applications approved is determined by available funding. Applications not approved during a fiscal year due to insufficient funding are placed on a waiting list in the chronological order received and are processed as funds become available.

(i) **Verification of income.** The applicant must provide verification of annual income. Acceptable forms of verification include a signed copy of the applicant's most recent federal income tax return or documentation of all sources of income from Supplemental Security Income, Temporary Assistance for Needy Families, child support, alimony, other state or federal subsidy, or other types of income.

(j) **Notification of application status.** The applicant is provided written notice of approval or denial of the application for the guardianship voucher program within 30 days of receipt of a completed application in the DDSD State Office.

(k) **Issuance and expiration of guardianship voucher.** When an application for the guardianship voucher program is approved, a dated voucher is issued to the applicant who then seeks and retains legal counsel of his or her choice. Each voucher is approved for use from the date of issuance and is valid for 365 days from the date of issuance. On the 366th day from the date of issuance, the voucher expires, and voucher funding is no longer encumbered for the expired voucher.

(l) **Submitting voucher for payment.** Upon completion of the guardianship proceedings, the attorney who provides the service submits the voucher to DDSD State Office for payment. A copy of all pleadings filed, the letters of guardianship, and an itemized bill for legal services must be attached to the voucher. The voucher and required documentation must be received by the supervisor of the DDSD guardianship voucher program within 365 days from the date of issuance, or the voucher expires and becomes null and void.

(m) **Fair hearing.** An individual who has been denied ~~Guardianship Voucher services~~ a voucher may request a hearing in accordance with ~~DHS~~ OKDHS fair hearing policy OAC 340:2-5.

(n) **Annual report.** Any guardian receiving financial assistance under this ~~section~~ Section is responsible for sending a copy of the Annual Report to the ~~Court~~ court and to the DDSD State Office within 30 days of submission to the ~~Court~~ court.

PART 3. OPERATIONS

340:100-3-27. Quality assurance

(a) Quality assurance activities assess and encourage the delivery of supports consistent with the preferences and needs of individuals receiving services, Oklahoma Department of Human Services (~~DHS~~ OKDHS) rules, applicable Oklahoma Health Care Authority (OHCA) rules, requirements of contracts for services let through OHCA for Home and Community-Based Services (HCBS) ~~waiver~~, regulatory standards applicable to services, and state and federal law.

(b) Case managers assess services rendered to each person receiving services at least monthly.

(1) If at any time the case manager believes that the person is at risk of harm, the case manager takes immediate steps necessary to protect the person and notifies the case management supervisor and any other appropriate authorities.

(2) If the case manager determines that the needs or preferences of the individual have not been effectively addressed by a provider or that contractual responsibilities or policies are not met by the provider, the steps in this subsection are followed.

(A) The case manager consults with the relevant provider to secure a commitment for necessary service changes within an agreed upon time frame.

(B) If necessary changes are not accomplished within the specified time frame, the case management supervisor intervenes to secure commitments from the provider for necessary change.

(C) If the service deficiency is still not resolved as a result of the intervention of the case management supervisor, a referral for administrative inquiry is initiated pursuant to OAC 340:100-3-27.1.

(3) If, during a contract survey, administrative inquiry, or person-centered evaluation, quality assurance staff recognize a situation that requires correction by Developmental Disabilities Services Division (DDSD) staff, a System Administrative Inquiry is initiated.

(A) The quality assurance staff member sends notification by e-mail to the DDSD staff member responsible to correct the situation, establishing a reasonable time frame for correction.

(B) If the identified staff member is unable to correct the situation within the established time frame, the quality assurance staff member sends notification of the situation by e-mail to the DDSD staff member's supervisor, establishing a reasonable time frame for correction.

(C) If the staff member's supervisor is unable to correct the situation within the established time frame, the quality assurance staff member notifies his or her supervisor, who notifies the DDSD area manager, establishing a reasonable time frame for correction.

(D) If the area manager is unable to correct the situation within the established time frame, the quality assurance supervisor notifies the programs administrator of quality assurance, who resolves the situation with the programs administrator for community services.

(c) At least annually, individuals and families receiving supports are provided the opportunity to complete an evaluation of services, Consumer Service Evaluation, ~~DHS~~ OKDHS Publication No. 89-10.

(1) Confidentiality is maintained unless the respondent authorizes ~~the Department~~ OKDHS to reveal his or her name to those responsible for service delivery. Service evaluations may be completed anonymously if desired.

(2) Quality ~~Assurance~~ assurance staff distribute service evaluations to individuals served or their guardians at least annually.

(3) Completed evaluations are returned to the programs administrator of Quality Assurance.

(4) Results are forwarded to the respective ~~Developmental Disabilities Services Division (~~DDSD~~)~~ area office when authorized by the individual or guardian for resolution of concerns or recognition of staff as appropriate.

(5) An analysis of responses is completed and distributed for action by DDSD area offices, DDSD ~~state office~~ State Office, or ~~DHS~~ OKDHS, as appropriate. Data is available to interested citizens upon request.

(d) Individuals and families receiving supports participate in formal assessments of service-providing agencies in order to promote service enhancement consistent with the expectations of persons receiving services.

(1) Oklahoma - Advocates Involved in Monitoring (OK-AIM) operates under the direction of the Oklahomans for Quality Services Committee (OQSC).

(A) The OQSC is composed of 15 individuals who receive services themselves or who have a family member who receives services. All areas of the state are represented.

(i) OQSC members may be nominated by the public at large, current members of the committee, or by representatives of DDSD.

(ii) Appointment of members occurs as a result of joint consensus by the chair of OQSC and the DDSD director or designee following a determination of the nominee's commitment to promote the interests of persons with developmental disabilities and the nominee's capacity to dedicate the time necessary to fulfill his or her responsibilities.

(iii) The members of the committee have the authority to elect officers based upon a simple majority vote and to establish by-laws governing the conduct of business.

(B) The OQSC:

(i) develops and refines procedures and the survey instrument used, based upon feedback received from individuals receiving supports and their families, providers, and other key constituents;

(ii) participates in the selection of agencies submitting proposals to conduct OK-AIM activities; and

(iii) serves as a resource for education and coordination of agencies conducting OK-AIM monitoring activities.

(2) DDSD issues invitations to bid (ITBs) in accordance with state law and ~~Department~~ OKDHS policy, soliciting proposals from qualified organizations to participate in the OK-AIM initiative. Qualified organizations include agencies that:

(A) are incorporated non-profit agencies dedicated to the representation of individuals with developmental disabilities and their family members;

(B) are not involved in service delivery funded through DDSD or the HCBS Waiver or the Alternative Disposition Plan (ADP) Waiver; and

(C) meet additional requirements set forth by federal and state statute and as indicated in the conditions of the ITB.

(3) Representatives of the OQSC are consulted regarding bids submitted in response to ITBs. Selection of a qualified organization(s) to conduct OK-AIM monitoring and reporting activities occurs as stipulated by policy and law.

(4) Agencies selected to conduct OK-AIM monitoring and reporting activities are responsible for:

(A) soliciting, screening, and training volunteers to conduct OK-AIM site visits;

(B) scheduling site visits with all providers of services referenced in the ITB within counties for which the agency has assumed responsibility;

(C) ensuring the consistency of volunteer and staff activities with:

(i) procedures and protocols approved by the OQSC; and

(ii) ~~DHS~~ OKDHS and OHCA policy and state and federal law;

(D) accurately recording findings of OK-AIM monitoring activities;

(E) ensuring the provision of findings to provider agencies, when appropriate, and representatives of DDSD; and

(F) notifying the DDSD area office of any issue presenting risk to the health and welfare of individuals served identified during OK-AIM monitoring activities.

(5) DDSD area managers identify ~~DHS~~ OKDHS staff responsible for resolving concerns identified during OK-AIM monitoring activities and notifying agencies responsible for OK-AIM monitoring activities of how to contact these individuals during work, evening, and weekend hours.

(6) The OQSC, with the participation of DDSD ~~state office~~ State Office, area offices, and agencies conducting OK-AIM activities, identifies conditions which are determined to present significant risks to individuals served.

(A) Conditions determined to present imminent risk to individuals are reported immediately to the:

(i) statutory investigatory authority;

(ii) DDSD area office; and

(iii) provider agency chief executive officer (CEO) or designee.

(B) Issues which are determined to pose potential risk to individuals are reported to area office staff, who notify the provider agency CEO or designee, by no later than the conclusion of the first working day following observation.

(C) OK-AIM monitors report any other issues thought to be significant to designated area office staff within time frames determined appropriate by the OK-AIM agency.

(7) DDSD staff immediately identify staff within the area office to assume responsibility for the verification and correction of problems posing imminent or potential risk. Time frames for the resolution of validated concerns are approved by the area manager based on the degree of risk involved. All identified concerns are resolved within 30 days from the date of initial notification of the DDSD area office unless an extension is authorized by the area manager in circumstances which pose no jeopardy to any individual. Concerns presenting immediate and significant risk to individuals are corrected immediately.

(8) Each DDSD area manager designates staff to:

(A) track the resolution of each identified concern; and

(B) advise agencies conducting OK-AIM monitoring activities of the steps taken to resolve each concern.

(9) OK-AIM staff summarize the findings of each home visit conducted by volunteers, noting performance in the context of expectations established by the OQSC and published in the OK-AIM training manual.

(A) Recommendations for service enhancement are presented to the relevant area office for review within 30 days of a home visit.

(B) Area office staff, in turn, share this information with the provider and collaborate on recommendations as well as other alternatives for achieving targeted service enhancement. The plans developed as a result are shared with OK-AIM staff during the next meeting. Provider comments or action plans are maintained with the OK-AIM report in area office files.

(10) The OK-AIM survey process is re-assessed at least annually by the OQSC based upon feedback solicited from persons receiving services, area office staff, providers, and other constituencies affected by, or involved in, the process.

(e) An independent authority annually assesses service outcomes for each person receiving residential services funded or administered through ~~the Department~~ OKDHS, or ~~Home and Community-Based Waiver Services (HCBW)~~ HCBS. Assessments employ standardized measures, facilitating individual, as well as congregate, data analysis over time. Assessment protocols provide for the identification and resolution of circumstances posing immediate risk(s) to individuals served.

(f) Provider agencies failing to cooperate with provisions of the rules in this Section or providing falsified information

in response to any inquiry undertaken pursuant to the rules of this Section are subject to the range of sanctions identified, including contract termination.

(g) Findings of significant non-compliance with human rights, rules, or law are immediately reported to the DDSD director and other relevant authorities for appropriate action, including disciplinary action of state employees as provided by ~~DHS~~ OKDHS policy, or the imposition of sanctions, including suspension or termination of contract agreements with provider agencies, as provided by OAC 340:100-3-27.2.

(h) Provider agencies and ~~DHS~~ OKDHS employees are prohibited from any form of retaliation against any individual served, employee, or agency for reporting or discussing possible performance deficiencies with any authorized agent of ~~the Department~~ OKDHS. Authorized agents for this purpose are ~~DHS~~ OKDHS staff whose responsibilities include administration, supervision, or oversight of DDSD services, including case managers, case management supervisors, area managers, ~~state office~~ State Office administrators, Office of Client Advocacy personnel, and ~~Quality Assurance~~ quality assurance staff.

(i) Additional components of ~~DDSD's~~ the DDSD quality assurance program are found in OAC 340:100-3-27.1 through 340:100-3-27.5.

340:100-3-29. Foster Grandparent Program

All Foster Grandparent volunteer activities and requests for senior volunteers are recorded and monitored through the Oklahoma Department of Human Services (OKDHS) Foster Grandparent Program Office, in accordance with the Domestic Volunteer Service Act (DVSA) of 1973, P.L. 93-113, as stated in the Foster Grandparent Program Operations Handbook, ~~4405.90, January 1989~~ April 2000.

(1) Foster Grandparent Program volunteers work with children, chronologically 21 years of age or less.

(2) Volunteers receive an hourly stipend if total household income is within the ~~ACTION~~ National Senior Service Corps (NSSC) guideline.

(3) Volunteers work no more than ~~20 hours per week~~ 2,088 hours per year.

(4) Volunteers receive all benefits as stipulated in the ~~ACTION Operations~~ Corporation for National Service, NSSC Foster Grandparent Program Operations Handbook.

(5) ~~Child Abuse registry, traffic and criminal checks are completed on a potential foster grandparent prior to their~~ A background check is completed prior to a potential foster grandparent serving as a volunteer and every three years thereafter. The background check includes checks of:

(A) the child abuse registry;

(B) the sex offender registry;

(C) the community services worker registry;

(D) criminal background; and

(E) traffic history.

(6) Prior to volunteering and annually thereafter, the foster grandparent ~~is to~~ must have ~~a DHS~~ an OKDHS vendor contract in force for the reimbursement of travel, meals, or stipends if applicable.

(7) Foster Grandparent staff submit monthly expenditure reports to the ~~Department of Human Services~~ OKDHS Finance Division federal programs accountant.

340:100-3-38.12. Training for direct support staff providing respite, homemaker, and respite homemaker services

(a) **Applicability.** Direct support staff or provider agency volunteers and their direct supervisors providing only respite, homemaker, and respite homemaker services through the Community Waiver, In-Home Supports Waiver (IHSW), or Homeward Bound Waiver in the family's home or in the individual's home complete training in accordance with this Section.

(1) If Form DDS-37, In-Home Supports Waiver Certificate of Competency, is in place for IHSW participants as specified in OAC 340:100-3-38.5, staff do not have to meet the requirements of this Section.

(2) Direct support staff providing services beyond respite, homemaker, or homemaker respite services complete the training appropriate to their jobs as defined in OAC 340:100-3-38.

(b) **New employee training.** No later than 30 days following the date of hire, provider agency staff providing direct supports or supervising at any level the delivery of direct supports must complete the first available foundation training course approved by Developmental Disabilities Services Division (DDSD), and the approved effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff person's work location following the person's date of hire.

(c) **First Aid and Cardio-Pulmonary Resuscitation (CPR).** All direct support staff must be currently certified in an approved course of First Aid and CPR before providing services alone or with other untrained staff.

(1) Even if working with trained staff, First Aid and CPR certification of each staff member must occur within 90 days following employment.

(2) The Personal Support Team (Team) may determine, based on the needs of the individual, that staff must receive First Aid and CPR certification in less than 90 days.

(d) **Medication administration training.** Staff members must be certified in a medication administration course in accordance with OAC 340:100-3-38.10 before administering medication(s) to a person receiving services or assisting with a person's medication support plan.

(e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the Individual Plan (Plan) based on the Physical Status Review (PSR) as explained in OAC 340:100-5-26, or for implementation and consistency of supports and programs and to assure health, safety, and well-being of the individual served.

(1) A person's Team specifies in the Plan:

(A) individual-specific in-service training that must be completed prior to working with the person;

(B) additional in-service training that is necessary; and

(C) required time frames for completion of individual-specific in-service training. If time frames are not identified in the Plan, required individual-specific in-service training must be completed prior to working with the individual.

(2) As the individual's needs require changes in supports or programs, the Team documents in the Plan, or in addenda to the Plan, any new or additional in-service training that is required, with required time frames for completion.

(3) Individual-specific training is provided by the appropriate Team member.

(4) The responsible Team member certifies that staff have the knowledge and skills necessary to provide the identified services.

(f) **Ongoing training requirements.** All direct support staff employed by provider agencies complete eight hours of approved annual training. The required annual training may come from:

(1) required re-certification classes, such as First Aid, CPR, and medication administration training;

(2) courses as outlined in OAC 340:100-3-38(d)(1);

(3) courses, conferences, or workshops approved by the DDSD human resource development director; or

(4) individual-specific training.

(g) **Exceptions.** Exceptions to the training requirements given in this Section may be made by the DDSD director or designee.

SUBCHAPTER 5. CLIENT SERVICES

PART 3. SERVICE PROVISIONS

340:100-5-22.5. Supported living services

(a) **Eligibility.** To assure that the daily living requirements of the class members are met, the Oklahoma Department of Human Services (~~DHS~~ OKDHS) provides a payment to the contract residential provider agency serving each person who:

(1) is a member of the class certified in Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma; and

(2) receives Daily Living Supports services as described in OAC 317:40-5-150.

(b) **Service expectations.** The provider agency ensures that:

(1) all applicable rules of ~~DHS~~ OKDHS and the Oklahoma Health Care Authority (OHCA) are met including:

(A) Community Residential Supports, OAC 340:100-5-22.1;

(B) Daily Living Supports, OAC ~~317:40-5-152~~ 317:40-5-153;

(C) the Developmental Disabilities Services Division (DDSD) mission statement and guiding principles, OAC 340:100-1-3.1;

(D) community records rules, OAC 340:100-3-40;

(E) Individual Plan rules, OAC 340:100-5-50 through 100-5-58; and

(F) health services rules, OAC 340:100-5-26; and

(2) the class member's expenses for housing, food, clothing, recreation, utilities, medical services, property replacement, and transportation are met in accordance with subsection (c) of this Section.

(c) **Room and board payment.** The room and board payments support the class member's housing, food, clothing, recreation, and utility costs in accordance with this subsection.

(1) Each class member contributes an amount ~~to be~~ determined annually by DDSD, not to exceed 90% of his or her income, up to a maximum of 90% of the current Supplemental Security Income (SSI) payment for a single individual.

(A) The maximum may be exceeded by prior written agreement between the individual served or his or her guardian and the provider agency with the written approval of the director of DDSD or designee.

(B) ~~DHS~~ OKDHS pays a supplement, equal to 90% of the SSI monthly payment for a single individual minus 90% of the class member's income, on behalf of each class member whose income and resources are insufficient for the person to contribute the maximum room and board payment explained in this paragraph.

(2) To supplement the individual's funds for meeting daily living requirements, ~~DHS~~ OKDHS provides:

(A) a room and board payment at $14 per day; and

(B) a residence size supplement payment to support the cost of a home, based on the number of individuals living in the home.

(i) For an individual with no roommate, the residence size supplement is $10 per day.

(ii) For an individual who has one roommate, the residence size supplement is $6 per day.

(iii) There is no residence size supplement for an individual living with more than one roommate.

(iv) For the purposes of this subparagraph, an individual not listed in Case Number 85-C-437-E is not considered a roommate.

(3) The provider agency completes a written financial agreement with the class member and chosen advocate(s) or the legal guardian in accordance with OAC 340:100-5-22.1.

(4) Room and board revenues must be accounted for separately from other provider agency funds.

(A) Room and board revenues from ~~DHS~~ OKDHS are managed by the provider to meet the needs of all individuals living in supported living arrangements.

(B) Room and board payments from individuals served are used only to meet the needs of that individual.

(5) Room and board revenues must be used, unless written approval is secured in advance from the DDSD programs administrator for community services, solely for:

(A) housing costs and utilities;

(B) groceries;

(C) household maintenance;

(D) recreation;

(E) personal items and clothing;
(F) household property insurance;
(G) yard care; and
(H) furnishings and appliances.

(6) Room and board payments are authorized as long as the provider agency supports the individual to maintain a household.

(7) Payments from ~~DHS~~ OKDHS mentioned in paragraph (2) of this subsection are not income to the class member and must not be deposited in the class member's bank account.

(d) **Medical supplement.** ~~DHS~~ OKDHS reimburses the provider agency for the cost of necessary medical services that are not covered through Medicaid or for persons who are not Medicaid eligible for any individual listed in Case Number 85-C-437-E. The medical supplement is not paid at a rate higher than allowed through the Oklahoma Medicaid Fee-for-Service Program unless approved by the DDSD area manager in writing.

(e) **Property replacement supplement.** A maximum of $850 per class member per fiscal year is reimbursed for replacement of unusable furnishings or necessary furnishings or appliances.

(1) Expenditures for property purchased with the property replacement supplement must not be reported as expenses against the room and board payment.

(2) No reimbursement for replacement of worn out furnishings may occur during the first year of service.

(3) The disposal of any furnishings purchased for class members under this supplement meets the requirements of this paragraph.

(A) Any furnishings purchased through this supplement become the property of the class member.

(B) Any funds received from the disposal of property belong to the class member.

(C) The provider must document the disposal of furnishings in detail.

(D) When the provider believes that the disposal of property is not in the best interest of the class member, the issue is referred to the Personal Support Team for resolution.

(f) **Transportation supplement.** ~~DHS~~ OKDHS pays a transportation supplement only when the provider agency supplies a vehicle for the exclusive use of each household and the combined mileage for all persons residing in the household totals less than 30 miles per day.

(1) To calculate the authorization for the transportation supplement:

(A) for a class member who does not require adapted transportation, subtract from 30 the number of authorized miles per day supplied to the individual, and multiply by $0.25; or

(B) for an individual who requires adapted transportation, subtract from 30 the number of authorized miles per day supplied to the individual, and multiply by $0.70.

(2) Waiver transportation continues to be authorized in accordance with OAC 317:40-5-103.

(g) **Fiscal accountability.** The provider agency follows fiscal accountability standards established in this subsection.

(1) The provider agency expends all payment supplied in accordance with this Section on the specific activities for which the payment was provided.

(A) Any funds expended for purposes other than the authorized activities are repaid to ~~DHS~~ OKDHS.

(B) The room and board fund balance at the end of the fiscal year cannot exceed five percent of the total supported living revenues. Any fund balance in excess of five percent is repaid to ~~DHS~~ OKDHS.

(2) The provider agency maintains copies of all claims, substantiating documents, and records regarding provider agency fiscal status within corporate offices in ~~the state of~~ Oklahoma.

(3) Supported living expenditures must:

(A) be documented;

(B) not include administrative costs of the provider agency; and

(C) be audited annually in accordance with OAC 340:100-3-27.5.

340:100-5-26. Health services

(a) **Purpose.** Persons receiving Developmental Disabilities Services Division (DDSD) services receive equal access to the quality and the range of health care services that are available to all people. Services are provided according to applicable state and federal statutes, Oklahoma Department of Human Services (OKDHS) rules, and recommendations made by the person's Personal Support Team (Team).

(b) **Scope and applicability.** This Section applies to all persons who receive residential services funded or licensed by DDSD or Home and Community-Based Waiver (HCBW) services, and to all providers~~, agency or individual,~~ of services funded or licensed by DDSD or HCBW.

(1) DDSD health services are secured based on the individual's need and on service requests by the person, his or her parents, spouse, or guardian, or Team, as specified by the Individual Plan (Plan).

(2) Services outside the scope of programs funded by ~~the Department of Human Services~~ OKDHS or the Oklahoma Health Care Authority (OHCA) are provided contingent upon available resources.

(3) Oklahoma State Department of Health recommendations for immunizations, communicable disease testing, universal precautions, and infection control practices are used to prevent the transmission of communicable diseases.

(4) DDSD staff and contract agents implement procedures to maintain and improve the health of each service recipient, including procedures related to:

(A) ~~preventing disease~~ providing emergency medical intervention including initiation of first aid, cardio-pulmonary resuscitation (CPR), and accessing emergency service systems;

(B) ~~aging~~ preventing disease;

(C) ~~following physician orders~~ aging; and

(D) ~~providing emergency medical intervention~~ following physician orders.

(5) When health needs exceed the scope of DDSD services, the person is referred to an appropriate licensed community health care setting.

(6) DDSD staff and contract agents ~~respect each person's right to sustain life~~ acknowledge the right of the individual, next of kin, legal guardian, or physician to execute an Advance Directive made in accordance with Section 3101.1 of Title 63 of the Oklahoma Statutes, or a Do-Not-Resuscitate Order (DNR) made in accordance with, Section 3131.1 of Title 63, of the Oklahoma Statutes. ~~DDSD staff and contract agents do not advocate or implement measures which violate this right.~~

~~(A) When consulted by a service recipient's next of kin or legal representative, DDSD staff and contract agents support the person's right to sustain life.~~

~~(B) DDSD staff and contract agents, excluding physicians, are not party to any decision made by the next of kin or legal representative to refuse to initiate, or to withdraw life sustaining treatment. While such requests cannot be honored by DDSD employees, or by contract providers or their employees, excluding physicians, staff otherwise support the informed choice of next of kin or legal representative when made in accordance with provisions of law.~~

(c) **Assessment.** Requirements for health related assessments and related record keeping are contained in this subsection.

(1) A primary care physician or provider is identified for each person, by the person or the legal guardian, from available resources. Specialty consultation and services are obtained when needed.

(2) Each person receiving residential services has an annual physical examination. The physician's report of the annual physical examination, documentation of medical visits, and reports of all other health-related assessments are maintained in the home record.

(d) **Physical Status Review (PSR).** Requirements for the PSR are contained in this subsection.

(1) The person's primary care physician, nursing, and health care assessments identify the need for health care services.

(2) The case manager ensures Form DDS-7, Physical Status Review, is initially completed for each service recipient.

(3) The person's health care needs are addressed by the Team, using Form DDS-7.

(A) Form DDS-7 is a review tool that objectively identifies a person's functional ability to attend to activities of daily living based on past and present health history and current treatment modalities.

(B) The PSR assesses the person's needs in the areas of:

(i) functional abilities, such as:

(I) eating;

(II) ambulation;

(III) transferring;

(IV) toileting; and

(V) days missed at day program due to illness;

(ii) behaviors, including:

(I) self-abuse;

(II) aggression toward others and property;

(III) use of mechanical restraints;

(IV) use of emergency chemical restraints; and

(V) use of psychotropic medication(s);

(iii) physiological needs, such as:

(I) gastrointestinal conditions;

(II) seizures;

(III) anticonvulsant medication use;

(IV) skin breakdown;

(V) bowel function;

(VI) nutrition; and

(VII) treatments;

(iv) safety considerations, such as:

(I) injuries; and

(II) falls;

(v) frequency of service, including:

(I) physician visits and nursing service;

(II) emergency room visits; and

(III) hospital admissions.

(C) The interviewer who completes Form DDS-7 is trained to complete the ~~instrument~~ form.

(D) To complete Form DDS-7, the interviewer communicates with the service recipient or someone who knows the service recipient's medical history, current trends in overall health and behavior, daily care needs, medical or nursing treatments, the past year's medical incidents, emergency room visits, hospitalizations, and medication regimen.

(4) ~~A~~ Form DDS-7 is completed annually, no more than 60 days prior to the annual Team meeting.

(5) Immediate action is taken to provide any emergency interventions required in a situation of acute health deterioration.

(6) When a significant change in function or health treatment occurs, which requires additional staff training or health care services, the Team completes a new Form DDS-7 and revises the Plan as necessary.

(7) The PSR is the Team's mechanism to identify a health care level based on the person's health status.

(A) A registered nurse (RN) employed by DDSD assesses the responses documented by the interviewer, formulates a raw score, and computes the health care level, based on specific criteria.

(i) At Level I, the person ordinarily has no body system compromised. The person is assisted or has the ability to access the health care system.

(ii) At Level II, the person ordinarily has a chronic condition, but the health status is stable.

(iii) At Level III, the person ordinarily has two or more chronic co-existing conditions with no occurrences within the past year.

(iv) At Level IV, the person ordinarily has two or more existing health conditions which require close observation for symptoms and require specialized health training.

(v) At Level V, the person ordinarily meets all the criteria for Level IV and has health needs that require licensed nursing treatment one or more times daily.

(vi) At Level VI, the person ordinarily has several existing health issues that are unstable and require treatment by a licensed nurse more frequently than every two hours over a 24-hour period.

(B) Based on the health care level, the DDSD RN develops recommendations for staff health training, level of nursing supports, and the level of nursing monitoring to be delivered.

(i) At Level I, the annual PSR is ordinarily the only nursing service needed.

(ii) At Level II, the nurse is involved as a consultant to the Team.

(iii) At Level III, the nurse is involved as a consultant to the Team, to promote good communication, staff training, and preventive planning.

(iv) At Level IV, nursing services are provided according to the person's needs and ordinarily do not exceed four hours of licensed nursing time in a 24-hour period.

(v) At Level V, nursing services are provided according to the person's needs and do not ordinarily exceed eight hours of licensed nursing time in a 24-hour period.

(vi) At Level VI, nursing services are provided according to the person's needs and ordinarily do not exceed 24 hours of licensed nursing time in a day.

(8) After a health care level is identified, the Team establishes health care service needs and staff health training needs.

(9) If the Team has questions or requires more information regarding a health care level, an informal resolution process is initiated.

(A) The area manager or designee reviews all requests and consults with members of the Team to reach consensus on the level of licensed nursing training or service provision required. If consensus is not reached, the Team moves to the step described in (c)(9)(B) of this Section.

(B) The area manager, RN supervisor, and medical director meet to review cases for nursing in excess of 12 hours in a 14 day period, or for need of conflict resolution.

(C) If consensus is still not reached, the case manager notifies the person of ~~the Department's~~ OKDHS fair hearing procedures. [OAC 340:2-5]

(e) **Planning.** Requirements for planning to meet the service recipient's health care needs are contained in this subsection.

(1) The Team identifies desired health care outcomes during the Team process.

(2) Health issues identified through health care evaluations and assessments which have an impact on the person's life are incorporated and integrated by the Team into the Plan through goals and objectives.

(3) Plans for health care needs are developed in terms of individual outcomes, not units of clinically specific service.

(4) When plans for health care needs or implementation strategies are developed involving discipline-specific services, a representative from that discipline participates in at least a consulting role.

(f) **Planning for invasive or intrusive procedures.** Team review requirements for proposed invasive or intrusive procedures are contained in this subsection.

(1) Any invasive, intrusive, or intensive professional service or procedure is subject to a review by the Team, including participation from any other service provider as appropriate.

(2) The Team's review of an invasive, intrusive, or intensive service or procedure includes discussion, prior to implementation, of the proposed service or procedure, and of possible alternatives.

(3) Invasive or intrusive procedures subject to a review by the Team comprise both scheduled and emergency procedures including major surgery which:

(A) will produce a significant change in daily function or health;

(B) might require additional staff training or health care services; and

(C) include, but are not limited to:

(i) tracheotomy;

(ii) orthopedics;

(iii) gastrostomy;

(iv) jejunostomy;

(v) multiple dental extractions;

(vi) amputation; or

(vii) consideration of permanent sterilization.

(4) An invasive, intrusive, or intensive professional service or procedure which is implemented on an emergency basis is subject to review by the Team as soon as possible, but within five working days. Emergency procedures subject to review include, but are not limited to:

(A) emergency surgery; or

(B) emergency behavioral intervention including:

(i) mechanical restraint; or

(ii) chemical restraint.

(g) **Health care coordination.** Requirements governing coordination of health care are contained in this subsection.

(1) The Team identifies a health care coordinator (HCC) for the person to ensure the implementation and coordination of health care services. The HCC:

(A) is an individual who has an overview of the person's health care needs and lifestyle;

(B) may be the service recipient, a member of the person's family, a foster parent, companion, member

of the residential provider staff, or other person who is familiar with the person's needs;

(C) is trained by DDSD staff;

(D) serves as a health care facilitator and follows all rules in this Section;

(E) documents that health concerns are acted upon, monitored, communicated, and that staff are trained;

(F) accompanies the person to the physician and communicates to the ~~doctor~~ physician the reason the person is being seen;

(G) keeps the physician advised of medical status and data regarding any target symptoms;

(H) communicates to the core Team members and other service providers as appropriate any ~~doctor's~~ physician's order obtained during such visit; and

(I) presents Form DDS-5, Referral Form for Examination or Treatment, to the physician at the time of the visit.

(i) Form DDS-5 is completed by the HCC prior to the visit including:

(I) the person's name, case number, appointment date and time, date of birth, address, phone number, name of physician or medical facility referred to, name of case manager, and legal representative;

(II) the person's current medication and treatment;

(III) allergies specifying medication, food, and environmental allergies; and

(IV) the specific reason(s) the person is being seen for the medical visit.

(ii) The HCC requests the physician to complete a short written summary of the findings.

(I) Form DDS-5 or documentation completed by the physician includes a diagnosis or findings, recommendations, and treatments.

(II) The physician signs and dates the documentation.

(iii) The original of Form DDS-5 is maintained by the physician, one copy is kept in the home record, and one is sent to the case manager.

(2) If the HCC is employed by an agency or contract provider, the employer develops and implements a procedure to ensure appropriate backup if the HCC is unable, for whatever reason, to perform these duties.

(h) **Implementation.** Implementation procedures for health care strategies are provided in this subsection.

(1) When a service recipient receives physician-prescribed nursing services, written nursing implementation strategies are developed and monitored by the contract nurse.

(2) Staff are trained and carry out implementation strategies addressing health care outcomes.

(3) Adequate current medical and program information is maintained in the home record by the residential provider and is available for review by authorized staff of ~~the Department~~ OKDHS.

(i) **Evaluation and monitoring.** Requirements for evaluation and monitoring are contained in this subsection.

(1) **Medication reviews.** Medication reviews are completed by the HCC each month utilizing Form DDS-6, Medication Review, and include:

(A) the person's name, provider, phone number, date of review, case number, and case manager;

(B) any changes in medication during the month, such as increases, decreases, additions, or discontinuations;

(C) any p.r.n. (as needed) medication usage;

(D) non-prescription medication use.

(i) Non-prescription medications taken by mouth or taken in suppository form are included in this monthly review.

(ii) Non-prescription medications administered via sprays, creams, ointments, drops, transdermal patches, or lozenges are not included in the HCC's monthly Form DDS-6, but use of these medications is monitored through routine health care visits;

(E) description of any changes, possible side effects, or physical signs or symptoms experienced during the month;

(F) a summary of medication incidents occurring during the month; and

(G) a recommendation, if any, for referral to an independent pharmacological review.

(2) The original Form DDS-6 is kept in the home record, one copy is sent to the case manager, and one copy remains available for the independent referral process.

(3) The DDSD case manager makes a referral for a pharmacological review by an independent clinical pharmacist or physician:

(A) upon the request of a Team member or a clinician participating with the Team;

(B) when the review performed by the case manager and the assigned nurse determines that the person:

(i) receives five or more medications, prescription or non-prescription; or

(ii) has unusual physical sign(s) or symptom(s) during the month in review which are not resolved through other medical interventions; or

(C) if the person:

(i) uses a p.r.n. medication routinely for more than three months;

(ii) takes two or more psychotropic medications; or

(iii) takes more than two anticonvulsant medications used for seizure disorder.

(4) If the person continues to meet the criteria listed in (3)(A)-(C) of this subsection after an initial review is completed, the case manager requests a pharmacological review annually in conjunction with the annual Plan, or more frequently, if necessary.

(5) For the purpose of monitoring and evaluation, designated DDSD personnel have access at all times to the person's medical and programmatic information.

(6) If the person receives DDSD services but has no case manager, the provider contacts the DDSD area manager or designee for assistance in requesting an independent pharmacological review.

340:100-5-26.2. End-of-life issues

(a) **Purpose.** The rules in this Section are established to support the decisions of persons receiving services from the Developmental Disabilities Services Division (DDSD) regarding end-of-life issues. DDSD affirms life and regards dying as a normal process that should neither be hastened nor prolonged. DDSD encourages individuals to fully exercise their rights and make decisions about end-of-life issues that allow them to live with dignity and comfort.

(b) **Applicability.** Rules in this Section apply to DDSD staff and to service providers who are contracted, licensed, or funded through a DDSD Home and Community-Based Waiver or DDSD state funds and serve a person(s) who has been certified by a physician to be terminally ill. A person is considered terminally ill if he or she has a medical prognosis of life expectancy of six months or less if the illness runs its natural course.

(c) **End-of-life services.** When a person is diagnosed by a physician with terminal illness or is referred for hospice services, the case manager holds a personal support team meeting within five working days to review all care options with the person, guardian, or next of kin including consideration of hospice services.

(d) **Case manager responsibilities.** If the person, guardian, or next of kin elects hospice care, the case manager:

(1) identifies resources, including available funding, prior to selection of a hospice provider;

(2) notifies the DDSD state office Medical Services Unit that hospice services have been elected;

(3) arranges to meet with the service recipient, guardian or next of kin, DDSD nurse, health care coordinator, residential agency representative(s), other personal support team members as needed, and the hospice team to develop a treatment plan;

(4) integrates the hospice treatment plan into the Individual Plan (IP) and amends the plan of care to terminate services no longer needed and add any needed services;

(5) assists to coordinate the implementation of the treatment plan between the hospice team and the personal support team; and

(6) ensures that DDSD does not duplicate services provided by hospice but supplements hospice services to the extent needed in each situation.

(e) **DDSD nurse responsibilities.** If the service recipient, guardian, or next of kin elects hospice care, the DDSD nurse is responsible to:

(1) assist, in conjunction with the case manager, the service recipient, guardian, or next of kin with the selection of a hospice agency;

(2) develop a nursing support plan to identify hospice needs; and

(3) coordinate medication issues between the hospice provider and the residential provider to ensure compliance with OAC 340:100-5-32 regarding administration, documentation, and disposal of medications.

[OAR Docket #04-424; filed 3-24-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 105. AGING SERVICES DIVISION

[OAR Docket #04-444]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended
Part 5. Area Agencies on Aging
340:105-10-41. [AMENDED]
Part 7. Program Standards for Services Funded Under Title III
340:105-10-51. [AMENDED]
340:105-10-72. [AMENDED]
340:105-10-75. [AMENDED]
340:105-10-79. [AMENDED]
340:105-10-86. [AMENDED]
340:105-10-89. [AMENDED]
340:105-10-90.1. [AMENDED]
Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects
340:105-10-101. through 340:105-10-102. [AMENDED]
340:105-10-104. [AMENDED]
340:105-10-117. through 340:105-10-119. [AMENDED]
340:105-10-121. through 340:105-10-122. [AMENDED]
(Reference APA WF 03-35)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Older Americans Act of 1965, as amended; and Title 5, Part 900.603, Title 29, Part 553.21, and Title 45, Parts 1321.11 and 1321.51 of the Code of Federal Regulations.
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The revisions to Subchapter 10 of Chapter 105 provide clearer oversight and guidance to Oklahoma Department of Human Services (OKDHS) Aging Services Division (ASD) staff and contract providers; update authority references; and incorporate the Nutrition Services Incentive Program of the Older Americans Act (OAA).

340:105-10-41 is amended to clarify direct service waivers.

340:105-10-51 is amended to correct authority citations.

340:105-10-72 is amended to clarify the minimum hours a registered dietitian provides consultation at nutrition sites.

340:105-10-75 is amended to clarify special diets.

340:105-10-79 is amended to include the Nutrition Services Incentive Program.

340:105-10-86 is amended to clarify the change of status of a meal site.

340:105-10-89 is amended to clarify appropriate disease prevention and health promotion services.

340:105-10-90.1 is amended to clarify the National Family Caregiver Support Program grants.

340:105-10-101 is amended to clarify the request for proposal procedures.

340:105-10-102 is amended to clarify the appeal procedures for Title III service providers.

340:105-10-104 is amended to include the Nutrition Services Incentive Program and clarify unexpended grant funds.

340:105-10-117 is amended to include appropriate employment procedures.

340:105-10-118 is amended to clarify personnel recruitment procedures.

340:105-10-119 is amended to clarify personnel selection procedures.

340:105-10-121 is amended to clarify hiring current employees to a different position.

340:105-10-122 is amended to clarify compensatory time procedures.

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 APRIL 26, 2004.

SUBCHAPTER 10. POLICIES AND PROCEDURES MANUAL FOR TITLE III OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED

PART 5. AREA AGENCIES ON AGING

340:105-10-41. Direct services waivers

(a) **Policy.** No Title III services are directly provided by the Area ~~Agencies~~ Agency on Aging (AAA) ~~are granted waivers to provide direct supportive, nutrition, or in-home services only where~~, unless, in the judgment of the State Agency, provision of such services is:

(1) necessary to ~~assure~~ ensure an adequate supply of such services;

(2) related to the ~~AAA's~~ administrative functions of the AAA; or

(3) more economical and of comparable quality to the competing grantees.

(b) **Authority.** The authority for this Section is Section ~~306(a)(8)~~ 307(a)(8) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The State Agency determines that one or more of the criteria listed in (a) of this Section are met for an AAA to provide direct services when the requirement:

(1) ~~it is~~ necessary to ensure an adequate supply of services ~~are~~ is considered met. ~~if the~~ The AAA can document that it has not received any proposals to deliver a service in all or a portion of the planning and service area, after the AAA has twice carried out the request for proposals (RFP) process in accordance with ~~[~~OAC 340:105-10-101~~]~~;

(2) services related to ~~the AAA's~~ AAA administrative functions is considered met. Services consist of advocacy, assessment and screening, follow-up and evaluation, information and assistance, and placement; or

(3) ~~it is~~ more economical and of comparable quality is considered met. ~~when the~~ The ~~AAA's~~ AAA service grant application substantiates that, according to ~~the AAA's~~ AAA standard RFP evaluation criteria, it proposes to provide a priority service that is more cost effective and ~~at an~~ of a quality comparable to the ~~most qualified applicant, and that the AAA proposes to provide the service at a cost at least ten percent lower than the most qualified applicant~~ competing grantees. The cost is calculated on a per unit of service basis.

(d) **Cross references.** See OAC 340:105-10-40 and 340:105-10-101.

PART 7. PROGRAM STANDARDS FOR SERVICES FUNDED UNDER TITLE III

340:105-10-51. General Title III service standards

(a) **Policy.** Parts B, C, D, and E of Title III provide funding for a variety of services to meet the needs of older persons. All such services meet service specific standards as well as the general standards ~~given~~ in (1) through (19) of this subsection.

(1) Project sponsors who are the recipients of grant awards may be public, private for-profit, or non-profit agencies or organizations, institutions, political subdivisions of the state, or Indian tribal organizations which demonstrate to the Area Agency on Aging (AAA) a capacity for the effective delivery of nutrition, supportive services, or both, throughout the project service area ~~(PSA)~~. Project sponsors serve all eligible persons in the ~~PSA~~ project service area and do not limit participation to their own membership or residents, ~~for example~~ such as church memberships or residents of a day care program.

(2) Project services are provided to persons 60 years of age and older unless otherwise allowed for in the eligibility requirements of a specific service.

(3) Project services are located in communities with the greatest occurrence of older persons in greatest economic and social need with particular attention to low income minority ~~individuals~~ persons and older ~~individuals~~ persons residing in rural areas. The project documents in its written grant agreement with the AAA:

(A) assurance that, to the extent possible, the project serves low income minority ~~individuals~~ persons and older ~~individuals~~ persons residing in rural areas in accordance with their need for services;

(B) specific objectives which outline how the project satisfies the service needs of low income minority ~~individuals~~ persons and older ~~individuals~~ persons residing in rural areas served by the project. These objectives reflect the Area Plan objectives for targeting these ~~individuals~~ persons;

(C) information on the extent to which the project met its objectives for serving low income minority ~~individuals~~ persons and older ~~individuals~~ persons residing in rural areas during the previous fiscal year, if previously funded; and

(D) other targeting activities required for specific funded services, as appropriate, ~~for example~~ such as targeting activities for outreach services.

(4) Projects provide ~~recipients~~ participants with the opportunity to contribute to the cost of services, with the restrictions in (A) through (G) of this paragraph.

(A) Contributions are voluntary and no otherwise eligible ~~individual~~ person is denied service because he or she chooses not to or cannot contribute to the cost of services.

(B) Participants are advised of the opportunity to contribute to the cost of programs through:

(i) individual consultation when they enter the program, which includes a written suggested contribution schedule;

(ii) written brochures about the program and written schedules of activities of the program; and

(iii) signs posted at the project site.

(C) The participant's privacy regarding contributions is protected at all times.

(D) The project advisory council develops a suggested contribution schedule for funded services taking into consideration the income ranges of older persons in the community and the project's other means of income. Means testing is not used to determine suggested contributions.

(E) Congregate ~~meals~~ and home delivered meals participants are allowed to use United States Department of Agriculture food benefits to contribute toward the cost of their meals.

(F) The project utilizes appropriate procedures to safeguard and account for all contributions.

(G) The project uses participant contributions to expand funded services.

(5) Projects conform to the Title III fiscal accounting and program reporting systems as implemented by the ~~state~~ State Agency and ~~AAAs~~ AAA. All records are managed according to the guidelines in (A) through (D) of this paragraph.

(A) Older Americans Act (OAA) grantees maintain adequate and separate accounting and fiscal records, and account for all funds provided by any source to pay the cost of the OAA funded project~~,~~. ~~and permit~~ Grantees permit audit, examination, or both, of all such records, procedures, and accounts at any reasonable time by authorized personnel of the United States Department of Health and Human Services, the Oklahoma Department of Human Services (OKDHS), the State Auditor and Inspector and other appropriate state entities. ~~Furthermore, such~~ Authorized personnel ~~have~~ are given open and complete access to the grantees' accounting records and practices, and to any other items of the service provider ~~which~~ that are pertinent to the performance or payment of ~~this~~ the grant in order to audit, examine, and make excerpts of records.

(B) All financial and program records, supporting documents, statistical records, and other records pertaining to the Title III services are retained by the grantee for at least three years. In the case of litigation, claim negotiation, audit, or other pending action before the end of the three year period, the records are retained until such action is completed, and until all issues arising from it have been resolved, or until the end of the regular three year period, whichever is later.

(C) Permanent records are maintained at the project office.

(D) The project is responsible for providing the appropriate security, confidentiality, and accommodations for the proper maintenance and organization of program records and reports.

(6) Where feasible and appropriate, projects make arrangements for the availability of services to older persons in weather related emergencies.

(7) Projects assist participants in taking advantage of benefits or services under other programs.

(8) Project staff report to the appropriate officials ~~situations which place~~ any situation that places the participant, his or her household, or both, in imminent danger.

(9) Projects coordinate Title III services with other appropriate services in the community, including Title VI Native American nutrition programs. Appropriate coordination efforts include:

(A) joint planning;

(B) information sharing; and

(C) negotiation of written agreements.

(10) Projects establish and maintain an advisory council to advise the projects on all matters relating to the delivery of project services~~.~~, per ~~[~~OAC 340:105-10-52~~]~~.

(11) Projects ensure that appropriate intake information is gathered on each participant.

(12) Projects have procedures, approved by the AAA, to ensure that strict confidentiality is maintained regarding all participant information. Projects ensure that identifying participant information is disclosed only when staff have obtained the informed consent of the participant or his or her legal representative. Exceptions to the rules in this paragraph include court orders, reporting possible neglect, abuse, or both, and monitoring of project records by federal, state, and AAA officials.

(13) Project staff post grievance procedures in a public area of the project facility and comply with AAA grievance procedures for Title III participants.

(14) Projects comply with the Americans with Disabilities Act, Section 504 of The Rehabilitation Act of 1973, and Title VI of The Civil Rights Act of 1964. A public notice of civil rights compliance is posted in a public area in all project facilities and offices.

(15) Projects comply with the Oklahoma Open Meetings Act when conducting public meetings. Public meetings are held in handicap accessible facilities with provisions for interpreters, as needed.

(16) Project staff conduct ongoing public information activities to ensure that the general public is aware of each project and the services it provides. All materials produced by or for the project include a:

(A) policy statement that the project does not discriminate in admissions, access, treatment, or employment in its programs or activities on the basis of race, creed, color, sex, age, ancestry, national origin, religion, or disability; and

(B) notation that a portion of the project costs are met by state and federal OAA funds from the AAA and OKDHS.

(17) Project staff provide or arrange for orientation and ongoing training for all staff engaged in the implementation of the project. Training is designed to enhance staff performance as related to specific job responsibilities of each staff member. Projects authorize staff time to attend AAA and State Agency sponsored training as funds permit. Minimum orientation or training topics include:

(A) the OAA, as amended, and related regulations;

(B) the ~~State of Oklahoma~~ OKDHS Policies and Procedures Manual for Title III of the OAA, as amended;

(C) the AAA Title III policy and procedures manual;

(D) all program and fiscal reports, as appropriate;

(E) assessment procedures;

(F) the aging network; and

(G) specific job duties.

(18) Project staff participate in regularly scheduled assessments and evaluations by the AAA.

(A) The AAA schedules assessments at least 30 days in advance at a time mutually convenient for the AAA and the project.

(B) The AAA informs the project director of the areas to be covered during the assessment.

(C) The project director makes arrangements for site visits as requested by the AAA.

(19) The project allows unscheduled or unannounced visits by the AAA for the purposes of:

(A) investigating alleged problems;

(B) monitoring corrective action; or

(C) evaluating the normal daily activity of the project.

(b) **Authority.** The authority for this Section is ~~Title 45 of the Code of Federal Regulations,~~ Parts 1321.11, 1321.51, 1321.63(b), 1321.65, and 1321.67 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The AAA is required to:

(1) ~~incorporates~~ incorporate the standards into its policies and procedures manual;

(2) ~~provides~~ provide training to Title III project directors and other appropriate staff on the standards;

(3) ~~monitors~~ monitor the compliance of Title III projects with the standards; and

(4) ~~provides~~ provide ongoing technical assistance to Title III projects regarding the standards.

(d) **Cross references.** See OAC 340:105-10-40, 340:105-10-50.1, and 340:105-10-52.

340:105-10-72. Congregate meals project staffing requirements

(a) **Policy.** Each congregate meals project maintains sufficient staff to carry out the required service activities.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations~~, Part 1321.11~~.

(c) **Procedures.** The congregate meals project is required to:

(1) ~~employs~~ employ a full-time director who is empowered with the necessary authority to conduct the daily management and administrative functions of the project;

(2) ~~obtains~~ obtain the services of a licensed registered dietitian (RD) to provide nutrition consultation. The RD is ~~a project~~ an employee or ~~an~~ independent consultant hired by the project or the Area ~~Agencies~~ Agency on Aging (AAA). A paid caterer is not acceptable in this position. Where feasible, the RD coordinates with a nutrition consultant, such as a dietetic student, person with a Bachelor's of Science degree in nutrition, or certified dietary manager. The RD signs off on all nutrition education, in-service training, and Form SUOA-S-74, ~~Dietitian's~~ Dietary Consultant's Report. If the RD coordinates with a nutrition consultant, the RD visits every site a minimum every other month. The consultation includes:

(A) spending a minimum of ~~eight~~ five hours on-site per month per kitchen~~, of which, a minimum of five hours is on site~~. Drive time does not count in the ~~eight~~ five hour total. A minimum of ~~four~~ three hours on-site per month per satellite site~~, of which, a minimum of three hours is on site~~. Drive time does not count in the ~~four~~ three hour total. Site visits are limited to one site visit per day per RD or nutrition consultant;

(B) monitoring food service to include measurement of food temperatures and portion sizes, and assessment of food quality and adherence to contract specifications;

(C) training staff and volunteers in areas of food service management, nutrition, and sanitation;

(D) assessing participant satisfaction and preferences;

(E) reviewing menu and commodity utilization;

(F) coordinating nutrition education programs;

(G) providing educational handouts to homebound meal participants; and

(H) providing participants whose nutritional score is six or more on Form AG-2-A, Part I, Older Americans Act Assessment, page 3, Determine Your Nutritional Health, ~~Part I~~ with individual consultation for:

(i) congregate meal participants, upon participant's approval; and

(ii) homebound meal participants, where feasible and upon participant's approval.

(3) ~~determines~~ determine appropriate staffing patterns for each meal site in the project service area. The guidelines include:

(A) determining the maximum staff hours per site by adding all hours for all positions in a given site;

(B) determining the maximum salary cost per site by multiplying the hours in each position by the corresponding allowable salary on the Aging Services Division (ASD) Nutrition Salary Schedule. The maximum allowable salary as specified on the ASD Nutrition Salary Schedule may not be exceeded using Title III funds;

(C) adding the corresponding allowable salaries to arrive at the total allowable project labor cost; and

(D) adding the maximum staff hours for each site to determine total allowable project staff hours. The maximum hours in a site may exceed allowables on ASD Staffing Guidelines For Nutrition Sites but any deviations and the resulting cost increases ~~cannot~~ may not cause total project labor costs to exceed total allowable project labor costs.

(d) **Cross ~~reference~~ references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-71, 340:105-10-73 through 340:105-10-80, and 340:105-10-86.

340:105-10-75. Congregate meals planning

(a) **Policy.** The congregate meals project conducts appropriate meal planning for the congregate meals service with the consultation of persons competent in the field of nutrition, food service, and the needs of ~~the elderly~~ older persons.

(b) **Authority.** The authority for this Section is Section 339~~(1) and (2)~~ of the Older Americans Act of 1965, as amended and Part 1321.11 of Title 45 of the Code of Federal Regulations~~, Part 1321.11~~.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) Menus are prepared or approved by a registered dietitian who considers the special needs of ~~the elderly~~ older persons and ensures that each meal served contains at least one-third of the current daily recommended dietary allowances as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences. Each meal contains at least 600 ~~and not more than 1000~~ calories. The recommended level is from 750 to 850 calories.

(2) Menus are planned on a quarterly basis with a six week cycle repeated once each quarter. Nutritional adequacy is documented with computer analysis by the project dietitian. Maintenance of optimal nutritional status through menu planning is reflected ~~by~~ in menus moderate in fat, salt, and simple sugars and high in fiber. The project dietitian ~~signs and~~ posts signed menus at nutrition sites. ~~Menus are~~ Form SUOA-S-34, Project Menu Plan - Nutrition Program for the Elderly, is submitted quarterly to the State Agency dietitian for random review.

(3) Where feasible, special ~~menus~~ diets are provided to meet the medical needs of eligible participants.

(4) Religious, ethnic, cultural, or regional dietary requirements or preferences of a major portion of the group of participants at a congregate meal site are reflected in the menus.

(5) All menus are served as planned unless the dietitian reviews and approves an appropriate substitution. A complete menu move from one day to another does not constitute a substitution. When substitutions are made, the project ~~must maintain~~ maintains and ~~submit~~ submits to the State Agency at the end of each month the:

(A) date of substitution;

(B) original menu item(s); and

(C) substituted menu item(s).

(6) Accurate production forecasting is conducted and does not include a margin for oversized portions or second servings. ~~Left-over~~ Leftover foods ~~may not be~~ are not taken from the kitchen by staff, participants, or volunteers.

(7) Where feasible, provisions are made for the celebration of special occasions for participants, for example, birthdays and holidays.

(8) Food items within the meat, vegetable and fruit, and dessert groups ~~must~~ vary for the same days of the week, from week to week, in order to provide a variety of foods and nutrients.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-74, 340:105-10-76 through 340:105-10-80, and 340:105-10-86.

340:105-10-79. ~~United States Department of Agriculture (USDA) reimbursement for nutrition projects~~ Nutrition Services Incentive Program (NSIP)

(a) **Policy.** NSIP rewards, through cash or commodities, the effective performance of Title III-C nutrition projects in the efficient delivery of nutritious meals to older persons. ~~Nutrition~~ Title III-C nutrition projects maintain certification of eligible participants for ~~the USDA Food and Cash In Lieu of Food Distribution Program for Title III-C Projects~~ NSIP.

(b) **Authority.** The authority for this Section is Section 311 of the Older Americans Act of 1965, as amended.

(c) **Procedures.** ~~Procedures to implement~~ The requirements for implementing this Section ~~include:~~ are outlined in this subsection.

(1) ~~projects~~ Projects and their respective vendors ~~must~~ apply to the appropriate state distributing agency for certification as eligible participants in ~~the USDA program;~~ NSIP.

(2) ~~projects~~ Projects and vendors ~~must~~ accept, store, and use donated food commodities as supplied to them.

Donated commodities and cash in lieu of commodities may only be used in the preparation of meals funded through Title III-C~~;~~.

(3) ~~projects must~~ Projects develop management procedures pertaining to ~~the~~ handling ~~of the~~ food commodities~~;~~.

(4) ~~projects must~~ Projects document ~~the USDA~~ NSIP foods utilized in each day's menu~~;~~.

(5) ~~vendors must~~ Vendors allow credit for the amount of commodities used during each billing period. The amount of credit per pound is determined by Aging Services Division (ASD) and Commodity Distribution Unit (CDU) of the Oklahoma Department of Human Services (~~DHS~~ OKDHS)~~;~~.

(6) ~~projects must~~ Projects maintain documentation of participant eligibility on required State Agency forms in order to obtain ~~USDA~~ NSIP ~~reimbursement~~ support for eligible meals. Eligible meals are those meals served to eligible participants ~~outlined~~ in accordance with OAC 340:105-10-69(a)(1) and 340:105-10-83(a)~~;~~.

(7) ~~projects must~~ Projects maintain documentation regarding the number of meals served at nutrition sites~~;~~.

(8) ~~the project shall~~ Projects do not require documentation of age eligibility, other than the participant's signature on Form AG-2-A, Older Americans Act Assessment, Part I, except where the project management has reasonable cause to question the accuracy of age provided by the participant or the participant's representative on Form AG-2-A~~;~~.

(9) ~~projects~~ Projects receive NSIP cash or cash and commodity allocations of food commodities from ~~the~~ ASD based on ~~a proportionate ratio of~~ the number of eligible meals actually served in the previous year in relationship to the total number of meals actually served by all Title III-C projects. Commodities are distributed to the projects by ~~the DHS,~~ OKDHS CDU~~; and~~.

~~(10) projects receive cash in lieu of commodities through the Area Agency on Aging based on the project's proportion of the total number of eligible meals in the planning and service area.~~

(d) **Cross references.** See OAC ~~340:105.1(a)(4) and (7)~~ 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-78, and 340:105-10-80.

340:105-10-86. Congregate and home delivered meals site ~~opening, closing, or relocation~~ change of status

(a) **Policy.** Any site ~~opening, relocation, or closing~~ change of status in the congregate and home delivered meals programs is based upon objective, quantifiable, sociodemographic, and needs assessment data.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations~~, Part 1321.11~~.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) Thirty days prior to the ~~opening, relocation, or closing~~ change of status of a nutrition ~~sites~~ site, the Area ~~Agencies~~ Agency on Aging submits to Aging Services Division (ASD) an analysis of data considered by the project in recommending each proposed change. This analysis includes an evaluation of sociodemographic data, when ~~opening~~ a new site is opened, for the entire planning and service area (PSA). ~~and outlines~~ The analysis includes:

(A) reason(s) for ~~the~~ each proposed change~~, for all changes~~;

(B) existing meal services for ~~the elderly~~ older persons in the PSA, for ~~all changes~~ each change;

(C) all potentially eligible areas within the PSA with no current services, for opening or relocation;

(D) a list and ranking of all unserved areas in the order of their priority for future funding, for opening or relocation;

(E) the number and proportion of minority, low income, and ~~elderly~~ older persons in greatest economic or social need for each currently served and currently unserved area, for ~~all changes~~ each change;

(F) the total number of persons age 60 years or older in the total PSA, and in each current and prospective service area, for ~~all changes~~ each change;

(G) a revised grant to include the budget justification~~,~~ for ~~all changes~~ each change;

(H) the proposed ~~dates~~ date of ~~the~~ each change~~, for all changes~~;

(I) current health department and fire inspection reports, for opening or relocation;

(J) transportation services available for older persons affected by ~~the changes, for all changes~~ each change; ~~and~~

(K) nutrition project advisory council and governing board recommendations for each change; and

(~~K~~L) any other information ASD deems necessary to evaluate the proposed expansion.

(2) ~~Once ASD has reviewed~~ Upon review of the analysis, ~~it~~ ASD may disapprove or conditionally approve the request for site change. ~~If~~ When a site is conditionally approved, ~~requests for openings or relocations require~~ the new ~~site(s)~~ site must pass an ~~ASD conducted~~ Americans with Disabilities Act (ADA) inspection, conducted by ASD, to complete the approval process.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51 through 340:105-10-52, 340:105-10-68, ~~340:105-10-70~~ 340:105-10-71, 340:105-10-74 through 340:105-10-79, and 340:105-10-82 through 340:105-10-85.

340:105-10-89. Disease prevention and health promotion services

(a) **Policy.** The Area Agency on Aging (AAA) makes grants to local entities to provide disease prevention and health promotion services and information at multipurpose senior centers, congregate meal sites, through home delivered meals programs, or other appropriate sites. Disease prevention and health promotion services include:

(1) health risk assessments;

(2) routine health screening, ~~which may include~~ such as hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, bone density, oral health, and nutrition screening;

(3) nutritional counseling and educational services for ~~individuals~~ older persons and their primary caregivers;

(4) health promotion programs, including programs relating to prevention and reduction of the effects of chronic disabling conditions, such as osteoporosis and cardiovascular disease~~, prevention and reduction of effects,~~; dental care; alcohol and substance abuse reduction~~,~~; smoking cessation~~,~~; weight loss and control~~,~~; and stress management;

(5) programs regarding physical fitness, group exercise, and music, art, and dance movement therapy, including programs for multigenerational participation that are provided by:

(A) an institution of higher education;

(B) a local educational agency, as defined in Section 1471 of the Elementary and Secondary Education Act of 1965; or

(C) a community-based organization;

(6) home injury control services, including screening of high risk home environments and provision of educational programs on injury prevention, such as fall and fracture prevention~~, in the home environment~~;

(7) screening for the prevention of depression, coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;

(8) educational programs on the availability, benefits, and appropriate use of preventive health services covered under Title XVIII of the Social Security Act;

(9) medication management screening and education to prevent incorrect medication and adverse drug reactions;

(10) information concerning diagnosis, prevention, treatment, and rehabilitation of age related diseases and chronic disabling conditions, including osteoporosis, cardiovascular diseases, diabetes, and Alzheimer's disease and related disorders with neurological and organic brain dysfunction;

(11) gerontological counseling; and

(12) counseling regarding social services and ~~follow-up~~ follow-up health services based on any of the services described in (1) – through (11) of this subsection.

(b) **Authority.** The authority for this Section is Sections 102(12), 361, and 362~~, and 363~~ of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The ~~procedures~~ requirements for implementing this Section ~~include the AAA:~~ are outlined in this subsection. The AAA:

(1) ~~receiving~~ receives input from other entities in the planning and service area that are involved with disease prevention and health promotion regarding targeting of funds;

(2) ~~considering~~ considers use of funds to expand successful disease prevention and health promotion activities currently funded by Title III-B or other sources in the community, such as annual health fairs or periodic health screenings at nutrition sites;

(3) ~~seeking~~ seeks technical assistance, as appropriate, from the State Agency staff; and

(4) ~~submitting~~ submits a plan to the State Agency OKDHS.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(15)(C) and 340:105-10-51.

340:105-10-90.1. National Family Caregiver Support Program

(a) **Policy.** ~~Local~~ The Area ~~Agencies~~ Agency on Aging (AAA) ~~make~~ awards grants to entities to provide support services, including information and assistance, counseling, support groups, respite, and other home- and community-based services to families caring for their frail older members. The National Family Caregiver Support Program also recognizes the needs of grandparents who are caregivers of grandchildren and other older ~~individuals~~ persons who are relative caregivers of children who are age 18 and ~~under~~ younger. National Family Caregiver Support Program services include:

(1) information about services;

(2) assistance with access to services;

(3) individual counseling, support groups, and caregiver training;

(4) respite care; and

(5) supplemental services, on a limited basis.

(b) **Authority.** The authority for this Section is Sections 371, 372, 373, and 374 of the Older Americans Act of 1965, as amended [P.L. 106-501], Grants for State and Community Programs on Aging.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection. The AAA:

(1) ~~Area Agencies incorporate~~ incorporates the provisions ~~in~~ of this Section into ~~their~~ the Title III, Older Americans Act, policies and procedures manual~~.~~;

(2) ~~Area Agencies provide~~ provides technical assistance to prospective and funded Title III projects regarding this policy~~.~~;

(3) ~~Area Agencies monitor~~ monitors Title III project compliance according to OAC 340:105-10-43~~.~~;

(4) ~~Area Agencies target~~ targets services to older ~~individuals~~ persons in greatest social and economic need and older ~~individuals caring~~ persons who care for a child with mental retardation or developmental disabilities~~.~~;

(5) ~~Area Agencies~~ grantees may provide support services to families caring for their frail older members who are 60 years of age or older who are unable to perform at least two activities of daily living (ADLs) which include dressing, bathing, eating, transferring, toileting, or walking, without substantial human assistance, or who require substantial supervision due to a cognitive or other mental impairment~~.~~;

(6) ~~Area Agencies~~ grantees, on a limited basis, may provide support services to grandparents and older ~~individuals~~ persons who are relative caregivers.

(A) The term child means ~~an individual~~ a person who is not ~~more~~ older than 18 years of age.

(B) The term grandparent or older ~~individual~~ person who is a relative caregiver means a grandparent

or step-grandparent of a child, or a relative of a child by blood or marriage, who is 60 years of age or older and:

(~~A~~i) lives with the child;

(~~B~~ii) is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and

(~~C~~iii) has a legal relationship to the child, as such legal custody or guardianship, or is raising the child informally~~.~~;

(7) ~~The~~ ensures that the cost of carrying out the program ~~requires~~ meets the requirement of a minimum non-federal share of 25 percent. The non-federal share ~~must be~~ is provided from state and local sources~~.~~;

(8) ~~Providers of caregiver services~~ grantees may not use funds to supplant, replace, or in substitution for, any funds that are or would otherwise be expended under any federal, state, or local law for the same purposes~~.~~; and

(9) ~~Area Agencies consider using~~ considers awarding funds to expand successful caregiver activities currently in communities, such as respite providers, support groups, outreach, information and assistance, adult day services, ~~transportation,~~ counseling, ~~home repair,~~ and case management.

(d) **Cross references.** See OAC 340:105-10-37, 340:105-10-38, 340:105-10-40, 340:105-10-41, 340:105-10-43, 340:105-10-44, and 340:105-10-50.1.

PART 9. FISCAL AND ADMINISTRATIVE POLICIES FOR AREA AGENCIES ON AGING AND TITLE III PROJECTS

340:105-10-101. Request for proposal procedures

(a) **Policy.** All Older Americans Act pass through funds ~~must be~~ are awarded in an open, competitive, and fair manner via the request for proposals (RFP) process. Awards are made to applicants whose proposals include all components of the service(s) outlined in the RFP and who best meet the specifications of the RFP. The Area Agency on Aging (AAA) ~~Board of Directors~~ board of directors is directly responsible for reviewing proposals and awarding funds. This responsibility may not be delegated. The ~~Board of Directors~~ board of directors may not award funds to the AAA or to another subdivision of the sponsoring agency under the auspices of the same ~~Board of Directors~~ board of directors. The ~~Board of Directors~~ board of directors may not award funds to ~~Board~~ board members or the agencies or organizations they represent. ~~The awarding of~~ Awarding funds through the RFP process during the plan year is required when:

(1) funds are allocated to the AAA at the beginning of the fiscal year;

(2) there is significant expansion of a service(s) already funded;

(3) funding ~~of~~ a new service(s); or

(4) ~~transfer of~~ funding of an existing service is transferred from a defunct or terminated grantee.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations~~, Part 1321.11~~.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) To initiate RFP, the AAA:

(~~1~~A) ~~The AAA~~ develops specifications for each service to be procured which clearly define the service and how units of service are measured. Such specifications include and make reference to general and service specific standards outlined in paragraph (7) of this subsection. The specifications also include the minimum units of services to be provided, the minimum unduplicated number to be served, and geographic service areas as appropriate~~.~~;

(~~2~~B) ~~The AAA~~ develops ~~a~~ an RFP guide, grant application package, based on the State Agency standard format~~.~~;

(~~3~~C) ~~The AAA~~ submits ~~it's~~ a proposal guide to the State Agency for approval at least 30 days prior to the announcement of availability of funds as outlined in ~~paragraph (4)~~ (1)(D) of this subsection~~.~~;

(~~4~~D) ~~The AAA~~ announces the availability of funds in the legal journal section of newspapers in the planning and service area (PSA)~~.~~;

(~~5~~E) ~~The AAA~~ makes proposal guides available for pick up at the AAA office~~.~~;

(~~6~~F) ~~The AAA~~ mails copies of the proposal guide upon request~~.~~;

(~~7~~G) ~~The AAA~~ conducts a ~~proposers'~~ conference for proposers prior to the deadline for submitting applications and requires applicants to attend the conference in order to be considered for funding~~.~~;

(~~8~~H) ~~The AAA~~ provides other reasonable technical assistance to applicants who request assistance, in writing, no later than seven calendar days prior to the closing of the application period~~.~~; and

(~~9~~I) ~~At~~ at the close of the application period, ~~the AAA staff~~ evaluates and rates all proposals according to standard criteria based on requirements of the proposal guide. The AAA disqualifies incomplete proposals from evaluation and funding.

(~~10~~2) The AAA advisory council reviews the proposals and makes recommendations on funding to the AAA ~~Board of Directors~~ board of directors. All decisions related to funding recommendations ~~must be~~ are conducted in accordance with applicable state and federal conflict of interest laws. The advisory council review ~~must be~~ is conducted during a scheduled meeting with a quorum present.

(~~11~~3) The AAA ~~Board of Directors~~ board of directors:

(A) or a subcommittee of the ~~Board~~ board, reviews all proposals~~, as well as~~ and the recommendations of the AAA staff and advisory council~~.~~;

(~~12~~B) ~~The AAA Board of Directors~~ approves funding of ~~those~~ proposals ~~which~~ that best meet or exceed the service specifications and the requirements of the proposal guide. All decisions related to ~~the~~ granting ~~of~~ awards ~~must be conducted~~ are made in accordance

with applicable state and federal conflict of interest laws, and documented through signed resolutions and minutes of meetings. All decisions ~~must be~~ are acted on as a board with at least a quorum present at a meeting. ~~An~~ The AAA ~~Board~~ board of directors may not delegate its responsibilities related to ~~the~~ granting ~~of~~ awards~~.~~;

(C) issues notification of grant awards (NGAs) to applicants who are approved for funding.

(i) The AAA submits to the State Agency for approval all proposed funding awards to for-profit, full service providers at least 21 days prior to the scheduled issue of NGAs.

(ii) This rule does not apply to public or not-for-profit providers who subgrant or contract with a for-profit entity for a component(s) of the full Title III service, such as a for-profit food service; and

(D) provides an opportunity for appeal to applicants whose proposals for funding are denied, per OAC 340:105-10-102.

(~~13~~4) If no complete proposals are submitted for a service(s) or if the AAA board of directors determines that no proposals for a service(s) meet the specifications of the RFP, the AAA, with State Agency approval, has the option of:

(~~A~~i) reprogramming the funds and issuing a new RFP for a different service(s); or

(~~B~~ii) revising the initial specifications for the same service(s) and reissuing a new RFP; ~~or~~ and

(~~C~~iii) initiating community development activities to create a potential provider of the service(s) as specified in the RFP.

~~(14) The AAA submits to the State Agency for approval all proposed funding awards to for-profit, full service providers at least 21 days prior to the scheduled issue of notification of grant awards (NGAs). This rule does not apply to public or not-for-profit providers who subgrant or contract with a for-profit entity for a component(s) of the full Title III service, such as a for-profit food service.~~

~~(15) The AAA Board of Directors issues (NGAs) to applicants who are approved for funding.~~

~~(16) The AAA Board of Directors provides an opportunity for appeal to applicants whose proposals for funding are denied. [OAC 340:105-10-102]~~

(d) **Cross references.** See OAC 340:105-10-40, 340:105-10-102, and 340:105-10-104(c)(7).

340:105-10-102. ~~Appeals~~ Appeal procedures for Title III service providers

(a) **Policy.** The Area Agency ~~shall grant~~ on Aging (AAA) grants an opportunity for appeal to any ~~grantee, contractor, or prospective grantee/contractor (applicant)~~ existing or potential grantee or contractor when an application for Older Americans Act funds is denied or when a ~~grant/contract~~ grant or contract is suspended or terminated prior to the end of an approved budget year.

(b) **Authority.** The authority for ~~OAC 340:105-10-102~~ this Section is ~~45 CFR~~ Part 1321.11 of the Code of Federal Regulations.

(c) **Procedures.** ~~Procedures to implement~~ The requirements for implementing this Section are ~~as follows:~~ outlined in this subsection.

(1) The ~~grantee/contractor/applicant (complainant) must submit~~ complainant submits a written request for hearing to ~~the Area Agency~~ AAA and its ~~Board of Directors~~ board of directors within 30 days of the ~~grantee/contractor/applicant's~~ complainant's receipt of notice of the adverse action. The written request ~~must include~~ includes a detailed explanation of the complainant's grievance~~;~~.

(2) The ~~Area Agency~~ AAA:

(A) ~~must schedule~~ schedules the hearing and ~~notify~~ notifies the complainant of the date, time, and location of the hearing within 20 days of the ~~Area Agency's~~ AAA receipt of the request for hearing; and

(~~3~~B) ~~The Area Agency shall prepare~~ prepares written testimony for the hearing ~~which outlines~~ outlining the action ~~taken that is~~ being appealed and the data on which the action was based. A copy of this written testimony ~~shall be~~ is provided to the complainant eight calendar days prior to the hearing and ~~shall be~~ submitted as evidence during the hearing~~;~~.

(~~4~~3) The ~~Area Agency Board of Directors~~ AAA board of directors, or a committee appointed by the ~~Board~~ board of directors, ~~shall conduct~~ conducts the hearing within 30 days of AAA receipt of the complainant's request for hearing. The hearing ~~shall include the following procedures~~ includes:

(A) ~~An~~ an opportunity for the complainant to:

(i) review all pertinent evidence relating to the appealed action ~~during the hearing~~;

(~~B~~ii) ~~An opportunity for the complainant to present opportunity to~~ present written and verbal testimony ~~during the hearing~~;

(~~C~~iii) ~~An opportunity for the complainant to~~ be represented by counsel;

(~~D~~iv) ~~An opportunity for the complainant to~~ present witnesses and documentary evidence; and

(~~E~~v) ~~An opportunity for the complainant to~~ cross-examine witnesses;

(~~F~~B) ~~A~~ a presiding officer appointed by the ~~Board~~ board of directors ~~to conduct~~ who conducts the hearing~~, who~~ and has had no part in the appealed action; and

(~~G~~C) ~~A~~ a record of the hearing proceedings, ~~must be~~ taken by the presiding officer appointed by the board of directors, and ~~kept of~~ maintained on file for public viewing~~;~~.

(~~5~~4) The ~~Area Agency Board shall issue~~ AAA board of directors issues a written hearing decision to the complainant within 60 days of the completion of the hearing. The decision letter ~~shall include~~ includes notice of the complainant's right to appeal the ~~Board's hearing~~ decision to ~~the Special Unit on Aging~~ Aging Services Division (ASD).

(A) The letter ~~shall also include~~ includes instructions to the complainant on how to initiate the appeal~~, i.e., that the~~.

(B) The complainant ~~must submit~~ submits a written request for a hearing to ~~the State Agency~~ ASD within 30 days ~~following the complainant's receipt of~~ after the complainant receives notice of an adverse ~~Area Agency Board appeal~~ AAA decision~~; and~~.

(~~6~~5) ~~In the event~~ When the appeal process ~~has~~ is not ~~been~~ resolved prior to the start of the new project year, the ~~Area Agency~~ AAA, through its ~~Board of Directors~~ board of directors, may enter into a temporary grant with a service provider for services affected by the appeal, ~~in order~~ to avoid cessation of services ~~to the elderly~~.

(d) **Cross references.** See OAC 340:105-10-101(c)~~(16)~~(3)(D).

340:105-10-104. Unexpended grant funds and carry-over policy

(a) **Policy.** Area Agencies on Aging (AAAs) and their grantees are allowed to carry-over unexpended grant funds from the most recently completed budget year into the current program budget under prescribed circumstances. Unexpended funds are funds ~~which~~ that are ~~both~~ obligated and encumbered but not yet disbursed by the AAAs or their grantees at the end of the budget year, and ~~which~~ remain unliquidated for more than 30 days after the end of the period for which they were granted.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations~~, Part 1321.11~~.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) The grantee agency, the Title III project or the AAA, submits for approval to the grantor agency, the AAA or the State Agency, ~~for approval, it's~~ a final financial report for the most recently completed program or Area Plan year, which includes documentation of unexpended funds.

(2) The grantee agency submits to the grantor agency, for approval, a budget amendment outlining the proposed disposition of the unexpended funds.

(3) The grantor agency issues a notification of grant award (NGA) to the grantee agency authorizing the obligation, or carry-over, of the unexpended funds into the current program or Area Plan year.

(4) Only Title III Older Americans Act (OAA) federal funds are eligible for carry-over.

(5) Grantees may not carry-over ~~United States Department of Agriculture (USDA)~~ Nutrition Services Incentive Program (NSIP) cash in lieu of commodities funds. Unexpended ~~USDA~~ NSIP funds revert to the ~~USDA~~ NSIP.

(6) Grantees may not carry-over state funds. Unexpended state funds ~~will~~ revert to the State of Oklahoma.

(7) Unexpended AAA Title III-B administrative and direct service funds may not be carried over as direct service funds. Such funds may be reverted to Title III-B service funds, or passed through, which may be sub-granted by the AAA via the request for proposals process~~.~~, per ~~[~~OAC 340:105-10-101~~]~~.

(8) The AAA may request ~~the~~ a carry-over of no more than two percent of the AAA federal OAA allotments. ~~Expended~~ Unexpended funds in excess of this amount ~~will~~ result in a reduction of the current Area Plan state funds on a one dollar for one dollar ratio. This reduction in state funds may be waived if, in the judgment of the State Agency, the excessive unexpended funds are:

(A) directly attributable to greatly increased and unforeseen project income;

(B) directly attributable to factors beyond the reasonable control of the AAA or the Title III project; or

(C) otherwise explained to the satisfaction of the State Agency in a narrative justification.

(9) In cases of repeated and unjustified unexpended Area Plan funds, the State Agency may elect to reduce the percentage of total state Title III-B funds available for use in the AAA's administration and direct service budgets.

(d) **Cross reference.** See OAC 340:105-10-101.

340:105-10-117. Employment policies and procedures

(a) **Policy.** Each Area Agency on Aging (AAA) and Title III project, or grantee, maintains a system of personnel administration ~~which is~~ approved by the grantor agency, and complies with all state and federal statutes.

(b) **Authority.** The authority for this Section is Sections 2 and 208 of the Inter-governmental Personnel Act of 1970 and Part 1321.11 of Title 45 of the Code of Federal Regulations~~, Part 1321.11~~.

(c) **Procedures.** The procedures for implementing this Section ~~include~~ require the grantee agency to:

(1) ~~recruiting, selecting, and advancing~~ recruit, select, and advance employees on their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) ~~providing~~ provide equitable and adequate compensation to all employees;

(3) ~~providing~~ provide training to employees, as needed, to ensure quality performance;

(4) ~~retaining~~ retain employees on the basis of the adequacy of their performance, separating employees whose inadequate performance cannot be corrected;

(5) ~~ensures~~ ensure fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religion, age, or disability and with proper regard for their privacy and constitutional rights as citizens. This fair treatment principle includes compliance with all federal equal ~~opportunity~~ employment opportunity and non-discrimination laws, such as Civil Rights Act and Americans with Disabilities Act;

(6) ~~protects~~ protect employees from coercion for partisan political purposes and ~~prohibits~~ prohibit employees from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office;

(7) ~~provides~~ provide reasonable grievance procedures to applicants and employees and ~~posts~~ post the procedures in a public place; and

~~(8) gives preference in hiring to persons 60 years of age or older; and~~

(~~9~~8) ~~develops~~ develop personnel policies.

(d) **Cross references.** See OAC 340:105-10-118 through 340:105-10-122.

340:105-10-118. Recruitment of Area Agency on Aging or Title III project personnel

(a) **Policy.** New or vacant Area Agency on Aging (AAA) or Title III project positions are filled using an open and equitable recruitment process which meets all state and federal statutes.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations~~, Part 1321.11~~.

(c) **Procedures.** ~~Procedures~~ Requirements for implementing this Section ~~include:~~ are outlined in (1) through (6).

(1) ~~except in the case of upgraded positions, current~~ Current employees in the AAA or Title III project ~~must~~ make application for new or vacant positions in the same manner as outside applicants~~;~~, except in the case of an upgraded position.

(2) ~~in~~ In the case of an upgraded position, the incumbent employee may fill the new position without going through the recruitment process if he or she meets the position qualifications~~;~~.

(3) ~~positions must be~~ Positions are advertised ~~a minimum of five days including~~ at least one weekend. Advertisement for professional positions ~~must be~~ are placed in at least one major metropolitan newspaper for at least one weekend~~;~~.

(4) ~~recruitment~~ Recruitment announcements ~~must~~ include:

(A) position title;

(B) hours;

(C) education and experience requirements;

(D) salary range;

(E) Equal Opportunity Employer disclaimer; and

(F) closing date of announcement, as appropriate~~;~~.

~~(5) initial announcement period is at least two weeks;~~

(~~6~~5) ~~additional announcement period of at least one week is required~~ Positions are advertised at least one additional weekend if the initial announcement yields fewer than five qualified applicants for the position. ~~Note that this~~ This requirement may be waived by the grantor agency upon receipt of a written justification from the grantee~~; and~~.

(~~7~~6) ~~the~~ The grantee makes demonstrable efforts to reach minority and disabled populations with position announcements, such as advertising in minority publications.

(d) **Cross references.** See OAC 340:105-10-117~~,~~ and 340:105-10-119 through 340:105-10-122.

340:105-10-119. Selection of Area Agency on Aging and Title III ~~Project~~ project staff

(a) **Policy.** The selection of Area Agency on Aging and Title III ~~Project~~ project employees ~~will be~~ is carried out in a fair and consistent manner.

(b) **Authority.** The authority for ~~OAC 340:105-10-119~~ this Section is ~~45 CFR~~ Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The ~~procedures~~ requirements for implementing this Section are~~:~~ outlined in (1) through (8).

(1) The grantee agency ~~must notify~~ promptly notifies the grantor agency of all vacancies. ~~and give two weeks notice prior to the interview of applicants. It is the option of the grantor agency to participate in the interview process;~~

(2) The grantee ~~must have~~ has written screening criteria for narrowing the field of applicants to those who are qualified and who will be interviewed. The grantee ~~must maintain~~ maintains documentation ~~which~~ that reflects why each applicant was eliminated from consideration~~;~~.

(3) The grantee ~~must interview~~ interviews at least five of the eligible applicants for each position. ~~Note that this~~ This requirement may be waived by the grantor agency upon receipt of written justification from the grantee~~;~~.

(4) The grantee ~~must appoint~~ appoints a selection committee of at least three individuals. Advisory Council members and ~~Board~~ board of directors members may serve on the selection committee~~;~~.

(5) Each member of the selection committee ~~must be~~ is provided with copies of the ~~resumes/applications~~ resume or applications of those applicants who are to be interviewed, for review prior to the interview process~~;~~.

(6) The selection committee ~~must interview~~ interviews each candidate using a standardized format, questions, and ranking system. The grantor agency has the option of approving the format, questions, and ranking system prior to the interview process~~;~~.

(7) The grantee agency ~~shall select~~ selects an applicant who ranks among the top three interviewed candidates. ~~If the grantee does not select the applicant ranked first by the selection committee, the grantee must submit written justification of the selection to the grantor agency; and~~

(8) The grantee agency may not underfill a position ~~(i.e., fill such as a position~~ at a lower level within the same class~~)~~ except ~~in the following circumstances~~ when the grantee agency demonstrates:

(A) ~~The grantee can demonstrate to the grantor agency that~~ there are not enough funds to support the higher level classification; or

(B) ~~The grantee~~ the agency is unable to recruit a qualified candidate for the vacant position at the higher classification level.

(d) **Cross references.** See OAC 340:105-10-117~~,~~ through 340:105-10-118, and 340:105-10-120 through 340:105-10-122.

340:105-10-121. Area Agency on Aging and Title III ~~Project~~ project salary schedules

(a) **Policy.** Area Agencies on Aging (AAAs) and Title III ~~Projects shall~~ projects utilize salary schedules issued or approved by the State Agency.

(b) **Authority.** The authority for ~~OAC 340:105-10-121~~ this Section is ~~45 CFR~~ Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The ~~procedures~~ requirements for implementing this Section are ~~as follows:~~ outlined in (1) through (3) of this subsection.

(1) The State Agency ~~will annually issue~~ issues a standard salary schedule for ~~Area Agency~~ AAA and selected Title III ~~Project~~ project positions~~:~~.

(A) The salary schedule ~~shall provide for~~ provides a minimum and maximum salary rate~~;~~.

(B) The entrance salary for any position on the schedule ~~shall be~~ is at the minimum salary, ~~(Step 1)~~ step one. The ~~Area Agency~~ AAA or Title III ~~Project~~ project may submit a written request to raise the entrance salary for a particular position when the ~~Area Agency~~ AAA or Title III ~~Project~~ project is able to document ~~that they are~~ the AAA or Title III project is unable to recruit qualified candidates, or when a prospective employee has unusually high qualifications. Such special entrance rates ~~shall~~ may not exceed the third step of the salary schedule~~;~~.

(C) A current employee may be hired to a different position. When the employee accepts a position in:

(i) the same grade, the salary is the employee's current step before the transfer;

(ii) a higher grade, the salary is the closest step on the salary schedule to the employee's current step before the transfer plus one step. If the position transfer results in an increase above one step, the third step of the salary schedule may not be exceeded; or

(iii) a lower grade, the salary is the step where the employee's current salary before the transfer is not exceeded. The third step of the salary schedule may not be exceeded.

(~~C~~D) Salary advancements of one step annually may be paid from grant funds on employment anniversary dates and at 12 month intervals thereafter. Salary advancements ~~must be~~ are based on acceptable work performance, as evidenced by continued employment with the ~~agency~~ AAA or Title III project. The grantor or grantee agency may disapprove salary advancements due to funding limitations or uncertain allocation levels~~;~~.

(~~D~~E) Longevity payments may be made to all ~~Area Agency~~ AAA and Title III ~~Project~~ project employees who have two or more years continuous service and ~~who are working~~ work at least 86 hours per month. Longevity is ~~to be~~ paid in the month following the employee's annual employment anniversary date, in a lump sum, beginning with anniversary dates of October 1, 1988. Employees who terminate their employment before their anniversary date ~~shall~~ receive the ~~pro rata~~ pro rata portion of their budgeted longevity payment for the year. Payment is based upon the number of years of service according to the State Longevity Pay Schedule for Area Agencies on Aging and Projects~~;~~.

(~~E~~F) The grantee agency may pay ~~Area Agency~~ AAA or Title III ~~Project~~ project staff at rates higher than the rates allowed under the State Agency issued salary schedule~~;~~. ~~however, any~~ Any amount paid by the grantee agency above the allowed rate ~~shall be~~ is entirely at the expense of the sponsoring agency, and ~~will~~ is not ~~constitute~~ considered an allowable local match for grant funds~~;~~.

(2) ~~Area Agencies~~ AAAs and Title III ~~Projects will~~ projects utilize State Agency issued salary schedules for preparation of budgets in ~~grant/contract~~ grant or contract applications and for ~~the~~ hiring ~~of~~ additional staff during the project year~~;~~.

(3) For positions not included in the State Agency issued salary schedule, the ~~Area Agency~~ AAA or Title III ~~Project will develop~~ project develops a proposed salary with justification and ~~submit~~ submits the proposed salary to State Agency for approval.

(d) **Cross references.** See OAC 340:105-10-117 through 340:105-10-120 and 340:105-10-122.

340:105-10-122. Fair labor practices for Area Agencies on Aging and Title III ~~Projects~~ projects

(a) **Policy.** Area Agencies on Aging and Title III ~~Projects shall~~ projects comply with fair labor practices as outlined in applicable state and federal statutes.

(b) **Authority.** The authority for ~~OAC 340:105-10-122~~ this Section is ~~45 CFR~~ Part 1321.11 of Title 45 and Part 553.20 of Title 29 of the Code of Federal Regulations.

(c) **Procedures.** The ~~procedures~~ requirements for implementing this Section are ~~as follows:~~ outlined in (1) through (9) of this subsection.

(1) ~~All employees of aging programs must be~~ Employees are compensated for hours worked at their appropriate wage unless they are exempt positions ~~which~~ that include executive, administrative, or professional positions~~;~~.

(2) ~~An employee cannot~~ Employees may not perform volunteer activities for their employer ~~which~~ that are the same or similar to their job duties. Such activities ~~must be~~ are compensated as hours worked~~;~~.

(3) Employers are responsible for assigning employee work hours and ~~for~~ supervising employee start and end times. ~~The employer is~~ Employers are responsible for compensating the employee for all hours the supervisor assigns to the employee and has reasonable knowledge that the employee works~~;~~.

(4) Non-exempt employees who are full-time ~~must be~~ are given at least a 30 minute uninterrupted break from compensated work time for a meal. Employees ~~shall be~~ are offered a 15 minute break during compensated work time for every four hour period worked. ~~Breaktime~~ Break time is considered compensated work time and ~~cannot~~ may not be used for arriving late ~~arrivals~~, leaving early, or extending the lunch ~~periods, etc.;~~ period.

(5) Non-exempt employees ~~working~~ of a public agency who work in excess of 40 hours within a seven day work

period ~~must be~~ are compensated with one and one-half hours of compensatory time per hour of overtime or paid at a rate of one and one-half times their hourly wage for each hour of overtime~~;~~.

(6) Non-exempt employees of a private agency who work in excess of 40 hours within a seven day work period are compensated with one and one-half hours of pay at a rate of one and one-half times their hourly wage for each hour of overtime. A private agency may not replace overtime in one work week with compensatory time in another week.

(~~6~~7) All overtime ~~must be~~ is approved in advance by the employee's supervisor. The supervisor may adjust the employee's regular work schedule to avoid having the employee work in excess of 40 hours in ~~that~~ a seven day work period. Employee work shifts may exceed eight hours per day~~;~~.

(~~7~~8) Employers ~~must~~ of public agencies require employees to use compensatory time within 180 days, or pay the employee at the appropriate overtime rate~~;~~.

(~~8~~9) Employees who fail to adhere to their assigned working hours, do not keep accurate time sheets, or ~~engage~~ claim unauthorized overtime are subject to disciplinary action by their employer which could result in the termination of their employment~~; and~~.

(~~9~~10) Employers ~~that~~ who base employees out of their own homes ~~shall~~ do not give out the employee's home telephone number to the general public. Arrangements ~~must be~~ are made to have a telephone number at a convenient location for the worker to take calls. An emergency response telephone number and procedure ~~should be~~ are established to avoid having ~~older~~ persons contacting employees during non-working hours. Employees ~~must~~ report to their employer all contacts ~~received~~ during non-working hours ~~which~~ that are business related.

(d) **Cross references.** See OAC 340:105-10-117 through 340:105-10-121.

[OAR Docket #04-444; filed 3-25-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 110. LICENSING SERVICES

[OAR Docket #04-446]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
Part 1. Licensing Services - Child Care
340:110-1-4.1. [AMENDED]
340:110-1-6. [AMENDED]
340:110-1-8. [AMENDED]
340:110-1-8.3. [AMENDED]
340:110-1-9. through 340:110-1-9.3. [AMENDED]
340:110-1-9.5. [AMENDED]
340:110-1-10. through 340:110-1-11. [AMENDED]
340:110-1-14. [AMENDED]
340:110-1-20. [AMENDED]
Appendix P. Juvenile Detention Center Compliance Review [REVOKED]
Appendix Q. Juvenile Detention Center Visit Sheet [REVOKED]
Appendix R. Juvenile Detention Center Resident Record Check [REVOKED]
Appendix BB. Child Care Center Staff-Child Ratio [REVOKED]
Appendix CC. Child Care Center Minimum Equipment Requirements [REVOKED]
Appendix DD. Child Care Center Exclusion Criteria for Children Who Are Ill [REVOKED]
(Reference APA WF 03-29)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and the Oklahoma Child Care Facilities Licensing Act, Sections 401 et seq. of Title 10 of the Oklahoma Statutes.
DATES:
Comment period:
December 15, 2003 through January 14, 2004
Public hearing:
None requested.
Adoption:
January 27, 2004
Submitted to Governor:
January 27, 2004
Submitted to House:
January 27, 2004
Submitted to Senate:
January 27, 2004
Gubernatorial approval:
March 11, 2003
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 24, 2004.
Final adoption:
March 24, 2004
Effective:
June 1, 2004
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Division of Child Care (D.C.) Licensing Services rules are revised in Subchapter 1 to provide direction to licensing staff who regulate and consult with licensed child care facilities in meeting requirements for licensure. Revisions reflect the elimination of the license renewal process involved for the one star plus level of the Stars program. This ensures a greater commitment to quality and simplifies the process for providers and licensing staff. The status of one star plus facilities will continue to be monitored by licensing staff during the two year period of the one star plus level. Appendices are revoked as they are no longer used or have been replaced with an updated format.

340:110-1-4.1 is revised to delete reference to forms that are revoked.

340:110-1-6 is revised to clarify licensing contacts when a family child care provider has not accepted children into care.

340:110-1-8 is revised to improve readability, clarify in the rule procedures pertaining to water tests results, and procedures for notifying providers of license approval.

340:110-1-8.3 is revised to: (1) eliminate the one star plus level renewal at 12 months; (2) move the staff compensation criteria from the one star plus to the two star level; (3) change director ongoing training to 30 hours per year; (4) clarify master teacher and home provider guidelines regarding on-site presence; (5) eliminate one home provider qualification option to applicants who apply after June 1, 2004; (6) clarify licensing action for licensing complaint investigations pertaining to a request for star certification; (7) clarify the stars administrative review process; and (8) improve overall readability.

340:110-1-9 is revised to clarify types of ownership; describe required numbers of visits for different case categories; and improve readability and conform with current formatting guidelines.

340:110-1-9.1 is revised to clarify when a monitoring visit is required for certification of a facility applying to receive increased reimbursement for the care of children with disabilities.

340:110-1-9.2 is revised to add infant sleep position to the list of risk level complaints and clarify licensing action in documenting complaint findings.

340:110-1-10 is revised to clarify OKDHS time frames during license revocation, and improve readability.

340:110-1-9.3, 110-1-9.5, 110-1-11, 110-1-14, and 110-1-20 are revised to improve readability and eliminate unnecessary language.

340:110 Appendix P. Juvenile Detention Center Compliance Review; Appendix Q. Juvenile Detention Center Visit Sheet; Appendix R. Juvenile Detention Center Resident Record Check; Appendix BB. Child Care Center Staff-Child Ratio; Appendix CC. Child Care Center Minimum Equipment Requirements; and Appendix DD. Child Care Center Exclusion Criteria for Children Who Are Ill are revoked as they are no longer used or have been updated to a new format.

CONTACT PERSON:

Dena Thayer, Programs Manager, Policy Management Unit, Office of Planning, Policy, and Research, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

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 1, 2004.

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. LICENSING SERVICES - CHILD CARE

340:110-1-4.1. Forms

Forms which apply to this Part are:

(1) **ADM-123, Certification for Special Needs Child Care Rate.** Form ADM-123 is used to obtain information for determining eligibility for the special needs child care rate for children receiving Supplemental Security Income (SSI), SoonerStart, or ~~Special Education Services~~ special education services.

(2) **OCC-57, Physical Plant.** Form OCC-57 is used by the licensing staff to record a diagram of the indoor and outdoor space utilized by a child care facility.

(3) **OCC-2, Child Care Center Staff Summary.** Form OCC-2 is used to document compliance with licensing requirements for all staff currently employed by the child care facility.

(4) **OCC-3, Child Care Center Monitoring Report.** Form OCC-3 is used by the licensing staff to document compliance with requirements during a monitoring visit at a child care center and record any other information obtained.

(5) **OCC-4, Application for License - Child Care Facility.** Form OCC-4 is used to make application for a license to operate a child care facility, including a child care center, school-age program, and part-day children's program.

(6) **OCC-5, Transportation Information.** Form OCC-5 is used by a child care facility director to document compliance with licensing requirements on transportation.

(7) **OCC-6, Equipment Inventory - Child Care Center.** Form OCC-6 is used to document the equipment available and items needed to comply with *Licensing Requirements for Child Care Centers*, OKDHS Publication No. 84-08.

(8) **OCC-7, Documentation of Training - Family Child Care Home and Large Child Care Home.** Form OCC-7 is used by a family child care home provider to document annual training as required by *Licensing Requirements for Family Child Care Homes and Large Child Care Homes*, OKDHS Publication No. 86-104.

(9) **OCC-7-A, Documentation of Required Training Topics - Family Child Care Home and Large Child Care Home.** Form OCC-7-A is used by a family child care home provider to document required training topics as required by *Licensing Requirements for Family Child Care Homes and Large Child Care Homes*, OKDHS Publication No. 86-104.

(10) **OCC-8, Periodic Monitoring Report - Certification for Care of Children with Disabilities.** Form OCC-8 is used by the licensing staff to document ongoing compliance with certification requirements during monitoring visits.

(11) **OCC-10, Part-Day Children's Program Monitoring Report.** Form OCC-10 is used by the licensing staff to document compliance with licensing requirements during a monitoring visit at a part-day children's program and to record any other information obtained.

(12) **OCC-12, ~~Licensing~~ Complaint Report and Complaint Summary.** Form OCC-12 is used to record a complaint against a child care facility. Form OCC-12 is placed in the case record and includes the findings of the investigation in compliance with Section 406 of Title 10 of the Oklahoma Statutes.

(13) **OCC-14, Family Child Care Home Monitoring Report.** Form OCC-14 is used to document compliance with requirements during a monitoring visit to a family child care home and record other information obtained.

(14) **OCC-17, Six-Month Permit.** Form OCC-17 is a six-month temporary authorization for an applicant to operate a child care facility until a license has been issued or a formal denial notice is given to the applicant.

(15) **OCC-18, Notice of Issuance of License for a Child Care Facility.** Form OCC-18 is a notice to the child care facility that it has complied with licensing requirements and is being issued a license

(16) **OCC-20, Equipment Inventory - Part-day Children's Program.** Form OCC-20 is used to document the equipment available or needed to comply with *Licensing Requirements for Part-day Children's Programs*, OKDHS Publication No. 95-12.

(17) **OCC-21, Comments and Recommendations RE. Licensing Requirements and Policy.** Form OCC-21 is used to make comments and recommendations pertaining to licensing requirements and policy.

(18) **OCC-23, School-Age Program Monitoring Report.** Form OCC-23 is used to document compliance with licensing requirements for school-age programs during a monitoring visit and record any other information obtained.

(19) **OCC-24, ~~Equipment Inventory -~~ School-Age Program - Equipment Inventory.** Form OCC-24 is used to document the equipment available or needed to comply

with *Licensing Requirements for School-Age Programs*, OKDHS Publication No. 97-10.

(20) **OCC-25, Request for Child Care Center Star Certification.** Form OCC-25 is used by a child care center owner or director to request star certification.

(21) **OCC-26, Periodic Certification Review~~,~~ - Center Star Certification.** Form OCC-26 is used to document compliance with criteria for star certification and to establish a plan to correct violations in a child care center.

(22) **OCC-27, Request for Family Child Care Home Star Certification.** Form OCC-27 is used by a family child care home provider to request star certification.

(23) **OCC-28, Periodic Certification Review~~,~~ - Home Star Certification.** Form OCC-28 is used to document ongoing compliance with criteria for star certification and to establish a plan to correct violations in a family child care home.

~~(24) **OCC-31, Child Care Center, One Star Plus Renewal.** Form OCC-31 is the notice to a one star plus child care center that the star level will soon expire and the center must apply for renewal of the certification.~~

~~(25) **OCC-32, Family Child Care Home, One Star Plus Renewal.** Form OCC-32 is the notice to a one star plus family child care home that the star level will soon expire and the home must apply for renewal of the certification.~~

~~(26) **OCC-33, Family Child Care Home Letter, Star Disapproval.** Form OCC-33 is used to notify a family child care home that the request for two or three star certification level has not been approved.~~

~~(27) **OCC-34, Child Care Center Letter, Star Disapproval.** Form OCC-34 is used to notify a child care center that the request for two or three star certification level has not been approved.~~

~~(28) **OCC-35, Child Care Center Letter, Star Approval.** Form OCC-35 is used to notify a child care center that the request for certification for a star level has been approved.~~

~~(29) **OCC-36, Family Child Care Home Letter, Star Approval.** Form OCC-36 is used to notify a family child care home that the request for certification for a star level has been approved.~~

(~~30~~24) **OCC-37, Notice to Comply.** Form OCC-37 is used by a child care facility to document a plan of correction when there is serious or repeated non-compliance with licensing requirements.

(~~31~~25) **OCC-38, Child Information ~~Form~~.** Form OCC-38 is used by the child care facility to record enrollment information for a child.

(~~32~~26) **OCC-41, Child Care Staff Information.** Form OCC-41 is used to record information regarding child care facility staff persons as required by licensing requirements.

(~~33~~27) **OCC-42, Application for License - Family Child Care Home and Large Child Care Home.** Form OCC-42 is used to make application for license to operate a family child care home or large child care home.

(~~34~~28) **OCC-57, Physical Plant.** Form OCC-57 is used by licensing staff to document the floor plan, including indoor and outdoor square footage and numbers of toilets and sinks.

(~~35~~29) **OCC-61, Alternative Compliance Request.** Form OCC-61 is used by a child care facility to request an alternative method of complying with licensing requirements.

(~~36~~30) **OCC-61-A, Notice of Alternative Compliance ~~Notice~~.** Form OCC-61-A is used by ~~the Agency~~ Oklahoma Department of Human Services (OKDHS) to notify a facility of an approved request for alternative method of compliance.

~~(37) **OCC-62, Star Certification Reduction.** Form OCC-62 is used by licensing staff to notify a facility of a reduction in star certification.~~

(~~38~~31) **OCC-63, One Star Plus Certification Expiration.** Form OCC-63 is used by licensing staff when a one star plus facility fails to reapply for certification at 12 or 24 months.

340:110-1-6. Application process

(a) **Application.** The Division of Child Care (DCC) licensing staff provides the appropriate application to persons interested in licensure. Child care facilities on Indian tribal land do not require a state license but may request licensure. Facilities that are licensed by a tribe with whom the Oklahoma Department of Human Services (OKDHS) has a cooperative licensing agreement and that care only for Indian children do not require a state license, but may request licensure. If requested, a family child care home application is filed and a license issued to two people, ~~who~~ one of whom must live in the home. References must be obtained for both persons, and both must demonstrate compliance with requirements.

(1) **Child care provider contract.** The licensing staff advises the child care facility of the opportunity to contract with OKDHS for the care of children whose families receive child care assistance. The licensing staff documents that a child care contract promotional flyer is provided to the facility with contact information for the county child care liaison. OKDHS may contract with a child care facility in another state when a client residing near the Oklahoma border elects to use an out-of-state facility. The licensing staff responsible for the county in which the client resides verifies the facility is licensed or registered and in compliance with the Civil Rights Act by contacting the state agency responsible for licensing.

(2) **Reopening a family child care home case.** If a family child care home has been closed for less than a year and had a record of compliance prior to closure, the licensing staff may recommend license issuance after one compliant monitoring visit, utilizing previous references. Criminal history investigations must have been obtained within the last year.

(3) **Reopening a child care center, part-day children's program, or school-age program.** If a child care center has been closed and the same owner wishes to reopen, a new application must be completed.

(4) **Computer checks on license applicants.** Computer checks to identify prior involvement with OKDHS are completed on all adults who sign the application for a family child care home license and on the owner of a child care center, part-day children's program, or school-age program. When there has been prior involvement with Child Welfare, the licensing staff reviews the case for information regarding the person's ability to meet licensing requirements. Other cases are reviewed only if concerns exist. If the provider's medical information is confidential, the licensing staff may request the information from the provider. If concerns exist, the provider is asked to sign OKDHS Form ~~ADM-60, Request for Release of Information~~ HIPAA-3, Authorization to Disclose Medical Records.

(5) **Family child care homes certified to provide foster care.** A caregiver certified to provide foster care may be licensed as a family child care home. The approval for dual service is made by the licensing supervisor, based upon the recommendation of the licensing staff and foster care worker of the child-placing agency. The decision for approval is:

(A) based upon the number, ages, and specific needs of potential child care children and foster care children;

(B) documented in the case record; and

(C) reviewed with the provider and foster care worker at ~~license renewal~~ least once per year or more often if concerns exist.

(6) **Status.** The facility may be granted temporary authorization to operate on application status or on a six-month permit. The licensing staff may recommend a six-month permit when the conditions required for issuance of a six-month permit described in OAC 340:110-1-8(a) are met. If the licensing staff determines that the conditions have not been met but the non-compliance does not place children at risk of immediate harm, the facility may be allowed to operate on application status. While a child care facility is ~~operating~~ on application status:

(A) the licensing staff conducts a monitoring visit at least every two months when children are in care;

(B) contact is made by phone every two months and documented on Form OCC-3, Child Care Center Monitoring Report, page 4, when children have not been accepted into care;

(~~B~~C) the procedures found in OAC 340:110-1-9.3 are followed if non-compliance with licensing requirements is observed during the monitoring visit. A plan of correction, including an agreed-upon time period for correction of the non-compliance, is documented; and

(~~C~~D) the licensing staff consults with the licensing supervisor if the facility is unable or unwilling to meet licensing requirements after operating on application status for six months.

(b) **Withdrawal of application.** If a child care facility applicant wishes to withdraw the application prior to issuance of a license and the licensing staff confirms that no children are in care, the licensing staff closes the case.

340:110-1-8. Types of issuance

(a) **Six-month permit.** New child care centers, part-day children's programs, school-age programs, and family child care homes may be issued a six-month permit as a temporary authorization to operate. The primary purpose of a permit is to provide an opportunity for the Oklahoma Department of Human Services (OKDHS) Division of Child Care (DCC) licensing staff to evaluate the facility's ability to comply with minimum licensing requirements on an ongoing basis, and to provide a legal basis to contract with ~~the Department~~ OKDHS and receive Child Care Food Program funding. The licensing staff may recommend a permit when the facility is in compliance with critical requirements regarding criminal history investigations, required number of qualified staff, hazards indoors or outdoors, adequate equipment, fencing, playground safety, fire safety, or other areas affecting children's safety. The owner's previous history of licensing compliance is considered. The licensing staff observes and documents criminal history investigation reports, pet vaccinations, and other required items. Copies of these items are not needed for the file, with the exception of a criminal history report reflecting a record. A complete monitoring visit documenting compliance with critical requirements must be made within 60 days prior to issuance of the six-month permit.

(1) **Child care centers, part-day children's programs, and school-age programs.** Items required to be on file for issuance of a six-month permit are:

(A) copy of licensing staff recommendation, Lis-Req;

(B) Application for License - Child Care Facility, Form OCC-4;

(C) Child Care Center Staff Summary, Form OCC-2;

(D) Child Care Staff Information for each staff person, Form OCC-41;

(E) physical plant drawing and calculation, Form OCC-57;

(F) verification of adequate equipment for the recommended capacity;

(G) documentation of ~~Fire Department~~ fire department approval within the previous 12 months;

(H) documentation of ~~Health~~ Oklahoma State Department of Health approval within the previous 12 months ~~for child care centers, and~~ if meals are prepared and served~~, for part-day children's programs and school-age programs~~; and

(I) Child Care Center Monitoring Report, Form OCC-3; Part-Day Children's Program Monitoring Report, Form OCC-10; or School-Age Program Monitoring Report, Form OCC-23.

(2) **Family child care homes.** The items required to be on file for issuance of a six-month permit for a family child care home are:

(A) copy of licensing staff recommendation, Lis-Req;

(B) Application for License - Family Child Care Home and Large Child Care Home, Form OCC-42;

(C) Family Child Care Home Monitoring Report, Form OCC-14; and

(D) documentation of fire department approval within the previous 12 months for a large family child care home operating in a mobile home.

(3) **Second and subsequent six-month permits.** If additional six-month permits are recommended, the procedures in (A) – through (G) of this paragraph are followed.

(A) The licensing staff consults with the licensing supervisor prior to recommending a second permit.

(B) The licensing supervisor consults with the licensing regional ~~program~~ programs manager before recommending the issuance of a third permit.

(C) The licensing regional ~~program~~ programs manager consults with the statewide licensing coordinator or designee before recommending the issuance of a fourth or subsequent permit.

(D) The licensing staff sends a letter to the applicant notifying him or her of the recommendation each time a second or subsequent permit is recommended. The reason for the recommendation is clearly stated in the letter, with each area of non-compliance listed separately.

(E) If the permit is due to ~~repeated,~~ numerous, repeated, or serious non-compliance with requirements, the licensing staff visits the facility at least monthly and is accompanied, when possible, by a witness. If at any point the non-compliance indicates the facility is unable or unwilling to meet licensing requirements, the statewide licensing coordinator or designee is consulted to discuss negative sanctions.

(F) If requirements are met before the expiration of the six-month permit, the issuance of a license may be recommended.

(G) If children have not been in care on a regular basis during the previous year, the applicant is asked to withdraw his or her application.

(b) **Issuance of license.** A license is issued after the Oklahoma Department of Human Services (OKDHS) has investigated the activities and standards of care of the applicant and has determined that the applicant meets all critical requirements identified in (a) of this Section and has demonstrated substantial compliance with all other requirements. Prior to recommending issuance of a license, the licensing staff completes a minimum of three monitoring visits, and in child care centers, part-day children's programs and school-age programs, an equipment inventory. Children in care must be observed during at least one visit. A monitoring visit must be made within 60 days of the issuance date. A license is in effect unless it is revoked or the facility voluntarily closes.

(1) **Child care centers.** In addition to the items listed in (a)(1) of this Section for issuance of a six-month permit, items required to be on file before a license ~~can be~~ is issued to a child care center are:

(A) copy of licensing staff recommendation, Lis-Req;

(B) daily program schedule;

(C) updated Child Care Center Staff Summary, Form OCC-2;

(D) outdoor play schedule, if ~~needed~~ applicable;

(E) Equipment Inventory - Child Care Center, Form OCC-6;

(F) statement of completed compliance review, if ~~needed~~ applicable;

(G) director's references;

(H) one-week sample menu; ~~and~~

(I) documentation of Fire Department approval within the previous 24 months;

(J) documentation of Health Department approval within the previous 24 months if meals are prepared and served; and

(~~I~~K) Child Care Center Monitoring Report, Form OCC-3.

(2) **Part-day children's programs and school-age programs.** In addition to the items listed in (a)(1) of this Section for issuance of a six-month permit, the items required to be on file before a license ~~can be~~ is issued to a part-day children's program or school-age program are:

(A) copy of licensing staff recommendation, Lis-Req;

(B) outdoor play schedule, if ~~needed~~ applicable;

(C) daily program schedule for school-age programs;

(D) updated Child Care Center Staff Summary, Form OCC-2;

(E) Equipment Inventory, Form OCC-20 or OCC-24 as applicable;

(F) statement of completed compliance review, if ~~needed~~ applicable;

(G) director's references for school-age programs;

(H) one week sample menu of foods provided by the program; and

(I) Part-Day Children's Program Monitoring Report, Form OCC-10, or ~~School-age Programs~~ School-Age Program Monitoring Report, Form OCC-23.

(3) **Family child care homes.** In addition to the items listed in (a)(2) of this Section for issuance of a six-month permit, the items required to be on file before a license ~~can be~~ is issued to a family child care home are:

(A) copy of licensing staff recommendation, Lis-Req;

(B) one-week sample menu;

(C) references;

(D) Family Child Care Home Monitoring Report, Form OCC-14; and

(~~D~~E) statement of water test results if not on public water supply~~; and~~.

(i) If the test indicates the level of bacteria, nitrates, or lead is too high for safe use, the caregiver may sign a statement agreeing to use bottled water for drinking and cooking.

(ii) If there is a high level of bacteria or a high level of lead, boiled or bottled water must also be used for hand washing and dish washing.

(iii) If bacteria and lead are at safe levels, but the level of nitrates is too high, the water may be safely used for hand washing and dish washing.

~~(E) Family Child Care Home Monitoring Report, Form OCC-14.~~

(c) **One-year provisional license.** A provisional license may be issued for a period of one year. A subsequent provisional license may be issued at the discretion of ~~the Department~~ OKDHS if an emergency exists. If the facility complies with all requirements prior to expiration of the provisional license, the licensing staff documents compliance with all requirements and submits a recommendation for issuance of a full license. A provisional license is recommended when:

(1) an applicant is temporarily unable to comply with all licensing requirements but the services are needed;

(A) the facility operator submits a written request for a provisional license, which contains the reason for the request and a ~~time frame~~ time frame for compliance;

(B) the statewide licensing coordinator or designee sends a letter to the operator approving or denying the request; and

(C) a minimum of three monitoring visits are made during the provisional license period; or

(2) the license cannot be issued but the level of non-compliance does not ~~yet~~ support a denial of the license;

(A) the licensing staff submits a recommendation for a provisional license, including the documentation to support the recommendation;

(B) the statewide licensing coordinator or designee sends a letter to the operator stating the reason for the provisional license; and

(C) monitoring visits are conducted at least monthly and, when possible, with a witness.

(d) **Evaluation and disposition.** ~~The process for approval of case action recommendations is contained in the Instructions to Staff of this subsection.~~

(1) The licensing supervisor reviews the licensing staff's recommendation for case action before forwarding it to the statewide licensing coordinator or designee.

(2) The statewide licensing coordinator or designee approves all recommendations for case actions. If a license or permit is approved, notification is made to the operator on Form OCC-17, Six-month Permit or Form OCC-18, Notice of Issuance of License for a Child Care Facility.

340:110-1-8.3. Certification of facilities to receive a differential quality rate

(a) **Purpose.** Certification is required for a provider to receive a differential quality rate for children whose families are receiving child care assistance through the Oklahoma Department of Human Services (OKDHS).

(b) **Criteria for child care center certification levels.** The levels of certification for child care centers are contained in this subsection.

(1) **Criteria for one star centers.** A center operating on a permit, license, or provisional license is designated as a one star center.

(2) **Criteria for one star plus centers.** A center can operate on one star plus status for a total of 24 months; these months are not required to run consecutively. To be approved as a one star plus center, a center must complete and submit Form OCC-25, Request for Child Care Center Star Certification, and meet all the requirements in (A) through (~~C~~E) of this paragraph. ~~To maintain this status after one year, the center must complete and submit Form OCC-25 30 days prior to star certification expiration date and meet the requirements in (A) through (F).~~ At the end of two years, the center must be approved as a two star center or return to one star status. If the new criteria cannot be met at ~~12 or~~ 24 months, a facility may request an extension of time to comply as set forth in (g) of this Section. ~~A return to one star level based upon failure to submit Form OCC-25 with supporting documentation does not constitute a reduction in certification level as set forth in (h) of this Section. If a reduction is warranted for this purpose, the licensing staff sends a letter, Form OCC-63, One Star Plus Certification Expiration, documenting the reduction in certification level to one star.~~

(A) **Licensing status.** The program must have a license, provisional license, or permit and must not have a history of numerous, repeated, or serious non-compliance with applicable licensing requirements. For the purposes of star certification the definitions of numerous, repeated, or serious non-compliance listed in (i) through (iii) of this paragraph apply.

(i) Numerous non-compliance is ~~defined as~~ any monitoring visit with six or more items documented as non-compliant on the monitoring report for a facility with a licensed capacity of less than 60 or seven or more items for a facility with a licensed capacity of 60 or more.

(ii) Repeated non-compliance is ~~defined as~~ three or more documented incidents of non-compliance with the same requirement within the last 12 months. ~~However, for~~ For missing immunizations to be considered a repeat non-compliance, they must be regarding the same child.

(iii) Serious non-compliance is ~~defined as~~ a non-compliance with licensing requirements which exposes children to conditions which present an imminent risk of harm. Some examples of serious non-compliance are violations of requirements for:

(I) staff-child ratio;

(II) supervision of children;

(III) sleep position;

(IV) prohibited disciplinary actions;

(V) licensed capacity;

(VI) ~~transportation of children without proper~~ use of passenger restraints;
(VII) water activities,
(VIII) pools and other water hazards;
(IX) multiple hazards;
(X) weapons;
(XI) ~~failure to report~~ reporting child abuse;
(XII) ~~allowing~~ prohibiting access to children by a person ~~prohibited due to~~ with a criminal record~~,~~ or health~~,~~ or behavior risk;
(XIII) ~~unauthorized provision of~~ administering medication to children;
(XIV) room temperatures ~~exceeding 85 degrees~~; and
(XV) ~~use of unguarded or unapproved~~ heat sources.

(B) **Director qualifications.**

(i) At initial star approval the director meets director qualifications as set forth by the applicable licensing requirements and must have documentation of 40 hours of training, within the last ~~two years~~ 12 months. At least 20 of those hours must be Tier II or Tier III training in administration and management. ~~After 12 consecutive months of star certification the director must have had a total of 80 hours of training within the last three years. At least 40 of those hours must be Tier II or Tier III training in administration and management.~~

(ii) If a new director is hired, the director must have documentation of 40 hours of training, within the last ~~two years~~ 12 months. At least 20 of those hours must be Tier II or Tier III training in administration and management. ~~After 12 consecutive months of employment the director must have had a total of 80 hours of training within the last three years. At least 40 of those hours must be Tier II or Tier III in administration and management.~~

(iii) In subsequent years, directors must have documentation of ~~20~~ 30 hours of Tier I, Tier II, or Tier III job-related training per employment year.

(iv) In-service training such as videos and on-site staff training is counted for a maximum of six hours per year. Reading does not count for stars training.

(v) An individual may not be considered as the director of more than one facility certified as one star plus, two star, or three star unless a written request is submitted and approved by the stars program manager or designee.

(C) **Learning environment.** The center has current weekly lesson plans appropriate for the developmental needs of ~~each group~~ all groups of children, including 12 months and older. Space for children ~~two years~~ 12 months of age and older is arranged in a minimum of five well-defined and equipped interest areas in each classroom to facilitate a variety of activities, ~~including~~ which must include block building, dramatic play, manipulative play, art, and book reading. Teachers read to children a minimum of 15 minutes each day.

(D) **Staff training.**

(i) ~~Teaching~~ At initial application, center staff employed at the facility for at least 12 months and counted toward meeting the staff-child ratio must have 20 hours of Tier I, II, or III training per employment year. At application, training may be counted if training was obtained within the last 12 months or within the staff's employment year.

(ii) After initial approval for certification, the training criteria must be met within the staff's employment year.

(iii) ~~This includes~~ The training requirement applies to part-time staff ~~but not temporary~~ and permanent substitutes who have worked at the child care center more than 40 hours. Staff used for the sole purpose of performing auxiliary duties, such as cooking, transportation, or maintenance are exempt from this training requirement.

(iv) In-service training such as videos and on-site staff training is counted for a maximum of six hours per year. Reading does not count for stars training.

(v) ~~This training can~~ Training may be ~~used~~ counted to meet minimum licensing requirements.

(vi) The director assists teachers in selecting training that enhances their overall professional growth based upon a review of the teacher's training record.

~~(E) **Staff compensation.** The program must have a salary scale with increments based on level of education, credentials, and years of early childhood experience. The director evaluates staff, in writing, at least annually, and compensation is based upon consideration of education, experience, and performance.~~

(~~F~~E) **Parent involvement.** The center involves parents in the activities described in (i) through (vii) of this subparagraph.

(i) A written system is established and maintained daily for sharing ~~daily~~ happenings and changes in a child's physical or emotional state. This is provided to parents at least once per week. When a child enters kindergarten, a verbal system may be used.

(ii) Parents are welcomed into the center at all times, for example, to observe, eat lunch with a child, or volunteer in the classroom.

(iii) Parent conferences are ~~held~~ arranged for and documented at least annually and at other times as needed to discuss ~~children's~~ their child's progress, accomplishments, and difficulties.

(iv) There is a parent resource area with books, pamphlets, ~~or~~ and articles on parenting.

(v) Parent meetings with guest speakers or special events are held at least twice per year, for

example, open house, brown bag lunch, family pot-luck dinners, and children's programs.

(vi) Parents are informed of the center's program ~~through~~ by two of three methods: ~~a~~ parent's bulletin board, ~~regular~~ newsletter, or parent handbook.

(vii) Parents participate in program and policy development through board involvement, planning meetings, or questionnaires.

(3) **Criteria for two star centers.** To be approved as a two star center, a center must complete Form OCC-25, be accredited by an approved national accrediting body, and not have numerous, repeated, or serious non-compliance with licensing requirements, or meet all one star plus criteria, and the criteria ~~for master teachers~~ described in (A) through (~~E~~G), ~~and the program evaluation criteria as described in (F)~~ of this paragraph.

(A) **Master teacher responsibilities.** Master teachers support other teaching staff with responsibilities such as program development, weekly lesson plans, use of space and equipment, interactions with parents, and program evaluation.

(B) **Master teachers required.** There is a master teacher for every 30 children of the licensed capacity. ~~Effective July 1, 2002, during~~ During the second and subsequent year as a two or three star center, there must be a master teacher for every 20 children. This number does not include school-age children if the majority of children in care are ~~under~~ younger than five years of age. Centers licensed as school-age programs or programs where the majority of children are school-age must have a master teacher for every 40 children of the licensed capacity.

(C) **Director as master teacher.** The director may only be counted as a master teacher if the licensed capacity minus school-age children is 30 or less. The director ~~can~~ may be counted as a master teacher in centers licensed as ~~a~~ school-age ~~program~~ programs or programs where the majority of children are school-age.

(D) **Master teacher qualification.** Master teachers must be employed and on-site on a full-time basis. ~~and~~ A person is not counted as a master teacher in more than one facility or be considered a master teacher in one facility and a director of another facility unless the facilities are programs that do not operate concurrently at any given time. Master teachers meet Level III or higher on the Early Childhood Education Professional Development Ladder or meet one of the requirements in (i) through (vi) of this subparagraph. Master teachers must currently meet and maintain ~~either~~ one of these qualifications:

(i) an occupational child care competency certificate for lead teacher through an Oklahoma technology center and three months of satisfactory full-time experience in a licensed or legally exempt child care setting;

(ii) a current Child Development Associate (CDA) or Certified Childcare Professional (CCP) credential;

(iii) a two year college Certificate of Mastery;

(iv) 30 credit hours of Tier III training from an accredited college or university, including 12 credit hours in early childhood education, child development, or an approved related subject;

(v) a four year degree with six college credit hours of Tier III training in child development, early childhood education, or an approved related subject; or

(vi) a two or four year degree in early childhood education or child development.

(E) **School-age master teacher.** In centers licensed as school-age programs or programs where the majority of children are school-age, the master teacher must be employed and on-site at least 50% of the weekly operating hours. The master teacher must currently meet and maintain either:

(i) one of the qualifications in (D); however, a degree or coursework in (iv) through (vi) may also be in elementary education, recreation, or other coursework that supports working with the school-age child; or

(ii) 120 clock hours of school-age related Tier I, II, or III training within the last five years, ~~three years~~ one year of full-time experience in a licensed school-age child care program or legally exempt school-age child care program, and every two years a minimum score of 5.0 on the School-Age Environment Rating Scale in a classroom where the master teacher is the lead teacher.

~~(F) The director or staff person from the facility has attended approved training on program evaluation and completed a self-assessment tool. Staff and parents are surveyed to identify strengths and weaknesses of the program and evaluate the program's effectiveness in meeting the needs of children and parents. Program goals are established and updated every two years. The program is assessed by an independent evaluator using all applicable rating scales approved by OKDHS to determine the day-to-day quality of care provided to children. The initial assessment is scheduled upon approval of two star status and subsequently every two years.~~

(F) **Staff compensation.** The program must have a salary scale with increments based on level of education, credentials, and years of early childhood experience. The director evaluates staff, in writing, at least annually. Compensation is based upon consideration of education, experience, and performance.

(G) **Program evaluation.** All methods of program evaluation as described in (i) through (v) of this paragraph are scheduled or completed within the first six months of two star certification. Items (iii) through (v) are repeated every two years.

(i) The director or staff person from the facility attends approved training on program evaluation.

(ii) An approved self-assessment tool is completed.

(iii) Staff and parents are surveyed to identify strengths and weaknesses of the program and evaluate the program's effectiveness in meeting the needs of children, parents, and staff.

(iv) The program is assessed by an independent evaluator using a rating scale approved by OKDHS to determine the day-to-day quality of care provided to children.

(v) Program goals are established and updated based on information gathered from (i) through (iv).

(4) **Criteria for three star centers.** To be approved as a three star center, a center must meet all two star center criteria and be accredited through an approved national accrediting body. When an existing two star facility becomes accredited, the provider completes Form OCC-25 with proof of accreditation and documentation reflecting any changes in the previous two-star certification criteria.

(c) **Criteria for family child care home certification levels.** The levels of certification for family child care homes are contained in this subsection.

(1) **Criteria for one star homes.** A home operating on a permit, license, or provisional license is designated as a one star home.

(2) **Criteria for one star plus homes.** A home ~~can~~ may operate on one star plus status for a total of 24 months; these months are not required to run consecutively. To be approved as a one star plus family child care home or large family child care home, a home must complete and submit Form OCC-27, Request for Family Child Care Home Star Certification ~~Differential Quality Level~~, and meet the requirements in (A) through (~~C~~D) of this paragraph. ~~To maintain this status after one year, the home must complete and submit Form OCC-27 30 days prior to star certification expiration date and meet the requirements in (A) through (D) of this paragraph.~~ At the end of two years, the home must be approved as a two star home or return to one star status. If the new criteria cannot be met at ~~12 or~~ 24 months, a facility may request an extension of time to comply as set forth in (g) of this Section. ~~A return to one star level based upon failure to submit Form OCC-27 with supporting documentation does not constitute a reduction in certification level as set forth in (h) of this Section. If a reduction is warranted for this purpose, the licensing staff sends a letter, Form OCC-63, documenting the reduction in certification level to one star.~~

(A) **Licensing status.** The home must have a license, provisional license, or permit and must not have a history of numerous, repeated, or serious non-compliance with applicable licensing requirements. For the purposes of star certification the definitions of numerous, repeated, or serious non-compliance listed in (i) through (iii) of this paragraph ~~will~~ apply.

(i) Numerous non-compliance is ~~defined as~~ any monitoring visit with five or more items documented as non-compliant on the monitoring report.

(ii) Repeated non-compliance is ~~defined as~~ three or more documented incidents of non-compliance with the same requirement within the last 12 months. ~~However, for~~ For missing immunizations to be considered a repeat non-compliance, they must be regarding the same child.

(iii) Serious non-compliance is ~~defined as~~ non-compliance with licensing requirements which exposes children to conditions ~~which~~ that present an imminent risk of harm. Some examples of serious non-compliance are violations of requirements for:

(I) staff-child ratio;

(II) supervision of children;

(III) sleep position;

(IV) prohibited disciplinary actions;

(V) licensed capacity;

(VI) ~~transportation of children without proper~~ use of passenger restraints;

(VII) water activities,

(VIII) pools and other water hazards;

(IX) multiple hazards;

(X) weapons;

(XI) ~~failure to report~~ reporting child abuse;

(XII) ~~allowing~~ prohibiting access to children by a person ~~prohibited due to~~ with a criminal record~~,~~ or health~~,~~ or behavior risk;

(XIII) ~~unauthorized provision of medicine~~ administering medication to children;

(XIV) room temperatures ~~exceeding 85 degrees~~; and

(XV) ~~use of unguarded or unapproved~~ heat sources.

(B) **Home provider training.** ~~The~~ At initial application, the family child care home provider must have documentation of 20 clock hours of Tier I, II, or III training ~~per employment year~~. At application, the training may be counted if training was obtained within the last 12 months or within the provider's employment year. After initial approval for certification, the training criteria must be met within the provider's employment year.

(i) After being employed 12 months, any assistant caregiver required to meet the staff-child ratio must have documentation of 20 clock hours of Tier I, II, or III training per employment year.

(ii) In-service training such as videos, on-site, and home association training is counted for a maximum of six hours per year. Reading does not count for stars training.

(iii) Training must be within the last 12 months and ~~can~~ may also be ~~used~~ counted to meet licensing training requirements.

(C) **Learning environment.** The family child care home provider follows a daily schedule and reads to the children a minimum of 15 minutes each day.

(D) **Parent involvement.** The family child care home must provide the methods of parent communication contained in this subparagraph.

(i) Written policies are given to parents upon enrollment, and the provider has signed contracts with each family.

(ii) The provider encourages parents to visit any time their children are present, and provides access to all parts of the home used for child care.

(iii) The provider arranges for and documents, at least once per year, a conference with each child's parents. They discuss the child's current interests, accomplishments, and challenges, and set goals together.

(iv) The provider makes opportunities available for parents to be involved in the program's activities.

(v) The provider has information available about ~~community~~ resources that provide services to parents and children and makes referrals ~~to community and medical services~~ as needed.

(3) **Criteria for two star homes.** To be approved as a two star home the licensed provider must be accredited by the National Association of Family Child Care and not have numerous, repeated, or serious non-compliance with requirements or meet ~~the~~ all one star plus criteria ~~contained in~~ and the criteria described in (A) and (B) of this paragraph. ~~The provider must:~~

(A) **Provider qualifications.** ~~meet one star plus criteria, and~~ The provider must meet Level III or higher on the Early Childhood Education Professional Development Ladder or one of the provider qualifications requirements listed in (i) through (~~vii~~vi) of this subparagraph. In a facility licensed as a large family child care home, the licensed provider or full-time assistant must meet the qualifications and be on-site for at least 30 hours per week. The qualifying person is not counted as a center master teacher, director, or qualifying star home provider at more than one facility unless the facilities are programs that do not operate concurrently at any given time. When the license is issued to two people, one full-time caregiver must meet the qualifications. The provider or large family child care home assistant must currently meet and maintain one of these qualifications:

(i) if approved prior to June 1, 2004, 120 hours of job-related Tier I, II, or III training within the last five years, five years of full-time experience in a licensed or legally exempt child care setting, and every two years a minimum score of 5.0 on the Family Day Care Rating Scale;

(ii) an occupational child care competency certificate for lead teacher through an Oklahoma technology center and three months of satisfactory full-time experience in a licensed or legally exempt child care setting;

(iii) a current Child Development Associate (CDA) or Certified Childcare Professional (CCP) credential;

(iv) a two year college Certificate of Mastery;

(v) 30 credit hours of Tier III training from an accredited college or university including 12 credit hours in early childhood education, child development, or an approved related subject;

(vi) a four year degree with six college credit hours of Tier III training in early childhood education, child development, or an approved related subject; or

(vii) a two or four year degree in early childhood education or child development.

~~(B) The licensed provider or full-time assistant has attended approved training on program evaluation and completed a self-assessment tool. Staff and parents are surveyed to identify strengths and weaknesses of the program and evaluate the program's effectiveness in meeting the needs of children and parents. Program goals are established and updated every two years. The program is assessed by an independent evaluator using a rating scale approved by OKDHS to determine the day-to-day quality of care provided to children. The initial assessment is scheduled upon approval of two star status and subsequently every two years.~~

(B) **Program evaluation.** All methods of program evaluation as described in (i) through (v) of this paragraph are scheduled or completed within the first six months of receiving the two star certification. Items (iii) through (v) are repeated every two years.

(i) The licensed provider or full-time assistant attends approved training on program evaluation.

(ii) An approved self-assessment tool is completed.

(iii) Parents are surveyed to identify strengths and weaknesses of the program and evaluate the program's effectiveness in meeting the needs of children and parents.

(iv) The program is assessed by an independent evaluator using a rating scale approved by OKDHS to determine the day-to-day quality of care provided to children.

(v) Program goals are established and updated based on information gathered from (i) through (iv).

(4) **Criteria for three star homes.** To be approved as a three star home, a home must meet all two star home criteria and be accredited through the National Association of Family Child Care. When an existing two star facility becomes accredited, the provider completes Form OCC-27

with proof of accreditation and documentation reflecting any changes in the previous two-star certification criteria.

(d) **Approval for certification for homes and centers.** The procedures contained in this subsection are followed for initial approval for certification~~, request~~ and requests for higher certification level~~, and second year of certification for one star plus facilities~~.

(1) The facility submits Form OCC-25 or Form OCC-27, and required documentation to the ~~licensing staff~~ stars outreach specialist.

(2) Within 30 days of receipt of the facility request, the ~~licensing staff~~ stars outreach specialist determines whether the certification criteria have been met by reviewing the case record and the documentation submitted by the facility. ~~The licensing staff conducts a monitoring visit if~~ If it has been ~~more than~~ four months since the last monitoring visit, the stars outreach specialist requests licensing staff to make a monitoring visit. The ~~licensing supervisor~~ stars outreach specialist reviews all information and consults with the licensing staff and stars program manager as needed prior to approval.

(A) The monitoring visits and substantiated complaints for the last 12 months of operation are reviewed to determine whether the facility meets the compliance criteria. The 12 month history includes the licensing record from the provider's previous licenses, if any. If, within the last 12 months, there are two or more incidents of numerous, repeated, or serious non-compliance as defined in (b)(2)(A) and (c)(2)(A) of this Section or one serious incident resulting in injury to a child, the request may be denied.

(B) If the facility meets the criteria, the ~~licensing staff~~ stars outreach specialist updates the licensing database. The effective date is the first day of the next month, and the expiration date is ~~one year~~ two years later for one star plus facilities. The ~~licensing representative~~ stars outreach specialist sends a letter to the provider~~, Form OCC-35, Child Care Center - Star Certification Approval, or OCC-36, Family Child Care Home - Star Certification Approval,~~ confirming the approval and the effective date. If numerous, repeated, or serious non-compliance was identified during review of the case for the star certification, the letter includes a statement that these non-compliances will be considered if there are future non-compliances within a 12 month period and may result in reduction of the star certification.

(C) If the facility fails to meet the criteria, the ~~licensing staff~~ stars outreach specialist sends a letter to the provider~~, Form OCC-33, Family Child Care Home - Star Certification Disapproval, or OCC-34, Child Care Center - Star Certification Disapproval,~~ identifying all the criteria that have not been met. The application is also reviewed by ~~licensing staff~~ the stars outreach specialist to determine if another certification level can be met.

(i) If a one star plus facility fails to submit Form OCC-25 with supporting documentation, this does not constitute a reduction in certification level as set forth in (h) of this Section. If a reduction is warranted for this purpose, the stars outreach specialist sends a letter, Form OCC-63, One Star Plus Certification Expiration, documenting the reduction in certification level to one star.

(ii) If a one star plus facility is denied at ~~12 months or~~ 24 months for failure to meet additional quality criteria, the procedures in (h) of this Section are followed.

(D) The provider may reapply at any time the criteria are met. ~~However, if~~ If the request for a higher certification level is denied due to numerous, repeated, or serious non-compliance with licensing requirements, the provider is not approved for a higher certification level for six months after the date of the denial of the request. The six month waiting period may only be reduced by the regional programs manager upon evaluation of the facility's 12 month history, written documentation of corrective actions taken, and observation and documentation by licensing staff of substantial improvement in compliance. The regional programs manager notifies the provider in writing of the decision.

(E) The provider may withdraw the application prior to certification denial.

(e) **Complaint investigations.** ~~If a complaint is received or an investigation is pending while the initial request for star status is being considered, the investigation is completed as soon as possible. If the investigation is not completed within the 30 days, the licensing staff evaluates whether the findings could impact the facility's record of compliance with licensing requirements.~~ Pending complaint investigations do not impact the decision to approve the stars application.

~~(1) If the findings would not impact the facility's record of compliance and the facility meets all criteria, the request is approved.~~

~~(2) If the findings could impact the facility's record of compliance, the request is denied.~~

~~(A) If the complaint is later found uncertain or ruled out, the provider may resubmit the request for certification.~~

~~(B) If the criteria are met and the only reason the original request was denied was the incomplete complaint investigation, the request is approved and the effective date of certification is the first day of the month following the date the request was denied. If necessary, the facility may file a supplemental claim.~~

(f) **Ongoing monitoring.** The procedures contained in this subsection are followed for ongoing monitoring.

(1) **Written notice.** The facility notifies the licensing staff in writing within five working days of any ~~changes~~ change in the information provided on Forms OCC-25 or OCC-27. Providers may use Forms OCC-26, Periodic ~~Star~~ Certification Review - Center Star Certification, or OCC-28, Periodic ~~Star~~ Certification Review - Home Star Certification, to submit this information.

(2) **Periodic monitoring visits.** During a minimum of three periodic monitoring visits annually, the licensing staff completes Form OCC-26 or OCC-28 and verifies that certification documentation is still current and accurate and that the facility has not developed a history of numerous, repeated, or serious non-compliance with licensing requirements. Licensing programs that operate less than full year or have a cooperative licensing agreement with a tribal program are only required to have two stars periodic monitoring visits annually. Once the provider has been notified in writing that numerous, repeated, or serious non-compliance exists, any subsequent numerous, repeated, or serious non-compliance within a 12-month period is considered a history. Once the provider has developed a history of numerous, repeated, or serious non-compliance, certification may be reduced ~~using~~ in accordance with (h) of this Section.

(3) **Violations.** If violations of certification criteria are documented, or if the facility notifies the Division of Child Care~~, Licensing Services (Licensing)~~ (DCC) in writing of any ~~changes~~ change ~~in the information provided on Forms OCC-25 or OCC-27~~, the procedures in (A) through (C) are followed.

(A) The facility submits a written plan for correcting the violations within an agreed-upon time frame, not to exceed 90 days from the date the violation occurred or the date a facility is notified of a substantiated complaint.

(B) Licensing staff provides written notification to the operator documenting the violations and a statement that the certification level will be reduced if violations are not corrected within the agreed-upon time frame. The notification also states that future violations of this or other certification criteria may result in the reduction of certification level.

(C) If the facility has not notified the licensing staff of changes in the information provided on the certification request and certification requirements have not been met for over 90 days, the certification level is reduced according to (h) of this Section. If applicable, the provider is advised of the right to request an extension of time to comply.

(g) **Extension of time to comply.** When a center or home fails to maintain the criteria for the certification level, ~~the licensing staff advises~~ the provider ~~of~~ has the right to request an extension of time to comply. The provider submits the request in writing to the Director of Child Care Services or designee 30 days prior to the expiration of the one star plus certification or the agreed-upon time frame for the correction of the violations. One or more discretionary extensions of time to comply of one to six months may be granted. The applicant must demonstrate that the violation of the criteria was not foreseeable and was beyond the applicant's control. The provider is notified of the decision in writing.

(h) **Reduction in certification level.** The procedures in this subsection are followed ~~under the following circumstances,~~ when: a one star plus facility fails to meet the additional criteria at ~~12 or~~ 24 months; violations are not corrected within the agreed-upon time frame; the facility has developed a history of numerous, repeated, or serious non-compliance with licensing requirements; a serious incident occurs resulting in injury to a child; ~~the Oklahoma Department of Human Services (~~OKDHS~~)~~ has issued an Emergency Order; a notice of proposed denial or revocation of license has been issued; or an injunction is obtained.

(1) ~~Appropriate supervisory approvals are obtained before any action is taken.~~ The licensing staff reviews the case with the supervisor and regional programs manager. Referrals are made to the stars outreach specialist as needed. If the criteria not met includes numerous, repeated, or serious non-compliance, ~~the regional programs manager notifies the licensing coordinator's office~~ the stars outreach specialist obtains approval from the stars program manager before any action is taken.

(2) If a reduction is warranted and supervisory approval has been obtained, the ~~licensing staff~~ stars outreach specialist sends a certified letter~~, Form OCC-62, Star Certification Reduction,~~ to the provider documenting the reduction in certification level. Certification is reduced to the level at which the provider meets criteria. In the letter, the provider is informed of the right to request an administrative review of the decision. The certified mail delivery receipt card is addressed to return to the Director of Child Care Services. In order to receive an administrative review, the provider must submit a request in writing to the Director of Child Care Services within 15 calendar days of receipt of the OKDHS letter notifying the provider of the reduction. The request must include written documentation stating the provider's grounds for appeal.

(3) The ~~licensing staff~~ stars outreach specialist enters the recommended reduction on the database and the ~~supervisor~~ stars program manager approves the action. State Office licensing staff update any changes in the star status level and star payment rate following verification of the provider's receipt of the certified letter and the administrative review, if requested.

~~(4) If an administrative review is requested and OKDHS is upheld or no administrative review is requested, the licensing staff obtains the star certificate and decal from the provider on the next monitoring visit.~~

(~~5~~4) The procedures in (A) through (C) of this paragraph are followed when an administrative review is requested.

(A) Within 30 days of receipt of the request for an administrative review, a letter is sent notifying the provider of the date of the administrative review. The letter is sent to the provider's last known address. The provider is given at least two weeks written notice prior to the administrative review. ~~Any supporting~~ Supporting documentation which OKDHS intends to use ~~as evidence at the review~~ to support its decision is included with the letter. Additional documentation may be presented prior to or at the beginning of the administrative review, with copies provided to all representatives.

(B) The review is conducted by ~~a~~ the stars review panel which consists of three OKDHS staff who

have not been involved in the decision to reduce the certification level. The provider may submit written documentation and is given an opportunity to appear at the administrative review. The standard of review applied by the panel is whether the decision of OKDHS to reduce the certification level is substantially supported by the evidence. ~~The burden of proof applied is the greater weight of the evidence.~~

(C) When possible, the reviewing panel makes a determination to either affirm or reverse the OKDHS decision on the date of the administrative review and announces the decision at the conclusion of the review. Time constraints or the complexity of issues may require the panel to take a matter under advisement. Written findings are completed within ten calendar days from the date of the review.

(~~6~~5) If there is evidence of extenuating or revised circumstances, the provider may propose alternative settlement options prior to the date of the review hearing by contacting the ~~statewide licensing coordinator or designee~~ regional programs manager.

(~~7~~6) The provider may reapply for a higher certification level at any time the criteria are met. ~~However, if~~ If the certification level is reduced due to numerous, repeated, or serious non-compliance with licensing requirements, the provider is not approved for a higher certification level for six months after the receipt of the certified reduction letter.

(i) **Change in ownership.** If the ownership of a star facility changes ~~and the new owner desires to retain the star status~~, the new owner ~~applies~~ may apply for star status by submitting a new Form OCC-25 and the required documentation to verify that the certification criteria continues to be met. ~~The effective date of the new certification can be the six month permit date if approved within 30 days of the permit date.~~

(j) **Change in location.** If the location of a facility changes, the licensing staff verifies compliance with the criteria at the new location.

(k) **Record-keeping.** Periodic review forms, certification request forms, and supporting documentation are maintained in the official licensing file or in a separate file that is part of the open record, with the exception of ~~documents that are~~ page 5 of Form OCC-25, staff salary report, which is maintained in a confidential manner~~, including:~~. If maintained, pay stubs and photos that include children are also kept confidential.

~~(1) page 5, Staff Salary Report, of Form OCC-25 and supporting documentation;~~

~~(2) the completed rating scale; and~~

~~(3) photos that include children.~~

340:110-1-9. Case management

(a) **Periodic monitoring visits.** The Division of Child Care (DCC) licensing staff makes a minimum of three unannounced monitoring visits to facilities that operate a full-year program and two unannounced monitoring visits annually to facilities that operate less than a full year. ~~If caseloads prevent staff from fulfilling this task, supervisors consult with them on case management, and the number of required visits may be reduced. This adjustment is approved and documented in the case record by the supervisor.~~ Licensing staff varies the time of monitoring visits to include lunch observation and an evening visit to child care centers with extended hours. Weekend monitoring visits are required only when there has been a complaint specific to weekend care.

(b) **Ongoing monitoring.** During each monitoring visit, the licensing staff observes the entire facility, including outdoor play space and vehicles used for transportation, if available. The following are checked at or subsequent to each visit:

(1) compliance with licensing regulations;

(2) records for new staff;

(3) staff training records;

(4) Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons; and

(5) fire and health inspections within the last 24 months, if applicable.

(c) **Technical assistance and consultation.** Licensing staff provides:

(1) technical assistance to licensees to assist them in meeting minimum requirements;

(2) consultation on various aspects of quality child care; and

(3) consultation to persons interested in becoming licensed and, upon request, to in-home caregivers.

(d) **In-home caregivers.** The Family Support Services Division (FSSD) day care assistance worker notifies the licensing staff on Form K-13, Information/Referral - Social Services, of the approval of a child care plan involving an in-home caregiver. In-home care is provided by a person in the child's own home.

(1) Within 30 calendar days of receipt of Form K-13, the licensing staff mails a packet of information to the caregiver. The packet includes information on child growth and development, health and safety issues, training opportunities, and other resources.

(2) Completion of six clock hours of training by the caregiver within 90 days of his or her approval is verified by the FSSD day care assistance worker.

(e) **Agreements with tribal licensing programs and other monitoring agencies.** OKDHS may enter into a cooperative licensing agreement with a tribal licensing program or other monitoring agency.

(f) **Equipment inventory.** Licensing staff completes the appropriate Equipment Inventory, Form OCC-6, OCC-20, or OCC-24, prior to a license being issued~~,~~. The licensing staff or the facility may complete the appropriate Equipment Inventory prior to a change in facility class~~,~~ and prior to an increase in licensed capacity in a child care center, part-day children's program, and school-age program. The purpose of the inventory is to document the equipment available and items needed to comply with the equipment requirements. The licensing staff may conduct a complete inventory any time concern exists about the availability of required equipment.

(g) **Change of address.** When a facility moves to a new address, the procedures contained in this subsection are followed.

(1) **Family child care home.** If a family child care home provider moves to another location within the

licensing staff's area, the licensing staff conducts a monitoring visit and completes a monitoring report. If a family child care home provider moves outside of the licensing staff's area, the case is transferred to the appropriate licensing staff who conducts the monitoring visit.

(2) **Child care centers, part-day children's programs, and school-age programs.** If a child care center, part-day children's program, or school-age program moves, the case is closed and a new application is obtained. A license may be issued promptly if the facility meets licensing requirements and the only change to the facility is the location.

(h) **Change in name.** If the licensing staff verifies there is a change in name but no change in ownership, the change is documented in the case record and the ~~computer~~ database is updated.

(i) **Change in household.** If there is a new spouse or other head of household in a family child care home or large child care home, a new ~~application,~~ Form OCC-42, Application for License - Family Child Care Home and Large Child Care Home, and criminal background check are required and OKDHS computer checks are completed. Other changes in household members are documented on the monitoring report and criminal background checks are completed if necessary.

(j) **Change in ownership.** When there is a change in ownership or change in form of business organization of a child care center, part-day program, or school-age program, the case is closed and a new application is obtained.

(k) **Change in facility class.** A new application is required when a family child care home converts to a child care center, part-day program, or school-age program, or when a child care center, part-day program, or school-age program converts to a family child care home. Any other request for change in class requires:

(1) a request in writing from the provider;

(2) documentation that the facility meets the requirements for the requested class type;

(3) an ~~equipment inventory~~ Equipment Inventory, if applicable;

(4) a current approved fire inspection, if applicable;

(5) a current approved health inspection, if applicable; and

(6) ~~computer~~ database updates to the appropriate class and monitoring frequency plan.

(l) **Procedure for increasing or decreasing capacity.** When a facility requests an increase or decrease in licensed capacity it is documented on Form OCC-3, Child Care Center Monitoring Report, page 4, and must be approved by the licensing supervisor. If the request to increase capacity is due to additional physical space, the facility must not have a history of numerous, repeated, or serious non-compliance, and must provide:

(1) the reason for the increase;

(2) an updated floor plan on Form OCC-57, Physical Plant, that reflects adequate indoor and outdoor space, toilets, and sinks for the increase and any changes;

(3) fire department approval of any space not previously inspected;

(4) ~~health department~~ Oklahoma State Department of Health approval of any space not previously inspected; and

(5) updated ~~equipment inventory~~ Equipment Inventory that reflects adequate equipment for the increase.

(m) **Inactive cases.** If children have not been in care on a regular basis during the previous year, the option of voluntary closure is discussed with the provider.

(1) A provider who wants his or her case to remain open submits a request in writing including a statement that the provider will notify Division of Child Care, Licensing, when care is resumed.

(2) The provider is contacted periodically by licensing staff by telephone or letter to update the provider's status, and visited at least once a year to verify and document compliance with licensing requirements.

(n) **Response to a sudden infant death syndrome (SIDS) death.** When notified of a death assumed to be SIDS, the licensing staff visits the facility as soon as possible, unless advised otherwise by law enforcement.

(o) **Serious incident reports.** The licensing supervisor submits to the licensing regional programs manager, county director, and statewide licensing coordinator a report of any serious incident.

340:110-1-9.1. Certification of child care facilities to receive increased reimbursement rate for the care of children with disabilities

(a) **Purpose.** Certification is the process through which ~~a~~ Division of Child Care (DCC) licensing staff documents that a child care facility meets certification requirements for a child with disabilities.

(1) Certification is required for a provider to receive the child care rate for a child with disabilities.

(2) To qualify for the higher rate the:

(A) facility must be licensed, have a provider contract, and be certified to care for the child;

(B) child's family must be eligible for Oklahoma Department of Human Services (OKDHS) subsidized child care services; and

(C) child must be receiving benefits from at least one of the following sources:

(i) ~~Social~~ Supplemental Security Income (SSI) benefits;

(ii) SoonerStart, early intervention program for children birth to age three; or

(iii) Special Education Services, public school program for children ages three and older.

(b) **Initial approval for certification.** For initial approval for certification the procedures contained in this subsection are followed.

(1) Upon receipt of Form ADM-123, ~~Referral and~~ Certification for Special Needs Child Care Rate, the licensing staff visits the child care facility within ten working days. If the facility is currently certified to care for at least three children with disabilities and has consistently met certification requirements or if a compliant monitoring visit has been made to the facility in the last 30 days, the licensing staff may approve certification for a new child

without making a monitoring visit. ~~However, a~~ A visit is made within three months. Although observation of the child in care is preferable, certification may be approved if the child has not yet enrolled or is absent during the visit.

(2) If a child who qualifies for the higher rate and is living in Oklahoma is approved for care in another state, the facility may be certified if:

(A) the facility provides documentation of monitoring visits for the last year to demonstrate compliance with the applicable child care requirements;

(B) upon receipt of Form ADM-123, an announced visit is made by Oklahoma licensing staff within 30 working days to verify compliance with certification criteria; and

(C) to verify that certification requirements are met, three times per year the Oklahoma licensing staff:

(i) completes by phone Form OCC-8, Periodic Monitoring Report; and

(ii) obtains a copy of the most recent monitoring report from the other state.

(3) Approval for certification is based upon verification that:

(A) the facility director or family child care home provider has completed Section III of Form ADM-123, agreeing to meet the individual needs of the child;

(B) the facility has a previous record of compliance with minimum licensing requirements. Although full compliance with licensing requirements is not required, if the facility has had numerous, repeated, or serious non-compliance with licensing requirements that adversely impact the care of a child with disabilities, such as staff-child ratios, health practices, or hazards, the facility is not certified. A facility on a six-month permit may be certified if currently in compliance with licensing requirements;

(C) facility staff currently trained in first aid and cardiopulmonary resuscitation (CPR), including infant and child, are present at all times when the child with disabilities is in care. The licensing staff checks training documentation to obtain the effective dates of training. Only training that is approved by the Oklahoma Department of Human Services (OKDHS), such as Red Cross, American Heart Association, or First Care, is accepted. The licensing staff recommends that more than one caregiver be trained to ensure that trained staff is always present when the child is in care;

(D) the facility staff who work with the child have received on-site consultation regarding the nature of the child's disability and the development of a child care plan, to include staffing, equipment, and specialized training needs. The consultant provides resource materials to the facility for future reference. For a child designated severe, consultation is obtained at least annually; and

(E) within six months of certification, appropriate staff obtain six hours of training in areas that address the care of children with disabilities. The center director and at least one person who works directly with the child must receive training. ~~However, it~~ It is preferable that all staff who work with the child are trained. As staff changes occur, a new director or new staff who work directly with the child must obtain training within six months of that assignment. First aid, CPR, or informal training is not counted to meet the special training requirement. Recommended training includes Special Care's Unique Environments, Child Care Careers' Helping Children with Special Needs, SoonerStart training, formal training from the OKDHS approved sponsor training list or specialized workshops or conferences addressing the care of children with special needs.

(4) Upon completion of Section IV of Form ADM-123, the licensing staff sends the original to the appropriate county staff responsible for child care assistance. Copies of Form ADM-123 and the monitoring report are sent to the licensing supervisor, and copies are maintained in the facility's file.

(5) If the licensing staff documents that certification requirements have not been met, the documentation is reviewed and the denial approved by the licensing supervisor. The provider is informed in writing within 30 days of the initial receipt of Form ADM-123 of ~~what is needed~~ the requirements for certification and the right to request an administrative review.

(6) A request for an administrative review must be submitted in writing to the statewide licensing coordinator or designee within ten calendar days of notification. An administrative review is conducted within ten calendar days of receipt of the request.

(7) The administrative review committee consists of the statewide licensing coordinator or designee and two staff from ~~the Division of Child Care~~ DCC.

(8) The facility and ~~Family Support Services Division (~~FSSD~~)~~ are notified in writing of the decision by the statewide licensing coordinator.

(c) **Ongoing monitoring.** The procedure for ongoing monitoring contained in this subsection is followed.

(1) **Periodic monitoring visits.** During periodic monitoring visits, the licensing staff completes Form OCC-8~~, Periodic Monitoring Report,~~ and verifies that certification requirements are met, including:

(A) the enrollment status of the child;

(B) staff present with first aid and CPR training;

(C) annual on-site consultation for a child designated severe;

(D) director and staff training relative to care of children with disabilities; and

(E) observations that indicate that the program is meeting the individual needs of the child as recorded on Form ADM-123.

(2) **Violations.** All violations observed are documented on page 4 of the monitoring report, and a plan of

correction is developed with agreed-upon time frames for correction of violations. If there are serious or ongoing violations of certification requirements, a letter is sent to the operator documenting the violations and plan of correction, and a copy is sent to the parent(s) of the child with special needs who is affected by the violation(s).

(d) **Withdrawal of certification.** Certification continues unless there is documentation of serious or ongoing violations of certification requirements. Violations of certification requirements are different from non-compliance with licensing requirements, although they may involve the same issue, for example, understaffing. If violations are not corrected and represent a potential risk to the child, such as serious understaffing in the child's room or staff without first aid training, the procedure in this subsection is followed.

(1) The licensing staff reviews the case with his or her supervisor.

(2) An office conference is held with the provider at which time he or she is notified that certification is being withdrawn and the provider has the right to request an administrative review of the decision.

(3) A letter is sent to the provider documenting withdrawal of certification and the right to request an administrative review of the decision. If the provider did not attend the office conference, the letter is sent by certified mail. A copy of the letter is sent to the appropriate county office staff responsible for child care assistance who is responsible for notifying the parent and provider of the rate change and its effective date.

(4) A request for an administrative review must be submitted in writing by the facility to the statewide licensing coordinator or designee within seven calendar days of receipt of the letter. An administrative review is conducted within ten calendar days of receipt of the request.

(5) The administrative review committee consists of the statewide licensing coordinator or designee and two staff from ~~the Division of Child Care~~ DCC.

(6) The facility and FSSD are notified in writing of the decision by the statewide licensing coordinator.

(7) A provider may reapply for certification when compliance with certification requirements has been reestablished.

340:110-1-9.2. Complaint investigations

(a) **Legal basis.** The Child Care Facilities Licensing Act (Act) [10 O.S. § 406] mandates that the Oklahoma Department of Human Services (OKDHS) conduct a full investigation of a complaint alleging a violation against the Act or any licensing requirement.

(b) **Receipt of the complaint.** Complaints may be made to Division of Child Care, Licensing in writing, in person, or by telephone.

(c) **Complaint information.** The licensing staff obtains as much relevant information as possible from the complainant.

(d) **Screening complaints.** The licensing staff accepts a complaint for investigation when it alleges:

(1) non-compliance with licensing requirements;

(2) operation of an unlicensed facility in violation of the Act; or

(3) abuse ~~and~~ or neglect of a child in care.

~~(e) **Disposition of complaints.** Upon receipt of a complaint, the licensing staff makes one of the dispositions contained in Instructions to Staff of this Subsection.~~

(~~f~~e) **Complaint risk levels.** Risk levels are determined by the licensing staff based upon the degree of harm or danger to children in care. Risk levels are used to ensure that investigations occur in a timely manner and to track types of complaints.

(1) **Risk level I complaints.** Risk level I complaints indicate a child is in imminent danger of serious physical injury. The level of risk is not influenced by the removal of a child from the facility if other children remain in care. Investigations are initiated immediately or no later than 24 hours after receipt of the complaint by the licensing staff unless awaiting investigation by Child Welfare (CW) or law enforcement. This does not include weekends and holidays if the facility is closed. Examples of risk level I complaints include:

(A) alleged physical or sexual abuse~~,~~;

(B) use of illegal drugs while children are in care~~,~~;

(C) distribution of drugs~~,~~;

(D) children left alone in the facility or in a vehicle~~,~~;

(E) extreme facility temperatures~~,~~;

(F) an infant placed on its stomach for sleeping;

(G) threatening or impaired behavior of a caregiver; or

(H) severe understaffing or over-capacity.

(2) **Risk level II complaints.** Risk level II complaints do not indicate that there is imminent danger of injury. However, without intervention, it is likely that a child may not be safe. Investigations are initiated within 15 calendar days of receipt of the complaint by the licensing staff, or sooner depending on the degree of risk, unless advised by ~~Child Welfare~~ CW or law enforcement to delay the investigation. Examples include:

(A) leaving children with an underage staff person~~,~~;

(B) alleged physical abuse from a staff person no longer working in a facility~~,~~;

(C) inappropriate discipline where no injury is reported~~,~~;

(D) broken playground equipment~~,~~;

(E) injury caused by lack of supervision~~,~~; or

(F) minor understaffing.

(3) **Risk level III complaints.** Risk level III complaints do not indicate imminent danger and there are no injuries alleged. Investigations are initiated within 30 calendar days of the date of receipt of the complaint by the licensing staff or immediately if a telephone investigation is appropriate. Examples include:

(A) inadequate meal service~~,~~;

(B) lack of play equipment~~,~~;

(C) inappropriate use of television or videos~~,~~; ~~and~~ or

(D) inadequate cleanliness of the facility.

(~~g~~f) **The investigation.** The licensing staff conducts a full investigation, obtaining sufficient information to make a finding.

(~~h~~g) **Telephone investigation.** With supervisory approval, the licensing staff may investigate a complaint by telephone. The discussion, and, if necessary, an agreed-upon plan of correction, is documented on page 4 of Form OCC-3, Child Care Center Monitoring Report~~, and a~~. A copy is sent to the operator. A complaint may be investigated by telephone only ~~if~~ when:

(1) the alleged non-compliance does not place children at risk, for example, the facility did not serve milk one day or children have head lice;

(2) the facility has not had numerous, repeated, or serious non-compliance; and

(3) a monitoring visit has been made in the last three months during which substantial compliance was documented.

(~~i~~h) **Procedure for investigating an allegation of operating an unlicensed facility.** When a complaint alleging operation of an unlicensed facility is received, the procedure contained in OAC 340:110-1-13(b) is followed.

(~~j~~i) **Child abuse and neglect complaints.** Upon receipt of a complaint alleging abuse of a child in care, the licensing staff immediately notifies the licensing supervisor and makes a referral to ~~Child Welfare~~ CW. If the allegation involves a Priority I child abuse or neglect complaint, for example, a report indicating that a child is in imminent danger of serious physical injury, the licensing regional ~~program~~ programs manager is also notified.

(~~k~~j) **Findings.** After the investigation is completed, the licensing staff, in consultation with the licensing supervisor, as appropriate, makes a finding as to whether the complaint is substantiated or unsubstantiated.

(1) **Substantiated.** A finding of substantiated is made when a weighing of the information obtained during the investigation clearly indicates that the facility violated any licensing requirement or the ~~Oklahoma Child Care Facilities Licensing~~ Act.

(2) **Unsubstantiated.** A finding of unsubstantiated is made when the allegation is found to be uncertain or ruled out.

(A) It is found to be uncertain when the information does not lead to a definite conclusion, for example:

(i) there is insufficient or conflicting information on which to conclude that a violation occurred; or

(ii) information needed to make a finding is unavailable.

(B) It is ruled out when a weighing of the information clearly indicates that there was not a violation of any licensing requirement or the Act.

(~~l~~k) **Documentation of findings.** Upon completion of the investigation, the licensing staff:

(1) documents the findings~~.~~;

(2) ~~The provider is notified~~ notifies the provider in writing of the findings~~.~~;

(3) enters the complaint information on the OCC screen, licensing database, using complaint key words; and

(4) updates and closes the Licensing Information Complaint Updates (LICU) complaint tracking screen.

(~~m~~l) **Use of Notice to Comply, Form OCC-37.** When a serious complaint has been substantiated, the licensing staff advises the facility to correct the violations immediately and requests that the facility complete ~~a Notice to Comply,~~ Form OCC-37, Notice to Comply, following the procedure ~~found~~ in OAC 340:110-1-9.3(c)(7).

340:110-1-9.3. Non-compliance with requirements

(a) **Documentation of non-compliance.** The Division of Child Care (DCC) licensing staff clearly and concisely documents on the monitoring report areas of non-compliance ~~as well as~~ and the discussion with the operator ~~clearly and concisely on the monitoring report~~.

(1) A plan of correction, including ~~an~~ a specific agreed-upon time period for correction of the non-compliance, is documented for each non-compliance on the monitoring report. ~~The plan of correction includes, if applicable, how compliance will be maintained on an ongoing basis.~~

(2) Immediate correction is required when the non-compliance has a direct impact on the heath, safety, or well-being of one or more children in care.

(3) The licensing staff requests that the operator sign the monitoring report, and explains that the operator's signature indicates acknowledgment of information recorded.

(4) If the person in charge refuses to sign, the refusal is documented on the report.

(5) The operator is given a copy of the completed monitoring report.

(b) **Referrals to fire and health officials.** If non-compliance regarding fire or health requirements places children at risk or remains uncorrected, the licensing staff requests an inspection by a fire, health, or Department of Environmental Quality (DEQ) official. If there is non-compliance regarding smoke detectors, the child care provider is given a copy of the Smoke Detector Law, Section 324.11A of Title 74 of the Oklahoma Statutes. If the non-compliance is not corrected by the third monitoring visit or is frequently repeated, copies of the monitoring reports are sent with a cover letter to the appropriate fire official for enforcement of the law.

(c) **Case management responses to non-compliant facilities.** When there is ~~repeated,~~ numerous, repeated, or serious non-compliance, one or more of the actions in (1) through (11) is taken.

(1) **Technical assistance.** Technical assistance is offered along with referrals to consultants or training resources, if necessary, to assist the operator in meeting and maintaining licensing requirements.

(2) **Follow-up phone call.** Follow-up phone calls are made, and documented on page 4 of ~~the~~ Form OCC-3, Child Care Center Monitoring Report~~, Form OCC 3~~. A copy of the documentation is mailed to the facility.

(3) **Non-compliance letters.** A non-compliance letter may be written to the operator. The licensing staff sends a

copy of the monitoring report and non-compliance letter to the governing board or owner, if applicable.

(4) **Return monitoring visit.** A return monitoring visit may be made if there is ~~repeated,~~ numerous, repeated, or serious non-compliance with licensing requirements or when non-compliance places children at imminent risk of harm. If the non-compliance is associated with a specific time of day, such as understaffing after school or a lack of early morning supervision, the return visit is made at that approximate time.

(5) **Use of witnesses.** The licensing staff may be accompanied by a witness during monitoring visits if the facility has had numerous, repeated, or serious non-compliances or if denial or revocation of the license is under consideration. The witness may be an Oklahoma Department of Human Services (OKDHS) employee or a representative from the health or fire department. The witness signs the monitoring report in the space provided.

(6) **Increased monitoring visits.** Licensing staff may increase the frequency of monitoring when there has been ~~repeated,~~ numerous, repeated, or serious non-compliance or when the need for additional technical assistance is indicated.

(7) **Notice to comply.** The licensing staff provides the facility with Form OCC-37, Notice to Comply, on which the facility documents the plan of correction. Immediate correction may be required if the non-compliance places the health, safety, or well-being of one or more children in care at risk. If the plan submitted by the operator is unacceptable to the licensing staff, the staff negotiates and documents a revised plan. If the Notice to Comply is not submitted within the specified time period, the licensing staff contacts the operator and documents the conversation. If concerns exist or the operator is uncooperative, the licensing staff sends a letter stating that failure to complete a Notice to Comply may result in revocation of license, denial of the application, or ~~the~~ filing of an injunction or emergency order.

(8) **Office conference.** The licensing staff may schedule an office conference with the operator of the facility. The supervisor is present at the office conference. The licensing regional programs manager is informed of the office conference and may be present, if necessary. Areas of non-compliance and progress toward meeting the plan(s) of correction are reviewed and technical assistance is offered. The conference is documented on Form OCC-3, page 4 ~~of the Monitoring Report, Form OCC-3,~~ which is signed by the licensing staff, the operator, and any witnesses present. A Notice to Comply is completed if one addressing these issues has not been completed recently.

(9) **Consent agreement.** OKDHS and the operator of the facility may enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial or revocation~~.~~, ~~Refer to~~ per OAC 340:110-1-9.5.

(10) **Revocation.** The licensing staff recommends that the license be denied or revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children~~.~~, ~~Refer to~~ per OAC 340:110-1-10.

(11) **Voluntary closure.** The operator is asked to voluntarily close the facility.

(d) **Case management responses when children are at risk.** If the licensing staff documents non-compliance with requirements or is investigating a complaint that may place the health, safety, or well-being of children at imminent risk of harm, options to consider during consultation with the operator and the licensing supervisor are outlined in this subsection. If any of options (2) through (7) are utilized, the local resource and referral agency is notified.

(1) The operator is asked to immediately correct the non-compliance, for example, the staff person will not work at the facility pending the outcome of an investigation.

(2) The operator is asked to discontinue child care until the non-compliance is corrected or the investigation is complete.

(3) The operator is asked to voluntarily close the facility.

(4) The licensing staff requests an emergency order when immediate action is needed to protect children in a child care facility that is on permit, licensed, on notice of revocation or denial, or operating during an appeal following revocation or denial. Refer to OAC 340:110-1-9.4.

(5) The operator agrees to enter into a consent agreement whereby the facility agrees to specific conditions in lieu of license denial, revocation, or refusal to renew. Refer to OAC 340:110-1-9.5.

(6) The licensing staff recommends that the license be denied or revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children. Refer to OAC 340:110-1-10.

(7) An injunction may be requested when a child care facility is:

(A) unlicensed;

(B) on application status;

(C) licensed;

(D) violating an emergency order;

(E) operating during an appeal following revocation or denial and children are at risk; or

(F) violating the notice to cease care following revocation or denial of license.

(e) **Notification to supervisor when children are at risk.** If during a monitoring visit the licensing staff is concerned that the health, safety, or well-being of children is at imminent risk, the licensing supervisor or ~~state office~~ DCC staff is contacted immediately for an appropriate response.

(f) **Alternative method of compliance.** ~~The Division of Child Care (~~DCC~~)~~ may approve an alternative method of compliance to a minimum licensing requirement. An alternative method of compliance may be authorized if DCC determines that the alternative method of compliance offers equal protection of health, safety, and welfare to children, meets the basic intent of the requirements for which the alternative compliance was requested, and does not violate statutory requirements.

An applicant or licensee may submit a written request on Form OCC-61, Alternative Compliance Request, for authorization to the statewide licensing coordinator or designee. A separate request is submitted for each requirement for which an alternative method of compliance is requested. Approval of an alternative method of compliance ~~shall~~ does not set a precedent, and is independently evaluated on the merits of each request. The facility's record of compliance is taken into consideration in determining whether to approve the request. An alternative method of compliance is not authorized for critical items affecting the health and safety of a child, such as exceeding licensed capacity or staff-child ratios, fire safety violations, or behavior and guidance violations. Written notice from OKDHS, Form OCC-61-A, Notice of Alternative Compliance ~~Notice~~, which states the nature of the exception, is posted with the license.

340:110-1-9.5. Consent agreement

(a) **Purpose.** The Oklahoma Department of Human Services (OKDHS) may offer to enter into a consent agreement with a facility in lieu of license denial or revocation. If such action has already taken place, a consent agreement may be used during the appeal process if the facility comes into compliance with licensing requirements. The use of a consent agreement is not required prior to denying or revoking a license.

(b) **Process.** When the documented evidence reflects that the facility operator is unable or unwilling to comply with minimum requirements, the Division of Child Care (DCC) licensing staff discusses the use and terms of a consent agreement with the licensing supervisor. If the licensing regional programs manager and the statewide licensing coordinator or designee concur with this action, a meeting is scheduled with the operator.

(1) The operator is asked to ~~bring~~ provide the names and addresses of all children currently enrolled at the facility.

(2) During the meeting, areas of non-compliance and the terms of the agreement are discussed. The meeting is documented on Form OCC-3, Child Care Center Monitoring Report, page 4, and is signed by the operator, licensing staff, and any witness present. A copy is provided to the operator.

(3) An agreement is written by the statewide licensing coordinator or designee. Terms and time frames of the agreement are based upon the nature and severity of the non-compliance. The agreement may include emergency voluntary restrictions, such as a ban on future admissions of children to the facility, a restriction on the ages of children cared for in the facility, a reduction in the number of children attending the facility or the number of hours the facility ~~can~~ may operate each day, specific staff training, drug testing, and medical or psychological evaluation. Time frames to initiate and conclude the terms of the agreement are established and may be extended upon approval of the statewide licensing coordinator or designee and the OKDHS Legal Division.

(4) The operator is advised to prominently post a copy of the consent agreement in the child care facility. During the next monitoring visit, the licensing staff verifies that the consent agreement is posted. If it is not posted, the licensing staff documents it as a violation of the terms of the consent agreement.

(5) The licensing staff mails a copy of the consent agreement, with a cover letter, to parents of children currently enrolled at the facility. Upon enrollment of new children, the facility must provide those names and addresses to licensing staff. Licensing staff mails a copy of the consent agreement and cover letter upon receipt of this information. If the operator has not provided children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.

(c) **Violations of the terms of the consent agreement.** Any violation of the terms of the consent agreement is considered grounds for proceeding with license denial, revocation, or refusal to renew.

(d) **Appeals.** The child care facility is not entitled to an appeal of the terms of the consent agreement, as participation in the agreement is voluntary.

340:110-1-10. Revocation or denial of license

(a) **Failure to meet requirements.** When ~~repeated,~~ numerous, repeated, or serious non-compliance with licensing requirements is observed and documented or the facility fails to adequately protect the health and safety of children, the Oklahoma Department of Human Services (OKDHS) may deny the application for license or revoke the license.

(1) **Denial of application for license.** If a facility has filed an application for an initial license, OKDHS may deny the application.

(2) **Revocation of license.** If a license or provisional license is currently in effect, the licensing staff may recommend that the license be revoked.

(b) **Licensing staff recommendation.** The Division of Child Care (DCC) licensing staff consults with the licensing supervisor regarding his or her recommendation for revocation or denial. If the licensing supervisor concurs with the recommendation, the decision is discussed with the licensing regional programs manager and the statewide licensing coordinator. If they concur with the decision, the licensing staff prepares a detailed summary of monitoring visits, complaints, correspondence, and any other relevant documents. The licensing staff submits the complete case record and the summary, including the recommendation, to the licensing supervisor and notifies the facility in writing that the case has been referred to the statewide licensing coordinator.

(c) **Approval of recommendation and notification.** The case record and summary are reviewed by the statewide licensing coordinator or designee. The licensing staff's recommendation of revocation or denial is either approved, disapproved, or the decision delayed pending further investigation.

(1) When the recommendation is approved by the statewide licensing coordinator, it is submitted to the OKDHS Legal Division for review of the legal adequacy

of the notice of pending action that is mailed to the operator. The Director of Child Care Services or designee has final approval of the revocation or denial.

(2) The statewide licensing coordinator sends a written notice of the pending action to the operator by certified mail at least 30 days prior to the effective date of the action. The notice includes:

(A) a copy of the summary;

(B) a statement regarding the operator's right to appeal the decision;

(C) a statement that the law requires written notification to parents of the action taken, and instruction to the operator to submit the names and addresses of currently enrolled children; and

(D) a sign providing notice of proposed revocation or denial that is required to be prominently posted in the facility.

(3) During the next monitoring visit, the licensing staff and a witness verify that the sign providing notice of proposed revocation or denial is posted. If the sign is not posted, the licensing staff sends a letter to the operator documenting the violation of the legal notice.

(4) If the operator does not provide children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.

(5) Questions from the operator regarding the action and appeal process are referred to the statewide licensing coordinator or designee.

(6) If the operator does not appeal the decision within the designated time period, the statewide licensing coordinator sends a letter to the operator giving notice of the denial or revocation and stating the effective date. The closure date is entered into the ~~computer~~ database by the statewide licensing coordinator or designee. A copy of the correspondence is sent to the licensing staff.

(7) The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. The statewide licensing coordinator or designee is notified of the visit.

(8) If the operator continues to maintain and operate the facility for child care after a final decision revoking or denying licensure, the statewide licensing coordinator may request that the Attorney General or the appropriate district attorney secure a civil injunction or initiate criminal proceedings.

(d) **Appeal process.** The appeal process regarding denial of application or revocation of license is described in this subsection.

(1) The appeal is submitted to the Oklahoma Commission ~~on~~ for Human Services by the operator within 30 days of receipt of the notice.

(2) If the operator appeals, a hearing is scheduled by the OKDHS Appeals Unit.

(3) The facility may continue to operate during any appeal process unless an emergency order is in effect. The licensing staff conducts monitoring visits at least once a month, unless advised otherwise in writing by the statewide licensing coordinator or designee, and is accompanied by the same witness whenever possible. If at any time during the appeal process OKDHS believes that the health, safety, or welfare of children cannot be assured:

(A) an emergency order is requested; or

(B) following consultation with the statewide licensing coordinator or designee, the licensing supervisor contacts the district attorney and requests that an injunction be filed.

(4) If the decision of OKDHS to revoke or deny a license is upheld during all appeals, the statewide licensing coordinator sends a letter to the operator that child care must immediately cease. The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. If the operator continues to operate the child care facility, the licensing field staff, in consultation with the statewide licensing coordinator or designee, may request that the local district attorney pursue an injunction or initiate criminal proceedings, or the statewide licensing coordinator may pursue legal action through the Attorney General.

(5) If the decision of OKDHS to revoke or deny a license is not upheld, OKDHS takes action to implement the decision within ten calendar days.

(6) When OKDHS denies or revokes a facility's license, the responsible agent may not make application for a new child care facility license within the state:

(A) following notification of the agent of the proposed denial or revocation;

(B) during an appeal process; and

(C) for five years following the effective date of closure.

(e) **Change in ownership during appeal process.** If there is a change in ownership during the appeal process, the operator must provide documentation verifying the change. The statewide licensing coordinator may proceed with the previous owner's denial or revocation.

340:110-1-11. Voluntary case closures

(a) **Child care centers, part-day children's programs, and school-age programs.** The case record for a child care center, part-day children's program, or school-age program is closed when a facility moves to a new location, is sold to a new owner or discontinues providing child care. A license is not transferable.

(b) **Family child care home.** A family child care home case is closed when the caregiver discontinues care.

~~(c) **Procedure for closure.** Closure, discontinuance confirmation, and closed files procedures are found in the Instructions to Staff of this subsection.~~

(~~d~~c) **Reopening a closed family child care home.** If reopening a family child care home, see OAC 340:110-1-6(a)(2).

340:110-1-14. Public inspection of licensing files

(a) **Legal basis.** The Oklahoma Department of Human Services (OKDHS) is subject to the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes

(O.S.), which mandates that public records are open for public inspection unless they are required by law to be kept confidential.

(b) **Licensing records.** All ~~Department~~ OKDHS records of facilities required to be licensed under 10 O.S. § 401 through 410 are considered public records and are open and available for public inspection during reasonable hours. This includes records pertaining to an investigation of an unlicensed facility and audit findings from the OKDHS Office of the Inspector General. ~~However, information~~ Information obtained concerning a report of a violation of a licensing requirement is confidential pursuant to 10 O.S. § 406 with the exception of a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits parents to evaluate the facility. In addition, 10 O.S. § 7005-1.2 mandates confidentiality of child abuse records.

(c) **Location of case records.** Child care facility licensing records are located in the office of the licensing staff and are inspected in the county office. If a parent resides in another county, the licensing staff makes the record available in that county.

(d) **Preparation of case files for inspection.** The licensing staff carefully reviews the entire record and removes confidential information.

(e) **Records of complaints.** To allow persons inspecting a licensing record to have access to information regarding complaints, page 1, the licensing complaint summary, of Form OCC-12, Complaint Report and Complaint Summary, is included in the file. ~~However, page~~ Page 2 of Form OCC-12, ~~Complaint Report~~ the licensing complaint report, is removed from the file that is open for public inspection. If information regarding a complaint is requested prior to completion of the investigation, the licensing staff explains that information regarding the allegation and findings ~~will be~~ is released after the investigation is complete.

(f) **Supervision of files during inspection.** Facility records are ~~to be~~ inspected in the presence of ~~Department~~ OKDHS staff who are available to provide clarification on licensing policy and requirements.

(g) **Fees for photocopying.** For photocopy fee information refer to OAC 340:2-21-16.

(h) **Release of confidential information.** A complete case file that includes confidential information may be provided only to certain persons according to applicable laws and regulations, for example, Legal Division, Child Welfare, law enforcement officials, and upon order of a court of competent jurisdiction.

(i) **Computer licensing record.** A summary of the facility licensing record ~~found~~ maintained on the LISVMENU computer database may be provided upon request at no charge. A cover letter is sent with the licensing summary that notes that the summary does not include the complete case record, and that the complete case record ~~can~~ may be reviewed in the county office.

340:110-1-20. Professional development of DCC staff

(a) **Licensing staff training.** Division of Child Care (DCC) Licensing staff are required to receive job-related training on an annual basis. This includes the new worker licensing training required for all new licensing staff. An annual training plan is developed for each employee with the employee's supervisor.

(b) **Professional development of DCC staff.** ~~The~~ DCC awards scholarships for coursework leading to a master's degree in early childhood education at a university with which DCC has a cooperative agreement. The program ~~can~~ may be discontinued at any time based on unavailability of funding through the Child Care Development Fund. Scholarships are awarded to employees based upon supervisory recommendation and selection by the DCC Education Assistance Committee. Preference is given to staff who have three years of Oklahoma Department of Human Services (OKDHS) employment. Participation is limited to two courses per semester per person.

(1) **Mandatory service requirement.** The mandatory service requirement is six months of service to DCC for each 0 - 12 credit hours of scholarship support. The obligation period begins after completion of the program or upon withdrawal from the program. Failure to complete the educational requirements or the obligated service period requires repayment of tuition, books, and fees.

(2) **Reimbursement requirement.** At the end of each semester, scholarship recipients submit a copy of their grades to their supervisor and to the DCC Education Assistance Committee. Exceptions to the reimbursement requirement may be granted for serious illness, injury, or a personal situation requiring the recipient to withdraw from school. Reimbursement to OKDHS for the cost of tuition, books, fees, and other expenses incurred is required and a recipient is not permitted to enroll in further courses until the debt is paid in full when a recipient:

(A) withdraws from a class;

(B) earns a grade below ~~a~~ "C" in any class;

(C) receives a grade of "incomplete" that is not converted to an acceptable grade during the next semester; or

(D) is removed from the program by the university.

(3) **Use of leave.** With supervisory approval, scholarship recipients may use educational leave up to ~~80~~ 160 hours per ~~semester~~ year. Such requests are submitted and approved in accordance with DHS:2-1-42. Attendance at night or weekend classes does not qualify the recipient for compensatory time.

(4) **Application.** Applications and supporting documentation for the scholarship program are submitted within the designated time frames. Upon scholarship award, a contract is signed by the recipient to indicate an understanding of and commitment to the scholarship requirements.

APPENDIX P. JUVENILE DETENTION CENTER COMPLIANCE REVIEW [REVOKED]

A license to operate a juvenile detention facility is granted on the basis that the facility meets minimum requirements. This questionnaire is one method used to assess compliance with minimum requirements during the annual review and for initial license.

Name of Facility _____

Address _____

Geographic Area Served _____

Date _____ Licensed Capacity _____

Short-term _____ Long-term _____

Average daily census the past year:

10 - 14 years _____ 14 - 17 years _____

Organization, Administration, Finances

State purpose or function of the juvenile facility. _____

_____

_____

_____

_____

_____

How is the facility organized ? Operated by a public body _____

Operated by private organization _____ If operated by a public body, who is the public body ? _____

_____

If private, is the organization incorporated in the State of Oklahoma in accordance with the law and is a copy of the incorporation on file with the Department ? Yes _____ No _____

Does the facility have a governing body ? Yes _____ No _____

List the names and addresses of the members of the governing body.

_____

_____

_____

_____

_____

_____

Is the governing body responsible for the program and services of the facility ? Yes _____ No _____

Does the governing body review and approve all policies and policy changes ? Yes _____ No _____

Give the date of each governing body meeting held during the past year.

_____ _____

_____ _____

_____ _____

Are accurate minutes kept of each meeting ? Yes _____ No _____

Who is responsible for the financial records ? _____

_____

Facility's fiscal year _____ to _____

Attach a copy of an auditor's statement.

Policy and Procedure Manual

Does the manual include a philosophy statement ? Yes _____ No _____

Does the manual describe the purpose, program and services offered ? Yes _____ No _____

Have the admittance criteria contained in 10 O.S. sec. 1107.1.B been met before a child is detained ?
Yes _____ No _____

Does the manual for admitting juveniles include all the policies and procedures listed in the requirements ?
Yes _____ No _____

Records

Is complete confidentiality maintained on juvenile's records ? Yes _____ No _____

How long are juvenile records retained ? _____

Does the manual include current, written policy and procedures on the release of residents ?
Yes _____ No _____

Does the manual include written policy and procedures that assure juvenile rights ?
Yes _____ No _____

Human Resources/Staff Requirements

Are written personnel policies available to all employees ? Yes _____ No _____

Do all employees files contain:

Physical examination _____ T.B. skin test _____ Staff information sheet _____

Criminal history investigation _____ Three written references _____

Who is the designated person in charge in the absence of the administrator ? _____

Who is responsible for hiring staff ? _____

What methods of selection are used when hiring new staff ?

_____

_____

_____

How long are personnel records retained following a staff member's separation ? _____

Security and Control

Does the manual include the facility's procedures for security and control ? Yes _____ No _____

Are all juveniles given a list of in-house rules and another list posted ? Yes _____ No _____

Does the facility have documentation of daily resident counts on each shift ? Yes _____ No _____

Is a plan covering searches available ? Yes _____ No _____

Does the manual include policy and procedure for room restriction ? Yes _____ No _____

Is a written record maintained on each juvenile placed in room confinement ? Yes _____ No _____

Is a written report prepared following all uses of force ? Yes _____ No _____

Do staff receive written guidelines on the use of physical force ? Yes _____ No _____

Program/Services

What type of educational services are available to the juveniles ?

_____

_____

_____

_____

_____

_____

Is the policy clear about the handling of correspondence Yes _____ No _____

Who is the licensed dietician, nutritionist or physician that reviews the menus annually ? _____

_____

List the names of individuals' who provide the health care services.

_____

_____

_____

_____

Do the policies address medical screening, the administering and distribution of medications ?

Yes _____ No _____

Who is responsible for dispensing medications ? _____

_____

As the Adminstrator for the facility, I have answered the questions to the best of my ability and knowledge.

_____

Administrator

_____

Date

Purpose of Appendix

The appendix is completed by the administrator of the juvenile detention facility. Is is used by the licensing representative to assess compliance with Juvenile Detention Center requirements.

Instructions for Preparation of Appendix

The appendix is completed by the Juvenile Detention Center administrator and mailed to the Licensing Unit.

Routing of Appendix

Original: State Office
Copy: Local File
Juvenile Detention Center

APPENDIX Q. JUVENILE DETENTION CENTER VISIT SHEET [REVOKED]

Name of Facility _____ Date _____

Address _____ Time _____ A.M.___ P.M.___

Purpose of Visit _____

Status Date _____ Application _____ Permit _____ License _____

Licensed Capacity _____ Current Census _____ Staff on Duty _____

Attachments: Personnel File Review _____ Resident File Review _____

Item	Requirement Description	Yes	No	Remarks
	POSTED ITEMS			
1	license posted			
2	Evacuation plan posted			
3	Rules posted			
4	Menu posted and dated			
5	Housekeeping plan posted			
	STAFF			
6	Orientation of new staff			
7	Physical exam and TB for new staff			
8	Personnel file for each employee			
9	Criminal background check			
10	First aid/CPR training within 90 days of employment			
	SECURITY CONTROL			
11	Documented resident counts on each shift			
12	Log to record location of keys			
13	Fire & emergency keys readily available			
14	Staff ratio adequate			
15	Log kept documenting room confinement			
	RECORDS			
16	A record for each juvenile			
17	Documentation of length of stay			
18	Length of stay within definition			
	FOOD SERVICE, SANITATION, HYGIENE			
19	Facility is weather tight, sound condition, good repair			
20	Sufficient air and lighting			
21	Temperature between 66 and 80 degrees			
	PHYSICAL PLANT/FACILITY			
22	Within licensed capacity			
23	Hot & cold water under pressure in bathrooms			
24	Bathroom fixtures in good working condition			
25	Toilet paper, soap, individual towels provided			

Item	Requirement Description	Yes	No	Remarks
	SAFETY AND EMERGENCY			
26	Weekly fire and safety inspection			
27	Exits kept clear & maintained			
28	Free of litter			
29	Equipment in good repair			
30	Activity areas free of hazards			
31	Walls, carpeting, furniture kept in acceptable condition			
32	Exterior protected from elements			
33	Toxic materials inaccessible to juveniles			
34	Menus reviewed annually			

TODAY'S MENU _____

Breakfast _____

_____

_____

Lunch _____

_____

_____

Dinner _____

_____

_____

DISCUSSION _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____ Administrator

_____ Licensing Representative

Okla. DHS Issued 4-30-93

Purpose of Appendix

This appendix is used by the licensing representative to document compliance with requirements during a visit to a Juvenile Detention facility.

Instructions for Preparation of Appendix

This appendix is prepared in duplicate by the licensing representative during the visit to the shelter.

Date and Time: Enter the day's date and time of visit.

Name of Agency: Enter the correct name of agency.

Address: Enter complete address.

Status Date: Enter date of most recent action on case, i.e., license issuance, application, permit, renewal.

Licensed Capacity: Number of children licensed to care for.

Current Census: Enter number of residents in care presently.

Staff on Duty: Enter number of child care staff on duty.

Attachments: Check each block for the type of files monitored during the visit.

Yes/No Item: Check (Yes) for compliance with requirements or (No) for non-compliance. Check (NA) for not-applicable.

Remarks: Enter additional information regarding items checked NO to explain non-compliance.

Today's Menu: Enter all food served that day.

Discussion: Use this space to record additional documentation, record non-compliance not listed above, training received, materials given, other pertinent information and worker's recommendation.

Signatures: After discussion of the visit ask the director or staff in charge to sign on appropriate line; licensing representative signs and if a witness accompanies the licensing representatives, they must sign the visit sheet.

Routing of Appendix

Original: State office
Copy: Local File
Juvenile Detention Center

APPENDIX R. JUVENILE DETENTION CENTER RESIDENT RECORD CHECK [REVOKED]

Date _____

Name of Facility _____

Address _____

Juvenile case record shall contain the following information:	Resident's Name Date of Entry						
1. Court case number (if any)							
2. Date and time of admission and release							
3. Name and nicknames							
4. Last known address							
5. Custodian							
6. Name of attorney, (if any)							
7. Name, title, signature of delivering officer							
8. Specific charge(s)							
9. Sex							
10. Date of birth							
11. Place of birth							
12. Race or nationality							
13. Education and school attended							
14. Religious preference							
15. Medical history questionnaire							
16. Medical consent forms or documentation of request							
17. Name, relationship, address and phone number of person(s) with whom juvenile resides							
18. Driver's license number, social security number and medical assistance number if any							
19. Juvenile rights, program rules, grievance policy and disciplinary policy signed by the juvenile							
20. Date of petition, if available							
21. Additional notations including identifying marks, any open wounds or sores requiring treatment, evidence of disease or body vermin, or tattoos							
22. Inventory of personal property							
23. Emergency contact person							
24. Signature of person recording data							
25. Documented legal authority to accept juvenile							

26.	Referral source							
27.	Record of court appearances							
28.	Signed release of information forms							
29.	Notations of temporary absences from the facility							
30.	Visitors's names and dates of visits							
31.	A record of telephone calls							
32.	A report of any accidents or injury occurring to a resident while detained							
33.	Probation officer or caseworker assignment							
34.	Progress reports on program involvement							
35.	Court dates and disposition, if any							
36.	Grievance records, if any							
37.	Referrals to other agencies							
38.	Final discharge or transfer report							

Discussion _____

_____ _____

Administrator Licensing Representative

Purpose of Appendix

This appendix is used by the licensing representative to record information regarding resident's records in a detention facility.

Instructions for Preparation of Appendix

This appendix is completed, in triplicate, by the licensing representative while reviewing resident's file in the facility. All items are checked yes, no, or not-applicable.

Routing of Appendix

Original: State office
Copy: Local File
Juvenile Detention Center

APPENDIX BB. CHILD CARE CENTER STAFF-CHILD RATIO [REVOKED]

	Center Staff-Child Ratio	Maximum Group Size
Infants (0 through 9 months)	1:4	8
Toddlers (10 through 23 months)	1:6	12
Two-year olds	1:8	16
Three-year olds	1:12	24
Four and five-year olds	1:15	30
Six-year olds and over	1:20	40
0 through 35 months	1:6 (No more than 2 under 10 months per staff)	12
0 through school-age	1:8 (No more than 2 under 2 years per staff)	16
2 through school-age	1:12 (No more than 4 2-year olds per staff)	24
3 through school-age	1:15 (No more than 6 3-year olds per staff)	30
4 through school-age	1:18 (No more than 8 4-year olds per staff)	36

APPENDIX CC. CHILD CARE CENTER MINIMUM EQUIPMENT REQUIREMENTS [REVOKED]

SECTION I. REQUIREMENTS FOR INFANTS

NUMBER OF INFANTS:	1	2	3	4	5	6	7	8
MOTOR DEVELOPMENT								
Large Muscle, e.g., set of soft blocks, tunnel or crawl-through apparatus, large balls, infant activity center, pull-up apparatus.	1	1	1	1	2	2	2	2
Small Muscle, e.g., nesting containers, washable dolls, balls (variety of sizes), plastic animals.	1	2	3	4	5	6	7	8
SENSORY DEVELOPMENT								
Things to Hear, e.g., rattles, musical toys, squeaky toys.	1	2	3	4	5	6	7	8
Things to See, e.g., mobile, murals, pictures.	1	2	3	4	5	6	7	8
Things to Touch, e.g., feely toys, feely ball, textured items.	1	2	3	4	5	6	7	8
LANGUAGE DEVELOPMENT								
Washable picture books.	1	2	3	4	5	6	7	8
Story books to be read by the teacher.	1	2	3	4	5	6	7	8
MUSIC								
Tapes or records.	2	2	2	2	4	4	4	4
Infant seat, swing chair or alternative individual space.	1	1	1	1	2	2	2	2

SECTION II. MINIMUM EQUIPMENT FOR TODDLERS

NUMBER OF TODDLERS:	1-2	3-4	5	6	7	8-9	10-11	12
MOTOR DEVELOPMENT								
Large Muscle, e.g., set of large plastic or cardboard building blocks, two-step slide, rocking boat, inter-locking panels, indoor riding toy (without pedals), rocking toy, sit and spin.	1	1	2	2	3	3	4	4
Push and pull toys.	2	4	5	6	7	8	10	12
Small Muscle. Table manipulative, e.g., stacking toys, nesting toys, 2-4 piece puzzles, table blocks, pounding toys.	3	6	9	12	14	16	20	24
Rubber animals	1	2	3	4	5	6	7	8
Balls of various sizes	1	2	3	4	5	6	7	8
Hand-held trucks, cars, etc.	2	4	5	6	7	8	10	12
SENSORY DEVELOPMENT								
Things to Hear, e.g., musical toys, wind-up toys, xylophone, shakers.	1	2	3	4	5	6	7	8
Things to See, e.g., pictures, posters, murals (assorted sizes and colors), windsock, banners.	1	2	3	4	5	6	7	8
Things to Touch, e.g., texture surfaces, non-toxic fingerpaint, water play with accessories, play dough.	1	2	3	4	5	6	7	8
LANGUAGE DEVELOPMENT								
Washable picture books.	2	4	5	6	7	9	11	12
Story books to be read by the teacher.	2	4	5	6	7	9	11	12
Puppets.	1	1	1	1	2	2	2	2
PRETEND								
Washable dolls.	1	2	3	4	5	6	7	8
Choose from: pots and pans, shoes, scarves, aprons, purses, play telephones, etc.	3	6	9	12	15	18	21	24
MUSIC								
Records or tapes.	2	2	2	2	4	4	4	4

SECTION III. MINIMUM EQUIPMENT FOR TWO-YEAR-OLDS

NUMBER OF 2-YEAR-OLDS:	1-2	3-4	5-6	7-8	9-10	11-12	13-14	15-16
Large Muscle. No more than two of the same item, e.g., set of large plastic or cardboard building blocks, interlocking panels, two-step slide, rocking toy, indoor climbing apparatus, large floor push toy, crawl-through apparatus.	2	2	3	4	5	6	7	8
Push and pull toys.	1	2	3	4	5	6	7	8
Small Muscle. Table manipulative toys, e.g., 2-4 piece puzzles; stacking, nesting, pounding toys; table blocks.	2	4	6	8	10	12	14	16
Balls of various sizes	1	2	3	3	4	4	5	5
Hand-held trucks, cars, etc.	2	3	5	6	8	9	10	12
Animals (plastic, rubber or wood).	1	2	3	4	5	6	7	8
PRETEND								
Dolls.								
Items of dress-up clothes, e.g., capes, aprons, shoes, purses, hats, scarves.	1	2	3	4	5	6	7	8
Choose from: set of pots and pans, dishes, plastic play foods, empty food containers, housekeeping appliance, plastic play tool set, water play with accessories.	2	4	6	8	10	12	14	16
MUSIC								
Musical toys.	1	1	2	3	3	3	4	5
Records or tapes	2	2	2	2	4	4	4	4
LANGUAGE DEVELOPMENT								
Mitten-type puppets.	1	1	2	2	3	3	4	4
Picture books for children's independent use.	2	4	6	8	10	12	14	16
Story books for teacher to read to children.	2	4	6	8	10	12	14	16

SECTION IV. MINIMUM EQUIPMENT FOR THREE-YEAR-OLDS

NUMBER OF 3-YEAR-OLDS:	1-3	4-6	7-9	10-12	13-15	16-18	19-21	22-24
MOTOR DEVELOPMENT								
Large Muscle. Set of building blocks (minimum of 20 pieces) with accessories.	1	1	1	1	1	1	1	1
No more than two of the same item, e.g., rocking boat, interlocking panels, indoor climbing apparatus, balance beam, crawl-through barrel, large floor push toy.	2	2	2	2	3	3	4	4
Small muscle. Table activities, e.g., matching games, lotto, nesting toys, stringing beads, parquetry blocks, peg boards and pegs, lacing boards.	3	3	6	6	9	9	12	12
Inlay puzzles.	3	3	6	6	9	9	12	12
Set of interlocking table toys, e.g., lego, tinker toys, bristle blocks, konnectos.	1	1	2	2	3	3	4	4
Small hand-held toys, e.g., cars, trucks, airplanes, boats.	3	3	6	6	9	9	12	12
ART								
Easel surface.	1	1	2	2	2	2	2	2
PRETEND								
Dolls with accessories.	2	2	4	4	6	6	8	8
Items of dress-up clothes, e.g., hats, neckties, capes, purses, vests, aprons, shoes.	2	4	6	8	10	10	12	12
Choose from: housekeeping items, e.g., appliances, set of dishes and utensils, set of pots and pans, set of clean-up toys (broom, mop, dust pan, etc.), doll bed or cradle, child-size rocking chair; water play equipment; steering wheel.	2	4	6	8	10	10	12	12
Creative play sets with accessories, e.g., farm, playhouse, garage, airport.	1	1	2	2	3	3	4	4
LANGUAGE DEVELOPMENT								
Puppets.	2	2	2	2	2	2	2	2
Choose from: magnetic board with accessories, flannel board with accessories, listening tapes.	2	2	2	2	2	2	2	2
MUSIC								
Records or tapes.	2	2	4	4	5	5	6	6

SECTION V. MINIMUM EQUIPMENT FOR FOUR TO FIVE-YEAR-OLDS

NUMBER OF 4-5-YEAR-OLDS:	1-4	5-8	9-11	12-15	16-19	20-23	24-26	27-30
MOTOR DEVELOPMENT								
Large Muscle. Set of building blocks (minimum of 20 pieces) with accessories.	1	1	1	1	2	3	4	4
No more than two of the same item, e.g., rocking boat, interlocking panels, indoor climbing apparatus, balance beam, crawl-through barrel, large floor push toy.	2	2	2	2	3	3	4	4
Small Muscle. Table activities, e.g., matching games, lotto, nesting toys, stringing beads, peg boards and pegs, parquetry blocks, lacing blocks.	6	6	9	9	12	12	15	15
Inlay puzzles.	3	3	6	6	9	9	12	12
Set of interlocking table toys, e.g., lego, tinker toys, bristle blocks, konnectos.	1	2	3	4	5	5	6	6
Small hand-held toys, e.g., cars, trucks, airplanes, boats.	2	4	6	8	10	12	14	16
ART								
Easel surface.	1	1	2	2	2	2	2	2
PRETEND								
Dolls with accessories.	2	2	3	3	4	4	5	5
Accessory items related to occupation, e.g., chef's hat, brief case, medical kit.	2	2	4	4	5	5	6	6
Items of dress-up clothes, e.g., hats, neckties, capes, purses, vests, aprons, shoes.	8	8	10	10	12	12	14	14
Choose from: housekeeping items, e.g., appliances, set of dishes and utensils, set of pots and pans, set of clean-up toys, (broom, mop, dust pan, etc.), doll bed or cradle, child-size rocking chair; water play equipment; steering wheel.	2	4	5	6	7	8	9	10
Creative play sets with accessories, e.g., farm, playhouse, garage, airport.	1	1	2	2	3	3	4	4
LANGUAGE DEVELOPMENT								
Puppets.	1	1	2	2	3	3	4	4
Choose from: magnetic board with accessories, flannel board with accessories, listening tapes.	1	1	2	2	3	3	4	4
MUSIC								
Records or tapes.	2	2	4	4	5	5	6	6

SECTION VI. MINIMUM EQUIPMENT FOR SCHOOL-AGE CHILDREN

NUMBER OF SCHOOL-AGE CHILDREN:	1-5	6-10	11-15	16-20	21-25	26-30	31-35	36-40
MOTOR DEVELOPMENT, e.g., jump rope, ping pong or table tennis, frisbee, hula-hoop, pogo stick, hopscotch, horse shoes, croquet, bean-bag toss, stilts, pool table, foosball, carom board, marbles, jacks.	5	5	10	10	12	12	15	15
Sports Equipment, e.g., soccer, softball, T-ball, volleyball, basketball, tether ball, badminton.	2	2	4	4	5	5	6	6
ARTS AND CRAFTS, e.g., materials for sewing, weaving, costume making, knitting, puppets, craft kits.	2	3	4	5	6	7	8	9
Art Supplies, e.g., paste, scissors, various sizes and colors of paper, crayons, marking pens, lead pencils, colored pencils, non-toxic paints, chalk, clay.	5	6	7	8	9	10	11	12
MANIPULATIVES, e.g., jigsaw puzzles, various card games, checkers, dominoes, lotto, bingo, board games, hand-held computer games, video game systems, chess, pick-up sticks.	5	5	10	10	15	15	20	20
A variety of interlocking toys (minimum of 20 pieces per set), e.g., lego, konnectos, mini loc blocks, bristle blocks, unifix cubes, rig-a-jig, towerfics, lincoln logs, tinker toys, waffle blocks, parquetry blocks.	2	2	4	4	7	7	8	8
Small hand-held toys, e.g., cars, trucks, miniature characters.	2	3	4	5	7	8	9	10
PRETEND								
Shatterproof mirror.	1	1	1	1	2	2	2	2
Dolls with accessories, e.g., action figures, fashion dolls.	1	2	3	4	5	5	6	6
Items of dress-up clothes, costumes, accessory items related to occupations, e.g., hats, capes, neckties, purses, coats, vests, aprons, dresses, wigs, nurse's uniform, chef's hat, hard hat, tool aprons, doctor's instruments, farmer's overalls, straw hats.	5	5	10	10	12	12	15	15
Choose from: pretend kit/prop box, e.g., office (with typewriter, stamp pad, pencils, paper pads, etc.), barber/beauty shop, fix-it shop, pizza parlor, post office, dance studio. Water/sand play with accessories. Carpentry corner with wood, saw, hammer, nails. Creative play sets, e.g., doll house, farm, airport.	1	2	3	4	5	6	7	8
A variety of blocks (minimum of 20 pieces per set) of various sizes, shapes, colors, e.g., set of unit blocks with accessories, pipe works, marble works, large waffle blocks, large interlocking blocks, various sizes of tubes, etc.	2	2	4	4	7	7	8	8

NUMBER OF SCHOOL- AGE CHILDREN	1-5	6-10	11-15	16-20	21-25	26-30	31-35	36-40
LANGUAGE DEVELOPMENT								
Books (age-appropriate).	5	5	10	10	15	15	20	20
Comic books, magazines (child-oriented).	5	5	10	10	15	15	20	20
Listening tapes, puppets with theater, flannel boards with pieces, writing center, chalk boards, V.C.R. with child-oriented tapes, etc.	2	2	4	4	6	6	8	8
Science items, e.g., magnifying glasses, ant farm, plants, magnets, aquariums, science pictures, small animals (hamster, lizard, rabbit, etc.), rocks, shells, microscope.	2	2	4	4	6	6	8	8

APPENDIX DD. CHILD CARE CENTER EXCLUSION CRITERIA FOR CHILDREN WHO ARE ILL [REVOKED]

SECTION 1. Exclusion Criteria for Centers Serving Only Well Children
Children with the following signs or symptoms of illness are excluded from a center caring for well children.

1. Fever, defined as axillary (armpit) temperature of 100 degrees or higher, or oral temperature of 101 degrees or higher
2. Diarrhea, defined as runny or watery stools with increased frequency of loose stools
3. Vomiting two or more times in a 24 hour period
4. Undiagnosed body rash, except diaper rash
5. Sore throat with a fever and swollen glands
6. Eye discharge, defined as thick mucus or pus draining from the eye, or pink eye
7. Yellowish skin or eyes
8. Severe coughing, where a child gets red or blue in the face or makes a high-pitched whooping sound after coughing
9. Signs or symptoms of possible illness such as lethargy, irritability, persistent crying or any other unusual signs until a medical evaluation allows inclusion

SECTION 2. Exclusion Criteria for Level I Child Care Centers
Children with the following symptoms or illnesses are excluded from Level I centers. They may be cared for in a Level II center if guidelines for separation and outside ventilation are followed.

1. **Respiratory conditions:**
   - Asthmatic child with respiratory distress uncontrolled by current medication
   - Difficult, rapid breathing or wheezing
   - Respiratory conditions, when the primary symptom is coughing accompanied by repeated vomiting
   - Diphtheria, until 5 days of the appropriate antibiotic therapy, which is to be given a total of 14 days
   - Pertussis, until five days after treatment with antibiotics
   - Streptococcal pharyngitis, until child has been on treatment for 24 hours
   - Tuberculosis, until the child's physician or the local health department states the child is not infectious

2. **Diarrhea and vomiting:**
   - Diarrhea, stools or vomiting that:
     - contain blood or mucus; or
     - is accompanied by lethargy or signs of dehydration such as no tears, dry mouth, fewer wet diapers or decreased urination
   - Diarrhea diagnosed as Giardia until asymptomatic (no diarrhea)
   - Vomiting two or more times in the previous 24 hours
   - Salmonella, until two negative stool cultures
   - Shigella, until two negative stool cultures

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3. **Rash Illnesses:**
   - Undiagnosed rash, except diaper rash
   - Chicken pox (Varicella), until sixth day after onset of rash or sooner if all lesions have dried and crusted, unless cared for only with other children diagnosed with chicken pox
   - Measles, until six days after onset of rash
   - Rash accompanied by fever or behavioral change
   - Rubella, until seven days after onset of rash
   - Roseola

4. **Skin Conditions:**
   - Impetigo, until 24 hours after treatment started
   - Ringworm, until treatment started

5. **Miscellaneous:**
   - Conjunctivitis (pink eye), readmit with physician's statement or 24 hours after treatment initiated, unless cared for only with other children who have conjunctivitis
   - Hepatitis A, until one week after onset of illness
   - Mouth sores with drooling
   - Mumps, until nine days after onset of parotid gland swelling
   - Pinworms, until treatment started
   - Post-operative convalescent care

SECTION 3. General Exclusions from all Child Care Centers, Including Level I and Level II Centers

1. Aseptic meningitis
2. Bacterial meningitis
3. E coli O157:H7, until diarrhea resolves and two stool cultures are negative
4. Untreated scabies
5. Untreated head lice
6. All reportable contagious diseases, until the period of communicability has elapsed as determined by a licensed physician or health department official

OKLA. DHS ISSUED 00-00-99

[OAR Docket #04-446; filed 3-25-04]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 110. LICENSING SERVICES

[OAR Docket #04-445]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Licensing Standards for Child Care Facilities
Part 1. Requirements for Child Care Centers
340:110-3-1. through 340:110-3-3. [AMENDED]
340:110-3-4. [REVOKED]
340:110-3-5. through 340:110-3-6. [AMENDED]
340:110-3-7.1. [AMENDED]
340:110-3-9.1. through 340:110-3-11. [AMENDED]
340:110-3-14. [AMENDED]
340:110-3-22. [AMENDED]
340:110-3-25. through 340:110-3-29. [AMENDED]
340:110-3-31. [AMENDED]
340:110-3-33. through 340:110-3-33.1. [AMENDED]
Part 14. Requirements for School-Age Programs [NEW]
340:110-3-220. through 340:110-3-242. [NEW]
(Reference APA WF 03-10)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; the Oklahoma Child Care Facilities Licensing Act, Sections 401 et seq. of Title 10 of the Oklahoma Statutes; and the Oklahoma Adoption Code.
DATES:
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December 15, 2003 through January 14, 2004
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None requested.
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March 11, 2003
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 24,2004.
Final adoption:
March 24, 2004
Effective:
April 26, 2004
Gubernatorial approval:
May 9, 2003
Register publication:
20 Ok Reg 1866
Docket number:
03-903A
SUPERSEDED EMERGENCY ACTIONS:
Subchapter 3. Licensing Standards for Child Care Facilities
Part 1. Requirements for Child Care Centers
340:110-3-1. through 340:110-3-3. [AMENDED]
340:110-3-4. [REVOKED]
340:110-3-5. through 340:110-3-6. [AMENDED]
340:110-3-7.1. [AMENDED]
340:110-3-9.1. through 340:110-3-11. [AMENDED]
340:110-3-14. [AMENDED]
340:110-3-22. [AMENDED]
340:110-3-25. through 340:110-3-29. [AMENDED]
340:110-3-31. [AMENDED]
340:110-3-33. through 340:110-3-33.1. [AMENDED]
Part 14. Requirements for School-Age Programs [NEW]
340:110-3-220. through 340:110-3-242. [NEW]
(Reference APA WF 03-10)
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The revisions to Subchapter 3 of Chapter 110 update and clarify rules concerning: staff qualifications for director and master teacher; pre-service training requirements; staff-child ratio for infants; child restraint systems requirements; and fire safety requirements recommended by the State Fire Marshal.

340:110-3-7.1 is revised to reflect changes in categories of staff qualifications and training, and the requirement of pre-service training.

340:110-3-9.1 is revised to increase the age of an infant from 9 months to 12 months for increased supervision with regard to staff-child ratio.

340:110-3-29 is revised to reflect the category of child restraint system required during transportation.

340:110-3-33 is revised to reflect changes in fire safety requirements.

340:110-3-220 through 340:110-3-242 are issued. Part 14, Requirements for School-Age Programs, is created to make a distinct separation in the rules between the requirements for this program and the programs for child care centers. The rules pertaining to school-age requirements that are moved to Part 14 are not revised.
CONTACT PERSON:
Dena Thayer, Programs Manager, Policy Management Unit, Office of Planning, Policy, and Research, OKDHS, 2400 N. Lincoln Blvd., Oklahoma City, OK 73105, 405-521-4326.

DUE TO EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT THE OKLAHOMA DEPARTMENT OF HUMAN SERVICES AND AT THE OFFICE OF ADMINISTRATIVE RULES, SECRETARY OF STATE, 418 WILL ROGERS BUILDING, OKLAHOMA CITY. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 75 O.S., SECTION 255(B):

SUMMARY:
Chapter 110 rules are revised, revoked, and created to (1) update and clarify: staff qualifications for director and master teacher; pre-service training requirements; staff-child ratio for infants; child restraint systems requirements; and fire safety requirements; (2) create a new part for school-age program requirements to make a distinct separation in the rules between this program and the programs for child care centers; and (3) improve readability, eliminate unnecessary language, clarify existing rules, provide more concise service delivery, and reduce or prevent errors caused by the lack of consistent rules.

[OAR Docket #04-445; filed 3-25-04]

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

1:2004-10.

EXECUTIVE ORDER 2004-10

I, Brad Henry, Governor of the State of Oklahoma, by virtue of the power and authority vested in me by law, hereby revoke Executive Order 1995-34, dated November 14, 1995, and pursuant to Section 2 of Article VI of the Oklahoma Constitution, hereby create the Governor's Interagency Council on Homelessness.

The Governor's Interagency Council on Homelessness (Council) shall promote collaborations among stakeholders and develop and implement strategies to improve access to services, mainstream resources, and develop affordable, permanent housing.

The Council shall consist of not more than 25 members with knowledge of the subject of homelessness. Members shall be appointed by, and serve at the pleasure of, the Governor. Chair of the Council shall be elected from its membership. The Council's membership may include representatives from the following:

Governor's Office

Oklahoma Legislature

Oklahoma Housing Finance Agency

Oklahoma Department of Commerce

Oklahoma Department of Human Services

Oklahoma State Department of Health

U.S. Veterans Administration

Oklahoma Department of Education

Oklahoma Department of Mental Health and Substance Abuse Services

Oklahoma Office of Juvenile Affairs

Head Start/Community Action Agencies

Disability Determination Division of the Oklahoma Department of Rehabilitation Services

Oklahoma Department of Corrections

Oklahoma Health Care Authority

Oklahoma Employment Security Commission

Career Tech

Homeless Service Providers

Faith-Based Community

Statewide or Local Continuum of Care

Legal Aid of Oklahoma

Local Housing Authorities

Current or former homeless person

Persons with experience or knowledge of the subject of homelessness.

The Council shall establish its own bylaws and meet at such times and places as it deems appropriate and shall be staffed by the Department of Commerce. Members shall serve without compensation. Members representing a state agency shall be reimbursed travel expenses by their agency as authorized by state law. The Council shall submit an annual report to the Governor, the Speaker of the House and the President Pro Tempore of the Senate.

This Executive Order shall be distributed to all members of the Governor's Cabinet and the executive heads of all appropriate and affected state agencies 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 30th day of March, 2004.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #04-532; filed 3-30-04]