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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 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 664. HOME CARE ADMINISTRATOR CERTIFICATION

*[OAR Docket #06-609]*

**RULEMAKING ACTION:**

Notice of Proposed EMERGENCY rulemaking

**PROPOSED RULES:**

Subchapter 5. Preparedness Program

310:664-5-2. [AMENDED]

**SUMMARY:**

The purpose of the proposed amendment is to revoke the provision requiring training programs to be nationally, regionally or state accredited. The accreditation requirement is unnecessary because other sections in Subchapter 5 establish substantive standards for State Health Department approval of administrator preparedness programs. The State Health Department knows of no national or regional accreditation specific to the preparation of home care administrators, and no Oklahoma post-secondary or higher education institution currently makes this training available. This amendment will remove an unreasonable barrier to the development of preparedness programs.

**AUTHORITY:**

Oklahoma State Board of Health, Title 63 O.S. Sections 1-104 and 1-1960 et seq.

**COMMENT PERIOD:**

May 1, 2006 through June 8, 2006. Interested persons may informally discuss the proposed rules with Protective Health Services staff; or before June 8, 2006, may submit written comments to Boyd Murphy, Director, Managed Care Systems, Health Resources Development Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before June 8, 2006, may send electronic mail to boydm@health.ok.gov; or may ask to present written or oral views at the hearing.

**PUBLIC HEARING:**

The public hearing will be part of the regular meeting of the State Board of Health, June 8, 2006, which begins at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before June 8, 2006, to Boyd Murphy, Director, Managed Care Systems, Health Resources Development Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before June 8, 2006, may send electronic mail to boydm@health.ok.gov.

**COPIES OF PROPOSED RULES:**

The proposed rules may be obtained from Managed Care Systems, Health Resources Development Service, Protective Health Services, Room 1010, State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303 (D), a rule impact statement will be prepared and will be available at the same location listed above for reviewing and obtaining copies of the proposed rules.

**CONTACT PERSON:**

Boyd E. Murphy, Director, Managed Care Systems, Health Resources Development Service, Protective Health Services, (405) 271-9444 Ext 57268, Room 1010, State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299, boydm@health.ok.gov.

*[OAR Docket #06-609; filed 4-7-06*

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 677. NURSE AIDE TRAINING AND CERTIFICATION

*[OAR Docket #06-610]*

**RULEMAKING ACTION:**

Notice of proposed EMERGENCY rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions

310:677-1-3.[AMENDED]

Subchapter 5. Nurse Aide Registry

310:677-5-2.[AMENDED]

**SUMMARY:**

The proposed amendments will stop the imposition of certification and application fees for long-term care aides, the category of nurse aides eligible to work in nursing facilities and skilled nursing facilities. Currently, fees ranging from $5 to $15 are charged for all categories of nurse aides. After this change, the fees will apply to certifications and

applications for home care aides, certified medication aides, aides providing direct care to persons with developmental disabilities, residential care aides and adult day care aides. The elimination of certification and application fees for long-term care aides is intended to comply with Sections 1819(e)(2) and 1919(e)(2) of the Social Security Act, and Title 42 Code of Federal Regulations Section 483.156(b)(4), and with recent instructions from the Centers for Medicare and Medicaid Services. The amendments include a brief description of the application form required for recertification.

**AUTHORITY:**

Oklahoma State Board of Health; 63 O.S. 2001 Section 1-104; and 63 O.S. Supp. 2005 Section 1-1951

**COMMENT PERIOD:**

May 1, 2006 through June 8, 2006. Interested persons may informally discuss the proposed rules with Protective Health Services staff; or before June 8, 2006, may submit written comments to Henry Hartsell, Chief, Health Resources Development Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or before March 9, 2006, may send electronic mail to hank@health.ok.gov; or may ask to present written or oral views at the hearing.

**PUBLIC HEARING:**

The public hearing will be part of the regular meeting of the State Board of Health, June 8, 2006, which begins at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before June 8, 2006 to Henry F. Hartsell Jr. at the above address or to hank@health.ok.gov.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Oklahoma State Department of Health, Health Resources Development Service, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by electronic mail request to hank@health.ok.gov.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. §303(D), a rule impact statement has been prepared and is available at the location listed above for obtaining copies of the rule.

**CONTACT PERSON:**

Henry F. Hartsell Jr., Chief, Protective Health Services, Health Resources Development Service, telephone (405) 271-9444 ext. 57269; facsimile: 405-271-7360; email: hank@health.ok.gov

*[OAR Docket #06-610; filed 4-7-06*

# Cancelled Hearings/Comment Periods

If an agency cancels a hearing or comment period announced in a published Notice of Rulemaking Intent, the agency must submit a notice of such cancellation to the Office of Administrative Rules (OAR). The OAR publishes the cancellation notice in the next possible issue of the *Register.*

*For additional information on cancelled hearings and comment periods, see OAC 655:10-7-27.*

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

*[OAR Docket #06-582]*

**RULEMAKING ACTION:**

Cancelled public hearing relating to a proposed PERMANENT rulemaking action

**PROPOSED RULES:**

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
252:100-5-1.1. [AMENDED]
252:100-5-2.1. [AMENDED]
Subchapter 7. Permits for Minor Facilities
Part 1.. General Provisions
252:100-7-1.1. [AMENDED]
Subchapter 9. Excess Emission Reporting Requirements
252:100-9-2. [AMENDED]
Subchapter 17. Incinerators
Part 9. Commercial Industrial Solid Waste Incineration Units
252:100-17-61. [AMENDED]
Part 11. Other Solid Waste Incineration Units [NEW]
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Appendix I. Insignificant Activities (Registration) List [NEW]
Appendix J. Trivial Activities (De Minimis) List [REVOKED]
Appendix J. Trivial Activities (De Minimis) List [NEW]
Appendix P. Regulated Air Pollutants [NEW]

**REGISTER PUBLICATION OF NOTICE:**

The Notice of Rulemaking Intent for this action was published at 23 Ok Reg 665

**CANCELLED PUBLIC HEARING:**

The Environmental Quality Board at 9:30 a.m., June 20, 2006, Redbud Hall, 1121 N. 7th, Weatherford, OK

**ADDITIONAL INFORMATION:**

Another public hearing will be announced at a later date

*[OAR Docket #06-582; filed 4-5-06]*

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

*[OAR Docket #06-583]*

**RULEMAKING ACTION:**

Cancelled public hearing relating to a proposed EMERGENCY and PERMANENT rulemaking action

**PROPOSED RULES:**

Subchapter 8. Permits for Part 70 Sources
Part 11. Visibility Protection Standards [NEW]
252:100-8-70. [NEW]
252:100-8-71. [NEW]
252:100-8-72. [NEW]
252:100-8-73. [NEW]
252:100-8-74. [NEW]
252:100-8-75. [NEW]
252:100-8-76. [NEW]
252:100-8-77. [NEW]

**REGISTER PUBLICATION OF NOTICE:**

The Notice of Rulemaking Intent for this action was published at 23 Ok Reg 666

**CANCELLED PUBLIC HEARING:**

The Environmental Quality Board at 9:30 a.m., June 20, 2006, Redbud Hall, 1121 N. 7th, Weatherford, OK

**ADDITIONAL INFORMATION:**

Another public hearing will be announced at a later date

*[OAR Docket #06-583; filed 4-5-06]*

# 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 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #06-465]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
10:1-1-4.1. Board office [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 28, 2006
**SUBMITTED TO HOUSE:**
March 28, 2006
**SUBMITTED TO SENATE:**
March 28, 2006

*[OAR Docket #06-465; filed 3-28-06]*

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

*[OAR Docket #06-466]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions
10:15-1-2. Definitions [AMENDED]
Subchapter 18. Computer-based Examination
10:15-18-4. Educational requirements [AMENDED]
10:15-18-9. Notification of grade [AMENDED]
Subchapter 27. Fees
10:15-27-13. Portal convenience fees [REVOKED]
Subchapter 29. Continuing Professional Education [REVOKED]
10:15-29-1.1. Burden of proof [REVOKED]
10:15-29-3. CPE compliance period for new CPAs and PAs [REVOKED]
10:15-29-4. Required CPE for issuance of a permit [REVOKED]
10:15-29-5. Reciprocity [REVOKED]
10:15-29-6. Reporting and documentation by registrants [REVOKED]
10:15-29-7. Qualifying subjects [REVOKED]
10:15-29-8. Verification [REVOKED]
10:15-29-9. Penalties for noncompliance with the CPE requirement [REVOKED]
10:15-29-10. Exceptions [REVOKED]
Subchapter 30. Continuing Professional Education
10:15-30-1. Burden of proof [AMENDED]
10:15-30-2. Required CPE for issuance of an original permit [AMENDED]
10:15-30-3. Required CPE for issuance of a lapsed permit [AMENDED]
10:15-30-4. Required CPE for renewal of a permit [AMENDED]
10:15-30-5. Reporting and documentation by certificate and license holders [AMENDED]
10:15-30-6. Verification of CPE credit [AMENDED]
10:15-30-7. Penalties to certificate and license holders for noncompliance with the CPE requirement [AMENDED]
10:15-30-8. Exceptions to CPE reporting requirements [AMENDED]
10:15-30-9. Re-entering active status [NEW]
Subchapter 32. Standards for Continuing Professional Education (CPE) Programs
10:15-32-5. Standards for CPE program measurement [AMENDED]
Subchapter 33. Peer Review
10:15-33-1. Establishment of peer review program [AMENDED]
10:15-33-2. Special definitions [AMENDED]
10:15-33-3. Standards for peer reviews and sponsoring organizations [AMENDED]
10:15-33-3.1. Standards for peer reviewers [NEW]
10:15-33-5. Effect of successive modified/adverse reports [AMENDED]
10:15-33-6. Reporting to the board [AMENDED]
10:15-33-7. Peer review committee [AMENDED]
Subchapter 39. Rules of Professional Conduct
10:15-39-1. Application [AMENDED]
Subchapter 43. Audits Performed in Accordance with Government Auditing Standards [NEW]
10:15-43-1. Registration [NEW]
10:15-43-2. Evaluation of registrations [NEW]
10:15-43-3. Notification [NEW]
10:15-43-4. Denial of registration [NEW]
10:15-43-5. Board review of denied registrations [NEW]
10:15-43-6. Renewal requirements [NEW]
**SUBMITTED TO GOVERNOR:**
March 28, 2006
**SUBMITTED TO HOUSE:**
March 28, 2006

**SUBMITTED TO SENATE:**
March 28, 2006

*[OAR Docket #06-466; filed 3-28-06]*

## TITLE 25. OKLAHOMA AERONAUTICS COMMISSION
## CHAPTER 15. OAC GRANT PROGRAM

*[OAR Docket #06-519]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
25:15-1-1. through 25:15-1-4. [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 31, 2006
**SUBMITTED TO HOUSE:**
March 31, 2006
**SUBMITTED TO SENATE:**
March 31, 2006

*[OAR Docket #06-519; filed 3-31-06]*

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

*[OAR Docket #06-520]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
25:20-1-6. through 25:20-1-10. [NEW]
**SUBMITTED TO GOVERNOR:**
March 31, 2006
**SUBMITTED TO HOUSE:**
March 31, 2006
**SUBMITTED TO SENATE:**
March 31, 2006

*[OAR Docket #06-520; filed 3-31-06]*

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

*[OAR Docket #06-443]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions [AMENDED]
Subchapter 3. Organization and Operation [AMENDED]
Subchapter 5. Declaratory Rulemaking Procedures [AMENDED]
Subchapter 7. Rulemaking Procedures [AMENDED]
Subchapter 9. Individual Procedures [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-443; filed 3-27-06]*

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

*[OAR Docket #06-444]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. Fine Schedules
Part 17. ~~Water Quality~~ Agricultural Environmental Management Violations [NEW]
35:3-1-30. through 35:3-1-32. [NEW]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-444; filed 3-27-06]*

## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
## CHAPTER 13. FUEL ALCOHOL

*[OAR Docket #06-445]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
35:13-1-1. through 35:13-1-5. [NEW]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-445; filed 3-27-06]*

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

*[OAR Docket #06-446]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions
35:15-1-1. [AMENDED]
35:15-1-2. [NEW]
35:15-1-3. [NEW]
Subchapter 11. Importation of Livestock, Poultry, and Pets
Part 3. Official Health Certificates
35:15-11-5. [AMENDED]
Part 7. Livestock
35:15-11-15. [AMENDED]
35:15-11-17. [AMENDED]
Subchapter 17. Bovine and Bison Brucellosis
Part 1. Definitions
35:15-17-1. [AMENDED]
Subchapter 19. Poultry Regulations
35:15-19-7. [AMENDED]
Subchapter 40. Bovine Tuberculosis
Part 1. Definitions
35:15-40-1. [AMENDED]
Subchapter 42. Tuberculosis Eradication in Cervidae
Part 1. Definitions
35:15-42-1. [AMENDED]
Subchapter 47. Chronic Wasting Disease (CWD) in Cervidae
Part 1. General
35:15-47-2. [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-446; filed 3-27-06]*

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

*[OAR Docket #06-447]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 9. Livestock Dealers and Livestock Special Sales
Part 3. Livestock Special Sales
35:15-9-7. through 35:15-9-11. [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-447; filed 3-27-06]*

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

*[OAR Docket #06-448]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 11. Importation of Livestock, Poultry, and Pets
Part 7. Livestock
35:15-11-18. [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-448; filed 3-27-06]*

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

*[OAR Docket #06-449]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 15. Equine Infectious Anemia (EIA) [AMENDED]
Subchapter 16. Contagious Equine Metritis [NEW]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-449; filed 3-27-06]*

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

*[OAR Docket #06-450]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 22. Swine Pseudorabies [AMENDED]
Subchapter 24. Swine Brucellosis [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-450; filed 3-27-06]*

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

*[OAR Docket #06-451]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 47. Chronic Wasting Disease (CWD) in Cervidae
Part 3. Herd Certification Standards
35:15-47-6. [AMENDED]
Part 7. Interstate Movement Requirements
35:15-47-18. [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-451; filed 3-27-06]*

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

*[OAR Docket #06-452]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 3. Rural Fire Protection Program Fund Act
Part 5. Matching Grant Program
35:20-3-22. [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-452; filed 3-27-06]*

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

*[OAR Docket #06-453]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 17. Combined Pesticide
Part 3. Certification, Conduct of Examinations, and Recertification
35:30-17-6. [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-453; filed 3-27-06]*

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

*[OAR Docket #06-454]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 17. Combined Pesticide
Part 11. Standards for Application of Pesticide
35:30-17-24.1. [NEW]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-454; filed 3-27-06]*

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

*[OAR Docket #06-455]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 17. Combined Pesticide
Part12. Minimum Residue Levels for Termicides Applied to Soil and Permitted Tolerances for Pesticide Tank Mix and Concentrate Sample Analysis
35:30-17-28. [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-455; filed 3-27-06]*

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

*[OAR Docket #06-456]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 29. Fertilizer
Part 3. Liquid, Dry, and Anhydrous Ammonia
35:30-29-37. [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-456; filed 3-27-06]*

## TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 37. FOOD SAFETY

*[OAR Docket #06-457]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 3. Meat Inspection
Part 1. General Provisions
35:37-3-1. [AMENDED]
Subchapter 5. Poultry Products Inspection
Part 1. General Provisions
35:37-5-1. [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 23, 2006
**SUBMITTED TO HOUSE:**
March 23, 2006
**SUBMITTED TO SENATE:**
March 23, 2006

*[OAR Docket #06-457; filed 3-27-06]*

## TITLE 38. LICENSED ALCOHOL AND DRUG COUNSELORS CHAPTER 1. ADMINISTRATION

*[OAR Docket #06-486]*

**RULEMAKING ACTION:**
Statement of submission for gubernatorial and legislative review.
**RULES:**
Subchapter 1. Individual Proceedings [NEW]
38:1-1-1. Purpose [NEW]
38:1-1-2. Definitions [NEW]
38:1-1-3. Individual proceedings [NEW]
38:1-1-5. Receiving complaints [NEW]
38:1-1-6. Service of petition and notice [NEW]
38:1-1-7. Emergency actions [NEW]
38:1-1-8. Procedures in individual proceedings [NEW]
38:1-1-9. Continuances [NEW]
38:1-1-10. Discovery [NEW]
38:1-1-11. Protective orders [NEW]
38:1-1-12. Subpoenas [NEW]
38:1-1-13. Conduct and record of hearing [NEW]
38:1-1-14. Sanctions for non-compliance with hearing and discovery procedures [NEW]
38:1-1-15. Order of hearing [NEW]
38:1-1-16. Proposed order and settlement [NEW]
Subchapter 3. Administrative Operations [NEW]
38:1-3-1. Purpose [NEW]
38:1-3-6. Agency administration [NEW]
**SUBMITTED TO GOVERNOR:**
March 29, 2006
**SUBMITTED TO HOUSE:**
March 29, 2006
**SUBMITTED TO SENATE:**
March 29, 2006

*[OAR Docket #06-486; filed 3-31-06]*

## TITLE 38. LICENSED ALCOHOL AND DRUG COUNSELORS CHAPTER 10. LICENSURE AND CERTIFICATION OF ALCOHOL AND DRUG COUNSELORS

*[OAR Docket #06-487]*

**RULEMAKING ACTION:**
Statement of submission for gubernatorial and legislative review.
**RULES:**
Subchapter 1. General Provisions [NEW]
38:10-1-1. Applicability [NEW]
38:10-1-2. Definitions [NEW]
38:10-1-3. Compliance with laws and rules [NEW]
38:10-1-4. Organization [NEW]
38:10-1-5. Public records [NEW]
38:10-1-6. Requests for agency public information [NEW]
38:10-1-7. Forms [NEW]
38:10-1-8. Procedures to secure a declaratory ruling as to the applicability of any rules or order of the Board [NEW]
38:10-1-9. Procedures to petition the Board to request the promulgation, amendment or repeal of a rule [NEW]
Subchapter 3. Rules of Professional Conduct [NEW]
38:10-3-1. Purpose [NEW]
38:10-3-2. Code of ethics [NEW]
38:10-3-3. Client welfare [NEW]
38:10-3-4. Professional standards [NEW]
38:10-3-5. Relations with the public and other professions [NEW]
38:10-3-6. Failure to comply [NEW]
Subchapter 5. Fitness of Applicants [NEW]
38:10-5-1. Purpose [NEW]
38:10-5-2. Fitness for licensure or certification [NEW]
38:10-5-3. Materials considered in determining fitness [NEW]
Subchapter 7. Application [NEW]
38:10-7-1. Purpose [NEW]
38:10-7-2. Requirements for licensure or certification [NEW]
38:10-7-3. Private or independent practice [NEW]
38:10-7-5. Issuance of license or certification [NEW]
38:10-7-6. Application [NEW]
38:10-7-7. Examinations [NEW]
38:10-7-8. ReNEWal of license or certification [NEW]
38:10-7-9. Reciprocity [NEW]
Subchapter 9. Supervision [NEW]
38:10-9-1. Purpose [NEW]
38:10-9-2. Supervision of work experience [NEW]
38:10-9-4. Approved supervisor status [NEW]
Subchapter 11. Fees [NEW]
38:10-11-1. Schedule of fees [NEW]
38:10-11-2. Method of payment [NEW]
38:10-11-3. Review of fees [NEW]
Subchapter 13. Continuing Education Requirements [NEW]
38:10-13-1. Purpose [NEW]
38:10-13-2. Continuing education standards [NEW]
38:10-13-3. Documentation of attendance [NEW]
38:10-13-4. Audit of continuing education submissions [NEW]
38:10-13-5. Failure to complete continuing education or submit verification [NEW]
38:10-13-6. Fraudulent continuing education submissions [NEW]
**SUBMITTED TO GOVERNOR:**
March 29, 2006
**SUBMITTED TO HOUSE:**
March 29, 2006
**SUBMITTED TO SENATE:**
March 29, 2006

*[OAR Docket #06-487; filed 3-31-06]*

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## TITLE 75. ATTORNEY GENERAL CHAPTER 1. ADMINISTRATION

*[OAR Docket #06-485]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Chapter 1. Administration [NEW]
**SUBMITTED TO GOVERNOR:**
March 30, 2006
**SUBMITTED TO HOUSE:**
March 30, 2006
**SUBMITTED TO SENATE:**
March 30, 2006

*[OAR Docket #06-485; filed 3-30-06]*

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## TITLE 75. ATTORNEY GENERAL CHAPTER 15. STANDARDS AND CRITERIA FOR DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS

*[OAR Docket #06-484]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Chapter 15. Standards and Criteria for Domestic Violence and Sexual Assault Programs [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 30, 2006
**SUBMITTED TO HOUSE:**
March 30, 2006

**SUBMITTED TO SENATE:**
March 30, 2006

*[OAR Docket #06-484; filed 3-30-06]*

## TITLE 120. CAPITOL-MEDICAL CENTER IMPROVEMENT AND ZONING COMMISSION
## CHAPTER 10. ZONING REGULATIONS FOR CAPITOL-MEDICAL CENTER IMPROVEMENT AND ZONING DISTRICT

*[OAR Docket #06-591]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 7. Off-Street Automobile and Vehicle Parking and Loading
120:10-7-1 [AMENDED]
120:10-7-2 through 120:10-7-8 [REVOKED]
120:10-7-9 through 120:10-7-17 [NEW]
Subchapter 17. Off-Street Parking facilities Landscape Code [NEW]
120:10-17-1 through 120:10-17-10 [NEW]
Appendix E. Tree Planting Standard [NEW]
**SUBMITTED TO GOVERNOR:**
March 6, 2006
**SUBMITTED TO HOUSE:**
March 6, 2006
**SUBMITTED TO SENATE:**
March 6, 2006

*[OAR Docket #06-591; filed 4-6-06]*

## TITLE 160. DEPARTMENT OF CONSUMER CREDIT
## CHAPTER 10. CONSUMER LEASING

*[OAR Docket #06-510]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 5. Disclosures
160:10-5-1.2. [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 31, 2006
**SUBMITTED TO HOUSE:**
March 31, 2006
**SUBMITTED TO SENATE:**
March 31, 2006

*[OAR Docket #06-510; filed 3-31-06]*

## TITLE 160. DEPARTMENT OF CONSUMER CREDIT
## CHAPTER 25. UNIFORM CONSUMER CREDIT CODE RULES

*[OAR Docket #06-511]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
160:25-1-4. [NEW]
**SUBMITTED TO GOVERNOR:**
March 31, 2006
**SUBMITTED TO HOUSE:**
March 31, 2006
**SUBMITTED TO SENATE:**
March 31, 2006

*[OAR Docket #06-511; filed 3-31-06]*

## TITLE 160. DEPARTMENT OF CONSUMER CREDIT
## CHAPTER 45. TRUTH IN LENDING RULES

*[OAR Docket #06-512]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 9. Special Rules for Certain Home Mortgage Transactions
160:45-9-2. [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 31, 2006
**SUBMITTED TO HOUSE:**
March 31, 2006
**SUBMITTED TO SENATE:**
March 31, 2006

*[OAR Docket #06-512; filed 3-31-06]*

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

*[OAR Docket #06-513]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions
160:55-1-2. [AMENDED]
Subchapter 3. Licensing
160:55-3-1.4. [AMENDED]

**SUBMITTED TO GOVERNOR:**
March 31, 2006
**SUBMITTED TO HOUSE:**
March 31, 2006
**SUBMITTED TO SENATE:**
March 31, 2006

*[OAR Docket #06-513; filed 3-31-06]*

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

*[OAR Docket #06-514]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions
160:60-1-3. [AMENDED]
Subchapter 3. Licensing
160:60-3-1. [AMENDED]
160:60-3-2. [AMENDED]
160:60-3-5. [AMENDED]
160:60-3-6. [AMENDED]
Subchapter 7. Records
160:60-7-2. [AMENDED]
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## TITLE 160. DEPARTMENT OF CONSUMER CREDIT
## CHAPTER 70. DEFERRED DEPOSIT LENDERS

*[OAR Docket #06-515]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions
160:70-1-3. [AMENDED]
Subchapter 11. Collection Practices [NEW]
160:70-11-1. through 160:70-11-9. [NEW]
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## TITLE 165. CORPORATION COMMISSION
## CHAPTER 5. RULES OF PRACTICE

*[OAR Docket #06-516]*

**RULEMAKING ACTION:**
Submission for gubernatorial/legislative review
**RULES:**
Subchapter 1. General Provisions
Part 1. General
165:5-1-7. Procedure for adoption of rules [AMENDED]
Subchapter 3. Fees
Part 1. General Provisions
165:5-3-1. Fees [AMENDED]
Subchapter 7. Commencement of a Cause
Part 3. Oil and Gas
165:5-7-14. Tax exemptions pursuant to OAC 165:10, Subchapter 21 [AMENDED]
Part 7. Motor Carrier
165:5-7-65. Applications relating to intrastate motor carrier authority and intrastate licenses [AMENDED]
Subchapter 25. Motor Carrier Tax and Registration Protests [NEW]
165:5-25-1. Purposes and general overview of motor carrier taxpayer/registrant protest procedure [NEW]
165:5-25-2. Applications for hearing [NEW]
165:5-25-3. Representation and participation in administrative proceedings [NEW]
165:5-25-4. Burden of proof [NEW]
165:5-25-5. Effective date of the subchapter [NEW]
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## TITLE 165. CORPORATION COMMISSION
## CHAPTER 10. OIL AND GAS CONSERVATION

*[OAR Docket #06-517]*

**RULEMAKING ACTION:**
Submission for gubernatorial/legislative review
**RULES:**
Chapter 10. Oil and Gas Conservation [AMENDED]

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## TITLE 165. CORPORATION COMMISSION CHAPTER 30. MOTOR CARRIERS

*[OAR Docket #06-518]*

**RULEMAKING ACTION:**
Submission for gubernatorial/legislative review
**RULES:**
Chapter 30. Motor Carriers [AMENDED]
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## TITLE 170. DEPARTMENT OF CORRECTIONS CHAPTER 30. TUITION ASSISTANCE PROGRAM

*[OAR Docket #06-507]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions
170:30-1-3. [AMENDED]
170:30-1-7. [AMENDED]
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## TITLE 260. OFFICE OF STATE FINANCE CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #06-589]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
260:1-1-1. through 260:1-1-5. [NEW]
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## TITLE 260. OFFICE OF STATE FINANCE CHAPTER 15. ACCESSIBILITY OF INFORMATION TECHNOLOGY

*[OAR Docket #06-590]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
260:15-1-1. through 260:15-1-9. [NEW]
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## TITLE 268. OKLAHOMA COUNCIL ON FIREFIGHTER TRAINING CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #06-547]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
268:1-1-2. [AMENDED]
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## TITLE 268. OKLAHOMA COUNCIL ON FIREFIGHTER TRAINING
## CHAPTER 3. APPLICATION PROCESS FOR TAX CREDITS

*[OAR Docket #06-548]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
268:3-1-1. [NEW]
268:3-1-2. [NEW]
268:3-1-3. [NEW]
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## TITLE 304. STATE USE COMMITTEE
## CHAPTER 10. OPERATIONAL PROCEDURES

*[OAR Docket #06-592]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
304:10-1-2. [AMENDED]
304:10-1-4. [AMENDED]
304:10-1-5. [AMENDED]
304:10-1-10. [AMENDED]
304:10-1-11. [AMENDED]
304:10-1-12. [AMENDED]
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## TITLE 325. OKLAHOMA HORSE RACING COMMISSION
## CHAPTER 25. ENTRIES AND DECLARATIONS

*[OAR Docket #06-467]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
325:25-1-5. [AMENDED]
325:25-1-17. [AMENDED]
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*[OAR Docket #06-467; filed 3-28-06]*

## TITLE 325. OKLAHOMA HORSE RACING COMMISSION
## CHAPTER 40. VETERINARIAN PRACTICES

*[OAR Docket #06-468]*

**RULEMAKING ACTION:**
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**RULES:**
325:40-1-5. [AMENDED]
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## TITLE 325. OKLAHOMA HORSE RACING COMMISSION
## CHAPTER 45. MEDICATION AND EQUINE TESTING PROCEDURES

*[OAR Docket #06-469]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
325:45-1-2. [AMENDED]
325:45-1-4. [AMENDED]
325:45-1-5. [AMENDED]
325:45-1-6. [AMENDED]
325:45-1-7. [AMENDED]

325:45-1-8. [REVOKED]
325:45-1-9. [AMENDED]
325:45-1-10. [REVOKED]
325:45-1-11. [AMENDED]
325:45-1-12. [AMENDED]
325:45-1-13. [AMENDED]
325:45-1-14. [AMENDED]
325:45-1-15. [AMENDED]
325:45-1-16. [AMENDED]
325:45-1-17. [AMENDED]
325:45-1-18. AMENDED]
325:45-1-19. [AMENDED]
325:45-1-20. [AMENDED]
325:45-1-21. [AMENDED]
325:45-1-22. [AMENDED]
325:45-1-23. [AMENDED]
325:45-1-24. [AMENDED]
325:45-1-25. [REVOKED]
325:45-1-23. [AMENDED]
325:45-1-24. [AMENDED]
325:45-1-25. [AMENDED]
325:45-1-26. [AMENDED]

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## TITLE 325. OKLAHOMA HORSE RACING COMMISSION
## CHAPTER 70. OBJECTIONS AND PROTESTS; HEARINGS AND APPEALS

*[OAR Docket #06-470]*

**RULEMAKING ACTION:**
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**RULES:**
325:70-1-22. [AMENDED]
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## TITLE 325. OKLAHOMA HORSE RACING COMMISSION
## CHAPTER 80. GAMING LICENSING REQUIREMENTS

*[OAR Docket #06-471]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions [NEW]
325:80-1-1. Purpose [NEW]
325:80-1-2. Definitions [NEW]
325:80-1-3. Applicability of rules - exceptions [NEW]
Subchapter 3. Gaming License Classifications [NEW]
325:80-3-1. Types of gaming licenses [NEW]
Subchapter 5. Gaming Licenses and Applications [NEW]
325:80-5-1. General provisions [NEW]
325:80-5-2. Time for filing an application for racetrack gaming operator license [NEW]
325:80-5-3. Application amendment and withdrawal [NEW]
325:80-5-4. Payment of non-refundable fees and costs required [NEW]
325:80-5-5. Conditions of a racetrack gaming operator license [NEW]
325:80-5-6. General grounds for refusal to issue license or denial of gaming license applications [NEW]
Subchapter 7. Requirements for Racetrack Gaming Operator License and Recipient Racetrack Gaming License [NEW]
325:80-7-1. Prerequisite for eligibility for initial license and renewals [NEW]
325:80-7-2. General form and requirements for racetrack gaming operator license application [NEW]
325:80-7-3. Operations plan requirement [NEW]
325:80-7-4. Security plan requirement [NEW]
325:80-7-5. Requirements for a recipient racetrack gaming license [NEW]
Subchapter 9. Requirements for Manufacturer, Distributor, or Manufacturer/Distributor, and Their Employee License Applicants [NEW]
325:80-9-1. Application for manufacturer, distributor, or manufacturer/distributor license [NEW]
325:80-9-2 Manufacturer's, distributor's, or manufacturer/distributor's employee license [NEW]
Subchapter 11. Requirements for Vendor License [NEW]
325:80-11-1. Approved vendor list [NEW]
325:80-11-2. Vendor license [NEW]
325:80-11-3. Vendor employee license [NEW]
325:80-11-4. Vendor disclosure requirement [NEW]
Subchapter 13. Requirements for Key Executive or Gaming Employee License and Amendments to Any Employee License [NEW]
325:80-13-1. Application required [NEW]

325:80-13-2. When key executive applications are due [NEW]
325:80-13-3. Employer-specific nature of all employee licenses [NEW]
325:80-13-4. NEW employee licenses [NEW]
325:80-13-5. License required prior to employment [NEW]
325:80-13-6. Employee licenses - refusal to issue or denial and license termination upon loss of employment [NEW]
325:80-13-7. Additional grounds for denial of key executive license application [NEW]
325:80-13-8. Initial start-up application procedure and limited pre-licensed employment for key executives and gaming employees [NEW]
Subchapter 15. Requirements for Independent Testing Laboratory License [NEW]
325:80-15-1. Application required [NEW]
Subchapter 17. Fees and Assessments [NEW]
325:80-17-1. Payment of fees and assessments [NEW]
Subchapter 19. Consideration of License Application and Licensee Disciplinary Actions [NEW]
325:80-19-1. Procedures for consideration of applications for racetrack gaming operator and independent testing laboratory licenses [NEW]
325:80-19-2. Procedures for consideration of applications for manufacturer, distributor, manufacturer/distributor and key executive licenses [NEW]
325:80-19-3. Procedures for consideration of applications for vendor, vendor employee and gaming employee licenses [NEW]
325:80-19-4. Disciplinary actions against racetrack gaming operator licensees and independent testing laboratories [NEW]
325:80-19-5. Disciplinary actions against all other occupation gaming licensees [NEW]

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## TITLE 325. OKLAHOMA HORSE RACING COMMISSION
## CHAPTER 85. GAMING MACHINE OR DEVICE SPECIFICATIONS AND USE AND OPERATION LICENSING REQUIREMENTS

*[OAR Docket #06-472]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions [NEW]
325:85-1-1. Purpose [NEW]
325:85-1-2. Definitions [NEW]
Subchapter 3. Authorized Games [NEW]
325:85-3-1. Types of authorized games [NEW]
Subchapter 5. Electronic Amusement Games Specifications [NEW]
325:85-5-1. Required specifications [NEW]
Subchapter 7. Electronic Bonanza-Style Bingo Games Specifications [NEW]
325:85-7-1. Required specifications [NEW]
Subchapter 9. Electronic Instant Bingo Games Specifications [NEW]
325:85-9-1. Required specifications [NEW]
Subchapter 11. Required Certification and Approval of All Types of Authorized Games, Gaming Machines or Devices and Components Thereof [NEW]
325:85-11-1. Machine and component certification and commission approval required [NEW]
325:85-11-2. All five types of authorized games subject to commission rules [NEW]
325:85-11-3. List of commission-approved independent testing laboratories [NEW]
325:85-11-4. Certification by independent testing laboratory and commission approval required [NEW]
325:85-11-5. Submission of game and gaming machine or device prototype for testing by independent testing laboratory required [NEW]
325:85-11-6. Submitting games and components to the independent testing laboratory [NEW]
325:85-11-7. RNG submissions [NEW]
325:85-11-8. Previous submission [NEW]
325:85-11-9. Submitting modifications to a previously certified item [NEW]
325:85-11-10. Joint venture submissions [NEW]
325:85-11-11. Procedures for commission approval of electronic gaming machine or device and components thereof [NEW]
325:85-11-12. Procedures for appeal of decision disapproving electronic game, gaming machine or device or components thereof [NEW]
Subchapter 13. Cashless Transactions [NEW]
325:85-13-1. General cashless transaction requirements [NEW]
325:85-13-2. Error conditions [NEW]
325:85-13-3. Transfer of transactions [NEW]
325:85-13-4. Security requirements [NEW]
325:85-13-5. Prevention of unauthorized transactions [NEW]
325:85-13-6. Diagnostic tests on a cashless player terminal [NEW]
325:85-13-7. Transaction auditing [NEW]
325:85-13-8. Financial and player reports [NEW]
325:85-13-9. Account balance [NEW]
Subchapter 15. Player Terminal General Specifications and Use and Operation Requirements [NEW]
325:85-15-1. General player terminal specifications [NEW]

325:85-15-2. Applicability of player terminal use and operation requirements [NEW]
325:85-15-3. General player terminal requirements [NEW]
325:85-15-4. Terminal security [NEW]
325:85-15-5. Player safety [NEW]
325:85-15-6. Microprocessor controlled [NEW]
325:85-15-7. Cabinet wiring [NEW]
325:85-15-8. Player terminal identification [NEW]
325:85-15-9. Tower light [NEW]
325:85-15-10. Power surges [NEW]
325:85-15-11. Coin diverter [NEW]
325:85-15-12. Drop box [NEW]
325:85-15-13. External doors/compartments [NEW]
325:85-15-14. Logic compartment [NEW]
325:85-15-15. Coin and currency compartments [NEW]
325:85-15-16. Function of a random access memory (RAM) clear [NEW]
325:85-15-17. Configuration setting [NEW]
325:85-15-18. Critical memory defined [NEW]
325:85-15-19. Critical memory integrity [NEW]
325:85-15-20. Program storage devices [NEW]
325:85-15-21. Write once (non-writable) program storage [NEW]
325:85-15-22. Writable program storage [NEW]
325:85-15-23. Integrity of the control program [NEW]
325:85-15-24. Multi-station games [NEW]
325:85-15-25. Circuit board identification [NEW]
325:85-15-26. Mechanical devices used for displaying game outcomes [NEW]
325:85-15-27. Video monitors/touchscreens [NEW]
325:85-15-28. Coin or token acceptors [NEW]
325:85-15-29. Bill acceptors [NEW]
325:85-15-30. Communications [NEW]
325:85-15-31. Factory set bill acceptors [NEW]
325:85-15-32. Tokenization [NEW]
325:85-15-33. Accountability of bills/tickets or other items accepted [NEW]
325:85-15-34. Bill acceptor recall [NEW]
325:85-15-35. Bill acceptor error conditions [NEW]
325:85-15-36. Bill acceptor stacker requirements [NEW]
325:85-15-37. Credit redemption [NEW]
325:85-15-38. Cancel credit [NEW]
325:85-15-39. Hoppers and hopper error conditions [NEW]
325:85-15-40. Payment by ticket printers [NEW]
325:85-15-41. Access to player terminal meters [NEW]
325:85-15-42. Credit meter [NEW]
325:85-15-43. Electronic accounting and occurrence meters [NEW]
325:85-15-44. Multi-game game specific meters [NEW]
325:85-15-45. Double-up or gamble meters [NEW]
325:85-15-46. Cashless transaction log [NEW]
325:85-15-47. Error conditions [NEW]
325:85-15-48. Game interruption and resumption [NEW]
325:85-15-49. Door open events [NEW]
Subchapter 17. Use Requirements for All Authorized Games [NEW]
325:85-17-1. Game cycle [NEW]
325:85-17-2. RNG requirements [NEW]
325:85-17-3. Required notice of average theoretical percentage payout [NEW]
325:85-17-4. Multiple percentages [NEW]
325:85-17-5. Merchandise prizes in lieu of cash awards [NEW]
325:85-17-6. Bonus games [NEW]
325:85-17-7. Multi-line games [NEW]
325:85-17-8. Multiple games offered for play at one player terminal [NEW]
325:85-17-9. Taxation reporting limits [NEW]
325:85-17-10. Test/diagnostic mode (demo mode) [NEW]
325:85-17-11. Number of last plays required [NEW]
325:85-17-12. Software verification [NEW]
Subchapter 19. Progressive Use and Operation Requirements [NEW]
325:85-19-1. Progressive prize management [NEW]
325:85-19-2. Progressive meter/display [NEW]
325:85-19-3. Progressive controllers [NEW]
325:85-19-4. Linked player terminal odds [NEW]
Subchapter 21. Accounting System Requirements [NEW]
325:85-21-1. Subchapter purpose [NEW]
325:85-21-2. Electronic accounting systems [NEW]
325:85-21-3. On-line system [NEW]
325:85-21-4. Interface elements [NEW]
325:85-21-5. System server(s) [NEW]
325:85-21-6. Jackpot/fill functionality [NEW]
325:85-21-7. Required MCS functionality [NEW]
325:85-21-8. MCS stored accounting meters [NEW]
325:85-21-9. MCS required reports [NEW]
325:85-21-10. Security access control [NEW]
325:85-21-11. Data alteration [NEW]
325:85-21-12. System back-up [NEW]
325:85-21-13. Recovery requirements [NEW]
325:85-21-14. Verification of player terminal software via the system [NEW]
325:85-21-15. Download requirements [NEW]
325:85-21-16. Remote. on-site access requirements [NEW]
325:85-21-17. Ticket validation system - additional requirements [NEW]
325:85-21-18. Ticket information [NEW]
325:85-21-19. Ticket types [NEW]
325:85-21-20. Ticket issuance [NEW]
325:85-21-21. Ticket redemption [NEW]
325:85-21-22. Invalid ticket notification [NEW]
325:85-21-23. Offline ticket redemption [NEW]
325:85-21-24. Required reports [NEW]
325:85-21-25. Security of ticket Information [NEW]
Subchapter 23. Redemption Terminal (Kiosk) Standards and Use Requirements [NEW]
325:85-23-1. General standards [NEW]
325:85-23-2. Error conditions [NEW]
325:85-23-3. Maximum redeemable value [NEW]
325:85-23-4. Metering [NEW]

325:85-23-5. Clearing meters [NEW]
325:85-23-6. Required logs [NEW]
325:85-23-7. Ticket acceptance [NEW]
Subchapter 25. Transportation, Receipt, Installation and Disposal of Gaming Machines or Devices [NEW]
325:85-25-1. Restriction on sales, display, distribution, transportation and operation of gaming machines or devices [NEW]
325:85-25-2. Transportation of gaming devices into the state [NEW]
325:85-25-3. Receipt of gaming machines or devices in the state [NEW]
325:85-25-4. Transportation of gaming machines or devices between commission-licensed gaming facilities in the state [NEW]
325:85-25-5. Approval to distribute gaming machines or devices outside of the state [NEW]
325:85-25-6. On-site testing, installation and placement of gaming machines or devices - including each player terminal and each game [NEW]
325:85-25-7. Disposal of gaming machines or devices [NEW]
Subchapter 27. Requirements for Audits Performed by Gaming Agents [NEW]
325:85-27-1. Daily and spot audits [NEW]

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## TITLE 325. OKLAHOMA HORSE RACING COMMISSION
## CHAPTER 90. GAMING OPERATIONS

*[OAR Docket #06-473]*

**RULEMAKING ACTION:**
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**RULES:**
Subchapter 1. General Provisions [NEW]
325:90-1-1. Purpose [NEW]
325:90-1-2. Definitions [NEW]
Subchapter 3. Security and Surveillance Minimum Requirements [NEW]
325:90-3-1. Surveillance systems [NEW]
325:90-3-2. Security and surveillance logs [NEW]
325:90-3-3. Storage and retrieval of surveillance recordings [NEW]
325:90-3-4. Maintenance and testing [NEW]
325:90-3-5. Surveillance system compliance [NEW]
Subchapter 5. Unresolved Patron Disputes [NEW]
325:90-5-1. Unresolved patron disputes [NEW]
325:90-5-2. Compulsive gambling assistance plan [NEW]
325:90-5-3. Minimum standards for compulsive gambling assistance plan [NEW]
325:90-5-4. Employee training regarding compulsive gambling assistance plan [NEW]
325:90-5-5. Annual report regarding compulsive gambling activities [NEW]
Subchapter 7. Smoking Regulations [NEW]
325:90-7-1. Requirements for smoking in gaming facility [NEW]

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## TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
## CHAPTER 36. AFFORDABLE HOUSING TAX CREDIT PROGRAM

*[OAR Docket #06-489]*

**RULEMAKING ACTION:**
Submission for gubernatorial/legislative review
**RULES:**
Chapter 36. Affordable Housing Tax Credit Program [AMENDED]

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

*[OAR Docket #06-497]*

**RULEMAKING ACTION:**
Submission for gubernatorial/legislative review
**RULES:**
Subchapter 1. Human Resources Management Division (HRMD)
Part 4. Alcohol and Drug Testing ~~Policy~~ Rules Applicable to ~~Agency Facilities Providing Direct Care to Children~~

~~or Individuals with Developmental Disabilities~~ All OKDHS Employees
340:2-1-40. through 340:2-1-44. [AMENDED]
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## TITLE 340. DEPARTMENT OF HUMAN SERVICES
## CHAPTER 2. ADMINISTRATIVE COMPONENTS

*[OAR Docket #06-498]*

**RULEMAKING ACTION:**
Submission for gubernatorial/legislative review
**RULES:**
Subchapter 15. Risk and Safety Management Program
Part 1. Risk Management Program
340:2-15-1. through 340:2-15-2. [AMENDED]
340:2-15-3. [REVOKED]
340:2-15-4. through 340:2-15-5. [AMENDED]
340:2-15-6. [REVOKED]
340:2-15-7. [NEW]
Part 3. Hazard Communication Program
340:2-15-25. [AMENDED]
340:2-15-26. [REVOKED]
340:2-15-27. [AMENDED]
340:2-15-27.1. [NEW]
340:2-15-28. [AMENDED]
340:2-15-29. through 340:2-15-33. [REVOKED]
Appendix L. Access Clause for Purchase Contract [REVOKED]
Appendix M. Material Safety Data Sheet Surrogate Statement [REVOKED]
**(Reference APA WF# 06-02)**
**SUBMITTED TO GOVERNOR:**
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*[OAR Docket #06-498; filed 3-31-06]*

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

*[OAR Docket #06-499]*

**RULEMAKING ACTION:**
Submission for gubernatorial/legislative review
**RULES:**
Subchapter 35. Volunteer Services
340:2-35-4. [AMENDED]
**(Reference APA WF#06-06)**
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*[OAR Docket #06-499; filed 3-31-06]*

## TITLE 340. DEPARTMENT OF HUMAN SERVICES
## CHAPTER 5. ADULT PROTECTIVE SERVICES

*[OAR Docket #06-500]*

**RULEMAKING ACTION:**
Submission for gubernatorial/legislative review
**RULES:**
Subchapter 5. Investigation of Adult Protective Services Referrals
340:5-5-3. [AMENDED]
**(Reference APA WF 06-05)**
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*[OAR Docket #06-500; filed 3-31-06]*

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

*[OAR Docket #06-501]*

**RULEMAKING ACTION:**
Submission for gubernatorial/legislative review
**RULES:**
Subchapter 7. Financial Eligibility Criteria

Part 3. Income
340:50-7-31. [AMENDED]
Part 5. Determination of Income ~~and Deductions~~
340:50-7-49. through 340:50-7-53. [REVOKED]
**(Reference APA WF# 06-04)**
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## TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 105. AGING SERVICES DIVISION

*[OAR Docket #06-464]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 10. Policies and Procedures Manual for Title III of The Older Americans Act of 1965, as amended
Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects
340:105-10-105.1. [AMENDED]
**(Reference APA WF 06-01)**
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*[OAR Docket #06-464; filed 3-28-06]*

## TITLE 345. COMMITTEE FOR INCENTIVE AWARDS FOR STATE EMPLOYEES CHAPTER 10. PRODUCITIVITY ENHANCEMENT PROGRAM

*[OAR Docket #06-481]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions
345:10-1-2. [NEW]
Subchapter 3. Organization
345:10-3-1. [AMENDED]
Subchapter 5. Types of Awards
345:10-5-2. [AMENDED]
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*[OAR Docket #06-481; filed 3-30-06]*

## TITLE 365. INSURANCE DEPARTMENT CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #06-535]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions
365:1-1-2. Office of the Insurance Commissioner
Subchapter 5. Rulemaking Procedures
365:1-5-1. Initiation of rulemaking~~; notice and public comment~~ [AMENDED]
365:1-5-2. Adoption of rules; filing and publication [REVOKED]
365:1-5-3. Effective date of rules [REVOKED]
365:1-5-4. Petitions for rulemaking [AMENDED]
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*[OAR Docket #06-535; filed 4-3-06]*

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

*[OAR Docket #06-536]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 5. Minimum Standards; Contract Guidelines
Part 17. Actuarial Opinion and Memorandum Regulation
365:10-5-170. Purpose [AMENDED]
365:10-5-171. Scope [AMENDED]
365:10-5-172. Definitions [AMENDED]
365:10-5-173. General requirements [AMENDED]
365:10-5-174. Required opinions [REVOKED]
365:10-5-175. Statement of actuarial opinion not including an asset adequacy analysis [REVOKED]

365:10-5-176. Statement of actuarial opinion based on an asset adequacy analysis [AMENDED]
365:10-5-177. Description of actuarial memorandum including an asset adequacy analysis [AMENDED]
365:10-5-178. Additional considerations for analysis [REVOKED]
Subchapter 23. Discount Medical Plan Organizations [NEW]
365:10-23-1. Forms [NEW]
365:10-23-2. Inducements [NEW]
Appendix S. Outline of Coverage Tables [REVOKED]
Appendix S. Outline of Coverage [NEW]
Appendix Z. Form Tabulating Reserves and Related Actuarial Terms [REVOKED]
Appendix Z. Asset Adequacy Test Amounts - Reserves and Liabilities [NEW]
Appendix GG. Information Provided Pursuant To Section 365:10-5-176(f)(1)(C)(ii) of the Actuarial Opinion and Memorandum Regulation [NEW]

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*[OAR Docket #06-536; filed 4-3-06]*

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

*[OAR Docket #06-537]*

**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. Property And Casualty Competitive Loss Cost Rating Regulation
365:15-7-3. Property and casualty rate, loss cost and manual rule filings [AMENDED]
365:15-7-29. Workers' Compensation Insurance [NEW]
365:15-Appendix D. Notification of Policyholders of Application for Rate Change [REVOKED]
365:15-Appendix D. Format for Notification to Policyholders of Application for Rate Change [NEW]

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*[OAR Docket #06-537; filed 4-3-06]*

## 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 #06-538]*

**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]
Subchapter 5. Bail Bondsmen
Part 5. General Provisions Pertaining to Bail Bondsmen
365:25-5-41. Special deposit [AMENDED]

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*[OAR Docket #06-538; filed 4-3-06]*

## 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 #06-539]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 17. Consumer Protection In Annuity Transactions Regulation [NEW]
365:25-17-1. Purpose [NEW]
365:25-17-2. Scope [NEW]
365:25-17-3. Authority [NEW]
365:25-17-4. Exemptions [NEW]
365:25-17-5. Definitions [NEW]

365:25-17-6. Misrepresentation, fraud and incomplete comparisons of annuities [NEW]
365:25-17-7. Duties of insurers and of insurance producers [NEW]
365:25-17-8. Mitigation of responsibility [NEW]
365:25-17-9. Recordkeeping [NEW]
Subchapter 19. Annuity Disclosure Regulation [NEW]
365:25-19-1. Purpose [NEW]
365:25-19-2. Authority [NEW]
365:25-19-3. Applicability and Scope [NEW]
365:25-19-4. Definitions [NEW]
365:25-19-5. Standards for the Disclosure Document and Buyer's Guide [NEW]
365:25-19-6. Report to Contract Owners [NEW]
365:25-19-7. Penalties [NEW]
365:25-19-8. Separability [NEW]
365:25-19-9. Effective Date [NEW]
Appendix S. Buyer's Guide [NEW]

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*[OAR Docket #06-539; filed 4-3-06]*

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

*[OAR Docket #06-540]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 5. Life, Accident & Health Division and Consumer Assistance and Claims Division Rules
Part 9. HMO Requirements and Prohibitions
365:40-5-44. Internal grievance system [AMENDED]

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*[OAR Docket #06-540; filed 4-3-06]*

## TITLE 530. OFFICE OF PERSONNEL MANAGEMENT CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

*[OAR Docket #06-480]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions
Part 1. General Provisions
530:10-1-2. [AMENDED]
Subchapter 3. Affirmative Action and Equal Employment Opportunity
Part 2. Discrimination Complaints Investigations
530:10-3-22. [AMENDED]
Subchapter 5. Position Allocation and Employee Classification System
Part 5. Audits of Positions
530:10-5-52. [AMENDED]
Subchapter 7. Salary and Payroll
Part 1. Salary and Rates of Pay
530:10-7-19. [AMENDED]
530:10-7-21. [NEW]
530:10-7-24. [AMENDED]
Subchapter 13. Reduction-in-Force
Part 3. Reduction-in-Force Plan Requirements
530:10-13-35. [AMENDED]
Subchapter 15. Time and Leave
Part 3. Annual and Sick Leave Policies
530:10-15-11. [AMENDED]
Subchapter 17. Performance Evaluation and Career Enhancement Programs
Part 3. Employee Performance Management System
530:10-17-31. [AMENDED]
530:10-17-113. [AMENDED]
530:10-17-115. [AMENDED]
Appendix A. Salary Schedule [REVOKED]
Appendix A. Pay Band Schedule [NEW]

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*[OAR Docket #06-480; filed 3-30-06]*

## TITLE 530. OFFICE OF PERSONNEL MANAGEMENT
## CHAPTER 15. VOLUNTARY PAYROLL DEDUCTION RULES

*[OAR Docket #06-482]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Provisions
530:15-1-1. [AMENDED]
530:15-1-2. [AMENDED]
530:15-1-9. [AMENDED]
Subchapter 3. Administrative Provisions
530:15-3-8. [AMENDED]
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*[OAR Docket #06-482; filed 3-30-06]*

## TITLE 530. OFFICE OF PERSONNEL MANAGEMENT
## CHAPTER 20. OKLAHOMA STATE EMPLOYEES' DIRECT DEPOSIT RULES

*[OAR Docket #06-483]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Policies and Procedures
530:20-1-2. [AMENDED]
530:20-1-3. [NEW]
530:20-1-4. [NEW]
530:20-1-14. [AMENDED]
530:20-1-16. [AMENDED]
Subchapter 3. OPM Administrative Policies and Procedures
530:20-3-7. [AMENDED]
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*[OAR Docket #06-483; filed 3-30-06]*

## TITLE 580. DEPARTMENT OF CENTRAL SERVICES
## CHAPTER 10. FACILITIES MANAGEMENT

*[OAR Docket #06-593]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 9. Operation of Buildings Owned, Used or Occupied by or on Behalf of the State
Part 5. General Operations of public Buildings Managed by the Department of Central Services [NEW]
580:10-9-21. [NEW]
580:10-9-22. [NEW]
580:10-9-23. [NEW]
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*[OAR Docket #06-593; filed 4-6-06]*

## TITLE 580. DEPARTMENT OF CENTRAL SERVICES
## CHAPTER 15. CENTRAL PURCHASING

*[OAR Docket #06-594]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 2. General Provisions [AMENDED]
580:15-2-2. [AMENDED]
Subchapter 6. State Agency Provisions [AMENDED]
580:15-6-21. [NEW]
580:15-6-22. [NEW]
580:15-6-23. [NEW]
580:15-6-24. [NEW]
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*[OAR Docket #06-594; filed 4-6-06]*

## TITLE 580. DEPARTMENT OF CENTRAL SERVICES
## CHAPTER 45. PLAN OF OPERATION FOR OKLAHOMA STATE AGENCY FOR SURPLUS PROPERTY

*[OAR Docket #06-595]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
580:45-1-1. Purpose [REVOKED]
580:45-1-2. Definitions [REVOKED]
580:45-1-3. Authority [REVOKED]
580:45-1-4. Designation of state agency [REVOKED]
580:45-1-5. Inventory control and accounting systems [REVOKED]
580:45-1-6. Return of donated property [REVOKED]
580:45-1-7. Financing and service charges [REVOKED]
580:45-1-8. Terms and conditions on donated property [REVOKED]
580:45-1-9. Non-utilized donable property [REVOKED]
580:45-1-10. Fair and equitable distribution [REVOKED]
580:45-1-11. Eligibility [REVOKED]
580:45-1-12. Compliance and utilization [REVOKED]
580:45-1-13. Consultation with advisory groups-public and private [REVOKED]
580:45-1-14. Audits [REVOKED]
580:45-1-15. Cooperative agreements [REVOKED]
580:45-1-16. Liquidation [REVOKED]
580:45-1-17. Forms [REVOKED]
580:45-1-18. Records [REVOKED]
580:45-1-19. General notice [REVOKED]
580:45-1-23. Definitions [NEW]
580:45-1-25. Citations [NEW]
580:45-1-27. Authority [NEW]
580:45-1-29. Designation of state agency [NEW]
580:45-1-31. Inventory control and accounting systems [NEW]
580:45-1-33. Return of donated property [NEW]
580:45-1-35. Agency financing and service charges [NEW]
580:45-1-37. Property restrictions and use requirements. [NEW]
580:45-1-39. Disposition of undistributed property [NEW]
580:45-1-41. Fair and equitable distribution [NEW]
580:45-1-43. Eligibility [NEW]
580:45-1-45. Compliance and utilization [NEW]
580:45-1-47. Consultation with advisory groups-public and private [NEW]
580:45-1-49. Audits [NEW]
580:45-1-51. Cooperative agreements [NEW]
580:45-1-53. Liquidation [NEW]
580:45-1-55. Forms [NEW]
580:45-1-57. Records [NEW]
Appendix A. Organization Chart for the State Agency for Surplus Property [REVOKED]
Appendix A. Organization Chart for the State Agency for Surplus Property [NEW]
Appendix B. Oklahoma Statutes; Title 80. United States - Sections 34.1 to 34.6 [NEW]
Appendix C. Forms [NEW]
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## TITLE 580. DEPARTMENT OF CENTRAL SERVICES
## CHAPTER 65. STATE SURPLUS PROPERTY

*[OAR Docket #06-596]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
580:65-1-9. [AMENDED]
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## TITLE 580. DEPARTMENT OF CENTRAL SERVICES
## CHAPTER 70. STATE INVENTORY

*[OAR Docket #06-597]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 1. General Prvisions
580:70-1-2. [AMENDED]
Subchapter 3. Tangible Assets Reporting
580:70-3-1. [AMENDED]
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## TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
## CHAPTER 1. ADMINISTRATIVE OPERATIONS

*[OAR Docket #06-562A]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review.
**RULES:**
Subchapter 11. Purchasing
610:1-11-2. Purchasing Authority for OneNet Statewide contracts [RENUMBERED TO 610:1-11-20]
610:1-11-4. General contracting and purchasing provisions [AMENDED]
610:1-11-5. Vendor registration [AMENDED]
610:1-11-6. Vendor retention and removal from bidders list [AMENDED]
610:1-11-7. Competitive bidding [AMENDED]
610:1-11-9. Group purchasing acquisitions; Alternatives to the formal bid process [REVOKED]
610:1-11-13. Purchases between $2,501 and $25,000 [AMENDED]
610:1-11-14. Purchases in excess of $25,000 [AMENDED]
610:1-11-16. Professional and Personal services contracts [AMENDED]
610:1-11-17. Training [AMENDED]
610:1-11-18. Membership and Subscriptions [NEW]
610:1-11-19. Utilities [NEW]
610:1-11-20. Purchasing Authority for OneNet Statewide contracts [NEW]
610:1-11-21. Contract Renewals [NEW]
610:1-11-22. Negotiation Authority [NEW]
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## TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
## CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS

*[OAR Docket #06-562]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review.
**RULES:**
Subchapter 3. Chancellor~~Chancellor's~~ Hans Brisch Scholarship Program [AMENDED]
610:25-3-3. General principles for operation of program [AMENDED]
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## TITLE 710. OKLAHOMA TAX COMMISSION
## CHAPTER 10. AD VALOREM TAX

*[OAR Docket #06-521]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review.
**RULES:**
Subchapter 4. Annual Valuation Mandate
710:10-4-1. Purpose [AMENDED]
710:10-4-2. Definitions [AMENDED]
710:10-4-3. Responsibilities of County Assessor [AMENDED]
710:10-4-6. Annual valuation of all real and personal property outside visual inspection area [AMENDED]
710:10-4-7. CAMA completion requirement as evidence of annual valuation [AMENDED]
710:10-4-8. Determination of compliance with annual valuation requirements; certification to the State Board of Equalization [AMENDED]
710:10-4-9. Findings of the annual valuation audit [AMENDED]
Subchapter 7. Manufacturing Facilities
710:10-7-2. Requirements for exemption for qualified manufacturing facilities established, expanded, or acquired, on or before July 1, 2003 [AMENDED]
710:10-7-2.1. Manufacturing facility exemption for facilities which are established, expanded, or acquired on or after January 1, 2000 [AMENDED]
710:10-7-4. Qualifying manufacturing concerns exempt; forms [AMENDED]
710:10-7-5. Date of qualification; application for exemption [AMENDED]
710:10-7-6. Beginning date of exemption; failure to claim [AMENDED]
710:10-7-10. Examination and inspection of property and records [AMENDED]
710:10-7-11. County assessor to make initial determination of status; examination and valuation of the facility; notice upon rejection [AMENDED]
710:10-7-12. County Board of Equalization to review [AMENDED]
710:10-7-13. Hearings before County Board of Equalization [AMENDED]

710:10-7-14. Appeal from Board of Equalization to district court [AMENDED]
710:10-7-15. Review; protest; appeal [AMENDED]
710:10-7-16. County recording procedure for assessment and tax rolls; reimbursement payments [AMENDED]
710:10-7-17. Actual Fair cash value [AMENDED]
710:10-7-22. Owner not billed for tax [AMENDED]
710:10-7-23. No late payment charges [AMENDED]
710:10-7-24. The county Assessor's report to the County Excise Board; abstract of assessment [AMENDED]
710:10-7-25. County claim for reimbursement; funding shortfall [AMENDED]
Subchapter 12. Agricultural Land Conservation Adjustment
710:10-12-1. Purpose [AMENDED]
710:10-12-4. Qualifying conservation land exempt; forms [AMENDED]
710:10-12-7. Method of valuation [AMENDED]
710:10-12-8. County Board of Equalization to review [AMENDED]
710:10-12-9. Hearings before County Board of Equalization [AMENDED]
710:10-12-10. Appeal from Board of Equalization to district court [AMENDED]
710:10-12-11. Review; protest; appeal [AMENDED]
710:10-12-13. Actual Fair Cash Value [AMENDED]
710:10-12-20. County claim for reimbursement; funding shortfall [AMENDED]
Subchapter 14. Full Fair Cash Value Exemption for Disabled Veterans in Receipt of Compensation at the One Hundred Percent Rate
710:10-14-1. General provisions [AMENDED]
710:10-14-3. Relationship to other exemptions and programs [AMENDED]
710:10-14-5. Application [AMENDED]
710:10-14-6. Duties of the assessor [AMENDED]

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*[OAR Docket #06-521; filed 3-31-06]*

## TITLE 710. OKLAHOMA TAX COMMISSION
## CHAPTER 35. ESTATES

*[OAR Docket #06-522]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review.
**RULES:**
Subchapter 5. Determination of Oklahoma Taxable Estate
Part 9. Deductions Exclusions Exemptions
710:35-5-64. Lineal heir exemption for assets of qualifying family farm or business [REVOKED]

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*[OAR Docket #06-522; filed 3-31-06]*

## TITLE 710. OKLAHOMA TAX COMMISSION
## CHAPTER 45. GROSS PRODUCTION

*[OAR Docket #06-523]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review.
**RULES:**
Subchapter 9. Exemptions and Exclusions
Part 5. Horizontally Drilled Production Wells
710:45-9-27. Qualification procedure [AMENDED]
710:45-9-28. Rebates - Refund procedure [AMENDED]
Part 7. Incremental Production from Enhanced Recovery Projects or Properties
710:45-9-32. Qualification procedures [AMENDED]
Part 9. Production Enhancement Projects
710:45-9-42. Qualification procedure [AMENDED]
710:45-9-43. Rebates - Refund procedure [AMENDED]
Part 11. Reestablishment of Production from an Inactive Well
710:45-9-52. Qualification procedure [AMENDED]
710:45-9-53. Rebates - Refund procedure [AMENDED]
Part 13. Deep Wells
710:45-9-60. Scope of Part 13 [AMENDED]
710:45-9-62. Qualification procedure [AMENDED]
710:45-9-62.1. Rebates - Refund procedure [AMENDED]
710:45-9-64. Limitation on total amount of refunds paid by the Tax Commission [NEW]
Part 15. New Discovery Wells
710:45-9-72. Qualification procedure [AMENDED]
710:45-9-73. Rebates - Refund procedure [AMENDED]
Part 17. Economically At-Risk ~~Oil~~ Leases
710:45-9-80. Scope of Part 17 [AMENDED]
710:45-9-81. Definitions [AMENDED]
710:45-9-82. Exemption period [AMENDED]
710:45-9-83. Certification [AMENDED]
710:45-9-84. Refund procedure [AMENDED]
Part 19. Production Using Three Dimensional Seismic Shoots
710:45-9-92. Qualification procedure [AMENDED]

**SUBMITTED TO GOVERNOR:**
March 31, 2006

**SUBMITTED TO HOUSE:**
March 31, 2006
**SUBMITTED TO SENATE:**
March 31, 2006

*[OAR Docket #06-523; filed 3-31-06]*

## TITLE 710. OKLAHOMA TAX COMMISSION
## CHAPTER 50. INCOME

*[OAR Docket #06-524]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review.
**RULES:**
Subchapter 15. Oklahoma taxable income
Part 3. Exemptions
710:50-15-33. Exemption for Employers participating in the Oklahoma Department of Labor Safety Pays Consultation Services [NEW]
Part 5. Other Adjustments to Income
710:50-15-48. Oklahoma source capital gain deduction [AMENDED]
710:50-15-49. Deduction for retirement income [AMENDED]
710:50-15-50. Deductions [AMENDED]
710:50-15-66. Deduction for contributions to an Oklahoma College Savings Plan [AMENDED]
Part 7. Credits against Tax
710:50-15-76. Oklahoma coal credits [AMENDED]
710:50-15-85. Credit for investment in Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association [AMENDED]
710:50-15-90. Oklahoma earned income tax credit [AMENDED]
710:50-15-92. Credit for manufacturers of advanced small wind turbines [AMENDED]
710:50-15-97. Credit for qualified direct costs of a business enterprise of specially trained canines [NEW]
710:50-15-98. Credits for biodiesel production [NEW]
710:50-15-99. Dry fire hydrant credit [NEW]
710:50-15-100. Credit for qualified wages, capital expenditures, and training expenses. [NEW]
710:50-15-101. Twenty-five percent (25%) Film and Music Profit Reinvestment Credit [NEW]
710:50-15-103 Credit for qualified railroad reconstruction or replacement expenditures [NEW]
710:50-15-104. Credit for construction of energy efficient residential property [NEW]
710:50-15-105. Credit for research and development [NEW]
710:50-15-106. Credits for ethanol production [NEW]
710:50-15-107. Eligible wage and modification expenses credits [NEW]
Subchapter 17. Oklahoma Taxable Income for Corporations
Part 1. General Provisions
710:50-17-3. What constitutes "Nexus" [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 31, 2006
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March 31, 2006
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March 31, 2006

*[OAR Docket #06-524; filed 3-31-06]*

## TITLE 710. OKLAHOMA TAX COMMISSION
## CHAPTER 55. MOTOR FUEL

*[OAR Docket #06-525]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review.
**RULES:**
Subchapter 4. Motor Fuel Tax
Part 1. Licenses
710:55-4-103. Election to be treated as an eligible ~~purcaser~~ purchaser [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 31, 2006
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March 31, 2006
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March 31, 2006

*[OAR Docket #06-525; filed 3-31-06]*

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

*[OAR Docket #06-526]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review.
**RULES:**
Subchapter 2. Cigarette Stamp Tax
Part 1. General Provisions
710:70-2-9.1. Vehicle cigarette licenses [NEW]
710:70-2-11. Requirements placed on distributors and retailers to maintain copies of invoices [NEW]
710:70-2-12. Limitation on sale of number of packs of cigarettes at a reduced rate [NEW]
Subchapter 5. Excise on Tobacco Products

710:70-5-13. Requirements placed on distributors and retailers to maintain copies of invoices with certain information that must be show on each invoice [NEW]

**SUBMITTED TO GOVERNOR:**
March 31, 2006
**SUBMITTED TO HOUSE:**
March 31, 2006
**SUBMITTED TO SENATE:**
March 31, 2006

*[OAR Docket #06-526; filed 3-31-06]*

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

*[OAR Docket #06-527]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review.
**RULES:**
Subchapter 2. Cigarette Stamp Tax
Part 1. General Provisions
710:70-2-13. Stamps required, applicable compact and non-compact tax rates, and refund procedures relating to sales of packs of cigarettes to tribal retailers [NEW]
**SUBMITTED TO GOVERNOR:**
March 31, 2006
**SUBMITTED TO HOUSE:**
March 31, 2006
**SUBMITTED TO SENATE:**
March 31, 2006

*[OAR Docket #06-527; filed 3-31-06]*

## TITLE 710. OKLAHOMA TAX COMMISSION
## CHAPTER 85. VARIOUS TAX INCENTIVES

*[OAR Docket #06-528]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review.
**RULES:**
Subchapter 7. Oklahoma Film Enhancement Rebate Program
710:85-7-3. Procedure upon qualification; payment [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 31, 2006
**SUBMITTED TO HOUSE:**
March 31, 2006
**SUBMITTED TO SENATE:**
March 31, 2006

*[OAR Docket #06-528; filed 3-31-06]*

## TITLE 710. OKLAHOMA TAX COMMISSION
## CHAPTER 90. WITHHOLDING

*[OAR Docket #06-529]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review.
**RULES:**
Subchapter 3. Returns and Payments
710:90-3-4. Filing of tax returns [AMENDED]
710:90-3-11. Income tax withholding for pass-through entities [AMENDED]
710:90-3-15. Payments; due dates [AMENDED]
710:90-3-17. Penalty and interest [AMENDED]
**SUBMITTED TO GOVERNOR:**
March 31, 2006
**SUBMITTED TO HOUSE:**
March 31, 2006
**SUBMITTED TO SENATE:**
March 31, 2006

*[OAR Docket #06-529; filed 3-31-06]*

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

*[OAR Docket #06-505]*

**RULEMAKING ACTION:**
Submission for gubernatorial and legislative review
**RULES:**
Subchapter 3. Reporting Requirements
Part 3. Financial Institutions
735:80-3-11. [NEW]
**SUBMITTED TO GOVERNOR:**
March 28, 2006
**SUBMITTED TO HOUSE:**
March 28, 2006
**SUBMITTED TO SENATE:**
March 28, 2006

*[OAR Docket #06-505; filed 3-31-06]*

# 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 210. STATE DEPARTMENT OF EDUCATION
## CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

*[OAR Docket #06-551]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 13. Student Assessment
210:10-13-18. [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 16, 2006

*[OAR Docket #06-551; filed 4-4-06]*

## TITLE 210. STATE DEPARTMENT OF EDUCATION
## CHAPTER 15. CURRICULUM AND INSTRUCTION

*[OAR Docket #06-552]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 8. Six-Year Comprehensive Local Education Plan [NEW]
210:15-8-1. [NEW]
210:15-8-2. [NEW]
**GUBERNATORIAL APPROVAL:**
March 16, 2006

*[OAR Docket #06-552; filed 4-4-06]*

## TITLE 210. STATE DEPARTMENT OF EDUCATION
## CHAPTER 15. CURRICULUM AND INSTRUCTION

*[OAR Docket #06-555]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 27. Reading Sufficiency Act
210:15-27-1. [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 16, 2006

*[OAR Docket #06-555; filed 4-4-06]*

## TITLE 210. STATE DEPARTMENT OF EDUCATION
## CHAPTER 20. STAFF

*[OAR Docket #06-549]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 26. Academic Achievement Award Program [NEW]
210:20-26-1. [NEW]
210:20-26-2. [NEW]
210:20-26-3. [NEW]
**GUBERNATORIAL APPROVAL:**
March 16, 2006

*[OAR Docket #06-549; filed 4-4-06]*

## TITLE 210. STATE DEPARTMENT OF EDUCATION
## CHAPTER 20. STAFF

*[OAR Docket #06-550]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 9. Professional Standards: Teacher Education and Certification
Part 19. Competencies for Licensure and Certification of Administrative Personnel
210:20-9-182. [AMENDED]
210:20-9-189. [NEW]
**GUBERNATORIAL APPROVAL:**
March 16, 2006

*[OAR Docket #06-550; filed 4-4-06]*

## TITLE 210. STATE DEPARTMENT OF EDUCATION
## CHAPTER 20. STAFF

*[OAR Docket #06-553]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 9. Professional Standards: Teacher Education and Certification
Part 17. Full (Subject Matter) Competencies for Licensure and Certification
210:20-9-172. [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 16, 2006

*[OAR Docket #06-553; filed 4-4-06]*

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## TITLE 210. STATE DEPARTMENT OF EDUCATION
## CHAPTER 20. STAFF

*[OAR Docket #06-554]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 17. Mentor Teacher
210:20-17-3. [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 16, 2006

*[OAR Docket #06-554; filed 4-4-06]*

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## TITLE 230. STATE ELECTION BOARD
## CHAPTER 10. THE COUNTY ELECTION BOARD

*[OAR Docket #06-541]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 3. Election Personnel
Part 1. ~~The~~ County Election Board Members and Employees
230:10-3-6. Creation of vacancies [AMENDED]
230:10-3-8. Salary of the Secretary [AMENDED]
Part 3. The Precinct Election Board
230:10-3-28.1. Special-purpose precinct workers [AMENDED]
230:10-3-33. Compensation of Inspector [AMENDED]
230:10-3-34. Compensation of Judges and Clerks [AMENDED]
230:10-3-35. No double compensation [AMENDED]
Subchapter 7. General Administration of the County Election Board
Part 1. Meetings of the Board
230:10-7-3. Types of meetings; terms defined [AMENDED]
230:10-7-4. Public notice required [AMENDED]
230:10-7-14. Method of voting [AMENDED]
Part 5. Maintaining the Office
230:10-7-43. Retention of forms and materials documenting voter registration transactions [AMENDED]
230:10-7-45. Retention of Precinct Registries and affidavits [AMENDED]
Part 7. Public Records
230:10-7-66.1. Voter registration records available on electronic media from State Election Board [AMENDED]
Part 9. Finances
230:10-7-74. Pre-Election Expense Claim [AMENDED]
230:10-7-82. Expenses paid through Special Depository Account [AMENDED]
230:10-7-85. Retention of County Election Board financial records [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 29, 2006

*[OAR Docket #06-541; filed 4-3-06]*

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## TITLE 230. STATE ELECTION BOARD
## CHAPTER 15. VOTER REGISTRATION

*[OAR Docket #06-542]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 1. General Provisions
230:15-1-2. Definitions [AMENDED]
Subchapter 3. Voter Outreach
Part 3. Distribution of Voter Registration Application Forms [AMENDED]
230:15-3-23. Voter registration application forms available to individuals [AMENDED]
Subchapter 5. Application for Voter Registration
Part 9. Accessibility of Voter Registration Application Services
230:15-5-36. Accessibility of voter registration application services for elderly and handicapped voters [AMENDED]
Part 19. Recognized Political Parties and Political Organizations
230:15-5-77. Recognized political parties [AMENDED]
Subchapter 9. Receiving and processing Voter Registration Applications

Part 5. Processing Voter Registration Applications
230:15-9-18. Entering applications for voter registration in OEMS [AMENDED]
230:15-9-20. Processing applications for name change [AMENDED]
230:15-9-24. Processing transfers executed on election day or during in-person absentee voting [AMENDED]
230:15-9-25. Processing applications for restricted records status [AMENDED]
Subchapter 11. Voter Registration List Maintenance
Part 1. Cancellation of Voter Registration
230:15-11-5. Potential Deletion Report [AMENDED]

**GUBERNATORIAL APPROVAL:**
March 29, 2006

*[OAR Docket #06-542; filed 4-3-06]*

## TITLE 230. STATE ELECTION BOARD CHAPTER 30. ABSENTEE VOTING

*[OAR Docket #06-543]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules

**RULES:**
Subchapter 1. General Provisions
230:30-1-2. Definitions [AMENDED]
Subchapter 7. Absentee Voting Boards
230:30-7-6.1. Training for Absentee Voting Board members [AMENDED]
230:30-7-7. Supplies for Absentee Voting Board [AMENDED]
230:30-7-11. Procedure for in-person Absentee Voting Board to receive applications and issue ballots [AMENDED]
230:30-7-13. In-person absentee voting procedure for uniformed services voter or overseas voter [AMENDED]
230:30-7-14. Verifying voter registration information and status of in-person absentee voters [AMENDED]
230:30-7-16. In-person Absentee Voting Board members may cast ballots [NEW]
Subchapter 9. Processing Applications
230:30-9-3. Processing applications for absentee ballots [AMENDED]
230:30-9-6. Processing requests from emergency incapacitated voters [AMENDED]
Subchapter 11. Receiving and Processing Absentee Ballots
230:30-11-6.1. Receiving voted absentee ballots by fax from uniformed services and overseas voters [AMENDED]

**GUBERNATORIAL APPROVAL:**
March 29, 2006

*[OAR Docket #06-543; filed 4-3-06]*

## TITLE 230. STATE ELECTION BOARD CHAPTER 35. ELECTION CONDUCT

*[OAR Docket #06-544]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules

**RULES:**
Subchapter 1. General Provisions
230:35-1-2. Definitions [NEW]
Subchapter 3. County Election Board Responsibilities
Part 1. Before the Filing Period
230:35-3-3. Assembling precinct supplies [AMENDED]
Part 5. Precinct Official Payroll
230:35-3-30. Pre-Election Expense Claim [AMENDED]
230:35-3-40. Substitute vouchers [AMENDED]
Part 9. Distributing Supplies and Ballots
230:35-3-68. Assembly line distribution of supplies to Inspectors [AMENDED]
Part 13. After the Polls Close
230:35-3-84.1. Determining number of signatures on Provisional Ballot Rosters [AMENDED]
230:35-3-86. Sheriff to provide security for voted ballots [AMENDED]
230:35-3-87. Accumulating and producing election results [AMENDED]
Part 15. Certification of Results
230:35-3-91. Certifying county election results [AMENDED]
Part 19. Verifying and Counting Provisional Ballots
230:35-3-125.1. Entering provisional voter information in OEMS [NEW]
230:35-3-126. Criteria for verification of provisional ballot affidavit information [AMENDED]
230:35-3-130. Provisional ballot verification procedure for voter who disagrees with school district or municipal assignment [AMENDED]
230:35-3-131. Opening provisional ballot affidavit envelopes and counting provisional ballots [AMENDED]
230:35-3-132. Obtaining provisional ballot results [AMENDED]
Subchapter 5. Instructions for Precinct Election Officials
Part 5. Preparations on Election Day
230:35-5-28. Preparation of polling place [AMENDED]
230:35-5-31.1. Location and materials for provisional voting [AMENDED]
Part 15. After the polls close
230:35-5-76. Repacking supplies [AMENDED]
Part 21. Voters Listed in Precinct Registry Who Have Problems With Eligibility
230:35-5-113.2. Determining voter's school district or municipality [AMENDED]
Part 34. Provisional Voting Procedures
230:35-5-175. Uniformed Services or Overseas Voter [AMENDED]

230:35-5-176. Filling out a Provisional Ballot Voucher [AMENDED]
230:35-5-177. Provisional voting procedure [AMENDED]
Subchapter 9. HAVA Requirements
Part 3. Provisional Voting
230:35-9-7. Voters who may cast a provisional ballot [AMENDED]
230:35-9-9. Extension of provisional ballot verification period [AMENDED]

**GUBERNATORIAL APPROVAL:**
March 29, 2006

*[OAR Docket #06-544; filed 4-3-06]*

## TITLE 230. STATE ELECTION BOARD CHAPTER 40. TYPES OF ELECTIONS

*[OAR Docket #06-545]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules

**RULES:**
Subchapter 1. General Provisions
230:40-1-1. Purpose [AMENDED]
Subchapter 3. Special Elections
Part 1. Calling Special Elections
230:40-3-1.1. Times for special elections
Subchapter 5. Municipal Elections
Part 1. Cities With Home Rule Charters
230:40-5-5. Statutory election dates required for home rule charter cities [AMENDED]
Part 5. Statutory Municipalities
230:40-5-18. Notice of elections [AMENDED]
Part 9. Procedures
230:40-5-46. Maps required [AMENDED]
230:40-5-46.1. Effective date of municipal boundary changes for election purposes [NEW]
Part 13. Expenses
230:40-5-60. Claim for balance of election expenses [AMENDED]
Part 15. Municipalities in More Than One County
230:40-5-65. Municipalities in more than one county [AMENDED]
Part 17. Special Elections
230:40-5-77. Special elections for municipal offices [AMENDED]
Subchapter 7. School Elections
Part 1. Dates and Notice for Annual School Elections [AMENDED]
230:40-7-4. Posting copy of legal notice of school election at County Election Board office [NEW]
Part 7. Ballot Printing
230:40-7-29. Mill levy ballots [AMENDED]
Part 23. Multi-county School Districts
230:40-7-106. Board meetings shall be scheduled [AMENDED]
230:40-7-107. Reporting results to parent County Election Board [AMENDED]

**GUBERNATORIAL APPROVAL:**
March 29, 2006

*[OAR Docket #06-545; filed 4-3-06]*

## TITLE 230. STATE ELECTION BOARD CHAPTER 45. CONTESTS OF ELECTION

*[OAR Docket #06-546]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules

**RULES:**
Subchapter 3. Recounts
Part 1. Recounts for County Office
230:45-3-5. Sheriff to provide security for ballots [AMENDED]
230:45-3-9. Conducting the recount [AMENDED]
230:45-3-10. All ballots must be counted [AMENDED]
Part 7. Recounts for Question Elections
230:45-3-39. All ballots must be counted [AMENDED]

**GUBERNATORIAL APPROVAL:**
March 29, 2006

*[OAR Docket #06-546; filed 4-3-06]*

## TITLE 235. OKLAHOMA FUNERAL BOARD CHAPTER 10. FUNERAL SERVICES LICENSING

*[OAR Docket #06-508]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules

**RULES:**
Subchapter 3. Qualifications and Requirements for Licensure
235:10-3-1. [AMENDED]

**GUBERNATORIAL APPROVAL**
December 19, 2005

*[OAR Docket #06-508; filed 3-31-06]*

## TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 1. GENERAL PROVISIONS

*[OAR Docket #06-475]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules

**RULES:**
Subchapter 1. General Provisions
240:1-1-4. Authority [AMENDED]
Subchapter 3. Records and Inspections
240:1-3-5. Charges [AMENDED]
240:1-3-6. Search fees [AMENDED]
**GUBERNATORIAL APPROVAL:**
January 25, 2006

*[OAR Docket #06-475; filed 3-29-06]*

## TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

*[OAR Docket #06-476]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 3. Benefits
Part 9. Disqualification
240:10-3-44. Domestic violence or abuse [REVOKED]
**GUBERNATORIAL APPROVAL:**
March 24, 2006

*[OAR Docket #06-476; filed 3-29-06]*

## TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

*[OAR Docket #06-477]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 3. Benefits
Part 3. Computation
240:10-3-12. Payment of benefits [NEW]
Part 5. Eligibility
240:10-3-20. Instructions to secure work [AMENDED]
240:10-3-24. Claims for partial unemployment benefits [AMENDED]
Subchapter 5. Contributions
Part 1. General Provisions
240:10-5-2. Definitions [AMENDED]
Part 3. Rates
240:10-5-11. Subject employer acquiring the experience rating account of another employer [AMENDED]
240:10-5-12. Nonsubject entity acquiring the experience rating account of an employer [AMENDED]
**GUBERNATORIAL APPROVAL:**
January 25, 2006

*[OAR Docket #06-477; filed 3-29-06]*

## TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 21. WORKFORCE INVESTMENT ACT

*[OAR Docket #06-478]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 1. General Provisions
240:21-1-1. Purpose [AMENDED]
240:21-1-2. Definitions [AMENDED]
240:21-1-3. Addresses for appeals [AMENDED]
Subchapter 3. Denial or Termination of Eligibility of a Training Provider
240:21-3-1. Reporting - termination [AMENDED]
240:21-3-2. Notice to the training provider [AMENDED]
Subchapter 5. Denial of Request for Designation as a Local Workforce Investment Area
240:21-5-2. Appeal Time [AMENDED]
240:21-5-3. Hearing [AMENDED]
Subchapter 7. Monitoring
240:21-7-2. Monitoring report [AMENDED]
240:21-7-3. Monitoring resolution [AMENDED]
240:21-7-5. Appeal [AMENDED]
Subchapter 9. Audits
240:21-9-1. Audit requirements [AMENDED]
240:21-9-2. Delinquent audit [AMENDED]
Subchapter 11. Grievance Procedure
Part 1. General Provisions
240:21-11-1. Grievances [AMENDED]
Part 3. Grievances Filed Directly with the Oesc
240:21-11-10. Filing [AMENDED]
240:21-11-12. Contents of a grievance [AMENDED]
240:21-11-13. Referral of a grievance filed with OESC [AMENDED]
Part 5. Appeals to the Oesc from Grievance Decisions of a Local Area
240:21-11-21. Appeals with the OESC [AMENDED]
240:21-11-22. Time limit for filing an appeal with OESC [AMENDED]
Part 7. Informal and Formal Resolutions of Grievances
240:21-11-30. Informal resolution [AMENDED]
240:21-11-31. Hearing [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 24, 2006

*[OAR Docket #06-478; filed 3-29-06]*

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 525. DIRECT SERVICES TO INDIVIDUALS

*[OAR Docket #06-559]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 3. Child Guidance
310:525-3-2. [AMENDED]
310:525-3-3. [AMENDED]
310:525-3-4. [AMENDED]
310:525-3-5. [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 24, 2006

*[OAR Docket #06-559; filed 4-4-06]*

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## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 535. IMMUNIZATIONS

*[OAR Docket #06-560]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 1. Childhood Immunizations
310:535-1-2. [AMENDED]
310:535-1-3. [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 24, 2006

*[OAR Docket #06-560; filed 4-4-06]*

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

*[OAR Docket #06-458]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 1. General Provisions
450:15-1-2. [AMENDED]
Subchapter 3. Consumer Rights
Part 1. Mental Health and Drug or Alcohol Abuse Services Consumer Bill of Rights
450:15-3-2. [AMENDED]
450:15-3-14. [AMENDED]
450:15-3-16. [AMENDED]
Part 11. Resident Rights, Mental Health Residential Care Facilities
450:15-3-81. [AMENDED]
450:15-3-82. [AMENDED]
Subchapter 7. Office of Consumer Advocacy
Part 1. Duties
450:15-7-3. [AMENDED]
Part 2. Investigations
450:15-7-11. [AMENDED]
450:15-7-15. [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 9, 2006

*[OAR Docket #06-458; filed 3-28-06]*

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

*[OAR Docket #06-459]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 1. General Provisions
450:16-1-2. [AMENDED]
Subchapter 13. Quality of Life
450:16-13-18. [AMENDED]
450:16-13-46. [AMENDED]
Subchapter 21. Personnel, Staffing and Training
450:16-21-1. [AMENDED]
450:16-21-4. [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 9, 2006

*[OAR Docket #06-459; filed 3-28-06]*

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

*[OAR Docket #06-460]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 1. General Provisions
450:17-1-2. [AMENDED]
Subchapter 3. Required Services

Part 1. Required Services
450:17-3-1. [AMENDED]
Part 3. Screening Intake and Referral
450:17-3-21. [AMENDED]
Part 5. Emergency Services
450:17-3-41. [AMENDED]
450:17-3-43. [AMENDED]
Part 7. Outpatient Counseling Services
450:17-3-61. [AMENDED]
450:17-3-62. [AMENDED]
Part 9. Medication Clinic Services
450:17-3-81. [AMENDED]
450:17-3-84. [AMENDED]
Part 11. Case Management
450:17-3-101. [AMENDED]
450:17-3-101.1. [AMENDED]
450:17-3-103. [AMENDED]
Part 15. Adult Recovery and Rehabilitation Programs
450:17-3-141. [AMENDED]
450:17-3-144. [AMENDED]
Subchapter 5. Optional Services
Part 7. Day Treatment Services, Children and Adolescents
450:17-5-34. [AMENDED]
Part 9. Vocational Employment Services
450:17-5-45. [AMENDED]
Part 11. Community Living Programs
450:17-5-56. [AMENDED]
Part 15. Inpatient Services
450:17-5-95. [AMENDED]
450:17-5-96. [AMENDED]
450:17-5-98. [AMENDED]
Subchapter 7. Facility Clinical Records
450:17-7-3. [AMENDED]
450:17-7-5. [AMENDED]
450:17-7-5.1. [NEW]
450:17-7-8. [AMENDED]
450:17-7-10. [AMENDED]
Subchapter 13. Organizational Management
450:17-13-1. [AMENDED]
Subchapter 19. Human Resources
450:17-19-2. [AMENDED]
Subchapter 21. Staff Development and Training
450:17-21-2. [AMENDED]
450:17-21-3. [AMENDED]
Subchapter 25. Governing Authority
450:17-25-2. [AMENDED]

**GUBERNATORIAL APPROVAL:**
March 9, 2006

*[OAR Docket #06-460; filed 3-28-06]*

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

*[OAR Docket #06-461]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules

**RULES:**
Subchapter 1. General Provisions
450:23-1-2. [AMENDED]
Subchapter 3. CBSCC Services
450:23-3-1. [AMENDED]
450:23-3-2. [AMENDED]
450:23-3-3. [AMENDED]
450:23-3-4. [AMENDED]
450:23-3-5. [AMENDED]
Subchapter 5. CBSCC Clinical Records
450:23-5-4. [AMENDED]
450:23-5-5. [AMENDED]
450:23-5-7.1. [AMENDED]
450:23-5-8. [AMENDED]
Subchapter 11. Organizational Management
450:23-11-1. [AMENDED]
Subchapter 17. Personnel
450:23-17-2. [AMENDED]
Subchapter 19. Staff Development and Training
450:23-19-2. [AMENDED]
450:23-19-3. [AMENDED]

**GUBERNATORIAL APPROVAL:**
March 9, 2006

*[OAR Docket #06-461; filed 3-28-06]*

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

*[OAR Docket #06-462]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules

**RULES:**
Subchapter 1. General Provisions
450:50-1-2. [AMENDED]
Subchapter 3. Behavioral Health Case Manager Certification Application
450:50-3-1. [AMENDED]
450:50-3-2. [AMENDED]
Subchapter 5. Behavioral Health Case Manager Certification Training

450:50-5-1. [AMENDED]
450:50-5-2. [AMENDED]
450:50-5-3. [AMENDED]
450:50-5-4. [AMENDED]
Subchapter 7. Rules of Professional Conduct
450:50-7-4. [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 9, 2006

*[OAR Docket #06-462; filed 3-28-06]*

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

*[OAR Docket #06-463]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 1. General Provisions
450:55-1-2. [AMENDED]
Subchapter 3. Program Description and PACT Services
450:55-3-2. [AMENDED]
450:55-3-5. [AMENDED]
450:55-3-6. [AMENDED]
450:55-3-7. [AMENDED]
450:55-3-9. [AMENDED]
450:55-3-10. [AMENDED]
Subchapter 5. PACT Clinical Documentation
450:55-5-4. [AMENDED]
450-55-5-5. [AMENDED]
Subchapter 11. Organizational Management
450:55-11-1. [AMENDED]
450:55-11-2. [AMENDED]
Subchapter 15. Personnel
450:55-15-2. [AMENDED]
Subchapter 17. Staff Development and Training
450:55-17-2. [AMENDED]
450:55-17-3. [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 9, 2006

*[OAR Docket #06-463; filed 3-28-06]*

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

*[OAR Docket #06-479]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
Subchapter 7. Requirements for Registration and Licensure as a Registered Nurse
485:10-7-2. [AMENDED]
Subchapter 9. Requirements for Registration and Licensure as a Licensed Practical Nurse
485:10-9-1. [AMENDED]
485:10-9-2. [AMENDED]
Subchapter 10. Advanced Unlicensed Assistive Personnel
485:10-10-8.1. [NEW]
Subchapter 15. Requirements for Practice as an Advanced Practice Nurse
485:10-15-4. [AMENDED]
485:10-15-4.1. [AMENDED]
485:10-15-6. [AMENDED]
485:10-15-7. [AMENDED]
Subchapter 16. Requirements for Prescriptive Authority for Advanced Practice Nurses
485:10-16-1. [AMENDED]
485:10-16-2. [AMENDED]
485:10-16-3. [AMENDED]
485:10-16-4. [AMENDED]
485:10-16-5. [AMENDED]
485:10-16-6. [AMENDED]
485:10-16-7. [AMENDED]
485:10-16-8. [AMENDED]
Subchapter 18. Prescriptive Authority for C.R.N.A.
485:10-18-2. [AMENDED]
**GUBERNATORIAL APPROVAL:**
March 16, 2006

*[OAR Docket #06-479; filed 3-29-06]*

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## TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
## CHAPTER 1. ORGANIZATION OF BOARD AND PROCEDURES FOR HANDLING COMPLAINT

*[OAR Docket #06-530]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules
**RULES:**
575:1-1-3. [AMENDED]
575:1-1-4. [AMENDED]

**GUBERNATORIAL APPROVAL:**
March 24, 2006

*[OAR Docket #06-530; filed 4-3-06]*

## TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
## CHAPTER 10. LICENSURE OF PSYCHOLOGISTS

*[OAR Docket #06-531]*

**RULEMAKING ACTION:**
Gubernatorial approval of permanent rules

**RULES:**
575:10-1-5. [AMENDED]
575:10-1-9. [AMENDED]
575:10-1-10. [AMENDED]

**GUBERNATORIAL APPROVAL:**
March 24, 2006

*[OAR Docket #06-531; filed 4-3-06]*

# 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 2. FEES

*[OAR Docket #06-579]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 3. Fee Schedules
35:2-3-26. [AMENDED]
**AUTHORITY:**
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and (29), 3-100 et seq.
**DATES:**
**Comment period:**
October 17, 2005 through November 16, 2005
**Public hearing:**
November 16, 2005
**Adoption:**
November 17, 2005
**Submitted to Governor:**
November 21, 2005
**Submitted to House:**
November 21, 2005
**Submitted to Senate:**
November 21, 2005
**Gubernatorial approval:**
December 22, 2005
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on March 31, 2006
**Final adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
This rule revises the apiary program fees to be more reflective of costs associated with administering the program. House Bill 1809 amended the Oklahoma Apiary Act in 2005 and provided the Department the authority to revise and establish appropriate fees.
**CONTACT PERSON:**
Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, (405) 522-4576

**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 11, 2006:**

## SUBCHAPTER 3. FEE SCHEDULES

### 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~~ The fee for any person registering pursuant to the Oklahoma Apiary Act shall be ~~of Five~~ Ten Dollars ~~($5.00) shall be charged for the registration~~ ($10.00).

~~(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~~b) An ~~annual~~ entry permit fee of ~~Five~~ One Hundred Dollars ~~($5.00)~~ ($100.00) shall be charged for ~~the registration of each minatory beekeeper. Migratory~~ 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~~c) Any ~~beekeeper~~ person requesting inspection of an apiary shall pay a fee based on the total number of ~~colonies in the possession of the beekeeper~~ hives listed on the certificate of inspection. The following inspection fees shall be charged at the time of inspection:

(1) ~~5~~ One to ~~50 colonies of bees~~ 25 hives: ~~$ 5.00~~ $10.00.

(2) ~~51~~ 26 to ~~100 colonies of bees~~ 50 hives: ~~$10.00~~ $25.00.

(3) ~~101~~ 51 to ~~300 colonies of bees~~ 100 hives: ~~$15.00~~ $50.00.

(4) ~~301~~ 101 to ~~1000 colonies of bees~~ 250 hives: ~~$25.00~~ $75.00.

(5) ~~over 1000 colonies of bees~~ 251 to 500 hives: ~~$40.00.~~ $100.00.

(6) 501 to 1,000 hives: $200.00.

(7) More than 1,000 hives: $250.00.

(~~e~~d) ~~Upon request, the Board may take samples and perform laboratory diagnosis to determine if any disease or invasive species exists in the apiary. The~~ Any person ~~making the request~~ requesting the Department to take samples for laboratory diagnosis shall be charged Twenty-five Dollars ($25.00) for each ~~diagnosis~~ sample. ~~The manner of sampling and method of diagnosis shall be at the Board's discretion.~~ This charge shall not include the actual cost of diagnosis charged by the laboratory.
(~~f~~e) ~~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.~~

*[OAR Docket #06-579; filed 4-5-06]*

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

*[OAR Docket #06-581]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 11. Importation of Livestock, Poultry, and Pets
Part 7. Livestock
35:15-11-20. [AMENDED]
**AUTHORITY:**
Oklahoma State Board of Agriculture and the Oklahoma Agriculture Code; 2 O.S. 2001 §§ 2-4(2), (7), and (29), 6-150, 6-151, and 6-153; Article 6, Section 31, Constitution of the State of Oklahoma
**DATES:**
**Comment period:**
August 15, 2005 through September 15, 2005
**Public hearing:**
September 15, 2005
**Adoption:**
September 22, 2005
**Submitted to Governor:**
September 22, 2005
**Submitted to House:**
September 22, 2005
**Submitted to Senate:**
September 22, 2005
**Gubernatorial approval:**
October 3, 2005
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on March 31, 2006
**Final adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
**Superseded rules:**
Subchapter 11. Importation of Livestock, Poultry, and Pets
Part 7. Livestock
35:15-11-20. [AMENDED]
**Register publication:**
23 Ok Reg 11
**Docket number:**
05-1201
**GUBERNATORIAL APPROVAL:**
August 4, 2005
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The proposed rule requires all livestock entering Oklahoma, including those that leave the state temporarily and seek reentry, to be examined by a veterinarian in that state prior to reentry into Oklahoma and be accompanied by a certificate of veterinary inspection dated within five days of entry.
**CONTACT PERSON:**
Dr. Becky Brewer-Walker, 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 MAY 11, 2006:**

### SUBCHAPTER 11. IMPORTATION OF LIVESTOCK, POULTRY, AND PETS

### PART 7. LIVESTOCK

**35:15-11-20. Requirements regarding vesicular stomatitis**

(a) Any livestock (equine, bovine, porcine, caprine, ovine, or cervidae) entering or reentering Oklahoma from a state where vesicular stomatitis has been diagnosed within the last thirty (30) days ~~must~~ shall be accompanied by a Certificate of Veterinary Inspection ~~with~~ dated within five (5) days of entry containing the following statement ~~written on the certificate by the accredited veterinarian~~: "All animals identified on this health certificate have been examined and found to be free from signs of vesicular stomatitis and have not originated from a premise which is under quarantine for vesicular stomatitis."
(b) The Certificate of Veterinary Inspection shall be signed by an accredited veterinarian of the state where vesicular stomatitis has been diagnosed and shall be obtained prior to each entry or reentry into Oklahoma.

*[OAR Docket #06-581; filed 4-5-06]*

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

*[OAR Docket #06-576]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 40. Bovine Tuberculosis
Part 3. Rules Adopted from Usda Uniform Methods and Rules for Bovine Tuberculosis Eradication
35:15-40-49.1. [AMENDED]

**AUTHORITY:**
Oklahoma State Board of Agriculture and the Oklahoma Agriculture Code; 2 O.S. 2001 §§ 2-4(2), (7), and (29), 6-2, and 6-141 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma
**DATES:**
**Comment period:**
August 15, 2005 through September 15, 2005
**Public hearing:**
September 15, 2005
**Adoption:**
September 22, 2005
**Submitted to Governor:**
September 22, 2005
**Submitted to House:**
September 22, 2005
**Submitted to Senate:**
September 22, 2005
**Gubernatorial approval:**
October 3, 2005
**Legislative approval:**
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**Final adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The proposed rule corrects an oversight made in Fiscal Year 2005. A requirement to S-brand certain cattle was deleted during last year's rulemaking in several areas, but one reference was overlooked. This rulemaking makes that correction. The proposed rule allows a producer to tag cattle as slaughter only rather than requiring an S-brand.
**CONTACT PERSON:**
Dr. Becky Brewer-Walker, 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 MAY 11, 2006:**

## SUBCHAPTER 40. BOVINE TUBERCULOSIS

## PART 3. RULES ADOPTED FROM USDA UNIFORM METHODS AND RULES FOR BOVINE TUBERCULOSIS ERADICATION

### 35:15-40-49.1. Dairy cattle change of ownership

(a) Sexually intact dairy cattle six (6) months of age or older and weighing four hundred fifty (450) pounds or more shall:

(1) Test negative for tuberculosis no more than sixty (60) days prior to a change in ownership; or

(2) Originate from a herd with a biennial complete herd negative caudal fold tuberculin test of all cattle twenty (20) months of age or greater that exhibit no other evidence of bovine tuberculosis; or

(3) Originate from an accredited tuberculosis free herd.

(b) Any dairy cattle that do not meet these testing requirements shall be ~~S-branded~~ tagged as slaughter only and sent either directly to slaughter or to a designated feedlot.

(c) For purposes of this section a biennial negative caudal fold tuberculin test shall occur at an interval of not less than twenty-two (22) nor more than twenty-six (26) months and be valid for a period of two years.

(d) For purposes of this section dairy cattle shall include typical dairy framed animals as determined by the inspecting veterinarian.

*[OAR Docket #06-576; filed 4-5-06]*

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

*[OAR Docket #06-578]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Appendix F. Official Marks of Inspection and Other Identification for Meat and Meat Products [REVOKED]
Appendix N. Official Marks of Inspection and Other Identification for Poultry and Poultry Products [REVOKED]
Appendix O. Official Marks of Inspection and Other Identification for Rabbits and Rabbit Products [REVOKED]
**AUTHORITY:**
Oklahoma State Board of Agriculture and the Oklahoma Agriculture Code; 2 O.S. 2001 §§ 2-4(2), 2-4(7), 2-4(23), 2-4(24), 2-4(25), 2-4(28), and 2-4(29), 6-181 et seq., 6-251 et seq., and 6-280.1 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma
**DATES:**
**Comment period:**
August 15, 2005 through September 15, 2005
**Public hearing:**
September 15, 2005
**Adoption:**
September 22, 2005
**Submitted to Governor:**
September 22, 2005
**Submitted to House:**
September 22, 2005
**Submitted to Senate:**
September 22, 2005
**Gubernatorial approval:**
October 3, 2005
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on March 31, 2006
**Final adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The proposed rules revoke certain appendices that are duplicates of other appendices elsewhere in the Oklahoma Administrative Code.
**CONTACT PERSON:**
Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry (405) 522-4576

**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 11, 2006:**

## APPENDIX F. OFFICIAL MARKS OF INSPECTION AND OTHER IDENTIFICATION FOR MEAT AND MEAT PRODUCTS [REVOKED]

Illustration 1
Official marks and devices to identify inspected and passed products of cattle, bison, sheep, swine, or goats (Reference: 35:15-25-163)

1" X 11/16" Inspection legend.

1 3/4" X 1/18" Inspection legend.

2 1/2 X 1 5/8 Inspection legend.

Illustration 2
Official marks and devices in connection with post-mortem inspection and identification of adulterated products and insanitary equipment and facilities (Reference: 35:15-25-167)

The "Oklahoma Passed for Cooking" mark:

OKLAHOMA PASSED
FOR COOKING

The "Oklahoma Condemned" mark:

OKLAHOMA
CONDEMNED

## APPENDIX N. OFFICIAL MARKS OF INSPECTION AND OTHER IDENTIFICATION FOR POULTRY AND POULTRY PRODUCTS [REVOKED]

Illustration 1
(Reference: 35:15-27-190)

Wording and form of the official inspection legend

Illustration 2
(Reference: 35:15-27-191)

Official dressed poultry identification mark

DRESSED POULTRY
ELIGIBLE FOR FURTHER
PROCESSING
In Official Establishments Under
OSDA Inspection

Plant No. 000. Lot 000

Illustration 3
(Reference: 35:15-27-192)

Official seal

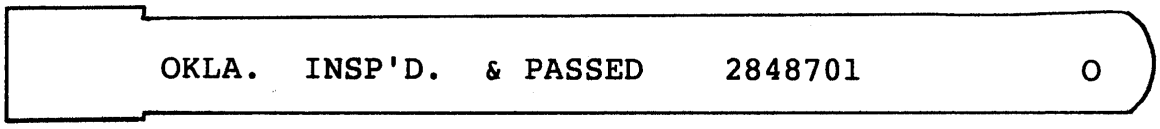

Illustration 4
(Reference: 35:15-27-195)

Official Oklahoma condemned mark

OKLAHOMA
CONDEMNED

## APPENDIX O. OFFICIAL MARKS OF INSPECTION AND OTHER IDENTIFICATION FOR RABBITS AND RABBIT PRODUCTS [REVOKED]

(Reference: 35:15-31-21)

*[OAR Docket #06-578; filed 4-5-06]*

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

*[OAR Docket #06-575]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 9. Agricultural Compost Facilities [NEW]
35:17-9-1. through 35:17-9-8. [NEW]
**AUTHORITY:**
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2), and (29); 2-18.2, 27A O.S. Supp. 2004 § 1-3-101(D)(1)(a); Article 6, Section 31, Constitution of the State of Oklahoma
**DATES:**
**Comment period:**
December 15, 2005 through January 17, 2006
**Public hearing:**
January 17, 2006
**Adoption:**
January 23, 2006
**Submitted to Governor:**
January 23, 2006
**Submitted to House:**
January 23, 2006
**Submitted to Senate:**
January 23, 2006
**Gubernatorial approval:**
March 9, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on March 31, 2006
**Final adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The proposed rules provide guidelines for constructing and managing compost facilities that use agricultural wastes. The rules will provide for Best Management Practices, construction requirements, as well as fees for licensing of the facilities.
**CONTACT PERSON:**
Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry (405) 522-4576

**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 11, 2006:**

## SUBCHAPTER 9. AGRICULTURAL COMPOST FACILITIES

### 35:17-9-1. Purpose and applicability

This subchapter applies to any person who owns or operates any compost facility using source materials within the Department's areas of environmental jurisdiction. These rules shall not apply to any compost facility located on a facility permitted or licensed as a concentrated animal feeding operation or a registered poultry feeding operation, nor to any compost facility permitted or required to be permitted by the Oklahoma Department of Environmental Quality.

### 35:17-9-2. Definitions

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

**"Animal waste"** means animal excrement, animal carcasses, feed wastes, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation.

**"Compost facility"** means a facility where source material is converted, under thermophilic conditions, to a product with high humus content for use as a soil amendment or to prevent or remediate pollutants in soil, air, and storm water run off.

**"Facility"** means all contiguous land and structures, other appurtenances, and improvements on the land used for the handling, processing, storage, or disposal of compost and source materials or ingredients used in producing compost.

**"Leachate"** means liquid that has passed through or emerged from animal waste or materials being composted, and may contain soluble, suspended, or mixable materials removed from the source material.

**"Operator"** means the owner and person responsible for the management of each facility.

**"Source material"** means material used as the main organic source to be converted by the process into compost and may include but not be limited to manure and other animal waste.

### 35:17-9-3. Permit provisions and application

(a) Prior to operation, any person using any source materials within the Department's jurisdictional areas of environmental responsibility to produce compost shall obtain a permit to operate the facility from the Department, unless the person is producing compost solely for personal use and not for commercial purposes.

(b) The permit shall be renewed every five (5) years on October 1.

(c) The application for a compost facility shall contain, as a minimum, the following information:

(1) Name, address, and telephone number of the owner;

(2) Name, address, and county of the facility, including specific driving directions from the nearest municipality, and legal description of the facility to the nearest ten (10) acres;

(3) Name, address, and telephone number of the operator, if other than the owner;

(4) Narrative describing the proposed compost facility.

(5) A composting plan that shall include but not be limited to the following:

(A) Source materials proposed for use and the estimated amount of compost produced per month or per year;

(B) Proposed type of composting process or processes to be used at the facility, including windrow, static pile, or in vessel composting method;

(C) Characterization of the physical and environmental setup of the facility, including but not limited to the following:

(i) Description of topography using a current 7.5 minutes topographic map highlighting the location of waters of the state within three (3) miles of the facility, an outline of the watershed drainage area with arrows indicating general direction of surface water drainage from the facility;

(ii) Soil map showing soil types at the facility; and

(iii) 100-year flood plain map.

(D) Laboratory test reports showing the amount of nitrogen as nitrate and total phosphorus contained in waters of the state at the facility, including but not limited to groundwater from all existing wells and surface impoundments located on the site.

(E) Design drawings and specifications for:

(i) receiving, processing, storage, disposal, or reuse areas;

(ii) leachate collection systems;

(iii) storage, treatment, and disposal of leachate;

(iv) storm water drainage;

(v) protection of groundwater from leachate;

(vi) any other design drawings and specifications necessary to describe the proposed operations of the facility.

(F) Proposed operational parameters.

(G) Site layout and construction.

(H) Best management practices used at the site for erosion control, water pollution control, odor control, and aesthetic enhancement.

(I) A notarized sworn statement signed by the owner accepting full responsibility for properly closing the facility upon termination of operation at the facility.

(J) A notarized certification signed by the person applying for the permit, stating: "I certify under penalty of law this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

(K) Supporting documentation regarding composting method used, including compost mix design, selection of C:N ratio, determining bulking agent need, aeration method, and moisture content and temperature to be maintained.

(L) All other documentation deemed necessary and requested by the Department to assure the quality of waters of the state is not compromised, and any other information required by the Department directly related to the construction, installation and operation of the facility.

(d) The application for a new facility or a renewal shall be accompanied by an application fee of $200.00.

(e) The operator of a facility shall notify the Department in writing that the facility is no longer in operation within thirty (30) days of the cessation of operation.

(f) The Department shall require closure of any facility under the following circumstances:

(1) The operator of the facility notifies the Department that the facility is no longer in operation.

(2) The facility has not accepted source material nor produced compost for a period of six (6) months.

(3) The facility is ordered to close by the Board due to failure to operate in compliance with any provision of the Agriculture Code or rules of the Board.

**35:17-9-4. Siting of composting facility**

(a) The following factors shall be considered in the selection of a site for the facility:

(1) Prevailing wind direction and proximity to occupied residences;

(2) Topography of the facility location, including avoiding locating the facility on steep slopes or within the 100-year flood plain; or

(3) Ground and surface water protection.

(b) The Department may conduct a presite inspection of the proposed facility prior to issuing any permit for operation.

(c) The compost facility shall not be located within three hundred (300) feet of a public or private drinking water well.

**35:17-9-5. No discharge; endangered and threatened species**

(a) There shall be no discharge of wastewater, leachate, contaminated storm water, animal waste, or other pollutant resulting from the operation of the facility to waters of the state.

(b) If, for any reason, there is a discharge, the owner or operator shall make immediate notification to the Department. The report of the discharge shall include:

(1) a description and cause of the discharge, including a description of the flow path to the receiving water body,

(2) an estimation of the flow rate and volume discharged,

(3) the period of discharge, including exact dates and times, and if not already corrected, the anticipated time the discharge is expected to continue,

(4) steps taken to reduce, eliminate and prevent recurrence of the discharge, and

(5) test results for fecal coliform bacteria, five-day biochemical oxygen demand (BOD5), total suspended solids (TSS), ammonia nitrogen, total Kjeldahl nitrogen (TKN), any pesticides which the operator has reason to believe could be in the discharge, or any other parameters required

by the Department that the Department has reason to believe could be in the discharge.

(c) Construction and operation of the facility shall not result in the destruction of endangered or threatened species nor contribute to the taking of any federally endangered or threatened species of plant, fish or wildlife, nor interfere with or cause harm to migratory birds.

**35:17-9-6. Leachate and storm water control**

(a) The owner or operator shall provide a total retention storage structure that is of sufficient size to contain all leachate and contaminated storm water, the 100 year/24 hour storm event, and maintain one foot of free board.

(b) The owner or operator shall provide a drainage system for storm water that prevents erosion at the facility.

(c) The owner or operator shall prevent contact between uncontaminated storm water and source material, composting amendment, composting mix, and final product isolating the material from surface drainage through the use of covers, ditches, dikes, berms, terraces, or other control structures.

**35:17-9-7. Inspections**

The Department may inspect the compost facility at any reasonable time.

**35:17-9-8. Existing facilities**

(a) Any facility in existence on the effective date of these rules shall apply for a permit and comply with all operational requirements.

(b) Any facility in existence on the effective date of these rules shall comply with all structural requirements within ten (10) years of the effective date.

(c) In no case shall an existing facility discharge to waters of the state.

*[OAR Docket #06-575; filed 4-5-06]*

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

*[OAR Docket #06-580]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 38. Apiaries [NEW]
35:30-38-1. through 35:30-38-12. [NEW]
**AUTHORITY:**
Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and (29), 3-100 et seq.
**DATES:**
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May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
These rules establish an apiary program for the State of Oklahoma pursuant to the requirements of the Oklahoma Apiary Act, as amended by the Oklahoma Legislature in 2005 through House Bill 1809. The rules establish the registration program for apiaries within the state and details the import permit requirements for migratory beekeepers.
**CONTACT PERSON:**
Don Molnar, Plant Industry, Oklahoma Department of Agriculture, Food, and Forestry, (405) 521-3864

**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 11, 2006:**

### SUBCHAPTER 38. APIARIES

**35:30-38-1. Definitions**

In addition to the terms defined in the Oklahoma Apiary Act, the following words, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

**"Certificate of inspection"** means a document issued based on an inspection by the Department or other state or province stating that the apiary, bees, and apiary equipment appear free of bee diseases and pests, and may include a label, rubber stamp imprint, tag permit, written statement, or any other form of certification that accompanies the movement of bees or apiary equipment.

**"Swarm"** means a population of bees that is not permanently established in an apiary.

**35:30-38-2. Receipt and resolution of complaints**

(a) Upon receipt of any complaint, the Department shall notify the person filing the complaint and the person whom the complaint is filed against, if known, in writing of its receipt and status within five (5) working days.

(b) Notification that a complaint was filed may also be given to the landowner or operator.

(c) The resolution of the complaint is the completion of the appropriate administrative, jurisdictional, or legal remedies to the extent necessary by the Department.

(d) The complainant shall be notified in writing within seven (7) working days after resolution of the complaint.
(e) The Department shall investigate any complaint regarding the following:
(1) Proximity of bee hives;
(2) Africanized honeybees; or
(3) Any violation of the Oklahoma Apiary Act or rules promulgated pursuant to the act.

**35:30-38-3. Voluntary registration requirements**
(a) Any person may register by completing a form and submitting the appropriate registration fee by January 31 of each year.
(b) Upon registration, the person shall be issued a certificate of registration containing a registration number that shall be clearly displayed at each apiary location on a permanent sign with a minimum of one and one half-inch (1 1/2") high contrasting letters or numbers.

**35:30-38-4. Unregistered apiaries**
Any person owning an apiary who does not register with the Department shall clearly post and display their name, address and telephone number on a permanent sign with a minimum of one and one half inch (1 1/2") high contrasting lettering at or near the apiary.

**35:30-38-5. Certificate of inspection**
(a) The Department may conduct inspections of apiary or hive locations as deemed necessary to determine the presence of bee diseases or pests.
(b) Any person may request an apiary inspection from the Department.
(1) The request for inspection shall be written and include the name, address, and telephone number of the owner, the number of colonies to be inspected, and the destination state, if applicable.
(2) The owner shall pay an inspection fee based on the total number of hives listed on the certificate of inspection.
(c) Inspection procedures.
(1) Inspections shall be performed using a random number table.
(2) A minimum of fifteen (15) hives shall be inspected. If there are less than fifteen (15) hives, all of the hives shall be inspected.
(3) A minimum of fifteen percent (15%) of the total number of hives to be certified will be opened and inspected for bee diseases or pests.
(4) Bees shall only be maintained in a removable frame hive that permits the thorough examination of every comb.
(A) If the removable frame requirement is not met, the Department shall notify the owner in writing.
(B) Any person may make a written request for an exemption to this requirement that shall include justification for the request.
(5) Upon completion of the inspection a certificate of inspection shall be issued to the owner of the bees stating that the apiary is either:
(A) Apparently free of bee diseases or pests; or
(B) Not free of a bee diseases or pests and listing all bee diseases and pests found during the inspection.
(6) Standard precautions for the prevention of transmission of bee diseases or pests to humans, animals, and bees during inspections shall include, but not be limited to, the following:
(A) All necessary precautions shall be taken to properly disinfect all tools and any other thing that may have come into contact with bees or equipment that may have bee diseases or pests.
(B) Prior to entering or exiting any premise, all appropriate measures shall be taken to prevent the spread of any bee disease or pest by ensuring infested material is not adhered to any person, clothing, or tools or appliances.

**35:30-38-6. Quarantines**
(a) Upon the discovery of any bee disease or pest, a premise shall be quarantined by the Department.
(b) The quarantine order shall indicate the following:
(1) The location of the quarantined premise.
(2) The portion of the premise that is quarantined.
(3) The control measures to be implemented by the owner of the apiary.
(4) If the quarantine can be confined to a portion of the premise, the order shall indicate that portion of the premise subject to the quarantine and shall indicate the release of the remainder of the premise from the quarantine.
(c) Any person receiving a quarantine order shall immediately initiate any and all control measures specified in the quarantine.
(d) The presence of a bee disease or pest shall be confirmed using industry acceptable bee inspection procedures or by sample analysis at a USDA bee lab or Oklahoma State University Insect and Plant Disease Diagnostic Lab.
(e) Quarantined bee colonies shall be marked with waterproof marking indicating the existence of and the reason for the quarantine.
(f) Upon laboratory confirmation of the existence of bee diseases or pests, the beekeeper shall be notified of the results in writing.
(g) Any quarantine shall remain in effect until the Department officially removes the quarantine and issues a Certificate of Inspection.
(h) A reinspection shall be made within six (6) months of any issued quarantine.
(i) When there are no effective control measures available, or the person fails to initiate control measures, a Board order to destroy the bees and apiary equipment infected or infested with the bee disease or pest may be issued to prevent the spread of the bee disease or pest.

**35:30-38-7. American foulbrood quarantine**
(a) Any apiary, appliances, structures, buildings or bees quarantined due to the presence of American foulbrood shall implement one of the following control measures:

(1) State-approved chemotherapy treatment, including the feeding of antibiotics, if the bee disease has not spread to the point of weakening the colony beyond the possibility of control with chemotherapy treatments;
(2) Burning the entire hive and contents, or, upon approval of the Department, the contents of the diseased hives, including bees, combs and associated frames;
(A) Burning shall occur in an open pit;
(B) Ashes shall be buried no less than eighteen inches (18") below the surface of the soil;
(C) Disinfection by scorching the hive bodies, covers, bottom boards, supers and appliances associated with them.
(D) Frames may be boiled in one pound of lye per ten (10) gallons water for not less than twenty (20) minutes.
(3) Any other method approved by the Department.
(b) The owner shall notify the Department of any corrective measures to be taken so Department personnel may be present during the measure.
(c) If no corrective action is taken within thirty (30) days, the infected or infested colonies shall be destroyed.

**35:30-38-8. Africanized honeybees (Apis mellifera scutellata)**

(a) Infestations of African honeybees shall be identified by a method prescribed by the Department, including but not limited to Mitochondrial DNA, DALY'S Morphometric Analysis, or FABIS I or II (Fast Africanized Bee Identification System).
(b) Colonies of honeybees with a high probability of being Africanized based on the above tests or any feral swarm of bees found in counties with Africanized honeybees shall be:
(1) Destroyed; or
(2) Quarantined and requeened with marked Certified European queens.
(A) The colony shall be resampled after the first generation of European offspring has emerged.
(B) If the subsequent sampling reveals bees with a high probability of being "European," the quarantine shall be lifted.
(C) If subsequent sampling reveals bees with a high probability of being Africanized, the colony shall be destroyed.
(c) Colonies of bees identified as Africanized that exhibit extreme aggressive behavior shall be destroyed if the requeening process fails or the public is at risk.

**35:30-38-9. Abandoned apiaries**

(a) Any abandoned apiary may be confiscated by the Department.
(b) Prior to confiscation of the abandoned apiary, the Department shall take reasonable steps to locate the owner.
(1) The owner, lessee, or renter of the land where the apiary is discovered shall be notified.
(2) The local beekeeping organization shall be notified and given sixty (60) days to locate the owner.
(3) A notice of confiscation shall be placed at the apiary one hundred and eighty (180) days prior to confiscation.
(c) If the Department is unable to locate the owner upon completion of the above steps, it shall destroy the apiary or donate the apiary to an appropriate research facility.

**35:30-38-10. Entry permits for migratory beekeepers**

(a) Any migratory beekeeper who brings bees into the state shall obtain an entry permit from the Department.
(b) The application for the permit shall include:
(1) the name and addresses of the person owning the bees;
(2) the name and address of the person shipping the bees if different from the owner;
(3) a complete description of the shipment;
(4) the destination of the shipment;
(5) the nearest town and county where the bees shall be located;
(6) the legal description where the bees shall be located;
(7) the name and address of the person or land owner receiving the bees;
(8) the approximate date of the shipment; and
(9) A certificate of inspection signed by the official apiary inspector or entomologist of the state, territory, or country from which the bees are shipped. The certificate shall state that the bees are apparently free of diseases and pests and shall be based on an actual inspection performed not more than three (3) months prior to the date of shipment.

**35:30-38-11. Entry permits for other than migratory beekeepers [RESERVED]**

**35:30-38-12. Pollination**

(a) Any beekeeper who provides colonies of bees for pollination purposes or honey production pursuant to an oral or written contract shall be subject to inspection by the Department for the strength of colonies and the presence of bee diseases and pests.
(b) Copies of the written contract shall be furnished to the Department upon request.
(c) Each hive shall be a minimum equivalent of five (5) deep frames of nine and one-eighth inches (9 1/8") of bees with brood of a standard Langstrof of nine and five-eighths inches (9 5/8") deep hive body.

*[OAR Docket #06-580; filed 4-5-06]*

# TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
# CHAPTER 44. AGRICULTURE POLLUTANT DISCHARGE ELIMINATION SYSTEM

*[OAR Docket #06-577]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. [RESERVED]
Subchapter 3. Concentrated Animal Feeding Operations [NEW]
35:44-3-1. through 35:44-3-3. [NEW]
**AUTHORITY:**
Oklahoma State Board of Agriculture and the Oklahoma Agriculture Code; 2 O.S. 2001 §§ 2-4(2), (7), (16), and (29), 2-18.2, 2A-1 et seq., and 2A-21 et seq.; 27A O.S. § 1-3-101(D); and Article 6, Section 31, Constitution of the State of Oklahoma
**DATES:**
**Comment period:**
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Failure of the Legislature to disapprove the rules resulted in approval on March 31, 2006
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March 31, 2006
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May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
**Superseded rules:**
Chapter 44. Agriculture Pollutant Discharge Elimination System [NEW]
**Gubernatorial Approval:**
December 1, 2005
**Register publication:**
23 Ok Reg 505
**Docket number:**
05-1485
**INCORPORATIONS BY REFERENCE:**
**Incorporated standards:**
40 CFR Part 122.21 (a) - (b), (e) - (f), (i), and (p)
40 CFR Part 122.23
40 CFR Part 122.28
40 CFR Part 122.42(e)
40 CFR Part 123
40 CFR Part 412
**Incorporating rules:**
35:44-3-2
35:44-3-3
**Availability:**
Copies of the incorporated standards are available for examination by the public between the hours of 8 am and 5 pm at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, Oklahoma.
**ANALYSIS:**
These rules fulfill the requirements of House Bill 1467 of 2005 by promulgating rules for concentrated animal feeding operations that are required to obtain federal NPDES permits. As a part of the Department's ongoing strategy to obtain the authorization to implement the federal Clean Water Act from the U.S. Environmental Protection Agency, these rules provide an incorporation by reference of the permitting requirements for concentrated animal feeding operations. These rules were previously promulgated as emergency rules.
**CONTACT PERSON:**
Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry (405) 522-4576

**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 11, 2006:**

## SUBCHAPTER 1. [RESERVED]

## SUBCHAPTER 3. CONCENTRATED ANIMAL FEEDING OPERATIONS

### 35:44-3-1. Permit required

Any animal feeding operation required by federal regulations to obtain a National Pollutant Discharge Elimination System permit for concentrated animal feeding operations shall be required to obtain an Agriculture Pollutant Discharge Elimination System permit.

### 35:44-3-2. Incorporation by reference of federal regulations

(a) The following provisions of Title 40 of the Code of Federal Regulations and the requirements contained therein pertaining to concentrated animal feeding operations are, unless otherwise specified, adopted and incorporated by reference in their entirety, except for those regulations noted in subsection (b):

(1) The following from Part 122 (NPDES Permit Regulations):

(A) 122.21 (a)-(b), (e)-(f), (i), and (p) (application for permit).

(B) 122.23 (concentrated animal feeding operations).

(C) 122.28 (General permits).

(D) 122.42(e) (Conditions applicable to specified categories of permits).

(2) Part 412 (Concentrated Animal Feeding Operations (CAFO) Point Source Category).

(b) Any regulations incorporated by reference above that were invalidated by Waterkeeper Alliance, Inc., et al. v. US Environmental Protection Agency, 399 F.3d 486 (2nd Cir. 2005), shall not be incorporated by reference and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry.

(c) Narrative provisions of this subchapter control over any provision of regulations of the Environmental Protection Agency (EPA) adopted by reference and the rules are interpreted consistently with state compliance, with the requirements of 40 C.F.R. Part 123 (EPA Regulations on State NPDES Permit Program Requirements), and applicable provisions of the federal Clean Water Act and Oklahoma law.

**35:44-3-3. Date of federal regulations incorporated**

When reference is made to 40 CFR it means, unless otherwise specified, the volume of 40 CFR as published on July 1, 2005.

*[OAR Docket #06-577; filed 4-5-06]*

## TITLE 45. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION CHAPTER 30. MANUFACTURERS, WHOLESALERS, BREWERS, NONRESIDENT SELLERS AND CLASS B WHOLESALERS

*[OAR Docket #06-570]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
45:30-1-2. Definitions [AMENDED]
Subchapter 5. Brewers, Nonresident Sellers and Class B Wholesalers
45:30-5-7. Class B Wholesaler's price registration [AMENDED]
**AUTHORITY:**
Alcoholic Beverage Laws Enforcement Commission, 37 O.S., Section 502 et seq.; Alcoholic Beverage Laws Enforcement Commission
**DATES:**
**Comment period:**
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**Submitted to Senate:**
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**Final adoption:**
March 31, 2006
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May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The amended rule changes the date that Class B Wholesalers are required to file with the ABLE Commission both products and price postings for the following month from the 15th of each month to the 20th of each month. Amended definition reflects the above change.
**CONTACT PERSON:**
Bryan Neal (405) 521-3484

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2006:**

### SUBCHAPTER 1. GENERAL PROVISIONS

**45:30-1-2. Definitions**

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

**"Adjusted Price"** means percentage or individual item prices reported and registered by a Wholesaler on or before the 25th day of a posting month in response to a lower percentage reported and registered by a competitor Wholesaler on the 15th day of the month; and as to Class B Wholesalers "Adjusted Price" means percentage or individual item prices reported and registered by a Class B Wholesaler on or before the 20th day of a posting month in response to a lower percentage reported and registered by a competitor Class B Wholesaler on the 10th day of the month.

**"Brewer or Nonresident Seller"** means a manufacturer or distributor of beer or brewed products and shall also include:

(A) A corporate subsidiary of any such brewer or nonresident seller who markets his products solely through a subsidiary or subsidiaries; and

(B) A distributor of beer or brewed products manufactured or bottled in a foreign country.

**"Categories"** means the four (4) common divisions in the systems of classification of alcoholic beverages to wit: Spirits, Cordials and Specialties, Wines-Domestic, Wines-Imported, and the additional category of Decanter bottles, regardless of contents.

**"Class B Wholesaler"** means an individual or partnership licensed to sell beer or brewed products to the holder of a Retail Package Store, Mixed Beverage, Caterer or Special Event license.

**"Manufacturer or Nonresident Seller"** means a manufacturer of alcoholic beverages and shall also include:

(A) A corporate subsidiary of any such manufacturer who markets his products solely through a subsidiary or subsidiaries; and

(B) A distributor of alcoholic beverages manufactured or bottled in a foreign country.

**"New Item"** means an item not previously stocked, or a price posted with Commission by the Wholesaler on or since his last price posting.

**"New Percentage"** means a percentage reported and registered by the Wholesaler with the Commission on or before the 15th day of January, March, May, July, September and November whether such percentage be higher, lower or the same as the previous posting.

**"Percentage Markup"** means a percentage of increase or decrease in relation to the Wholesaler laid-in-cost for all items in each category. The percentage does not have to be the same for all categories, but in the original posting the percentage shall be the same for all items in the same category.

**"Wholesaler"** means an individual or partnership licensed to sell alcoholic beverages to the holder of a Retail Package Store, Mixed Beverage, Caterer or Special Event license.

**"Wholesaler Laid-In-Cost"** means the current posted Nonresident Seller F.O.B. price to which shall be added State

and Federal Taxes on alcoholic beverages plus any miscellaneous charges added by the Nonresident Sellers.

## SUBCHAPTER 5. BREWERS, NONRESIDENT SELLERS AND CLASS B WHOLESALERS

**45:30-5-7. Class B Wholesaler's price registration**

(a) All licensed Class B Wholesalers on or before the ~~15th~~ 10th day of each month shall register or file with the Commission a listing of all beer or brewed products and the price that he proposes to market these items for during the following month.

(1) The price posting will list all items by brand name, type, container size, type of package and number of cans or bottles per package.

(2) The Commission shall immediately upon receipt of all Class B Wholesalers' postings, prepare a summation of the proposals and mail a copy to all Class B Wholesalers.

(b) After filing the initial price posting any and all Class B Wholesalers shall be permitted to register with the Commission on or before the ~~25th~~ 20th day of each month an "Adjusted Price" no lower than the lowest price posted on the ~~15th~~ 10th day of the posting month by any Class B Wholesaler. No prices shall be increased during this adjustment period. The Class B Wholesaler(s) posting the lowest price cannot adjust to a lower or higher price than he originally posted on the ~~15th~~ 10th day. A Class B Wholesaler may adjust his prices for one or more items or he may remain at his initial ~~15th~~ 10th day of the posting month posting.

(1) The Commission shall immediately upon receipt of all Class B Wholesalers adjusted postings prepare a summation of final postings and mail a copy to all Class B Wholesalers.

(2) If no adjustments are made a certificate to that effect shall be filed with the Commission on or before the ~~25th~~ 20th day of the month.

(3) The adjusted prices will not be in effect until the first day of the following month and will then stay in effect for a period of one month.

(c) All beer or brewed products that have not been previously sold by Class B Wholesalers shall be considered "new items". No Class B Wholesaler shall list a "new item" on his price posting until it is properly registered with the Commission by the Brewer or Nonresident Seller. If properly registered, the Class B Wholesaler may sell a "new item" only after he has posted prices with the Commission.

(d) When a Class B Wholesaler discontinues an item or does not have an item in his warehouse, or on order, the item will be deleted from his price posting. When or if the item is restocked or replaced in inventory of a Class B Wholesaler it will be reentered into the price posting as would a "new Item".

(e) A Class B Wholesaler who received his license during a price posting period shall not sell to any retailers until a price posting is submitted. This posting shall not be lower than the lowest price posted by the other Class B Wholesalers for that period.

(f) The sale or the offer to sell, beer or brewed products at a price quoted in such price posting before the same is in force and effect shall be grounds for the suspension or revocation of any such Class B Wholesaler's license if the price varies from the price then in effect. To sell at a price not in compliance with the price posted with the Commission shall be deemed a discrimination against Retail, Mixed Beverage, Caterer or Special Event licensees in this State.

(g) No change of prices during any price posting period shall be permitted by a Class B Wholesaler, except on an application thereof in writing showing good cause and then only with written permission of the Director.

(h) There shall be a fee of one dollar ($1.00) collected for the identification (tax) stamp affixed to each case or keg of beer sold to the holder of a Mixed Beverage, Caterer or Special Event license, in accordance with Section 581 of Title 37 of the Oklahoma Statutes.

*[OAR Docket #06-570; filed 4-5-06]*

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# TITLE 235. OKLAHOMA FUNERAL BOARD CHAPTER 10. FUNERAL SERVICES LICENSING

*[OAR Docket #06-509]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 3. Qualifications and Requirements for Licensure
235:10-3-1. [AMENDED]
**AUTHORITY:**
Funeral Services Licensing Act; 59 O.S. §396.2a; Oklahoma Funeral Board
**DATES:**
**Comment period:**
September 15, 2005 through November 9, 2005
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December 19, 2005
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on March 31, 2006
**Final adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The Funeral Board will discontinue offering the state board examination covering the arts and science sections portions of the funeral director and embalmer licensing examination. The Board will continue to accept the results of the National Board Examination of the International Conference of Funeral Service Examining Boards.

**CONTACT PERSON:**
Terry McEnany, Executive Director, Funeral Board, 4545 N. Lincoln Blvd., Ste. 175, Oklahoma City, OK 73105 (405) 522-1790 telephone (405) 522-1797 facsimile

**PURSUANT TO THE ACTIONS DESCRIBEBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2006:**

## SUBCHAPTER 3. QUALIFICATION AND REQUIREEMENTS FOR LICENSURE

**235:10-3-1. Qualifications for licensing individuals**

To be licensed in Oklahoma as a funeral director, embalmer, or both, an individual must meet the following minimum requirements:

(1) The individual must be twenty (20) years of age.

(2) The individual must be of good moral character.

(3) The individual must not have any felony convictions.

(4) The individual must not have had any misdemeanor convictions related to funeral service or pertaining to the custody, care or disposal of dead human remains, or unfair trade practices, or fraud.

(5) The individual must be a legal resident of Oklahoma, and a citizen of the United States, or a permanent resident of the United States.

(6) The individual shall have completed the following educational requirements:

(A) The individual is a graduate of a program of mortuary science accredited by the American Board of Funeral Service Education.

(B) The individual shall have completed a total of sixty (60) college semester hours of credit at an accredited institution of higher education.

(i) Such institution must be accredited by a regional accrediting agency and recognized by the U.S. Department of Education as a valid and legal accrediting agency.

(ii) When the institution so accredited extends credit in quarter hours, each quarter hour shall equal 2/3rds of one semester hour.

(iii) Courses applied to completing the accredited mortuary science program in excess of the minimum requirements for an accredited program by the American Board of Funeral Service Education may be applied to the (60) total semester hours of college, provided such credits are earned at a regionally accredited institution.

(7) Individuals who have earned a bachelor degree in funeral service from a regionally accredited institution and American Board of Funeral Service Education accredited mortuary program shall been deemed to have met the educational requirements set for in sections (A) and (B).

(8) The individual shall have successfully passed the National Board Examination of the International Conference of Funeral Service Examining Boards ~~or State Board Examination~~ with an average grade of seventy five percent (75%) or better on the Arts section for applicants for a funeral director license, and applicants for a embalmers license shall have earned an average of seventy five percent (75%) or better on the Science section.

(9) The individual shall have successfully passed the Oklahoma Law examination with a grade of seventy five percent (75%) or better. The Oklahoma Law examination shall cover the Oklahoma Funeral Services Licensing Act and the Prepaid Funeral Benefits Act, and the Rules of the Board. The Oklahoma law written examination shall not be administered until the applicant has completed all educational requirements and other examination requirements with proof of such completion on file in the Board office. Rejection of an application to take the written examination for failure to complete educational requirements, or failure to file proper proof of completion of educational requirements is not appealable to the Board.

(10) The applicant must have paid any and all fees due and payable prior to licensing.

(11) The individual must have served and completed an embalmer and/or funeral director apprenticeship(s) in the State of Oklahoma or has completed an apprenticeship the Board determines to be substantially equivalent to that required by Oklahoma.

(12) Once all requirements set forth above have been met, the individual may apply for a license as a funeral director, embalmer, or both.

*[OAR Docket #06-509; filed 3-31-06]*

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## TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
## CHAPTER 1. GENERAL PROVISIONS

*[OAR Docket #06-574]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
240:1-1-4. Authority [AMENDED]
Subchapter 3. Records and Inspections
240:1-3-5. Charges [AMENDED]
240:1-3-6. Search fees [AMENDED]
**AUTHORITY:**
40 O.S. §4-302; 51 O.S. §24A.5; and the Oklahoma Employment Security Commission.
**DATES:**
**Comment period:**
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**Public hearing:**
None held or requested
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**Submitted to Senate:**
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**Gubernatorial approval:**
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March 31, 2006
**Effective:**
May 15, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
None
**INCORPORATIONS BY REFERENCE:**
None
**ANALYSIS:**
The amendments to these rules will remove the reference to a program that no longer exists and increase the fee for reproduction of an audio recording and the fee for a records search.
**CONTACT PERSON:**
Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Okla homa City, Oklahoma 73152. E-Mail: Melissa.Copenhaver@oesc.state.ok.us. Telephone number 405/557-7146.

**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 15, 2006:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 240:1-1-4. Authority

The Oklahoma Employment Security Commission has *the power and authority to adopt, amend, or rescind such rules Y as it deems necessary or suitable* [40:4-302] to administer the Oklahoma Employment Security (OES) Act. The Commission shall *adopt and, from time to time,may modify and amend rules Y governing appeals before the Appeals Tribunal of the Commis-sion and its referees*,Y. [40:2-607] ~~The Commission shall administer the Job Training Partnership (JTPA) of 1982, 29 U.S.C. Sections 1501 et seq. as provided in 40 O.S. Section 483~~ .

## SUBCHAPTER 3. RECORDS AND INSPECTIONS

### 240:1-3-5. Charges

(a) The Commission shall charge for copies of records and a search fee for staff time spent in obtaining the records, except for requests in furtherance of a claim for unemployment benefits.
(b) The document copying fee is twenty-five cents ($0.25) per page or One Dollar ($1.00) per page for a certified copy. This fee is to be paid prior to the release of the requested records.
(c) ~~An individual may obtain a copy of the tape recording of the administrative hearing. The individual requesting it should provide the Commission with a sixty (60) minute cassette tape. If a tape is not provided by the individual requesting the record, the Commission shall provide the tape and charge~~ The reproduction fee for an audio recordingof a hearing shall be ~~Five Dollars ($5.00)~~ Ten Dollars ($10.00) ~~for each tape used~~.

### 240:1-3-6. Search fees

The search fee shall be applicable to all materials requested unless it is determined by the Director, in his discretion, that the public interest is served to such an extent that no charge should be applicable. The search fee will be ~~$5.00~~ $10.00 for each account or claimant record requested.

*[OAR Docket #06-574; filed 4-5-06]*

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# TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

*[OAR Docket #06-573A]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 3. Benefits
Part 3. Computations
240:10-3-12. Payment of benefits [NEW]
Part 5. Eligibility
240:10-3-20. Instructions to secure work [AMENDED]
240:10-3-24. Claims for partial unemployment benefits [AMENDED]
Subchapter 5. Contributions
Part 1. General Provisions
240:10-5-2. Definitions [AMENDED]
Part 3. Rates
240:10-5-11. Subject employer acquiring the experience rating account of another employer [AMENDED]
240:10-5-12. Nonsubject entity acquiring the experience rating account of an employer [AMENDED]
**AUTHORITY:**
40 O.S.§§2-103, 2-408, 2-417, 3-111, 4-302; and the Oklahoma Employment Security Commission.
**DATES:**
**Comment period:**
November 1, 2005 through December 5, 2006
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December 13, 2005
**Submitted to Governor:**
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**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on March 31, 2006
**Final adoption:**
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None
**INCORPORATIONS BY REFERENCE:**
None

**ANALYSIS:**

The amendments to these rules will authorize the OESC to pay unemployment benefits by automatic fund transfer or debit card, allow more flexibility in determining acceptable claimant work searches, require substantial compliance with the Employment Security Act of 1980 before partial unemployment benefit claims are allowed, and conform definitions to statutes and correct statutory citations.

**CONTACT PERSON:**

Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Okla-homa City, Oklahoma 73152. E-Mail: Melissa.Copenhaver@oesc.state.ok.us. Telephone number 405/557-7146.

**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 15, 2006:**

## SUBCHAPTER 3. BENEFITS

## PART 3. COMPUTATIONS

**240:10-3-12. Payment of benefits**

(a) As of July 1, 2007, all unemployment benefits payable by the Commission pursuant to the provisions of the Employment Security Act of 1980, shall be paid by direct deposit to the bank account of the eligible claimant, or by crediting a debit card issued to the eligible claimant. The claimant will have the option to designate which payment method will be used. Upon a showingof extreme need by the claimant, the Commission may accommodate a claimant by making payment in any way that will ensure the claimant is properly paid benefits.

(b) The claimant must communicate the choice of payment option to the Commission. The payment option cannot be changed during the claimant's benefit year.

(c) If a claimant chooses to be paid by direct deposit to the claimant's bank account, the claimant must provide the Commission with the following information:

(1) Claimant's bank account number

(2) Claimant's bank routing number

(d) If the claimant chooses to be paid by crediting benefit payments on a debit card, the debit card will be mailed to the address given by the claimant in the claimant's initial claim for benefitsor in the latest notice of change of address. The claimant will be responsible for the debit card.

(e) Benefits paid by direct deposit or by debit card will be paid under the same conditions as payments formerly made by check. All rules of eligibility, disqualification, fraud, and claimant error will apply.

## PART 5. ELIGIBILITY

**240:10-3-20. Instructions to secure work**

(a) **Able and available to accept employment.** When a claimant files an initial claim for benefits, ~~an authorized representative of~~ the Commission shall instruct the claimant that in addition to registering with and reporting to the State Employment Service that he/she must diligently search for suitable employment ~~at a pay rate generally available in that area of the state in keeping with his/her prior work experience, special education or training, or physical and mental ability to perform.~~[40:2-408(2)]

(b) **Seek and accept work.** The ~~authorized representative~~ Commission shall direct and require that in diligently searching for work the claimant must do those things that a reasonably prudent individual would be expected to do tosecure work using any means that are appropriate and customary each week. ~~Those things should include, but not be limited to the following~~ Special circumstances:

(1) ~~Register with the hiring hall or placement facility of any labor union of which the claimant is a member in good standing~~ Union members must be registered with the hiring hall or placement facility of their labor union and be a member in good standing.

(2) ~~Register and recheck with the placement facility of any professional organization in which the claimant is a member in good standing. [40:2-204]~~

~~(3) Make application for work with employers, including former employers, that could be reasonably expected to have suitable work available within that general geographic area of the state. [40:2-417(2)]~~

~~(4) In order to encourage favorable employment consideration, should present himself/herself to the prospective employer in a manner and appearance equal to that which would be expected of a reasonably prudent individual reporting for work in the type of employment for which application is being made. [40:2-417(3)]~~

~~(5) Register and recheck with the placement facility of a school, college, or university at which the claimant secured his/her education or special training. [40:2-417(1)]~~

~~(6) Make application and/or take examinations for suitable openings with governmental units. [40:2-417(1)]~~

~~(7) Register and recheck with employer placement facilities. [40:2-418(1)]~~

~~(8) Read and search newspaper "want ads" regarding possible employment opportunities. Make personal contact with potential employers offering suitable employment in such a manner and appearance that would encourage favorable employment consideration. [40:2-417(1)]~~

~~(9) Expand the diligent search for work to employment outside the claimant's customary or original occupation, upon receipt of fifty percent (50%) of the maximum benefit amount. [40:2-408(3)]~~

~~(10) Participate~~ A claimant must participate in all reemployment services offered by the Commission if selected by a profiling program established by the Oklahoma Employment Security Commission or any other State Employment Service. [40:2-417(4)]

(~~11~~3) If an employee is involved in a temporary layoff, is receiving partial unemployment insurance pursuant to 240:10-3-24, or is receiving supplemental unemployment benefit payments through an approved plan, the work search requirement is met if the employee maintains an attachment to the employer and remains available to return to work for the employer.

**240:10-3-24. Claims for partial unemployment benefits**

(a) **Condition for filing claim.**

(1) Claims for "partial unemployment" may be filed for workers only at the request and assistance of the workers' regular employer and under the conditions set forth herein.

(2) An employer who places regular, full-time workers on a temporary reduced work week schedule in order to retain the services of such workers until full-time work can be resumed may assist the worker(s) in filing claims for unemployment compensation in "partial unemployment" for each calendar week in which work is performed on a reduced schedule.

(3) An initial or additional initial claim for partial unemployment shall not be filed for a worker who was employed during the calendar week for his/her normal, customary, full-time working hours, or who did not perform any work or have earnings payable for the week.

(4) The employer must be in substantial compliance with all requirements of the EmploymentSecurity Act of 1980. If an employer is delinquent in payment of taxes, the employer will be deemed in substantial compliance if the employer enters into a payment plan agreement with the Commission and is in compliance with the agreement. All quarterly unemployment tax reports must be filed before an employer requests partial unemployment.

(b) **Partial unemployment defined.** An individual shall be defined as in "partial
unemployment" during a calendar week whenever:

(1) the individual has not been separated from employment with his/her last regular employer; and

(2) the individual has during the week performed services in employment for his/her regularemployer; but

(A) because of lack of work was reduced to less than his/her normal, customary, full-time work hours; and

(B) has earnings from such reduced work schedule for that week of less than his/her weekly benefit amount plus $100.00.

(c) Partial continued claims.

(1) A worker who filed a partial initial claim, or who has been receiving benefits for partial unemployment, may continue to file partial continued claims as if he/she were a partially unemployed worker for not more than the first four (4) consecutive weeks of total unemployment (no earnings) or part-total unemployment (some earnings from another employer) immediately following the period of partial unemployment so long as he/she remains attached to his/her regular employer.

(2) A worker who files such partial claims for four (4) consecutive weeks during which he/she has no wages payable from his/her regular employer shall file an initial claim, additional initial claim, or continued claim, as appropriate, under OAC 240:10-3-23 "Claims for Total Unemployment Benefits" for subsequent weeks.

(d) **Effective date.** The effective date of an initial claim or additional initial claim for partial unemployment shall be the first day of the calendar week during which the individual was employed less than his/her normal customary, full-time work because of lack of work and in which earnings from such reduced work is less than his/her weekly benefit amount plus One Hundred Dollars ($100.00).

(e) **Filing partial claims.** A worker who is "partially unemployed" may, with the assistance of his/her employing unit, claim partial benefits under the following conditions:

(1) The employing unit shall, immediately following the calendar week in which the worker first performed work on a reduced work schedule, execute the Commission's "Claim for Partial Benefits," Form OES-526P, for each worker who has worked during the week in such reduced work schedule of less than full-time. Upon properexecution, the Form OES-526P will be delivered to the worker together with a copy of the Commission's bookletentitled, "Information for Workers Who Are Unemployed."

(2) Not later than fourteen (14) days after receiving such Form OES-526P, the worker shall complete the portion denoted as "Claimant's Report of Other Earnings" and deliver it in person, or by mail if working hours will not permit, to the nearest local state employment office. Such form OES-526P, properly completed, shall constitute the worker's claim for benefits and registration for work within the meaning of 40 O.S. Section 2-203 and 2-204. The form will also constitute the waiting period, required by 40 O.S. Section 2-206, providing the total earnings reported by the regular employing unit plus "other earnings," if any, as reported by the worker does not equal or exceed the "weekly benefit amount of the newly established benefit year plus One Hundred Dollars ($100.00)."

(3) Upon receipt of the first Form OES-526P, properly completed, the Commission will compute a weekly benefit amount for the worker-claimant. Such computation shall be made effective as of the first day of the calendar week for which the claim was filed that the claimant was partially unemployed. The Commission will furnish the employing unit a "Notice of Partial Benefits," Form OES-532, setting forth the claimant's weekly benefit amount and his/her benefit year ending date. The Commission will also mail the monetary eligibility for benefits form to the worker-claimant.

(4) Upon receipt of an allowed "Notice of Determination of Partial Benefits," Form OES-532, the employing unit shall execute and deliver to the worker-claimant concerned a "Continued Claim for Partial Benefits," Form OES-527P, immediately for each prior calendarweek of partial unemployment applicable and each subsequent calendar week of partial unemployment for further completion by the worker and submission to the Commission for payment processing.

(f) **Late claims.** If a Commission representative determines that a worker-claimant filed no claims due to the failure of the employing unit to comply with the requirement contained herein or due to coercion to prevent the prompt filing of such claim(s), the Commission representative shall extend the period during which such claims may be filed to a date which shall not be less than one (1) nor more than four (4) weeks after such determination. In such case, the Commission shall notify

the employing unit and the worker-claimant in writing that the arrangement to execute "Partial Claims for Benefits" has been terminated. Claimants will file claims for subsequent weeks at the local employment office.

## SUBCHAPTER 5. CONTRIBUTIONS

## PART 1. GENERAL PROVISIONS

**240:10-5-2. Definitions**

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

**"Lessor Employing Unit"** is defined in 40 O.S. §1-209A(a). The terms "employee leasing company" and "staff leasing company" shall have the same meaning as the term "lessor employing unit."

**"Multiple Worksite Employer"** means an employer that operates its business at more than one permanent location.

**"Predecessor"** or **"Predecessor Employer"** means the employer who operated a business entity before it was acquired by the successor or acquiring employer.

**"Successor"** or **"Successor Employer"** means the acquiring employer of a business entity formerly operated by a predecessor employer.

**"Substantially All"** as used in the context of 40 O.S. §3-111, means that the successor or acquiring employer has acquired the predecessor's trade, employees, organization, business, or assets to such an extent that the predecessor isunable to continue in business.

## PART 3. RATES

**240:10-5-11. Subject employer acquiring the experience rating account of another employer**

When any employing unit acquires the experience rating account of one or more employers under the provisions of 40 O.S. Section 3-111 or ~~3-111A~~ 3-111.1, and the employing unit was an employer subject to the Employment Security Act of 1980 at the time of the acquisition, the contribution rate for the acquiring employing unit after the acquisition shall be determined as follows:

(1) The compensation experience of the successor employer and the predecessor, or predecessors, shall be consolidated for the ~~three calendar years~~ experience period immediately preceding the acquisition, and the Benefit Wage Ratio shall be computed on the total experience of all the employers.

(2) The Benefit Wage Ratio so computed shall be used to determine the successor's contribution rate for the remainder of the calendar year in which the acquisition occurred. The contribution rate so established shall be applicable to the successor employer beginning with the first day of the calendar quarter in which the acquisition occurred.

**240:10-5-12. Nonsubject entity acquiring the experience rating account of an employer**

(a) **One employer acquired.** When any employing unit acquires the experience rating account of an employer under the provisions of 40 O.S. Section 3-111 or ~~3-111A~~ 3-111.1, and the employing unit was not an employer subject to the Employment Security Act of 1980 prior to the acquisition, the employingunit shall acquire the contribution rate of the employer for the entire calendar year in which the acquisition occurred.

(b) **Two or more employers acquired.** When any employing unit acquires the experience rating account of two or more employers under the provisions of 40 O.S. Sections 3-111 or ~~3-111A~~ 3-111.1, and the employing unit was not an employer subject to the Employment Security Act of 1980 prior to the acquisition, the contribution rate for the employing unit shall be determined by consolidating the compensation experience of the two or more employers acquired for the three calendar years immediately preceding the acquisition, and the Benefit Wage Ratio computed on the total experience of all the employers so acquired. The Benefit Wage Ratio so computed shall be used to determine the successor's contribution rate for the calendar year in which the acquisition occurred.

(c) An employing unit that was not an employer subject to the Employment Security Act of 1980 prior to acquiring the predecessor employer shall not be allowed to acquire the experience historyor contribution rate of the predecessor employer if the Commission finds that the employing unit acquired the business solely or primarily for the purpose of obtaining a lower contribution rate.

*[OAR Docket #06-573A; filed 4-5-06]*

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# TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

*[OAR Docket #06-573]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 3. Benefits
Part 9. Disqualification
240:10-3-44. Domestic violence or abuse [REVOKED]
**AUTHORITY:**
40 O.S.§§2-405,§4-302; and the Oklahoma Employment Security Commission.
**DATES:**
**Comment period:**
January 3, 2006 through February 2, 2006
**Public hearing:**
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**Adoption:**
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March 24, 2006
**Legislative approval:**
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May 15, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
None
**INCORPORATIONS BY REFERENCE:**
None
**ANALYSIS:**
In the 2003 Legislative Session, 40 O.S. §2-405 was amended to allow unemployment benefits to claimants that were separated from employment as part of a plan to escape domestic violence or abuse, provided that the claimant obtained a victim's protection order before separating from employment. After that provision was made effective, it was determined that the requirement of a victim's protection order was detrimental to the purpose for which the amendment was passed. In the 2005 Legislative Session, §2-405 was again amended to remove the provision requiring the victim's protection order. Rule 240:10-3-44 was adopted in 2004 in response to the 2003 legislation. This rule will now be revoked in response to the 2005 legislative amendment.
**CONTACT PERSON:**
Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. E-Mail: Melissa.Copenhaver@oesc.state.ok.us , telephone number 405/557-7146.

**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 15, 2006:**

## SUBCHAPTER 3. BENEFITS

## PART 9. DISQUALIFICATION

### 240:10-3-44. Domestic violence or abuse [REVOKED]

~~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.~~

*[OAR Docket #06-573; filed 4-5-06]*

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# TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
# CHAPTER 21. WORKFORCE INVESTMENT ACT

*[OAR Docket #06-588]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
240:21-1-1. Purpose [AMENDED]
240:21-1-2. Definitions [AMENDED]
240:21-1-3. Addresses for appeals [AMENDED]
Subchapter 3. Denial or Termination of Eligibility of a Training Provider
240:21-3-1. Reporting - termination [AMENDED]
240:21-3-2. Notice to the training provider [AMENDED]
Subchapter 5. Denial of Request for Designation as a Local Workforce Investment Area
240:21-5-2. Appeal Time [AMENDED]
240:21-5-3. Hearing [AMENDED]
Subchapter 7. Monitoring
240:21-7-2. Monitoring report [AMENDED]
240:21-7-3. Monitoring resolution [AMENDED]
240:21-7-5. Appeal [AMENDED]
Subchapter 9. Audits
240:21-9-1. Audit requirements [AMENDED]
240:21-9-2. Delinquent audit [AMENDED]
Subchapter 11. Grievance Procedure
Part 1. General Provisions
240:21-11-1. Grievances [AMENDED]
Part 3. Grievances Filed Directly with the OESC
240:21-11-10. Filing [AMENDED]
240:21-11-12. Contents of a grievance [AMENDED]
240:21-11-13. Referral of a grievance filed with OESC [AMENDED]
Part 5. Appeals to the Oesc from Grievance Decisions of a Local Area
240:21-11-21. Appeals with the OESC [AMENDED]
240:21-11-22. Time limit for filing an appeal with OESC [AMENDED]
Part 7. Informal and Formal Resolutions of Grievances
240:21-11-30. Informal resolution [AMENDED]
240:21-11-31. Hearing [AMENDED]
**AUTHORITY:**
40 O.S.§4-302; 29 USC §§2891 - 2945; 20 CFR Part 660-671 and 652; 29 CFR Parts 95 and 97; OMB Circulars A-87, A-122, and A-133; Workforce Investment Act of 1998; Strategic Two-Year State of the Workforce Investment Plan; and the Oklahoma Employment Security Commission.
**DATES:**
**Comment period:**
January 3, 2006 through February 2, 2006
**Public hearing:**
None held or requested
**Adoption:**
February 7, 2006
**Submitted to Governor:**
February 8, 2006
**Submitted to House:**
February 8, 2006
**Submitted to Senate:**
February 8, 2006
**Gubernatorial approval:**
March 24, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on April 6, 2006
**Final adoption:**
April 6, 2006
**Effective:**
May 15, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
None
**INCORPORATIONS BY REFERENCE:**
None
**ANALYSIS:**
The amendments to these rules reflect OESC's designation as the administrative entity for WIA Title I and Wagner-Peyser program implementation and oversight, the duties of the new Director of Workforce Quality, the renaming of OESC's Employment Training Division as the Workforce Integrated Programs Division, and changing the timing of the informal resolution conference in the monitoring resolution process.
**CONTACT PERSON:**
Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. E-Mail: Melissa.Copenhaver@oesc.state.ok.us , telephone number 405/557-7146.

**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 15, 2006:**

## SUBCHAPTER 1. GENERAL PROVISIONS

**240:21-1-1. Purpose**

The Governor of the State of Oklahoma appointed the Governor's Council ~~on~~ for Workforce and Economic Development (State Council) in compliance with the Section 111 of the Workforce Investment Act. The State Council assists the Governor in developing the Strategic ~~Five Year~~ State Workforce Investment Plan (State Plan) for Title I of the Workforce Investment Act of 1998 (WIA) and the Wagner-Peyser Act pursuant to Section 112 of WIA. In the State Plan, the Governor designated the Oklahoma Employment Security Commission (OESC) as the WIA Title I ~~Grant Recipient and Administrative Agency~~ administrative entity responsible for WIA Title I and Wagner-Peyser program implementation and oversight. ~~This designation authorized the OESC and its officials to represent the State in the capacities indicated for Title I of WIA and the Wagner-Peyser grant programs.~~ The purpose of these rules is to facilitate the implementation of the WIA, U.S. Department of Labor regulations, and State Plan.

**240:21-1-2. Definitions**

In addition to definitions found at WIA section 101 and 20 CFR 660.300, the following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Assessment Board"** is a hearing Board for the OESC, which is designated to adjudicate certain appeals specified herein.

**"Chief Local Elected Official"** or **"CLEO"** means (a) the chief elected executive officer of a unit of general local government in a local area; and (b) in a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement designed in WIA section 117(c)(1)(B).

**"Department"** or **"DOL"** means the U.S. Department of Labor, including its agencies and organizational units.

~~**"Director"** means the Director of Employment and Training for the Oklahoma Employment Security Commission.~~

**"Division of Internal Audit"** means the OESC division responsible for conducting audit resolutions.

**"Fiscal Agent"** means an entity chosen by the CLEO to serve as grant subrecipient of the WIA grant funds. Such designation does not relieve the CLEO or the Governor of the liability for any misuse of grant funds.

**"Local Area"** means a local workforce investment area designated pursuant to WIA section 116.

**"Local Board"** means a Local Workforce Investment Board established pursuant to WIA section 117, to set policy for the local area workforce investment system.

**"Secretary"** means the Secretary of the U.S. Department of Labor.

**"State Council"** means the Governor's Council ~~on~~ for Workforce and Economic Development established pursuant to WIA section 111.

**240:21-1-3. Addresses for appeals**

When a rule in this Chapter allows for an appeal, the following addresses are to be used:

(1) **Secretary**, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

(2) **Regional Administrator**, Regional Office, U.S. Department of Labor, 525 S. Griffin Street Dallas, Texas 75202.

(3) **Director ~~Employment and Training Division~~ of Workforce Integrated Programs**, Oklahoma Employment Security Commission, P.O. Box 52003, Oklahoma City, OK 73152-2003.

(4) **Division of Internal Audit**, Oklahoma Employment Security Commission, P.O. Box 52003, Oklahoma City, OK 73152.

(5) **Assessment Board**, Oklahoma Employment Security Commission, P.O. Box 52003, Oklahoma City, OK 73152.

(6) **Director of Workforce Quality**, Oklahoma Employment Security Commission, P.O. Box 52003, Oklahoma City, OK 73152-2003.

## SUBCHAPTER 3. DENIAL OR TERMINATION OF ELIGIBILITY OF A TRAINING PROVIDER

**240:21-3-1. Reporting - termination**

Pursuant to WIA section 122 ~~(I)~~ (i) the Governor designated the Oklahoma Employment Security Commission (OESC) to make the determinations required by WIA section 122 (e)(2) and (f) unless this requirement is waived by the U.S. Department of Labor.

(1) Each Local Board shall submit the list of ~~trainer~~ training providers, including their performance information and program cost information as described in WIA section 122 (b) or (c), to the Director of Workforce Integrated Programs. If the Director of Workforce Integrated Programs determines within thirty (30) days after the date of submission that the provider does not meet the performance levels in WIA section 122 (c)(6), the Director of Workforce Integrated Programs may remove the training provider from the list for the program. This does not apply to an agency submitting an application under WIA section 122 (b)(1).

(2) If the Director of Workforce Integrated Programs, after consultation with the Local Board, determines that an eligible training provider, or an individual providing information on behalf of an individual training provider, violated WIA section 122 (f) (1) and (2), the Director of Workforce Integrated Programs shall terminate the eligibility of the training provider.

**240:21-3-2. Notice to the training provider**

The Director of Workforce Integrated Programs shall send a certified letter to the training provider at the training provider's address of record with the local board.

## SUBCHAPTER 5. DENIAL OF REQUEST FOR DESIGNATION AS A LOCAL WORKFORCE INVESTMENT AREA

**240:21-5-2. Appeal time**

The appeal must be filed with the State ~~Board~~ Council within twenty (20) days from the date of receipt of the denial of designation. The Governor's designation is final if a timely appeal is not filed and no further appeal shall be allowed.

**240:21-5-3. Hearing**

Upon receipt of a timely appeal, the State ~~Board~~ Council will refer the case to the Assessment Board for hearing. A hearing will then be conducted by the Assessment Board pursuant to its rules at 240:10-11-20 through 240:10-11-31. Within (30) days from the date the appeal is received from the State ~~Board~~, Council the Assessment Board will issue its findings of fact to the Governor, State ~~Board~~ Council, and Chief Local Elected Official. A copy of the administrative record will be sent to the Governor.

## SUBCHAPTER 7. MONITORING

**240:21-7-2. Monitoring report**

(a) A monitoring report will be issued by the Director of Workforce Quality to the CLEO, local area fiscal agent, Local Board, or grant recipient after each monitoring review. Copies of this report will be addressed to the Director of Workforce Integrated Programs, and copies sent to the Executive Director, Deputy Director, and the Director of Internal Audit of the OESC. If evidence of possible violations is discovered, they will be detailed in the report. The report shall be based, in part, on the requirements of WIA, the regulations promulgated thereunder, administrative requirements, applicable cost principles, grant agreements, and state policies.

(b) Monitoring reports and resolutions generated by a grant recipient or Local Board must be submitted to the OESC on an annual basis and at least sixty (60) days prior to expiration of the service provider or subrecipient's contract with its subrecipient.

**240:21-7-3. Monitoring resolution**

(a) The Director of Workforce Quality is responsible for monitoring resolution.

(b) Resolution of a monitoring finding is required when there are disallowed/questioned costs, and administrative findings or deficiencies.

(c) The CLEO, local area fiscal agent, Local Board or grant recipient has thirty (30) days from the date of the monitoring report to submit its response to the designated portions of the monitoring report to the Director of Workforce Quality. The response must contain all additional information, documents, or arguments the CLEO, local area fiscal agent, Local Board or grant recipient wants the Director of Workforce Quality to consider in making ~~his~~ the initial monitoring determination. An entity submitting a response to the monitoring report may request in writing an additional thirty (30) day time period. The Director of Workforce Quality will determine if additional time will be allowed and advise the entity in writing of his or her decision. The Director of Workforce Quality may request additional information from the entity submitting a response, if clarification is needed. The Director of Workforce Quality may schedule or the CLEO, local area fiscal agent, Local Board or grant recipient may request, an informal resolution conference in order to discuss the findings in the monitoring report. The request for the informal resolution conference should be submitted to the Director of Workforce Quality prior to the first thirty (30) day deadline.

(d) ~~The Director of Workforce Integrated Programs will meet with an advisory committee to review any response submitted. The advisory committee will include the Director of Workforce Integrated Programs, the Director of Workforce Integrated Programs of Internal Audit, or his or her designee, and the monitors who conducted the review~~. The Director of Workforce Quality shall issue an initial monitoring determination within sixty (60) days from the date the response is received. The CLEO, local area fiscal agent, Local Board or grant recipient has thirty (30) days from the date of the initial monitoring determination to submit its response to the initial monitoring determination to the Director of Workforce Quality.

(e) ~~The Director of Workforce Integrated Programs may schedule or an entity that submitted a response to the initial monitoring determination may request an informal resolution conference in order to discuss the initial monitoring determination and the information subsequently submitted. The CLEO, local area fiscal agent, Local Board or grant recipient should request the informal resolution conference in its response to the initial monitoring determination.~~ The Director of Workforce Quality shall issue a final monitoring determination in compliance with 240:21-7-4.

(f) All monitoring findings must be resolved within six (6) months after the initial monitoring report is issued.

(g) The Director of Workforce Quality will maintain a monitoring resolution file documenting the disposition of reported questioned costs and corrective actions taken for all findings.

(h) After follow-up procedures are completed, if the grant recipient is found in non-compliance, the Director of Workforce Integrated Programs will send a notice in the form of a certified letter of impending sanctions. The notice will indicate the violation, the corrective action to be taken, the impending sanction, and the process by which the grant recipient may appeal the sanction.

**240:21-7-5. Appeal**

(a) If the CLEO, local area fiscal agent, Local Board or grant recipient is not satisfied with the findings issued in the final determination, it has fifteen (15) days from the date of the final determination to file an appeal.

(b) The appeal must be filed with the Director of Workforce Quality.

(c) The Director of Workforce Quality will then forward a copy of the appeal to the Assessment Board within five (5) days from receipt.

## SUBCHAPTER 9. AUDITS

**240:21-9-1. Audit requirements**

(a) A financial and compliance audit by an independent auditor is required annually for each subrecipient.

(1) Each subrecipient is subject to the audit requirements of 29 CFR Part 95, 29 CFR Part 97, or 29 CFR Part 99 (as appropriate) and shall comply with applicable OMB Circulars, including OMB Circular A-133.

(2) The audit shall be performed by a certified public accountant or firm, or by a public accountant or public accounting firm.

(A) Except as provided in subparagraph (B) of this paragraph, no single person or firm shall perform the annual audit for an Oklahoma WIA grant recipient for more than three (3) consecutive years.

(B) The restriction in subparagraph ~~(a)~~ (A) of this paragraph is waived if WIA funds constitute less than fifty percent (50%) of a grant recipient's total budget.

(3) The audit shall be performed in accordance with standards required by the federal government, requirements issued by OESC, and guidelines established by the Generally Accepted Governmental Auditing Standards (GAGAS).

(b) If the subrecipient does not receive a sufficient amount of federal grant money to require a full audit, the OESC may require a limited scope audit in accordance with federal requirements. The OESC will be responsible for arranging and ~~pay~~ paying for all limited scope audits. The limited scope audit will address one or more of the following types of compliance requirements.

(1) Activities allowed or disallowed;
(2) Allowable cost and cost principles;
(3) Eligibility;
(4) Matching;
(5) Level of effort;
(6) Earmarking;
(7) Reporting.

(c) The OESC Internal Audit Division is charged with the responsibility of audit resolution.

(d) The subrecipient must notify the Internal Audit Division of the name and address of the person or firm that will be performing the annual audit no later than thirty (30) days after the end of the grant recipient's fiscal year. The audit report is to be filed with the Director of Internal Audit Division within thirty (30) days after the completion of the audit and no later than one (1) year from the end of the grant recipient's fiscal year. A copy of the audit report shall be delivered to the Director of ~~Employment and Training~~ Workforce Integrated Programs within the same time period. If a management letter is issued to a subrecipient, the subrecipient shall submit the management letter and the responses thereto to the OESC Internal Audit Division within thirty (30) days from the receipt of the management letter.

**240:21-9-2. Delinquent audit**

If the audit has not been received within one (1) year after the end of the grant recipient's fiscal year, the Director of the Internal Audit Division will send a certified letter to the subrecipient advising it that it has fifteen days to provide its reasons for failing to comply with the requirements set forth in Rule 240:21-5-1. If no response is received within fifteen (15) days, or the response~~,~~ received is not adequate, the Director of Workforce Integrated Programs will send a certified letter to the subrecipient advising it that its current funding and eligibility for future contracts are suspended.

## SUBCHAPTER 11. GRIEVANCE PROCEDURE

## PART 1. GENERAL PROVISIONS

**240:21-11-1. Grievances**

(a) A grievance filed with the Oklahoma Employment Security Commission (OESC) by a participant or affected party alleging a violation(s) of Title I of WIA is governed by the procedure set forth herein.

(b) An appeal to the OESC from a grievance decision issued at the local level regarding alleged violation(s) of Title I of WIA is governed by the procedure set forth herein.

(c) This procedure does not apply to grievances alleging discrimination or Title I of WIA, Subtitle C, Job Corps.

## PART 3. GRIEVANCES FILED DIRECTLY WITH THE OESC

**240:21-11-10. Filing**

A participant or affected party may file a grievance with the Director of Workforce Integrated Programs.

**240:21-11-12. Contents of a grievance**

Each grievance shall be in writing and should:

(1) Be signed by the grievant or his authorized representative;

2) Contain the grievant's name and address (or specify another means of contacting him or her);

(3) Identify the individual against whom the grievance is filed, if applicable;

(4) List the date(s) on which the acts which are the basis of the grievance occurred, or if continuing, when such acts began and describe the continuing nature;

(5) List the names and addresses of persons who may have knowledge of the facts of the grievance;

(6) Describe the grievant's allegations in sufficient detail to allow the Director of Workforce Integrated Programs to determine whether:

(A) The Director of Workforce Integrated Programs has jurisdiction over the grievance;

(B) The grievance was timely filed; and

(C) The grievance has apparent merit, i.e., whether the allegations if true, would violate any Title I of WIA.

**240:21-11-13. Referral of a grievance filed with OESC**

The Director of Workforce Integrated Programs may refer a grievance, originally filed with the OESC, to the local area if there is a likelihood that it could be resolved at that level. If the referred grievance is not resolved within ten (10) days from the date of receipt by the local area, the Director of Workforce Integrated Programs will attempt to resolve the issue informally.

## PART 5. APPEALS TO THE OESC FROM GRIEVANCE DECISIONS OF A LOCAL AREA

**240:21-11-21. Appeals with OESC**

An appeal may be filed with the Director of Workforce Integrated Programs from a grievance decision issued at the local area level if:

(1) No decision is reached within 60 days from the date the grievance is received at the local area level; or

(2) Either party is dissatisfied with the local area hearing decision.

**240:21-11-22. Time limit for filing an appeal with OESC**

(a) If the local area does not render a decision within sixty (60) days from the date of receipt of the grievance, an appeal must be filed with the Director of Workforce Integrated Programs within 30 days from the expiration of the sixty (60) day time period.

(b) If the local area renders a decision that a party is dissatisfied with, the appeal must be filed with the Director of Workforce Integrated Programs within 30 days of the date the local area mails the decision to the party by certified mail.

## PART 7. INFORMAL AND FORMAL RESOLUTIONS OF GRIEVANCES

**240:21-11-30. Informal resolution**

The Director of Workforce Integrated Programs or his or her designee will attempt to resolve any grievance or appeal informally by meeting with the parties in person or discussing the grievance with the parties by telephone. If the grievance is not resolved informally within fifteen (15) days from the receipt of the grievance or appeal, the Director of Workforce Integrated Programs will forward the grievance or appeal to the Assessment Board.

**240:21-11-31. Hearing**

The Assessment Board will conduct the hearing pursuant to its rules at 240:10-11-20 through 240:10-11-31. The hearing process will be completed within sixty (60) days from the date the grievance was received by the Director of Workforce Integrated Programs.

*[OAR Docket #06-588; filed 4-5-06]*

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# TITLE 245. STATE BOARD OF ~~REGISTRATION~~ LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
# CHAPTER 2. ADMINISTRATIVE OPERATIONS

*[OAR Docket #06-571]*

**RULEMAKING ACTION:**
Permanent Rule Document
**RULES:**
245:2-1-1. Purpose [AMENDED]
245:2-1-4. Board meetings [AMENDED]
245:2-1-5. Duties of Board officers [AMENDED]
245:2-1-6. Duties of Executive Director and Principal Assistant [AMENDED]
245:2-1-7. Vacancies [AMENDED]
245:2-1-9. Official Board Seal [AMENDED]
245:2-1-10. Official records [AMENDED]
245:2-1-11. Inactive records [AMENDED]
245:2-1-18. Fees and penalties [AMENDED]
**AUTHORITY:**
Title 59 O.S. Sections 475.1 et seq., State Board of Licensure for Professional Engineers and Land Surveyors
**DATES:**
**Comment Period:**
November 7, 2005 to January 11, 2006
**Public Hearing:**
January 13, 2006
**Adoption:**
January 13, 2006
**Submitted to Governor:**
January 23, 2006
**Submitted to House:**
January 23, 2006
**Submitted to Senate:**
January 23, 2006
**Gubernatorial approval:**
March 9, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on March 31, 2006
**Final Adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The Board's purpose for these rule revisions is as follows: clarify existing rules and change the wording from "registration" to "licensure" throughout
**CONTACT PERSON:**
Kathy Hart, Executive Director, (405) 521-2874

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED**

**FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2006:**

**245:2-1-1. Purpose**

The Rules of Procedure of the Board are set forth for the purpose of interpreting and implementing 59 O.S., Sections 475.1 et seq., establishing the State Board of ~~Registration~~Licensure for Professional Engineers and Land Surveyors and conferring upon it the responsibility for ~~registration~~ the licensing of engineers, land surveyors, engineering and land surveying firms, regulation of the practice of engineering and land surveying, and enforcement of the Statutes. The Rules of Procedure are known and cited as OAC 245.

**245:2-1-4. Board meetings**

(a) The Board holds at least four (4) regular meetings each year within the State of Oklahoma. The exact time and place shall be determined by the Chair ~~Chairman~~ and shall be set forth in a written notice, a copy of which shall be mailed to each member, at the member's last address of record, by the Executive Director or Principal Assistant at least ten (10) days in advance of the date of the meeting. Other meetings may be called as prescribed by law.

(b) All meetings shall be conducted by the current edition of "Roberts Rules of Order Newly Revised" unless otherwise provided herein or by Statute.

(c) Members of the Board may waive formal or written call or notice of meeting, and by the attendance at any meeting such members so attending shall be deemed to have waived all notice thereof.

(d) A quorum of the Board shall consist of ~~not less than three (3) Professional Engineer Members and~~ a majority of the full Board that includes at least one (1) Professional Land Surveyor Member. A majority vote of those present is required to pass a motion. The ~~chairman~~ Chair shall vote as a member of the board.

(e) In the absence of a quorum at any regular or special meeting called, those members of the Board in attendance shall reschedule such meeting to any later date.

**245:2-1-5. Duties of Board officers**

(a) **Election of Board officers.** The Board elects annually from its membership as officers a ~~chairman~~ Chair, ~~vice-chairman~~ Vice-Chair, and a ~~secretary~~ Secretary.

(b) **Duties of the Chair~~Chairman~~.** The duties of the Chair ~~Chairman~~ are defined in the Statute. The ~~Chairman~~ Chair shall also serve as executive officer of the Board and shall perform the additional duties:

(1) preside at all meetings;

(2) appoint such committees as the Board may authorize or require in the conduct of the Board business;

(3) sign all certificates and perform all other duties usually pertaining to the office of ~~Chairman~~ Chair and required or permitted by law.

(c) **Duties of the~~Vice-Chairman~~ Vice-Chair.** The duties of the ~~Vice-Chairman~~ Vice-Chair are as defined in the Statute. The ~~Vice-Chairman~~ Vice-Chair shall also serve as executive officer of the Board and perform the duties of the ~~Chairman~~ Chair in the absence of the ~~Chairman~~ Chair.

(d) **Duties of the Secretary.** The duties of the Secretary are as defined in the Statute. The Secretary shall also sign all certificates and other official documents required or permitted by law. ~~Further, the Secretary, with the assistance of the Executive Director, shall prepare monthly reports for the "Professional Engineers and Land Surveyors Fund", which reports shall show all funds received and disbursed from the fund compared to the previous year's monthly report. Such report shall be presented to the Board at the next scheduled meeting.~~

**245:2-1-6. Duties of Executive Director and Principal Assistant**

(a) The Board shall employ an Executive Director who shall be responsible for the administration of the policies of the board, the processing of its routine operations, and other administrative and ministerial duties as the Board authorizes.

(b) The Board shall appoint a Principal Assistant for the Board, who shall not be a member of the Board, but shall be a Professional Engineer or Land Surveyor. The Principal Assistant's duties shall be to assist the Executive Director in the administration of the policies of the board and other administrative and ministerial duties as the Board authorizes. The Principal Assistant shall act on behalf of the Executive Director in the absence of the Executive Director.

(c) The Board shall furnish the Executive Director and Principal Assistant the necessary equipment, supplies and clerical assistance, paying for same directly on claims handled as prescribed herein and by law.

(d) The Executive Director and Principal Assistant shall make available to the Public for inspection at 201 N. E. 27th Street, Oklahoma City, Oklahoma, or subsequent address, all public records of the Board, and shall accept submissions and requests at said location.

(e) The Executive Director shall prepare monthly reports for the "Professional Engineers and Land Surveyors Fund", which shall show all funds received and disbursed from the fund compared to the previous year's monthly report. Such report shall be presented to the Board at the next scheduled meeting.

**245:2-1-7. Vacancies**

(a) If, for any reason, a vacancy shall occur in the Board, the ~~Chairman~~ Chair shall prepare a notice to the Governor asking for the appointment of a new member to fill the unexpired term.

(b) If the vacancy shall occur in the office of the ~~Chairman~~ Chair, the ~~Vice-Chairman~~ Vice-Chair shall prepare a notice to the Governor asking for the appointment of a new member to fill the unexpired term. In such case, the Board shall elect, from its own membership, at the first regular or special meeting, a new ~~Chairman~~ Chair to serve for the balance of the unexpired term.

**245:2-1-9. Official Board Seal**

The Seal of the Board shall be a circular seal, 2 1/4" in diameter, consisting of two concentric circles. The inner circle shall be 1 3/8" in diameter and shall contain the great seal of the State of Oklahoma. The outer circle shall be 2 1/8" in diameter and the area between the two circles shall contain the wording "State Board of ~~Registration~~ Licensure for Professional Engineers and Land Surveyors" and the word "Oklahoma".

**245:2-1-10. Official records**

Among other official records required by law, or by rules of other agencies in support of law, the Board shall maintain accurate and current records including, but not limited to:

(1) A record of minutes, in proper order, containing a summary of actions of all meetings of the Board.

(2) Records of ~~Registrant~~ Licensees, containing the name and ~~registration~~ license number of all persons to whom Certificates of ~~Registration~~ Licensure are issued, date of original ~~registration~~ license, the last known address of all current ~~registrant~~ licensees and renewals affected through biennial ~~registration~~ licensure.

(3) ~~Registrant~~ Licensee files for each current ~~registrant~~ licensee containing the original application, relevant verification and evaluation data, record of examination grades, and when applicable, records of alleged violations, suspensions, revocations, refusal to renew, orders issued, hearing transcriptions and penalties levied.

(4) Certificate of Authorization files containing the name of each current firm holding a current certificate, the engineer(s) or land surveyor(s) of record, a record of all partners, officers and directors of the entity, their ~~registration~~ license number and state ~~of~~ in which they are ~~registration~~ licensed, if applicable, and the last known address.

(5) A system of finance records indicating funds received, budgeted, committed, spent, remaining and projections of appropriate request for consideration in budget development.

**245:2-1-11. Inactive records**

All inactive ~~registrant~~ licensees and Certificates of Authorization files and records over three (3) years old may be microfilmed or imaged and disposed of according to the current State law and Archives and Records Commission Rules. Files and records containing violations and penalties over ten (10) years old may be microfilmed or imaged and disposed of according to the current State law and Archives and Records Commission Rules.

**245:2-1-18. Fees and penalties**

(a) Schedule of fees and penalties ~~effective January 1, 2002~~, are as follows:

(1) Application:
- (A) Original
  - (i) Engineer/Surveyor - $100.00
  - (ii) Intern - $25.00
  - (iii) Firm - $150.00
- (B) ~~Re-registration~~ Re-license
  - (i) Engineer/Surveyor - $100.00
  - (ii) Intern - $25.00
  - (iii) Firm - $150.00
- (C) Requalifications
  - (i) Engineer/Surveyor - $100.00
  - (ii) Intern - $25.00

(2) Biennial renewals:
- (A) Individuals (Renewal fees are waived for Oklahoma ~~register~~ licensed engineers and surveyors at 70 years old. Individuals must be 70 years old prior to their biennial renewal date and return the renewal form sent by the Board to qualify.)
  - (i) Engineer/Surveyor - $100.00
  - (ii) Intern - WAIVED
- (B) Firm - $100.00

(3) Reinstatement penalty: The following reinstatement penalty schedule refers to payments received by the Board within the prescribed number of days following the expiration date of the renewal:
- (A) 1 - 90 days:
  - (i) Engineer/Surveyor - $50.00
  - (ii) Firm - $50.00
- (B) 91 - 120 days:
  - (i) Engineer/Surveyor - $100.00
  - (ii) Firm - $100.00
- (C) 121 - 180 days:
  - (i) Engineer/Surveyor - $150.00
  - (ii) Firm - $150.00

(4) Re-examination application:
- (A) Engineer/Surveyor - $50.00
- (B) Intern - $10.00

(5) Temporary permit (Engineering) - $500.00

(6) Administrative fee for returned checks:
- (A) Engineer/Surveyor - $25.00
- (B) Intern - $25.00
- (C) Firm - $25.00
- (D) Public - $25.00

(7) Duplicate certificate:
- (A) Engineer/Surveyor - $15.00
- (B) Intern - $15.00
- (C) Firm - $15.00

(8) Roster:
- (A) Intern - $10.00
- (B) Firm - $10.00
- (C) Public - $10.00

(9) Transcript of hearing - Actual cost

(10) Copy of public records (per page):
- (A) Engineer/Surveyor - $.25
- (B) Intern - $.25
- (C) Firm - $.25
- (D) Public - $.25

(b) The Board shall make no refunds of any fees or penalties to any applicant or ~~registrant~~ licensee.

(c) These fees and penalties apply to the Rules in this Chapter and Chapter 15 of this Title.

(1) The administrative fee for returned checks shall be applied to any check returned to the Board for insufficient funds.

(2) Any such check returned to the Board shall be replaced with a cashier's check or money order within ten (10) days following notification from the Board of the returned check.

*[OAR Docket #06-571; filed 4-5-06]*

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## TITLE 245. STATE BOARD OF ~~REGISTRATION~~ LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
## CHAPTER 15. ~~REGISTRATION~~ LICENSURE AND PRACTICE OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

*[OAR Docket #06-572]*

**RULEMAKING ACTION:**
Permanent Rule Document
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245:15-23-22. Procedures to file exceptions to proposed orders [AMENDED]
245:15-23-23. Rehearing, reopening or reconsideration [AMENDED]
245:15-23-24. Other hearings [AMENDED]
245:15-23-25. Emergency hearings and orders [AMENDED]
**AUTHORITY:**
Title 59 O.S. Sections 475.1 et seq., State Board of Licensure for Professional Engineers and Land Surveyors
**DATES:**
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November 7, 2005 to January 11, 2006
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January 13, 2006
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January 13, 2006

**Submitted to Governor:**
January 23, 2006
**Submitted to House:**
January 23, 2006
**Submitted to Senate:**
January 23, 2006
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March 9, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on March 31, 2006
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March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The Board's purpose for these rule revisions is as follows:
clarify existing rules,
revise the requirements for engineering and surveying licensure,
revise continuing education requirements
revise to reflect legislative changes effective November 1, 2005 to Title 59, Section 475.1 et seq
**CONTACT PERSON:**
Kathy Hart, Executive Director, (405) 521-2874

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2006:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 245:15-1-1. Purpose

The Rules of Procedure of the Board are set forth for the purpose of interpreting and implementing 59 O.S., Sections 475.1 et seq., establishing the State Board of ~~Registration~~Licensure for Professional Engineers and Land Surveyors and conferring upon it the responsibility for ~~registration~~ licensing of engineers, land surveyors, engineering and land surveying firms, regulation of the practice of engineering and land surveying, and enforcement of the Statutes. The Rules of Procedure are known and cited as OAC 245.

### 245:15-1-3. Definitions

The following words or terms, when used in the Rules of Procedure, shall have the following meaning, unless the context clearly indicates otherwise.~~:~~ Definitions in 59 O.S. Section 475.2 and 65 O.S. Section 3-118 shall be read together with the definitions and interpretations provided in the Rules of Procedure of the Board.

**"Accessory to a corner"** means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal filled bottles, steel or wooden stakes, or other objects.

~~**"Direct control"** and **"personal supervision"** whether used separately or together mean active and personal management of the firm's personnel and practice including personal presence in the work place to maintain charge of and concurrent direction over engineering or land surveying decisions and the instruments of professional services to which the registrant affixes the seal, signature and date.~~

~~**"Engineer"** means a person who, by reason of special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified, after meeting the requirements of Sections 475.1 et. seq. of Title 59 O.S., to engage in the practice of engineering.~~

~~**"Engineer Intern"** means a person who complies with the requirements for education or education and experience and has passed an examination in the fundamental engineering subjects, as provided in 59 O.S., Sections 475.1 et seq.~~

~~**"Engineering surveys"** include all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects but exclude the surveying of real property for the establishment of land boundaries, rights-of-way, easements and the dependent or independent surveys or resurveys of the public land survey system.~~

~~**"Firm"** means a corporation, partnership, co-partnership, joint stock association, limited liability company, limited liability partnership, or any other lawful form of organization, or a private practitioner employing other registered engineers, surveyors or licensed design professionals, or other persons or entities or joint ventures using fictitious names.~~

~~**"Immediate direction"** shall mean the exercise of Direct Control and Personal Supervision over the personnel of a firm performing engineering or land surveying.~~

~~**"Land Surveyor"** means a person who, by reason of special knowledge in the technique of measuring land and use of the basic principles of mathematics, the related physical and applied sciences and the relevant requirements of law for adequate evidence and all requisite to surveying of real property, acquired by education and experience, is qualified, after meeting the requirements of Sections 475.1 et. seq. of Title 59 O.S., to engage in the practice of land surveying.~~

~~**"Land Surveyor Intern"** means a person who complies with the requirements for education or education and experience, and has passed an examination in the fundamental land surveying subjects as provided in 59 O.S., Sections 475.1 et seq.~~

**"Certify" or "Certification"** or similar expressions relating to engineering or land surveying services shall mean a statement based upon facts and knowledge known to the licensee and is not a guarantee or warranty, either expressed or implied.

**"Closure Error"** means the ratio between the horizontal linear error of closure to the total horizontal distance traversed, with the numerator of the ratio being the number "one".

**"Land or boundary survey"** means a survey, the primary purpose of which includes, but is not limited to, the determining of the perimeter of a parcel or tract of land by establishing or reestablishing corners, monuments and boundary lines.

**"Linear Closure"** means a measure of the horizontal linear error without regard to direction, between the computed location of the first and last points of a traverse when either the traverse actually returns to its beginning point (geometrically and mathematically closed), or the traverse ends at a point of previously established control relative to the beginning point (geometrically open, but mathematically closed).

**"Mortgage inspection certificate"** means a representation of the boundaries of a parcel of real property and the improvements thereon, prepared incident to a mortgage of real property.

**"Monument"** means a physical structure that occupies the exact position of a corner.

**"Oklahoma Model Law Engineer"** means a person who meets the minimum requirements of this act and:

(A) is a graduate of an engineering curriculum accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET) or ~~has an engineering degree recognized by the Washington Accord Agreement;~~ has an engineering degree recognized as substantially equivalent to an EAC/ABET degree by the Board;

(B) has passed the Fundamentals of Engineering examination using the NCEES cut score except that for an applicant having eight years of acceptable engineering experience who obtained an original ~~registration~~license prior to December 31, 1996, the Fundamentals of Engineering examination is waived for this definition only;

(C) has a specific record of an additional four years of progressive experience on engineering projects following graduation;

(D) has passed the Principles and Practices of Engineering examination using the National Council of Examiners for Engineering and Surveying (NCEES) cut score~~,~~ if the state of Oklahoma required such an examination at the time the comity applicant's original license was granted;

(E) has not been disciplined in any jurisdiction by a Board of licensure for engineering or land surveying or architecture;

(F) has not been convicted of a felony or misdemeanor.

~~**"Monument"** means a physical structure that occupies the exact position of a corner.~~

~~**"Practice of engineering"** means any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, planning the engineering use of land and water, teaching of advanced engineering subjects, or courses related thereto, engineering research, engineering surveys, engineering studies, and the inspection or review of construction for the purposes of assuring compliance with drawings and specifications; any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, chemical, environmental, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services.~~

**"Positional Error"** means the difference between the actual position of a corner monument and its described or computed position. This error may be determined by computing the difference between the measured position and the adjusted position of the monument or by measurement of angle and distance between three of the corner monuments on the survey if made with precise surveying instruments using proper procedures.

**"Practice of land surveying"** as defined by Oklahoma Statutes Title 59, Section 475.2(7)(a) also includes monumenting the subdivision of land into smaller parcels and the preparation of legal descriptions in connection therewith; however, the preparation of legal descriptions by a person who does not monument the land so described is not the practice of land surveying. Preparation of the control portion of geographic information systems and land information systems means the authoritative and monumented ground survey of a system of marks or objects to establish horizontal or vertical positions. ~~means any service or work, the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences and the relevant requirements of law for adequate evidence to the act of measuring, locating or establishing lines, angles, elevations, natural and man made features in the air, on the surface of the earth, within underground workings and on the beds of bodies of water for the purpose of determining areas and volumes, geodetic positions, and design, establishment and administration of land and geographic information systems, and the collection, storage, analysis and management of data within those systems; for the monumenting of property and land boundaries and for the platting and layout of lands and subdivisions thereof, including the topography; and for the preparation and perpetuation of maps, record plats, field note records and property descriptions that represent these surveys.~~

~~**"Professional Engineer"** means a person who has been duly registered and licensed as a professional engineer as provided in 59 O.S., Sections 475.1 et seq.~~

~~**"Professional Land Surveyor"** means a person who has been duly registered and licensed as a professional land surveyor as provided in 59 O.S., Sections 475.1 et seq.~~

~~**"Property controlling corner"** means a public land survey corner, or any property corner, which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.~~

~~**"Property corner"** means a geographic point on the surface of the earth, and is on, a part of, and controls a property line.~~

~~**"Public land survey corner"** means any corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for the land to a private person from the United States government.~~

~~**"Reference monument"** means a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is recorded, and which serves to witness the corner.~~

**"Related science ~~or non-approved engineering~~ degree"** means one of the following: ~~an~~ a degree from an ABET accredited engineering technology ~~degree~~ program of four (4) years or more, or a degree from an architecture program accredited by the National Architectural Accrediting Board (NAAB) ~~accredited architecture degree~~. Degrees of ~~Four~~ four (4) ~~year~~ years or more ~~degrees~~ in ~~chemistry, physics, mathematics, geology, geophysics and non-ABET accredited engineering degrees~~ other sciences will be deemed a related science ~~or non-approved engineering~~ degree only if approved by the Board after ~~upon~~ a review of the curriculum.

**"Related science or non-approved land surveying curriculum"** means a curriculum relevant to the practice of land surveying such as math, computer science, civil engineering technology or other curriculum involving the principles of mathematics and the related physical and applied sciences.

~~**"Responsible charge"** means direct control and personal supervision of engineering work or land surveying.~~

**"Rules of professional conduct for Professional Engineers and Land Surveyors"** means those rules promulgated by the Board ~~in Chapter 15 of this Title~~.

**"Signature"** and **"Date"** whether used together or separately means an original signature handwritten by the licensee for each application of the seal and original date of signature handwritten by the licensee for each application of the seal.

**"Survey plat," "Sketch,"** or **"Map,"** or similar document, shall mean any drawing of a parcel or tract of real property used for the purpose of depicting the results of a field survey.

### 245:15-1-4. Statutory charges to the Board

Provisions of the Statutes charge the Board with adoption and enforcement of all reasonable and necessary Rules and Regulations which it may deem advisable and empowers the Board with authority to deny, suspend, revoke or refuse to renew Certificates of ~~Registration~~ Licensure and Certificates of Authority for certain causes. The Statutes also empowers the Board with administrative penalties (fines) and does not preclude the Board from using any necessary legal proceedings to enforce its decisions.

## SUBCHAPTER 3. APPLICATION AND ELIGIBILITY FOR ~~REGISTRATION~~LICENSING

### 245:15-3-2. Documents required for ~~registration~~licensing

(a) Every individual applying for ~~registration~~ a license shall submit an application, which shall be the printed forms furnished by the Board or forms located on the Board's website, accompanied by the applicable fees.

(b) All information filled in on the application forms must be typewritten or computer generated. In case there is not sufficient room on the form to present all the subject matter necessary, the applicant shall set forth the additional information on additional sheets of plain white paper, 8 1/2" x 11" in size. Such sheets shall be typewritten or computer generated on one side only, shall be marked and numbered consecutively and in series with the regular pages of the application.

(c) An affidavit certifying the truthfulness of the statements in the application shall constitute a part of each application.

(d) An applicant shall request the university or college from which credit has been obtained to forward directly to the Board a properly certified university or college transcript showing all academic work.

(e) All application forms and information furnished thereon and all examinations and answers thereto shall be entirely in the English language.

### 245:15-3-3. Non-resident applications for original ~~registration~~license

The Board will receive and process non-resident applications for original ~~registration~~license of an applicant who is a graduate of an Oklahoma university or college or an applicant who is an Oklahoma certified engineer intern. All other applicants for original ~~registration~~license must be an Oklahoma resident.

### 245:15-3-4. Board action required

(a) Individual comity applicants meeting the requirements of a "Oklahoma Model Law Engineer" as defined in these regulations and the application for certificate of authorization of the firm for which the comity applicant is in responsible charge, may be approved by the Principal Assistant and Executive Director. Certificate of authorization applications for firms in which the responsible charge engineer or surveyor is a currently ~~registered~~ licensed engineer and/or surveyor in Oklahoma may also be approved by the Principal Assistant and Executive Director. All other applications for Professional Engineer, Professional Land Surveyor and Certificate of Authorization submitted for ~~registration~~ a license shall be first considered by the Board for approval or disapproval.

(b) Intern applications for admission to the fundamentals ~~examination~~ examination(s) may be approved by the Executive Director or Principal Assistant.

(c) The Board shall approve or disapprove applications for certification as an Engineer Intern or Land Surveyor Intern.

### 245:15-3-5. Application deadlines

~~(a)~~ Professional Engineer, Professional Land Surveyor, Engineer Intern and Land Surveyor Intern applications for initial ~~registration~~ license or certification may be made at any

time. Cut-off dates for receiving applications will be set out in a policy of the Board and circulated with application information. If an application is received following the cut-off date the application will be continued to the next examination schedule.

**245:15-3-6. Active and inactive applications**

(a) Applications for ~~registration~~ licensure will remain effective ~~for~~ no longer than four years after the date submitted to the Board.~~only.~~ Incomplete applications will be withdrawn from consideration by the Board after one year from the date of submitted to the Board. ~~and the applicant will be required to reapply~~ In both cases, a new and complete application shall be required from an applicant seeking licensure.

(b) An applicant's application will be closed after a fourth failure of any examination, except for the Oklahoma Law and Surveying examination and Oklahoma Law and Engineering examination. An applicant shall file a new and complete application for re-examination, to include evidence of additional education, knowledge or skill sufficient to materially improve the applicant's qualifications for re-examination.

(c) If an applicant requests that the applicant's application be withdrawn from consideration, the Board will reject the application. Any further consideration will require a new and complete application and fee.

**245:15-3-7. Qualifications for ~~engineer~~ engineering ~~registration~~ licensure**

To be eligible for ~~registration~~ licensure as a Professional Engineer or certified as an Engineer Intern, the applicant must be of good character and reputation. Applicants must meet all qualifications as contained within the Statutes and the Rules of the Board. Applications shall be individually reviewed by the Board. Evidence of minimum qualifications is required by the Board in accordance with the following:

(1) Engineer Intern:

(A) Graduation and Examination - A ~~An applicant, who graduated~~ graduate ~~from~~ of an EAC/ABET accredited engineering ~~curriculum~~ program of four (4) years or more, or an engineering ~~curriculum~~ program of four (4) years or more determined by the Board to be ~~recognized by the ABET Washington Accord~~ substantially equivalent to an EAC/ABET accredited engineering program in the United States ~~Agreement~~, shall ~~show proof of:~~ be admitted to an eight-hour written examination on the fundamentals of engineering. Upon passing such examination, the applicant shall be certified as an engineer intern, if otherwise qualified.

~~(i) graduation from an EAC/ABET accredited engineering curriculum of four (4) years or more or an engineering curriculum of four (4) years or more recognized by the ABET Washington Accord Agreement;~~

~~(ii) passing an eight hour written examination in the fundamentals of engineering;~~

(B) Alternative Graduation, Experience, and Examination - ~~An applicant who graduated~~ A graduate holding a related science degree or a degree from a non-accredited engineering program ~~from a non-approved engineering or related sciences curriculum~~ of four (4) years or more, other than the ones approved by the Board as being substantially equivalent to an EAC/ABET accredited engineering degree, and following the date of degree, a specific record of one (1) year or more of progressive experience in engineering projects of a grade and character satisfactory to the Board shall be admitted to an eight-hour written examination on the fundamentals of engineering. Upon passing such an examination, the applicant shall be certified as an engineer intern, if otherwise qualified. ~~shall show proof of:~~

~~(i) graduation from a non-approved engineering or related science curriculum of four (4) years or more;~~

~~(ii) one (1) year approved engineering experience following the date of degree,~~

~~(iii) passing an eight (8) hour written examination in the fundamentals of engineering;~~

(C) A ~~Four~~ four (4) year ~~degrees~~degree in a ~~other sciences~~ science not considered a related science degree by the Board must be followed by a Masters Degree in engineering from an institution with a comparable EAC/ABET accredited undergraduate engineering program before being considered for approval as a related science degree by the Board. ~~Non-ABET approved foreign~~ Foreign degrees not determined by the Board to be substantially equivalent to an EAC/ABET engineering degree may be considered following a degree evaluation ~~from~~ by ~~an NCEES~~ an ~~approved~~ evaluation service approved by the Board~~,~~. ~~provided however,~~ The maximum equivalency granted for all foreign degrees, except those determined to be substantially equivalent to an EAC/ABET accredited engineering degree, shall be that of a ~~non-approved engineering or~~ related science ~~curriculum of four or more years~~ degree.

(2) Professional Engineer (original ~~registration~~ license):

(A) ~~An applicant who graduated from an~~ Graduation, Experience, and Examination - A graduate of an EAC/ABET ~~approved~~ accredited engineering program~~, shall show proof of;~~

~~(i) graduation from an EAC/ABET accredited engineering curriculum~~ of four (4) years or more, or an engineering ~~curriculum~~ program of four (4) years or ~~more~~ more determined by the Board to be substantially equivalent to an EAC/ABET accredited engineering program in the United States ~~recognized by the ABET Washington Accord Agreement;~~, and following the date of degree a specific record of an additional four (4) years or more of progressive experience on engineering projects of a grade and character which indicates to the Board that the applicant may be competent to practice engineering, shall be admitted to an

eight-hour written examination on the fundamentals of engineering, and if passed, then shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing such examinations, the applicant shall be granted a certificate of licensure to practice engineering in this state, if otherwise qualified.

~~(ii) passing the fundamentals of engineering examination, and~~

~~(iii) a specific record of an additional four (4) years or more of progressive engineering experience, following the date of graduation, of a grade and character which indicates to the Board that the applicant may be competent to practice and has experienced increased engineering responsibilities.~~

(B) Alternative Graduation, Experience and Education - ~~An applicant who graduated from a non approved engineering or related science program, shall show proof of;~~

(i) A graduate holding a related science degree or a degree from a non-accredited engineering program of four (4) years or more, other than the ones approved by the Board as being substantially equivalent to an EAC/ABET accredited engineering degree, and following the date of degree a specific record of six (6) years or more of progressive experience on engineering projects of a grade and character which indicates to the Board that the applicant may be competent to practice engineering, shall be admitted to an eight-hour written examination on the fundamentals of engineering, and if passed, then shall be admitted to an eight-hour written examination in the principles and practice of engineering. Upon passing such examination, the applicant shall be granted a certificate of licensure to practice engineering in this state, if otherwise qualified.

(ii) ~~graduation from a non approved engineering or related sciences curriculum of four (4) years or more.~~ A ~~Four~~ four (4) year ~~degrees~~ degree in a ~~other~~ science~~sciences~~, not considered a related science degree by the Board, must be followed by a Masters Degree in engineering from an institution with a comparable EAC/ABET accredited undergraduate engineering program before being considered for approval as a related science degree by the Board. ~~Non-ABET approved foreign~~

(iii) Foreign degrees not determined by the Board to be substantially equivalent to an EAC/ABET engineering degree may be considered following a degree evaluation by an ~~from an NCEES approved~~ evaluation service approved by the Board, provided however, maximum equivalency granted shall be that of a ~~non approved engineering or~~ related science ~~curriculum~~ degree.~~of four or more years.~~

~~(ii) passing the fundamentals of engineering examination, and~~

~~(iii) a specific record of an additional six (6) years or more of progressive engineering experience following the date of graduation of a grade and character which indicates that the applicant may be competent to practice and has experienced increased engineering responsibilities.~~

(C) Experience credit may be claimed to the date of the application. Experience record is to be continuous from beginning to the date of the application. Experience time shall not exceed elapsed calendar time. Applications with insufficient experience will be rejected by the Board. Only experience obtained directly within the professional field will be considered as qualifying experience by the Board. The following areas of experience which may be verified by a Professional Engineer will be considered to be of a grade and character satisfactory to the Board.

(i) Evaluation, selection and application of standard engineering techniques, procedures and criteria, using judgment in making adaptations and modifications.

(ii) Engineering research and development.

(iii) Plan, design and analysis of engineering projects, systems and/or manufactured products.

(iv) Construction of engineering projects or systems.

(v) Applications and operational analysis of engineering projects, systems or facilities.

(vi) Teaching of advanced engineering subjects and related courses.

(D) A maximum of six (6) months experience may be allowed for successful completion of an EAC/ABET accredited engineering cooperative education program with work experience meeting (2)(A) of this Sections.

(E) Concurrent time, that is, time spent in engineering work while attending school will be credited either as education experience or work experience but not both.

(F) Applicants, applying under (2)(A), (2)(B)(I), or (2)(B)(iii), who ~~Successful~~ successfully ~~completion of~~ complete graduate study leading to ~~the~~ a ~~master's~~ Master's ~~degree~~ Degree in engineering may be awarded one (1) year's experience provided that at the time the Master's Degree in engineering was awarded the institution had a bachelor's level EAC/ABET accredited engineering program of four (4) years or more or an engineering program of four (4) years or more determined by the Board to be substantially equivalent to an EAC/ABET accredited engineering program, ~~which has followed an EAC/ABET accredited engineering curriculum of four (4) years or more or an engineering curriculum of four (4) years or more recognized by the ABET Washington Accord Agreement may be awarded one year's experience.~~ If ~~the~~ a Ph.D. in engineering is completed under the same conditions, two years total experience may be awarded. The two years awarded

include the one year awarded for the master's degree. If the Ph.D. in engineering is completed under the same conditions but without the master's degree, two years experience may be awarded. If the Ph.D. is completed with a master's degree in engineering which does not follow an EAC/ABET accredited engineering curriculum of four (4) years or more or an engineering curriculum of four (4) years or more recognized by the ABET Washington Accord Agreement, one year of experience may be awarded for the combined master's degree and Ph.D.

(G) Accredited engineering programs of six (6) years or more which confer a masters of science in engineering without first conferring a bachelor of science in engineering may be accepted under 2(A) and may be allowed the additional one year of engineering experience under 2(F) of this section.

(H) Applicants shall submit a minimum of five (5) references, three (3) of whom shall be Professional Engineers having personal knowledge of the applicant's engineering experience, none of whom may be current members of the Board. These references should ~~be able to~~ verify the periods of experience since the beginning of the history, leaving no gaps in dates. The Board cannot give credit for engineering experience that has not been verified by one or more references.

(I) When the requirements of the Statutes and of this Chapter are met, the applicant shall be admitted to, and must pass, an ~~eight (8) hour written examination in the fundamentals of engineering, an eight (8) hour written examination in the principles and practice of engineering and shall be provided an~~ examination covering the laws, rules, procedures and practices pertaining to engineering in the state of Oklahoma.

~~(J) Upon completion of the applicable requirements of this section, to the satisfaction of the Board, the applicant shall be registered licensed as a Professional Engineer in the State of Oklahoma.~~

**245:15-3-8. Qualifications for land ~~surveyor~~ surveying ~~registration~~ licensure**

To be eligible for ~~registration~~ a license as a Professional Land Surveyor or certified as a Land Surveyor Intern, an applicant must be of good character and reputation. Evidence of minimum qualifications is required by the Board in accordance with the following requirements; however, subject to the education exception in 245:15-3-8(c) until July 1, 2014, an applicant for the Fundamentals of Land Surveying Examination shall not be admitted to the exam after July 1, 2008 unless the applicant has graduated from a surveying program of two (2) years or more accredited by an accrediting body approved by the Board or graduated from a surveying or related science program of four (4) years or more other than programs approved by the Board as being of satisfactory standing:

(1) Land Surveyor Intern:

(A) An applicant who provides proof of graduation from a board approved, surveying ~~curriculum~~ program of two (2) years or more and has passed an eight (8) hour written examination in the fundamentals of ~~land~~ surveying shall be certified as a Land Surveyor Intern.

(B) An applicant who provides proof of graduation from a non-approved surveying or related science ~~curriculum~~ program, has a specific record of four (4) years of combined education, office and field experience in land surveying, and has passed an eight (8) hour written examination in the fundamentals of ~~land~~ surveying shall be certified as a Land Surveyor Intern~~.~~

(2) Professional Land Surveyor (original ~~registration~~ license):

(A) An applicant who graduated from a Board approved surveying program, shall provide proof of;

(i) graduation from a board approved surveying ~~curriculum~~ program of two (2) years or more,

(ii) passing the fundamentals of ~~land~~ surveying examinations, and

(iii) a specific record of an additional four (4) years of combined office and field experience of which two (2) years has been in responsible charge of land surveying projects under the supervision of a Professional Land Surveyor and of a grade and character which indicates to the Board that the applicant may be competent to practice.

(B) An applicant who graduated from a related science or a non-approved surveying program, shall provide proof of;

(i) graduation from a related science or a non-approved surveying ~~curriculum~~ program of two (2) years or more,

(ii) passing the fundamentals of ~~land~~ surveying examinations, and

(iii) a specific record of an additional six (6) years of combined office and field experience of which two (2) years has been in responsible charge of land surveying projects under the supervision a Professional Land Surveyor and of a grade and character which indicates to the Board that the applicant may be competent to practice.

~~(C) An applicant who graduated from a non-approved engineering or surveying program of four (4) years or more, shall provide proof of;~~

~~(i) graduation from a Board approved or non-approved surveying curriculum, Civil Engineering, or Civil Engineering Technology curriculum of four (4) years or more,~~

~~(ii) passing the fundamentals of land surveying examination, and~~

~~(iii) a specific record of an additional two (2) years of combined office and field experience in responsible charge of land surveying projects under the supervision of a Professional Land Surveyor and of a grade and character which indicated~~

~~to the Board that the applicant may be competent to practice.~~

(~~D~~C) An applicant who does not have a Board approved or non-approved, surveying or related science ~~curriculum~~ program of two (2) years or more, must show proof of a specific record of nine (9) years or more and practice in land surveying of which at least five (5) years have been in responsible charge of independent land surveying work under the supervision of a Professional Land Surveyor and of a grade and character which indicates to the board that the applicant may be competent to practice. Provided, after July 1, 2014, the record of practice in land surveying specified in this paragraph shall not be considered by the Board as minimum evidence that an applicant is qualified for licensure as a professional land surveyor.

(~~E~~D) Applicants must show proof of a specific record of combined office and field experience of a grade and character which indicates to the Board that the applicant may be competent to practice and has obtained the experience under the supervision of a Professional Land Surveyor. Experience record may be claimed to the date of the application. Experience record is to be continuous from the beginning to the date of the application. Experience time shall not exceed elapsed calendar time. Applications with insufficient experience will be rejected by the Board. Only experience obtained directly within the land surveying area will be considered as qualifying experience by the Board. The following listed experience will be considered to be of a grade and character satisfactory to the Board.

(i) "Office experience" which includes, but is not limited to, land surveying activities, under the responsible charge of a Professional Land Surveyor, where the applicant:

(I) Assists in the planning, directing and analyzing necessary for the preparation of surveys, plats, and related documents.

(II) Reduces and evaluates land surveying data.

(III) Develops procedures and systems for the collection, reduction, adjustment and use of land surveying data.

(IV) Prepares data to be used by field surveyors or field crews.

(V) Coordinates the preparation and processing of maps, plats, reports, descriptions, or other documents.

(VI) Researches records to obtain survey and title data.

(VII) Performs boundary analysis and reconciles records and field evidence to identify boundary line's discrepancies.

(ii) "Field experience" which includes, but is not limited to, land surveying activities, under the responsible charge of a Professional Land Surveyor, where the applicant:

(I) Assists in determining field survey methods and procedures, including selection of accuracy standards.

(II) Selects or verifies that the correct control monumentation is used to establish the survey datums (horizontal and vertical) and selects "on the ground" locations for control monuments.

(III) Inspects monumentation in the field and/or examines field evidence for the determination and identification of physical evidence.

(IV) Reviews measurements observations with the responsibility for accuracy, completeness, and consistency.

(V) Reviews, determines procedures for and prepares field notes and records for proper application of field survey procedures.

(VI) Plans field checks, reviews field checks, and, based on such checks, determines if completed field survey plats are accurate and sufficient.

(VII) Searches for boundary and control monuments; assists in analyzing field evidence; compares record data to found physical evidence; compares record data to measured data, documents discrepancies; assists in acquiring and documenting testimony regarding boundary locations; recommends boundary locations and/or establishment; selects or verifies that the correct controlling monuments are used to locate or establish boundary points and lines.

(VIII) Recommends when existing boundary monuments are to be replaced; selects the methods to be used for replacing and resetting monuments.

(IX) Functions as a "party chief," "chief of parties," or lead person in charge of field surveyors or field crews.

(~~F~~E) Applicants shall submit a minimum of five (5) references, three (3) of whom shall be Professional Land Surveyors having personal knowledge of the applicant's land surveying experience and none of whom may be current members of the Board. These references should ~~be able to~~ verify the periods of experience since the beginning of the history, leaving no gaps in dates. The Board cannot give credit for surveying experience that has not been verified by one or more references.

(~~G~~F) When the requirements of the Statutes and this Chapter are met, the applicant shall be admitted to either an eight (8) hour written examination in fundamentals of ~~land~~ surveying, or an eight (8) hour written examination in the principles and practice of ~~land~~ surveying of which two (2) hours shall include questions on laws, procedures and practices pertaining to land surveying in the State of Oklahoma~~, or both~~.

~~(H) Upon completion of the applicable requirements in this section, to the satisfaction of the Board, the applicant shall be registered as a Professional Land Surveyor in the State of Oklahoma.~~

**245:15-3-9. ~~Registration~~ License by comity or endorsement**

(a) Applicant for comity or endorsement ~~registration~~ license shall provide proof that the applicant is a person holding a Professional Engineer or Land Surveyor license, in good standing, ~~in a jurisdiction~~ issued by a proper authority.

(b) Applicant must have been ~~registered~~ licensed, based on requirements that do not conflict with the provisions of the Statutes and Rules of the Board and were of a standard not lower than that specified in the applicable Statute in effect in Oklahoma at the time such certificate was issued.

(c) Applicant shall submit a minimum of five (5) references, three (3) of whom shall be Professional Engineers or Land Surveyors having personal knowledge of the applicant's engineering or surveying experience, none of whom may be current members of the Board.

(d) An applicant with less than the standards outlined in subsection (b) of this section, may be required to obtain additional experience or be admitted to a fundamentals examination, or be admitted to a principles and practice examination, or an examination on Oklahoma land surveying and related laws, or an examination on Oklahoma law and engineering, or to meet ~~all three (3)~~ such experience and examination requirements as the Board may determine to establish the applicant's qualifications.

(e) Upon satisfactorily complying with minimum requirements of this section, the applicant shall be ~~registered~~ licensed in the State of Oklahoma.

**245:15-3-10. Temporary Permits**

The Executive Director or Principal Assistant shall be authorized to issue a Temporary Permit to an engineer, subject to the approval of the Board, under the following conditions:

(1) An applicant for a Temporary Permit shall have a valid ~~registration~~ license in the applicant's resident state or jurisdiction, shall make application for licensure to this Board submit their application within 30 days f the date of their temporary permit application, and the information provided by the applicant on the application form approved by the Board does not disclose a prima facie violation of any provision of Sections 475.1 et seq of the laws of the state of Oklahoma or the rules of this Board; has not been disciplined in any jurisdiction by a Board of licensure for either engineering or land surveying or architecture; has not been convicted in any jurisdiction of a felony or misdemeanor.

(2) Information relative to ~~registration~~ a license in the other state or jurisdiction shall be verified before issuance of a Temporary Permit.

(3) The Temporary Permit fee as prescribed by law shall be remitted with the application.

(4) A Temporary Permit shall be issued for a definite period of time not to exceed one (1) year, for a specifically described single work project in one location as set out in the application form and may not be renewed or extended.

(5) A Temporary Permit shall expire the earliest of 30 days after application for temporary permit if no application for licensure is made, the issuance of an Oklahoma Engineer's license to the applicant, the rejection of the application for licensure, or a time limit stated in the temporary permit, but not later than one year after issuance.

(~~5~~ 6) The holder of a Temporary Permit shall seal plans, specifications, surveys, or documents only in accordance with the Statutes and Rules of this Board. The seal used shall be the holder's ~~registration~~ license seal of the state on which issuance of the Temporary Permit was based and immediately under the seal the following shall be inserted:

Oklahoma Temporary Permit number_____
Date of issue_____
Date of expiration_____
Signature of holder_____

(~~6~~ 7) No ~~individual~~ person may be issued more than one (1) temporary permit.

## SUBCHAPTER 5. EXAMINATIONS

**245:15-5-1. Examinations required**

Approved applicants for ~~registration~~ a license shall personally appear and pass the required examinations, which shall be conducted under conditions warranting honest and best results. Each administration of an examination will be graded independently with a passing grade established by the Board. Staff, Board Members and/or their representatives will monitor all tests, and applicants will not be permitted to communicate with one another during examination periods.

**245:15-5-2. Examination notifications, deadlines and postponements**

(a) **Notifications.** Examination information, formats, dates, times, and places will be announced in notices mailed to applicants, at their last known address, ~~four to six weeks~~ prior to such arrangements.

(b) **Postponements.** An applicant may request one examination postponement if a work assignment, family emergency, or illness will prevent the applicant from appearing for the scheduled examination. Applicants seeking postponement of a scheduled examination must request such postponement in writing and be approved by the Executive Director prior to the scheduled examination date. In addition to the applicant's written request, a letter substantiating the applicant's claims, must be received from the applicant's supervisor or physician in the event of a work assignment conflict or illness. In the event a second postponement request, for the same examination, is received, such request ~~shall~~ may be presented to the Board for approval.

(c) **Admittance by Principal Assistant.** An applicant may be admitted to an examination by the Principal Assistant, if

the submittal deadline was met and the application is complete prior to the examination date. An applicant may be admitted to an examination by the Principal Assistant, if the submittal deadline was not met, when the applicant can show a hardship exists which will affect the applicant's employment, and the application is complete before the examination date.

**245:15-5-4. Taking and order of taking examinations**

(a) Applicants approved to take examinations will be required to take one or more of the ~~NCEES~~ examinations listed in this subsection and administered by the Board. Each examination will be given in two (2) four (4) hour periods of one day, with the exceptions being the Oklahoma Law and Surveying and Oklahoma Law and Engineering examinations, which will be administered per Board policy.

(1) Fundamentals of Engineering (FE)

(2) Principles and Practice of Engineering (PE)

(3) Fundamentals of ~~Land~~ Surveying ~~(FLS)~~ (FS)

(4) Principles and Practice of ~~Land~~ Surveying ~~(PLS)~~ (PS)

(5) Oklahoma Law and Surveying (OLS)

(6) Oklahoma Law and Engineering (OLE)

(b) Applicants who are now, or were in the past, enrolled in an engineering or related science curriculum meeting the requirements set forth in Section 245:15-3-7 and who have completed ninety (90) semester hours or more of academic requirements for graduation may take the Fundamentals of Engineering examination as an advance step toward certification as an engineer intern.

(c) Applicants who are now, or were in the past, enrolled in a Land Surveying or related curriculum meeting the requirements set forth in Section 245:15-3-8 and who have completed forty-five (45) semester hours or more of academic requirements for graduation may take the Fundamentals of ~~Land~~ Surveying examination as an advanced step toward certification as a Land Surveyor Intern.

(d) Applicants required to take the Fundamentals of Engineering or ~~Land~~ Surveying examination and the Principles and Practice of Engineering or ~~Land~~ Surveying, shall have received a passing score on the Fundamentals examination prior to being permitted to take the Principles and Practice examination.

~~(e) Applicants who have previously taken and passed an examination out of order of taking as specified in this Section and has not completed the registration process may be required to re-take such examination in the proper sequence.~~

(~~f~~ e) Examination subversion is the use of any means to alter the results of an examination to cause the results to inaccurately represent the competency of an examinee. Examination subversion includes, but is not limited to:

(1) Communication between examinees inside of the examination room.

(2) Giving or receiving any unauthorized assistance on the examination while an examination is in progress.

(3) Having any unauthorized printed or written matter or other devices in his or her possession which might serve to aid the examinee on the examination.

(4) Obtaining, using, buying, selling, distributing, having possession of, or having unauthorized access to secured examination questions or other secured examination material prior to, during or after the administration of the examination.

(5) Copying another examinee's answers or looking at another examinee's materials while an examination is in progress.

(6) Permitting anyone to copy answers to the examination.

(7) Removing any secured examination materials from the examination facility.

(8) Allowing another person to take the examination in the examinee's place.

(9) Placing any identifying mark upon his or her examination papers other than his or her identification number or other identifiers as directed by the examination administrator.

(10) Use by an examinee of any written material, audio material, video material, digital material, or any other mechanism not specifically authorized during the examination for the purpose of assisting any examinee in the examination.

(11) Writing on anything other than designated examination material.

~~(12)~~ Writing or erasing anything after time is called.

(~~g~~ f) ~~At the discretion of the Executive Officer, if~~ If there is evidence of examination subversion by an examinee prior to, during, or after the administration of the examination, one or more of the following may occur:

(1) The examinee may be denied the privilege of taking the examination if examination subversion is detected before the administration of the examination.

(2) If the examination subversion detected has not yet compromised the integrity of the examination, such steps as are necessary to prevent further examination subversion shall be taken, and the examinee may be permitted to continue with the examination.

(3) The examinee may be requested to leave the examination facility if examination subversion is detected during the examination.

(4) The examinee may be requested to submit written advisement of his or her intent to comply with and understanding of the law.

(5) The examination results may be voided and the application fee forfeited.

(6) The examinee may not be allowed to sit for an examination for up to three (3) years.

~~(h) If examination subversion is detected after the administration of the examination, the Chief Proctor shall make appropriate inquiry to determine the facts concerning the examination subversion and may take any of the actions described in subdivision (g).~~

(~~i~~ g) The Executive Director reserves the right not to release the examination results to the examinee pending the outcome of any investigation of examination subversion.

(~~j~~ h) Removal from or voidance of one part of a multiple-part examination taken during a single examination administration

shall constitute removal from or voidance of all other parts of the multiple-part examination.

**245:15-5-5. Examination grading, and retention of grades**

(a) **Grading.** NCEES ~~Examinations~~ examinations will be graded in accordance with NCEES procedures. A minimum grade of 70 points as recommended by NCEES and approved by the Board shall be required for passing ~~any~~ a NCEES examination. Examination results will be reported as pass or fail only.

(b) **Retention of grades.** ~~Examination answer sheets of an examination will be retained in the Board office for three (3) years.~~ The Board will maintain an applicant's ~~grades~~ examination results obtained on the examinations taken for reference.

**245:15-5-6. Re-examination [REVOKED]**

~~An applicant failing any one of the examinations shall request re-examination by payment of the required fees and re-take the examination at the next scheduled administration of the examination, provided the grade on the examination is equal to or above (50) points. If the failing grade of any one of the examinations is below 50 points, the applicant shall wait a period of one (1) year and file a new application for re-examination.~~

**245:15-5-7. Transfer of examination grades**

(a) **Outgoing.** The Board, upon written request, will transfer examination ~~grades~~ results given under the Board's jurisdiction to any other duly constituted ~~registration~~ licensing Board for use in evaluating such applicant's eligibility for ~~registration~~ a license or to NCEES for use in evaluating such applicant's eligibility for certification with NCEES records program.

(b) **Incoming.** The Board will accept ~~grades~~ examination results or examinations taken in other states by applicants who met the requirements in effect in Oklahoma at the time the examinations were taken or who meet the current requirements for licensing in Oklahoma.

## SUBCHAPTER 7. ~~REGISTRATION~~ LICENSURE

**245:15-7-1. Certificate of ~~Registration~~ Licensure**

(a) ~~Registration~~ Licensure certificates shall be issued to individuals meeting statutory ~~registration~~ licensure requirements and the current Rules of Procedure of the Board. The certificate will identify the ~~registrant~~ licensee by name and ~~registration~~ license number, show the effective date, confirm the ~~registrant's~~ licensee's qualifications and acknowledge the ~~registrant's~~ licensee's right to practice engineering or land surveying, as the case may be, in the State of Oklahoma.

(b) Certificate of ~~Registration~~ Licensure will be issued by the Board for the life of the ~~registrant~~ licensee, subject to powers of renewal, reinstatement, suspension, revocation, penalties, orders or refusal to renew for cause, vested in the Board by the Statutes.

(c) Individuals holding a Certificate of ~~Registration~~ Licensure shall display or maintain it at the ~~registrant's~~ licensee's place of practice and be prepared to substantiate biennial ~~registration~~ license renewal.

(d) Duplicate original Certificates of ~~Registration~~ Licensure will be issued to a ~~registrant~~ licensee provided:

(1) The current ~~registration~~ license renewal is effective;

(2) The ~~registrant~~ licensee makes written request for a replacement of certificate;

(3) The ~~registrant~~ licensee certifies that the original certificate has been lost, damaged or destroyed; and

(4) The ~~registrant~~ licensee pays the prescribed fee.

(e) Duplicate Certificates of ~~Registration~~ Licensure will be issued for display at multiple places of practice upon a written request and payment of the prescribed fee. However, each duplicate certificate will be marked as such.

**245:15-7-2. Suspension, revocation, or refusal to renew Certificate of ~~Registration~~ Licensure**

(a) Upon notification of the Board, Certificates of ~~Registration~~ Licensure which have been suspended, revoked or refused by the Board to renew for cause, shall be surrendered immediately in the manner prescribed by that notice.

(b) Cause shall be defined as any violation of 59 O.S., 475.1 et seq, as amended and the current Rules of Procedure of the Board. Cause shall also be defined as any state suspending, revoking or refusing to renew the Certificate of ~~Registration~~ Licensure of the individual ~~registrant~~ licensee.

**245:15-7-3. Biennial ~~registration~~ licensure required**

(a) The Statute requires all engineers and land surveyors desiring to practice in Oklahoma to biennially ~~register~~ renew with the Board and pay a biennial ~~registration~~ licensure renewal fee as prescribed by this Chapter. Notices will be sent to all ~~registrants~~ licensees at the last known address of record; however, it is the responsibility of each individual ~~registrant~~ licensee to insure the renewal fees and properly completed renewal form, along with any required continuing education log forms, are received by the Board office not later than the renewal date. ~~Registration~~ The license expires on the last day of the month in which it is due, and becomes invalid on that date unless the renewal fee is paid. Upon receipt by the Board of the individual's, and if applicable, firm's or entity's properly completed renewal forms, fees and any required continuing education log forms, the ~~pocket card sent each engineer, land surveyor and firm confirming registration~~ license will be valid. No Certificate of ~~Registration~~ Licensure or Certificate of Authorization will be valid for longer than a two (2) year period.

(b) Failure to biennially ~~register~~ renew and remit renewal fees and penalties where applicable, as prescribed by the Statute and the current Rules of Procedure of the Board, will result in revocation of the ~~registrant's~~ licensee's Certificate of ~~Registration~~ Licensure or the Certificate of Authorization.

(c) Notices of revocation will be sent to the last known address of ~~registrants~~ licensees and firms failing to biennially ~~register~~ renew and remit renewal fees.

**245:15-7-4. Waived renewal fees for engineers and surveyors over the age of 70**

The biennial renewal fee for engineers or land surveyors who reach the age of 70 prior to the renewal date of their certificate of ~~registration~~ licensure will be waived. Renewal forms must be filled out and returned to the Board office prior to the renewal date to qualify. ~~Registrants~~ Licensees who are required to fulfill continuing education requirements must fill out and submit the log form supplied by the board by the ~~registration~~ license expiration date. Otherwise, the certificate of ~~registration~~ licensure will be revoked and reinstatement fees and penalties will apply to ~~re-register~~ re-license.

**245:15-7-5. Reinstatement of revoked ~~registrations~~ licenses**

(a) ~~Registrations~~ Licenses revoked for nonpayment of fees, failing to fill out and return a required continuing education log form, failing to fill out a reinstatement form for inactive retired ~~registrants~~ licensee, or failing to return the renewal form for ~~registrants~~ licensee over the age of 70, may be reinstated by making written application for reinstatement within one hundred eighty days after expiration and payment of the prescribed renewal fee and penalty. After one hundred eighty (180) days of revocation, a new application and fees will be required, which shall be considered specifically by the Board, both from the standpoint of competency and character. If reinstatement is within one hundred eighty (180) days following the date of revocation, then ~~registration~~ licensure will be deemed to have been continuous. Practicing your profession with a revoked ~~registration~~ license during this reinstatement period is a violation of Title 59, Section 475.1 et seq and the Rules of this Board.

(b) If a ~~registration~~ license revoked for non-payment remains canceled or suspended for a period exceeding three (3) consecutive years, such former ~~registrant's~~ licensee's application for ~~re-registration~~ re-licensure may not be considered by the Board without the former ~~registrant~~ licensee taking and passing a current examination as prescribed by the Board.

(c) ~~Registrations~~ Licenses suspended, refused to renew, penalties, orders issued or revoked for cause, may be reinstated only by Board action and only then in the manner determined by such Board action. Request for reinstatement of ~~registration~~ a license shall show the Board that the public interest will not suffer by reason of the reinstatement and shall be addressed to the Chair ~~Chairman~~ at the Board office. The Board, by Statute, has the discretion as to whether to reinstate the Certificate of ~~Registration~~ Licensure or Certificate of Authorization or deny it.

## SUBCHAPTER 9. RULES OF PROFESSIONAL CONDUCT

**245:15-9-1. Purpose; scope; applicability**

~~(a)~~ In order to safeguard, life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the Rules of Professional Conduct in this subchapter shall be binding on every person holding a certificate of ~~registration~~ licensure and on all firms authorized to offer or perform engineering or land surveying services in this state.

**245:15-9-3. Responsibility to the public**

~~Registrants~~ Licensees shall hold paramount the safety, health and welfare of the public in the performance of their professional duties.

(1) ~~Registrants~~ Licensees shall at all times recognize their primary obligation is to the public welfare.

(2) ~~Registrants~~ Licensees shall ~~approve~~ sign, date, and seal only those design documents and surveys which conform to accepted engineering or land surveying standards and safeguard the life, health, property, and welfare of the public.

(3) ~~Registrants~~ Licensees shall not reveal facts, data or information obtained in a professional capacity without the prior consent of the client, or employer except as authorized or required by law.

(4) ~~Registrants~~ Licensees shall not permit the use of their name or firm name nor associate in business ventures with any person or firm which they have reason to believe is engaging in fraudulent or dishonest business or professional practices.

(5) ~~Registrants~~ Licensees having knowledge of any alleged violation of any of these "Rules of Professional Conduct" or any other violation of Title 59 O.S., Sec. ~~42~~ 75.1 et seq, Title 65.05 O.S. Sec 3.116 et seq, or the rules of this Board, shall cooperate with the Board in furnishing such information or assistance as may be required.

(6) Licensees shall notify their employer or client and such other authority as may be appropriate when their professional judgment is overruled under circumstances where the life, health, property, or welfare of the public is endangered.

**245:15-9-4. Areas of practice**

~~Registrants~~ Licensees shall ~~perform services~~ practice only in the areas of their competence.

(1) ~~Registrants~~ Licensees shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering or land surveying involved.

(2) ~~Registrants~~ Licensees shall not affix their signatures, date of signature, or seals to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direct control and personal supervision.

(3) ~~Registrants~~ Licensees may accept assignments for coordination of an entire project, provided that each design segment is signed, dated, and sealed by the ~~registrant~~

licensee in direct control and personal supervision of that design segment.

(4) In the event a question arises as to the competence of a ~~registrant~~ licensee in a specific technical field which cannot be otherwise resolved to the ~~State~~ Board's satisfaction~~;~~, the ~~State~~ Board, either upon request of the ~~registrant~~ licensee or on its own volition, shall admit the ~~registrant~~ licensee to an appropriate examination.

**245:15-9-5. Public statements**

~~Registrants~~ Licensees shall issue public statements only in an objective and truthful manner.

(1) ~~Registrants~~ Licensees shall be objective and truthful in professional reports, statements or testimony. They shall include all relevant and pertinent information in such reports, statements or testimony.

(2) ~~Registrants~~ Licensees may express publicly a professional opinion on technical subjects only when that opinion is founded upon adequate knowledge of the facts and competence in the subject matter.

(3) ~~Registrants~~ Licensees shall issue no statements, criticisms or arguments on technical matters which are inspired or paid for by interested parties, unless the ~~registrants~~ licensees have prefaced their comments by explicitly identifying the interested parties on whose behalf they ~~are speaking~~ speak, clearly identifying their interests, and by revealing the existence of any interest the ~~registrants~~ licensees may have in the matters.

**245:15-9-6. Conflict of interest**

~~Registrants~~ Licensees shall act in professional matters for each employer or client as faithful agents or trustees, and shall avoid conflicts of interest.

(1) ~~Registrants~~ Licensees shall make full prior disclosures to their employers or clients of potential conflicts of interest or other circumstances which could influence or appear to influence their judgment or the quality of their services.

(2) ~~Registrants~~ Licensees shall not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project unless the circumstances are fully disclosed to, and agreed to, by all ~~interested~~ parties who compensate the licensee. Compensation shall be deemed anything of value and shall not be limited to the payment of money.

(3) ~~Registrants~~ Licensees shall not solicit or accept financial or other valuable consideration, directly or indirectly, from any party, including contractors, suppliers, manufacturers , distributors, or an ~~their~~ agent~~agents~~ of any party ~~, or other parties~~ in consideration for specifying or influencing others to use or select services, products, or processes in connection with work ~~for employers or clients~~ for which the ~~registrant~~ licensee is responsible or work undertaken by a firm or entity in which licensee is an employee, officer, director, or owner.

(4) ~~Registrants~~ Licensees shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their organization serves as a member. Conversely, licensees serving as members, advisors, or employees of a government body or department, who are the principals or employees of a private concern, shall not participate in decisions with respect to professional services offered or provided by said concern to the governmental body which they serve.

**245:15-9-7. Solicitation of work**

~~Registrants~~ Licensees shall avoid improper solicitation of professional employment.

(1) ~~Registrants~~ Licensees shall not falsify or permit misrepresentation of their, or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of participation or responsibility in prior assignments nor the complexity of said assignments. Brochures or other presentations incident to the solicitation of employment or business shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments.

(2) ~~Registrants~~ Licensees shall not offer, give, solicit or receive, either directly or indirectly, any commission, or gift, or other valuable consideration in order to secure work, and shall not make any political contribution with the intent to influence the award of a contract by public authority.

## SUBCHAPTER 11. CONTINUING EDUCATION

**245:15-11-1. Definitions**

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

**"Dual ~~registrant~~ licensee"** means a person ~~registered~~ licensed as a Professional Engineer and Professional Land Surveyor.

**"PDH"** means a professional development hour of at least 50 minutes of instruction, as defined in this Section.

**"Professional development hour"** means a contact hour (nominal) of instruction or presentation; the common denominator for other units of credit.

~~**"Registrant"** means a person registered as a Professional Engineer or as a Professional Land Surveyor.~~

**245:15-11-2. Continuing education committees**

(a) The Board may establish continuing education committees consisting of at least three (3) members each, who are residents of this state. Each member of the committee shall have been engaged in the lawful practice of engineering or land surveying for at least ten (10) years, in responsible charge of engineering or land surveying projects for at least five (5) years, and be a ~~registered~~ licensed Professional Engineer or Land Surveyor in this state.

(b) The continuing education committees shall have the following duties or others as assigned by the Board.

(1) Exercise general administration of the Rules in Subchapter 11 of Chapter 15 under the direction of the Board.

(2) Recommend to the Board revisions of the Rules in Subchapter 11 of Chapter 15.

(3) Review and recommend to the Board for approval acceptable continuing education programs/courses and credit to be given for programs/courses.

(4) Perform audits of ~~registrants~~ licensees as necessary to ensure continuing education requirements are met. An audit of a ~~registrant's~~ licensee's records if necessary, must be conducted within one (1) year of the biennial renewal of ~~registration~~ a license.

(5) Report annually on the activities and operation of committees to the Board.

(c) A member of a committee who misses three (3) consecutive meetings of the committee, for whatever reason, shall automatically vacate the office.

(d) Members of these committees shall serve at the discretion of the Board.

(e) The travel expenses of members of the continuing education committees shall be paid by the Board as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. All travel by members of the committees shall be approved by the ~~Chairman~~ Chair of the Board prior to the travel occurring.

**245:15-11-3. Scope and exemptions**

(a) ~~Registrants~~ Licensees shall be required to meet the continuing educational requirements of the Rules ~~rules~~ for professional development in this subchapter as a condition for ~~registration~~ licensure renewal. Continuing education obtained by a ~~registrant~~ licensee should maintain, improve or expand skills and knowledge obtained prior to initial ~~registration~~ licensure or to develop new and relevant skills and knowledge.

(b) A ~~registrant~~ licensee may be exempt from the professional development educational requirements for one of the following reasons:

(1) New ~~registrants~~ licensees by way of examination or comity shall be exempt for their first renewal period.

(2) A ~~registrant~~ licensee serving on temporary active duty in the Uniformed Services of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a calendar year shall be exempt from obtaining the professional development hours required during that year.

(3) A ~~registrant~~ licensee called to emergency service by state or federal emergency disaster declaration for a period of time exceeding one hundred twenty (120) consecutive days in a calendar year shall be exempt from obtaining the professional development hours required during that year.

(4) A ~~registrant~~ licensee experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the board may be exempt. Supporting documentation must be furnished to the board.

(5) A ~~registrant~~ licensee who is ~~70~~ 62 years of age or older on the date of a biennial renewal who certifies that they have not practiced the profession in Oklahoma for which exemption is sought since the date of their immediate prior biennial license renewal and are not currently practicing their profession in Oklahoma for which exemption is sought, may be exempt.

**245:15-11-5. Requirements for Professional Engineers and Land Surveyors**

(a) To demonstrate that a Professional Engineer and/or Land Surveyor maintains an acceptable level of competency, a ~~registrant~~ licensee must obtain thirty (30) professional development hours ~~PDH~~ (PDH's) ~~units~~ for a twenty-four month ~~(Biennial)~~ (biennial) renewal period. If a ~~registrant~~ licensee exceeds the requirement in any ~~Biennial~~ biennial renewal period, a maximum of fifteen (15) ~~PDH~~ PDH's ~~units~~ may be carried forward into the subsequent ~~Biennial~~ biennial renewal period. ~~PDH~~ PDH's ~~units~~ may be earned by a ~~registrant~~ licensee as follows:

(1) Successful completion or auditing of college courses.

(2) Successful completion or auditing of continuing education courses.

(3) Attending seminars, correspondence, televised, videotaped, and other short courses/tutorials.

(4) Presenting or attending seminars meeting the criteria of Section 15-11-6, in-house courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences.

(5) Active participation in professional or technical societies serving the engineering or land surveying profession. Credit for active participation in a professional and technical society serving the engineering or land surveying profession (limited to 4 PDH's per renewal period), requires that a licensee serve as an officer and/or actively participates in a committee of the organization. PDH's are not earned until the end of each year of service is completed.

(6) Teaching or instructing in (1) through (4) of this subsection.

(7) Authoring published papers, articles and books.

(8) Award of patents to the ~~registrant~~ licensee or to ~~registrant's~~ licensee's employer when developed by the ~~registrant~~ licensee.

(9) Documented self-study (1 PDH unit = 3 hours) maximum of 3 ~~PDH~~ PDH's ~~units~~ per renewal period.

(b) All such ~~PDH~~ PDH's ~~units~~ earned in activities as described in (a)(1) through (a)(9) of this section must be relevant to the practice of engineering and/or land surveying as applicable and may include technical, ethical or managerial content.

~~(c) The first biennial renewal period that a Professional Engineer must comply with this Subchapter and secure the required PDH units shall be the biennial renewal period commencing July 1, 2002. All renewals after July 1, 2004 shall comply with the rules of this Subchapter. PDH units will be allowed for the initial biennial renewal period which were earned as early as January 1, 2002. Subsequently, all PDH units must be earned within, or carried over to, the biennial renewal period.~~

**245:15-11-6. Criteria for continuing educational activities**

(a) Continuing educational activities used to earn PDH's must meet the following criteria:

(1) There is a clear purpose and objective for each activity, which will maintain, improve or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge.

(2) The content of each presentation is well organized and presented in a sequential manner.

(3) There is evidence of preplanning which should include the opportunity for input by the target group to be served.

(4) The presentation will be made by persons who are well qualified by education or experience.

(5) There is a provision for individual participant registration which will include information required for record keeping and reporting.

(b) The Board has final authority with respect to acceptability of courses, credit, PDH value for courses, and other methods of earning credit.

(1) Credit for college or community college approved courses will be based upon course credit established by the college.

(2) Credit for qualifying seminars and workshops meeting the criteria in 245:15-11-6(a) will be based on one PDH ~~unit~~ for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical society meetings will earn ~~PDH~~ PDH's ~~units~~ for the actual time of each program.

(3) Credit determination for activities referenced in 245:15-11-5 (a)(6) and (a)(7) is the responsibilities of the ~~registrant~~ licensee (subject to review as required by the board).

~~(4) Credit for active participation in a professional and technical society serving the engineering or land surveying profession (limited to 4 PDH units per renewal period), requires that a licensee serve as an officer and/or actively participates in a committee of the organization. PDH credits are not earned until the end of each year of service is completed.~~

**245:15-11-7. Conversion of units**

The conversion of other units of credit of continuing education to ~~PDH~~ PDH's ~~units~~ is as follows:

(1) One (1) college or unit semester hour - 15 ~~PDH~~ PDH's

(2) Auditing of (1) college or unit semester hour -15 ~~PDH~~ PDH's

~~(3) One (1) continuing education unit (CEU) - 10 PDH~~

(~~4~~3) One (1) hour of technical or professional development in course work, seminars, technical and professional meetings, conventions, workshops, - 1 PDH

(~~5~~4) One (1) hour for developing professional licensure examinations - 1 PDH

(~~6~~5) For teaching or making presentations - apply multiple of 2 (Teaching credit is valid for teaching a course or seminar for the first time only. Teaching credit does not apply to full-time or part-time faculty members unless the activity is outside the scope of the ~~registrant's~~ licensee's customary teaching responsibilities.)

(~~7~~6) Each published Professional/Technical paper or article -10 ~~PDH~~ PDH's

(~~8~~7) Active participation in a professional and technical society. (maximum of 4 ~~PDH~~ PDH's ~~units~~ per biennial renewal period) - 2 ~~PDH~~ PDH's

(8) Each patent. - 10 ~~PDH~~ PDH's

**245:15-11-8. Comity/Out-of-Jurisdiction Resident**

The continuing education requirements for Oklahoma will be satisfied when a non-resident fulfills the requirements for resident ~~registrants~~ licensees outlined in ~~245:15-11-10~~ 245:15-11-5.

**245:15-11-9. Records - Audits**

(a) Each ~~registrant~~ licensee is charged with the responsibility of his own professional development activities. The responsibility of maintaining records to be used to support credits claimed is the responsibility of the ~~registrant~~ licensee. Records required include, but are not limited to:

(1) A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned.

(2) Attendance verification records in the form of completion certificates, or other approved documentation supporting evidence of attendance. Documentation which does not support evidence of actual attendance will not be accepted for audit purposes.

(b) Records must be maintained for a period of five (5) years and copies may be requested by the Board for audit verification purposes.

**245:15-11-10. Forms**

Renewal applications will require the completion of a continuing education form specified by the Board outlining ~~PDH~~ PDH's ~~credit~~ claimed. The ~~registrant~~ licensee must supply sufficient detail on the form to permit audit verification, must certify and sign the continuing education form, and submit with the renewal application and fee.

**245:15-11-11. Disallowed credit; failure to comply**

If the Board disallows claimed ~~PDH~~ PDH's ~~credit~~, the ~~registrant~~ licensee shall have 120 days after notification to substantiate the original claim or to earn other credit to meet the minimum requirement.

**245:15-11-12. ~~Re-registration~~ Re-licensure**

A ~~registrant~~ licensee may bring an inactive ~~registration~~ license to active status by obtaining all delinquent ~~PDH~~ PDH's ~~units~~. However, if the total number required to become current exceeds 30, then 30 shall be the maximum number required.

**245:15-11-13. Dual ~~Registrants~~ Licensees**

For an individual ~~registered~~ licensed both as an engineer and surveyor, the number of ~~PDH~~ PDH's ~~units~~ required shall remain 30 per biennial renewal period, at least 1/3 of which shall be obtained in each profession. For the Dual ~~Registrant~~ Licensee who is exempt from continuing education requirements for one profession per 245:15-11-3(b)(4), but has practiced the other profession, the number of ~~PDH~~ PDH's ~~units~~ required shall remain 30 per biennial renewal period, all of which shall be obtained in the profession for which they are not exempt.

## SUBCHAPTER 13. MINIMUM STANDARDS FOR LAND SURVEYING

**245:15-13-2. Minimum ~~standards~~ Standards**

(a) **Definitions**: as used in these standards, the following terms shall have the following meanings where the context permits as provided in 59 O.S. 471.1 et seq and Chapter 245:15-1-3 of the Rules of the Board. ~~:~~

~~(1) **"Board"** means the Oklahoma State Board of Registration for Professional Engineers and Land Surveyors.~~

~~(2) **"Certify" or "Certification"** or similar expressions relating to land surveying services shall mean a statement based upon facts and knowledge known to the registrant and is not a guarantee or warranty, either expressed or implied.~~

~~(3) **"Land or boundary survey"** means a survey, the primary purpose of which includes, but is not limited to, the determining of the perimeters of a parcel or tract of land by establishing or reestablishing corners, monuments and boundary lines.~~

~~(4) **"Mortgage inspection certificate"** means a representation of the boundaries of a parcel of real property and the improvements thereon, prepared pursuant to this section.~~

~~(5) **"Survey plat, sketch, map"**, or other such title, shall mean any drawing of a parcel or tract of real property used for the purpose of depicting the results of a field survey.~~

~~(6) **"Surveyor"** means the Board registered professional land surveyor under whose personal supervision and responsible charge the survey is directed and/or the plat is certified.~~

(b) **Research and investigation.** Every property boundary survey shall be made in accordance with the boundary description, as provided to or as created by the surveyor, as nearly as is practicable. The surveyor, prior to making a survey, shall acquire available necessary survey data, which may include record descriptions, deeds, maps, abstracts of title, section corner ties, government notes, subdivision plats, road records, and other available section and boundary line location data in the vicinity. The surveyor shall analyze the data and make careful determination of the record title boundary of the property to be surveyed. From the information gathered, the surveyor, or his agents under his direct supervision, shall search thoroughly for all controlling corners and investigate possible parol evidence supporting positions of obliterated control monuments and take necessary statements.

(c) **Minimum technical standards for land or boundary surveys (field and office).**

(1) In order for a plat, map, or sketch of a survey to be acceptable in terms of this rule, it must be complete and shall be certified or otherwise stated as meeting these minimum technical standards.

(2) All measurements made in the field shall be in accordance with the United States Standard, using either ~~feet~~ US Survey Feet or meters. All measurements shall be referenced to the horizontal or vertical plane, with the exception of geodetic surveys.

(3) All survey drawings shall bear the name, address, telephone number, certificate of authorization number and expiration date of the Certificate of Authorization of the firm issuing the drawing, along with the name, ~~registration~~ license number, seal, signature, and date of signature of the surveyor.

(4) All survey drawings must bear the date of the last site visit and bear the date of any revisions thereon. If the site visit was performed on multiple dates, the drawing may specify the range of those dates.

(5) A designated north arrow and scale of the map shall be shown prominently upon the drawing.

(6) Any symbols and/or abbreviations representing physical objects used on the drawing will be clearly noted upon the drawing.

(7) A reference to all bearings shown must be clearly stated, i.e., whether to "True North"; "Grid North as established by state plane datum"; "Assumed North based on the bearing of a well established line"; a "Deed call for a particular line"; or "the bearing of a particular line shown upon a plat"; etc.

(8) Surveys based on the United States Public Land Survey System shall be referenced to original or properly restored corners. The appropriate Bureau of Land Management Manual of Surveying instructions shall be used as a guide for the restoration of lost or obliterated corners and subdivision of sections into aliquot parts. Lot surveys within platted subdivisions shall be referenced, to existing corner monuments within the subdivision as necessary to verify the survey.

(9) Where evidence of inconsistencies is found, such as overlapping descriptions, hiatuses, excess or deficiency, or conflicting boundary line or monuments; the nature of the inconsistencies shall be shown on the drawing.

(10) All changes in direction, including curves, shall be shown on the drawing by angles, bearings or azimuths. Curved lines with circular curves shall show: 1. The radius; 2. Arc distance; and 3. Central angle, or chord distance and chord bearing. When lines are non-tangent to a curve, sufficient angular data shall be shown to relate the line to the curve.

(11) All easements and rights-of-way drawn or referenced on recorded subdivision plats on or across the land being surveyed shall be shown upon the survey drawing. If location of easements or rights-of-way, other than those

drawn or referenced on recorded subdivision plats is required, this information must be furnished to the surveyor.

(12) The land surveyor shall establish or confirm a monument or confirm the prior placement of monuments at each and every property corner on the boundary line or boundary lines of the parcel or tract of land being surveyed. In such cases where the placement of a required monument at its proper location is impractical, a witness or reference monument shall be placed with the data given to show its location upon the ground in relation to the boundary lines or corner. In any case all monuments, either found or set, will be shown on the drawing. Where practical, monuments shall be constructed of material capable of being detected with the conventional instruments for finding ferrous or magnetic objects. Such monuments shall have affixed thereto a durable marker or cap bearing, at a minimum, the ~~registration~~ license number of the land surveyor in responsible charge, or the certificate of authorization number of the firm performing the survey.

(13) The accuracy of the measurements for the survey shall be based upon the type of survey, and the current or expected use of the land. The accuracy of the measurements thus performed shall be substantiated by the computations of the traverse; the relative error of closure permissible shall be no greater than the following standards given below:

~~(i) Positional error is the difference between the actual position of a corner monument and its described or computed position. This error may be determined by computing the difference between the measured position and the adjusted position of the monument or by measurement of angle and distance between three of the corner monuments on the survey if made with precise surveying instruments using proper procedures.~~

(~~ii~~A) Where there is or will be zero lot line construction on small tracts in a high density urban area, the allowable closure error is 1:10,000 and the allowable positional error is plus or minus 0.10 feet.

(~~iii~~B) In residential or commercial subdivisions where the length of lines does not exceed 300 ft, the area of tracts does not exceed 2 acres, and there is no plan for zero lot line construction, the allowable closure error is 1:10,000 and the allowable positional error is plus or minus 0.25 feet.

(~~iv~~C) In suburban or rural residential or industrial tracts where the length of lines does not exceed 1000 feet and the area of tracts is between 2 and 40 acres, the allowable closure error is 1:7,500 and the allowable positional error is plus or minus 0.50 feet.

(~~v~~D) Rural tracts of 40 acres or more where the corners of the tract may be connected with traverse legs in excess of 1000 feet, the allowable closure error is 1:7,500 and the allowable positional error is plus or minus 1.5 feet.

(~~vi~~E) Rural tracts of 40 acres or more in rough or tree covered terrain where the corners of the tract must be connected with short traverse lines because of poor visibility between the corners of the tract, the allowable closure error is 1:5,000 and the allowable positional error is plus or minus 3.0 feet.

(F) Field work which has a closure error greater than the maximum allowed, or linear error of closure greater than the maximum positional error shown, shall be considered unacceptable and shall be corrected. Adjustment of a traverse must not shift the position of any point more than the maximum positional error listed above.

(G) In lieu of maximum allowable positional error, the latest Accuracy Standards for ALTA/ACSM Land Title Surveys may be used for determining minimum accuracy requirements.

(14) When special conditions exist that effectively prevent the survey from meeting these minimum standards, the special conditions and any necessary deviation from the standards shall be noted upon the drawing. It shall be a violation of this rule to use special conditions to circumvent the intent and purpose of these minimum standards.

(15) A survey plat, sketch or map must be created at any time a new parcel of land is created by a field survey, or if there are inconsistencies between an existing legal description and evidence found on the ground. In any event, every survey plat, sketch or map must contain the legal description of the land being surveyed, either on the face of the survey plat or attached to and referenced to the survey plat.

(16) Additions or deletions to survey drawings by other than the signing party or parties is prohibited without written consent of the signing party or parties.

(d) **Minimum standards for property descriptions.**

(1) All property descriptions prepared shall at a minimum contain the following items:

(A) A preamble containing the Quarter Section, Section, Township, Range, Principle Meridian (Indian or Cimarron) and the County and/ or City of the tract of land being described or a preamble containing the Lot and/or Block number, subdivision name and the county in which it is filed of record, and

(B) A beginning point (if applicable) referenced to a point such as a section corner, quarter-section corner, sixteenth section corner, or a Lot/Block corner of a recorded subdivision, and

(C) Distances listed to the nearest hundredth of a foot (if surveyed), and

(D) Bearings or angles listed in degrees, minutes and seconds (if surveyed), and

(E) A reference to all bearings shown must be clearly stated, i.e., whether to 'True North'; 'Grid North as established by state plane datum'; 'Assumed North based on the bearing of a well established line'; a 'Deed call for a particular line'; or 'the bearing of a particular line shown upon a plat', and

(F) Curved lines with circular curves shall show: (1) Direction of the curve (right or left), (2) The radius; (3) Arc distance; and (4) Central angle, or chord

distance and chord bearing. When lines are non-tangent to a curve, it shall be so stated and sufficient angular data shall be shown to relate the line to the curve, and

(G) The aliquot method of describing the property may be used in lieu of a metes and bounds description, and

(H) The name and license number of the professional surveyor who prepared the description, and

(I) The date of preparation of the property description.

(2) A written legal description of the surveyed tract of land must provide sufficient information to locate the property on the ground and distinctly set it apart from all adjoining properties.

(3) Each metes and bounds description must return to the Point of Beginning and close mathematically within the allowable closure error stated in this subchapter.

(~~d~~ e) **Mortgage inspection certificate.** A Professional Land Surveyor may, based upon his general knowledge of land boundaries and monuments in a given area, prepare a Mortgage Inspection Certificate for the use of a specific client. Such certificate shall be prominently labeled "Mortgage Inspection Certificate" and shall not be designated as or construed as being a Land or Boundary Survey, and the statement furnished on the certificate shall be similar to the following form:

MORTGAGE INSPECTION CERTIFICATE

"I hereby certify that this Mortgage Inspection Certificate was prepared for ...(individual or firm)...,that it is not a land or boundary survey plat, and that it is not to be relied upon for the establishment of fence, building or other future improvement lines.

I further certify that the improvements on the above described parcel, on this date,.....(date)..., except utility connections, are entirely within the parcel, except as shown, that there are no encroachments upon the described premises by improvements on any adjoining premises, except as indicated, and that there is no apparent evidence or sign of any easement crossing or burdening any part of said parcel, except as noted."

**245:15-13-3. Penalties**

The Board shall have the power to reprimand, place on probation, fine, revoke or suspend the certificate of ~~registration~~ licensure of any ~~registrant~~ licensee who fails to comply with the Statutes, and the rules of this subchapter.

## SUBCHAPTER 15. ETHICAL MARKETING OF SERVICES

**245:15-15-1. Purpose; scope**

Engineering and land surveying are important and learned professions. Engineers and Land Surveyors must recognize that their work has a direct and vital impact on the quality of life for all. Therefore, the services provided by engineers and land surveyors require honesty, impartiality, fairness and equity, and must be dedicated to the protection of the public health, safety and welfare. In the practice of the profession, engineers and land surveyors must perform under a standard of professional behavior which requires adherence to the ~~highest~~ principles of ethical conduct on behalf of the public, clients and the professions.

**245:15-15-2. Definitions**

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

**"Ethical marketing of professional services"** means the solicitation or offer by a ~~registrant~~ licensee, either as an individual or on behalf of a firm, to provide professional services for a potential governmental client, based on the ~~registrant's~~ licensee's professional qualifications, technical ability, specialized training, and the ability to provide the services to the client in a timely manner; with the fee for said services entering into the discussions only after said client has selected ~~registrant~~ licensee as qualified to provide the services required. For the purpose of this Subchapter, if an individual who is not a ~~registrant~~ licensee (i.e. Marketing Director, etc.) is acting on behalf of a firm, as defined in the act, the firm shall be held responsible for the actions of the ~~non-registrant~~ non-licensee.

**"Government client"** means any federal, state, county and city governmental bodies including, but not limited to, all departments, agencies, quasi public governmental agencies, authorities, sub-state planning districts, boards, commissions, offices, institutions, colleges, universities and all individuals acting under authority to represent such governmental bodies.

**245:15-15-3. Professional obligation in solicitation of professional employment**

(a) The Professional Engineer or Land Surveyor shall not supplant, nor attempt to supplant, directly or indirectly, another Professional Engineer and/or Land Surveyor in a particular engineering or land surveying project. The furnishing of informative brochures on one's self or one's firm is not considered an attempt to supplant.

(b) A Professional Engineer or Land Surveyor, acting individually or through a firm, shall neither request, propose, nor accept an agreement, contract or commission for professional services on a "contingency basis". For the purpose of adjudging the provisions of this section, "Contingency basis" shall be interpreted only to include:

(1) The preparation of preliminary reports and/or applications for funds, where the fee involved is to be paid only after such submission or approval, or the fee is substantially below the actual cost of performing the service, or

(2) Reviewing for approval preliminary reports and/or applications for funds, where the fee involved is to be paid only after such submission or approval or the fee is substantially below the actual cost of performing the service.

(c) The Professional Engineer or Land Surveyor, acting individually or through a firm, shall seek professional employment from governmental clients or any entity contracted by governmental clients to furnish engineering or land surveying services, on the basis of qualifications, previous experience and technical competence for proper accomplishment of the work. The procedure for seeking professional employment restricts the engineer, land surveyor, or firm from submitting a fee or price for services, except as provided herein, until the governmental client or any entity contracted by the governmental clients to furnish engineering or land surveying services has selected, on the basis of qualifications, previous experience and technical competence, engineers, land surveyors, or firms for negotiation.

(d) Licensees participating in a design/build procurement as a prime contractor or as a consultant to a builder or another professional of any tier for delivery of a project to or for the use of a governmental entity shall not have violated the provisions of section 15-15-3 by the submission of a fee or price for services prior to the licensee's selection to participate in the project.

## SUBCHAPTER 17. ~~REGISTRANT'S~~ LICENSEE'S SEAL

### 245:15-17-1. ~~Registrant's~~ Licensee's seal

(a) Every person authorized to practice engineering or land surveying by a certificate of ~~registration~~ licensure shall procure a seal with which to identify all final engineering and land surveying papers or documents, including drawings, specifications, plans, reports, land surveys, plats, land descriptions, design information, construction documents, calculations, addenda, change orders, field orders and other documents of service involving the practice of engineering or land surveying issued by the ~~registrant~~ licensee for use in the State of Oklahoma.

(b) The seal required shall be of a type which will make an image on the surface of original documents and duplications of original documents. The use of a rubber stamp or electronic digitization which produces an accurate and legible image of the seal is permissible when duplicate copies of originals are required.

(c) The seal of the ~~registrant~~ licensee shall consist of two (2) concentric circles. The inner circle shall have inscribed the ~~registrant's~~ licensee's name and number, which shall correspond to the name and certificate number shown on the Certificate of ~~Registration~~ Licensure. The area between the two (2) circles shall be inscribed with the word "Oklahoma" at the bottom reading counter-clockwise and the words "~~Registered~~ Licensed Professional Engineer" or ~~Registered~~ "Licensed Professional Land Surveyor" at the top reading clockwise. The seals commercially designated as 1 7/8" seal, with an inner circle of 1 1/8" diameter and an outer circle of 1 3/4" diameter, or the 1 5/8" seal, with an inner circle of 1 1/16" diameter and an outer circle of 1 9/16" diameter, are acceptable, as shown in Appendix A of this Chapter. Reproduction of the original documents with the required seal may produce a different seal size provided the seal remains completely legible.

(d) A licensee who practices in other than their full legal name shall register the name customarily used in professional practice with the Board together with a copy of their signature for such customarily used name. The seal may be inscribed with the registered, customarily used name, and the signature affixed across the seal shall be the name inscribed on the seal. A seal and signature affixed in a registered, customarily used name shall have the same force and effect as the seal and signature affixed in a licensee's full legal name.

(e~~d~~) Existing seals containing the words "Registered Professional Engineer", "Registered Professional Land Surveyor", and "Registered Land Surveyor" may continue to be used.

### 245:15-17-2. Use of seal

(a) The application of the ~~registrant's~~ licensee's signature and date of signature to a sealed document shall constitute certification that the work thereon was done by the ~~registrant~~ licensee or under the ~~registrant's~~ licensee's responsible charge and that the ~~registrant~~ licensee accepts full responsibility and liability for the professional work represented thereon. Authorized use of the prescribed seal is an individual act. The ~~registrant~~ licensee is responsible for its security at all times. The ~~registrant~~ licensee shall permit no other person, firm, or entity to use the prescribed seal. The seal shall be affixed to documents and instruments only during the time the ~~registrant's~~ licensee's ~~registration~~ license is current and in good standing.

(b) ~~Registrants~~ Licensees must affix their seal, signature and date of signature to drawings which reflect work for which the ~~registrant~~ licensee has responsible charge, including revisions and addenda thereto. In the case when multiple ~~registrants~~ licensees are involved, each sheet in a set of drawings shall contain the seal, signature and date of the ~~registrant~~ licensee responsible. Also, a licensee not practicing as a firm shall also include contact information to include address and phone number.

(c) In the case of bound documents, ~~registrants~~ licensees must affix their seal, signature and date of signature to the cover sheet or index page, which identifies all documents bound together for which the ~~registrant~~ licensee has responsible charge. In the absence of covers and index pages each document must have the seal, and dated signature of the ~~registrant~~ licensee who has responsible charge. For bound documents involving multiple ~~registrants~~ licensees, either each document in the bound set must be sealed, signed and dated by the ~~registrant~~ licensee in responsible charge for that portion of the work, or the cover sheet or index page must be sealed, signed and dated by each ~~registrant~~ licensee with a breakdown of ~~responsibility for~~ the licensee in responsible charge of each document clearly identified.

(d) In the case when the work consists of a letter or report prepared by a single ~~registrant~~ licensee, the ~~registrant~~ licensee need only seal, sign and date ~~only~~ the first page, title page or signature page of the document.

(e) The Statute, 59 O.S., Sections 475.1 et seq. and Rules of the Board in this Chapter describe the use of the seal of the ~~registrant~~ licensee. The seal, signature and date of signature shall be placed on all final engineering and land surveying documents. In lieu of sealing, signing and dating each copy

of the work, the seal, signature and date shall be placed on originals, tracings, or other reproducible documents by the ~~registrant~~ licensee in such a manner that when the originals, tracings, or other reproducible documents are reproduced the seal, signature and date will be legible.

(f) Work of a preliminary nature, submitted to obtain comments and not for formal approval, shall be clearly marked with the following statement: "This document is preliminary in nature and is not a final, signed and sealed document".

(g) An Engineer Intern or Land Surveyor Intern shall not have a seal.

(h) In circumstances where a licensee in responsible charge of the work is unavailable by reason of incapacity or death to complete the work, or the work is a site adaptation of a standard design plan, a successor licensee may take responsible charge by performing all professional services to include developing a complete design file with work or design criteria, calculations, code research, and any necessary and appropriate changes to the work. The non-professional services, such as drafting, need not be redone by the successor licensee but must clearly and accurately reflect the successor licensee's work. The burden is on the successor licensee to show such compliance. The successor licensee shall have control of and responsibility for the work and the signed, dated, and sealed originals of all documents over which the licensee has taken responsible charge under this provision.

(i) Record drawings prepared to reflect changes made during construction based on the record of changes made to construction drawings and changes to the construction observed by the licensee or on the licensee's behalf or reported by contractors is deemed a drafting service and shall not require a licensee's seal, signature, and date of signature.

(j) In the case of a firm, each separate document, the first page of a bound document, and, in the case of multiple licensees, the portion of the work for which each firm is responsible, shall also show the name of the firm, the firm's Certificate of Authorization number, and the renewal date of the Certificate of Authorization.

## SUBCHAPTER 19. ORGANIZATIONAL PRACTICE

### 245:15-19-2. Criteria for issuance of Certificate of Authorization

The Board may grant a Certificate of Authorization to practice through individual ~~registrants~~ licensees to those firms meeting the following criteria:

(1) An application is filed and approved by the Board.

(2) At least one individual in responsible charge of the services and personnel performing services on behalf of the firm in this state is ~~registered~~ licensed to practice engineering or land surveying in the State of Oklahoma. If the firm is offering to practice both professions, the firm shall have at least one individual in responsible charge ~~registered~~ licensed to practice each profession. ~~A Professional Engineer or Land Surveyor who renders occasional part-time or consulting engineering or land surveying services to or for a firm may not, for the purposes of this section, be designated as being in responsible charge of the professional activities of the firm.~~ A licensee who performs only part-time, occasional, or consulting services for a firm shall not qualify as a person designated in responsible charge. A licensee who can demonstrate, through an employment relationship (not a consulting relationship) with the firm, the required direct control and personal supervision over all the engineering or land surveying services and the personnel performing services on behalf of the firm including, without limitation, immediate direction and personal presence in the work place shall not be disqualified for the sole reason that all of the firm's engineering or land surveying services are accomplished with less than full time employment of the licensee.

(3) The firm's practice of engineering or land surveying in any main office ~~(e.g.~~ or branch office~~)~~, is under the personal supervision, ~~and~~ immediate direction, and personal presence of a duly ~~registered~~ licensed engineer or land surveyor ~~of record~~ in responsible charge as defined in ~~this Chapter and~~ the Statutes Title 59 O.S. Section 475.2.

(4) All documents relating to engineering or surveying work shall be sealed, signed, ~~sealed~~ and dated by the Professional Engineer or Land Surveyor ~~of record~~ in responsible charge as defined in ~~this Chapter~~ the Statutes Title 59 O.S. Section 475.2.

(5) The Certificate of Authorization shall identify ~~the~~ all individual(s), Oklahoma Professional Engineer(s) or Land Surveyor(s), who shall ~~be an individual(s) within the firm in responsible charge of the engineering or land surveying~~ practice engineering or land surveying on behalf of the firm and shall be employees of the firm.

(6) ~~Compliance with the Board's Rules in this Chapter and 59 O.S., Sections 475.1 et seq. shall not alleviate other members, directors, partners or employees from direct responsibility and liability to the Board. by reason of an employment or relationship with the entity.~~ Notwithstanding that licensees may practice through or with a firm, licensees shall have individual responsibility for the actions taken by them in violation of the statutes and rules applicable to licensees, firms, and entities, including this Chapter, 59 O.S. Sections 475.1 et seq. and 65 O.S Section 3-118 et seq. and for their failure to act when required.

(7) Certificates of Authorization shall be issued to firms meeting statutory requirements and the current Rules of Procedure of the Board. The certificate will identify the firm by name and authorization number, show the effective date, and confirm the firm's right to practice engineering and/or land surveying in the State of Oklahoma.

(8) One Certificate ~~Certificates~~ of Authorization will be issued by the Board for each ~~the life of the~~ firm, which shall be subject to powers of renewal, reinstatement, suspension, revocation, penalties, orders or refusal to renew for cause, vested in the Board by the statutes.

(9) Firms holding a Certificate of Authorization shall display or maintain it at the firm's place of practice.

(10) Duplicate original Certificates of Authorization will be issued to a firm provided:

(A) The current Certificate of Authorization's renewal is effective;

(B) The firm makes written request for a replacement of certificate;

(C) The firm certifies that the original certificate has been lost, damaged or destroyed; and

(D) The firm pays the prescribed fee.

(11) Duplicate Certificates of Authorization will be issued for multiple places of practice upon a written request and payment of the prescribed fee. However, each duplicate certificate will be marked as such.

**245:15-19-3. Biennial ~~registration~~ license for Certificate of Authorization**

(a) ~~An~~ A firm ~~entity~~ desiring to practice under the Certificate of Authorization must submit the proper fees and forms for renewal biennially. No Certificate of Authorization shall be valid for longer than a two (2) year period.

(b) Failure to biennially ~~register~~ renew and remit renewal fees by the renewal date will result in automatic revocation of the Certificate of Authorization.

(~~d~~c) One ~~Notices~~ notice of revocation will be sent to the last known address of the ~~entity~~ firm failing to biennially ~~register~~ renew and remit renewal fees.

**245:15-19-4. Reinstatement of revoked Certificate of Authorization**

(a) Certificates of Authorization revoked for nonpayment of fees, may be reinstated within one hundred eighty (180) days of revocation after ~~by paying~~ payment of the reinstatement fee and renewal fee.

(b) Certificates of Authorization revoked for longer than one hundred eighty (180) days without ~~reinstating~~ reinstatement must submit a new application and fee to be considered by the Board. If reinstatement is within one hundred eighty (180) days following the date of the revocation, then the certificate of authorization will be deemed to have been continuous. ~~Practicing your profession~~ The practice of engineering or land surveying by and through a firm whose ~~with a revoked~~ certificate of authorization has been revoked, including practice during ~~this~~ any eligible reinstatement period, is a violation of Title 59, Section 475.1 et seq and the Rules of this Board.

(c) Certificates of Authorization suspended, denied, refused ~~to renew~~ renewal, or revoked for cause may be reinstated only by Board action and only then in the manner determined by such Board action. Requests for reinstatement of the Certificate of Authorization revoked for cause shall be addressed to the ~~Chairman~~ Board at the Board office and shall show cause why such ~~Board action~~ reinstatement is justified.

**245:15-19-5. Compliance with laws, rules, regulations and orders**

(a) All firms and entities shall comply with all laws, rules, regulations and orders issued~~, which~~ to the same extent as they apply to an individual engineer or land surveyor.

(b) The Board shall investigate complaints, hold hearings, issue orders and determine penalties against firms and entities in the same manner, procedure, and with the same rights and offenses as are authorized against an individual engineer or land surveyor, as designated in this Chapter.

(c) Upon notice of the Board, ~~Certificate~~ Certificates of Authorization suspended, refused ~~to renew~~ renewal, or revoked for cause by Board action shall be surrendered immediately in the manner prescribed by that notice.

**245:15-19-6. Notification of changes in firm practice required**

~~Entities~~ Firms shall notify the Board office within thirty (30) days of any or all changes which affect the Certificate of Authorization. Notification shall be on the Board's form, signed by a Professional Engineer or Land Surveyor ~~of record~~ designated in responsible charge on the Certificate of Authorization or partner or director of the ~~entity~~, firm, ~~notarized~~ and accompanied by the fees prescribed in Chapter ~~1~~ 2 of this title. Failure to properly and promptly notify the Board of changes shall be cause for penalties, revocation, refusal to renew or suspension of the Certificate of Authorization, as designated in the Rules of Procedure of the Board.

**245:15-19-7. Authority to use professional titles**

(a) Only persons holding current Certificates of ~~Registration~~ Licensure in Oklahoma and firms or entities holding current Certificates of Authorization issued by the Board, are authorized to employ the title "Engineer" or "Land Surveyor" and use any various construction thereof, in describing or identifying services solicited, offered, contracted or ~~executed~~ performed.

(b) No other person, entity, or firm may employ the title "Engineer" or "Land Surveyor" or any various construction thereof, to describe persons, entities or services, nor do such ~~unregistered~~ unlicensed individuals, firms or entities have authority to solicit, offer, contract or execute engineering or land surveying services in the State of Oklahoma.

**245:15-19-8. Firms required to file with Secretary of State; restriction on similar names**

(a) Failure to properly file a Certificate of Incorporation or authentication and maintain same with the Secretary of State ~~in order to practice in the State of Oklahoma~~ shall result in revocation of the Certificate of Authorization and disciplinary action pursuant to the Rules of this Chapter.

(b) The name of ~~an~~ a firm or entity shall not be the same as or deceptively similar to the name of any other firm or entity then existing. The name shall not be the same or deceptively similar to any name that ~~or which~~ has existed within the preceding three (3) years, without the written consent of the previously existing firm or entity.

## SUBCHAPTER 21. CORNER PERPETUATION AND FILING ACT REQUIREMENTS

**245:15-21-1. Purpose**

The Corner Perpetuation and Filing Act, 65 O.S. 1991, Section 3 - 116 et seq., purpose is to protect and perpetuate public land survey corners and information concerning the location of such corners, by requiring the systematic establishment of monuments and filing of information concerning the marking of the location of such public land survey corners. The State Archives Division of the Oklahoma Department of Libraries serves as the registry for Certified Corner Records to assist land surveyors throughout the state by providing corner and survey information. Copies of the original township plats and field notes for the entire state of Oklahoma are housed in the archives on both paper copy and microfiche formats. The State Board of ~~Registration~~ Licensure for Professional Engineers and Land Surveyors is charged by law with the responsibility to provide and prescribe the information to be included, to prescribe the form in which such public land survey corner record shall be presented and filed or recorded, and to enforce the provisions of the law. The Rules of this subchapter are known and cited as OAC 245:15-21.

**245:15-21-3. Specifications for Certified Corner Records**

The Board has established the following specifications for Certified Corner Records:

(1) The record shall be signed, sealed, and dated in the manner required by 59 O.S. 475.15 and OAC 245:15-17-2. ~~embossed with the official seal or rubber stamp seal of the Professional Land Surveyor, signed and dated~~, The seal shall be a rubber stamp, an electronically digitized seal, or a metal impression seal, and shall be produced suitable for reproduction or microfilming.

(2) Each Certified Corner Record shall contain the following minimum information:

(A) description of the corner which the monument marks;

(B) description of the monument, ~~(~~such as stone, iron pin, or brass cap, listing ~~etc.)~~ the corner and supporting evidence found, including (1) physical and record evidence; (2) evidence supporting the validity of the location of the monument position; (3) parol evidence (statements of witnesses) when applicable;

(C) descriptions and angular and linear measurements to at least three readily identifiable accessories;

(D) a graphic illustration of the action by the Professional Land Surveyor showing field conditions and dimensions at and in the vicinity of the corner as well as descriptive language, where appropriate, listing pertinent details of the action of the Professional Land Surveyor;~~.~~

(E) bearing and reference, magnetic or true; ~~, and~~

(F) indication of whether the corner was existing, obliterated, or lost as defined in the "Manual of Instruction For the Survey of the Public Lands of the United States" published by the Bureau of Land Management, United States Department of the Interior; and ~~.~~

(G) for every corner set, a description of the method used and supporting evidence found, including, (1) the monument set and any rehabilitation work done; (2) any accessories or witness corners set; (3) if restoring a monument, give a statement of the variations between the original monument position and the monument set; (4) the methods used for restoration; (5) list evidence supporting the validity of the location of the monument set.

**245:15-21-6. Penalties**

The Board shall have the power to reprimand, place on probation, fine, revoke or suspend the Certificate of ~~Registration~~ Licensure or Certificate of Authorization of any ~~registrant~~ licensee or firm who fails to comply with any provision of 65 O.S. 1991, Section 3 - 166 et seq., or the Rules of the Board.

## SUBCHAPTER 23. VIOLATIONS

**245:15-23-1. Prima facie evidence**

(a) A person firm, or entity shall be construed to practice or offer to practice engineering or land surveying, who does any of the following:

(1) practices any branch of the professions the board regulates, or

(2) by display or verbal claim, sign, advertisement, contract, card or other printed, engraved, or written instrument or device, bearing a person's, firm's, or entity's name or in any other way represents to be a Professional Engineer or Land Surveyor, or a ~~Firm~~ firm providing or having the qualifications to provide engineering or land surveying services, or

(3) through the use of some other title implies that the person, firm, or entity is a Professional Engineer or Land Surveyor, or a ~~Firm~~ firm providing engineering or land surveying services, or

(4) holds himself/herself or itself out as having the qualifications to, is able to, or who does contract, offer or perform any engineering or land surveying service.

(5) The following actions shall not be violations under 59 O.S. 475.1 et seq and the rules of the Board provided that the licensee is licensed in the licensee's home jurisdiction, meets the requirements of licensing for Oklahoma, discloses that the licensee is not licensed in Oklahoma, and obtains a license in Oklahoma prior to commencing the practice of engineering or land surveying in Oklahoma:

(A) Advertising in national publications or electronic media, or

(B) Responding to letters of inquiry regarding requests for qualifications and interest from out-of-state engineers or land surveyors, or

(C) Using the title/designation Professional Engineer, Licensed Engineer, P.E., Professional Land Surveyor, Licensed Land Surveyor, or P.L.S. or the like on letterheads, or business cards.

(b) Any violation of such action noted by this Section shall be sufficient to justify an injunction or any other order or a conviction without evidence of a general course of conduct. The Board shall determine if other legal procedures and penalties are necessary and shall have the power to proceed with any and all legal procedures in addition to the injunction or other such orders issued.

**245:15-23-2. Grounds for violations and penalties**

Grounds for denial, revocation, suspension, refusal to issue, restore or renew, place on probation, fine or reprimand, orders, injunctions, administrative and/or criminal penalties ~~includes~~ include:

(1) Fraud, deception or misrepresentation in obtaining or attempting to obtain or renew a Certificate of ~~Registration~~ Licensure, Certificate of Authorization, or in taking the examinations administered by the Board;

(2) Noncompliance with statutory requirements or rules in this chapter for qualifying for ~~registration~~ licensure;

(3) Violating the statutes regulating professional engineering and land surveying or any rule in this chapter, regulations or order issued by the Board;

(4) Violating any of the provisions of the "Corner Perpetuation and Filing Act (65 O.S. 1981, 3.116-3.123) or any requirements, rules and regulations or order issued by the Board;

(5) Conviction of or entry of a plea of nolo contendere or no contest to any crime, ~~whether or not it relates to the practice of engineering or land surveying,~~ whether a felony or a misdemeanor which includes dishonesty as an essential element, or which is directly related to the practice of engineering or land surveying;

(6) Violating any other jurisdiction's ~~registration~~ licensure laws, requirements or rules and regulations;

(7) Fraud or Misrepresentation (Refer to 245:15-23-4)

(8) Gross negligence (Refer to 245:15-23-5);

(9) Gross incompetence (Refer to 245:15-23-6);

(10) Misconduct or Dishonest practice (Refer to 245:15-23-7);

(11) Failure, within 30 days, to provide information requested by the Board through its executive director, director of enforcement or counsel, as a result of a formal or informal complaint to the Board;

(12) Violating any terms of probation or suspension imposed by the Board;

(13) Unauthorized or misuse of seal which shall include, but is not limited to, sealing, or signing or dating in connection with a seal ~~and signing~~ any documents not prepared under the ~~registrant's~~ licensee's direct control and personal supervision;

(14) Habitual intoxication or addiction to the use of alcohol or illegal use or distribution of a controlled dangerous substance;

(15) Violating the Oklahoma Minimum Standards for the Practicing of Land Surveying;

(16) Nonpayment of fees or penalties shall result in revocation.

**245:15-23-3. Additional administrative penalties ~~(fines)~~ for violations**

Administrative penalties ~~(fines)~~ may be levied by the Board separately or in addition to any other penalties or remedies determined by the Board. The Board may seek criminal and civil relief, including injunctive relief, through the courts for violation of the Statutes regulating professional engineering and land surveying, Rules in this Chapter, regulations, or to enforce any order issued by the Board~~.~~. The Board may seek relief or remedies through the boards and administrative entities of Oklahoma or other states.

**245:15-23-4. Fraud or misrepresentation**

(a) Any licensee, firm, entity, or person associated with or under the responsible charge of any licensee, firm, or entity, holding a Certificate of Licensure and/or a Certificate of Authorization who shall make an oral or written statement or communication to any person that is (1) false and a material misrepresentation, (2) made with the knowledge that the statement is false or made while ignorant of the truth, (3) made with the intent that the statement shall be relied on by the person and in a manner reasonably foreseeable; provided (4) the person to whom the statement is made is ignorant of the falsity of the statement, (5) the statement is justifiably relied upon by such person, and (6 ) such person is caused damage or injury, shall have committed a fraud.

(b) Any licensee, firm, entity, or person associated with or under the responsible charge of any licensee, firm, or entity, holding a Certificate of Licensure and/or a Certificate of Authorization who shall make an oral or written statement in any document, report, examination, investigation, advice, representation, plans or specifications that is materially false or misleading either in its content or omission of content there from, or who in any other manner, method or conduct acts in a way so as to mislead or deceive any person, shall be guilty of misrepresentation.

~~Any registrant or entity, or person associated with or under the responsible charge of any registrant or entity, holding a Certificate of Registration and/or a Certificate of Authorization who shall make oral or written fraudulent, false or misleading statements or communications concerning any registrant or entity or any other person or who shall make false or misleading statements including but not limited to on any document, report, statement, examination, investigation, plans or specifications made by the registrant or entity or under his, her or its direct supervision, or who shall in any other manner, method or conduct shall act in such a way so as to deceive any person, shall be deemed guilty of fraud or misrepresentation.~~

**245:15-23-5. Gross negligence**

(a) The Professional Engineer or Land Surveyor is responsible for many professional, technical, ethical and tactical judgments relating to planning, surveys, reports, studies, designs, plans and specifications, construction materials, methods, techniques and systems processes. The ~~registrant's~~ licensee's education, training and experience, or the education, training and experience of the ~~registrant~~ licensee in responsible

charge of the services of any Firm, should enable such ~~registrant~~ licensee to make such determinations with confidence in a successful result.

(b) ~~The Board expects of its~~ Each ~~registrants~~ licensee, ~~entities~~ firm, entity, or ~~persons~~ person representing same, shall exercise prudent and deliberate consideration in decisions, made only after responsible and thorough investigation, research and, when necessary, expert advice and assistance.

(c) When the ~~result~~ results ~~anticipated in~~ from such decisions ~~is~~ are not reasonably predictable, each ~~registrant~~ licensee, firm, entity, or person representing same, ~~is expected to~~ shall so advise the client, and fully ~~disclosing~~ disclose the implications involved.

(d) When such decisions ~~promote~~ require procedures, techniques, materials, or systems~~, etc.,~~ unfamiliar to the planning, design and/or construction team involved, the ~~registrant~~ licensee, firm, entity, or person representing same ~~is expected to~~ shall exercise ~~extraordinary~~ additional care and attention to the process, ~~insuring~~ advancing the result sought. ~~as best he/she can the result sought.~~

(e) If, in the judgment of the Board, a ~~registrant~~ licensee, firm, entity, or person representing same, does ~~not~~ by its failure to discharge its duties, obligations, and responsibilities under 59 O.S., Sections 475.1 et seq and the Rules of the Board or the laws and regulations of another jurisdiction demonstrate carelessness which is in reckless disregard for the safety, property or lives of others, or is so great it appears to be a conscious violation of other people's property, or rights to health, safety or welfare, ~~concern, attention and involvement stated in this section, and failure to do so brings jeopardy to the project, public or client~~, the Board may deem such neglect to be gross negligence.

**245:15-23-6. Gross incompetence**

(a) ~~Registrants~~ Licensees have been licensed under the authority of the Statutes regulating professional engineering and land surveying which establishes minimum competence to provide engineering and land surveying services in the State of Oklahoma. ~~Registrants~~ Licensees shall continue their professional development after ~~registration~~ licensure, improving and increasing their proficiency and skills, knowledge and abilities, ~~and therefore the skill, knowledge and ability to the Firm such registrant provides services on behalf of.~~ The ~~registrant~~ licensee, firm, or entity shall undertake only those professional assignments the ~~registrant~~ licensee, firm, or entity is qualified to perform and lawfully authorized to undertake.

(b) The following practices, among others may be deemed gross incompetence by a ~~registrant~~ licensee, firm, or entity or person representing same:

(1) ~~Failure to use due diligence and proper restraint in planning, design and observation procedures,~~ A deficiency on the part of a licensee in the basic knowledge and skill necessary to the practice of engineering or land surveying such that the licensee does not demonstrate an ability to practice engineering or land surveying at the threshold level of professional competence for projects of the kind and complexity undertaken in the disciplines practiced thus endangering the property, safety, health of others ~~and~~ or welfare of the public.

(2) Failure to engage other ~~experts~~ competent licensed architects, engineers or land surveyors when the ~~registrant~~ licensee ~~is practicing~~ has contracted to furnish services outside of the ~~registrant's~~ licensee's area of competence ~~and commits an error jeopardizing the success, performance or safety of the project~~.

~~(3) Failure to clearly, accurately and completely develop designs, plans, drawings, specifications and other instruments of service in practice that properly qualify the requirements intended and insure against misunderstandings jeopardizing the public.~~

~~(4) Failure to use diligence in preparing documents for the protection of the public and client involving the registrant's responsibility.~~

(~~5~~3) Practicing engineering or land surveying while under the influence of alcohol, drugs or mentally impaired.

**245:15-23-7. Misconduct or dishonest practice**

(a) The following practices, among others, by a ~~registrant~~ licensee, firm, or entity or person representing same, may be deemed misconduct and a violation: ~~or dishonest practice~~:

(1) Acts which evidence attempts to violate any laws or rules of this or any other state relating to ~~registration~~ licensure to practice engineering or land surveying.

(2) Acts which evidence a disregard or indifference ~~neglect in complying with~~ toward the rules or statutes governing the practice of engineering or land surveying regulations, codes, ordinances and recognized standards including but not limited to those regulating the design of facilities to be constructed.

~~(3) Acts which evidence attempts through commission or omission, to mislead or defraud any person, or entity.~~

(~~4~~3) Acts which evidence attempts to violate or do so violate the Statutes Regulating Professional Engineers and Land Surveyors or Rules in this Chapter or assist any other person to attempt or to do so.

~~(5) Acts which evidence attempts to bribe any person or entity, who may influence the selection of any registrant. Kickbacks, donations or forgiveness offered or paid to gain improper advantage in selection will be considered bribes.~~

(~~6~~4) Acts which evidence attempts to conceal personal interests in conflict with responsibilities of service to the public or a client.

~~(7) Acts evidenced by exaggerated, misleading, deceptive or false statements on claims about professional qualifications.~~

(~~8~~5) Acts which evidence, through commission or omission, a failure or refusal to reasonably communicate with the client, so that the client shall be reasonably informed ~~by the registrant~~ of the status of any services provided or agreed to be provided by ~~any~~ the ~~registrant~~ licensee or a firm holding a Certificate of Licensure and/or Certificate of Authorization under the responsible charge of the licensee. ~~to any client or registrant.~~

(~~9~~6) Acts which evidence a detriment to a client caused by a personal or the firm's interest which conflicts with ~~a~~ the responsibility owed to the client by a ~~registrants~~ licensee or a firm holding a Certificate of Licensure and/or Certificate of Authorization under the responsible charge of the licensee. ~~responsibility to the client.~~

(b) The following practices, among others, by a licensee, firm, or entity or person representing same, may be deemed a dishonest practice and a violation:

(1) Acts which evidence attempts through commission or omission, to mislead or defraud any person, firm, or entity.

(2) Acts which evidence attempts to bribe any person, firm, or entity, who may influence the selection of any licensee, firm, or entity. Kickbacks, donations or forgiveness offered or paid to gain improper advantage in selection will be considered bribes.

(3) Acts evidenced by exaggerated, misleading, deceptive or false statements on in claims about professional qualifications.

**245:15-23-8. Duty to refer alleged violations to ~~Executive~~ Director of Enforcement**

When information comes to a ~~registrant~~ licensee, the Board, or its employees concerning alleged misconduct by any person, firm, entity or ~~registrant~~ licensee, whether through formal or informal channels, it shall be the duty of such person, firm, or entity to refer such information to the ~~Executive~~ Director of Enforcement.

**245:15-23-9. Filing a complaint; forms and evidence**

~~When filing a complaint~~ To bring allegations of a violation, the person, ~~registrant~~ licensee, firm, or entity, shall contact the Board office and provide all information requested. The complainant may document the allegations with evidence available and submit one copy of the documentation to the Board office. The Executive Director or Director of Enforcement of the Board shall make appropriate inquiry to verify such information and shall, based upon such information and inquiry, proceed to one of the following courses:

(1) Terminate the investigation when it appears no violation has occurred or there is insufficient evidence to support any violation, or that the Board lacks jurisdiction; or

(2) Refer the matter to the investigation committee; or

(3) Appoint an individual investigator; or

(4) Attempt informal resolution of the matter; or

(5) Refer directly to Board; or

(6) Refer the matter to other Boards, Agencies, or Authorities.

**245:15-23-10. Informal resolution**

Those matters in which informal resolution is sought may be referred to the investigation committee or terminated as provided in OAC 245:15-23-9. Any proposed final disposition of a violation by the ~~Executive~~ Director of Enforcement shall be recommended to the Board for approval.

**245:15-23-11. Investigation committee**

(a) **Appointment; officers.** The investigation committee, appointed by the ~~Chairman~~ Executive Director ~~and approved by the Board~~, shall investigate cases referred to it. ~~The committee shall be appointed for terms as designated by the Board. There shall be at least one Professional Engineer or one Land Surveyor appointed to the committee. The Board shall designate one member as chairman whose duty it shall be to conduct meetings of the committee, administer its activities and perform other duties assigned by the Board.~~

(b) **Duties.** It shall be the duty of the investigation committee, upon request from the Executive Director or Director of Enforcement, to investigate ~~to determine~~ whether there exists probable cause to believe that a violation ~~or misconduct~~ has occurred and to determine whether ~~justify~~ the institution of formal or administrative proceedings is justified. The investigation shall be conducted with reasonable dispatch. The investigation committee shall report to the Executive Director the result of any investigation promptly upon its conclusion.

(c) **Expenses.** The travel expenses of members of the investigation committee shall be paid by the Board as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. All travel by members of the committee shall be approved by the ~~Chairman~~ Chair of the Board prior to the travel occurring.

**245:15-23-12. Investigation report and recommendations**

The ~~Executive~~ Director of Enforcement shall forward the investigation committee's report to the Board's legal counsel who after review with the investigative committee and Director of Enforcement or the Executive Director shall proceed with the recommendations ~~contained therein~~, provided such recommended action conforms to law ~~or~~ and established policy of the Board and is supportable based upon evidence considered by the investigation committee and any additional evidence discovered after the review by the investigative committee ~~its~~ and the conclusions drawn therefrom. ~~Civil or formal~~ Court proceedings will not be instituted unless the investigation committee and counsel to the Board are agreed ~~upon such action or unless~~ and such action is ordered by the Board based upon review of the recommendations of the investigation committee and counsel of the Board.

**245:15-23-13. Investigator**

Investigations may, at the discretion of the Executive Director or Director of Enforcement, be assigned to individual investigators who may be employed or retained on a full or part-time basis by the Board for such purpose.

**245:15-23-14. Civil and formal proceedings**

Civil or formal proceedings in matters involving ~~misconduct or~~ violations shall be brought by the legal counsel ~~Counsel~~ in the name of the Board based upon recommendation of the investigation committee, ~~investigator~~ Director of Enforcement and as ordered by the Board. The formal complaint shall be signed by the legal counsel to the Board and shall include a

concise statement of the allegations and particular sections of Statutes and Rules involved.

**245:15-23-15. Hearings**

(a) **General provisions.**

(1) The Board shall set a time and place for the hearing of ~~any charge~~ the formal complaint, provided that such hearing shall not be set less than thirty (30) days from mailing by certified mail of notice of the proceeding to the ~~registrant~~ licensee, firm, entity, or person at the last known address according to Board records or information.

(2) Such notice shall include a copy of the ~~charge~~ formal complaint, including a statement of the time, place and nature of the hearing, a statement of the legal authority and jurisdiction under which the hearing is held; a reference to the particular sections of statutes or rules involved and a short and plain statement of the matters asserted or issues involved. At any hearing, ~~interested~~ the parties thereto shall be afforded the opportunity to respond, present evidence, and argue on all issues involved.

(3) Unless precluded by law, informal disposition may be made of any proceeding by stipulation, agreed settlement, consent order, or default.

(4) At any hearing, the ~~registrants~~ licensee, firm, entity, or person, charged with misconduct or violation shall enjoy the rights:

(A) against self-incrimination; and

(B) of confidential communication with his/her spouse, attorney, clergyman, priest and/or physician; and

(C) of withholding confidential or privileged records and files of any official or agency of any state or of the United States which, by any statute of such state or of the United States; and

(D) of cross examination; and

(E) of counsel.

(5) All motions, except for a motion to continue, must be filed seven (7) days prior to the scheduled date of the hearing. Responses to motions, if any, must be filed two (2) days prior to the hearing.

(6) The parties shall exchange names of all witnesses they anticipate testifying ten (10) days prior to the hearing. Additional witnesses may be called subject to the approval of the Board.

(7) The first motion for a continuance filed on behalf of a party may be granted by the Executive Director.

(b) **Hearing record.**

(1) The hearing records shall include:

(A) all pleadings, motions and intermediate rulings;

(B) evidence received or considered;

(C) questions and offers of proof, objections, and ruling thereon;

(D) proposed findings and exceptions;

(E) any decision, opinion, or report by the officer presiding at the hearing, if any;

(F) any records, including records of the Board, of which the Board chooses to take judicial notice;

(~~F~~G) all staff memoranda or data submitted to the hearing officer, if any, or member of the agency in connection with their consideration of the case.

(2) Oral proceedings or any part of the oral proceedings shall be transcribed on request of any party. The requesting party shall pay all costs incurred for the original transcript and ~~interested~~ other parties requesting copies shall bear the cost of additional copies.

(3) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(c) **Methods of hearings.** Hearings shall be conducted by one of the following methods as determined by the Board:

(1) by the Board;

(2) by a member or emeritus member of the Board or its designee acting as hearing examiner;

(3) by an attorney licensed to practice before the Supreme Court of the State of Oklahoma acting as hearing examiner.

(d) Unless precluded by law, any party may waive rights and proceed by stipulation, agreed settlement, consent order or default. No provision in the rules shall be construed as prohibiting the Board from continuing to a later date, suspending or holding in abeyance any formal or civil proceeding pending the outcome of informal negotiation or informally agreed upon terms

**245:15-23-16. Hearing disqualification procedures**

Any Board Member or Hearing Examiner shall withdraw from any proceeding in which the individual cannot afford a fair and impartial hearing or consideration. Any party may request such disqualification by filing an affidavit promptly upon discovery of the alleged grounds for disqualification; stating the particular grounds for ~~objection~~ disqualification. The issue shall be referred to the Board to be determined promptly by the Board, or the remaining members thereof, and upon disqualification the Board shall assign another Hearing Examiner and if necessary, as provided by Statutes of Oklahoma, seek appointment of an additional member or members pro-tem.

**245:15-23-17. Powers of hearing authority**

A hearing authority shall require the furnishings of information; the attendance of witnesses; and the production of books, records, papers or other objects as may be necessary and proper for the purposes of the hearing. Any party to a proceeding may take depositions of witnesses in the same manner as provided by law in any civil actions before courts of record and such depositions may be submitted into evidence subject to the right of objection at the time of hearing as provided by law in any civil actions before courts of record. The hearing authority may admit into evidence and take judicial notice of any records, including records of the Board, that it may deem relevant to the proceeding.

**245:15-23-18. Findings of the Board and penalties**

(a) The Board may find on any one or more of the charges:

(1) The charges are dismissed for insufficient evidence;

(2) The charges are dismissed without prejudice;

(3) The charges are dismissed with prejudice;
(4) The ~~defendant~~ respondent is found not guilty;
(5) The ~~defendant~~ respondent is found guilty.

(b) If the finding is guilty, the Board shall then determine the administrative penalty to be imposed. The administrative penalty resulting from a finding of guilty may be one or more of the following:
(1) Reprimand
(2) Censure
(3) Suspension
(4) Revocation
(5) Probation
(6) Administrative Penalty ~~The order of the Board in each case is a public record.~~

(c) The Board will consider past disciplinary action taken against any licensee person, firm, or entity found guilty of misconduct or violation in any present proceeding. Such past conduct shall not be evidence of guilt in the present proceeding but will be considered only in determining appropriate sanctions or penalties to be imposed by the Board in the present proceeding.

(d) The order of the Board in each case is a public record.

**245:15-23-21. Final orders**

A final order adverse to a party in a proceeding shall be in writing. The final order shall be consistent with the order of the Board entered at the hearing. A final order shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified either personally or by mail of any order. Upon request, a copy of the order shall be delivered or mailed to each party and to the attorney of record.

**245:15-23-22. Procedures to file exceptions to proposed orders**

Exceptions to a proposed final order, together with a brief in support, shall be filed with the Executive Director within ten (10) days of the ~~entry~~ submission of the proposed final order. If exceptions are filed, the Executive Director shall set the time and place for the Board to consider the exceptions, ~~. The exceptions~~ and shall cause notice of the time and place to hear the exceptions ~~shall~~ to be mailed to the ~~registrant~~ licensee, person, firm, or entity or to the attorney of record. Such time shall not be less than twenty (20) days after said notice is mailed. Briefs in response to the exceptions must be filed with the Board at least seven (7) days before such meeting. The ~~registrant~~ licensee, person, firm, or entity may personally or through counsel be present and present oral argument to the Board in support of the exceptions. No exceptions to the final order shall be considered without full compliance of this section by the respondent, individual, firm, or entity.

**245:15-23-23. Rehearing, reopening or reconsideration**

(a) A decision by the Board shall be subject to rehearing, reopening or reconsideration by the Board if requested in writing and filed with the Executive Director within ten (10) days from the date of filing of the Final Order with the Executive Director. The grounds for requesting such action shall be either:
(1) newly discovered or newly available evidence relevant to the issues; or
(2) probable error committed by the Board or hearing examiner in the proceeding or in its decision such as would be grounds for reversal on judicial review of the order; or
(3) need for further consideration of the issues and the evidence in the public interest; or
(4) a showing that issues not previously considered should be examined in order to properly dispose of the matter; or
(5) fraud practiced by the prevailing party or of procurement of the order by perjured testimony or fictitious evidence.

(b) The order of the Board granting rehearing, reconsideration, or review of the petition of a party, shall set forth the grounds which justify such action.

~~(c) The Board will consider past disciplinary action taken against any registrant, person, or entity found guilty of misconduct or violation in any present proceeding. Such past conduct shall not be evidence of guilt in the present proceeding but will be considered only in determining appropriate sanctions or penalties to be imposed by the Board in the present proceeding.~~

~~(d) Unless precluded by law, any party may waive rights and proceed by stipulation, agreed settlement, consent order or default. No provision in the rules shall be construed as prohibiting the Board from suspending or holding in abeyance any formal or civil proceeding pending the outcome of informal negotiation or informally agreed upon terms.~~

**245:15-23-24. Other hearings**

When it comes to the Board's attention that persons, firms, or entities residing in or out of the State of Oklahoma may be engaged in the practice of engineering or land surveying in Oklahoma, as defined by the Statutes regulating professional engineering and land surveying and Board's current rules, and further that such person, firm, or entity may be engaged in the unauthorized practice of these professions or may not meet the requirement thereof, the Board may institute proceedings ~~or penalties~~ as provided in the rules against ~~registrants~~ licensee, persons, firms, or entities for the purpose of determining if any violation of the law, rules or orders has occurred and may take such action as is permitted pursuant to the provisions of 59 O.S., Sections 475.1 et seq. and may, in addition, bar said ~~registrant~~ licensee, person, firm, or entity concerned and their employers from ~~registration~~ licensure with the Board or the practice of engineering or land surveying within the State of Oklahoma.

**245:15-23-25. Emergency hearings and orders**

(a) If the Board shall find an emergency to exist which, in the opinion of the Board, poses an ~~immediate~~ imminent danger to the public health, welfare, or safety or which threatens irreparable harm to any person, firm, or entity, the Board may

order hearings as provided herein upon giving twenty-four (24) hour notice to the parties concerned, and may enter such orders as will, in the judgment of the Board, maintain or restore the public health, welfare and safety pending hearing by the Board or judicial review of the Board's actions.

(b) Whenever in the judgment of the Board any ~~registrant~~ licensee, person, firm, or entity has engaged, or is about to engage, in any acts or practice which constitute, or will constitute, a violation of 59 O.S., Section 475.1 et seq., the Board may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the Board that such ~~registrant~~ licensee, person, firm, or entity has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court, without bond.

(c) Nothing in the rules dealing with violations, penalties or findings of facts shall preclude the Board from proceeding through any legal proceedings necessary to enforce its findings, orders or administrative penalties.

*[OAR Docket #06-572; filed 4-5-06]*

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

*[OAR Docket #06-584]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants
Part 1. General Provisions [AMENDED]
252:100-41-1.1. [NEW]
Part 3. Hazardous Air Pollutants [AMENDED]
252:100-41-13. [NEW]
252:100-41-14. [NEW]
Subchapter 42. Control of Toxic Air Contaminants [NEW]
Part 1. General Provisions [NEW]
252:100-42-1. [NEW]
252:100-42-1.1. [NEW]
252:100-42-2. [NEW]
252:100-42-3. [NEW]
252:100-42-4. [NEW]
Part 3. Standards [NEW]
252:100-42-20. [NEW]
Part 5. TAC MAAC Exceedance [NEW]
252:100-42-30. [NEW]
252:100-42-31. [NEW]
252:100-42-32. [NEW]
Appendix O. Toxic Air Contaminants (TAC) Maximum Acceptable Ambient Concentrations (MAAC)[NEW]
**AUTHORITY:**
Environmental Quality Board; 27A O.S., §§ 2-2-101, 2-2-201 and 2-5-101, *et seq.*
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Subchapter 41. Control of Emissions of Hazardous Air Pollutants and Toxic Air Contaminants
Part 1. General Provisions [AMENDED]
252:100-41-1.1. [NEW]
Part 3. Hazardous Air Pollutants [AMENDED]
252:100-41-13. [NEW]
252:100-41-14. [NEW]
Subchapter 42. Control of Toxic Air Contaminants [NEW]
Part 1. General Provisions [NEW]
252:100-42-1. [NEW]
252:100-42-1.1. [NEW]
252:100-42-2. [NEW]
252:100-42-3. [NEW]
252:100-42-4. [NEW]
Part 3. Standards [NEW]
252:100-42-20. [NEW]
Part 5. TAC MAAC Exceedance [NEW]
252:100-42-30. [NEW]
252:100-42-31. [NEW]
252:100-42-32. [NEW]
Appendix O. Toxic Air Contaminants (TAC) Maximum Acceptable Ambient Concentrations (MAAC)[NEW]
**Gubernatorial approval:**
August 11, 2005
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**Docket number:**
05-1207
**INCORPORATIONS BY REFERENCE:**
None
**ANALYSIS:**

The Department is proposing to redefine the state air toxics program. Amendments are proposed to Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants, to partition existing Subchapter 41 into two subchapters. The proposed amendments will clarify and modify the state-only requirements for emissions from stationary sources and relocate these requirements into the new Subchapter 42. Subchapter 41 will contain the federal requirements for HAP and asbestos. The remaining Sections 15 and 16 of Subchapter 41, which incorporate by reference National Emission Standards for Hazardous Air Pollutants (NESHAP) in 40 CFR Parts 61 and 63 and specific asbestos requirements, would be retained in Subchapter 41. A statement has been added in 252:100-41-1.1 that will allow Subchapter 42 to supersede Subchapter 41, with the exception of Part 3. Also, two new sections would be added as 252:100-41-3 and -4 for conformity with existing rules.

The program proposed in new Subchapter 42, Control of Toxic Air Contaminants, intends to provide a more effective approach to the control of TAC while continuing to protect the public and environment from the potentially harmful effects of TAC. When ambient air monitoring indicates that a TAC Maximum Acceptable Ambient Concentration (MAAC) is exceeded in such a way as to endanger the public health, the proposed rule requires the Department to designate an Area of Concern (AOC) and to develop

a strategy for bringing the ambient air concentration of the TAC in the AOC under the TAC MAAC.

Proposed Appendix O, Toxic Air Contaminants (TAC) Maximum Acceptable Ambient Concentrations (MAAC), includes substances that are considered toxic and harmful to human health, are emitted within the state of Oklahoma, and are able to be monitored at the proposed ambient standard levels with available technology. Appendix O was established using EPA's Residual Risk Report to Congress, which includes information on risk assessment and the risk management process. The EPA's IRIS database was used to gather human health effects information for each substance in Appendix O.

The proposed Subchapter 42 will lower DEQ permitting and enforcement costs because evaluation of TAC for permit application or compliance status of a stationary source will not occur until an AOC has been designated. However, DEQ may incur significant new costs to conduct monitoring and modeling of TAC when determining if a TAC standard has been exceeded. The proposed Subchapter 42 will generally lower compliance costs for owners and operators of major and minor sources because there are no additional compliance requirements for TAC unless an AOC has been designated.

**CONTACT PERSON:**

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2006.**

## SUBCHAPTER 41. CONTROL OF EMISSION OF HAZARDOUS AIR POLLUTANTS AND TOXIC AIR CONTAMINANTS

### PART 1. GENERAL PROVISIONS

**252:100-41-1.1. Supersession by Subchapter 42**

(a) This Subchapter, with the exception of Part 3, shall remain effective so long as it is not superseded by Subchapter 42 of this Chapter.

(b) Part 3 of this Subchapter shall not be superseded by any other subchapter of this Chapter.

### PART 3. HAZARDOUS AIR POLLUTANTS

**252:100-41-13. Purpose**

The purpose of this Part is to establish emission control technology, performance criteria and work practice standards for achieving emission standards from existing, new or modified sources that emit or have the potential to emit hazardous air pollutants in accordance with the authority delegated by the EPA under Section 111(b) of the federal Clean Air Act.

**252:100-41-14. Reference to 40 CFR**

(a) **Inclusions of CFR citations and definitions.** When a provision of Title 40 of the Code of Federal Regulations (40 CFR) is incorporated by reference, all citations contained therein are also incorporated by reference.

(b) **Inconsistencies or duplications.** In the event that there are inconsistencies or duplications in the requirements of those provisions incorporated by reference in OAC 252:100-41-15 and the regulations in this Chapter, the provisions incorporated by reference shall prevail, except where the regulations in the Chapter are more stringent.

(c) **Terminology related to 40 CFR.** For purposes of interfacing with 40 CFR, the following terms apply

(1) "Administrator" is synonymous with "Executive Director".

(2) "EPA" is synonymous with "Department of Environmental Quality (DEQ)".

## SUBCHAPTER 42. CONTROL OF TOXIC AIR CONTAMINANTS

### PART 1. GENERAL PROVISIONS

**252:100-42-1. Purpose**

The purpose of this Subchapter is to protect the public and the environment from the potentially harmful effects of toxic air contaminants (TAC) that are emitted into the ambient air.

**252:100-42-1.1. Supersession of Subchapter 41**

All parts of OAC 252:100-41, with the exception of Part 3, shall be superseded by this Subchapter.

**252:100-42-2. Definitions**

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

**"Area of concern"** or **"AOC"** means a geographic area in Oklahoma designated as having exceeded a TAC maximum acceptable ambient concentration (MAAC).

**"Emissions unit"** means, for the purposes of this Subchapter, any part of a stationary source which emits a TAC.

**"Malfunction"** means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

**"Maximum acceptable ambient concentration"** or **"MAAC"** means the action levels and averaging times contained in Appendix O of this Chapter for TAC.

**"Toxic air contaminant"** or **"TAC"** means any substance listed in Appendix O of this Chapter.

**252:100-42-3. Applicability**

This Subchapter applies to stationary sources that emit any TAC.

**252:100-42-4. Existing air pollution control requirements**

Any work practice, material substitution, or control equipment required by the Department prior to June 11, 2004, to control a TAC, shall be retained, unless a modification is approved by the Director.

## PART 3. STANDARDS

**252:100-42-20. TAC MAAC**

(a) **TAC MAAC.** The TAC MAAC list is located in Appendix O of this Chapter.

(b) **Protocol for creating and modifying the TAC MAAC list.**

(1) The Director may recommend substances to be added to the TAC MAAC list subject to the applicability of all of the following:

(A) toxicity of the substance;

(B) availability of methods for monitoring the ambient air concentration of the substance at the levels deemed to be acceptable for human health;

(C) quantity of the substance emitted in Oklahoma; and

(D) information indicating that anthropogenic emissions of the substance cause ambient air concentration levels to exceed those that have been determined to be acceptable based on health risks.

(2) The Director may recommend a substance be removed from the TAC MAAC list if the substance does not meet one of the criteria listed in subparagraphs 42-20(b)(1)(A) through (D).

(c) **Rulemaking requirements for TAC MAAC.** Adoption and modification of the TAC MAAC list will be in accordance with the rulemaking procedures of the Department.

## PART 5. TAC MAAC EXCEEDANCE

**252:100-42-30. Areas of concern**

(a) **Designation.**

(1) **Proposed AOC.**

(A) The Director may propose designation of an Area of Concern (AOC) for a TAC when it is demonstrated by monitoring that the MAAC for that TAC is exceeded in such a way as to endanger the public health.

(B) Excess emissions caused by malfunction shall not form the basis for an AOC designation.

(2) **AOC boundaries.**

(A) The boundaries of the AOC will be determined by monitoring, modeling, or other means approved by the Director.

(B) The impact of TAC emissions from stationary, mobile, and biogenic sources shall be considered in determining the boundaries for an AOC.

(3) **Monitoring and modeling.**

(A) **AOC and boundaries.** Monitoring and modeling for the proposed AOC and its boundaries will be performed by the Department in accordance with the requirements of 42-30(a)(3)(D)(i) and (ii); however, the Department will accept monitoring and modeling from other sources if such monitoring and modeling meet the requirements of 42-30(a)(3)(D)(i) and (ii), respectively.

(B) **Decision to monitor.** The decision to monitor for TAC MAAC exceedance in an area will be based on but not limited to:

(i) complaints received from the public;

(ii) information collected during compliance evaluations;

(iii) emission inventory data; or

(iv) EPA reports.

(C) **Monitoring sites.** Monitors for TAC shall only be placed in areas where human health may be endangered by emissions of TAC.

(D) **Acceptable monitoring and modeling methods.**

(i) **Risk assessment and monitoring.**

(I) All risk assessment and monitoring methods used by the Department for purposes of this Subchapter shall be consistent with those in Volumes 1 and 2 of the United States Environmental Protection Agency Air Toxics Risk Assessment (ATRA) Reference Library, April 2004; documents referenced in ATRA; and State requirements in OAC 252:100-43.

(II) The Department will analyze the data collected from each monitoring location to determine the 95% upper confidence limit (95% UCL) for the mean ambient concentration for each TAC/monitor combination. The 95% UCL will be determined using at least 10 samples taken over a period of at least 30 days and will be the concentration used for comparison with the TAC MAAC action level for each monitoring location.

(ii) **Modeling.**

(I) All applications of air quality modeling shall be based on the applicable models, databases, and other requirements specified in appendix W of 40 CFR Part 51 Guideline on Air Quality Models and in OAC 252:100-8-35(e).

(II) Where an air quality model specified in appendix W of 40 CFR Part 51 Guideline on Air Quality Models is inappropriate, the model may be modified or another substituted. Such modification or substitution will be considered on a case-by-case basis. When modeling is performed by owners or operators of stationary sources, written approval of the Director must be obtained for any modification or substitution.

(4) **Final designation.** The Director shall not make a final designation of an AOC until at least 30 days following the public meeting held pursuant to subsection 42-30(c) below.

(b) **Public notification.** At least 30 days prior to the public meeting set forth in subsection 42-30(c) below, the Department shall publish notice of the boundaries and the availability of information associated with the proposed AOC.

(1) The notice shall be published on the Department website, in two newspapers circulated statewide, and in one newspaper local to the AOC.

(2) The notice shall identify locations where information may be reviewed.

(3) The notice shall include the date, time, and place for the public meeting on the proposed designation.

(4) The notice shall identify the process by which written comments regarding the proposed designation may be submitted to the Department.

(c) **Public meeting.** The Department shall schedule and hold a public meeting. Any local community meeting to be held on the proposed designation may be combined with the public meeting authorized by this Section.

**252:100-42-31. AOC Compliance Strategies**

(a) **Applicability.** Following final designation of an AOC by the Director, the Department shall determine AOC Compliance Strategies to bring the AOC into compliance with the TAC MAAC. AOC Compliance Strategies developed by the Department shall apply to any stationary source or emissions unit that:

(1) impacts an AOC;

(2) emits the TAC for which the AOC was designated; and

(3) is not subject to a final emission standard, work practice, or other requirement to control emissions of a TAC promulgated under Sections 112(d) or 129 of the Federal Clean Air Act, OAC 252:100-17, Parts 5, 7, and 9, or required by a Consent Order or Decree issued by the Department or another regulatory agency.

(b) **AOC Compliance Strategy development.**

(1) **General requirements.** After making a final designation of an AOC, the Department shall prepare a compliance strategy for the AOC. In developing an AOC Compliance Strategy the Department shall:

(A) take into consideration what portion of the pollutant load is attributable to stationary sources versus that attributable to mobile sources, non-road sources, and biogenic sources;

(B) determine de minimis emission levels if appropriate for a particular TAC and a particular AOC; and

(C) advise, consult and cooperate with other agencies of the State, towns, cities, and counties, industries, other states and the federal government, and with affected groups in bringing the AOC into compliance.

(2) **Additional rulemaking.** Any new requirements or standards developed for an AOC Compliance Strategy shall be developed in accordance with the rulemaking procedures of the Department.

(3) **Permit requirements.** In accordance with 27A O.S., Section 2-5-112, the Department may as part of an AOC Compliance Strategy:

(A) require owners or operators to obtain permits for facilities that emit the TAC, for which the AOC was designated, in a concentration that causes or contributes to an off-site violation of the TAC MAAC in an AOC designated for that TAC; or

(B) require owners or operators of such facilities to modify any existing permit to include the TAC MAAC and any control measures required by paragraph 42-31(b)(4).

(4) **Control measures.** The availability, feasibility, and cost of any control measures, work practice standards, control equipment requirements, material substitution requirements, or stack emissions standards shall be considered in developing the AOC Compliance Strategy.

(5) **On-site emissions.** Owners or operators of facilities located in an AOC shall not be required to demonstrate compliance with the TAC MAAC within the boundaries of their facilities.

(6) **Monitoring and modeling requirements.** As an AOC Compliance Strategy, the Department may require owners or operators of applicable stationary sources to perform ambient air monitoring and/or modeling for the TAC of concern. Such ambient air monitoring and modeling shall be performed using the references and requirements in 42-30(a)(3)(D)(i) and (ii).

(c) **Public notification.** Following final designation of an AOC, the Department shall publish a report outlining the compliance strategy developed to bring the AOC into compliance with the TAC MAAC.

**252:100-42-32. Re-designation**

(a) **Re-designation.** The Director shall re-designate an AOC as in compliance with the TAC MAAC when compliance is demonstrated through monitoring and/or modeling.

(b) **Public notice.** Following the re-designation of an AOC, the Department shall notify the public pursuant to paragraph 42-30(b)(1).

## APPENDIX O. TOXIC AIR CONTAMINANTS (TAC) MAXIMUM ACCEPTABLE AMBIENT CONCENTRATIONS (MAAC) [NEW]

| CAS | SUBSTANCE | MAAC ppb | MAAC $\mu g/m^3$ | Time Period |
|---|---|---|---|---|
| | **Carcinogens** | | | |
| 75-07-0 | Acetaldehyde | 28 | 50 | 24-hr avg. |
| 107-13-1 | Acrylonitrile | 0.5 | 1 | 24-hr avg. |
| Group | Arsenic compounds | NA | 0.02 | 24-hr avg. |
| 71-43-2 | Benzene | 10 | 30 | 24-hr avg. |
| Group | Beryllium compounds | NA | 0.02 | 24-hr avg. |
| 106-99-0 | 1,3-butadiene | 1 | 3 | 24-hr avg. |
| Group | Cadmium compounds | NA | 0.06 | 24-hr avg. |
| 56-23-5 | Carbon tetrachloride | 1 | 7 | 24-hr avg. |
| 67-66-3 | Chloroform | 0.8 | 4 | 24-hr avg. |
| Group | Hexavalent Chromium compounds | NA | 0.008 | 24-hr avg. |
| 107-06-2 | Ethylene dichloride (1,2-dichloroethane) | 1 | 4 | 24-hr avg. |
| 50-00-0 | Formaldehyde | 7 | 8 | 24-hr avg. |
| 75-09-2 | Methylene chloride (dichloromethane) | 58 | 200 | 24-hr avg. |
| Group | Nickel compounds | NA | 0.15 | 24-hr avg. |
| 79-34-5 | 1,1,2,2-tetrachloroethane | 0.3 | 2 | 24-hr avg. |
| 75-01-4 | Vinyl chloride | 9 | 23 | 24-hr avg. |
| | **Non-Carcinogens** | | | |
| 7664-41-7 | Ammonia | 2,500 | 1,742 | 24-hr avg. |
| 100-41-4 | Ethylbenzene | 10,000 | 43,427 | 24-hr avg. |
| Group | Manganese compounds | NA | 50 | 24-hr avg. |
| Group | Mercury compounds | NA | 0.3 | 24-hr avg. |
| 108-88-3 | Toluene | 10,000 | 37,668 | 24-hr avg. |

*[OAR Docket #06-584; filed 4-5-06]*

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

*[OAR Docket #06-585]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Appendix E. Primary Ambient Air Quality Standards [REVOKED]
Appendix E. Primary Ambient Air Quality Standards [NEW]
Appendix F. Secondary Ambient Air Quality Standards [REVOKED]
Appendix F. Secondary Ambient Air Quality Standards [NEW]
**AUTHORITY:**
Environmental Quality Board Powers and Duties; 27A O.S. §§ 2-2-101, 2-2-201 and Oklahoma Clean Air Act, 2-5-101, *et seq.*
**DATES:**
**Comment period:**
June 15, 2005 through July 20, 2005 and August 23, 2005
**Public hearing:**
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Failure of the Legislature to disapprove the rules resulted in approval on March 31, 2006
**Final adoption:**
March 31, 2006
**Effective:**
June 15, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
None
**INCORPORATIONS BY REFERENCE:**
None
**ANALYSIS:**
The proposed amendments to Appendices E and F will change the primary and secondary ambient air quality standards for ozone to be consistent with the National Ambient Air Quality Standards.
**CONTACT PERSON:**
Leon Ashford, Department of Environmental Quality, Air Quality Division, e-mail leon.ashford@deq.state.ok.us, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2006.**

## APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

## APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [NEW]

| | Sulfur Dioxide | PM-10 | PM 2.5 | Carbon Monoxide | Ozone | Nitrogen Dioxide | Lead |
|---|---|---|---|---|---|---|---|
| **1-hr. max** | | | | 40 mg/m$^3$<br>(2)35 ppm | | | |
| **8-hr. max** | | | | 10 mg/m$^3$<br>(2)9 ppm | (5)0.08 ppm | | |
| **24-hr. max** | 365 ug/m$^3$<br>(2)0.14 ppm | (8) 150 ug/m$^3$ | (6) 65 ug/m$^3$ | | | | |
| **Calendar Qtr.** | | | | | | | (4) 1.5 ug/m$^3$ |
| **Annual** | 80 ug/m$^3$<br>(1)0.030 ppm | (3) 50 ug/m$^3$ | (7) 15 ug/m$^3$ | | | 100 ug/m$^3$<br>(1) 0.053 ppm | |

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K.

(4) Maximum arithmetic mean averaged over a calendar quarter

(5) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.08 ppm.

(6) The standard is attained when the 98th percentile concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

(7) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

(8) The standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 ug/m3, as determined in accordance with 40 CFR 50, Appendix K is equal to or less than one.

## APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

## APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [NEW]

| | Sulfur Dioxide | PM-10 | PM 2.5 | Carbon Monoxide | Ozone | Nitrogen Dioxide | Lead |
|---|---|---|---|---|---|---|---|
| 1-hr. max | | | | 40 mg/m$^3$<br>(2)35 ppm | | | |
| 3-hr. max | 1300 ug/m$^3$<br>(2)0.5 ppm | | | | | | |
| 8-hr. max | | | | 10 mg/m$^3$<br>(2)9 ppm | (5)0.08 ppm | | |
| 24-hr. max | | (8) 150 ug/m$^3$ | (6) 65 ug/m$^3$ | | | | |
| Calendar Qtr. | | | | | | | (4) 1.5 ug/m$^3$ |
| Annual | | (3) 50 ug/m$^3$ | (7) 15 ug/m$^3$ | | | 100 ug/m$^3$<br>(1) 0.053 ppm | |

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) The standard is attained when the expected arithmetic mean concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix K.

(4) Maximum arithmetic mean averaged over a calendar quarter

(5) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.08 ppm.

(6) The standard is attained when the 98th percentile concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

(7) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

(8) The standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 ug/m3, as determined in accordance with 40 CFR 50, Appendix K is equal to or less than one.

*[OAR Docket #06-585; filed 4-5-06]*

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

*[OAR Docket #06-586]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
252:205-1-1. [AMENDED]
252:205-1-2. [AMENDED]
252:205-1-3. [AMENDED]
252:205-1-4. [AMENDED]
Subchapter 3. Incorporation by Reference
252:205-3-1. [AMENDED]
252:205-3-2. [AMENDED]
Subchapter 5. Additional Generator Requirements
252:205-5-5. [AMENDED]
Subchapter 9. Additional Treatment, Storage, Disposal and Recycling Requirements
252:205-9-6. [AMENDED]
252:205-9-7. [REVOKED]
Subchapter 15. Transfer Stations
252:205-15-2. [AMENDED]
252:205-15-5. [AMENDED]
Subchapter 17. Tax ~~Credit and Waste Reduction Incentives~~ Credits
Part 1. Tax Credits
252:205-17-3. [AMENDED]
Subchapter 19. Additional Rules for Recycling
Part 1. Requirements for Off-Site Recyclers
252:205-19-1. [AMENDED]
Part 5. Tank and Container Recyclers
252:205-19-31. [AMENDED]
Subchapter 23. Hazardous Waste Fund Act Projects
252:205-23-1. [AMENDED]
Appendix A. Refund for Volume Reduction [REVOKED]
**AUTHORITY:**
Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, 2-2-104, 2-7-105 and 2-7-106
**DATES:**
**Comment period:**
September 1 through October 6, 2005 and November 15, 2005
**Public hearing:**
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**Legislative approval:**
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**Final adoption:**
March 31, 2006
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June 15, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
None
**INCORPORATION BY REFERENCE:**
**Incorporated standards:**
Title 40 of the Code of Federal Regulations, Parts 124, 260 through 266, 268, 270, 273, and 279 as amended through July 1, 2005, and the amendment to 40 CFR promulgated at 70 FR 45508-45522.
**Incorporating rules:**
252:205-3-1 and 252:205-3-2
**Availability:**
From the contact person listed below, 8:00 am to 5:00 pm, Monday thru Friday
**ANALYSIS:**
The purposes of the proposed amendments are: (1) to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279 revised as of July 1, 2005; (2) to incorporate amendments to 40 CFR that took effect after July 1, 2005; (3) to eliminate rules that pertain to revoked statutes; (4) to update regulatory citations for other DEQ rules; and (5) to apply various minor formatting changes to simplify reading.
**CONTACT PERSON:**
Jon Roberts (405) 702-5184, 707 North Robinson, Fifth Floor, Oklahoma City, Oklahoma 73102. Mailing address is P. O. Box 1677, Oklahoma City, OK 73101-1677.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 15, 2006.**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 252:205-1-1. Purpose, authority and applicability

(a) **Purpose.** The rules in this Chapter implement the Oklahoma Hazardous Waste Management Act, 27A O.S. § 2-7-101 *et seq.*, the Hazardous Waste Fund Act, 27A O.S. § 2-7-301 *et seq.*, ~~the Oklahoma Hazardous Waste Reduction Program, 27A O.S. § 2-11-201 *et seq.*,~~ and the Recycling, Reuse and Source Reduction Incentive Act, 27A O.S. § 2-11-301 *et seq.*

(b) **Authority.** OAC 252:205 was promulgated and adopted under the Oklahoma Environmental Quality Code, 27A O.S. § 2-1-101 *et seq.*, and the laws set forth in paragraph (a) above.

(c) **Applicability.** The rules in this Chapter apply to:

(1) Any person who handles, transports, treats, stores, recycles, and/or disposes of hazardous wastes pursuant to the OHWMA;

(2) Any municipality or county seeking a matching grant for emergency response training and protective equipment pursuant to the Hazardous Waste Fund Act; and

~~(3) Any generator of hazardous waste who voluntarily participates in the Hazardous Waste Reduction Program; and~~

(~~4~~ 3) Any person seeking a tax credit pursuant to the Recycling, Reuse and Source Reduction Incentive Act.

### 252:205-1-2. Definitions

In addition to the definitions contained in the statutes specified in OAC 252:205-1-1(a) above, the following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Off-site recycling facility"** means any facility which receives off-site shipments of hazardous waste to be recycled or processed for recycling, through any process conducted at the facility including fuel blending or burning;

**"OHWMA"** means the Oklahoma Hazardous Waste Management Act, 27A O.S. § 2-7-101 *et seq.*;

**"Post closure permit"** means the same as "operations permit" for procedural purposes except the assessment of permitting fees;

**"RRSIA"** means the Recycling, Reuse and Source Reduction Incentive Act, 27A O.S. § 2-11-301 *et seq.*;

**"Reuse"** for the purpose of applying for a tax credit under RRSIA, means the introduction of a material into a manufacturing process that, if discarded, would be classified as a hazardous waste. A material is "reused" if it is:

(A) Used as an ingredient (including use as an intermediate) in an industrial process to make a product; or

(B) Used in a particular function or application as an effective substitute for a commercial product;

**"Speculative accumulation"** is defined at ~~40 CFR 261.1(b)(8)~~ 40 CFR 261.1(c)(8);

**"Transfer facility"** as used in the following definition of "transfer station", means any transportation-related facility, including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation;

**"Transfer station"** as used in Subchapter 15, means any transfer facility where hazardous waste is transferred from one container or tank to another or where hazardous waste in separate containers or tanks is combined.

### 252:205-1-3. Consideration of other laws

(a) **Permitting.** All applicants seeking licenses, permits, certificates, registration, approval, charter or similar form of permission by law required by any of the statutes specified in OAC 252:205-1-1(a) are also subject to the Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-14-101 *et seq.*, and the ~~uniform permitting rules found in 252:2-15~~ Environmental Permit Process of Subchapter 7 of OAC 252:4.

(b) **Zoning.** This Chapter does not abrogate in any way the zoning authority of any duly constituted zoning agency.

(c) **Other.** Persons subject to this Chapter must also comply with all applicable state and Federal laws and rules.

### 252:205-1-4. Public records and confidential information

(a) **Public record.** Information obtained by the DEQ and copies of official records of the DEQ regarding hazardous waste facilities and sites shall be made available to the public in accordance with the Oklahoma Open Records Act, 51 O.S. § 24A.1, ~~Procedures of the DEQ (OAC 252:2)~~ Rules of Practice and Procedure (OAC 252:4), and in substantial accordance with 40 CFR Part 2.

(b) **Availability to the public.** Information about facilities and sites for treatment, storage and disposal of hazardous waste shall be made available to the public in substantially the same manner, and to the same degree, as would be the case if the EPA were carrying out the provisions of federal law in Oklahoma. ~~[Also see Procedures of the Department of Environmental Quality, Availability of Records, 252:2-3-2.]~~ [Also see Rules of Practice and Procedure, Availability of a Record, OAC 252:4-1-5.]

(c) **Availability to EPA.** All records submitted to the DEQ shall be available to the EPA unless they are submitted under a claim of confidentiality separate and distinct from State Program Requirements in 40 CFR Part 271.

(d) **Disclaimer.** The DEQ expressly disclaims and denies any duties, responsibilities or obligations other than as stated in (a) and (b) of this Section. Submitters of records claimed to be confidential are advised that it is their responsibility, not the DEQ's responsibility, to monitor and/or defend claims of confidentiality with the EPA. The DEQ expressly disclaims and denies responsibility or liability for any disclosure by the EPA of records claimed by the submitter to be confidential.

~~(e) **Hazardous Waste Reduction Plans.** In accordance with 27A O.S. § 2-11-204(D), information in Hazardous Waste Reduction Plans is not a public record. Certified summary reports are public records.~~

(~~f~~e) **Applications for Tax Credit.** An application for a tax credit is a public record. If the applicant demonstrates that the application contains information that is a trade secret, the applicant shall provide a general summary description that can be made available to the public. Although the detailed financial data contained in the application may be declared confidential, the dollar amount of any tax credit allowed will be public information.

## SUBCHAPTER 3. INCORPORATION BY REFERENCE

### 252:205-3-1. Reference to 40 CFR

When reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified) the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through July 1, ~~2004~~ 2005, and the amendment to 40 CFR promulgated at 70 FR 45508-45522.

### 252:205-3-2. Incorporation by reference

(a) **Part 124.** Procedures For Decision Making, those sections required by 40 CFR 271.14, with the following additions:

(1) § 124.19(a) through (c) and (e);

(2) §§ 124.31, 124.32, & 124.33, substituting DEQ for EPA, and deleting the following sentence from each section: "Hazardous waste management units over which EPA has permit issuance authority" refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 CFR Part 271.

(b) **Part 260.** Hazardous Waste Management System: General, except 260.21. ~~In 260.20, "Federal Register" is synonymous with "The Oklahoma Register." In 260.20(e), strike the words "or a denial." In 260.22, references to the lists in subpart D of part 261 and the reference to § 261.3(a)(2)(ii) or (c) shall mean the lists in subpart D of part 261 and §261.3(a)(2)(ii) or (c) as adopted by reference and applicable in Oklahoma. In the 260.10 definitions of "new tank system" and "existing tank system", the reference to "July 14, 1986" for commencement of tank installation applies only to tank regulations promulgated~~

~~pursuant to the federal Hazardous and Solid Waste Amendment ("HSWA") requirements. The following categories outline HSWA requirements: (a) Interim status and permitting requirements applicable to tank systems owned and operated by small quantity generators [3001(d)]; (b) Leak detection requirements for all new underground tank systems [3004(o)(4)]; and (c) permitting standards for underground tanks that cannot be entered for inspection [3004(w)]. For tank regulations promulgated pursuant to statutory authority other than HSWA, the date relative to the commencement of installation is November 2, 1987.~~

(1) In 260.20, "Federal Register" is synonymous with "The Oklahoma Register."

(2) In 260.20(e), strike the words "or a denial."

(3) In 260.22, references to the lists in Subpart D of Part 261 and the reference to § 261.3(a)(2)(ii) or (c) shall mean the lists in Subpart D of Part 261 and §261.3(a)(2)(ii) or (c) as adopted by reference and applicable in Oklahoma.

(4) In the 260.10 definitions of "new tank system" and "existing tank system", the reference to "July 14, 1986" for commencement of tank installation applies only to tank regulations promulgated pursuant to the federal Hazardous and Solid Waste Amendment ("HSWA") requirements. The following categories outline HSWA requirements:

(A) interim status and permitting requirements applicable to tank systems owned and operated by small quantity generators [3001(d)];

(B) leak detection requirements for all new underground tank systems [3004(o)(4)]; and

(C) permitting standards for underground tanks that cannot be entered for inspection [3004(w)]. For tank regulations promulgated pursuant to statutory authority other than HSWA, the date relative to the commencement of installation is November 2, 1987.

(c) **Part 261.** Identification and Listing of Hazardous Waste except 261.4(b)(18) which pertains to Utah only, thus should be excluded.

(1) In 261.4(e)(3)(iii) delete "in the Region where the sample is collected".

(2) In 261.5(f)(3)(iv), and (v), and in 261.5(g)(3)(iv), and (v) add "other than Oklahoma" after the word "State".

(d) **Part 262.** Standards Applicable to Generators of Hazardous Waste except Subpart E and Subpart H. In 262.42(a)(2) and 262.42(b) delete "for the Region in which the generator is located".

(e) **Part 263.** Standards Applicable to Transporters of Hazardous Waste.

(f) **Part 264.** Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. The following sections and subsections are not adopted by reference: 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), and 264.1080(g).

(1) In 264.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.

(2) In 264.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is Novemer 2, 1987.

(3) In 264.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.

(4) In 264.570(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

(g) **Part 265.** Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities except 265.1(c)(4), 265.1(g)(12), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g).

(1) In 265.191(a), the compliance date of January 12, 1988 applies only for HSWA tanks. For non-HSWA tanks the compliance date is November 2, 1988.

(2) In 265.191(c), the reference to July 14, 1986 applies only to HSWA tanks. For non-HSWA tanks the applicable date is November 2, 1987.

(3) In 265.193, the Federal effective dates apply to HSWA tanks only. For non-HSWA tanks January 12, 1987 is replaced with November 2, 1987.

(4) In 265.440(a) the dates December 6, 1990 and December 24, 1992 apply only to drip pads where F032 waste is handled. The dates June 22, 1992 and August 15, 1994 respectively, replace the dates December 6, 1990 and December 24, 1992 for drip pads where F034 or F035 wastes are handled.

(h) **Part 266.** Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities. Due to an early incorporation by reference, for purposes of Part 266 only, HSWA and non-HSWA dates are the same. In 266.325, the reference to 10 CFR 1.5 is changed to 10 CFR 71.5.

(i) **Part 268.** Land Disposal Restrictions, except 268.5, 268.6, 268.13, 268.42(b) and 268.44(a) through (g). In 268.7 (a)(9)(iii) exclude D009 from the list of alternative treatment standards for lab packs.

(j) **Part 270.** ~~Permit Programs~~ The Hazardous Waste Permit Program, except 270.1(c)(2)(ix), and 270.14(b)(18).

(k) **Part 273.** ~~Universal Waste Rule~~ Standards for Universal Waste Management.

(l) **Part 279.** ~~Used Oil Management Standards. The only portion of 279.82 which is adopted by reference is "The use of used oil as a dust suppressant is prohibited."~~ Standards for the Management of Used Oil, except that 279.82 is revised to read in its entirety, "The use of used oil as a dust suppressant is prohibited."

(m) **Excepted CFR Regulations.** Authority for carrying out excepted CFR regulations remains with EPA.

## SUBCHAPTER 5. ADDITIONAL GENERATOR REQUIREMENTS

**252:205-5-5. Manifest requirements**

~~(a) All large quantity generators shall include the disposal plan number on the Hazardous Waste Manifest before offering hazardous waste for shipment.~~

~~(b)~~ Oklahoma large quantity generators shall, on at least a quarterly basis, submit copies of manifests signed by receiving facilities for wastes transported outside the United States.

## SUBCHAPTER 9. ADDITIONAL TREATMENT, STORAGE, DISPOSAL AND RECYCLING REQUIREMENTS

**252:205-9-6. Additional waste analysis requirements**

(a) Prior to receipt of a hazardous waste for storage, treatment, disposal or recycling, the owner/operator of a treatment, storage or disposal facility or off-site recycling facility must obtain detailed chemical and physical analyses of a representative sample of the waste. The analyses must contain all information necessary to appropriately treat, store, dispose, or recycle the waste.

(b) Prior to receipt of any industrial waste not identified as hazardous waste at a treatment, storage or disposal facility or off-site recycling facility, the owner/operator must obtain the following records and maintain them in the facility operating record:

(1) Information regarding the chemical and physical nature of the waste which reasonably, considering the source, establishes that the waste does not exhibit any characteristic of hazardous waste as described by 40 CFR 261, Subpart C. This information may include laboratory analyses, material safety data sheets, and analysis of raw materials, feedstocks, and process descriptions; and

(2) An affidavit by the original waste generator stating that the waste does not include any listed waste.

**252:205-9-7. Acceptance of waste [REVOKED]**

~~No hazardous waste treatment, storage, disposal, or recycling facility shall accept hazardous waste from a large quantity generator unless the generator's disposal plan number is included on the manifest.~~

## SUBCHAPTER 15. TRANSFER STATIONS

**252:205-15-2. Development and Operations Plan**

(a) **Plan required.** No person may construct or operate a hazardous waste transfer station without DEQ approval of a Transfer Station Development and Operations Plan (Plan).

(b) **Content.** The owner/operator of a transfer station shall identify and discuss all of the hazardous wastes which may be managed at the Transfer Station and the handling of any solid wastes to be managed as non-hazardous. The following shall be submitted:

(1) Engineering plans for the construction design and a detailed description of all buildings, ramps, on-site roads, waste transfer and holding areas, and equipment used on-site;

(2) A description of all proposed Transfer Station solid and hazardous waste handling activities including:

(A) estimations of waste holding capacities;

(B) description of wastes, tanks and containers;

(C) hours of operation;

(D) waste transfer and bulking procedures including associated compatibility analyses;

(E) provisions to assure that solid wastes destined for disposal in non-hazardous waste facilities are not co-mingled with hazardous waste; and

(F) truck and equipment cleaning and decontamination procedures.

(3) A description of all safety, training and security provisions including site access and security provisions, site inspections, and personnel training in accordance with 40 CFR 264.14 through 264.17. The Plan shall also include a contingency and site safety plan that meets the requirements of 40 CFR 264, Subparts C and D;

(4) A description of spill control, containment, and remediation measures;

(5) A design and operations plan for waste transfer and unloading activities demonstrating that those activities are limited to areas with adequate secondary containment structures to prevent releases to soil, surface water or groundwater; and

(6) Information on closure and mechanisms to meet the financial assurance and liability requirements of 40 CFR 264, Subparts G and H.

(c) The owner/operator of a hazardous waste transfer station which handles solid waste destined for management at a solid waste facility must also demonstrate compliance with applicable rules in OAC ~~252:520~~ 252:515, including location standards, if the hazardous waste Transfer Station Development and Operations Plan is to be used in lieu of a solid waste permit.

**252:205-15-5. Exclusionary siting criteria**

(a) The siting criteria for locating hazardous waste Transfer Stations are the same as those for any hazardous waste treatment, disposal, recycling, or storage facility in OAC 252:205-11-2 and 27A O.S. § 2-7-111.

(b) The siting criteria for locating hazardous waste Transfer Stations which also handle solid wastes destined for management at a solid waste facility include those listed in Subchapter 11 and, in addition, those in OAC ~~252:520~~ 252:515.

## SUBCHAPTER 17. TAX ~~CREDIT AND WASTE REDUCTION INCENTIVES~~ CREDITS

## PART 1. TAX CREDITS

**252:205-17-3. Application procedures for tax credit**

(a) An application for a tax credit must be submitted separately from other permit applications. Application forms are

available from the DEQ. Applicants must comply with the Oklahoma Uniform Environmental Permitting Act (27A O.S. § 2-14-101 *et seq.*) and ~~rules 252:2-15)~~ the Rules of Practice and Procedure at OAC 252:4-7.

(b) The applicant must include the actual or estimated capital expenditures required to purchase and install the facility. Estimates must show all unit costs and bid quotations from equipment suppliers. The applicant must list names, addresses, telephone numbers and other relevant contact numbers, i.e. telefacsimile and internet, of all suppliers, contractors, and related participants in the installation of the facility.

(c) After the equipment is installed, the applicant shall notify the DEQ that the facility is ready to be inspected. The applicant must point out any deviations from the approved application. Deviations will be evaluated by the DEQ to determine if a new application will be required. The DEQ will verify that the specified equipment has been installed and that it is operational. If so, the DEQ will issue the certification to the Oklahoma Tax Commission.

## SUBCHAPTER 19. ADDITIONAL RULES FOR RECYCLING

## PART 1. REQUIREMENTS FOR OFF-SITE RECYCLERS

### 252:205-19-1. Permit required

(a) Owners/operators of off-site recycling facilities with units operational:

(1) Before July 1, 1990, are not required to obtain a permit for those units, but must comply with the rules in this Subchapter.

(2) After July 1, 1990 must obtain a permit for those units. Owners/operators of post-1990 off-site recycling facilities must also comply with the permit requirements of 40 CFR 270 and OAC ~~252:2~~ 252:4. The owner/operator must include hazardous waste recycling units, staging and process areas, and permanent and temporary storage areas for recycled products and wastes in the permit application.

(b) **Subchapter 9.** Owners/operators of off-site recycling facilities shall comply with Subchapter 9.

## PART 5. TANK AND CONTAINER RECYCLERS

### 252:205-19-31. Handling of tank and container residues, and cleaning wash solutions

(a) Chemical residues and wash solutions containing chemical residues generated by cleaning or reconditioning of tanks or containers shall be evaluated in accordance with 40 CFR 261 to determine if they are to be handled as hazardous wastes or as non-hazardous solid wastes.

(b) Chemical residues and wash solutions containing chemical residues generated by cleaning or reconditioning of tanks and containers are not exempted from OAC 252:205-19-31(a) by 40 CFR 261.7. However, no hazardous waste listings in 40 CFR 261 Subpart D shall apply to residues removed from containers regulated pursuant to this part. Wastes generated from using solvents listed in 40 CFR 261.31 during the cleaning or reconditioning process and which meet the listing definition are hazardous waste.

(c) As determined, the following shall apply:

(1) 40 CFR 261-279 and OAC 252:205 shall apply to residues removed from containers regulated pursuant to this part unless exempted therein (e.g., exclusions for waste treated under §§ 402 and 307(b) of the Clean Water Act); however, the exemption found at 261.7 is modified pursuant to this part.

(2) For all non-hazardous solid waste, the generator is not exempt from applicable Oklahoma Regulations as specified by OAC ~~252:520~~ 252:515.

## SUBCHAPTER 23. HAZARDOUS WASTE FUND ACT PROJECTS

### 252:205-23-1. Purpose, authority and applicability

(a) **Purpose.** The purpose of this Subchapter is to implement the Oklahoma Hazardous Waste Fund Act, 27A O.S. §§ 2-7-301 ~~through 2-7-307, inclusive~~ *et seq*.

(b) **Authority.** This Subchapter is adopted pursuant to 75 O.S. § 302, Executive Order 98-37 and 27A O.S. § 2-7-306.

(c) **Applicability.** The rules in this Subchapter apply to DEQ funding of local projects authorized by 27A O.S. §§ 2-7-121(F), 2-7-304 and 2-7-305.

## APPENDIX A. REFUND FOR VOLUME REDUCTION [REVOKED]

| | 1-25% Increase in Employees | 26-50% Increase in Employees | 51-75% Increase in Employees | 76-100% Increase in Employees |
|---|---|---|---|---|
| 21-50% waste reduction | $ ÷ 3.5 | $ ÷ 2.8 | $ ÷ 2.3 | $ ÷ 2 |
| 11-20% waste reduction | $ ÷ 4.6 | $ ÷ 3.5 | $ ÷ 2.8 | $ ÷ 2.3 |
| 1-10% waste reduction | $ ÷ 6.8 | $ ÷ 4.6 | $ ÷ 3.5 | $ ÷ 2.8 |

$ = Applicable fee at time of treatment or disposal

"Percent Waste Reduction" equals the amount of waste generated in the previous state fiscal year minus the amount of waste generated in the application year, divided by the amount of waste generated in the baseline year, times 100.

"Percent Increase in Employees" equals the number of employees in the application year minus the number of employees in the baseline year, divided by the number of employees in the baseline year, times 100.

*[OAR Docket #06-586; filed 4-5-06]*

# TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 656. WATER POLLUTION CONTROL FACILITY CONSTRUCTION STANDARDS

*[OAR Docket #06-587]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. Introduction [AMENDED]
Subchapter 3. Permit Procedures [AMENDED]
Subchapter 5. Sanitary Sewer Standards [AMENDED]
Subchapter 7. Pump Station Standards [AMENDED]
Subchapter 9. General Standards [AMENDED]
Subchapter 11. Lagoon Standards [AMENDED]
Subchapter 13. ~~Preliminary~~ Primary Treatment Standards [AMENDED]
Subchapter 15. Biological Treatment Standards [REVOKED]
Subchapter 16. Biological Treatment Standards [NEW]
Subchapter 17. Clarifier Standards [AMENDED]
Subchapter 19. Sludge Facility Standards [AMENDED]
Subchapter 21. Disinfection Standards [AMENDED]
Subchapter 23. Supplemental Treatment Standards [AMENDED]
Subchapter 25. Wastewater Land Application Systems [AMENDED]
Appendix A. Design Tables [REVOKED]
Appendix A. Design Tables [NEW]
Appendix B. Settling Tank Minimum Criteria [REVOKED]
Appendix B. Settling Tank Minimum Design Criteria [NEW]
**AUTHORITY:**
Environmental Quality Board powers and duties, 27A O.S., § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*
**DATES:**
**Comment period:**
July 1, 2005 through August 2, 2005
**Public hearing:**
August 2, 2005 and August 23, 2005
**Adoption:**
August 23, 2005
**Submitted to Governor:**
August 31, 2005
**Submitted to House:**
August 31, 2005
**Submitted to Senate:**
August 31, 2005
**Gubernatorial approval:**
October 14, 2005
**Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on March 31, 2006
**Final adoption:**
March 31, 2006
**Effective:**
June 15, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
None
**INCORPORATIONS BY REFERENCE:**
None
**ANALYSIS:**
This rulemaking is to revise and clarify the water pollution control facility construction rules. These rules amend existing procedures and requirements for the construction of wastewater treatment and collection systems. New provisions include clarification of requirements for submittal of engineering reports, plans and specifications, and construction standards for sanitary sewers, pump stations, and wastewater treatment facilities.
**CONTACT PERSON:**
Please send written comments to Donald D. Maisch (e-mail: don.maisch@deq.state.ok.us) at the Oklahoma Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-7189, fax (405) 702-7199.

**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 15, 2006.**

## SUBCHAPTER 1. INTRODUCTION

### 252:656-1-1. Purpose

(a) This chapter sets the permit and construction standards for wastewater collection systems and treatment works. It does not apply to innovative technology (see Title 27A O.S. § 2-6-401D), to small ~~on-site~~ public sewage systems as defined in Title 27A O.S. § 2-6-101 (~~see the Individual and Small Public Sewage Disposal Regulations~~ also see OAC 252:641, Individual and Small Public On-Site Sewage Disposal Systems), nor does it apply to industrial wastewater (see ~~the Discharge Standards and the Industrial Wastewater Regulations~~ OAC 252:606, Oklahoma Pollutant Discharge Elimination Standards - OPDES and OAC 252:616, Industrial Wastewater Systems). There are other rules that also may govern wastewater systems, such as ~~the Discharge Standards, the Non-Industrial Impoundment rules, the Sludge Management Rules, the Solid Waste and Sludge Management rules,~~ OAC 252:621, Non-Industrial Impoundments and Land Application; OAC 252:619, Operation and Maintenance of Non-industrial Total Retention Lagoon Systems and Land Application; OAC 252:515, Management of Solid Waste; and the federal OSHA standards.

(b) This chapter applies to any person or entity that constructs or modifies a wastewater collection system or treatment works that is not a ~~small residential or commercial system~~ small public sewage system as defined in Title 27A O.S. § 2-6-101, or an industrial system.

### 252:656-1-2. Definitions

In addition to terms defined in Title 27A of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

**"ASTM"** means the American Standard Testing Method and Material.

**"Biosolids"** means primarily organically treated wastewater materials from municipal wastewater treatment plants that are suitable for recycling as a soil amendment. This term is within the meaning of "sludge" as defined in 27A. O.S. § 2-6-101(11).

**"Bypass"** means the intentional or unintentional diversion of a waste stream from any portion of a wastewater system.

**"Cell"** means an individual basin of a lagoon system.

**"Collection system"** means pipelines or conduits, pumping stations, force mains and all other facilities used to collect or conduct wastewater to a treatment works.

**"Deviation"** means change from the adopted or current standards for equipment, material or process.

**"Discharge point"** means the point at which wastewater enters Waters of the State or become Waters of the State.

**"Domestic wastewater"** means wastewater from drinking fountains,showers, toilets, lavatories and kitchens.

**"Engineer"** means a person licensed to practice engineering in Oklahoma.

**"Freeboard"** means the vertical distance from the surface water level to the overflow elevation in a treatment unit.

**"Hydraulic retention time"** means the theoretical time required to displace the contents of a tank or treatment unit at a given rate of flow (volume divided by rate of flow).

**"Land application"** means the controlled application of treated wastewater onto the land surface for beneficial use.

**"New technology"** means any method, process or equipment which is used to treat or convey sewage which is not addressed in this Chapter. This does not refer to innovative technology as defined by 40 CFR Part 35.

**"OSHA"** means the Occupational Health and Safety Administration.

**"Person"** means any individual, company, corporation, government agency, municipality, or any other entity.

**"Population equivalent"** and **"PE"** mean the calculated population which would normally contribute the same amount of biochemical oxygen demand (BOD) per day of wastewater. It is computed on the basis of 0.17 lb. of 5-day BOD per capita per day.

**"Retention time"** means the theoretical time required to displace the contents of a tank or treatment unit at a given rate of flow (volume divided by rate of flow).

**"Sludge"** means partially treated wastewater materials from municipal wastewater treatment plants as defined in 27A. O.S. § 2-6-101(11) except for Biosolids as defined in this chapter.

**"Treatment works"** means any plant, disposal field, lagoon, incinerator or other facility used to treat, stabilize, hold or reclaim wastewater.

**"Wastewater system"** means collection system and treatment works.

## SUBCHAPTER 3. PERMIT PROCEDURES

### 252:656-3-1. Uniform permit process

This subchapter implements the Uniform Permitting Act, Title 27A O.S. § 2-14-101 ~~and following~~ and the rules promulgated pursuant thereto. A permit is required ~~to construct~~ for construction or modification of a wastewater system. The permit application is a two-step process: first is an engineering report ~~(logical analysis of design choices)~~ (as described in OAC 252:656-3-4), followed by the final design report (with plans and specifications) submitted with the application form and fees. The final design report shall reflect any changes from the approved engineering report. Unless an extension is granted, a construction permit expires if construction does not begin in one year.

### 252:656-3-2. Applications

(a) ~~Submit legible applications on forms provided or approved by the DEQ. Applicants shall provide a legal description of the proposed project and of the type of entity that is applying.~~ Submit legible applications on forms provided by the DEQ and include:

(1) the type of entity that is applying
(2) the legal description,
(3) a minimum of 2 sets of plans and specifications,
(4) a final design analysis, and
(5) fees.

(b) Public entities other than municipalities shall provide certified copies of the results of the last election or appointment of the members of the governing body. Public entities must also provide a citation of their legal authority to own and operate the proposed facility.

(c) Applicants other than public entities must provide copies of documents that created them and provide a citation to their statutory authority. If their proposed facility is to be located within a political subdivision, they must notify the political subdivision.

(d) All applicants must demonstrate they have adequate financial accountability to continuously maintain the facility.

(1) If the applicant is not a city, town or other public entity, the applicant must demonstrate to the satisfaction of the DEQ:

(A) that the facility can cover the expected costs for operation and maintenance, replacement and closure;
(B) continued existence and financial accountability of the facility; and
(C) that provisions have been made for continued existence of the operating entity for the expected life of the facility.

(2) Continued existence may be demonstrated in one of the following fashions:

(A) The applicant may be a property owners' association or a nonprofit corporation established under the laws of the State of Oklahoma. The association must have the legal authority to own and manage the wastewater system including the authority to set and collect fees from users for operation and maintenance of the system. The instrument creating the association shall be filed in the office of the county clerk where the property is located; or
(B) The applicant must provide proof of a sufficient amount on deposit to the credit of a trust, the powers of which are to operate and maintain the wastewater system for the expected life of the facility; or
(C) Other proof of financial viability, such as the issuance of a bond or insurance contract covering the operation and maintenance of the wastewater system may be submitted to DEQ for approval; and

(3) Costs for closure of the wastewater system as required by law must be included in any funding plan.

(e) Applications and unexpired permits may be transferred upon showing the transferee has legal authority and financial accountability, and that both parties agree to the transfer.

(f) Applicants must construct facilities according to the plans and specifications that are approved. Applicants must comply with the terms of the permits that are issued. Permits may contain provisions more stringent than these rules in order to meet water quality standards.

**252:656-3-4. Engineering report**

Submit two copies of an engineering report for proposed new construction or modifications to sewage collection systems or treatment works. Engineering reports must include:

(1) **Volume and strength of sewage flow.** Establish the existing and anticipated design average and design peak flows and waste load for the existing and ultimate conditions. Include the basis for projecting initial ~~and~~ current and/or future dry and wet weather flows and waste load for the existing, or initial, service area, and the anticipated future service area.

(2) **Existing system.** Describe the existing system and evaluate the conditions and problems needing correction.

(3) **Project Description and Alternatives.** ~~Describe the project and the process to select wastewater treatment alternatives.~~ Provide a site map and schematic diagram of the proposed treatment process. Describe the proposed project and, where two or more solutions exist providing wastewater treatment solution, discuss the alternatives including cost analysis and discuss the reasons for selecting the one recommended.

(4) **Construction sequence.** Describe the sequence of construction and steps needed to maintain compliance during construction. If the project is not to be completed in one sequence, then provide details of the phases.

(5) **Site.** Describe the topography, soils, geologic conditions, depth to bedrock, groundwater level, floodway or floodplain considerations, and other pertinent site information. The project must be constructed on ~~a~~ the site consistent with approved plans. Include 6 months of data on the groundwater level. Refer to Section 11-3(a) for soil boring requirements for lagoon projects.

(6) **Water supply.** Locate nearby water supplies, including known water wells.

(7) **Receiving stream.** Identify the receiving stream and its wasteload requirements according to the Water Quality sections of OAC ~~252:605~~ 252:606 (Discharges).

(8) ~~**Sludge**~~ **Sewage sludge disposal.** Discuss the available alternatives for sludge disposal (OAC ~~252: 648~~ 252:606 and OAC ~~252:520~~ 252:515). Include sludge management plans, which must be approved before construction commences.

(9) **Industrial wastes.** Discuss the characteristics and volume of anticipated industrial wastes.

(10) **Collection system.** Describe the area to be served by existing and proposed sewers and explain any uncovered areas.

(11) **Financing.** Provide cost estimates to build, operate and maintain the proposed project. Discuss financing methods.

**252:656-3-5. Plans and specifications**

(a) **General layout.** Submit two copies of general plans ~~for sewage works~~ that:

(1) ~~**Top**~~ **Plan view.** Include a ~~top~~ plan view of the plant and discharge points, using at least 10-foot contours.

(2) **Flood elevations.** Show both the 25-year and 100-year flood elevations and their boundaries.

(3) **Existing and proposed treatment works.** Show the physical arrangement of all treatment units on a project site plat.

(4) **Existing collection systems.** Show the location, size and direction of flow of all existing sanitary sewers at the point of connection with proposed new sanitary sewers. Show the elevations of all sewer inverts close to the manholes.

(5) **Proposed collection systems.** Show the location of all proposed sewers, sewer easements and direction of flow. Number all manholes on the layout and correspondingly on the profile.

(6) **Drawings.** Show the name of the municipality, sewer district, or institution; scale in feet; north point; date; and name, telephone number, address, signature of engineer and/or imprint of engineer's seal on ~~each page of~~ the drawings. In the case of bound documents, engineers must affix their seal, signature and date to the cover sheet or index page, which identifies all documents bound together for which the registrant has responsible charge. In the absence of a cover sheet or index page each sheet must have the seal, and dated signature of the registrant who has responsible charge. For bound documents involving multiple registrants, either each document in the bound set must be sealed, signed and dated by the registrant in responsible charge for that portion of the work, or the cover sheet or index page must be sealed, signed and dated by each registrant with a breakdown of responsibility for each document clearly identified. Draw general plans to a scale of 100 feet per inch. Establish and reference a permanent benchmark. The minimum plan size shall be 11" x 17", one-sided and of adequate contrast sufficient for microfilming.

(b) **Detailed plans.** ~~Draw~~ Prepare two copies of detailed plans to a suitable scale. Plans to modify or extend existing wastewater systems shall clearly indicate the changes. The detailed plans shall:

(1) **Sewer plan and profile.** Include a plan and profile of all sewers to be constructed showing all special features, such as inverted siphons, extra strength pipe, concrete encasements, outfall structures and sewer bridges. Show all stream crossings on the profile with stream bed elevations, normal flow elevation and extreme high and low water levels. Scale the profiles to not more than 100 feet per inch horizontal and 10 feet per inch vertical. Show the scale on the profiles. Show all known existing structures both above and below ground that might interfere with the proposed construction; including water mains, gas mains, storm drains, and nature of street surfacing. Show wyes on the plan view and dimensions from the nearest down-stream manhole recorded on maps.

(2) **Sewer details.** Include profiles showing manhole stationing, size of sewers, top of rim and sewer invert elevations at each manhole and the grade and length of sewers between adjacent manholes. Show ground elevations at the house line or at approximately 50 to 75 feet from the centerline of the sewer in each direction except in the case of out-fall and/or relief sewers, where no wyes for house connections are needed.

(3) **Sewer appurtenances.** Include the details of all ordinary sewer appurtenances such as manholes, drop manholes, inverted siphons and pumping stations. A sufficiently detailed drawing of each structure shall show dimensions, equipment, elevations, capacities, and any explanatory notes necessary to make them easily interpreted.

(4) **Sewer cross sections.** Include cross sections for manholes, outfall structures, headwalls, pipe cradling and encasement, and similar structures.

(5) **Sewage pumping station details.** Include complete construction details showing number and size of pumps, isolation valves, check valves, alarm system and emergency operation provisions.

(6) **Treatment works hydraulic profile.** Show hydraulic profiles with sewage, supernatant liquor and sludge flow through the plant.

(7) **Schematic diagrams.** Label schematic piping diagrams with all lines, appurtenances and direction of flow.

(8) **Treatment units.** Provide complete construction details of all treatment units including ~~**unit and**~~ high and low water levels of receiving stream.

(9) **Fillets.** Eliminate dead spots in all tanks by designing fillets and otherwise rounding edges.

(c) **Specifications.** Complete detailed specifications for the proposed project shall accompany, or be included in, the plans and must include a detailed summary of equipment and design data.

(d) **Construction materials.** Applicants are responsible for complying with any occupational, safety and building codes. Reference in the plans or specifications where these codes require special construction materials, such as the National Electrical Code requirement for explosion-proof wiring where gases may accumulate. The DEQ will not, however, determine whether the proposed construction will meet such codes.

(e) **Redundant equipment.** Provide a backup for all ~~control points~~ treatment units and pumping ~~mechanisms to handle minimum design flow during~~ equipment to provide for equipment maintenance and repair.

(f) ~~**Drains and bypasses**~~ **Maintenance and cleaning.** For maintenance and operational controls, ~~equip~~ all units ~~with bypass piping and drainage~~ shall be equipped with means for cleaning. Direct discharge of untreated sewage is prohibited.

(g) **Weather protection.** Protect the structures and all electrical and mechanical equipment and controls from elements and a 100-year flood. Protect pumps, valves and piping from freezing.

(h) **Construction sequence.** Include a program for keeping existing wastewater facilities in compliance with all applicable water quality permit conditions during construction of additional facilities (see 656-3-4(3)).

(i) **Operation and Maintenance (O & M) Manual.** Include an O & M Manual for the operation and maintenance of the wastewater system. The O & M Manual shall include at a minimum:

(1) System Treatment Requirements;

(2) NPDES Permit and System Standards;

(3) Description, Operation and Control of the Treatment Works;

(4) Control of Unit Processes;

(5) Laboratory Testing;

(6) Common Operating Problems;

(7) Start-Up Testing and Procedures;

(8) Normal Operating Procedures;

(9) Alternative and Emergency Operations;

(10) Emergency Shutdown Operations and Emergency Response;

(11) Records Control and Retention;

(12) Safety;

(13) Wastewater System Maintenance Requirements;

(14) Storeroom and Inventory System; and

(15) Utilities.

**252:656-3-6. Revisions**

(a) **Approved plans.**

(1) **Before contract is awarded.** Any changes from approved plans or specifications affecting capacity, flow or operation of units must be ~~resubmitted~~ submitted to the DEQ as an addendum for review and approval. The DEQ must review and approve the submission before construction can commence based on the addendum.

(2) **After contract is awarded.** After a contract has been awarded, submit proposed changes from approved plans or specifications in the form of a Change Order ~~for review and approval~~. The permittee and the contractor must sign Change Orders. The DEQ must review and approve the submission of the proposed changes before construction can commence based on the Change Order.

(b) **As-built plans.** File as-built plans (plans of record) for wastewater treatment works with the DEQ within six months after the project is completed, unless the engineer certifies that construction was completed according to the approved plans.

(c) **DEQ Inspection.** The DEQ shall inspect all construction conducted pursuant to an Addendum or Change Order prior to the commencement of operations.

**252:656-3-7. Variances from construction standards**

(a) Deviations from this Chapter may be allowed if the DEQ finds the deviations will not increase the likelihood of a system failure. No deviation will be allowed unless it is noted on the construction permit. For deviations after the permit has issued, submit a Change Order and apply for an amendment to the permit.

(b) The policy of the DEQ is to encourage better wastewater treatment methods and equipment, including the use of new technology. The DEQ may approve processes or equipment not specifically covered by these rules provided the permittee requests a deviation. The consulting engineer shall justify the

requested deviation by submitting data showing the proposed process or equipment will equal or exceed the performance of a process or equipment known to perform the same function according to current standards. The DEQ will require the following:

(1) Monitoring observations, including test results and engineering evaluations, that demonstrate the efficiency of such processes or equipment.

(2) Detailed description of the test methods.

(3) Testing, including appropriately composited samples, under various ranges of strength and flow rates (including diurnal variations) and waste temperatures over a sufficient length of time to demonstrate performance under climatic and other conditions which may be encountered in the area of the proposed installations.

(4) The DEQ also may require that appropriate testing be conducted and evaluations be made under the supervision of a competent process engineer other than those employed by the manufacturer or developer.

(5) Suppliers of proprietary equipment or processes will be required to post a performance bond payable to the permittee for sufficient monetary value to replace said equipment or process with equipment or processes proven to produce the required results.

(6) Proposals of processes not covered by these standards will require a process performance bond from the engineer of sufficient monetary value to cover the cost of engineering services necessary to replace a failed process with a process proven to produce the required results.

(7) These bonds shall be effective for at least one year after the date the process or equipment is placed in operation.

**252:656-3-9. Fees**

(a) Permits will not be issued until all fees are paid~~. Municipalities may enter into~~ unless a monthly billing agreement with the DEQ and the permittee is current.

(b) Treatment works construction permit fees are based on design flow as follows:

(1) New facilities or major modifications:

(A) 1.0 MGD and greater $2,000

(B) 0.50 MGD - 0.99 MGD $1,500

(C) 0.10 MGD - 0.49 MGD $1,000

(D) 0.01 MGD - 0.09 MGD $500

(E) less than 0.01 MGD $250

(2) Minor modifications that will not alter the design capacity of the facility such as flow measurement, discharge structures and equalization basins:

(A) 1.0 MGD and greater $500

(B) 0.50 MGD - 0.99 MGD $400

(C) 0.10 MGD - 0.49 MGD $300

(D) 0.01 MGD - 0.09 MGD $200

(E) less than 0.01 MGD $100

(c) Collection system improvement fees are:

(1) Line extensions: $10 per 100 ft., rounded to the nearest 100 ft. with a $100 minimum.

(2) Lift station(s): $50 per 100 GPM, rounded to the nearest 100 GPM peak capacity with a $100 minimum.

(3) Municipal permit exemptions under OAC 252:656-3-3 pay 20% of the collection system fees quarterly.

(d) Emergency grant projects are exempt from construction permit fees (wastewater systems funded in part or in whole by grant monies made available through the Oklahoma Water Resources Board as authorized by Title 82, § 1085.39).

(e) REAP (Rural Economic Assistance Program) ~~and CBEP (Community Based Environmental Projects)~~ Grant Projects are exempt from permit fees.

(f) The maximum fee for any one application will not exceed $2,000.00.

(g) Any person or entity that constructs or modifies a wastewater collection system or treatment works subject to these rules, prior to the issuance of a permit, is subject to the doubling of all fees required by this chapter, as deemed necessary to offset additional administrative costs of such reviews. Further, the submission of appropriate fees and/or the issuance of a permit does not preclude any person or entity from further enforcement and/or fines as set out by State statutes and rules, for constructing or modifying a wastewater collection system or treatment works prior to the issuance of all appropriate permits as required by this chapter.

## SUBCHAPTER 5. SANITARY SEWER STANDARDS

**252:656-5-1. Design capacity**

Design sewers for the ~~maximum possible estimated~~ ultimate future population that may be served.

(1) Consider the maximum hourly domestic flow, industrial flow, inflow and infiltration and the topography regarding the slope and pumping needs.

(2) Design for an average daily per capita flow of 100 gpd, which includes normal infiltration. Peak design flow must be based on an acceptable infiltration/inflow (I/I) study or, for new sewer extensions, the ratio of peak to average daily flow from a widely recognized engineering standard.

(3) Exclude storm water from roof drains, streets and other areas.

**252:656-5-2. Design standards**

(a) **Standard.** Design and construct sewers with hydraulic slopes sufficient for ~~full flowing velocities of 2.0 fps (feet per second) or greater~~ obtaining a velocity of 2 fps (feet per second) or greater. Base the design on Manning's formula using an "n" value of 0.013. Gravity sewers shall not be smaller than 8-inch diameter, except those sewer lines meeting the requirements in Subchapter (c) below.

(b) **Slope.** The depth of flow and the slope of the conduit affects the velocity of a liquid flowing under gravity conditions. The following table gives minimum slopes for different sizes of pipe to meet the required flow velocity.

(1) 4" sewer: 1.00 feet/100 feet

(2) 6" sewer: 0.50 feet/100 feet

(3) 8" sewer: 0.40 feet/100 feet
(4) 10" sewer: 0.29 feet/100 feet
(5) 12" sewer: 0.22 feet/100 feet
(6) 14" sewer: 0.17 feet/100 feet
(7) 15" sewer: 0.15 feet/100 feet
(8) 16" sewer: 0.14 feet/100 feet
(9) 18" sewer: 0.12 feet/100 feet
(10) 21" sewer: 0.10 feet/100 feet
(11) 24" sewer: 0.08 feet/100 feet

(c) **Exceptions.** The following may be approved where the proper slope cannot be achieved.

(1) ~~**Lesser loading**~~ **Pipe Diameter**.
~~The DEQ may approve a different pipe diameter where the pipe diameter is larger than necessary to carry the expected load, or a smaller diameter pipe (but not smaller than 8 inch) will give better hydraulic flow, and the average liquid depth will be 1/3 of the pipe diameter. The applicant must furnish computations and compare the hydraulic conditions in the pipe at average, high and low flow conditions.~~ Under the following conditions, DEQ may approve a smaller pipe diameter than stated in (b) above (but not less than 8 inches) if:

(A) The available ground slope or an obstruction dictates a different pipe diameter to meet the slope/velocity criteria.

(B) A smaller diameter pipe (but not smaller than 8-inch) will provide better hydraulic flow characteristics than the larger pipe (i.e., greater depth of flow, higher velocity, etc.). The applicant must furnish computations and compare the hydraulic conditions in the pipe at average, high and low flow conditions. Computations shall show capacity in the pipe at projected peak flow conditions.

(2) **No future expansion.** Up to 400 feet of 6-inch pipe may be installed at the end of a line that is isolated from future expansion.

(3) ~~**Private**~~ **Privately-owned collection lines.** ~~Privately owned collection lines serving private parks may have 4 or 6 inch pipe where individual lots will not be sold and the system will not be dedicated to the public. For 4 inch lines, connect no more than 10 mobile homes or 180 plumbing fixtures with a slope of at least 1/8 inch per foot. For 6 inch lines, connect no more than 40 mobile homes or 700 plumbing fixtures with a slope of at least 1/16 inch per foot.~~ Under the following conditions four- and six-inch diameter lines may be installed in privately-owned developments such as mobile home parks, recreational vehicle parks and similar establishments:

(A) Individual lots or units within the development are not intended for sale or transfer of ownership or where the collection system will not be dedicated to a public entity.

(B) No more than 10 mobile homes or 180 fixture units shall be connected to a four-inch line, and no more than 40 mobile homes or 700 fixture units shall be connected to a six-inch line.

(C) The minimum slope for a four-inch line shall be 1/8 inch per foot and for a six-inch line 1/16 inch per foot.

(4) **Small diameter gravity sewers.** A small diameter gravity sewer system is acceptable where only settled sewage will be transported and consist of septic tanks and small diameter collection mains. They may only be considered for ~~low-density residential areas and commercial developments that have no potential for population growth,~~ small municipalities or rural sewer districts with less than 100 connections or a population equivalent less than 250 with no or low potential for population growth. Locate septic tanks so all sewage is settled before the connection to small diameter sewers. Grinder pumps shall not be used.

(A) **Hydraulic design.** The design flow shall be at least 0.3 gpm per connection. The velocity in lines carrying only settled effluent may be reduced to not less than 1.0 fps based on Manning's open channel flow formula using a "n" value of not less than 0.013 and depth of flow at one half the pipe diameter.

(B) **Collector mains.** The horizontal alignment may bend so long as the radius of a bend does not exceed the manufacturer's recommendations. Use a positive gradient. The pipe diameter shall be at least 4 inches, and determined through hydraulic analysis. Determine burial depth by the elevation of the interceptor tank outlet invert elevation, frost depth ~~or~~ and anticipated trench loadings.

(C) **Service laterals.** Lines between septic tanks and collector lines shall be 3-inch PVC or larger.

(D) **Interceptor tanks.** Septic tanks must meet the design requirements of OAC 252:641 with routine maintenance. Septic tanks and service lines from them must be regarded as integral components of the wastewater system and not part of the individual home plumbing.

(E) **Manholes and cleanouts.** Cleanouts may be used instead of manholes, except at major junctions of mains. Cleanouts are required at the upstream ends of mains, at minor main junctions, at changes in main diameter and at least every 400 feet. Cleanouts shall be flush with the ground and designed to prevent damage from vehicular traffic.

(F) **Corrosion.** Use corrosion resistant materials in lift stations.

(G) **Vents.** Vents are necessary to maintain free-flowing conditions in the main and are commonly used in combination with cleanouts.

(H) **Testing.** In addition to leak testing the small diameter system, conduct vacuum ~~and~~ or hydrostatic tests on interceptor tanks. Typical acceptance criteria are less than 1.0 inch loss of Hg vacuum after five minutes with initial vacuum of 4.0 inches of Hg or a drop in water level of 1.0 inch after 24 hours in an overfilled tank.

(5) **Pressure sewers.** Pumping units, septic tanks and holding tanks shall be regarded as integral components

of the wastewater system and not part of individual home plumbing. There must be at least one pump per housing unit and a minimum of an audio/visual alarm for malfunctions.

(A) **Sewer design.** Flow velocities must be in the range of 2 to 5 feet per second for grinder pump installations. Lower velocities may be approved only for ~~pipe~~ pipes carrying settled effluent from septic tanks. ~~System~~ Systems must have air relief valves, a means to flush all lines, cleanouts and rerouting procedure in the event of maintenance. Each line without a grinder pump must have a septic tank meeting OAC 252:641, Individual and Small Public On-Site Sewage Disposal Systems, to separate solids.

(B) **Pumps.** Pump size must meet the volume and head conditions. Grinder pumps shall be at least two-horsepower ~~and have back-flow prevention devices. Pumps shall be housed in a tank separate from the septic tank with at least 24 hours holding capacity~~ unless the applicant can show that the manufacturer of the complete pump system has a minimum of 5 successful installations permitted by the DEQ serving ten (10) or more homes. Systems will be designed to provide back-flow prevention. Pumps shall be housed in a tank separate from the septic tank with at least 12 hours holding capacity to allow for power outages and equipment failures.

(C) **Equipment Inventory.** A minimum number of pumps shall be purchased by the system to provide back up for maintenance of the system. The system is required to provide one pump for the first 1-10 homes, one (1) additional pump for the next fifteen (15) homes and one (1) additional pump for each additional twenty-five (25) homes thereafter.

**252:656-5-3. Materials**

(a) **ASTM.** All pipe, materials and construction must meet ASTM standards. List the standard for all materials and methods in the detailed specifications.

(b) **Bedding.** Specify the ASTM material class of bedding, which must be matched to the proper strength pipe to support the anticipated loads.

(c) **Backfill.** Specify the ASTM standard for the backfill material and its placement.

(d) **Manhole ~~bases~~ material.**

(1) **Bases.** Pour manhole bases with at least 3,000 psi concrete with no more than 4 inches of slump, vibrated or tamped. ~~They must be at least 8 inches thick, with a diameter 8 inches larger than the largest outside diameter of the manhole. Construct leakproof joints.~~

(2) **Cast-in-place manholes.** Pour manholes with at least 3,000 psi concrete. ASTM material standards are ASTM C150 for Portland Cement; ASTM C144 for mortar aggregate; and ASTM C33 for fine and coarse aggregate.

(3) **Fiberglass Manholes.** Specifications for glass fiber-reinforced polyester manholes shall be in accordance with ASTM D3753-99 Standard Specification for Glass-Fiber-Reinforced Polyester Manholes and Wetwells. Provide design calculations, including information on the groundwater table, to indicate prevention of flotation of the manhole.

(4) **Pre-cast Manholes.** ASTM material standards for pre-cast manholes are ASTM C-478.

(5) **Exclusions.** Bricks and/or concrete blocks will not be approved for manhole construction.

~~(e) **Cast-in-place manholes.** Pour manholes with at least 3,000 psi concrete. ASTM material standards are ASTM C150 for Portland Cement; ASTM C144 for mortar aggregate; and ASTM C33 for fine and coarse aggregate.~~

~~(f) **Exclusions.** Brick or concrete block manholes will not be approved.~~

**252:656-5-4. Construction standards**

(a) **Sewer.** Lay sewers in straight alignment with uniform grade between manholes. Protect all pipe from traffic load damage. Install metal tracer wire and color code all pipe constructed.

(b) **Trench.** The width of the trench shall be ample to allow the pipe to be laid and joined properly and to allow the backfill to be placed and compacted as needed.

(1) Trench sides shall be kept as nearly vertical as possible. When wider trenches are dug, appropriate bedding class and pipe strength shall be used.

(2) ~~Large stones, ledge rock and boulders shall be removed to provide a minimum clearance of 4 inches from all pipe.~~ Provide a minimum clearance of 4 inches between all pipe and any large stones, ledge rock, or boulders.

(3) Except for ~~cast iron or~~ ductile iron pipe, provide 30 inches of soil cover ~~or other~~ as protection from traffic load damage to the pipe. ~~Do not encase PVC pipe in concrete~~ ASTM installation standards for ductile iron pipe are A-746.

(c) **Separation.** Sanitary sewers located in the street right-of-way ~~or adjacent to potable water lines must be justified by the engineer and comply with the following separation requirements:~~ must be located on opposite sides of the streets from potable water lines. Sewer service lines crossing water lines must comply with subsections (2) or (3).

(1) **Horizontal separation.** Sanitary sewers must be at least: 50 feet from petroleum product tanks~~; at least~~ unless constructed of ductile iron pipe which shall be no closer than 10 feet (joint material shall be resistant to petroleum products); 300 feet from a public water supply well and 50 feet from a private water well; ~~and at least~~ 10 feet from any existing or proposed water main; and ~~at least~~ 5 feet from electrical lines and petroleum lines. ~~Sewer lines shall not be laid in water line trenches~~ (See paragraph (3) below).

(2) **Vertical separation (crossings).** Sanitary sewers must cross at least 24 inches above or below water mains, and ~~their~~ the crossing section centered so that the joints ~~must~~ will be as far ~~away~~ as possible from the water mains.

(3) **Special conditions.** ~~Where horizontal or vertical separation from potable water lines cannot be met, construct sanitary sewers with water line pipe (PVC ASTM~~

~~2241, SDR 32.5; AWWA C900, DR18; cast iron or equal). Test these lines with the ASTM air test procedure with no detectable leakage. Sanitary sewers constructed less than 50 feet from petroleum storage tanks shall be constructed of cast or ductile iron pipe and be no closer than 10 feet. Joint material shall be resistant to petroleum products.~~ When it is impossible to obtain proper horizontal and vertical separation as stipulated above, design and construct the sewer line equal to water pipe, and pressure test it to assure water tightness of joints adjacent to the water line prior to backfilling. Sewer lines shall not be laid in water line trenches. See OAC 252:626-19-2(8)(C).

(d) **~~Aerial~~ Stream crossings ~~-~~ aerial.** Support all joints in aerial crossings. Design ~~aerial~~ crossing supports to prevent frost heave, overturning and settlement. Use concrete encasement (except around PVC pipe) or riprap where the pipe enters stream banks. Use expansion joints between above-ground and below-ground sewers and force mains, and protect them from freezing. Protect pipes that cross streams from the impact of flood waters and debris.

(e) **Stream crossings ~~-~~ below-grade.** The ~~top~~ top(s) of all sewers entering or crossing ~~streams~~ stream beds must be at least three feet below the natural bottom of the stream bed. Construct or encase ~~them~~ the crossing with ~~cast or~~ ductile iron pipe ~~and~~ using mechanical joints. ~~The sewers~~ Sewers must remain watertight and free from changes in alignment or grade. Trench backfill must be stone, coarse aggregate, washed gravel or other material that will not cause siltation. Specify construction methods to minimize siltation and bank erosion.

(f) **Flood plain structures.** Protect sewer outfalls, headwalls, manholes, gate boxes and other structures located in flood plains from stream erosion. Locate structures so they do not interfere with the free discharge of flood flows.

(g) **Manholes.** Manholes ~~should~~ shall be installed at the end of each line; at all changes in grade, size, or alignment; at all intersections; and at distances not greater than 400 feet apart for sewers 15 inches in diameter or less, and 500 feet for sewers 18 to 30 inches in diameter. Greater spacing may be permitted in larger lines, those carrying a settled effluent or where adequate modern cleaning equipment for such spacing is provided. Lampholes ~~may be used only for special conditions~~ and cleanouts shall not be substituted for manholes nor installed at the end of laterals longer than 250 feet. ~~One such special condition is in privately owned and operated mobile home parks, recreational vehicle parks and similar installations. At these types of facilities lampholes or clean-outs may be used at the ends of 4 and 6 inch lines. Manholes may be omitted in straight runs of 4 and 6 inch lines provided clean-outs are located every 100 feet if one-way or every 200 feet if two-way clean-outs are used. Manholes will be required for all lines transporting the sewage from the collection area to a public sewer or to all treatment works.~~ See OAC 252:656-5-2(c)(4), Small diameter gravity sewers, for other uses of cleanouts.

(1) **Drop manhole.** A drop pipe is required for all sewer lines entering a manhole at an elevation of 24 inches or more above the manhole invert. Drop pipes must be constructed on the outside of the manholes. Encase the entire outside drop connection in concrete.

(2) **Diameter.** The minimum inside diameter of manholes shall be 48 inches with a conical section at top to receive a standard manhole ring and cover.

(3) **Flow channels.** The flow channels through manholes shall conform ~~to the sewer flow~~ in shape and slope to that of the sewer lines.

(4) **Inlet and outlet pipes.** Join inlet and outlet pipes to the manhole with a ~~gasketed~~ gasket or other flexible watertight connection ~~or any watertight connection~~ that allows for differential settlement of the pipe and manhole wall.

(5) **Steps, rings, and lids.** Use watertight covers on manholes that may become submerged. ~~Conduct leakage tests on all new manholes.~~

(6) **Bases.** Manhole bases must be at least 8 inches thick, with a diameter 8 inches more than the largest outside diameter of the manhole. Construct with leakproof joints between the base and manhole.

(7) **Leakage Testing.** Specify the ASTM standard for the test to be used. ASTM testing standards are ASTM C-969 and C-1244.

(h) **Inverted siphons.** Inverted siphons must have at least two barrels with a pipe size at least ~~6 inch pipe~~ 6 inches in diameter. ~~Design~~ Provide necessary appurtenances for convenient flushing and maintenance. ~~Provide adequate clearance for rodding manholes~~ Construct manholes with adequate clearance for rodding the pipes. Provide sufficient head and select a pipe size for a velocity of at least 3.0 fps for average flows. Arrange the inlet and outlet details so normal flow ~~can be~~ is diverted to one barrel ~~when the other is being cleaned~~ and either barrel may be taken out of service for cleaning. The vertical alignment should permit cleaning and maintenance.

**252:656-5-5. Tests**

(a) **Deflection test.** Perform deflection tests on all flexible pipe after the final backfill has been in place at least 30 days. Deflection must not exceed 5%. Tests must be run using a rigid ball or mandrel ~~shall have~~ with a diameter equal to 95% of the inside diameter of the pipe taking into account manufacturing tolerances ~~and~~. Tests shall be performed without mechanical pulling devices.

(b) **Leakage test.** Leakage tests are required~~. Specify~~ for all gravity lines. Hydrostatic tests must use a 2-foot test head and leakage inward or outward shall not exceed 10 gallons per inch of pipe diameter pre mile per day. Where air tests are proposed, specify the ASTM standard for the test to be used. Uni-Bel Plastic Pipe Association procedures may be used for plastic pipe. ~~Water tests must use a 2-foot test head, and not flow inward or outward more than 10 gallons per inch of pipe diameter per mile per day.~~ An air test result must assure a leakage limit equivalent to the hydrostatic test limit.

## SUBCHAPTER 7. PUMP STATION STANDARDS

**252:656-7-1. Pump station design**

(a) Required design factors for pumping stations are:

(1) **Emergency plan.** ~~Plans~~ Provide an emergency plan for handling sewage should the lift station completely fail. Required emergency operations are in section 7-4.

(2) **Separate wells.** Wet and dry wells shall be completely separated, each with ~~a separate~~ its own entrance.

(3) ~~**Access**~~ **Accessibility and Safety.** Provide a suitable stairway or ladder for dry wells and for wet wells with bar screens or mechanical equipment. ~~Provide a fence or building to prevent unauthorized access.~~ Adequate provision shall be made to effectively protect maintenance personnel from hazards. Equipment for confined space entry in accordance with OSHA and regulatory agency requirements shall be provided for all wastewater pumping stations. The design of the system shall protect the pump station controls and appurtenances from unauthorized access and vandalism. Provide a building or other form of protection such as fencing or access hatches with locks. The design of the system shall prevent unauthorized access or vandalism to control system and equipment. This could be provided by use of appropriate measures such as fencing, locked access hatches, buildings, or other equivalent measures.

(4) **Equipment removal.** Provide for removal of pumps, motors, and other mechanical and electrical equipment during all weather conditions.

(5) **Dry well dewatering.** Provide a sump pump in dry wells to remove leakage or drainage. The discharge pipe shall terminate above the overflow level of the wet well and include a check valve located near the pump. Do not connect water ejectors to a potable water supply. Slope all floor and walkway surfaces to the sump. Pump seal water shall be piped to the sump.

(6) **Flood Protection.** Wastewater pumping stations structures and electrical and mechanical equipment shall be protected from physical damage by the 100 year flood. Wastewater pumping stations should remain fully operational and accessible during the 25 year flood. Regulations of state and federal agencies regarding flood plain obstructions shall be followed.

(7) **Buoyancy.** Where high groundwater conditions are anticipated, buoyancy of the wastewater pumping station structures shall be considered and, if necessary, adequate provisions shall be made for protection.

(b) Pump requirements are:

(1) **Multiple units.** Provide at least two pumps. With any pump out of service, the remaining pump(s) must have the capacity to handle maximum sewage flows.

(2) **Protect against clogging.** Pump stations with screening devices shall provide for the storage and disposal of the collected material. Provide a suitable bypass where screening ~~or comminutor devices are~~ is installed.

(3) **Pump openings.** Pumps, other than grinder type pumps, that handle raw sewage shall be capable of passing a 3-inch sphere. Suction piping shall be at least 4 inches in diameter. Suction lines to dry wells shall include suitable shut-off valves to allow pump removal.

(4) **Priming.** Locate pumps so they will operate under a positive suction head under normal conditions.

(5) **Intake.** Each pump shall have an individual intake and be designed to avoid turbulence near the intakes.

~~(6) **Dry well dewatering.** Provide a sump pump in dry wells to remove leakage or drainage. The discharge pipe shall terminate above the overflow level of the wet well and include a check valve located near the pump. Do not connect water ejectors to a potable water supply. Slope all floor and walkway surfaces to the sump. Pump seal water shall be piped to the sump.~~

(~~7~~6) **Pumping rates.** Size pumps to prevent hydraulic surges.

(c) Force main requirements are:

(1) **Diameter.** Force mains shall be at least 4 inches in diameter and provide at least 2 fps velocity.

(2) **Air relief valve.** Install air relief valves at high points in force mains.

(3) **Termination.** Terminate force mains not more than 2 feet above the flow line of the receiving manhole, and design them to reduce splashing and erosion.

(4) **Design pressure.** Design the force main and fittings, including reaction blocking, to withstand normal pressure and pressure surges (water hammer).

(5) **Special construction.** Force main construction ~~near streams or~~ used for ~~aerial~~ stream crossings shall meet applicable requirements of OAC 252:656-5-4.

(6) **Design friction losses.** Calculate friction losses through force mains with the Hazen and Williams formula (or equivalent), using these C values:

(A) Unlined iron or steel - 100

(B) All other lined ductile ~~or cast~~ iron - 120

(C) PVC - 140

(7) **Separation from water mains.** Refer to OAC 252:656-5-4(c).

(8) **Controls.** Locate the control system so it is not affected by turbulence of incoming flow or pump suction. ~~Alternate~~ Provide automatic alternation of constant speed pumps at each cycle ~~automatically~~.

(9) **Valves.** Place suitable shutoff valves on suction and discharge lines of each pump. Place a check valve or equivalent on each discharge line, between the shut-off valve and the pump. Shut-off valves are not required on the suction side of pumps that can be removed from service without discharging.

(10) **Wet wells.** Wet well size and control settings shall be appropriate to meet the chosen manufacturer's recommended cycling times and to avoid heat buildup in the pump motor due to frequent starting and not to exceed 30 minutes between pump off to pump on to avoid septic conditions due to excessive retention time. The effective volume of the wet well shall be based on design average flow and a filling time not to exceed 30 minutes unless the facility is designed to provide flow equalization. Slope wet well floors to the pump intake at least 1 to 1 (1:1). Covered wet wells shall have provisions for air displacement to the atmosphere.

(11) **Ventilation.** Adequate ventilation shall be provided for all pump stations. Where the pump room is located below ground surface, mechanical ventilation is

required. There shall be no interconnection between wet well and dry well ventilation systems. If the wet well must be entered to service mechanical equipment, forced ventilation is required, independent of dry well ventilation. Ventilation equipment switches shall be well marked and located at the entrance to the dry well. Intermittent operation ventilation systems shall be interconnected with the lighting system. The fan wheel(s) shall be fabricated from non-sparking material.

(A) **Wet wells.** Ventilation may be either continuous or intermittent. Mechanical ventilation is required if screens or mechanical equipment requiring maintenance and/or inspection are located in a wet well. Continuous ventilation shall provide at least 12 complete air changes per hour. Intermittent ventilation shall provide at least 30 complete air changes per hour. Air shall be forced into, rather than exhausted from, the wet well. Wet wells not designed for access shall have provision for air displacement to the atmosphere. The top of the pumping station shall be located higher than the 100-year flood.

(B) **Dry wells.** Provide adequate ventilation for all dry wells. Ventilation may be either continuous or intermittent. Continuous ventilation shall provide at least six complete air changes per hour; intermittent ventilation shall provide at least 30 complete air changes per hour. Ventilation equipment switches shall be marked and located at the entrance to the dry well. ~~All intermittently operated ventilating equipment shall be interconnected with the respective pit lighting system. The fan wheel shall be fabricated from non-sparking material.~~

(12) **Water supply interconnection.** There shall be no direct connection between any potable water supply and sewage pumps or piping.

(13) **Pressure testing/leakage testing.** Test the installed pipe for leakage in accordance with ASTM standard specifications. The design working pressure of the pipe must not exceed 2/3 of the rated pressure of the pipe. Specify the ASTM standard to be used.

**252:656-7-3. Submersible pump stations**

Submersible pump stations shall meet the applicable requirements under OAC 252:656-7-1 (design), except as provided in this section.

(1) **Construction.** Submersible pumps and motors must be designed specifically for raw sewage use, including totally submerged operation during a portion of each pumping cycle. Provide an effective method to detect shaft seal failure or potential seal failure. The motor shall be of squirrel-cage type design without brushes or other arc-producing mechanisms.

(2) **Pump removal.** Submersible pumps shall be readily removable and replaceable without dewatering the wet well or manually disconnecting any piping in the wet well.

(3) **Electrical.**

(A) **Power supply and control.** Electrical supply, control and alarm circuits shall be designed to provide strain relief and to allow disconnection from outside the wet well. Terminals and connectors shall be protected from corrosion by location outside the wet well or through use of watertight seals. If the location is not sheltered, use weatherproof equipment.

(B) **Controls.** Locate the motor center outside the wet well. Protect it by a conduit seal or other appropriate measures meeting National Electrical Code requirements to prevent the atmosphere of the wet well from gaining access to the control center. The seal shall be so located that the motor may be removed and electrically disconnected without disturbing the seal.

(C) **Power cord.** Pump motor power cords shall be designed for flexibility and serviceability under conditions of extra hard usage and shall meet the requirements of the National Electrical Code standards for flexible cords in wastewater pump stations. ~~Ground fault interruption protection shall be used to de-energize the circuit in the event of any failure in the electrical integrity of the cable.~~ Power cord terminal fittings shall be corrosion-resistant and constructed in a manner to prevent the entry of moisture into the cable, provided with strain relief appurtenances and designed to facilitate field connection.

(4) **Valves.** ~~Air relief valves~~ Valves for force mains shall be located outside the wet well in a separate enclosure. Provide drain systems for below-ground enclosures. If the valve enclosure is drained to the wet well, include a method to prevent sewage from entering the enclosure during surcharged wet well conditions.

**252:656-7-4. Emergency operation**

(a) **Design.** Design pumping stations to prevent or minimize bypassing of raw sewage during periods of power outage or mechanical failure. The pumping station must meet one of the following design conditions:

(1) an onsite standby generator or engine-driven pump with automatic means of activation in the event of a power failure; one hour of emergency storage at design flow above the alarm level; or

(2) a portable engine-driven pump with a quick connection to the force main; four hours of emergency storage at design flow above the alarm level; and telemetry to the city office during working hours and to the home of the person(s) in responsible charge of the lift station during off-duty hours; or

(3) 24 hours of emergency storage at design flow above the alarm level with an audio/visual alarm system.

(b) ~~**Alarm systems.** Pumping stations shall have an automatic alarm system capable of alerting responsible maintenance personnel of an equipment failure before an overflow occurs, even during a power failure. If telemetry is not provided to an office manned 24 hours per day, then show an equivalent alerting capability.~~ **Equipment requirements.**

(1) **General.** The following general requirements shall apply to all internal combustion engines used to drive

auxiliary pumps, service pumps and electrical generating equipment:

(A) **Engine protection.** The engine must be protected from operating conditions that would result in damage to equipment. Unless continuous manual supervision is planned, protective equipment shall be capable of shutting down the engine and activating an alarm.

(B) **Size.** The engine shall have adequate rated power to start and continuously operate all connected loads. The engines shall be capable of handling the peak capacity of the station.

(C) **Routine start-up.** All emergency equipment shall be provided with instructions indicating the need for regular starting and running of such units at full loads.

(D) **Equipment protection.** Emergency equipment shall be protected from damage due to restoration of regular electrical power.

(E) **Instructions, tools and parts.** Post a complete set of operational instructions, emergency procedures and maintenance schedules at the station. Provide any special tools and spare parts.

(2) **Engine-driven pumping equipment.** Where permanently installed or portable engine-driven pumps are used, the following requirements shall also apply:

(A) **Pumping capacity.** Engine-driven pump(s) shall meet the design pumping requirements unless storage capacity is available for flows beyond pump capacity. Pumps shall be designed for anticipated operating conditions, including suction lift if applicable.

(B) **Operation.** The engine and pump shall be equipped for automatic start-up and operation, and for manual start-up.

(C) **Portable pumping equipment.** Where part or all of the engine-driven pumping equipment is portable, a riser from the force main with quick-connect coupling and appropriate valving shall be provided to hook up portable pumps.

(3) **Engine-driven generating equipment.** Where permanently-installed or portable engine-driven generating equipment is used, the following requirements shall also apply:

(A) **Generating capacity.** Generating unit size shall be adequate to provide power for pump motor starting current and for lighting, ventilation, and other auxiliary equipment necessary for safety and proper operation of the lift station. Provide sequencing controls to start pump motors unless the generating equipment has capacity to start all pumps simultaneously with auxiliary equipment operating.

(B) **Operation.** Provide for automatic and manual start-up and load transfer. Protect the generator from damaging operating conditions. The engine must start and stabilize at operation speed before assuming the load.

(C) **Portable generating equipment.** If portable generating equipment will be used, include special electrical connections.

(c) **Overflow basins.** ~~See Subchapter 11 (Lagoon Standards)~~ General construction of overflow basins shall be in accordance with OAC 252:656-11-(3).

(d) ~~**Equipment requirements.**~~

~~(1) **General.** A portable pump is required. Also, the following general requirements shall apply to all internal combustion engines used to drive auxiliary pumps, service pumps and electrical generating equipment:~~

~~(A) **Engine protection.** The engine must be protected from operating conditions that would result in damage to equipment. Unless continuous manual supervision is planned, protective equipment shall be capable of shutting down the engine and activating an alarm.~~

~~(B) **Size.** The engine shall have adequate rated power to start and continuously operate all connected loads. The engines shall be capable of handling the peak capacity of the station.~~

~~(C) **Routine start-up.** All emergency equipment shall be provided with instructions indicating the need for regular starting and running of such units at full loads.~~

~~(D) **Equipment protection.** Emergency equipment shall be protected from damage due to restoration of regular electrical power.~~

~~(E) **Instructions, tools and parts.** Post a complete set of operational instructions, emergency procedures and maintenance schedules at the station. Provide any special tools and spare parts.~~

~~(2) **Engine-driven pumping equipment.** Where permanently installed or portable engine-driven pumps are used, the following requirements shall also apply:~~

~~(A) **Pumping capacity.** Engine-driven pump(s) shall meet the design pumping requirements unless storage capacity is available for flows beyond pump capacity. Pumps shall be designed for anticipated operating conditions, including suction lift if applicable.~~

~~(B) **Operation.** The engine and pump shall be equipped for automatic start-up and operation, and for manual start-up.~~

~~(C) **Portable pumping equipment.** Where part or all of the engine-driven pumping equipment is portable, a riser from the force main with quick-connect coupling and appropriate valving shall be provided to hook up portable pumps.~~

~~(3) **Engine-driven generating equipment.** Where permanently installed or portable engine-driven generating equipment is used, the following requirements shall also apply:~~

~~(A) **Generating capacity.** Generating unit size shall be adequate to provide power for pump motor starting current and for lighting, ventilation, and other auxiliary equipment necessary for safety and~~

~~proper operation of the lift station. Provide sequencing controls to start pump motors unless the generating equipment has capacity to start all pumps simultaneously with auxiliary equipment operating.~~

~~(B) **Operation.** Provide for automatic and manual start-up and load transfer. Protect the generator from damaging operating conditions. The engine must start and stabilize at operation speed before assuming the load.~~

~~(C) **Portable generating equipment.** If portable generating equipment will be used, include special electrical connections.~~ **Alarm systems.** Pumping stations shall have an automatic alarm system capable of alerting responsible maintenance personnel of an equipment failure before an overflow occurs, even during a power failure. If telemetry is not provided to an office manned 24 hours per day, then show an equivalent alerting capability.

## SUBCHAPTER 9. GENERAL STANDARDS

### 252:656-9-1. Plant location and design life

(a) **Minimum separation distances.** Local ordinances and zoning requirements may establish separation distances greater than those required by this Chapter. ~~Otherwise, no facility shall be constructed or extended closer than 100 feet from the property line. Measure lagoons from the center of dikes.~~ The minimum separation distance from any public water supply well is 300 feet, and from any public water supply intake structure will be determined on a case by case basis. No part of any wastewater treatment facility shall be constructed or extended within 100 feet of a plant site property line. Measurement for lagoons shall be from the centerline of the nearest dike.

(b) **Flood protection.** Protect the treatment works structures, electrical and mechanical equipment from physical damage by a 100-year flood. Treatment works must remain operational and be accessible during a 25-year flood. Flood protection applies to new construction and to existing facilities undergoing major modification.

(c) **Design life.** Design sewage treatment plants for an estimated 20-year population projection. Construction may occur in phases to reduce initial cost.

(d) **Phased.** For facilities to be built in phases, the engineer shall furnish design data for ultimate plant capacity. The data shall include size, type, loading and location of all units. Use dashed lines to show units that are to be constructed as a later phase. Furnish a hydraulic profile showing the water elevations of all units and the flood elevation of streams that can affect the plant site. Detailed design data are required for all units to be constructed as Phase I.

(e) **Access Restriction.** ~~All facility boundaries must contain the following access restrictions:~~

~~(1) fencing to prevent unauthorized entry; and~~

~~(2) warning signs to indicate the nature of the facility and to list emergency contact information.~~ All facilities must be fenced to prevent unauthorized entry. Fencing must be posted with warning signs to indicate the nature of the facility, listing emergency contact information. Post at least one sign on each side of the site.

### 252:656-9-2. Essential facilities

(a) **Emergency power facilities.**

(1) **General.** Provide all plants with portable or in-place internal combustion engine equipment which will generate electric power to allow continuity of operation during power failures. Where only emergency pumping is necessary, a portable engine driven pump may be used.

(2) **Power for aeration.** Standby generating capacity normally is not required for aeration equipment used in the activated sludge process. In cases where a history of long-term (four hours or more) power outages have occurred, auxiliary power for minimum aeration will be required. ~~Contact the DEQ for discharge requirements to sensitive streams.~~

(3) **Power for disinfection.** Where disinfection is required, provide standby power to operate the disinfection equipment.

(b) **Water supply.**

(1) **General.** Provide potable water under pressure to laboratories, restrooms, offices, drinking fountains and showers. ~~Do not cross-connect potable and non-potable water lines.~~ Cross-connections between potable and non-potable water lines is prohibited.

(2) **Direct connections.** Potable water from a municipal or separate supply may be used directly at points above grade. Hot water shall not be taken directly from a boiler used for supplying hot water to a sludge heat exchanger or digester heating unit.

(3) **Indirect connections.** Where a potable water supply is to be used for any purpose in a plant other than those listed in paragraph (1), above, provide a break tank, pressure pump, and pressure tank. Discharge water to the break tank through an air gap at least six inches above the maximum flood line or the spill line of the tank, whichever is higher. Post a permanent sign at every hose bib, faucet, hydrant, or sill cock located on the water system beyond the break tank to indicate that the water is not safe for drinking. The installation of ~~two reduced pressure backflow prevention devices in series~~ a reduced pressure zone backflow prevention device will be considered in lieu of the break tank ~~on a case by case basis~~. To allow maintenance on the backflow prevention device, the design shall include a bypass line with equal backflow prevention. Do not locate back-flow devices in a pit or vault where they may become submerged; they must be easily accessible for routine testing for proper operation.

~~(4) **Separate potable water supply.** Where it is not possible to provide potable water from a public water supply, a separate well may be provided. Install the well according to the Public Water Supply Construction Standards.~~

(~~5~~4) **Non-potable water outlets.** Post a permanent sign at non-potable water outlets indicating the water is not safe for drinking. ~~Prevent cross-connections between a non-~~

~~potable water system and the potable water system~~ Cited in 9-2(b)(1).

(c) **Laboratory equipment.** All treatment works shall have access to a laboratory for making analytical determinations and operation control tests.

(d) **Sewage flow measurement.** Provide for the measurement of incoming flow at all wastewater treatment plants. Provide indicating, totalizing, and recording devices for all ~~mechanical~~ plants ~~of 0.5 MGD design capacity or greater~~. Where all incoming flow to a ~~lagoon~~ system less than 0.5 MGD design capacity is through a single pump station, flow measurement may be satisfied by calibration of pumps and installation of run-time meters. ~~Also provide~~ Provide for the measurement of wastewater ~~to be discharged or land applied~~ effluent flow in accordance with the system's OPDES permit and OAC 252:606. Flow measurement devices shall be selected for reliability and accuracy. All flow measurement equipment must be sized to function effectively over the full range of flows expected and shall be protected against freezing.For land application systems, effluent flow measurement must be in accordance with OAC 252:621.

**252:656-9-3. Plant outfalls**

(a) **Entrance impact control.** All wastewater treatment facilities designed to discharge treated wastewater shall provide an outfall sewer pipe to a defined water course. ~~Consider~~ Provide the following when designing outfall lines:

~~(1) Free fall or submerged discharge;~~

~~(2) Utilization of cascade aeration to increase dissolved oxygen;~~

(~~3~~ 1) Dispersion of the effluent across the stream as needed to protect aquatic life; and

(~~4~~ 2) Access for effluent sampling.

(b) **Protection and maintenance.** Protect the outfall sewer from the effects of floodwater, ice, or other hazards to reasonably assure its structural stability and freedom from stoppage. Provide a manhole at the shore end of all gravity sewers extending into the receiving waters. ~~Consider hazards to navigation in the outfall design.~~ Provide at least a 12-inch diameter pipe or appropriate screening for submerged discharges to prevent blockage by aquatic animals.

(c) **Discharge to reservoirs.** Proposed discharges within 600 feet of the maximum conservation pool elevation shall extend ~~by~~ the line into the reservoir. Anchor ~~such~~ the lines to the bottom in such a fashion as to be at least 10 feet below the surface and 100 feet from the water line at the conservation pool elevation.

(d) **Sampling provisions.** Design all outfalls with easy access for obtaining effluent samples during all weather conditions at a point after the final treatment process and before it reaches the receiving waters.

## SUBCHAPTER 11. LAGOON STANDARDS

**252:656-11-1. Lagoon siting**

(a) **Winds.** Locate lagoons to minimize wind obstructions.

(b) **Surface runoff.** Do not locate lagoons in floodways, and avoid flood plains. Divert storm water runoff around lagoons and protect embankments from erosion.

(c) **Hydrology.** Use sound sanitary and engineering practices to protect ~~ground-water~~ groundwater aquifers and public water supplies from pollution from lagoons. Maintain a 4-foot separation between the lagoon bottom and the ~~groundwater table~~ highest known groundwater elevation.

(d) **Geology.** ~~In areas~~ Areas which may be subjected to karstification (i.e., sink holes or underground streams generally occurring in areas underlain by limestone, gypsum or dolomite), ~~seal lagoons with a membrane liner and install an underdrain collection system to monitor for leakage. See Section 11-3(c)~~ are not suitable lagoon sites. Maintain a 4-foot separation between the lagoon bottom and any bedrock formation.

~~(e) **PWS wells.** The separation from PWS wells is specified in OAC 252:626.~~

**252:656-11-2. Basis of design**

(a) ~~**Aerobic.** Design lagoon systems for sufficient oxygen to maintain aerobic conditions in each cell using aeration devices or algal photosynthesis.~~ **Facultative Lagoons.** Facultative lagoons depend on the relationship between organic loading and surface area (algal photosynthesis) or on surface area and supplemental mechanical aeration to provide an aerobic layer of water at the surface. Facultative lagoons may be either total retention or flow-through (discharge) to waters of the state.

(b) **Flow-through lagoons.**

(1) **Organic loading.** Limit the organic load to 35 pounds $BOD_5$ per acre (water surface area) per day for any cell depending solely on algal photosynthesis for oxygen. ~~For total loading, calculate the design depth at the average operating depth. For design depth of 6 feet, the average operating depth would be 4.5 feet~~ The total water surface area requirement based on organic loading is calculated at the average water depth. Flow-through lagoon systems will not consistently provide ammonia removal through the nitrification process so the effluent from these facilities may be toxic to aquatic life and thus cause whole effluent toxicity test failures.

(2) ~~**Number of cells**~~ **Flow Control.** Provide at least two primary cells on new systems. Design the primary cells ~~to operate~~ so they may be operated in either series or in parallel, with at least 60 days retention time ~~in the primary cells~~. Provide at least two secondary cells operating in series with the primary cells and in series with each other. Provide a bypass line around any secondary cell in a series to the next cell. The secondary cells shall have at least 60 days detention ~~and~~ for a total of at least 120 days detention in the system.

(3) **Depth.** The maximum water depth shall not exceed 6 feet in primary cells and 10 feet in secondary cells. Provide structures to allow the primary cells to operate between ~~three~~ four foot depth and the maximum design depth plus three feet of freeboard. The operating depth for a flow-through lagoon shall be between 4 and 6 feet.

(c) **Surface evaporation lagoons (total retention).** Where more than one acre of surface area is needed, provide at least two cells. Size the primary cell(s) for the expected organic loading and additional evaporation cells designed for the hydraulic load. Base the design of all cells receiving raw water wastewater on an organic loading of 35 lbs $BOD_5$ per surface acres per day at the average operating depth. Provide sufficient area to evaporate the annual ~~inflow. Base the total flow~~ influent flow based on the average daily design flow with allowances for infiltration and inflow to the sewage collection system. Base the evaporation rates on the annual average pan evaporation minus the 90th percentile annual precipitation for the geographical location.

(d) **Aerated lagoon systems.** ~~Addition of aeration equipment to existing non aerated lagoons may be considered for a temporary solution to intermittent overload of primary cells. Approval will be with the full understanding of the owner that additional construction may be necessary for compliance with facility permit conditions.~~ The following apply to all new aerated lagoon systems~~, either complete mix or partial mix~~. Only partial-mix systems will be considered for systems with 30 day average concentration limits for $BOD_5$ and TSS of 30 mg/l and 90 mg/l, respectively, as their basic permit requirement. Aerated lagoon systems will not consistently provide ammonia removal through the nitrification process so the effluent from these facilities may be toxic to aquatic life and thus cause whole effluent toxicity test failures.

(1) **Number of cells.** At least two aerated cells, in series, followed by one settling lagoon with a hydraulic retention time of at least two days is recommended.

(2) **Depth.** The design water depth shall be 10 to 15 feet.

~~(3) **Complete mix system.** Sufficient horsepower is required to keep solids in suspension in aerated cells. An additional cell or basin is required for solids separation before discharging the effluent. Two cells or basins are recommended to remove solids. Provisions for recycling from the settling basin to the aerated basins are recommended.~~

~~(4) **Partial mix system.** Sufficient horsepower is required to meet the applied organic load oxygen requirements. No attempt is made to keep all solids suspended in aerated lagoons. An additional cell or basin is required for solids separation before discharging the effluent.~~

(~~5~~ 3) **Design Requirements.** Submit design calculations to the DEQ for review, and justify the use of any constants not listed.

(~~6~~ 4) **Aeration requirements.** Oxygen requirements will depend on organic loading, required treatment, and concentration of suspended solids to be maintained in the aerated ~~basins~~ cells. Aeration equipment shall be capable of maintaining a minimum dissolved oxygen level of 2 mg/l in the lagoons at all times. In the absence of experimentally determined values, the design oxygen requirements shall be 1.8 lb $O_2$/lb $BOD_5$ applied at maximum loading.

(~~7~~ 5) **Additional information.** For a more detailed discussion of aerated lagoon design see *Design Manual Municipal Wastewater Stabilization Ponds*, U.S. Environmental Protection Agency, EPA-625/1-83-015 (1983). Also use *Wastewater Engineering: Treatment, Disposal & Reuse*, Metcalf & Eddy, Inc. (2003) or other widely recognized engineering reference.

(6) **Disinfection.** Disinfection will be required for all aerated lagoon systems proposed to discharge to water bodies where water quality standards require *coliform* limits.

**252:656-11-3. Lagoon construction details**

(a) **Soil borings.** Accurately represent the soil characteristics. Provide soil ~~borings~~ boring data conducted by an independent soil-testing laboratory. Borings shall extend at least ~~24 inches~~ 5 feet below the proposed lagoon bottom and at least one boring shall be at least 25 feet deep or into bedrock. Borings shall be conducted during the time of highest groundwater level. Provide enough borings to be representative of the entire site. If bedrock is encountered, describe its general characteristics and identification, and the ~~underlying~~ corresponding geological formation(s). Include a log of soil types encountered at each boring, the elevation of the water table where encountered and the permeability of soil samples taken from the same elevation as the proposed lagoon bottom. Fill and seal all ~~boring~~ borings after testing.

(b) **Dikes.**

(1) **Material.** Construct dikes of relatively impervious material and compact them to at least 90 percent Standard Proctor Density to form a stable structure. Remove vegetation and other unsuitable materials before construction.

(2) **Top width.** The top of the dike must be at least eight feet wide for maintenance vehicles.

(3) **Slope.** Inner and outer dike slopes shall not be steeper than 1 vertical to 3 horizontal (1:3). Steeper slopes will only be considered where surface construction is of soil cement or other material that will prohibit vegetation growth. Inner dikes ~~should~~ shall not be flatter than 1 vertical to 4 horizontal (1:4).

(4) **Freeboard.** Design the lagoon to maintain at least 3 feet of freeboard above the design maximum water depth at all times.

(5) **Lagoon shape.** Round, square or rectangular lagoons, with a length not ~~over~~ more than three times the width are recommended, constructed without islands, peninsulas or coves. Common wall dike construction is encouraged. Round all corners.

(6) **Erosion control.** Protect inner dikes from wave action and outer dikes from runoff and floodwaters.

(A) **Seeding.** Where riprap is not used, apply at least 4 inches of fertile top soil to dikes to establish an adequate vegetative cover. Before prefilling, establish vegetation on dikes from the outside toe to 2 ft above the lagoon bottom on the interior as measured on the slope. Specify perennial, low-growing grasses that spread rapidly. ~~Alfalfa or other long rooted grasses should not be used for seeding since the roots of this type are apt to impair the water holding efficiency of the dikes.~~ Do not use alfalfa or other

long-rooted vegetation for seeding since the roots of this type are apt to impair the water holding efficiency of the dikes.

(B) **Additional protection.** Provide extra protection where inner dikes may be subjected to severe wind action, such as lagoons larger than 5 acres and where the lagoon surface will often be exposed to strong winds. Also protect areas of turbulence in aerated cells and all pipe penetrations. Install riprap, soil cement or other recognized material. Protect the inner dikes from 1 foot vertically above the high water elevation to 2 feet vertically below the minimum operating elevation. Place riprap on a filter bed at least 6 inches thick, and use material that will stay in place and resist erosion.

(c) ~~**Bottom**~~ **Lagoon seal.** The seepage rate through the lagoon bottom and inside dike shall not exceed 500 gal/day/acre (5.4 x $10^{-7}$ cm/s) at a water depth of 6 feet for soil and bentonite seal. Synthetic seals shall have no measurable leakage. Construct a soil seal as specified below. If native soils ~~might~~ exceed this seepage rate, then a ~~soil or~~ bentonite seal~~,~~ or synthetic liner~~,~~ must be specified. Written certification to the effect that the seal was provided and applied in accordance with specifications and that the hydraulic conductivity is equal to or less than 5.4 x $10^{-7}$ cm/s shall be furnished by the project engineer. Use ASTM Method 5084. Analysis of soil must include how soil will be applied.

(1) **Soil seal.**

(A) The soil used for sealing must have a high, uniform content of fine material (clay and silt). Soil containing rock or a high gravel content is not acceptable for a soil seal or for mixing with bentonite.

(B) Soil used to construct the lagoon ~~bottom~~ seal and dike cores shall be relatively incompressible and compacted at a water content up to 4% above the optimum to at least 90% Standard Proctor Density.

(C) The soil used for sealing shall be at least 12 inches thick with the coefficient of permeability (K) no greater than $10^{-7}$ cm/s. The soil seal ~~should~~ shall be applied in lifts no greater than 6 inches.

~~(D) If the K-value of the soil used for sealing exceeds $10^{-7}$ cm/s, the thickness of the seal should be adjusted according to: $L_{11}$ (thickness of the soil in inches) = 0.13 x $10^{9}$ x K.~~

(2) **Bentonite seal.**

(A) The application rate ~~should~~ shall be at least 125% of the minimum rate that is determined to be adequate by laboratory tests.

(B) The water content of the soil-bentonite mixture ~~should~~ shall be up to 4% above the optimum for maximum compaction. Bentonite shall be applied to soil that is free of all vegetation, trash, roots, frozen soil, snow or ice, stones over 2 inches in diameter or other objectionable material.

(C) ~~Split the material in half and apply in two perpendicular directions.~~ Split the material in half and apply in two perpendicular 3-inch lifts for a finished compacted blanket thickness of at least 6 inches.

(D) ~~Mix the bentonite into the soil to a uniform depth of at least 3 inches.~~ After mixing and compacting, analyze a sample of the soil/bentonite mixture for permeability. If the coefficient of permeability exceeds 5.4 x $10^{-7}$ cm/s, the depth of the mixture or content of bentonite must be increased as necessary to obtain the required seal.

(E) Compact the mixture at the proper water content to at least 90% Standard Proctor Density (specifically excluding use of a sheepsfoot roller).

(F) Cover the completed seal with at least 4 inches of soil in addition to necessary erosion control.

(G) Hydrate with fresh water and keep at or above the optimum water content until the pond is prefilled.

(H) Written certification to the effect that the seal was provided an applied in accordance with specifications and that the coefficient of permeability is equal to or less than $10^{-7}$ cm/s shall be furnished by the supplier, project engineer or independent soils laboratory.

(3) **Synthetic liner.**

(A) The liner must be at least 30 mil (0.030 inch) thick.

(B) Remove or cover sharp objects in the subsoil with a bedding of 2 to 4 inches of clean soil or sand.

(C) Use 4-inch perforated pipe to allow venting and draining of the soil to reduce gas and hydrostatic pressures and facilitate monitoring for leakage.

(D) Seal panels ~~should~~ shall be laid out in a longitudinal direction with an overlap of 4 to 6 inches.

(E) The anchor trench ~~should~~ shall be a 6-inch minimum depth and placed at least 9 to 12 inches beyond the slope break of the dike.

(F) Take adequate measures to protect the integrity of the liner. On dike slopes, backfill ~~should~~ shall consist of at least a 3-inch layer of sand or finely textured soil and covered with at least a 3-inch layer of heavier cobble, coarse gravel or small riprap.

(4) **Uniformity.** The bottom shall be as level as possible. Finished elevations shall not deviate more than 3 inches from the average elevation.

(5) **Prefilling.** Protect the integrity of the liner by hydrating with fresh water until the lagoon is used.

~~(d) **Certify.** The project engineer or independent soils laboratory must certify in writing that the seal was provided and applied according to approved specifications.~~

(~~e~~d) **Influent lines.** Influent lines shall terminate in a ~~manhole or~~ flow distribution manhole or control structure with the invert at least 6 inches above the maximum design high water elevation of the lagoon. Design the control structure to proportionally split the flow to the primary cells.

(1) **Placement.** ~~Influent~~ Raw sewage distribution lines ~~up to 12 inches in diameter~~ may be placed on the surface of the lagoon bottom. ~~Locate larger lines in trenches so the top of the pipe is no more than 12 inches above the lagoon bottom.~~ Anchor ~~plastic~~ pipe to prevent floating or settling. Soil shall not be mounded over the distribution lines. The method of construction shall not alter the integrity of the lagoon seal.

(2) **Point of discharge.** To minimize short-circuiting in primary cells, terminate influent lines at the lesser of either the center of the cell or a point at least 100 feet from the inside toe of any dike. Install multiple inlets when the distance from any inlet to the toe of an adjacent dike exceeds 250 feet. Terminate influent lines for aerated cells within the mixing zone of the aeration equipment. ~~Consider multiple inlets for diffused aeration systems.~~

(3) **Discharge apron.** To control erosion of the lagoon bottom, influent lines must discharge horizontally into shallow, saucer-shaped depressions and terminate on a concrete apron. The apron shall be at least 2 feet square or in diameter. Provide additional energy dissipating devices where influent will enter the lagoon at a high velocity ~~(steep slopes, force mains, etc.)~~.

(e) **Miscellaneous construction standards.** All pipes entering and exiting the seal shall be constructed with a seepage collar.

(f) **Control structures and interconnecting piping.**

(1) **Structure.** Provide structures to control water depth in cells, ~~rout~~ route water through the system, and measure flow at discharging facilities. Control structures in primary cells must be capable of controlling the operating depth between a minimum of 3 feet and the maximum design operating depth. For suspended solids control, the discharge structure should allow the withdrawal point to vary below the surface to obtain the best quality effluent. Valves, slide tubes, dual slide gates or removable interlocking boards are recommended, and they shall:

(A) Be accessible for maintenance and adjustment of controls;

(B) Control water level and flow rate, and complete shutoff;

(C) Be constructed of non-corrosive materials; ~~and~~

(D) Be located to minimize short-circuiting within the cell.

(2) **Discharge piping.** Pipe meeting ASTM standards for sanitary sewers shall be adequately anchored but not interrupt the integrity of the seal.

(A) **Hydraulic capacity.** The hydraulic capacity for continuous discharge structures and piping shall allow for a minimum of 250 percent of the design flow of the system.

(B) **Minimum pipe size.** All piping within the lagoon ~~should~~ shall be at least 12 inches in diameter for facilities serving 100 P.E. or more and at least 8 inches for facilities serving less than 100 P.E. Design influent pipe for rodding. Protect all piping ~~within~~ between the lagoon cells from the entrance of turtles.

**252:656-11-4. Other lagoon construction**

(a) **Fence.** Enclose the lagoon area within a fence to discourage livestock and trespassers. Fences must have a lockable gate and not obstruct maintenance vehicles and equipment. Lagoons located within 350 feet of existing or platted residential or recreational areas shall be enclosed with a 6-foot high woven wire fence. Decorative fences around facilities located in recreational areas will be considered on a case-by-case basis.

(b) **Access.** Provide an all-weather access road to the lagoon site.

(c) **Warning signs.** Provide appropriate permanent signs along the fence around the lagoon site that designate the nature of the facility and advise against trespassing. Place at least one sign on each side of the site. The warning sign shall include the name of the owner and a contact number for the owner.

(d) **Flow measurement.** Flow measurement requirements are presented in 252:656-9-2(d). Provide effective weather protection for recording equipment.

(e) **Pond level gauges.** A pond level gauge to measure the water level in a lagoon shall be installed.

## SUBCHAPTER 13. PRELIMINARY TREATMENT STANDARDS

**252:656-13-1. Screening devices**

(a) **Required.** Screening devices are required at all mechanical treatment plants.

(b) **Bar screens.** Bar screens shall comply with the following:

(1) **Flow measurement.** Locate screening devices so that changes in backwater elevations due to intermittent cleaning of screens will not interfere with flow measuring equipment.

(2) **Size.** Clear openings between bars shall not be greater than 1 3/4 inches. Screens shall be designed to be easily raked.

(3) **Slope.** Hand-cleaned screens, except those for emergency use, shall slope 30 to 45 degrees from horizontal.

(4) **Channels.** Shape the channels before and after screens to prevent sedimentation of solids. The channel entrance to the screens must evenly distribute the flow to minimize turbulence.

(5) **Controls.** All mechanical units operated by timing devices shall have auxiliary controls to start operation at predetermined high water elevations. Automatic controls shall have a manual override.

(6) **Screenings.** Hand-cleaned screens must have ~~suitable drainage,~~ a platform with suitable drainage and ample facilities for removal, handling, storage and disposal of screenings.

~~(c) **Comminutors.** Comminutors shall be used in plants that do not have bar screens. They shall be designed as follows:~~

~~(1) **Location.** Locate comminutors downstream of any grit removal equipment.~~

~~(2) **Size.** Comminutor capacity must be adequate for peak flow.~~

~~(3) **Protection.** Install a screened channel to automatically bypass flows above design capacity. Install a 6-inch deep gravel trap to protect each comminutor that is not preceded by grit removal equipment. Provide gates to isolate the flow from the comminuting and screening units.~~

**252:656-13-2. Grit chambers**

(a) **Where required.** Grit chambers are required at all sewage treatment plants where grit is anticipated or is known to be present and ahead of pumps and other equipment that may be damaged by grit.

(b) **Housed facilities.** Introduce fresh air continuously at a rate of 12 air changes per hour, or intermittently at a rate of 30 air changes per hour. Odor control facilities may also be warranted. Provide adequate stairway access to above or below ground installations. All electrical installation in enclosed grit removal areas where hazardous gases may accumulate shall meet the requirements of the National Electrical Code.

(c) **Outside facilities.** Protect grit removal facilities located outside from freezing.

(d) **Velocity and detention.** Velocity shall be regulated to minimize organic matter deposition. Channels shall be designed for velocities of 0.8 to 1.3 fps, with a total detention ~~period~~ time of 20 seconds to one minute.

(e) **Grit washing.** Provide ~~facilities to remove grit from the chambers. Chambers without positive velocity control must have grit washing devices~~ grit washing devices to further separate organic and inorganic materials in all chambers not equipped with positive velocity control. Include provisions for draining each unit.

(f) **Grit removal.** Provide facilities for hoisting grit to ground level from equipment located in deep pits, provide access by stairways, and provide adequate ventilation and lighting.

**252:656-13-3. ~~Flow~~ Diurnal flow equalization**

(a) **General.** Provide flow equalization basins to ~~reduce dry weather~~ equalize variations in organic and hydraulic loadings where large organic or hydraulic diurnal variations of organic or hydraulic loading are expected, where peak to average is greater than 2:1. Wet weather (excess flow) basins are covered in the next rule (13-4).

(b) **Location.** Locate basins downstream of pretreatment facilities such as bar screens~~, comminutors~~ and grit chambers.

(c) **Size.** Capacity must be sufficient to reduce expected flow and load variations ~~to the extent economically feasible~~. The volume required to achieve the desired degree of equalization can be determined from a cumulative flow plot over a representative 24-hour period.

(d) **Operation.**

(1) **Mixing.** Provide ~~aeration~~ air or mechanical equipment to maintain adequate mixing. Design corner fillets and hopper bottoms with draw-offs to alleviate the accumulation of sludge and grit.

(2) **Aeration.** Aeration equipment shall be sufficient to maintain a minimum of 1.0 mg/l of dissolved oxygen in the basin at all times. Air supply rates ~~should~~ shall be at least 1.25 cfm/1,000 gallons of storage capacity. Isolate the air supply from other treatment plant aeration requirements to facilitate process aeration control.

(3) **Controls.** Equip inlets and outlets for all basin compartments with flow control devices. Provide facilities to measure and indicate liquid levels and flow rates leaving the basin(s).

**252:656-13-4. Wet weather flow equalization basins**

~~(a) **Types of basins.** The elevation of the influent sewer line at the wet weather flow equalization basin will dictate the hydraulic design of the basin.~~

~~(1) **Gravity systems.** Construction of a diversion structure with excess flow diverted to the basin is desirable. Usually it will be necessary to pump the contents of the basin back to the primary units for treatment.~~

~~(2) **Pumped systems.** Installation of control valves or dedicated pumps to handle wet weather flow is used to divert excess flow to the basin.~~

(a) **Basin type.** For gravity inlet systems, construction of a diversion structure with excess flow diverted to the basin is desirable. Design shall include a method to return contents to primary basins. For pumped systems, installation of control valves or dedicated pumps to handle wet weather flow is used to divert wet weather flow to the basin. Depending on the elevation of the basin, it may be possible to return the flow to the plant's primary units by gravity. If not, a pump return system will be necessary.

(b) **Design criteria.** The design of basins requires a thorough evaluation of flow patterns and volumes. Items to be considered are basin geometry, construction materials, storage capacity and operational controls.

(c) **Basin ~~geometry~~ layout.** ~~The available land area will dictate the layout of the basin. A minimum of two compartments are required with all flow diverted to a lined basin where solids can settle and, when full, overflow to additional basins.~~ Basins designed for storage for five million gallons or more require a minimum of two compartments designed to operate in series. All flow must be diverted to a lined basin where solids can settle and, at a predetermined elevation, overflow to additional basins. A single basin equipped with an impervious liner is acceptable where the required storage capacity is less than five million gallons. Provisions are required for returning the contents of the basins to the treatment plant and for removal of settled solids ~~are required~~.

(d) ~~**Construction materials**~~ **Basin construction.** ~~New basins must meet the lagoon standards, Subchapter 11. Provided, however, the top dike may be reduced to a 6 foot width; and single cell basins or cells receiving raw wastewater must be lined with concrete, asphalt or equivalent material below the maximum water elevation line.~~ Basin construction must be in accordance with OAC 252:656-11-3 and OAC 252:656-11-4 with the following exceptions:

(1) Top of dikes may be reduced to a width of 6 feet.

(2) Bottoms of lagoon cells shall be adequately sloped to allow drainage to waste return structure(s).

(3) For basins with two compartment, the first basin must be lined below the maximum design water elevation with concrete, asphalt, or equivalent material. Single compartment basins must be lined as above.

(e) **Storage capacity.** Design minimum storage to contain the largest seven-day wet weather period in 10 years, with the capability to be ~~timely~~ emptied in a timely manner. Actual flow data shall be used to develop flow balance or mass diagrams for determining basin capacity. ~~The~~ Base the frequency

and duration of storms ~~should be based~~ on field data and weather service records.

(f) ~~**Air**~~ **Aeration requirements.** ~~Aeration may be~~ Where oxygen is required to prevent the wastewater from becoming anaerobic~~. To maintain aerobic conditions, air requirements are~~ provide air at the rate of 1.25 to 2.0 CFM per 1,000 gallons basin volume. Where mechanical aerators are used, 7.5 horsepower per million gallons of basin capacity is required.

(g) **Pumps and flow control methods.** Controls are required to regulate flow to the basin and return flow to the plant. Adequate controls ~~and~~ with measuring devices are required to divert all flow in excess of the plant hydraulic capacity to the basin. Provisions and controls are required to return the basin contents to the plant after the wet weather event has passed and influent flow returned to normal. Return flow may be manual or automatic, but sufficient flow measurement and instrumentation devices must be included to determine the actual flow to the first treatment unit. ~~Where automatic flow return is provided, control equipment must limit the normal influent flow to the plant plus the return flow to the hydraulic capacity of the plant~~ Where basin return flow is automatic, control equipment must limit the combination of plant influent plus the basin return flow to the hydraulic capacity of the plant.

## SUBCHAPTER 15. BIOLOGICAL TREATMENT STANDARDS [REVOKED]

### 252:656-15-1. Suspended growth systems [REVOKED]

~~(a)~~ ~~**Return sludge equipment.**~~

~~(1)~~ ~~**Return rate.**~~ ~~Design all the return pumping systems for the capability to be operated at the following return rates:~~

~~(A)~~ ~~Standard Rate:~~

~~(i)~~ ~~15% minimum~~

~~(ii)~~ ~~75% maximum~~

~~(B)~~ ~~Carbonaceous Stage of Separate Stage Nitrification:~~

~~(i)~~ ~~15% minimum~~

~~(ii)~~ ~~75% maximum~~

~~(C)~~ ~~Step Aeration:~~

~~(i)~~ ~~15% minimum~~

~~(ii)~~ ~~75% maximum~~

~~(D)~~ ~~Extended Aeration:~~

~~(i)~~ ~~50% minimum~~

~~(ii)~~ ~~150maximum~~

~~(E)~~ ~~Nitrification Stage of Separate Stage Nitrification:~~

~~(i)~~ ~~50% minimum~~

~~(ii)~~ ~~200% maximum.~~

~~(2)~~ ~~**Return pumps.**~~ ~~Where multiple pumps are used, maintain the maximum return sludge requirement with the largest pump out of service. Provide a positive head on pump suctions with at least 3 inch suction and discharge openings. Air lift systems must be at least 3 inches in diameter. Further, air compressors must be of sufficient capacity to supply design air requirements plus a 25% safety factor.~~

~~(3)~~ ~~**Return piping.**~~ ~~Provide 4 inch discharge piping designed to maintain a minimum velocity of 2 fps at normal return rates. Provide mechanisms for observing, sampling and controlling return sludge flow from each settling tank.~~

~~(b)~~ ~~**Waste sludge facilities.**~~ ~~Discharge waste sludge to any one or combination of thickening tanks, primary settling tanks, digesters, vacuum filters or belt presses. Design all waste sludge control facilities to handle at least 25% of the average sewage flow and to function at rates of 0.5% of average sewage flow or a minimum of 10 gpm, whichever is larger. Provide a means for observing, measuring, sampling, and controlling the flow.~~

~~(c)~~ ~~**Measuring devices.**~~ ~~Install a means to measure flow rates of raw sewage, primary effluent, waste sludge, return sludge, and air to each tank unit.~~

~~(d)~~ ~~**Activated sludge.**~~ ~~Submit a complete design analysis to the DEQ for review. Contact stabilization is not recommended as the only secondary treatment process, but may be considered where equalization of flow is provided or where other treatment units follow.~~

~~(1)~~ ~~**Pretreatment.**~~ ~~For plants with primary settling, provide a method to discharge raw sewage directly to the aeration tanks to facilitate plant start up and operation during the initial stages of the plant's design life. If primary settling tanks are not used, provide a means to remove grit, debris, excessive oil and grease, and comminution or screening of solids ahead of the activated sludge process.~~

~~(2)~~ ~~**Design calculations.**~~ ~~Submit a comprehensive discussion of all functional design calculations used to size activated sludge treatment facilities. Include the following:~~

~~(A)~~ ~~influent wastewater characteristics,~~

~~(B)~~ ~~temperature range of wastewater,~~

~~(C)~~ ~~pretreatment of the waste,~~

~~(D)~~ ~~hydraulic and organic loading applied to the aeration basin,~~

~~(E)~~ ~~anticipated mixed liquor suspended solids level to be maintained in the aeration basin,~~

~~(F)~~ ~~aeration time,~~

~~(G)~~ ~~oxygen and mixing requirements for average and peak flows,~~

~~(H)~~ ~~recirculation and sludge wasting,~~

~~(I)~~ ~~degree of treatment anticipated and~~

~~(J)~~ ~~equation(s) used to compute treatment efficiency.~~

~~(3)~~ ~~**Aeration tanks.**~~

~~(A)~~ ~~**Capacities and permissible loadings.**~~ ~~The minimum design criteria to design activated sludge systems are listed in Appendix A, Design Tables.~~

~~(B)~~ ~~**Arrangement of aeration tanks.**~~

~~(i)~~ ~~**Tank dimensions.**~~ ~~Design each unit to:~~

~~(I)~~ ~~Maintain effective mixture and use of air.~~

~~(II)~~ ~~Prevent unaerated sections and noticeable channeling.~~

~~(III) Maintain velocities sufficient to prevent deposition of solids.~~

~~(IV) Restrict short-circuiting through the tank.~~

~~(ii) **Tank lining.** Line earthen aeration tanks with concrete, asphalt or equivalent material below the maximum water elevation. Do not use plastic liners in aeration tanks.~~

~~(iii) **Number of units.** Divide the total aeration tank volume into at least two units, capable of independent operation.~~

~~(iv) **Inlets and outlets.**~~

~~(I) **Controls.** Provide inlet and outlet devices to control flow and maintain constant water level in all aeration tanks. Design the system to allow for the maximum instantaneous hydraulic load to be carried with any single unit out of service.~~

~~(II) **Channels.** Design channels and pipes to maintain sufficient velocity of solids in suspension or provide a mechanical means to hold solids. Provide for draining each channel when it is not being used.~~

~~(v) **Freeboard.** Provide at least 18 inches of freeboard.~~

~~(C) **Aeration equipment.**~~

~~(i) **Common elements.** Aeration equipment must be capable of maintaining at least 2.0 mg/l of dissolved oxygen in the mixed liquor at all times and provide thorough mixing.~~

~~(I) **Carbonaceous BOD removal.** Where data is not available, the design oxygen requirement for the activated sludge process is 1.1 lb $O_2$/lb peak $BOD_5$ applied to the aeration tanks. For the extended aeration process, the requirement is established as 1.8 lb $O_2$/lb peak $BOD_5$.~~

~~(II) **Nitrification.** For nitrification the oxygen requirement for oxidizing ammonia must be added to the requirement for carbonaceous BOD removal. The nitrogen oxygen demand (NOD) shall be taken as 4.6 times the diurnal peak TKN content of the influent.~~

~~(ii) **Diffused air systems.**~~

~~(I) **Common elements.** Normal air requirements for all activated sludge processes, except extended aeration, is 1,500 $ft^3$/lb peak $BOD_5$ for aeration tank loading. For the extended aeration process the value is 2,000 $ft^3$/lb peak $BOD_5$ loading.~~

~~(II) **Blowers.** Design the blower system to account for temperature extremes ranging from 4EF to 104EF.~~

~~(III) **Multiple units.** Provide multiple units with enough capacity to meet the maximum air demand with the largest unit out of service. The design must also allow the volume of air delivered to be varied in proportion to the load demand of the plant.~~

~~(IV) **Diffusers.** Systems must be capable of providing the diurnal peak oxygen demand or 200% of the design average oxygen demand, whichever is larger. Design air piping systems where the total head loss from blower outlet (or silencer outlet where used) to the diffuser inlet does not exceed 0.5 psi at average operating conditions. The spacing of diffusers must be in accordance with the oxygen requirements through the length of the channel or tank, and designed to allow spacing adjustment without major revisions to the air header piping. All plants using less than four aeration tanks must be designed to incorporate removable diffusers that can be serviced and/or replaced without dewatering the tank.~~

~~(V) **Filters.** Provide all blowers with air filters.~~

~~(iii) **Mechanical aeration systems.** The design requirements of a mechanical aeration system shall meet the following:~~

~~(I) Maintain a minimum of 2.0 mg/l of dissolved oxygen in the mixed liquor at all times throughout the tank or basin;~~

~~(II) Maintain all biological solids in suspension;~~

~~(III) Meet maximum oxygen demand and maintain process performance with the largest unit out of service a minimum of two units shall be provided;~~

~~(IV) Provide for varying the amount of oxygen transferred in proportion to the load demand on the plant; and~~

~~(V) If depth of submersion is an important criteria, be adjustable or the basin levels be readily controllable with regard to depth.~~

~~(e) **Sequencing batch reactor systems.**~~

~~(1) **Pretreatment.** Provide bar screens **and/or comminutors.** Provide a grit chamber if large amounts of grit are present or anticipated in the raw sewage.~~

~~(2) **Flow equalization.** Separate flow equalization basins are required for large amounts of wet weather flow or I/I problems.~~

~~(3) **Reactor design.** Provide at least two reactors. Design each reactor to operate in a cyclic mode with sufficient time to fill, aerate, settle and remove the clarified liquid.~~

~~(A) The volume of each reactor must be between 50% and 200% of the average flow. Organic loading must be between 5 to 20 pounds of BOD per thousand cubic feet per day. Design the system using food to mass (F/M) ratios of 0.05 to 0.30. The total reactor volume must provide at least 18 hours of hydraulic detention. Size the reactor volume on the hydraulic retention time and decant volume.~~

~~(B) The design operating levels shall be 10 to 20 feet with at least two feet of freeboard.~~

~~(C) No more than four operating cycles per day per reactor at average design flow.~~

~~(D) Sludge production depends on the mode of operation. For extended aeration mode (24 hours retention time), base sludge handling design on a minimum sludge production of 0.5 lbs. per lb. of BOD removed. For conventional activated sludge mode, or for systems using more than two cycles per day, base sludge production on 0.75 to 0.95 lbs. per lb. of BOD.~~

~~(E) Base sludge storage requirements on a concentration of 8,000 mg/l with a density of 1.02 for the settled sludge. Base the calculated sludge volume on the liquid depth after decanting.~~

~~(4) **Aeration equipment.** Aeration equipment must provide at least 1.4 lbs. of oxygen per lb. of BOD removed at a residual dissolved oxygen level of 2.0 mg/l during the aeration period. Where nitrification is required, the aeration equipment shall have the capacity to provide an additional 4.6 lbs.of oxygen per lb. of ammonia nitrogen.~~

~~(5) **Decanter systems.** Design the decanter system to draw effluent from 12 to 18 inches below the surface and to prohibit floating scum from entering the system during fill and aeration periods. The design must not create currents that pull solids from the settled zone at the lowest point in the cycle. The entrance velocities into the decanter shall not exceed 1.0 fps at the maximum design flow condition.~~

~~(6) **Scum management.** Provide resuspension or removal equipment to control excessive scum build-up.~~

~~(f) **Oxidation ditches.** An oxidation ditch may take any linear shape as long as it forms a closed circuit, and does not produce any eddies or dead spots.~~

~~(1) **Pretreatment.** Bar screens **and comminutors** are required to protect the mechanical equipment. Primary settling is not necessary except for high strength waste.~~

~~(2) **Aeration basin.**~~

~~(A) The volume of the oxidation ditch must provide 18 to 24 hours retention time at average dry weather flow. Organic loading may range from 12 to 15 pounds $BOD_5$ per 1,000 $ft^3$/day.~~

~~(B) Depth must be at least 3 feet.~~

~~(C) Freeboard must be at least one foot at maximum water depths.~~

~~(D) Aeration equipment must maintain at least 1 fps velocity throughout the ditch.~~

~~(E) Construct the ditch with reinforced concrete at least 4 inches thick for ditches up to 5 feet deep, and 6 inches thick where deeper.~~

~~(F) Rotor weight must not be supported directly by gear reduction or motor equipment. Protect motors, gear reduction equipment and bearings from inundation and rotor spray.~~

~~(3) **Rotor aerators.**~~

~~(A) Install at least two complete rotor units. Design the system so a single rotor can provide the average design oxygen demand and minimum velocity of 1 fps throughout the basin.~~

~~(B) Place rotors before a long, straight ditch section.~~

~~(C) Provide a method to control rotor submergence.~~

~~(4) **Miscellaneous.**~~

~~(A) Introduce raw sewage and returned sludge immediately upstream of the rotor that is farthest from the effluent control weir.~~

~~(B) Provide elevated walkways for rotor maintenance.~~

**252:656-15-2. Attached growth systems [REVOKED]**

~~(a) **Rotating biological contactors (RBC).**~~

~~(1) **Applicability.** RBCs are suitable for removal of carbonaceous and/or nitrogenous oxygen demand.~~

~~(2) **Winter protection.** Enclose RBC units in a corrosion resistant structure to protect biological growth from cold temperatures and excessive heat loss.~~

~~(3) **Pretreatment.** Provide primary settling tanks equipped with scum and grease collecting devices. Bar screening and/or comminution alone are not suitable pretreatment.~~

~~(4) **Staging.** Provide at least four stages for secondary treatment applications, with more stages for greater nitrification and BOD removal.~~

~~(5) **Loading.**~~

~~(A) **Hydraulic.** Equalize flow where the ratio of peak flow to average flow is 2.5 or greater. For secondary treatment hydraulic loading shall be from 2 to 4 gpd/$ft^2$ and not exceed 0.75 to 2.0 gpd/$ft^2$ where nitrification is required~~

~~(B) **Organic.** First stage loading rates shall be from 2.5 to 4.0 lbs. of soluble BOD/day/1,000 $ft^2$, and 3.0 lbs. is recommended.~~

~~(6) **Tanks.** Provide at least 0.12 gal/$ft^2$ of media for RBC tanks to maintain a hydraulic load of 2 gpd/$ft^2$. Provide a side water depth of 5 feet or submerge the media at least 40%.~~

~~(7) **Structure.** Show that the structure is designed to handle the weight.~~

~~(b) **Trickling filters.** Trickling filters may only be installed to pretreat high strength waste or to add to or replace existing trickling filters. Provide sedimentation tanks with scum and grease collecting devices before the filters so the influent will be relatively free from settleable, floating, or suspended matter.~~

~~(1) **Design basis.** Filters are termed standard or high rate on the basis of hydraulic and biological loading. High rate filters may be used to pretreat wastewater before further biological treatment. High rate systems can withstand highly variable hydraulic overload conditions without significant deterioration of the biological growth. See Appendix A, Design Tables.~~

~~(2) **Hydraulics.** Sewage application shall be continuous. Provide all pump stations with a backup.~~

~~(A) **Head requirements.** For reaction type distributors, a minimum head of 24 inches above the center of the arms is required to be uniformly distributed over at least 90% of the surface area.~~

~~(B) **Clearance.** Provide at least 6 inches of clearance between the media and distributor arms.~~

~~(C) **Piping system.** Design the piping system, including dosing equipment and distributor, for the peak hourly flow rate, including recirculation.~~

~~(3) **Media.**~~

~~(A) **Quality.** All media must be resistant to spilling and flaking, and be relatively insoluble in sewage. Manufactured media must also be resistant to ultraviolet degradation, disintegration, erosion, aging, common acids and alkalies, organic compounds, and fungus and biological attack.~~

~~(B) **Depth.** Media must be 10 to 30 feet deep unless justified by a pilot study.~~

~~(4) **Underdrain system.** The underdrain system must cover the entire floor of the filter. Inlet openings into the underdrains must have an unsubmerged gross combined area at least 15 percent of the surface area of the filter~~

~~(A) **Hydraulic capacity and ventilation.** Underdrains must slope at least 1%. Design effluent channels to produce a minimum velocity of 2 fps of the average daily application rate. Design the underdrain system, effluent channels and effluent pipe to allow free air passage. Not more than 50% of the cross sectional area for all drains, channels and pipe may be submerged under the design hydraulic loading.~~

~~(B) **Flushing.** Design the underdrains to be flushed.~~

~~(5) **Freeboard.** Provide two feet of freeboard to prevent splashing and to protect the distributor. Structures taller than 25 feet shall have 4 feet of freeboard to contain windblown spray.~~

~~(6) **Recirculation.** Recirculate effluent to maintain an active biological growth and to increase overall efficiency. Provide a standby unit when dosing intervals longer than three hours would occur without recirculation.~~

### 252:656-15-3. Biological nutrient removal [REVOKED]

~~(a) **Purpose.** Processes for nutrient removal in wastewater include conversion of ammonia and organic nitrogen to nitrate nitrogen (nitrification), the conversion of nitrate nitrogen to nitrogen gas (denitrification) and removal of phosphorus.~~

~~(b) **Single stage (combined carbonaceous BOD removal and nitrification).**~~

~~(1) **Suspended growth.** The following factors will have a significant impact on the nitrification process: ammonia and nitrite concentrations, $BOD_5$/TKN ratio, dissolved oxygen concentration, temperature and pH. The following steps should be considered in the design of the suspended growth reactor and the resulting calculations submitted to the DEQ for review. If actual kinetic coefficients cannot be obtained, textbook values may be used for design.~~

~~(A) Select an appropriate safety factor to handle peak, diurnal and transient loadings (a minimum safety factor of 2.0 applied to design mean cell residence time is required).~~

~~(B) Select the mixed liquor dissolved oxygen (DO) concentration. The minimum acceptable level is 2.0 mg/l. Determine the amount of oxygen required to satisfy the nitrogenous oxygen demand. Provide a minimum of 4.6 mg $O_2$/mg N oxidized.~~

~~(C) Evaluate the requirement for pH control. Every mg/l of $NH_4$- nitrogen oxidized will result in the destruction of 7.14 mg/l alkalinity.~~

~~(D) Estimate the maximum growth rate of nitrifying bacteria under the most adverse DO, pH and temperature conditions.~~

~~(E) Determine the design mean cell residence time with the safety factor (10-day is recommended).~~

~~(F) Predict the effluent nitrogen concentration.~~

~~(G) Determine the hydraulic retention time to achieve the necessary nitrogen concentration. A 10-hour retention time is needed to compensate for lower nitrification rates when wastewater temperatures are below 50E F.~~

~~(2) **Attached-growth processes.** Typical loading data are in Appendix A, Design Tables.~~

~~(c) **Separate-stage nitrification.**~~

~~(1) **Suspended growth.** Separate-stage suspended growth nitrification processes are similar in design to the activated sludge process. Show the process factors, considering the following:~~

~~(A) Experimentally measured nitrification rates are more appropriate than theoretical rates.~~

~~(B) Nitrification rates increase as the temperature increases.~~

~~(C) Nitrification rates increase as the $BOD_5$/TKN ratio decreases.~~

~~(D) Nitrification rates are affected by pH.~~

~~(E) Nitrification rates vary from 0.05 to 0.6 lbs. $NH_4$- N oxidized per pound MLVSS.~~

~~(2) **Attached-growth.** Separate-stage attached-growth nitrification can be achieved in trickling filters or rotating biological contractor (RBC). Show the design factors, considering:~~

~~(A) Hydraulic loading **should** not exceed 0.75 GPM per $ft^2$.~~

~~(B) Influent ammonia nitrogen of 18 mg/l or less.~~

~~(C) Effects of recycling (up to 100%).~~

~~(D) Wastewater temperature.~~

~~(d) **Biological phosphorus removal.** Design proprietary processes according to the manufacturer's recommendations or recognized engineering references.~~

## SUBCHAPTER 16. BIOLOGICAL TREATMENT STANDARDS

### 252:656-16-1. Suspended growth systems

(a) **General.** Suspended growth wastewater treatment systems generally consist of one or more basins where incoming wastewater is mixed with mixed liquor suspended solids and aerated for a period of time. The mixed liquor suspended solids are then separated from the mixture where a portion

is returned to the mixing basin and the remainder diverted to other units for additional treatment before beneficial re-use by land application or landfill disposal. The liquid after separation from the solid is discharged or diverted to other units for additional treatment before discharge. Suspended growth systems covered by these standards are commonly know as the Activated Sludge process including the Sequencing Batch Reactor ("SBR") process. The activated sludge process includes several modifications. The most common is the extended aeration process which includes the oxidation ditch and SBR variations. Submit a complete design analysis for all suspended growth systems to DEQ for review. Contact stabilization is not recommended as the only secondary treatment process, but may be considered where equalization of flow is provided or where other treatment units follow.

(b) **Primary treatment.** The conventional activated sludge process shall be preceded by primary treatment in the form of a primary clarifer(s). Provide equipment necessary to adequately remove sludge as it accumulates and transport it to sludge treatment facilities.

(c) **System Design.** Submit a comprehensive discussion of all functional design calculations used to size activated sludge treatment facilities. Include the following:

(1) influent wastewater characteristics,
(2) temperature range of wastewater,
(3) primary treatment of the waste,
(4) hydraulic and organic loading applied to the aeration basin,
(5) anticipated mixed liquor suspended solids level to be maintained in the aeration basin,
(6) aeration time,
(7) oxygen and mixing requirements for average and peak flows,
(8) recirculation and sludge wasting,
(9) degree of treatment anticipated and
(10) equation(s) used to compute treatment efficiency.

(d) **Aeration basins.**

(1) **Capacities and permissible loadings.** The minimum design criteria for activated sludge systems are listed in Appendix A, Design Tables.

(2) **Arrangement of aeration basins.**

(A) **Basin dimensions.** Design each unit to:

(i) Maintain effective mixture and use of air.
(ii) Prevent unaerated sections and noticeable channeling.
(iii) Maintain velocities sufficient to prevent deposition of solids.
(iv) Restrict short-circuiting through the tank.

(B) **Basin lining.** Line earthen aeration basins with concrete, asphalt or equivalent material below the maximum water elevation. Do not use plastic liners in aeration tanks.

(C) **Number of units.** Divide the total aeration basin volume into at least two units, capable of independent operation.

(D) **Inlets and outlets.**

(i) **Controls.** Provide inlet and outlet devices to control flow and maintain constant water level in all aeration basins. Design the system to allow for the maximum instantaneous hydraulic load with any single unit out of service.
(ii) **Channels.** Design channels and pipes to maintain a velocity sufficient to hold solids in suspension or provide a mechanical means for suspending the solids. Provide for draining each channel when it is not being used.

(E) **Freeboard.** Provide at least 18 inches of freeboard.

(e) **Aeration equipment.**

(1) **Common elements.** Aeration equipment must be capable of maintaining at least 2.0 mg/l of dissolved oxygen in the mixed liquor at all times and provide thorough mixing.

(A) **Carbonaceous BOD removal.** Where data is not available, the design oxygen requirement for the activated sludge process is 1.1 lb $O_2$/lb peak $BOD_5$ applied to the aeration basins. For the extended aeration process, the requirement is 1.8 lb $O_2$/lb peak $BOD_5$.

(B) **Nitrification.** For nitrification the oxygen requirement for oxidizing ammonia must be added to the requirement for carbonaceous BOD removal. The nitrogen oxygen demand (NOD) shall be taken as 4.6 lb $O_2$/lb $NH_3$ at peak diurnal flow.

(2) **Diffused air systems.**

(A) **Common elements.** Normal air requirements for all activated sludge processes, except extended aeration, is 1,500 $ft^3$/lb peak $BOD_5$ for aeration basin loading. For the extended aeration process the value is 2,000 $ft^3$/lb peak $BOD_5$ loading.

(B) **Blowers.** Design the blower system to account for temperature extremes ranging from 4 degrees F to 104 degrees F.

(C) **Multiple units.** Provide multiple units with enough capacity to meet the maximum air demand with the largest unit out of service. The design must also allow the volume of air delivered to be varied in proportion to the load demand of the plant.

(D) **Diffusers.** Systems must be capable of providing the diurnal peak oxygen demand or 200% of the design average oxygen demand, whichever is larger. Design air piping systems where the total head loss from blower outlet (or silencer outlet where used) to the diffuser inlet does not exceed 0.5 psi at average operating conditions. The spacing of diffusers must be in accordance with the oxygen requirements through the length of the channel or basin, and designed to allow spacing adjustment without major revisions to the air header piping. All plants using less than four aeration basins must be designed to incorporate removable diffusers that can be serviced and/or replaced without dewatering the basin.

(E) **Filters.** Provide all blowers with air filters.

(3) **Mechanical aeration systems.** The design requirements of a mechanical aeration system shall meet the following:

(A) Maintain all mixed liquor suspended solids in suspension;

(B) Meet maximum oxygen demand and maintain process performance with the largest unit out of service. A minimum of two units shall be provided;

(C) Provide for varying the amount of oxygen transferred in proportion to the load demand on the plant; and

(D) If depth of submersion is an important criteria, the aerators must be adjustable or the basin liquid levels must be easily controlled with regard to depth.

(f) **Sequencing batch reactor systems.**

(1) **Reactor design.** Provide at least two reactors. Design each reactor to operate in a cyclic mode with sufficient time to fill, aerate, settle and remove the clarified liquid.

(A) The volume of each reactor must be between 50% and 200% of the average flow. Organic loading must be between 5 to 20 pounds of BOD per thousand cubic feet per day. Design the system using food to mass (F/M) ratios of 0.05 to 0.30. The total reactor volume must provide at least 18 hours of hydraulic detention time. Size the reactor volume on the hydraulic retention time and decant volume.

(B) The design operating levels shall be 10 to 20 feet with at least two feet of freeboard.

(C) Design for no more than four operating cycles per day per reactor at average design flow.

(D) Sludge production depends on the mode of operation. For extended aeration mode (24 hours retention time), base sludge handling design on a minimum sludge production of 0.5 lbs. per lb. of BOD removed. For conventional activated sludge mode, or for systems using more than two cycles per day, base sludge production on 0.75 to 0.95 lbs. per lb. of BOD.

(E) Base sludge storage requirements on a concentration of 8,000 mg/l with a density of 1.02 for the settled sludge. Base the calculated sludge volume on the liquid depth after decanting.

(2) **Aeration equipment.** Aeration equipment must provide at least 1.4 lbs. of oxygen per lb. of BOD removed at a residual dissolved oxygen level of 2.0 mg/l during the aeration period. Where nitrification is required, the aeration equipment shall have the capacity to provide an additional 4.6 lbs. of oxygen per lb. of ammonia nitrogen.

(3) **Decanter systems.** Design the decanter system to draw effluent from 12 to 18 inches below the surface and to prohibit floating scum from entering the system during fill and aeration periods. The design must not create currents that pull solids from the settled zone at the lowest point in the cycle. The entrance velocities into the decanter shall not exceed 1.0 fps at the maximum design flow condition.

(4) **Scum management.** Provide resuspension or removal equipment to control excessive scum build-up.

(g) **Oxidation ditches.** An oxidation ditch may take any linear shape as long as it forms a closed circuit, and does not produce any eddies or dead spots.

(1) **Pretreatment.** Bar screens are required to protect the mechanical equipment. Primary settling is not necessary except for high strength waste.

(2) **Aeration basin.**

(A) The volume of the oxidation ditch must provide 18 to 24 hours hydraulic detention time at average dry weather flow. Organic loading may range from 12 to 15 pounds $BOD_5$ per 1,000 $ft^3$/day.

(B) Depth must be at least 3 feet.

(C) Freeboard must be at least one foot at maximum water depths.

(D) Aeration equipment must maintain at least 1 fps velocity throughout the ditch.

(E) Construct the ditch with reinforced concrete at least 4 inches thick for ditches up to 5 feet deep, and 6 inches thick where deeper.

(F) Rotor weight must not be supported directly by gear reduction or motor equipment. Protect motors, gear reduction equipment and bearings from inundation and rotor spray.

(3) **Rotor aerators.**

(A) Install at least two complete rotor units. Design the system so a single rotor can provide the average design oxygen demand and minimum velocity of 1 fps throughout the basin.

(B) Place rotors before a long, straight ditch section.

(C) Provide a method to control rotor submergence.

(4) **Miscellaneous.**

(A) Introduce raw sewage and returned sludge immediately upstream of the rotor that is farthest from the effluent control weir.

(B) Provide elevated walkways for rotor maintenance.

(h) **Return sludge equipment.**

(1) **Return rate.** Design all return pumping systems for the capability to be operated at the following return rates:

(A) Standard Rate:

(i) 15% minimum to

(ii) 75% maximum

(B) Carbonaceous Stage of Separate Stage Nitrification:

(i) 15% minimum to

(ii) 75% maximum

(C) Step Aeration:

(i) 15% minimum to

(ii) 75% maximum

(D) Extended Aeration:

(i) 50% minimum to

(ii) 150% maximum

(E) Nitrification Stage of Separate Stage Nitrification:

(i) 50% minimum to

(ii) 200% maximum.

(2) **Return pumps.** Maintain the maximum return sludge requirement with the largest pump out of service.

Provide a positive head on all pumps' suctions under all operating conditions. Provide a minimum pump's suction and discharge opening of at least 3 inches. Air lift systems must be at least 3 inches in diameter. Further, air compressors must be of sufficient capacity to supply design air requirements plus a 25% safety factor.

(3) **Return piping.** Provide 4-inch discharge piping designed to maintain a minimum velocity of 2 fps at normal return rates. Provide mechanisms for observing, sampling and controlling return sludge flow from each clarifier.

(i) **Waste sludge facilities.** Waste sludge control facilities shall have a maximum capacity of not less than 25 percent of the average rate of sewage flow and function satisfactorily at rates of 0.5 percent of average sewage flow or a minimum of 10 gpm, whichever is larger.

(j) **Measuring devices.** Install a means to measure flow rates of raw sewage, primary effluent, waste sludge, return sludge, and air to each basin unit.

**252:656-16-2. Attached growth systems**

(a) **Rotating biological contactors (RBC).**

(1) **Winter protection.** Enclose RBC units in a corrosion resistant structure to protect biological growth from cold temperatures and excessive heat loss.

(2) **Pretreatment.** Equip primary clarifiers with scum and grease collecting devices. Bar screening and/or comminution alone are not suitable pretreatment.

(3) **Staging.** Provide at least four stages for secondary treatment applications, with more stages for greater nitrification and BOD removal.

(4) **Loading.**

(A) **Hydraulic.** Equalize flow where the ratio of peak flow to average flow is 2.5 or greater. For secondary treatment hydraulic loading shall be from 2 to 4 gpd/ft$^2$ and shall not exceed 0.75 to 2.0 gpd/ft$^2$ where nitrification is required.

(B) **Organic.** First stage loading rates shall be from 2.5 to 4.0 lbs. of soluble BOD/day/1,000 ft$^2$. 3.0 lbs. is recommended.

(5) **Tanks.** Provide at least 0.12 gal/ft$^2$ of media for RBC tanks to maintain a hydraulic load of 2 gpd/ft$^2$. Provide a side water depth of 5 feet or submerge the media at least 40%.

(b) **Trickling filters.** Trickling filters may be installed to pretreat high-strength waste only, or to add to or replace existing trickling filters. Provide sedimentation tanks with scum and grease collecting devices before filters so the influent will be relatively free from settleable, floating, or suspended matter. Design secondary clarifiers to meet the criteria of Appendix B of this chapter.

(1) **Design basis.** Filters are termed standard or high rate on the basis of hydraulic and biological loading. High rate filters may be used to pretreat wastewater before further biological treatment. High rate systems can withstand highly variable hydraulic overload conditions without significant deterioration of the biological growth. For design criteria, see Appendix A, Design Tables.

(2) **Hydraulics.** Sewage application shall be continuous. Provide all pump stations with a backup.

(A) **Head requirements.** For reaction type distributors, a minimum head of 24 inches above the center of the arms is required. Design distributors to uniformly distribute wastewater over at least 90% of the surface area.

(B) **Clearance.** Provide at least 6 inches of clearance between the media and distributor arms.

(C) **Piping system.** Design the piping system, including dosing equipment and distributor, for the peak hourly flow rate, including recirculation.

(3) **Media.**

(A) **Quality.** Plastic media or its approved equivalent shall be used. Manufactured media must also be resistant to ultraviolet degradation, disintegration, erosion, aging, common acids and alkalies, organic compounds, and fungus and biological attack.

(B) **Depth.** Media depth for standard rate filters must be 6 to 8 feet deep and, for high rate filters, from 10 to 30 feet. Depths that deviate from the above criteria must be justified by a pilot study.

(4) **Underdrain system.** The underdrain system must cover the entire floor of the filter. Inlet openings into the underdrains must have an unsubmerged gross combined area at least 15 percent of the surface area of the filter.

(A) **Hydraulic capacity and ventilation.** Underdrains must slope at least 1%. Design effluent channels to produce a minimum velocity of 2 fps of the average daily application rate. Design the underdrain system, effluent channels and effluent pipe to allow free air passage. Not more than 50% of the cross sectional area for all drains, channels and pipe may be submerged under the design hydraulic loading.

(B) **Flushing.** Design the underdrains to be flushed.

(5) **Freeboard.** Provide two feet of freeboard to prevent splashing and to protect the distributor. Structures taller than 25 feet shall have 4 feet of freeboard to contain windblown spray.

(6) **Recirculation.** Recirculate effluent to maintain an active biological growth and to increase overall efficiency.

(7) **Dosing rate.** The dosing rate on a trickling filter is the depth of liquid discharged on top of the packing for each pass of the distributor. For a standard rate filter, the dosing rate shall be in the range of 0.4 inches per pass to 1.2 inches per pass. For high rate filters, the rate shall be in the re range of 0.6 inches per pass to 7.0 inches per pass.

(c) **Whole effluent toxicity failures.** Attached growth systems may not consistently provide ammonia removal through the nitrification process so the effluent from these facilities may be toxic to aquatic life and thus cause whole effluent toxicity test failures.

**252:656-16-3. Biological nutrient removal**

(a) **Purpose.** Processes for nutrient removal in wastewater include conversion of ammonia and organic nitrogen to nitrate

nitrogen (nitrification), the conversion of nitrate nitrogen to nitrogen gas (denitrification) and removal of phosphorus.

(b) **Single stage (combined carbonaceous BOD removal and nitrification).**

(1) **Suspended growth.** The following factors will have a significant impact on the nitrification process: ammonia and nitrite concentrations, $BOD_5$/TKN ratio, dissolved oxygen concentration, temperature and pH. The following steps should be considered in the design of the suspended growth reactor and the resulting calculations submitted to DEQ for review. If actual kinetic coefficients cannot be obtained, textbook values may be used for design.

(A) Select an appropriate safety factor to handle peak, diurnal and transient loadings (a minimum safety factor of 2.0 applied to design mean cell residence time is required).

(B) Select the mixed liquor dissolved oxygen (DO) concentration. The minimum acceptable level is 2.0 mg/l. Determine the amount of oxygen required to satisfy the nitrogenous oxygen demand. Provide a minimum of 4.6 mg $O_2$/mg N oxidized.

(C) Evaluate the requirement for pH control. Every mg/l of $NH_4$-nitrogen oxidized will result in the destruction of 7.14 mg/l alkalinity.

(D) Estimate the maximum growth rate of nitrifying bacteria under the most adverse DO, pH and temperature conditions.

(E) Determine the design mean cell residence time with the safety factor (10-day is recommended).

(F) Predict the effluent nitrogen concentration.

(G) Determine the hydraulic retention time to achieve the necessary nitrogen concentration. A 10-hour retention time is needed to compensate for lower nitrification rates when wastewater temperatures are below 50 degrees F.

(2) **Attached-growth processes.** Typical loading data are in Appendix A, Design Tables.

(c) **Separate-stage nitrification.**

(1) **Suspended growth.** Separate-stage suspended growth nitrification processes are similar in design to the activated sludge process. Show the process factors, considering the following:

(A) Experimentally measured nitrification rates are more appropriate than theoretical rates.

(B) Nitrification rates increase as the temperature increases.

(C) Nitrification rates increase as the $BOD_5$/TKN ratio decreases.

(D) Nitrification rates are affected by pH.

(E) Nitrification rates vary from 0.05 to 0.6 lbs. $NH_4$-N oxidized per pound MLVSS.

(2) **Attached-growth.** Separate-stage attached-growth nitrification can be achieved in trickling filters or rotating biological contractor (RBC). Show the design factors, considering:

(A) Hydraulic loading should not exceed 0.75 GPM per $ft^2$.

(B) Influent ammonia nitrogen of 18 mg/l or less.

(C) Effects of recycling (up to 100%).

(D) Wastewater temperature.

(d) **Biological phosphorus removal.** Design proprietary processes according to the manufacturer's recommendations or recognized engineering references.

(e) **Chemical phosphorus removal.**

(1) **Preliminary testing.** Laboratory, pilot, or full scale studies of various chemical feed systems and treatment processes are recommended for existing plant facilities to determine the achievable performance level, cost-effective design criteria, and ranges of required chemical dosages.

(2) **System flexibility.** Systems shall be designed with sufficient flexibility to allow for several operational adjustments in chemical feed location, chemical feed rates, and for feeding alternate chemical compounds.

(3) **Dosage.** The design chemical dosage shall include the amount needed to react with the phosphorus in the wastewater, the amount required to drive the chemical reaction to the desired state of completion, and the amount required due to inefficiencies in mixing or dispersion. Excessive chemical dosage should be avoided.

(4) **Chemical feed points.** Selection of chemical feed points shall include consideration of the chemicals used in the process, necessary reaction times between chemical and polyelectrolyte additions, and the wastewater treatment processes and components utilized. Flexibility in feed locations shall be provided to optimize chemical usage.

(5) **Flash mixing.** Each chemical must be mixed rapidly and uniformly with the flow stream. Where separate mixing basins are provided, they should be equipped with mechanical mixing devices. The detention period should be at least 30 seconds.

(6) **Flocculation.** The particle size of the precipitate formed by chemical treatment may be very small. Consideration should be given in the process design to the addition of synthetic polyelectrolytes to aid settling. The flocculation equipment should be adjustable in order to obtain optimum floc growth, control deposition of solids, and prevent floc destruction.

(7) **Liquid-solids separation.** The velocity through pipes or conduits from flocculation basins to settling basins should not exceed 1.5 feet per second in order to minimize floc destruction. Entrance works to settling basins should also be designed to minimize floc shear.

(8) **Sludge handling.** For design of the sludge handling system, special consideration should be given to the type and volume of sludge generated in the phosphorus removal process.

(9) **Filtration.** Effluent filtration shall be considered where effluent phosphors concentrations of 1 mg/l or less must be achieved.

## SUBCHAPTER 17. CLARIFIER STANDARDS

**252:656-17-1. General considerations [REVOKED]**

~~(a) **Multiple tanks units.** All plants that serve a population equivalent of 10,000 or greater shall have multiple settling tanks designed to provide for individual operation. Single units will not be allowed if maintenance will degrade the effluent to impair the receiving stream.~~

~~(b) **Submerged surfaces.** The tops of troughs, beams, and other submerged construction features shall have a minimum slope of 1.4 vertical to 1 horizontal. The underside of such features should have a slope of 1 to 1 to prevent accumulation of scum and septic solids.~~

~~(c) **Flow distribution.** Where multiple units are proposed, suitable diversion structures shall be included to proportionally divide the flow. Provide suitable measuring devices.~~

**252:656-17-2. Clarifier design considerations**

~~(a) **Settling tank design criteria.** The maximum hydraulic overflow rate shall not exceed 1,000 gal/ft²/day at design average flows. Design settling tanks to meet the criteria of Appendix B.~~

(a) **Flow distribution.** Effective flow splitting devices and control appurtenances (i.e. gates, splitter boxes, etc.) shall be provided to permit proper proportioning of flow and solids loading to each unit, throughout the expected range of flows.

(b) **Primary clarifier design criteria.** Primary clarifiers shall be placed downstream of flow distribution devices. Surface settling rates for primary tanks shall not exceed 1,000 gal/ft²/day at design average flows or 1,500 gal/ft²/day for peak hourly flows. Peak hourly flow is based upon a 2-hour sustained peak, as defined by *Wastewater Engineering: Treatment, Disposal & Reuse*, Metcalf & Eddy, Inc. (2003). Clarifier sizing shall be calculated for both flow conditions and the larger surface area determined shall be used. Primary settling of normal domestic sewage can be expected to remove 30 to 35% of the influent BOD. However, anticipated BOD removal for sewage containing appreciable quantities of industrial wastes (or chemical additions to be used) should be determined by laboratory tests and consideration of the quantity and character of the wastes. Design settling tanks to meet the criteria of Appendix B.

(c) **Secondary clarifier design criteria.** See Table 2 (Appendix B).

(~~b~~ d) **Inlet structures.** Design inlets to prevent short-circuiting, to dissipate velocity and diffuse flow equally across the entire cross-section of the settling chamber. Design channels to maintain a velocity of at least 1 fps at one-half design flow.

(~~c~~ e) **Weirs.** Overflow weirs shall be adjustable and level.

(1) **Location.** Locate overflow weirs to optimize hydraulic retention time and minimize short-circuiting.

(2) **Design rates.** Weir loadings shall not exceed 10,000 gal/lineal foot/day for plants designed for average flows of 1.0 mgd or less. Higher weir loadings may be used for plants designed for larger average flows, but ~~should~~ shall not exceed 15,000 gal/lineal foot/day. Where the flow is pumped to the clarifier, the weir length shall be based on the average pump delivery rates to avoid short-circuiting.

(3) **Weir troughs.** Design weir troughs to prevent submergence at maximum design flow, and to maintain a velocity of at least 1 fps at one-half design flow.

(4) **Dewatering.** Provide the necessary piping and equipment to permit complete dewatering to the floor for the bypassing of individual units for maintenance and repair.

(~~4~~ 5) ~~**Wind action**~~ **Freeboard.** Walls shall extend at least 6 inches above the surrounding ground surface and provide at least 12 inches of freeboard. Provide additional freeboard or wind screens for larger ~~settling tanks~~ clarifiers subject to high velocity wind currents that would cause tank surface waves and inhibit scum removal.

## SUBCHAPTER 19. SLUDGE FACILITY STANDARDS

**252:656-19-1. Design considerations**

This Subchapter establishes design criteria for producing sludge from municipal wastewater treatment processes that will meet at least one of the processes to significantly reduce pathogens ("PSRPs") (Class B) State and Federal requirements for land application and landfilling. Sludge may ultimately be beneficially reused or disposed in a landfill. All methods of off-site and on-site sludge reuse and disposal are subject to 40 CFR Part 503 as adopted by reference in OAC 252:606, and to OAC ~~252:520~~ 252:521 if landfilled. Processes to further reduce pathogens ("PFRPs") (Class A) may be proposed and will be evaluated and approved on a case by case basis. A sludge management plan must be submitted before any construction permit for a new or upgraded wastewater treatment facility can be issued. On-site sludge dewatering facilities shall be provided for all plants although the following requirements may be reduced with on-site liquid sludge storage facilities or approved off-site sludge disposal. For calculating design sludge handling and disposal needs for sludge stabilization processes, a rational basis of design for sludge production values shall be developed and provided to the reviewing authority for approval on a case-by-case basis.

**252:656-19-1.1. Process Selection**

Equivalency processes will be approved on a case by case basis. A pilot study may be required.

**252:656-19-2. Anaerobic sludge digestion**

(a) **Tanks.**

(1) **Multiple units.** Provide dual units or alternate methods of sludge processing or emergency storage to maintain continuity of service.

(2) **Depth.** Provide a sidewater depth of at least 20 feet.

(3) **Slope.** Slope the tank bottoms towards ~~the~~ withdrawal piping. The bottom slope must be at least 1:12 for mechanical removal, or 1:4 for gravity removal.

(4) **Manholes.** Provide at least two 36-inch diameter manholes in the top of the digester in addition to the gas

dome. At least one opening must be large enough for equipment to remove grit and sand. Provide stairways to reach the access manholes.

(b) **Sludge inlets and outlets.** Provide for sludge recirculation. ~~Returns~~ Provide multiple recirculation withdrawal and return points unless mixing facilities are incorporated within the digester(s). Return flow must discharge above the liquid level near tank center. Discharge raw sludge to the digester through the sludge heater recirculation return piping unless internal mixing facilities are provided.

(c) **Tank capacity.** ~~Provide~~ Determine total tank(s) capacity by rational calculations based on such factors as volume of sludge added, its percent solids and character, the temperature to be maintained in the digesters, type of mixing provided, the degree of volatile solids reduction and pathogen reduction requirements. Submit all calculations and design assumptions for review. ~~The following design requirements are based on these assumptions: the raw sludge is from ordinary domestic wastewater; temperature in digesters units will be maintained from 68° to 131° F; 40 to 50% of volatile matter will be maintained in the digested sludge; digested sludge will be removed from the system.~~ For design purposes, use the following assumptions:

(1) The raw sludge is derived from ordinary domestic wastewater.

(2) The sludge will be maintained at between 35 deg. C to 55 deg. C (95 deg F to 131 deg F) for 15 days or at 20 deg. C (68 deg F) for 60 days).

(3) That 40 to 50% volatile matter will be maintained in the digested sludge.

~~(1)~~ (A) **Completely-mixed systems.** Provide sufficient mixing to prevent stratification and to assure homogeneity of digester content. Active digestion ~~unit systems~~ units may be loaded with volatile solids at a rate up to 80 lb/1,000 $ft^3$ tank volume/day.

~~(2)~~ (B) **Moderately-mixed systems.** For systems where mixing is accomplished only by circulating sludge ~~is circulated~~ through an external heat exchanger, the ~~unit~~ system may be loaded at a rate up to 40 lb/1,000 $ft^3$ tank volume/day. Where actual data are not available, the following unit capacities may be used for plants treating domestic sewage:

~~(A) Primary plant:~~

~~(i) 3 heated cubic feet per capita~~

~~(ii) 4 unheated cubic feet per capita~~

~~(B) Primary & standard filter plant:~~

~~(i) 4 heated cubic feet per capita~~

~~(ii) 5 unheated cubic feet per capita~~

~~(C) Primary & high rate filter plant:~~

~~(i) 4 heated cubic feet per capita~~

~~(ii) 5.5 unheated cubic feet per capita~~

~~(E) Activated sludge plant:~~

~~(i) 4 heated cubic feet per capita~~

~~(ii) 6 unheated cubic feet per capita~~

(i) Primary facility - 3 $ft^3$/PE heated or 4 $ft^3$/PE unheated

(ii) Primary and standard rate filter facility - 4 $ft^3$/PE heated or 5 $ft^3$/PE unheated

(iii) Primary and high rate filter facility - 4 $ft^3$/PE heated or 5.5 $ft^3$/PE unheated

(d) **Gas collection, piping and appurtenances.**

(1) **Gas collection and containment.** Design all portions of the gas system, including the space above the digester liquor to operate under pressure. Mechanically ventilate all areas where gas leakage might occur and separate from areas where extraneous sparks or fire might occur.

(2) **Safety equipment.** Where gas is produced, provide pressure and vacuum relief valves and flame traps, together with automatic safety shut-off valves. Water seal equipment shall not be installed. House gas safety equipment and gas compressors in a separate room with an exterior entrance.

(~~1~~ 3) **Gas piping and condensate.** Gas piping must be at least 2 inches in diameter~~, of wrought iron,~~ and shall slope to condensation traps at low points. Float-controlled condensate traps are not permitted.

(~~2~~ 4) **Gas utilization equipment.** All gas burning boilers and engines must be located at ground level and in well ventilated rooms. Gas lines to these units must have suitable flame traps.

(~~3~~ 5) **Waste gas.** Waste gas burners must have automatic ignition and be located at least 50 feet away from all digesters and suitably isolated from any other plant structure.

(~~4~~ 6) **Meter.** Provide a gas meter with ~~by-pass~~ bypass to measure total gas production.

(e) **Supernatant withdrawal.**

(1) **Piping size.** Supernatant piping must be at least 6 inches in diameter.

(2) **Withdrawal levels.** Arrange withdrawal piping to allow for at least three levels of sludge withdrawal. Provide a positive unvalved emergency overflow.

(3) **Supernatant withdrawal.** Provide at least one draw-off point that is located in the supernatant zone of the tank. On fixed-cover digesters, provide means to adjust the supernatant withdrawal level.

(4) **Sampling.** Provide a means to sample each supernatant draw-off level. Sampling pipes must be at least 1.5 inches in diameter with a quick-acting valve.

(f) **Temperature measurement.** Provide a temperature probe and recording device to continuously record digester temperature.

**252:656-19-3. Aerobic sludge digestion**

(a) **General.** ~~Provide design analysis showing factors for effective air mixing, reducing organic matter, separating supernatant and concentrating sludge under controlled conditions.~~ Aerobic digestion can be used to stabilize primary sludge, secondary sludge or a combination of the two. Multiple units are required at treatment facilities with a capacity of 10,000 P.E. or more. Small treatment plants may use a single unit if adequate provisions are made for sludge handling.

(b) **Mixing and air requirements.** Provide sufficient air to keep the solids in suspension and maintain dissolved oxygen between 1 and 2 mg/l. A minimum mixing and air requirement

of 30 ft³/min/1,000 ft³ tank volume ~~of air must be~~ shall be maintained ~~even when~~ with the largest blower ~~is~~ out of service.

(c) **Tank capacity.** Determine total tank(s) capacity by rational calculations based on such factors as volume of sludge added, sludge characteristics, time of aeration, sludge temperature and ultimate disposal methods. Submit all calculations and design assumptions for review.

(~~c~~ d) **Volatile solids loading.** Volatile suspended solids loading must not exceed 100 lb/1,000 ft³ tank volume per day.

(~~d~~ e) **Temperature recording.** Install a temperature probe and recording device to continuously record digester temperature.

(~~e~~ f) **Supernatant separation.** Provide for separation and withdrawal of supernatant and for collection and removal of scum and grease.

(1) **Supernatant withdrawal.** Design for supernatant withdrawal at least 6 inches below the liquid surface level after a minimum one-hour settling period. Return supernatant to the head of the plant.

(2) **Sampling facilities.** Provide a sampling line (at least 1.5 inches in diameter) with a quick-closing valve no more than 1 foot from the tank bottom.

(3) **Maintenance provisions.** Slope the tank bottoms toward the sludge withdrawal pipe. Minimum slope to be at least ~~3 feet~~ 1 foot vertical to ~~12~~ 4 feet horizontal.

**252:656-19-4. Sludge pumps and piping**

(a) **Sludge pumps.**

(1) **Duplicate units.** Provide ~~capability to assure that pump failure does not affect plant operation~~ duplicate units.

(2) **Minimum head.** Pumps must provide at least 24 inches of positive head.

(3) **Sampling facilities.** Provide a means to sample sludge. All sampling pipes and valves must be at least 1.5 inches.

(b) **Sludge piping.** Sludge withdrawal piping must be at least 8 inches in diameter for gravity systems and 6 inches for pump suction and discharge lines. A minimum velocity of 3.0 fps for gravity lines is required.

**252:656-19-5. Sludge dewatering**

An onsite sludge dewatering facility shall be provided at all plants and, at a minimum, shall provide the following:

(~~a~~ 1) **Sludge drying beds.**

(~~1~~ A) **Area.** Provide all design analyses for dewatering systems. ~~Minimum design requirements for landfill disposal are in Appendix A, Design Tables.~~ Where drying is the selected method for production of a PSRP sludge, provide at least 3 months holding time, 2 months of which the holding temperature must average above 0 deg. C. A temperature recording device must be installed to continuously record the ambient temperature at the plant site.

(~~2~~ B) **Media-percolation type.** ~~Provide a minimum 9-inch layer of clean coarse sand supported by a minimum 12-inch layer of gravel and crushed rock.~~

(~~A~~ i) **Gravel.** ~~Maintain lower gravel course to at least 6 inches above the top of underdrains.~~ Provide at least 12 inches of coarse gravel around the underdrains. Place the gravel in layers and extend at least 6 inches above the top of the underdrians. The top layer must consist of at least 3 inches of gravel from 1/8 to 1/4-inch in size.

(ii) **Sand.** The top course shall consist of at least 9 inches of clean coarse sand. The sand shall have an effective size of 0.3 to 1.2 and a uniformity coefficient of less than 5.0.

(~~B~~ iii) **Underdrains.** Perforated PVC sewer pipe at least 6 inches in diameter spaced not more than 10 feet apart on center must be used.

~~(C) **Truck tracks.** Provide concrete truck tracks for all percolation-type sludge beds. Pairs of tracks for the percolation-type beds should be on 20-foot centers.~~

(~~3~~ C) **Partially paved type.** Provide for the removal of dried sludge with mechanical equipment.

(~~4~~ D) **Walls.** Walls must be watertight and extend 15 to 18 inches above and at least 6 inches below the sand surface. Outer walls must extend at least 6 inches above the surrounding ground elevation.

(~~5~~ E) **Sludge removal.** A minimum of two beds must be provided in all cases. Provide concrete truck tracks for all percolation-type sludge beds. Pairs of tracks for the percolations-type beds should be on 20-foot centers.

(~~6~~ F) **Sludge influent.** Sludge piping must terminate at least 12 inches above the sand surface and be sloped for drainage. Provide a concrete splash pad at sludge discharge points. Piping must allow control flexibility to discharge sludge to any drying bed.

(~~b~~ 2) **Mechanical dewatering facilities.** Provide sufficient capacity for mechanical dewatering facilities to dewater all sludge produced with the largest unit out of service. Provide adequate storage facilities unless other standby facilities are available.

(~~1~~ A) **Ventilation.** Provide adequate ventilation for the dewatering area.

(~~2~~ B) **Chemical handling enclosures.** Enclose all lime-mixing facilities.

(~~c~~ 3) **Liquid return.** Provide for the return of all drainage from beds or filtrate from dewatering units to plant head works.

**252:656-19-5.1. Lime Stabilization**

Alkaline material may be added to liquid primary or secondary sludges for sludge stabilization in lieu of digestion facilities; to supplement existing digestions facilities; or for interim sludge handling. The design of the lime stabilization system shall account for the increased sludge quantities for storage, handling, transportation, and disposal methods and associated costs.

(1) **Operational criteria.** Sufficient alkaline material shall be added to liquid sludge in order to maintain a homogeneous mixture with a minimum pH of 12 after 2

hours of vigorous mixing. Facilities for adding supplemental alkaline material shall be provided to maintain the pH of the sludge during interim sludge storage periods.

(2) **Odor control and ventilation.** Odor control facilities shall be provided for sludge mixing and treated sludge storage tanks. Ventilation is required for indoor sludge mixing, storage and processing facilities. Provide 12 complete air changes per hour.

(3) **Tanks.** Mixing tanks may be designed to operate as either a batch or continuous flow process. The following items shall also be considered in determining the number and size of tanks:

(A) peak sludge flow rates;

(B) storage between batches;

(C) dewatering or thickening performed in tanks;

(D) repeating sludge treatment due to pH decay of stored sludge;

(E) sludge thickening prior to sludge treatment; and

(F) type of mixing device used and associated maintenance or repair requirements.

(4) **Equipment.** Mixing equipment shall be designed to provide vigorous agitation within the mixing tank, maintain solids in suspension and provide for a homogeneous mixture of the sludge solids and alkaline material. Mixing may be accomplished either by diffused air or mechanical mixers. If diffused aeration is used, an air supply of 30 cfm per 1,000 cubic feet of mixing tank volume shall be provided with the largest blower out of service. When diffusers are used, the nonclog type is recommended, and they should be designed to permit continuity of service. If mechanical mixers are used, the impellers shall be designed to minimize fouling with debris in the sludge and consideration shall be made to provide continuity of service during freezing weather conditions.

(5) **Feed and slaking equipment.** Feed and slaking equipment shall be sized to handle a minimum of 150% of the peak sludge flow rate including sludge that may need to be retreated due to pH decay.

**252:656-19-6. Stabilized sludge holding facilities**

~~Design on-site temporary sludge storage facilities to hold the sludge volume produced during a three-month period.~~

~~(1) **Vacuum filtered sludge.** Provide concrete or equivalent surfaced facilities with appropriate drainage systems to store treated sludge. Drainage systems must return supernatant or other liquids to the treatment system.~~

~~(2) **Liquid sludge.** Anaerobically digested sludge may be temporarily stored in facultative sludge lagoons. Provide sufficient mixing for uniformity of solids concentration. Construct temporary storage lagoons according to Subchapter 11 with the following exceptions: sludge depth may vary between 10 to 15 feet; the bottom and dike seal must have a 1 foot soil barrier or equivalent; organic loadings must not exceed 20 lbs volatile solids/1,000 ft$^2$ surface area/day; and provide aeration equipment to maintain a minimum of 0.5 mg/l dissolved oxygen.~~

For systems that land apply biosolids, design on-site temporary sludge storage facilities to hold the sludge volume produced during a three-month period. Except facilities permitted by the DEQ (excluding transfer stations), biosolids shall not be stored for greater than six (6) months without prior written approval from the DEQ and in no case longer than one (1) year. For dewatered sludge, provide concrete or equivalent surfaced facilities with appropriate drainage systems to store treated sludge. Drainage systems must return supernatant or other liquids to the treatment system. Sludge storage must accommodate daily sludge production volumes and function as an operational buffer for unit outage and adverse weather conditions. Designs utilizing increased sludge age in the activated sludge system as a means of storage are not acceptable. On-site storage of dewatered high pH stabilized sludge shall be limited to 30 days. Provisions for rapid retreatment or disposal of dewatered sludge stored on-site shall also be made in case of sludge pH decay.

## SUBCHAPTER 21. DISINFECTION STANDARDS

**252:656-21-1. Disinfection criteria**

(a) **Design considerations.** Disinfection may be required to meet coliform limits in the Water Quality Standards. Ultra-violet light and chlorination are the most commonly used methods for wastewater disinfection. Other disinfectants may be individually approved, such as chlorine dioxide or bromine. The standards in this section apply to all disinfection systems.

(b) **Piping.** Show the piping is appropriate and compatible for the disinfectant. Support and protect piping from temperature extremes. Steel is suitable for use with dry chlorine when the correct thickness or weight is specified. Low-pressure lines made of hard rubber, saran-lined, rubber-lined, polyethylene, polyvinyl chloride (PVC), or Uscolite materials are satisfactory for liquid chlorine. Unplasticized PVC, Type I, may be used in submerged piping if the gas pressure is low and the temperature is below 140 degrees F.

(c) **Alarms.** Provide alarms to warn of equipment failures and leaks.

(d) **Backups.** Provide standby equipment to replace the largest unit. Provide spares for all parts that may break or wear.

(e) **Chlorine and ozone mixing.**

(1) **Mixing.** Mix the disinfectant as rapidly as possible, mixing completely in three seconds or less.

(2) **Contact period.** For chlorination systems, provide a minimum contact period of 15 minutes at peak hourly wastewater flow or maximum pumping rate after mixing. For ozone, meet the equipment manufacturer's recommendations.

(3) **Contact tank.** Construct chlorine or ozone contact tanks to minimize short-circuiting. ~~Provide "over and under"~~ "Over-and-under" or "end-around" baffling shall be provided to reduce short-circuiting. Design the tanks for easy maintenance and cleaning without ~~harming the~~ reducing the effectiveness of disinfection. Provide duplicate tanks, mechanical scrapers or portable deck-level

vacuum cleaning equipment. Provide skimming devices on all contact tanks, and provide for draining the tanks. ~~Tank covers~~ Covered tanks are discouraged.

(f) **Chlorine and ozone equipment rooms.**

(1) **Separation.** If the building is used for other purposes, provide a gas-tight room to separate gas chlorination equipment, chlorine cylinders and ozone generation equipment from other parts of the building. Do not connect floor drains from the chlorine room to floor drains from other rooms. Doors to this room must open only to the outside of the building, with panic hardware, at ground level and allow easy access to all equipment. ~~Separate~~ For one (1) ton chlorine cylinders separate the storage area from the feed area. Locate chlorination equipment as close to the application point as is reasonably possible. Certify the installation will meet OSHA standards, and that the doors and emergency equipment are compatible with chlorine.

(2) **Inspection window.** Install a clear glass, gas-tight window in an exterior door or interior wall of the chlorinator or ozone generator room so the units can be viewed without entering the room.

(3) **Heating.** Heat disinfection equipment rooms to maintain at least 60 degrees F (16 degrees C). Ozone generation rooms must stay above 35 degrees F (2 degrees C). Protect from excess heat, and maintain cylinders at essentially room temperature.

(4) **Ventilation.** Provide mechanical ventilation capable of one air change per minute for chlorine, and six air changes per hour for ozone. The entrance to the room exhaust duct must be near the floor, and the point of discharge must not contaminate inhabited areas or the air inlet to any buildings. Locate fresh air inlets to provide cross ventilation with air and at a temperature that will not adversely affect the chlorination or ozone equipment. Discharge the chlorinator vent hose above-grade to the outside atmosphere.

(5) **Electrical controls.** Locate fan and light switches outside, at the room entrance. ~~Include a signal light to indicate whether the ventilation system is operating.~~ A labeled signal light indicating fan operation shall be provided at each entrance if the fan can be controlled from more than one point.

**252:656-21-2. Chlorine disinfection**

(a) **Equipment capacity.** The following guide is for sizing chlorination of domestic sewage ~~chlorination:~~. The equipment must be capable of supplying the following dosage:

(1) Trickling filter plant effluent ~~treatment -~~ 10 mg/l ~~dosage~~;

(2) Activated sludge plant effluent ~~treatment -~~ 8 mg/l ~~dosage~~;

(3) Tertiary filtration effluent - 6 mg/l ~~dosage~~;

(4) Nitrified effluent - 6 mg/l ~~dosage~~.

(b) **Water supply.** Provide an ample supply of water to operate the chlorinator, and protect it according to ~~9-2(b)~~ OAC 252:656-9-2(b). Back up any booster pumps, according to the power requirements of ~~9-2(a)~~ OAC 252:656-9-2(a).

(c) **Scales.** Provide corrosion-resistant scales to weigh chlorine gas cylinders. Provide at least a platform scale. Indicating and recording scales are recommended for large installations.

(d) **Containers.** Consider using one-ton containers if more than 150 pounds of chlorine per day is needed. Limit the withdrawal rate to 40 pounds per day per cylinder for cylinders up to 150 pounds, and to 400 pounds per day for one-ton cylinders.

(e) **Handling equipment.** For cylinders up to 150 pounds, provide securing restraints and a hand-truck designed for the cylinders. For one-ton cylinders, provide:

(1) Hoist with 4,000 lb. capacity;

(2) Cylinder lifting bar;

(3) Monorail or hoist with sufficient lifting height to pass one cylinder over another; and

(4) Cylinder trunnions to allow exchanging the cylinders for proper connection.

(f) **Manifolds.** Gaseous chlorine cylinders may be connected to a manifold, if all cylinders are maintained at the same temperature or the system is designed for gas transfer from a warm container to a cooler one. Do not connect liquid chlorine cylinders to a manifold.

(g) **Leak detection and controls.** Provide an emergency response plan for chlorine leaks. Provide a bottle of 56% ammonium hydroxide solution for detecting chlorine leaks. Where one-ton containers are used, provide a leak repair kit approved by the Chlorine Institute and include caustic soda solution reaction tanks to absorb leaks. At large chlorination installations, provide automatic gas detection and related alarm equipment. Air Pollution Control regulations may also require air scrubbing equipment.

(h) **Evaporators.** Demonstrate the required volume of chlorine can be supplied.

(i) **Respiratory protection.** Where chlorine gas is handled, provide respiratory air-pac protection equipment that meets the National Institute for Occupational Safety and Health (NIOSH) standards. Store the equipment and operating instructions at a convenient location outside the room where chlorine is used or stored. The units must use compressed air, with at least a 30-minute capacity, and be compatible with units used by the local fire department. In the emergency response plan, describe how to maintain the equipment.

(j) **Sodium hypochlorite.** Follow equipment standards in OAC 252:626.

(k) **Dechlorination.** All chlorinated effluent must be dechlorinated and discharges ~~can not exceed~~ must be less than 0.1 mg/l total residual chlorine.

(1) **Equipment.** The same type of feeding equipment used for chlorine gas may be used for sulfur dioxide gas, with minor modifications as recommended by the manufacturer. Do not chlorinate and dechlorinate with the same units. Handle aqueous solutions of sulphite or bisulfite with positive displacement pumps. Sulfur ~~dioxide feed~~ dioxide feed equipment must account for the property of the gas to easily liquefy. With one-ton containers, take special precautions to prevent chemicals from liquefying. Where necessary, provide multiple units to meet the operating requirements between the minimum and maximum

wastewater flow rates and to avoid depleting dissolved oxygen in receiving waters.

(2) **Mixing.** Show how mixing will occur. Mechanical mixers are required unless the design will provide hydraulic turbulence to assure thorough and complete mixing.

(3) **Sulfonator water supply.** Same as for chlorination systems.

(4) **Housing.** Storage and feed equipment for $SO_2$ ~~should~~ shall be in a separate room from chlorine gas storage and feed equipment. The same storage requirements apply to $SO_2$ as for chlorine gas. Mixing, storage, and feed equipment areas must be designed to contain spillage or leakage or to route it to an appropriate containment unit.

(5) **Respiratory protection.** Same as for chlorine gas.

**252:656-21-3. ~~Ultra-violet~~ Ultraviolet radiation disinfection**

(a) **Application.** ~~Suspended solids interfere with UV disinfection.~~ For best results, the effluent to be disinfected should not exceed 15 mg/l TSS. This process shall be limited to a high quality effluent having at least 65% ultraviolet radiation transmittance at 254 nanometers wave length, and BOD and suspended solids concentrations no greater than 30 mg/l at any time. System sizing for an activated sludge effluent with the preceding characteristics at the design peak hourly flow, a UV radiation dosage not less than 30,000 uWsec/cm$^2$ shall be used after adjustments for maximum tube fouling, lamp output reduction after 8,760 hours of operation, and other energy absorption losses.

(b) **Equipment design.** Follow recommendations of equipment manufacturers for specific construction, cleaning and design requirements.

(c) **Control system.** Provide the UV system with controls capable of switching banks of lamps on or off to achieve the necessary dose proportional to flow. A slave lamp operating to check wastewater ~~quality absorbence~~ effluent absorbance is ~~recommended~~ required. Include appropriate alarms, power meters, on/off indicators, elapsed time monitor, lamp output monitor, intensity, and lamp and ballast panel temperature indicators. Provide for measuring the wastewater flow through each unit for adequate disinfection.

(d) **Maintenance.** Equip reactors with a drain and the ability to isolate modules. Provide a backup reactor so that efficiency will not be impaired during either routine or emergency maintenance. Lamps and ballast must be accessible.

(e) **Safety.** Provide safety equipment for protection from UV radiation, such as proper goggles and clothing.

(f) **Reliability.** The performance of a UV reactor is dependent upon its power supply and functioning lamps; therefore a separate, backup power supply must be provided.

## SUBCHAPTER 23. SUPPLEMENTAL TREATMENT STANDARDS

**252:656-23-1. High-rate effluent filtration**

(a) **General.** Filtering lagoon effluent is not recommended. Granular media filters may be used for tertiary treatment to remove suspended solids from secondary effluents. Provide flow equalization facilities to maintain a constant filtration rate. Precede filter units with a pre-treatment process such as chemical coagulation and sedimentation or other acceptable process where:

(1) permit requirements for suspended solids ~~is~~ are less than 10 mg/l,

(2) effluent quality can be expected to fluctuate significantly, or

(3) significant amounts of algae will be present.

(b) **Filter types.** Filters may be either gravity or pressure. Provide pressure filters with convenient access to the media for treatment or cleaning. Use gravity filters where greases or similar solids are expected.

(c) **Filtration rates.** Filtration rates shall not exceed 5 gpm/ft$^2$ at the maximum hydraulic design. Provide at least two units, with the capacity to handle the maximum wastewater flow with the largest unit out of service.

(d) **Backwash.**

(1) **Backwash rate.** The backwash rate shall be adequate to fluidize and expand each media layer a minimum of 20%. The backwash system shall provide a variable backwash rate of at least 20 gpm/ft$^2$ for 10 minutes.

(2) **Backwash.** Design the backwash filter unit pumps to backwash any filter with the largest pump out of service. Backwash with filtered water and ~~treat the waste~~ return the wastewater to the headworks.

(e) **Filter media.**

(1) **Selection.** Media size will depend on the filtration rate, treatment prior to filtration, filter configuration, and effluent quality requirements.

(2) **Specifications.** Minimum media depths and media sizes [shown in brackets], with a uniformity coefficient of 1.7 or less, are:

(A) **Anthracite**

(i) Single-medium - none

(ii) Dual-media - 20 in. [1.0-2.0 mm]

(iii) Multi-media - 20 in. [1.0-2.0 mm]

(B) **Sand**

(i) Single-medium - 48 in. [1.0-4.0 mm]

(ii) Dual-media - 12 in. [0.5-1.0 mm]

(iii) Multi-media - 10 in. [0.6-0.8 mm]

(C) **Garnet or similar**

(i) Single-medium - none

(ii) Dual-media - none

(iii) Multi-media - 2 in. [0.3-0.6 mm]

(f) **Filter appurtenances.** Equip filters with:

(1) washwater troughs,

(2) surface wash or air scouring equipment,

(3) effluent rate of flow control,

(4) measurement and positive control of backwash rate,

(5) capability to measure filter head loss,

(6) positive means to shut off flow to filter during backwash and,

(7) filter influent and effluent sampling points. Provide a manual override for automatic controls and each individual valve essential to the filter operation. Design the underdrain system to uniformly distribute backwash water (and air, if provided) without clogging from solids in the backwash water. Provide for periodic chlorination of the filter influent or backwash water to control slime growths.

(g) **Reliability.** Design each filter unit for convenient access to all components and the media surface for inspection and maintenance without taking other units out of service. The need for housing filter units will depend on expected climatic conditions at the treatment plant site. Enclose all controls and equipment with heating and ventilation equipment to control humidity.

(h) **Backwash surge control.** The return rate of backwash water to treatment units shall not exceed 15% of the wastewater design daily average flow rate to the treatment units. Consider the hydraulic and organic load from waste backwash water in the overall design of the treatment plant. Surge tanks must hold at least two backwash volumes, and consider more for operational flexibility. Where backwash water is pump-returned for treatment, required pumping capacity shall be maintained with the largest unit out of service.

~~(i) **Backwash water storage.** Provide backwash water storage capacity for two complete backwash cycles.~~

~~(j) **Slow rate filtration.** Show conformance to widely recognized engineering references.~~

**252:656-23-2. Submerged rock filters**

(a) **General.** Submerged rock filters may be used to reduce total suspended solids ~~and BOD from waste stabilization~~ from lagoon effluents. An intermediate lagoon is required between aerated cells and the filter when used with aerated systems.

(b) **Rock type.** Rock media shall be five to six feet deep, and consist of durable rocks free of fine material and be relatively insoluble in sewage. Gypsum and flat rocks are not acceptable.

(c) **Rock size.** At least 90% of the rock shall be in the 3 to 6-inch range with no more than 5% smaller than 2 inches (a void ratio of about 42 to 45%).

(d) **Installation.** Installation is critical to maintain the void spaces within the rock. The engineer must specify the media be placed on a dry subgrade, without the use of heavy equipment on the media to avoid compaction.

(e) **Erosion control.** Protect the media from dike erosion before the media is installed. ~~Sod, plastic or silt fence may be used, but~~ A sod or synthetic liner (40 mil minimum) shall be used. When a sod liner is used, a 4 inch thick apron of concrete from one foot above the high water elevation to the bottom of the media is ~~recommended~~ required.

(f) **Influent.** Draw influent from 18 to 24 inches below the surface of the last lagoon and distribute it evenly over the filter.

(g) **Underdrain.** The underdrain system must withdraw filtered water uniformly across the filter bottom. The use of ~~12 inch~~ perforated pipe ~~placed 10 feet on centers is recommended~~ spaced evenly along the filter bottom is required.

(h) **Recirculation.** Provide positive recirculation of the effluent over the filter, at least five times the design average flow. Air lift low-head, high-volume pumps may be used. Draft tube aeration or any mechanical mixing devices for intra-recirculation will not be approved.

(i) **Hydraulic loading rate.** ~~Submerged rock filters operate at peak efficiency during the summer and early fall and may be loaded at 6 gallons/ft³/day or 30 gallons/ft²/day. Winter temperatures reduce biological activity and the loading rate must be reduced to not more than 3 gallons/ ft³/day or 15 gallons/ft²/day.~~ Provide two filter basins of equal size with the total filter area based on ~~the winter loading rates~~ a loading rate of 3 gallons/ $ft^3$/day. Piping must allow individual operation of the basins. Use an average design influent flow to calculate the required filter area. Control flow rates to the filter during wet weather conditions. Provide sufficient capacity to store excessive wet weather flow to prevent overloading the rock filter.

(j) **Organic loading rate.** Limit organic loading to 5.0 lbs. of $BOD_5$ per day per 1,000 cubic feet of rock media.

**252:656-23-3. Post-aeration**

(a) **General.** Most wastewater treatment processes operate satisfactorily with dissolved oxygen levels as low as 2 mg/l. Post aeration may be necessary to raise the dissolved oxygen levels to meet ~~stream standards~~ Water Quality Standards. The common methods are cascade, mechanical and diffused air.

(b) **Cascade aeration.** Cascade aeration is the most cost-effective process and may be used where site topography permits. Air is entrained into the wastewater by turbulence created as the water flows over the cascade. Head requirements will vary from three to ten feet, depending on the initial DO, temperature of the wastewater and the required DO level before discharge. The formulas used to determine the required cascade height are listed in Appendix C.

(c) **Mechanical aeration.** See Appendix C.

## SUBCHAPTER 25. WASTEWATER LAND APPLICATION SYSTEMS

**252:656-25-2. Slow rate system design**

(a) **Treatment.** Primary treatment is required. Do not land apply from the primary cell.

(b) **Loading rates.** Hydraulic loading, BOD, suspended solids, nitrogen, phosphorus and crop selection must all be considered in the process design of land applications systems. Typically loading rates of BOD and SS for municipal wastewater are far below the loading rates determined by other parameters and will not be a concern in system design.

(c) **Land area.** The total area required for a wastewater land application system includes the field area (application site), treatment and storage site (normally primary treatment lagoons and storage ponds), buffer zones and service roads.

(d) **Control.** The applicant must show they have the right to control the use of the land application site ~~(see OAC 252:648)~~ A long-term contract for a minimum of 20 years is required.

(e) **Buffer zone.** A buffer zone of at least 100 feet in width shall be provided between the land application site and adjacent property. Additional distance may be required where

prevailing winds could cause aerosols to drift into residential areas. The buffer zone shall be a part of the permitted site.

(f) **Public contact.** Chlorinate the wastewater if it is to be applied to public contact areas.

(g) **Storage.** Storage of wastewater is required for periods when available wastewater exceeds design hydraulic loading rate, and when the ground is saturated or frozen. A water balance computation is used to estimate the storage requirement. Provide water balance computations of the estimated storage needs. There must be at least 90 days of storage above that required for primary treatment. The monthly available wastewater for each month may be determined by equation (25-5) in Appendix D.

(h) **Flow measurement.** Provide for the measurement of wastewater to be land-applied. Flow measurement may be satisfied by calibration of pumps and installation of run-time meters.

## APPENDIX A. DESIGN TABLES [REVOKED]

## APPENDIX A. DESIGN TABLES [NEW]

### Rule 252:656-15-1(d)(3), Activated Sludge Aeration Basins:

| AERATION TANK CAPACITIES & PERMISSIBLE LOADINGS FOR ACTIVATED SLUDGE PROCESSES | | | |
|---|---|---|---|
| Type of Process | Aeration Retention time[a] | Aeration Basin Loading[b] | F/M Ratio |
| | (Hours) | (lb $BOD_5$ per 1,000 $ft^3$/d) | (lb $BOD_5$/lb MLSS) |
| Conventional | 6 – 8 | 30 - 40 | 0.25 - 0.50 |
| Step Aeration | 6 - 8 | 30 - 50 | 0.17 - 0.50 |
| Extended Aeration/Oxidation Ditch | 24 | 12 - 15 | 0.05 - 0.10 |

[a] Larger values for smaller plants, up to 5,000 P.E. design capacity
[b] Larger values for larger plants, over 5,000 P.E. design capacity

### Rule 252:656-15-2(b), Trickling Filter Design:

| DESIGN PARAMETERS FOR TRICKLING FILTERS | | | | |
|---|---|---|---|---|
| | Hydraulic Loading | | Organic Loading | |
| | gal/$ft^2$/day | Million gallons/acre/day | lbs $BOD_5$/1,000$ft^3$ of media/day | lbs $BOD_5$/acre-ft of media/day |
| Standard Rate | 45-90 | 2-4 | 5-12 | 218-523 |
| High Rate | 230-690 | 10-30 | 30-100 | 1300-4300 |

### Rule 252:656-15-3, Loading Rates for Attached-Growth Processes:

| TYPICAL LOADING RATES TO ACHIEVE NITRIFICATION | |
|---|---|
| Process | Loading Rate[a] |
| Trickling Filter | 10 - 6 |
| Trickling Filter - Rock Media | 6 - 3 |
| Bio-Tower Filter | 18 - 12 |
| Bio-Tower Filter – Plastic Media | 12 - 6 |
| RBC[b] | 2 - 1.3 |

[a] Loading rate : lbs $BOD_5$/1,000 $ft^3$ /day
[b] Depends on influent $NH_4$-N. The above values are for an $NH_4$-N concentration of 25 mg/l. Loading rate: gallons/$ft^2$ /day

## APPENDIX B. SETTLING TANK MINIMUM CRITERIA [REVOKED]

## APPENDIX B. SETTLING TANK MINIMUM DESIGN CRITERIA [NEW]

As used in Rule 252:656-17-2

| Treatment Process***** | Surface Overflow Rate ($gal/ft^2/day$) | | Peak Solids Loading Rate*** ($lb/day/ft^2$) |
|---|---|---|---|
| | Average Design Flow* | Peak Hourly Flow | |
| Conventional, trickling filter, step aeration, complete mix, and carbonaceous state of separate nitrification | 600 | 1,200** | 40 |
| Extended aeration and Single stage nitrification | 400 | 1,000 | 35 |
| Two-stage nitrification | 400 | 800 | 35 |
| Activated sludge with chemical addition to mixed liquor to remove Phosphorus to less than 1.0 mg/l | 400 | 900**** | 35 |

* based on influent design flow only

** plants needing to meet 20 mg/l suspended solids should reduce surface overflow rate to 1,000 $gpd/ft^2$

*** Base the clarifier peak solids loading rate on the design maximum day flow rate plus the design maximum return sludge rate requirement and the design MLSS under aeration.

**** When phosphorus removal to a concentration of less than 1.0 mg/l is required

***** All clarifiers must have a minimum side water depth of 12 feet

*[OAR Docket #06-587; filed 4-5-06]*

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 250. FEE SCHEDULE FOR CONSUMER HEALTH SERVICES

*[OAR Docket #06-561]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 3. License Classifications and Associated Fees For Consumer Health Services
310:250-3-1. [AMENDED]
310:250-3-6. [AMENDED]
**AUTHORITY:**
Oklahoma State Board of Health; 63 O.S. 2001, Section 1-106.1 and 1-1118
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**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATION BY REFERENCE:**
n/a
**ANALYSIS:**
The proposal amends Subchapter 3 of the present Fee Schedule For Consumer Health Services in order to resolve inconsistencies between OAC Chapters 250 and 256 regarding fee exempt food service establishments. With this change, Chapters 250 and 256 will both use the definition for fee exempt food service establishment as specified in OAC 310:256-1-2.

Additionally, this proposal corrects an error of omission in a previously adopted section on public bathing places. The change designates that an "I" classification means "indoor facility" and an "O" classification means "outdoor facility."
**CONTACT PERSON:**
Ted Evans, Chief, Consumer Health Services, Protective Health Services, Oklahoma State Department of Health, (405) 271-9444, ext. 57944

**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 11, 2006:**

## SUBCHAPTER 3. LICENSE CLASSIFICATIONS AND ASSOCIATED FEES FOR CONSUMER HEALTH SERVICES

**310:250-3-1. Food service establishments' permits**

(a) The following are license classifications and associated fees for food service establishments:

(1) Type 45 Class A- "Frozen Food Locker":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(2) Type 45 Class B - "Bar":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(3) Class C - "Combination Retail Food":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(4) Class E - "Health Facilities, State Prisons, Schools, (operated by non-profit institutions or government agencies) Non-Profit Institutions":
(A) Initial - Exempt
(B) Renewal - Exempt
(C) Late Renewal - Exempt

(5) Class F - "Food Service Establishment":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(6) Class G - "Food Service with Bar":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(7) Class M - "Mobile Food Service and Vendor":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(8) Class R - "Retail Food Store":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(9) Class S - "Seasonal Food Service":
(A) Non-Renewable - $100.00 for one hundred fifty (150) consecutive days only

(10) Class T - "Temporary Food Service":
(A) $25.00 up to five (5) days + $5.00 each day in excess of five (5) days

(11) Class P - "Food Processors":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(12) Class W - "Food Wholesaler":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(13) Class X - "Privately Owned Prisons":
(A) Initial - $150.00
(B) Renewal - $100.00
(C) Late Renewal - $135.00

(14) Class Y - "Salvage Food":
(A) Initial - $150.00
(B) Renewal - $100.00

(C) Late Renewal - $135.00

(15) Class Z - "Water Bottling Facilities":

(A) Initial - $150.00

(B) Renewal - $100.00

(C) Late Renewal - $135.00

(b) ~~Any class of food service establishment may be fee exempt with documentation listing that the organization is tax exempt or non-profit in either the Federal or State systems.~~An establishment qualifies for a fee exempt license if it is a "food service establishment -- fee exempt" as that term is defined in OAC 310:256-1-2.

(c) Late renewal fees apply to any renewal application postmarked and/or received thirty (30) days after the expiration date of the license.

(d) A license not renewed within ninety (90) days of the date shall be ineligible for the renewal. Thereafter, the establishment shall be required to pay an initial fee. The establishment that has not had a valid license for one (1) year is considered a new establishment.

**310:250-3-6. Public Bathing Places Licenses**

The following are license classifications and associated fees for Public Bathing Places:

(1) Type 82 Class I "Indoor Facility"

(A) Public Bathing Places License Fee - $50.00

(B) Public Bathing Places Re-inspection Fee - $250.00

(2) Type 82 Class O "Outdoor Facility"

(A) Public Bathing Places License Fee - $50.00

(B) Public Bathing Places Re-inspection Fee - $250.00

*[OAR Docket #06-561; filed 4-4-06]*

## TITLE 325. OKLAHOMA HORSE RACING COMMISSION
## CHAPTER 20. RACING OFFICIALS AND RACING PERSONNEL

*[OAR Docket #06-603]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULE:**
325:20-1-6. Racing officials appointed by the Commission [AMENDED]
**AUTHORITY:**
75 Oklahoma Statutes §§302, 305, and 307; Title 3A O.S., §204(A); Oklahoma Horse Racing Commission
**DATES:**
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**SUPERSEDED EMERGENCY ACTIONS:**
Not Applicable
**INCORPORATED BY REFERENCE:**
Not Applicable
**ANALYSIS:**
Amendment to Rule 325:20-1-6 adds qualifications for Stewards, including accreditation as an accredited Racing Official or Steward by the national accreditation program.
**CONTACT PERSON:**
Bonnie Morris, Assistant to the Administrator, Oklahoma Horse Racing Commission, Shepherd Mall, 2614 Villa Prom, Oklahoma City, OK 73107, (405) 943-6472

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2006:**

**325:20-1-6. Racing officials appointed by the Commission**

(a) The Commission shall appoint the following Racing Officials for a race meeting [3A:203.4]:

(1) Board of three (3) Stewards;

(2) Official Veterinarian;

(3) Certified Veterinarian Technician; and

(4) Horse Identifier.

(b) To qualify for appointment as a Steward, the appointee shall be an accredited Racing Official or Steward by the Stewards/Judges Accreditation Program administered by the University of Arizona and the University of Louisville, meet the experience and continuing education requirements of the program and be in good standing with all racing jurisdictions. Individuals who have participated and been accredited under the former University of Arizona or University of Louisville programs shall be regarded as qualified for appointment as Stewards.

*[OAR Docket #06-603; filed 4-7-06*

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

*[OAR Docket #06-604]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULE:**
325:30-1-13. Delivery of claimed horse to the test barn [AMENDED]
325:30-1-17. Entry of claimed horse [AMENDED]
**AUTHORITY:**
75 Oklahoma Statutes §§302, 305, and 307; Title 3A O.S., §204(A); Oklahoma Horse Racing Commission

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Not Applicable
**INCORPORATED BY REFERENCE:**
Not Applicable
**ANALYSIS:**
Amendment to Rule 325:30-1-13 avoids the potential for any wrongdoing with regard to the administration of a foreign substance to a horse and therefore affecting the ability of the Trainer to adequately ensure the condition of a horse for which the Trainer is unconditionally responsible.
Amendment to Rule 325:30-1-17 would make uniform the eligibility requirements so that a horse claimed in another state would be handled as all other claimed horses in the jurisdiction in which the horse was claimed.
**CONTACT PERSON:**
Bonnie Morris, Assistant to the Administrator, Oklahoma Horse Racing Commission, Shepherd Mall, 2614 Villa Prom, Oklahoma City, OK 73107, (405) 943-6472

**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 11, 2006:**

**325:30-1-13. Delivery of claimed horse to the test barn**

~~If the horse which has been claimed is required by the Stewards to be sent to the test barn, the original Trainer shall maintain responsibility for the condition of the horse. Said Trainer or his/her representative shall observe the testing procedure and sign the test sample tag. However, the successful claimant or his/her representative shall maintain the actual physical custody of the claimed horse.~~

(a) If a claimed horse is required to be taken to the test barn for post-race testing, the original trainer or his/her representative shall maintain physical custody of the claimed horse and shall observe the testing procedure and sign the test sample tag. The successful claimant or his/her representative shall also accompany the horse to the test barn. At such time as the horse is released from the test barn by the official veterinarian or his designee, physical custody of the horse shall be passed to the successful claimant or his/her representative. It shall be the responsibility of the successful claimant to have a representative present at the test barn to take possession of the horse at that time.

(b) Should the claimed horse require any medical treatment as a result of an injury or incident after the horse has been dispatched from the starting gate by the official starter, the cost of the medical treatment shall be the responsibility of the successful claimant.

(c) Emergency medical treatment shall only be administered at the direction of or under the supervision of the racing veterinarian, the official veterinarian, or his/her designee prior to the sample being collected. Any post-race test indicating presence of substances administered as a result of such medical treatment shall be disregarded with respect to the responsibility of the trainer who entered the horse in the claiming race.

**325:30-1-17. Entry of claimed horse**

(a) A horse claimed out of a claiming race shall be eligible to race at any racing organization within the State of Oklahoma immediately or in any other state ~~thirty (30) days after being claimed or~~ after the end of the race meeting where the claim occurred. ~~, whichever is sooner; provided that the~~ A claimed horse shall not be eligible to start in any other claiming race for a period of thirty (30) days exclusive of the day such horse was claimed for less than the price for which the horse was claimed. A claimed horse, with permission of the Stewards at that race meeting, may be allowed to participate in stakes or nomination races in other jurisdictions. A horse claimed in another racing jurisdiction is subject to the eligibility requirements for the claimed horse in effect at the time of the claim in the jurisdiction in which the horse was claimed.

(b) Any Thoroughbred horse claimed at a race meeting in Oklahoma shall not be eligible to start in a claiming race in which the claiming price is less than 25 percent more than the price at which it was claimed for a period of 30 days, exclusive of the day the horse was claimed. A claimed Thoroughbred horse shall be eligible to enter a race whenever necessary so that the horse may start on the 31st day following the claim, for any claiming price.

(c) Any Thoroughbred horse claimed at a race meeting in Oklahoma will not be eligible to start in any race, exclusive of a stakes race, at any other tracks until the end of the race meeting at which the horse was claimed. A claimed Thoroughbred horse may, however, be granted approval to compete in stakes races at other tracks during this time period if granted permission by the stewards at the track at which the horse was claimed.

*[OAR Docket #06-604; filed 4-7-06*

## TITLE 325. OKLAHOMA HORSE RACING COMMISSION
## CHAPTER 35. GENERAL CONDUCT

*[OAR Docket #06-605]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULE:**
325:35-1-34. Election of horsemen's representative organizations and agreements [AMENDED]

**AUTHORITY:**
75 Oklahoma Statutes §§302, 305, and 307; Title 3A O.S., §204(A); Oklahoma Horse Racing Commission
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**Submitted to Senate:**
November 21, 2005
**Gubernatorial approval:**
December 19, 2005
**Legislative approval:**
Failure of the Legislature to disapprove the rule resulted in approval on March 31, 2006
**Final Adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
Not Applicable
**INCORPORATED BY REFERENCE:**
Not Applicable
**ANALYSIS:**
Amendment to Rule 325:35-1-34 reflects the passage of the State-Tribal Gaming Act which includes language that the official representatives of breeds would be determined in Section 267 of the Act by which organization provided representation of the breed in CY 2003. The Act also provides for an election if more than 50% of the total participating horsemen for a single breed opt to be excluded from representation by the organization.
**CONTACT PERSON:**
Bonnie Morris, Assistant to the Administrator, Oklahoma Horse Racing Commission, Shepherd Mall, 2614 Villa Prom, Oklahoma City, OK 73107, (405) 943-6472.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2006:**

### 325:35-1-34. Election of horsemen's representative organizations and agreements

(a) The Commission of this state recognizes the necessity of horse Owners and Trainers to negotiate and to covenant with Organization Licensees as to the conditions for each race meeting, the distribution of commissions and purses not governed by statutory distribution formulae, simulcast transmission and reception, off-track wagering, all matters relating to welfare, benefits and prerogatives of the parties to the agreement, and any other matter required as a matter of law or necessity. To fulfill its duties to the public in authorizing the conduct of an uninterrupted, orderly race meeting during the licensed term of such race meetings, the Commission shall ~~acknowledge~~ recognize the ~~Horsemen's~~ Organizations ~~which are elected to represent horse Owners and Trainers of race horses as provided in this Chapter~~ elected by horsemen that was, in 2003, providing representation for participating Thoroughbred horsemen at meets restricted to Thoroughbred horses as the official representative of all Thoroughbreds participating in live race meets conducted by organization licensee. The organization elected by horsemen that was, in 2003, providing representation for the breeds participating in mixed-breed racing shall be recognized by the Commission as the official representative for all non-Thoroughbreds participating in live race meets conducted by organization licensee. In the event that more than fifty percent (50%) of the total participating horsemen for a single breed opt to be excluded from representation by the recognized organizations, the Commission may determine that an election be held among all participating horsemen of that breed(s) to designate an alternate representative organization.

(b) Such an ~~An~~ election ~~or elections~~ shall be held ~~with regard to each Organization Licensee (including fair race meetings)~~ so ~~such~~ that ~~a~~an alternate ~~Horsemen's~~ Organization can be ~~determined~~ elected to represent ~~the straight breed~~ Thoroughbred Owners and Trainers throughout the State ~~and~~ or ~~a Horsemen's Organization can be determined to represent~~ represent ~~the Owners and Trainers of horses involved in mixed breed racing~~ Quarter Horse, Paint and Appaloosa Owners and Trainers throughout the State. ~~Nothing shall prevent the same Horsemen's Organization from representing all breeds.~~

(c) The Horsemen's Organizations elected at a bona fide election shall be recognized by the Commission as the organization empowered exclusively to contract with an Organization Licensee as to all issues pertaining to the conduct of races for the breed or breeds represented. ~~with the exception of special stakes races.~~ No person shall serve as an officer or director of an acknowledged Horsemen's Organization, other than in an honorary capacity, at the same time such person serves as an officer or director of an Organization Licensee or as an officer or director of an entity which is a principal shareholder of any Organization Licensee.

(d) The procedure for the election shall be as follows:

(1) Within thirty (30) days after ~~the approval of these rules~~ the Commission determines that more than 50% of the participating Owners and Trainers represented by either of the Horsemen's Organizations have opted out of participation, any eligible bona fide Horsemen's Organization or association, hereinafter the "Horsemen's Organization," desiring to be put on the election ballot shall make that intent known, in writing, to the Commission and to each Organization Licensee. If only one bona fide Horsemen's Organization has filed for any representative position, the Commission shall declare that Horsemen's Organization as the winner and there will be no election held with regard to that position.

(2) Those persons eligible to vote in any election shall include Commission-licensed Owners, Trainers and Owner-Trainers that participated in starting a horse at ~~the immediate preceding and concluded mixed breed race meeting or fair meet at that racetrack, or in the case of a split single breed meet the last two concluded meetings at that racetrack~~ a race meeting within 365 days of the Commission's determination that an election is to be held. In the case of partnerships, corporations, syndicates or other multiple ownerships, each such entity shall have only one

vote regardless of the number of licensed Owners, partners or syndicate members making up such partnership, corporation or syndicate. However, any licensed Owners who start a horse in their own name, separate from the partnership, corporation or syndicate, shall be entitled to their own votes.

(3) Each Horsemen's Organization which files an intent to become the Horsemen's Representative shall post a deposit as determined by the Commission for each election the Horsemen's Organization chooses to enter. Any projected deficiency for each Horsemen's Organization's proportionate cost of conducting the election will be established by the Oklahoma Horse Racing Commission and must be paid by each organization before its name can appear on the ballot(s). The money must be forwarded in the form of cash, check or money order and shall be held in a special account (the "Special Account") with the Horsemen's Bookkeeper ~~at the subject~~ at a racetrack designated by the Commission to be used exclusively for administering and conducting that particular Horsemen's Representative election and will be administered by an independent party. The ballot preparation, addressing, stamping, mailing, actual counting of the ballots, certification of results, and the administration of the Special Account will be conducted by an independent party (the "Independent Party") having no interest in the outcome of the election. The Commission shall select the Independent Party to conduct the duties required under this section.

(4) All racetracks shall furnish the Racing Commission with names and addresses of each eligible Owner, Owner-Trainer and Trainer. ~~that started a horse during the immediate preceding and concluded race season. If there was no such respective race season during the previous calendar year, then all licensed Owners, Owner-Trainers and Trainers in the State of Oklahoma will be eligible to vote in that election.~~. The lists from racetracks shall be combined by the Independent Party conducting the election to prevent duplication in preparation of a single ballot for each eligible voting entity. A copy of the combined list will be provided to the Commission and to each of the bona fide organizations seeking election. Any organization seeking to challenge the validity of the list must do so within five (5) days of being provided with the list prepared by the Independent Party. Whenever possible, voting shall occur during a race meeting.

(5) Ballots shall be prepared using a form not readily susceptible to falsification with said ballots being sequentially numbered. A log shall be maintained as to the eligible Owners, Owner-Trainers and Trainers with each such eligible Owner, Owner-Trainer and Trainer being assigned a sequentially numbered ballot. ~~The ballot shall include at least one horse's name that the Owner, Owner-Trainer or Trainer started.~~ Each ballot shall require the voter to list the name of at least one horse started by that voting entity during the specified 365 day period. Only one ballot shall be issued to a person regardless of how many horses started or separate capacities held by that person. ~~If multiple ballots are enclosed in one envelope to the same person or entity, because of racing at different tracks or race meetings, then the ballots shall be printed on different colored paper and shall be sent with a cover letter which carefully explains the procedures to be followed in filling in the ballots, together with information as to each organization competing in the election including its president and executive director.~~

(6) All ballots will be mailed at the same time with the Independent Party's name and address being listed as the return address for all ballots. All ballots must be returned by mail directly to that Independent Party or they will be declared invalid.

(7) The ballots will be prepared for mailing and mailed to all eligible Owners and Trainers by a time set by the Commission after the deadline for Horsemen's Organizations to declare their intent to be put on the ballot.

(8) Twenty (20) calendar days after the date of mailing of the ballots, the ballots returned will be opened and counted. The procedure for opening and counting will be as follows: The Independent Party will open, count and tabulate the ballots. Each organization on the ballot for an election may designate a representative to be present at the opening, counting and tabulation of the ballots. The Independent Party will certify the results to the Commission. All Independent Party's costs of this procedure will be paid for from the Special Account funds.

(9) The winner of the election will be determined by majority of all eligible votes received by Independent Party by the twentieth day after mailing of ballots. In the event no Horsemen's Organization receives more than fifty percent (50%) of the eligible votes received in the election for Horsemen's Representative, then there shall be a run-off election (the "run-off") between the two Horsemen's Organizations receiving the highest number of votes. In the event of a tie in the run-off, then the run-off process will be repeated until one Horsemen's Organization receives a majority of the eligible votes received.

(10) In preparation for each run-off, the Horsemen's Organizations participating therein are each required to post an additional deposit in an amount determined by the Commission to cover the anticipated cost of that run-off ("run-off deposit"). There will be an additional run-off deposit for each run-off conducted. The run-off deposit will be placed in the Special Account and administered in a like manner by the Independent Party to cover the costs of the run-off.

(11) At the conclusion of the election(s), an accounting of the available monies on deposit will be made and all expenses of the election(s) will be paid, including reasonable reimbursement for Commission administrative expenses related directly to the election(s), if required by the Commission.

(12) If there was no run-off, then each Horsemen's Organization participating will be assessed its proportionate share of the expenses if the deposits were inadequate. If funds from the deposits are left, they will be refunded proportionately. If after a run-off there are insufficient funds to cover the expenses, then each Horsemen's Organization

is required to pay additional money into the fund to cover its proportionate share.

(13) In the event the deposits exceed the expenses after the primary and any run-offs, then the expenses of each election will be separately tabulated and the deposits will be refunded proportionately to the Horsemen's Organizations participating in each respective election.

(14) All Horsemen's Organizations duly elected shall represent their respective ~~groups~~ breed(s) until replaced by an election ~~as set forth~~ conducted in ~~Section (e) below~~ accordance with Title 3A, Section 267, and this Rule ~~by subsequent election~~.

~~(e) Subsequent elections, if petitioned, shall follow requirements of the foregoing paragraphs of this rule. Except for good cause shown, the Horsemen's Representative selected in the election shall serve for a period of 24 months beginning January 1 after the date of the election. Any contracts between licensees and Horsemen's Representatives shall run concurrent with that Horsemen's Representative's certification period as the elected representative."~~

*[OAR Docket #06-605; filed 4-7-06*

## TITLE 325. OKLAHOMA HORSE RACING COMMISSION
## CHAPTER 45. MEDICATION AND EQUINE TESTING PROCEDURES

*[OAR Docket #06-606]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULE:**
325:45-1-2. Definitions [AMENDED]
**AUTHORITY:**
75 Oklahoma Statutes §§302, 305, and 307; Title 3A O.S., §204(A); Oklahoma Horse Racing Commission
**DATES:**
**Comment Period:**
December 15, 2005 through January 22, 2006
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**Submitted to Governor:**
January 31, 2006
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**Gubernatorial approval:**
March 16, 2006
**Legislative approval:**
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**Final Adoption:**
March 31, 2006
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May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
Not Applicable
**INCORPORATED BY REFERENCE:**
Not Applicable
**ANALYSIS:**
Amendment to Rule 325:45-1-2 repeals the definition of "preponderance of the evidence" since the Oklahoma State Supreme Court has held that the use of the term is an inappropriate standard of proof.
**CONTACT PERSON:**
Bonnie Morris, Assistant to the Administrator, Oklahoma Horse Racing Commission, Shepherd Mall, 2614 Villa Prom, Oklahoma City, OK 73107, (405) 943-6472

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2006:**

### 325:45-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Act"** means the Oklahoma Horse Racing Act [3A:200 et seq.]

**"Assistant trainer"** means a person qualified and licensed by the Commission as an Assistant Trainer.

**"Authorized agent"** means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner in whose behalf the Agent will act. Said affidavit must be on file with the Commission.

**"Bleeder"** means a horse which during or following exercise or the race is observed to be shedding blood from one or both nostrils, or the mouth, or hemorrhaging in the lumen of the respiratory tract.

**"Bleeder list"** means a tabulation of all bleeders which tabulation shall be maintained by the Commission.

**"Commissioner"** means a member of the Oklahoma Horse Racing Commission.

**"Conditions of a race"** means the qualifications which determine the eligibility of a horse to be entered in a race.

**"Controlled substance"** means any substance included in the five classification schedules of the Oklahoma Uniform Controlled Dangerous Substances Act.

**"Day"** means a 24-hour period ending beginning at midnight.

**"Drug (medication)"** means a substance foreign to the normal physiology of the horse.

**"Foreign substances"** means all substances except those which exist naturally in the untreated horse at normal physiological concentration and shall include but not be limited to all narcotics, stimulants, or depressants.

**"Horse"** means:

(A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

(B) an entire equine male five years of age and older.

**"Medication"** means a substance other than food intended to affect the structure or any function of the body of a human or a horse.

**"Occupation license"** means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

**"Official Veterinarian"** means a person qualified and licensed by the Commission as Official Veterinarian.

**"Organization license"** means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

**"Owner"** means any person who holds in whole or in part, any right, title or interest in a horse or an organization licensee or any person who is a lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

~~**"Preponderance of evidence"** means greater weight of evidence, or evidence which is more credible.~~

**"Prima Facie evidence"** means evidence that, until its effect is overcome by another evidence, will suffice as proof of fact in issue.

**"Program"** means the published listing of all contests and contestants for a specific performance.

**"Race"** means a contest between horses.

**"Race day"** means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

**"Racing Veterinarian"** means a person qualified and licensed by the Commission as Racing Veterinarian.

**"Restricted area"** means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

**"Rules"** means the rules adopted by the Commission to implement the provisions of the Act.

**"Salix list"** means a tabulation of all horses which are authorized by the Official Veterinarian for race day use of Salix (furosemide).

**"Steward"** means a duly appointed Racing Official with powers and duties specified by statutes or rules.

**"Substantial evidence"** means evidence which a reasoning mind would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla of evidence but may be somewhat less than a preponderance.

**"Trainer"** means a person qualified and licensed by the Commission as a Trainer.

**"Veterinarian"** means a person licensed to practice veterinary medicine by the State of Oklahoma and licensed as a veterinarian by the Commission.

**"Week"** means a calendar week.

**"Year"** means a calendar year.

*[OAR Docket #06-606; filed 4-7-06*

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## TITLE 325. OKLAHOMA HORSE RACING COMMISSION
## CHAPTER 50. HUMAN SUBSTANCE ABUSE TESTING

*[OAR Docket #06-607]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULE:**
325:50-1-2. Definitions [AMENDED]
**AUTHORITY:**
75 Oklahoma Statutes §§302, 305, and 307; Title 3A O.S., §204(A); Oklahoma Horse Racing Commission
**DATES:**
**Comment Period:**
December 15, 2005 through January 22, 2006
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January 26, 2006
**Submitted to Governor:**
January 31, 2006
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**Gubernatorial approval:**
March 16, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rule resulted in approval on March 31, 2006
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May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
Not Applicable
**INCORPORATED BY REFERENCE:**
Not Applicable
**ANALYSIS:**
Amendment to Rule 325:50-1-2 repeals the definition of "preponderance of the evidence" since the Oklahoma State Supreme Court has held that the use of the term is an inappropriate standard of proof.
**CONTACT PERSON:**
Bonnie Morris, Assistant to the Administrator, Oklahoma Horse Racing Commission, Shepherd Mall, 2614 Villa Prom, Oklahoma City, OK 73107, (405) 943-6472

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2006:**

### 325:50-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise

**"Act"** means the Oklahoma Horse Racing Act [3A:200 et seq.]

**"Commissioner"** means a member of the Oklahoma Horse Racing Commission.

**"Controlled substance"** means any substance included in the five schedules of the Oklahoma Uniform Controlled Dangerous Substances Act.

**"Day"** means a 24-hour period ending at midnight.

**"Medication"** means any substance other than food intended to affect the structure or any function of the body of a human or a horse.

**"Month"** means a calendar month.

**"Occupation license"** means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

**"Organization license"** means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

~~**"Preponderance of evidence"** means greater weight of evidence, or evidence which is more credible.~~

**"Probable cause testing"** means a strategy for testing for controlled dangerous substances or alcohol, or any other drug, based on a Commission official's having good reason to believe that an Occupation Licensee who may affect the outcome of race results is possessing or using any controlled dangerous substance or any other drug in violation of any federal or state law. Such human substance abuse testing and the laboratories performing such tests must meet the nationally recognized standards specified in the Mandatory Guidelines for Federal Workplace Drug Testing Programs adopted by the U.S. Department of Health and Human Services.

**"Prima Facie evidence"** means evidence that, until its effect is overcome by another evidence, will suffice as proof of fact in issue.

**"Race"** means a contest between horses.

**"Race day"** means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

**"Restricted area"** means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

**"Rules"** means the rules adopted by the Commission to implement the provisions of the Act.

**"Steward"** means a duly appointed Racing Official with powers and duties specified by statutes or rules.

**"Substantial evidence"** means evidence which a reasoning mind would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla of evidence but may be somewhat less than a preponderance.

**"Week"** means a calendar week.

**"Year"** means a calendar year.

*[OAR Docket #06-607; filed 4-7-06*

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## TITLE 325. OKLAHOMA HORSE RACING COMMISSION
## CHAPTER 70. OBJECTIONS AND PROTESTS; HEARINGS AND APPEALS

*[OAR Docket #06-608]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULE:**
325:70-1-2. Definitions [AMENDED]
**AUTHORITY:**
75 Oklahoma Statutes §§302, 305, and 307; Title 3A O.S., §204(A); Oklahoma Horse Racing Commission
**DATES:**
**Comment Period:**
December 15, 2005 through January 22, 2006
**Public Hearing:**
January 23, 2006
**Adoption:**
January 26, 2006
**Submitted to Governor:**
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March 16, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rule resulted in approval on March 31, 2006
**Final Adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
Not Applicable
**INCORPORATED BY REFERENCE:**
Not Applicable
**ANALYSIS:**
Amendment to Rule 325:70-1-2 repeals the definition of "preponderance of the evidence" since the Oklahoma State Supreme Court has held that the use of the term is an inappropriate standard of proof.
**CONTACT PERSON:**
Bonnie Morris, Assistant to the Administrator, Oklahoma Horse Racing Commission, Shepherd Mall, 2614 Villa Prom, Oklahoma City, OK 73107, (405) 943-6472

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2006:**

### 325:70-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Act"** means the Oklahoma Horse Racing Act [3A:200 et seq.]

**"Authorized agent"** means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner in whose behalf the Agent will act. Said affidavit must be on file with the Commission.

**"Commissioner"** means a member of the Oklahoma Horse Racing Commission.

**"Conditions of a race"** means the qualifications which determine the eligibility of a horse to be entered in a race.

**"Day"** means a 24-hour period ending at midnight.

**"Entry"** means:

(A) A horse made eligible to run in a race.

(B) Two (2) or more horses entered in the same race which have common ties of ownership, lease, or training.

**"Foul"** means an action by any horse or Jockey that hinders or interferes with another horse or Jockey during the running of a race.

**"Horse"** means:

(A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

(B) an entire equine male five years of age and older.

**"Inquiry"** means:

(A) an investigation by the Stewards of potential interference in a contest prior to declaring the result of said contest official; or

(B) the Stewards or Commission investigation of a matter alleged to be related to the provisions of the Act or the rules of the Commission.

**"Jockey"** means a rider licensed to race.

**"Jockey Agent"** means a licensed, authorized representative of a Jockey.

**"Month"** means a calendar month.

**"Objection"** means:

(A) A written complaint made to the Stewards concerning a horse entered in a race and filed not later than two hours prior to the scheduled post time for the first race on the day which the questioned horse is entered.

(B) A verbal claim of foul in a race lodged by the horse's Jockey, Trainer, Owner, or the Owner's licensed Authorized Agent before the race is declared official.

**"Occupation license"** means a state requirement for any person acting in any capacity pursuant to the provisions of the Act.

**"Organization license"** means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the act and the rules of the Commission.

**"Owner"** means any person who holds in whole or in part, any right, title or interest in a horse or an organization licensee or any person who is a lessee of a horse and has been duly issued a currently-valid Owner~~'s~~ license as a person responsible for such horse.

**"Post time"** means the advertised time set for the arrival of the horses at the starting gate for the race.

~~**"Preponderance of evidence"** means greater weight of evidence, or evidence which is more credible.~~

**"Prima Facie evidence"** means evidence that, until its effect is overcome by another evidence, will suffice as proof of fact in issue.

**"Protest"** means a written complaint, signed by the protester, made to the Stewards within forty-eight (48) hours after the running of the race, alleging that a horse was ineligible to race, except as provided in 325:70-1-10 of these rules.

**"Race day"** means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

**"Race"** means a contest between two horses.

**"Rules"** means the rules adopted by the Commission to implement the provisions of the Act.

**"Scratch"** means the act of withdrawing an entered horse from a race after the closing of overnight entries.

**"Substantial evidence"** means evidence which a reasoning mind would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla of evidence but may be somewhat less than a preponderance.

**"Steward"** means a duly appointed Racing Official with powers and duties specified by statutes or rules.

**"Trainer"** means a person qualified and licensed by the Commission as a Trainer.

**"Week"** means a period of seven (7) days beginning at 12:01 a.m. Monday during which races are conducted.

**"Year"** means a calendar year.

*[OAR Docket #06-608; filed 4-7-06*

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

*[OAR Docket #06-490]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program

340:10-2-2. [AMENDED]

340:10-2-7. through 340:10-2-8. [AMENDED]

Subchapter 3. Conditions of Eligibility - Need

Part 1. Resources

340:10-3-5. [AMENDED]

Part 3. Income

340:10-3-32. [AMENDED]

340:10-3-40. [AMENDED]

Part 5. Assistance Payments

340:10-3-56. through 340:10-3-57. [AMENDED]

Subchapter 10. Conditions of Eligibility - Deprivation

340:10-10-3. [AMENDED]

**(Reference APA WF# 05-11 and 05-17)**

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Sections 230.50, 230.52, 230.55, 230.56, 230.60, and 230.62 through 230.66 of Title 56 of the Oklahoma Statutes; and the Personal Responsibility and Work Opportunity Act of 1996.

**DATES:**

**Comment period:**

December 15, 2005 through January 17, 2006

**Public hearing:**

None requested

**Adoption:**
January 24, 2006
**Submitted to Governor:**
January 24, 2006
**Submitted to House:**
January 24, 2006
**Submitted to Senate:**
January 24, 2006
**Gubernatorial approval:**
March 9, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2006.
**Final adoption:**
March 31, 2006
**Effective:**
June 1, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
**Superseded rules:**
Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program
340:10-2-8. [AMENDED]
**(Reference APA WF 05-11)**
**Gubernatorial approval:**
January 11, 2006
**Register publication:**
23 Ok Reg 625
**Docket number:**
06-63
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
Temporary Assistance for Needy Families (TANF) proposed rule revisions: (1) amend rules which are out of date or duplicated elsewhere in OAC 340:10; (2) change language to reflect current usage; (3) improve readability; (4) eliminate unnecessary language; (5) clarify existing rules; (6) reflect an increase in the work activity payment and the daily participant allowance reimbursement rates; and (7) clarify the computation of self-employment income.
**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 JUNE 1, 2006:**

## SUBCHAPTER 2. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) WORK PROGRAM

### 340:10-2-2. Sanction process

(a) **Applicability.** The sanction process provides for the determination of good cause and the use of penalties for individuals who refuse or fail to participate in assigned work activities.

(b) **Failure or refusal to participate.** It is the responsibility of the ~~social services specialist~~ worker to make the determination that an individual has refused or failed to participate without good cause in an assigned work activity.

(1) Refusal to participate occurs when an applicant or recipient states orally or in writing that he or she will not participate or continue to participate in work activities. Refusal also occurs when an individual's action or inaction indicates the individual, without good cause for refusing, will not participate in the program.

(2) Failure to participate in the program includes failure to:

(A) assist in the assessment and development of employability plans which includes screening for substance abuse and literacy;

(B) attend orientation, scheduled meetings, or assessments;

(C) maintain a minimum of required hours in scheduled activities;

(D) accept or maintain appropriate employment;

(E) report absences from the work activity to the ~~social services specialist~~ worker, facility coordinator, or employer; or

(F) comply with a substance abuse treatment plan.

(c) **Failure to participate without good cause.** The individual must be contacted to determine good cause. If it is determined at this contact that good cause does exist, the ~~social services specialist~~ worker assists the individual with either updating the employability plan or helping the individual resume the activity as soon as possible. If it is determined there is not good cause for failure to participate or no contact was completed, the ~~social services specialist~~ worker closes or denies the cash assistance.

(d) **Determination of good cause.** All good cause situations are temporary in nature. An individual may have good cause for refusing or failing to participate in Temporary Assistance for Needy Families (TANF) Work. The ~~social services specialist~~ worker determines whether or not good cause exists.

(e) **Procedure following denial of cash assistance.** When an application for cash assistance is denied for failure to participate in the work activity without good cause, a new application must be completed.

(f) **Procedures following termination of cash assistance.**

(1) When there has been no contact with the individual 30 days after the effective date of closure, the ~~social services specialist~~ worker makes a home visit to determine the family's circumstances and offers appropriate services, unless the ~~social services specialist's~~ worker's personal safety is in question.

(2) Individuals who agree to participate within 60 days of the date of the benefit termination may have their benefit recertified on reconsideration of the administrative action. The effective date of the recertification is dependent upon the successful participation of the individual in an assigned work activity and the circumstances of the case.

(g) **TANF hearing.** An individual who responds to a written notice of denial or termination of cash assistance as a result of failure or refusal to participate in work activities, and the matter cannot be resolved locally, is assisted in requesting a hearing before a hearing officer in accordance with OAC 340:2-5.

(h) **Grievances and appeals by employees of Work Experience Program (WEP), Work Supplementation Program (WSP), and On-the-Job Training (OJT) facilities.** Grievances may be filed by employees of facilities where TANF work participants are assigned to WEP, WSP, or OJT,

when they believe they have been harmed by the violation of one of the assurances in paragraph (1) of this subsection.

(1) WEP, WSP, or OJT assignments must not result in the filling of any established vacancy which:

(A) ~~result~~ results in the displacement of any currently employed worker or position, including partial displacement, such as a reduction in hours or non-overtime work, wages, or employment benefits;

(B) ~~impair~~ impairs existing contracts for services ~~or collective bargaining agreements~~;

(C) ~~result~~ results in the employment or assignment of a participant, or the filling of a position, when any other person is on lay-off from the same organizational unit, or when an employer has terminated any ~~regular~~ employee or otherwise reduced its work force with the effect of filling the vacancy ~~so~~ created by hiring a participant whose wages are subsidized under this program; or

(D) ~~infringe~~ infringes in any way upon promotional opportunities of any currently employed individual~~; or~~.

~~(E) result in the filling of any established unfilled position vacancy by a participant assigned.~~

(2) If an employee or authorized representative wishes to file a grievance for any of the reasons stated in paragraph (1) of this subsection, the request is submitted in writing to the attention of the county director of the county in which the alleged violation occurred. The request:

(A) contains the date of the request, the date of the alleged violation, and a description of the alleged violation including the effect on the ~~regular~~ employee~~.~~;

(B) ~~The letter~~ is signed by the ~~regular~~ employee or authorized representative; and

(C) includes the mailing address and telephone number of the person signing the ~~grievance~~ request.

(3) The ~~social services specialist~~ worker contacts the individual making the request within ten calendar days from the date of receipt of the request in the local office, and attempts to resolve the grievance on an informal basis.

(A) ~~If~~ When the grievance cannot be resolved on an informal basis within the ten calendar days, the case is referred to the county director for review and assistance in resolving the grievance.

(B) If the grievance is not resolved within ten calendar days from the date of referral to the county director, the county office notifies the employee in writing of the:

(i) point(s) still at issue in the grievance~~.~~; and

(ii) ~~The employee is advised of the~~ right to request a fair hearing within 30 calendar days of the date of this decision.

(C) The 20-day period allowed for resolution of the grievance is part of the 90-day period allowed for disposition of the appeal if the employee appeals.

**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~~ Oklahoma.

(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 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.~~

(1) **Benefits.** 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.

(2) **WEP assignments.** WEP assignments are approved for an initial period of three months.

(A) No salary is paid.

(B) 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~~3) **WEP referrals.** 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~~4) **WEP facilities.** 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. 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~~ nonprofit 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~~ on or before the completion of the three month placement.

(~~3~~5) **WEP procedures.** 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.

(A) The worker instructs the facility representative or the training supervisor regarding the purpose and use of Form TW-13, Time and Progress Report.

(B) 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.

(C) 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~~6) **Non-cooperation by WEP facility.** When information is obtained that the facility is violating the terms and conditions of Form TW-15, Form 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.

(~~5~~7) **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 letter or telephone. The worker notifies the facility by letter or by 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.

(~~6~~8) **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 subsection (f) of this 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 funds.** The intent of flexible 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 participant must ~~either be~~ otherwise be 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.

(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~~40 per month.

(2) **Participant allowances.** Allowances, up to a maximum of $~~8~~10 for each day, are made to participants in assigned work activities which are scheduled, structured, and supervised. 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~~ to document actual hours in attendance. The daily allowance paid is:

(A) $~~5~~7 each day when the work activity equals four hours or less; or

(B) $~~8~~10 each day 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 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~~ child(ren) 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) **Disability Advocacy Program (DAP).** DAP is available to assist a TANF Work participant or a ~~child~~ child(ren) receiving a TANF benefit, who has an application for disability pending with the Social Security Administration (SSA) or who the Oklahoma Department of Human Services (OKDHS) determines has a potentially meritorious claim for such benefits.

(A) 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.

(B) The evaluation of merit determines if the appropriate SSA test for disability would be met if evidence was available to prove all conditions claimed by the TANF recipient. If the evaluation of merit determines there is:

(i) sufficient evidence, the law firm 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~~ advance payment, the contracted law firm assists with the pending application for disability through an unfavorable decision by the SSA Appeals Council; or

(ii) insufficient evidence to prove conditions claimed by the TANF recipient, no further services are provided by DAP. Representation by the law firm ceases at any time the law firm determines there is insufficient evidence to support the TANF recipient's claim for disability benefits.

## SUBCHAPTER 3. CONDITIONS OF ELIGIBILITY - NEED

## PART 1. RESOURCES

### 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 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 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 a resource. Dividends which accrue and remain with the insurance company increase the amount of the resource. Dividends paid to an individual are considered as income. Assignment of the face value of a life insurance policy to fund a prepaid burial contract is not counted as a resource. In this instance, the amount of the face value of the life insurance is evaluated according to ~~the policy on burial funds~~ (C) of this paragraph or, if applicable, ~~the policy on the irrevocable burial contract~~ (D) of this paragraph.

(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 becomes effective 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 ~~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 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 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 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 ~~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 30 days. Extension beyond 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. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. 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~~ child(ren) included in a TANF benefit if it is determined by the worker the funds are to be used for educational purposes for the ~~child~~ child(ren). 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~~ child(ren)'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~~ child(ren) eligible for TANF, even if the ~~child's~~ child(ren)'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 (OAA) of 1965 amended by Public Law (P.L.) 100-175 to become the ~~Older Americans Act amendments of 1987~~ OAA as amended 2000;

(10) unearned income received by a ~~child~~ child(ren) eligible for TANF, 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~~ child(ren) is a full-time student; 7

(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~~ by Section 5515(d) of Title 42 of the United States Code (U.S.C.), 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) 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;

(25) payments made to individuals because of their status as victims of Nazi persecution;

(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~~ U.S.C.;

(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)~~ U.S.C. provided to certain individuals who are children of Vietnam War veterans.

## 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~~ determined by deducting ~~the~~ 50% of the gross income as business expenses or by using the net business profit for the most recent tax year as reported on Internal Revenue Service Form 1040, Schedule C, Profit or Loss from Business.

~~(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~~A) **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~~B) **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~~ child(ren) 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.

**340:10-3-40. 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. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. 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(s) for school expenses made available upon petition in writing from trust funds of the student;

(7) income from trusts of a ~~child~~ child(ren) included in a TANF benefit if it is determined by the worker that funds are to be used for educational purposes for the ~~child~~ child(ren). 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~~ child(ren)'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~~ child(ren) in a TANF benefit even if the ~~child's~~ child(ren)'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 (OAA) of 1965 amended by Public Law (P.L.) 100-175 to become the ~~Older Americans Act amendments of 1987~~ OAA as amended 2000. Each state and ~~eight~~ various organizations receive some Title V funds. These organizations ~~are~~ include:

(A) ~~Green Thumb~~ Experience Works;

(B) National Council on Aging;

(C) National Council of Senior Citizens;

(D) American Association of Retired Persons (AARP);

(E) United States (US) Forest Service;

(F) National Association for Spanish Speaking Elderly;

(G) National Urban League; ~~and~~

(H) National Council on Black Aging; and

(I) National Council on Indian Aging.

(10) unearned income received by a ~~child~~ child(ren) in a TANF 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~~ child(ren) 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~~ child(ren) in a TANF 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~~ by Section 5515(d) of Title 42 of the United States Code (U.S.C.) 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~~ U.S.C.;
(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 (~~U.S.C.~~)~~ 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~~ child(ren) 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 per week and earning at least 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. 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~~ child(ren) or spouse. The participant is responsible for the care of a disabled ~~child~~ child(ren) 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 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 per week in conjunction with other appropriate work activities, or outpatient treatment of nine hours or more 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~~ is regularly attending 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. A minor 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~~ needs 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~~ child(ren)'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 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 the individual 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 Oklahoma for three months or less, unless a change is necessary by reason of some change in circumstances not relating to such absence from Oklahoma.

**340:10-3-57. Special considerations**

(a) **Concurrent receipt of State Supplemental Payment (SSP) for the aged, blind, or disabled.** An individual who is not a recipient of Supplemental Security Income (SSI) has an option to be included in a Temporary Assistance for Needy Families (TANF) assistance unit or may be a recipient of SSP if all eligibility requirements are met. The individual may also be included in the TANF assistance unit pending determination of eligibility for SSP or SSI if all eligibility requirements are met.

(b) **Concurrent receipt of TANF and SSI.** An individual cannot be included in a TANF benefit for the same month he or she was included in an SSI payment. If it appears an individual included in a TANF application or an active TANF benefit might meet the eligibility conditions for TANF and SSI, the individual has a choice to have eligibility determined for TANF or SSI benefits. Individuals are informed of their responsibility to report to the Oklahoma Department of Human Services (OKDHS) if any member of the assistance unit makes application for SSI or becomes eligible for SSI. If any assistance unit member applies for TANF or is receiving TANF when the member makes an application for SSI, the member must inform the Social Security Administration (SSA).

(1) When the only dependent ~~child~~ child(ren) is receiving SSI, the natural or adoptive parent(s) or needy caretaker relative may receive TANF if all other factors of eligibility are met. The assistance unit will consist of the adult(s) only.

(2) When a TANF applicant is also an applicant for SSI, eligibility for TANF must be determined and, if eligible, is included in the benefit until notified of SSI eligibility.

(3) When a TANF recipient is an applicant for SSI, the ~~Social Security Administration (~~SSA~~)~~ advises the ~~Oklahoma Department of Human Services (~~OKDHS~~)~~ of SSI eligibility, ~~requesting~~ and requests the month of TANF termination and the amount of TANF benefits paid for each month of SSI eligibility. SSA considers a recipient removed from a TANF benefit effective with, and based on, the TANF termination date provided orally by the worker. If the actual date of termination is later than the date given orally to SSA, TANF payments to SSI recipients are TANF overpayments and must be recouped.

(4) When a TANF recipient is determined ineligible for SSI the individual may continue to be included in the TANF assistance unit if all other conditions of eligibility are met.

(5) When a TANF recipient is determined ineligible for SSI for reasons other than a disability determination the individual may be included in an SSP, if all other conditions of eligibility are met.

~~(c) **Concurrent receipt of TANF and SSI.** An individual cannot be included in a TANF benefit for the same month he or she was included in a SSI payment. The individual has a choice of which program, TANF or SSI, best meets his or her needs and, if otherwise eligible, may receive under that program. Individuals are informed of their responsibility to report to the OKDHS if any member of the assistance unit makes application for SSI or becomes eligible for SSI. Also, they must report to the SSA if any assistance unit member applies for TANF or is receiving TANF when the member makes an application for SSI.~~

(~~d~~c) **Concurrent receipt of state and tribal TANF.** An individual who is included in a tribal TANF payment cannot be included in another TANF benefit in the same month. If the individual meets the criteria of a tribal TANF service area and population, the entire household must be served by tribal TANF. If the household moves out of the tribe's service area, the worker coordinates certification of state TANF benefits.

(~~e~~d) **Concurrent receipt of more than one form of public assistance.** An individual who is included in a TANF benefit cannot be included in another TANF or SSP benefit for the same period. When a TANF applicant is eligible for TANF but has received a weekly or bi-monthly TANF benefit from another state for the same month the applicant is eligible in Oklahoma, the benefit from the other state is counted as unearned income. An individual who is the payee for a TANF benefit, but not included in that benefit, is not prevented from being a recipient of SSP if the SSP eligibility requirements are met. When transferring a TANF recipient to SSP, the removal and approval date must agree.

(~~f~~e) **Stepparent or person acting in the role of a spouse and parent(s) of a minor parent.** The natural or adoptive parent's income cannot be diverted to meet the needs of the stepparent or other dependents in the home, but is considered available to the TANF assistance unit. No income is considered if the stepparent, person acting in the role of a spouse, or parent(s) of a minor parent is an SSI recipient.

(1) **Stepparent income.** If a stepparent of the child(ren) for whom TANF is requested is living in the home with the child(ren), the verified earned and unearned income of the stepparent, after all applicable TANF income disregards and work related expenses, is computed to determine the amount considered available to the assistance unit. The stepparent's income is computed by:

(A) subtracting the work related expense, one-half of the remaining earned income, and dependent care expense from the stepparent's earned income for full-time or part-time employment; [OAC 340:10-3-33]

(B) adding the net earned income to the stepparent's unearned income;

(C) subtracting the need standard for the appropriate number of individuals, including the stepparent and dependents who are not included in the assistance unit but are living in the home and can be claimed on the stepparent's personal income taxes;

(D) subtracting the actual amounts the stepparent paid to individuals not living in the household but claimed as tax dependents. It is the stepparent's responsibility to identify and verify tax dependents;

(E) subtracting the actual payments of alimony and child support to individuals outside the household; and

(F) adding the stepparent's remaining net income to all other gross income of individuals included in the TANF assistance unit. If the income does not exceed the monthly maximum gross income, the remaining income of the stepparent is considered as a contribution to the assistance unit.

(2) **Stepparent resources.** Resources owned exclusively by the stepparent are not considered in determining the assistance unit's resource eligibility. Consideration is only given to the assistance unit's share of resources that are owned jointly with the stepparent.

(3) **Person acting in the role of a spouse.** Income must be considered available to the TANF assistance unit of any non-relative adult(s) of the opposite sex not receiving TANF who lives in the home with the natural or adoptive parent. The income of this individual(s) is computed the same as stepparent income; however, the exemption of one-half of the remainder and dependent care expense is not applicable in determining this individual's countable earned income. [OAC 340:10-3-57(f)(1)] If the parent or the person acting in the role of a spouse fails to provide information necessary to determine income eligibility, the application is denied or the cash assistance terminated.

(4) **Parent(s) of a minor parent.** When a minor parent is living in the home with his or her natural or adoptive parent(s) and the needs of the parent(s) are not included in the assistance unit, the parent's income is considered available to the assistance unit and computed the same as

stepparent income. [OAC 340:10-3-57(f)(1)] The income of a minor parent's stepparent is not considered. The parent of the minor parent may be designated as the substitute payee for the case.

(~~g~~f) **Allocating or diverting income.** When family members are not included in the assistance unit, special consideration is required in determining the income available to the assistance unit.

(1) Income received by an individual included in the assistance unit is not allocated or diverted to individuals who are not in the assistance unit. All countable unearned and earned income of the individual is considered available to the assistance unit.

(2) The net income of an alien parent excluded from the benefit because the citizenship or alienage requirement is not met is considered the same as stepparent income. The needs and income of disqualified alien siblings are not considered when determining eligibility of an otherwise eligible ~~child~~ child(ren).

(~~h~~g) **Benefit reduction as a result of program violation.** The TANF benefit is reduced by 25% of the payment standard when a determination of program violation has been made. The 25% penalty is removed the next effective date when compliance is documented or the time frame for the penalty has ended. When multiple types of program violations have occurred, a 25% penalty of the payment standard is imposed for each type of violation. If the benefit reduction causes existing income to be in excess of the benefit amount, the case is closed using the reason for the benefit reduction. The amount of the payment standard reduction applies as Food Stamp Penalty Income in the Food Stamp Program. [OAC 340:50-7-29(b)(1)] Reasons for benefit reduction are:

(1) refusal to cooperate in an effort to obtain child support; [OAC 340:10-10-5(c)]

(2) failure to apply for or provide a Social Security number;

(3) failure of a ~~child~~ child(ren) kindergarten age to 18 years of age to attend school; [OAC 340:10-13]

(4) failure to provide verification of child(ren) immunizations; and [OAC 340:10-14]

(5) intentional program violations determined as fraud by court action or an administrative disqualification hearing or administrative hearing waiver. [~~OAC 340:65-5-38(B)(C) and (D)~~ OAC 340:65-9-4]

(~~i~~h) **Parent living in the home receiving SSP.** When there is a parent living in the home but not included in the TANF benefit because of receipt of SSP and not SSI, consideration is not given to that parent's individual income for the TANF benefit. When a parent in the SSP benefit becomes ineligible to continue to receive the SSP, the parent is included in the TANF benefit and all the income and resources of the parent are considered in determining eligibility for TANF. If consideration of the parent's income and resources causes the TANF benefit to be closed, and the closure of the SSP benefit was a direct result of an overall Social Security increase, the SSP benefit is placed in Special Medical Status. If the parent is living in the home but not included in the TANF benefit because of receipt of SSP and SSI, no consideration is given to the parent's income and the parent is not included in the TANF assistance unit as long as the parent remains eligible for SSI.

(~~j~~i) **TANF eligibility when the child(ren) is placed in out-of-home care.** When the child(ren) is removed by a child protection action and it is reasonably anticipated the child(ren) will return to the home within four months, the natural or adoptive parent or needy caretaker relative continues eligible for TANF, if other conditions of eligibility are met.

(1) A team consisting of the worker, the ~~child welfare~~ Child Welfare (CW) worker, the natural or adoptive parent or needy caretaker relative, and any other appropriate partner(s) must meet to develop a mutually agreed upon plan of action. This plan addresses employability and strategies to correct the conditions which caused the child(ren) to be removed from the home.

(2) At the end of the four month period if the child(ren) has not been returned to the home, the adult(s)' needs are removed and the TANF benefits are discontinued.

(~~k~~j) **Strikers.** The assistance unit is not eligible for TANF for any month the natural or adoptive parent, whether or not included in the benefit, is participating in a strike on the last day of that month. An individual other than the natural or adoptive parent is not included in the benefit for any month if that individual is participating in a strike on the last day of the month.

## SUBCHAPTER 10. CONDITIONS OF ELIGIBILITY - DEPRIVATION

### 340:10-10-3. Unemployed parent

(a) **Applicability.** Deprivation for the child(ren) may be established when both the natural or adoptive parents are residing with the child(ren) and the parent determined to be the principal wage earner (PWE) meets the conditions to qualify as unemployed. If one of the parents is an ineligible alien, unemployment as the reason for deprivation is not precluded.

(b) **PWE.** The PWE is defined as the parent who earned the greater amount of gross income during the 24-month period ending with the month prior to the Temporary Assistance for Needy Families (TANF) application. This determination is made regardless of when the parent's relationship began or when the parent(s) began residing with the child(ren). The employment or receipt of unemployment insurance benefits of the parent not determined to be the PWE is not a factor in determining deprivation. The amount, dates, and sources of earnings used in determining which parent is the PWE must be documented. It is the assistance unit's responsibility to provide the documentation to the best of the assistance unit's ability. Acceptable documentation includes ~~DHS~~ Oklahoma Department of Human Services (OKDHS) case records, employer(s) contact, wage stubs for the 24-month period, Income Eligibility Verification System (IEVS), Oklahoma Wage Link (OWL), Oklahoma Wage (OWG) and, if self employed, gross and net earnings from tax returns or business records. The assistance unit must be involved in determining which parent is the PWE. ~~Documentation must be recorded in the case record~~

~~as to which parent was determined to be the PWE and the circumstances used in that determination.~~

(1) If both parents earned an identical amount of income in the 24-month period, the PWE is the parent who earned the greater amount of income in the last six months of the 24-month period.

(2) If the income in the six-month period is identical, either parent may be designated the PWE. The designation must be the one most advantageous to the assistance unit.

(3) The designation of the PWE is permanent and remains effective as long as the deprivation remains unemployment and the assistance unit remains eligible for and continues to receive TANF benefits. If the TANF case is closed and a new application is filed at a later date, the PWE must be redetermined.

(c) **Conditions the PWE must meet prior to certification.** The PWE must meet the conditions described in (1) - (3) of this subsection for deprivation to be established.

(1) **TANF Work requirements.** The PWE's activities and responsibilities must allow the PWE to be available for TANF Work activities and the PWE must comply with these requirements. If the PWE is determined to be unavailable or if the PWE does not comply with TANF Work requirements, the application is denied.

(2) **Qualifications as unemployed.** For the PWE to be considered unemployed, the PWE must not be employed, or if the PWE is employed, the countable net earnings plus any other countable income must be less than the payment standard for the family size. The PWE must meet the definition of unemployed during the application process and prior to the date of certification.

(A) **Specific period of unemployment.** To qualify as not employed, the PWE must be unemployed for 30 days prior to the receipt of TANF benefits. The assistance unit is eligible for assistance beginning the 31st day if all other eligibility requirements are met.

(B) **Refusal of employment.** The PWE cannot have refused a bona fide offer of employment or terminated employment, without good cause, within the 30 days prior to the receipt of TANF benefits. Before it is determined that the PWE has refused a bona fide offer without good cause, a determination is made that such an offer was actually made. For the offers made through public employment agencies, the determination is made by that agency. The PWE is given the opportunity to explain why the offer was not accepted. A bona fide offer is an offer of employment made directly by an employer to the PWE. An offer of employment by the employer must be substantiated in a written or oral statement to ~~the Department~~ OKDHS that on a specified time and date, the PWE was offered a job of a specified nature and at a specified wage. Acceptable reasons for good cause are:

(i) wages were less than minimum wage requirement or less than customary for the community;

(ii) employment was available because of a strike, lockout, or other labor dispute;

(iii) the PWE was unqualified or physically unable to perform such work;

(iv) the work involved risk to health or safety; or

(v) lack of worker's compensation protection.

(3) **Work history requirement.** The PWE must have a verified work history. Undocumented employment cannot be used to establish quarters of work. The work history exists when the PWE meets one of the conditions in (A) ~~-~~through (C) of this paragraph.

(A) The PWE was employed for six or more calendar-quarters within a 13 consecutive calendar-quarter period. The 13 consecutive calendar-quarter period must end within 12 months prior to the TANF application date. Calendar-quarter means a period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31. To be considered employed, the PWE must have received gross earnings of at least $50 in a calendar-quarter or earned the minimum amount required for a covered quarter as defined by the Social Security Administration (SSA). The SSA states an individual qualifies for a quarter of coverage for any quarter that the individual earns a designated amount for that calendar year. An individual can have earnings in one quarter to qualify for a full year's coverage.

(B) The PWE is receiving or has received Unemployment Insurance Benefits (UIB) within the 12 calendar months prior to the TANF application date. If the PWE has a pending UIB application, the work history determination is delayed until the UIB determination is made.

(C) The PWE would have qualified for UIB for one week or more during the 12 calendar month period prior to the TANF application date had the PWE made application for UIB based on earned wages, both covered and uncovered. Covered employment generally includes employment in construction, plants, stores, restaurants, offices, or other places of business which employ one or more persons. Uncovered employment generally includes employment from farm labor, odd jobs, and non-profit organizations.

(i) A PWE who had sufficient earnings to meet the UIB earnings requirement is deemed eligible for UIB even though all or a portion of the PWE's earnings were from uncovered employment. To be eligible or deemed eligible for UIB, the PWE must have earned at least the qualifying wages during the base period. The base period consists of the first four of the last five completed quarters immediately preceding the quarter of the UIB application.

(ii) The earnings must be in more than one quarter. The quarter with the highest earnings is the "high quarter." The total gross earnings of the remaining three quarters must equal at least one-half of the "high quarter" earnings. If the

earnings do not meet this test, the PWE is ineligible for UIB.

(iii) If the PWE earned an amount equal to the total taxable ~~wages~~ wage base in one quarter of the base period, the PWE is ~~"~~deemed~~"~~ eligible for UIB based on that quarter alone.

(d) **UIB eligibility.** The PWE is required to apply for and accept UIB which the PWE is eligible or potentially eligible to receive. Thirty days are allowed for verification of a UIB application to be furnished. Ineligible aliens are not required to apply for UIB.

(e) **Ineligible alien status.** If the PWE is an ineligible alien, the PWE's needs are not included in the assistance unit. The PWE is not required to participate in TANF Work activities but the PWE's spouse or other parent included in the assistance unit is required to participate in TANF Work activities unless otherwise exempt.

(f) **Striker status.** The assistance unit is not eligible for TANF for any month in which the natural or adoptive parent is participating in a strike on the last day of the month.

(g) **Changes after certification.** After initial eligibility the two-parent family must meet the conditions listed in (1) and (2) of this subsection.

(1) Both parents must participate in TANF Work related activities. Failure of either parent to participate without good cause for the required number of hours will result in closure of the case.

(2) If the household's countable earned income plus any other income exceeds the payment standard for the family size, the case is closed. Continued medical benefits are authorized for the assistance unit if all other factors of eligibility are met.

*[OAR Docket #06-490; filed 3-31-06]*

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

*[OAR Docket #06-491]*

**RULEMAKING ACTION:**
PERMANENT final adoption

**RULES:**
Appendix B. Declaration of Income Eligibility [REVOKED]
Appendix C. Authorization/Agreement/Claim Form [REVOKED]
Appendix F. Benefit Levels (Unsubsidized) [REVOKED]
**(Reference APA WF# 05-13)**

**AUTHORITY:**
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; The Low Income Home Energy Assistance Act; Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, as amended; 45 CFR Section 96.85(a) of Title 45 of the Code of Federal Regulations.

**DATES:**
**Comment period:**
December 15, 2005 through January 17, 2006
**Public hearing:**
None requested
**Adoption:**
January 24, 2006
**Submitted to Governor:**
January 24, 2006
**Submitted to House:**
January 24, 2006
**Submitted to Senate:**
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March 9, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2006.
**Final adoption:**
March 31, 2006
**Effective:**
May 11, 2006

**SUPERSEDED EMERGENCY ACTIONS:**
n/a

**INCORPORATIONS BY REFERENCE:**
n/a

**ANALYSIS:**
Revocation of Chapter 20 appendices is proposed as they are obsolete.

**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 11, 2006:**

## APPENDIX B. DECLARATION OF INCOME ELIGIBILITY [REVOKED]

STATE OF OKLAHOMA
DEPARTMENT OF HUMAN SERVICES

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
DECLARATION OF INCOME ELIGIBILITY

Case Name_____

Case Number_____

The size of my household is_____.

Verification of my income is not available and my total monthly household income is $_____.

I have been informed that any person who knowingly, willfully and fraudulently provides false information for the purpose of obtaining benefits which he is ineligible to receive may be subject to prosecution to the fullest extent of the appropriate state or federal statute.

_____ (Signature)

_____ (Date)

Purpose of Form

This form is to be completed by the applicant only when verification of the household's gross income is not available from any other source.

Instructions for Preparation of Form

This form is prepared in duplicate.

Case Name. Enter applicant's name as shown on Form LIHEAP-1.

Case Number. Enter case number.

Complete blanks for the household's total monthly income and size of household.

The applicant signs and dates the form.

Routing of Form

The original form is filed in the case record and a copy is given to the applicant.

## APPENDIX C. AUTHORIZATION/AGREEMENT/CLAIM FORM [REVOKED]

**Oklahoma Department of Human Services**
**FUEL SUPPLIER AUTHORIZATION AGREEMENT/CLAIM FORM**

**A. AUTHORIZATION** This is to authorize you to provide delivery/service of up to but not to exceed the amount of $ to the individual whose case name appears above, subject to the terms of this agreement **including terms listed on the back of this form.**

**CLAIM:**
Fuel supplier must complete, notarize and return to DHS office named above, within 21 days of the date of this authorization. If it is not returned within the specified time, this authorization becomes void. **You may only claim for fuel already delivered. Late charges and interest will not be paid unless owed by client at time of LIHEAP benefit approval.**

**If you have more than one delivery to claim for this client, please complete the reverse side of this form. The totals of the multiple deliveries would then be entered under "CLAIM" on this page.**

| DATE DELIVERED | TYPE OF FUEL | QUANTITY | PRICE $ | TOTAL AMOUNT CLAIMED $ |
|---|---|---|---|---|
| | | | | |

*STATE OF OKLAHOMA, COUNTY OF_____:SS*

*The undersigned supplier, 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; services or materials as shown by this invoice or claim have been supplied in accordance with the authorization provided above. 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, officer 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.*

*The undersigned further certifies that (s)he fully understands the terms of this agreement, including those listed on the back hereof and that payment of the claim will be from federal funds.*

**Fraud warning:** I have been informed that any person who **knowingly, willfully** and **fraudulently** provides false information for the purpose of obtaining payments which he is ineligible to receive may be subject to prosecution to the fullest extent of the appropriate state or federal statute. This provision includes filing a claim for fuel not already delivered.

_____
Claimant, Supplier signature

Incorporated ☐ Yes ☐ No

_____
Federal Tax ID or Social Security number

*Subscribed and sworn to before me this_____day of_____19_____.*

My commission expires _____19 _____

_____
Notary Public, Court Clerk or Judge

**FOR COUNTY OFFICE USE ONLY**

Amount claimed $ _____

Amount disallowed $ _____

Amount approved $ _____

Amount remaining $ _____

_____
County Admimistrator

**[illegible] AGREEMENT** Between the Oklahoma Department of Human Services (DHS) and the Home Energy Supplier (supplier) indicated on the reverse side hereof, for supplying home energy under the DHS Low Income Home Energy Assistance Program to the DHS client household also so indicated.

**FUNCTIONS OF THE SUPPLIER:**

1. Supplier will provide home energy to the DHS client household in accord with authorization provided on this form.
2. Supplier will not discriminate against the eligible household covered by this agreement, in supplier's terms and conditions of sale, credit, delivery, or price, including service charges, reconnection charges and payment plan arrangements.
3. Supplier will submit this form to the DHS office indicated on the reverse side hereof only after the specified home energy fuel, in the quantity or the maximum amount indicated, has been delivered to the DHS client household.
4. Supplier will maintain an accounting system and supporting fiscal records adequate to allow DHS to verify the amount of home energy delivered pursuant to this authorization. The supplier's records will be maintained for three years and will be made available for inspection and copying by DHS representatives upon reasonable notice to supplier.
5. Supplier of firewood affirms that he is not a relative of the client and is recognized as routinely selling firewood on a regular basis.

**FUNCTIONS OF DHS:**

1. DHS has herein identified to supplier the eligible client household coverage by this agreement, on whose behalf DHS will make a single payment for the provision of home energy and the maximum payment for which the household is eligible.
2. DHS will make a timely payment to supplier as specified hereafter for the home energy supplied to the DHS client household at the rate charged by supplier, but no more than the rate normally charged to a non-eligible, similarly situated household, up to the maximum amount specified for such household.
3. Payment shall be made directly to supplier by DHS following presentation of this notarized form to the specified DHS office, approval by the administrator of such office, and certification of such payment to the DHS State Office.
4. Nothing hereunder shall be construed to authorize supplier to bill DHS for any further delivery of home energy than that specified under this form, which contains the full and complete recitation of the terms of this agreement.

| DATE DELIVERED | TYPE OF FUEL | QUANTITY | PRICE $ | TOTAL AMOUNT CLAIMED $ |
|---|---|---|---|---|
| | | | | |

| DATE DELIVERED | TYPE OF FUEL | QUANTITY | PRICE $ | TOTAL AMOUNT CLAIMED $ |
|---|---|---|---|---|
| | | | | |

| DATE DELIVERED | TYPE OF FUEL | QUANTITY | PRICE $ | TOTAL AMOUNT CLAIMED $ |
|---|---|---|---|---|
| | | | | |

Purpose of Form

This computer generated form, an authorization for bulk fuel, is used to notify the fuel supplier of the authorization and the amount. It can be used as authorization of natural gas or electricity for ECAP. The form is also used by the fuel supplier to file his claim for payment.

Instructions

Claim.

This section is to be completed by the fuel supplier, signed and notarized and returned to the county office within 21 days of the date of the authorization.

For County Office Use Only.

The county office will complete this section to show the amount claimed by the supplier, the amount disallowed for any reason, the amount approved, and the remaining benefit amount.

The form is signed by the county administrator or his designee.

Routing of Form

The fuel supplier returns the completed form to the county office for teleprocessing. The form is then filed in the county case record.

## APPENDIX F. BENEFIT LEVELS (UNSUBSIDIZED) [REVOKED]

MAXIMUM LIHEAP BENEFIT LEVELS — APPENDIX C-8

**UNSUBSIDIZED HOUSEHOLDS**

| | INCOME | HOUSEHOLD SIZE 1 - 3 | 4 - 6 | 7 & OVER |
|---|---|---|---|---|
| **Heating Cost Paid By Household Directly To Utility Company** | | | | |
| Natural Gas, Wood, Coal | 0 - 400 | 145 | 160 | 177 |
| | 401 - 620 | 99 | 113 | 130 |
| | 621 - Ineligible | 65 | 80 | 95 |
| LP Gas, Electricity, Kerosene, Heating Oil | 0 - 400 | 203 | 224 | 248 |
| | 401 - 620 | 139 | 158 | 182 |
| | 621 - Ineligible | 91 | 112 | 133 |
| **Heating Cost Included in Rent** | | | | |
| Renter: All Energy Sources | 0 - 400 | 145 | 160 | 177 |
| | 401 - 620 | 99 | 113 | 130 |
| | 621 - Ineligible | 65 | 80 | 95 |
| Roomer: All Energy Sources | 0 - 400 | 43 | | |
| | 401 - 620 | 26 | | |
| | 621 - Ineligible | 0 | | |

**SUBSIDIZED HOUSEHOLDS**

| | INCOME | HOUSEHOLD SIZE 1 - 3 | 4 - 6 | 7 & OVER |
|---|---|---|---|---|
| **Heating Cost Paid By Household Directly To Utility Company** | | | | |
| Natural Gas, Wood, Coal | 0 - 400 | 69 | 76 | 84 |
| | 401 - 620 | 45 | 52 | 61 |
| | 621 - Ineligible | 28 | 35 | 43 |
| LP Gas, Electricity, Kerosene, Heating Oil | 0 - 400 | 97 | 106 | 118 |
| | 401 - 620 | 63 | 73 | 85 |
| | 621 - Ineligible | 39 | 49 | 60 |

**Surcharge Situations Only**

| | INCOME | 1 - 3 | 4 - 6 | 7 & OVER |
|---|---|---|---|---|
| **Heating Cost Included in Rent (Renters Only)** | | | | |
| All Energy Sources | 0 - 400 | 69 | 76 | 84 |
| | 401 - 620 | 45 | 52 | 61 |
| | 621 - Ineligible | 28 | 35 | 43 |

*[OAR Docket #06-491; filed 3-31-06]*

# TITLE 340. DEPARTMENT OF HUMAN SERVICES
# CHAPTER 45. EMERGENCY WELFARE SERVICES [REVOKED]

*[OAR Docket #06-492]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions [REVOKED]
340:45-1-1. through 340:45-1-8. [REVOKED]
Subchapter 3. Individual and Family Grant Program [REVOKED]
340:45-3-1. through 340:45-3-8. [REVOKED]
**(Reference APA WF # 05-18)**
**AUTHORITY:**
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Oklahoma Emergency Management Act of 2003.
**DATES:**
**Comment period:**
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**Public hearing:**
None requested
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January 24, 2006
**Submitted to Governor:**
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January 24, 2006
**Gubernatorial approval:**
March 9, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2006.
**Final adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
Revocation of Chapter 45 is proposed as the rules are superceded by provisions of the Oklahoma Emergency Management Act that designate the Oklahoma Department of Emergency Management as the agency responsible for preparation, coordination, and execution of emergency functions resulting from hostile actions or natural disasters.
**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 11, 2006:**

## SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

### 340:45-1-1. Purpose [REVOKED]

~~The purpose of this Chapter is to describe the function and responsibilities of Emergency Welfare Services. The purpose of Emergency Welfare Services is to sustain life and the will to survive by providing the necessities of life to persons in need in the event of a national emergency or natural disaster. Necessities to be provided include temporary lodging, feeding, clothing, emergency social services, welfare registration and inquiry, and emergency financial assistance. The major need for these services in a national emergency would be in a post-shelter period, but any or all of them will be provided in community fallout shelters and other places when and where they are needed. In a natural disaster those necessities will be provided in points so designated. The Director of Human Services is responsible for developing a program to improve the capability of County Civil Emergency Management personnel in providing Emergency Welfare Services to people in need of these services as a result of an attack, threat of an attack or a natural disaster. This responsibility includes technical guidance and supervision of the local DHS office, the developing of policy, suggestions for organization and designation of staff, all directed toward carrying out the responsibilities assigned to the agency.~~

### 340:45-1-2. Types of emergencies [REVOKED]

~~(a) **National emergency.** A national emergency may be declared by the President of the United States as the result of injury and damage resulting from enemy attack or other hostile action which causes an extreme emergency situation to arise and which jeopardizes the welfare of our nation's citizens.~~
~~(b) **Natural disasters.** A natural disaster may occur as the result of injury and damage following a fire, flood, tornado, earthquake, or other natural cause, which creates an extreme emergency situation and which jeopardizes the welfare of the citizens of Oklahoma.~~

### 340:45-1-3. Legal bases [REVOKED]

~~The Oklahoma Civil Defense and Emergency Resources Management Act of 1967 creates a statewide system for, among other aspects, focusing the total resources of the state on preventing, minimizing and repairing of injury and damage caused by enemy attack or other hostile action or by fire, flood, tornado, earthquake, or other natural causes, and mandates utilization of all services, equipment, supplies and facilities of existing departments, offices and agencies of the State to carry out that purpose. As a member under that Act of the Civil Defense Advisory Council, the Director of Human Services has been designated Chief of Emergency Welfare Services for the state, and is responsible for planning, implementing, and directing overall Emergency Welfare Services in Oklahoma when emergency situations arise that jeopardize the welfare of the citizens of the state. This designation, which embodies the Department's constitutional directive found in Sections 1 and 2 of Article XXV of the Constitution of Oklahoma, effectively implements on the state and local level the analogous authority of the Department of Health and Human Services, which, through such authorizations and Executive Order 11490,~~

~~dated October 30, 1969, has been assigned responsibility for preparing national emergency plans and developing preparedness programs covering emergency post attack welfare services. That same order, for example, defines Emergency Welfare Services as feeding, clothing, housing, or lodging in private and congregate facilities; registration; locating and reuniting families; care of unaccompanied children, the aged, the handicapped, and other groups needing specialized care or services; necessary financial or other assistance; counseling and referral services to families and individuals; aid to welfare institutions under national emergency or post attack conditions; and all other feasible welfare aid and services to people in need during a civil defense emergency. Such measures include organization, direction, and provision of services to be instituted before attack, in the event of strategic or tactical evacuation, and after attack in the event of evacuation or refuge in shelters.~~

**340:45-1-4. Local office responsibility [REVOKED]**

~~(a) The county director is to ensure local service agencies such as the police department, sheriff's office, American Red Cross, Salvation Army, County Civil Defense, etc., are aware of the Department of Human Services' (DHS) responsibility in local disasters. He/she should also provide the above named organizations with telephone numbers needed to contact the county director or backup personnel day or night. The Emergency Welfare Services (EWS) supervisor, who is also supervisor of the Risk Management Section in the Human Resources Division, and the family support field liaison are to be available to give support and technical assistance to the county director. The county director, upon learning of any type of damage caused by fire, flood, tornado, earthquake or other causes in his/her county of responsibility, will immediately assess the information in terms of community and agency needs. Some points to consider are:~~

~~(1) The number of people needing help with:~~

~~(A) Injuries;~~

~~(B) Shelter and for what length of time;~~

~~(C) Food and for what length of time;~~

~~(D) Clothing and bedding; and~~

~~(E) Rebuilding or relocating.~~

~~(2) The probable income and resources of the people needing help.~~

~~(3) The likelihood that other agencies will be involved.~~

~~(b) Some events will cause damage and inconvenience which will require the local DHS office to be involved in local resource development, provision of resources and in issuing emergency payments to those eligible. Since set guidelines are not available regarding the determination of the seriousness of a situation, a county director may phone the EWS supervisor any time for advice and consultation. However, whenever lives or property are significantly affected, the event should be considered an emergency. The degree of damage and/or personal injury or death will determine if the situation is classified as a disaster. It is the philosophy of the Department to serve people needing assistance and to be especially responsive to human needs during crisis. Should a natural or man-made disaster occur, it is the county director's responsibility to make contact with the EWS supervisor. The county director will:~~

~~(1) Set up a communication point. This is actually agreed on during the first call (Form EWS-2, question 8) and will be a local phone number where the State Office can contact someone (county director or other individual) to receive communication. This number may change during the time frame of emergency welfare services as more is learned about areas that have phone service and where staff will be located;~~

~~(2) Ensure other local service agencies (police, sheriff, civil defense, etc.) are aware of the disaster; and (3) Proceed with as many staff as needed and available to the disaster site.~~

~~(c) The first responsibility after arriving at the disaster site is to assess the need for rescue efforts and to coordinate necessary rescue efforts and other emergency services with service agencies at the site. If telephone service is destroyed, the county director uses emergency radio, courier or any means of communication. The highway patrol, sheriff's office, policy or county civil defense may have radio communication available. As soon as practical, a map of the disaster area will be developed. This should be coordinated with city/county officials and representative of other agencies to avoid duplication. Should an area be declared a disaster, the recorded boundary lines are used to define eligibility for some federal programs.~~

**340:45-1-5. Services to be provided [REVOKED]**

~~In most of the natural disaster activities, DHS staff will have a secondary role, such as coordinating, arranging, assisting, etc. Usually, if needed, an emergency shelter will be set up by the American Red Cross, Salvation Army or other social service agencies. People are fed in these shelters and/or separate feeding sites. USDA commodities are available and may be used to feed all people involved in any emergency situation (shelter occupants, staff, workmen, anyone who needs to eat) when the usual source of meals is disrupted or inadequate. The information on Form EWS-2a, Follow-up Disaster Report Guide, which is telephoned to the State Office, will be used to calculate the amount of USDA commodity food furnished (if required). In the immediate hours following a disaster, fast food chains will often bring in truckloads of food. Our staff will assist in coordinating and organizing to ensure the food is made available to the people needing to be fed.~~

~~(1) Social agencies and church groups will also be bringing new and used clothing, bedding, etc., into the disaster area. Our staff, if needed, will assist in the coordination of supplying these items to the needy.~~

~~(2) Social services are directed toward assisting individuals and families in adjusting to the stress of the actual disaster, which may include loss of family members, injury and/or loss of property. Efforts must be made to restore family units and provide care for unaccompanied children, individuals who are aged or handicapped, and any other person who needs specialized care. Telephone or other means of communication may need to be established so families in the disaster area may contact families and friends outside the area and for relatives and friends~~

~~on the outside to get word to their family and friends in the disaster site area.~~

~~(3) After people's survival needs are met, many may be applying for one or more emergency assistance programs supervised by the Department of Human Services. These applications will be processed as soon as possible.~~

**340:45-1-6. Additional services available at the time of presidential declaration of a disaster [REVOKED]**

~~During the first few days following a large natural disaster, the Governor will request federal assistance using the figures on Form EWS 2a, Follow-up Disaster Report Guide. Representatives of different federal agencies will be in the disaster area, often accompanied by State Office staff, to determine if the President or Secretary of Agriculture will make a disaster declaration. The type of assistance available depends on the type of declaration. The local staff will receive further instructions when this occurs.~~

**340:45-1-7. Man-made disasters or an attack upon the United States [REVOKED]**

~~(a) In the event of a man-made disaster or an attack upon the State of Oklahoma or the United States, the emergency operations plan of the State of Oklahoma gives the Department of Human Services the primary responsibility for the activities listed in (1) through (9) of this subsection.~~

~~(1) Emergency welfare services;~~
~~(2) Emergency feeding;~~
~~(3) Emergency clothing;~~
~~(4) Emergency lodging;~~
~~(5) Emergency registration and inquiry;~~
~~(6) Emergency social services;~~
~~(7) Emergency financial assistance;~~
~~(8) Emergency disaster assistance center; and~~
~~(9) Emergency situation reporting.~~

~~(b) Resource agencies normally used for these activities may not be available to meet the needs of the affected population. DHS staff must ensure either the provision of the necessary services or ensure the needs will be met by another agency.~~

**340:45-1-8. County emergency operations plan [REVOKED]**

~~(a) **County plans.** Each county office will have its own County Emergency Operations Plan. The county plan may be developed as a part of the City and/or County Civil Defense Agency's Emergency Operations Plan or independently developed by local DHS staff. Responsibilities for the development of the plan are:~~

~~(1) Each county director, with the assistance of local resources and Human Resources Management Division, Risk Management Section staff, will develop and have on file a written plan of service for their county. The plan should include what services will be provided, where the services will be provided, who will provide the services and how the services will be provided. These plans should be reviewed on an annual basis and updated, if necessary;~~

~~(2) The Family Support field liaisons and the EWS supervisor in the Risk Management Section will assist the county director with the development of the plan, arrange to review the plan and provide adequate staff to carry out the plan should the need arrive; and~~

~~(3) The EWS supervisor and staff in the Risk Management Section will provide technical assistance in writing the plan and, if possible, provide the county with information to help implement the plan should a disaster occur.~~

~~(b) **Local resources for plan development.** The local Civil Emergency Management Agency is currently required to have a disaster plan available in each county. DHS staff should contact their local Civil Emergency Management Agency and any other appropriate local resource such as the American Red Cross and the Salvation Army for plan development information.~~

## SUBCHAPTER 3. INDIVIDUAL AND FAMILY GRANT PROGRAM [REVOKED]

**340:45-3-1. Definitions [REVOKED]**

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

~~**"Administrative Panel"** means a group comprised of selected staff members of DHS which determines eligibility of grants for Individual and Family Grant applicants and grant amounts.~~

~~**"Applicant"** means an individual or family representative who applies for a grant under this program to alleviate a major disaster.~~

~~**"Assistance from Other Means"** means assistance including monetary or in kind contributions from other governmental programs, insurance, voluntary or charitable organizations or from any sources other than those of the individual or family.~~

~~**"Dependent"** means an individual who is normally claimed as such on the federal tax return of another, according to the Internal Revenue Code. It may also mean the minor children of a couple not living together where the children live in the affected residence with the parent who does not actually claim them on the tax return.~~

~~**"Family"** means a social unit living together and composed of:~~

~~(A) Legally married individuals or those couples living together as if they were married and their dependents;~~
~~(B) A single person and his/her dependents; or~~
~~(C) Persons who jointly own the residence and their dependents.~~

~~**"Federal Coordination Officer (FCO)"** means the person appointed by the Associate Director, Federal Emergency Management Agency (FEMA), to coordinate federal assistance in a major disaster.~~

~~**"FEMA"** means Federal Emergency Management Agency.~~

~~**"Individual"** means a person who is not a member of a family, as defined in the definition of "Family" in this Section.~~

~~**"Major Disaster"** means damage which, in the determination of the President, is of sufficient severity and magnitude to warrant major disaster assistance under this Act and which results from hurricane, tornado, storm, flood, high water, wind-driven water, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe.~~

~~**"Necessary Expense"** means the cost of an item or service essential to an individual or family to mitigate or overcome an adverse condition caused by a major disaster.~~

~~**"Serious Need"** means the requirement of an item or service essential to an individual or family to prevent or reduce disaster-related hardship, injury, or adverse condition.~~

~~**"State Coordinating Officer (SCO)"** means the individual appointed by the Governor to coordinate state and local disaster assistance efforts with those of the federal government. The SCO will be the Governor's authorized representative for the implementation of the Individual and Family Grant Program. The SCO maintains close coordination with the FCO and provides such reports as he/she may require. State agencies assigned responsibilities under this plan are subject to the general guidance of the SCO.~~

**340:45-3-2. Legal base and availability of benefits [REVOKED]**

~~(a) **Legal base.** The Individual and Family Grant Program (IFG) was established by the Disaster Relief Act of 1974, Section 408, Public Law 93-288 as amended by the Robert T. Stafford Disaster and Emergency Assistance Act effective November 23, 1988 which provides upon request of the Governor through special federal funds to provide grants to meet disaster related necessary expenses or serious needs of individuals or families affected by a major disaster. Following passage of the law, the Governor, on August 6, 1974, by Executive Order, authorized and designated the Department of Human Services (DHS) as the sole state agency to administer grants to meet disaster related necessary expenses and serious needs of individuals or families as provided for under the provision of the law.~~

~~(b) **Availability of benefits.** Following an emergency declaration by the Governor and a major disaster declaration by the President, covering a designated area, state and federal disaster assistance programs are made available to local governments and disaster victims in the designated disaster area. After such declarations, the Individual and Family Grant Program is made available, by specific request of the Governor, to only those disaster victims whose necessary expenses or serious needs cannot be met by governmental programs or other means. The maximum grant to an individual or family in any one major disaster is the amount shown in DHS Appendix C-12. This limit shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.~~

~~(1) **Eligibility.** The criteria that must be met for a county to be eligible for participation in the IFG Program and for an applicant to be eligible for benefits are given in (A) - (B) of this paragraph.~~

~~(A) Criteria in (i) through (iii) of this subparagraph must be met for a county to be eligible for participation in the Individual and Family Grant Program.~~

~~(i) The affected area must be declared a major disaster area by Presidential Declaration.~~

~~(ii) The disaster within the area which caused the necessary expense or serious need must have occurred within the time period stated in the Presidential Declaration for the area; and~~

~~(iii) The Governor, as the chief executive of the State, must request the Individual and Family Grant Program be available for individuals and families within the presidentially declared area and the request must be approved by the Regional Director, Federal Emergency Management Agency.~~

~~(B) Criteria in (i) through (vii) of this subparagraph must be met for an applicant to be eligible for benefits.~~

~~(i) An application must have been made to other available governmental programs for assistance to meet a necessary expense or serious need and neither the applicant nor any other member of his/her family have been determined to be qualified for such assistance, or, for demonstrated reasons, any assistance received has not satisfied any such serious need or necessary expense.~~

~~(ii) An Individual or Family Grant will not be made to meet any serious need or necessary expense which has been satisfied by other governmental assistance, insurance, or other means. However, partial compensation for a loss or a part of a loss suffered as a result of a major disaster shall not preclude additional grant assistance to satisfy an eligible but still unmet serious need or necessary expense. When it is determined a person has received duplicate assistance he/she will be required to reimburse the Department for that part of grant assistance which is excessive.~~

~~(iii) With respect to the specific necessary expense or serious need for which application is made, neither the applicant nor, to the best of his/her knowledge, any member of the applicant's family has previously received or refused assistance from other means.~~

~~(iv) The individual or family must agree that, if a grant is received through this program, and assistance from other means later becomes available to meet necessary expense or serious need, a refund will be made to the state in an amount equal to that part of the grant for which assistance from other means has been received.~~

~~(v) Individuals or families who incurred a necessary expense or serious need in the major disaster area may be eligible for assistance under this program without regard to their residency in the major disaster area or within the state in which the~~

~~major disaster has been declared, except for assistance in the "housing" category. To be eligible for assistance in the "housing" category, ownership and residence in the declared disaster area are required.~~

~~(vi) Application must be filed within 60 days following the date on which the major disaster was declared except late applications may be accepted for a minimum of 30 additional days when the late filing resulted from extenuating circumstances or conditions beyond the control of the individual or family.~~

~~(vii) If an applicant, who eventually receives an IFG award, lives within an identified flood area, flood insurance is required. The applicant must agree to purchase adequate flood insurance and to maintain such insurance for as long as he/she lives at the flood damaged property address. The coverage shall be for $12,600 (to be adjusted annually based on the Consumer Price Index for all Urban Consumers). Renters must be covered for at least $12,600 for personal property only, whereas homeowners must be covered for at least $7,000 for real property and $5,600 for personal property. If the applicant is a homeowner, flood insurance coverage must be maintained on the residence at the flood damaged property address for as long as the structure exists if the applicant, or any subsequent owner of that real estate, ever wishes to be assisted by the Federal government with any subsequent flood losses to real or personal property, or both. If the applicant is a renter, flood insurance coverage must be maintained on the contents for as long as the renter resides at the flood damaged property address. The restriction is lifted once the renter moves from the rental unit. An IFG award may not be given to any individual or family who received Federal disaster assistance for flood damage occurring after September 23, 1994, if the individual or family received flood disaster assistance and was required, but failed, to purchase and maintain flood insurance as a condition of receiving that Federal flood disaster assistance.~~

~~(2) **Publicizing of available benefits.** The State Coordinating Officer is responsible for publicizing the availability of the Individual and Family Grant Program to potential applicants by:~~

~~(A) coordinating public information activities with other agencies;~~

~~(B) providing news releases through local and state newspapers, radio and television stations; and~~

~~(C) ensuring potential IFGP applicants are made aware of the closing date for filing applications by providing news releases to newspapers having coverage in the disaster area.~~

**340:45-3-3. Eligible categories [REVOKED]**

~~Assistance is available to eligible applicants to meet necessary expenses or serious needs by providing essential items or services in the classifications set forth in (A) through (G) of paragraph (1) in this subsection.~~

~~(1) **Allowable expenses.**~~

~~(A) **Medical/dental.** Medical/dental expenses include the following:~~

~~(i) Physician, dentist, and private duty nurse's fees;~~

~~(ii) Hospital bills and ambulance charges;~~

~~(iii) X-rays and laboratory charges;~~

~~(iv) Medicines and medical supplies and equipment; and~~

~~(v) Glasses, dentures, hearing devices, artificial limbs and other prosthetic appliances.~~

~~(vi) If there is private medical insurance and/or public medical coverage (e.g., Veterans Benefits, Medicaid, Medicare, Red Cross), the allowable budgetary cost includes the amount above what the private insurance and/or public coverage will pay up to the maximum shown in DHS Appendix C-12 or the annually adjusted amount.~~

~~(vii) If there is no type of private medical insurance or public medical coverage (e.g., Veterans Benefits, Medicaid, Medicare, Red Cross), the actual budgetary cost up to the maximum shown in DHS Appendix C-12 or the annually adjusted amount per individual or family will be allowed.~~

~~(B) **Burial/cremation.** Burial/cremation expense includes equipment, supplies, and services provided to families on a casework basis for the care of the dead.~~

~~(i) If there is a burial/cremation coverage available, the Individual and Family Grant will only include the actual cost of burial or cremation above what the insurance allows up to a combined maximum of $4,500 for each individual;~~

~~(ii) If there is no burial/cremation coverage available, the Individual and Family Grant will only include the actual expense, including lot and marker, up to a maximum of $4,500 for each individual.~~

~~(C) **Housing.** Housing expenses include equipment, supplies, and services given to individual families on a casework basis for construction, repair, or purchase of owner occupied property (including mobile homes) and may include:~~

~~(i) Repairing, replacing or rebuilding owner occupied homes used as a primary residence;~~

~~(ii) Providing access to the property. When an access serves more than one individual or family, an owner occupant whose primary residence is served by the access may be eligible for a proportionate share of the cost of jointly repairing or providing such access;~~

~~(iii) Cleaning and sanitizing the residence. This expense is limited to the minimum required to remove health and safety hazards;~~

~~(iv) Removing debris from the residence. Debris removal is limited to the minimum required to remove health and safety hazards from, or protect against additional damage to the residence;~~

~~(v) Providing or taking minimum protective measures required to repair disaster damage which is causing a potential safety hazard and which, if left unrepaired will cause actual safety hazards from common weather or environmental events;~~

~~(vi) Completing minimization measures required of owner-occupants to enable them to receive assistance from other means and/or to enable them to comply with a community's floodplain management regulations;~~

~~(vii) Essential repairs for damage caused to a owner-occupied dwelling by a disaster such as a tornado or flood. The total allowable maximum grant cannot exceed the amount shown in DHS Appendix C-12 or the annually adjusted amount.~~

~~(I) If the owner is covered by private insurance, flood insurance, or is eligible for any other governmental assistance, the allowable cost will be the amount of uncovered necessary repair costs up to the total maximum shown in DHS Appendix C-12 or the annually adjusted amount.~~

~~(II) If the owner is not covered by private insurance, flood insurance, or is not eligible for any other governmental assistance, the actual cost up to the amount shown in DHS Appendix C-12 or the annually adjusted amount is allowed; and~~

~~(viii) Rebuilding a dwelling if destruction was caused by the disaster. The total allowable maximum grant cannot exceed the amount shown in DHS Appendix C-12 or the annually adjusted amount.~~

~~(D) **Personal property.** Repair and replacement costs will be based on cost guidelines jointly developed by FEMA and DHS. Cost amounts will be based on current costs at the time of the disaster.~~

~~(i) Personal property expenses include:~~

~~(I) Replacing clothing;~~

~~(II) Replacing household items, furnishings or appliances;~~

~~(III) Replacing tools, specialized or protective clothing and equipment which are required as a condition of employment;~~

~~(IV) Repairing, cleaning or sanitizing any eligible personal property to prevent or reduce damage; and~~

~~(V) Moving and storing eligible personal property to prevent or reduce damage.~~

~~(ii) Allowable Personal Property Costs:~~

~~(I) Repair, if the personal property is useable and repairs will make the item functional and if the repairs do not exceed the cost of replacement;~~

~~(II) Replacement, if the personal property is not useable and must be replaced;~~

~~(III) If the individual or family is covered for personal property loss by insurance or other governmental or private assistance, the allowable cost is the uncovered cost of replacement or repair of eligible items up to the amount shown in DHS Appendix C-12 or the annually adjusted amount; or,~~

~~(IV) If the individual or family is not covered for personal property loss by insurance or other governmental or private assistance, the allowable cost will be the actual amount of eligible personal property needed up to the amount shown in DHS Appendix C-12 or the annually adjusted amount.~~

~~(E) **Transportation.** Transportation expenses will apply only to one vehicle except in those instances where a documented need for transportation for employment or personal safety indicates a need for more than one vehicle.~~

~~(i) Transportation expenses include:~~

~~(I) Repairing a vehicle damaged in the disaster;~~

~~(II) Replacing a vehicle damaged in the disaster;~~

~~(III) Providing a privately owned vehicle if the need for transportation was a direct result of the disaster; and~~

~~(IV) Providing public transportation if the need for transportation was a direct result of the disaster.~~

~~(ii) Repair and replacement costs will be based on cost guidelines jointly developed by FEMA and DHS. Cost amounts will be based on current costs at the time of the disaster. Allowable costs include:~~

~~(I) Repair of the vehicle to a useable state at a cost not to exceed the maximum allowable;~~

~~(II) Replacement of the vehicle which cannot be repaired at a cost not to exceed the maximum allowable;~~

~~(III) Public or private transportation not to exceed the maximum allowable;~~

~~(IV) If the owner is covered for damage to the vehicle by insurance or other governmental or public assistance, the maximum allowable cost is the uncovered cost of replacement or repair as allowed by the State Administrative Plan for the Individual and Family Grant Program; and~~

~~(V) If the owner is not covered for damage to the vehicle by insurance or other governmental or private assistance, the maximum allowable cost will be the amount of the repair or replacement as allowed by the State Administrative Plan for the Individual and Family Grant Program.~~

~~(F) **Flood insurance.** The cost of the first year's flood insurance is a covered expense. To be eligible, the purchased policy must have minimum coverage equal to at least the current adjusted maximum grant amount.~~

~~(G) **Estimates.** The cost of estimates required specifically for eligibility determination for the IFG program are covered. Housing and personal property estimates are provided by the FEMA or its contractors. An applicant may appeal if he/she believes the government estimate is inaccurate. However, the cost of an applicant obtained estimate to support an appeal is not an eligible cost.~~

~~(2) **Other.** When a client has other necessary expenses and serious needs not normally covered by the IFG program, a summary of the situation and thorough documentation of the client's eligibility should be forwarded to the Administrative Panel. The Administrative Panel will review the facts and either make a decision or refer the matter to the Regional Director of FEMA for assistance.~~

~~(3) Benefits not available. Assistance may not be made for any service or item in the categories of:~~

~~(A) Business losses, including farm business;~~

~~(B) Improvements or additions to real or personal property;~~

~~(C) Landscaping;~~

~~(D) Real or personal property used exclusively for recreation;~~

~~(E) Financial obligations incurred prior to the disaster; or~~

~~(F) Any necessary expense or serious need or portion thereof for which assistance was available from other means, but was refused by the individual or family.~~

~~(4) Verification of expense.~~

~~(A) **Housing, personal property and transportation.** FEMA will be responsible for performing most of the required verifications in the housing personal property and transportation categories. Verifications will include documentation of home ownership and primary residency. However, they will not include a verification of automobile registration with the Department of Public Safety. DHS staff must perform vehicle registration verifications, if necessary. DHS staff will also be required to perform verifications for all categories on late applications or on reverifications when FEMA or its contractors are no longer available. If FEMA administrative staff are available at the Disaster Field Office, the computations will be performed by FEMA. If FEMA staff are not available, the Administrative Panel will perform the calculations using guidelines provided by FEMA. When it is necessary for DHS to obtain a verification, staff will:~~

~~(i) Make an on-site inspection of the damage using FEMA forms and guidelines (proof of ownership of personal property is not required but automobile registration must be verified);~~

~~(ii) Forward the completed forms to the Administrative Panel for computations.~~

~~(B) **Medical/dental, burial/cremation, flood insurance, estimates and other.** The individual or family must provide to DHS documentation of medical/dental, burial/cremation, flood insurance, estimates and other expenses. Documentation for each category will include but may not be limited to:~~

~~(i) Medical/Dental: Written statements regarding the uncovered cost from providers of medical services (including licensed practitioners, health care facilities, and ambulance services), necessary medication, and medical supplies and equipment. The statement must itemize the type of medical service needed, attach a cost to each medical service and certify the injury or illness was a direct result of the disaster;~~

~~(ii) Burial/Cremation: A written statement of the uncovered cost from the funeral director, including burial/cremation insurance, Social Security, Veterans Benefits and/or other types of coverage;~~

~~(iii) Flood Insurance: A policy, insurance binder or written statement from the insurance agent showing at least the minimum flood insurance coverage requirements have been met;~~

~~(iv) Estimates: A written statement of the cost of estimates required for an eligibility determination for the IFG program; and~~

~~(v) Other: Written statements regarding the cost of any other necessary expense or serious need not normally covered by the IFG program.~~

**340:45-3-4. Applications [REVOKED]**

~~(a) **Place of application.** Disaster Application Centers (DAC) or telephone application centers will be established for the purpose of taking applications for disaster assistance. The application for IFG is included in the universal application form that will be completed by FEMA staff. After the DACs or telephone application centers have closed, and FEMA staff are not available, DHS staff will take applications using FEMA forms.~~

~~(b) **Application process.** FEMA staff are responsible for interviewing, taking applications and verifying certain necessary expenses or serious needs. Applications will be accepted from individuals or families for a period of 60 days following the declaration and a minimum of 30 days thereafter when extenuating circumstances beyond the control of the applicant prevented them from applying in a timely manner. Applications are forwarded from FEMA to DHS.~~

**340:45-3-5. Eligibility determination [REVOKED]**

~~FEMA staff will forward the IFG application and the verifications on housing, personal property and transportation to the DHS IFG staff. The DHS staff will make any necessary verifications for medical/dental expenses, burial/cremation expenses, automobile registration and other expenses. A determination of eligibility will be based on the eligibility criteria in OAC 340:45-3-2(b)(1)(B) by the Administrative Panel.~~

**340:45-3-6. Disbursement procedure [REVOKED]**

~~The warrant for each approved grant will be written on a daily basis through the normal check writing procedures. The client may receive more than one warrant but the total amount of all warrants for the disaster may not exceed the amount shown in DHS Appendix C-12 or the annually adjusted amount.~~

**340:45-3-7. Appeal procedures [REVOKED]**

~~The applicant may request a reconsideration of a decision. A reconsideration is an informal request to review the Panel's determination based on data that was unclear or additional data that became available since the time of the original determination. A reconsideration request may be verbal or written, and must be made within 14 working days of the date on the notification letter. Every applicant also has the right to appeal on any action relating to his/her application. Each applicant is advised in writing of his/her right to a fair hearing. Procedures for appeals in the Emergency Welfare Services Program are the same as other program hearings conducted by the Appeals Unit.~~

**340:45-3-8. Administrative procedures [REVOKED]**

~~(a) **Administrative reviews.** A representative sampling of disbursed grants are selected by the State Office for review. The purpose of the review of these grants will be to verify grant funds have been expended for meeting the necessary expense or serious need for which the grant was made, are not duplicating assistance from other means, and are meeting flood plain management and flood insurance requirements. Those cases in which grant funds have been used for unauthorized expenditures will be referred to the Legal Division for appropriate action.~~

~~(b) **Reports.** DHS provides FEMA with such reports as are required.~~

~~(c) **Non-discrimination.** Applications for Individual and Family Grants shall be received, processed, approved and paid to applicants without regard to race, religion, sex, color, age, economic status or national origin.~~

~~(d) **State program audit.** The Oklahoma State Examiner and Inspector will perform the audits required by the Single Audit Act of 1984 at their discretion. All disbursements for which Oklahoma receives federal funds are subject to federal audit.~~

*[OAR Docket #06-492; filed 3-31-06]*

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

*[OAR Docket #06-493]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 5. Non-Financial Eligibility Criteria
Part 5. Students, Strikers, Resident Farm Laborers, Migrant Households, Sponsored Aliens, and School Employees
340:50-5-45. [AMENDED]
Part 7. Related Provisions
340:50-5-64. [AMENDED]
Subchapter 7. Financial Eligibility Criteria
Part 1. Resources
340:50-7-2. [AMENDED]
Part 3. Income
340:50-7-22. [AMENDED]
**(Reference APA WF# 05-14)**
**AUTHORITY:**
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; 2002 Farm Bill; and Section 183(c) of Title 38 of the United States Code.
**DATES:**
**Comment period:**
December 15, 2005 through January 17, 2006
**Public hearing:**
None requested
**Adoption:**
January 24, 2006
**Submitted to Governor:**
January 24, 2006
**Submitted to House:**
January 24, 2006
**Submitted to Senate:**
January 24, 2006
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March 9, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2006.
**Final adoption:**
March 31, 2006
**Effective:**
June 1, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
Food Stamp Program proposed rule revisions: (1) require eligible students to work an average of 20 hours per week; (2) clarify the age exemption for able-bodied adults without dependents (ABAWDs); and (3) exclude additional types of income and resources in determining food stamp eligibility.
**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 JUNE 1, 2006:**

## SUBCHAPTER 5. NON-FINANCIAL ELIGIBILITY CRITERIA

## PART 5. STUDENTS, STRIKERS, RESIDENT FARM LABORERS, MIGRANT HOUSEHOLDS, SPONSORED ALIENS, AND SCHOOL EMPLOYEES

**340:50-5-45. Students**

(a) **Student classification.** Persons enrolled at least half-time in an institution of higher education are considered students through vacation and breaks as well as normal periods of class attendance. Persons who graduate, are expelled or suspended, dropout, or do not intend to register for the next normal school term, excluding summer school, are no longer considered students. Student enrollment status begins on the first day of the school term of the institution of higher education.

(1) A college or university which offers degree programs is considered an institution of higher education even when a high school diploma or equivalency certificate is not required to enroll. A college includes a junior, community, two-year, or four-year college, or university.

(A) Students enrolled at least half time in the **regular curriculum** are considered enrolled in higher education. ~~A college includes a junior, community, two-year, or four-year college, or university~~.

(B) Individuals enrolled at a college or university in special programs, such as courses for English as a second language, or other courses which are not part of the regular degree programs are not considered enrolled in higher education.

(2) Business, technical, trade, or vocational schools which normally require a high school diploma or equivalency certificate for enrollment in the curriculum are also considered higher education.

(3) Courses in business, technical, trade, or vocational schools which do not require a high school diploma or equivalency certificate for enrollment are not considered higher education.

(b) **Students not subject to eligibility restrictions.** The students described in this subsection may participate in the Food Stamp Program if all other eligibility criteria are met. Eligibility restrictions discussed in subsection (c) of this Section do not apply if the students are:

(1) under age 18 or age 50 or older;

(2) physically or mentally unfit.

(A) If mental or physical unfitness is claimed and the unfitness is not evident to the worker, verification may be required.

(B) Appropriate verification may consist of:

(i) receipt of temporary or permanent disability benefits issued by governmental or private sources~~,~~;

(ii) participation in a state vocational rehabilitation (VR) program~~,~~; or

(iii) ~~of~~ a statement from a physician or licensed or certified psychologist;

(3) attending high school;

(4) participating in an on-the-job training program. Students are considered participating in on-the-job training programs only during the period of time the students are being trained by the employer;

(5) attending an institution of higher education less than half-time; or

(6) enrolled half-time or more in schools and training programs which are not institutions of higher education.

(c) **Eligibility restrictions for students.**

(1) Persons between the ages of 18 and 50 who are physically and mentally fit and are enrolled at least half-time in an institution of higher education may participate in the Food Stamp Program only if:

(A) employed for ~~a minimum~~ an average of 20 hours per week or 80 hours per month and paid for that employment. Earning wages equal to the federal minimum wage times 20 is not a substitute for this restriction;

(B) self-employed for ~~a minimum~~ an average of 20 hours per week or 80 hours per month and receives weekly earnings at least equal to the federal minimum wage times 20;

(C) participating in a state or federally financed work study program during the regular school year.

(i) To qualify under this provision, the students must be approved for work study at the time of application for food ~~stamps~~ benefits.

(I) The work study must be approved for the school term and the students must anticipate actually working during the school term.

(II) The exemption begins with the month in which the school term begins or the month work study is approved, whichever is later.

(III) Once begun the exemption continues until the end of the month in which the school term ends, or it becomes known the students have refused an assignment.

(ii) The exemption does not continue between terms when there is a break of a full month or longer unless the student is participating in a work study program during the break;

(D) responsible for the care of a dependent household member under the age of six;

(E) responsible for the care of a dependent household member six through 11 years of age when the worker determines that adequate child care is not available to enable the ~~students~~ student to attend class and work an average of 20 hours per week or participate in a state or federally financed work study program. The reasons for lack of adequate child care include, but are not limited to, location of the nearest child care facility or availability of funds to pay child care expenses. Determination of availability of adequate child care is made on a case-by-case basis;

(F) single parents enrolled in an institution of higher education on a full-time basis as determined by

the institution and responsible for the care of a dependent child under age 12, regardless of the availability of child care.

(i) This provision applies in those situations where only one natural, adoptive, or stepparent regardless of marital status is in the same food ~~stamp~~ benefit household as the child.

(ii) If no natural, adoptive, or stepparent is in the same food ~~stamp~~ benefit household as the child, another full-time student in the same food ~~stamp~~ benefit household as the child may qualify for eligible student status under this provision if he or she has parental control over the child and is not living with his or her spouse;

(G) Temporary Assistance for Needy Families (TANF) recipients; or

(H) assigned to or placed in an institution of higher education through:

(i) the Workforce Investment Act (WIA) Program;

(ii) a food ~~stamp~~ benefit employment and training program;

(iii) the Job Opportunities and Basic Skills (JOBS) program under Title IV of the Social Security Act;

(iv) a program under Section 236 of the Trade Act of 1974 currently known as The Trade Adjustment Assistance Program and administered by the Oklahoma Employment Security Commission; or

(v) a state or local employment or training program, as determined appropriate by the United States Department of Agriculture, Food and Nutrition Service (FNS).

(2) Only one person may be considered as responsible for a dependent child. The caretaker need not be the person providing for the child's support.

## PART 7. RELATED PROVISIONS

### 340:50-5-64. Work requirements

(a) **Able-bodied adults without dependents (ABAWDs).** ABAWDs who are members of eligible households receiving food ~~stamp~~ benefits must be exempt from or comply with work requirements to be eligible to participate as a member of any food stamp household for longer than three months, consecutive or otherwise, during any 36-month period. It is the worker's responsibility to explain to the applicant the household member's work requirements and responsibility. At each application the worker must establish that each household member:

(1) is working continuously 20 hours or more per week averaged monthly;

(2) participates in and complies with:

(A) Workforce Investment Act (WIA) Program assignment;

(B) Trade Adjustment Assistance ~~Act~~ Program assignment; or

(C) Employment and Training, not including Job Search; or

(3) is exempt from the work requirements listed in (b) of this Section.

(b) **Exemptions from the work requirements.** An individual is exempt from the work requirement provision of the Food Stamp Program if the individual is:

(1) younger than 18 or ~~older than 49~~ 50 years of age and older;

(2) medically certified as physically or mentally unfit for employment.

(A) Persons who are physically or mentally incapable of gainful employment either on a permanent or temporary basis or participating in federal or state programs based on disability are considered exempt.

(B) Persons claiming exemption as unfit for employment must, in the absence of physical evidence, obtain documented evidence from medically qualified sources to substantiate the medical exemption.

(C) Persons claiming temporary exemption are required to comply when they are released by their medically qualified source to return to work;

(3) a parent or other member of a household with responsibility for care of a dependent child younger than 18 years or an incapacitated person of any age;

(4) pregnant;

(5) receiving or has applied for unemployment insurance benefits;

(6) a regular participant receiving treatment for drug or alcohol addiction in a rehabilitative program on a resident or non-resident basis;

(7) an eligible student enrolled at least half-time in any recognized school, training program, or institution of higher education;

(8) a household member registered for or participating in the Temporary Assistance for Needy Families (TANF) Work;

(9) employed a minimum of 30 hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended, multiplied by 30 hours; or

(10) a resident living in a county approved for exemption of the work requirements by the United States Department of Agriculture (USDA).

(c) **Participation without time limits.** Food ~~stamp~~ benefit participation without time limits applies to an individual who:

(1) is exempt;

(2) works continuously 20 hours or more per week, averaged monthly; or

(3) participates in and complies with:

(A) WIA Program assignment;

(B) Trade Adjustment Assistance ~~Act~~ Program assignment; or

(C) Employment and Training, not including Job Search.

(d) **Participation with time limits.** Individuals who are not exempt or fail to comply with work participation requirements are eligible for only three months, consecutive or otherwise,

during any 36-month period. Once the three-month eligibility limit has been reached, eligibility can be regained for at least an additional three consecutive months if the individual:

(1) works 80 hours or more in any 30-day period; or

(2) participates for 80 hours or more in and complies with:

(A) WIA Program assignment;

(B) Trade Adjustment Assistance ~~Act~~ Program assignment; or

(C) Employment and Training, not including Job Search.

(e) **Individuals who regain eligibility.** An individual can regain eligibility only one time for an additional three consecutive months during the 36-month period by meeting the requirements of (1) or (2) of subsection (d). An individual who regains eligibility maintains eligibility by complying with the requirements of subsection (c). If eligibility is subsequently lost, the individual may receive food ~~stamp~~ benefits only if one of the exemptions listed in subsection (b) is met or the 36-month period has expired.

## SUBCHAPTER 7. FINANCIAL ELIGIBILITY CRITERIA

## PART 1. RESOURCES

### 340:50-7-2. Excluded resources

In households applying for or receiving food ~~stamp~~ benefits, 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.

(A) 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.

(B) 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 licensed 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 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 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~~ benefit household member and someone who does not live with the food ~~stamp~~ benefit 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~~ benefit household. The determination of whether a food ~~stamp~~ benefit household can legally sell a vehicle is governed by the law of Oklahoma.

(B) The exclusions in (i) through (iii) of this subsection continue to apply when the 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, § 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];

(B) payments received by certain Indian tribal members under P.L. 94-114, 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. Exclude any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest or investment income accrued on such funds. Exclude any per capita payments, 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.

(i) Any interest or income derived from the funds after distribution is considered as any other income.

(ii) The per capita exclusion applies per person rather than per family.

(iii) 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.

(iv) 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.

(v) 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 Nutrition Program ~~For~~ for Women, Infants, and Children (WIC) [P.L. 92-443, § 6];

(F) reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 [P.L. 91-646, § 216];

(G) Earned Income Tax Credit (EITC) payments received by a participating food ~~stamp~~ benefit household member as part of a federal tax refund or as advance payments received as part of a 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 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~~ benefit 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.

(i) Monies of self-employed households 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.

(ii) 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. When 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;

(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~~ U.S.C.) provided to certain individuals who are children of Vietnam War veterans~~.~~; and

(W) Disaster Unemployment Assistance paid to individuals unemployed as the result of a major disaster.

(11) **Department of Housing and Urban Development (HUD) Family Self-sufficiency (FSS) Program 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.

## PART 3. INCOME

### 340:50-7-22. Income exclusions

Only the payments listed in this Section 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.

(5) **Income excluded by law.** Income excluded by law is:

(A) reimbursements from the Uniform Relocation Assistance and Real Property Acquisition 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 Native Claims Settlement Act [P.L. 92-203 § 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;

(D) income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes [P.L. 94-114, § 6];

(E) 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 judgment funds, trust funds, interest, or investment income accrued on such funds. Any per capita payments, 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.

(i) Excluded funds deposited in a bank or other financial institution 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.

(ii) 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 Corps, paid classroom training, and others. The 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 University Year for Action (UYA), Senior Companion Program, AmeriCorps Volunteers in Service to America (VISTA) and other AmeriCorps Programs, are not included as income for purposes of determining food ~~stamp~~ benefit 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 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 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 various organizations receive some Title V funds. These organizations include:

(i) ~~Green Thumb~~ Experience Works;

(ii) National Council on Aging;

(iii) National Council of Senior Citizens;

(iv) American Association of Retired Persons (AARP);

(v) U. S. Forest Service;

(vi) National Association for Spanish Speaking Elderly;

(vii) National Urban League;

(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;

(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~~U.S.C.) provided to certain individuals who are children of Vietnam War veterans~~.~~; and

(U) Disaster Unemployment Assistance paid to individuals unemployed as a result of a major disaster.

(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~~ Division 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.

(H) **Individual Development Account (IDA).** Any funds deposited in an IDA operated under the Assets for Independence Act and the interest that accrues.

*[OAR Docket #06-493; filed 3-31-06]*

## TITLE 340. DEPARTMENT OF HUMAN SERVICES
## CHAPTER 55. EMERGENCY REPATRIATION PROGRAM [REVOKED]

*[OAR Docket #06-494]*

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June 1, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
Revocation of Chapter 55 rules is proposed as the Oklahoma Emergency Management Act of 2003 created the Oklahoma Department of Emergency Management. The Oklahoma Department of Emergency Management has been designated as the agency responsible for the coordination of all state organizations for emergency management within the state.
**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 JUNE 1, 2006:**

### 340:55-1-1. Purpose [REVOKED]

~~The purpose of this Chapter is to outline the rules governing the Federal Emergency Repatriation Program and DHS' responsibilities in carrying out the program.~~

### 340:55-1-2. Authority-legal basis [REVOKED]

~~(a) **Executive order.** Executive order 11490, as amended, describes the emergency health and social services functions assigned to the Department of Health and Human Services. Section 1104 (4) Part II assigns responsibility to the secretary of HHS for providing services to noncombatant evacuees *to the Continental United States by developing plans and procedures for assistance at ports of entry to U.S. personnel evacuated from overseas areas, their onward movement to final destination, and follow-up assistance after arrival at final destination.*~~

~~(b) **Statute.** Title XI, Section 1113, of the Social Security Act authorizes the Secretary of HHS to provide temporary assistance to U.S. citizens and their dependents if they *are identified by the Department of State as having returned, or been brought from a foreign country to the United States, because of:*~~

~~(1) *the destitution or illness of the U.S. citizen or any of his/her dependents; or*~~

~~(2) *war, threat of war, invasion of similar crisis, and are without available resources.*~~

~~(c) **Regulation.** Title 45, Chapter 2, Part 212 of the Code of Federal Regulations sets forth the rules which govern reception, provision of temporary services, temporary assistance and related services, and transportation to final destination for U.S. citizens and their dependents returned from foreign countries. It also contains the rules for repayment to the United States, in accordance with ability to repay, for the cost of such temporary assistance as may be readily identifiable for families and individuals, such as cash assistance and transportation to final destination.~~

~~(d) **Oklahoma law.** Title 63, Section 683.9, which is entitled "Civil Defense Emergency – additional powers of Governor" lists under paragraph E: To perform and exercise such functions, powers and duties as necessary to promote and secure the safety and protection of the civilian population and to carry out the provisions of the Oklahoma plan for the management of resources in a national emergency.~~

~~(e) **Letter designating responsibility.** By letter dated June 25, 1985, George Nigh, Governor of Oklahoma, designated the Department of Human Services as lead agency for developing Oklahoma's Emergency Repatriation Plan and coordinating provisions of services under that plan.~~

### 340:55-1-3. Background [REVOKED]

~~At any given moment, more than one million U.S. citizens or their dependents are visiting or living in foreign countries. Should an emergency situation such as a natural disaster, terrorist action or military conflict occur, it may be necessary to return all or part of these individuals to the United States. This evacuation may take place under a Presidential Declaration of National Emergency or under situations not involving a declaration of emergency. The National Repatriation Plan relies on the states to carry out the operational responsibilities for the reception, temporary care and onward transportation of the returned U.S. citizens and their dependents. When the National Repatriation Plan is implemented, the individuals will be brought to specific points of entry throughout the country. The State of Oklahoma has two designated points of entry. They are located at Tinker Air Force Base, Midwest City, and Altus Air Force Base, Altus. There are certain basic assumptions~~

~~that must be made while implementing this program. These assumptions are:~~

~~(1) The State of Oklahoma will be notified through federal channels that an evacuation is being considered. The state will be given a minimum of 48 hours to activate its plan before the repatriated citizens actually arrive;~~

~~(2) Military support generally will not be available;~~

~~(3) Emergency repatriation operations may begin prior to a declaration of national emergency;~~

~~(4) The Emergency Processing Centers will be located as near the points of entry as possible and operations will be carried out on a 24 hour per day schedule;~~

~~(5) Evacuees arriving in the United States may or may not need assistance in the areas of financial assistance, transportation, health, location of family and many other areas. These needs will be met on an as-needed basis; and~~

~~(6) Evacuees will be processed through customs and cleared by all federal agencies prior to their release for processing by the Oklahoma Department of Human Services staff.~~

**340:55-1-4. Organization and assignment of responsibilities [REVOKED]**

~~(a) The Social Security Administration Office of Family Assistance (SSA/OFA) carries lead responsibility for the development of the National Emergency Repatriation Plan. The national responsibilities for other federal and non federal agencies are outlined in that plan. Mandated by the national plan, the Governor of the State of Oklahoma has designated the Oklahoma Department of Human services as the responsible agency for the State Emergency Repatriation Plan. As a result of this designation, it is the responsibility of the Department to identify the services to be provided, develop the plan and secure a Memorandum of Understanding from local resources to provide services the Department is unable to provide. The Emergency Repatriation Program is administered by staff assigned to the Family Support Services Division. Although the supervisor of the Emergency Welfare Services Section has primary responsibility for plan development and implementation, any staff assigned to the Family Support Services Division may be used for the program.~~

~~(b) In addition to and in conjunction with the services of local resources, the Oklahoma Department of Human Services will take the primary responsibility for the activities in (1)-(2) of this subsection.~~

~~(1) **Pre-operational phase.** Activities included in the pre-operational phase are:~~

~~(A) identifying and coordinating the utilization of state agency resources;~~

~~(B) designing and securing Memorandums of Understanding to ensure cooperation of all participating state and local resources;~~

~~(C) arranging for and providing training to Department staff as necessary and appropriate; and~~

~~(D) developing and distributing forms/appendices to be used by assigned staff during emergency repatriation procedures.~~

~~(2) **Operational phase.** Activities included in the operational phase are:~~

~~(A) assuring appropriate state agencies are alerted to the need to implement the state plan;~~

~~(B) initiating contact with a pre-designated official at each point of entry to arrange for pre-notification of incoming evacuee flights and to establish a Department of Human Services contact person;~~

~~(C) notifying local resources;~~

~~(D) initiating procedures to activate an emergency processing center(s);~~

~~(E) evaluating the need to request the Governor proclaim a state of emergency;~~

~~(F) registering and interviewing all evacuees;~~

~~(G) identifying destination;~~

~~(H) identifying needs and resources;~~

~~(I) providing or arranging for necessary services which may include:~~

~~(i) information and referral;~~

~~(ii) financial assistance;~~

~~(iii) medical care;~~

~~(iv) temporary shelter;~~

~~(v) transportation;~~

~~(vi) food;~~

~~(vii) clothing;~~

~~(viii) communication with family;~~

~~(ix) family reunification and;~~

~~(x) counseling; and~~

~~(J) setting up a case record for documentation of information.~~

~~(c) Other state agencies and local resources will provide additional assistance and services to the repatriated individuals.~~

**340:55-1-5. Command and control [REVOKED]**

~~(a) Until the repatriated citizens have been processed for legal entry into the United States, all command and control will be under federal auspices. All repatriated individuals must be processed and cleared by Customs, Agriculture Plant Protection and Quarantine, and the Immigration and Naturalization Service. Additionally, the Federal Bureau of Investigation and the Public Health Service may be involved on a case by case basis. These federal clearance agencies are responsible for making arrangements for this operation in coordination with the appropriate military, state and/or local officials. After all federal clearances are completed, the Social Security Administration, Office of Financial Assistance, is the federal agency responsible for the reception, temporary care and onward transportation to final destination of all noncombatant evacuees. However, based on the acceptance of the Oklahoma Emergency Repatriation Plan by the Associate Commissioner for Family Assistance, the designated state coordinator is in charge of the operations at each point of entry in the state. As part of this responsibility, the state coordinator will develop and maintain the operational plan with the involved federal and non-federal agencies.~~

~~(b) **Communication.** The initial communication regarding the implementation of the Emergency Repatriation Plan will be from the State Department. The initial communication may~~

~~notify the Department of Health and Human Services (including SSA/OFA) that an escalating crisis may be occurring or that U.S. noncombatants will be evacuated. After the Department of Health and Human Services receives the information, communication and coordination operations are established with the Federal Emergency Management Agency (FEMA). It is the responsibility of FEMA to notify:~~

~~(1) governors;~~

~~(2) all cooperating federal agencies;~~

~~(3) FEMA Regional Directors; and~~

~~(4) HHS Regional Directors.~~

~~(c) When the state Governor's Office is notified, the Governor or his designee will contact the Oklahoma Department of Human Services to advise the Director or his designee of the situation. Based on the situation, other agencies and appropriate DHS staff will be notified of their involvement. Communications will be on-going between DHS and the assisting organizations as well as between DHS, FEMA and SSA/OFA.~~

**340:55-1-6. Operations [REVOKED]**

~~(a) **Establishment of emergency processing centers.** Upon notification by the Department of Health and Human Services of the necessity for implementation of the State Emergency Repatriation Plan, staff from the Oklahoma Department of Human Services will be contacted and notified of their assignment. Emergency processing centers will be established and staffed at the pre-established locations near Tinker Air Force Base and Altus Air Force Base. All cooperating state and voluntary agencies will be notified and active communication will be established with the Office of Financial Assistance and the Federal Emergency Management Agency. The emergency operations center will have adequate facilities to meet the essential needs of the repatriated individual. Telephones, water fountains and restrooms will be available within each center. Additionally, facilities for overnight congregate care will be contained at the emergency processing center or within close proximity. Congregate feeding will be arranged for by the American Red Cross. Evacuees may also be housed overnight at local hotels and motels.~~

~~(b) **Transportation and security.** When the evacuated individuals arrive at the Point of Entry, they will be transported to an emergency processing center for processing by federal officials. The transportation will be provided by local school districts, city transportation or other resources. After the evacuees are cleared for entry into the United States, they will be processed by the state staff. Until they are legally cleared for entry, all responsibility for these individuals remains with the federal government. Local police and the Oklahoma Department of Public Safety will assist with security both prior to and after the repatriated citizens are cleared for legal entry.~~

~~(c) **Individuals in need of medical attention and fatalities.** All individuals in need of immediate medical attention will be transported to the nearest appropriate medical facility for treatment. Any fatality will be transported to a medical facility for processing and then to a designated mortuary facility. Local Health Departments and the Oklahoma Department of Human Services will be responsible for the coordination of these services.~~

~~(d) **Processing repatriated citizens.** The repatriated citizens will be directed to the reception and interviewing area of the emergency processing center. Their needs will be individually explored and addressed. The individual or head of household will be registered and interviewed by state staff to determine the appropriate plan of action. Information regarding the individual or family will be gathered by using the Repatriation Processing Check Sheet. When the service and financial needs of the individual or family have been met, arrangements are made for the individual to reach his/her final destination. Ground transportation to commercial transportation terminals, local hotels and motels and other local destinations will be provided by local school districts, city transportation or other local resources. Child care services will be provided by state or volunteer staff when needed during the processing activities. U.S. Postal Service Forms 3575 and 3576 will be made available so evacuees can file a change of address with their former post office. Civilians not attached to the military are only required to complete Postal Form 3576. All military and governmental personnel and their dependents must complete both Postal Service forms. Additionally, the SSA/OFA will provide all adults with an informational pamphlet explaining the processing procedure and the types of assistance available. All unaccompanied children will be interviewed, registered and provided care by Department of Human Services staff. Available information will be used to attempt to locate the parent or guardian of any unaccompanied child. If the parent or guardian cannot be located, legal steps will be taken to have custody of the child assigned to the Oklahoma Department of Human Services.~~

**340:55-1-7. Case records [REVOKED]**

~~An individual or family case record will be maintained for each repatriated individual or family processed at the Point(s) of Entry within the State of Oklahoma. The minimum information to be contained in the case record is personal and family identification, essential eligibility information, and type, purpose and amount of assistance received, if any. This information will generally be contained on the Repatriation Processing Sheet. These case records will be stored in Oklahoma City at the DHS State Office. Case record information will be kept in a manila folder and labeled. The label will contain:~~

~~(1) The name of the repatriated head of the family or individual, if a one person case;~~

~~(2) The social security number of the person listed, if available; and~~

~~(3) The passport number of the person listed, if available.~~

**340:55-1-8. Training [REVOKED]**

~~State Office program administrative staff will be trained on the Oklahoma Emergency Repatriation Plan on an annual basis. At the discretion of DHS Administrative staff, table top exercises may be conducted with local county staff.~~

**340:55-1-9. Public affairs [REVOKED]**

~~The Public Information Officer for the Department of Human Services will be responsible for handling all information releases for the Department. This individual will coordinate all releases of information with the appropriate federal public affairs personnel to ensure that consistent information is released. While it is recognized that many inquiries will be received regarding the welfare of repatriated citizens, the right to privacy of the individual will be respected at all times. Names of repatriated individuals will be released by the Oklahoma Department of Human Services only if authorized by the repatriated individual or head of household. The individual will state his/her consent or refusal on the repatriation processing check sheet.~~

~~(1) Participation in media interviews will be the decision of the repatriated individual. In coordination with federal public affairs personnel, the DHS Public Information Officer will make arrangements for consenting repatriates to be interviewed after they have been processed through the emergency processing center and are awaiting transportation to their final destination.~~

~~(2) Until a National Locator Service is developed and implemented, it will be necessary to compile the lists of the repatriated citizens by hand at the emergency processing center. Given the fact the State Emergency Repatriation Plan is a contingency plan that may lie dormant for many years while the computer capabilities of the state may change rapidly, it is not practical for the state to design, develop and implement an on site computer system to record information. Any automated information must come from federal sources and must indicate whether or not the individual has consented to a release of information.~~

*[OAR Docket #06-494; filed 3-31-06]*

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## TITLE 340. DEPARTMENT OF HUMAN SERVICES
## CHAPTER 60. REFUGEE RESETTLEMENT PROGRAM

*[OAR Docket #06-495]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
340:60-1-1. through 340:60-1-3. [AMENDED]
340:60-1-4. [REVOKED]
340:60-1-5. through 340:60-1-6. [AMENDED]
340:60-1-7. [REVOKED]
**(Reference APA WF # 05-20)**
**AUTHORITY:**
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; the Personal Responsibility and Work Opportunity Act of 1996; the Refugee Act of 1980, Public Law 96-212; Title IV-A, Section 408(e) of the Social Security Act; Sections 1611(a) and 1641(b) of Title 8 of the United States Code (U.S.C.); and Section 7105(b)(1)(A) of Title 22 U.S.C.
**DATES:**
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None requested
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Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2006.
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June 1, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
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n/a
**ANALYSIS:**
The purpose of the proposed rules is to revise rules for the Refugee Resettlement Program which are out of date, change language to reflect current usage, and to improve readability, eliminate unnecessary language, and clarify existing rules.
**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 JUNE 1, 2006:**

**340:60-1-1. Purpose**

The purpose of this Chapter is to describe the rules governing the ~~Department's~~ Oklahoma Department of Human Services (OKDHS) ~~refugee resettlement program~~ Refugee Resettlement Program (RRP).

**340:60-1-2. Legal base~~,~~ and availability of funds**

The Refugee Act of 1980 [Public Law 96-212] provides for assistance to refugees, regardless of national origin, to be administered by the states, with up to 100% reimbursement to be claimed from federal funds. Provision of the Refugee Resettlement Program (RRP) benefits described in this Chapter is based on the availability of federal funds. Should federal administrative or congressional action occur which reduces or terminates federal funding of ~~the Refugee Resettlement Program~~ RRP, benefits provided by the Oklahoma Department of Human Services (~~DHS~~ OKDHS) are reduced or terminated accordingly.

**340:60-1-3. ~~Definition of~~ Refugee Resettlement Program (RRP)**

(a) **The Refugee Act of 1980.** The ~~DHS Refugee Resettlement Program~~ Oklahoma Department of Human Services (OKDHS) RRP uses the international definition of refugee adopted under the Refugee Act of 1980.

(b) **Refugee documentation.** An applicant for assistance under the ~~Refugee Resettlement Program~~ RFP must provide documentation issued by the ~~Immigration and Naturalization Service (INS)~~ United States Citizenship and Immigration Services (USCIS). Acceptable documentation includes, but is not limited to:

(1) ~~an~~ Form I-94, Departure Record;

(2) ~~an I-151 or~~ Form I-551, Legal Permanent Resident ~~Alien~~ Card; ~~or~~

(3) a passport stamped with the classification status;

(4) a T-Visa; or

(5) a letter or order from the USCIS or court granting asylum.

(c) **Refugee status.** Documentation from ~~INS~~ USCIS provided by the applicant must show the applicant's status is:

(1) paroled as a refugee or asylee under Section 212(d)(5) of the Immigration and Nationality Act (Act)~~.~~;

~~(2) admitted as a conditional entrant under Section 203(a)(7) of the Act.~~

(~~3~~2) admitted as a refugee under Section 207 of the Act~~.~~;

(~~4~~3) granted asylum under Section 208 of the Act~~.~~;

(~~5~~4) admitted as an Amerasian immigrant from Vietnam under Section 584 of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1989, as amended~~.~~;

(~~6~~5) admitted for permanent residence, provided the individual previously held one of the statuses identified in this Section~~.~~;

~~(7) an Amerasian from Vietnam who is a U.S. Citizen.~~

(~~8~~6) a Cuban or Haitian entrant~~.~~; or

(7) an alien and his or her eligible relatives who are victims of a severe form of trafficking pursuant to Section 107(b) of the Trafficking Victims Protection Act of 2000 which was reauthorized and amended by the Trafficking Victims Protection Reauthorization Act of 2003.

(d) **Verification of alien status.** Form PS-4, Declaration of Citizenship Status, is a required part of the application process.

(1) ~~Each adult in the case~~ Under penalty of perjury, Form PS-4 must ~~sign~~ be signed~~, under penalty of perjury, the form~~ attesting to citizenship or lawful alien status by:~~.~~

(A) each adult included in the case; and

(B) ~~An~~ an adult ~~member must sign~~ included in the case for all individuals under 18 years of age ~~attesting to their citizenship and alienage status~~. In the absence of an adult in the case, the applicant, payee, or responsible adult acting in behalf of minor individuals signs ~~for the minors~~ Form PS-4.

(2) ~~Persons having lawful alien status must have status verified through~~ The Systematic Alien Verification for ~~Entitlements~~ Entitlement (SAVE) ~~using the primary or secondary verification procedure~~ process is used to verify alien status per OAC 340:65-3-4(a)(5).

(e) **Exclusions from RRP.** Persons excluded from participation in RRP are:

(1) resident aliens who did not previously have the status of refugee or asylee; or

(2) any applicant for asylum who has not been granted asylum status.

**340:60-1-4. Exclusions [REVOKED]**

~~(a) Persons excluded from participation in the Refugee Resettlement Program are:~~

~~(1) resident aliens who did not previously have the status of refugee or asylee.;~~

~~(2) any "applicant for asylum" who has not been granted asylum status.~~

~~(3) persons who are dependents of repatriated U.S. Citizens and would be included under the Repatriate Program. Such persons are those who are actually dependent on and related to a U.S. citizen as:~~

~~(A) spouses.~~

~~(B) parents.~~

~~(C) grandparents.~~

~~(D) unmarried minor children as defined by state law, including adopted children and step children.~~

~~(E) unmarried adult children who are dependent because they are handicapped, including adopted children and step children.~~

~~(F) spouse's parents.~~

~~(G) spouse's grandparents.~~

~~(H) minor siblings of the repatriate and spouse.~~

~~(b) Following the first 90 days after their arrival in the United States, the period of eligibility under the Repatriate Program, dependents of U.S. citizens who qualify as refugees, in accordance with the definition contained in this section are eligible to apply under the Refugee Assistance Program.~~

**340:60-1-5. Sponsorship**

Most refugees who reach a community have been resettled by one of the national voluntary agencies or a state or local government working with the federal government and some also have a local sponsor. The sponsor may be an individual, a church, a civic organization, a state or local government, or other local group or organization. ~~The responsibilities of the sponsor remain the same regardless of the type of sponsorship.~~ As part of the process for determining eligibility the worker must contact the sponsor or the resettlement agency to verify if they are providing cash benefits or other services to the refugee.

**340:60-1-6. ~~Conditions of~~ Program eligibility and procedures**

(a) **~~Eligibility for~~ Social services.** Social services are provided ~~refugees~~ by Oklahoma Department of Human Services (OKDHS) contracted providers in accordance with ~~45 CFR,~~ Section 400.147 through 155 Title 45 of the Code of Federal Regulations.

(b) **~~Time limit on eligibility.~~** ~~Under federal requirements as stated in P.L. 96-212, any individual who has been paroled into the United States as a refugee is not eligible for Refugee medical services after the refugee's first eight months in the United States. Provision of benefits through this time period is based on the availability of federal funding.~~ **Cash assistance.** Refugees must be afforded an opportunity to apply for cash assistance. Eligibility is determined according to Temporary Assistance for Needy Families (TANF) or State Supplement

Payment (SSP) program rules. The worker refers refugees who are age 65 or over, blind, or disabled to the Social Security Administration to apply for Supplemental Security Income (SSI). If the eligibility requirements for TANF or SSP are not met, a referral is made to Catholic Charities for Refugee Cash Assistance (RCA).

(c~~1~~) **Medical ~~services~~ assistance.** ~~When a refugee applies for "Medical Assistance Only," financial need must be established by using the Medical Assistance Standards - Medically Needy, DHS Appendix C-1, Schedule II, to determine whether any unencumbered income is applied to the vendor payment. A refugee must be certified for Title XIX medical assistance if eligible. There is not an eligibility condition of categorical relationship for Refugee Medical Assistance, thus enabling medical assistance to be provided on the basis of need without regard to family composition or the presence of children for the first eight months from the date of entry into the United States. After the first eight months, the regular Title XIX policy applies. Provision of benefits through this time period is based on the availability of federal funding.~~ Medicaid eligibility must be determined according to rules in OAC 317:35. If not eligible for Medicaid, eligibility for Refugee Medical Assistance (RMA) must be determined using Oklahoma Department of Human Services (OKDHS) Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule XIV. All recipients of RCA are eligible for RMA if not eligible for Medicaid.

(d) **Refugee Medical Assistance.** A determination of categorical relationship is not required for the first eight months of eligibility for RMA from the date of entry into the United States. This date of entry is found on the documentation verifying the refugee's or asylee's status. After the first eight months, Medicaid rules at OAC 317:35 apply. For RMA, only income available on the date of application is considered. No consideration is given to:

(1) in-kind services and shelter provided by a sponsor or a local resettlement agency;

(2) cash assistance payments; and

(3) employment earnings which start after approval for RMA.

(e) **Application processing time limit.** An application must be disposed of by a date which brings the effective date of action within 30 days following the date of application. When disposition is not possible within this time limit, the applicant is notified in writing at the end of the 30 days of the reason for the delay and the right to request a fair hearing if he or she chooses to do so [OAC 340:2-5].

(f~~2~~) **Food ~~stamps~~ benefits.** The ~~regular~~ appropriate food ~~stamp~~ benefit application and certification procedures ~~for non-PA households~~ are ~~used~~ followed. ~~It is necessary for all refugee food stamp cases to have an "S" number.~~

**340:60-1-7. Procedures [REVOKED]**

~~(a) **Applications and substantiation of eligibility.** In determining eligibility for medical assistance no disregards are applied to earned income.~~

~~(1) **Medical Assistance Only.** Applications for "Medical Assistance Only" are completed using Forms PS-3 and PS-4, and Form FSS-MA-1. The statements of the applicant regarding income and resources are recorded on the application form and signed by the applicant. If the refugee requests and is certified for medical services only, a medical ID card is mailed to the refugee.~~

~~(2) **Contact with sponsor.** As part of the regular process of determining eligibility for medical assistance, the social worker must contact the sponsor or the resettlement agency to verify if they are supplying cash, benefits, or other services to the refugee. When there is an emergency need for medical assistance and it is not possible to reach the sponsor, the requirement of verification with the sponsor is temporarily waived in order to meet the emergency.~~

~~(b) **Redeterminations.** The procedure for periodic redetermination of eligibility is the same as the procedure for a TANF case.~~

~~(c) **Prompt action.** An application must be disposed of by a date which brings the effective date of action within 30 days following the date of application. When disposition is not possible within this time limit, the applicant is notified in writing at the end of the 30 days of the reason for the delay and the right to request a fair hearing if he or she chooses to do so.~~

~~(d) **Fair hearings.** The same rules on fair hearings that apply to the regular TANF category also apply to the Refugee Resettlement Program.~~

~~(e) **Overpayments.** Overpayments may occur in the refugee program at any time resources or income are not properly considered in determining need. Overpayments may be for partial amounts or for totally ineligible cases.~~

*[OAR Docket #06-495; filed 3-31-06]*

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## TITLE 340. DEPARTMENT OF HUMAN SERVICES
## CHAPTER 75. CHILD WELFARE

*[OAR Docket #06-600]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions of Child Welfare Services
Part 1. Scope and Applicability
340:75-1-1. [REVOKED]
340:75-1-2. [AMENDED]
340:75-1-3. through 340:75-1-5. [REVOKED]
340:75-1-10. [REVOKED]
340:75-1-12.2. [AMENDED]
340:75-1-15. [REVOKED]
340:75-1-26. [AMENDED]
340:75-1-29. through 340:75-1-31. [NEW]
Part 9. Rules Regarding Human Immunodeficiency Virus (HIV)
340:75-1-110. through 340:75-1-112. [REVOKED]
340:75-1-113. through 340:75-1-120. [AMENDED]
Part 10. Oklahoma Children's Services (OCS)
340:75-1-150. and 340:75-1-151. [AMENDED]
340:75-1-151.2. [AMENDED]
340:75-1-152. [AMENDED]
340:75-1-152.3. through 340:75-1-152.9. [AMENDED]
340:75-1-154. through 340:75-1-155. [AMENDED]
Part 11. Comprehensive Home-Based Services (CHBS) [REVOKED]
340:75-1-175. through 340:75-1-176. [REVOKED]

340:75-1-179. [REVOKED]
Part 15. Training for Child Welfare Workers
340:75-1-231. [AMENDED]
Subchapter 3. Child Protective Services
340:75-3-1. through 340:75-3-2. [AMENDED]
340:75-3-6. through 340:75-3-7.1. [AMENDED]
340:75-3-8.1. through 340:75-3-8.3. [AMENDED]
340:75-3-9.1. [AMENDED]
340:75-3-10.2. through 340:75-3-10.3. [AMENDED]
340:75-3-13. [AMENDED]
Subchapter 4. Family-Centered and Community Services
Part 1. Voluntary Family-Centered Services
340:75-4-9. [AMENDED]
340:75-4-11. [REVOKED]
340:75-4-12.1. through 340:75-4-12.2. [AMENDED]
340:75-4-13. [AMENDED]
Subchapter 6. Permanency Planning
Part 7. Case Plans
340:75-6-40.5. [AMENDED]
Part 8. Role of the Child Welfare Worker
340:75-6-47. through 340:75-6-48. [AMENDED]
340:75-6-48.3. [NEW]
Part 11. Permanency Planning and Placement Services
340:75-6-85. [AMENDED]
340:75-6-90. [REVOKED]
Part 13. Independent Living
340:75-6-115.3. through 340:75-6-115.4. [AMENDED]
340:75-6-115.10. [AMENDED]
Subchapter 7. Foster Home Care
Part 2. Development of Resources
340:75-7-14. [AMENDED]
340:75-7-18. [AMENDED]
340:75-7-24. [AMENDED]
Part 5. Eligibility and Payments
340:75-7-52. [AMENDED]
Part 6. Foster Home Care Support Services
340:75-7-65. [AMENDED]
Subchapter 8. Therapeutic Foster Care and Developmental Disabilities Services ~~Division Services~~
Part 1. Therapeutic Foster Care
340:75-8-1. [AMENDED]
Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-Home Care
Part 1. Eligibility for Substitute Care Services and Claims for Payment
340:75-13-7. through 340:75-13-8. [AMENDED]
340:75-13-10. [AMENDED]
Part 2. Title IV-E Eligibility and Reimbursability
340:75-13-18. [AMENDED]
Part 3. Income and Resources of the Child
340:75-13-26. [AMENDED]
340:75-13-28. through 340:75-13-29. [AMENDED]
Part 7. Medical Services
340:75-13-64. through 340:75-13-65. [AMENDED]
340:75-13-79. [AMENDED]
340:75-13-81. [AMENDED]
Subchapter 15. Adoptions
Part 2. Legal Base and Scope of the Adoption Program
340:75-15-6. through 340:75-15-8. [AMENDED]
Part 6. Adoption Process
340:75-15-41. through 340:75-15-43. [AMENDED]
340:75-15-45. [AMENDED]
Part 10. Adoptive Family Assessment and Preparation Process
340:75-15-85. [AMENDED]
340:75-15-87. [AMENDED]
Part 12. Post Placement Services
340:75-15-107. [AMENDED]
Part 14. Post Adoption Services
340:75-15-126. [AMENDED]
340:75-15-128.1. [AMENDED]
340:75-15-128.4. [AMENDED]
Subchapter 18. Continuous Quality Improvement
340:75-18-2. [AMENDED]
340:75-18-10. [AMENDED]
340:75-18-13. [AMENDED]
Subchapter 19. Working with Indian Children
340:75-19-26. [AMENDED]
340:75-19-26.1. [NEW]
340:75-19-27. [REVOKED]
340:75-19-28. through 340:75-19-30. [AMENDED]
340:75-19-32. through 340:75-19-33. [AMENDED]
**(Reference APA WF 05-10)**

**AUTHORITY:**
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Sections 21.1; 7001-1.1 et seq., 7003-8.8, 7004-1.6, and 7201 et seq. of Title 10 of the Oklahoma Statutes; and Section 3230 of Title 70 of the Oklahoma Statutes.

**DATES:**
**Comment period:**
December 15, 2005 through January 17, 2006
**Public hearing:**
None requested.
**Adoption:**
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**SUPERSEDED EMERGENCY ACTIONS:**
N/A

**ANALYSIS:**
The revisions to Subchapters 1, 3, 4, 6, 7, 8, 13, 15, 18, and 19 of Chapter 75 clarify: (1) mission and scope of Child Welfare (CW) services; (2) appeal process regarding investigations resulting in confirmed findings; (3) CW case records and responsibilities; (4) Address Confidentiality Program (ACP) services; (5) citizenship and immigration procedures when a child is determined a foreign national; (6) information regarding human immunodeficiency virus (HIV); (7) services through Oklahoma Children's Services (OCS); (8) training requirements for CW staff; (9) Child Protective Services (CPS) priorities, protocols, procedures, and findings; (10) Permanency Planning activities, including CW worker contacts; (11) Independent Living (IL) program services; (12) foster home requirements regarding sleeping arrangements, money payments, and child care; (13) child support requirements; (14) children's benefits; (15) consent for medical services; (16) efforts regarding life support, hydration and nutrition, resuscitation, and organ donation; (17) adoption services; (18) Child and Family Services Review practices and procedures, including Program Improvement Plans (PIPs) and case reviews; (19) services for Indian children in both Oklahoma Department of Human Services (OKDHS) and tribal custody; and (20) by revoking rules that are duplicative.

**CONTACT PERSON:**
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 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 DEPARTMENT OF HUMAN SERVICES, SEQUOYAH BUILDING, OKLAHOMA CITY 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:**
340:75-1-1; 75-1-3 through 75-1-5; 75-1-10; and 75-1-15 are revoked as most information was incorporated into other Sections of 340:75.

340:75-1-2 is amended to include the mission, scope, and legal base of CW services.

340:75-1-12.2 is amended to clarify eligibility criteria for the appeal process when an investigation results in a confirmed finding.

340:75-1-26 is amended as CW case records responsibility information was moved to 340:75-1-29.

340:75-1-29 through 75-1-31 are issued to better clarify CW case responsibility, ACP services, and citizenship and immigration status for the child determined a foreign national.

340:75-1-110 through 75-1-112 are revoked as most information was incorporated into other Sections of Part 9 of 75-1.

340:75-1-113 through 75-1-120 are amended to clarify HIV related service requirements and worker responsibilities.

340:75-1-150; 75-1-151; 75-1-151.2 through 75-1-155; and 75-4-12.2 are amended to include Parent Aide Services as a component of OCS.

340:75-1-175 through 75-1-179 are revoked as most information is contained in Part 10 of 340:75-1 and Part 1 of 340:75-4.

340:75-1-231 is amended to delete the requirement of completing the New CW Worker Development Plan within the first two years of employment.

340:75-3-1; 75-3-2; 75-3-8.2; 75-3-9.1; 75-3-10.3; 75-4-9; 75-7-14; 75-13-8, 75-13-10; 75-13-18, 75-15-6; 75-15-107; 75-19-29; 75-19-32; and 75-19-33 are amended to reflect updated information.

340:75-3-6 is amended to clarify time frames for the assignment of Priority I and Priority II reports. Designation of Priority III referrals will no longer be used, in order to shorten time frames for initial contact with children considered at risk.

340:75-3-7 is amended to clarify processing reports that are duplicative.

340:75-3-7.1 is amended to specify the consideration of only Priority I and Priority II reports.

340:75-3-8.1 and 75-3-13 are amended to delineate investigation and assessment time frames.

340:75-3-8.3 is amended to address protocols relating to infants born alive at any stage of development.

340:75-3-10.2 is amended to reflect updated information regarding findings for CPS investigations.

340:75-4-11 is revoked as most information is contained in other Sections of 340:75-4.

340:75-4-12.1 is amended to clarify the process for assessing the need for voluntary foster family care.

340:75-4-13 is amended to update voluntary Family-Centered Services requirements.

340:75-6-40.5 is amended to include all court reports pertaining to a child's case plan, including new Form CWS-KIDS-25-B, Preadjudication Court Report.

340:75-6-47 and 75-6-48 are amended to specify the role of the CW worker when working with children and families, including CW worker contacts.

340:75-6-48.3 is issued to address the protocol for children who are absent without leave (AWOL).

340:75-6-85 is amended to include the court's consideration of a foster parent to adopt a child when the child has resided with the foster parent for at least a year.

340:75-6-90 is revoked as this information is contained in other Sections of 340:75-1 and 340:75-4.

340:75-6-115.3 and 75-6-115.4 are amended to specify the use of preparation contingency funds for permanent connection related activities and IL incentive payments for life skills assessments.

340:75-6-115.10 is amended to amend the age of eligible youth from 17.3 to 16 for the IL specialized community home program.

340:75-7-18 is amended to include sleeping arrangement considerations for any infant placed in a foster home.

340:75-7-24 and 75-7-52 are amended to clarify the process for requesting a money payment to a foster parent in lieu of or in addition to foster care reimbursement.

340:75-7-65 is amended to specify circumstances regarding payment of foster care child care.

340:75-8-1 is amended to correct a reference to a policy cite.

340:75-13-7 is amended to provide current procedures for claiming allowance funds to children in OKDHS custody and out-of-home placement resources that provide a monthly allowance for each child.

340:75-13-26 is amended to comply with paternity and child support mandates pursuant to House Bill 1241.

340:75-13-28 and 75-13-29 are amended to clarify that a contracted placement provider is not allowed to receive the full amount of foster care reimbursement and any other monies to which the child is entitled.

340:75-13-64 and 75-13-65 are amended to clarify eligibility for medical services and the required consent for medical services.

340:75-13-79 is amended to include current procedures for Sooner Ride services and other transportation options.

340:75-13-81 is amended to include information relating to withdrawal of life support, withholding or withdrawal of hydration and nutrition, and resuscitation efforts.

340:75-15-7 is amended to include definitions for adoption specialist and adoption transition specialist.

340:75-15-8 is amended to delineate additional responsibilities for the adoption specialist.

340:75-15-41 and 75-15-42 are amended to clarify procedures for adoptive placement criteria and statewide adoption staffings.

340:75-15-43; 75-15-45; and 75-15-85 are amended to include updated information specific to adoptive placements.

340:75-15-87 is amended to reflect the current training requirements for adoptive parent applicants.

340:75-15-126 is amended to conform to statutory requirements regarding insurance coverage for a child who is adopted.

340:75-15-128.1 is amended to clarify overpayment procedures when an adoptive parent receives an overpayment

340:75-15-128.4 is amended to provide information specific to a sibling relationship when determining special needs eligibility for adoption assistance.

340:75-18-2, 75-18-10, and 75-18-13 are amended to reflect current Child and Family Services Reviews practices and procedures, including PIPs and case reviews.

340:75-19-26 is amended to reflect updated information when OKDHS provides foster care reimbursement for a child in tribal custody.

340:75-19-26.1 is issued to provide procedures specific to therapeutic foster care for a child in tribal custody.

340:75-19-27 is revoked as this information is provided in 340:75-13-65.

340:75-19-28 is amended to specify required information for the determination of difficulty of care for a child in tribal custody.

340:75-19-30 is amended to include IL activities that the youth in tribal custody must agree to when opting for voluntary foster care after age 18.

*[OAR Docket #06-600; filed 4-7-06]*

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

*[OAR Docket #06-496]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions
340:100-1-2. [AMENDED]
Subchapter 3. Administration
Part 1. General Administration
340:100-3-4. AMENDED]
340:100-3-4.1. [REVOKED]
340:100-3-5.1. [AMENDED]
Part 3. Operations
340:100-3-27. through 340:100-3-27.1. [AMENDED]
340:100-3-28. through 340:100-3-29. [AMENDED]
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-22.1. [AMENDED]
340:100-5-22.3. [REVOKED]
340:100-5-26.3. [NEW]
340:100-5-29. [AMENDED]
Part 5. Individual Planning
340:100-5-52. [AMENDED]
Appendix D. Dyskinesia Identification System [REVOKED]
Appendix J. Application for Volunteer Guardianship [REVOKED]
Appendix K. Volunteer Reference Letter [REVOKED]
**(Reference APA WF# 05-07)**

**AUTHORITY:**
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 1020 of Title 56 of the Oklahoma Statutes (O.S); and Sections 1430.1 et seq. of Title 10 of O. S.
**DATES:**
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**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
Proposed Developmental Disabilities Services Division rules are revised to: (1) add a definition for natural supports; (2) update requirements for assisting service recipients with personal funds; (3) revoke and move language to appropriate Sections; (4) remove references to revoked appendices; (5) include requirements for case managers to visit service recipients in their homes and work sites; (6) correct typographical errors; (7) delete requirement for child abuse registry check, which is no longer possible due to confidentiality requirments; (8) add respite, homemaker, respite homemaker, and alternative group homes to the list of specialized training requirements; (9) prohibit dangerous or deadly weapons and illegal substances in homes providing residential supports; (10) change requirements that copies of the Individual Plan (IP) are kept at any site in which the service recipient receives services; and (11) issue rules specifying services that can be provided by direct support staff in accordance with statute.
**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 11, 2006:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 340:100-1-2. Definitions

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

**"Active treatment"** means aggressive and consistent implementation of a program of specialized and generic training, treatment, and health services that is directed toward the acquisition by the individual of skills necessary to function as independently as possible.

**"Adaptive equipment services"** means activities ~~which~~ that assess the need for and acquisition of equipment or products which may be customized to increase, maintain, or improve the functional capabilities of individuals with developmental disabilities. These services include consumer and provider training in the use and maintenance of equipment, as well as equipment repair. Equipment provided through this service includes:

(A) mobility and positioning devices such as wheelchairs, travel chairs, walkers, positioning systems, ramps, wheelchair lifts, bath seats, bath lifts, specialized beds, corner chairs, or feeder chairs;

(B) orthotic and prosthetic devices such as braces and prescribed modified shoes;

(C) augmentative or alternative communication aids such as language boards, or electronic communication aids; and

(D) environmental controls such as devices to turn on and off appliances, use a telephone, or open doors.

**"Advisory Committee on Services to Persons with Developmental Disabilities"** means the committee appointed by the Director of the Oklahoma Department of Human Services (OKDHS) which has a legislative mandate to review and make recommendations on ~~policies~~ rules and programs of the Developmental Disabilities Services Division (DDSD) to the Director and the Oklahoma Commission for Human Services.

**"Advocate"** means a person who speaks for or on behalf of an individual, especially when individual rights or interests are at risk.

**"Age appropriate"** means that aspect of normalization that reinforces recognition of an individual as a person of his or her chronological age.

**"Alternative appropriate setting"** means a residential setting, other than a nursing facility, in which needed habilitation services are provided. In most cases, an alternative appropriate setting is accessed through waivered services the individual is determined eligible to receive commensurate with the eligibility requirements of this Chapter.

**"Architectural modification services"** means activities ~~which~~ that assess the need for and provide alterations to a residence of an ~~individual receiving services~~ service recipient, to ensure safety, security, and accessibility. Modifications include:

(A) ramps;

(B) lifts such as porch, chair, and hydraulic lifts;

(C) bathroom facilities such as roll-in showers, sink and bathtub modifications, toilet, floor urinal, and bidet adaptations, water faucet controls, plumbing modifications, and turnaround space;

(D) kitchen facilities such as sink modifications, sink cutouts, turnaround space, water faucet controls, plumbing modifications, work surface, and cabinetry adjustments; and

(E) specialized accessibility adaptations such as door-widening, electrical wiring modifications, grab bars and handrails, automatic door openers, doorbells, voice activated, light activated, and electronic devices.

**"Assessment"** means the process of identifying an individual's present developmental or functional level and health status, the individual's developmental strengths and needs, the environment, and other conditions that support or impede development.

**"Audiological examination and treatment services"** means activities performed by an audiologist licensed by the State Board of Examiners for Speech-Language Pathology and Audiology which may include treatment and counseling regarding the use and care of individual hearing aids.

**"Case manager"** means a professional who is responsible for assuring that services to an individual are planned and provided in a coordinated fashion. Additional responsibilities include independent advocacy, brokerage, and monitoring activities with, and on behalf of, ~~persons receiving services~~ service recipients.

**"Challenging behavior"** means a behavior which, by its frequency or degree of intensity:

(A) places at risk an individual's physical safety, environment, relationships, or participation in the community; or

(B) creates a risk of involvement in civil or criminal processes.

**"Client Contact Manager (CCM)"** means a computer software system used by DDSD case managers to collect and monitor case management data for all service recipients.

**"Community Integrated Employment (CIE)"** means a service program which provides placement, job training, and short-term or long-term supports to assist ~~individuals who are eligible for developmental disabilities services~~ service recipients in achieving and maintaining employment within the community.

**"Companion services"** means living arrangements in which a ~~person receiving services~~ service recipient shares a home with a non-disabled person who may or may not be a paid provider of services to the ~~person receiving services~~ service recipient.

**"Confidential information"** means information related to a ~~person receiving services~~ service recipient generated by OKDHS or contract providers; and observations of and discussions concerning the condition of ~~persons receiving services~~ service recipients, their families, guardians, or friends.

**"Consumer"** means a person who is a direct recipient or beneficiary of service planning and delivery. "Consumer" is synonymous with "client," "service recipient," and "individual served."

**"Contract provider or agency"** means an agency or individual rendering services to persons with developmental disabilities under a contractual agreement with OKDHS.

**"Convalescent care"** means nursing facility care following a person's release from an acute care hospital that is part of a medically prescribed period of recovery. Convalescent care is not expected to exceed an established number of days.

**"DDSD"** means the Developmental Disabilities Services Division, an operating unit of OKDHS.

**"Deaf"** means hearing loss so severe that the individual cannot communicate through oral or aural means.

**"Dementia"** means a degenerative disease of the central nervous system as diagnosed by a physician in accordance with the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM).

**"Demonstrated need"** means critical elements required by ~~persons receiving services~~ service recipients to prepare for or continue to lead a full and productive life in the community, which can be authorized by the DDSD case manager, in accordance with this Chapter. Needs are distinguished from wants which include things that would be nice to have. Funding for a person's wants comes from the person's own resources, natural supports, or community resources.

**"Dental examination and prophylaxis"** means activities of a licensed dentist ~~which~~ that diagnose acute or chronic dental conditions, support oral hygiene through medically indicated cleansing and scale removal procedures, and prescribe training procedures promoting independence in oral hygiene for ~~persons receiving services~~ service recipients.

**"Developmental disability"** means a severe chronic disability of a person which:

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the person attains age 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the areas of major life activity which are:

(i) self-care;

(ii) receptive and expressive language;

(iii) learning;

(iv) mobility;

(v) self-direction;

(vi) capacity for independent living; and

(vii) economic self-sufficiency; and

(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

**"DHS"** means the Oklahoma Department of Human Services (OKDHS).

**"Family counseling"** means activities to identify stresses within a family group and to develop the skills within the family to cope with problems or stresses presented by raising a child with developmental disabilities. These activities are provided by an appropriately licensed professional or through support groups.

**"Family homes"** means residences maintained by individuals biologically related to a person receiving services.

**"Family training"** means activities designed to equip family members, significant others, and persons with developmental disabilities with knowledge and skills which allow a family member with developmental disabilities to remain in or return to his or her home.

**"Goals"** means long-term categorical statements which describe what the individual is expected to achieve in a given time frame.

**"Group home for developmentally disabled and physically disabled adults"** means any establishment or institution other than a hotel, motel, fraternity or sorority house, or college or university dormitory for not more than 12 residents, 18 years of age or older who are developmentally disabled or physically disabled, and which offers or provides supervision, residential accommodations, food service, training and skill development opportunities designed to lead to increased independence of the residents, and supportive assistance to any of its residents requiring supportive assistance. Homes certified by OKDHS as foster homes, and living arrangements certified under the Adult Companion Home Certification Act, are not considered group homes.

**"Guardian"** means a person(s) appointed by a court as general or limited guardian of the person, general or limited guardian of property, special guardian or temporary guardian as provided by state statutes. The term does not include a person(s) appointed as guardian ad litem.

**"Guardian ad litem"** means a person(s) appointed by a court to represent the interests of an individual in a legal action.

**"Guardianship Assessment Team"** means the ~~consumer's~~ service recipient's core team members who are required to attend the Guardianship Assessment Team meeting.

(A) Members of the Guardianship Assessment Team include:

(i) the ~~consumer~~ service recipient;

(ii) a personal advocate of the ~~consumer's~~ service recipient's choice;

(iii) ~~consumer's~~ service recipient's family member(s);

(iv) the ~~consumer's~~ service recipient's case manager;

(v) representative of the OKDHS Office of Client Advocacy, if the ~~consumer~~ service recipient is residing in a resource center or is a member of the Homeward Bound class;

(vi) guardian ad litem representative, if identified as the ~~consumer's~~ service recipient's advocate;

(vii) a physician, if the ~~consumer~~ service recipient resides at a resource center; and

(viii) a psychologist, if the ~~consumer~~ service recipient resides at a resource center.

(B) Other team members whose presence is not required at the Guardianship Assessment Team meeting may be invited to participate as a Guardianship Assessment Team member, if these individuals know the ~~consumer~~ service recipient well and have pertinent information for determining guardianship needs. Other Guardianship Assessment Team members may include:

(i) the ~~consumer's~~ service recipient's primary physician, if the ~~consumer~~ service recipient receives community supports;

(ii) a psychologist, if the ~~consumer~~ service recipient receives community services and the psychologist is a member of the ~~individual's~~ service recipient's Personal Support Team; and

(iii) interested parties, such as friends, residential or vocational staff, or other contract professionals.

**"Habilitation services"** means goal-directed services and therapy activities designed to assist ~~an individual with developmental disabilities~~ a service recipient to achieve greater mental, physical, and social development. Activities are based on the ~~individual's~~ service recipient's capacity to make progressively independent and responsible decisions about social behavior, quality of life, job satisfaction, and personal relationships. The goal of habilitation services is to strengthen developmental skills and resolve personal deficits ~~which~~ that interfere with the ~~individual's~~ service recipient's capacity to successfully remain in his or her home or other community-based settings.

**"Homemaker services"** means services which support persons receiving services in activities of daily living such as self-care, non-specialized mobility, cooking, shopping, home maintenance, and transportation and which are performed by paraprofessional providers in the place of residence of the person receiving services.

**"Human Rights Committee"** means the committee charged with the responsibility for ensuring the legal and ethical rights of individuals served.

**"ICF/MR"** means an intermediate care facility for the mentally retarded which is a residential facility licensed in accordance with state law and certified by the federal government as a provider of Medicaid services to persons who have mental retardation or related conditions.

**"Incapacitated"** means a determination made by the court that a person is unable to provide for and make decisions for the person's own needs and safety. The term incapacitated is used to indicate full or partial incapacity.

**"Individual Habilitation Plan (IHP)"** means a plan of intervention developed by the interdisciplinary team based upon assessment of need. It specifies all the goals and objectives being pursued on behalf of the individual, the steps being taken to achieve them and all of the services provided by each agency. The IHP is a single, consistent, and comprehensive plan that encompasses all relevant components of the individual's life. Various aspects of the plan such as education, rehabilitation, health care, and others are assigned to those persons or agencies who can best provide, or who are legally required to provide, the necessary services.

**"Informed consent"** means the voluntary consent by a person who has the legal capacity to consent after being informed of the nature, purpose, risks, and benefits of a proposed service or action.

**"Intake"** means the process by which an individual gains access to DDSD services. Intake ~~activities~~ staff:

(A) provide answers to specific service inquiries~~,~~;

(B) assist in the identification of needs in times of crisis~~,~~;

(C) supply information regarding the range and means of accessing available services~~,~~;

(D) provide assistance as necessary in service application~~,~~;

(E) facilitate eligibility determination~~,~~; and

(F) provide follow-up contacts as necessary to ensure that services fulfill need.

**"Integrated vocational site"** means a location or activity that provides regular interaction with people without disabilities, excluding service providers, to the same extent that a non-disabled worker in a comparable position interacts with others.

**"Interdisciplinary Team (IDT)"** means the decision-making body for service planning, implementation, and monitoring of the ~~individual plan~~ Individual Plan. Refer to definition for Personal Support Team.

**"Intrusive procedure"** means a procedure ~~which~~ that impinges upon the bodily integrity of the individual. Use of intrusive procedures is regulated by OAC 340:100-5-26, 340:100-5-57, and 340:100-5-58. Intrusive procedures include, but are not limited to:

(A) the use of injections or oral medications administered for the sole purpose of controlling behavior;

(B) physical management or physical restraint; and

(C) mechanical restraints for medical reasons.

**"Job coach"** means an individual who holds ~~a~~ an OKDHS approved job coach certification and provides ongoing support services to eligible consumers in supported employment placements. Services directly support the ~~consumer's~~ service recipient's work activity including marketing and job development, job and work site assessment, the training and assessment for the workers, job matching procedures, development of co-worker supports both natural and paid, and teaching job skills.

**"Least restrictive alternative"** means an arrangement that allows the ~~individual~~ service recipient opportunities to exercise choice, interact with non-disabled citizens, and participate in rhythms of life free of programmatic oversight to the extent of the ~~individual's~~ service recipient's unique abilities.

**"Long-term resident"** means any resident of a nursing facility with mental retardation or related conditions who has continuously resided in a nursing facility for at least 30 consecutive months prior to the date of the first preadmission screening and resident review (PASRR) disposition.

**"Mental retardation"** means a condition ~~which~~ that refers to substantial limitations in present functioning. Mental retardation manifests before age 18. It is characterized by significantly subaverage intellectual functioning, existing concurrently with related limitations in two or more of the applicable adaptive skill areas of:

(A) communication;

(B) self-care;

(C) home living;

(D) social skills;

(E) use of community resources;

(F) self-direction;

(G) health and safety;

(H) functional academics;

(I) leisure; and

(J) work.

**"Natural supports"** means assistance provided by a person who is not paid specifically to provide support to the service recipient, but who provides that support voluntarily. Natural supporters might include family members, friends, co-workers, neighbors, church members, members of a service recipient's club or interest group, or others in the service recipient's community.

**"Non-prescription medication"** means a pharmacological drug ~~which~~ that is sold without a prescription and is prepackaged for use by the ~~consumer~~ service recipient and labeled in accordance with the requirements of state and federal statutes and regulations.

**"Normalization"** means a principle which advocates that services provided to persons with developmental disabilities are provided in accordance with commonly accepted patterns and conditions of life experienced by the general population.

**"Nursing facility"** means an Oklahoma Medicaid-certified institution providing skilled nursing and related services. It does not include a facility certified as an ~~intermediate care facility for the mentally retarded~~ ICF/MR.

**"Nutritional services"** means assessment, consultation, planning, and monitoring activities conducted by a registered dietitian.

**"Occupational therapy services"** means assessment, consultation, planning, therapy, and monitoring activities conducted by an occupational therapist licensed by the Oklahoma Board of Medical Licensure and Supervision.

**"OKDHS"** means the Oklahoma Department of Human Services.

**"Personal Support Team (Team)"** means the decision making body for service planning, implementation, and monitoring of the ~~individual plan~~ Individual Plan. The Team includes the ~~person receiving services~~ service recipient, his or her case manager, the legal guardian, and the person's advocate(s), if there is one, who may be a parent, a family member, a friend, or another who knows the person well. The term Personal Support Team replaces the term Interdisciplinary Team.

**"Physical management"** means an intrusive procedure involving any physical guidance to overcome resistance or brief upper body hold to ensure safety. Use of physical management is regulated by OAC 340:100-5-57.

**"Physical restraint"** means an intrusive procedure in which the person is physically held to restrict movement.

**"Physical Status Review"** means Form DDS-7, Physical Status Review, which is a written assessment that objectively identifies a ~~consumer's~~ service recipient's functional ability to attend to activities of daily living based on past and present health history and current treatment modalities. The completed Form DDS-7 assists the consumer and the Team to identify the ~~consumer's~~ service recipient's health care level, staff training requirements, health care coordination needs, and more in-depth assessment needs.

**"Physical therapy"** means assessment, consultation, planning, treatment, and monitoring activities conducted by a physical therapist licensed by the Oklahoma Board of Medical Licensure and Supervision.

**"Plan of Care"** means a summary listing of services prescribed within the IHP, which indicates the frequency, duration, and cost of each service recommended for funding through Home and Community-Based Waivered Services (HCBWS). This document is not required in service planning

for individuals residing in an ICF/MR or who receive services funded through funding sources other than the Home and Community-Based Services (HCBS) waiver.

**"Preadmission screening and resident review (PASRR)"** means the process of evaluating, reviewing, and establishing the need for nursing facility services in contrast to other services for people with mental retardation and related conditions.

**"Prescription medication"** means any drug ordered by a practitioner of medicine, dentistry, osteopathy, optometry, or podiatry who is licensed by law to prescribe such drug(s), which is intended to be filled, compounded, or dispensed by a pharmacist.

**"Prevocational services"** means services which are not job task oriented, but which are aimed at preparing ~~an individual~~ a service recipient for paid or unpaid employment.

**" p.r.n."** means to take, or administer, a medication "as needed."

**"Program coordinator"** means a person employed by a DDSD residential or vocational contract provider agency who is responsible for the supervision, coordination, and monitoring of services to a ~~person receiving services~~ service recipient provided by the contract provider agency.

~~**"Prohibited business transactions"** means:~~

~~(A) buying or selling any item or items for money or items of trade, to a person receiving services;~~

~~(B) trading articles by force from a person receiving services;~~

~~(C) taking any article by force or stealing from a person receiving services;~~

~~(D) bartering for articles or money with a person receiving services;~~

~~(E) borrowing money or any item of value from a person receiving services; or~~

~~(F) accepting articles in the form of a gift from a person receiving services.~~

**"Proper consent"** means obtaining prior written approval of the individual or the legal guardian specific to the use of a particular treatment approach defined as intrusive or restrictive.

**"Psychological services"** means assessment, consultation, planning, therapy, behavior treatment, and monitoring activities conducted by a licensed psychologist or by a psychological assistant.

**"Psychotherapy services"** means assessment, consultation, planning therapy, and monitoring activities performed by a board-certified psychiatrist or licensed psychologist.

**"Psychotropic medication"** means a pharmacological drug used to treat a mental disorder, or any drug prescribed to stabilize or improve mood, mental status, or behavior.

**"QMRP"** means a Qualified Mental Retardation Professional. This is an individual who meets ICF/MR regulations as specified in Title 42 of the Code of Federal Regulations (CFR), Chapter IV, Section 483.420. This requires a baccalaureate degree in a human services field, in addition to one year of experience serving persons with mental retardation.

**"Related condition"** means a severe, chronic disability [42 CFR, Section 435.1009] that:

(A) is attributable to:

(i) cerebral palsy or epilepsy;

(ii) any other condition, including autism. Any other condition excludes mental illness (MI) that is found to be closely related to mental retardation (MR) because it results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with MR and requires treatment or services similar to those required for persons with MR;

(B) is manifested before the person reaches age 21;

(C) is likely to continue indefinitely; and

(D) results in substantial functional limitations in three or more areas of major life activity, which include:

(i) self-care;

(ii) understanding and use of language;

(iii) learning;

(iv) mobility;

(v) self-direction; and

(vi) independent living.

**"Respite care services"** means in-home and out-of-home activities provided for the primary purpose of temporarily relieving the family or primary caregiver from the responsibility of care giving. Providers of this service may include individual providers, foster homes, group homes, and state licensed and certified ICF/MR, or other multi-service agencies which achieve and maintain licensure in accord with state law and OKDHS ~~policy~~ rules and fulfill contract stipulations dictating required service, treatment, and environmental standards.

**"Restrictive procedure"** or **"restriction"** means a procedure ~~which~~ that results in the limitation of the ~~individual's~~ service recipient's rights. Use of restrictive procedures is regulated by OAC 340:100-5-57 and 340:100-5-58. Restrictive procedures include:

(A) limiting communication with others;

(B) any limitation of access to:

(i) leisure activities;

(ii) the ~~individual's~~ service recipient's own money or personal property;

(iii) goods or services beyond normal budgetary considerations;

(C) any limitation of movement at home or in the community; or

(D) any direct observation procedures, specified as a result of challenging behavior, such as continuous one-to-one staffing during times or places which would otherwise be considered private.

**"Sheltered employment"** means a service which assists workers toward achieving their vocational potential through a controlled work environment, providing worker reimbursement in accordance with individual production and the Fair Labor Standards Act (FLSA). Sheltered employment services include assessment, training, and transitional programming leading to community job placements.

**"Sheltered workshop"** means a facility under the direction of a nonprofit organization that provides vocational training and sheltered employment services for workers with

disabilities. Sheltered workshops often subcontract with businesses to provide work for the sheltered employees and typically pay their employees less than minimum wage, commensurate with the employee's production.

**"Short-term resident"** means any resident with mental retardation or related conditions who has resided in a nursing facility for less than 30 months prior to the date of the first PASRR disposition.

**"Skilled nursing services"** means nursing services in the community including preventative and rehabilitative procedures that fall within professional and legal bounds and are ordered by an attending physician. These services are prescribed and nursing plans are written for individuals as a result of the individual planning process and are included in the ~~individual habilitation plan~~ Individual Plan.

**"Specialized foster care"** means residential service option for eligible individuals with developmental disabilities between the ages of six through 17 whose primary need is placement in a family setting.

**"Specialized services"** means individualized services specified by the Mental Retardation Authority and listed in PASRR evaluations which, combined with services provided by the nursing facility or other service providers, results in a treatment regimen leading to the continued and ongoing enhancement of independence.

**"Speech therapy"** means assessment, planning, therapy, consultation, and monitoring activities provided by a licensed speech and language pathologist.

**"Supplemental Security Income (SSI)"** means a federal income subsidy program administered by the Social Security Administration.

**"Supported employment"** means competitive work in an integrated work setting with ongoing support services for ~~consumers~~ service recipient's with severe disabilities for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of severe disabilities.

**"Supported living arrangements"** means a flexible array of habilitation and support services ranging from 24 hour in-home services to semi-independent living services which provides an opportunity for an adult with developmental disabilities to live in his or her own home.

**"Team leader"** or **"unit coordinator"** means a professional employed by a public or private agency who is responsible for assuring that services to ~~an individual~~ a service recipient are planned and provided in a coordinated fashion. Additional responsibilities include advocacy, service coordination, and monitoring activities with and on behalf of ~~persons receiving services~~ service recipients.

**"Terminal illness"** means, as certified by a physician, a condition that results in a life expectancy of six months or less and requires continuous nursing care or medical supervision and treatment to address the person's physical condition.

**"Transition"** means the planned movement of an individual from one service setting to another, occurring as a result of Team recommendation and the informed consent of the ~~consumer~~ service recipient.

**"Transportation services"** means services ~~which~~ that include acquisition of, and training in support and payment for, the use of public or private transportation.

**"Treatment team for specialized services"** means the team whose purpose is to develop a prescribed plan of specialized services for each ~~individual~~ service recipient. The team is composed of the ~~individual~~ service recipient, guardian or advocate, nursing home representative, and other professionals and para-professionals as needed to develop a comprehensive plan of services. Additional team members might include a psychologist, physical therapist, speech pathologist, physician, and nurse's aide among others. DDSD staff assist nursing facility based teams in plan development and implementation as needed.

**"Vocational assessment"** means the employment service evaluation, whether or not standardized procedures are employed, that identifies the unique preferences, strengths, and needs of the ~~consumer~~ service recipient, evaluates work skills and work behaviors, is supplemented by personal interviews and behavioral observations, and incorporates information that addresses the ~~consumer's~~ service recipient's medical, physical, psychological, social, cultural, and educational goals and objectives, as well as present and future employment options. The assessment is updated annually or more frequently as needed.

**"Volunteer guardian"** means a concerned citizen who serves, unpaid, as guardian for a ~~person receiving DDSD services~~ service recipient. A volunteer guardian is appointed by the court and responsible to the court for the care of the person.

**"Volunteer guardianship coordinator"** means a DDSD staff member who is responsible for the operation of the Volunteer Guardianship Program at the local level.

**"Volunteer Guardianship Program"** means a program which locates volunteers to serve as guardian for persons receiving services who are determined in need of a guardian and for whom no relative or friend is available to serve in that capacity.

**"Volunteer Guardianship Program supervisor"** means a DDSD State Office staff member who is responsible for the oversight of the program.

**"Ward"** means a person over whom a guardian is appointed by the court.

## SUBCHAPTER 3. ADMINISTRATION

## PART 1. GENERAL ADMINISTRATION

**340:100-3-4. ~~Client transactions: business, gifts, and tips~~ Service recipients' personal funds**

~~DDSD employees and contract providers are prohibited from engaging in any business transaction involving money or articles of value with any client except through an approved therapeutic program established by the IDT.~~

~~(1) Employees do not engage in prohibited business transactions with clients.~~

~~(2) This policy does not prohibit established, authorized programs involving business transactions.~~

(a) **General information.** Each person receiving services from Developmental Disabilities Services Division (DDSD) is assured access to his or her personal funds.

(1) Personal funds means income from all sources, earned or unearned, and assets. Income is money received in the current month. If any income is not used to meet the service recipient's needs during the current month, the remaining funds become a resource or asset of the service recipient in the following month.

(2) Provider agency staff, the service recipient's representative payee, and DDSD staff assist the service recipient in avoiding financial exploitation by others.

(3) After the service recipient's day-to-day needs for food and shelter are met, funds may be used for his or her personal needs such as recreation, clothing, and other expenses. The provider agency and the Personal Support Team (Team) work with the service recipient, as needed, to ensure that all needs are met.

(b) **Prohibited transactions.** Neither provider agency staff members nor DDSD employees engage in any financial transaction with the service recipient, including:

(1) giving gifts to the service recipient with a cumulative annual value greater than $100;

(2) accepting gifts from the service recipient with a cumulative annual value greater than $20;

(3) selling, purchasing, leasing, or trading any item(s) except:

(A) as part of an established business in which fair market value is received; or

(B) when approved in advance in writing by the Team;

(4) borrowing funds or any item of value from the service recipient; and

(5) loaning funds to the service recipient, except:

(A) loaning very small amounts, such as money for a meal or a recreational activity, for periods of time under 24 hours; or

(B) as part of a program authorized in advance in writing by the Team.

(c) **Living expenses.** The provider agency may lend funds to a service recipient to cover the service recipient's living expenses in expectation that funds will be available in the future that enable the service recipient to repay the loan. In such a situation, the provider agency submits ongoing written reports to the Team regarding the status of the service recipient's financial condition.

(d) **Protection of personal funds.** The provider agency safeguards the personal funds of the service recipient when such safeguarding has been determined necessary by the person's Team and authorized by the service recipient or guardian or when the provider is designated as the representative payee. In accordance with OAC 340:100-3-1.2, each service recipient has the right to manage, be taught to manage, and have assistance in managing his or her financial affairs and to have access to all financial records regarding his or her personal funds. Staff who have access to, or assist the service recipient with, the service recipient's personal funds, assure that:

(1) the personal funds are not co-mingled with provider agency funds;

(2) a separate financial record is maintained for each service recipient that includes receipts for all expenditures that are:

(A) over $5; and

(B) made with agency staff involvement;

(3) a written accounting of the personal funds is maintained;

(4) a summary of financial transactions is available to the service recipient, guardian, DDSD case manager, and the Office of Client Advocacy (OCA) advocate, if involved:

(A) monthly; and

(B) when the service recipient ceases receiving service from the provider agency;

(5) copies of the written accounting and the summary of financial transactions are provided to the service recipient, guardian, and case manager upon request.

(6) the service recipient's personal funds account is reconciled at least monthly by a provider agency staff member who does not have authority to disburse funds from, or responsibility to deposit funds to, the account;

(7) documentation is maintained to support all transactions involving the service recipient's funds which are not independently controlled by the service recipient;

(8) the service recipient's income is deposited to his or her personal account within seven days of receipt;

(9) if the service recipient's income is held in an interest bearing account, the interest accrues to the service recipient;

(10) any personal cash which is not in the service recipient's possession is properly protected against theft;

(11) the service recipient receives requested funds within one banking day of the request;

(12) the service recipient, parent, guardian, or payee, as applicable, and the case manager are advised of eligibility requirements when the service recipient's account accumulates $1200;

(13) personal funds are not used to supplement service rates or to purchase items which are part of the services that the service recipient is currently authorized to receive;

(14) prior to receiving services from a provider agency, a written agreement is executed between the service recipient, his or her guardian, family, or advocate and the provider agency. A copy of the agreement is given to each party, and a copy remains in the service recipient's record. The agreement includes:

(A) the responsibilities of the provider agency to the service recipient in handling the service recipient's personal funds;

(B) the service recipient's fiscal responsibilities; and

(C) services for which the service recipient's personal funds must be used;

(15) all requested financial information necessary for the maintenance of the service recipient's financial eligibility is provided to the Oklahoma Department of Human Services (OKDHS) and the Social Security Administration in a timely manner; and

(16) each service recipient receives choices in the selection of stores for the purchase of food, clothing, and personal items.

(e) **Team planning and assistance to manage personal funds.** The Team may limit, but not totally deny, a service recipient's access to or use of his or her personal funds only when a determination is made in accordance with this subsection that the limitation is essential to prevent the service recipient from unreasonably or significantly dissipating his or her personal funds.

(1) The Team follows rules established in OAC 340:100-3-1.2.

(2) Regular allowances or spending programs may be implemented on an individual basis, provided it is requested by the service recipient, guardian, or parent of a minor and reviewed by the service recipient's Team. The specific amount of the allowance is documented in the service recipient's plan. An allowance consists of a fixed amount of money that is regularly given to the service recipient to spend as he or she wishes.

(3) Justification for limiting access to and use of funds is documented in the service recipient's plan. The Team develops a plan to remove the restriction and includes specific dates to review the plan.

(4) The Team assures the service recipient is afforded due process prior to implementation of any financial restrictions.

(5) When determining whether or not to limit a service recipient's access to his or her personal funds, the Team addresses whether the service recipient:

(A) is able to recognize currency and coins, and their value;

(B) does not lose money regularly;

(C) does not leave money lying around;

(D) does not give money away;

(E) has the ability to make change or knows when to wait for change;

(F) shows responsible behavior regarding his or her money, paying bills on time, writing checks only when he or she has sufficient funds, and saving or planning for special items;

(G) understands his or her responsibility to pay room and board expenses; and

(H) understands budgeting so money will last all month.

(f) **Payee responsibilities.** In addition to the requirements of subsections (a) through (e) of this Section, individuals and organizations serving as payee for a service recipient's personal funds obtain a copy of the dispersing agency's regulations regarding payee responsibilities and adhere to the dispersing agency's requirements regarding payee responsibilities.

(1) The service recipient, his or her guardian, or representative payee or conservator is responsible for paying for room and board from the service recipient's income.

(2) A provider agency serving as payee uses direct deposit of benefits, if available.

**340:100-3-4.1. Consumers' Personal Funds managed by contract residential providers [REVOKED]**

~~(a) **Scope and applicability.** Each consumer is assured access to his or her personal funds. After residential service costs are paid, funds are spent as the consumer chooses unless limited or restricted lawfully as provided in DHS/DDSD policy or other provisions in law.~~

~~(1) Personal funds means income from all sources, earned and unearned. Income is money received in the current month. If any income is not used to meet the consumer's needs during the current month, the remaining funds become a resource (asset) to the consumer in the following month.~~

~~(2) Consumers/guardians/representative payees/conservators are responsible for paying for residential services from the consumer's income, according to the rates listed in the current contracts.~~

~~(3) Service providers who manage a consumer's personal funds must be designated as representative payee for the consumer by the Social Security Administration or Railroad Retirement Board, or as conservator by the Veterans' Administration Board, regardless of status of guardianship.~~

~~(4) Representative payees/conservators are required by law to use benefits properly. If a representative payee/conservator misuses benefits, he/she must reimburse the funds to the consumer (SSA Publication #05-10076, June 1994).~~

~~(b) **Maintaining personal funds.** At the time the consumer moves into a residential service program, funds in the consumer's possession receive immediate action by the representative payee/conservator. Funds turned over to the representative payee/conservator are placed in an account in a financial institution in the consumer's name within five working days of receipt. Interest earned on a consumer's funds is credited to that consumer.~~

~~(c) **Protection of assets by the consumer's team.** The consumer's team may limit, but not totally deny, a consumer's access to and use of his/her personal funds only when a determination is made that the limitation is essential to prevent the consumer from unreasonable and significantly dissipating his/her assets.~~

~~(1) The consumer's team follows rules established in OAC 340:100-3-1(c), Bill of Rights.~~

~~(2) Automatic regular allowances or spending programs are prohibited. However, an allowance may be implemented on an individual basis, provided it is requested by the consumer, guardian, or parent of a minor and reviewed by the consumer's team. The specific amount of these funds is documented in the consumer's plan. An allowance consists of a fixed amount of money which is regularly given to the consumer to spend as~~

~~he/she wishes in order to provide the opportunity to learn money management skills.~~

~~(3) Justification for limiting access to and use of funds is documented in the consumer's record.~~

~~(4) The consumer's team develops a plan to remove the restriction and includes specific dates to review the plan.~~

~~(5) The consumer's plan assures the consumer is afforded due process prior to implementation of any financial restrictions.~~

~~(6) The representative payee/conservator assists the consumer in avoiding financial exploitation by others.~~

~~(7) The consumer's team addresses the criteria in (A)-(J) when determining whether or not to limit a consumer's access to his/her income and resources (assets).~~

~~(A) The consumer is able to recognize currency and coins, and their value.~~

~~(B) The consumer does not lose money regularly.~~

~~(C) The consumer does not leave money lying around.~~

~~(D) The consumer does not give money away.~~

~~(E) The consumer is not easily exploited.~~

~~(F) The consumer has the ability to make change or know when to wait for change.~~

~~(G) The consumer shows responsible behavior regarding his/her money. He/she pays bills on time, writes checks only when he/she has sufficient funds, and saves or plans for special items (vacation, tv, car).~~

~~(H) The consumer understands his/her responsibility to contribute to the cost of services.~~

~~(I) The consumer understands budgeting so money will last all month.~~

~~(d) **Protection of assets by the representative payee/conservator.** The representative payees/conservators, or their designees, makes the assurances in (1)-(11) for the management of the consumer's funds remaining after payment for residential services.~~

~~(1) The consumer's funds are separate from the agency/provider funds.~~

~~(2) A separate accounting (financial record) is maintained for each consumer.~~

~~(3) Due to confidentiality, account balances and records of transactions are provided only to the consumer, parent/guardian, and consumer's case manager. The financial report must be submitted monthly.~~

~~(4) When a consumer requests a disbursement of his/her personal funds, he/she will receive those funds within one banking day of the request.~~

~~(5) The consumer or parent/guardian is advised of Medicaid eligibility requirements before large balances are accrued in the consumer's account.~~

~~(6) Agency employees/providers shall not engage in any financial transaction with the consumer (e.g., selling/purchasing property, loaning funds, giving gifts with a cumulative annual value greater than $100.00).~~

~~(7) Funds may be used to purchase items which are not considered part of the cost of services for which clients are currently eligible. (Reference Department contract for specifics).~~

~~(8) The representative payee/conservator may delegate the management of a consumer's personal funds. If such delegation is made, it is in writing.~~

~~(9) The representative payee/conservator is responsible for determining the appropriateness of purchases made by his/her designee when spending personal funds on the consumer's behalf. The tests in (A)-(E) of this paragraph are used as a guide to determine appropriateness.~~

~~(A) The item or service purchased is not included in the cost of service;~~

~~(B) The consumer wants and is able to use, appreciate, and benefit from the item or service (e.g., the item or service is chosen/liked by the consumer);~~

~~(C) The item or service purchased does not result in the inability to meet financial obligations for the costs of the particular item or service;~~

~~(D) The therapeutic benefit to the consumer justifies the higher cost of the item or service (e.g., fashionable eye glasses above the cost of standard eye glasses obtained through group insurance); and~~

~~(E) The item or service is of a medical nature which is prescribed by a medical professional as having a justified therapeutic effect and which is not covered by the cost of service, Medicaid, Medicare, or other third party liability.~~

~~(10) Itemized receipts are kept on each expenditure of $5.00 or more made by the representative payee/conservator or designee on behalf of the consumer; and~~

~~(11) Agency providers who are representative payees/conservators, ensure the protection of the consumer's funds by carrying insurance to cover negligence or malfeasance.~~

~~(e) **Change of residential program.** Upon moving from any residential program to another, the consumer's guardian/team determines whether or not to change the representative payee/conservator.~~

~~(1) If the representative payee/conservator changes, the current representative payee/conservator relinquishes, within 30 days, the balance of the consumer's funds plus any interest earned.~~

~~(A) Only the funds for which the representative payee/conservator is responsible are relinquished to the new representative payee/conservator.~~

~~(B) The outgoing representative payee/conservator, within 30 days, provides to the new representative payee/conservator a complete financial accounting for all funds managed during the current reporting year.~~

~~(2) Funds are not maintained in a Resource Center/Greer Center account for a consumer in community placement for more than 90 days.~~

~~(A) At the end of 90 days, if no new representative payee/conservator is established, the funds are returned to the dispersing agency.~~

~~(B) Any exceptions to (e)(3)(A) of this Section are documented by the case manager in the consumer's record, including the specific reason why the funds are still maintained in the Resource Center/Greer~~

~~Center account and why no new representative payee/conservator has been established. A plan is developed by the consumer's team to resolve this issue. Progress toward resolving the issue is reviewed monthly and documented by the case manager in the consumer's record.~~

~~(f) **Dispute resolution.** Disputes between a consumer/guardian and his/her service provider representative payee/conservator regarding the management of the consumer's personal funds will be resolved in accordance with OAC 340:2-3-1 (Office of Client Advocacy, Grievance rules, guidelines and procedures for Department operated facilities and community based services for the mentally retarded and developmentally disabled).~~

**340:100-3-5.1. Volunteer ~~guardianship program~~ Guardianship Program**

(a) **Purpose.** Developmental Disabilities Services Division assures that guardians are provided for service recipients of Developmental Disabilities Services Division (DDSD) ~~clients~~ who have been determined through an assessment process to need guardianship and for whom a guardian is unavailable through relatives or friends. A system to locate, screen, match, and monitor volunteer guardians for these ~~clients~~ service recipients is established and maintained by DDSD.

(b) **Responsibilities of Developmental Disabilities Services Division.** DDSD responsibilities in the Volunteer Guardianship Program are given in this subsection.

(1) When the need for a volunteer guardian has been determined the case manager ~~or QMRP~~ is responsible for locating a potential guardian for the ~~client~~ service recipient. In the absence of a case manager ~~or QMRP~~, the volunteer guardianship coordinator assumes responsibility for identifying a potential guardian. In attempting to locate a potential volunteer guardian, the case manager ~~or QMRP~~ follows outlined procedures before reporting results to the ~~IDT~~ Personal Support Team (Team). The ~~IDT~~ Team makes a recommendation for an individual to be appointed guardian.

(2) Before recruiting a volunteer guardian, individuals are contacted and considered in the order listed in (A)-(J) of this paragraph as provided in ~~Oklahoma Statute [30 O.S. §3-104]~~ Section 3-104 of Title 30 of the Oklahoma Statutes (O.S.). Persons considered are:

(A) ~~An individual or individuals~~ an individual(s) nominated by the ~~client~~ service recipient according to ~~Oklahoma Statute [30 O.S. §3-102]~~ Section 3-102 of Title 30 of O.S.;

(B) ~~A~~ a current guardian appointed by the court;

(C) ~~An~~ an individual nominated by will or other writing of a deceased parent, spouse or adult child who was serving as the guardian of the ~~client~~ service recipient according to ~~Oklahoma Statute [30 O.S. §3-103]~~ Section 3-103 of Title 30 of O.S.;

(D) ~~The~~ the spouse of the ~~client~~ service recipient;

(E) ~~An~~ an adult child of the ~~client~~ service recipient;

(F) ~~A~~ a parent of the ~~client~~ service recipient;

(G) ~~A~~ a sibling of the ~~client~~ service recipient;

(H) ~~An~~ an individual with whom the ~~client~~ service recipient has been living for more than six months prior to the filing of the petition ~~(see~~ per (c)(1)(D) of this Section~~)~~;

(I) ~~Other~~ other relatives of the ~~client~~ service recipient such as grandparent, grandchild, aunt, uncle, niece, or nephew; or

(J) ~~Other~~ other relatives of the ~~client~~ service recipient who are residents of ~~the State of~~ Oklahoma, according to ~~Oklahoma Statute [30 O.S. §4-104]~~ Section 4-104 of Title 30 of O.S.

(3) If a potential guardian is not found, the case manager ~~or QMRP~~ submits a request to the ~~Volunteer Guardianship Coordinator~~ volunteer guardianship coordinator for volunteer guardianship services. The request includes documentation of attempts to locate a guardian.

(c) **Volunteer guardianship eligibility requirements.** Volunteer guardianship eligibility requirements are listed in (1) - (4) of this subsection.

(1) In order to be considered for a volunteer guardianship position, the criteria listed in (A)~~-~~through (E) of this paragraph must be met.

(A) Volunteer guardians must be at least 18 years of age.

(B) An incapacitated or partially incapacitated person cannot be appointed guardian.

(C) Volunteer guardians must be residents of ~~the State of~~ Oklahoma for at least one year, except as provided in ~~Oklahoma Statute [30 O.S. §4-104]~~ Section 4-104 of Title 30 of O.S.

(D) An owner, operator, administrator, or employee of a facility subject to provisions of the Nursing Home Care Act, the Residential Home Care Act or the Group Homes for ~~the Developmentally Disabled or Physically Handicapped~~ Persons with Developmental or Physical Disabilities Act or any other Oklahoma Department of Human Services (OKDHS) provider cannot be appointed guardian of a person receiving services from that provider agency or provider except as outlined in ~~Oklahoma Statutes [30 O.S. §3-104, A, 8]~~ Section 3-104 of Title 30 of O.S.

(E) A background check is completed on potential volunteer guardians.

(2) Volunteers must possess the willingness and ability to devote time and energy to serve as guardian, including physical and emotional ability.

(3) Volunteer guardians must be court appointed.

(4) ~~Oklahoma Statute [30 O.S. §4-101] stipulates~~ In accordance with Section 4-101 of Title 30 of O.S., a person cannot be appointed guardian for more than five people.

(d) **Responsibilities of a volunteer guardian.** The responsibilities of a volunteer guardian are provided in this subsection.

(1) The volunteer guardian is responsible for protecting the rights of the ~~client~~ service recipient according to ~~Oklahoma Statute [30 O.S. §3-118]~~ Section 3-118 of Title 30 of O.S.

(A) ~~A~~ The guardian files a plan of care ~~is filed~~ with the court ~~by the guardian~~ within ten days of appointment as guardian.

(B) ~~An~~ The guardian files an annual report ~~is filed~~ with the court ~~by the volunteer guardian~~. Assistance in completing the annual report may be obtained from the case manager~~, QMRP,~~ or volunteer guardianship program staff.

(C) The volunteer guardian is under legal duty to:

(i) know the ~~person~~ service recipient, including his or her ~~(~~capabilities, needs, and physical and mental health~~)~~;

(ii) maintain contact with ~~him/her~~ the service recipient;

(iii) ~~assure~~ ensure the ~~person~~ service recipient is living in the least restrictive environment which meets ~~his/her~~ his or her needs;

(iv) provide necessary consents authorized by the court; and

(v) notify the court if the ~~person's~~ service recipient's incapacity has ended.

(D) A volunteer guardian's power is limited according to ~~Oklahoma Statute [30 O.S. § 3-119]~~ Section 3-119 of Title 30 of O.S.

(2) In performing their duties and exercising their powers, volunteer guardians:

(A) ~~assure~~ ensure the rights of the ward are protected;

(B) encourage the ward to participate to the maximum extent of ~~his/her~~ his or her abilities in all decisions which affect ~~him/her~~ the ward and to act on ~~his/her~~ his or her own behalf on all matters in which the ward is able to do so within the limitations imposed by the court; and

(C) as appropriate, assist ~~their wards~~ the ward to develop or regain to the maximum extent possible ~~his/her~~ his or her capacity to meet the essential requirements for ~~his/her~~ his or her health or safety.

(e) **Changes in guardianship.** The ward, any person interested in the welfare of the ward, or a volunteer guardian may make application to the court for:

(1) termination of the guardianship;

(2) removal of a guardian;

(3) imposition of additional restrictions or the removal of existing restrictions; or

(4) a review hearing.

(f) **Costs and fees.** Court costs are not charged for filing petitions and reports for individuals who are applicants for or recipients of Social Security, according to ~~Oklahoma Statute [56 O.S. §192]~~ Section 192 of Title 56 of O.S.

(g) **Preparation of guardianship papers.** Preparation of the guardianship petition can be completed through different processes.

(1) The services of an attorney may be acquired. Some attorneys prepare the necessary legal papers for indigent individuals pro bono ~~("for the benefit of" the ward, for free)~~.

(2) Necessary paperwork for DDSD ~~clients~~ service recipients is prepared by the ~~DHS~~ OKDHS Legal Division.

(3) Petition for guardianship can be completed by the potential volunteer guardian. If the subject of the proceeding is not represented by an attorney, the court may appoint an attorney.

(h) **Monitoring of volunteer guardians.** Monitoring of the volunteer guardian is provided by the volunteer guardianship coordinator. The volunteer guardianship coordinator meets with the volunteer guardian at least annually or as needed.

(i) **Training requirements for volunteer guardians.**

(1) Volunteer guardians participate in guardianship training on the responsibilities, duties, and limitations on the powers of serving as a guardian. Training is arranged by DDSD with no cost to the volunteer guardian.

(2) Volunteer guardians receive orientation to applicable ~~DHS~~ OKDHS rules and procedures regarding volunteer programs. Volunteer guardians are informed they are not covered by the Governmental Tort Claims Act because they are not authorized to act in behalf of ~~DHS~~ OKDHS, nor can they be so authorized without creating a conflict of interest in their roles as guardians.

(j) **Responsibilities of volunteer guardianship coordinator.** The volunteer guardianship coordinator is responsible for the operation of the program on the local level. Duties of the volunteer guardianship coordinator include:

(1) reviewing guardian request and documentation;

(2) recruiting concerned citizens to act as volunteer guardians;

(3) requesting background checks of potential volunteer guardians~~. Volunteer guardianship coordinator has the volunteer guardian complete Appendix J of this Chapter, Application for Volunteer Service. Appendix J is submitted with a cover memo to the volunteer guardianship program manager~~;

(4) contacting references. ~~Appendix K of this Chapter, Volunteer Reference Letters, are sent~~ The volunteer guardianship coordinator sends OKDHS Form Vol-7, Volunteer Reference Letter, to a minimum of three references. If responses are not received, follow-up contact is made;

(5) bringing the recommendation before the ~~IDT~~ Team for review when a potential volunteer is identified;

(6) arranging visits with the potential volunteer and ~~client~~ service recipient;

(7) arranging guardianship training and providing orientation on ~~DHS~~ OKDHS rules and procedures; and

(8) monitoring ~~(see~~ in accordance with subsection (h) of this Section~~)~~.

(k) **Responsibilities of ~~volunteer guardianship program~~ Volunteer Guardianship Program manager.** The ~~volunteer guardianship program~~ Volunteer Guardianship Program manager is responsible for oversight of the ~~Volunteer Guardianship Program~~ program which includes:

(1) completing and reviewing ~~of~~ background checks for volunteer guardians;

(2) supervising and assisting in volunteer recruitment;

(3) reviewing assessment of competency for leads on potential guardian;

(4) writing and interpreting the DDSD Volunteer Guardianship ~~program~~ Program rules and procedures;

(5) developing and conducting training for volunteer guardians;

(6) performing on-sight reviews of local Volunteer Guardianship Program; and

(7) approving any volunteer as a potential guardian.

(l) **Responsibilities of Legal Division.** ~~DHS~~ OKDHS Legal Division has legal authority according to ~~Oklahoma Statute [10 O.S. §1415]~~ Section 1415 of Title 10 of O.S. to file a petition for the appointment of a guardian for residents of ~~DHS~~ OKDHS operated facilities for the mentally retarded. The Legal Division attorneys cannot provide any legal services to any other party or potential party in the guardianship cases, including the volunteer guardian or DDSD ~~client~~ service recipient. ~~Further, the~~ The only legal services that are provided are to ensure compliance with ~~Oklahoma Statute [10 O.S. §1415]~~ Section 1415 of Title 10 of O.S. Other legal services in connection with these guardianships are not provided directly or indirectly by ~~DHS~~ OKDHS.

## 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~~ service recipients, Oklahoma Department of Human Services (OKDHS) rules, applicable Oklahoma Health Care Authority (OHCA) rules, requirements of contracts for services let through OHCA for Home and Community-Based Services (HCBS), regulatory standards applicable to services, and state and federal law.

(b) Case managers assess services rendered to each ~~person receiving services at least monthly~~ service recipient to ensure the effectiveness of services in meeting the needs of the service recipient. The case manager periodically observes service provision to assess implementation of the Individual Plan (Plan). The requirements given in this subsection are minimum expectations for face-to-face visits with service recipients. Additional visits may be required, at the discretion of case management, to ensure the health and welfare of service recipients.

(1) The case manager conducts face-to face visits to monitor the service recipient's well-being, health status, and effectiveness of services in meeting the service recipient's needs.

(A) For service recipients in the In-Home Supports Waiver:

(i) a face-to-face visit must be completed at least semi-annually; and

(ii) at least one of the two visits must occur at the site where the majority of services are provided.

(B) For service recipients in the Community Waiver:

(i) a face-to-face visit must occur monthly in the home of all persons receiving residential services as described in OAC 340:100-5-22.1 or group home services licensed under Section 1430.1 et seq. of Title 10 of the Oklahoma Statutes;

(ii) a face-to-face visit must be completed at least quarterly for service recipients who do not receive residential services or group home services, with at least two of these visits occurring at the site where the majority of services are provided; and

(iii) the case manager visits the employment or day services site at least semi-annually when the services are funded through the Waiver, unless the Personal Support Team (Team) requests an exception that is approved by the DDSD area manager or designee.

(C) For service recipients in the Homeward Bound Waiver:

(i) a face-to-face visit must occur monthly in the home; and

(ii) the case manager must visit the employment site at least quarterly, unless the Team requests an exception that is approved by the DDSD area manager or designee.

(D) For Homeward Bound class members who reside in an Intermediate Care Facility for persons with mental retardation (ICF/MR), the case manager visits monthly.

(2) Case managers review progress and ensure implementation of the Plan.

(A) The case manager completes the review monthly for persons receiving services through the Community Waiver or Homeward Bound Waiver, documenting the review through contact notes in the Client Contact Manager (CCM).

(B) For persons receiving services through an In-Home Supports Waiver, the case manager review occurs every six months and is documented through contact notes in CCM.

(~~1~~3) 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~~4) If the case manager determines that the needs ~~or preferences~~ of the ~~individual~~ service recipient 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~~5) 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~~ Quality Assurance, who resolves the situation with the programs administrator for community services.

(c) At least annually, ~~individuals~~ service recipients and families receiving supports are provided the opportunity to complete an evaluation of services, Consumer Service Evaluation, OKDHS Publication No. 89-10.

(1) Confidentiality is maintained unless the respondent authorizes OKDHS to reveal his or her name to those responsible for service delivery. Service evaluations may be completed anonymously if desired.

(2) Quality assurance staff distribute service evaluations to ~~individuals served~~ service recipients 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 DDSD area office when authorized by the ~~individual~~ service recipient 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, or OKDHS, as appropriate. Data is available to interested citizens upon request.

(d) ~~Individuals~~ Service recipients and families receiving supports participate in formal assessments of ~~service providing agencies~~ contract providers in order to promote service enhancement consistent with the expectations of ~~persons receiving services~~ service recipients.

(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~~ receiving 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~~ service recipients 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~~ an invitation to bid (~~ITBs~~ITB) in accordance with state law and OKDHS ~~policy~~ rules, 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~~ an ITB. Selection of a qualified organization(s) to conduct OK-AIM monitoring and reporting activities occurs as stipulated by ~~policy~~ rules 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) OKDHS and OHCA ~~policy~~ rules 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) immediately notifying the DDSD area office of any issue ~~presenting~~ identified during OK-AIM monitoring activities that presents risk to the health and welfare of ~~individuals served identified during OK-AIM monitoring activities~~ a service recipient.

(5) DDSD area managers identify 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, area offices, and agencies conducting OK-AIM activities, identifies conditions ~~which~~ that are determined to present significant risks to ~~individuals served~~ service recipients.

(A) Conditions determined to present imminent risk to ~~individuals~~ service recipients 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~~ that are determined to pose potential risk to ~~individuals~~ service recipients 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~~ that pose no jeopardy to any ~~individual~~ service recipient. Concerns presenting immediate and significant risk to ~~individuals~~ service recipients 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~~ service recipients, 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 OKDHS, or 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~~ service recipients.

(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~~ OKDHS employees as provided by 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 OKDHS employees are prohibited from any form of retaliation against any ~~individual served~~ service recipient, employee, or agency for reporting or discussing possible performance deficiencies with any authorized agent of OKDHS. Authorized agents for this purpose are OKDHS staff whose responsibilities include administration, supervision, or oversight of DDSD services, including case managers, case management supervisors, area managers, State Office administrators, Office of Client Advocacy personnel, and quality assurance staff.

(i) Additional components of the DDSD quality assurance program are found in OAC 340:100-3-27.1 through 340:100-3-27.5.

**340:100-3-27.1. Contract performance surveys and administrative inquiries**

Agencies providing services under contract with the Oklahoma Department of Human Services (OKDHS), or through a Home and Community-Based Waiver (HCBW) participate in performance surveys assessing compliance with expectations defined in the agency's contract with ~~the Department~~ OKDHS or with Oklahoma Health Care Authority (OHCA) to HCBW services, or in ~~Department of Human Services (DHS)~~ OKDHS or OHCA rules.

(1) Performance surveys are conducted:

(A) with providers serving five or fewer ~~individuals~~ service recipients when deemed necessary by the administrator of Developmental Disabilities Services Division (DDSD) Quality Assurance~~.~~; and

(B) during each state fiscal year with providers of residential, vocational, or non-medical in-home supports serving six or more ~~individuals~~ service recipients.

(2) ~~The Department~~ OKDHS conducts interim administrative inquiries that evaluate the validity of allegations of non-compliance with provisions of the provider contract(s).

(A) Administrative inquiries are authorized by the administrator of DDSD Quality Assurance in response to complaints filed by any interested party that represent potentially serious breaches of service assurances, contract requirements, or OKDHS ~~policies~~ rules. The administrator of DDSD Quality Assurance or designee is authorized to conduct a screening to determine the potential validity of the complaint.

(B) Administrative inquiries are limited in scope to the responsibilities described in the provider's contract(s) with, or rules of, ~~the Department~~ OKDHS or OHCA including, but not limited to, human rights assurances, service provision, and fiscal accountability.

(C) Allegations of abuse and neglect are immediately referred to statutorily identified lead agencies for investigation. ~~The Department~~ OKDHS acts on the findings or recommendations of agencies with statutory responsibility to ensure provider compliance with provisions of law.

(D) Administrative inquiries are conducted by staff assigned to DDSD Quality Assurance although other resources of ~~the~~ OKDHS, such as Office of ~~the~~ Inspector General, may be requested to assist in the investigation of complaints.

(E) ~~The Department~~ OKDHS is not required to provide advance notice of an administrative inquiry.

(F) Notifications to providers of findings and dispositions follow procedures established for performance surveys in subparagraph ~~(K)~~ (L) of paragraph (3) of this subsection except that:

(i) written findings of administrative inquiries may instead be presented to an agency through mail and an exit conference may be conducted by telephone; and

(ii) the DDSD director or designee retains the authority to initiate an emergency disposition as specified by subsection (f) of OAC 340:100-3-27.2.

(3) Providers of direct services to six or more ~~persons receiving services~~ service recipients listed in paragraph (1) of this subsection participate in performance surveys assessing success in implementing contractual standards.

(A) The administrator of DDSD Quality Assurance or designee may provide written notice to provider agencies of scheduled performance surveys. DDSD advises the agency in writing of:

(i) demographic information and documents which ~~are to~~ must be provided to DDSD within two weeks of the ~~notice's~~ postmark on the notice; and

(ii) documents which are to be available on the dates of the performance survey.

(B) Provider agencies may request a change of the schedule of the performance survey by contacting the administrator of DDSD Quality Assurance or designee. Authorization of a change in schedule occurs at the discretion of the administrator of Quality Assurance.

(C) DDSD Quality Assurance staff conducting performance surveys assess the delivery of services and realization of outcomes for a sample of people served by each provider agency. The sample is representative of service needs of the population served and the array of supports provided by the agency through contract with ~~the Department~~ OKDHS. The sample includes at least one ~~individual~~ service recipient receiving each discrete service provided through the agency's contract with ~~the Department~~ OKDHS or OHCA. The size of the sample is adjusted based upon the number of ~~individuals~~ service recipient served by the agency under contractual agreement with ~~the Department~~ OKDHS or OHCA.

(i) At least four ~~individuals~~ service recipients are included in the sample of agencies serving 15 or fewer ~~individuals~~ service recipients under contract with ~~the Department~~ OKDHS or OHCA.

(ii) At least eight ~~individuals~~ service recipients are included in the sample of agencies serving ~~16-100~~ between 16 and 100 people under contract with ~~the Department~~ OKDHS or OHCA.

(iii) At least 12 ~~individuals~~ service recipients are included in the sample of agencies serving over 100 people under contract with ~~the Department~~ OKDHS or OHCA.

(iv) The size of performance survey samples may be increased at the discretion of performance survey team members.

(D) Performance surveys and administrative inquiries are conducted by staff of the DDSD Quality Assurance Unit who have completed a minimum of 150 hours of training specific to the application and interpretation of OKDHS and OHCA contract

standards and rules. Findings of performance survey team members who have not completed 150 hours of required training are not considered unless observations are confirmed by staff who have met this training requirement.

(E) A private work area at the agency site is made available for surveyors during the course of the survey. If space is unavailable, the provider makes available copies of documents ~~which~~ that may be taken for review by the performance survey team at ~~a~~ another site ~~other than the agency~~.

(F) Performance survey team staff meet with the chief executive officer (CEO) or designee of a provider agency upon arrival to:

(i) discuss the survey schedule;

(ii) identify the balance of the survey sample;

(iii) determine locations where services are provided; and

(iv) make tentative arrangements for an exit conference.

(G) Agency staff and agency records are made available to the team as necessary to assess agency performance with provisions of ~~policy~~ rules and their contract(s) with ~~DDSD~~ OKDHS or OHCA.

(H) Performance survey teams observe and meet with ~~individuals~~ service recipients served and staff involved in each type of service provided by the agency through contract(s) with ~~the Department~~ OKDHS, or with OHCA for the HCBW services.

(i) Interviews and observations are conducted in a manner minimizing disruption of service activities.

(ii) Observations and interviews occur during varied hours of service delivery.

(I) Performance survey team personnel evaluate information secured from observations, interviews, and record reviews in the context of relevant contract standards and rules.

(J) Performance survey teams immediately report to appropriate authorities, conditions or actions of agency staff that are possibly abusive or negligent or which otherwise pose immediate jeopardy to the health or safety of ~~individuals served~~ service recipients.

(K) Performance survey team staff provide a written summary of findings to the CEO or designee of the provider agency on the final day of the survey. The summary of findings is presented at least two hours prior to the scheduled exit conference. The CEO or designee of the provider agency may waive the two-hour period between presentation of the summary and the exit conference or the exit conference itself.

(L) The provider agency may structure the exit conference in a manner determined most beneficial to the agency.

(i) The agency may invite staff, ~~individuals served~~ service recipients, family members, and other citizens to participate.

(ii) Performance survey team personnel provide an explanation of findings and standards, as requested by the agency.

(iii) Performance survey team personnel provide an explanation of the procedures described in this Section ~~which~~ that are available to the agency regarding any disputed findings.

(iv) During the exit conference, the agency may submit evidence contesting the citation of standards. Performance survey team members review presented evidence and, for each contested standard, may:

(I) reverse the entire citation;

(II) reverse a portion of the citation; or

(III) affirm the citation.

(v) Within one week of the exit conference, the agency sends to the administrator of DDSD Quality Assurance a written response that identifies a date by which the agency will comply with the cited requirement.

(I) Any projected resolution date beyond two months from the exit conference is accompanied by a justification.

(II) Approval of extended resolution dates occurs only upon the presentation of evidence that extensive change in agency management systems or extensive expenditures is essential to resolution of the problem.

(III) The agency presents plans and time frames to implement incremental changes necessary to achieve contract conformance when an interval of more than two months is requested.

(vi) The agency may send supplemental information to the administrator of Quality Assurance contesting the findings of the performance survey team within one week of the exit conference. An appeal does not relieve the agency from the responsibility to achieve resolution of contract deficiencies within two months from the date of the exit conference if the request for reversal is not supported through procedures described in paragraph (5) of this subsection.

(4) The findings of performance surveys and administrative inquiries, as well as any appeals, are reviewed by the administrator of DDSD Quality Assurance or designee.

(5) The administrator of Quality Assurance or designee issues, within 30 days of the report detailing findings, a preliminary determination regarding:

(A) any standard citation appeal by the agency;

(B) acceptance or revision of resolution dates proposed by the provider to achieve conformance with the provisions of the contract(s) or ~~policy~~ rules; and

(C) when necessary, specific corrective action(s) is undertaken by the agency, including that:

(i) the agency reimburse ~~the Department~~ OKDHS or OHCA for unsubstantiated or unauthorized claims;

(ii) the agency reimburse ~~individuals served~~ service recipients for the balance of funds managed by the agency contrary to the expectations of OAC ~~340:100-3-4.1~~ 340:100-3-4; and

(iii) service provision is immediately suspended or modified when it is determined there is imminent risk to the health or safety of ~~individuals~~ service recipients.

(6) Performance survey teams conduct focused re-surveys to assess resolution of identified contract deficiencies.

(A) Focused re-surveys including a new random sample are conducted at any time following the established resolution date.

(B) Focused re-surveys require no advance notice.

(C) Focused re-surveys may, at the discretion of the performance survey team, be expanded to include any new performance issue identified.

(D) Focused re-surveys evaluate whether the provider has corrected identified deficiencies by the approved resolution date. The written report provided to the provider includes any new performance issues identified as well as the:

(i) resolution of conditions resulting in the citation of a standard;

(ii) implementation of actions likely to resolve the citation of a standard over a period of time; and

(iii) continued existence of a deficiency.

(E) Following a focused re-survey the provider is informed of the results.

(i) The provider may submit evidence contesting a citation.

(ii) New citations found during the focused re-survey are added to the report of the original survey for consideration by the Performance Review Committee.

**340:100-3-28. Volunteer services**

(a) All Developmental Disabilities Services Division (DDSD) volunteer service programs ~~support volunteerism and intend to meet the needs of persons who have developmental disabilities by linking them~~ link service recipients to volunteers who can provide ~~the~~ a needed service. Upon availability, DDSD provides volunteers ~~for persons with developmental disabilities~~ to service recipients who have ~~unfilled~~ unmet needs. DDSD provides volunteers with meaningful ~~job~~ service opportunities while offering ~~worthwhile services~~ support to ~~people with developmental disabilities~~ service recipients.

(b) In addition to the requirements given in OAC 340:2-35-1, the volunteer and the DDSD volunteer services staff must meet the requirements given in this subsection ~~for the protection of individuals served~~.

(1) The volunteer:

(A) completes Form VOL-5, Application for Volunteer Service, and submits the form to the local DDSD volunteer services office;

(B) ~~may be~~ attends any required ~~to attend~~ on-the-job training prior to volunteer duties being assigned;

(C) submits a completed Form VOL-3, Volunteer Agreement, to the local DDSD volunteer services office;

(D) maintains a record of consumer contacts using Form VOL-4, Volunteer Report of Contact, and submits the completed form to the local DDSD volunteer services unit on a monthly basis; and

(E) must not be listed on the Community Services Worker Registry.

(2) The DDSD volunteer services staff:

(A) mails Form VOL-7, Volunteer Reference Letter, to the three people listed on Form VOL-5. The reference letters must be on file in the DDSD volunteer office prior to ~~an individual~~ a volunteer being assigned duties;

(B) interviews the volunteer prior to, and at the end of, the job assignment and records data on Form VOL-9, Volunteer Interview Report;

(C) sends the original Form ADM-130, Request for Background Check, to the State Office, DDSD coordinator of volunteer services, who completes:

(i) the Department of Public Safety (DPS) traffic check;

(ii) an Oklahoma State Bureau of Investigation (OSBI) criminal check;

(iii) a Community Services Registry check, as required by OAC 340:100-3-39; and

~~(iv) a Child Abuse Registry check; and~~

(~~v~~iv) notification to the local volunteer services ~~office~~ staff when all checks are completed;

(D) provides job-specific training for volunteers and presents an overview of the Oklahoma Department of Human Services and DDSD. Orientation and training are documented in each volunteer's file;

(E) submits the Form VOL-6, Volunteer Monthly Report, to the DDSD State Office coordinator of volunteer services by the 7th of each month for the previous month. The report includes a program narrative describing activities such as speaking engagements, community volunteer activities, donations of goods or services; and

(F) forms an advisory council, of individuals who are dedicated to volunteerism and to Oklahomans with developmental disabilities. The advisory council ~~to assist~~ assists the volunteer services staff with program functions, fund raising, or other identified needs.

**340:100-3-29. Foster Grandparent Program**

All ~~Foster Grandparent~~ 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, Public Law (P.L.) 93-113, as stated in the Foster Grandparent Program Operations Handbook, 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 National Senior Service Corps (NSSC) guideline.

(3) Volunteers work no more than 2,088 hours per year.

(4) Volunteers receive all benefits as stipulated in the Corporation for National Service, NSSC Foster Grandparent Program Operations Handbook.

(5) 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~~A) the sex offender registry;

(~~C~~B) the Developmental Disabilities Services Division ~~community services worker registry~~ Community Services Worker Registry;

(~~D~~C) criminal background; and

(~~E~~D) traffic history.

(6) Prior to volunteering and annually thereafter, the foster grandparent must have 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 OKDHS Finance Division federal programs accountant.

## SUBCHAPTER 5. CLIENT SERVICES

## PART 3. SERVICE PROVISIONS

### 340:100-5-22.1. Community residential supports

(a) **Applicability.** Community residential supports are funded through contracts with the Oklahoma Department of Human Services (OKDHS), Oklahoma Health Care Authority (OHCA), or both, and must meet standards given in this Section.

(1) A person is considered to be receiving community residential supports if the person receives:

(A) Daily Living Supports, as described in OAC 317:40-5-150;

(B) Prader-Willi services;

(C) agency companion services, as explained in Subchapter 5, Part 1 of OAC 317:40~~-5-1 through 317:40-5-39~~; or

(D) specialized foster care, as explained in Subchapter 5, Part 5 of OAC 317:40~~-5-50 through 317:40-5-76~~.

(2) The rules in this Section do not apply to:

(A) group homes licensed under Section 1430.1 et seq. of Title 10 of the Oklahoma Statutes;

(B) services provided to persons who receive only Developmental Disabilities Services Division (DDSD) state-funded services through Assisted Living without supports, as explained in OAC 340:100-5-22.2; or

(C) services provided to a ~~person~~ service recipient who lives with his or her family.

(b) **General information.** Community residential supports are provided in accordance with this Section, with the DDSD mission statement and guiding principles found at OAC 340:100-1-3.1, and all other applicable rules in this Chapter.

(1) Services for children are provided in family settings unless approved by the DDSD programs administrator of Community Services or designee.

(2) In addition to the rules in OAC 340:100-5-50 through 340:100-5-58, the case manager ensures that each ~~individual's~~ Personal Support Team (Team) assesses and addresses the ~~person's~~ service recipient's needs regarding:

(A) safety in the home, including:

(i) storage of toxic chemicals, cleaning supplies, and combustibles; and

(ii) use of an anti-scald device or lowered hot water tank temperature to control water temperature;

(B) financial issues in addition to the rules at OAC ~~340:100-3-4.1~~ 340:100-3-4, including:

(i) a household budget which provides adequate resources for housing, food, clothing, furnishings, personal supplies, and recreational opportunities; and

(ii) assistance needed by the ~~person~~ service recipient in money management;

(C) selection, adaptation, and maintenance of a home;

(D) community inclusion and access to work, recreation, and therapies; and

(E) transportation ~~needs~~.

(3) Each ~~person~~ service recipient is responsible for his or her room and board expenses, including recreational activities, clothing, furnishings, food, and other expenses for services or supports not funded through ~~the Department~~ OKDHS, except as:

(A) provided to members of the Homeward Bound Class; or

(B) approved in emergency circumstances according to OAC 340:100-3-33 or 340:100-5-3.

(c) **Homes.** Community residential supports are provided in the home of the ~~individual receiving services~~ service recipient. The provider agency ensures the home meets the requirements of this subsection.

(1) The home and yard are clean, well-maintained, safe, free from hazards, and adapted to the needs of the ~~person receiving services~~ service recipient.

(2) The home has utility service and adequate heating, cooling, and plumbing.

(3) Items that must be in operating condition and located in strategic locations in the home are:

(A) ~~A~~ a flashlight~~,~~;

(B) smoke detector(s)~~,~~;
(C) carbon monoxide detector(s)~~,~~;
(D) first aid kit~~,~~;
(E) fire extinguisher~~, all in operating condition, are located in strategic locations in the home~~; and
(F) an anti-scald device, when determined by the Team to be necessary to ensure the service recipient's safety.

(4) Telephone service within the home is available and accessible to ~~persons receiving~~ service recipients. Emergency numbers are available at each phone, including:
(A) DDSD toll free number;
(B) fire, police, ambulance, hospital, and poison control, if not in a 911 area;
(C) physician name(s) and number(s); and
(D) nursing agency number, if applicable.

(5) The home has at least two means of exit.

(6) Each service recipient living in the home has a bedroom of at least 80 square feet. If a ~~person~~ service recipient wants to share a bedroom with another, the bedroom must have 120 square feet or more.

(7) Adequate enclosed storage space is available for personal items.

(8) Laundry equipment, if in the home, is located in a safe, well ventilated, and clean area, with dryers vented to the outside.

(9) The address of the home is clearly visible from the street.

(10) The home has a bathroom that:
(A) includes a:
(i) flush toilet;
(ii) fixed basin; and
(iii) shower or tub that meets the ~~person's~~ service recipient's needs;
(B) is in proper working order;
(C) provides privacy;
(D) is adapted if needed; and
(E) provides hot and cold running water.

(11) The home has a kitchen and equipment to store, prepare, and serve food in a sanitary manner.

(12) Dangerous or deadly weapons are not permitted in the home, except as provided in OAC 317:40-5-40. Provider agency staff are prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons. Dangerous or deadly weapons include but are not limited to:
(A) guns, BB guns, air rifles, or other firearms;
(B) crossbows;
(C) paint guns;
(D) arrows;
(E) explosives;
(F) stun guns; and
(G) knives, except cooking and eating utensils.

(13) Illegal substances are not permitted in the home.

(d) **Pre-service requirements.** The DDSD case manager and the ~~person receiving supports~~ service recipient, or legal guardian, complete and approve the steps given in this subsection when community residential supports are initiated, when the ~~person~~ service recipient changes provider agencies, and before the ~~person~~ service recipient moves to a new home. The documentation of these steps is maintained in the home record and the case manager record.

(1) Prior to service delivery, the provider completes an emergency housing back-up plan for review and approval by the ~~person's~~ service recipient's Team in accordance with OAC 340:100-5-52.
(A) The back-up plan contains:
(i) the ~~person's~~ service recipient's name;
(ii) description of living arrangement;
(iii) name(s) and telephone number(s) for back-up staff;
(iv) back-up housing location;
(v) signature of agreement by the:
(I) ~~person receiving services~~ service recipient or legal guardian;
(II) direct provider of service, if a foster care provider or companion;
(III) agency program coordination staff (PCS);
(IV) provider agency administrative representative; and
(V) DDSD case manager;
(vi) dates for review of back-up plan, required monthly and as changes occur; and
(vii) review date by DDSD case manager.
(B) When the location for the back-up plan is a hotel or motel, the provider agency is responsible for including a plan to pay the cost without additional reimbursement from OKDHS.
(C) OKDHS must complete a home profile on a private home prior to the Team's identification of the home in the back-up plan or use of the home to provide back-up services to the ~~person~~ service recipient. A home profile is not required if the:
(i) home is an approved foster home;
(ii) home is an approved agency companion home; or
(iii) ~~person~~ service recipient stays in the private home of his or her relative, as defined in subparagraph (f)(4)(A) of this Section.
(D) The agency companion provider or the provider of specialized foster care is responsible for re-establishing a residence if his or her home becomes uninhabitable.

(2) The provider agency cooperates with the ~~person receiving services~~ service recipient and the Team to establish and maintain a household budget based on the ~~person's~~ service recipient's earned and unearned income.
(A) Expenses associated with supporting the household are maintained in an auditable fashion sufficient to track the use of the money collected from the ~~person~~ service recipient by the contract provider.
(B) Upon request, the contract provider furnishes to the ~~person~~ service recipient, the ~~person's~~ service recipient's family, and legal guardian:

(i) a record of all funds collected from the ~~person~~ service recipient~~,~~;

(ii) documentation of how the money was used~~,~~; and

(iii) the amount of remaining money held by the provider.

(C) Upon termination of residential supports from the contract provider, unused funds are returned to the ~~person~~ service recipient within ten calendar days of service termination date.

(3) Form DDS-34, Residential Pre-Service Checklist, is completed, and all requirements of this Section are satisfied.

(e) **Service requirements.** Community residential supports are provided according to the rules given in this subsection.

(1) Unless the ~~person receiving services~~ service recipient demonstrates the ability under varying conditions to independently and appropriately respond to emergency situations, the provider agency assists in conducting fire drills at least quarterly and weather emergency drills two times annually. The dates, times, and outcomes of the drills are available in the home for review.

(2) The provider ensures that all requested financial information necessary for maintaining the ~~person's~~ service recipient's financial eligibility is provided to OKDHS in a timely manner.

(3) The provider, when serving as payee, ensures that the ~~person~~ service recipient maintains financial eligibility for benefits and services by notifying appropriate authorities of a change in the ~~person's~~ service recipient's income.

(4) When a change of payee is necessary, the provider cooperates to ensure that the change is made in a timely manner.

(5) The provider agency establishes a written financial agreement with the service recipient or the legal guardian, which defines the financial responsibilities of the agency and of the service recipient.

(A) The agreement accurately reflects the ongoing financial arrangement between the provider and the service recipient.

(B) The agreement clearly defines who purchases personal items.

(C) The provider, as a member of the service recipient's Team, assists in determining the safeguards necessary to protect the service recipient's assets.

(D) The financial agreement is renewed annually and when changes occur.

(E) The financial agreement is available to the service recipient, guardian, Office of Client Advocacy (OCA) advocate, and the DDSD case manager.

(~~5~~6) ~~Individuals receiving supports~~ Service recipients select stores for the purchase of food, clothing, and personal items.

(~~6~~7) The provider agency implements the ~~person's~~ service recipient's Individual Plan (Plan).

(~~7~~8) The provider agency provides necessary assistance, including transportation and necessary staff support, for each ~~person's~~ service recipient's active participation in community life.

(~~8~~9) The provider agency assists the ~~person~~ service recipient in maintaining an adequate supply of seasonal clothing that fits appropriately, personal grooming materials, and linens. All items are maintained in good condition.

(~~9~~10) The provider agency promotes the ~~person's~~ service recipient's health and well-being, including providing meals that meet the ~~person's~~ service recipient's nutritional needs.

(~~10~~11) The provider agency promotes visitation and contact with each ~~person's~~ service recipient's natural family, guardian, and friends, according to the desires of the ~~person receiving services~~ service recipient.

(~~11~~12) The provider agency promotes friendships with neighbors, co-workers, and peers, according to the desires of the ~~person~~ service recipient.

(~~12~~13) In the event the ~~person receiving services~~ service recipient, the legal guardian, or the provider agency wishes to discontinue services, the provider agency cooperates in securing alternative services and continues to serve the ~~person~~ service recipient until the Team confirms that all essential services are in place.

(~~13~~14) While providing services, provider agency staff are engaged at all times in purposeful activity which directly or indirectly benefits the ~~person receiving services~~ service recipient.

~~(14) The provider agency establishes a written financial agreement with the person receiving services or the legal guardian, which defines the financial responsibilities of the agency and of the person receiving services.~~

~~(A) The agreement accurately reflects the ongoing financial arrangement between the provider and the individual receiving services.~~

~~(B) The agreement clearly defines who purchases personal items.~~

~~(C) The provider, as a member of the person's Team, assists in determining the safeguards necessary to protect the person's assets.~~

~~(D) The financial agreement is renewed annually and if changes occur.~~

(15) The provider ensures that the ~~individual~~ service recipient attends scheduled medical and therapy appointments.

(A) Transportation to the appointment is provided.

(B) Adequate records, needed materials, and equipment accompany the ~~individual~~ service recipient to the appointment.

(C) If the ~~individual~~ service recipient requires support in describing illness, issues, or concerns to the practitioner, knowledgeable staff accompany the individual service recipient.

(16) The provider agency ensures that prescriptions are filled and administered as prescribed.

(17) The provider agency ensures that the Plan addresses in a positive manner any issues related to maintaining areas of the home as required in subsection (c) of this Section.

(18) The provider ensures that the ~~individual receiving services~~ service recipient has transportation to programs and services.

(A) Transportation is provided to and from:

(i) medical or therapy appointments;

(ii) personal shopping;

(iii) leisure or recreational activities;

(iv) vocational or employment activities;

(v) religious or cultural activities;

(vi) Team meetings;

(vii) appointments necessary to secure or maintain needed services; and

(viii) voting.

(B) All vehicles used to transport the ~~individual receiving services~~ service recipient meet local and state requirements for licensing, inspection, insurance, and capacity.

(C) A vehicle used to transport a ~~person~~ service recipient with physical disabilities is adapted to meet the needs of the ~~person~~ service recipient.

(D) Drivers of vehicles have valid and appropriate ~~driver's~~ driver licenses.

(f) **Provider policies, practices, and procedures.** The provider agency develops and maintains written policies and procedures that are consistent with OKDHS rules and govern all aspects of service provision.

(1) Provider agency policies are made available to each ~~person receiving services~~ service recipient, his or her parent, legal guardian, or advocate, provider agency staff member, and OKDHS.

(2) Provider agency policies and procedures include, but are not limited to:

(A) ~~individual~~ service recipient rights protection;

(B) services provided;

(C) admission and discharge of ~~persons receiving services~~ criteria;

(D) grievance procedures;

(E) prevention and reporting of abuse, neglect, and exploitation;

(F) confidentiality;

(G) ~~emergencies~~ emergency management;

(H) fees paid by ~~persons receiving services~~ service recipient;

(I) health and safety precautions; and

(J) safeguarding ~~individuals'~~ service recipients' funds.

(3) The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency.

(4) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, ensuring that direct service staff:

(A) are not supervised by a relative or by a person living in the staff member's home. For the purposes of this ~~paragraph~~ subparagraph, relative is defined to include wife, husband, children, parents, stepparents, parents-in-law, grandchildren, grandparents, brothers, sisters, stepchildren, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, aunts, uncles, nieces, nephews, first cousins or any of the above with whom the employee shares a foster relationship;

(B) ~~to~~ who provide back-up services are available and have received all training required in OAC 340:100-3-38;

(C) are at least 18 years of age;

(D) are present in sufficient numbers to ensure the health, safety, and well-being of the ~~person receiving services~~ service recipient, as authorized by the ~~person's~~ service recipient's Plan of Care;

(E) are physically able and mentally alert to carry out the duties of the job;

(F) implement and follow the ~~person's~~ service recipient's Plan, as written; and

(G) do not take the ~~person receiving services~~ service recipient to visit a staff member's home unless the Team has provided prior written approval.

(5) The provider agency ensures that ~~program coordination staff (~~PCS~~)~~ supervise, guide, and oversee all aspects of programming associated with the receipt of community residential supports.

(A) The PCS must:

(i) get to know the ~~person receiving services~~ service recipient and his or her needs;

(ii) make announced and unannounced visits to the individual's service recipient's home. The PCS makes a minimum of three unannounced monitoring visits per month, based on the needs of the ~~person receiving services~~ service recipient and the need for supervision of staff. Of the unannounced visits:

(I) at least one unannounced visit each month must occur on Saturday or Sunday; and

(II) another must occur between 8:00 p.m. and 7:00 a.m. on a weekday;

(iii) provide support and assistance to any ~~person receiving services~~ service recipient who is experiencing an emotional, behavioral, or medical crisis;

(iv) be accessible to direct service staff 24 hours per day and available to respond, in person if necessary, to an emergency;

(v) supervise direct contact staff to promote achievement of outcomes in the Plan;

(vi) ensure that staffing levels meet the requirements of the ~~person's~~ service recipient's Plan, with staff trained in accordance with OAC 340:100-3-38;

(vii) ensure that records are maintained according to the requirements of the DDSD community records system;

(viii) ensure that ~~such needs of the person's household~~ basic household requirements are always in place, including:

(I) utilities and phone service;

(II) furniture;

(III) food supplies that meet the ~~person's~~ service recipient's nutritional needs;

(IV) linens;

(V) personal items;

(VI) adaptive equipment; and

(VII) prescription medications;

(ix) assist the case manager as requested to prepare for and implement the Plan and its revisions in accordance with OAC 340:100-5-50 through 340:100-5-58;

(x) ensure rules of OKDHS and OHCA are followed; and

(xi) complete necessary training as specified in OAC 340:100-3-38.

(B) Each person filling this role in a provider agency must have a minimum of four years of any combination of college level education and full-time equivalent experience in serving persons with disabilities, unless this requirement is waived in writing by the DDSD director or designee.

(C) Provider agencies ensure that the caseload of each PCS numbers no more than 15 service recipients if ~~individuals~~ the PCS serves service recipients receiving community residential supports ~~are served by the PCS~~.

(D) Provider agencies providing community residential supports for less than one year ensure that the caseload of each PCS numbers no more than ten service recipients if ~~individuals~~ the PCS serves service recipients receiving community residential supports ~~are served by the PCS~~.

(E) The DDSD director may grant a written exception to the program coordinator ratios given in this paragraph upon written request and adequate justification from the provider.

(F) Provider agencies who fail to meet the program coordination requirements of this paragraph may be required to provide a reduced PCS ratio in accordance with the DDSD sanctions rules found in OAC 340:100-3-27.

(6) Staff who assist ~~an individual~~ a service recipient with bathing or showering have the responsibility to ensure the water temperature is safe and comfortable for the individual being bathed. The requirements of this paragraph are enforced even if an anti-scald device is in use. The staff member:

(A) ~~Staff~~ tests the water temperature by touch before the ~~individual~~ service recipient enters the water. The water must be determined safe and comfortable for the ~~person receiving services~~ service recipient, not merely comfortable for the staff member~~.~~;

(B) ~~Staff~~ are trained by their employer in the unique needs of each ~~individual~~ service recipient including tolerance to water temperature and bathing needs~~.~~; and

(C) ~~Staff~~ do not leave ~~an individual~~ a service recipient who is unable to attend to safety considerations alone in the bath.

**340:100-5-22.3. Authorization for community residential supports [REVOKED]**

~~When community residential supports, as defined in OAC 340:100-5-22.1, are needed, the individual or guardian selects a community residential option that meets the needs of the individual, taking into consideration the available resources.~~

~~(1) The options are:~~

~~(A) Daily Living Supports, as described in OAC 317:40-5-150, including supported living services received by members of the Homeward Bound vs. The Hissom Memorial Center class;~~

~~(B) Agency Companion, as described in OAC 317:40-5-1 through 40-5-39;~~

~~(C) Specialized Foster Care, as described in OAC 317:40-5-50 through 40-5-76;~~

~~(D) Group Home services, as described in OAC 340:100-6; and~~

~~(E) Prader Willi services.~~

~~(2) The Team plans community residential supports to meet the person's needs in accordance with:~~

~~(A) DDSD community residential supports rules found at OAC 340:100-5-22.1; and~~

~~(B) the program policy established for the specific community residential option cited in paragraph (1) of this subsection.~~

~~(i) Additional Habilitation Training Specialist (HTS), Homemaker, Intensive Personal Supports, or other direct support staff service is authorized in accordance with the rules established in OAC 317:40-5-110 or 317:40-5-151.~~

~~(ii) The limits on levels of staff support specified in the rules named in paragraph (1) of this subsection do not apply to Waiver participants who remain in settings which had authorized services in excess of the stated limits as of December 31, 2000.~~

~~(iii) The rules in this Section are not construed as a limitation of the rights of class members set forth in the consent decree in Homeward Bound vs. The Hissom Memorial Center.~~

**340:100-5-26.3. Health-related services**

(a) **Scope and applicability.** The rules in this Section apply to persons with mental retardation who:

(1) receive Home and Community-Based Waiver Services or state-funded Developmental Disabilities Services Division (DDSD) services; and

(2) have a need for health-related service or supportive assistance that the Personal Support Team (Team) has identified according to OAC 340:100-3-33.1 and 340:100-5-50 through 340:100-5-58.

(b) **Supportive assistance.** Supportive assistance services are those services rendered to a person with developmental

disabilities that are sufficient to enable the service recipient to meet an adequate level of daily living. Supportive assistance services include:

(1) training;

(2) supervision;

(3) assistance in housekeeping;

(4) assistance in the preparation of meals; and

(5) assistance in activities of daily living (ADLs) as necessary for the health and comfort of the service recipient. ADLs include those personal care and normal routine activities in a person's life that provide for the health and comfort of the service recipient.

(c) **Health-related services.** Health-related services are those services provided by community service providers or community service workers, direct support staff, to persons with developmental disabilities that include, but are not limited to:

(1) mobility and transferring including, but not limited to:

(A) prosthetics application;

(B) splint application; and

(C) positioning and comfort;

(2) range of motion; and

(3) basic nursing care.

(A) Basic nursing care includes:

(i) taking temperature, pulse, and respiration;

(ii) positioning;

(iii) incontinent care; and

(iv) identification of signs and symptoms of disease.

(B) Other basic nursing care tasks that may be performed by direct support staff if the staff member has completed appropriate training provided or approved by the Oklahoma Department of Human Services (OKDHS), the service recipient's Team has agreed in writing to the performance of the task, and the service recipient's physician has given acknowledgement and a specific order related to the task are:

(i) nutrition, including but not limited to:

(I) instilling medications or nutrition through a gastrostomy tube or jejeunostomy tube;

(II) maintenance of the tube and the site; and

(III) fluid support, including documentation of intake and output;

(ii) blood and urine dip stick glucose monitoring;

(iii) hygiene including, but limited to:

(I) stoma care;

(II) ostomy bag care;

(III) wound care, non-sterile dressing changes; and

(IV) oral and dental care including suctioning;

(iv) elimination including, but not limited to:

(I) application of external catheter;

(II) administration of enema; and

(III) stool and urine collection; and

(v) health and safety needs including, but not limited to:

(I) pulse oxygen reading for data collection and reporting of signs and symptoms or concerns to a health professional;

(II) suctioning of the opening of a tracheostomy tube;

(III) administration of oral metered dose inhalers and nebulizers;

(IV) non-sterile catheterization;

(V) oxygen administration;

(VI) chest physiotherapy and positioning for postural drainage; and

(VII) vagal nerve stimulator activation.

(d) **Provision of health related services and supportive assistance services.** The service recipient's Team develops a Plan of Care that incorporates the service recipient's needs, based on the physical status review (PSR) as described in OAC 340:100-5-26, professional evaluations, and team recommendations.

(1) Each community service worker completes competency-based classroom training and any individual-specific training as specified in OAC 340:100-3-38.

(2) When a licensed professional trains specific tasks to a community service worker, the licensed professional monitors and supervises that community service worker in accordance with the professional's licensing requirements.

(A) The licensed professional validates the community service worker's ability to safely and accurately perform the specific health-related service through documented hands-on return demonstration.

(B) The licensed professional who is responsible for the service or task must:

(i) assess the service recipient's care needs prior to the competency-based training and delegation;

(ii) develop a service plan;

(iii) using prudent judgment, make the final decision as to which services are trained or delegated, within the specific scope of the licensed professional's judgment;

(iv) implement the plan; and

(v) evaluate the outcome of the services.

(C) The degree of supervision required must be determined by the licensed professional after evaluation of appropriate factors involved, including but not limited to, the:

(i) stability of the condition of the service recipient;

(ii) training and capability of the community service worker;

(iii) nature of the task; and

(iv) proximity and availability of the licensed professional to the community service worker when performing the task.

(3) The community service worker's performance of health-related and supportive assistance services is monitored and supervised by the identified community worker's employing community services provider agency.

(e) **Quality assurance.** Quality assurance procedures in the provision of health-related services are detailed in this subsection.

(1) The DDSD registered nurse's (RN) health review provides monitoring to determine if the health and comfort needs of a service recipient are met in accordance with the service recipient's identified health concerns. The DDSD RN health review identifies problems and makes recommendations to the provider agency and the case manager for appropriate action, including the problem resolution process described in OAC 340:100-3-27, if necessary.

(2) DDSD Quality Assurance staff monitor services in accordance with OAC 340:100-3-27.

**340:100-5-29. Monitoring for dyskinesia**

(a) **Scope and applicability.** Developmental Disabilities Services Division (DDSD) provides a standardized system to regularly and systematically assess, evaluate, and inform those ~~individuals~~ service recipients who are at risk for dyskinesia including tardive dyskinesia (TD). Monitoring for dyskinesia applies to all ~~individuals~~ service recipients who receive classes of medication identified in this Section. Providers of residential services funded by ~~DHS/DDSD~~ the Oklahoma Department of Human Services (OKDHS) DDSD or the Oklahoma Health Care Authority (OHCA) have the primary responsibility for implementation of the rules in this Section. Providers of other types of supports inform ~~consumers~~ service recipients and encourage the implementation of ~~policy~~ the rules in this Section. Providers are required to meet standards as outlined in OAC 340:100-3-27~~, Quality assurance~~.

(1) ~~Individuals~~ Service recipients prescribed amoxapine, metoclopromide, neuroleptic or other medications known to cause side effects which include dyskinesia are regularly and systematically assessed and evaluated for dyskinesia. ~~Individuals~~ Service recipients identified with dyskinesia are referred for further evaluation to diagnose the type of dyskinesia. ~~Individuals~~ Service recipients having dyskinesia, including ~~tardive dyskinesia~~ TD are regularly and systematically assessed and evaluated in regard to the status of the dyskinesia.

(2) ~~Individuals~~ Service recipients who have been properly diagnosed by a physician as having a dyskinesia, including ~~tardive dyskinesia~~ TD, or parent of a minor, or the legal guardian are informed of the presence of dyskinesia, including ~~tardive dyskinesia~~ TD.

(3) ~~Individuals~~ Service recipients prescribed any medications listed in paragraph (1) of this subsection, or parent of a minor, or the legal guardian are regularly informed about the risk of ~~tardive dyskinesia~~ TD.

(b) **Assessment requirements.** Assessments are completed by a trained rater. OKDHS Form DDS-68, The Dyskinesia Identification Scale Condensed User Scale (DISCUS), ~~(Appendix D of this Chapter)~~ is the preferred assessment scale. In the absence of trained raters for the DISCUS, the Abnormal Involuntary Movement Scale (AIMS) may be used. DDSD ~~will train~~ trains staff identified by agency providers to be raters on the use of the DISCUS at no charge to the provider agency. The identified staff may be contract staff or employees of the provider agency. In the event DDSD is needed to train raters, the provider agency ~~is to notify~~ notifies the DDSD ~~Area Manager~~ area manager in a timely manner.

(1) Raters are trained on the use of the DISCUS before ~~individuals~~ service recipients are assessed.

(2) ~~Appendix D of this Chapter~~ OKDHS Form DDS-68 is used for the assessment following the instructions on the Instructions section of the ~~Appendix~~ form.

(3) The rater obtains the prerequisite information about neuroleptic medication, amoxapine, or metoclopromide exposure.

(4) The rater completes the DISCUS Assessment section of ~~Appendix D of this Chapter~~ OKDHS Form DDS-68.

(5) The ~~individual's~~ service recipient's physician completes the ~~evaluation~~ Evaluation section of the assessment.

(6) The completed ~~Appendix D of this Chapter~~ OKDHS Form DDS-68 is filed in the ~~individual's~~ service recipient's medical record.

(c) **~~Individuals~~ Service recipients not requiring assessments.** ~~Individuals~~ Service recipients not currently on neuroleptics with no history of medication exposure do not require a DISCUS rating.

(d) **~~Individuals~~ Service recipients requiring assessments.**

(1) ~~Individuals~~ Service recipients whose history of medication exposure is unknown or uncertain ~~will~~ receive an initial rating.

(A) When the initial rating is negative, ~~(~~a total score below 5 on the DISCUS assessment~~)~~ for dyskinesia, further assessments are not needed.

(B) If the initial rating is positive, ~~(~~a total score of 5 or more on the DISCUS assessment~~)~~ for dyskinesia, the items listed in ~~(A) (B)~~ (i) through (ii) of this ~~paragraph will occur~~ subparagraph must be performed.

(~~A~~ i) A physician's evaluation and, if indicated, further referral is done to confirm the type of dyskinesia.

(~~B~~ ii) The assessment is repeated every six months until the assessment is negative. The assessment is repeated one month after a negative assessment, and if negative again, further assessments are not needed.

(2) ~~Individuals~~ Service recipients who are to be placed on medication which may cause dyskinesia are assessed before medication is started or within 30 days of the treatment being identified.

(A) ~~Individuals~~ Service recipients are then routinely assessed every six months while on medication.

(B) Assessments may be done quarterly or more frequently if medications are changed or side effects are suspected or identified.

(3) ~~Individuals~~ Service recipients who are currently receiving medication which may cause dyskinesia are assessed within 30 days of the treatment being identified.

(A) ~~Individuals~~ Service recipients are then routinely assessed every six months while on medication.

(B) Assessments may be done quarterly or more frequently if medications are changed or side effects are suspected or identified.

(4) ~~Individuals~~ Service recipients who are receiving treatment for dyskinesia are assessed as in paragraph (2) of this subsection.

(5) ~~Individuals~~ Service recipients who have had medications~~,~~ which may cause dyskinesia~~,~~ discontinued~~,~~ are assessed monthly until two consecutive ratings are negative, and then further assessments are not needed.

(A) After four months of positive ratings, the monthly assessments are stopped, and the assessments are repeated every six months.

(B) If a negative rating occurs, reassess monthly until two negative ratings occur.

(C) After two negative ratings the DISCUS screening is discontinued.

(6) For ~~individuals~~ service recipients who have medications, which may cause dyskinesia introduced again, the steps in paragraph (2) of this subsection are followed.

(e) **Requirements in the event of ~~tardive dyskinesia~~ TD diagnosis.**

(1) The diagnosis of ~~tardive dyskinesia (~~TD~~)~~ is entered on the appropriate medical and informational sheets by the prescribing or diagnosing physician.

(2) The TD diagnosis is conveyed in writing to the ~~individual~~ service recipient, parent of a minor, or the legal guardian as soon as possible, but within one month of diagnosis. This is documented in the ~~client~~ service recipient's record.

(3) If the ~~individual~~ service recipient is prescribed any medication described in paragraph (a)(1) of this Section, the physician determines if a gradual reduction ~~and/or~~ or discontinuation of the medication is possible. If the physician determines such medication continues to be required, the specific need for, and evidence of, effectiveness is documented. This decision should be reached in conjunction with the ~~individual~~ service recipient, parent of a minor, or the legal guardian and the ~~individual's~~ service recipient's ~~Interdisciplinary~~ Team~~(IDT)~~. The lowest effective dose to control the ~~behavioral/psychiatric~~ behavioral or psychiatric condition of concern ~~and/or~~ or TD should be used.

(4) If it is determined any medication described in paragraph (a)(1) of this Section continues to be necessary, a written informed consent for such use in light of the TD is obtained from the ~~individual~~ service recipient, parent of a minor, or the legal guardian as soon as possible, but within one month. It is recognized that a case might arise in which ~~an individual~~ a service recipient is ~~his/her~~ his or her own legally authorized representative and the physician determines that the TD diagnosis information is contraindicated by the ~~individual's~~ service recipient's ~~behavioral/psychiatric~~ behavioral or psychiatric condition. In such a case, the provisions of paragraph (f)(5) of this Section ~~applies~~ apply.

(f) **~~Tardive dyskinesia~~ TD information.**

(1) Information about ~~tardive dyskinesia (~~TD~~)~~ is provided, in lay person's language, in writing to the ~~individual~~ service recipient, parent of a minor, or the legal guardian:

(A) ~~Before~~ before the nonemergency initiation of medications described in paragraph (a)(~~1~~1) of this Section~~.~~;

(B) ~~As~~ as soon as possible, but within one month of the emergency initiation of medications described in paragraph (a)(1) of this Section~~.~~; and

(C) ~~At~~ at least annually if medications described in paragraph (a)(1) of this Section continue to be prescribed. This may be coordinated with the annual review ~~and/or~~ or consent renewal process.

(2) The Tardive Dyskinesia Information Sheet, ~~(~~OKDHS Appendix ~~D-27~~ D-28,~~)~~ is one of the documents used for written information being conveyed to the ~~individual~~ service recipient, parent of a minor, or the legal guardian.

(3) Specific documentation is placed in the ~~individual's~~ service recipient's record ~~as to~~ stating what oral and written information was provided.

(4) Some ~~individuals~~ service recipients currently receiving medications described in paragraph (a)(1) of this Section may not have been informed about TD. Such ~~individuals~~ service recipients, parents of a minor, or the legal guardian are conveyed TD information as developed in ~~steps~~ paragraphs (1)~~-~~ through (3) of this subsection.

(5) Cases may arise in which ~~an individual~~ a service recipient is ~~his/her~~ his or her own legally authorized representative, and the physician in conjunction with the ~~individual's Interdisciplinary~~ service recipient's Personal Support Team ~~(IDT)~~ (Team) determines that giving the ~~individual~~ service recipient TD information is contraindicated by the ~~individual's psychiatric/behavioral~~ service recipient's psychiatric or behavioral condition.

(A) In these cases the information may be withheld from the ~~individual~~ service recipient for up to three months. The specific reasons are documented in the ~~client's~~ service recipient's record.

(B) If at the end of three months the ~~individual~~ service recipient is still not able to be informed, the case is brought to the attention of the ~~institutional superintendent~~ resource center director or ~~Developmental Disabilities Services Division (~~DDSD~~) Area Managers~~ area manager for determination as to the family involvement, Human Rights Committee (HRC) review, or adjudicatory review to determine whether the information about TD is to continue being withheld from the ~~individual~~ service recipient.

(g) **Additional requirements.** Any additional procedures or protocols which are developed to accomplish the ~~policy~~ rules of monitoring for ~~tardive dyskinesia,~~ TD must be approved before implementation~~, with~~ by the DDSD ~~Medical Director~~ medical director.

## PART 5. INDIVIDUAL PLANNING

**340:100-5-52. The Personal Support Team (Team)**

(a) The Personal Support Team (Team) is composed of people selected by the ~~person~~ service recipient who know and work with the ~~person~~ service recipient or whose participation is necessary to achieve the outcomes desired by the ~~person receiving services~~ service recipient.

(1) To respect the dignity and privacy of the ~~person receiving services~~ service recipient, the Team is no larger than is necessary to plan for and implement the services needed to achieve the ~~person's~~ service recipient's desired outcomes. The Team is large enough to possess the expertise and capacity necessary to address the ~~person's~~ service recipient's needs, but not so large as to intimidate the ~~person~~ service recipient or to stifle participation on the part of the ~~person receiving services~~ service recipient or his or her representatives.

(2) At its core, the Team includes the ~~person receiving services~~ service recipient, his or her case manager, the legal guardian, and ~~the person's~~ advocate(s), if there is one, who may be a parent, a family member, a friend, or another who knows the ~~person~~ service recipient well. The ~~person receiving services~~ service recipient is assured the opportunity to select an individual to serve as an advocate.

(3) Depending on the needs of the ~~person receiving services~~ service recipient and the issues to be addressed, the Team may include others. The selection of these additional Team members reflects the choices of the ~~person receiving services~~ service recipient.

(b) The role of the Team is explained in this subsection.

(1) Team members implement responsibilities identified in the Individual Plan (Plan) or in the Oklahoma Department of Human Services (OKDHS) or Oklahoma Health Care Authority ~~policy~~ (OHCA) rules. Implementation of the Plan may only be delegated to persons who are appropriately qualified and trained.

(2) The Team reviews and approves strategies, plans, and guidelines developed to implement services or supports.

(3) The Team implements the Plan upon approval of the Plan of Care.

(4) A copy of the Plan is ~~kept at all sites where the person regularly receives services~~ maintained in accordance with OAC 340:100-3-40. All staff implementing the Plan must be knowledgeable about its contents and have access to a copy of the Plan.

(5) Each Team member responsible for services identified in the Plan sends a monthly summary of progress on assigned outcomes and action steps to the ~~person's~~ case manager by the tenth of each month, unless an alternative schedule is specified in the Plan.

(c) The role of the case manager is detailed in this paragraph.

(1) Prior to the initial and each annual Team meeting, the case manager meets with the ~~person receiving services~~ service recipient and the ~~person's~~ service recipient's advocate or legal guardian, if there is one, to review the individual situation, including the ~~person's~~ service recipient's desired vision and progress in attaining the vision. Among the questions explored are whether the ~~person~~ service recipient is satisfied with the results of the Plan and whether outcomes need to be revised based on the progress achieved or on changing circumstances in the ~~person's~~ service recipient's life. This review provides a clear agenda for the Team meeting and assures the ~~person's~~ service recipient's input and participation.

(2) The case manager identifies available service providers for selection by the service recipient or legal guardian.

(3) The case manager ensures that the size and composition of the Team support the person-centered planning process.

(A) The case manager plans for the participation of people whom the ~~person receiving services~~ service recipient desires to have on the Team, people whose services are needed to achieve identified outcomes, and people who know the ~~individual~~ service recipient best. The case manager sends written notice of the annual meeting to all Team members at least two weeks in advance.

(B) Planning may occur in Team meetings or through individual or small group consultation according to the desires and needs of the ~~person receiving services~~ service recipient.

(C) ~~At the request of the person receiving services or the legal guardian, or if the performance of a Team member reveals a course of action which is not in the best interest of the person receiving services, which is destructive towards the collaborative process of the Team, or which violates DHS policy or accepted standards of professional practice, the~~ The case manager notifies ~~that~~ a Team member by letter that his or her services on the Team are no longer required~~.~~:

(i) at the request of the service recipient or the legal guardian; or

(ii) if the performance of the Team member reveals a course of action that:

(I) is not in the best interest of the service recipient;

(II) is destructive towards the collaborative process of the Team; or

(III) violates OKDHS or OHCA rules or accepted standards of professional practice.

(4) Unless the ~~person~~ service recipient elects to chair his or her own meetings, the case manager serves as chair of the Team.

(5) The case manager empowers and supports the ~~person receiving services~~ service recipient in setting the direction for the Team and in actively participating in Team meetings.

(6) The case manager writes or revises the Plan based on input from the Team.

(7) The case manager assists the Team in developing strategies, plans, and guidelines to achieve the outcomes desired or needed by the ~~person receiving services~~ service recipient.

(8) The case manager monitors all aspects of the Plan's implementation. Each month, contact notes reflect the

case manager's review of the progress of each ~~person receiving services~~ service recipient.

(9) The case manager routinely asks the ~~person receiving services~~ service recipient and his or her family, guardian, or advocate about their satisfaction with services and supports, and initiates appropriate action to identify and resolve barriers to consumer satisfaction.

(10) The case manager convenes Team meetings as needed.

(A) The Team, as needed, evaluates whether the Plan and its components are meeting the objectives of the ~~person~~ service recipient.

(B) The case manager convenes a Team meeting, when needed, at the request of any Team member.

(11) Case manager responsibilities are carried out by service agency program coordination staff if the ~~person receiving services~~ service recipient does not receive Developmental Disabilities Services Division (DDSD) case management services. Each person filling this role in a provider agency must have a minimum of four years of any combination of college level education and full-time equivalent experience in serving persons with disabilities, unless this requirement is waived in writing by the DDSD director or designee.

## APPENDIX D. DYSKINESIA IDENTIFICATION SYSTEM [REVOKED]

**Condensed User Scale (DISCUS)**

**NAME:**

**MAILING ADDRESS:**

**CASE NUMBER:**

**CURRENT PSYCHOTROPICS/ANTICHOLINERGIC AND TOTAL MG/DAY**

_____ _____mg
_____ _____mg
_____ _____mg
_____ _____mg

See Instructions On Other Side

**EXAM TYPE** (check one)
- ☐ 1. Baseline
- ☐ 2. Annual
- ☐ 3. Semi-Annual
- ☐ 4. D/C — 1 Month
- ☐ 5. D/C — 2 Month
- ☐ 6. D/C — 3 Month
- ☐ 7. Admission
- ☐ 8. Other

**COOPERATION** (check one)
- ☐ 1. None
- ☐ 2. Partial
- ☐ 3. Full

**SCORING**
- 0 — **Not Present** (movements not observed **or** some movements observed but not considered abnormal)
- 1 — **Minimal** (abnormal movements are difficult to detect **or** movements are easy to detect but occur only once or twice in a short non-repetitive manner)
- 2 — **Mild** (abnormal movements occur infrequently **and** are easy to detect)
- 3 — **Moderate** (abnormal movements occur frequently **and** are easy to detect)
- 4 — **Severe** (abnormal movements occur almost continuously **and** are easy to detect)
- NA — **Not Assessed** (an assessment for an item not able to be made)

**ASSESSMENT**

DISCUS Item and Score (circle one score for each item)

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| FACE | 1. Tics | 0 | 1 | 2 | 3 | 4 | NA |
| | 2. Grimaces | 0 | 1 | 2 | 3 | 4 | NA |
| EYES | 3. Blinking | 0 | 1 | 2 | 3 | 4 | NA |
| ORAL | 4. Chewing/Lip Smacking | 0 | 1 | 2 | 3 | 4 | NA |
| | 5. Puckering/Sucking Thrusting Lower Lip | 0 | 1 | 2 | 3 | 4 | NA |
| LINGUAL | 6. Tongue Thrusting/ Tongue in Cheek | 0 | 1 | 2 | 3 | 4 | NA |
| | 7. Tonic Tongue | 0 | 1 | 2 | 3 | 4 | NA |
| | 8. Tongue Tremor | 0 | 1 | 2 | 3 | 4 | NA |
| | 9. Athetoid/Myokymic/ Lateral Tongue | 0 | 1 | 2 | 3 | 4 | NA |
| HEAD/ NECK/ TRUNK | 10. Retrocollis/Torticollis | 0 | 1 | 2 | 3 | 4 | NA |
| | 11. Shoulder/Hip Torsion | 0 | 1 | 2 | 3 | 4 | NA |
| UPPER LIMB | 12. Athetoid/Myokymic Finger-Wrist-Arm | 0 | 1 | 2 | 3 | 4 | NA |
| | 13. Pill Rolling | 0 | 1 | 2 | 3 | 4 | NA |
| LOWER LIMB | 14. Ankle Flexion/ Foot Tapping | 0 | 1 | 2 | 3 | 4 | NA |
| | 15. Toe Movement | 0 | 1 | 2 | 3 | 4 | NA |

**COMMENTS/OTHER**

_____
_____
_____
_____
_____
_____

**TOTAL SCORE** _____
(items 1-15 only)

EXAM DATE

**EVALUATION** (see other side)

1. Greater than 90 days neuroleptic exposure ? : YES NO
2. Scoring/intensity level met ? : YES NO
3. Other diagnostic conditions ? : YES NO
(if yes, specify)
_____
_____
_____

4. Last exam date: _____
Last total score: _____
Last conclusion: _____

Preparer signature and title for items 1-4 (if different from physician):

5. Conclusion (Circle one):
- A. No TD (if scoring prerequisite met, list other diagnostic condition or explain in comments)
- B. Probable TD
- C. Masked TD
- D. Withdrawal TD
- E. Persistent TD
- F. Remitted TD
- G. Other (specify in comments)

6. Comments:
_____
_____
_____
_____
_____
_____
_____

| RATER SIGNATURE AND TITLE | NEXT EXAM DATE | PHYSICIAN SIGNATURE | DATE |
|---|---|---|---|
| | | | |

Okla. DHS Issued 5-25-93

## Simplified Diagnoses for Tardive Dyskinesia (SD-TD)

**PREREQUISITES.** — The 3 prerequisites are as follows. Exceptions may occur.

1. A history of at least three months total cumulative neuroleptic exposure. Include amoxapine and metoclopramide in all categories below as well.
2. **SCORING/INTENSITY LEVEL.** The presence of a **TOTAL SCORE OF FIVE (5) OR ABOVE.** Also be alert for any change from baseline or scores below five which have at least a "moderate" (3) or "severe" (4) movement on any item or at least two "mild" (2) movements on two items located in different body areas.
3. Other conditions are not responsible for the abnormal involuntary movements.

**DIAGNOSES.** — The diagnosis is based upon the current exam and its relation to the last exam. The diagnosis can shift depending upon: (a) whether movements are present or not, (b) whether movements are present for 3 months or more (6 months if on a semi-annual assessment schedule), and (c) whether neuroleptic dosage changes occur and effect movements.

- **NO TD.** — Movements are not present on this exam or movements are present, but some other condition is responsible for them. The last diagnosis must be NO TD, PROBABLE TD, or WITHDRAWAL TD.
- **PROBABLE TD.** — Movements are present on this exam. This is the first time they are present or they have never been present for 3 months or more. The last diagnosis must be NO TD or PROBABLE TD.
- **PERSISTENT TD.** — Movements are present on this exam and they have been present for 3 months or more with this exam or at some point in the past. The last diagnosis can be any except NO TD.
- **MASKED TD.** — Movements are not present on this exam but this is due to a neuroleptic dosage increase or reinstitution after a prior exam when movements were present. Also use this conclusion if movements are not present due to the addition of a non-neuroleptic medication to treat TD. The last diagnosis must be PROBABLE TD, PERSISTENT TD, WITHDRAWAL TD, or MASKED TD.
- **REMITTED TD.** — Movements are not present on this exam but PERSISTENT TD has been diagnosed and no neuroleptic dosage increase or reinstitution has occurred. The last diagnosis must be PERSISTENT TD or REMITTED TD. If movements re-emerge, the diagnosis shifts back to PERSISTENT TD.
- **WITHDRAWAL TD.** — Movements are not seen while receiving neuroleptics or at the last dosage level but are seen within 8 weeks following a neuroleptic reduction or discontinuation. The last diagnosis must be NO TD or WITHDRAWAL TD. If movements continue for 3 months or more after the neuroleptic dosage reduction or discontinuation, the diagnosis shifts to PRESISTENT TD. If movements do not continue for 3 months or more after the reduction or discontinuation, the diagnosis shifts to NO TD.

**INSTRUCTIONS**

1. The rater completes the Assessment according to the standardized exam procedure. If the rater also completes Evaluation items 1-4, he/she must also sign the preparer box. The form is given to the physician. Alternatively, the physician may perform the assessment.
2. The physician completes the Evaluation section. The physician is responsible for the entire Evaluation section and its accuracy.
3. IT IS RECOMMENDED THAT THE PHYSICIAN EXAMINE ANY INDIVIDUAL WHO MEETS THE 3 PREREQUISITES OR WHO HAS MOVEMENTS NOT EXPLAINED BY OTHER FACTORS. NEUROLOGICAL ASSESSMENTS OR DIFFERENTIAL DIAGNOSTIC TESTS WHICH MAY BE NECESSARY SHOULD BE OBTAINED.
4. File form according to policy or procedure.

**OTHER CONDITIONS** (partial list)

1. Age
2. Blind
3. Cerebral Palsey
4. Contact Lenses
5. Dentures/No Teeth
6. Down's Syndrome
7. Drug Intoxication (specify)
8. Encephalitis
9. Extrapyramidal Side-Effects (specify)
10. Fahr's Syndrome
11. Heavy Metal Intoxication (specify)
12. Huntington's Chorea
13. Hyperthyroidism
14. Hypoglycemia
15. Hypoparathyroidism
16. Idiopathic Torsion Dystonia
17. Meige Syndrome
18. Parkinson's Disease
19. Sterotypies
20. Sydenham's Chorea
21. Tourette's Syndrome
22. Wilson's Disease
23. Other (specify)

## APPENDIX J. APPLICATION FOR VOLUNTEER GUARDIANSHIP [REVOKED]

**PERSONAL DATA**

Name _____
Last First Middle Initial

_____
Date of Birth Sex Social Security Number

Home Address _____
Street City County Zip

Telephone _____ Drivers License # _____

Previous or Current Occupation _____

Place of Employment _____

Address _____
Street City Zip

May you be contacted at your place of employment ? _____ Yes _____ No

If "Yes," please list work phone _____

Marital Status _____ Spouse's Name _____

Have you been arrested for or convicted of a criminal action other than a minor traffic violation ?
Yes _____ No _____ If yes, please explain.

Do you have access to reliable transportation? Yes _____ No _____ If no, please comment.

Are you presently serving as a guardian ? Yes _____ No _____ If yes, how many individuals ? _____
Comments.

**EDUCATION**

Please circle last year completed: 2 3 4 5 6 7 8 9 10 11 12

College: 1 2 3 4 _____ _____
Major Subject Minor Subject

Business or Trade School _____

Other Training _____

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**VOLUNTEER DATA**

Describe why you wish to serve as the guardian for someone with a developmental disability.

Describe any volunteer experiences in which you are **presently** involved.

Describe any other volunteer work.

What specific skills do you feel you would bring to this experience ?

What language other than English do you speak fluently ? _____

Do you use sign language ? Yes _____No _____

Do you have a geographical preference in serving as guardian ?

Is there a person with whom you are particularly interested in working ?

Male _____ Female _____ No Preference _____

How did you hear about the volunteer program?

| **PERSONAL ASSESSMENT** | GOOD | FAIR | POOR |
|---|---|---|---|
| Balancing a checkbook | _____ | _____ | _____ |
| Pay bills on time | _____ | _____ | _____ |
| Open mail in a timely manner | _____ | _____ | _____ |
| Respond to telephone calls in a timely manner | _____ | _____ | _____ |

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**REFERENCES**

Please provide three references. At least two should be non-relatives you have known for more than two years.

Please notify persons listed that you have used them as a reference and that they will receive information from the Oklahoma Volunteer Guardianship Program.

Name

Address City State ZIP

Area Code Phone Number Occupation

Name

Address City State ZIP

Area Code Phone Number Occupation

Name

Address City State ZIP

Area Code Phone Number Occupation

I certify that the above information is correct and true to the best of my knowledge. I authorize DHS to use the above information in completing an investigation of official files of criminal and traffic violations and Central Child Abuse Registry. I understand all information will be confidential.

Signature Date

Failure to sign this appendix will result in cancellation of the application.

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**PURPOSE OF APPENDIX**

The application for volunteer service is designed to provide information and background material to be used in determining qualifications for selection of potential volunteer guardians.

**INSTRUCTIONS FOR PREPARATION OF APPENDIX**

This appendix is to be completed by the volunteer applicant at the time of a personal interview or in preparation to an interview.

**ROUTING OF APPENDIX**

The original is routed to the State Office Volunteer Guardianship Program manager. A copy is retained in the local volunteer guardianship office file.

## APPENDIX K. VOLUNTEER REFERENCE LETTER [REVOKED]

**CONFIDENTIAL**

TO: _____ Re _____
Name of Applicant

_____ _____
Address

_____ _____
City State ZIP

The above individual has made application with the Department of Human Services to provide volunteer services in the Volunteer Guardianship Program. Your name was listed as reference. Please answer the questions below as accurately as possible. This information is confidential.

How long have you known the applicant ? _____

What is your relationship with the applicant (supervisor, teacher, friend, co-worker, etc.) ? _____

What qualities do you feel the applicant possesses that would enable him/her to be an effective volunteer ?

_____

_____

Would you have any concerns about a relative of yours spending time with the applicant ? Yes _____ No _____ If yes, why ?

_____

_____

Is there any reason you feel the applicant would not be an effective volunteer ?

_____

Please add any comments about the applicant you feel would be applicable to this application.

_____
Signature Date

Return to: _____

_____

_____

**PURPOSE OF APPENDIX**

This appendix is for use in contacting references listed on the application for volunteer guardianship.

**INSTRUCTIONS FOR PREPARATION OF APPENDIX**

Upon receipt of an application for volunteer guardianship, the applicant's name is entered on the appendix.

**ROUTING OF APPENDIX**

The original of the appendix is sent to the reference listed on the application for volunteer guardianship along with a self-addressed stamped envelope for return to the local volunteer guardianship office. It is then filed in the volunteer's personnel folder at the local office.

*[OAR Docket #06-496; filed 3-31-06]*

# TITLE 340. DEPARTMENT OF HUMAN SERVICES
# CHAPTER 105. AGING SERVICES DIVISION

*[OAR Docket #06-601]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. Aging Services Division
340:105-1-4. [AMENDED]
Subchapter 7. Adult Day Services
340:105-7-2. [AMENDED]
340:105-7-7. through 340:105-7-8. [AMENDED]
Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended
Part 1. Introduction
340:105-10-3. [AMENDED]
Part 3. State Agency
340:105-10-11. through 340:105-10-12. [AMENDED]
340:105-10-15. [AMENDED]
340:105-10-19. [AMENDED]
340:105-10-21. [AMENDED]
340:105-10-24. through 340:105-10-25. [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]
340:105-10-54. [AMENDED]
340:105-10-59. [AMENDED]
340:105-10-63. [AMENDED]
340:105-10-68. [AMENDED]
340:105-10-70. [AMENDED]
340:105-10-72. [AMENDED]
340:105-10-75. [AMENDED]
340:105-10-79. [AMENDED]
340:105-10-82. [AMENDED]
340:105-10-84. [AMENDED]
340:105-10-90.1. [AMENDED]
340:105-10-91. [AMENDED]
Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects
340:105-10-95. [AMENDED]
340:105-10-97. [AMENDED]
340:105-10-101. [AMENDED]
340:105-10-114. [AMENDED]
340:105-10-120. through 340:105-10-121. [AMENDED]
Subchapter 11. Statewide Long-Term Care Ombudsman Program
Part 37. Statewide Long-Term Care Ombudsman Program
340:105-11-233. through 340:105-11-234. [AMENDED]
340:105-11-240. [AMENDED]
340:105-11-245. [AMENDED]
340:105-11-248. through 340:105-11-252. [AMENDED]
340:105-11-255. [AMENDED]
**(Reference APA WF 05-05 and 05-09)**
**AUTHORITY:**
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; the Older Americans Act, as amended; and House Bill 1963 effective June 9, 2005.
**DATES:**
**Comment period:**
December 15, 2005 through January 17, 2006
**Public hearing:**
None requested.
**Adoption:**
January 24, 2006
**Submitted to Governor:**
January 24, 2006
**Submitted to House:**
January 24, 2006
**Submitted to Senate:**
January 24, 2006
**Gubernatorial approval:**
March 9, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2006.
**Final adoption:**
March 31, 2006
**Effective:**
July 15, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
**Superseded rules:**
Subchapter 7. Adult Day Services
340:105-7-2 [AMENDED]
Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended
Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects
340:105-10-114 [AMENDED]
**(Reference APA WF 05-05)**
**Gubernatorial approval:**
November 8, 2005
**Register publication:**
23 Ok Reg 393
**Docket number:**
05-1379
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The revisions to Subchapters 1, 7, 10, and 11 of Chapter 105: (1) clarify and bring rules into compliance with state and federal laws and regulations; (2) update language to be consistent with federal and state language and Oklahoma Department of Human Services (OKDHS) forms currently in use; (3) enhance readability for ease of implementation; (4) comply with House Bill (HB) 1963, effective June 9, 2005 that requires criminal background checks for ombudsman, ombudsman volunteers, and ombudsman staff at each Area Agency on Aging (AAA); (5) clarify rules regarding the Nutrition Services Incentive Program; (6) modify grantee requirements regarding staffing and provision of Older Americans Act (OAA) services; (7) update the statement of non-discrimination; (8) clarify re-assessment requirements to incorporate the use of criminal background checks and forms required by recent legislation; (9) specify the number of hours of continuing education required for ombudsman supervisors and ombudsman volunteers; (10) revise salary ranges for persons not eligible for ombudsman volunteer certification; (11) require the ombudsman to disclose current and past appointments, involvement, membership, and interest that could affect objectivity; and (12) add reporting and record keeping to the ombudsman staff training curriculum.
**CONTACT PERSON:**
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 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 JULY 15, 2006:**

## SUBCHAPTER 1. AGING SERVICES DIVISION

### 340:105-1-4. Responsibilities of Aging Services Division

(a) ~~**Objectives**~~ **Objective.** The overall objective of Aging Services Division (ASD) is to assist older Oklahomans to secure and maintain economic and personal independence ~~as well as~~ and dignity by working toward the establishment of a comprehensive and coordinated system of delivery of needed services.

(b) **Responsibilities.** ASD's specific responsibilities are to:

(1) ensure the proper and efficient administration of activities in ~~the state~~ Oklahoma related to the Older Americans Act (OAA);
(2) provide fiscal support and technical assistance for Oklahoma's 11 Area Agencies on Aging (AAAs);
(3) develop and implement a State Plan on Aging with the assistance of the State Council on Aging;
(4) provide consultation and assistance to agencies and individuals in developing services for older persons;
(5) conduct studies and assessments to determine the current needs of Oklahoma's older population;
(6) serve as a clearinghouse for the exchange of information and ideas pertinent to older persons;
(7) work toward the improvement of coordination among federal, state, and local agencies;
(8) inform the public about the needs of older persons; and
(9) work toward the enlistment of support and resources within the private sector to assist the aging network in providing needed services to ~~the elderly~~ older persons, and ~~to~~ provide technical assistance in the development and delivery of ~~such~~ services.

(c) **~~The~~ State Plan on Aging.** ~~In order to~~ To be eligible to administer federal grants under ~~the~~ OAA, the Oklahoma Department of Human Services is required to develop a State Plan ~~which~~ that encompasses and delineates the programmatic commitments that ASD, as the designated State Office on Aging, administers, coordinates, or supervises during a given multi-year period. The ~~plan~~ State Plan is developed by ASD for approval by the Governor of the State of Oklahoma and ~~is then~~ submitted by the Governor to the ~~Commissioner on~~ Assistant Secretary for Aging of the Administration on Aging.

(1) The State Plan identifies the objectives ~~which the state~~ ASD proposes to achieve during the multi-year period ~~as well as~~ and the ~~plan or plans~~ plan(s) of action ~~which are~~ that is implemented in order to meet the identified objectives. The State Plan ~~also~~:

(A) identifies the manner in which the state has been divided into planning and service areas and the designation of ~~Area Agencies on Aging. In addition, the State Plan~~ AAAs; and

(B) sets forth the ~~manner in which~~ allocation of resources ~~are allocated~~ under the program ~~and provides~~ by providing information ~~as to~~ regarding the methods, data, and rationale used in developing the State Plan and formulating planning priorities.

(2) Prior to ~~the submission of~~ submitting the State Plan to the Governor, ASD holds a public hearing(s) on the proposed plan pursuant to ~~federal regulations~~ Part 1321.27 of Title 45 of the Code of Federal Regulations. A summary of the ~~plan~~ State Plan is made available to any interested individual, agency, or organization. ~~and adequate public~~ Public notice of each hearing is provided as required. The complete State Plan is available for inspection and consideration at the office of ASD.

(A) The State Council on Aging~~,~~ is ~~also~~ given an opportunity to review and comment on the State Plan.

(B) Pursuant to comments made regarding the proposed State Plan from the State Council on Aging and the general public, ASD revises the plan ~~is revised~~ where necessary and appropriate and ~~then submitted~~ submits it to the Governor.

## SUBCHAPTER 7. ADULT DAY SERVICES

### 340:105-7-2. Eligibility for adult day services

(a) **Application process.**

(1) An application for adult day services is initiated by a request from an adult wishing to participate, a person responsible for the care of such an adult, or by a referral from an adult day services vendor. The application is documented on ~~the~~ Form ADS-RA-1, Adult Day Services Referral/Application.

(2) All adult day services participants must be determined ineligible for the ADvantage Waiver Adult Day Health program.

(A) If the participant is not determined ineligible in four months, the participant may not continue in Oklahoma Department of Human Services (OKDHS) funded adult day services. The authorization is closed and services are terminated.

(B) An exception or extension of the four months rule must be requested.

(~~2~~3) The service opening date ~~can be~~ is no earlier than the date on Form ADS-RA-1 or the date of the oral request. If the client does not sign Form ADS-RA-1 at the time of request, a staff member completes the form and explains on the signature line why the client did not sign, such as an oral request.

(A) If the services are court-ordered and there is no Form APS-1, Adult Protective Services Referral, the service opening date is the date of the court order.

(B) If the day services facility makes the referral by sending Form ADS-RA-1, the service opening date is the date the form is stamped "received" in the county office. ~~If the client does not sign Form ADS-RA-1 at the time of request, a staff member completes the form and explains on the signature line why the client did not sign, such as an oral request.~~

(~~3~~4) An application must be processed within 30 days for public assistance cases and 45 days for non-public assistance cases. The application is:

(A) certified or approved when a client is determined eligible;

(B) denied when a client is determined ineligible; or

(C) canceled when a client requests cancellation prior to other disposition.

(~~4~~5) In determining eligibility for adult day services, clients must:

(A) receive services in a facility ~~which~~ that holds a valid contract with ~~the Department~~ OKDHS for provision of adult day services; and

(B) meet need, age, and income requirements.

(b) **Need for adult day services.** Adult day services are appropriate for persons who are physically or mentally unable to function totally independently but do not require 24-hour care.

(1) To qualify for adult day services, one of the conditions ~~listed~~ in (A) ~~-~~ and (B) of this paragraph must be met.

(A) Adult day services provide respite or time needed to maintain employment for an adult's primary caregiver.

(B) Adult day services provide beneficial socialization and access to needed therapy for a functionally impaired adult.

(2) If ~~payment is already being made by~~ the ~~Department for~~ client is receiving state-funded 24-hour care ~~for a client~~, adult day services are not approved.

~~(3) If the facility has an ADvantage Medicaid contract and the participant meets medical eligibility criteria, payment for adult day services is made through the ADvantage Program.~~

~~(4) If the facility does not have an ADvantage Medicaid contract and the participant meets eligibility criteria, payment for adult day services is made through the adult day services program.~~

(c) **Age.** Adult day services are available to impaired adults age 60 years and older.

~~(1)~~ An age waiver may be requested, and is granted by Aging Services Division (ASD) for a person ~~under age~~ younger than 60 if one of the conditions ~~listed~~ in ~~(A) - (B)~~ (1) and (2) of this paragraph ~~are~~ is met.

(~~A~~1) The adult is suffering from Alzheimer's disease, any other form of dementia, or another degenerative condition, either physical or mental.

(~~B~~2) The adult has recently sustained a stroke, fracture, paralysis, or other incapacitating condition and the services offered in an adult day services program aids the adult in maintaining or returning to as much of an independent lifestyle as possible, avoiding institutionalization.

~~(2) Age waivers may be requested by email or memo to Aging Services Division, Attention: Adult Day Services.~~

(d) **Income.** Sources of income considered, verification, and computation of income for the adult day services program are described in ~~(d)(2) and (d)(2)(A) of~~ this ~~Section~~ subsection. Co-payment and maximum allowable income are shown on ~~DHS~~ OKDHS Appendix M-105, Eligibility Schedule/Rates for Adult Day Services. ~~The DHS~~ OKDHS Appendix M-105 reflects the sliding fee scale based upon the United States (U.S.) Bureau of Census, National Poverty Guidelines, as printed in the Federal Register. The schedule is subject to change.

(1) **Predetermined eligible.** Persons are predetermined eligible based on receipt of Public Assistance, Supplemental Security Income (SSI), or Refugee Assistance. If services are requested by Adult Protective Services (APS), the client is universally approved for 60 days only without regard to income. For APS clients, no co-payment is considered during the 60 calendar days.

(2) **Income eligible.** Income eligibility determination is based upon the amount of the family's gross income and family's size. Family income includes income from predetermined eligible members.

(A) Anticipated income is never included in determining eligibility until it is available to and under the control of the client.

(B) Income is computed on a monthly basis. If income is received every two weeks, the weekly rate is determined and multiplied by 4.3 to compute the monthly income. When income is received twice a month, for example, 1st and 15th, it is multiplied by two.

(C) Any income that is received regularly, but in amounts that vary greatly, or income received irregularly is averaged over a six-month period. Examples are overtime pay, sporadic second jobs, irregular child support, and other occasional changes in the monthly gross child support or other monthly gross income.

(D) When one or both persons of a married couple is in adult day services, the total gross income of both is considered and eligibility is computed based on one half of the total income.

(~~A~~3) **Determination of co-payments for ~~individuals~~ persons not predetermined eligible.** In determining the co-payment for ~~individuals~~ persons not predetermined eligible, the guidelines are:

(~~i~~A) married ~~couples~~ couple, one spouse in adult day services, the total gross income of both spouses is considered, with the co-payment computed on one half of the total income;

(~~ii~~B) married ~~couples~~ couple, both in adult day services, the total gross income is divided equally between the two, with the co-payment for each based on the computed individual amount of income; or

(~~iii~~C) single ~~individual~~ person in adult day services, only the total gross income of that ~~individual only~~ person is considered.

(~~B~~4) **Sources of income considered.** The sources of income considered in determining monthly gross income are:

(~~i~~A) wages, such as total money earnings received for work performed as an employee, including armed forces pay, commissions, tips, piece-rate payments, on-the-job training programs, ~~and~~ cash bonuses ~~earned before deductions of taxes~~, bonds, pensions, union dues, credit union payments, garnishments, and similar purposes. Tips are not considered part of the wages for Temporary Assistance for Needy Families (TANF) recipients who are participating in the Work Supplementation Program;

(~~ii~~B) net income from self-employment, farm and non-farm, ~~is~~ determined by taking 50 percent of the gross income. When a client:

(~~I~~i) rents a house to someone else, the net income amount considered is 50 percent of the rent. The other 50 percent is allowed for expenses;

(~~II~~ii) rents a room in his or her house to someone else, the net income amount considered is 75 percent of the rent; and

(~~III~~iii) provides room and board in his or her home, the net income amount considered is 50 percent of the gross amount charged;

(~~iii~~C) pensions, SSI, survivors' benefits, and Social Security Administration permanent disability insurance ~~payments made by the Social Security Administration~~, prior to deductions for medical insurance, and Railroad Retirement Insurance ~~checks from the U.S. Government~~;

(~~iv~~D) dividends, interest, and income from estates, ~~or~~ trusts, and ~~royalties~~ mineral rights. If this income varies or is received irregularly, it is averaged over six months;

(~~v~~E) pensions and annuities or retirement benefits paid to a retired person or his or her survivors by a former employer or by a union, either directly or through an insurance company, and periodic receipts from annuities or insurance;

(~~vi~~F) unemployment compensation received from government unemployment insurance agencies or private companies during periods of unemployment and any strike benefits received from union funds;

(~~vii~~G) workers' compensation received periodically from private or public insurance companies for injuries incurred at work. The cost of this insurance must have been paid by the employer and not by the client;

(~~viii~~H) alimony;

(~~ix~~I) child support;

(~~x~~J) veterans' compensations and pensions paid periodically by ~~the~~ Veterans ~~Administration~~ Affairs to disabled members of the armed forces or to survivors of deceased veterans, as subsistence allowances paid to veterans for veterans' education and on-the-job training, and to ex-servicemen as GI insurance premiums called refunds;

(~~xi~~K) contributions in the form of money received regularly from anyone; and

(~~xii~~L) income of minor children. If the adult in ~~a~~ an adult day services program has minor children living in the same home, the children's income is considered.

(~~C~~5) **Sources of income not considered.** The sources of income not considered monthly gross income are:

(~~i~~A) per capita payments to or funds held in trust for any individual in satisfaction of a judgment of the Indian Claims Commission of the Court of Claims;

(~~ii~~B) payments made pursuant to the Alaska Native Claims Settlement Act, to the extent that such payments are exempt from taxation under Section 21(a) of the Act;

(~~iii~~C) money received from sale of ~~property~~ a resource, such as stocks, bonds, land, house, or ~~a~~ car. If the person is in the business of selling such property, the net proceeds are counted as income from self-employment;

(~~iv~~D) withdrawals of bank deposits;

(~~v~~E) tax refunds, including the Earned Income Credit Advance payment which is received monthly;

(~~vi~~F) gifts or money received occasionally, such as at birthdays, anniversaries, and Christmas;

(~~vii~~G) lump sum inheritances, insurance payments, or one-time lump sum payments;

(~~viii~~H) capital gain;

(~~ix~~I) the value of the food ~~stamp~~ benefit allotment under the Food Stamp Act of 1977, as amended;

(~~x~~J) any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(~~xi~~K) loans and grants obtained and used under conditions that preclude their use for current living costs;

(~~xii~~L) money received as reimbursement for expenses ~~as a result~~ because of participation in a component of the TANF Work Program;

(~~xiii~~M) home produce utilized for household consumption; and

(~~xiv~~N) the income of adult children or other relatives residing in the same home as the adult day services participant.

(e) **Resources.** Resources are not considered in determining eligibility for adult day services.

(f) **Notification.** A ~~ten day~~ ten-day notice is required for any adverse action. Notification to the client is required and is computer-generated when:

(1) a decision regarding initial eligibility or continued eligibility is made;

(2) there ~~has been~~ is a change in the client's income or co-payment; and

(3) the client is no longer eligible or requests termination of adult day services.

**340:105-7-7. Adult day services vendor contracts**

(a) **Licensure of facility.** According to Section 1-873 of Title 63 of Oklahoma ~~State~~ Statutes, all adult day services centers must be licensed by the Oklahoma State Department of Health. Failure to comply with state law is grounds for immediate termination of the contract or denial of a contract application.

(b) **Application.** Applications for a contract to provide adult day services to ~~DHS~~ Oklahoma Department of Human Services (OKDHS) clients are obtained from ~~State Office,~~ Aging Services Division (ASD), Attention: Adult Day Services.

(c) **Application process.** When the completed application packet is received by ~~the~~ ASD, a visit is arranged with the facility to conduct a site evaluation. For facilities holding a current contract and applying for renewal, no site evaluation is required.

(d) **Facility approved.** If a facility meets all minimum standards and requirements, and funding is available, a contract is offered. The facility accepts the offer by returning the properly signed contract within 15 days of the offer. When a contract number is assigned, ASD notifies ~~both~~ the facility and the ~~DHS~~ OKDHS county office where the facility is located.

(e) **Facility not approved.** If an applicant facility fails to meet ~~the Department's~~ OKDHS minimum standards and requirements, ASD staff notifies the facility by mail~~. The notification is in the form of~~ via a letter ~~and~~ that includes:

(1) a description of the area(s) in which the facility failed to meet standards and requirements;

(2) an offer of technical assistance concerning steps needed to comply with the requirements; and

(3) a statement the facility may reapply when the operator ~~believes that~~ corrects the deficiencies ~~have been corrected~~.

(f) **Contract monitoring.** ASD staff visits each contracted facility at least once annually to monitor the facility's compliance with ~~its~~ the contractual agreement. ASD staff ~~discuss~~ discusses with the operator any areas ~~which~~ that require improvement. If deficiencies are not corrected or showing substantial improvement within that period ~~of time~~, procedures for contract termination are initiated. A summary of the findings of each monitoring visit is prepared and a copy is sent to the facility.

(g) **Contract ~~reapplications~~ reapplication.** Performance based contracts for provision of adult day services automatically terminate at the end of the state fiscal year. In April, ASD staff ~~provide~~ provides new application packets to each contracted vendor. Applications are evaluated in accordance with subsection (c) of this Section. Procedures for approval or disapproval are followed as outlined in subsections (e) and (f) of this Section. A site visit and evaluation is ~~also~~ required ~~whenever~~ when a facility changes location or undergoes major renovation.

(h) **Procedures for suspension or termination of contract.** If at any point during the contract term a facility fails to meet minimum standards or other contractual requirements, and fails to correct the deficiency within 30 calendar days ~~of being notified~~ after notification, contract suspension or termination procedures are initiated.

**340:105-7-8. Adult day services rates and claims payment**

(a) **Rates.** A facility ~~which~~ that contracts to provide adult day services for ~~Department~~ Oklahoma Department of Human Services (OKDHS) clients agrees to ~~do so for no more than~~ the reimbursement rate approved by the Oklahoma Commission for Human Services. The current rate is shown in ~~DHS~~OKDHS Appendix M-105, Eligibility Schedule/Rates for Adult Day Services. ~~A~~ The facility:

(1) is reimbursed only for days a client is actually in attendance~~. A facility~~;

(2) may set up a sliding fee scale for ~~its~~ private pay participants~~.~~;

(3) ~~The rate charged~~ may not charge the ~~general~~ public ~~by the facility cannot be~~ less than the rate charged ~~DHS~~ OKDHS~~.~~; and

(4) ~~All~~ must post all rates ~~must be posted~~ in the facility.

(b) **Claims.** Claims for reimbursement for ~~Department purchased~~ OKDHS-purchased adult day services are made on Form ADM-12-ADS-SI, Adult Day Service Invoice, attached to Form ~~ADS-SAC-1~~ AS-ADS-1, Service/Attendance/Claim Record. ~~There must be one~~ The vendor prepares and attaches Form ~~ADS-SAC-1,~~ AS-ADS-1 ~~attached~~ for each participant for whom ~~DHS~~ payment is claimed~~. These claim forms are prepared by the vendor~~ and ~~submitted~~ submits it to ~~the State Office,~~ Aging Services Division, Attention: Adult Day Services.

## SUBCHAPTER 10. POLICIES AND PROCEDURES MANUAL FOR TITLE III OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED

## PART 1. INTRODUCTION

**340:105-10-3. Definitions**

(a) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Abuse"** means the willful:

(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or

(B) deprivation by a person, including a caregiver, of goods or services necessary to avoid physical harm, mental anguish, or mental illness.

**"Act"** means the Older Americans Act (OAA) of 1965 as amended.

**"Activities of daily living (ADL)"** means:

(A) eating;

(B) dressing;

(C) bathing;

(D) toileting;

(E) transferring in and out of bed or chair; and

(F) walking.

**"Area Agency on Aging (AAA)"** means an agency designated under the OAA, Section 305(a)(2)(A) or ~~a~~ the State Agency performing the functions of an AAA under the OAA, Section 305(b)(5).

**"CFR"** means Code of Federal Regulations in the Federal Register published by the United States (U.S.) Department of Health and Human Services, Office of Human Development, and Administration on Aging (AoA).

**"Caregiver"** means an adult family member, or another person, who is an informal provider of in-home and community care to a person 60 years of age or older.

**"Case management service"** means a service provided to an older person, at the direction of the older person or a family member of the older person:

(A) by a person who is trained or experienced in the case management skills required to deliver the services and coordination described in (B) of this paragraph;

(B) to assess the needs, and arrange, coordinate, and monitor an optimum package of services to meet the needs of the older person; and

(C) including services and coordination, such as:

(i) comprehensive assessment of the older person's physical, psychological, and social needs;

(ii) development and implementation of a service plan with the older person to mobilize

the formal and informal resources and services identified in the assessment to meet the needs of the older person, including coordination of the resources and services with:

(I) any other plans existing for various formal services, such as hospital discharge plans; and

(II) the information and assistance services funded by Title III of OAA;

(iii) monitoring formal and informal service delivery to ensure services specified in the plan are provided;

(iv) periodic reassessment and revision of the status of the older person with:

(I) the older person; or

(II) if necessary, a primary caregiver or family member of the older person; and

(v) advocacy on behalf of the older person for needed services or resources in accordance with the wishes of the older person.

**"Child"** means a person who is not older than 18 years of age.

~~**"Commissioner"** means the federal Commissioner of AoA.~~

**"Comprehensive and coordinated system"** means a system for providing all necessary supportive services, including nutrition services, in a manner designed to:

(A) facilitate accessibility to and utilization of all supportive services and nutrition services provided within the geographic area served by such system by any public or private agency or organization;

(B) develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older persons;

(C) use available resources efficiently and with a minimum of duplication; and

(D) encourage and assist public and private entities having unrealized potential for meeting the service needs of older persons to assist the older persons on a voluntary basis.

**"Construction,"** with respect to multipurpose senior centers, means building a new facility, including the costs of land acquisition and architectural and engineering fees or making modifications to or in connection with an existing facility in excess of double the square footage of the original facility and all physical improvements.

~~**"DHS"** means Oklahoma Department of Human Services.~~

**"Department"** means U.S. Department of Health and Human Services (DHHS).

**"Direct services"** means any activity performed to provide services directly to an older person by the staff of a service provider, ~~an~~ AAA, or ~~a~~ State Agency in a single planning and service area.

**"Disability"** means a mental or physical impairment, or a combination of mental and physical impairments, resulting in substantial functional limitations in one or more of the major life activities of:

(A) self-care;

(B) receptive and expressive language;

(C) learning;

(D) mobility;

(E) self-direction;

(F) capacity for independent living;

(G) economic self-sufficiency;

(H) cognitive functioning; and

(I) emotional adjustment.

**"Disease prevention and health promotion services"** means providing:

(A) health risk assessments;

(B) routine health screening, such as hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, bone density, oral health, and nutrition screening;

(C) nutritional counseling and educational services for older persons and their primary caregivers;

(D) health promotion programs, including programs relating to prevention and reduction of effects of chronic disabling conditions, such as osteoporosis, cardiovascular disease, dental care, alcohol and substance abuse reduction, smoking cessation, weight loss and control, and stress management;

(E) programs regarding physical fitness, group exercise, and music, art, and dance movement therapy, including programs for multigenerational participation provided by:

(i) an institution of higher education;

(ii) a local educational agency, as defined in Section 1471 of the Elementary and Secondary Education Act of 1965; or

(iii) a community-based organization;

(F) 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;

(G) screening for the prevention of depression, coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;

(H) educational programs on the availability, benefits, and appropriate use of preventive health services covered under Title XVIII of the Social Security Act;

(I) medication management screening and education to prevent incorrect medication and adverse drug reactions;

(J) information concerning diagnosis, prevention, treatment, and rehabilitation concerning 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;

(K) gerontological counseling; and

(L) counseling regarding social services and follow-up health services based on any of the services described in (A) through (K) of this subsection.

**"Elder abuse"** means abuse of an older person.

**"Eldercare (National Campaign)"** means the AoA sponsored program to establish and promote public and private partnerships addressing the needs of the growing population of older persons and their caregivers.

**"Ethnicity status."** See "Race or ethnicity status."

~~**"Fiscal year (FY)"** means the federal fiscal year, October 1 through September 30.~~

**"Focal point"** means a facility established to encourage the maximum collocation and coordination of services for older persons.

**"Frail"** means a condition of functionally impaired determined because the older person:

(A) is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

(B) due to a cognitive or other mental impairment, requires substantial supervision because the person behaves in a manner posing a serious health or safety hazard to self or another person.

**"Grandparent or older person who is a relative caregiver"** means a grandparent, stepgrandparent, or relative of a child by blood or marriage, who is 60 years of age or older and:

(A) lives with the child;

(B) 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) has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

**"Grantee agency"** means an agency that receives funds granted or awarded by the sponsoring agency. The AAAs are grantees of the State Agency and the service providers are grantees of the AAAs.

**"Grantor agency"** means an agency that grants or awards funds to another entity. The State Agency is the grantor agency for the AAAs and the AAAs are the grantor agencies for the service providers.

**"Greatest economic need"** means the need resulting from an income level at or below the poverty line.

**"Greatest social need"** means the need caused by non-economic factors, including physical and mental disabilities; language barriers; and cultural, geographical, or social isolation, including that caused by racial or ethnic status that restricts the person's ability to perform normal daily tasks or threatens the person's capacity to live independently.

**"Impairment in activities of daily living"** means the inability to perform one or more of the six ADL without personal assistance, stand-by assistance, supervision, or cues.

**"Impairment in instrumental activities of daily living"** means the inability to perform one or more of the eight IADL without personal assistance, stand-by assistance, supervision, or cues.

**"Informal care"** means care not provided as part of a public or private formal service program.

**"Information and assistance (I & A)"** means a service for older persons that:

(A) provides older persons current information on services available within their communities;

(B) links older persons with the opportunities and services available within their communities; and

(C) establishes adequate follow-up procedures to the maximum extent practicable.

**"In-home service"** means:

(A) services of homemakers and home health aides;

(B) visiting and telephone reassurance;

(C) chore maintenance;

(D) in-home respite care for families, including adult day care as a respite service for families;

(E) minor modification of homes necessary to facilitate the ability of older persons to remain at home, and not available under other programs. Not more than $250 per client may be expended annually for such modification; and

(F) personal care services.

**"Instrumental activities of daily living (IADL)"** means:

(A) preparing meals;

(B) shopping for personal items;

(C) managing medication;

(D) managing money;

(E) using the telephone;

(F) doing heavy housework;

(G) doing light housework; and

(H) making use of available transportation without assistance.

**"Legal assistance"** means legal advice and representation by an attorney to an older person who has economic or social needs and includes, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney and counseling or representation by a non-lawyer where permitted by law.

**"Living alone"** means a one person household, using the census definition of household, where the householder lives by himself or herself in an owned or rented place of residence in a non-institutional setting, including board and care facilities, assisted living units, and group homes.

**"Low income minority elderly"** means a minority older person with annual income at or below the federally established poverty line.

**"Low income non-minority elderly"** means an older person who is not a minority with an annual income at or below the federally established poverty line.

**"Means testing"** means the use of an older person's income or resource to deny or limit the person's receipt of services.

**"Minority elderly"** means a person age 60 or older who is:

(A) American Indian or Alaskan Native;

(B) Asian;

(C) Black or African American;

(D) Hispanic or Latino; or

(E) Native Hawaiian or Other Pacific Islander.

**"Multipurpose senior center"** means a community facility for the organization and provision of a broad spectrum

of services, to include the provision of health, such as mental health, social, nutritional, and educational services and facilities for recreational activities for older persons.

**"NAPIS"** means the National Aging Program Information System.

**"Nonprofit"** means an agency, institution, or organization owned or operated by one or more corporations or associations having no part of the net earnings or benefit of any private shareholder or individual.

**"OAA"** means the Older Americans Act of 1965, as amended.

**"OKDHS"** means Oklahoma Department of Human Services.

**"Older person"** or **"older individual"** means anyone 60 years of age or older.

**"Periodic,"** as used in the OAA with respect to evaluations of and public hearings on activities carried out under State and Area Plans, means, at a minimum, once each fiscal year.

**"Planning and service area (PSA)"** means an area designated by the State Agency under Section 305(a)(1)(E) of the OAA, as amended, for the purposes of developing and coordinating service systems.

**"Poverty"** means the income level defined each year by the Office of Management and Budget (OMB), and adjusted by the DHHS Secretary in accordance with subsection 673(2) of the Community Services Block Grant Act. The annual DHHS Poverty Guidelines provide dollar thresholds representing poverty levels for households of various sizes.

**"Poverty line"** means the official poverty line as defined by OMB in accordance with Section 673(2) of the Community Services Block Grant Act, per Section 9902(2) of Title 42 of the U.S. Code.

**"Project"** as used in Section 306(a)(1) of the OAA with respect to the provision of supportive and nutrition services, means an entity awarded a subgrant or contract from an AAA to provide services under the Area Plan.

**"Race or ethnicity status"** reflects the requirements of OMB for obtaining information from persons regarding their self-identification of race and ethnicity.

(A) Race includes:

(i) American Indian or Alaskan Native: a person having origins in any of the original peoples of North America, including Central America, and who maintains tribal affiliation or community attachment;

(ii) Asian: a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam;

(iii) Black or African American: a person having origins in any of the black racial groups of Africa;

(iv) Native Hawaiian or Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands; and

(v) White: a person having origins in any of the peoples of Europe, the Middle East, or North Africa.

(B) Ethnicity includes:

(i) Hispanic or Latino: a person of Cuban, Mexican, Puerto Rican, Central or South American, or other Spanish culture or origin, regardless of race; and

(ii) Not Hispanic or Latino.

**"Rural"** means an area not defined as urban by AoA.

**"Rural counties"** means counties not considered urban as defined by AoA.

**"Rural elderly"** means older persons not considered living in urban counties as defined by ~~the federal~~ AoA.

**"SUOA"** means Special Unit on Aging, a unit of OKDHS Aging Services Division.

**"Service provider,"** as used in Section 306(a)(1) of the OAA with respect to the provision of supportive and nutrition services, means an entity awarded a subgrant or contract from an AAA to provide services under the Area Plan.

**"Severe disability,"** as used to carry out the provisions of the OAA, means a severe chronic disability attributable to mental or physical impairment of a person that:

(A) is likely to continue indefinitely; and

(B) results in substantial functional limitation in three or more of the major life activities of:

(i) self-care;

(ii) receptive and expressive language;

(iii) learning;

(iv) mobility;

(v) self-direction;

(vi) capacity for independent living; and

(vii) economic self-sufficiency.

**"Sponsoring agency"** means a multipurpose or umbrella organization of a grantee.

**"State Agency"** means the agency designated by the state under Section 305(a)(1) of the OAA, as amended. In Oklahoma, the State Agency is OKDHS.

**"Subgrantee"** means an agency that subcontracts with a grantee agency. Subgrantee usually refers to the service provider, but it is possible for a service provider to subcontract with another entity.

**"Taxonomy"** means the uniform set of service definitions and service unit measures adopted by ~~the federal~~ AoA for national reporting on programs and activities under Title III of the OAA.

**"Unit of general purpose local government"** means:

(A) a political subdivision of the state having general authority and not limited to only one function or combination of related functions; or

(B) an Indian tribal organization.

**"Urban"** means areas defined by AoA comprised of an:

(A) urbanized area, a central place and its adjacent densely settled territories with a combined minimum population of 50,000; or

(B) incorporated place or census designated place with 20,000 or more inhabitants.

**"Urban counties"** means urban areas as defined by AoA. Counties in Oklahoma considered urban are:

(A) Canadian;
(B) Cleveland;
(C) Comanche;
(D) Creek;
(E) Garfield;
(F) Logan;
(G) McClain;
(H) Oklahoma;
(I) Osage;
(J) Pottawatomie;
(K) Rogers;
(L) Sequoyah;
(M) Tulsa; and
(N) Wagoner.

(b) **Authority.** The authority for this Section is OMB Notice of Action 0985-0008.

## PART 3. STATE AGENCY

### 340:105-10-11. Responsibilities of State Agency

(a) **Policy.** The State Agency has responsibilities related to the provisions of the Older Americans Act (OAA) to:

(1) develop a State Plan on Aging as prescribed by the Administration on Aging;
(2) administer the State Plan on Aging;
(3) coordinate all state activities related to the purposes of the OAA and actively pursue resource development at all levels of the aging network;
(4) serve as an effective and visible advocate for ~~the elderly~~ older persons;
(5) divide the state into planning and service areas for the purpose of designating Area Agencies on Aging (AAAs);
(6) serve as a clearinghouse for the exchange of information pertinent to older persons;
(7) provide consultation, technical assistance, and training to AAA and Title III project staffs related to their responsibilities under Title III of the OAA;
(8) develop policy and program standards, as appropriate, to carry out the mission of the OAA at all levels of the Title III aging network; and
(9) determine election regarding nutrition services incentive program (NSIP) cash payments in lieu of agricultural commodities and products purchased by the United States Secretary of Agriculture for all or any portion thereof.

(b) **Authority.** The authority for this Section is Section 305(a)(1) and 311(d)(1) of the OAA of 1965, as amended.

(c) **Procedures.** Procedures are outlined separately in this Part for each area of responsibility identified in (a) of this Section.

(d) **Cross references.** See OAC 340:105-10-13 through 340:105-10-25.

### 340:105-10-12. State Council on Aging

(a) **Policy.** The State of Oklahoma has a State Council on Aging that meets the requirements of the Older Americans Act (OAA), and the Aging Services Division's (ASD's) need for statewide representation from older Oklahomans and service providers.

(b) **Authority.** The authority for this Section is Section 305 of the OAA of 1965, as amended and Oklahoma State Council on Aging Bylaws.

(c) **Procedures.** The State Council on Aging is composed of 29 members who are residents of the state and who have demonstrated an interest in, knowledge of, and accomplishments regarding the concerns of older persons. At least 18 of the members are 60 years of age or older.

(1) Members of the State Council on Aging include:

(A) one member appointed by the Governor;
(B) one member appointed by the President Pro Tempore of the State Senate;
(C) one member appointed by the Speaker of the House of Representatives; and
(D) 26 members appointed by the Oklahoma Department of Human Services (~~DHS~~OKDHS) Director and include:

(i) five members who are 60 years of age or older who are participating consumers or volunteers working regularly in aging programs and are chosen from Area Agency on Aging (AAA) advisory council nominees. Each of the AAA advisory councils submit one nominee for consideration from their respective planning and service areas. The consumer members ~~to be~~ chosen include residents of rural counties and represent citizens from all economic levels;
(ii) one member from nominees is submitted by entities to include:

(I) Oklahoma Area Agencies on Aging Association;
(II) Oklahoma State Department of Health ~~Eldercare Program~~;
(III) Oklahoma State Department of Mental Health, gerontological representative;
(IV) Older American Volunteer Program Directors Association;
(V) Oklahoma State Nutrition Directors Association;
(VI) Urban League, alternating by term between Oklahoma City and Tulsa chapters;
(VII) Oklahoma Indian Council on Aging;
(VIII) Oklahoma American Association of Retired Persons (AARP);
(~~VIII~~IX) Oklahoma Federation of Chapters of the National Association of Retired Federal Employees;
~~(IX) Oklahoma Senior Advocates~~
(X) Adult Day Services Association of Oklahoma;
(~~X~~XI) Oklahoma Alliance on Aging;

(~~XI~~XII) Oklahoma Retired Educators Association; and

(~~XII~~XIII) Silver Haired Legislature Alumni; ~~and~~

~~(XIII) Oklahoma American Association of Retired Persons (AARP);~~

(iii) eight at-large members nominated and appointed by the ~~DHS~~ OKDHS Director~~. The DHS Director uses these eight positions~~ to ensure ethnic, geographical, and demographical balance in the State Council on Aging.

(2) Duties of the State Council on Aging include:

(A) informing entities of the needs, conditions, and concerns of ~~elderly~~ older Oklahomans to include the:

(i) Oklahoma Commission for Human Services;

(ii) ~~Oklahoma DHS~~ OKDHS Director and the Aging Services Division (ASD) director;

(iii) State of Oklahoma Governor's Office;

(iv) Oklahoma State Legislature;

(v) United States Oklahoma Congressional Delegates;

(vi) state agencies;

(vii) federal agencies; and

(viii) general public;

(B) reviewing and commenting on all policies, budget appropriations, planning regulations, and legislation that could benefit or adversely impact ~~elderly~~ older Oklahomans, and advocating for ~~elderly~~ concerns and issues of older Oklahomans, maintaining high visibility and a strong voice;

(C) monitoring and evaluating the provision of services to ~~elderly~~ older persons within ~~the state~~ Oklahoma;

(D) conducting public forums on the needs or conditions of ~~elderly~~ older Oklahomans and seeking public input on programs or issues involving ~~the elderly~~ older persons; and

(E) advising the ASD director on all matters pertaining to:

(i) development and implementation of policies, budget appropriations, planning, regulations, and standards;

(ii) effective and efficient administration of division programs;

(iii) development of training and educational programs; and

(iv) administration of other functions of ~~the~~ ASD.

**340:105-10-15. State Plan administration - Title III compliance monitoring**

(a) **Policy.** The State Agency has responsibility for carrying out all activities under the State Plan on Aging.

(b) **Authority.** The authority for this Section is Section 303(c)(1) and (2) of the Older Americans Act of 1965, as amended and Parts 1321.7(b) and (c) and 1321.11(b) of Title 45 of the Code of Federal Regulations~~, Parts 1321.7 (b) and (c), and 1321.11 (b)~~.

(c) **Procedures.** The State Agency carries out its responsibilities under the State Plan on Aging by:

(1) developing and monitoring a management plan for the State Plan on Aging ~~which~~ that includes:

(A) overall goals of the plan;

(B) measurable objectives ~~outline~~ outlining what is done to reach the goal;

(C) action steps ~~describe~~ describing how each objective is accomplished, such as specific tasks;

(D) staff assignments of responsibility for each objective; and

(E) a format for tracking accomplishment of action steps and objectives;

(2) submitting to the Administration on Aging regional office all required program and fiscal reports related to State Plan activities ~~to the Administration on Aging regional office~~;

(3) developing and updating a statewide ~~policy~~ policies and procedures manual for the administration of Title III Older Americans Act programs;

(4) developing a format for Area Plans and providing technical assistance for the plans to Area Agencies on Aging (AAAs);

(5) reviewing and approving all Area Plans;

(6) monitoring ~~AAAs~~ AAA program and fiscal reports;

(7) annually conducting two desk reviews and a minimum of one on-site assessment ~~annually~~ of each AAA and forwarding written reports to the AAA;

(8) providing technical assistance to the AAAs, as appropriate; ~~and~~

(9) conducting quality assurance activities related to State Agency functions~~.~~; and

(10) utilizing probationary status, suspension of funding, or other appropriate action when the AAA fails to achieve compliance with outlined requirements.

(d) **Cross references.** See OAC 340:105-10-11(a)(7)~~.~~, 340:105-10-15, and 340:105-10-21.

**340:105-10-19. Revising the boundaries of planning and service areas**

(a) **Policy.** The State Agency establishes appropriate procedures for providing due process to affected parties when the State Agency initiates action to:

(1) designate an additional planning and service area(s) (PSA(s) in the state;

(2) divide the state into different PSAs; or

(3) otherwise affect the boundaries of the PSAs.

(b) **Authority.** The authority for this Section is Section 305(b)(5) of the Older Americans Act of 1965, as amended.

(c) **Procedures.**

(1) The State Agency:

(A) provides written notice of the proposed action or proceeding affecting PSA boundaries to existing PSAs, and to any other affected parties~~. Such notice includes~~, including clear documentation of the need for proposed action~~.~~;

(~~2~~B) ~~The State Agency~~ conducts a public hearing on the proposed action or proceeding~~.~~;

(~~3~~C) ~~The State Agency~~ invites the participation at the public hearing of affected Area Agencies on Aging (AAAs), Title III service projects, and older ~~individuals to the public hearing.~~ persons; and

(~~4~~D) ~~The State Agency~~ requests written comments from the affected AAAs, Title III service projects, and older ~~individuals~~ persons.

(~~5~~2) An adversely affected party involved in the action or proceeding may bring an appeal to the ~~Commissioner~~ Assistant Secretary for Aging of the Administration on Aging (AoA) on the basis of:

(A) the facts and merits of the matter that are the subject of the action or proceeding; or

(B) procedural grounds.

(~~6~~3) The ~~procedures~~ procedure for ~~appeals include~~ appeal includes the:

(A) State Agency notifies affected parties of the right to appeal in all written notices of the proposed action; and

(B) affected party may appeal in writing to the ~~Commissioner~~ Assistant Secretary for Aging of the ~~Administration on Aging~~ AoA within 30 days of the State Agency decision. Written requests must state:

(i) the decision(s) for which an appeal is being made; and

(ii) legal name(s), address(es), and telephone number(s) of appellant(s).

(d) **Cross references.** See OAC 340:105-10-11(a)(5), 340:105-10-18, 340:105-10-20, and 340:105-10-21.

**340:105-10-21. Withdrawal of Area Agency on Aging designation**

(a) **Policy.** The State Agency ~~shall~~ may withdraw the area agency on aging (AAA) designation ~~whenever~~ when it, after reasonable notice and opportunity for a hearing, finds that:

(1) ~~An area agency~~ the AAA does not meet the requirements of this Part;

(2) ~~An~~ the area plan or plan amendment is not approved;

(3) ~~There~~ there is substantial failure in the provisions or administration of ~~an~~ the approved area plan to comply with any provision of the Older Americans Act (OAA), applicable regulations, ~~and~~ or policies and procedures established and published by the State Agency in the ~~OAC~~ Oklahoma Administrative Code; or

(4) ~~Activities~~ activities of the ~~area agency~~ AAA are inconsistent with the statutory mission prescribed in the ~~Older Americans Act~~ OAA that it function only as an ~~area agency on aging;~~ AAA.

(b) **Authority.** The authority for ~~OAC 340:105-10-21~~ this Section is ~~45 CFR~~ Part 1321.35 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** ~~The procedures for implementing this Section are as follows:~~

(1) Prior to withdrawing ~~an Area Agency on Aging~~ the AAA designation, the State Agency ~~conducts the following activities~~:

(A) ~~Notifies~~ notifies the ~~Area Agency~~ AAA in writing of cause for withdrawal of designation;

(B) ~~Conducts~~ conducts a public hearing on proposed withdrawal of ~~area agency on aging~~ AAA designation;

(C) ~~Invites the~~ invites participation in the public hearing of the affected ~~Area Agency~~ AAA, Title III~~/~~ or Title VII service projects, and older ~~individuals in the public hearing~~ persons;

(D) ~~Requests~~ requests written comments from the affected ~~Area Agency~~ AAA, Title III~~/~~ or Title VII service projects, and older ~~individuals~~ persons in the planning and service area;

(E) ~~Notifies~~ notifies the ~~Area Agency~~ AAA in writing of the decision to withdraw ~~Area Agency on Aging~~ AAA designation; and

(F) ~~Provides an opportunity~~ provides to any affected party an opportunity for an appeal of the decision to the ~~Commissioner~~ Assistant Secretary for Aging of the Administration on Aging~~.~~, ~~The~~ following the procedures ~~shall be followed for appeals to the Commissioner~~ in this subparagraph. The State Agency:

(i) ~~The State Agency shall notify~~ notifies the ~~Area Agency~~ AAA and all other affected parties of the right to appeal in all written notices of the proposed action;

(ii) ~~The State Agency shall accept~~ accepts and ~~process~~ processes all requests for appeal that are submitted in writing to the State Agency within 30 days of the conduct of the public hearing on the proposed action. ~~Written~~ The written request must outline the:

(I) ~~The~~ decision for which the appeal is being made;

(II) ~~Legal~~ legal name, address, and telephone number of the appellant(s); and

(III) ~~Documented~~ documented information regarding how the ~~Area Agency~~ AAA withdrawal will affect the appellant(s); and

(iii) ~~The State Agency shall forward~~ forwards the appeal ~~requests~~ request and all supporting documentation to the ~~Commissioner~~ Assistant Secretary for Aging within 14 days of receipt.

(2) After completing withdrawal of AAA designation procedures, the State Agency:

(A) ~~must provide~~ provides a plan for the continuity of ~~Area Agency on Aging~~ AAA functions and services in the affected planning and service area~~, and~~;

(B) ~~designate~~ timely designates a new ~~Area Agency on Aging in a timely manner.~~ AAA; and

(C) ~~If~~ for a period of up to 180 days after final notice of withdrawal of AAA designation, may, if necessary to ensure continuity of the services in a planning

and service area~~, the State Agency may, for a period of up to 180 days after it has given final notice of withdrawal of designation~~:

(~~A~~i) ~~Perform~~ perform the responsibilities of the ~~area agency~~ AAA; or

(~~B~~ii) ~~Assign~~ assign the responsibilities of the ~~area agency~~ AAA to another ~~agency~~ AAA in the planning and service area.

(3) The Assistant Secretary for Aging may extend the 180-day period ~~if a~~ when the State Agency:

(A) ~~Notifies~~ notifies the ~~Commissioner~~ Assistant Secretary for Aging in writing of its action ~~under OAC 340:105-10-15(c)(2)~~;

(B) ~~Requests~~ requests an extension; and

(C) ~~Demonstrates~~ demonstrates to the satisfaction of the ~~Commissioner~~ Assistant Secretary for Aging a need for the extension.

(d) **Cross references.** See OAC 340:105-10-20 and 340:105-10-30.

**340:105-10-24. Policy and program standards**

(a) **Policy.** The State Agency on Aging ~~shall develop~~ develops policies governing all aspects of programs operated under Title III of the Older Americans Act.

(b) **Authority.** The authority for ~~OAC 340:105-10-24~~ this Section is ~~45 CFR~~ Part 1321.11(a) of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The State Agency develops policies governing all aspects of programs operated under Title III of the Older Americans Act ~~via the following activities~~ by:

(1) ~~Convening~~ convening intra and/or interagency task forces to review program issues and ~~to~~ make recommendations for policy development;

(2) ~~Submitting~~ submitting proposed policy for review and comment to:

(A) appropriate Title III aging network entities ~~for review and comment~~; and

(~~3~~B) ~~submitting proposed policy to the~~ Oklahoma Department of Human Services:

(i) ~~Office of~~ Policy Management ~~Services for preparation and submittal~~ Unit, which prepares and submits it to the Commission for Human Services; and

(~~4~~ii) ~~Submitting proposed policy to Department of Human Services~~ Executive Office ~~for review and comment~~; and

(~~5~~3) ~~Issuing~~ distributing the codified rules to the Title III aging network.

(d) **Cross references.** See OAC 340:105-10-11(a)(8).

**340:105-10-25. Commodity and cash in lieu election**

(a) **Policy.** The State Agency determines election regarding nutrition services incentive program (NSIP) cash payments in lieu of agricultural commodities and products purchased by the United States (U.S.) Secretary of Agriculture for all or any portion thereof.

(b) **Authority.** The authority for this Section is Section 311(d)(1) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The State Agency elects to receive agricultural commodities and products purchased by the ~~United States~~ U.S. Secretary of Agriculture or cash payments in lieu for all or any portion by:

(1) determining the capacity level of nutrition programs to utilize commodities;

(2) determining if there is any monetary advantage in utilizing commodities;

(3) determining if there is an adequate variety of commodities, efficient distribution, and storage facilities;

(4) determining the views of the Area Agencies on Aging and local nutrition projects; and

(5) submitting election to the federal agency.

(d) **Cross references.** See OAC 340:105-10-11(a)(9).

## PART 5. AREA AGENCIES ON AGING

**340:105-10-41. Title III direct services waivers**

(a) **Policy.** Provisions under the Older Americans Act (OAA), including subsequent amendments, specify which Title III direct services are authorized ~~as well as~~ or prohibited under the law. Direct services otherwise prohibited by OAA may be permitted by the State Agency if, in the judgment of the State Agency, provision of ~~such~~ the services is:

(1) necessary to ensure an adequate supply of ~~such~~ the services;

(2) related to the administrative functions of the Area Agency on Aging (AAA); or

(3) more economical and of comparable quality.

(b) **Authority.** The authority for this Section is Section 307(a)(8) of the OAA of 1965, as amended.

(c) **Procedures.** A recipient of a direct service waiver (DSW) must employ a minimum of one staff person for at least 40 hours per week dedicated to a waivered service. 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) necessary to ensure an adequate supply of services is considered met. 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 carried out the request for proposals (RFP) process in accordance with OAC 340:105-10-101;

(2) services related to AAA administrative functions is considered met. Services consist of advocacy, assessment and screening, follow-up and evaluation, information and assistance (I&A), and placement. The State Plan on Aging:

(A) indicates all AAAs are allowed to directly provide I&A services; and

(B) names the AAAs allowed to directly provide case management services; or

(3) more economical and of comparable quality is considered met. The AAA service grant application substantiates that, according to AAA standard RFP evaluation

criteria, it proposes to provide a priority service that is more cost effective and of a comparable quality. 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~~ and 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 nonprofit agencies or organizations, institutions, political subdivisions of the state, or Indian tribal organizations demonstrating to the Area Agency on Aging (AAA) a capacity for the effective delivery of nutrition, supportive services, or both, throughout the project service area. Project sponsors serve all eligible persons in the project service area and do not limit participation to their own membership or residents, 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 persons and older persons residing in rural areas. The project documents in ~~its~~ the written grant agreement with the AAA:

(A) assurance that, to the extent possible, the project serves low income minority persons and older persons residing in rural areas in accordance with their need for services;

(B) specific objectives outlining how the project satisfies the service needs of low income minority persons and older persons residing in rural areas served by the project. These objectives reflect the Area Plan objectives for targeting these persons;

(C) information on the extent the project met its objectives for serving low income minority persons and older 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, such as targeting activities for outreach services.

(4) Projects provide recipients 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 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 to include 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 and home delivered meals participants are allowed to use United States (U.S.) 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 Agency and AAAs. All records are managed according to the guidelines in ~~(A) through (D) of~~ this paragraph.

~~(A)~~ Older Americans Act (OAA) grantees:

(A) 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~~.~~;

(B) ~~Grantees~~ permit audit, examination, or both, of all such records, procedures, and accounts at any reasonable time by authorized personnel of the U.S. Department of Health and Human Services, the Oklahoma Department of Human Services (OKDHS), the State Auditor and Inspector, and other appropriate state entities~~.~~;

(C) ~~Authorized~~ allow authorized personnel ~~are given~~ open and complete access to the grantees' accounting records and practices, and to any other items of the service provider pertinent to the performance or payment of the grant in order to audit, examine, and make excerpts of records~~.~~;

(~~B~~D) ~~All~~ retain for at least three years 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~~.

(i) 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~~ii) Permanent records are maintained at the project office~~.~~; and

(~~D~~E) ~~The project is responsible for providing~~ provide 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~~ reports to the appropriate officials any situation that places the participant, ~~his or her~~ participant's 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 appropriate intake information is gathered on each participant.

(A) Participants receiving Title III:

(i) personal care, homemaker, chore, home repair, home delivered meals, adult day health or adult day care, or case management services, information is gathered on Form AG-2-A, Older Americans Act Assessment, Parts I and II, and includes at a minimum:

(I) identifying information;

(II) household composition;

(III) ability to perform activities of daily living (ADLs);

(IV) ability to perform instrumental activities of daily living;

(V) support system;

(VI) participant signature or witness signature if participant is unable to sign;

(VII) explanation of donation system;

(VIII) release of information authorization; and

(IX) status related to poverty level;

(ii) congregate meals, nutrition counseling, assisted transportation, outreach, or information and assistance, information is gathered on Form AG-2-A, Part I, and includes at a minimum:

(I) identifying information;

(II) household composition;

(III) participant signature or witness signature if participant is unable to sign;

(IV) explanation of donation system;

(V) release of information authorization; and

(VI) status related to poverty level;

(iii) home delivered meals, congregate meals, case management, or nutrition counseling, project staff ~~ensure~~ ensures Form AG-2-A, Part I, Determine Your Nutritional ~~Risk~~ Health Checklist, assessment of nutritional status, is completed; and

(iv) National Family Caregiver Support Program (NFCSP) services, information is gathered on an approved intake form and includes at a minimum:

(I) the family caregiver's identifying information;

(II) the caregiver's relationship to the care receiver;

(III) the care receiver's identifying information; and

(IV) a written description of the caregiver's current situation, including the care receiver's need for assistance due to inability to perform specific ADLs or need for supervision due to Alzheimer's disease or other dementia.

(B) Project staff:

(i) ~~obtain~~ obtains from participants of other Title III services not given in (A) of this paragraph, or their informants, only information necessary to provide the appropriate Title III service(s) and ensure the safety and well-being of participants;

(ii) ~~ensure~~ ensures assessment procedures are conducted in a confidential manner, with only the intake person, the participant, and other persons approved by the participant in attendance;

(iii) ~~conduct~~ conducts an assessment of each participant upon ~~his or her~~ the participant's entry into a Title III service, with, at a minimum, annual reassessments; and

(iv) ~~conduct~~ conducts a reassessment of in-home service participants every six months, at a minimum.

(C) Income source information is not required to receive Title III services and may only be used to assist the client in determining eligibility for programs with income guidelines.

(12) Projects have procedures, approved by the AAA, to ensure strict confidentiality is maintained regarding all participant information. Projects ensure identifying participant information is disclosed only when staff ~~have obtained~~ obtains the informed consent of the participant or ~~his or her~~ the participant's 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~~ posts grievance procedures in a public area of the project facility and ~~comply~~ complies 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~~ conducts ongoing public information activities to ensure the general public is aware of each project and the services it provides. All materials produced by or for the project include a statement that:

(A) the project ~~does not discriminate in admissions, access, treatment, or employment in its programs or activities on the basis~~ makes no distinctions on the grounds of race, ~~creed,~~ color, sex, age, ancestry, national origin, religion, or disability; and

(B) a portion of the project costs are met by state and federal OAA funds from the AAA and OKDHS Aging Services Division.

(17) Project staff ~~provide~~ provides or ~~arrange~~ arranges 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 OKDHS Policies and Procedures Manual for Title III of the OAA, as amended;

(C) the AAA Title III policies 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~~ participates 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 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) incorporate the standards into ~~its~~ the policies and procedures manual;

(2) provide training on the standards to Title III project directors and other appropriate staff;

(3) monitor the compliance of Title III projects with the standards; and

(4) 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.

**340:105-10-54. Supportive services**

(a) **Policy.** The Area Agency on Aging (AAA) makes grants to local agencies or organizations for the provision of supportive services to older persons. Providers of any such service must comply with all standards outlined in this Subchapter relating to the service(s) provided. Supportive services, for purposes of this Section, include:

(1) health, including mental health, education and training, welfare, informational, recreational, homemaker, counseling, or referral services;

(2) transportation services to facilitate access to supportive services or nutrition services, and services provided by an AAA in conjunction with local transportation service providers, public transportation agencies, and other local government agencies that result in increased provision of such transportation services for older ~~individuals~~ persons;

(3) services designed to encourage and assist older ~~individuals~~ persons to use the facilities and services, including information and assistance services, and language translation services to assist older ~~individuals~~ persons with limited English speaking ability to obtain services;

(4) services designed to:

(A) assist older ~~individuals to~~ persons obtain adequate housing, including minor residential repair and renovation projects, up to ~~$150.00~~ $250 annually per client, designed to enable older ~~individuals to~~ persons maintain their homes in conformity with minimum housing standards;

(B) adapt homes to meet the needs of older ~~individuals~~ persons who have physical disabilities;

(C) prevent unlawful entry into residences of ~~elderly individuals~~ older persons, through the installation of security devices and structural modifications or alterations of such residences; or

(D) assist older ~~individuals~~ persons in obtaining housing for which assistance is provided under programs of the Department of Housing and Urban Development;

(5) services designed to assist older ~~individuals in avoiding~~ persons avoid institutionalization and ~~to~~ assist ~~individuals~~ persons in long-term care institutions who are able to return to their communities, including:

(A) client assessments, case management, and development and coordination of community services;

(B) supportive activities to meet the special needs of caregivers, including ~~caretakers~~ caregivers who provide in-home services to frail older ~~individuals~~ persons; and

(C) in-home services and other community services, including home health, homemaker, and chore services to assist older ~~individuals~~ persons to live independently in a home environment;

(6) services designed to provide to older ~~individuals~~ persons legal assistance and other counseling services and assistance, including:

(A) tax counseling and assistance, financial counseling, and counseling regarding appropriate health and life insurance coverage;

(B) representation of ~~individuals~~ persons who are wards, or are allegedly incapacitated, and in guardianship proceedings of older ~~individuals~~ persons who seek to become guardians, if other adequate representation is unavailable in the proceedings;

(C) provision, to older ~~individuals~~ persons who provide uncompensated care to their adult children with disabilities, of counseling to assist such older ~~individuals~~ persons with permanency planning for such children;

(7) services designed to enable older ~~individuals~~ persons to attain and maintain physical and mental well-being through programs of regular physical activity, exercise, music therapy, art therapy, and dance movement therapy;

(8) services designed to provide health screening to detect or prevent illnesses, or both, that occur most frequently in older ~~individuals~~ persons;

(9) services designed to provide for older ~~individuals~~ persons, pre-retirement counseling and assistance in planning for and assessing future post-retirement needs with regard to public and private insurance, public benefits, lifestyle changes, relocation, legal matters, leisure time, and other appropriate matters;

(10) services of an ombudsman at the state level to receive, investigate, and act on complaints by older ~~individuals~~ persons who are residents of long-term care facilities and to advocate for the well-being of such ~~individuals~~ persons;

(11) services ~~which are~~ designed to meet the unique needs of older ~~individuals~~ persons who are disabled and ~~of~~ older ~~individuals~~ persons who provide uncompensated care to their adult children with disabilities;

(12) services to encourage the employment of older workers, including job and second career counseling, and where appropriate, job development, referral, and placement, and including the coordination of the services with programs administered by or receiving assistance from the Department of Labor, including programs carried out under the Workforce Investment Act of 1998~~;~~ [Title 29 of the United States Code 2801]~~;~~

(13) crime prevention services and victim assistance programs for older ~~individuals~~ persons;

(14) a program, to be known as Senior Opportunities and Services, designed to identify and meet the needs of older~~, poor individuals~~ persons who are poor, 60 years of age or older, in one or more of the ~~following~~ areas of:

(A) development and provision of new volunteer services;

(B) effective referral to existing health, employment, housing, legal, consumer, transportation, and other services;

(C) stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs; and

(D) other services as the ~~Commissioner~~ Assistant Secretary for Aging of the Administration on Aging may determine are necessary or especially appropriate to meet the needs of ~~the~~ older persons who are poor and ~~to~~ ensure them greater self-sufficiency;

(15) services for the prevention of abuse of older ~~individuals~~ persons in accordance with Section 307(a)(12) of the Older Americans Act (OAA) of 1965, as amended;

(16) in-service training and state leadership for legal assistance activities;

(17) health and nutrition education services, including information concerning prevention, diagnosis, treatment, and rehabilitation of age related diseases and chronic disabling conditions;

(18) services designed to enable mentally impaired older ~~individuals~~ persons to attain and maintain emotional well-being and independent living through a coordinated system of support services;

(19) services designed to support family members and other persons providing voluntary care to older ~~individuals that~~ persons who need long-term care services;

(20) services designed to provide information and training for ~~individuals~~ persons who are or may become guardians or representative payees of older ~~individuals~~ persons, including information on the powers and duties of guardians and representative payees and ~~on~~ alternatives to guardianships;

(21) services to encourage and facilitate regular interaction between school-age children and older ~~individuals~~ persons, including visits in long-term care facilities, multipurpose senior centers, and other settings;

(22) in-home services defined by the State Agency in the State Plan submitted under Section 307 of the OAA, taking into consideration the age, economic need, and noneconomic and nonhealth factors contributing to the frail condition and need for service of the ~~individuals~~ persons described in this paragraph, and in-home services defined by an AAA in the Area Plan submitted under Section 306 of the OAA; and

(23) any other services necessary for the general welfare of older ~~individuals~~ persons, if ~~such~~ the services meet standards prescribed by the ~~Commissioner~~ Assistant Secretary for Aging and are necessary for the general welfare of older ~~individuals~~ persons.

(b) **Authority.** The authority for this Section is Section 321 of the OAA of 1965, as amended.

(c) **Procedures.** The AAA:

(1) incorporates the provisions in this Section into ~~its policy~~ the Title III policies and procedures manual;

(2) provides technical assistance to prospective service project applicants regarding the policy in the development of Title III-B services; and

(3) utilizes the policy as an indicator in the evaluation of Title III-B service project proposals.

(d) **Cross references.** See OAC 340:105-10-40, 340:105-10-50.1 and 340:105-10-51.

**340:105-10-59. Outreach service assessment**

(a) **Policy.** Each ~~individual~~ person who desires to receive outreach service completes Form AG-2-A, Older Americans Act Assessment, Part I. Form AG-2-A provides the ~~individual~~ person information about the outreach service and other Title III services, and allows staff to obtain necessary information to better serve the needs of the ~~individual~~ person as a service participant.

(b) **Authority.** The authority for this Section is Part 1321.11(a) of Title 45 of the Code of Federal Regulations~~, Part 1321.11(a)~~.

(c) **Cross references.** See OAC 340:105-10-50.1(a)(14), 340:105-10-51, 340:105-10-54(a)(3), 340:105-10-57, 340:105-10-58, and 340:105-10-60.

**340:105-10-63. Information and assistance (I & A) methods**

(a) **Policy.** The Area Agency on Aging (AAA) establishes and maintains information and assistance (I & A) services in sufficient numbers to ensure that all older ~~individuals~~ persons within the planning and service area have reasonably convenient access to such services.

(b) **Authority.** The authority for this Section is Section 102(29) of the Older Americans Act of 1965, as amended.

(c) **Cross references.** See OAC 340:105-10-50.1(a)(13), 340:105-10-51, 340:105-10-54(a)(3), 340:105-10-61, and 340:105-10-62.

**340:105-10-68. Congregate meals service standards**

(a) **Policy.** The congregate meals service includes the provision of nutrition education and at least one hot or other appropriate meal five or more days per week, at least 250 days per year. The congregate meals service:

(1) ~~The congregate meal service~~ is located at congregate settings, including adult day care facilities and multigenerational meal sites, except in rural areas where such frequency is not feasible as defined by the ~~Commissioner of the Administration on~~ Assistant Secretary for Aging~~.~~;

(2) ~~Each congregate meal project~~ provides at least ~~50~~ 25 meals per day, including home delivered meals, at each site unless a written waiver is received from the State Agency on this requirement.

(A) Funding for a site serving less than 25 meals per day may be withdrawn and reallocated when the site does not have waiver approved by Aging Services Division (ASD). An ASD approved waiver may be withdrawn when a congregate meals site is not determined viable.

(B) A congregate meals site on the list of those serving less than 25 meals per day with a previously approved waiver from ASD on file is reviewed annually for continued viability by the congregate meals project and Area Agency on Aging (AAA). ASD is notified by the AAA in writing when a congregate meals site consistently serves 25 or more meals per day and is removed from the list. Only congregate meals sites without an ASD approved waiver on file must submit requests annually; and

(3) ~~All providers of congregate meals service must comply~~ complies with standards outlined in this Section, OAC 340:105-10-51, and 340:105-10-69 through 340:105-10-80.

(b) **Authority.** The authority for this Section is Section 331 of the Older Americans Act of 1965, as amended and Part 1321.11(a) of Title 45 of the Code of Federal Regulations~~, Part 1321.11(a)~~.

(c) **Procedures.** The procedures for implementing this Section include the ~~Area Agency on Aging~~ AAA:

(1) incorporating the provisions in this Section into ~~its~~ the Title III ~~policy~~ policies and procedures manual;

(2) providing orientation to congregate meals service staff on the policy;

(3) monitoring compliance with the policy;

(4) providing ongoing technical assistance to Title III projects regarding the policy; ~~and~~

(5) constructing a list of all cooking and satellite meal sites annually serving less than 25 meals per day;

(~~5~~6) submitting the list and a written request for a waiver at least 30 days prior to awarding funding for any nutrition project ~~which~~ that proposes in the grant application to provide less than ~~50~~ 25 meals per day at any site and does not have an ASD approved waiver on file. The written request includes:

(A) status of each site, such as cooking or satellite;

(B) average number of eligible meals served per site per day;

(C) average number of other meals served per site per day;

(D) documentation of the rural nature of the site ~~or~~;

(E) pertinent demographics; and

(F) other factors ~~which may~~ that justify the waiver ~~of this requirement, and is submitted at least 30 days prior to the awarding of funding to the project.~~; and

(7) maintaining approved waiver requests on file at the AAA and congregate meals project office for review by auditors.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4), (7), and (12), 340:105-10-51, 340:105-10-69 through 340:105-10-80 and 340:105-10-86.

**340:105-10-70. Congregate meals service assessment**

(a) **Policy.** Each ~~individual~~ person who desires to participate in the congregate meals service must complete Form AG-2-A, Older Americans Act Assessment, Part 1. Form AG-2-A provides the ~~individual~~ person information about the service and allows staff to obtain necessary information to better serve the needs of the ~~individual~~ person as a service participant.

(b) **Authority.** The authority for this Section is Part 1321.11(a) of Title 45 of the Code of Federal Regulations~~, Part 1321.11(a)~~.

(c) **Cross references.** See OAC 340:105-10-50.1(a)(7), 340:105-10-51, 340:105-10-68, 340:105-10-69, 340:105-10-71 through 340:105-10-80, and 340:105-10-86.

**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.

(c) **Procedures.** The congregate meals project is required to:

(1) employ a full-time director who is empowered with the necessary authority to conduct the daily management and administrative functions of the project;

(2) obtain the services of a licensed registered dietitian (RD) to provide monthly nutrition consultation. The RD:

(A) is an employee or independent consultant hired by the project or the Area Agency on Aging (AAA). A paid caterer or certified dietary manager is not acceptable in this position. ~~Where feasible, the RD coordinates with a nutrition consultant, such as a dietetic student, person with a bachelor of science degree in nutrition, or certified dietary manager.~~ If obtaining the services of a licensed RD ~~coordinates with a nutrition~~ consultant~~, the RD visits every site a minimum of every other month.~~ exceeds three months, the nutrition project or AAA:

(i) provides to Aging Services Division (ASD) documentation of hiring efforts in the form of newspaper advertisements and job announcements;

(ii) requests in writing a temporary waiver for an additional period of time, not to exceed three months; and

(iii) submits a revised budget reflecting the reallocation of funds not used while the position was vacant; and

(B) ~~The RD~~ verifies by signature on the monthly Form SUOA-S-74, Dietary Consultant's Report, the monthly consultation requirements, including:

(~~A~~i) limiting site visits to one per day per RD ~~or nutrition consultant~~;

(~~B~~ii) monitoring food service to include measurement of food temperatures and portion sizes, and assessment of food quality and adherence to contract specifications;

(~~C~~iii) training staff and volunteers monthly in areas of food service management, nutrition, and sanitation;

(~~D~~iv) assessing participant satisfaction and preferences;

(~~E~~v) reviewing menu and commodity utilization;

(~~F~~vi) coordinating monthly nutrition education programs;

(~~G~~vii) providing nutrition education and counseling, when appropriate, to meal participants;

(~~H~~viii) monitoring perpetual inventory;

(~~I~~ix) documenting site recommendations for improvement;

(~~J~~x) documenting on the date of the site visit the number of:

(~~i~~I) reservations;

(~~ii~~II) meals prepared;

(~~iii~~III) meals served; and

(~~iv~~IV) leftovers; and

(~~K~~xi) providing individual consultation for 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, is six or more ~~with individual consultation for~~ to:

(~~i~~I) congregate ~~meal~~ meals participants, upon participant's approval; and

(~~ii~~II) homebound meal participants, where feasible and upon participant's approval;

(3) provide quarterly nutrition consultation, which includes:

(A) assessing food preferences; and

(B) preparing menus and documenting nutrition analysis to meet one third recommended dietary allowance for each meal; and

(4) determine appropriate staffing patterns for each meal site in the project service area ~~as specified in the AAA policy manual or Request for Proposal Application guide~~. AAAs are the final authority on appropriate staffing patterns in the Title III projects.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-71, 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 older persons.

(b) **Authority.** The authority for this Section is Section 339 of the Older Americans Act of 1965, as amended and Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** ~~The requirements for implementing this Section are outlined in this subsection.~~ Menus:

(1) ~~Menus~~ are prepared or approved by a registered dietitian (RD) who considers the special needs of older persons ~~and~~. The RD ensures that each meal served contains at least:

(A) 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~~.~~; and

(B) ~~Each meal contains at least~~ 600 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~~ RD.

(A) Maintenance of optimal nutritional status through menu planning is reflected in menus moderate in fat, salt, and simple sugars and high in fiber. ~~The project dietitian posts signed menus at nutrition sites.~~

(B) Form SUOA-S-34, Project Menu Plan - Nutrition Program for the Elderly, is submitted quarterly to the State Agency dietitian for random review~~.~~;

(3) are signed by the RD and posted at the nutrition site;

(~~3~~4) ~~Where feasible,~~ reflect:

(A) special diets ~~are provided~~ to meet the medical needs of eligible participants~~.~~; and

(~~4~~B) ~~Religious~~ where feasible, religious, ethnic, cultural, or regional dietary requirements or preferences of a major portion of the group of participants at a congregate ~~meal~~ meals 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 maintains and 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~~ are based on accurate production forecasting ~~is conducted and~~ that does not include a margin for oversized portions or second servings. Leftover foods are not taken from the kitchen by staff, participants, or volunteers~~.~~;

(7) ~~Where~~ may include, where feasible, provisions ~~are made~~ for the celebration of special occasions for participants, for example, birthdays and holidays~~.~~; and

(8) ~~Food~~ allow for food items within the meat, vegetable and fruit, and dessert groups to 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. 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. Title III-C nutrition projects maintain certification of eligible participants for NSIP.

(b) **Authority.** The authority for this Section is Section 311 of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection. Projects:

(1) ~~Projects~~ and their respective vendors apply to the appropriate state distributing agency for certification as eligible participants in NSIP~~.~~;

(2) ~~Projects~~ and vendors 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.

(A) Vendors allow credit for the amount of commodities used during each billing period.

(B) 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 (OKDHS);

(3) ~~Projects~~ develop management procedures pertaining to handling food commodities~~.~~;

(4) ~~Projects~~ document:

(A) NSIP foods utilized in each day's menu~~.~~;

~~(5) 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 (OKDHS).~~

(~~6~~B) ~~Projects maintain documentation of~~ participant eligibility, on required State Agency forms, ~~in order~~ to obtain NSIP support for eligible meals. Eligible meals are those meals served to eligible participants in accordance with OAC 340:105-10-69(a)(1) and 340:105-10-83(a)~~.~~;

(~~7~~C) ~~Projects maintain documentation regarding~~ the number of meals served at nutrition sites~~.~~; and

(~~8~~D) ~~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~~ only when 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~~.~~; and

(~~9~~5) ~~Projects~~ receive NSIP cash or cash and commodity allocations of food commodities from ASD based on 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 OKDHS CDU.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-78, and 340:105-10-80.

**340:105-10-82. Home delivered meals service standards**

(a) **Policy.** The home delivered meals service includes the provision of at least one hot or other appropriate meal to eligible homebound persons in their own home five or more days per week except in rural areas where such frequency is not feasible, as defined by the ~~Commissioner~~ Assistant Secretary for Aging of the Administration on Aging by regulation and a lesser frequency is approved by the State Agency. All providers of home delivered meals service must comply with applicable standards outlined in OAC 340:105-10-51, 340:105-10-68, and 340:105-10-74 through 340:105-10-79.

(b) **Authority.** The authority for this Section is Section 336 of the Older Americans Act of 1965, as amended.

(c) **Procedures.** The procedures for implementing this Section include the Area Agency on Aging:

(1) incorporating the provisions in this Section into ~~its~~ the Title III ~~policy~~ policies and procedures manual;

(2) providing orientation on the policy to home delivered meals service staff;

(3) monitoring compliance with the policy; and

(4) providing ongoing technical assistance to Title III projects regarding the policy.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4), 340:105-10-51, 340:105-10-68, 340:105-10-70, 340:105-10-74 through 340:105-10-79, and 340:105-10-83 through 340:105-10-86.

**340:105-10-84. Home delivered meals planning**

(a) **Policy.** The home delivered meals service conducts appropriate meal planning 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 Part 1321.11 of Title 45 of the Code of Federal Regulations~~, Part 1321.11~~.

(c) **Procedures.** Procedures to implement this Section include the home delivered meals:

(1) service complies with the congregate meals planning standards outlined in OAC 340:105-10-75;

(2) service makes arrangements for the availability of meals in weather related emergencies, where feasible;

(3) numbers served are determined by the Area Agency on Aging based on needs assessment information, ~~and the~~ allocation of Title III-C(2) funds, and service unit costs;

(4) may be hot, cold, frozen, dried, or canned with a satisfactory storage life and must conform to procurement standards outlined in OAC 340:105-10-76; and

(5) service may include the delivery of more than one meal for each day's consumption provided that proper storage and heating facilities are available in the recipient's home.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4), 340:105-10-51, 340:105-10-68, 340:105-10-70, 340:105-10-74 through 340:105-10-79, 340:105-10-82, 340:105-10-83, 340:105-10-85, and 340:105-10-86.

**340:105-10-90.1. National Family Caregiver Support Program**

(a) **Policy.** The Area Agency on Aging (AAA) 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 (NFCSP) also recognizes the needs of grandparents who are caregivers of grandchildren and other older persons who are relative caregivers of children who are age 18 and younger. ~~National Family Caregiver Support Program~~ NFCSP services include:

(1) information services;

(2) access assistance;

(3) counseling;

(4) respite care; and

(5) supplemental services, on a limited basis.

(b) **Authority.** The authority for this Section is the Office of Management and Budget Notice of Action 0985-0008 and Sections 371 through 374 of the Older Americans Act of 1965, as amended, Public Law 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) incorporates the provisions of this Section into the Title III policies and procedures manual;

(2) provides technical assistance to prospective and funded Title III projects regarding this rule;

(3) monitors Title III project compliance according to OAC 340:105-10-43, except on specific projects where the State Agency has agreed with the AAA to provide a service and monitoring is not required. The project:

(A) gathers information on an approved intake form, including, at a minimum:

(i) the family caregiver's identifying information;

(ii) the caregiver's relationship to the care receiver;

(iii) the care receiver's identifying information; and

(iv) a written description of the caregiver's current situation, including the care receiver's need for assistance due to inability to perform specific activities of daily living (ADLs) or need for supervision due to Alzheimer's disease or other neurological and organic brain dysfunction;

(B) conducts a reassessment of NFCSP service recipients annually, at a minimum, ~~annual visits to participants to assess the satisfaction and quality of services~~ to evaluate service provision and update participant status;

(C) ensures the safety and protection of the participants; and

(D) receives in-service training each fiscal year specifically designed to increase the project's knowledge and understanding of the programs and participants served;

(4) targets services to older persons in greatest social and economic need and older persons who care for a child with mental retardation or developmental disabilities;

(5) may provide support services to caregivers providing care for frail older family members who are 60 years or older and unable to perform at least two ADLs without substantial human assistance or require substantial supervision due to a cognitive or other mental impairment.

(A) ADLs include:

(i) dressing;

(ii) bathing;

(iii) eating;

(iv) transferring;

(v) toileting; and

(vi) walking.

(B) A caregiver is an adult family member or another person who is an informal provider of in-home and community care to an older person.

(C) Informal means the care is not provided as part of a public or private formal service program;

(6) may provide support services on a limited basis to grandparents and older persons who are relative caregivers.

(A) Child means a person who is not older than 18 years of age.

(B) Grandparent or older person who is a relative caregiver means a grandparent or stepgrandparent of a child, or a relative of a child by blood or marriage, who is 60 years of age or older and:

(i) lives with the child;

(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

(iii) has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally;

(7) ensures the cost of carrying out the program meets the requirement of a minimum non-federal share of 25 percent. The non-federal share is provided from state and local sources;

(8) may not use funds to supplant, replace, or in substitution for, any funds expended under any federal, state, or local law for the same purposes; and

(9) considers awarding funds to expand successful caregiver activities currently in communities, such as respite providers, support groups, outreach, information and assistance, adult day services, counseling, 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(a)(15)(F).

**340:105-10-91. Homemaker service standards**

(a) **Policy.** The homemaker service provides assistance to persons 60 years of age or older with:

(1) preparing a meal;

(2) shopping for personal items;

(3) managing money;

(4) using the telephone~~,~~; or

(5) doing light housework, which is limited to:

(A) dusting;

(B) vacuuming;

(C) mopping floors;

(D) cleaning bathroom and kitchen;

(E) making beds; and

(F) maintaining safe environment.

(b) **Procedures.** The requirements for implementing the homemaker service standards are outlined in this subsection.

(1) The Area Agency on Aging (AAA):

(A) incorporates the homemaker service standards into ~~its~~ the Title III policies and procedures manual;

(B) provides technical assistance to homemaker service providers regarding the standards; and

(C) utilizes the standards as an indicator in the evaluation of service provider proposals and in the assessment of funded projects.

(2) The service provider:

(A) verifies, by completing Form AG-2-A, Older Americans Act Assessment, Parts I and II, participants who receive homemaker services have:

(i) functional, physical, or mental impairments, or limitations preventing them from providing the service for themselves; and

(ii) an unavailable or insufficient informal support network, for example, family, friends, or neighbors, capable of meeting their needs;

(B) initiates a written service plan for each participant based on the results of Form AG-2-A;

(C) staff receive in-service training at least twice each fiscal year specifically designed to increase their knowledge and understanding of the program and participants and to improve their skills at tasks performed in the provision of service. Comprehensive records identifying dates of training and topics covered are maintained in each employee's personnel file. An individualized in-service training plan is developed for each staff person, when performance evaluations indicate a need;

(~~4~~D) conducts home visits to each participant at least twice each fiscal year to evaluate service provision; and

(~~5~~E) checks references on all homemakers.

(c) **Authority.** The authority for this Section is the Office of Management and Budget Notice of Action 0985-0008 and Part 1321.11 of Title 45 of the Code of Federal Regulations~~, Part 1321.11~~.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(2), and 340:105-10-51.

## PART 9. FISCAL AND ADMINISTRATIVE POLICIES FOR AREA AGENCIES ON AGING AND TITLE III PROJECTS

**340:105-10-95. Intrastate funding formula**

(a) **Policy.** In consultation with Area Agencies on Aging (~~AAA~~ AAAs) and in accordance with guidelines issued by the ~~Commissioner~~ Assistant Secretary for Aging of the Administration on Aging (AoA), the State Agency uses the best available data to develop and publish for review and comment a formula for distribution within the state of funds received under Title III that takes into account:

(1) the geographical distribution of older ~~individuals~~ persons in the state; and

(2) the distribution among planning and service areas (PSAs) of older ~~individuals~~ persons with greatest economic need and older ~~individuals~~ persons with greatest social need, with particular attention to low income minority older ~~individuals~~ persons.

(b) **Authority.** The authority for this Section is Section 305 of the Older Americans Act (OAA) of 1965, as amended and

Part 1321.37 of Title 45 of the Code of Federal Regulations~~, Part 1321.37~~.

(c) **Procedures.** The State Agency implements this Section by:

(1) obtaining input from the AAA, including demographic data, for use in developing the intrastate funding formula;

(2) following guidelines from the regional office of ~~the Administration on Aging~~ AoA regarding development of the intrastate funding formula;

(3) considering the geographic distribution among PSAs of persons 60 years of age and older in the development of the intrastate funding formula;

(4) considering the distribution among PSAs of older persons in greatest economic need, based on older persons at or below the poverty level as defined by the United States Bureau of Census. Particular attention is paid to low income minority older ~~individuals~~ persons and older ~~individuals~~ persons residing in rural areas, in the development of the intrastate funding formula;

(5) considering the distribution among PSAs of older persons in greatest social need. [OAC 340:105-10-3] Particular attention is paid to low income minority older ~~individuals~~ persons and older ~~individuals~~ persons residing in rural areas, in the development of the intrastate funding formula;

(6) developing an intrastate funding formula~~, which~~ that includes:

(A) funds retained for state and AAA administration, and for the State Long-Term Care Ombudsman Program, including:

(i) no more than five percent of Oklahoma's allocation of OAA Title III funds or $300,000, whichever is greater, retained by the State Agency for State Agency administrative costs, unless the total OAA Title III allocation to all states under Section 303 of the OAA exceeds $800,000,000, in which case the State Agency retains five percent of the state's Title III allocation, or $500,000, whichever is greater;

(ii) no more than ten percent of the funds remaining after providing for State Agency administrative costs are awarded for meeting AAA administrative costs. In awarding administrative funds, each PSA is apportioned a minimum of $37,500 unless available funds are insufficient to provide for such an apportionment, in which case the available funds are distributed among the PSAs in equal shares. AAA administrative funds remaining, if any, after making this apportionment are allotted among PSAs in the same proportion as each PSA's age 60 and older population bears to the total state population age 60 and older; and

(iii) no less than one percent of Oklahoma's OAA Title III, Part B allocation is retained for the Long-Term Care Ombudsman Program of the State Agency;

(B) 50 percent of the funds remaining after providing for state and AAA administrative costs and for the Long-Term Care Ombudsman Program are apportioned among PSAs in the same proportion as each PSA's age 60 and older population bears to the total state population age 60 and older;

(C) 50 percent of the funds remaining after the apportionment described in (B) of this paragraph are apportioned among ~~PSA's~~ PSAs in the same proportion as each PSA's age 60 and older population living at or below the poverty level bears to the total state population age 60 and older living at or below the poverty level;

(D) all of the funds remaining after the apportionment described in (C) of this paragraph apportioned among PSAs in the same proportion as each PSA's age 60 and older population of minority racial descent bears to the total state population age 60 and older of minority racial descent;

(E) PSAs containing no medically underserved areas are ineligible to receive funds appropriated specifically for disease prevention and health promotion services. Medically underserved areas mean medically underserved areas designated by the United States Department of Health and Human Services, Public Health Service Bureau of Health Care Delivery and Assistance, Office of Shortage Designation;

(F) allotting each PSA no less than two percent of the sum of the funds apportioned in (B) through (D) of this paragraph;

(G) allotting each PSA sufficient funds to meet the requirements of Section 307(a)(3)(B) of the OAA. Not less than the total of federal fiscal year 2000 expenditures were allotted to rural areas. Rural areas are defined as those counties not included in Standard Metropolitan Statistical Areas (SMSA), as determined by the United States Census Bureau. The amounts necessary to meet this requirement are:

(i) Areawide AAA - $0;

(ii) Association of South Central Oklahoma Governments (ASCOG) AAA - $914,127;

(iii) Central Oklahoma Economic Development District (COEDD) AAA - $803,399;

(iv) Eastern Oklahoma Development District (EODD) AAA - $1,149,319;

(v) Grand Gateway AAA - $876,072;

(vi) Kiamichi Economic Development District of Oklahoma (KEDDO) AAA - $812,873;

(vii) Northern Oklahoma Development Authority (NODA) AAA - $578,108;

(viii) Oklahoma Economic Development Authority (OEDA) AAA - $252,781;

(ix) Southern Oklahoma Development Authority (SODA) AAA - $900,213;

(x) South Western Oklahoma Development Authority (SWODA) AAA - $441,543; and

(xi) Tulsa AAA - $0;

(7) publishing the formula listed in ~~(1) through (6) of~~ this subsection for review and comment by the public. The publication includes:

(A) a descriptive statement of the formula's assumptions and goals;

(B) documentation regarding the application of greatest economic need;

(C) documentation regarding the application of greatest social need;

(D) a numerical statement of the actual funding formula to be used;

(E) a listing of the population, economic, and social data used for each PSA; and

(F) a demonstration of the allocation of funds to each PSA, pursuant to the funding formula;

(8) submitting the formula to the federal Assistant Secretary for Aging for approval; and

(9) implementing the formula in allocating all federal OAA funds.

(d) **Cross reference.** See OAC 340:105-10-3.

**340:105-10-97. Priority supportive services waiver**

(a) **Policy.** The State Agency grants a waiver of the priority supportive services funding requirement, per ~~[~~OAC 340:105-10-96~~]~~, for any category of services being furnished sufficiently to meet the need for such services in the planning and service area (PSA), as demonstrated by the Area Agency on Aging (AAA).

(b) **Authority.** The authority for this Section is Section 306(b) of the Older Americans Act of 1965, as amended.

(c) **Procedures.**

(1) The AAA conducts a public hearing regarding its intent to request a waiver on funding a priority supportive services category. Regarding the public hearing, the AAA:

(A) notifies all interested parties in the area of the nature, date, time, and location of the public hearing;

(B) furnishes the interested parties an opportunity to testify; and

(C) prepares a record of the public hearing, including:

(i) names and addresses of persons in attendance;

(ii) all testimony;

(iii) changes made to the AAA's waiver request secondary to testimony; and

(iv) date, time, location, and duration of hearing.

(2) The AAA submits its written request for a waiver to the State Agency. The waiver request includes the:

(A) categories of services for which the waiver is requested;

(B) name, address, and telephone number of the agency(ies) or organization(s) currently providing the service in the PSA;

(C) number of persons currently receiving the service in the PSA;

(D) units of service currently being provided in the PSA; and

(E) record of the public hearing as outlined in (1) of this subsection.

(3) The State Agency reviews the waiver request. If the State Agency determines that a waiver should be granted, the State Agency:

(A) publishes the intention to grant such a waiver, together with the justification for the waiver, at least 30 days prior to the effective date of the decision to grant the waiver; and

(B) provides an opportunity for a hearing to any affected ~~individual~~ person or service provider from the PSA.

(4) The State Agency makes a final determination regarding the waiver request. If the State Agency grants the waiver request, the State Agency provides to the ~~Commissioner~~ Assistant Secretary for Aging a:

(A) report regarding such waiver that includes the AAA waiver request document; and

(B) copy of the record of any hearing conducted by the State Agency at the request of an affected ~~individual~~ person or service provider.

(d) **Cross reference.** See OAC 340:105-10-96.

**340:105-10-101. Request for proposal procedures**

(a) **Policy.** All Older Americans Act pass through funds 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 is directly responsible for reviewing proposals and awarding funds. This responsibility may not be delegated. The 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. The board of directors may not award funds to board members or the agencies or organizations they represent. 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 a new service(s); or

(4) 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.

(c) **Procedures.** The requirements for implementing this Section are outlined in this subsection.

(1) To initiate RFP, the AAA:

(A) develops specifications for each service to be procured ~~which~~ that clearly define the service and how units of service are measured. The specifications include the minimum units of services to be provided, the minimum unduplicated number to be served, if required, and geographic service areas as appropriate;

(B) develops an RFP guide, grant application package, based on the State Agency standard format;

(C) submits a proposal guide to the State Agency for approval at least 30 days prior to the announcement of availability of funds as outlined in (1)(D) of this subsection;

(D) announces the availability of funds and documents the announcement in newspapers in the planning and service area (PSA), and concurrently sends a news release to the editor of at least three newspapers and to existing and potential service providers known to the AAA in the PSA.

(i) The announcement runs at least two times in daily papers or two weeks in weekly papers prior to the closing of the application period and in a sufficient number of papers to ensure complete coverage within the PSA.

(ii) The announcement begins at least 21 calendar days prior to the closing of the application period and is repeated at least once no less than five calendar days prior to the date of the proposers' conference.

(iii) All announcements include:

(I) a listing of services for which funding is available and the geographic areas that must be covered for each service;

(II) the address at which service specifications and proposal guide may be obtained;

(III) the closing date and time for application submittal;

(IV) the name and telephone number of a person to contact for additional information; and

(V) the date, time, and location of the proposers' conference, and notification that attendance at the conference is required in order to be considered for funding;

(E) makes proposal guides available for pick up at the AAA office;

(F) mails copies of the proposal guide upon request;

(G) conducts a conference for proposers prior to the deadline for submitting applications and requires applicants to attend the conference in order to be considered for funding. At a minimum, the information discussed during the conference includes:

(i) the RFP guide and all requirements pertaining to submitting an application; and

(ii) all responsibilities associated with the acceptance of Title III funds, including applicable federal and state statute, policy, certifications, and assurances;

(H) 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

(I) at the close of the application period, 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.

(2) The AAA advisory council reviews the proposals and makes recommendations on funding to the AAA board of directors. All decisions related to funding recommendations are conducted in accordance with applicable state and federal conflict of interest laws. The advisory council review is conducted during a scheduled meeting with a quorum present.

(3) The AAA board of directors:

(A) or a subcommittee of the board, reviews all proposals and the recommendations of the AAA staff and advisory council;

(B) approves funding of proposals that best meet or exceed the service specifications and the requirements of the proposal guide. All decisions related to granting awards are made in accordance with applicable state and federal conflict of interest laws, and documented through signed resolutions and minutes of meetings. All decisions are acted on as a board with at least a quorum present at a meeting. The AAA board of directors may not delegate its responsibilities related to granting 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.

(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) reprogramming the funds and issuing a new RFP for a different service(s); or

(B) requesting authority to provide a direct service as provided in OAC 340:105-10-41; or

(C) revising the initial specifications for the same service(s) and reissuing a new RFP; and

(D) initiating community development activities to create a potential provider of the service(s) as specified in the RFP and, in the interim, requesting approval from the State Agency to temporarily provide the service as a direct service.

(5) When an Older Americans Act Title III funded project elects to voluntarily terminate the contract before the end of a grant year, procedures must be followed as outlined on Form AG-29, Voluntary Withdrawal of a Title

III Project. Form AG-29 must be acknowledged, signed, and included as part of the original grant application.

(d) **Cross references.** See OAC 340:105-10-40, 340:105-10-102, and 340:105-10-104(c)(7).

**340:105-10-114. Financial management standards for Area Agencies on Aging and Title III projects**

(a) **Policy.** Each Area Agency on Aging (AAA) and Title III project maintains an accounting system ~~which~~ that is in compliance with generally accepted accounting principles. All Title III funds and state and local funds expended to earn~~,~~ or match~~,~~ such funds must be accounted for in accordance with the federal standards outlined in the authorities listed in (b) of this Section.

(b) **Authority.** The authority for this Section is Part 74 of Title 45 ~~Part 74, all subparts,~~ of the Code of Federal Regulations and Federal Register Office of Management and Budget (OMB) Circulars A-87 and A-122.

(c) **Procedures.** ~~Area Agencies on Aging (~~AAAs~~)~~ and Title III projects implement financial management standards in accordance with the federal standards outlined in the authorities in (b) of this Section. On a monthly basis, the Oklahoma Department of Human Services (OKDHS) Aging Services Division (ASD) reviews and reconciles AAA actual monthly expenditure reports for the prior month and adjusts for discrepancies in the following month's payments.

(d) **Cross references.** See OAC 340:105-10-115 and 340:105-10-116.

**340:105-10-120. Area Agency on Aging and Title III project job descriptions**

(a) **Policy.** Area Agencies on Aging (AAAs) and Title III projects utilize job descriptions approved by the ~~grantee~~ grantor agency ~~in the Area Plan or Request for Proposal Guide~~.

(b) **Authority.** The authority for OAC 340:105-10-120 is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The procedures for implementing this Section are outlined in this subsection.

(1) AAAs and Title III projects develop ~~their own~~ job descriptions relevant to their local needs. Job descriptions meet minimum ~~job descriptions~~ qualifications set by the State Agency, found in Appendix M-14, Job Descriptions for Older Americans Act Network Employees. Duties may be combined between ~~multiple-state~~ job descriptions to meet local needs.

(2) Except as otherwise specifically stated elsewhere for full-time AAA director, full-time ~~nutrition~~ Title III project director, and ~~20~~ 40 hours per week information and assistance specialist, AAAs and Title III projects determine the number of positions and types of positions based on local need. Each AAA and Title III project maintains sufficient staff to carry out the required service activities.

(d) **Cross references.** See OAC 340:105-10-117, 340:105-10-121, and 340:105-10-122.

**340:105-10-121. Area Agency on Aging and Title III project ~~salary schedules~~ salaries**

(a) **Policy.** Area Agencies on Aging (AAAs) and Title III projects develop competent staff to perform programmatic and financial duties based on local needs, available funding, and market value, provided persons with comparable job family descriptors (JFDs) may not be paid more than the midpoint of a JFD paid within the salary cap set by the State Agency. The total administration costs charged to the Title III grant may not exceed the maximum provided in federal law.

(b) **Authority.** The authority for this Section is Part 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The requirements for implementing this Section are outlined in ~~(1) through (3) of~~ this subsection.

(1) AAAs and Title III projects determine starting salary for positions based on local needs, available funding, and market value, provided persons with comparable JFDs may not be paid more than the midpoint of the salary range paid by the State Agency for the JFD most like the job in question being done by the AAAs or Title III projects.

(2) Salary advancements are based on acceptable work performance, as evidenced by continued employment with the AAA or Title III project. The AAA may disapprove salary advances of its grantees due to uncertain funding allocations or funding levels. The State Agency may disapprove salary advances of AAAs that it believes may cause the AAA to exceed the maximum administrative cost allowed in federal law.

(3) Longevity payments may be made to all AAA and Title III employees ~~who have two or more years continuous service and work at least 86 hours per month. Longevity is 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 employment before their anniversary date receive the 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 AAAs and Title III projects.~~ using a longevity schedule that is:

(A) fair and equitable to all employees;

(B) based on available funding;

(C) included in AAA and Title III budgets; and

(D) provided for in the AAA policies and procedures manual.

(d) **Cross references.** See OAC 340:105-10-117, 340:105-10-120, and 340:105-10-122.

## SUBCHAPTER 11. STATEWIDE LONG-TERM CARE OMBUDSMAN PROGRAM

## PART 37. STATEWIDE LONG-TERM CARE OMBUDSMAN PROGRAM

**340:105-11-233. Policies and procedures specific to the Office of the State Long-Term Care Ombudsman**

In accordance with the Older Americans Act, the Office of the State Long-Term Care Ombudsman (Office) is established within the State Agency to carry out a statewide Long-Term Care Ombudsman Program ~~which~~ that is under the direct supervision and administration of the State Agency.

(1) The Office staff consists of the state long-term care ombudsman and adequate program and support staff.

(2) Specific staffing requirements for each area Long-Term Care Ombudsman Program are set in accordance with normal State Agency administrative and funding procedures.

(3) The area entity designated to provide ombudsman services must provide an adequate allocation of funds to operate the local program. Costs incurred include, but are not limited to:

(A) reimbursement of travel costs of the ombudsman supervisor and ombudsman volunteers, including travel to and from their assigned facilities and required meetings~~,~~;

(B) identification badges~~,~~; ~~provision of volunteer manuals~~ and

(C) other incidental costs related to trainings and meetings, including awards and certificates.

(4) The designated area ombudsman staff representatives are housed within the Area Agency on Aging, whenever possible.

(5) Selection of area ombudsman staff representatives is made by the director of the designated area ombudsman entity, with input and recommendations from state ombudsman staff during the interview process, and subject to State Agency approval.

(A) For the purpose of review of qualifications, criminal background checks, and conflict of interest issues, the Office shall have access to applications, resumes, and other personnel information related to applicants for and incumbents in area ombudsman staff positions.

(B) State ombudsman staff are involved at their discretion in interviews of applicants for area ombudsman staff positions as members of an interviewing team. Upon conclusion of the interview process, there is opportunity for discussion and recommendations.

(C) Merit hiring standards are adhered to throughout the hiring process, pursuant to Part 900 of Title 5 of the United States Code~~, Part 900 as well as~~ and other valid procedures agreed to by the interview team.

(D) Employment of area ombudsman staff is probationary pending the ~~individuals'~~ person's satisfactory completion of training prescribed by the state long-term care ombudsman and designation as described in this Part.

**340:105-11-234. Designation of area programs and area representatives including staff and volunteers**

(a) The Office of the State Long-Term Care Ombudsman (Office) officially designates agencies serving as area or local subdivisions of the Office through an annual designation process, in accordance with State Agency administrative funding procedures.

(~~b~~1) Staff and volunteer representatives of the Office are officially designated in writing by the state long-term care ombudsman.

(~~1~~2) Designation ~~of an area staff person~~ as a representative of the Office:

(A) for an area staff person is based on the ~~individual~~ person meeting criteria necessary to satisfactory performance in the position, including, but not limited to, the ~~individual~~ person:

(~~A~~i) ~~being~~ is free from any conflict of interest as defined by this policy and in compliance with federal and state statute and does not ~~standing~~ stand to gain financially through an action or potential action brought on behalf of residents the ombudsman serves;

(~~B~~ii) ~~meeting~~ meets minimum job qualifications and screening standards set by the Office; and

(~~C~~iii) ~~having~~ satisfactorily ~~completed~~ completes training prescribed by the state long-term care ombudsman~~.~~; and

(~~2~~B) ~~Designation of~~ for an ombudsman volunteer ~~as a representative of the Office~~ is accomplished through a certification process, and based on the ~~individual~~ person meeting criteria necessary to satisfactory performance in the position, including, but not limited to, the ~~individual~~ person:

(~~A~~i) ~~being~~ is free from any conflict of interest as required by statute and defined by this Part and does not ~~standing~~ stand to gain financially through an action or potential action brought on behalf of residents the ombudsman serves;

(~~B~~ii) ~~meeting~~ meets screening criteria set in this Part;

(~~C~~iii) ~~having~~ satisfactorily ~~completed~~ completes training prescribed by the state long-term care ombudsman; ~~and~~

(~~D~~iv) ~~completing~~ completes and ~~signing~~ signs Form:

(I) SUOA-S-77, Ombudsman Volunteer Application ~~Form~~, agreeing to accept supervision and follow the rules and guidelines of the program; and

(II) ADM-130, Request for Background Check, authorizing the Office to conduct a criminal background check.

(~~c~~b) The state long-term care ombudsman has the authority to refuse to designate:

(1) ~~an individual~~ a person, staff or volunteer, ~~or an agency~~ as a representative ~~or subdivision~~ of the ~~office.~~ Office

~~(1) The state long-term care ombudsman may refuse to designate an individual~~ for any reasonable cause related to satisfactory performance in the position, including, but not limited to:

(A) existence of an unresolved or unresolvable conflict of interest;

(B) failure to satisfactorily complete training; and

(C) failure to meet screening standards for volunteers and staff, including criminal background check, or minimum job qualifications for area staff representatives~~.~~; and

(2) ~~The state long-term care ombudsman may refuse to designate~~ an agency as a subdivision of the Office for any reasonable cause that prevents satisfactory operation of the Long-Term Care Ombudsman Program, including, but not limited to:

(A) existence of an unresolved or unresolvable conflict of interest;

(B) failure to provide adequate assurances that program guidelines can be met; and

(C) failure to provide assurances that the program can be adequately funded.

(~~d~~c) The state long-term care ombudsman has the authority to withdraw designation as:

(1) subdivision of the Office from an agency ~~for any of the reasons listed in this paragraph~~ when there is:

(~~1~~A) existence of an unresolved or unresolvable conflict of interest;

(~~2~~B) breach of the confidentiality requirement caused by the action of any staff member of the agency designated as a local subdivision of the Office, or of that agency's sponsoring agency;

(~~3~~C) failure to adhere to the policies of the Office, federal Administration on Aging regulations, or state or federal law; or

(~~4~~D) any other unreasonable or prejudicial conduct substantially affecting the Long-Term Care Ombudsman Program~~.~~; and

(~~e~~2) ~~The state long-term care ombudsman may withdraw designation as~~ a representative of the Office from ~~an individual~~ a staff person or volunteer ~~for any of the reasons listed in this paragraph~~ when there is:

(~~1~~A) existence of an unresolved or unresolvable conflict of interest;

(~~2~~B) breach of confidentiality requirement;

(~~3~~C) failure to adhere to the policies of the Office or state or federal law; ~~or~~

(~~4~~D) failure to accept program supervision from the Office; or

(~~5~~E) conviction of a crime listed in Section 1-1950.1 of Title 63 of the Oklahoma Statutes or listing on the Mary Rippy Violent Offender Registry.

(~~f~~d) The state long-term care ombudsman may ~~also~~ withdraw certification of an ombudsman volunteer ~~for any of the reasons listed in this paragraph~~ when ~~there is~~ the ombudsman:

(1) ~~failure~~ fails to file monthly reports with the ombudsman supervisor for three consecutive months, unless on an approved leave of absence;

(2) ~~failure~~ fails to attend three consecutive monthly meetings, unless on an approved leave of absence;

(3) ~~failure~~ fails to initiate visitation of residents in assigned facility within two months ~~of~~ after certification;

(4) ~~misuse of~~ misuses the "ombudsman volunteer" title or badge; or

(5) ~~representing~~ represents himself or herself, either verbally or by wearing a badge, as an ombudsman for a facility for which the volunteer is not certified ~~either orally, or by wearing a badge~~, without specific authorization by state ombudsman staff.

~~(g) Opportunity for appeal of designation decisions relating to agencies and staff representatives are provided in the manner described in this paragraph.~~

(~~1~~e) An agency ~~which is~~ refused or withdrawn designation as an Area Long-Term Care Ombudsman Program~~,~~ or ~~an individual~~ a person ~~who is~~ refused or withdrawn designation as an area ombudsman staff representative~~,~~ may appeal ~~such~~ the decision.

~~(2) An agency from which designation as an Area Ombudsman Program is withdrawn, or an individual from whom designation as an area ombudsman staff representative is withdrawn, may appeal such decision.~~

(1) Designation is not withdrawn until reasonable notice and opportunity for a hearing is provided.

(~~3~~2) Notification of the right to appeal and the appeal procedures are included in the letter notifying the agency or staff person of a decision to refuse or withdraw designation.

(~~4~~3) Hearings are conducted by the Appeals Unit of the Oklahoma Department of Human Services.

**340:105-11-240. Training**

The Office of the State Long-Term Care Ombudsman (Office) prohibits investigation of any complaint by an ombudsman staff person or ombudsman volunteer, unless the ~~individual~~ person has satisfactorily completed training required by the Office, and has been approved as qualified to investigate such complaints.

(1) Office staff:

(A) orient and train ombudsman staff representatives and determine satisfactory completion of prescribed training;

(B) develop and periodically update core curriculum for use in training ombudsman staff and volunteers;

(C) assist area ombudsman staff in the training of ombudsman volunteers, upon request;

(D) provide, on a quarterly basis, a minimum of 40 hours of continuing education and training to ombudsman supervisors ~~on a quarterly basis~~ per year;

(E) provide community education in coordination with area staff;

(F) officially certify newly trained ombudsman volunteers who meet screening criteria; and

(G) assist in the development of citizen organizations to participate in the Long-Term Care Ombudsman Program.

(2) Area ombudsman staff representatives:

(A) hold public workshops for community education and volunteer recruitment;

(B) train ombudsman volunteer applicants using the prescribed core training format developed by the Office staff;

(C) submit to Office staff the name and facility assignment and the original signed Form SUOA-S-77, Ombudsman Volunteer Application ~~Form~~, of each trained volunteer recommended for certification;

(D) accompany each newly certified ombudsman volunteer on at least one introductory visit to the assigned facility to reinforce training and ~~assure~~ ensure the ombudsman volunteer's understanding of the ombudsman role; and

(E) hold monthly meetings for continued training and supervision of certified ombudsman volunteers to achieve a minimum of 18 hours per volunteer, annually, of continuing education relevant to the care of older persons and persons with disabilities.

**340:105-11-245. Facility visitation**

(a) ~~Area~~ The area ombudsman staff ~~make~~ makes periodic visits to all long-term care facilities in the area covered by the designated area ombudsman entity~~, so that~~ to ensure Long-Term Care Ombudsman Program services are made available to the residents.

(1) ~~Visits must be made so that the residents~~ Residents of each facility are visited ~~no less than~~ a minimum of four times each ~~Fiscal Year~~ fiscal year.

(A) ~~Any visit~~ Visits made by appointment, including in-service training for facility staff, ~~shall~~ are not ~~be~~ counted toward the ombudsman staff's four visits per year.

(B) When the ombudsman volunteer visits residents as a citizen observer in inspections by the Oklahoma State Department of Health the visit may be counted.

(C) Visits made to resolve complaints are counted.

(2) Visits are documented on forms approved by the Office of the State Long-Term Care Ombudsman (Office) and protected according to the program's confidentiality requirements. Visits are:

(A) unannounced and the dates kept confidential~~. They are~~; and

(B) not posted or revealed to any person other than the director of the Area Agency on Aging designated as the area ombudsman entity who must likewise safeguard them.

(3) ~~Area~~ The area ombudsman staff ~~accompany~~ accompanies each newly certified ombudsman volunteer to the volunteer's assigned facility, by appointment, for an introductory visit~~. The purpose of this visit is~~ to:

(A) introduce the volunteer to the administrator, ~~the~~ residents, and ~~the~~ facility ~~itself,~~; and ~~to~~

(B) explain or clarify the role of the ombudsman volunteer. ~~Introductory visits are made by appointment.~~

(4) ~~Area~~ The area ombudsman staff ~~conduct~~ conducts at least one supervisory visit with each certified ombudsman volunteer to his or her assigned facility each year~~. The purpose of a supervisory visit is~~ to:

(A) assess skills, relationships, and understanding of appropriate role~~,~~; or

(B) ~~to~~ assist the volunteer with a complaint, other problem, or both.

~~(5) Participation as citizen observer in inspections of the Oklahoma State Department of Health may be counted if residents are visited as a part of this function. Visits made to resolve complaints may also be counted.~~

(~~6~~5) ~~In-services~~ The area ombudsman staff offers and conducts in-service training for staff of long-term care facilities on residents' rights, elder abuse prevention, and other topics of importance to residents~~, are offered and conducted for staff of long-term care facilities~~.

(b) The certified ombudsman volunteer visits residents, and documents the visits, in his or her assigned facility at least two hours per week, for the purpose of assisting the residents to resolve or prevent problems or complaints.

(1) No volunteer may officially begin his or her visitation and other duties in a facility as a certified ombudsman volunteer until he or she:

(A) receives written notice of certification from the Office ~~of the State Long-Term Care Ombudsman (Office)~~; and

(B) is accompanied by ombudsman staff on an introductory visit to the assigned facility.

(2) A volunteer who is temporarily ~~cannot~~ unable to fulfill visitation or other program responsibilities, may request or be placed on ~~a~~ leave of absence. As defined in this Part, leave of absence may be granted due to:

(A) ill health of volunteer or volunteer's family;

(B) vacation or extended travel; or

(C) other reason approved by the ombudsman supervisor.

(3) Leave of absence must not exceed ~~a~~ three ~~month~~ months duration. If the volunteer ~~cannot~~ is unable to resume official duties by the end of ~~this~~ the three-month period, the area supervisor notifies the ~~State Ombudsman~~ Office and the ~~volunteer~~ volunteer's certification is ~~decertified~~ withdrawn.

(4) The volunteer may request voluntary decertification from the Long-Term Care Ombudsman ~~Volunteer~~ Program at any time and be re-certified at a later date if all other requirements are met.

(c) Ombudsman participation as citizen observers in unannounced ~~health department~~ inspections by the Oklahoma State Department of Health is allowed by the Oklahoma Nursing Home Care Act, the Oklahoma Residential Care Act, and the Federal Nursing Home Reform Act.

(1) Ombudsman staff and certified ombudsman volunteers may participate.

(2) Inspection schedule information is kept in a locked file and access restricted to ombudsman staff.

(3) Inspection location is shared by state ombudsman staff only with the area ombudsman supervisor.

(4) The ombudsman volunteer for that facility may be notified, but ~~such~~ notification is made no earlier than the date of the inspection.

(5) Early notification to a facility is strictly prohibited. Penalties are set in state and federal statutes for violations ~~which~~ that result in early notification to a facility.

(d) Upon entering a facility for a visit, ombudsman staff and volunteers notify the administrator or other charge person of their presence. If no charge person ~~can be~~ is located, any staff person may be notified. This requirement is not intended to delay an ombudsman from proceeding promptly with a complaint investigation or resident visitation~~, if that is the purpose of the visit~~.

**340:105-11-248. Ombudsman volunteer rules and guidelines**

The certified ombudsman volunteer ~~must observe~~ observes the requirements ~~described in this paragraph to participate in~~ of the ~~Oklahoma~~ State Long-Term Care Ombudsman Program~~. A certified ombudsman volunteer must~~, including:

(1) complete and sign Form:

(A) SUOA-S-77, Ombudsman Volunteer Application ~~Form, Form;~~

(B) OMB-3, Conflict of Interest Statement and Ethical ~~Guideline~~ Guidelines~~;~~, and

(C) ADM-130, Request for Background Check;

(2) complete the two day ombudsman volunteer training program and be certified by the ~~state ombudsman program~~ State Long-Term Care Ombudsman Program staff;

(3) accept supervision by the ombudsman supervisor;

(4) respect privacy and confidentiality.

(A) The volunteer ~~must~~ does not disclose information regarding any complainant or client's name, condition, or situation, except to the ombudsman supervisor or the state ombudsman staff without the written permission of the complainant, client, or legal representative.

(B) Supervisory approval is secured before any ~~release of~~ information ~~must be secured~~ is released;

(5) visit weekly with residents in the assigned facility;

(6) attend monthly ombudsman volunteer meetings for continuing education, program updates, and group supervision;

(7) submit monthly reports to the ombudsman supervisor;

(8) wear the badge issued by the Area Agency on Aging ombudsman supervisor when visiting the facility or attending functions as an ombudsman volunteer;

(9) be available to the residents of the facility in which volunteering, to hear their concerns, and to assist them with and follow through on problem-solving;

(10) meet with the facility administrator to establish and maintain a cooperative working relationship~~.~~;

(11) ~~Be~~ be familiar with the policies and procedures ~~which~~ the facility ~~has~~ established for its operation;

(~~11~~12) be certified as an ombudsman volunteer, ~~which is~~ limited to the facility named in the certification letter~~. The volunteer acts in the role of ombudsman only in the facility for which he or she is certified~~, unless authorized in advance by the Office of the State Long-Term Care Ombudsman ~~Office~~; and

(~~12~~13) be clear in the role~~. The ombudsman is in the facility as an~~ of advocate on behalf of the residents~~, not as an auxiliary volunteer for the facility~~. Direct care services, such as lifting or feeding residents, are not performed by the ombudsman while in the facility ~~by the ombudsman~~.

**340:105-11-249. Area Agency on Aging ombudsman supervisor I**

(a) **Definition.** Under the program supervision of the Office of the State Long-Term Care Ombudsman and the general direction of the director of an Area Agency on Aging, the ombudsman supervisor I provides leadership in development, coordination, and implementation of the Long-Term Care Ombudsman Program and receives, investigates, and resolves complaints made by or on behalf of residents of long-term care facilities.

(b) **Examples of duties.** Examples of duties include:

(1) recruiting, screening, training, and supervising ombudsman volunteers, using guidelines provided by state ombudsman staff;

(2) publicizing the services of the State Long-Term Care Ombudsman Program and issues affecting older residents of long-term care facilities through media releases, public speaking, and other means;

(3) coordinating with state ombudsman staff in complaint investigation and resolution, identification of priority issues, and certification of new ombudsman volunteers;

(4) maintaining confidentiality of files and other information pertaining to complaints and complainants;

(5) keeping the director of the designated area ombudsman entity informed of the current situation and needs at the local level, recommending plans for meeting needs, and advising the director of resources required for their implementation;

(6) being available to residents of long-term care facilities in the planning and service areas (PSA), visiting each facility regularly, and working cooperatively with administrators and staff; and

(7) serving as a consultant to community organizations and agencies on issues and needs affecting older long-term care facility residents, techniques of working with these older people, and the solution of special problems.

(c) **Education and experience.** ~~Education~~ The required education and experience ~~include:~~

~~(1)~~ ~~graduating~~ is graduation from a standard four year high school and two years of responsible full-time paid employment in social, health, or aging services or related occupation that involves meeting the public~~;~~.

(~~2~~1) ~~any~~ Any equivalent full-time study in an accredited college or university may be substituted for the required work experience~~; and~~.

(~~3~~2) ~~in all cases, a passing~~ Passing the General ~~Education~~ Educational Development (GED) test is accepted in

lieu of ~~the requirement of~~ graduation from a standard four year high school.

(d) **Salary range.** ~~The salary range is Grade 45 as outlined on the most recent Area Agency on Aging Salary Schedule.~~ The comparable job family descriptor (JFD) for this position is Adult Protective Services Specialist, #H26A. A person in this position may not be paid more than the midpoint of the approved salary range for Oklahoma Department of Human Services (OKDHS) Office of Personnel Management (OPM) Pay Band I.

**340:105-11-250. Area Agency on Aging ombudsman supervisor II**

(a) **Definition.** Under the program supervision of the Office of the State Long-Term Care Ombudsman and the general direction of the director of an Area Agency on Aging, the ombudsman supervisor II provides leadership in development, coordination, and implementation of the Long-Term Care Ombudsman Program and receives, investigates, and resolves complaints made by or on behalf of residents of long-term care facilities.

(b) **Examples of duties.** Examples of duties include:

(1) recruiting, screening, training, and supervising ombudsman volunteers, using guidelines provided by state ombudsman staff;

(2) publicizing the services of the State Long-Term Care Ombudsman Program and issues affecting older residents of long-term care facilities through media releases, public speaking, and other means;

(3) coordinating with state ombudsman staff in complaint investigation and resolution, identification of priority issues, and certification of new ombudsman volunteers;

(4) maintaining confidentiality of files and other information pertaining to complaints and complainants;

(5) keeping the director of the designated area ombudsman entity informed of the current situation and needs at the local level, recommending plans for meeting needs, and advising the director of resources required for their implementation;

(6) being available to residents of long-term care facilities in the planning and service areas (PSA), visiting each facility regularly, and working cooperatively with administrators and staff; and

(7) serving as a consultant to community organizations and agencies on issues and needs affecting older long-term care facility residents, techniques of working with these older people, and the solution of special problems.

(c) **Education and experience.** ~~Education~~ The required education and experience ~~include~~ is:

(1) ~~graduating~~ graduation from an accredited four year college or university with major course work in social work, health, gerontology, general social sciences, or related field; or

(2) an equivalent combination of education and experience, substituting one year of full-time paid experience in such areas as community organization, public health, social work, or related field for each year of the required education, with a maximum substitution of two years.

(d) **Salary range.** ~~The salary range is Grade 47 as outlined on the most recent Area Agency on Aging Salary Schedule.~~ The comparable job family descriptor (JFD) for this position is Adult Protective Services Specialist, #H26B. A person in this position may not be paid more than the midpoint of the approved salary range for Oklahoma Department of Human Services (OKDHS) Office of Personnel Management (OPM) Pay Band J.

**340:105-11-251. Screening criteria for ~~ombudsmen~~ ombudsman**

(a) Criteria for subjective screening of potential ombudsman staff and volunteers, ~~which~~ are reviewed in addition to standard education and work experience questions.

(b) Persons who are not eligible for ombudsman volunteer certification include any person who:

(1) was fired from employment in a facility where he or she wishes to volunteer and any relative of a fired employee;

(2) ~~who~~ is a relative of an employee of the facility where he or she wishes to volunteer;

(3) ~~who~~ lacks the ability to be objective or hold confidences;

(4) ~~who~~ is a current employee or has any financial interest in a facility in which he or she wishes to volunteer. The ~~individual~~ person may volunteer in another facility with the stipulation that, if the chosen facility is a competitive facility, acceptance must be made by the administrator of the facility ~~which~~ the volunteer chooses;

(5) ~~who~~ is a paid sitter, private duty nurse, or private duty aide in the facility ~~in which he or she~~ where the person wishes to volunteer. If a competitive facility is chosen, the placement is accepted by the chosen facility;

(6) ~~who~~ is involved in a pending law suit against a facility, until the legal process is completed and acceptance of the ~~individual~~ person as a volunteer is made by the administrator of the selected facility; ~~and~~

(7) ~~who~~ stands to gain financially through an action or potential action brought on behalf of ~~individuals~~ persons the ombudsman serves~~.~~; and

(8) was convicted of a crime listed in Section 1-1950.1 of Title 63 of the Oklahoma Statutes or whose name appears on the Sex Offender Registry or the Mary Rippy Violent Offender Registry.

**340:105-11-252. Conflict of interest statement and ethical guidelines**

The Older Americans Act as amended requires assurances that there are no conflicts of interest within the Long-Term Care Ombudsman Program. Mechanisms to identify and remedy any ~~such~~ conflicts are mandated. Ombudsman staff and volunteers ~~are asked to~~ study the rules in this Section and ~~to~~ sign Form OMB-3, Conflict of Interest Statement and Ethical Guidelines, if able to provide the assurances and meet the ethical guidelines described in this subsection. The ombudsman:

(1) ~~No ombudsman or~~ and any member of the ombudsman's immediate family may not own, operate, control, or have interest, voting rights, or outstanding indebtedness to or be employed by any company or facility or individual investigated by the ombudsman~~.~~;

(2) ~~No ombudsman~~ may not solicit or accept from any person or organization, directly or indirectly, money or anything of value if it could reasonably be expected to influence ~~such~~ the ombudsman's official actions or judgment or could reasonably be considered ~~as~~ a reward for any official action or omission on the part of the ombudsman~~.~~;

(3) ~~No ombudsman~~ who is assigned or acts as an official representative of his or her agency in the presentation of papers, talks, demonstrations, or making appearances ~~shall~~ does not solicit or accept fees, honoraria, or reimbursement of expenses for personal gain. Any fees or honoraria offered in connection with the ~~above stated~~ these activities ~~shall be~~ are paid to the agency~~.~~;

(4) ~~Ombudsmen must be~~ is alert to anything ~~which may impair their~~ that impairs ability to objectively investigate complaints. The ombudsman ~~must avoid~~ avoids conflict of interest in the establishment of personal relationships ~~which may~~ that affect impartiality on the job~~.~~;

(5) ~~An ombudsman~~ may be involved in serving as an officer or board member of a social, fraternal, or religious organization for which the ombudsman receives no compensation or anything of value, ~~as long as~~ provided the organization is not affected by exercise of the ombudsman's discretion~~.~~;

(6) ~~No ombudsman~~ may not use or disclose information gained in the course of, or by reason of, the ombudsman's official position or activities in any way without the express consent of the resident or complainant~~.~~;

(7) ~~An ombudsman shall disclose~~ discloses all past and current appointments, involvement, membership, or interest that ~~may~~ affect or could reasonably be expected to affect the ombudsman's ability to investigate and resolve complaints in an objective and independent manner~~.~~;

(8) ~~No ombudsman shall~~ may not effectively recommend or decide to hire or promote another person who is a member of the ombudsman's immediate family~~.~~;

(9) ~~No ombudsman shall~~ may not give preferential or favorable treatment in provision of service to a resident who is a member of ~~his or her~~ the ombudsman's family~~.~~; and

(10) ~~Business shall~~ may not ~~be conducted~~ conduct business in restaurants or other public places where a public observer might reasonably conclude that confidences ~~may~~ could be breached due to lack of privacy.

**340:105-11-255. Ombudsman staff and volunteer training**

(a) **Ombudsman staff training curriculum.** Ombudsman staff training includes:

(1) introduction to the Long-Term Care Ombudsman Program;

(2) ombudsman policies and procedures;

(3) complaint response system;

(4) long-term care regulatory system;

(5) residents' rights;

(6) characteristics of long-term care facilities and residents;

(7) processes of aging;

(8) communication skills;

(9) legal and ethical issues;

(10) visitation practicum;

(11) mediation or negotiation skills;

(12) community resources or services; ~~and~~

(13) volunteer management~~.~~; and

(14) reporting and record keeping.

(b) **Ombudsman volunteer training curriculum.** Ombudsman volunteer training includes:

(1) introduction to the Long-Term Care Ombudsman Program;

(2) ombudsman volunteer role, including activities and responsibilities;

(3) problem solving and complaint investigation;

(4) processes of aging;

(5) characteristics of the institutionalized older person;

(6) communication and interviewing skills;

(7) Oklahoma's Nursing Home Care Act, Residential Care Act, or Assisted Living Act, as appropriate;

(8) residents' rights in long-term care facilities;

(9) the regulation of long-term care;

(10) confidentiality; and

(11) reporting and record keeping.

*[OAR Docket #06-601; filed 4-7-06*

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## TITLE 340. DEPARTMENT OF HUMAN SERVICES
## CHAPTER 110. LICENSING SERVICES

*[OAR Docket #06-602]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1. General Provisions
Part 1. Licensing Services - Child Care
340:110-1-4.1.[AMENDED]
340:110-1-5.through 340:110-1-6.[AMENDED]
340:110-1-8.through 340:110-1-8.1.[AMENDED]
340:110-1-8.3.[AMENDED]
340:110-1-9.through 340:110-1-9.3.[AMENDED]
340:110-1-11.[AMENDED]
340:110-1-17.[AMENDED]
Subchapter 3. Licensing Standards for Child Care Facilities
Part 1. Requirements for Child Care Centers
340:110-3-29.[AMENDED]
Part 2. Requirements for Part-Day Children's Programs
340:110-3-49.5.[AMENDED]
Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes
340:110-3-87.[AMENDED]
Part 9. Requirements for Residential Child Care Facilities
340:110-3-154.5.[AMENDED]
Part 14. Requirements for School-Age Programs
340:110-3-239.[AMENDED]
Subchapter 5. Requirements for Child-Placing Agencies
Part 1. Requirements for Child-Placing Agencies
340:110-5-1.through 340:110-5-4.[AMENDED]
340:110-5-6.through 340:110-5-11.[AMENDED]

340:110-5-11.1.[NEW]
110-5-12.through 340:110-5-14.[AMENDED]
Part 3. Requirements for Adoption Agencies
340:110-5-24.through 340:110-5-25.[AMENDED]
340:110-5-27.[AMENDED]
340:110-5-29.through 340:110-5-37.1.[AMENDED]
340:110-5-38.[AMENDED]
Part 5. Requirements for Foster ~~Family Homes~~Home Agencies
340:110-5-55.through 340:110-5-61.[AMENDED]
340:110-5-61.1.[NEW]
340:110-5-62.through 340:110-5-63.[AMENDED]
Part 9. Requirements for Independent Living Programs
340:110-5-115.[AMENDED]
340:110-5-117.through 340:110-5-124.[AMENDED]
**(Reference APA WF 05-12, 05-15, and 05-16)**

**AUTHORITY:**
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and The Oklahoma Child Care Facilities Licensing Act, Section 401 et seq. of Title 10 of the Oklahoma Statutes.

**DATES:**
**Comment period:**
December 15, 2005 through January 17, 2006
**Public hearing:**
None requested.
**Adoption:**
January 24, 2006
**Submitted to Governor:**
January 24, 2006
**Submitted to House:**
January 24, 2006
**Submitted to Senate:**
January 24, 2006
**Gubernatorial approval:**
March 9, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2006.
**Final adoption:**
March 31, 2006
**Effective:**
June 1, 2006

**SUPERSEDED EMERGENCY ACTIONS:**
N/A

**ANALYSIS:**
The revisions to Subchapters 1, 3, and 5 of Chapter 110 clarify: (1) and modify transportation licensing requirements for all licensed child care centers, school-age programs, part-day programs, family child care homes, residential programs, children's shelters, and residential treatment programs, including increasing age of drivers to 21 years, additional driver training related to specific vehicles, training in child passenger restraint safety, and vehicle maintenance documentation; (2) and improve licensing requirements for child-placing agencies that assist families in adopting children and placing children in foster care; (3) that tuberculosis skin testing is not required for employees of licensed facilities and facilities comply with Oklahoma State Department of Health (OSDH) regarding tuberculosis testing; (4) requirements that the child-placing agency have a physical address in Oklahoma where the business is conducted, an advisory board with members who reside in Oklahoma, and maintain child-placing activity records in Oklahoma; (5) the requirement for a written request for a criminal history waiver, and Licensing staff responsibility for obtaining criminal history information from a previous state of residence; (6) Licensing staff response when an allegation of civil rights violation is received; and (7) and update language by deleting obsolete terminology, reorganizing placement of information, and making it consistent with current federal and state usage.

The Oklahoma Department of Human Services (OKDHS) Child Care Advisory Committee requested that Division of Child Care (DCC) review and update the Licensing Requirements for Child-Placing Agencies, Subchapter 5. The requirements were recommended by a subcommittee of the Child Care Advisory Committee, made up of licensed child care providers affected by these requirements, and approved by the Child Care Advisory Committee after public hearings and review. The rules in Subchapter 3 were revised in response to an inquiry from the National Transportation Safety Board regarding transportation requirements and the use of 15-passenger vans.

**CONTACT PERSON:**
Dena Thayer, Programs Manager, Policy Management Unit, DHS, 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 DEPARTMENT OF HUMAN SERVICES, SEQUOYAH BUILDING, OKLAHOMA CITY 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:**
340:110-1-4.1 is amended to reference three forms used to collect information.

340:110-1-5 is amended to clarify programs that are not designed or intended for child care.

340:110-1-6 is amended to reorganize the placement of information and clarify licensing staff responsibility regarding family child care providers operating in a residential family home other than their permanent residence.

340:110-1-8 is amended to provide consistent language for issuing a license to a part-day children's program with child care center programs.

340:110-1-8.1 is amended to clarify: (1) the requirement for a written request for a criminal history waiver; and (2) the responsibility of licensing staff to obtain criminal history information from a previous state of residence.

340:110-1-8.3 is amended to clarify: (1) owner or designated agent responsibilities in applying for the Reaching for the Stars program; (2) documentation expectations for learning environment and parent involvement criteria; (3) the definition of accredited college and university; (4) the reasons for reduction of star status; (5) when a provider may request an extension of time to comply; (6) that the new owner of a child care program must complete the appropriate application form and meet all the requirements applicable to the star level requested; (7) stars outreach specialist and licensing staff responsibilities; and (8) by reorganizing the placement of information.

340:110-1-9 is amended to: (1) change the case management process when a child care center, part-day children's program, or school-age program moves to a different address; (2) add clarification regarding documentation required when there is a change in director or household members; (3) clarify licensing staff responsibilities when a facility requests a change in facility class; and (4) reorganize the placement of information.

340:110-1-9.1 is amended to: (1) allow licensing staff to review certification criteria by phone when processing a request for certification of child care facilities to receive increased reimbursement rate for the care of children with disabilities; (2) delete language for certification of out-of-state providers; (3) clarify reasons for withdrawal of this certification; and (4) clarify licensing response when on-site consultation criteria delay the approval for certification.

340:110-1-9.2 is amended to clarify licensing response when an allegation of civil rights violation is received; and delete obsolete language.

340:110-1-9.3 is amended to clarify the definition of "numerous, repeated, or serious non-compliance," clarify documentation required during an office conference; and add the definition of "voluntary cease care."

340:110-1-11 is amended to delete obsolete language.

340:110-1-17 is amended to add to the Child Care Advisory By-laws the category of standing sub-committees for family child care homes, child care centers, residential child care programs, and child-placing agencies.

340:110-3-29, 340:110-3-49.5, 340:110-3-239, and 340:110-3-154.5 are amended to require: (1) increased age of drivers to 21 years; (2) driver training related to specific vehicles; (3) child passenger restraint safety training; and (4) vehicle maintenance documentation.

340:110-3-87 is amended to require increased age of drivers to 21 years and driver training related to specific vehicles.

340:110-5-1 is amended to remove obsolete language.

340:110-5-2 is amended to reorganize the placement of information.

340:110-5-3 is amended to add a definition for "health professional," "foster home agency," and "infant foster care," change "special needs child" to "child with special needs," and clarify other definitions.

340:110-5-4 is amended to update language regarding OKDHS.

340:110-5-6 is amended to: (1) require the organization to: have a physical address in Oklahoma where child-placing business is conducted, have an advisory board with members who reside in Oklahoma, and maintain child-placing activity records in Oklahoma; (2) clarify when OKDHS is notified of program changes; and (3) add compliance information regarding

applicable state and federal laws, including reporting suspected child abuse and neglect.

340:110-5-7 is amended to reorganize the placement of information.

340:110-5-8 is amended to: (1) require a designated contact person who is accessible to OKDHS; (2) clarify that tuberculosis skin testing is not required for employment and that agencies comply with OSDH recommendations regarding tuberculosis testing; (3) require waiver request procedures to comply with state law and parallel other licensing requirements; and (4) reorganize the placement of information.

340:110-5-9 through 340:110-5-11 are amended to simplify language and reorganize the placement of information.

340:110-5-11.1 is issued to clarify qualifications and requirements for contract staff.

340:110-5-12 is amended to remove obsolete language and clarify information required for employee references.

340:110-5-13, 340:110-5-32, and 340:110-5-33 are amended to reorganize the placement of information.

340:110-5-14 and 340:110-5-36 are amended to clarify child-placing agency as "agency" and reorganize the placement of information.

340:110-5-24, 340:110-5-25, 340:110-5-29, 340:110-5-31, 340:110-5-35, and 340:110-5-37.1 are amended to clarify adoption agency as "agency."

340:110-5-27 is amended to add an Oklahoma Statutes citation.

340:110-5-30 is amended to clarify that interviews with family members are face-to-face.

340:110-5-34 is amended to correct language in the Section title and reorganize the placement of information.

340:110-5-37 is amended to clarify adoption agency as "agency" and delete obsolete language.

340:110-5-38 is amended to clarify and simplify language.

340:110-5-55 is amended to clarify that these rules are for the foster home agency to enforce with foster homes.

340:110-5-56 is amended to clarify the categories of foster care.

340:110-5-57 is amended to clarify the entities authorized to provide criminal history investigations; add information regarding annual home study updates; and simplify language.

340:110-5-58 is amended to clarify the foster home agency as "agency" and simplify language.

340:110-5-59 is amended to reorganize the placement of information.

340:110-5-60 is amended to: (1) clarify that tuberculosis testing is not required routinely; (2) add language regarding rest arrangements for infants that includes sleep position to reduce the risk of Sudden Infant Death Syndrome (SIDS); (3) add requirements regarding driver and vehicle qualifications and passenger restraints; and (4) simplify language.

340:110-5-61 and 340:110-5-62 are amended to simplify language and reorganize the placement of information.

340:110-5-61.1 is issued to clarify requirements for foster parents making alternative care arrangements for children in foster care.

340:110-5-63 is amended to clarify information required for an admission assessment and simplify language.

340:110-5-115 and 340:110-5-122 are amended to change "adolescent" to "youth."

340:110-5-117 and 340:110-5-121 are amended to clarify child-placing agency as "agency."

340:110-5-118 is amended to clarify child-placing agency as "agency" and reorganize the placement of information.

340:110-5-119 is amended to add clarifying language.

340:110-5-120 is amended to add clarifying language, including child-placing agency as "agency."

340:110-5-123 is amended to clarify child-placing agency as "agency" and change "juvenile" to "youth."

340:110-5-124 is amended to clarify the program as independent living program.

*[OAR Docket #06-602; filed 4-7-06*

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## TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 1. ADMINISTRATION AND ORGANIZATION

*[OAR Docket #06-563]*

**RULEMAKING ACTION:**
PERMANENT final adoption.
**RULES:**
435:1-1-7. Fees [AMENDED]
**AUTHORITY:**
Title 59 O.S., Section 489, Board of Medical Licensure and Supervision
**DATES:**
**Comment period:**
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**Legislative approval:**
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May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATED BY REFERENCE:**
n/a
**ANALYSIS:**
The penalty for renewing late for licensed dietitians and provisional licensed dietitians is being lowered to comply with the statutes. The renewal and processing fees are being combined. There is no increase in the amount to renew a license.
**CONTACT PERSON:**
Jan Ewing, Deputy Director, 405-848-6841, #104

**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 11, 2006:**

### 435:1-1-7. Fees

(a) **Fee schedule.**

(1) **Licensure/registration.** The following fees shall be assessed for licensure and registration:

(A) Medical Doctor - Full license

(i) Application processing fee - $400.00

(ii) Reprocessing fee - 100.00

(iii) Temporary license - $200.00

(B) Medical Doctor - Special license

(i) Special training application processing fee - $200.00 (This fee may be applied toward the application processing fee in (a)(1)(A)(i) of this section when the special license was issued for first year post graduate training purposes.)

(ii) Special training reprocessing fee - $100.00

(C) Physician Assistants

(i) Initial application for licensure - $100.00

(ii) Application to practice fee - $50.00

(iii) Disciplinary hearing fee - actual cost of proceedings (including probation and other fees) as determined by the Board.

(D) Physical Therapist

(i) Application processing fee - 75.00

(ii) Reprocessing fee - 25.00

(iii) License - 50.00

(iv) Temporary permit - 25.00

(E) Physical Therapist Assistant

(i) Application processing fee - 75.00

(ii) Reprocessing fee - 25.00

(iii) License - 50.00

(iv) Temporary permit - 25.00

(F) Athletic Trainer

(i) Application processing fee - 100.00

(ii) Reprocessing fee - 25.00

(iii) License - 25.00

(G) Apprentice athletic trainer

(i) Application processing fee - 20.00

(ii) Transfer processing fee - 15.00

(iii) License - 5.00

(H) Licensed Dietitian

(i) Application processing fee - 50.00

(ii) Reprocessing fee - 25.00

(iii) License - 50.00

(I) Provisional licensed dietitian

(i) Application processing fee - 10.00

(ii) Reprocessing fee - 25.00

(iii) License - 10.00

(J) Occupational therapist

(i) Application processing fee - 50.00

(ii) Reprocessing fee - 25.00

(iii) License - 50.00

(K) Occupational therapy assistant

(i) Application processing fee - 50.00

(ii) Reprocessing fee - 25.00

(iii) License - 50.00

(L) Registered electrologists

(i) Application processing fee - 25.00

(ii) License - 25.00

(iii) Examination fee - 65.00

(M) Respiratory Care - Full license

(i) Application processing fee - 75.00

(ii) Reprocessing fee - 25.00

(N) Respiratory Care - Provisional license

(i) Application processing fee - 75.00

(ii) Reprocessing fee - 25.00

(O) Licensed Pedorthists application processing fee - 150.00

(P) Licensed Orthotist/Prosthetist application processing fee - 250.00

(Q) Registered Orthotist/Prosthetist Assistant application processing fee - 75.00

(R) Registered Orthotist/Prosthetist Technician application processing fee - 50.00

(2) **Renewal/reregistration of license/registration.** The following fees shall be assessed for renewal/reregistration:

(A) Medical License - Full

(i) Application for annual reregistration fee - 150.00

(ii) Reactivation processing fee - 275.00

(iii) Reinstatement of license - 400.00

(B) Medical License - Special

(i) Application for annual reregistration fee for special training - $100.00

(ii) Application for annual reregistration fee for special limited - $125.00

(iii) Reactivation processing fee for special training - $150.00

(iv) Reactivation processing fee for special limited - $200.00

(v) Reinstatement processing fee for special training - $200.00

(C) Physical Therapist

(i) Annual renewal fee - 75.00

(ii) Late fee (After January 31) - 10.00

(D) Physical Therapist Assistant

(i) Annual renewal fee - 50.00

(ii) Late fee (After January 31) - 10.00

(E) Physician Assistants

(i) Annual renewal fee - $75.00

(ii) Late renewal fee - $125.00

(F) Athletic Trainer

(i) Application processing fee - 35.00

(ii) Annual renewal fee - 10.00

(iii) Late fee (After August 30) - 50.00

(G) Apprentice athletic trainer

(i) Application processing fee - 5.00

(ii) Annual renewal fee - 5.00

(iii) Late fee (After August 30) - 5.00

(H) Licensed Dietitian/provisional licensed dietitian

(i) ~~Application processing fee - 55.00~~

~~(ii)~~ Annual renewal fee - ~~20.00~~75.00

(~~iii~~ii) ~~Late fee~~ Penalty (after October 31) - ~~50.00~~ 37.50

(~~iv~~iii) ~~Late fee~~ Penalty (after January 31) - 75.00

(I) Occupational therapist/occupational therapy assistant

(i) Application processing fee - 55.00

(ii) Annual renewal fee - 20.00

(iii) Late renewal (after October 31) - 20.00

(J) Registered electrologists

(i) Application processing fee - 20.00

(ii) Annual renewal fee - 20.00

(K) Respiratory Care - Full license

(i) Biennially renewal fee - 75.00

(ii) Reinstatement - renewal fee plus 100.00

(L) Respiratory Care - Provisional license - six month renewal fee - 75.00

(M) Licensed Pedorthist
(i) Annual renewal fee - 50.00
(ii) Late fee (up to 30 days late) - 25.00
(iii) Late fee (30 days to 1 year late) - 50.00
(iv) Reinstatement fee - 150.00
(N) Licensed Orthotist/Prosthetist
(i) Annual renewal fee - 125.00
(ii) Late fee (up to 30 days late) - 50.00
(iii) Late fee (30 days to 1 year late) - 100.00
(iv) Reinstatement fee - 250.00
(O) Registered Orthotist/Prosthetist Assistant
(i) Annual renewal fee - 75.00
(ii) Late fee (up to 30 days late) - 50.00
(iii) Late fee (30 days to 1 year late) - 100.00
(iv) Reinstatement fee - 75.00
(P) Registered Orthotist/Prosthetist Technician
(i) Annual renewal fee - 50.00
(ii) Late fee (up to 30 days late) - 50.00
(iii) Late fee (30 days to 1 year late) - 100.00
(iv) Reinstatement fee - 50.00

(3) **Duplication or modification of license/registration.** The following fees shall be assessed for duplication or modification of a license/registration:
(A) Medical License (Full) - 50.00
(B) Physician Assistant - 25.00
(C) Physical Therapist - 50.00
(D) Physical Therapy Assistant - 25.00
(E) Athletic Trainer - 25.00
(F) Apprentice Athletic Trainer - 15.00
(G) Licensed Dietitian - 25.00
(H) Provisional Licensed Dietitian - 25.00
(I) Occupational Therapist - 25.00
(J) Occupational Therapy Assistant - 25.00
(K) Special license - 25.00
(L) Respiratory Care - 25.00
(M) Licensed Pedorthist - 25.00
(N) Licensed Orthotist/Prosthetist - 25.00
(O) Registered Orthotist/Prosthetist Assistant - 25.00
(P) Registered Orthotist/Prosthetist Technician - 25.00

(4) **Miscellaneous fees.** The following miscellaneous fees shall be assessed by the Board:
(A) Certification of scores - 40.00
(B) Written verification of license/registration - 20.00
(C) Credentialing service - 100.00 per licensee
(D) Web based services
(i) On-line monthly fee - 50.00 (Three hundred (300) query returns included)
(ii) 301 to 350 queries per month - 0.50 per return
(iii) 351 to 400 queries per month - 0.25 per return
(iv) 401 and above queries per month - 0.10 per return
(v) Database, statistical reports, mailing labels on floppy disks, CDs or by electronic mail-100.00/hour, minimum of one (1) hour. Fee is for one set of labels per order. Multiple labels may be printed for $50.00 each additional set.
(E) Duplicate renewal/registration card - 10.00
(F) Certification of public records (per page)- 1.00
(G) Duplication of public records (per page) - .25
(H) Unofficial transcript of public Board/Committee meetings (per page) - 1.50
(I) Issuance of subpoena - 5.00
(J) Returned check processing fee - 25.00
(K) Rate for Investigations for other agencies or bodies - at cost with deposit of $100.00 required to initiate investigation
(L) Premedical or Medical Education Qualifications Review - at cost with deposit of $100.00 required to initiate action
(M) Monitoring fees for Agreements: Actual costs of any testing or monitoring provided for in the Agreement.
(N) Disciplinary action fees:
(i) Probation fees - 100.00 per month.
(ii) Investigation/Prosecution fees - actual cost incurred.
(O) Filing of motions:
(i) Rehearing or reconsideration of any disciplinary case - 100.00
(ii) Rehearing or reconsideration of any licensing case - 100.00
(iii) Terminate or modify probation/agreement - 100.00
(iv) Request for Specialty Board Certification under 435:10-7-2 - 100.00
(v) Priority issuance of subpoena or duces tecum subpoena within seven (7) days of hearing - 10.00
(vi) Request for exception as allowed by law/rules - 100.00
(P) Reproduction of Board meeting video tape (per tape) - 15.00
(Q) Reproduction of Board meeting audio tape (per tape) - 15.00
(R) Administrative fine for practicing after revocation of license pursuant to 59 O.S. 491B - 5,000/day

(b) **Submission of fees.**
(1) All fees assessed by the Board as set out in the fee schedule in (a) of this section shall be received prior to processing an application for licensure or certification.
(2) All fees are non-refundable.

*[OAR Docket #06-563; filed 4-5-06]*

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

*[OAR Docket #06-564]*

**RULEMAKING ACTION:**
PERMANENT final adoption.
**RULES:**
Subchapter 4. Application and Examination Procedures for Licensure as Physician and Surgeon
435:10-4-6. Medical licensure examination [AMENDED]
435:10-4-7. Licensure by endorsement [AMENDED]
Subchapter 11. Temporary and Special Licensure
435:10-11-3.1. Special license for ~~first year~~ post-graduate training [AMENDED]
**AUTHORITY:**
Title 59 O.S., Section 489, Board of Medical Licensure and Supervision
**DATES:**
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**SUPERSEDED EMERGENCY ACTIONS:**
**Superseded rules:**
Subchapter 11. Temporary and Special Licensure
435:10-11-3.1. Special license for first year post-graduate training [AMENDED]
**Gubernatorial approval:**
June 20, 2005
**Register publication:**
22 Ok Reg 2747
**Docket number:**
05-1173
**INCORPORATED BY REFERENCE:**
n/a
**ANALYSIS:**
The rules were amended to remove the requirement of 10 months post graduate training prior to taking Step 3 of the USMLE, to establish that the USMLE Step 2-CK and Step 2-CS are to be considered as separate steps and to require passing both Step 2-CK and Step 2-CS prior to receiving a special license for post-graduate training.
**CONTACT PERSON:**
Jan Ewing, Deputy Director, 405-848-6841, #104

**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 11, 2006:**

## SUBCHAPTER 4. APPLICATION AND EXAMINATION PROCEDURES FOR LICENSURE AS PHYSICIAN AND SURGEON

### 435:10-4-6. Medical licensure examination

(a) Upon submission and approval of a completed application for licensure by examination, and the payment of all fees, an applicant may sit for an examination approved by the Board. The Board has adopted the USMLE as its licensure examination. The passing score for the licensure examination is set at seventy-five percent (75%).

(b) In order to sit for the licensure examination, the applicant shall provide the Board with all information required by 59 O.S. § 494.1 on a form created or approved by the Board ~~and have completed ten (10) months of the required post-graduate training as set out in 59 O.S. § 493.1~~.

(c) Submission of an application shall not guarantee an applicant the ability to sit for the licensure examination. No person shall sit for licensure examination until approved to do so by the Board.

(d) The Board recognizes as acceptable for licensure the USMLE, NBME, FLEX and LMCC examinations. However, the Board will not accept test scores or combined FLEX scores from multiple sittings of the FLEX. In addition, the Board will accept the following combinations of those examinations:

(1) NBME part I or USMLE step 1, **plus** NBME part II or USMLE step 2, **plus** NBME part III or USMLE step 3;

(2) FLEX component 1 plus USMLE step 3; or

(3) NBME part I or USMLE step 1, **plus** NBME part II or USMLE step 2, **plus** FLEX component 2.

(e) The factoring of scores or combination of scores taken from separate examinations is acceptable only as set forth in (d)(1) through (d)(3) of this Section.

(f) All steps of the licensure examination must be passed within seven (7) years unless otherwise prohibited by applicable law.

(g) ~~Beginning July 1, 1999 the~~ The following applies to all applicants regarding examination failures unless otherwise prohibited by applicable law:

(1) Any applicant who fails any part of a licensing examination three times will not be eligible for a license. A score of incomplete shall be considered a failing score. The USMLE Step 2-Clinical Knowledge and Step 2-Clinical Skills shall be considered as separate steps.

(2) If a combination of NBME, FLEX and/or USMLE is utilized, any applicant who has failed more than six (6) examinations will not be eligible for a license.

(3) If an applicant has achieved certification by an American Board of Medical Specialties (ABMS) Board, an exception to 435:10-4-6 (g)(1) and (2) may be granted by a vote of the Board.

(h) As with the initial application, the Board may make additional inquiry of the applicant to provide additional information as necessary.

**435:10-4-7. Licensure by endorsement**

(a) The Board may license an applicant by endorsement based upon the applicant's current license in another state, the District of Columbia, U.S. territory, or Canada and who has passed a medical licensure examination allowed by 59 O.S. § 493.3(A)(2), and who has complied with all other current licensure requirements of the Act.

(b) The Board has approved for the purpose of a medical licensure examination the FLEX, USMLE, National Board and LMCC examinations or acceptable combinations thereof. All steps of the licensure examination must be passed within seven (7) years unless otherwise prohibited by applicable law.

(c) ~~Beginning July 1, 1999 the~~ The following applies to all applicants regarding examinations failures unless otherwise prohibited by applicable law:

(1) Any applicant who fails any part of a licensing examination three times will not be eligible for a license. A score of incomplete shall be considered a failing score. The USMLE Step 2-Clinical Knowledge and Step 2-Clinical Skills shall be considered as separate steps.

(2) If a combination of NBME, FLEX and/or USMLE is utilized, any applicant who has failed more than six (6) examinations will not be eligible for a license.

(3) If an applicant has achieved certification by an American Board of Medical Specialties (ABMS) Board, an exception to 435:10-4-7 (c) (1) and (2) may be granted by a vote of the Board.

(d) To apply for licensure by endorsement, an applicant shall submit an application as required by 435:10-4-4 and 435:10-4-5, as applicable.

(e) In addition, the applicant shall provide information to the Board, on a form created by the Board, in regard to the applicant's current license and previous examination.

(f) In the event an applicant is not qualified for licensure by endorsement, the applicant may, upon payment of applicable fees, sit for licensure examination authorized by this rule or apply for a special license as set forth in Subchapter 11 of this Chapter.

## SUBCHAPTER 11. TEMPORARY AND SPECIAL LICENSURE

**435:10-11-3.1. Special license for ~~first-year~~ post-graduate training**

(a) The Secretary of the Board is authorized to issue a special license for training to first-year residents. Unless otherwise renewed, amended, suspended or revoked by the Board, a special license issued under this section may be extended without renewal by the Secretary for a period not to exceed ninety (90) days until scores from the first-year resident's final licensing examination are received and application for full licensure is acted on by the Board.

(b) ~~Effective January 1, 2002 no~~ No special license for ~~first-year~~ post-graduate training may be issued unless the applicant has passed Step 1 and ~~Step 2~~ Step 2- Clinical Knowledge and Step 2-Clinical Skills of the United States Medical Licensing Examination (USMLE) within the limits set forth in 435:10-4-6(g).

*[OAR Docket #06-564; filed 4-5-06]*

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# TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS

*[OAR Docket #06-566]*

**RULEMAKING ACTION:**
PERMANENT final adoption.
**RULES:**
Subchapter 3. Licensure of Physical Therapists and Assistants
435:20-3-1.1. Training outside the U.S. [AMENDED]
**AUTHORITY:**
Title 59 O.S., Section 887.5, Board of Medical Licensure and Supervision
**DATES:**
**Comment period:**
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**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATED BY REFERENCE:**
n/a
**ANALYSIS:**
Changes in subsection (a) reflect changes in the TOEFL examination. Changes in the remaining subsections require foreign trained therapists to have a Masters level education. All American PT programs were changed to Masters degrees by 2001.
**CONTACT PERSON:**
Jan Ewing, Deputy Director, 405-848-6841, #104

**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 11, 2006:**

## SUBCHAPTER 3. LICENSURE OF PHYSICAL THERAPISTS AND ASSISTANTS

**435:20-3-1.1. Training outside the U.S.**

(a) Pursuant to requirements set out in Title 59 O.S. § 887.6, a foreign-educated physical therapist whose native language is not English shall submit evidence of having passed the:

(1) Test of:

(A) ~~Test of~~ English as a Foreign Language (TOEFL) with a score of at least 560 or 220 computer equivalent; and

(B) ~~the Test of~~ Spoken English (TSE) with a score of at least 50; and

(C) ~~the Test of~~ Written English (TWE) with a score of at least 4.5 or

(2) Test of English as a Foreign Language Internet-based Test (TOEFL iBT) with a total score of at least 89 and:

(A) a score of at least 24 on the Writing section

(B) a score of at least 26 on the Speaking section

(C) a score of at least 18 on the Reading section

(D) a score of at least 21 on the Listening section.

(b) A foreign-educated physical therapist applying for licensure in the State of Oklahoma shall submit verification of the equivalency of the applicant's education to that attained by entry-level graduates training the United States at the time of graduation.

(c) Assessment of equivalency may be performed by a professional education credentials service approved by the Board using the following standards:

(1) **Graduation on or before May 31, 2001:**

(~~1~~A) The minimum equivalent education credentials of a foreign educated physical therapist should be a bachelor's degree in physical therapy with all credits being earned at an institution of higher learning that confers at least a bachelor's degree in physical therapy which is approved by the country's Ministry of Education/Health.

(~~2~~B) The minimum number of semester hour credits should be one-hundred-twenty (120). A semester hour credit is equal to fifteen (15) hours of classroom instruction per semester. For courses with laboratory component, a semester hour credit is also equal to thirty (30) hours of laboratory instruction per semester. For clinical courses, a semester hour credit is equal to forty-eight (48) hours of clinical instruction per semester.

(~~A~~i) Fifty (50) semester hour credits shall be the minimum number required in general education.

(~~B~~ii) The applicant has the opportunity to meet the objective of one hundred twenty (120) semester hour credits by utilizing additional elective credits in either general or professional education beyond the minimal requirements.

(iii) Sixty (60) semester hour credits shall be the minimum required in professional education. A grade of "C" or better will be required in each professional education course.

(2) **Graduation after May 31, 2001:**

(A) The minimum equivalent education credentials of a foreign educated physical therapist should be a master's degree in physical therapy with all credits being earned at an institution of higher learning that confers at least a master's degree in physical therapy which is approved by the country's Ministry of Education/Health.

(B) The minimum number of semester hour credits should one-hundred-seventy (170). A semester hour credit is equal to fifteen (15) hours of classroom instruction per semester. For courses with laboratory component, a semester hour credit is also equal to thirty (30) hours of laboratory instruction per semester. For clinical courses, a semester hour credit is equal to forty-eight (48) hours of clinical instruction per semester.

(i) Ninety (90) semester hour credits shall be the minimum number required in general education.

(ii) The applicant has the opportunity to meet the objective of one-hundred-seventy (170) semester hour credits by utilizing additional elective credits in either general or professional education beyond the minimal requirements.

(iii) Eighty (80) semester hour credits shall be the minimum required in professional education. A grade of "C" or better will be required in each professional education course.

(~~C~~3) **Minimum course requirements.**

(A) **General education.** A minimum of one semester course must be successfully completed in each category of general education unless otherwise noted.

(i) Humanities

(I) English

(II) English composition

(III) Speech or oral communication

(IV) Foreign language (other than native language)

(V) Literature

(VI) Art

(VII) Music

(ii) Physical science: A one semester course in chemistry and a one semester course in physics must be successfully completed.

(I) Chemistry with laboratory (Organic or Inorganic)

(II) Physics with laboratory

(III) Geology

(IV) Astronomy

(iii) Biological science

(I) Biology

(II) Anatomy

(III) Physiology

(IV) Zoology

(V) Kinesiology

(VI) Neuroscience

(VII) Genetics

(iv) Social science

(I) History

(II) Geography

(III) Sociology

(IV) Economics

(V) Government
(VI) Religion
(v) Behavioral science
(I) Psychology
(II) Anthropology
(III) Philosophy
(IV) Ethics
(vi) Mathematics
(I) Statistics
(II) Algebra
(III) Pre-calculus
(IV) Calculus
(V) Trigonometry
(VI) Geometry

(~~D~~B) ~~Sixty (60) semester hour credits shall be the minimum required in professional education. A grade of "C" or better will be required in each professional education course.~~ **Professional education.**

(i) Basic health sciences: A minimum of one semester course is required in each of the following topics.

(I) Human anatomy (specific to physical therapy)
(II) Human physiology (specific to physical therapy)
(III) Neurological science
(IV) Kinesiology or functional anatomy
(V) Psychology
(VI) Pathology

(ii) Clinical sciences: The essential element of physical therapy education is teaching the student to assess and treat appropriately across the spectrum of age. Therefore any education course work should contain all of the following:

(I) Clinical medicine pertinent to physical therapy. This should include but not be limited to: neurology, orthopedics, pediatrics, geriatrics.
(II) Physical therapy course work to include but not limited to: physical agents, musculoskeletal assessment and treatment, neuromuscular assessment and treatment, cardiopulmonary assessment and treatment.

(iii) Clinical education: Clinical education must include physical therapist-supervised demonstrated application of physical therapy theories, techniques, and procedures. The applicant must have a minimum of two (2) clinical affiliations of no less the 800 hours total which are supervised by a physical therapist.

(iv) Related professional course work: A minimum of three (3) semester courses are required from the following topics in related professional course work - professional ethics, administration, community health, research, education techniques, and medical terminology.

(d~~e~~) Pursuant to 59 O.S. § 887.6, foreign-educated physical therapists applying for licensure must submit verification of having successfully completed an eight-hundred (800) hour (at least 120 days) interim supervised clinical practice period under the continuous and immediate supervision of an Oklahoma licensed physical therapist. The Board will issue an interim permit to the applicant for the purpose of participating in the supervised clinical practice period. The time period of an initial interim permit shall not exceed six (6) months.

(1) The interim supervised clinical practice period must be completed in Oklahoma at a facility that serves as a clinical education facility for students enrolled in an accredited program education physical therapists or physical therapist assistants in Oklahoma.
(2) The supervising physical therapist shall submit an evaluation of the applicant's performance at the end of four-hundred (400) hours of supervision. A final report will be submitted at the end of the second four-hundred (400) hours of supervision. These reports will be submitted on forms or evaluation tools determined by the Board.
(3) If the applicant's performance is unsatisfactory during the supervision period, or the applicant ceases working at the training facility for any reason, the supervising physical therapist must notify the Board in writing within five (5) working days.
(4) If the interim supervised clinical practice period is not satisfactorily completed within a six-month period, the Board may issue a second interim permit for an additional six month period. A third permit will not be issued.

(e~~d~~) The interim supervised clinical practice period may be waived for foreign-educated physical therapists at the discretion of the Board, if:

(1) the applicant for licensure is able to verify the successful completion of one (1) year of clinical practice in the United States or the District of Columbia, or
(2) the applicant is able to document exceptional expertise acceptable to the Board in the fields of research, education, or clinical practice.

(f~~e~~) The interim supervised clinical practice period may be shortened for foreign-educated physical therapists at the discretion of the Board.

*[OAR Docket #06-566; filed 4-5-06]*

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## TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS

*[OAR Docket #06-567]*

**RULEMAKING ACTION:**
PERMANENT final adoption.
**RULES:**
Subchapter 3. Licensure of Physical Therapists and Assistants
435:20-3-6. Re-entry requirements [AMENDED]
**AUTHORITY:**
Title 59 O.S., Section 887.5, Board of Medical Licensure and Supervision
**DATES:**
**Comment period:**
September 1, 2005 to October 7, 2005

**Adoption:**
January 26, 2006
**Submitted to Governor:**
February 1, 2006
**Submitted to House:**
February 1, 2006
**Submitted to Senate:**
February 1, 2006
**Gubernatorial approval:**
March 16, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rule resulted in approval on March 31, 2006.
**Final adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATED BY REFERENCE:**
n/a
**ANALYSIS:**
The rule regarding re-entry requirements for physical therapists and assistants was amended to incorporate the requirements for renewal. The only new requirement for both renewal and re-entry is to take and pass a jurisprudence examination.
**CONTACT PERSON:**
Jan Ewing, Deputy Director, 405-848-6841, #104

**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 11, 2006:**

## SUBCHAPTER 3. LICENSURE OF PHYSICAL THERAPISTS AND ASSISTANTS

**435:20-3-6. ~~Re-entry requirements~~ Requirements for renewal and re-entry**

(a) **Renewal of license.** In order to renew the license, each Physical Therapist and Physical Therapist Assistant shall:

(1) complete the renewal application;

(2) pay the required fee as set out in OAC 435:1-1-7(a)(2);

(3) complete a jurisprudence examination prepared by the Board focusing on the areas of the Oklahoma Physical Therapy Practice Act and related Oklahoma Administrative Code;

(4) and meet requirements for continuing education as set out in Subchapter 9 of this Chapter.

(b) **Re-entry requirements.** Pursuant to 59 O.S. §495h, physical therapists and physical therapist assistants with licenses lapsed more than three months wishing to re-enter the practice of physical therapy will be required to file an application on forms provided by the Board and submit documentation of continuing competence. Physical therapists and physical therapist assistants may be required to meet one or more of the following requirements:

(1) Personal appearance before the Advisory Committee;

(2) Work under the direct supervision of a physical therapist licensed in the State of Oklahoma for at least one month (at least 22 days) for each year license was lapsed, not to exceed twelve (12) months. The applicant must obtain authorization from the Board before beginning the period of supervised practice. On completion of the period of supervised practice, the applicant will provide to the Board an adequate performance evaluation from the supervising physical therapist;

(3) Participation in continuing education activities directed towards maintaining or improving clinical knowledge and skills;

(4) Achieve a passing score on an examination approved by the Board.

(5) Complete a jurisprudence examination prepared by the Board focusing on the areas of the Oklahoma Physical Therapy Practice Act and related Oklahoma Administrative Code.

*[OAR Docket #06-567; filed 4-5-06]*

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## TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS

*[OAR Docket #06-565]*

**RULEMAKING ACTION:**
PERMANENT final adoption.
**RULES:**
Subchapter 9. Continuing Education
435:20-9-2. Continuing education requirements for renewal [AMENDED]
**AUTHORITY:**
Title 59 O.S., Section 887.5, Board of Medical Licensure and Supervision
**DATES:**
**Comment period:**
March 1, 2005 to April 7, 2005
**Adoption:**
May 5, 2005
**Submitted to Governor:**
May 9, 2005
**Submitted to House:**
May 9, 2005
**Submitted to Senate:**
May 9, 2005
**Gubernatorial approval:**
June 20, 2005
**Legislative approval:**
Failure of the Legislature to disapprove the rule resulted in approval on March 31, 2006.
**Final adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATED BY REFERENCE:**
n/a
**ANALYSIS:**
The rule regarding continuing education for renewal was amended to require at least four hours in ethics and jurisprudence each compliance period.
**CONTACT PERSON:**
Jan Ewing, Deputy Director, 405-848-6841, #104

**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 11, 2006:**

## SUBCHAPTER 9. CONTINUING EDUCATION

**435:20-9-2. Continuing education requirements for renewal**

(a) Beginning with the renewal period ending January 31, 2000 and every two years thereafter, the applicant for renewal of licensure shall sign a statement indicating whether or not continuing education requirements have been fulfilled for the preceding two-year period.

(b) ~~During the compliance periods beginning January 1, 2000 through December 31, 2003, physical therapists and physical therapist assistants seeking to renew their Oklahoma license must show evidence upon request of having obtained twenty (20) contact hours of approved continuing education experiences per compliance period.~~ Effective January 1, 2004 and every two years thereafter, physical therapists will be required to show proof of forty (40) approved contact hours and Physical Therapist Assistants will be required to show proof of thirty (30) approved contact hours.

(1) At least half of the required hours must be Category A as set out in subsection 435:20-9-3(b) except as provided in 435:20-9-3(a)(3).

(2) Three of the required hours must contain ethics education that includes the APTA Guide for Professional Conduct and the APTA Code of Ethics.

(3) No continuing education hours may be carried over from one compliance period to another.

(c) Any applicant for renewal who cannot meet the requirements for continuing education may not renew until deficient hours are obtained and verified. Additionally, within the next compliance period the licensee will be required to obtain double the required hours of approved continuing education. At least half of the required hours must be Category A. Proof of meeting the additional requirements, as verified by an audit, will be required in order to renew at the end of the next compliance period. Failure to meet these additional requirements will result in disciplinary action.

(d) Each licensee is responsible for maintaining evidence/proof/record of participation in a continuing education experience for a minimum of four years. Copies of such proof shall be submitted to the Board upon request. Such proof shall include:

(1) date, place, course title, schedule, presenter(s), etc.,

(2) number of contact hours for activity,

(3) proof of completion, such as abstracts, certificates of attendance, or other certification of completion.

(e) Any physical therapist or physical therapist assistant initially licensed in Oklahoma during the second year of an accounting period shall be exempt from the continuing education requirements for that first renewal period.

(f) The Physical Therapy Committee shall conduct random audits of the continuing education records of the number of licensees that time and resources permit. The Physical Therapy Committee may appoint a sub-committee to review audits and requests for approval of continuing education experiences and make recommendations to the Physical Therapy Committee for disposition.

(g) Penalties for failure to comply with continuing education requirements may be assessed after notice and hearing as required by law. Penalties may include imposition of additional continuing education contact hours, probation of license, suspension of license, or revocation of license.

(h) Failure to maintain records of continuing education rebuts the presumption that continuing education requirements have been completed.

(i) Misrepresenting compliance with continuing education requirements constitutes a fraudulent application.

*[OAR Docket #06-565; filed 4-5-06]*

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## TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 45. RESPIRATORY CARE PRACTITIONER

*[OAR Docket #06-568]*

**RULEMAKING ACTION:**
PERMANENT final adoption.
**RULES:**
Subchapter 3. Application for Licensure
435:45-3-5. Re-entry guidelines [AMENDED]
**AUTHORITY:**
Title 59 O.S., Section 2031, Board of Medical Licensure and Supervision
**DATES:**
**Comment period:**
October 3, 2005 to November 2, 2005
**Adoption:**
November 3, 2005
**Submitted to Governor:**
November 9, 2005
**Submitted to House:**
November 9, 2005
**Submitted to Senate:**
November 9, 2005
**Gubernatorial approval:**
December 19, 2005
**Legislative approval:**
Failure of the Legislature to disapprove the rule resulted in approval on March 31, 2006.
**Final adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATED BY REFERENCE:**
n/a
**ANALYSIS:**
The amendment adds continuing education as a requirement that may be imposed to an applicant that has been out of practice for more than twelve months.
**CONTACT PERSON:**
Jan Ewing, Deputy Director, 405-848-6841, #104

**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 11, 2006:**

## SUBCHAPTER 3. APPLICATION FOR LICENSURE

**435:45-3-5. Re-entry guidelines.**

Respiratory Therapists with licenses lapsed more than twelve months wishing to re-enter the practice of Respiratory Therapy will be required to file an application on forms provided by the Board. Therapists may be required to meet one or more of the following guidelines:

(1) Personal appearance before the Advisory Committee.

(2) Practice under the direct supervision of a licensed Respiratory Therapist for one month (at least 22 days) for each year the license was lapsed. The supervising Therapist will provide to the Committee a report on the applicant's performance prior to licensure.

(3) Pass the National Board for Respiratory Care (NBRC) entry-level examination.

(4) Obtain continuing education as determined by the Committee.

*[OAR Docket #06-568; filed 4-5-06]*

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# TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 55. LICENSED ORTHOTISTS AND PROSTHETISTS AND REGISTERED TECHNICIANS AND ASSISTANTS

*[OAR Docket #06-569]*

**RULEMAKING ACTION:**
PERMANENT final adoption.
**RULES:**
Subchapter 3. Licensure/Registration/Reinstatement
435:55-3-6. Alternative requirements for licensure [AMENDED]
**AUTHORITY:**
Title 59 O.S., Section 3004; Board of Medical Licensure and Supervision
**DATES:**
**Comment period:**
October 3, 2005 to November 2, 2005
**Adoption:**
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November 9, 2005
**Submitted to Senate:**
November 9, 2005
**Gubernatorial approval:**
December 19, 2005
**Legislative approval:**
Failure of the Legislature to disapprove the rule resulted in approval on March 31, 2006.
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**SUPERSEDED EMERGENCY ACTIONS:**
**Superseded rules:**
435:55-3-6. Alternative requirements for licensure [AMENDED]
**Gubernatorial approval:**
February 8, 2005
**Register publication:**
22 Ok Reg 555
**Docket number:**
05-210
**INCORPORATED BY REFERENCE:**
n/a
**ANALYSIS:**
The new language sets forth the requirements for licensure as an orthotist and/or prosthetist under the alternative qualifications as provided by law.
**CONTACT PERSON:**
Jan Ewing, Deputy Director, 405-848-6841, #104

**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 11, 2006:**

## SUBCHAPTER 3. LICENSURE/REGISTRATION/REINSTATEMENT

**435:55-3-6. Alternative requirements for licensure**

(a) Pursuant to 59 O.S. ss3006, the Board may issue a provisional license to practice as an orthotist and/or prosthetist under alternative qualifications.

(~~a~~b) Every person seeking licensure as an orthotist and/or prosthetist under alternative qualifications must comply with the following:

(1) achieve a passing score on a licensure exam approved by the Board; and

(2) execute an alternative qualification contract with the Board. The terms and length of the contract will be set by the Board upon recommendation of the Committee after review of the applicant's experience and the determination of further experience needed or other requirements to be met.

(c) During the length of the contract the Board may renew the provisional license pursuant to the provisions in section 435:55-5-2 and verification that the licensee is making satisfactory progress as required by the contract.

(~~b~~d) No person shall be permitted to enter into an alternative qualification contract after October 31, 2004. A person who has not done so by October 31, 2004 shall not be issued a license to practice orthotics or prosthetics without meeting standard qualifications.

*[OAR Docket #06-569; filed 4-5-06]*

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## TITLE 527. STATE BOARD OF EXAMINERS OF PERFUSIONISTS CHAPTER 10. PRACTICE/LICENSURE/EXAMINATION

*[OAR Docket #06-502]*

**RULEMAKING ACTION:**
PERMANENT final adoption.
**RULES:**
527:10-1-2. Practice of perfusion/general licensure provisions [AMENDED]
**AUTHORITY:**
Title 59 O.S., Section 2055; State Board of Examiners of Perfusionists
**DATES:**
**Comment period:**
October 17, 2005 to November 24, 2005
**Adoption:**
December 5, 2005
**Submitted to Governor:**
December 8, 2005
**Submitted to House:**
December 8, 2005
**Submitted to Senate:**
December 8, 2005
**Gubernatorial approval:**
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**Legislative approval:**
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**Final adoption:**
March 31, 2006
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May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATED BY REFERENCE:**
n/a
**ANALYSIS:**
Amendments were made to allow the Board to require criminal background checks on all applicants for initial licensure.
**CONTACT PERSON:**
Jan Ewing, Deputy Director, 405-848-6841, #104

**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 11, 2006:**

### 527:10-1-2. Practice of perfusion/general licensure provisions

(a) Perfusion is the treatment, measurement or supplementation of the cardiovascular, circulatory and respiratory systems to ensure the safe management of physiologic functions by monitoring the parameters of the systems under order and supervision of a licensed physician.
(b) No person shall perform any act prohibited by the Licensed Perfusionist Act for any fee or other compensation or for free, or hold himself or herself out as a perfusionist under the Act unless first licensed by the Board of Examiners of Perfusionists to do so.
(c) The Board directs the Executive Secretary to undertake affirmative action to seek prosecution of any person found to be in violation of the Act or rules.
(d) No person shall be issued a full license or provisional license unless and until that person first fully complies with all licensure provisions of the Act and has satisfied the Board of the ability of that person to practice perfusion with reasonable skill and safety.
(e) Any license issued by the Board shall be signed by all members of the Board
(f) The Board directs the Executive Secretary to prepare and create forms to be used in the application for licensure process. Applicants shall be required to submit all information required by the Act prior to review by the Board. Application forms may be obtained from the office of the Board upon written or telephonic request.
(g) An applicant for licensure or provisional licensure must provide the Board with all information required by law and rules promulgated by the Board on forms approved by the Board. In addition, an applicant shall provide original documents or notarized duplicates. Academic records including transcripts of grades and examination scores shall be received before a determination is made by the Board as to qualification for licensure.
(h) Except as specifically may be waived by the Board upon a finding of good cause,
applications for licensure or provisional licensure must be submitted at least thirty (30)
days prior to a regularly scheduled Board meeting.
(i) Any Board member may request an applicant to provide additional information the Board member feels necessary to properly assess qualifications for licensure.
(j) Any past action disciplinary in nature must be considered by the Board en banc before any license can be issued.
(k) Applicants for licensure shall be provided a copy of the Act and rules upon request of an application for licensure. The applicant shall pay all necessary fees related to the application before the application can be considered for licensure or provisional licensure by the Board.
(l) The Board may contact other resources as necessary to make a determination as to whether the applicant meets qualifications for licensure or provisional licensure at the discretion of the Executive Secretary of the Board or any Board member.
(m) The Board may require a criminal background check on all applicants for licensure or provisional licensure. The fee shall be paid by the applicant.
(~~m~~n) An applicant may withdraw an application for licensure at any time before the application has been submitted to the Board for action; however, the applicant forfeits any fees associated with the application or licensure process.
(~~n~~o) An applicant for renewal of a license that has lapsed for failure to renew may be required, at the discretion of the Board, to meet the same requirements for full or provisional licensure at the time the application for renewal is considered by the Board.

*[OAR Docket #06-502; filed 3-31-06]*

## TITLE 540. PHYSICIAN MANPOWER TRAINING COMMISSION
## CHAPTER 10. OKLAHOMA RURAL MEDICAL EDUCATION LOAN AND SCHOLARSHIP FUND

*[OAR Docket #06-556]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
540:10-1-4. Eligibility; amount; method of payment; renewal [AMENDED]
**AUTHORITY:**
Physician Manpower Training Commission; 70 O.S. 1991 Sections 625.4
**DATES:**
**Comment period:**
November 15, 2005 through December 15, 2005
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December 15, 2005
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December 15, 2005
**Submitted to Governor:**
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**Submitted to Senate:**
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**Gubernatorial approval:**
January 25, 2006
**Legislative approval:**
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**Final adoption:**
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May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
**Superseded rules:**
540:10-1-4. [AMENDED]
**Gubernatorial approval:**
May 10, 2005
**Register publication:**
22 Ok Reg 1687
**Docket number:**
05-882
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
Provisions related to the eligibility, amount, method of payment and renewal of the program have been revised to reflect statutory amendments in Senate Bill 908 that modified the maximum scholarship amount for medical students participating and making language gender neutral.
**CONTACT PERSON:**
Cindy A. Carter, Executive Secretary, Physician Manpower Training Commission, 5500 North Western Avenue, Suite 201, Oklahoma City, Oklahoma 73118, 405/843-5667.

**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 11, 2006:**

### 540:10-1-4. Eligibility; amount; method of payment; renewal

(a) *An applicant may be eligible for the award of a scholarship ~~when the following conditions are met~~ upon demonstration that the applicant:*

(1) *~~That he desires~~ Desires a scholarship to any accredited school of medicine or school of osteopathic medicine in the United States of America;*

(2) *~~That he is~~ Is a bona fide resident of Oklahoma;*

(3) *~~That his~~ Has personal financial resources ~~are~~ such that, in the absence of scholarship aid, ~~he~~ will be unable to pursue the program of study ~~which he desires~~ desired;*

(4) *Is a person of good moral character;*

(~~4~~5) *~~that he has~~ Has successfully completed the program of instruction pre-requisite for admission to the program of study provided for in ~~this act~~ Section 625.1 et seq. of this title and has ~~been accepted~~ applied for admission to a medical school;*

(~~5~~6) *~~That he has~~ Has capacity to profit by the course of study for which ~~he~~ the applicant seeks aid;*

(~~6~~7) *~~That he desires~~ Desires to practice medicine in a rural community in Oklahoma, and;*

(~~7~~8) *~~That he submits~~ Submits proof that ~~he~~ the applicant has not accepted or will not accept any other scholarship assistance which has a conflicting service obligation requirement.* [70:625.5(s)(1)-(8)]

(b) *The amount of each scholarship grant shall not exceed ~~$6,000.00~~ $15,000.00 per academic year for students engaged in their first ~~year of study, or equivalent number of terms completed in an education program in a given period of months, and shall not exceed $12,000.00 per academic year for students engaged in their~~ second, third or fourth year of study, or equivalent ~~education period~~ number of terms completed in an education program in a given period of months.* [70:625.5(b)]

(c) *The method of payment of funds to each recipient of a scholarship grant shall be in accordance with rules formulated by the Commission governing the grants for each type of scholarship.* [70:625.5(c)]

(d) *Each scholarship is renewable annually for the number of years required to complete the course of study in which the recipient is engaged. The Commission shall grant such annual renewal only upon the recipient's application and upon the Commission's finding that the recipient:*

(1) *~~The recipient has~~ Has completed successfully the work of the preceding year and presented evidence that ~~he~~ the recipient is a student in good standing;*

(2) *~~He remains~~ Remains a resident of Oklahoma; and*

(3) *~~His~~ Is in a financial situation ~~continues to warrant~~ that warrants the award of a scholarship under the standards set forth in ~~this act~~ Section 625.1 et. seq. of this title.* [70:625.5(d)]

(e) In addition to the above requirements, an applicant must attend a medical school in the continental United States accredited by either the Liaison Committee on Medical Education of the American Medical Association or the Association of

American Medical Colleges and Bureau of Professional Education through the American Osteopathic Association.

*[OAR Docket #06-556; filed 4-4-06]*

## TITLE 540. PHYSICIAN MANPOWER TRAINING COMMISSION CHAPTER 30. OKLAHOMA NURSING STUDENT ASSISTANCE PROGRAM

*[OAR Docket #06-557]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 5. Categories of Scholarships
540:30-5-1. [AMENDED]
**AUTHORITY:**
Physician Manpower Training Commission; 70 O.S. 1991 Sections 625.13 and 697.18
**DATES:**
**Comment period:**
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**Public hearing:**
December 15, 2005
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**Submitted to Governor:**
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December 20, 2005
**Gubernatorial approval:**
January 25, 2006
**Legislative approval:**
Failure of the Legislature to disapprove the rule(s) resulted in approval on March 31, 2006.
**Final adoption:**
March 31, 2006
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May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
For fulfillment of employment obligation by recipient these amendments will allow home health agencies and hospice organizations to be approved as viable locations for fulfillment of employment obligation by the Commission's recipient nurses.
**CONTACT PERSON:**
Cindy A. Carter, Executive Secretary, Physician Manpower Training Commission, 5500 North Western Avenue, Suite 201, Oklahoma City, Oklahoma 73118, 405/843-5667.

**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 11, 2006:**

### SUBCHAPTER 5. CATEGORIES OF SCHOLARSHIPS

**540:30-5-1. Matching Nursing Student Assistance Program**

(a) Scholarships granted under the Matching Nursing Student Assistance Program shall stipulate that a sponsor and the Physician Manpower Training Commission provide equal dollar amounts for funding the scholarships.

(b) Sponsors of nurse students may be hospitals, nursing homes, home health and hospice agencies, other health care delivery facilities, public agencies, corporations, private organizations, communities, foundations, trusts, or other entities who wish to apply for and, if approved, match an amount equal to fifty percent of the loan authorized by the Commission.

(c) Under the provisions of the Matching Nursing Student Assistance Program, a student may receive a minimum total matching scholarship of $1,000 - ($500/$500), up to a maximum total matching scholarship of $5,000 - ($2,500/$2,500). The monies are to be used for payment of tuition, required fees, equipment, uniforms, training materials, books, and other educationally related expenses necessary for attendance at nursing school.

(d) An approximate guideline of seventy percent of all monies appropriated for the Physician Manpower Training Commission Nursing Student Assistance Program may be used for funding scholarships approved under the Matching Nursing Student Assistance Program. Approximately seventy percent of all funds designated for the Matching Nursing Student Assistance Program may be expended for nursing scholarships in communities with a population under 20,000. A mix of 25% urban/70% rural should serve as a proportionate split of funds if possible.

(e) Scholarship recipients may carry out their service obligation by practicing full time as a licensed practical or registered nurse (excluding physician's offices, private duty practice, research, federally-funded program or facility, ~~proprietary home health or hospice agencies,~~ industrial and summer camp nursing) as agreed to by contract or with Commission approval.

(f) Scholarship recipients may carry out their service obligation by teaching in an accredited/approved Oklahoma nursing school (provided other Oklahoma Board of Nursing faculty qualifications are met).

(g) Scholarship receipts who become nurse practitioners may carry out their service obligation by practicing full time as a nurse practitioner at any non-federal hospital, nursing home, state health facility, qualified rural health clinic, or non-federal hospital owned or leased rural physician clinic.

(h) Receipts received from sponsors shall be deposited into and disbursed from a Commission revolving fund created by State Law in the State Treasury.

*[OAR Docket #06-557; filed 4-4-06]*

## TITLE 540. PHYSICIAN MANPOWER TRAINING COMMISSION
## CHAPTER 45. PHYSICIAN ASSISTANT SCHOLARSHIP PROGRAM

*[OAR Docket #06-558]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
540:45-1-1. through 540:45-1-8. [NEW]
**AUTHORITY:**
Physician Manpower Training Commission; 70 O.S. 1991 Sections 625.4
**DATES:**
**Comment period:**
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**SUPERSEDED EMERGENCY ACTIONS:**
**Superseded rules:**
540:45-1-1. through 540:45-1-8. [NEW]
**Gubernatorial approval:**
August 4, 2005
**Register publication:**
22 Ok Reg 2780
**Docket number:**
05-1198
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
Provisions related to the purpose, terms, conditions, eligibility, amount, method of payment and renewal of the Physician Assistant Scholarship Program to reflect statutory language.
**CONTACT PERSON:**
Cindy A. Carter, Executive Secretary, Physician Manpower Training Commission, 5500 North Western Avenue, Suite 201, Oklahoma City, Oklahoma 73118, 405/843-5667.

**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 11, 2006:**

**540:45-1-1. Purpose**

The Physician Manpower Training Commission shall establish and administer a Physician Assistant Scholarship Program under the provisions of Section 697.21 Title 70 of the Oklahoma State Statutes. *The purpose of the program is to encourage persons to enter physician assistant education programs and to practice in rural and medically underserved areas of this state.* [70:697.21(a)]

**540:45-1-2. Statutory administration**

*The Physician Assistant Scholarship Program shall be administered by the Physician Manpower Training Commission pursuant to rules promulgated by the Commission and shall be funded based on an annual estimate of need as determined by the Commission.* [70:697.21(a)]

**540:45-1-3. Terms and conditions of scholarship**

The terms and conditions governing the scholarship shall be as prescribed and formulated by the Physician Manpower Training Commission, but shall include the conditions that each recipient upon completion of the course of study, shall repay the scholarship by practicing in a rural Oklahoma community outside the Oklahoma City and Tulsa Metropolitan Service Areas and having a population of 20,000 or less according to the last preceding United States Decennial Census and having a need therefore, as determined by the Commission, for one month for each month the scholarship was received. The contract shall provide that in the event the recipient breaches the terms of the contract by not serving in an approved community for the specified period of time, the recipient shall pay liquidated damages in an amount not to exceed 100% of the principal. After payment of liquidated damages, repayment of the principal may be made in cash with *interest at a rate that equals the prime interest rate plus one percent (1%) from the date of disbursement of the funds.* [70:697.21(c)]

**540:45-1-4. Eligibility; amount; method of payment**

(a) *Only students who are residents of this state and who have been admitted as a student in an accredited physician assistant program shall be eligible to participate in the Physician Assistant Scholarship Program.* [70:697.21(b)]
(b) Applicants must also indicate a desire and intent *to practice in rural and medically underserved areas of this state.* [70:697.21(a)]
(c) Applicants must submit proof that they are not currently obligated, and will not become obligated, to any other scholarship assistance that has a conflicting service obligation requirement.
(d) *The number of and amount of each award shall be determined by the Commission based on the availability of funds.* [70:697.21(a)]
(e) In the event a physician assistant student begins participation in the scholarship program after the beginning of an academic year, the Commission may approve retroactive payment.

**540:45-1-5. Procedures for administering scholarships**

The Commission shall promulgate and adopt procedures as may be necessary to carry out the administration of the

scholarship program. The Commission shall delineate the following procedures:

(1) **Promulgation of information concerning scholarships.** Every reasonable effort shall be made to contact all physician assistants being trained in the State of Oklahoma concerning the availability of the scholarship.

(2) **Applications.** All interested physician assistant students shall file an application with the Physician Manpower Training Commission. This application can be submitted at any time during the year. Applications are available in the office of the Physician Manpower Training Commission.

(3) **Approval of scholarship by the Commission.** Scholarship applications shall be submitted to the Commission for approval at any regular Commission meeting. Applications will be reviewed in the order they are received and will be approved or declined as determined by the Commission.

(4) **Renewal of contracts.** The original scholarship shall be guaranteed for the initial fiscal year, and renewed each year thereafter contingent upon funding from the Legislature, and continued approval of the Commission based on the students academic performance and recommendation of the Director of the Physician Assistant Program.

**540:45-1-6. Repayment of scholarship loan**

(a) Each recipient shall repay the scholarship loan to the state by practicing full time in an approved community in Oklahoma, one month for each month the scholarship loan was received. The period shall begin on the date the recipient begins to practice in the approved community.

(b) Repayment of the total amount of the loan, plus principal, interest, litigation costs, and liquidated damages in an amount up to 100% of principal as assessed by the Physician Manpower Training Commission, upon failure of the recipient to fulfill the contractual obligations, shall be made payable to the Commission.

(c) *There is hereby created in the State Treasury a revolving fund for the Physician Manpower Training Commission to be designated the "Physician Assistant Scholarship Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Physician Manpower Training Commission for implementation of the Physician Assistant Scholarship Program. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Physician Manpower Training Commission for such scholarships as may be provided for pursuant to the Physician Assistant Scholarship Program. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.* [70:697.21(d)]

**540:45-1-7. Applicant contracts**

(a) Each applicant, before being granted a scholarship, shall enter into a contract with the Commission agreeing to the terms and conditions upon which the scholarship shall be granted to the applicant.

(b) The recipient shall fulfill their contractual obligation to a qualifying community as outlined in the original contract.

(c) The contract shall include such terms and provisions as will carry out the full purpose and intent of the Physician Assistant Scholarship Program, and shall be in a form prepared and approved by the Attorney General.

(d) The contract shall be signed by the Executive Director on behalf of the Commission, and by the applicant. In the event the applicant is married, the contract shall also be cosigned by the applicant's spouse.

(e) The Commission may file suit against any recipient, and cosigner if applicable, for any balance due the Commission on any contract. The Commission may cancel any contract made between it and any recipient of a scholarship upon cause deemed sufficient by the Commission.

(f) The Commission shall maintain copies of the Physician Assistant Scholarship Program contracts in its offices.

**540:45-1-8. Annual reports to Governor and Legislature**

The Commission shall make an annual report to the Governor and Legislature on the activities of the Physician Assistant Program. This report shall include the names of recipients, an accounting of the funds expended on scholarships and on the administration of the program.

*[OAR Docket #06-558; filed 4-4-06]*

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## TITLE 545. BOARD OF PODIATRIC MEDICAL EXAMINERS
## CHAPTER 15. EXAMINATION/LICENSURE

*[OAR Docket #06-503]*

**RULEMAKING ACTION:**
PERMANENT final adoption.
**RULES:**
545:15-1-3. Requirements for application [AMENDED]
**AUTHORITY:**
Title 59 O.S., Section 141, Board of Podiatric Medical Examiners
**DATES:**
**Comment period:**
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**Adoption:**
November 4, 2005
**Submitted to Governor:**
November 9, 2005
**Submitted to House:**
November 9, 2005
**Submitted to Senate:**
November 9, 2005
**Gubernatorial approval:**
December 19, 2005
**Legislative approval:**
Failure of the Legislature to disapprove the rule resulted in approval on March 31, 2006.
**Final adoption:**
March 31, 2006
**Effective:**
May 11, 2006

**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATED BY REFERENCE:**
n/a
**ANALYSIS:**
Title 59 O.S., §144 states in part that an applicant for examination/licensure shall not have been finally convicted of any crime involving moral turpitude or of any felony. The rule is being amended to allow the Board to require a criminal background check on all applicants.
**CONTACT PERSON:**
Jan Ewing, Deputy Director, (405) 848-6841, ext. 104

**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 11, 2006:**

**545:15-1-3. Requirements for application**

(a) The applicant shall file written application and examination fee with the Board office.
(b) The applicant must have attained the age of twenty-one (21) years.
(c) The applicant must be of good moral character.
(d) The applicant must not have been convicted of any crime involving moral turpitude, or of any felony. The Board may require a criminal background check on all applicants. Fee shall be paid by the applicant.
(e) The applicant must be free of contagious disease, except as this rule is limited by federal or state law.
(f) The applicant must be a graduate of a college of podiatric medicine which confers the degree of Doctor of Podiatric Medicine (D.P.M.) or its equivalent; and meeting all the requirements for accreditation by the Council on Education of the American Podiatric Medical Association and by the Oklahoma State Board of Podiatry.
(g) The applicant must have complied with all the rules of the Board.
(h) The applicant must have taken each part of the National Board of Podiatry Examination and received a passing score on each, and submit proof thereof of score obtained with the application.

*[OAR Docket #06-503; filed 3-31-06]*

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## TITLE 545. BOARD OF PODIATRIC MEDICAL EXAMINERS
## CHAPTER 20. MAINTAINING LICENSURE

*[OAR Docket #06-504]*

**RULEMAKING ACTION:**
PERMANENT final adoption.
**RULES:**
Subchapter 3. Continuing Education
545:20-3-3. Approved continuing education programs [AMENDED]
**AUTHORITY:**
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**DATES:**
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**Superseded rules:**
Subchapter 3. Continuing Education
545:20-3-3. Approved continuing education programs [AMENDED]
**Gubernatorial approval:**
June 21, 2005
**Register publication:**
22 Ok Reg 2747
**Docket number:**
05-1172
**INCORPORATED BY REFERENCE:**
n/a
**ANALYSIS:**
This rules outlines the programs that are approved for continuing education and the number of hours that may be obtained in each category. The rule was amended to approve certain internet courses and to limit the number of hours that may be obtained through other sources.
**CONTACT PERSON:**
Jan Ewing, Deputy Director, (405) 848-6841, ext. 104

**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 11, 2006:**

### SUBCHAPTER 3. CONTINUING EDUCATION

**545:20-3-3. Approved continuing education programs**

(a) Any program approved by the Council on Continuing Education of the American Podiatric Medical Association will be approved by the Board for the hours actually attended by the candidate.
(b) ~~Three hours of continuing education credits may be granted a candidate by attending meetings or hearings of the Board~~ One (1) hour of continuing education credit may be granted an applicant by attending a meeting or hearing of the Board; not to exceed three (3) hours per renewal period.
(c) Hospital programs of continuing education consisting of lecture, audio-visual, talk-back and grand rounds as well as clinico-pathological conferences shall be granted as per the hours of actual attendance, whether these hours be of a medical or podiatric nature. These programs and attendance must be verified by the continuing education director of that institution. No more than ~~ten (10)~~ five (5) hours of continuing education credit may be given.

(d) National, state and local society sponsored programs will be approved as per the guidelines established by the Council of Continuing Education of the American Podiatric Medical Association and the Board.

(e) Hours obtained in colleges or universities, while working on a degree or non-degree program, providing these courses shall be of a medical nature, shall be granted one (1) hour of continuing education for each credit hour granted by the college or university.

(f) Hours of continuing education submitted to the Board for approval, by any member, from any source, must be certified by the continuing education director of the institution or organization from which the hours were obtained, that he or she was in actual attendance for the specified period.

(g) Applicants may be granted three (3) hours of continuing education credit for obtaining Cardio-Pulmonary Resuscitation Certification during the current licensure year or six (6) hours of continuing education credit for obtaining Advanced Cardiac Life Support Certification during the current licensure year. ~~Holders of current Cardio-Pulmonary Resuscitation Certificates shall be granted three (3) hours credit of continuing education.~~

(h) Credit may be given for correspondence work or internet courses if pre-approved by the Board or approved by the Council on Continuing Education of the American Podiatric Medical Association. A maximum of five (5) hours per ~~year~~ renewal period may be obtained in this manner.

*[OAR Docket #06-504; filed 3-31-06]*

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## TITLE 600. REAL ESTATE APPRAISER BOARD
## CHAPTER 10. LICENSURE AND CERTIFICATION REQUIREMENTS

*[OAR Docket #06-532]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
600:10-1-5. Qualifying education prerequisites [AMENDED]
600:10-1-7. Continuing education [AMENDED]
600:10-1-8 Course approval requirements [AMENDED]
600:10-1-16. Supervision of trainee appraisers [AMENDED]
**AUTHORITY:**
Oklahoma Real Estate Appraisers Act; 59 O.S. § 706 (B); Real Estate Appraiser Board
**DATES:**
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July 14, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The proposed amendment to rule 600:10-1-5 removes language no longer necessary and brings the rule into compliance with Policy Statement 10 of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council regarding affidavits. The proposed amendments to rule 600:10-1-7 remove unnecessary language regarding Trainee Appraisers and specifies required compliance with the Appraiser Qualification Criteria promulgated by the Appraiser Qualification Board regarding the USPAP Update course. The proposed amendments to rule 600:10-1-8 provide for limiting periods of approval for courses and instructors and provide a means of supervision of course providers. The proposed amendments to rule 600:10-1-16 provide for a means of approving trainee supervisors for supervision of more than three Trainee Appraisers in accordance with the Criteria.
**CONTACT PERSON:**
George R. Stirman III, Director, Real Estate Appraiser Board, Oklahoma Insurance Department, 2401 NW 23rd St, Ste 28, Oklahoma City, OK 73107

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2006:**

### 600:10-1-5. Qualifying education prerequisites

Classroom hours shall be approved by the Board pursuant to the guidelines set forth in the Appraiser Qualification Criteria promulgated by the Appraiser Qualifications Board of the Appraisal Foundation. Copies of official transcripts of college records or certificates of course completion will be considered as satisfactory evidence for qualifying education requirements. ~~The Board may grant credit for past courses taken when the time elapsed since completion is such that records and proper documentation are not available. The applicant would describe such qualifying education in a letter and by affidavit subject to disciplinary action by the Board. The number of hours of credit for such courses will be the final decision of the Board.~~

### 600:10-1-7. Continuing education

(a) All Trainee, State Licensed, State Certified Residential and State Certified General Appraisers shall complete the minimum classroom hours set forth in the Appraiser Qualification promulgated by the Appraiser Qualifications Board of the Appraisal Foundation for the three (3) year period preceding renewal. ~~Trainee appraisers shall complete the minimum classroom hours set forth in the Appraiser Qualification Criteria promulgated by the Appraiser Qualifications Board of the Appraisal Foundation for the State Licensed Appraiser.~~ These hours may be obtained any time during the three year term which concludes on the expiration date printed on the certificate.

(b) Copies of official transcripts of college records or certificates of course completion will be considered as satisfactory evidence for continuing education requirements.

(c) Up to one-half the required hours of continuing education may be Board-approved courses offered by distance education as defined by the Appraiser Qualification Criteria of the Appraiser Qualifications Board of the Appraisal Foundation.

(d) As a part of the continuing education requirement, all Trainee, State Licensed, State Certified Residential and State Certified General Appraisers must successfully complete the seven (7) hour National USPAP Update Course, or an approved equivalent, every two calendar years, commencing on January 1, 2005.

**600:10-1-8. Course approval requirements**

(a) Any person or entity seeking to conduct an approved course for qualifying or continuing education credits shall make application and submit documents, statements and forms as may reasonably be required by the Board. All providers shall provide to the Board:

(1) Name and address of the provider;

(2) Contact person and his or her address and telephone number;

(3) The location of the courses or programs, if known;

(4) The number and type of education credit hours requested for each course;

(5) Topic outlines which list the summarized topics covered in each course and upon request, a copy of any course materials. If a prior approved course has substantially changed, a summarization of those changes.

(6) The names and qualifications of instructors. An instructor shall have a minimum of one (1) of the following qualifications:

(A) A baccalaureate degree in any field and three (3) years of experience directly related to the subject matter to be taught; a masters degree in any field and one (1) year of experience directly related to the subject matter to be taught; a masters or higher degree in a field that is directly related to the subject matter to be taught; five (5) years of real estate appraisal teaching experience directly related to the subject matter to be taught; seven (7) years of real estate appraisal experience directly related to the subject matter to be taught; or

(B) Possess other educational, teaching, or professional qualifications determined by the Board to constitute an equivalent to one or more of the qualifications in the previously stated paragraphs (A), (B), or (C) of this paragraph.

(b) Approval of courses and instructors shall be for a three year period. Courses and instructors may be renewed for an additional period on application to the Board.

(c) Course providers shall provide written notice of date, time, place, and title of courses to be presented not less than seven (7) days in advance of the beginning date of the course. Courses presented shall be subject to unannounced compliance inspection by a representative of the Board.

(d~~b~~) In addition to accepting courses approved as described in this section, qualifying and continuing education credits may be granted to an individual in such case that said individual supplies acceptable documentation showing that the offering meets applicable Board requirements for the category of credit applied for, including proof that said individual attended and successfully completed the offering.

(e~~c~~) The Board may automatically accept without further review, courses pre-approved by the Appraiser Qualifications Board of the Appraisal Foundation.

(f~~d~~) The Board may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this chapter.

(g~~e~~) No person or entity sponsoring, conducting, or teaching a course of study shall advertise that it is endorsed, recommended or accredited by the Board. Such person or entity may indicate that a course of study has been approved by the Board if that course of study has been pre-approved by the Board before it is advertised or held. Any such statement regarding Board approval shall specify the number of classroom hours approved, and whether the course is approved for qualifying education hours, continuing education hours, or both.

(h~~f~~) At the completion of each course, the provider shall provide to the Board a list of all licensees and those attending qualifying courses who completed the course on a Course Completion Form approved by the Board.

(i~~g~~) Providers shall maintain course records for at least five (5) years. The Board may order an examination of a provider for good cause shown.

**600:10-1-16. Supervision of trainee appraisers.**

(a) Trainee Appraisers shall report to the Board, on a form prescribed by the Board, the identity of any supervisory appraiser. Trainee Appraisers may have more than one supervisory appraiser, but a supervisory appraiser may not supervise more than three (3) trainee appraisers at one time, except as permitted in subparagraph i of this paragraph. When a Trainee Appraiser has more than one supervisory appraiser, each shall be reported to the Board as indicated above.

(1) The supervisor-trainee relationship shall become effective on the date of receipt of the original required form with original signatures in the administrative office of the Board.

(2) A supervisory appraiser shall notify the Board in writing immediately when supervision of a Trainee Appraiser has been terminated by the supervisory appraiser or the Trainee Appraiser.

(3) Supervisory appraisers having responsibility for more than three (3) trainee appraisers on the effective date of this rule may keep those relationships intact, but may not undertake additional supervisory responsibilities until such time as this action will not violate the three (3) trainee limitation imposed above.

(b) Trainee Appraisers shall maintain an appraisal log on a form prescribed by the Board. Separate appraisal logs shall be maintained for work performed with each supervisory appraiser. This appraisal log shall record the following information:

(1) Client name and date of report,

(2) Address or legal description of the real property appraised,

(3) Description of the work performed by the trainee appraiser and the scope of review and supervision of the supervisory appraiser,

(4) Number of actual hours worked,

(5) Type of property appraised~~.~~,

(6) Form number or description of report rendered, and

(7) The signature and state certificate number of the supervisory appraiser.

(c) Experience credit for the purpose of upgrading will not be given unless:

(1) a properly completed trainee-supervisory report form is on file in the administrative office of the Board, and

(2) the Trainee Appraiser either signs the certification required by Standards Rule 2-3 of the Uniform Standards of Professional Appraisal Practice, or the supervisory appraiser gives credit to the Trainee Appraiser in the certification and complies with the requirements of Standards Rule 2-2(a)(vii), 2-2(b)(vii), or 2-2(c)(vii) as applicable.

(d) Both supervisory and trainee appraisers shall maintain complete workfiles as required by the Uniform Standards of Professional Appraisal Practice and the Oklahoma Certified Real Estate Appraisers Act.

(e) A supervisory appraiser shall meet the following requirements:

(1) have been a State Licensed or Certified Appraiser for a period of at least three (3) years;

(2) be a State Certified General or State Certified Residential Appraiser on a credential issued by the Oklahoma Real Estate Appraiser Board;

(3) be in good standing with the Board and not subject to any disciplinary action within the last two years that affects the supervisor's legal eligibility to engage in appraisal practice; and

(4) accept responsibility for training, guidance, and direct supervision of the Trainee Appraiser by signing the form referenced in (a), above.

(5) State Licensed appraisers with supervisor-trainee relationships in place on the effective date of this rule may keep those relationships intact, but may not undertake additional supervisory responsibilities until such time as they have upgraded to State Certified General or State Certified Residential Appraiser.

(f) A supervisory appraiser shall:

(1) accept responsibility for a Trainee Appraiser's appraisal reports by signing each report and certifying that the report is in compliance with the Uniform Standards of Professional Appraisal Practice, and

(2) personally inspect each appraised property with the Trainee Appraiser until the supervisory appraiser determines that the Trainee Appraiser is competent, in accordance with the Competency Rule of the Uniform Standards of Professional Appraisal Practice, for the property type.

(g~~f~~) A supervisory appraiser shall notify the Board immediately when supervision of a Trainee Appraiser has been terminated by the supervisory appraiser or the Trainee Appraiser.

(h~~g~~) Prior to assuming duties as a supervisory appraiser, an appraiser who has been disciplined by the Board must receive approval from the Board.

(i) A supervisory appraiser may assume responsibility for more than three Trainee Appraisers under the following terms and conditions:

(1) The supervisor must apply for authority to supervise more than three Trainee Appraisers with the Board on forms approved by the Board for this purpose. This approval shall extend to the supervisor or supervisors, the facility and the training plan. Any approval issued hereunder shall specify a maximum number of trainees authorized.

(2) The supervisor must specify the location of the facility to be used for this purpose, which may not be a residence. The facility must have posted hours, approved by the Board, during which the facility will be open and a qualified supervisor present. During the operating hours, the facility and all records specified herein shall be subject to unannounced compliance inspection by a representative of the Board.

(3) The supervisor must prepare a training plan, based on the Core Curriculum and the Real Property Appraiser Body of Knowledge promulgated by the Appraiser Qualification Board of The Appraisal Foundation, appropriate to the level of licensure to which the trainee aspires and for which the supervisor is qualified. This training plan should, as a minimum, include learning objectives for the experience to be gained, a planned time line for further qualifying and continuing education required to bring the trainee to a fully qualified status, and a checklist for monitoring progress by the trainee toward meeting these objectives.

(4) Records maintained in the training facility must include the training plan, an appraisal log, a workfile for each appraisal assignment, and a progress checklist, each maintained on a contemporaneous basis, for each Trainee Appraiser. In addition, appropriate reference materials should be on hand, which must include the current edition of the USPAP.

(5) Approval of any supervisor or supervisors under this paragraph may be conditioned upon an interview of such supervisors by a representative of the Board.

*[OAR Docket #06-532; filed 4-3-06]*

# TITLE 600. REAL ESTATE APPRAISER BOARD
# CHAPTER 15. DISCIPLINARY PROCEDURES

*[OAR Docket #06-533]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
600:15-1-6. Notice of disciplinary proceedings [AMENDED]
**AUTHORITY:**
Oklahoma Real Estate Appraisers Act; 59 O.S. § 706 (B); Real Estate Appraiser Board
**DATES:**
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**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The proposed amendment to rule 600:15-1-6 provides a method of resolving motions, objections and other matters encountered with respect to hearings.
**CONTACT PERSON:**
George R. Stirman III, Director, Real Estate Appraiser Board, Oklahoma Insurance Department, 2401 NW 23rd St, Ste 28, Oklahoma City, OK 73107

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2006:**

### 600:15-1-6. Notice of disciplinary proceedings

(a) Where the Board deems the Probable Cause Committee's response to the grievance warrants disciplinary proceedings, the Respondent shall be served with Notice of Disciplinary Proceedings which shall specify the rule, statute, or standard(s) of professional conduct allegedly violated by the Respondent. Service of such notice shall be by Certified Mail, Return Receipt Requested to the last address reported to the Board by the Respondent.

(b) No less than ten (10) days prior to the scheduled hearing, written notice shall be provided to the parties stating which individual Hearing Officers will comprise the Panel conducting the disciplinary proceedings. Upon a showing of good cause, any Hearing Panel member selected may be removed by either party. If the parties cannot agree upon a Hearing Panel, either party may make written application to the Board which shall then make an appointment.

(c) Following selection and acceptance of the three (3) member Hearing Panel, the three members shall elect one member to serve as Chairman of the Hearing Panel, to preside over the hearing for which they have been selected.

(d) By mutual agreement of the parties the hearing may be rescheduled by the Director at a different time, date or location with proper written notice of such change given to all parties.

(e) Disciplinary proceedings shall be conducted by a Hearing Panel.

(f) Hearing Officers shall be appointed by Board order. All such persons must be State Certified Residential or State Certified General Appraisers. All hearing officers shall be selected by the Board.

(g) The Board or the Hearing Panel may utilize as a hearing officer counsel to the Board to hear prehearing matters specified by the Board. The duties assigned to Board counsel may include, but are not limited to, any of the following:

(1) to hear and rule on pretrial discovery disputes;
(2) to hear and rule on Motions in Limine;
(3) to review Motions to Dismiss in order to advise the Board or the Hearing Panel on questions of law arising therein;
(4) to hear and rule on Motions for Continuance of a hearing;
(5) to hear and rule on other preliminary motions;
(6) to hear and rule on motions to have a panel member recused from a hearing;
(7) to mark, identify, and admit or deny exhibits; and
(8) to rule upon objections made during the hearing.

(h) Any pretrial motions, discovery motions, Motions to Dismiss, Motions for Continuance, must be submitted to the Director or to Board Counsel no less than ten (10) days before the date of any hearing in the proceeding is scheduled before a Hearing Panel or the Board.

(i~~g~~) The Hearing Panel shall complete the case and issue any rulings, findings, conclusions or recommendations.

(j~~h~~) Any person subject to the jurisdiction of the Board, who shall attempt to pressure, coerce, intimidate, or otherwise influence or affect the opinion of a board member, hearing officer, witness or complainant regarding a disciplinary matter, shall be subject to disciplinary action by the Board.

(k~~i~~) In the event any hearing officer has any personal, social, or economic relationship with the complainant, appraiser named in any complaint, or any attorney involved in the proceedings, the hearing officer shall make full disclosure of that relationship to the Board who shall take appropriate administrative action to assure objectivity in the proceedings including, if necessary, replacement of any Hearing Panel member.

*[OAR Docket #06-533; filed 4-3-06]*

## TITLE 600. REAL ESTATE APPRAISER BOARD
## CHAPTER 20. COMMITTEES

*[OAR Docket #06-534]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
600:20-1-3. Appointment and removal of committee members [AMENDED]
**AUTHORITY:**
Oklahoma Real Estate Appraisers Act; 59 O.S. § 706 (B); Real Estate Appraiser Board
**DATES:**
**Comment Period:**
December 1, 2005 through January 4, 2006
**Public Hearing:**
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Failure of the Legislature to disapprove the rules resulted in final approval on March 31, 2006
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March 31, 2006
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July 14, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
n/a
**INCORPORATIONS BY REFERENCE:**
n/a
**ANALYSIS:**
The proposed amendment to 600:20-1-3 enables the Board to organize committees as required by prevailing circumstances.
**CONTACT PERSON:**
George R. Stirman III, Director, Real Estate Appraiser Board, Oklahoma Insurance Department, 2401 NW 23rd St, Ste 28, Oklahoma City, OK 73107

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2006:**

### 600:20-1-3. Appointment and removal of committee members

(a) Each Board member shall nominate two (2) persons to serve on each committee. Committee members shall serve from January 1 through December 31 of each calendar year. Committee members may be reappointed to a committee so as to serve for more than one (1) year.
(b) The Board shall approve all persons appointed to a committee. Committee appointments for the upcoming year shall be approved by the Board at its last regularly scheduled meeting during the calendar year. Subsequently, if there are committee vacancies, the Board shall approve persons to serve the remaining term of the vacancy.
(c) The names of persons being nominated for committee appointment shall be presented to the Board at least two (2) weeks before the Board meeting at which time they will be considered for appointment.
(d) The Board shall maintain a current listing of all committee members which shall include the Board members who nominated them. The Board shall also maintain a file containing current professional qualification information on each committee member. The Board may instruct the Director of the Board to maintain this information on its behalf.
(e) Appraisers serving on the Standards and Disciplinary Procedures Committee must be either a State Certified Residential or State Certified General Appraiser.
(f) If circumstances warrant, the Board may provide for the appointment of additional persons to serve on ~~the Standards and Disciplinary Procedures~~ any Committee. These additional persons shall be approved by the Board, and their terms shall expire on December 31 of the year in which they are appointed.
(g) Where good cause for removal is shown, and with proper notification having been given to the party in question, committee members may be removed by the Board at a regularly scheduled meeting.
(h) At no time shall a majority of persons serving on any Board committee be members or affiliates with any one or particular nationally recognized real estate appraisal trade association.

*[OAR Docket #06-534; filed 4-3-06]*

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## TITLE 610. OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION
## CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS

*[OAR Docket #06-599]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 27. Teacher Shortage Employment Incentive Program
610:25-27-4. Coursework requirements for participant eligibility [AMENDED]
610:25-27-6. Participant eligibility for benefits of the TSEIP [AMENDED]
**AUTHORITY:**
70 O.S. §698.3; 70 O.S. §3206(i); State Regents for Higher Education
**DATES:**
**Comment period:**
August 15, 2005 through September 14, 2005
**Public hearing:**
None
**Adoption:**
December 1, 2005
**Submitted to Governor:**
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**Submitted to House:**
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**Gubernatorial approval:**
December 19, 2005
**Legislative approval:**
Failure for Legislature to disapprove rules resulted in approval on March 31, 2006

**Final adoption:**
March 31, 2006
**Effective:**
May 11, 2006
**SUPERSEDED EMERGENCY ACTIONS:**
N/A
**INCORPORATIONS BY REFERENCE:**
N/A
**ANALYSIS:**
The amendments remove specific content in the TSEIP rules to better correspond with the related Oklahoma statute (70 O.S. §698.3). More specifically, the amendments remove the reference to grades 7-12 as being secondary level. The law for TSEIP does not dictate the specific grade levels for Oklahoma secondary public schools but only stipulates "a secondary level public school of this state". In addition, the amendments remove reference to emergency teaching credentials. This reference is irrelevant based on other rule requirements.
**CONTACT PERSON:**
Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9335.

**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 11, 2006:**

## SUBCHAPTER 27. TEACHER SHORTAGE EMPLOYMENT INCENTIVE PROGRAM

### 610:25-27-4. Coursework requirements for participant eligibility

In order to satisfy the coursework requirements of the program, the participant must:

(1) Declare an intention to teach in Oklahoma and graduate from an Oklahoma teacher education program.

(2) Maintain satisfactory progress in an academic program leading to an undergraduate or graduate degree with a major in a mathematics or science teacher education program.

(3) Complete coursework and training necessary to obtain a teaching certificate~~ other than an emergency credential~~, which requires a baccalaureate degree or graduate degree and completion of an approved program of professional teacher preparation. The teacher preparation program shall include a student teaching requirement and authorize service for the secondary~~ (7-12)~~ level.

(4) Secure employment to teach in either a science or mathematics subject areas within sixteen months of graduating from a four-year institution in Oklahoma.

(5) Participant must not have been certified to teach mathematics or science prior to signing the Participation Agreement.

### 610:25-27-6. Participant eligibility for benefits of the TSEIP

In order to qualify to receive disbursement benefits under the TSEIP, the Participant must have:

(1) Obtained an initial teaching license and then a certificate and provided eligible full-time teaching service under a regular teaching contract at an Oklahoma public school:

(A) at the secondary~~ (7-12)~~ level,

(B) for five (5) consecutive school years,

(C) in the mathematics or science subject areas.

(2) Completed the five years of teaching, as required, with not less than seventy-five percent (75%) of the teaching assignment meeting the criteria, as described in (A) of this subparagraph.

(3) Completed the first full year of eligible full-time teaching service, as described above, within twenty-five (25) months from the date of graduation from a four-year institution in Oklahoma.

(4) Notwithstanding the provisions of this subparagraph, Participants may apply for a leave of absence when a serious illness, pregnancy or other natural cause prevents the Participant from continuing the coursework requirements or from providing consecutive full-time teaching service.

(A) Leaves of absence may not exceed more than one academic year and will not be included for the purpose of calculating the consecutive five (5) years of teaching service.

(B) Participants must present official school documentation that a leave of absence has been granted which meets the provisions of these rules. Official notification must be given within one year that the teacher has resumed the teaching duties or Participant will be withdrawn from the program.

*[OAR Docket #06-599; filed 4-7-06]*

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## TITLE 695. STATE AGENCY REVIEW COMMITTEE
## CHAPTER 10. OKLAHOMA STATE ~~EMPLOYEE~~ CHARITABLE ~~CONTRIBUTION~~ CAMPAIGN RULES

*[OAR Docket #06-488]*

**RULEMAKING ACTION:**
PERMANENT final adoption
**RULES:**
Subchapter 1. General Provisions
695:10-1-2. [AMENDED]
695:10-1-5. [AMENDED]
695:10-1-6. [AMENDED]
695:10-1-8. [AMENDED]
695:10-1-9. [AMENDED]
695:10-1-10. [AMENDED]
695:10-1-11. [AMENDED]
Subchapter 3. Principal Combined Fund Raising Organizations
Part 1. State Principal Combined Fund Raising Organization (STATE PCFRO)
695:10-3-2. [AMENDED]
695:10-3-3. [AMENDED]
695:10-3-4. [AMENDED]
Subchapter 5. Conduct of the Charitable ~~Contribution~~ Campaign
695:10-5-3. [AMENDED]
695:10-5-4. [AMENDED]
695:10-5-6. [AMENDED]
Subchapter 7. Pledge Cards, Payroll Authorizations and Mailing Lists

695:10-7-2. [AMENDED]
695:10-7-3. [AMENDED]
Subchapter 9. Remittance, Allocation and Distribution of Funds
695:10-9-2. [AMENDED]
Subchapter 11. State and Local PCFRO Proceeds and Costs
695:10-11-2. [AMENDED]
Subchapter 13. Notices, Complaints, Appeals and Hearings
695:10-13-3. [AMENDED]

**AUTHORITY:**
State Agency Review Committee; 74 O.S., § 7005.

**DATES:**
**Comment period:**
October 1, 2005 through November 11, 2005
**Public hearing:**
November 9, 2005
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May 11, 2006

**SUPERSEDED EMERGENCY ACTIONS:**
**Superseded rules:**
Subchapter 5. Conduct of the Charitable ~~Contribution~~ Campaign
695:10-5-6. [AMENDED]
**Gubernatorial approval:**
September 13,2005
**Register issue:**
23 Ok Reg 638
**Docket number:**
06-60

**INCORPORATIONS BY REFERENCE:**
None

**ANALYSIS:**
Generally, the rules are being amended throughout to reflect the statutory name change passed by the legisla-ture during the 2004 legislative session from Oklahoma State Employee Charitable Contribution Campaign, to Okla-homa State Charitable Campaign. The proposed amendments to 695:10-1-5 are to specify the type of support that theOffice of Personnel Management will supply to the State Agency Review Committee. The proposed amendments to 695:10-1-6 are to clarify the roles of the state and local PCFROs as to Local Advisory Review Committees. The pro-posed amendment to 695:10-1-8 is to provide a point of e-mail contact for the State Agency Review Committee. Theproposed amendments to 695:10-1-9 are to clarify the State Agency Review Committee's policies as to inspection and release of records. The proposed amendments to 695:10-1-10 are to make language within the rule consistent.

The proposed amendment to 695:10-1-11 is to clarify when a request to initiate rulemaking procedures will be deemed to have been denied. The proposed amendment to 695:10-3-2 is to extend the deadline to apply to become the state PCFRO, to clarify that the federation must make a separate certification, and require that the application to be state PCFRO include a proposed budget. The amendment to 695:10-3-3 changes the period of state PCFRO ser- vice from February to January 31 of the following year to March 1 to January 31 of the following year. The amend- ments to 695:10-3-4 are to clean up grammatical errors, define participating agencies, and delete support services provided by the Office of Personnel Management. The amendments to 695:10-5-3 are to clarify what the State Agency Review Committee must publish by April 15 and to correct a statutory reference. The proposed amendment to 695:10-5-4 is to provide an exception to the campaign period for early bird campaigns. The proposed amendment to 695:10-5-6 is to re-work language for better clarity and ease of reading. The proposed amendments to 695:10-7-2 are to provide for the use of an employee identification number on pledge cards and to provide that the pledge cards may be returned to the Local Advisory Review Committee as well as the local PCFRO. The proposed amendment to 695:10-7-3 is to clarify that an employee's revocation of a payroll deduction authorization must be in writing. The proposed amendment to 695:10-9-2 is to provide for the use of an employee identification number. The proposed amendment to 695:10-11-2 is to clarify those costs of the campaign includes costs incurred by the state PCFRO. The proposed amendments to 695:10-13-3 are to clarify when rejected federations and member agencies may appeal decisions to the State Agency Review Committee and to provide for special meetings to review said appeals.

**CONTACT PERSON:**
Chief Policy Attorney, (405) 522-1736

**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 11, 2006:**

## SUBCHAPTER 1. GENERAL PROVISIONS

### 695:10-1-2. Definitions

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

**"Act"** means the Oklahoma State Employee Charitable Contribution Act, Sections 7001 through 7010 of Title 74 of the Oklahoma Statutes.

**"Appointing Authority"** means the chief executive officer of a state agency.

**"Campaign"** means the annual combined ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign ("SCC"). "Local campaign" refers to the annual Oklahoma State ~~Employee~~ Charitable ~~Contribution~~ Campaign in a geographic area.

**"Campaign proceeds"** means the amount of money pledged by employees during a campaign. It does not mean the amount of money actually deducted during the following calendar year.

**"Designated funds"** means contributions which the contributor has designated to a specific voluntary agency or federation.

***"Federation"*** *means a legally constituted grouping of at least five health and social service agencies that are bound together to raise and distribute charitable contributions* [74:7003(1)]. "Legally constituted grouping"means the organizational relationship among the agencies is recognized by law.

**"Geographic area"** means a county or the area encompassed by counties or portions of counties which have been combined for the purpose of conducting a local ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign.

**"International social service agency"** means a voluntary agency that provides the majority of its services to needy persons overseas.

**"LARC"** means local advisory review committee.

**"Licensed by the Oklahoma Tax Commission"** means registered with the Oklahoma Tax Commission in accordance with Section 552.3 et seq. of Title 18 of the Oklahoma Statutes.

***"Local advisory review committee"*** *means a group of state employees in a facility or agency assisting in the local involvement of state employees in the campaign* [74:7003(3)]. The committee is authorized by the SARC to implement the local campaign in their geographic area; the committee performs purely administrative or minister- ial tasks and does not exercise actual or de facto decision-making authority for the SARC.

**"Local federation"** means a federation that provides direct service in a specific geographic area in this state.

**"Local presence"** means a test to determine whether the agency actually provides service to people in thegeographic area and whether said geographic area has any input into the service provisions process.

**"PCFRO"** means the principal combined fund raising organization.

***"Principal combined fund raising organization"*** *means the organization in State of Oklahoma respon-sible for the charitable contribution campaign* [74:7003(4)]. "State PCFRO" refers to the organization which is selected by the SARC to assist them statewide with the campaign. "Local PCFRO" refers to the organization which isselected by the SARC to assist the LARC with the local campaign.

**"Rules"** means the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign Rules in this Chapter.

**"SARC"** means State Agency Review Committee.

***"State Agency Review Committee"*** *means a group of state employees responsible for overseeing at the state level the conducting of the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign* [74:7003(5)].

**"State agency"** means any office, department, board, commission or institution of the state government.

**"State employee"** means an elected or appointed officer or employee of the executive, judicial or legisla-tive branch of government.

***"State presence"*** *means a test to determine whether the agency actually provides service to people in the State of Oklahoma* [74:7003(2)].

**"Undesignated funds"** means those contributions which the contributor has not designated to a specific voluntary agency or federation.

**"Voluntary agency"** means a nonprofit organization which meets the requirements for participation in the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign which are provided in Section 7009 of Title 74 of the Oklahoma Statutes.

### 695:10-1-5. State Agency Review Committee (SARC); organization and meetings

(a) The membership of the SARC consists of 7 state employees. Section 7005 of Title 74 of the Oklahoma Statutes provides for the appointment and service of the membership of the SARC. The officers of the SARC are thechairman and the vice-chairman.

(1) At least annually, the SARC shall elect a chairman and a vice-chairman from among its members. A member may be elected for succeeding terms of office.

(2) The chairman shall call and preside at meetings and may represent the SARC in other matters as it may lawfullyauthorize. In the absence of the chairman, the vice-chairman shall assume the chairman's duties and have the chair- man's authority. The vice-chairman shall also perform such duties as may be assigned by the chairman.

(b) All meetings of the SARC shall be held and conducted in accordance with the Open Meeting Act, Sections 301 through 314 of Title 25 of the Oklahoma Statutes.

(1) The chairman of the SARC may call special meetings or emergency meetings.

(2) Special or emergency SARC meetings shall also be called at the written request of a majority of the appointed members of the committee.

(3) A majority of the appointed members of the SARC shall constitute a quorum.

(4) A quorum of the members of the SARC shall be present to transact any business.

(5) An affirmative vote from a majority of a quorum is required for action by the SARC.

(6) Regularly scheduled meetings shall be held ~~quarterly~~ on the 2nd Wednesday of each of the following months: January, February, April, May, August, and November.

(c) The Office of Personnel Management shall provide the following support as is required by the SARC and pursuant to Section 7005(D) of Title 74 of the Oklahoma Statutes.

(1) Prepare meeting notices and agendas for submission to the chairman;

(2) Upon approval of the chairman, file, post and distribute meeting notices and agendas;

(3) Tape record meetings of the SARC and permanently maintain audio tapes so they will be available for future transcription; and,

(4) Provide necessary clerical support for SARC during its meetings.

### 695:10-1-6. Local Advisory Review Committee (LARC); organization

Each year, ~~LARCs shall be created after the establishment of the annual campaign's geographic areas [See 695:10-5-2] and prior to July 1.~~ the local PCFRO shall identify and contact the LARC from each state agency or facility within the appropriate SCC geographic area. The SPCFRO shall provide the LCPFRO with any and all materials and information needed to help identify state agencies or facilities within the LARCS geographic area.

(1) The team leader of each LARC shall be the local state agency employee who is administratively in charge ~~of the largest number~~ of ~~state employees~~ a state agency or facility in a campaign assigned to work in the LARC's geographic campaign area or his or her designee. The team leader shall assist the LARC members in organizing the localcampaign and may represent them in other matters.

(2) The ~~LARC team leader~~ local PCFRO is responsible for submitting the following information in writing to the ~~SARC prior to August 1~~ SPCFRO no later than July 31, and again whenever any of the information is changed.

(A) The name and employing agency of each LARC member;

(B) The mailing address and location for submissions to the LARC;

(C) The telephone number used by the LARC~~;~~.

(D) The SPCFRO shall provide this information to the SARC one weekprior to the regularly scheduled August meeting.

(3) The primary responsibility of the LARC is to work together with their local PCFRO to ensure that the ~~local charitable contribution~~ State Charitable ~~campaign~~ Campaign for state employees is a convenient, informative and responsible program. To help the local campaign meet these goals the LARC and local PCFRO should:

(A) develop the campaign materials and publicity for the local ~~Oklahoma~~ State ~~of Oklahoma Employee~~ Charitable ~~Contribution~~ Campaign;

(B) ensure that each state employee receives informational material and a pledge card;

(C) recruit and train volunteers, departmental coordinators and solicitors to distribute material, conduct meetings, answer questions and collect pledge cards;

(D) ensure that all informational materials are fair and equitable;

(E) ensure that each state employee is given the opportunity to make a gift and the option to designate the gift.

**695:10-1-8. Locations for information and for filing**

(a) **SARC.** Any person may obtain information from, make a submission to, or make a request of the SARC by submitting a written request. Papers may be mailed to the SARC, or they may be hand delivered during normal business hours. Normal business hours are 8:00 a.m. to 4:45 p.m., Monday through Friday. The mailing address and location for filing is: Office of Personnel Management, ATTENTION: STATE AGENCY REVIEW COMMITTEE, Jim Thorpe Building, Room G-80, 2101 North Lincoln Boulevard, Oklahoma City, OK 73105, Telephone Number: (405) 521-2177. You may e-mail to: SARC@opm.state.ok.us. The date on which the papers are actually received at the Office of Personnel Management shall be recorded as the date of filing.

(b) **LARCs.** Any person may obtain a list of the LARCs from the SARC. This list shall include the information listed in 695:10-1-6(2).

**695:10-1-9. Retention and public inspection of documents and release of records**

(a) All documents filed with or presented to the SARC will be retained in the files of the SARC located at the Office of Personnel Management for the length of time required by state and federal laws. Documents will be dis- posed of in a manner consistent with the Records Management Act, Sections 201 through 216 of Title 67 of the Oklahoma Statutes , and rules promulgated by the Archives and Records Commission pursuant to Section 564 through 576 of Title 74 of the Oklahoma Statutes.

(b) Individual employee contribution records are confidential ~~in the meaning of~~ as defined by Section 24A.7 (A)(2)of Title 51 of the Oklahoma Statutes. Except for records required by law to be kept confidential, all other records of the SARC are available for inspection in accordance with the Oklahoma Open Records Act, Sections 24A.1 through 24A.18 of Title 51 of the Oklahoma Statutes.

(c) Records may be released during the normal business hours of the Office of Personnel Management.

(d) ~~The following fees have been determined by the SARC to pay for the recovery of reasonable, direct costs of document copying and/or mechanical reproduction:~~Fees will be assessed pursuant to Section 24A.3 of Title 51 of the Oklahoma Statutes.

(1) ~~Charges for copies. 8 1/2" X 11" sheet – $0.25 each for one-sided copies $0.35 each for two-sided copies Larger Sheet – Amount billed directly by a copying source.~~

~~(2)~~ Search charges. In the event a request is solely for commercial purposes or clearly would cause excessive disruption of the Office of Personnel Management's essential functions, the SARC may charge the hourly rate, including any fraction of an hour, of the person doing the search. ~~multiplied by the hour(s) and any fraction of an hour required~~.

(~~3~~2) Transcript charges. When materials from meetings or hearings are transcribed from tapes or notes, the charge will be calculated at a rate charged by a court reporter; or if done by Office of Personnel Management staff, will be at a rate established by OPM ~~$4.50 per page double spaced, with 1 1/2" side margins and 1" top margins~~. Copies of transcripts will be $0.25 per page.

**695:10-1-10. Declaratory rulings**

Any person may request the SARC to issue a declaratory ruling as to the applicability of any rule or order of the SARC. The purpose of a declaratory ruling is to explain, or clarify, a rule or an order of the SARC in relation to a particular matter.

(1) A request for a declaratory ruling must be in writing and must include the following information:

(A) Name, address and telephone number of the person making the request;

(B) Name, address and telephone number of the organization the person represents, if applicable;

(C) Date of the request;

(D) A description of the problem or issue which made it necessary to request a declaratory ruling; and

(E) The number and heading used to identify the rule or the order on which the declaratory ruling is sought.

(2) The SARC will consider each ~~petition~~ request submitted and, within a reasonable time after the submission thereof, either deny the ~~petition~~ request in writing, stating its reasons for such denial, or issue a declaratory order on the matters contained in the ~~petition~~ request.

**695:10-1-11. Rulemaking**

(a) Any person may request the SARC to amend or revoke an existing rule or establish~~establishment~~ a new rule. The request must be in writing, and it must include the following information.

(1) Name, address and telephone number of the person making the request;

(2) Name, address and telephone number of the organization the person represents, if applicable;

(3) Date of the request;

(4) The requested action, that is: change to existing rule, revocation of existing rule, addition of new rule;

(5) The number and heading used to identify existing rule if the request is to change or revoke existing rule;

(6) The proposed language if the request is to change existing rule or for new rule;

(7) The circumstances which created the need for the action; and

(8) The intended effect of the rule.

(b) If the SARC does not take action to initiate rulemaking procedures ~~within 60 days after the~~ no later than the next regularly scheduled meeting ~~at which a request for rulemaking is considered~~, the request will be deemed to havebeen denied.

## SUBCHAPTER 3. PRINCIPAL COMBINED FUND RAISING ORGANIZATIONS

## PART 1. STATE PRINCIPAL COMBINED FUND RAISING ORGANIZATION (STATE PCFRO)

**695:10-3-2. Selection of the state PCFRO**

(a) The SARC shall select the state principal combined fund raising organization [74:7005(C)(7)].

(b) To apply to become the state principal combined fund raising organization (PCFRO), a federation shall submit 7 copies of each of the following documents to the SARC on or before January ~~15~~31:

(1) A completed state PCFRO application form which contains the following information:

(A) the name of the federation applying;

(B) the name of the administrator or agent authorized to represent the federation;

(C) the business mailing address of the federation;

(D) the primary business telephone number of the federation; and

(E) a list of the nonprofit organizations which the federation represents.

(2) An organization chart and staffing table for the federation and a description of any additional staffing requirements if the federation is selected as the state PCFRO.

(3) A separate statement signed by the federation's local director, or equivalent, pledging to administer the duties fairly and equitably.

(4) A copy of articles of incorporation or other documents authorizing the federation to do business in this state as a private, nonprofit corporation.

(5) A copy of an audit of the federation, conducted by an accounting firm or individual holding a permit to practice public accounting in this state according to the generally accepted standards of accounting for nonprofit organiza- tions for the immediately preceding year.

(6) A copy of the last annual report issued by the federation.

(7) A separate certification affirming ~~it~~ the federation prepares and makes available to the public an annual report that includes a full description of the federation's activities and supporting services and identifies its directors and chief administrative personnel.

(8) A proposed budget of overall costs of administration of the campaign.

**695:10-3-3. Terms and conditions of service of the state PCFRO**

The state PCFRO will be selected by the SARC and will serve at its pleasure, normally for the period beginning ~~February~~ March 1 and ending January 31 of the following year.

**695:10-3-4. Duties and responsibilities of the state PCFRO**

The duties and responsibilities of the state PCFRO, at the direction and with the approval of the SARC and as provided by the Act and elsewhere in the rules in this Chapter, include~~, at the direction and with the approval of the SARC and as provided by the Act and elsewhere in the rules in this Chapter, to~~:

(1) ~~Be responsible~~ Responsibility for the staffing of and the financial obligations necessary for the SARC;

(2) ~~*Work*~~ *Working with the [SARC] to develop the charitable contribution campaign plan for the [Campaign]* [74:7007(B)(1)];

(3) ~~*Develop*~~*Developing the charitable contribution campaign materials and publicity for the [Campaign]* [74:7007(B)(2)];

(4) ~~*Recruit*~~ *Recruiting and* ~~*train*~~ *training the volunteers, departmental coordinators and solicitors in a bipartisan manner; develop and keep records on all the accounts to be solicited; and cultivate the accounts to encourage participation in the charitable contribution campaign* [74:7007(B)(3)];

(5) ~~*Keep*~~ *Keeping all fiscal and financial records of the activities and submit to the [SARC] a separate accounting of all proceeds of the [Campaign]* [74:7007(B)(4)];

(6) ~~*Submit*~~ *Submitting to the participating federations a detailed accounting of the amount of money designated to the federation and to each of its member agencies* [74:7007(B)(5)];

(7) ~~*Disperse*~~ *Dispersing the allocation checks to the participating agencies* [74:7007(B)(6)]. For purposes of this section, participating agencies are identified as LPCFROs;

(8) ~~Arrange~~ Arranging for publication of information about the application process for federations seeking to parti-cipate in the campaign;

(9) ~~Assist~~ Assisting the SARC in gathering and accumulating the applications;
(10) ~~Review~~Reviewing applications of federations electing to participate in the ~~Oklahoma~~ State ~~Employee~~ Charitable ~~Contribution~~ Campaign and certify that a federation and each of its member agencies meet the eligibility criteria in Section 7009 of the Act;
(11) ~~Notify~~ Notifying each of the applying federations of its acceptance or rejection by the SARC, including, if applicable, the reason for rejection of each of the member agencies of the federation;
(12) ~~Notify~~ Notifying each LARC of the federations approved for its area by the SARC;
(13) ~~Develop~~ Developing a pledge card to be used throughout the ~~Oklahoma State Employee Charitable Contribu- tion Campaign~~SCC;
~~(14) Prepare meeting notices and agendas for submission to the chairman;~~
~~(15) Upon approval of the chairman, file, post and distribute meeting notices and agendas;~~
~~(16) Tape record meetings of the SARC and permanently maintain audio tapes so they will be available for future transcription;~~
~~(17) Provide necessary clerical support for SARC during its meetings;~~
(14~~18~~) ~~Attend~~ Attending to ~~all~~ correspondence as required;
(15~~19~~) ~~Maintain~~ Maintaining accurate and complete records of all business transactions of the ~~SARC~~ SCC;
(16~~20~~) Upon the conclusion of its service as the state PCFRO, ~~transmittal~~ transmission of all records created or received in connection with the Act or the rules in this Chapter to its successor state PCFRO or to SARC if there is no successor;
(17~~21~~) ~~Make~~ Making all records, as defined in the Oklahoma Open Records Act, Sections 24A.1 through 24A.18 of Title 51 of the Oklahoma Statutes , available to the SARC and to the public in accordance with the provisions of the Open Records Act; and
(18~~22~~) ~~Absorb~~ Absorbing the cost of any reprinting, embezzlement, loss of funds, or cost overrun connected with the campaign as a result of its action or inaction.

## SUBCHAPTER 5. CONDUCT OF THE CHARITABLE ~~CONTRIBUTION~~ CAMPAIGN

### 695:10-5-3. Applications for participation in the campaign

By April 15, the SARC shall arrange for publication of information about the process by which federations may apply to participate in the campaign [74:7005(C)(1)]. Federations wishing to participate in the campaign shall submitan application to the SARC [74:7009(D)]. The application shall include:

(1) Proof of eligibility for participation in the campaign in accordance with Section 7009 of the Act;
(2) A 25-word or less description of each member agency; and
(3) The local campaign or campaigns in which the federation seeks to participate.
(4) Proof of meeting the state presence test as required in Subsection A of Section 7010 of the Act; or
(5) Proof of eligibility for exemption from the state presence test as provided in Subsection B of Section 7010 of the Act.

### 695:10-5-4. Campaign period

The annual campaign period in each geographic area shall be established by the LARC in accordance with this Section. It shall be set within the period beginning August 1 and ending November 30 unless designated by the SARC as part of an early bird campaign. The announced local campaign period may be up to 8 weeks in length. Each LARC shall notify the SARC in writing of the beginning and ending dates of its campaign by August 1. A period initially announced for less than 8 weeks may be extended up to a total of 8 weeks for the entire period by sending the SARC written notice of the new ending date. This notice shall be postmarked on or before the original ending date.

### 695:10-5-6. Workplace solicitation

(a) Workplace solicitation shall be approved by the Appointing Authority. Appointing Authorities are encouraged to permit time and provide space during the working day sufficient for all employees to be given information which will allow employees to make informed decisions about giving.
(b) Individual voluntary agencies or federations shall not, on their own, solicit state employees at their workplace. No more than one on-the-job solicitation shall be made in any calendar year at any location in connection with the Act or the rules in this Chapter. Workplace solicitation of employees in connection with this Act and these Rules shall occur only during the campaign period, only in accordance with the procedures outlined in the rules in this Chapter and only under the direction of the LARCs.
(c) Appointing Authorities may authorize workplace solicitation by individual charitable agencies outside the scope of the State Charitable Campaign for the purpose of assisting relief efforts undertaken on behalf of a Presidentially Declared National Disaster. Solicitations pursuant to this section shall not be considered "on-the-job solicitation".

## SUBCHAPTER 7. PLEDGE CARDS, PAYROLL AUTHORIZATIONS AND MAILING LISTS

### 695:10-7-2. Pledge cards

(a) The SARC shall make available a model pledge card which may be reproduced. This shall be the only author- ized pledge card for use in the campaign. The use of a pledge card other than the one that faithfully reproduces the SARC's authorized format is prohibited. The pledge card shall include instructions for its completion and return, the duration of the payroll deduction, if any, and other information about the

campaign, participating agencies, federa- tions, and allow the utilization of logos.

(b) The pledge card shall solicit information from the employee such as: name; residence county; social security number and/or employee identification number; employing agency and work location; amount of pledge; method of payment; designation of gift, if any; whether the donor wishes to remain anonymous; and describe how undesignated funds shall be distributed.

(c) Employees making gifts shall return completed pledge cards to the LARC and/or the local PCFRO. The local PCFRO shall retain a copy, and shall give a copy to the employing agency by December 15.

**695:10-7-3. Payroll deductions**

(a) Payroll deductions for charitable contributions are based upon individual state agency pay periods for one calendar year. Payroll deductions shall start with the first pay period beginning in January and end with the last pay period that begins in December.

(b) Payroll deductions shall be made in each pay period during the calendar year.

(c) No change in the amount of the payroll deduction or designated nonprofit agencies shall be permitted during the term of authorization.

(d) No deduction shall be made in any pay period which is insufficient to cover the deduction because of other legal or previously authorized deductions. No adjustments shall be made in subsequent pay periods to make up missed deductions.

(e) The minimum payroll deduction shall be $1.00 per pay period.

(f) Payroll deduction shall be permanently discontinued when the:

(1) Term of authorization expires at the end of one calendar year, i.e. December 31;

(2) Employee retires, dies, or is otherwise separated from employment; or

(3) Employee revokes authorization for deduction~~,~~. ~~this~~ Any revocation shall be in writing and presented to the payroll office. Discontinuance shall be effective on the next available pay period after receipt of the written request.

(g) Once an employee's payroll deduction has been canceled, it can not be reinstated for the calendar year.

## SUBCHAPTER 9. REMITTANCE, ALLOCATION AND DISTRIBUTION OF FUNDS

**695:10-9-2. Remittance to the state PCFRO**

(a) Each state agency with contributing employees shall send a check to the state PCFRO after the end of each pay period. The check shall be for the gross amount of deductions on the basis of current authorizations.

(b) The check shall be accompanied by a list of the social security numbers and/or employee identification numbers of contributors and the dollar amount of each contribution. There shall be no listing of the related LARCs, local PCFROs, federations or member agencies.

## SUBCHAPTER 11. STATE AND LOCAL PCFRO PROCEEDS AND COSTS

**695:10-11-2. Report of campaign proceeds**

By January 1, each local PCFRO shall submit to the SARC a full accounting of all pledges of the completed campaign, together with the actual costs for developing the campaign materials, training the solicitors and the overalladministration of the campaign. The cost, including costs incurred by the SPCFRO, shall be borne by each of the federations proportionally and shall be no greater than 10% of the campaign proceeds or actual costs, whichever is less [74:7008].

## SUBCHAPTER 13. NOTICES, COMPLAINTS, APPEALS AND HEARINGS

**695:10-13-3. Appeal from rejection by SARC**

Rejected federations and member agencies may appeal to the SARC for reconsideration on the basis of new proof of their eligibility to participate in the campaign. Appeals must be submitted no later than 45 days after the SARC's regularly scheduled May meeting. Such appeal shall be made by submission of new information before the meeting during which the SARC is scheduled to reconsider applications. A special meeting shall be convened in which ~~T~~the SARC shall review the new information and hear staff recommendations and hear public comment,if any.The appealing agency or federation is not required to attend the meeting but may do so. Oral presentations by the appealing agency or federation, or both, may be limited to 10 minutes. The SARC shall notify the appealing federa- tion and agency of its final decision in writing.

*[OAR Docket #06-488; filed 3-31-06]*

# 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

**1:2006-10.**

### EXECUTIVE ORDER 2006-10

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the powers vested in me by the Oklahoma Statutes in 25 O.S. Section 82.1, hereby order the following dates be observed as holidays by the State of Oklahoma in 2007:

| | | |
|---|---|---|
| Monday | January 1, 2007 | New Year's Day |
| Monday | January 15, 2007 | Martin Luther King, Jr. Day |
| Monday | February 19, 2007 | President's Day |
| Monday | May 28, 2007 | Memorial Day |
| Wednesday | July 4, 2007 | Independence Day |
| Monday | September 3, 2007 | Labor Day |
| Monday | November 12, 2007 | Veterans Day |
| Thursday & Friday | November 22 & 23, 2007 | Thanksgiving |
| Monday & Tuesday | December 24 & 25, 2007 | Christmas |

This Executive Order shall be forwarded to the Director of the Office of Personnel Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 12 day of April, 2006.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

*[OAR Docket #06-648; filed 4-14-06]*